

## Position Paper:

# How FSC could improve the new Controlled Wood Standard<sup>1</sup>

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<sup>1</sup> FSC-STD-40-005 V3-0

NEPCon is an international non-profit environmental organisation working to build capacity and commitment for mainstreaming sustainability. We work with businesses, NGOs and governments on developing solutions to major global challenges such as deforestation and climate change.

A self-managing division of NEPCon promotes and delivers our sustainability certification services such as FSC certification. We aim not just to implement certification schemes, but also to engage with them to improve their robustness and credibility.

Here, we present our views on how FSC could improve the new Controlled Wood standard, either by making changes to the standard or by issuing advice notes or additional guidance. We have based our views on our experiences with the new Controlled Wood standard (FSC-STD-40-005 V3) and the related accreditation standard (FSC-STD-20-011)

We will update this document as we gain more experience with the standard.

## Certification requirements

### Update the standard so that it always fulfils the requirements of the EU Timber Regulation

There is a loophole in the new standard that means it can fall short of fulfilling the requirements of the EU Timber Regulation. This can happen in cases where certificate holders source from countries where the (Centralised) National Risk Assessments are still under development, but where there is an approved National Risk Assessment prepared according to the old requirements. In this case the certificate holder is required to use the risk assessment approved according to the old version of the standards.

The new Controlled Wood standard references the need to comply with FSC's 21 different legality indicators<sup>2</sup>. The loophole, however, is that this requirement only applies to risk assessments prepared by the company, not to National Risk Assessments approved to the old standard.

The result is that companies that source timber from countries with an outdated National Risk Assessment are not currently required to meet the 21 legality indicators. This is a problem as the old risk assessments sometimes have a very narrow description of legality risk – that is, they can focus solely on the risk of using stolen wood and ignore the risks of violating environmental laws, labour laws, work safety laws, laws covering third parties etc. In fact, we have already seen cases where companies and Certification Bodies do not consider these 21 legality indicators when developing control measures. FSC had issued an advice note to address this issue for companies certified according to version 2.1, but this advice note is not applicable for companies certified according to version 3.0.

***Our recommendation:*** FSC should update its advice note on legality indicators so that it applies to all companies being certified according to the new standard, regardless of the risk assessment they use. Companies should be required to consider all 21 legality indicators as part of their due diligence. We consider this a major loophole in the new

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<sup>2</sup> Annex A indicator 3.6 Table A pages 24-25.

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*standard. If not addressed immediately FSC will lose its value as an important tool for risk mitigation under the EU Timber Regulation.*

### **Extend the deadline for compliance with the new standard**

Companies need to be re-audited to the new standard by 1 July 2017. When that date was approved, it was assumed that most timber-producing countries would be covered by FSC-approved risk assessments prepared according to the new standard. Furthermore, it was assumed that Certification Bodies would be ready to audit against the new standard and that there would be trainings and tools available for the certificate holders.

These assumptions, however, were not borne out. We are not aware of any (Centralised) National Risk Assessments that have been approved for use with the new standard. As far as we know, only a few Certification Bodies have currently been accredited to the new standard.

***Our recommendation:** FSC should extend the deadline by which companies need to get audited for compliance with the new standard by six months.*

### **Speed up the approval process for risk assessments**

FSC urgently needs to prepare risk assessments according to the requirements of FSC-PRO-60-002 V3-0 in order to ensure that the new Controlled Wood standard is successfully implemented.

The current transition requirements that allow companies to be assessed against the new standard using old risk assessments is problematic and does not work in practice. The old risk assessment does not provide the detailed risk specification and the suggestions for control measures that companies need to properly implement the new standard.

***Our recommendation:** FSC should speed up the approval process for risk assessments.*

### **Make stakeholder consultations by certificate holders more meaningful**

The new standard requires stakeholders to be invited to participate in a consultation at least six weeks before management activities.<sup>3</sup> However, in many cases this is not possible in practice.

For example, if a certification holder wants to buy wood from a forest owner, it will not be possible to require the forest owner to wait six weeks before harvesting while the certificate holder carries out a stakeholder consultation. This is especially true if sourcing from small forest holdings. Some of our certificate holders source from 10,000 properties a year.

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<sup>3</sup> "Stakeholder notification: Identified stakeholders shall be invited to participate in the consultation at least six (6) weeks prior to the management activity that is the subject of the consultation", Annex B, 1.2, FSC-STD-40-005 V3-0.

***Our recommendation:** FSC should revise the stakeholder consultation requirements for both certified operations and certification bodies to make it more meaningful (see below for details).*

## Accreditation requirements

### Reduce translation requirements for public summaries of the Audit Report

The new standard requires Certification Bodies to publish public summaries of audit reports in English (or Spanish) for all Controlled Wood-certified operations.

Furthermore, the new standard requires public summaries of the audit report to be both in English (or Spanish) and local language if the sourcing area is larger than 50,000 ha. This area equates to a radius around, for example, a sawmill of 12.7 km. Almost all mills source from a larger area than this. In effect, this means that the audit report summary needs to be published in both English (or Spanish) and the local language for all operations.

The public summary is mainly a tool for local stakeholders and translation adds additional costs that will be passed on to timber companies, NEPCon recommends public summaries are only required to be published in the local language for small and medium sized companies.

***Our recommendation:** FSC should update the Controlled Wood standard so that small and medium sized operations do not have to translate audit report summaries into English or Spanish.*

### Establish requirements for auditor competences

Auditor competences are not clearly defined in the accreditation standard (FSC-STD-20-011) nor in the main accreditation standard (FSC-STD-20-001).

Auditing due diligence systems requires auditors to have special qualifications and competences differ significantly from traditional FSC chain of custody and forest management auditors. In particular, evaluating due diligence systems requires a high level of analytic skills that are not needed for a traditional audit with a “yes/no” checklist.

The competence requirements for auditors was developed and discussed by the Controlled Wood technical working group, but the output from the working group has not been included in the standard.

***Our recommendation:** FSC should establish clear requirements for auditor competence.*

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## Clarify impartiality requirements for Certification Bodies

The main accreditation standard (FSC-STD-20-001) regulates the requirements for impartiality and conflicts of interest for Certification Bodies and auditors.<sup>4</sup>

A core question is how to define the boundary between auditing and consultancy. When a standard consists of clear yes/no questions, and where it is clearly defined if a requirement has been fulfilled or not, then it is relatively easy to ensure that auditing work does not come into conflict with any consultancy work. However, the new Controlled Wood standard requires audits to be carried out using risk-based due diligence system that cannot be reduced to a simple yes/no checklist. Such a system requires a qualified dialogue between the organisation under assessment and the Certification Body that covers the potential risks, the level of the risks, and the relevance, appropriateness and effectiveness of the proposed control measures. This cannot be done with a yes/no checklist.

At NEPCon, we find that there is room within the current FSC standards to engage in such dialogues with the organisation seeking certification. In our view, Accreditation Service International is too narrow in its interpretation of the impartiality requirements. We therefore see an urgent need for additional guidance on the interpretation of impartiality reflecting the complexity of the due diligence requirements included in the new Controlled Wood standard.

***Our recommendation:** FSC should provide guidance or clarification of the impartiality clauses in FSC-STD-20-001 V 4-0. Auditors and staff of Certification Bodies should be required to engage in a dialogue with organisations seeking certification on their risk evaluations and risk mitigation options.*

## Tackle cost and competence barriers for small and medium sized organisations

Small and medium sized organisations that source from areas with significant levels of risk are likely to find it difficult to meet the new Controlled Wood standard because of a) the increased complexity of the new standard, b) the increased competences needed for staff and c) their lack of purchasing power which makes it more difficult for such companies to influence the behaviour of their suppliers. Smaller organisations usually do not have the internal competences to establish a proper due diligence system while hiring a consultant adds a significant cost to the certification costs.

We find that these challenges can be significantly reduced if auditing can be combined with support in the form of training, establishing procedures and supporting risk evaluations. This follows an approach similar to that used for Monitoring Organisations under the EU Timber Regulation, for the NEPCon LegalSource programme and for FSC group certification requirements. In such case the Certification Body takes responsibility

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<sup>4</sup> The standard defines impartiality as “actual and perceived presence of objectivity, meaning that conflicts of interest do not exist or are resolved so as not to adversely influence subsequent activities of the certification body.”

Clause 1.5.1 states that “The Certification Body shall be responsible for ensuring that certification activities are undertaken impartially and shall not allow commercial, financial or other pressures to compromise impartiality.”

Clause 1.5.4 states that “The Certification Body and any part of the same legal entity and entities under its organizational control or controlling it shall not offer or provide consultancy within the scope of accreditation to its clients, in conformity with the requirements specified in Annex 1.”

for the entire package that is provided to the organisation. The relevance, appropriateness and effectiveness of this package should be evaluated by the accreditation body.

As a result of being a recognised Monitoring Organisation under the EU Timber Regulation, and as a result of implementing our own LegalSource programme, we have years of experience of combining auditing with support. We find that this is more cost effective and results in a more robust implementation of the due diligence system compared with the traditional ISO approach where compliance evaluation cannot be combined with support. We recognise that such an approach is currently not allowed under the FSC accreditation standards.

***Our recommendation:*** FSC should consider adopting the approach of the EU Timber Regulation, NEPCon's LegalSource programme and the FSC group schemes by allowing Certification Bodies to support organisations in establishing a robust due diligence system.

### Make stakeholder consultations by Certification Bodies more meaningful

The accreditation standard requires Certification Bodies to invite 'directly affected stakeholders' to participate in a public consultation.<sup>5</sup> This requirement seems to have been inspired by the forest management certification requirements. For a forest management operation there is a fixed geographical location where it is possible to identify representatives of "directly affected stakeholders".

However, for due diligence certification such as Controlled Wood, the harvesting areas are not known at the time of the certification. A company may source products from several different countries and have a system in place to evaluate risk prior to accepting the wood. At the time of certification, the origin is not clearly defined and therefore it is not possible to identify all directly affected stakeholders.

The accreditation standard requires Certification Bodies to notify stakeholders before a) assessment, b) reassessment and c) each audit in cases where timber is sourced from areas with risk (which will be the case for most companies).<sup>6</sup> As there may be hundreds of Controlled Wood-certified operations within one country this means that stakeholders that cover a whole country are likely to receive hundreds of such requests a year.

We have carried out more than 50 stakeholder consultations for Controlled Wood and other schemes. Despite sending out thousands of emails, we have not received any feedback from stakeholders expressing concern about the company's operations or their due diligence system. Most stakeholders lack the competences to understand the implications of the due diligence system and all lack the time to react to so many notifications. Furthermore, without knowing the precise areas where a company sources from, it is hard to provide meaningful feedback.

In our view, the most useful time at which stakeholders should input their views is during the development of the risk assessments (CNRAs and NRAs). This process defines

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<sup>5</sup> Certification Bodies shall "identify and invite directly affected stakeholders to participate in the consultation", clause 6.1, FSC-20-011 V3.0

<sup>6</sup> Clause 6, FSC-STD-020-011 V3.0

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the risk and potential control measures, which needs to be used as basis for the due diligence system. Stakeholder consultation is already a part of this process.

It is important to have a good stakeholder feedback/complaint mechanism that allows stakeholders to provide feedback if they become aware of any violations. In such cases we do not expect stakeholders to wait with their input until next audit. This is also a part of the Controlled Wood requirements.

***Our recommendation:*** *FSC should revise the stakeholder consultation approach for the new Controlled Wood standard so that the process is more likely to provide useful information.*

*FSC should remove the requirement for stakeholder consultation by the Certification Body in connection with each audit. Instead, Certification Bodies should be required to engage in a more meaningful way with national and/or regional stakeholders. They should be required to create a stakeholder engagement plan. Such plans could include meeting with key stakeholders prior to the first assessment in a region and distributing an annual report to key stakeholders that summarise audit findings from previous year. Annual stakeholder meeting could also be held.*