



Forest Stewardship Council®



Policy for the Association of Organizations with FSC

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DRAFT 2-0

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The Forest Stewardship Council® (FSC) is an independent, not-for-profit, non-government organization established to promote environmentally appropriate, socially beneficial, and economically viable management of the world's forests.

FSC's vision is that the world's forests meet the social, ecological, and economic rights and needs of the present generation without compromising those of future generations.

INTRODUCTION

[For terms defined in Section D below, their first use is marked with an asterisk]

The Forest Stewardship Council (FSC®) is the world's most trusted and recognized brand in responsible forest management. Today, many businesses and governments choose FSC certification because it provides them with guaranteed label awareness, brand value, and reputational benefits.

At the root of our success is our international membership – which includes leading environmental NGOs and campaigners, businesses and social organizations, forest owners, managers and processing companies, and individuals – and our three-chamber governance system, under which our members participate in economic, social, and environmental chambers. Collectively, we share a firm commitment to the vision and mission of FSC, and have a responsibility to uphold the values expressed in the *FSC Principles and Criteria* (FSC-STD-01-001), which detail the essential elements of environmentally appropriate, socially beneficial, and economically viable forest management.

In addition to our forest management, controlled wood, and chain of custody certification standards, all organizations associated* with FSC agree to avoid certain activities – both in FSC-certified operations and in non-certified operations – that would represent a danger to the credibility of FSC, its members, and all entities associated with it. These activities include:

- illegal harvesting or trade in forest products*
- violation of traditional* or human rights* within the forestry or forest products sector
- violation of any of the ILO core conventions* within the forestry or forest products sector
- significant damage* to high conservation values in forests
- significant conversion* of forests* to plantations* or non-forest use
- use of genetically modified trees* for purposes other than research or field trials, in accordance with *FSC Interpretation on GMOs* (FSC-POL-30-602)

FSC Policy for Association: Protecting the FSC brand

The *Policy for the Association of Organizations with FSC* (FSC-POL-01-004) or *FSC Policy for Association* (PfA), protects the reputation of FSC, and all organizations associated with it, by acting as a safeguard against associated organizations* and their affiliated groups* accountable* for the unacceptable activities listed above. This policy is supplemented by procedural documents that describe how it is implemented.

Allegations of breaches of the *FSC PfA* against associated organizations will be accepted and evaluated only upon presentation of substantiated evidence that the associated organization (or an affiliated group) was, or is, accountable for violating the *FSC PfA*. Disassociation* will be considered as a measure of last resort against associated organizations and their affiliated groups that violate the *FSC PfA*, and that do not have the appropriate systems and protocols in place to avoid the occurrence of unacceptable activities. The policy also allows FSC to impose other, less punitive, consequences for violations, depending on the gravity of the violation. Stakeholders should engage in all reasonable efforts to address concerns before presenting an *FSC PfA* complaint.

NOTE TO STAKEHOLDERS

1. The section above was revised because the previous text did not clearly articulate when and how this policy is intended to be used. For more detail, please refer to the crosswalk section of the FAQs that have been prepared for this consultation.
2. Throughout this policy, you will see a new interpretation of the word 'organization', which is now separated into two terms: 'associated organization' and 'affiliated group'. This is because the

previous draft did not accurately capture the intended application of the PfA and also because it used a definition for 'organization' that differed from other FSC normative documents. Please see Section D below for the definitions of these terms. For more detail, please refer to the FAQs that have been prepared for this consultation.

FSC procedural documents: Policy implementation

To put the FSC PfA into practice, two procedural documents are used at different stages of implementation:

1. Any organization seeking to associate with FSC must undergo a screening process for compliance with the FSC PfA, in accordance with FSC-PRO-10-004 *Due Diligence Evaluation for the Association with FSC*.
2. If a potential violation of the FSC PfA is brought to the attention of the FSC Secretariat, then FSC-PRO-01-009 *Processing 'Policy for Association' Complaints in the FSC Certification Scheme* is applied.

NOTE TO STAKEHOLDERS

See Sections 2 and 3 below for an update on the processes to revise the *FSC Policy for Association Due Diligence Procedure* and to develop a *Proactive PfA Evaluation mechanism*, as was proposed in the first public consultation.

Version history

As FSC evolves and grows, we face new challenges, and we improve the quality and strength of our policies through transparent and inclusive review processes. The FSC PfA was first introduced in March 2007, and subsequently:

V1-0 The FSC International Board approved the essential elements of the FSC PfA in July 2009 – the six unacceptable activities in which organizations wishing to associate with FSC could not be directly or indirectly involved in – but recognized that further work was needed to describe the policy implementation process in more detail (see Part I).

V2-0 The FSC International Board approved the policy implementation details (see Part II) in September 2011. This is the current version of the FSC PfA.

V3-0 note: Proposed changes to the policy

Since the last approval of the FSC PfA in 2011, there have been inconsistencies in its application and a continuous need for interpretation. In early 2014, after a careful policy review, the FSC International Board directed the Secretariat to establish a working group to revise the policy.

The review also discovered the need to significantly strengthen the existing *Due Diligence Evaluation for the Association with FSC* (currently an internal procedure), to prevent organizations in breach of the FSC PfA from associating with FSC, and to form the basis for monitoring and evaluation activities.

Revision of the procedure *Processing 'Policy for Association' Complaints in the FSC Certification Scheme* has also been proposed in order to incorporate lessons learned from the implementation of the FSC PfA.

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A Scope

The *FSC Policy for Association* applies to all associated organizations and their affiliated groups. The policy states six unacceptable activities (see Part 1: Policy elements) that associated organizations and their affiliated groups must commit to avoiding, and defines the consequences of a breach to this policy (see Part 2: Policy implementation).

This policy is intended to address situations where one or more of the unacceptable activities are taking place *'outside the scope of the certificate'*. This means that the unacceptable activity(ies) occurred in operations that were either not certified, or that were not covered under the requirements of a chain of custody certificate. (For unacceptable activities that take place *'within the scope of the certificate'*, complaints are meant to follow the advice provided by the procedure *Processing Complaints in the FSC Certification Scheme FSC-PRO-01-008*.) However, this policy can be used as a successional tool, meaning that once a certificate is terminated, then an *FSC PfA* complaint can be filed because the operation is no longer certified. This could be done to seal a termination if the unacceptable activity had the potential to cause further reputational risk. It could also be done to ensure that the consequence of a violation considers both the associated organization and the affiliated group.

This policy applies to situations where the unacceptable activity is occurring or has occurred. *Intent* to engage in an unacceptable activity is not sufficient grounds to trigger a complaint; however, intent to engage in an unacceptable activity may trigger other, proactive measures and monitoring on the part of FSC to help ensure that the unacceptable activity will not occur.

NOTE TO STAKEHOLDERS

The main purpose of the PfA has always been to address unacceptable activities that occur outside the scope of an organization's certificate – i.e. situations where an organization followed the *FSC Principles and Criteria* on its certified unit, yet was engaged in controversial activities on operations that were not certified. It is recommended that this purpose be re-affirmed. For more details, please refer to the FAQs that have been prepared for this consultation.

STAKEHOLDER INPUT NEEDED

To address stakeholder concerns about unacceptable activities that happen within the scope of a certificate, it is recommended that the *Certification Body Accreditation Standard* (FSC-STD-20-001) be expanded to address this: non-conformities with criteria/indicators that overlap with the PfA unacceptable activities would lead to an automatic suspension. This would ensure that these unacceptable activities are handled effectively and efficiently when they occur within the scope of a certificate. Please provide your perspective on whether the accreditation standard should be revised to include this.

B Effective date

Approval date	TBD
Publication date	TBD
Effective date	TBD
Expiry date	TBD

C References

The following referenced documents are essential for the application of this document. For undated references, the latest edition of the referenced document (including any amendments) applies.

- *Processing 'Policy for Association' Complaints in the FSC Certification Scheme* (FSC-PRO-01-009)
- *Due Diligence Evaluation for Association with FSC* (FSC-PRO-10-004)
- *Guideline for Panels Evaluating Complaints against the Policy for Association* (FSC-GUI-01-004)

D Terms and definitions

For the purposes of this international document, the terms and definitions given in *FSC-STD-01-001 V5-2 FSC Principles and Criteria for Forest Stewardship* and the following apply:

Accountable (Accountability)

Accountability exists when the associated organization or affiliated group had or has control* of the entity that engaged, or is engaging, in an unacceptable activity.

Affiliated group

The totality of legal entities to which an associated organization is affiliated in a corporate relationship in which either party controls the performance of the other (e.g. parent or sister company, subsidiary, joint venture, etc.)

Association (associated, associate)

An association with FSC is formally established through any of the following contractual relationships:

- FSC membership agreement
- FSC certificate holder license agreement
- FSC certification body license agreement

NOTE TO STAKEHOLDERS

It is recommended that this policy should not apply to organizations that hold license agreements for use of the FSC label for promotional purposes only, and who are not also members or certificate holders. For more details, please refer to the FAQs that have been prepared for this consultation.

Associated organization

An entity which has an association with FSC, and is therefore responsible for demonstrating conformity with this policy and other requirements upon which the association is based.

Control

The power to direct, restrict, regulate, govern, or administer the performance of a legal entity through authority, rights, contract, or other means.

Explanatory notes:

- To determine whether control exists, FSC may consider all factual circumstances including, but not limited to, shareholding, commercial relationships, financial links and managerial or board relationships, and/or familial relationships, among others.
- A commercial relationship with a legal entity that has engaged, or is engaging in, an unacceptable activity does not, by itself, constitute control. However, where an organization has a commercial relationship with another legal entity that is commercially equivalent to organizational control, such commercial relationship may be used as evidence of control.
- When applying this definition, control may exist irrespective of the percentage share of ownership. However, it shall be deemed to exist – unless it is determined to not exist based on evidence to the contrary – in corporate relationships that include, but are not limited to, an organization owning more than 50 per cent share interest in another legal entity, or an organization owning the right to use all of the assets of another legal entity.

NOTE TO STAKEHOLDERS The final version of the policy will include a guidance document that provides examples of the application of ‘accountability’ and ‘control’. For more information on why we are focusing on control rather than ‘direct’ or ‘indirect’ involvement, please see the FAQs that have been prepared for this consultation.

STAKEHOLDER INPUT REQUESTED

While it is being recommended that ‘control’ include commercial relationships where the associated organization or affiliated group had/has control of the occurrence of the unacceptable activity, there was no consensus amongst the PfA working group on expanding the definition of ‘accountability’ to include situations where the associated organization or affiliated group did not have control over the activities of a supplier, yet purchased from that supplier knowing that they were engaged in an unacceptable activity. This issue will be taken to the FSC Board for a decision. Please see the FAQs for more details. If you have additional perspective to share, then please include them in your comments.

Disassociation

The termination of all existing contractual relationships between FSC and the associated organization and affiliated group. Disassociation also prevents entry into any new contractual relationships with FSC. Disassociation decisions are taken by the FSC Board of Directors, usually due to a breach of the FSC PfA. Ending a disassociation also requires a decision of the FSC Board of Directors and does not mean that any previous contractual relationships are automatically resumed, or that any certificates are reinstated; rather, it implies that the organization may take the steps to re-associate if it wishes to do so. Disassociation normally includes a set of conditions that must be met in order for re-association to be considered.

Forest (natural forest)

See FSC-STD-01-001.

Genetically modified (trees)

See FSC-STD-01-001. This policy is specific to organisms that are trees.

Human rights

Rights as established by the Universal Declaration of Human Rights of the United Nations.

<http://www.un.org/en/documents/udhr/>

Illegal harvesting or trade in forest products

Harvesting of timber and non-timber forest products in violation of any laws applicable in that location or jurisdiction including, but not limited to, laws related to the acquisition of harvesting rights from the rightful owner, the harvesting methods used, and the payment of all relevant fees and

royalties. The term 'trade' refers to both 'illegal trade in forest products' and 'legal trade in illegal forest products'.

ILO core conventions

These are as defined in the International Labor Organization's *Declaration on Fundamental Principles and Rights at Work*. <http://www.ilo.org/declaration>. See also *FSC-POL-30-401 FSC certification and ILO Conventions (2002)*.

Plantation

See FSC-STD-01-001.

Significant conversion

Conversion is normally considered significant in any case of:

- conversion of high conservation value (HCV) forests
- conversion of more than 10 per cent of forests under the associated organization and/or affiliated group's control within a national jurisdiction in the past five years
- conversion of more than 10,000 ha of forests under the associated organization and/or affiliated group's control within a national jurisdiction in the past five years.

Explanatory Notes:

- the 10,000 ha and 10 percent thresholds represents the total percentage or area of forest managed by the associated organization and the affiliated group.
- these thresholds are intended as triggers for determining whether forest conversion is considered to be significant. Conversion that is less than these thresholds may still allow for a complaint to be filed. Conversely, conversion that exceeds these thresholds does not automatically lead to disassociation but will lead to a case-by-case investigation according to the PfA complaints procedure.
- in judging cases, other factors will be taken into account, including but not limited to regional ecological and social impacts; plans for continued conversion; repeated conversion in other national jurisdictions; past conversion (beyond the past five years); and restoration efforts.
- the establishment of ancillary infrastructure necessary to implement the objectives of responsible forest management (forest roads, skid trails, log landings, etc.) is not considered conversion.

Significant damage to high conservation values (HCVs) in forests

Damage to HCVs is considered significant if the attributes that constitute these values no longer exist, or they cannot be repaired, or their survival is immediately threatened.

Explanatory Note:

- it is not expected that the associated organization or affiliated group will systematically conduct HCV assessments to determine the existence of HCVs and the threats to them; rather, it is expected that they make use of available tools such as FSC national or centralized risk assessments, and have mitigation strategies in place in situations where potential risk to HCVs exist.

See *FSC-STD-01-001 FSC* for the definition of the six HCVs.

Traditional rights

Rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit. It also encompasses the rights of Indigenous and Tribal Peoples established by the ILO Convention 169.

PART I POLICY ELEMENTS

1. FSC aims to associate with organizations aligned with the FSC mission and values and does not want to be associated with organizations accountable for the following unacceptable activities:
 - a. illegal harvesting or trade in forest products
 - b. violation of traditional or human rights within the forestry or forest products sector
 - c. violation of any of the ILO core conventions within the forestry or forest products sector
 - d. significant damage to high conservation values in forests
 - e. significant conversion of forests to plantations or non-forest use
 - f. use of genetically modified trees for purposes other than research or field trials, in accordance with *FSC Interpretation on GMOs* (FSC-POL-30-602)

NOTE TO STAKEHOLDERS

Activities b and c: It is being recommended that the scope should be specific to the violations that occur within the forestry and forest products sector. For more information, please refer to the crosswalk section of the FAQs prepared for this consultation.

Activity c: As in the last draft and the last consultation, application of this category is outside the mandate of this revision process and is being addressed by the ILO Working Group. Interim measures are also outside the scope of this revision.

Activity f: The intent to focus restrictions on GM trees to commercial situations has not changed; however, it was recognized that the proposed text in the last draft did not help to clarify this intent (a prohibition on commercialization of GM trees). For more information, please refer to the crosswalk section of the FAQs prepared for this consultation. Additional guidance on field trials may also be developed, as needed.

PART II POLICY IMPLEMENTATION

2 Due diligence

- 2.1 FSC will only enter into or maintain an association with an organization that has passed the due diligence evaluation, conducted according to FSC-PRO-10-004.

NOTE TO STAKEHOLDERS

Based on stakeholder input on the discussion draft of the due diligence procedure released during the first consultation, FSC will now convene a technical committee that will be tasked with developing the due diligence procedure, taking stakeholder comments into consideration. In the meantime, it is expected that the user-friendly guidance being developed as a companion document to the revised FSC PfA will help applicant organizations to better understand the commitments that they must agree to uphold when seeking to associate with FSC. For more information, please see the FAQs that were prepared for this consultation.

3 Investigations of allegations

- 3.1 Any stakeholder, including FSC, can call for an investigation if there is substantiated evidence that an associated organization or affiliated group is suspected of a breach of this policy as listed in Part I.
- 3.2 Allegations are brought to FSC and investigated in accordance with *Processing Policy for Association Complaints in the FSC Certification Scheme* (FSC-PRO-01-009).

NOTE TO STAKEHOLDERS

Based on stakeholder input on the discussion draft of the 'Proactive PfA Evaluation' mechanism that was released during the first consultation, it is now **not** being recommended that the complaints procedure be supplemented with this proactive evaluation mechanism. Instead it is recommended there will be a more comprehensive revision of the complaints procedure. Please see the FAQs for more details.

4 Consequences of a breach of this policy

- 4.1 An associated organization found to be in breach of this policy will, together with its affiliated group, face one of two consequences:
- a. Disassociation from FSC, with specified pre-conditions for renewal of association. Actions to terminate the contractual relationship will be taken within a 30-day period upon the decision to disassociate.
 - b. Probation, with time-bound conditions that must be met in order to maintain association with FSC. The associated organization must agree to meet these conditions, and failure to implement them within the agreed timelines will be grounds for disassociation (see 4.1.a, above).

STAKEHOLDER INPUT REQUESTED

It is being recommended that this second consequence be available in certain, specific situations as an alternative to disassociation. Please refer to the FAQs that were prepared for this consultation for the rationale behind this recommendation and for proposed factors and conditions associated with granting a probation. Stakeholders are asked to provide input on the factors and the conditions that would guide the decision to grant a probation rather than disassociation.

5. Re-association

- 5.1 Together with the decision to disassociate, the FSC Board of Directors may specify a timeline and conditions for renewal of the association with FSC.