



## Principles and Criteria Review

### Briefing Paper on Conversion

**Bonn, 08<sup>th</sup> November 2010**

This paper was produced by the P&C Review Working Group to explain its approach to Conversion in the revised Principles and Criteria and to address stakeholder concerns raised in relation to this approach. The paper will also serve as a basis for further discussions at the P&C Review Workshop on the 15<sup>th</sup> and 16<sup>th</sup> of November 2010. The P&C Review Working Group does not pretend that this could be The Last Word on the issue.

Should you have any further questions regarding this issue, please contact Matthias Fecht at [m.fecht@fsc.org](mailto:m.fecht@fsc.org)

#### What is the issue?

Principle 9 was approved by FSC in 1995 as follows:

#### 9 Maintenance of Natural Forests:

Primary forests, well-developed secondary forests and sites of major environmental, social or cultural significance shall be conserved. Such areas shall not be replaced by tree plantations or other land uses.

9.1 Trees planted in natural forests may supplement natural regeneration, fill gaps or contribute to the conservation of natural resources. Such plantings shall not replace or significantly alter the natural ecosystem.

9.2 The use of replanting as a technique for regenerating stands of certain natural forest types may be appropriate under certain circumstances.

From the start, there was much uncertainty about the interpretation of “sites of major environmental, social or cultural significance”. During 1997 and 1998, the board and staff tried to draft alternative versions, and then set up the Principle 9 Working Group. This WG created the concept of HCVPs, and proposed the current Principle 9, Criterion 6.10 and Criterion 10.9 and the glossary definition of HCVPs. The Board of Directors were aware of anomalies in the proposal, but were also aware that this was an excellent solution to the problem of defining areas that require special attention and protection, so they recommended a positive vote for the whole package, which was approved in early 1999.

In 1996, FSC issued guidance on cut-off dates, making it clear that managers would not be penalized for infractions carried out before the P&C were approved, and that “Significant deviations from the P&C carried out after 1994 must be seriously considered by the certification body, to guard against whitewashing. National working groups should exercise extreme caution before excluding certification on the basis of past practices and mistakes, or



on the current appearance, structure or composition of the forests. If such forests are permanently excluded from certification, their owners and managers will have less incentive to improve management, correct past mistakes or carry out restoration.”

However, with the new Criterion 10.9 as approved in 1999 (see above), the 1994 conversion rule was selected as a back-dated penalty. There was no stakeholder discussion or consultation, apart from the vote of the FSC membership and the rule has remained unchanged since then.

### **What is the conclusion of the P&C WG?**

One of the objectives of the P&C Review has been to analyze all issues identified in the past regarding the FSC Principles and Criteria and to propose, when necessary, revisions to the Principles and Criteria needed to solve the identified issues.

The Policy Working Group of the Plantations Review (PWG) concluded in its final report that ‘... conversion is one of the most sensitive issues within the FSC, and acknowledges the concerns and frustrations expressed by stakeholders on this topic during the Group’s consultations. If FSC gets its policy on this issue right, it will be recognized as being part of the solution to deforestation. If we get it wrong, the organization will be seen as part of the problem and criticized accordingly.’

The PWG also recommended ‘...maintaining the cut-off date of 1994 until it can be demonstrated that the new plantation policy is implemented and working. The Group also asks a technical phase to provide a document preparing a future decision to retain or change the cut-off date. This document shall outline the rationale and the assumptions for and against a change and may form the basis for future consideration of reviewing the cut-off date.’

Accordingly, Expert Team D of the technical phase of the plantations review produced a report including a possible new approach to conversion. The report was published for comments together with Draft 2-0 of the revised Principles and Criteria and two alternative proposals based on the approach proposed by Expert Team D.

The P&C Review WG, and many commentators, agreed that there are several anomalies in the FSC rules and policies over conversion. However, based on the comments on Expert Team D’s report as well as on the two alternatives proposed in Draft 3-0, the P&C WG concluded that there is no external consensus and also no internal consensus around any major changes which could be confidently agreed and recommended, and that the only reasonable course is to draft Criteria that reflect the current FSC rules, as closely as possible.

The following proposal is designed to reflect the rules of existing Criteria 6.10 and 10.9, and also of existing FSC policies. Changes are proposed only to make the statements clearer and explicit, and not to change the current requirements. If anyone sees that these proposals conflict with any detail of current FSC rules, please let us know at once



Two new Criteria are proposed to replace the two existing Criteria. Criterion 6.9 is a typical FSC criterion, dealing with what must be taking place at the time of certification, in the applicant or certified FMU. It confirms the previous rule as per original Principle 9 of 1994 prohibiting current and future conversion with some exceptions as approved January 1999 (see above).

**Criterion 6.9 (Revised 6.10)** The Organization shall not clear forest for conversion to any other land use, except when the conversion

- a) affects a very limited portion of the area of the MU, and
- b) will produce clear, substantial, additional, secure long term conservation benefits in the Management Unit or in the adjacent landscape, and
- c) does not occur on sites carrying HCVs, nor on any sites necessary to maintain or enhance those HCVs

**Note:** The proposed criterion deviates slightly from the current Criterion 6.10 by allowing conservation benefits adjacent to the MU as a justification for conversion inside the Management Unit.

**Question:** Would this represent an acceptable change for FSC members?

**Explanatory Notes:**

1. "A very limited portion" is currently defined as "no more than 0.5% of the area of the Management Unit in any one year, and no more than 5% in total". This definition may be modified by FSC, by due process. (cf. Controlled Wood Standard for Forest Management Enterprises, Company Evaluation of Controlled Wood, and FSC Glossary of Terms).
2. The criterion refers to forests, not to natural forests. The proposed definition of "forest" is new, and may include areas described as wooded ecosystems, woodland, savanna, or planted forests.
3. HCVs are fully protected by Principle 9, but this criterion strengthens their protection.
4. This criterion applies to current and future or planned conversion. Past conversion is covered by Criterion 6.10.
5. The requirement for "conservation benefits" is open to different interpretations, to be judged by CABs and NIs. Examples of "other land uses" inside the management unit justified by conservation benefits may include:
  - Shelter belts or windbreaks to protect sensitive sites and ecosystems inside or outside the MU;
  - Fuel wood plantations for a community that would otherwise collect fuel in a HCV ecosystem adjacent to the MU.
  - Infrastructure, watch towers, and facilities which help with protection, environmental education, sustainable tourism etc.
  - The establishment of a stand of trees of species preferred for roosting, nesting or feeding by local rare or threatened animals.
6. FSC will prepare generic guidelines for HCVs, to provide guidance on the kinds of habitats, sites and ecosystems included as HCVs.



Criterion 6.10 is a unique criterion, like the current Criterion 10.9, setting retroactive conditions for what has happened in the past, since 1994.

**Criterion 6.10 (revised 10.9)** 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 M and is producing clear, substantial, additional, secure long term conservation benefits in or adjacent to the MU.

**Explanatory Notes:**

1. This criterion applies only to “plantations” established by conversion after 1994, because the 1994 rule refers to plantations, not to “other land uses”. Areas that were converted to non-forest uses do not require a new criterion: they can already be excluded from the Management Unit by application of FSC-POL-20-003 (2004) The Excision of areas from the scope of certification, or be covered by elements of the management planning documents (Criterion 7.2).
2. In this Criterion, “directly or indirectly responsible” means that The Organization in its currently registered or incorporated legal state was directly responsible for the conversion of the natural forest to plantations after November 1994; or was indirectly responsible through its supervision of contractors; or had transferred the conversion areas to another entity or entities, by sale or by management contract or similar arrangement, but had retained control over the policies and practices for the management of the conversion areas. This Criterion also applies to The Organization through any changes in name or other institutional arrangements which have allowed continuity of the management intentions for the plantation from the time of the conversion from natural forest.
3. This retains November 1994 as the date on which FSC Principles and Criteria were approved. Therefore, by natural justice, previous conversion of natural forest to plantation could not subsequently be penalized by FSC.

**Rationale:**

1. The criterion deals with “MUs containing plantations” rather than only the “Plantations”, because Forest Management Certificates cover MUs Organizations, rather than specific vegetation types. This looks like a “raising of the bar”, but in fact it corresponds to current practice.
2. The phrase “directly or indirectly” is in the existing C.10.9.
3. The criterion does not include HCVs because (a) HCVs are not mentioned in the current criterion 10.9 which was drafted by the original FSC P9 WG and adopted at the same time as Principle 9, (b) it is against natural justice to backdate a provision for HCVs to 1994 when the concept did not exist, (c) a requirement to identify the previous existence of HCVs in forest which was cleared up to 15 years ago is not readily auditable, (d) we wish to avoid raising the bar by adding anything that is not a current requirement, and (e) to avoid introducing a new backdated element, perhaps to 1999.



4. This proposal represents current policies, and does not respond to the recommendations of the Plantations Policy WG, or to those of Expert Team D, since no consensus was reached. Many stakeholders have made strong and conflicting criticisms of the current rules for the implementation of the 1994 policy, and have proposed a wide variety of changes. These cannot now be reconciled by the P&C WG. New policy proposals will be required in due course.

Anomalies linked to the 1994 Rule:

- A. Current rules prevent the Forest Management Certification of a whole MU if the Post-1994 Conversion Plantations exceed the “very limited portion” of the MU, even if the conversion ceased many years ago. Why? The old C.10.9 forbids the certification of only the plantations, but FSC-POL-20-003 requires that a certificate covers the whole FMU.
- B. The new Criterion 6.10 and the current Criterion 10.9 are the only criteria that are backdated. This is a major anomaly, almost unique in the world of certification. The rule is designed to protect the biological diversity of natural forests, which form part of the Environmental objectives of FSC, along with the Social and Economic objectives. It is notorious that Organizations may commit the most serious offences to indigenous people, workers, local communities, laws, and major damage to HCVs, soils and aquatic systems, and may use the worst pesticides and GMOs, but may obtain immediate certification when they renounce, abandon and eliminate these practices. Only conversion is unforgiveable. No clear or logical reason has been given for this unique provision, except for the willingness of the membership to vote in favour of the Board’s recommendation.
- C. Whatever the wisdom on the 1994 rule when it was approved in 1999, the anomaly becomes greater with the passage of years. The 1994 rules protects all natural forests (as defined), including those which have lost a high proportion of their environmental, economic and social values as a result of past misuse. The old C.9.2 recognized that replanting is sometimes an appropriate way of regenerating natural forests. Sometimes, an optimum balance of social, economic and environmental objectives may be best achieved by converting natural vegetation with few environmental values into a land-use use system that aims at maximizing all three objectives.

**Conclusion**

The P&C WG concludes that the 1994 rule still needs urgent and major reconsideration.

Options include:

- Replacing 1994 with a ten-year rolling date.
- Return to the rule negotiated in 1994 for the first P&C, setting conversion as a rule for current activities like all other criteria.
- Providing guidance for the kinds of circumstances under which some kinds of natural forest and other vegetation may be converted, and to what extent.

**Sources:**

The main FSC documents taken into account by the P&C Review WG included:

- FSC-ADV-31-001 FSC Advice Note in the interpretation of C.10.9 (2003)



- FSC-ADV-30-602 Conversion of Plantation to Non Forest Land (2004) (Now FSC Advice 20-007-10)
- Draft FSC-ADV-30-607 Establishment of plantations on rare or threatened habitats (2004)
- Draft FSC-ADV-30-608 Further interpretation of C.6.10 (2004)
- FSC-GUI-20-200 FSC Guidelines for Certification Bodies (2005)
- FSC BM-29-XX Excision of Areas from Scope of Certification (2003), a proposal presented to and accepted by the Board, providing examples of sites that may be excised from the certified area of an FMU.
- FSC-POL-20-002 Partial Certification of large ownerships (2000), giving examples of the conditions under which large forest ownerships may be certified in separate FMUs, partially or completely.
- FSC-POL-20-003 FSC Policy on the excision of areas from the scope of certification (2004), based on BM-29-XX but not including all examples.
- FSC-STD-30-010 of August 2006, FSC Controlled Wood Standard for Forest Management Enterprises. An FSC standard which explains how “forest conversion” affects Controlled Wood certification. 16 p.
- FSC-STD-40-005 V1-0 Company evaluation of Controlled Wood
- FSC-DIS-30-005 Review of FSC Conversion Policy – Final Report of Expert Team D. A new set of proposals, introducing the concept of “upwards conversion”.