



Terms of Reference

REVISION OF THE COMPLAINTS AND APPEALS PROCEDURES

FSC-PRO-01-005 V3-0
FSC-PRO-01-008 V2-0



PROCESS SUMMARY

Process Title: Revision of the complaints and appeals procedures

Process Type: Regular

Scope: Revision

Type of Working Group: Expert working group

of Working Group members: Four

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Working language: English

ToR approval date: 28 May 2024

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CONTENTS

1. Process terms of reference	4
Background and introduction	4
Key objectives	5
Expected output	5
Intended outcomes from the implementation of the requirements (as necessary depending on the process)	5
The process type and process steps, including decision-making bodies and testing, as well as any proposed deviation	6
Scope of work of the working group members	7
Other ongoing FSC processes and projects to align with	9
2. Establishing the working group	10
Approval of the terms of reference	10
Organizational set up of the process	10
Selection criteria for Working Group members	11
Approval of the selected working group members and allocation of stipends	12
Role of observers	12
Workplan and time commitment	13
Expenses and remunerations	13
Confidentiality and conflict of interest	13
Language	13
3. OPERATING RULES	14
Deliberations and decision-making	14
Annex 1: Terms and Definitions	15
Annex 2: Work Plan and Estimated timelines	16

1. Process terms of reference

Background and introduction

FSC is revising procedures FSC-PRO-01-005 V3-0 Processing Appeals and FSC-PRO-01-008 V2-0 Processing Complaints in the FSC Certification Scheme. The procedures deal with complaints and appeals regarding the FSC normative framework, the performance of FSC International, the FSC Network as well as the performance of Assurance Services International (ASI). These procedures have the aim of ensuring a timely, independent and effective resolution of complaints and appeals submitted by FSC stakeholders.

NOTE: These procedures do not deal with complaints under the Policy for Association for which a specific procedure is available (FSC-PRO-01-009).

The procedures FSC-PRO-01-005 and FSC-PRO-01-008 were last revised in 2014. Since then, FSC has rapidly evolved, expanding its activities beyond certifying forest management and producing forest products. Among others, the FSC system now includes recognizing ecosystem services, the role of forests in combating climate change, and the importance of social and environmental remediation. The evolution of FSC has led to an increasingly complex certification scheme with diverse policies, standards, and procedures to fulfil its mission. However, the complaints and appeals procedures have not been updated to reflect this development.

In March 2020, the FSC Board of Directors (BoD) approved the joint revision of FSC-PRO-01-005 V3-0 Processing Appeals and FSC-PRO-01-008 V2-0 Processing Complaints in the FSC Certification Scheme during its 83rd meeting as part of a general review of the FSC Dispute Resolution System. The decision to revise was based on two review reports prepared by the System Integrity Unit (SIU). The reports identified several issues that required revision, and stakeholders also supported the need for revision during an earlier consultation. The working group for Policy for Association Complaints (FSC-PRO-01-009) was tasked with the revision process.

The revision plan was postponed in June 2020 due to reduced resources from FSC and the working group (WG). As a result of the COVID situation, Procedures 005 and 008 were removed from the scope of the WG's work. The revision process was included in the work plan for 2023, with an expected start date after revisions to the Policy for Association and Remedy Framework were completed. The revision process commenced in May 2023.

The conceptual phase of the revision began in June 2023. To ensure maximum participation, SI engaged with different stakeholders through various activities, including surveys, interviews, meetings, webinars and a public consultation conducted from 02 October to 30 November 2023. The feedback received during the conceptual phase has been summarised in a Synopsis Report, which highlights the results of the first public consultation and complements them with additional contributions from targeted stakeholder engagement.

To further build on the extensive work already put into the revision, FSC will establish a working group of technical experts to draft the future procedure on complaints and appeals. The working group will continue to engage a broad range of stakeholders to collect feedback and input during the drafting phase, ensuring that the final product reflects their contributions.

For further information related to the revision process, please visit the dedicated webpage [here](#). For questions, please contact Mario G. Aguilera, project lead, at m.aguilera@fsc.org, or Julian Nierentz, Program Manager (Case Management) at j.nierentz@fsc.org.

Key objectives

Key objectives of the process

The objectives of the joint revision of procedures FSC-PRO-01-005 and FSC-PRO-01-008 are as follows:

- 1) Develop a simplified, easily accessible and effective complaints and appeals procedure;
- 2) Ensure an appropriate balance between the lowest level principle and independence;
- 3) Align with FSC's normative requirements; and
- 4) Update the procedures in line with international best practices on complaint mechanisms.

Expected output

Procedures FSC-PRO-01-005 and FSC-PRO-01-008 have been revised to facilitate and expedite the adoption of a new FSC-PRO-01-00x Processing of Complaints and Appeals. The implementation of this new process is intended to meet the outcomes detailed in the section below. Participation in the revision includes providing input to related documents.

Intended outcomes from the implementation of the requirements (as necessary depending on the process)

Intended outcomes from the implementation of the requirements

Table 1 - Outcomes of the process

Title	Description of the outcomes
Effectiveness of Complaints Handling	A framework that enables efficient and adequate case processing, delivering conflict resolution and remedy, is fully supported. The procedure enables FSC to respond quickly and in a targeted manner to complaints, provide transparency to stakeholders regarding processes and mechanisms used, and use proportionate measures.
Appropriate allocation of responsibilities with case escalation options	The distribution of responsibility for resolving disputes is appropriately allocated among the various complaints handling bodies within the FSC system (CHs, CBs, ASI, FSC), and reasonable escalation is ensured.
Accessibility for more vulnerable and/or marginalized individuals and groups	Ensure systems and procedures are in place to allow access to the complaints system for individuals and groups who may be at increased risk of vulnerability and/or marginalization, such as with an ombuds service.
Independence and impartiality	The guarantee of independence for handling bodies is ensured, and tools are available to identify conflicts of interest.
Streamline the Normative Framework	Alignment with the normative requirements of FSC is ensured, including its new areas of work such as climate and ecosystem

services, and the importance of social and environmental remediation.

State of the art procedure

The adherence to international best practices in the area of grievance and remediation mechanisms points to the new procedure serving as a model for other schemes.

Tracking progress

The development of dispute resolution indicators to track effectiveness is fully supported.

Learning from complaints

Ensure systems and procedures are in place to allow continuous learning from the complaints system.

The process type and process steps, including decision-making bodies and testing, as well as any proposed deviation

The revision of FSC-PRO-01-005 and FSC-PRO-01-008 is classified as a regular process.

Table 2 – Process types

PHASE	KEY STEP / ASPECT	REGULAR	Deviations
Conceptual			BCRC as board liaison
	Consultation		Public + additional activities for strong stakeholder engagement
	Process ToR	Process lead	
	Deciding on the ToR	Director General	
Working Group			BCRC as board liaison
	Working group composition	Four Experts	
	Deciding on working group composition	Director General	
Drafting			BCRC as board liaison
	Drafting	Process lead	

	Consultation	Public	Additional activities for strong stakeholder engagement
Testing	Testing	Pilot testing	
Final decision	Final decision	Policy and Standards Committee	
Implementation	Publication date	6 months prior to effective date	
	Effective date	1 st January/ 1 st July	
	Transition end date	18 months after effective date	

Scope of work of the working group members

The working group is expected to advise on the revision of the complaints and appeals procedures for the following topics:

1. Merge the procedures to simplify and streamline the process

- Identify and systematize the relevant contents of procedures FSC-PRO-01-005 V3-0 and FSC-PRO-01-008 V2-0 and eliminate any overlaps.
- Revise the structure and wording to improve readability and clarity, making it easier to implement the process.

2. Revise the scope of applicability of the procedures to ensure coverage of all FSC activities

- Review and improve the scope to cover current FSC operational activities beyond FM and CoC certification, especially but not limited to the Remedy Framework or FSC's climate and ecosystem services model.
- Ensure that the scope of complaints and appeals is aligned to achieve a consistent and effective resolution and closure of cases, taking into account any related exceptions to the rule.
- Determine the relevant factors that justify presenting a complaint, such as harm and legitimate interest and/or other.
- Identify the appropriate recipients for complaints and appeals based on the operational activities that are subject to a complaint, including certificate holders (CHs), certification bodies (CBs), Assurance Service International (ASI) and FSC International.
- Identify the available options for stakeholders to address matters that are beyond the scope of complaints and appeals, as well as overlaps with handling Policy for Association case in FSC-PRO-01-009.
- Review the learnings about gaps or loopholes in the complaints mechanism with the current procedures, with a view to addressing them in the revision.

3. Assess the governance of the dispute resolution system to improve the quality, accessibility, consistency and reliability of the process with a view to remedy

- Identify criteria/principles of effectiveness and common *minimum* standards for the handling of complaints and appeals by the different implementing bodies (CHs, CBs, ASI, FSC International and Network Partners) based on the United Nations Guiding Principles on Business and Human Rights (Principle 31) and other relevant international instruments and best practices.
- Determine the role and functions of the FSC regional and local network in the procedure, taking into account cases where there is no local network partner.
- Develop new possibilities for establishing an ombuds-service to carry out part of the process in cases related to individuals and groups who may be at increased risk of vulnerability and/or marginalization breaking down access barriers to the complaints mechanism, protect complainants, support efficiency and reduce conflict of interest.
- Develop alternative dispute management mechanisms into FSC complaint handling processes.
- Review all actors and establish criteria to avoid conflicts of interest.
- Develop criteria for applying exceptions to the lowest level principle, allowing complaints to be transferred from lower to higher levels where appropriate.

4. Define the rights and obligations of the parties in line with international best practice to provide certainty to complainants and defendants

- Clarify the rights and obligations of the parties at each stage of the process.
- Incorporate specific enhanced safeguards for vulnerable and marginalized individuals and groups to ensure equal access to the complaints mechanism, specially but not limited to indigenous peoples and local communities.
- Consider best practices of other schemes in defining measures for addressing retaliation and reprisal of complainants and consider appropriate measures for FSC.
- Incorporate the contents of the FSC interpretation on the handling of persistent or vexatious complaints, and, if necessary, develop additional criteria to address the abuse of the procedure.

5. Provide input to the development of the institutional Case Management Tool (CMT) to facilitate systematic improvements in handling and learning from complaints. Provide input on:

- the type of information that should be collected in a centralized database
- the level to record complaints and appeals in a centralized database, taking into account that CBs and ASI work with various certification schemes and have built their own case management tools
- the level of access to the information collected for different actors
- the differentiation between complaints, incidents and comments
- dispute resolution indicators to track progress and effectiveness of responses and corrective actions, identify challenges, set priorities, and drive development and revision of the normative framework.

6. Align and streamline the normative framework

- Review and improve the requirements, concepts and definitions related to the Complaints and Appeals Procedure, considering the legal, integrity and governance needs of FSC International. Focus specifically on aligning with the following procedures:
 - Processing FSC Policy for Association Complaints FSC-PRO-01-009

- General requirements for FSC accredited certification bodies FSC-STD-20-001, clause 1.9
- Chain of Custody Standard FSC-STD-40-004, clause 1.7
- International Generic Indicators [for forest management] FSC-STD-60-004, clauses 1.6, 2.6 and 4.6.

7. General

- Refer to section '2 Establishing the working group' (WG) for information on the role and responsibilities of the WG in the organizational set up of the process.

The following chapter 2 (section 'Organizational set up of the process') presents a detailed description of the actors – including the WG –, their roles, and responsibilities during the drafting phase of the revision.

Note: Some of the items above will not be part of the revised procedure, but of its surrounding operationalization system. For those, the Working Group of technical experts will be invited to provide input, which will be addressed outside of the revision process. An updated version of these ToR with further clarification will be provided before the kick-off meeting.

Other ongoing FSC processes and projects to align with

Alignment processes will be necessary for the following procedures to align with the content of the future Complaints and Appeals Procedure:

- Processing FSC Policy for Association Complaints FSC-PRO-01-009
- General requirements for FSC accredited certification bodies FSC-STD-20-001, clause 1.9
- Chain of Custody Standard FSC-STD-40-004, clause 1.7
- International Generic Indicators [for forest management] FSC-STD-60-004, clauses 1.6, 2.6 and 4.6.

2. Establishing the working group

Approval of the terms of reference

Upon approval of the terms of reference, the process lead shall establish the working group (WG).

Organizational set up of the process

Relevant working bodies

Table 3 - Roles and responsibilities of the relevant working bodies

Working Body	Roles and responsibilities
The Process lead shall:	<ul style="list-style-type: none">a) establish and execute the working group work plan;b) draft the requirements;c) design the structure and scope of the meetings;d) organize and lead working group meetings;e) provide the working group with relevant materials;f) represent FSC International, e.g., by providing inputs to the working group discussions, ensuring alignment with other ongoing processes within FSC;g) coordinates the participation of FSC Staff in the process;h) seeks other experts as necessary;i) initiate the consultation on the draft requirements;j) manage the testing of requirements;k) monitor adherence of the working group to the terms of reference; andl) report on working group performance and quality of deliverables to FSC management and, if necessary, to FSC Board of Directors.
The working group shall:	<ul style="list-style-type: none">m) Provide input on the contents of the requirements that need to be incorporated into the revised procedure on complaints and appeals; NOTE: the process lead is responsible for drafting the requirements;n) Stay informed about developments in the field of grievance and remediation mechanisms;o) Provide detailed input on the content of the requirements aligned with international standards and best practices in the in the field of grievance and remediation mechanisms;p) Review the development work already done by the Process lead, including discussions held with the Board, BCRC, consultation material, and the feedback gathered through various engagement activities such as interviews, consultation, webinars, conferences and online discussions;q) Evaluate and consider feedback gathered during the second public consultation and other engagement activities;r) Address relevant interpretations and frequently asked questions;

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- s) Participate in stakeholder outreach and information-sharing forums as needed;
 - t) Seek comprehensive advice on the development and outcome of the revision process from the FSC Global Network, including Standard Development Groups, FSC Board of Directors, ASI, FSC accredited CBs, FSC certificate holders, other FSC stakeholders and/or relevant Technical Experts.
 - u) Adhere to the process terms of reference, including timelines and the collaboration rules; and
 - v) Recommend, object to or abstain from the draft which is submitted for consultation or for its approval.
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Technical Coordinator [if needed]

- a) provide support to the process lead to ensure working group (WG) content specific deliberations and deliverables correspond to the scope of the terms of reference (ToR);
 - b) ensure consistency within the FSC normative framework, for both, existing documents and ongoing processes;
 - c) make technical recommendations and provide references for WG; and
 - d) support the process lead in the targeted outreach to specific user groups, as necessary.
 - e) focus on technical aspects related to the implementation of grievance and remedy by complaint handling bodies.
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Policy Steering Group (PSG)

- a) provide input to approvals related to the implementation of the FSC-PRO-01-001 and as per delegation by the Director General (DG);
 - b) providing direction on strategic questions that may impact certification uptake or cause major reactions by stakeholders, certification bodies (CBs) or certificate holders (CHs); and
 - c) monitoring and supervising the connectivity of policy work with other work areas in order to ensure alignment and integrity of projects.
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Project Supervisor

- a) supervise the process and support the working group in reaching its goals.
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Facilitator [if needed]

- a) support the WG in running successful conference calls and in-person meetings.
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Board Conflict Resolution Committee (BCRC)

- a) FSC Board of Directors (BoD) liaison about the revision process
 - b) provide advice to the Process Lead on the ToR for the process and composition of the WG; and
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Selection criteria for Working Group members

a) Technical skills:

i) Experience in:

- (1) *Developing operational non-judicial grievance and remediation mechanisms*
- (2) *Managing complicated dispute cases*
- (3) *Implementing alternative dispute resolution mechanisms*

- (4) *Managing human rights and socio-environmental sustainability due diligence processes*
- (5) *Using the FSC complaints system or other relevant complaints systems as a party to a complaint.*

ii) *Knowledge about:*

- (1) *FSC Normative Framework, including but not limited to FSC's Policy for Association (PfA), FSC's complaints and appeals procedures, FM and CoC certification, as well as FSC Remedy Framework*
- (2) *Complaints mechanisms of FSC, ASI and CBs*
- (3) *The United Nations Guiding Principles on Business and Human Rights*
- (4) *Communities and Indigenous Peoples rights, challenges and needs*
- (5) *Global and regional legislative developments and best practices on grievance and remediation mechanisms*
- (6) *Ombuds services and other types of complaint mechanisms in non-state organizations*
- (7) *Measures to ensuring equal access for rights holders*
- (8) *Cost-efficient approaches to process development*

b) Soft skills:

- i) Ability to collaborate effectively in a team;
- ii) Clear and concise communication skills, both written and verbal;
- iii) Strong problem-solving skills;
- iv) Ability to see the perspective of users of the complaints system
- v) Resilience and ability to adapt to challenges;
- vi) Strong organisational skills and ability to work systematically; and
- vii) Demonstrating culturally appropriate behaviour.

c) Contribution:

- i) Seeking solutions,
- ii) Delivering high-quality work, and
- iii) Providing timely input.

d) Engagement:

- i) Participate actively in online calls and (potentially) in-person meetings,
- ii) Provide valuable input for the objectives of the process.
- iii) Commit to creating a trustworthy work environment, and
- iv) Demonstrate good judgement in conduct.

The process lead shall consider past performance of applicants in the evaluation of candidates. Where possible, FSC aims for a gender-balanced and geographically diverse working group.

Approval of the selected working group members and allocation of stipends

The Director General shall decide on the members of the working group and on the allocation of stipends.

Role of observers

Observers can be invited by the process lead to attend working group sessions but may only contribute to the discussions when agreed by the majority of working group members and cannot make decisions.

Workplan and time commitment

Workplan

Working Group (WG) members are expected to donate sufficient time to thoroughly fulfil their duties as outlined in the work plan presented in Annex 2. The timetable and the detailed work plan will be updated as necessary.

Communication

The WG will conduct most of its work via e-mail or similar means of electronic communication (e.g., MS Teams, teams meeting etc.), and through one-on-one calls with the process lead when required. Similarly, in-person meetings will be planned if needed.

Meetings

The process lead will strive to select meeting dates and venues that allow for full participation of all WG members.

The frequency and format of the meetings are as follows:

- Regular two hours meeting: bi-weekly meeting via Teams
- Intensive 2-3 days/3-4 hours virtual meetings: November 2024, January and August 2025
- In person kick-off meeting 14-18 October 2024
- In person meeting approximately 2 months after 1st consultation, tentatively 4-8 August 2025

Expenses and remunerations

Remuneration

FSC is an international not-for-profit membership organization with limited funding. Participation in the WG takes place on a voluntary non-paid basis. If required, a stipend can be granted by FSC on a case-by-case basis and on request for those participants that do not have alternative income or sponsoring means for their time input.

Traveling and accomodation

If required, FSC will cover reasonable travel and accommodation expenses related to the work plan upon submission of the respective invoices and receipts, and if expenses are agreed upon in advance.

Confidentiality and conflict of interest

Confidentiality

WG members shall sign a confidentiality and non-disclosure agreement with FSC at the beginning of their work. Per default, non-attributable content of discussions and papers prepared by or presented to the WG is not considered confidential, unless otherwise specified by FSC.

Conflict of Interest

WG members are expected to declare any conflicts of interest, where they arise. This will cause the person(s) to be excused from the discussion and to abstain from participating in decision-making.

Language

The working language of the working group shall be English.

All drafts for public consultation, as well as other documents, will be translated into Spanish and French upon request and as feasible.

3. OPERATING RULES

Appointed working group members are expected to adhere to the rules and regulations of this ToR and working group members shall sign a cooperation agreement with FSC upon appointment.

Term Starting time/period: **Q4 2024**

The term of working group members ends with the submission of the final draft of the deliverables presented in the '**expected output**' (see section 1) to the Director General (to approve that the final draft is ready for submission to the PSC), after the Policy Steering Group's review.

Term Completion time/period: **Q3 2025**

The Working Group (WG) is accountable to FSC International. WG members may be asked to leave the group by the Director General if they are not fulfilling their duties properly.

Deliberations and decision-making

Formal decision-making responsibility of the working group is to recommend when drafts are ready for consultation and to recommend that the final draft requirements are ready for submission to the decision-making body (PSC).

All working group members must participate in each point of decision-making. If any of the members are not present for a decision, then a provisional decision may be made, subject to participation by the absent member(s). Quorum is required for any provisional decisions, and full member participation is preferred. For the working group to convene and deliberate, a quorum of at least three out of four members is required.

The working group shall strive and make every effort possible to take decisions by consensus (see Annex 1 - Terms and Definition). If consensus cannot be achieved, outstanding concerns should be documented and presented to the Director General in the process evaluation form that accompanies the document presented for decision.

The process lead, FSC Staff, Policy Steering Group members and any other supportive personnel shall not participate in any decision-making relevant to the tasks and responsibilities of the WG as outlined in section 2.

If the working group is not able to agree on a whether the draft is ready to be submitted for consultation or for final decision-making within two (2) months after presenting the revised draft requirements, the Director General shall take a decision on how to move forward with the process.

ANNEX 1: TERMS AND DEFINITIONS

For the purposes of this document, the terms and definitions included in FSC-STD-01-002 FSC Glossary of Terms, and the following apply:

Consensus: general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests.

NOTE: Consensus should be the result of a process seeking to take into account the views of interested parties, particularly those directly affected, and to reconcile any conflicting arguments. It need not imply unanimity (adapted from ISO/IEC Guide 2:2004).

The Policy Steering Group composed of the FSC Director General, the Policy Directors, and selected members of the FSC Global Leadership Forum.

ANNEX 2: WORK PLAN AND ESTIMATED TIMELINES

Nr.	Tasks and Activities ¹	Lead ²	2024								2025												
			May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1	Drafting of requirements – development draft zero	PL		X	X	X																	
2	Call for WG candidates	PL	X																				
3	Approval of WG composition	DG				X																	
4	Establishment WG	PL					X	X															
5	1st F2F WG kick-off meeting – development of draft 1	WG							X														
6	Bi-weekly online calls – development of draft 1	WG								X	X	X											
7	Intensive online call – development of draft 1	WG								X		X											
8	Preparation consultation and webinars	PL											X	X									



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