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The second draft of the Policy for the Association with FSC is being published for consultation from the 1st of February to the 31st of March. Please submit your comments to FSC through our electronic survey:

http://www.surveymonkey.com/s.aspx?sm=z85jyRkm4C8Uu_2fAXCBOhaw_3d_3d

Foreword

The issue of companies certifying some forest areas and/or chain of custody operations for compliance with FSC requirements, while at the same time engaging in unacceptable forest practices in uncertified areas has been debated within the FSC system for many years. The key question debated by FSC's many constituents is whether a company should be able to enjoy the benefits of using the FSC good name and trademarks for promotion of their activities and products while some part of their operations continue to violate the very fundamentals FSC stands for.

This issue has been known by some in FSC as partial certification and is related to concerns that certain companies may only be interested in associating themselves with FSC in order to 'greenwash' their image in the marketplace, where the FSC name has gained a strong reputation for credibility and transparency. It is recognized that companies could do so by certifying to FSC standards either some of their manufacturing operations or some portion of their forests while continuing to manage the rest in unacceptable ways.

FSC has always taken these issues very seriously. Throughout the years, FSC has attempted to resolve this issue through different policies related to forest management certification. FSC believes that for the most part these strategies have been successful and that the vast majority of companies

have participated in FSC certification with an uncompromised and credible commitment to socially beneficial, environmentally appropriate and economically viable forest stewardship. It is also important to highlight that FSC strongly supports companies committed to its goals and engaged in credible phased approaches to achieving certification.

However, FSC has realized that even with its policy structure in place, it remained possible for companies to participate in the FSC system while simultaneously engaging in unacceptable forestry practices in their non-FSC certified forest and plantation areas. As a result, in March 2007, the FSC Board of Directors mandated the FSC International Center to follow a new and broader approach, which entailed the development of criteria for the association of any third party with FSC's good name and trademarks. Ever increasing research has shown that FSC certification is responsible for improvements in forestry practices around the world. To allow association with companies with a long record of publicly documented practices contrary to FSC's Principles and Criteria would harm those considerable benefits, perhaps irreparably.

This new and very different approach was born out of the recognition that greenwashing is happening and that a framework of certification standards might not be the only approach to ensure the integrity of the FSC system in these cases. It was recognized that it might be necessary to define a set of criteria that would create a considered and informed review of those companies who appear to be trying to misuse the system by engaging in selective and partial certification. Such a review is intended to prevent companies with substantial public records indicating disingenuous engagement and destructive forestry practices to inappropriately capitalize on the collective good will and practices of the entire global FSC system. The intent for establishing this review is to protect the credibility and integrity of the FSC system as a whole and to create a mechanism to protect the investment that FSC represents in time, money, effort and goodwill made by certificate holders and stakeholders around the world.

In addition, attempting to address each and every situation in forest management and production through certification requirements would likely result in complexities that could unduly burden the vast majority of credible and serious businesses. Further, businesses intent on pursuing bad forestry practices might well find loopholes even in the most intricate and well crafted certification frameworks, thus creating an ever increasing burden on the majority of businesses that are genuinely invested and engage with FSC in appropriate ways.

The objective of this policy is to ensure consistency and transparency in decision making on the association of a given third party with FSC's good name and trademarks. The policy is being designed to ensure that it does not create an impediment to participation by companies engaged in credible efforts to improve their practices. This is an important development in the FSC approach and FSC strongly encourages all interested parties to provide their input on this second draft of the proposed policy.

This second draft of the Policy for the Association with FSC introduces a balanced threshold system that includes preventive and corrective approaches. The preventive one constitutes of a simple check of the third party before FSC allows its association. The corrective one entails the dissociation with a third party once there is evidence that they are involved with issues that FSC considers unacceptable. The use of these two approaches is important for the credibility of the FSC system, as it is easier to prevent association than it is to dissociate. At the same time, the system should be kept simple enough so that parties participating in acceptable ways with FSC are not overburdened.

Another possibility would be to rely on corrective measures only. This would mean that FSC automatically allows association with any third party and only decides to dissociate once there is evidence of involvement with unacceptable issues. This was not considered a desirable option given the higher credibility and financial costs related to dissociating FSC from a third party.

Finally, it is important to highlight that FSC remains committed to developing credible standards to ensure responsible forestry, rather than responding through the development of standards to a few isolated parties that attempt to inappropriately capitalize on FSC's good name and trademarks.

Part I – Policy elements

Introduction

FSC's mission is to promote the environmentally appropriate, socially beneficial and economically viable management of the world's forests. It is increasingly recognized that association between FSC and organizations that are involved with unacceptable forest practices is harmful to FSC's reputation and ultimately to its ability to deliver on its mission. In order to address this concern, in March 2007 the FSC Board of Directors mandated the FSC International Center to develop criteria for the association of third parties with FSC.

Through this policy FSC expects to be able to identify third parties not committed to the basic fundamentals of responsible forest management and prevent them from misusing their association with FSC. It is especially relevant, but not limited to, to the granting and maintenance of FSC trademark licenses and FSC certificates to third parties associated with FSC through forest management, chain of custody and/or controlled wood FSC certification.

Key Issues

FSC will only allow its association with third parties that are not involved in the following unacceptable issues:

- a) Illegal logging or the trade in illegal wood or forest products
- b) Violation of traditional and civil rights in forestry operations
- c) Destruction of high conservation values in forestry operations
- d) Conversion of forests to plantations or non-forest use
- e) Planting of genetically modified trees in forestry operations

Part II – Policy implementation

General implementation

In order to implement this policy, FSC will use two approaches, one preventive and one corrective.

The preventive approach entails a simple due diligence screening of third parties before entering into any legal arrangement that represents association with FSC. This includes, but is not limited to, entering into trademark licensing agreements.

The corrective approach is the decision to enter into a dissociation strategy if FSC concludes that there is sufficient evidence of the third party's involvement with the key issues listed as unacceptable in Part I of this policy.

Third party association through FSC certification

1. Third parties interested in associating themselves with FSC by becoming FSC certified shall obtain an FSC trademark license before signing an agreement with an FSC accredited Certification Body.
2. FSC accredited Certification Bodies shall only enter into contractual relationships for the purpose of FSC certification with third parties that possess a valid FSC trademark license.
3. To obtain an FSC trademark license, third parties shall contact a duly FSC authorized trademark agent. The third party shall submit to it all relevant public information on its corporate structure, according to the standard of reasonable due diligence.
4. The trademark agent shall conduct an evaluation of the information publicly available on the third party to assess if it is involved with any of the issues considered unacceptable in Part I of this policy. This evaluation can be done, for example, through internet searches, newspaper databases and contact with relevant stakeholders.
5. The trademark agent shall proceed with issuing an FSC license agreement to the third party if:
 - a) there is no evidence of direct or apparent involvement with the issues considered unacceptable in Part I of this policy; and,
 - b) there is no evidence of indirect involvement of the third party with the issues considered unacceptable in Part I of this policy through its shareholders, subsidiaries or affiliates.
6. If evidence of involvement with the issues considered unacceptable in Part I of this policy is found, the trademark agent shall submit the case for the appreciation of the Brand Management Committee, together with all evidence.
7. If a case is submitted to the FSC Brand Management Committee by an authorized FSC trademark agent, as outlined above, the FSC Brand Management Committee shall:
 - a) conduct further investigation of the third party's involvement with the issues considered unacceptable in this policy;
 - b) request the third party to present counterevidence, defending its case.
8. The FSC Brand Management Committee shall evaluate the evidence and take one of the following decisions:
 - a) deny the issuing of an FSC trademark license to the third party; or,
 - b) authorize the issuing of an FSC trademark license to the third party; or,

- c) authorize the issuing of an FSC trademark license to the third party subject to conditions and/or limitations.

NOTE: Decisions of the Brand Management Committee may be appealed to the FSC Board of Directors using FSC's procedure for appeals on association decisions.

Third parties associated with FSC through an FSC certificate

- 9. Third parties already associated with FSC through a valid FSC certificate shall be evaluated for compliance with this policy in the following instances:
 - a) renewal of the FSC trademark license;
 - b) new evidence received that the third party is involved with issues considered unacceptable in Part I of this policy.
- 10. In the case of renewal of the FSC trademark license, the responsible FSC authorized trademark agent shall conduct steps 1 to 6 above before the expiration date of the trademark license.
- 11. If at any time the FSC authorized trademark agent or the responsible FSC accredited Certification Body receive new evidence of involvement of the third party with the issues listed as unacceptable in Part I of this policy, the case shall be submitted to the FSC Brand Management Committee together with all evidence.
- 12. If a case is submitted to the FSC Brand Management Committee by an authorized FSC trademark agent, as outlined in section 11 above, the FSC Brand Management Committee shall:
 - a) conduct further investigation of the third party's involvement with the issues considered unacceptable in Part I of this policy;
 - b) request the third party to present counterevidence, defending its case.
- 13. The FSC Brand Management Committee shall evaluate the evidence and take one of the following decisions:
 - a) that FSC, FSC accredited Certification Bodies and trademark agents take the necessary steps to dissociate FSC from the third party in question; or,
 - b) that no action is necessary related to the association of the third party with FSC; or,
 - c) that FSC can continue with its association with the third party under specific conditions and/or limitations.

NOTE: Decisions of the Brand Management Committee may be appealed to the FSC Board of Directors using FSC's procedure for appeals on association decisions.

- 14. Evidence of involvement with unacceptable issues as defined in Part I of this policy can also be directly submitted at any time to the FSC Brand Management Committee, which will then inform the relevant parties (i.e. certificate holder, trademark agent, FSC accredited Certification Body) and proceed as outlined in steps 12 and 13 above.

Other associations with FSC

The following sections address the topic of all other associations with FSC besides that of association through an FSC certificate.

15. For other types of association which are not based on an FSC certificate, FSC will conduct or appoint a representative to conduct a due diligence evaluation of the third party to assess if it is involved with any of the issues considered unacceptable in Part I of this policy.
16. If no evidence of involvement with the issues considered unacceptable in this policy is found, it is possible for the third party to be associated with FSC.
17. If evidence of involvement with the issues considered unacceptable in this policy is found, the case shall be submitted to the appreciation of the Brand Management Committee, together with all evidence.
18. If a case is submitted to the FSC Brand Management Committee, the FSC Brand Management Committee shall:
 - a) conduct further investigation of the third party's involvement with the issues considered unacceptable in this policy;
 - b) request the third party to present counterevidence, defending its case.
19. The FSC Brand Management Committee shall evaluate the evidence and make a decision on FSC's association with the third party.

NOTE: Decisions of the Brand Management Committee may be appealed to the FSC Board of Directors using FSC's procedure for appeals on association decisions.

20. Evidence of involvement with unacceptable issues as defined in Part I of this policy can also be directly submitted at any time to the FSC Brand Management Committee, which will then inform the relevant parties and proceed as outlined in steps 18 and 19 above.

Key Definitions

Affiliate

Any party in which the third party holds a minority interest or to which is linked through common ownership.

Association

Association with FSC can happen in many ways, including: engaging in certification and/or holding a valid FSC certificate and being able to sell FSC endorsed products, using FSC trademarks for promotional claims and others.

FSC trademark license

Licensing agreement (contract) between FSC and a third party which allows the third party to reference the FSC systems and use the FSC trademarks subject to the terms of the licensing agreement.

The license is awarded by FSC to a third party (e.g. company, organization, individual) to allow the third party to associate itself with FSC. Association with FSC includes among others: selling products as FSC certified, making off product promotional claims in relation to FSC and labeling products with the FSC trademarks.

FSC trademark agent

An organization appointed by FSC through a service agreement for providing FSC trademark services in a certain territory, including the approval, control and monitoring of the FSC trademarks.

FSC Brand Management Committee

The FSC Brand Management Committee is appointed by the FSC Board of Directors, who will also define its operating procedures. The Committee is composed of six FSC members, one from each FSC sub-chamber. The objective of the FSC Brand Management Committee is to decide on the issuing or maintenance of an FSC trademark license in cases in which there is evidence of association with unacceptable forest practices, as defined in this policy.

Involvement

Intentional or knowledgeable commercial interaction with a third party according to the standard of reasonableness.

Indirect involvement

Third party's involvement through subsidiaries, affiliates, shareholders or Board of Directors.

Subsidiary

Any party in which the third party holds a majority interest.

Third party

For the purpose of this policy, third party is understood as any legal entity or individual that wishes to be associated with FSC for the purposes of becoming certified or making any claim regarding FSC's trademarks.