



Forest Stewardship Council®



# Due Diligence Evaluation for the Association with FSC

## FSC-PRO-10-004 V2-0 EN

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## **DUE DILIGENCE EVALUATION FOR THE ASSOCIATION WITH FSC**

FSC-PRO-10-004 V2-0 EN

**DRAFT 2**

The Forest Stewardship Council (FSC) is an independent, not for profit, non-government organization established to support 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

FSC-POL-01-004 The *Policy for the Association of Organizations with FSC, or FSC Policy for Association (PfA)*, is an expression of the values shared by organizations associated with FSC. It defines six unacceptable activities that associated organizations and their affiliated groups commit to avoid in both certified and non-certified operations.

The procedure in this document, FSC-PRO-10-004, describes the process used by FSC<sup>1</sup> to screen applicants prior to their association with FSC, thereby minimizing the risk of establishing an association with an organization in violation of the *FSC Policy for Association*.

The risk management approach taken in this procedure aims to balance the need for proactive implementation of the *FSC Policy for Association* while recognizing that it cannot place undue burden on, or create a certification disincentive for, certificate holders and members committed to the values of FSC.

Unlike contractual agreements for forest management, chain of custody, and controlled wood certification between the organization and the certification body, compliance with the *FSC Policy for Association* is overseen directly by FSC. Therefore, FSC also implements this PfA Due Diligence Procedure. However, if the certification body finds evidence or observes actions that point to a possible violation of the *FSC Policy for Association*, then the certification body is responsible for informing both the organization and FSC of such information<sup>2</sup>.

## VERSION HISTORY

V1-0: initial version, and an internal operating procedure.

V2-0: proposed, and first proposed public procedure. Revisions are being suggested to expand the procedure beyond an applicant's 'self-declaration' towards a 'self-assessment' and to include active risk screening by FSC and stakeholders. Furthermore, there is now a requirement for disclosure of the applicant's organizational structure and countries of operation.

## NORMATIVE DATES

Approval date: XXX  
Publication date: XXX  
Effective date: XXX  
Transition period: XXX  
Period of validity: XXX

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<sup>1</sup> Implementation of the *FSC Policy for Association*, including this procedure, is under the management of the FSC Quality Assurance Unit.

<sup>2</sup> See also Interpretation *INT-STD-20-001\_13 Clause 2.7d (amended 28 April 2016)* for more information.

## REFERENCES

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

- FSC Policy for the Association of Organizations with FSC (FSC-POL-01-004)
- Procedure for Evaluating Compliance with the FSC Policy for Association (FSC-PRO-01-009) [Note: This procedure is also being revised, with a new title from the current, approved version].

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### A. Scope

This procedure is implemented by FSC and is applied to both applicant FSC members (for FSC International membership) and applicant certificate holders.

This procedure concentrates on whether any of the six unacceptable activities of the *FSC Policy for Association* are taking place in the organization's operations that are not certified (nor pursuing certification). This procedure supplements the assessment process for forest management, chain of custody, and controlled wood certification.

This procedure will be implemented in a multi-step approach: In the first step, as of the effective date, it shall apply to organizations applying for FSC certification or FSC membership. In a subsequent step, and after a formal review of its effectiveness (approximately 2 years of the effective date), it is envisaged that the scope will be extended to organizations applying for re-certification (for certificate holders) and membership renewal (for members). When such a decision is taken, the scope section will be revised accordingly.

Organizations that have been disassociated from FSC undergo a separate process for re-association, and with separate procedures for evaluating compliance with the *FSC Policy for Association* in all their operations.

## **B. Steps in the Process for Applicant Certificate Holders and Applicant Members (in sequential order)**

### **1 Applicant Self-Assessment and Disclosure**

- 1.1a In relation to applicant certificate holders: Prior to entering into a contract with a certification body, the organization shall complete an *FSC Policy for Association* self-assessment questionnaire and declaration of commitment to the *FSC Policy for Association* (see Annexes 1 and 2). Both online documents are found on the 'Welcome' portal of the FSC website<sup>3</sup>.
- 1.1b In relation to applicant members: As part of the FSC International membership process, the organization shall complete an *FSC Policy for Association* self-assessment questionnaire and declaration of commitment to the *FSC Policy for Association* (see Annexes 1 and 2). Both online documents are found on the 'Welcome' portal of the FSC website.
- 1.2 As part of the self-assessment questionnaire (see Question 2 in Annex 1), the organization shall disclose all legal entities within its affiliated group and of which the organization or its affiliated group has managerial control<sup>4</sup>.

Note to Stakeholders: As part of the revision of the PfA (to which this procedure supplements), the working group agreed by consensus that organizations are held accountable for unacceptable activities where they had managerial control. Therefore, to better align this procedure with the PfA, the disclosure requested in 1.2 above has been revised to include organizations where there is managerial control. Examples and guidance related to both the definition of "affiliated group" and "managerial control" are being developed as part of the broader PfA revision.

### **2 Additional risk screening**

- 2.1 The following organizations shall require additional screening by FSC, according to Section 3 below, before they can pursue certification:
- a) organizations with further operations (either their own or within their affiliated group) in the forestry or forest products sector that are not FSC certified nor pursuing certification, and that:
- i. score lower than 50 on Transparency International's Corruption Perception Index<sup>5</sup>, or
  - ii. have a net loss or a significant rate of loss (>.5% per year) of natural forest and other naturally wooded ecosystems<sup>6</sup>

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<sup>3</sup> Website link will be included upon the publication date of the final version of the revised procedure.

<sup>4</sup> See the FSC Policy for Association for guidance on determining managerial control.

<sup>5</sup> This tool is globally recognized as an effective and credible resource for identifying countries where activities such as those in the *FSC Policy for Association* are at risk to occur. See: <https://www.transparency.org/cpi2015>

<sup>6</sup> This calculation is based on the most updated FAO's State of the World's Forest Report, and is aligned with the FSC Controlled Wood National Risk Assessment designations.

Stakeholder input requested:

1. During the first consultation, stakeholders provided perspectives on risk factors for the risk screening, as well as possible tools to use in the process. These were considered in the development of this next draft; however, the working group continues to struggle with how to make the risk factors operable and effective for risk screening. In addition to CPI, this draft now also includes screening for deforestation as a proxy for conversion and HCV damage. Please provide technical input on these and other risk factors (including thresholds) that could be feasible and effective for this risk screening.

2. Comments from the first consultation pointed to a gap in the risk screening for “illegal trade” (category (a) in the PfA). To fill this gap, the disclosure requirements and screening process would need to be expanded to consider suppliers located in countries with CPI indexes lower than 50. While this may be an ideal scenario, there is concern about its feasibility and practicality. Note that the self-assessment questionnaire does include suppliers for category (a) as a means of addressing this issue in the procedure. Please provide technical input on the feasibility of screening for illegal trade, including if you have knowledge of the number of additional applicants that would therefore undergo this screening process if it were included.

2.2 These organizations will be identified by FSC based on the responses they provide in the self-assessment questionnaire indicating whether they fall within the above categories.

### 3 Information-gathering and verification

#### **Stakeholder Input**

3.1 On a weekly basis, organizations applying for FSC certification or FSC international membership that fall under Clause 2.1 above will be listed by FSC in a designated section of the *FSC Policy for Association* webpage<sup>7</sup> and a notification will be sent to stakeholder registered for the ‘PfA Stakeholder Notification’ list-serve .

Stakeholders are given the opportunity to provide input to FSC specifically regarding the applicant organization’s compliance with the *FSC Policy for Association*. If there is concern that the organization is in violation of the *FSC Policy for Association*, then stakeholders shall provide substantiated evidence to support this claim.

3.2 Stakeholders have a maximum of 10 days from the website posting to provide comments.

#### **FSC Evaluation**

3.3 Within 15 days of notification of the organization on the *FSC Policy for Association* webpage, FSC will internally review the organization’s self-assessment questionnaire and any comments provided by stakeholders.

3.4 If the review in Clause 3.3 provides an indication that the organization may be in significant risk of violation of the *FSC Policy for Association*, FSC will conduct a more detailed review, which shall include direct communication with the organization

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<sup>7</sup> Website link will be included upon the publication date of the final version of the revised procedure.

to gather additional information. In such instances, the organization shall be notified that the review may require an extension of the time frame allocated for the screening<sup>8</sup>.

- 3.5a In relation to applicant certificate holders: If there is no indication of a violation of the *FSC Policy for Association* based on substantiated evidence, then the organization can pursue FSC certification; otherwise the evaluation is continued according to Section 4.
- 3.5b In relation to applicant members: If there is no indication of a violation of the *FSC Policy for Association* based on substantiated evidence, then the applicant can pursue membership; otherwise the evaluation is continued according to Section 4.

#### **4 (if applicable) FSC Investigation and evaluation according to FSC-PRO-01-009 Procedure for Evaluating Compliance with the FSC Policy for Association**

- 4.1 If there is substantiated evidence that the organization is in violation of the *FSC Policy for Association*, then the *Procedure for Evaluating Compliance with the FSC Policy for Association (FSC-PRO-01-009)* shall be initiated by FSC in order to conduct a robust evaluation and make a determination.
- 4.2 The organization will be given the opportunity to withdraw its application if it does not want to move forward with the evaluation. However, the FSC Director General has the discretion to conduct a more robust evaluation.

### **C. TERMS AND DEFINITIONS**

#### ***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.).

#### ***Applicant***

The organization that seeks to enter into a formal association with FSC as a member or certificate holder.

#### ***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

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<sup>8</sup> The timeframe allocated to this screening process will normally take a maximum of 20 days: 5 days for the stakeholder notification to be sent out, 10 days for stakeholder input, 5 additional days for FSC verification (in order to also review information provided by stakeholders once the 5 day consultation is complete).

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 where 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.

***Due Diligence:***

A precautionary investigation of a business or person prior to signing a contract.

***Substantiated evidence:***

Credible information provided by third parties and/ or gathered through independent research obtained from reliable/renowned sources which constitutes a solid piece of evidence to be considered in an investigation.

Substantiated evidence may include any of the following forms so long as the evidence meets the criteria required in this definition: scientific reports, technical analysis, certification reports, corroborated news articles, official reports and/ or announcements by Governmental authorities, legal analysis, Geographic Information System information (boundary coordinates, satellite mapping), videos or footage, images, independent interview declarations, meeting minutes, corporate/organizational information (confidential and public).

***Organization (associated organization):***

An entity which has, or is seeking to have, an association with FSC, and is therefore responsible for demonstrating conformity with the *FSC Policy for Association* and other requirements upon which the association is based.

## **Annex 1: FSC Policy for Association Self-Assessment Questionnaire**

1. Is your organization applying for both FSC certification and FSC membership, or are you already associated or applying for association with FSC through membership or as a certificate holder?
2. The *FSC Policy for Association* holds organizations accountable for unacceptable activities over which they had control, including both within their affiliated group and with other entities where managerial control is demonstrated. Towards understanding your relationship with such entities, please list (through an organizational chart or otherwise)
  - a) all entities within the organization's 'affiliated group' and
  - b) other entities of which the organization has control:
    - 2.1 Have any entities within the organization's affiliated group previously been disassociated from FSC? If so, please list and describe the current status of the disassociation:
3. List all countries in which your organization, or the entities listed under Question 2 above, have operations or activities in the forest, forestry or forest products sector. If neither your organization nor these entities have operations or activities in these sectors than please write "Not Applicable".
4. Provide evidence that your organization and its affiliated group have policies and procedures in place and in practice for not engaging in the following activities<sup>9</sup>. If these are not applicable to your type of organization, then please indicate and explain.<sup>10</sup>
  - a. Illegal harvesting or trade in forest products

Since this category includes trade, do the procedures and policies extend to suppliers (Y/N)
  - 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<sup>11</sup>
  - 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 (which can include field trials), such as for commercial purposes
5. Have all entities within your organization's affiliated group been made aware of these procedures or policies (as referenced in Question 4, above)?

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<sup>9</sup> Definitions and guidance associated with each of these unacceptable activities are found in the FSC Policy for Association, attached to this self-assessment form.

<sup>10</sup> Guidance and examples of these policies and procedures (and of evidence for demonstrating compliance with them) may be provided in the final version of this procedure.

<sup>11</sup> Any existing process or procedure approved by FSC related to compliance with this category and the ILO Core Conventions is unaffected by this revision and will remain in effect until such time as FSC directs otherwise and in conformance with the outcome of the ILO Working Group.

6. Does your organization agree to make these policies or procedures accessible to FSC if asked to do so?
7. Provide additional information on any of the above responses, if necessary:
8. Are your organization and any entities within your affiliated group a party to current or past legal actions or substantiated allegations related to the unacceptable activities of the *FSC Policy for Association*, and/or have you previously applied for certification and a certificate was not awarded or was rescinded by FSC or an ASI-accredited certification body? If yes, then please explain.
9. Your organization's commitment to honor the values within the *FSC Policy for Association* applies to all entities within the affiliated group. Is the highest executive within this group aware of, and supportive of, this commitment? Identify the highest executive within this group:

## **Annex 2: Declaration of Commitment to the FSC Policy for Association**

Through this declaration, the undersigned organization commits to uphold the shared values of the Forest Stewardship Council (FSC) and to comply with the FSC Policy for Association (FSC-POL-01-004 V3-0).

The organization explicitly agrees, currently and for as long as the relationship with FSC exists, to not engage in 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<sup>12</sup>
- 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 (which includes field trials), such as for commercial purposes

This declaration of commitment to the FSC Policy for Association extends to all entities within the organization's affiliated group.

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Organization

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Date

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<sup>12</sup> Any existing process or procedure approved by FSC related to compliance with this category and the ILO Core Conventions is unaffected by this revision and will remain in effect until such time as FSC directs otherwise and in conformance with the outcome of the ILO Working Group.

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