

Stakeholder Forum Report

FSC International

Dutch Timber Procurement Assessment Committee
(TPAC)

March 2015

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Introduction

The Dutch Timber Procurement Assessment Committee (TPAC) assesses forest certification systems for the timber procurement policy of the Dutch government. In 2013 TPAC started the reassessment of FSC International against the Dutch Procurement Criteria.¹ The procedure is now concluded with a positive judgement; both the current FSC standard V4.0 and the new standard V5.0 meet the Dutch requirements.

The stakeholder forum is an essential element of the TPAC assessment procedure.² On this forum TPAC collects information from stakeholders on how a certification system functions in practice. The underlying document presents the contributions that have been posted on the TPAC stakeholder forum on FSC International. The forum was open for discussion from 19 March until 15 April 2013.

Five persons/organisations provided comments on the forum. All of which chose to post their comments without their identity being disclosed to the public. A majority of the comments related to the functioning of Interim Standards. But also comments were received relating specific SFM criteria or TPACs assessment procedure. Some comments could not be taken into account because they went beyond the scope of TPACs assessment. For example a comment on FSCs Policy of Association, the TPACs criteria simply do not require such a policy. The comments relating to FSCs forest management practice all related to the current standard of FSC; FSC P&C version 4.0. None of the comments related to FSCs new standard P&C version 5.0 which will be implemented by the end of this year.

The forum was structured along the seventeen principles of the *Dutch Procurement Criteria for timber* (TPAS) (see Box 1). For the report below, more or less the same structure as observed. For each of the comments made, TPAC explains how the comment has been taken into account in the scoring of the respective criterion. An overview of TPACs final judgement of FSC International can be found in the *Public Summary Report of FSC International* (www.tpac.smk.nl).

¹ FSC received its first positive judgement in 2008.

² <http://www.tpac.smk.nl/168/about/assessment-procedure.html>

Box 1 – The 17 Principles of the Dutch Procurement Criteria for Timber*)

Sustainable Forest Management (SFM)

1. Legislation and regulation
2. Interests of stakeholders
3. Health and labour conditions
4. Biodiversity
5. Regulation functions
6. Production function
7. Contribution to local economy
8. Management system
9. Management group or regional association

Chain of Custody and Logo Use (CoC)

1. Chain of Custody system
2. Chain of Custody group certification
3. Logos and Labels

Development, Application and Management of Certification Systems (DAM)

1. Standard development
2. System manager
3. Decision making bodies and appeal procedures
4. Certification bodies and procedures
5. Accreditation

*) The complete Procurement Criteria van be found at <http://www.tpac.smk.nl/176/documents/procedural-documents.html>

Part I

Comments on

TPACs assessment procedure

Comments concerning TPACs assessment procedure of FSC International

Contribution I (page 1, #1-3)

TPAC should assess FSCs standard V4.0 as well as V5.0.

Response TPAC

Indeed both V5.0 and V4.0 have been assessed in this procedure.

Contribution I (page 2, #7)

The differentiated score for developed and less developed countries used in TPACs assessment of FSC of 2008 is unclear.

Response TPAC

Criterion 7.2 requires that the forest manager contributes to local infrastructure and social programmes insofar as not provided for otherwise. FSC standard V4.0 does not include an equivalent criterion. TPAC reasoned that in industrialised countries local infrastructure etc. is generally provided for by the state. In low income countries however this is usually not the case. Hence for low income countries the score is 'inadequately addressed'. In countries with medium to high incomes the score is 'covered otherwise'. On principle level this leads to a score of 1 and 2 respectively. This is the score for the international FSC standard. It can very well be the case that some national standards of low income countries include indicators which address this topic

Contribution I (page 2, #8)

"TPACs findings on shortcomings in 2008 should be re-assessed specifically"; SFM 4.6, 5.5 and 7.2 and DAM 1.6, 3.3 and 5.2.

Response TPAC

FSC's shortcomings identified in 2008 were addressed as follows.

SFM C 4.6 (The exploitation of non-timber forest products). *This criterion is still partially addressed in both FSC standard 4.0 and standard 5.0 because the use of knowledge of local population, indigenous peoples and environmental organisations is not mentioned*

SFM C5.5 (Initiating of forest fires). *For the tropics this criterion is not relevant. But for the boreal forests – where fire is sometimes used as a tool forest management - this criterion is still inadequately addressed in both FSC standard 4.0 and 5.0.*

SFM C 7.2 (contribution to local physical infrastructure and social services). *In FSC standard 4.0 this criterion is inadequately addressed for low income countries (for medium to high income countries it is addressed through the prevailing legal and social structures. In the new standard 5.0 the TPAC criterion is fully addressed through the following requirement "4.4 The Organization* shall implement additional activities, through engagement* with local communities*, that contribute to their social and economic development, proportionate to the scale, intensity and socio-economic impact of its management activities."*

DAM C 1.6 (Handling of comments in standard setting). *In 2008 this criterion was partially addressed as FSC did not require that a report of the comments should be made freely available. Now in 2015 FSC does require such a report to be made public, however in practice this is not always done. To explain: standard development within the FSC system takes place at three levels: the international level, the national level and at the level of the certification body in those countries where there is no national standard available. TPAC found that on international and national level criterion 1.6 is fully addressed. At the level of the certification body, the FSC documentation also requires publically available reports of the inputs received and how these are dealt with in the final standard. TPAC found however that in practice these reports are not always available to the public. This is an omission especially as the standard development process at CB level is not overseen by a three chamber structure as is the case*

on national and international level. TPAC considers C1.6 to be 'partially addressed' for the FSC system as a whole (international, national and CB level).

DAM C 3.3 (Objection and appeal procedures). In 2008 this criterion was partially addressed because complaints and appeal on international level could only be submitted by members of FSC. FSC revised its complaints and appeal procedures so that any stakeholder can now file a complaint or appeal. This criterion is therefore fully addressed in the 2015 assessment.

DAM C 5.2 (peer review in accreditation). In 2008 this criterion was inadequately addressed because peer review was not provided for in the FSC system. Currently peer review – for example by accreditation bodies IOAS and SAAS - does take place. However, a structural peer review procedure with sister organisations is not explicitly required. Therefore the criterion is 'partially addressed'.

Contribution I (page 3, #9)

Pay attention to FSCs complaints procedure and the way FSC reports on disputes; it is not always clear what the final conclusion is.

Response TPAC

The TPAS criteria do not have a separate requirement on how certification systems report on complaints. Having said that, FSC on its website has developed a rather comprehensive system to track disputes, their status and final outcomes. See for FSC's Dispute Resolution System: <https://ic.fsc.org/dispute-resolution.139.htm> and <https://ic.fsc.org/closed-disputes.317.htm>

Contribution I (page 3, #10)

Pay attention to the issues raised by Greenpeace in their 'FSC at Risk' study.

Response TPAC

Greenpeace has started a project FSC at risk/FSC at work. Seven key issues of concern are identified.

1. 'Weak principles and criteria'
2. 'Lack of High Conservation Value Guidance'
3. 'Certification in high risk regions'
4. 'Implementation of the Policy of Association'
5. 'Controlled wood'
6. 'Developing a modular approach'
7. 'Poor performance accredited CBs'

TPAC took note of the case - and progress reports of the FSC at risk/FSC at work project. On most of the issues progress was reported (last update December 2014). For example FSC Principles & Criteria 5.0 are strengthened by the final draft of the International Generic Indicators (IGIs) published in December 2014. Where relevant information has been taken into account by TPAC (for example COC C1.4 for controlled wood). TPAC however notes that it has a different appreciation of some of the issues compared to Greenpeace. Also several of the issues brought forward – notably 2, 4 and 6 – do not relate to the TPAS criteria and can therefore not be taken into account in this assessment.

Contribution IV

Two members of TPAC, Mr Wanders and Prof. Persoon, have conflict of interest and should remove themselves or be removed from TPAC

Response TPAC

The independence of TPAC members is stipulated in Article 3 of the standing orders of the Committee. Furthermore, all members of SMK's Committees of Experts, TPAC is one of them, are required to sign a statement of independence before they are accepted.

The accusation regarding Mr Wanders seems to be based on a misunderstanding of his activities. Mr Wanders is senior consultant and Director of Projects at Form International, a forestry consulting firm. As a specialist in forest management, Mr Wanders works on various certification projects such as the Congo Basin Program, PEFC country assessments, TPAC and legality certification projects. It should be noted that Mr Wanders is not employed by FSC in any way. The accusation regarding Prof. Persoon seems to be based on a misunderstanding of the role of the Supervisory Board. In the Netherlands the Supervisory Board supervises the Executive Board of an organisation. In this role the Supervisory Board oversees general policy goals, strategy and finances. The Supervisory Board is not involved in decision making regarding - or supervision of - regular activities of the organisation nor are its members expected to approve of these activities. Furthermore, functions in the WWF-Supervisory Board are honorary posts, members do not receive remuneration.

See for the full response on the comment:

<http://www.tpac.smk.nl/Public/TPAC%20documents/ResponseConflictofInterestTPAC.pdf>

Part II

Comments on

the standard of FSC International

Introduction section II

The stakeholders participating on TPACs forum have expressed their concern on the functioning of the so-called interim standards. Interim standards are standards that are developed by Certification Bodies (CBs) in those countries where there is not (yet) a national standard available.³ The rationale for the development of interim standards is that national standard setting is both time and resource intensive and can therefore prove to be challenging especially in low income countries. Also the interim standard can facilitate the development of a national FSC standard. Currently less than 20% of the total FSC forest area worldwide is certified against an interim standard.

Although interim standards are likely to have been a valuable instrument in expanding certified forest area especially in the tropical regions, there has been criticism on the instrument. The critique boils down to two things: the standard development process and the alleged disparity between the international FSC standard and interim standards.

Background on the different FSC standards

First, some background on the different standards within the FSC system. FSC has one international standard called the FSC Principles & Criteria, currently version 4.0 is in force. All FSC standards – national, interim etc. – include these principles and criteria, hence on the levels of principles and criteria all standards are identical. The difference lies in the indicators. An indicator is a more detailed specification of a criterion and serves as a means of judging whether a forest management unit complies with the criterion. Indicators also specify the criterion for the national or sometimes regional context. It is therefore likely that indicators diverge.

For a national standard the indicators are developed by a national standard setting body which has a three chamber structure comprising the environmental, social and economic interests. CBs also develop indicators. Typically a CB develops indicators for its so-called '*generic standard*' and based on those the CB develops indicators for its '*interim standards*' (one per country). In the development process of these interim standard indicators, the CB is required by the FSC procedures to consult stakeholders. Nonetheless the development process is less robust primarily because it is not overseen by a three chamber national body. For this reason FSC started a process to phase out the interim standards. The development of so-called International Generic Indicators (IGIs) for the FSC Principles & Criteria version 5.0 is key to this process.

The international Generic Indicators

The final draft of the IGI's published in December 2014 will be adopted by the FSC Board on 24 – 25 March. By December 2015 all standards have to be transferred to the FSC P&C 5.0 and the new IGI's. TPAC assessed the IGIs as part of the P&C 5.0 and concluded that they fully address the Dutch Procurement Criteria for timber.

³ Once it is, interim standards can no longer be used

Once P&C 5.0 and its IGIs enter into force, some degree of adaptation of the IGIs to the national situation will still be necessary. Nonetheless the IGIs will guarantee a much higher level of similarity between FSC standards than was the case under P&C 4.0.

It should be noted that for countries where there is no national standard available, certification will still be possible. CBs active in a country have to form a working group and in consultation with stakeholders develop a National Interim Standard which includes the FSC P&C and the IGIs. Some IGIs will still need adaptation by the working group to the local context, which ones are prescribed by FSC. Other indicators cannot be adapted. The final decision on the National Interim Standard lies with the FSC Policy and Standards Unit (PSU).⁴ This standard development procedure overseen by the PSU of FSC has piloted in Indonesia where it resulted in a national interim standard in 2014.

The forum

As was already highlighted, a considerable part of the comments made by the stakeholders on TPACs forum pertained to the current interim standard indicators, thereby underlining the importance of the above mentioned transfer to the P&C 5.0 and the IGIs this year. TPAC examined all of the comments and the related interim standard indicators. In most cases TPAC concluded after examination that the indicators were in line with the FSC P&C and that the concern was unfounded. In some cases however, examination sustained the concern that the indicator was not in line with the FSC P&C.

TPAC did not receive information on its forum or otherwise that could indicate that the challenged indicators resulted in unsustainable situations in the field. Also TPACs own research involving audit reports and online sources did not result in indications of unsustainable situations in FSC certified forests except for the criterion on maps 2.4. TPAC brought the challenged indicators to the attention of FSC and ASI. ASI committed to do a systemic analysis of all relevant CB Generic Standards. This analysis focussed on FSC criterion 6.10 (conversion) and criterion 3.1 (free and informed consent). The result was that in selected cases, CBs updated their Generic Standard to bring them in line again with the FSC P&C. Updating of all corresponding interim standards will be concluded by 30 June of this year as these are required by the FSC procedures to undergo stakeholder consultation before any adaptation.

Taking all into account TPAC concludes that FSC P&C v4.0 meets the Dutch Procurement Criteria both on paper and in practice. Although it should be noted that because of the interim standards FSC has received a lower score on DAM Principle 1 compared to the assessment in 2008. FSC P&C 5.0 and its IGIs fully meet the Dutch Procurement Criteria. As this standard is not yet implemented practice information was not taken into account.

⁴ The standard guiding the development process of National Interim Standards (FSC-PRO-60-007) is still being developed.

Comments concerning Sustainable Forest Management

C1.4 The timber is harvested in accordance with the applicable legislation in the country of harvest, that is legislation covering the following matters:

- a. rights to harvest timber within legally gazetted boundaries,
- b. payments for harvest rights and timber including duties related to timber harvesting,
- c. Timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,
- d. third parties' legal rights concerning use and tenure that are affected by timber harvesting, and trade and customs, in so far as the forest sector is concerned.

Contribution III (page 5)

Various (Interim) standards do not require compliance with the law, but rather limit themselves to specifying that there should be no evidence for non-compliance or even no evidence for significant non-compliance – for auditing purposes, this difference is substantial.

Contribution I (page 2, #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. (...) In this respect TPACs attention is required for this subject in FSC's action plan to implement TPACs recommendations."

Response TPAC

It is widely recognised that legal compliance is a vital precondition for sustainable forest management. This is why certification schemes traditionally include a range of requirements on legal compliance. Also the Dutch Procurement Criteria have dedicated four criteria and a principle on the matter, which have been updated after the EU Timber Regulation (EUTR) entered into force. TPAC shares stakeholders concerns that that 'no evidence of non-compliance' is not identical to 'demonstrating compliance'. TPAC however also notes that demonstrating compliance with all applicable laws can prove to be difficult in practice. The Committee therefore has some sympathy for the more pragmatic formulation of indicators by some certification Bodies (CBs) in their interim standards. TPAC found no evidence that this pragmatic formulation resulted in non-compliance in FSC certified forests. TPAC therefore concludes that C1.4 is 'fully addressed'.

TPAC brought the issue to the attention of FSC. In the new International Generic Indicators (IGIs) which will be part of new FSC standard V5.0, 'demonstrating compliance' is required (see indicators 1.5.1 and 1.5.2 of the Final Draft of the IGIs).

C 2.1 (SFM) The legal status of the management of the forest management unit and claims of the local population, including indigenous peoples, regarding the property/tenure or use rights in the forest management unit or a portion thereof have been inventoried and are respected

Contribution III (page 5-8)

Only local communities' legal rights are addressed in certain interim standards instead of local communities' legal, customary tenure and use rights as is required by FSC C2.2.

TPAC response

The stakeholder listed individual indicators of several interim standards. TPAC researched the

mentioned interim standards and several others and found that in almost all cases, there was no ground for concern; the respect for all mentioned rights was addressed by a combination of indicators. Only in one case - the Rainforest Alliance interim standard for Bulgaria - TPAC found the combination of indicators to be somewhat weak. TPAC concludes C2.1. to be 'fully addressed'.

C 2.3 (SFM) The local population and indigenous peoples have a say on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake

Contribution III (page 5-8)

Various interim standards do not require 'respect of property/tenure or use rights' beyond what is required by law or limit such rights to groups that have been recognized already by law as right holders.

Contribution V (page 1)

Various interim standards and the Russian National Standard limit the rights of indigenous peoples.

TPAC response

Concerning interim standard please refer to page 10 -11

Regarding the Russian National Standard. TPAC has examined the Russian standard. The Russian standard includes 22 indicators covering Indigenous Peoples' rights. TPAC concluded that as a whole these indicators are in line with the FSC P&C and fully address the TPAS criteria.

C 2.4 (SFM) The forest management plan and accompanying maps, relevant monitoring results and information about the forest management measures to be applied are publicly available, except for strictly confidential business information

Contribution III (page 8-9)

Various interim standards have weak requirements concerning how management plans and maps are made available and to whom

Response TPAC

According to TPAC the public availability of detailed maps is important for the credibility of forest certification and the ability of stakeholders to monitor what happens in the field. TPAC considers the requirements of certain interim standards to be weak. In addition, TPAC found that also in practice maps are not always readily available for stakeholders. TPAC therefore concludes that C2.4 is partially addressed.

TPAC notes that the new IGIs are more prescriptive with regard to the public availability of maps and the forest management plan. Indicator 7.5.1 requires "A summary of the management plan* in a format comprehensible to stakeholders including maps and excluding confidential information* is made publicly available* at no cost".

C 2.5 (SFM) Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services

Contribution III (page 9-10)

Various interim standards, for SLIMF and SGS Latvia, limit themselves to dispute resolution mechanisms that are required by law. This is superfluous as legal compliance is one of the fundamental prerequisites for certification.

Contribution V (page 1-2)

The French SGS interim standard does not require adequate mechanisms for dispute resolution to be in place. It fully relies on the availability of locally accepted mechanisms and institutions, which may or may not be appropriate.

Response TPAC

Stakeholders have shared their concerns that some interim standards only refer to the legal dispute resolution mechanisms. TPAC is of the opinion that such a reference cannot be considered sufficient or adequate. However, TPAC also notes that the current formulation of TPAS criterion 2.5 - Adequate mechanisms are in place for resolving disputes – is somewhat ambiguous. What is considered 'adequate' is not made clear in the criterion. For this reason TPAC has no ground to award a lower score than 'fully addressed'. The Committee will consider advising the State secretary to address this criterion during a revision to make it more specific.

C 2.6 (SFM) Objects of cultural and traditional economic value are identified and inventoried in consultation with the stakeholders and are respected

Contribution III (page 10-11)

Various interim standards are specifically weak when it comes to the requirement to consult with stakeholders and concerning the recognition of objects that are not already protected by law

Response TPAC

The concern was expressed that some interim standards do not guarantee that objects of cultural and traditional economic value are identified in consultation with stakeholders in the field. TPAC has researched the mentioned interim standards and various other standards and concluded that indeed in some cases it was not guaranteed that all stakeholders in the field were consulted when identifying objects with traditional value. TPAC did not find any evidence that in the field this has led to inadequate protection of objects of cultural and traditional value. TPAC concludes that C2.6 is partially addressed.

C 3.2 (SFM) Employees have the right to organise and negotiate wages and employment conditions, in accordance with national laws and the core conventions of the International Labour Organisation (ILO)

Contribution V (page 1-2)

The Brazilian SLIMF standard is in violation of ILO 138, for workers with an age of less than 15 years to be employed.

Response TPAC

ILO 138 provides exceptions for the minimum age of 15:

3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15

years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

In Brazil the official minimum age is 14, see <http://www.loc.gov/law/help/child-rights/brazil.php>. TPAC considers C3.2 to be fully addressed.

C 4.1. (SFM) Objects of high ecological value and representative areas of forest types that occur within the forest management unit are identified, inventoried and protected

Contribution III (page 11)

Various SLIMF interim standards do not require identification, inventory and protection of representative areas and limit actions concerning protected species to 'known areas and species'.

Contribution V (page 1-2)

In French SLIMF forests, rare, threatened and protected species are only protected 'where known'.

Response TPAC

Two stakeholders have expressed concern that species and High Conservation Values (HCVs) may not be sufficiently protected in Small and Low Intensity Managed Forests (SLIMF). TPAC has evaluated the mentioned SLIMF interim standards and shares stakeholders' analysis that the formulation of some indicators of some SLIMF standards are limiting concerning the protection of species and HCV for example because they include phrases like "where known, rare and endangered species and their habitats are protected". TPAC notes however that biodiversity risks in small and low intensity managed forests are low compared to intensively managed production forests. In addition, the majority of SLIMFs will be involved in group certification for which the FSC standard on group certification demands that the group manager ensures for example through training that group members have the necessary knowledge to be able to comply with the FSC P&C. TPAC concludes that C4.1 is 'fully addressed'.

C 4.3. Conversion of forests in the FMU to other types of land use, including timber plantations, shall not occur unless in justified exceptional circumstances.

Contribution III (page 12) and **Contribution V** (page 2)

Various interim standards have weak restrictions concerning forest conversion.

Contribution I (page 5, #15), **Contribution III** (page 12)

The National standards of Papua New Guinea and the Netherlands do not comply with the 5% limitation of conversion.

Response TPAC

Concerning interim standards please refer to page 10 – 11.

Concerning the PNG standard an excess of 5% conversion is only allowed in case of small and low intensity managed forests. TPAC has verified that none of the PNG certificate holders meets this category, de facto only the 5% limit is applied.

Concerning the Dutch standard there are two issues important: the validity of the standard

and the conversion limit. The Dutch standard entered into force in 2005. Although FSC requires revision once every 5 years, the Dutch standard was not revised since (revision is currently taking place). This is a serious omission because certification then takes place against outdated requirements. This issue is further dealt with (and scored) under the requirements for standard setting (DAM C1.1).

The question remains whether conversion has taken place in practice. TPAC reviewed a sample of recent audit reports of Dutch FMUs and found that this has not been the case. However, TPAC is informed by auditors that in the next few years conversion may become an issue as a result of the implementation of Natura2000. This EU program aims at the improvement of biodiversity in member states through a network of nature protection areas. In several regions in the Netherlands Natura2000 requires an increase of the original – and biodiverse – habitat system heathland. This increase may put pressure on the less biodiverse production forests in the region. In the current situation however TPAC concludes that there is no ground for adaptation of the score for C4.3, it therefore remains ‘fully addressed’.

Contribution I (page 5, #15)

Follow up on whether the adjustment of the conversion indicators in the SGS interim standard for Malaysia has led to changes on the ground.

Response TPAC

There are currently no forests certified by SGS in Malaysia; verification on the ground is therefore not possible.

C 4.4. (SFM) In case of plantations native species are preferred and a relevant proportion of the plantation shall be allowed to regenerate to natural forest

Contribution III (page 12-13)

Various interim standards do not mention a preference for native species and/or do not contain requirements concerning a relevant proportion of natural regeneration. It appears that non-native species can be used whenever they outperform native species.

Response TPAC

The phrase “exotic species are used only when they outperform native species” implies there is a preference for non-exotic – that is native – species. TPAC has looked into several interim standards which all more or less comply with FSC and TPAS.

C 5.2 (SFM) The water balance and quality of both groundwater and surface water in the forest management unit, as well as downstream (outside of the forest management unit), are maintained and, where necessary, improved

Contribution V (page 2)

The Russian National standard only refers to ‘water bodies, which are to have protective zones and shelter belts according to the federal legislation’. Other water bodies are excluded from any protection, unless they are considered key habitats.

Response TPAC

TPAS requires that the quality of all water bodies should be maintained, irrespective of whether they are protected by law. TPAC has verified that the Russian criterion 6.5 (Written guidelines shall be prepared and implemented to:...protect water resources) and its indicators are sufficient.

C 5.7 (SFM) The use of chemicals is only permitted if maximum use of ecological processes and sustainable alternatives proves insufficient. The use of class 1A and 1B pesticides, as drafted by the World Health Organisation, and of chlorinated hydrocarbons is not permitted

Contribution V (page 2)

Chemicals of class 1A and 1B pesticides are being used.

Response TPAC

FSC has a provision for temporary exceptions to their prohibition on the use of 1A and 1B chemicals. The exceptions have to be approved by a Pesticides expert committee and are time - and region - bound. TPAC considers this to be a valid course of action. Also in previous assessments TPAC did not downgrade the score of this criterion because exceptions were allowed by the certification system.

Comments concerning the Chain of Custody

C 1.4 If the system allows for mixing of SFM-certified and non-SFM-certified material, the non-SFM certified material is covered by a verifiable system to ensure that it is from non-disputed, at least legal sources. This applies to new-, including pre-consumer recycled material, and post-consumer recycled material

Contribution I (page 3, #11,12)

Pay attention to the criticism regarding FSC Controlled Wood (FSC Watch and Greenpeace study 'FSC at Risk') and the remarks CPET has made on this topic.

Response TPAC

TPAC researched the criticism on the FSC Controlled Wood (CW) system. Especially Greenpeace has expressed its concern in its FSC at Risk reports. FSC has taken the critique seriously and revised its system and standards. Most of which entered into force in January 2015. An important aspect of the improvements was that company based risk assessments are phased out and are replaced by national risk assessments. Although the improvements are not yet fully implemented, TPAC notes that based on the TPAS criterion which reads "a verifiable system to ensure that it is from non-disputed, at least legal sources", TPAC has no ground for adapting the score of C1.4. The score is fully addressed.

CPETs remark was that Controlled Wood is a 'trade tool' and not a certificate. As such CW does not meet the UK requirements for legality verification. This remark is perfectly correct but does not have any bearing for the Dutch assessment. CW is only relevant in those cases where mixing of SFM-certified and non-certified material is allowed.

Contribution I (page 4, #12)

Investigate whether the suspended CB SGS Hong Kong also issued certificates allowing for Controlled Wood as this will damage FSC's credibility.

Response TPAC

As far as TPAC can verify SGS Hong Kong did not issue CW certificates. It should be noted however that ASI suspended SGS Hong Kong on 26 March 2013 due to the fact it did not address major non-conformities. As part of the Chain of Custody audit, SGS's management system was re-assessed to make sure that the material sourcing, receipt, storage, sales and delivery was in compliance with the FSC Chain of Custody standard. The suspension was lifted on 16 May 2013 as all non-conformities were closed out.

Comments concerning Development, Application and Management of Certification Systems (DAM)

C 1.1. (DAM) The development process of the standard fulfils the requirements established in the ISEAL 'Code of Good Practice for Setting Social and Environmental Standards' (...).

Contribution I (page 1, #4, 5)

"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."

Contribution III (page 1)

'This [TPAS] criterion is similar to the CPET criterion 1.3.1(...). CPET found that the regulations governing local adaptation of certification bodies generic standards are not fully consistent with the ISEAL Code'.

Response TPAC

Standard development takes place at three levels within the FSC system: at the international level, at the national level and finally at the level of the Certifying Body (CB). At international level TPAS C1.1 is fully addressed; all ISEAL requirements regarding standard setting are met. At national level however, all ISEAL requirements but one are met. It appears that in practice several national standards – including the Dutch one (!) - do not meet the ISEAL requirement that the standard is revised every 5 years.

At Certification Body (CB) level, the standard setting procedure meets various ISEAL requirements but fails to meet those related to composition of the standard setting body and the decision making thereof. For the FSC system as a whole TPAC concludes that C1.1 is partially addressed, mitigating circumstance is that all standards include the same principles and criteria which have been developed in accordance with all the ISEAL requirements.

C 1.2 (DAM) The standard development body comprises the relevant interested groups that serve the economic, social and environmental interests without undue dominance of one interest.

Contribution III (page 1)

For the development of interim standards, the standard development body (=certification body) does not comprise the relevant interested groups.

Contribution V (page 3)

Many FSC (interim) standards do not contain any information about the standard development process. They are not developed with the required stakeholder input, public consultation etc.

Response TPAC

See also previous response. Standard setting within the FSC system takes place at three levels. At national and international level TPAS criterion 1.2 is fully addressed. However, at CB level the standard development body (= the CB) is not comprised of the relevant social, economic and environmental interest groups. C1.2 is therefore inadequately addressed at CB level. For the FSC system as a whole TPAC concludes that C1.2 is partially addressed.

Contribution I (page 7, #18)

The level of stakeholder consultation in national (interim) standards is insufficient; for the Cameroon standard only two Cameroon inhabitants were involved.

Response TPAC

In the particular case of Cameroon, the national standard is based on the regional standard for

the Congo Basin, which took 5 years to come to its completion and included several stakeholder consultation rounds at different levels. The nationality of the people involved in the standard setting body is not a requirement in the TPAS criteria. The comment has therefore no bearing on the score of C1.2.

C 1.3. (DAM) Decisions of the standard development body are made, if possible, by consensus. If consensus is not reached, qualified majority voting applies

Contribution III (page 1)

For the development of interim standards, the certification body is not required to develop consensus.

Response TPAC

See also previous response. At national and international level TPAS criterion 1.3 is fully addressed. However, at CB level the criterion is inadequately addressed. For the FSC system as a whole TPAC concludes that C1.3 is partially addressed.

C 1.4. (DAM) The development of the standard takes place with input of the relevant stakeholders. Potential limitations for certain groups such as indigenous peoples and small forest owners to contribute directly are taken into account

Contribution III (page 2)

Stakeholder consultation is weak for example in Indonesia.

Response TPAC

The comment was not specified or substantiated.

C 1.5. (DAM) The standard development procedure provides for public input during a reasonable period of time

Contribution III (page 2)

Not always a reasonable period of time is given to provide for public input, for example in one case it was only 5 days.

Response TPAC

The comment was not specified or substantiated.

C 1.6. (DAM) With the development of the standard, the standard setting organisation takes into account any comments submitted in writing and communicated verbally. The organisation maintains reports of the development process of the standard including the received input and how it is dealt with. A summary of it is published and is freely available

Contribution III (page 2)

Summaries of submitted comments and how they are dealt with in the standard setting process of interim standards are not made publically available, so it is not clear how this criterion is dealt with.

Response TPAC

At national and international level this criterion is fully addressed. At CB level there are also requirements covering the handling of stakeholder comments. CBs are required to provide a report listing stakeholder issues as an annex to the interim standard. However, TPAC concluded based on a sample of Interim standards that in practice this requirement is frequently not met. At CB level C1.6 is therefore 'inadequately addressed'. For the FSC system

as a whole, TPAC concludes that C1.6 is partially addressed.

C 5.1. (DAM) Accreditation must be granted by a national or international organisation that fulfils requirements as included in ISO 17011 'General Requirements for Assessment and Accreditation of Certification Bodies'

Contribution I (page 6, #16)

Assess whether ISEAL, FSC and ASI are sufficiently separate to fulfil the requirements of the relevant EU regulation and the Dutch legislation (*Wet Aanwijzing Nationale Accreditatie*), which is an implementation of EU legislation 765/2008.

Response TPAC

The EU regulation 765/2008 requires that each EU member state establishes an Accreditation Body, which meets certain requirements. The regulation does not prohibit that other private accreditation bodies are established nor does it set requirements for these bodies.

Contribution II (page 1-2)

FSC does not comply with TPAC criterion C 5.1, especially with regard to chapter 4 of ISO 17011 that deals with issues of impartiality, because the majority of the ASI Board of Directors are directly employed by FSC or have very close relationships; there is a strong financial interdependence and ASI is a wholly owned subsidiary of FSC.

Response TPAC

The following ISO 17011 requirements are relevant:

4.3.1 The accreditation body shall be organized and operated so as to safeguard the objectivity and impartiality of its activities.

4.3.4 All accreditation body personnel and committees that could influence the accreditation process shall act objectively and shall be free from any undue commercial, financial and other pressures that could compromise impartiality.

4.3.7 The accreditation body shall ensure that the activities of its related bodies do not compromise the confidentiality, objectivity and impartiality of its accreditations. A related body may, however, offer consultancy or provide those conformity assessment services the accreditation body accredits, subject to the related body having (with respect to the accreditation body)

- a) different top management for the activities described in 4.2.5,
- b) personnel different from those involved in the decision-making processes of accreditation,
- c) no possibility to influence the outcome of an assessment for accreditation, and
- d) distinctly different name, logos and symbols.

The accreditation body, with the participation of the interested parties as described in 4.3.2, shall identify, analyse and document the relationships with related bodies to determine the potential for conflict of interest, whether they arise from within the accreditation body or from the activities of the related bodies. Where conflicts are identified, appropriate action shall be taken.

TPAC has forwarded the comment to ASI for more clarification on the relation between ASI and FSC. ASI clarifies that internal audits on ISO 17011 compliance are conducted on at least annual basis. Furthermore, ASI is a legally independent entity. FSC, currently being the only shareholder, does sit in the Board of Directors, but the Board does not have any say in accreditation decisions. An independent ASI Accreditation Committee reviews ASI assessment

reports, ensuring that the assessment process provides sufficient and sound information for accreditation decisions and that the recommendations included are justified. Concerning the financial independency aspect, ASI derives its income from performing assessments of certification bodies and a small portion from providing services to standard owners. FSC's income is generated primarily from annual administration fees paid by certificate holders. These fees are administered by CBs. ASI has no role in the administration or payment of these fees.

See for more information on ASI's impartiality management the FAQ on the ASI website (<http://www.accreditation-services.com/archives/faq-asi-impartiality-management>)

TPAC notes that the benefit of having an accreditation body focussed on forest management is that the accreditation body has specialised SFM knowledge. Knowledge which is usually not present within a general accreditation body.

Based on the above criterion C5.1 is considered 'fully addressed'.

Part III

General comments

General – Interim standards

Contribution I (page 4, #13)

"Investigate whether interim standards comply with TPAS"

Response TPAC

See page 10 -11

Contribution I (page 4, #14)

Verify which timeline applies regarding the phasing out of the interim standards

Response FSC

See page 10 -11

General – Subsidies FSC

Contribution I (page 6, #17)

'FSC is funded partially by (government) subsidies which are channelled via NGO's'

Response TPAC

The Dutch Procurement criteria do not prohibit funding by (government) subsidies.

General – Language

Contribution V (page 1)

There are lots of FSC standards that are not available in English. They cannot be assessed.

Response TPAC

FSC-STD-60-002 (V1-0) leaves room for the use of different languages, of which the official ones are both English and Spanish:

3.1 *The standard...NOTE: The standard should be developed using a technically accurate translation of the FSC Principles and Criteria for Forest Stewardship in a national language applicable in the area for which it is being developed. However, the official English or Spanish version of the FSC Principles and Criteria shall be referred to in case of uncertainty regarding interpretation.*

7.1 *Standards may be developed in one or more of the languages of the country to which they apply. However, for approval by FSC the standard shall be submitted in one of the official languages of FSC (i.e. in English or in Spanish). The version in the official language of FSC, as evaluated and approved by FSC, shall be considered definitive in the case of any dispute.*

It should be noted that TPAS does not include specific requirements regarding language.

General – Reports on FSC

Contribution V (page 4)

Several reports and websites, such as the 'FSC at Risk' study by Greenpeace and the FSC Watch website list a number of challenges.

Response TPAC

For the issues touched upon in the Greenpeace study 'FSC at Risk' see TPAC response to Contribution I, page 3, #10 in 'Comments concerning TPACs assessment procedure of FSC International' and TPAC response to CoC C 1.4.

It should be noted that TPAC has not been given the resources to investigate all cases that are presented on FSC watch or elsewhere. But in general TPAC is of the opinion that the cases that are brought to the FSC complaints resolution mechanism are dealt with adequately and transparently. The bigger cases mentioned on FSC watch are all dealt with through this mechanism, i.e. Veracel, Siforco and APP. <https://ic.fsc.org/dispute-resolution.139.htm>

Abbreviations

CB	Certification Body
CoC	Chain of Custody
CW	Controlled Wood
DAM	Development, Application, and Management of Certification Systems
FMU	Forest Management Unit
FSC	Forest Stewardship Council
HVC(F)	High Conservation Value (Forest)
IP	Indigenous Peoples
IS	Interim Standard
IGIs	International Generic Indicators
SFM	Sustainable Forest Management
TLA	Trademark Licensing Agreement
TPAC	Timber Procurement Assessment Committee
TPAS	Timber Procurement Assessment System