

FSC® PROCEDURE

Processing Appeals

FSC-PRO-01-005 (V3-0) EN



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PROCESSING APPEALS

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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.

Foreword

The FSC Dispute Resolution System provides a framework for the resolution of disputes that stakeholders may have with the FSC Board of Directors, the FSC and/or its affiliates, the ASI, FSC accredited Certification Bodies or FSC Certificate Holders.

The framework consists of three procedures which detail the process according to the nature of the dispute and the respective roles of the different parties involved in the process. This procedure deals with appeals.

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Version History

Version 1-0 was approved by the FSC Board of Directors in October 2006 to manage appeals of certification bodies against accreditation decisions.

Version 2-0 was developed after a complete revision of the FSC Dispute Resolution System and changed scope towards appeals against decisions taken by FSC which are not accreditation related. Accreditation related appeals are governed through relevant ASI procedures.

Version 2-1 was developed to incorporate the requirements for appeals against decisions related to the *“Policy for the Association of Organizations with FSC”* (FSC-POL-01-004).

Version 3-0 was developed to update the Appeals Procedure to the revised FSC Dispute Resolution System. The basic principles of the FSC Dispute Resolution System that were formerly presented in FSC-STD-01-005 *FSC Dispute Resolution System* have been incorporated into this procedure (clauses 1 and 2).

A Scope

The objective of this document is to provide a transparent procedure for receiving, evaluating and deciding on appeals against decisions taken by FSC (this does not include accreditation decisions).

This document details the procedure to be followed by FSC and the Appellant in the event of an appeal lodged against FSC. Appeals according to this procedure can only be submitted by entities that were subject to the adverse decision.

All aspects of this procedure are considered to be normative, including the scope, effective date, references, terms and definitions, tables, notes, addendum and annexes, unless otherwise stated.

NOTE: This procedure only deals with appeals from FSC stakeholders and shall not substitute other requirements established to deal with appeals by FSC Accredited or Applicant Certification Bodies.

B Effective date

Version V3-0 of this procedure becomes effective on **28 May 2014**.

C References

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

FSC-GUI-01-005 FSC Dispute Resolution System

FSC-PRO-01-008 Processing Complaints in FSC Certification Scheme

ASI-PRO-20-103 Appeals

ISO/PAS 17003:2004 Conformity assessment- Complaints and appeals - Principles and requirements

Following FSC normative documents are superseded and replaced by this procedure: This procedure supersedes all previous versions of FSC-PRO-01-005.

D Terms and definitions

For the purposes of this procedure, the terms and definitions given in *FSC-STD-01-002 FSC Glossary of Terms*, *ISO/IEC 17000:2004*, and the following apply:

Accreditation Decision: a decision made whether to grant, continue, extend, reduce, suspend, restore, withdraw or refuse FSC Accreditation of a CAB or to take disciplinary measures (adapted from ISO/IEC 17011:2004 (E)).

Accreditation Requirements contain the following requirements:

ASI Accreditation Requirements means normative and non-normative documents (e.g. accreditation procedures, policies, guidance documents, advice notes and any other documentation in relation to the FSC Accreditation Program) as developed by ASI required for operating the FSC Accreditation Program in its most recent version.

FSC Accreditation Requirements means normative and non-normative (e.g. accreditation standards, procedures, policies, guidance documents, advice notes and any other documentation in relation to the FSC Accreditation Program) as developed by the FSC Policies and Standard Program required for operating the FSC Accreditation Program in its most recent version.

FSC Institutional Documents means governance documents (e.g. statutes, by-laws, dispute resolution system, policy for association and any other documentation) in relation to the FSC Certification Scheme in its most recent version.

ISO Requirements means documents developed by the International Organization for Standardization (e.g. ISO standards, guidelines and any other documentation) referred to in the Accreditation Requirements in its most recent version.

Appeals Panel: independent committee appointed by the FSC Director General to resolve an appeal against a FSC decision.

Appellant: individual or organization filing an appeal.

ASI: ASI - Accreditation Services International GmbH, implementing the FSC Accreditation Program on behalf of FSC A.C.

Association: An association with FSC is formally established through any of the following relationships:

- FSC membership
- Contractual relationship through:
 - FSC accreditation agreement,
 - FSC license agreement,
 - FSC cooperation agreement,
 - FSC service agreement,
 - FSC partnership agreement.

Certification requirements contain the following requirements:

FSC Certification Requirements means documents (e.g. certification policies, standards, guidance documents, advice notes and any other documentation) in relation to the FSC Certification System as developed by the FSC Policies and Standard Program required for operating the FSC Certification System in its most recent version.

FSC Institutional Documents means governance documents (e.g. statutes, by-laws, dispute resolution system, policy for association and any other documentation) in relation to the FSC Certification Scheme, required for operating the FSC Certification System in its most recent version.

ISO Requirements means documents developed by the International Organization for Standardization (e.g. ISO standards, guidelines and any other documentation) referred to in the FSC Certification System in its most recent version.

Complainant: person or organization filing a complaint.

Complaints Panel: The Complaints Panel is a committee established by the FSC Director General. Its purpose is to evaluate and make recommendations on Policy for Association complaints.

Consensus: general agreement, characterized by the absence of sustained opposition.

Defendant: person or organization against whom a complaint has been filed.

Dispute: Umbrella term for any of the following:

Appeal: request by a party subject to a decision for reconsideration of any adverse decision made by the FSC with regard to the FSC Certification Scheme and/ or the FSC Accreditation Program (adapted from ISO/IEC 17011:2004 (E)).

Complaint: formal expression of dissatisfaction by any person or organization presented as a complaint to FSC, relating to the activities of the FSC Certification Scheme and/ or the FSC Accreditation program, where a response is expected (adapted from ISO/IEC 17011:2004 (E)).

FSC accredited Certification Body: a Conformity Assessment Body which is appointed by the ASI to undertake FSC certification audits of applicants for the FSC Certification Scheme and the surveillance of certified Forest Management Enterprises and Forest Product Enterprises against the Certification Requirements.

FSC Certification Scheme is developed by the Forest Stewardship Council A.C. (FSC AC) to enable independent third-party certification of environmentally responsible, socially beneficial and economically viable forest management as a market mechanism allowing producers and consumers to identify and purchase timber and non-timber forest products from well-managed forests.

Legal representative: person with the legal authority to act on the organization's or the individual's behalf.

Parties to the Appeal or Complaint: the appellant/complainant, the defendant and all parties considered relevant to the complaint by the FSC Director General such as the FSC Board of Directors, ASI and CBs.

Stakeholder: Any individual or group whose interests are affected by the FSC Certification Scheme.

Suspension of certificate: The temporary removal by the Certification Body of all or part of a Certificate Holder's scope of certification pending corrective action by the Certificate Holder. A suspended certificate cannot be transferred.

Termination of certificate: Cancellation of the certification contract by either party according to contractual arrangements. Also referred to as voluntary withdrawal or cancellation.

Withdrawal of certificate: The irrevocable removal by the Certification Body of all or part of a Certificate Holder's certification as a result of noncompliance with certification requirements or contractual commitments.

Verbal forms for the expression of provisions

[Adapted from ISO/IEC Directives Part 2: Rules for the structure and drafting of International Standards]

“shall”: indicates requirements strictly to be followed in order to conform to the document.

“should”: indicates that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required.

“may”: indicates a course of action permissible within the limits of the document.

“can”: is used for statements of possibility and capability, whether material, physical or causal.

1 Principles of the FSC Dispute Resolution System

- 1.1 Disputes should be resolved in the first place by discussion and negotiation or mediation. Formal procedures, including committees, should only be adopted as a last resort.
- 1.2 Disputes should always be addressed at the lowest level possible and stakeholders are strongly encouraged to follow this principle (see Annex 2).
NOTE: Disputes not addressed initially at the lowest level possible will be forwarded to the correct instance, which may impact the time to resolve the dispute.
- 1.3 Any dispute related to the FSC Certification Scheme shall be treated with procedural fairness and incorporate the following guidelines:
- 1.3.1 A person or organisation, who is the subject of a complaint, should be given adequate notice about the proceedings (including details of the complaint).
 - 1.3.2 A person making a decision should declare any personal interest they may have in the proceedings.
 - 1.3.3 A person who makes a decision should be unbiased and act in good faith. Therefore decision-makers cannot be one of the Parties to the Complaint or Appeal, nor have an interest in the outcome.
 - 1.3.4 Proceedings should be conducted with fairness to all the Parties to the Complaint or Appeal.
 - 1.3.5 Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party.
 - 1.3.6 A decision-maker should take into account relevant considerations and mitigating circumstances, and ignore irrelevant considerations.
- 1.4 FSC shall inform Network Partners in countries where stakeholders may be affected by a dispute.
- 1.5 The FSC Director General may delegate the management of complaints and appeals to FSC senior staff, as appropriate.

2 Appeals in the FSC certification scheme

- 2.1 Decisions taken on complaints and any other decision taken by FSC (e.g. National Standards approval) can be appealed in the FSC dispute resolution system. The appeal shall be processed according to the procedure FSC-PRO-01-005.
NOTE: The right to appeal a decision by FSC rests solely with the body that was subject to the decision.
- 2.2 Decisions taken on Policy for Association complaints cannot be appealed because these complaints will have already been evaluated by an independent Complaints Panel and final decisions taken by the FSC Board of Directors.

- 2.3 Any appeal by a Certification Body against an accreditation decision with regard to the status of an applicant or FSC accredited Certification Body shall be processed by Accreditation Services International according to the procedure ASI-PRO-20-103.

NOTE: the right to appeal an accreditation decision rests solely with the Certification Body that was subject to the decision.

- 2.4 ASI's decisions and measures taken to address a complaint cannot be appealed but a new complaint can be filed to FSC if the Complainant is not satisfied with ASI's complaints handling.

3 General requirements for appeals against FSC

- 3.1 Only the entity that was subject to the adverse decision is eligible to lodge an appeal.
- 3.2 The appeal shall not suspend the validity of the decision which is being appealed, unless otherwise decided by the duly convened Appeals Panel.
- 3.3 The FSC Director General shall ensure that all provisions of this procedure are closely followed without prejudice, but shall not interfere in the proceedings and decision making of the Appeals Panel.
- 3.4 In extraordinary cases the FSC Director General has the discretion to extend any timelines indicated in this procedure for a cumulative maximum of 30 days. All Parties shall be informed accordingly.
- 3.5 All incoming and outgoing correspondence, including the final decisions and follow-up actions, shall be filed in electronic and/or hard copy and maintained for a period of at least seven (7) years.
- 3.6 All Parties involved in the process should refrain from commenting publicly on the appeal until a decision is made and all Parties have been informed accordingly.
Note: FSC reserves the right to publish statements about the case on the FSC website.

4 Lodging an appeal

- 4.1 An appeal against FSC shall be received within sixty (60) days after notification of the decision.
- 4.2 Appeals shall be brought to the attention of the FSC Director General.
- 4.3 The appeal shall be submitted by sending an appeal letter electronically or as hard copy by mail. Appellants shall use the FSC template for submitting appeals (see Annex 1). However, it is the responsibility of the Appellant to ensure that the letter of appeal has been successfully transmitted to FSC.

- 4.4 The appeal shall:
- 4.4.1 contain the name and contact information of the Appellant and be signed by the legal representative of the Appellant or by the individual in question if the appeal is not filed by an organization;
 - 4.4.2 be written in one of the official FSC languages;
 - 4.4.3 specify the decision that is being appealed and the grounds on which the appeal is made;
 - 4.4.4 be accompanied by relevant documented evidence;
 - 4.4.5 indicate what steps were taken to resolve the issue prior to lodging the appeal;
 - 4.4.6 contain an agreement to cover the costs of the appeals process, if and as allocated by the Appeals Panel;
 - 4.4.7 contain an agreement to adhere to the terms and provisions of this procedure.
- 4.5 FSC shall only evaluate appeals that meet all the conditions indicated in Clauses 4.4.1 – 4.4.7 above. In the event that the appeal is not in compliance with the requirements above, FSC may reject the appeal and provide a recommendation on how to correctly address it.
- 4.6 Appeals may be withdrawn by the Appellant, at the Appellant's sole discretion, until the first session of the Appeals Panel.

5 Processing an appeal

- 5.1 The FSC Director General shall acknowledge receipt of the appeal and confirm the acceptance or rejection of an appeal within ten (10) days of its receipt, based solely on compliance with the elements described under Clauses 4.4.1 - 4.4.7 above.
- 5.2 The FSC Director General shall appoint an impartial "Appeals Panel" within thirty (30) days of accepting the appeal.
- 5.3 Once established, the Appellant shall be informed of the names of the Appeals Panel members and shall be requested to confirm in writing the Appellant's agreement with the composition of the Appeals Panel within ten (10) days. Failure to do so shall be considered as acceptance of the composition of the Appeals Panel.
- 5.4 The Appellant has the right to object to the appointment of any member of the Appeals Panel, with valid reason(s), such as conflict of interest. The FSC Director General shall make a decision on any objection by the Appellant, which shall be final.
- 5.5 The Appeals Panel shall examine the evidence substantiating the appeal according to the process as specified in Section 6 of this procedure and report its evaluation and final decision to the FSC Director General within sixty (60) days after the panel has been appointed.

- 5.6 The decision of the Appeals Panel shall be binding to all parties and no further appeal on the same matter shall be accepted.
- 5.7 The FSC Director General shall communicate the outcome of the appeals process to the Appellant within ten (10) days of the decision being taken.
- 5.8 The FSC Director General is responsible for the implementation of any follow-up action as required.

6 The FSC Appeals Panel

- 6.1 An Appeals Panel shall be established on each occasion that an appeal is lodged against a decision of FSC and the appeal is accepted by the FSC Director General.
- 6.2 The Appeals Panel shall consist of one to three persons that are impartial and free of any conflict of interest in relation to the Appellant and to the appeal.
NOTE: according to ISO 17003, an Appeals Panel does not require the involvement of external parties.
- 6.3 The Appeals Panel may consist of only one person if appropriate knowledge, independence and impartiality can be demonstrated.
- 6.4 A Chairperson shall be appointed by the members of the Appeals Panel at their first meeting.
- 6.5 The FSC Director General shall appoint a secretary to the Appeals Panel, as a nonvoting member, who shall refrain from any decision making and remain strictly impartial in the collating and presentation of the facts of the case.
- 6.6 The members of the Appeals Panel shall be placed under an obligation of confidentiality concerning anything that might come to their knowledge during their function.
- 6.7 Upon appointment of the Appeals Panel, the secretary of the Appeals Panel shall consult the members of the Panel and fix a place, date and time of the session to consider the appeal. The Appeals Panel may meet by teleconference or other means as appropriate.
- 6.8 The Appeals Panel shall take all measures (e.g. consult experts, request additional information, etc.) and make all provisions, including the convening of one or more sessions, deemed necessary for a sound judgment.
- 6.9 The Appeals Panel determines the working language(s) of the evaluation. Information brought to the attention of the Panel by the Parties shall be submitted in the working language(s) of the Panel and/or English.

Note: Documents submitted in other languages shall be translated by the Party who provides the material.

- 6.10 The lack of cooperation by the Appellant may be considered as grounds for discontinuation of the process. The Appeals Panel shall decide through consensus if an appeals process shall be discontinued.
- 6.11 The members of the Appeals Panel shall judge in all fairness and according to the rules of this procedure.
- 6.12 The Appeals Panel should decide on the appeal by consensus. Consensus shall be understood as the absence of sustained opposition. The Appeals Panel shall also decide on the coverage of costs of the appeals process.
- 6.13 The Appeals Panel is obliged to make a decision on the appeal within sixty (60) days after their appointment. In exceptional circumstances, such as where no decision could be reached, the Appeals Panel may seek the approval of the FSC Director General for an extension of time. The FSC Director General may grant an extension of the time, subject satisfactory explanation of the reasons for the extension. The extension of time shall be no longer than sixty (60) days. The FSC Director General shall ensure that the Parties to the Appeal are informed accordingly.
- 6.14 If the Appeals Panel is not able to reach a decision by consensus it shall take a vote, with the decision being taken by simple majority.
- 6.15 The written decision of the Appeals Panel shall be signed or confirmed electronically by all members of the Appeals Panel and submitted to the FSC Director General.

Annex 1 FSC appeals submission form

Stakeholders are requested to use the form below and send it to FSC by email or mail.

Information of the individual(s) or organisation(s) that file the appeal:

Name of individual or organisation	
Contact person (for organisations)	
Postal address: • Street + number • City • Area code • Country	
Phone number	
Fax number	
Email address	
Website	
FSC member (if yes: international/ national, chamber, North/South)	
Date of submission	
Signature of legal representative of the Appellant	

Information to be submitted for an appeal:

Decision that is being appealed	
Grounds on which the appeal is made	
Evidence to support each element or aspect of the appeal. Please provide an overview, a description and attach supporting documents.	
Overview of the steps that were taken to resolve the issues prior to lodging this appeal and the response that was provided.	
Agreement to cover the costs of the appeals process, if and as allocated by the Appeals Panel.	
Agreement to adhere to the terms and provisions of the Appeals Procedure (FSC-PRO-01-005).	

Annex 2. Dispute Resolution Map

