

Contribution to the TPAC stakeholder Forum on FSC International

This document does not follow the format of the response form, but gives various notes and remarks which need to be addressed by TPAC in the re- assessment of FSC international. Some questions are also raised.

1. On the TPAC website it is mentioned that “TPAC's assessment focusses on the latest forest management standard of FSC (FSC-STD-01-001 V5.0)” . It is difficult to understand how that could work as the cover of this standard makes clear in alarming red color : **The FSC Principles and Criteria for Forest Stewardship V5-0 shall not be used for audit until completion of the FSC International Generic Indicators and the transfer process of the National Standards is complete. Details are available on our website www.fsc.org .**
2. Checking the FSC site on the progress of the completion process of the IGI: <http://jgi.fsc.org/> it becomes clear that the current status is : *“The development of International Generic Indicators (IGIs) is essential to phasing in the FSC Principles and Criteria Version 5 (P&C V5) in a consistent way across the world. The final IGIs are expected to be approved in April 2014, but there’s a lot to do between now and then.”*
3. The transfer process which has to follow to have these IGI’s integrated in the national standards will take another unpredictable span of time. To get an insight in what this might mean on the ground a look into <https://ic.fsc.org/national-standards.247.htm> clarifies that reality is that 37 national standards in the 28 countries with a national FSC standard will not be compliant with the reference document that TPAC intends to use. Only for the standards of Luxembourg, Germany, DRC, Rep. Congo, CAF, Gabon and Cameroon there is a reference that *Standard will be transferred to the revised P&C at the end of the IGI development process.* For all the other standards no reference is made to IGI inclusion.
4. Therefore TPAC (and FSC) do face the risk of an assessment that has no basis on the ground for the years to come. That would be a lost opportunity. A lost opportunity especially because many standards have not been revised/evaluated/updated at all since their establishment (The Bolivian one - as an example - dates back to 1998: 15 years old!) . Almost half of the FSC national standards (18 out of 38) are more than 5 years old, with some being up to 15 years old. This violates TPACs requirements for continuous improvement, means that fairly outdated ideas of what SFM means are implemented, and in case of these fairly old standard, robs an entire generation of their chance to have a say as to what SFM means in their country.
5. It is clear that FSC certificates have a validity of 5 years. The validity of standards however is not limited. That poses the risk of repeated certification against old fashioned standards that do not meet today’s requirements. TPAC is advised to pay attention to this aspect also in the light of prescribed transition periods given to the certified unit to adapt to the new situation of a new standard.

6. The aspect of legal compliance as part of SFM standards is something that cannot wait to be aligned with EUTR requirements which apply as of March 3 2013. Such applies for both national standards, interim standards but also the annex II, category B evidence of TPAC's documentation. (appendix 2 to annex II, checklist2: legal timber source information.) In this respect TPAC's attention is required for this subject in FSC's action plan to implement TPAC's recommendations (version 18-12-2012) (attached as PDF) in which FSC apparently maintains a *"target deadline of March 2014 to see to it that the Generic Indicators Working Group will look into the possibility of including positive indicators demanding evidence of compliance "*
7. In TPAC's final assessment of FSC in 2008 for principal 7 Contribution to local economy it turned out that TPAC used a separate scoring option for less developed countries and industrialized countries. This was repeated in the "cross check" that TPAC did in 2011 on FSCINTNL, FSC Sweden, FSC Brazil and the interim standard of ICILA for Cameroon. It is not very clear what TPAC sees by its definition as Industrialized and less developed countries. Brazil scored a 1 (the one from a LDC?) and Cameroon scored a 2 (from a IC?).
8. TPAC's findings on shortcomings in 2008 should be re- assessed specifically. To this end applies : .
 - a. *Criterion 4.6(non-timber forest products, hunting and fishing) is partially addressed because the FSC criteria do not mention the use of knowledge of indigenous peoples and environmental organizations when monitoring the commercial exploitation of NTFPs. The principle is awarded a score of 2.*
 - b. *Criterion 5.5 (forest fires)is inadequately addressed by FSC because there is no FSC criterion which addresses this matter explicitly. The intention of the principle is however well addressed. The principle is awarded a score of 2. (in March 2011 revised to 1)*
 - c. *Criterion 7.2 (Infrastructure) is inadequately met; it requires the forest management to make a contribution to the development of local infrastructure and social services for the local population, as far as this is not taken care of by the relevant authorities. This criterion is however not matched by any of the FSC criteria. Two scores are awarded to this criterion: "inadequately addressed" for less developed countries, and "covered otherwise" for industrialized countries. Following the same rationale, two scores are awarded at level of the principles; 1 for less developed countries and 2 for industrialized countries.*
 - d. *criterion 1.6 (justification handling documents) which is partially addressed. This criterion requires that during the standard development, comments are taken into account and that reports on how these comments are dealt with are maintained and freely available to the public. The FSC standard does not require explicitly that these reports are freely available. The principle in general is however assessed as being fully addressed. The principle is awarded a score of 2.*

- e. *Criterion 3.3(provision for objection and appeal) is only partially addressed as complaints and appeals can only be submitted through a member and need to be seconded to two other members of FSC; other interested parties must channel their complaints through a member. Criterion 3.6 is not met because FSC does not guarantee that cases of appeal are handled by a forum of independent persons, which adequately represent legal and domain knowledge. The principle is awarded a score of 1*
- f. *Criterion 5.2(peer review) requires the accreditation bodies to take part in a peer review process. As FSC does not include peer reviews in their criteria, this criterion is not met. The principle is awarded a score of 1.*
9. The *Note on TPAC's research on FSC international (January 2013)* is summarizing briefly the proceedings of TPAC's research and the communication with FSC in august 2012 and a.o. refers to the FSC complaints procedure. However in FSC's action plan version 18dec. 2012. (see att.) there is no reference to the complaints procedure. TPAC is asked to pay attention to this topic and also to the way FSC reports on closed and ongoing disputes : <https://ic.fsc.org/oxfam-uganda.356.htm> : it is not always clear what the final conclusion is and what type of lessons are learned (eventually) for similar future situations and whether the complaint has been resolved.
10. It is of great advantage to the assessment efforts that public commentary of an NGO like Green Peace is considered. It is strongly advised to consider the validity of Green Peace's comments, (however GP themselves might not be attracted to this TPAC forum) : <http://www.greenpeace.org/international/fsc-at-risk/> with this document <http://www.greenpeace.org/international/Global/international/briefings/forests/2013/FSC-Progress-Report.pdf> giving an analysis of shortcomings that need to be addressed. We ask TPAC to consider this doc as well.
11. Whereas already Green Peace addresses the issue of FSC Controlled wood, it has also been signalled by : http://www.fsc-watch.org/archives/2012/05/25/FSC_s_new_plan_to_la
12. Additionally following information can be added: there are FSC CW certificates (based on either STD 40-005 or STD 20-012) and there is FSC CW forest (based on std: 30-010-010). Checking the FSC database on CW FM there are 23 forests certified for delivering Controlled Wood. (see: <http://info.fsc.org>) It has to checked by TPAC whether this is a situation that contributes to the credibility of a certification schemes that has Sustainable Forest Management as its scope. Not only the credibility of FSC is at stake but all certification schemes that have SFM as their scope. Checking the data base on COC CW certificates hundreds of companies show up. It is doubtful whether FSC raises its credibility <https://ic.fsc.org/controlled-wood.40.htm> especially where TPAC concluded its FSC assessment with : [http://www.cpet.org.uk/cpet-news/news%20stories/overview-of-legality-verification-systems/?searchterm=controlled wood](http://www.cpet.org.uk/cpet-news/news%20stories/overview-of-legality-verification-systems/?searchterm=controlled%20wood)

Please note : ” also makes it clear that FSC Controlled wood is not ‘FSC certification’ on its own, but a ‘tradetool’ to ensure that the non-certified portion in mixed products do not come from ‘unwanted sources’. Therefore, FSC Controlled Wood should not be accepted as ensuring compliance with the UK government’s timber procurement policy.” In the briefing note van Pro Forest : *“Please note that FSC Controlled wood is not ‘FSC certification’ on its own but a system developed for the trade to ensure that the non-certified portion in mixed products do not come from ‘unwanted sources’. Therefore, it should not be accepted as ensuring compliance with the UK Government’s timber procurement policy.”*

Nevertheless: the market already recognizes the logo of FSC the end users and trader are no longer interested anymore to have any further information on specs like : CW, MIX, Recycled, physical separation or whatsoever. Being certified for FSC satisfies regardless the scope. We might have come into a situation where FSC’s logo is being used in practice to cover situations that have nothing to do with SFM. The recent suspension of ASI accredited , Hong Kong based certification body SGS might be exemplarious : <https://ic.fsc.org/newsroom.9.336.htm> : *SGS HK has issued 2,819 valid FSC certificates (in two years’ time), making it the largest in Asia. The suspension will not affect these current certificates provided that SGS HK will address the non-conformities within six months.* It should be investigated whether this “sales success of that market leader” also involved the certification of CW forests.

This article refers to the Asian situation of FSC : http://www.fsc-watch.org/archives/2012/02/08/The_scandal_of_Asia Indeed the credibility might be at stake and TPAC’s assessment is supposed to bring clarity.

13. In the note on TPAC’s research on FSC international(Jan 2013) reference is made to the *“so-called FSC interim standards, which are standards that have been developed by a certification body instead of a national standard setting body”*. It is of imminent importance that indeed attention is paid to this mechanism. However: in FSC’s action plan there is only reference made to Malaysia and Russia whereas the issue of interim standards has a much wider impact: the vast majority of FSC standards are interim standards. Concern on this has been raised many times already. Both in the general assemblies of FSC and in TPAC’s assessments. Again and again FSC has announced that it will solve the problems associated with interim standards. Until today nothing happened. On the ground nothing changed. TPAC is asked to investigate whether any of these interim standards comply with TPAS. A situation in which sometimes up to six interim standards apply in one country (like f.e China and Indonesia) is not acceptable.
14. TPAC is asked to verify which actual time line applies if CPETS report on the decision by the board of FSC directors should be taken for granted (especially in the light of TPAC’s reference on which comment has been given under points 1-6 of this contribution in the Forum. CPET on interim standards, Appendix 1a - Review of the Forest Stewardship Council (FSC)” of December 2010: *“Regarding the matter of a time limit for phasing out the use of interim standards the FSC informed the TP that the FSC*

Board agreed the following timeline for the phase in of the revised Principles and Criteria. This timeline, which will serve to phase out the remaining Certification Body adapted standards, includes the transfer of national standards to the revised Principles and Criteria and includes the development of generic indicators to aid this process. It was agreed by the FSC Board of Directors (BoD) that there shall be a cutoff date for national standards submitted to the current P&C. This is to coincide with the membership approval date of the revised P&C [earliest Feb 2011]. The FSC BoD further agreed that development of generic indicators and national adaptation to the revised P&C should start immediately after the approval of the revised P&C and take 24 months [to February 2013]. Certificate holders would then be given up to one year to prepare before the standards becomes effective [earliest end December 2013]. Once effective, there would be a year during which each certificate holder would be assessed for compliance with the new standards [earliest end December 2014]. The FSC BoD also agreed that where it is justified a current national standard could continue to be applied and a longer timeline granted to upgrade to the revised P&C. This is expected in very few cases and may not exceed the current expiry date of the national standard."

It is important to see to it that not again a number of years with (unchanged) interim standards will pass by because of formal transition rules. Game should be over now.

15. Regarding the aspect of forest conversion, which has been brought to the attention of FSC by TPAC (see att. FSC action plan). For Malaysia applies that *a CAR to the CB's will be submitted through ASI demanding revision/clarification by 31 December 2012.* TPAC is supposed to follow this up to see to it that has implications on the ground indeed ; eventually despite of the suspension of Hong Kong based SGS <https://ic.fsc.org/newsroom.9.336.htm> (as far as they are involved in Malaysia's FSC forest certification). In the same Action plan also a general statement is made on conversion: *FSC will clarify in its GI what has to be the right interpretation on max. conversion with a target dead line March 2014.* It can be questioned whether this is only a matter of a *"FSC Criterion which seems to be quite strict, but leading to interpretations which render confusion with CB's, certified companies and other stakeholders"*. Would it be only a matter of interpretation then there is no need to wait until March 2014 solving interpretation problems. One clear message NOW could solve that confusion. It is clear however that it pertains to systemic failures. Just for an example: see the standard for Papua New Guinea: under 6.10.3 the wording for conversion leaves space for forest conversions in a large scale: without definitions for "large, medium and small ", without definition for "operations" conversion is allowed for 20% in small operations and 5% in medium and large operations. FSC-POL-20-003 makes clear that 0,5% per annum and max. 5% from the FMU could be converted. (this is al ready different from FSC 's action plan!). Another example from nearby: the Dutch FSC standard reads : *Indicator 6.10.3: In case of conversion of*

forest land to plantation or non-forest land, this conversion will be limited to 10% of the total area of the forest property.

TPAC is asked to systematically assess whether both national and interim standards comply with TPAC's requirements on the moment of assessment.

16. Regarding the independence of the FSC framework. It is important to assess whether ISEAL, FSC and ASI are sufficiently separate to fulfill requirements that normally are required by certification and accreditation as laid down in Dutch legislation (which is an implementation of EU legislation 765/2008 dated 9 juli 2008 that is applicable as of 01-01-2010) and is implemented in wet aanwijzing nationale accreditatie, stb 2009 455. (29 okt 2009). The various websites reveal overlaps in board positions: <http://www.isealalliance.org/about-us/our-governance/our-board> (fsc director in ISEAL board of directors); <http://www.accreditation-services.com/archives/new-asi-board-of-directors-starts-operating> (board with FSC director and FSC board Chair): <http://www.accreditation-services.com/about/board-of-directors> For FSC: <https://ic.fsc.org/director-general.211.htm> and BoD: <https://ic.fsc.org/board-of-directors.210.htm>

17. Independence is an issue that can not only be institutionalized but also needs clarification in terms of finance: in this respect it is worth to realize that FSC is funded partially by (government)subsidies which are channeled via NGO's :
VROM- SMOM regeling (directly to FSC NI and indirect via IUCN, FERN),
via Hivos-OXFAM Novib ,
www.hivos.nl/english/.../Biodiversity%20Fund%20Annual%20Report.doc (Pag 16 of the report: *FSC - Forest Stewardship Council has become the leader in setting stringent and credible standards to certify well-managed forests worldwide. The Biodiversity Fund provided support for the development of technical guidelines to address issues such as improved social responsibility; maintaining ecosystem integrity; approach to the use of chemicals and pesticides; and the review of the conversion policy. FSC also received funding to evaluate the Small and Low Intensity Managed Forest Initiative to provide inputs to increase access to certification for small and low intensity managed forests.*

ISEAL Alliance - International Social and Environmental Accreditation and Labeling Alliance focuses on developing and harmonizing control and standard setting for quality produce and increasing access to labeling schemes for small producers through the set-up of internal quality/control systems. *It has received two contracts with the first covering one year only and the second contract two years until the end of 2008.*

via IDH initiatief duurzame handel <http://www.idhsustainabletrade.com/timber> a strong FSC connection exists via the government funding part of IDH.

18. Attention should be paid to the level of stakeholder consultation in the various FSC approved national standards. It's a embarrassing to see that the Cameroon standard has been designed by a number of involved non-Cameroon inhabitants (have a look into that standard: in already table 1 : 2 Gabon, 2 DRC, 2 Dem Rep Congo, 2 FSC Intl and indeed 2 from Cameroon too! Also in the other tables with involved people Cameroon is hardly represented. A clear three chamber structure is not visible.

19.