



Motion 12 Working Group – first draft for public consultation, March 21, 2016

Notes to the reader:

This consultation document consists of two main sections. The first, called “The problem”, aims to articulate the rationale behind Motion 12 that was passed by a majority in all chambers at the 2014 FSC General Assembly. It outlines not only the motion itself and the approaches to conversion reflected in key FSC documents over the years, but also takes brief account of some important developments in the wider forest and land use arena where FSC is operating. This section draws heavily upon an initial background document prepared for the Motion 12 Working Group by the drafter, and has been discussed and commented upon by the WG.

Anders Lindhe, Drafter

I. The problem

1. Introduction

Motion 12, passed at the 2014 FSC General Assembly (GA) asks FSC to: “fast-track the implementation of motion 18 from GA 2011 to create a chamber balanced process to consider challenges and opportunities related to restoration and conversion. This will include: a) how to address the “ownership loophole” in Criterion 6.10: b) what does an organization that has converted post 1994 need to do to be able to be certified: c) how to deal with subsistence conversion by communities” The motion also asks FSC to “allow for a possible amendment of the P&C outside the defined 5 year revision schedule and request an electronic ballot by the membership to allow for changes in the P&C to be approved before the next GA”.

FSC has established a chamber-balanced Motion 12 Working Group consisting of six FSC members to address the motion. The objective of the Working Group is to prepare a proposal for revising the FSC P&C V5-1 as these relate to conversion and restoration, to be submitted to the FSC membership for approval. The work of the WG is supported by a Coordinator from the Policy and Stands Unit, an independent Facilitator and a Drafter. The process is overseen by a Steering Committee from FSC IC. As of now (March 8, 2016) the WG has had two face-to-face meetings and a number of online calls. The WG has also hosted one session with the Consultative Forum.

2. FSC’s rules on conversion

FSC’s rules on conversion are outlined in the recently revised Principles and Criteria¹ and in the Policy for Association², where ‘conversion’ is defined as a usually irreversible “rapid or gradual removal of

¹ Principles and Criteria for Forest Stewardship V5-1 (FSC-STD-01-001)

² FSC-POL-01-004 (V2-0) Policy for the Association of organizations with FSC



natural forest, semi-natural forest or other wooded ecosystems such as woodlands and savannahs to meet other land needs, such as plantations (e.g. pulp wood, oil palm or coffee), agriculture, pasture, urban settlements, industry or mining”.

The rules as they apply to forest management units are found in FSC’s Criterion 6.9:

“The Organization shall not convert natural forest to plantations, nor natural forests or plantations on sites directly converted from natural forest to non-forest land use, except when the conversion:

- a) affects a very limited portion of the area of the Management Unit, and*
- b) will produce clear, substantial, additional, secure long-term conservation benefits in the Management Unit, and*
- c) does not damage or threaten High Conservation Values, nor any sites or resources necessary to maintain or enhance those High Conservation Values”.*

A policy note³ interprets a ‘very limited portion’ as a total maximum of 5% of the MU and no more than 0.5 % of the MU converted over any single year. However, the policy makes an exception for “community forest areas where they are part of a community endorsed Land Use Plan”.

The term ‘natural forest’ is defined in the P&C Glossary as areas dominated by trees, mainly of native species, including areas described as wooded ecosystems, woodland and savannah. It is worth noting that “areas where deforestation and forest degradation have been so severe that they are no longer ‘dominated by trees’ may be considered as non-forest...such extreme degradation is typically the result of combinations of repeated and excessively heavy logging, grazing, farming, fuelwood collection, hunting, fire, erosion, mining, settlements, infrastructure, etc”. National FSC standards are suggested to help decide when such areas may be excised from the Management Unit by an organization applying for certification, be restored towards more natural conditions, or be converted to other land uses.

Criterion 6.10 outlines retrospective conversion requirements: “Management Units containing plantations that were established on areas converted from natural forest after November 1994 shall not qualify for certification, except where:

- a) clear and sufficient evidence is provided that The Organization was not directly or indirectly responsible for the conversion, or*
- b) the conversion affected a very limited portion of the area of the Management Unit and is producing clear, substantial, additional, secure long term conservation benefits in the Management Unit”.*

The first of these conditions is often referred to as the ‘ownership loophole’ by its critics.

In addition, the FSC Policy for Association states that FSC only allows its association with organizations that are not directly or indirectly involved in (amongst other unacceptable practises) “significant” conversion of forests to plantations or non-forest use, defined as conversion of “High Conservation Value Forests; more than 10% of the forest areas under the organization’s responsibility in the past 5 years; or more than 10,000 ha of forests under the organization’s responsibility in the past 5 years”.

³ FSC-POL-20-003 (2004) The excision of areas from the scope of certification



3. Context and trends

Much has changed in the forest arena since FSC was established more than twenty years ago. Some changes are direct or indirect results of the organizations' success. Not only are there, as of March 2016, almost 188 million hectares of FSC-certified forests, but FSC has also inspired a lot of followers and there are now Roundtables for voluntary certification of other mass-market commodities like fish, palm oil, soy, sugar and biomaterials. These initiatives are all modelled on FSC to some extent – a powerful testament of FSC's wider role in fostering both more responsible management practises and more inclusive stakeholder dialogue and involvement.

Other changes reflect over-arching world shifts and trends outside the direct influence of FSC. These constitute challenges as well as opportunities:

3.1. Growing global population and middle class drive conversion for agriculture

As of 2010, more than half of the world's people live in cities, and growth of the middle class is projected to remain strong for decades to come, particularly in Latin America, South and East Asia and parts of Africa. Historically, income growth is strongly linked to increased consumption of natural resources - wood for housing and fuel, pulp and paper for tissues, diapers and packaging, as well as food items like vegetable oils, sugar, dairy, poultry and red meat.

As a result, humans expropriate an increasing proportion of natural habitat, evicting many of its resident species in the process. Forests are under increasing pressure from more profitable land uses, and clearing for agriculture and pasture (much of it illegal due to breaches of national legislation, lack of necessary permits or sheer corruption⁴) is today by far the largest global driver of deforestation. In the low-land tropics, oil palm is a particularly powerful competitor, generating an order of magnitude more income per hectare than forestry (even without counting potential revenues from selling the conversion timber).

3.2. Intensification of production and increased yields

Meeting the growing global demand for timber and pulpwood is likely to spur further expansion of intensively managed tree plantations. Already such plantations, although constituting less than 10% of the total tree-covered area, deliver half the world supply of round wood⁵. The WWF Living forests report⁶ calculates that, in order to achieve near zero deforestation after 2020 and avoid destruction of priority conservation natural ecosystems, another 250 million hectares of intensively managed plantations may need to be established on lands of low conservation value. If unchecked intensive management often causes considerable negative environmental and social impacts, new areas of plantations also represent opportunities for FSC to promote more responsible practises and to take conversion pressure off natural forests.

⁴ Lawson, 2015. Stolen Goods: The EU's complicity in illegal tropical deforestation

⁵ Jagels et al, 2006.

⁶ http://wwf.panda.org/what_we_do/how_we_work/conservation/forests/publications/living_forests_report/



3.3. Pulp and paper markets shift from north/west to east/south

While paper consumption will likely be stable or even decrease somewhat in North America and Western Europe, paper use is projected to increase considerably over the next decade in most other regions, particularly in China, South-east Asia and Latin America⁷. Given that consumers in these growing markets are as yet generally less environmentally aware than their northern and western counterparts, this may diminish the effectiveness of voluntary certification as a driver for responsible production. There is also a risk that, if FSC does not evolve and adapt, the organization may inadvertently contribute to displacing conversion to areas outside its sphere of influence, rather than help solve the problem.

3.4. Challenges for SMEs and communities

While small-scale and community forestry have many supporters in principle, lack of efficient links to regional and global markets and lack of capacity and resources often result in low profitability. Undocumented land rights also hamper access to capital which makes it difficult to meet the quality demands of big buyers (e.g. to build and operate kilns to dry wood to consistent, low moisture content). These factors tend to disfavour smaller forest and plantation operations in many parts of the world. Facilitating FSC-certification of such forestry may contribute to redress the balance by increasing profitability and promoting partnerships with larger, more resourceful actors.

3.5. Increased global focus on local tenure and land rights

Such difficulties notwithstanding, social issues have, at least conceptually, risen on international forest agendas over the decades. Today most standards for responsible commodity production require that local rights holders give their Free and Informed Consent (PFIC) prior to expansion of cultivation. This shift towards more bottom up decision-making is likely to have implications for FSC and other setters of globally applicable standards.

3.6 New sustainability commitments of SE Asian pulp and paper giants

To the above longer term trends and drivers may be added commitments by Asian Pulp and Paper (APP), effective from 1st February 2013, to halt conversion of natural forests and to protect and restore substantial proportions of its concessions. This shift is a spin-off of work to identify High Carbon Stocks by oil palm concessionaires in collaboration with Greenpeace and The Forest Trust.

Arguably, the new policy comes after years of almost unparalleled conversion of natural tropical forests. Monitoring also indicates that APP has quite some way to go in order to fully implement its pledges^{8,9}. Still, the new forest policy¹⁰ commits APP and its suppliers to respect Free Prior and Informed Consent of local communities, and to develop only “*areas that are not forested, as identified through independent HCV and HCS assessments*”, explicitly excluding also conversion of forested peat land. APP, in 2014, also announced an initiative¹¹ to protect and restore one million hectares of tropical forest across Indonesia, an area approximately equal to the company’s total area of plantations. The sum of these commitments has brought the company from being considered a pariah by most NGOs to getting cautious compliments for their ambitions.

⁷ Ibid.

⁸ <http://www.forestpeoples.org/topics/pulp-paper/publication/2014/lessons-learned-conflict-negotiations-and-agreement-between-senye>

⁹ <http://www.rainforest-alliance.org/sites/default/files/uploads/4/150205-Rainforest-Alliance-APP-Evaluation-Report-en.pdf>

¹⁰ https://www.asiapulppaper.com/sites/default/files/app_forest_conservation_policy_final_english.pdf

¹¹ <https://www.asiapulppaper.com/news-media/press-releases/app-support-protection-and-restoration-one-million-hectares-forest>



APP's turnaround has increased the pressure on APRIL, the other conversion-for-pulp-giant in South-East Asia. While less ambitious than APP in terms of timing, APRIL has committed¹² in its policy (SFMP 2.0) to phase out harvesting of mixed hardwoods by 15 May 2015 and terminate using last remaining stores of mixed hardwoods before end December 2015. It also commits to respect FPIC and to assess and maintain HCVs¹³ in its own concessions as well as in those of its suppliers. According to APRIL, the company protects a total of 250,000 hectares of its one million hectares of concessions as HCVs. In addition, APRIL is engaged in restoration of 40,000 hectares of forest previously degraded by other actors¹⁴, reflecting a policy commitment to *"strive to support conservation areas equal in size to APRIL's plantation areas"*. APRIL also recently (in December 2015 at the COP21 in Paris) announced a pledge to spend US\$ 100 million over 10 years on conservation and restoration, increasing APRIL's conserved areas to 400,000 ha - equivalent to 83% of 1-for-1 conservation versus plantation land use.

3.7 Lessons learned

Lessons learned over the past decades are reflected in the new FSC Strategic Plan. The plan reinforces FSC's commitment to be a leader and a global benchmark for responsible management of forests and plantations. Key responses identified to meet the challenges posed by a changing world include:

- Increasing the market value of FSC as the global brand of choice, thereby strengthening forest management and conservation as viable alternatives to other land uses.
- Making certification work for a wider set of stakeholders by empowering smallholders, communities and Indigenous Peoples to access and develop new markets.
- Ensuring that FSC continues to be relevant to and effective in standard setting and application for the full range of forest types, including plantations, as elements of sustainable landscapes.

4. The impact of FSC's conversion policies

Few people would question the good intentions behind FSC's original conversion policies and standards - to halt or at least minimise loss of natural forests. However, these policies have been largely unchanged since, and now twenty years later one may ask how they have delivered on this objective. The mere fact that the conversion issue is still well alive and kicking suggests that FSC's policies have generally been less effective than once hoped for. In the words of the Motion 12 proposers: *"It is widely acknowledged that FSC certification has done little to prevent forest loss, which is primarily caused by other drivers such as agriculture"*.

The proposers of Motion 12 also found that *"given growing pressure on land and the continuing expansion of plantations around the globe, particularly in developing countries, FSC faces a challenge. Current plantation rules do not allow companies that were responsible for post-1994 conversion into the system. Nevertheless, where companies buy land that has already been converted by another company, planta-*

¹² http://www.aprilasia.com/images/pdf_files/april-sfmp2-3-june-2015.pdf

¹³ The claim that HCV assessments are peer reviewed by the HCV Resource Network is not accurate, though.

¹⁴ <http://www.aprilasia.com/en/sustainability/eco-restoration>



tion certification is permitted". The proposers conclude that "by revising the requirements for plantations on converted land, FSC could close the ownership loophole, promote the restoration of degraded lands, and become more of a force for responsible plantation management".

To be fair, there is really no way to know if other FSC policies would have been more effective – after all, FSC doesn't rule the world. However, this is not the only point of criticism, and to assess the accomplishments and merits of FSC's conversion policies, they may be evaluated against a wider set of concerns repeatedly voiced by parts of the FSC membership:

- FSC's position on conversion discriminates against those developing countries that still retain much of their original forest cover (and so indirectly favours developed countries that have converted much of theirs);
- By excluding from certification organizations that have converted forests to plantations after 1994, FSC weakens its market penetration and misses opportunities to positively influence landscape planning, plantation design and plantation management;
- By accepting for certification plantations established post 1994 for which the applicants were not responsible for the forest clearing, FSC has created a loophole that unscrupulous organizations may take advantage of;
- By focusing singularly on conversion of forests, FSC has not acknowledged the environmental and social values of non-forest ecosystems such as grasslands and wetlands;
- While FSC clearly favours natural forests over plantations, the original Principle 10 rationale for allowing these to coexist in the FSC system, that plantations shall *"complement the management of, reduce pressures on, and promote the restoration and conservation of natural forests"*, has never really been made operational. Rather, the cap on conversion of Principle 6.9 indicates an uneasy tolerance not underpinned by clear logic. The issue is further confounded by that the allowable amount of conversion differs between the P&Cs (5%) and the policy for association (10%).

5. Motion 12

Motion 12 points to three aspects of the current policies in particular need of revision:

5.1 The ownership loophole

The first of these relates to the eligibility for certification of plantations converted from natural forest after 1994 in cases where the applicant was not responsible for the conversion. This provision rests on Principle 10.9 adopted in 1999, stating that *"certification may be allowed in circumstances where sufficient evidence is submitted to the certification body that the manager/owner is not responsible directly or indirectly for (the) conversion"*. Similar wording is found in the revised P&Cs (V 5-0), P 6.10: *"Management Units containing plantations that were established on areas converted from natural forest after November 1994 shall not qualify for certification, except where clear and sufficient evidence is provided that The Organization was not directly or indirectly responsible for the conversion"*.



While there seems to be no direct evidence that this clause has been abused in the sense that an organization has first converted natural forest to plantations, then sold the unit as 'FSC-ready' to another organization, there is a strong perception among some that this loophole may serve as a perverse incentive for deforestation or conversion. There are also technical difficulties to implementing the criterion, as it may be difficult to verify to what extent current owners are truly independent of previous owners, and whether the organization was indirectly involved in the conversion.

In principle the remedy is simple – the loophole can be closed by applying the same set of rules to all organizations that have established plantations after 1994, regardless of ownership at the time. The question is what this set of rules should be.

5.2 Mitigation / compensation for past conversion

Secondly, motion 12 asks what “an organization that has converted post 1994 need to do to be able to be certified”, i.e. what is the set of rules that an organisation clearing after 1994 must abide by. This question obviously relates to situations after conversion, but it is not clear if it refers only to conversion that has already happened, or if the perspective extends into the future. This is important, as whatever compensation and/or mitigation measures and rationales that are suggested from 1994 to the present should logically align with FSC's policies and framework on conversion in the future. This applies regardless of whether FSC sticks to, or changes its current position.

5.3 Subsistence conversion by communities

Needs to feed growing human populations and imperatives to improve livelihoods has increased pressure on forests and driven local communities and smallholders in many regions to convert 'idle' forest land into gardens, fields and plantations that produce subsistence food and/or cash crops. When forests shrink, conversion is often further fuelled by people having to abandon earlier shifting cultivation practices in reasonable balance with forest recuperation, in favour of clearing permanent fields. Where concessions for large plantations of trees, oil palm or other commodities have been allocated without respect for legal or customary land rights, the situation may be further aggravated by displacement – people encroach on and clear forests designated as protected areas or parts of the permanent forest estate.

Motion 12 specifically asks how FSC should “deal with subsistence conversion by communities”. Assuming that the question refers to certification, the formulation seems to imply an openness to accept into the system conversion driven by subsistence needs or local development aspirations on terms that differ from those applied to conversion to supply national or international markets. As mentioned earlier, provisions for such separate treatment has a precedent in the 2004 policy on excision¹⁵, which exempts “community forest areas where they are part of a community endorsed Land Use Plan” from the P 6.9 cap on acceptable conversion as maximum 5% of the management unit.

¹⁵ FSC-POL-20-003 (2004). The excision of areas from the scope of certification



II. Potential solutions

Notes to the reader:

This second section, “Potential solutions” is the result of the Motion 12 Working Group to date. It outlines a tentative FSC position on conversion, and aims to communicate to a wider audience a clear sense of the direction taken by the WG in terms of solutions. While it contains a number of ideas, these are not yet framed as auditable Criteria and International Generic Indicators. The WG wants to stress that this is not a final proposal, but an interim draft that the WG considers to be elaborated enough to serve as a basis for wider consultation, discussions and debate. We encourage all stakeholders to engage and to provide their opinions, along with any ideas and suggestions, particularly in relation to auditable indicators and operational procedures for implementation. The WG will then develop another, more advanced draft proposal based on this feedback. This version will be subjected to yet another round of consultations, before being ultimately finalised and presented to the Board of Directors for voting by the FSC membership.

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Note: one member of the working group has some unanswered questions related to the document, and is therefore reserving his position on the draft sent out. He has chosen, however, not to block the consultation process, expecting these questions to also be raised by stakeholders and therefore still be open for discussion after the first round of consultation.

Preamble

The passing of FSC General Assembly Motions 18 (2011) and 12 (2014) testify to a desire within all FSC chambers to revise and clarify FSC’s position on conversion. Rather than helping to curb global deforestation, FSC’s requirements act as barriers that effectively exclude most organisations, communities and smallholders that have converted forests after 1994 from certification.

Over the years, references to conversion in various FSC documents has resulted in a patchwork of partly contradicting formulations on:

- What is conversion,
- What kind of vegetation may or may not be converted,
- What maximum proportion of a MU may be converted over what time.



The motion 12 Working group has been set up to “consider challenges and opportunities related to restoration and conversion”. This explicitly includes “addressing the “ownership loophole” in Criterion 6.10”, “what an organization that has converted post 1994 need to do to be able to be certified” and “how to deal with subsistence conversion by communities”. To meet these objectives, the WG seeks to develop a clear, consistent and coherent framework that clarifies the specific grounds and circumstances under which converted lands may be certified, and that allows FSC to more effectively respond to current challenges¹⁶. Members of the WG expect that this framework will:

- a) Decrease barriers to certification and encourage spread of responsible management,
- b) Help slow deforestation through raising the relative value of forest and plantation management,
- c) Help reinforcing community tenure rights,
- d) Help meet demands for forest products without jeopardising critical environmental services or biodiversity,
- e) Help steer expansion of plantations to already degraded lands,
- f) Encourage conservation of biodiversity, maintenance of ecosystem values and provision of social benefits on plantations that have been established on converted lands,
- g) Create a more level playing field for different organisations including communities and small-holders,
- h) Close the ‘ownership loophole’ by allowing organisations to compensate for conversion after 1994 on equal terms regardless of who was responsible for the conversion,
- i) Rationalise the various references to conversion within the FSC system.

Main components to be developed:

- I. A single FSC definition of conversion to be inserted in the FSC standard Glossary [FSC-STD-01-002],
- II. A proposal for extending the conditions under which lands converted after November 1994 may be eligible for certification and for amending criterion/criteria 6.9 and 6.10 and associated IGI’s accordingly,
- III. A process-based mechanism for implementing the policy, including guidance on setting baselines, compensation measures for conversion post November 1994, adaptation to scale and intensity, and proposals for evaluation, approval and monitoring.

1. Draft definition of conversion

Conversion: A lasting¹⁷ change of vegetation cover or composition of forests or other ecosystems caused by human intervention, characterised by major loss of species diversity, habitat diversity, structural complexity or ecosystem functionality.

¹⁶ As outlined in the M12 Background paper

¹⁷ Long-term, with no intention to revert the land back to pre-conversion conditions.



Intent box 1: Draft definition of conversion.

The definition focuses on the magnitude of transformation, and addresses also accumulated changes resulting from activities that take place over longer periods of time, i.e. result from gradual degradation rather than rapid transformation (see also 4.2.4 below).

The word “lasting” is used to clarify that temporary changes of forest vegetation cover or structure, e.g. logging followed by regeneration in accordance with P&C 10.1, is not considered as conversion.

The reference to “human intervention” serves to distinguish conversion from dramatic changes due to natural calamities like wind, fire or volcanic eruptions.

The reference to “forests or other ecosystems” reflects that, while FSC focuses on forests, the organisation also acknowledges the biodiversity values, social benefits and environmental services associated with other ecosystems like grasslands and wetlands (a shift mirrored also in the change of emphasis of Principle 9 from High Conservation Value Forests, to the current, more inclusive concept of High Conservation Values).

2. Conditions for certification of lands converted in the future

2.1. FSC’s current Criterion 6.9 (FSC P&C V.5):

The Organization shall not convert natural forest to plantations nor natural forests or plantations on sites directly converted from natural forest to non-forest land use, except when the conversion:

- a) affects a very limited portion of the area of the Management Unit, and
- b) will produce clear, substantial, additional, secure long-term conservation benefits in the Management Unit, and
- c) does not damage or threaten High Conservation Values, nor any sites or resources necessary to maintain or enhance those High Conservation Values.

2.2. Draft revised Criterion 6.9:

Management units containing plantations established on lands converted after XXXX¹⁸ shall qualify for certification only if the conversion and/or measures taken to mitigate negative impacts:

- a) generate demonstrated, additional¹⁹ and long-term environmental and social net gains, and
- b) comply with the full set of FSC P&C (including provisions related to legal compliance and free, prior and informed consent), and

¹⁸ The effective date of this revised criterion.

¹⁹ Exceptions may e.g. include situations where legal conservation requirements go far beyond what’s required to comply with FSC P 6 and 9 – the one potential example identified by the WG is (some regions in) Brazil.



c) safeguard areas necessary to maintain High Conservation Values, and areas that meet with emerging definitions of High Carbon Stock forests^{20,21} once widely agreed and adopted by FSC.

National or regional Network Partners may designate additional forest types or ecosystems as off limits for conversion.

Intent box 2: Environmental and social net gains.

The WG is aware that the evaluation and interpretation of environmental and social gains is challenging and that it will require well-designed, transparent and consistent procedures as well as clearly articulated, auditable Indicators.

Associated guidance with reference to real or hypothetical examples may also be very useful, as may be accumulated 'case law' based on previously evaluated cases.

2.3 Mitigation

2.3.1. Mitigation to achieve environmental net gains from future conversion shall give absolute priority to conservation and/or restoration measures within the management unit.

2.3.2. Mitigation to achieve social net gains shall be identified, evaluated and agreed with affected stakeholders on a case-by-case basis, in line with all applicable FSC requirements.

3. Conditions for certification of lands converted in the past

3.1. FSC's current Criterion 6.10 (FSC P&C V.5):

Management Units containing plantations that were established on areas converted from natural forest after November 1994 shall not qualify for certification, except where:

- a) clear and sufficient evidence is provided that The Organization was not directly or indirectly responsible for the conversion, or
- b) the conversion affected a very limited portion of the area of the Management Unit and is producing clear, substantial, additional, secure long term conservation benefits in the Management Unit.

²⁰ The WG is aware that, until there is a widely agreed and FSC accepted definition, interim provisions may be needed to make this requirement operational and auditable.
²¹ The concept of High Carbon Stocks as here referred to does not apply to plantations.



3.2. Draft revised Criterion 6.10:

Management units containing plantations established on lands converted between November 1994 and XXXX²² shall qualify for certification only if:

- a) the conversion and/or measures taken to compensate negative impacts generate demonstrable, long-term environmental and social net gains, and
- b) measures to compensate for negative impacts have the free, prior and informed consent of affected stakeholders.

4. Compensation and mitigation

Intent box 3: Compensation and mitigation in relation to scale, intensity and context.

Scale: the larger the area converted, the more compensation and/or mitigation is required to generate environmental and social net gains. This should serve to counteract excessive conversion without need to set rigid caps in terms of hectares, proportions or percentages.

Intensity: the higher the conservation value of the ecosystem prior to conversion, the more compensation and/or mitigation is required to generate environmental and social net gains. This means that conversion of areas in more natural state will need more compensation and/or mitigation than conversion of more degraded ecosystems.

Context: the higher the relative value (in a national or regional context) of forests and other ecosystems, the more compensation and/or mitigation is required to generate environmental and social net gains. This allows for differentiating between regions that still retain much of their original forest cover and regions where little original forest cover remains.

4.1. General

4.1.1. Compensation measures shall be additional²³ to measures required to comply with legal obligations and other FSC P&Cs.

4.1.2. The full and continued responsibility for implementing environmental and social compensation and mitigation measures shall rest with the certified organisation/certification applicant²⁴, even if some or all related activities are outsourced to other parties.

²² The effective date of this revised criterion.

²³ Exceptions may e.g. include situations where legal conservation requirements go far beyond what's required to comply with FSC P 6 and 9 – the one potential example identified by the WG is (some regions in) Brazil.

²⁴ This implies land ownership, secure land tenure or legally binding agreements.



4.1.3. Environmental compensation for past conversion may include, in order of priority:

- Protection of vulnerable ecosystems (e.g. prevention of further deforestation), preferably as close as possible to the converted site;
- Restoration of natural ecosystems, preferably as close as possible to the converted site;
- Other conservation projects if on- or off-site conservation or restoration is not feasible or less likely to deliver effective conservation outcomes.

4.1.4. Social compensation for past conversion may include restoration of access to resources, provision of substitutes, compensation for loss of resources or opportunities and provision of other benefits. Measures should serve to improve livelihoods, empower recipients and promote long-term socio-economic development.²⁵

4.2. Setting baselines

4.2.1 Environmental and social baseline conditions shall be identified prior to any future conversion. Assessments shall be commensurate with scale, intensity and context.

4.2.2. Social and Environmental Impact Assessments shall be conducted by qualified experts, include extensive stakeholder consultations, and take account of the national context.

4.2.3. HCV and HCS assessments shall be conducted by qualified assessors in line with recognised best practise.

4.2.4. The baseline for assessing environmental and social compensation liabilities shall be the situation prior to the conversion. However, if the applicant can demonstrate that, at the time of conversion, there were no intentions²⁶ to eventually establish tree plantations on the converted land, the situation at the time of plantation establishment may be used as the baseline for evaluating the amount of compensation needed to achieve environmental and social net gains.

Intent box 4: Baseline conditions addressed in 4.2.4.

The wording of 4.2.4 aims to clarify that, where lands were converted in the past without any intention to eventually establish tree plantations (regardless of who was responsible for the conversion at the time), the conditions at the (later) time of plantation establishment may be considered the baseline (rather than the status prior to the conversion). The burden of demonstrating 'no intentions' would fall on the applicant, the default being baselines that reflect the situation prior to the conversion.

The rationale is a wish to encourage rather than discourage location of new tree plantations and forest restoration on degraded lands. Examples discussed in the WG include cases where organisations want to establish plantations on (no longer economically viable) pasture or agriculture lands originally con-

²⁵ In cases where monetary compensation is agreed upon, the parties may consider several instalments over time and the establishment of community funds, rather than 'one-off' payments.

²⁶ Intentions refer to the 'converting agent' as well as to any other parties in whose interest the converting agent may have been acting at the time.



verted from forests, and establishment of plantations on lands where forests have been severely degraded by e.g. previous overgrazing or over-harvesting for charcoaling. In such situations the gains generated through plantation establishment may be measured against the degraded conditions at the time of planting, rather than against the original forest.

4.3. Compensation liability for cases of conversion post 1994

4.3.1. Management units certified before XXXX in accordance with FSC's requirements at the time of certification, may retain and renew their certificates without further compensation for converted lands under the scope of the certificate.

4.3.2. Cases of past conversion for which the applicant can demonstrate generation of net gains may be certifiable without compensation.

4.3.3. Cases of past conversion for which the applicant can demonstrate some generation of gains may be certifiable subject to implementation of compensation measures sufficient to generate net gains.

4.3.4. Cases of past conversion for which the applicant cannot demonstrate generation of environmental gains (e.g. because baseline conditions prior to conversion were not properly documented) may be certifiable subject to restoration and/or protection of area(s) equal in size, and of comparable ecological value, to the total area converted after November 1994.

4.3.5. Cases of past conversion for which the applicant cannot demonstrate generation of social gains (e.g. because baseline conditions prior to conversion were not properly documented) may be certifiable subject to implementation of compensation measures identified, evaluated and agreed with affected stakeholders on a case-by-case basis in line with all applicable FSC requirements.

4.4. Smallholders and communities

Intent box 5: Adapting compensation and mitigation liabilities for smallholders and communities.

The terms under which converted lands may be certified as outlined in this document require demonstration that the conversion has generated, or will generate environmental and social net gains. While this may be a feasible conditionality for large and medium-sized organisations, it is possibly less so for communities and smallholders.

If FSC wants to encourage smallholders and communities who have converted lands in the past to get certified, it may not be realistic to demand 'entrance fees' over and beyond e.g. restoration of riparian areas and compliance with legal set aside requirements (where such exists) and FSC P&Cs.



FSC may also want to facilitate entry for smallholders and communities who will convert some of their lands in the future to improve their livelihoods, and avoid that they are excluded from supply chains as an unintended result of buyers' commitment to purchase only certified materials.

However, FSC also needs to ensure that any 'shortcuts' are not abused or taken advantage of by larger organisations. Therefore it is proposed that all certified management units / applicants are granted a small compensation free 'discount' of e.g. a total of 10 hectares (an indicative figure subject to adaptation in national standards). This would provide an operational mechanism for allowing (many or even most) smallholders with a conversion legacy into the system without compensation, while in practise uphold (a revised) Criterion 6.10 as it would apply to larger enterprises.

A somewhat similar approach for future conversion may be to allow conversion of e.g. a total maximum of 10 hectares provided that an equal area is restored and/or set aside for conservation in the management unit. This would constitute a mechanism for default mitigation of small-scale conversion without requiring prior baseline assessments or demonstration of net gains.

4.4.1 Management units containing lands converted between November 1994 and XXXX may deduct 10 'compensation free' hectares²⁷ from their total compensation liability.

4.4.2. Management units may convert up to 10 hectares^{28,29} without prior baseline assessment, provided that an area equal to that converted is set aside for restoration and/or conservation of natural forests or other natural ecosystems within the management unit.

Intent box 6: Community land use plans.

An earlier version of FSC's Policy of Excision³⁰ exempted management units with a community endorsed land use plan from the current 6.9 restrictions of conversion to a 'very limited' portion of the unit. The WG has discussed pros and cons of that approach, recognising both the merits of local bottom up decision-making, and the risks associated with potential large scale conversion regulated by no other conditions or safeguards than the plan itself.

The WG wish to make clear that these discussions do not question the rights of people to use their lands as they see fit (within the boundaries of laws and regulations), but rather recognise FSC's right to certify only such land use and practises that comply with FSC's requirements.

The WG welcomes feedback and further suggestions on these issues in the consultation.

²⁷ Subject to adaptation in national FSC standards

²⁸ Subject to adaptation in national FSC standards

²⁹ Any conversion in the management unit over and above a total of 10 hectares requires full compliance with (a revised) Criterion 6.9.

³⁰ FSC-POL-20-003 (2004). The excision of areas from the scope of certification.



5. Evaluation and monitoring

5.1. Evaluation

5.1.1. The burden of demonstrating environmental and social net gains generated by conversion and associated compensation or mitigation measures shall rest with the applicant.

5.1.2. The applicant shall pay for the evaluation of gains generated through conversion, compensation and mitigation.

Intent box 7: Procedures and processes for evaluating baselines and gains

The WG recognises that it will not be possible to foresee or prescribe in detail how to judge all potential cases of compensation and mitigation that may arise. The WG therefore sees a need for FSC to develop a complementary implementation process with robust procedures for evaluating baselines and gains generated through conversion, compensation and mitigation. This should include addressing roles and responsibilities of various actors and levels in the FSC system, process steps and components, timelines, consultations with stakeholders, dispute resolution etc.

More specifically, the work should consider:

- Options for CBs to collate baseline information during pre-assessments;
- Use of (CB-independent) evaluation panels that include FSC member representatives;
- A mechanism for documenting evaluated cases as a body of 'case-law' for later reference;
- Delegation of principal decision-making to the national, sub regional or regional level as capacity and resources allow for;
- How to ensure a high degree of transparency;
- The organising, resourcing and coordinating of evaluation processes by FSC IC;
- Options for sign off on national and regional decisions by the Standards and Policy Committee (or a similar body) in order to provide oversight and promote consistency.

5.2. Monitoring and recognition

5.2.1. The provision of net gains shall be periodically evaluated and verified by an independent third party.

5.2.2. Certification shall be contingent on demonstrated, timely implementation of compensation and mitigation commitments and verified, continued progress towards achieving net gains.



Intent box 8: FSC recognition of demonstrable progress

The WG is aware that, while hopefully clear in terms of intent, the formulation of 5.2.2 is too vague to be consistently audited in the absence of more detailed Indicators and Guidance. There is full consensus in the WG that FSC should not 'certify promises' but demonstrated, real progress. At the same time the WG recognises that some compensation and mitigation measures, particularly forest restoration, may need decades to reach their objectives, and that FSC therefore must be able to recognise progress that stem from such measures even before they have delivered the full intended result.

The challenge is to strike a balance that also allows for some flexibility depending on the character of compensation and mitigation measures and the associated time frame. The WG welcomes feedback and further suggestions on these issues in the consultation.