Forest Stewardship Council:

A Case Study in
Entrepreneurial Global Governance

One Earth Future Foundation

Working Paper

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Acronyms

ASI	Accreditation Services International
CB	Certification Body
CoC	Chain of Custody
CP	Contact Person
CWG	Certification Working Group
DRC	Dispute Resolution Committee
FoE	Friends of the Earth
FSC-AC	Forest Stewardship Council – Asociación Civil
FSC-GD	Forest Stewardship Council – Global Development
FSC-IC	Forest Stewardship Council – International Center
ETC	Ecological Trading Company
ha	hectares, a unit of land area measurement
ITTO	International Tropical Timber Organization
NI	National Initiative
OEF	One Earth Future
P&C	Principles and Criteria
SLIMF	Small and Low Intensity Managed Forests
TSU	Technical Services Unit
UN	United Nations
WARP	Woodworker's Alliance for Rainforest Protection
WWF	World Wildlife Fund

Introduction

This paper is the first of a series of Working Papers on Alternative Governance Structures presented by One Earth Future Foundation (OEF). OEF's motto is *Peace Through Governance*, and its vision is to achieve a world beyond war by creating and implementing more effective systems of global governance that include business societies and civil societies in addition to nation states in the decision-making process.

The purpose of the Working Paper series is to study governance architectures that are not only inclusive, but also effective at solving global problems. The Forest Stewardship Council (FSC), a non-governmental, not-for-profit, independent organization that governs a significant portion of the world's forests, clearly fits this OEF model.

When the rapid destruction and violent exploitation of the world's forests entered the list of global problems, global forest management was essentially non-existent. The international community slowly attempted to work on the issue, but other areas of society, to whom the problem was particularly urgent, also actively sought solutions. Various independent groups from environmental, social, and industrial sectors had roughly the same idea at about the same time on the best way to fill that governance void. They wanted to set standards for acceptable forest management and then implement some kind of program to ensure the standards were followed. The FSC emerged when those groups came together and united their ideas in a single organization.

This unification was not at all easy. Though the groups had the same basic idea at the beginning, their thoughts on how to go from idea to action were far from identical. It took years of discussion and arguments, culminating in a riotous Founding Assembly in 1993, to streamline the various conceptions into a general plan of action all could agree to follow. This basic agreement did not stop the discussions; on the contrary, they are a large part of FSCs continued operation and success. The exchange of ideas and dialogue across groups in an effort to reach consensus on the FSC governance architecture has led to a system that has succeeded far beyond its founders' expectations.

Since its humble beginnings as a small, struggling organization with only three staff members, it has grown into the most well-known certification system in operation, in any industry. Today, FSC's scope is enormous. As of March 16th 2009, it had certified over 112 million hectares of forests worldwide (7% of the world's forests), and issued 12,707 Chain-of-Custody certificates, following the raw material taken from forests to the final product bought in stores around the world. FSC-accredited bodies issue certificates in 81 countries spread across the globe. The system is managed by FSC-International, an ever-growing body of 827 members who work together to maintain, improve, implement and enforce a global set of standards and rules for forest management.[1]

Beyond mere statistics, however, the FSC represents one of the most successful experiments in governance to occur in the last several decades. Within its issue domain, forest management, it is widely recognized as the primary legitimate authority, despite the fact that it is not led by nation states. Until this year, the system excluded governments almost entirely. Instead, the structure places the decision-making power equally on the environmental, social, and economic members. It has managed to find a method for consistently reaching agreement between these disparate

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[1] Facts and Statistics from the April 2008 FSC Newsletter

groups. Both the governance architecture and the accreditation/certification system provide an innovative approach to solving a global problem. This approach and the FSC methods serve as an exemplary model for the type of alternative governance structure which OEF wishes to create.

This case study begins with a brief history of the FSC, highlighting the process by which it grew into its unique structure. This chapter considers how it approached the problem, how it facilitated discussion between the groups. The second chapter details the current structures of the FSC system, showing how these structures allow it to govern effectively. Chapter 3 covers the current changes that are reshaping certain parts of the system, pointing to some problems and how these changes are expected to solve them. Chapter 4 highlights the FSC's greatest strengths and most commonly uttered criticisms. The last chapter discusses the legitimacy of this system and makes a few concluding remarks.

Chapter 1: Solving a Global Problem

<u>Forests in Trouble</u>

Concern for the world's forests and the effects of deforestation is a relatively recent phenomenon. The rapid and violent exploitation of the world's forests, particularly in the tropical regions, began to pick up speed only in the second half of the twentieth century, and public outcry lagged considerably behind the destruction. As nations fully recovered from the devastation caused by World War II, their demand for raw materials and finished products gradually began to grow. Many of these products came from forests, and the increased demand began to create problems.

Logging especially, one of the most violent forms of forest exploitation, soared in the 1970's. Deforestation of huge swathes of land was particularly bad in the tropical regions. In the Brazilian Amazon alone, deforestation occurred at a rate of 20,400 km^2 of land cleared per year.[2] People objected to this, of course. But throughout the '70's and into the 80's these objections mostly came from locals, biologists, and naturalists and hence were easy to ignore. Bit by bit, conservation organizations, mostly NGOs, picked up the cause. They initially focused their advocacy work on specific or local issues. Groups campaigned against the decline of certain animals due to deforestation or the clear-cutting in ecologically rich areas (such as British Columbia or sections of the Amazon). They did not focus on forests as a whole.

As the destruction and mismanagement continued, the plight of the world's forests, particularly that of the tropical forests, rose to international attention. Campaigners began tentatively organizing boycotts of tropical timber, putting pressure on foresters and loggers, and demanding government regulation. A few forward-looking businessmen, not wanting to be branded as contributing to forest destruction, attempted to look for products that came only from well-managed forests. Though these first tentative boycotts and searches for responsible products generally failed, it was clear that the movement was beginning. It lacked cohesion, direction, and strength, but it was beginning.

By 1986 the UN had officially recognized the problem and set up the International Tropical Timber Organization (ITTO). As a UN agency, ITTO members are exclusively nation states, (divided into 'producing' and 'consuming' nations). During its initial years, certain environmental organizations acted as informal advisors. In 1987, spurred on by increasing activity against logging and other forest extraction practices in the tropics, the ITTO commissioned a report on the state of tropical timber management. The result, *No Timber without Trees,*[3] was global in scope but had limited depth and reach, as it covered only tropical forests and did not include social, environmental, or economic impacts of forest mismanagement. Even without including these analyses, the report uncovered a very bleak picture. Almost without exception it found no management at all or only nominal management that failed completely to look at sustainable yields.[4]

The report crystallized the need for better forest management, but it did not take the next step. Constrained by the UN structure and its own inherent conflicts of interest between the 'producer'

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[2] Fearnside 2005
[3] Poore, et. al. 1989.
[4] Ibid, and Synnott, "Some Notes", p6.

and 'consumer' member, the ITTO remained largely unable to act upon this report, or the various others it subsequently commissioned. The report clarified the problem, but vast uncertainty as to the solution remained. The movement still desperately needed cohesion and direction.

Tentative Civil Society Action

Luckily for the world's forests, while the ITTO was ineffectual, the advocacy groups and NGOs that informally advised it were not. Some had been active on the forest problem for years before the formation of the ITTO. The World Wildlife Fund (WWF), for example, initiated its first Tropical Rainforest Campaign in 1975.[5] Friends of the Earth (FoE) dedicated significant effort to the problem since its founding in 1984. These organizations, along with various others, had as clear an idea of the problem as the ITTO, but they had also begun formulating possible solutions. They considered strategies like boycotts, enhanced government and company regulation, and the use of market forces via certification of standards.

It is important to note that these NGOs were part of a larger environmental movement of the '80's, and certification was a solution considered for various products (not just forest products). As all manner of environmental concerns, from deforestation to pollution, came to public attention, consumer interest in environmentally sound products rose. So too did company interest in making their products appear to fit that bill, although rarely could they verify their proliferate environmental claims. In 1989 the Nordic Council of Ministers led the way in devising the certification solution, introducing the Nordic Swan[6] label, which quickly gained customer support. Following this model, the U.S. NGO GreenSeal began the same year, although it was not nearly as popular. These organizations gave seals of approval or permission to use their 'ecolabel' to products that met the specific, often scientific, environmental standards they had devised.

Most of the largest environmental organizations concerned with forests, such as WWF, the Nature Conservancy, and Homeland Foundation, at some point in the '80's considered using forest certification as a way to attack the problem.[7] But though they made initial forays into the certification world, they never advanced to the level of Nordic Swan or GreenSeal. They encountered such general skepticism and industry and government objections that they ended these initiatives after just a few exploratory studies. Rather than find a way to change the resistance or move around it, they concluded that forest certification did not have enough public support to be an effective use of market forces.

As general standards began to spread, however, a few NGOs lost their skepticism in the value of market forces, and began to explore the certification idea in earnest, despite the resistance. The first organization to take certification beyond an initial study was Friends of the Earth. In an experimental system, FoE created a series of guidelines for a well-managed forest, the Good Wood Guide,[8] and then distributed a Seal of Approval for those forests that met the guidelines. The Guide had myriad problems, chief of which was that it only considered tropical forests, so

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[5] http://www.panda.org/who_we_are/history/seventies/
[6] http://www.svanen.nu/Default.aspx?tabName=StartPage&menuItemID=7055
[7] A significant portion of the information in this case study on the history of the FSC comes from a 50 page report written by Tim Synnott, the first FSC Executive Director, at the end of 1995. See bibliography for a full citation.
[8] "Good Wood Guide" Simon Counsell, 1990.

any company could receive the Seal simply by not using tropical timbers. In 1990 FoE, recognizing these fatal shortcomings, discontinued the Seal.

The experiment, however, was highly successful in showing FoE exactly how much it did not know about certifying forests. As the list of questions, problems, and potential pitfalls grew surrounding the Good Wood Guide, FoE developed it into a proposal for a "feasibility study of mechanisms for identifying and monitoring individual forests and companies with socially and environmentally acceptable management".[9] FoE convinced the UK forestry representatives to present the proposal to the ITTO. A number of countries vehemently rejected it, forcing the proponents to severely compromise, resulting in an almost unrecognizable revised study. This battle made it clear that ITTO members were unwilling to take the certification route. The negotiations also showed that if anything at all was to be accomplished, representatives from all sectors would have to be active participants. Government representatives from one country would not be able to push the environmental agenda past their own territorial-bound concerns.

As FoE faced the discontinuation of their certification system, another small New York-based NGO called the Rainforest Alliance launched its own attempt. The same year that the Seal of Approval ended, the Rainforest Alliance's Smart Wood program certified its first forest.[10] The Alliance itself had begun only four years earlier in 1986, however, and while the Smart Wood program incubated for a year before its release developing a full set of necessary criteria clearly remained beyond the Alliance's capacity. So they chose to forgo large amounts of detail and instead based their certification on three criteria: whether or not the management 1) stabilized the watershed, 2) produced a sustained yield, and 3) positively impacted the local people. Having only these three criteria caused some problems, but nonetheless certification was on its way to becoming more accepted and more acceptable.

Tentative Industry Action

Civil society was not the only sector attempting to respond to the problems highlighted by campaigns during the 1980s against tropical timber use. The forest industry and businesses dealing with tropical woods also began showing interest. The tropical timber certification debate was very lively in the European Parliament by the end of the 1980's. Those in the trade generally agreed that "Something Must Be Done",[11] but there agreement ended. As Synnott reminds, "the habit of referring to industries in general, or 'the industrial sector', gives a mistaken impression of unity and masks the reality of a wide diversity of interests".[12] And the diversity of opinion was great: there were as many different approaches to the problem as there were companies working with timber.

Many relied on governments to set regulations, often despite increasing evidence that the minimal regulations governments were willing or capable of setting and enforcing were woefully insufficient. A few began to look for 'responsible' wood products on their own, committing themselves to doing trade only with products from well-managed forests. They quickly found difficulties in every part of this process, from tracking the source of raw materials in an increasingly globalized world to defining responsible management.

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[9] Synnott, page 9

[10] http://www.rainforest-alliance.org/about/documents/ra_timeline.pdf

[11] Synnott, page 34

[12] Synnott, page 37

The most notable and influential of the groups seeking out 'responsible' products was the Ecological Trading Company (ETC), led by forward-thinking entrepreneur Hubert Kwisthout. Kwisthout was a musician, and felt strongly the moral dilemma of using tropical timbers in his beloved musical instruments. He created the ETC in an attempt to supply his instrument business with products from well-managed forests. He was very active in his search, and very earnest, but it quickly became clear that obtaining timber from verifiably responsible sources was extremely difficult. Frustrated, in 1990 he wrote a proposal for an independent system for setting standards and verifying sources which would, if implemented, neatly solve his problem.

At the same time that Kwisthout was tentatively passing out his proposal, other retailers and industry members were feeling the campaign pressure to provide products from well-managed forests. FoE headed a campaign to boycott all tropical timber. WWF increased its campaigns against clear-cutting deforestation. Other organizations threatened similar boycotts, especially in Europe.[13] Companies looking for ways to clear their names or simply avoid becoming campaign targets met the same difficulties Kwisthout encountered. However much they might want to assure consumers that their wood came from responsible sources, they had little way of doing so.

Recognizing their common problem, a large group of North American industry representatives, from woodworkers to importers to dealers, decided to create an organization to actively pursue a solution. In collaboration with environmentalists, foresters, and scientists, in 1990 they formed the Woodworkers Alliance for Rainforest Protection (WARP). The first solution WARP considered was Kwisthout's proposal. Almost without fail the attendees found that the idea had significant merit. They liked this new approach, so different from all previous attempts at curtailing the rapid deforestation of the planet. They found it appealing that the proposal, rather than attempting to punish bad practices via boycotts and demonstrations, had found a way to reward good forest management using market forces.

So they accepted Kwisthout's proposal and set up a Certification Working Group (CWG) to create the recommended system. The CWG immediately set out its goals to develop the necessary criteria for 'well-managed', set up a structure for a certification organization, and develop a certification process. At this point, while the WARP members knew they wanted some way for forest products to show they had been responsibly produced from responsibly managed forests, there was very little consensus on what 'well-managed' or 'responsible' entailed or how a world-wide certification scheme would be structured. Having set out their goals, these questions became the focus of subsequent meetings.

The Certification Working Group

The first meeting of the CWG in San Francisco in April 1991 was highly informal. Most of the members were the same ones present at the initial WARP meeting, with a few additions. The majority of the attendees represented their organizations, but with unclear authority on how much they could commit their organization or business. The exact nature of the meeting and the desired outcomes were equally unclear. To a certain extent, the informality created by these uncertainties allowed the participants to temporarily set aside their differences to achieve a few tentative agreements. They accepted the Forest Stewardship Council as a probable name for a new standards organization, and they agreed that it would accredit other organizations

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[13] Conroy, *Branded!*

specializing in professional certification. The Council would cover all forest products from all parts of the world, not just the tropical regions.[14] It would have broad global guidelines supported by more specific regional ones.

The second CWG meeting in Washington D.C. in March the following year was larger, slightly more formalized, more productive, and more controversial. Once the participants in the first meeting agreed upon the most basic aspects of the new organization, huge fundamental differences of opinion in other areas became clear. The attendees disagreed about what kind of forests the FSC should certify, why it should be set up in the first place, and most importantly, they disagreed about its fundamental objectives. They argued about whether it was to support small-scale community-managed forests, or support viable ecosystems, or end tropical deforestation. All sides of each argument had fierce supporters and detractors alike.

Several undercurrents of agreement allowed the meeting to move forward. First, the attendees were all looking for a positive alternative to the various bans and boycotts of the 1980's. There was some general recognition that boycotts, while occasionally successful, were not broad enough. Second, while the participants had many different stated reasons for joining the new effort, their objectives boiled down to "promoting good forest management, worldwide"[15].

Reaching any agreement at all was quite a remarkable feat. By bringing together these myriad stakeholders, the CWG attempted to do the impossible: forge an alliance between the social, environmental, and economic sectors, three groups who had historically seen themselves as enemies on this issue.[16] By getting them to focus on their mutual need for a reliable system for supporting well-managed forests, the CWG was successful in unifying them and setting an Interim Board of Directors that could agree upon basic organizational statutes. By the end of the meeting, the FSC began its *de facto* operational existence, although it would be two and a half years before that existence became official and legally recognized.

This is a reoccurring theme throughout FSC's initial years. Because the CWG meetings were a gathering of many independent but highly complementary efforts, many aspects of its operation were informally accepted by general agreement long before they became an official part of the FSC. The three sectors found it easy to agree on the underlying unifying threads, and next to impossible to agree on the details, so they often agreed fairly quickly to basic structure and then spent years hashing out the details to reach an official product all could follow.

The emergence of the FSC Principles and Criteria (P&C) is one example of this kind of process. During the CWG meetings the participants accepted the idea that certification would be based on a set of standards, which would include general principles and be accompanied by a longer set of more specific criteria. After examining four preliminary drafts done by Kwisthout and Synnott, the P&C Working Group (established during the second CWG meeting), agreed to focus on universally applicable principles rather than specific management strategies. The structure and framework took shape relatively quickly after that, emerging definitively by the sixth draft.

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[14] The three broad types of forests the FSC refers to are tropical (which often includes forests labeled subtropical), temperate, and boreal. Broadly defined, tropical are those forests closer to the equator that require higher temperatures and more moisture, temperate are those found in cooler areas to the north and south of the tropics, and boreal (often called coniferous forests) are found in northern temperate zones.

[15] Synnott, page 16.

[16] Conroy, *Branded!*

The sixth draft represented an end to the easy agreements like framework, focus, and structure. This draft entered an intensive worldwide consultation process to reach agreement about the content. Over 5,000 copies of the sixth draft circulated for six months. The idea for a worldwide certification/accreditation system received significant amounts of support and enthusiasm, which meant the CWG received thousands of comments by the end of the process in April 1993. The Interim Board of Directors appointed a small group to summarize the comments and prepare suggestions, and the P&C Working Group met twice more that year to create the seventh P&C draft for presentation to the Founding Assembly in October 1993.

Beginning during the second CWG meeting, the P&C consultation process was expanded and formalized (to a certain extent) in National Consultations. A newly established Consultation Working Group began a series of systematic, global consultations among nation states that went beyond soliciting comments on the P&C. The Working Group was vital for two reasons. First, based on the consultations it added to the general discussions the ideas of three equal governing chambers and of global principles with local standards. Second, its efforts to include as many nations as possible in the consultations raised a needed awareness of the FSC in time for the Founding Assembly in October of 1993.

The hard work of the CWG set the stage for the official entrance of the FSC. The major ideas were gathered, major differences identified, and important players present. Even before its first meeting, the FSC had the essential elements needed to turn concepts into realities. Before that meeting begins, however, it is necessary to briefly examine what else was happening with global forest management at the same time.

Parallel Paths: The Earth Summit

The Certification Working Group's creation of the Forest Stewardship Council was not the only attempt at solving the 'forest problem'. These initial steps from 1990 to 1992 came at a time when environmental coalitions from myriad countries began to place the environment on the global agenda. The UN began planning and negotiations for an environmental conference in 1989, which culminated in the 1992 UN Conference on Environment and Development in Rio de Janeiro.

The conference, unofficially called the Earth Summit, was an immense gathering of NGOs, governments, and businesses. The civil sector presence was particularly strong, with over 2,400 organizations sending representatives and thousands more individuals.[17] For two weeks the eyes, and the hope, of the world's environmental organizations remained fixed on the Rio conference.

A significant portion of the Summit devoted itself to questions and issues surrounding forest management. This question remained so crucial that it became one of only three environmental issues to warrant its own document.[18] All other issues were incorporated into the culminating report, Agenda 21. The goal of the forest discussions centered on creating a binding international agreement on forests, but the result, the Statement of Forest Principles, was immensely disappointing.

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[17] http://www.un.org/geninfo/bp/enviro.html
[18] The other two being climate change and biological diversity. Ibid.

Of the fifteen listed principles, each turned into such drastically watered down versions via compromise that they lost effectiveness. Although, in general, the participating nation states agreed to the Forest Principles, there was no true government support because they made no binding commitments. At the close of the Earth Summit it became readily apparent that despite, and indeed perhaps partly because of, the high hopes, efforts, and participation, no real progress could be made by the UN.

Some say that the FSC began after "governments' failure to negotiate a binding global forest convention"[19], but that is only partially true. The FSC was already well on its way to becoming fully established by the time of the Summit. So ineffectual were the results of the UN forest dialogue that if the Earth Summit had never happened, the FSC would have carried on just as it did and it is likely the resulting organization would be almost no different from what it is today.

However, there is a distinct possibility that if the Earth Summit had been more effective, the FSC would be a very different organization or indeed, not even exist. If the Summit had managed to achieve a binding global forest treaty, then that treaty would likely be what many NGOs and no few commercial interests would turn to for certification, and the FSC would have been rendered more or less superfluous. The UN failure to negotiate anything binding or lasting did not lead to the creation of the FSC – it simply created a governance void and the space for FSC to rise.

The FSC Founding Assembly and Controversy

It is due to the UN's failure, combined with its own extensive consultation efforts, that the FSC had such a large audience for its first official steps. Many NGOs, disappointed after the UN failure, turned wary and suspicious eyes to the FSC. This audience meant that more so than before, the budding organization's reputation and credibility hinged on that crucial first[20] meeting. The FSC was uniquely poised to make a difference in the forest industry, and those suspicious eyes would judge any failure harshly.

The Interim Board planned very carefully for the first meeting. They chose Toronto as the best neutral ground. They meticulously prepared a list of invitees selected to create a balance between representatives from governments, industries, and civil society, to ensure no single sector could dominate. They wanted to ensure that all stakeholders were present at the table, so the list had over 130 attendees representing 26 countries[21] and countless interests.

But even these careful preparations could not prevent the severe and unavoidable problems that almost immediately threatened the future of the organization. Even during FSC's early growth economic, social, and environmental interests were at odds over the subject of forest management. When the CWG was a small group of committed individuals and organizations, it had been easier to focus on the commonalities of their objectives and views. Now, however, with each group strengthened in size, the FSC had to address the differences.

The most threatening was that many civil society representatives did not want any industry participation, since they saw industry as a healthy forest's direct enemy. Some organizations refused to begin negotiations while industry representatives were present. Many companies were

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[19] Berstein and Cashore (2007).

[20] 'First' is used here in the sense that the Founding Assembly was the first meeting held under the title of the Forest Stewardship Council. The two previous meetings had been held by the CWG, not the FSC.

[21] FSC website http://www.fsc.org/history.html

deeply suspicious of working with the same organizations who had been campaigning against them not long before. And that was only the most obvious rift.

Economic groups, mainly corporations and businesses, saw forests as valuable resources that could be exploited to produce myriad high-demand items and turn neat profits. Social groups saw them as both a home for indigenous tribes and a source of income for nearby villages. Environmental groups saw them as valuable resources that had to be protected at all costs.

Their disparate (often wildly disparate) views on forests meant that these groups had very different ideas about what should happen with forests. There were disagreements between the interest categories and within them about every aspect of forest management, from the mundane details to the very fundamental underlying concepts of what defines responsible forest management. Some environmental groups interpreted "responsible management" to mean protecting forests from any and all human interference and stopping all extraction activities. Others interpreted it to mean limiting forest use to a few select activities and strictly regulating their implementation. Some indigenous groups thought it meant protecting their ability to continue on traditional extraction practices, while others thought management meant enabling the forest to support a larger community. Industry players wanted to be able to use the forests without destroying local culture or their source of future income. Industry players in certain areas did not want to see forest use in those areas restricted at all, because they saw forests as the key to their region's economic development.

The Interim Board was very much aware of these differences, and took steps to deal with them. The Chair periodically paused the meeting so that disagreements could be discussed in smaller caucuses, thus avoiding larger confrontations and shouting matches and promoting more serious dialogue. Gradually the groups of dissenters[22] got smaller, until only a few civil society groups still adamantly refused to see the value in industry participation. Those that could not agree to lay aside their differences abstained from participating. This system of using smaller caucuses to debate differences allowed the Founding Assembly to move forward, but it did not necessarily resolve the disagreements, even within each sector. The levels of diversity present made differences integral and intrinsic. The FSC had hit upon a system that allowed it to move forward nonetheless.

One key issue that was decided during the Assembly was whether the FSC would be an association or a foundation. By the informal agreement system, all working drafts of the Statutes assumed an association based on membership. Then a legal advisor told the interim board that this would be difficult, considering the levels of diversity and the number of players. It would take years to reach consensus and make decisions, the advisor warned, and the FSC would be like the large, unwieldy intergovernmental organizations who accomplished little. Quite abruptly the drafts of the organizational structure and Statues switched to a Foundation-type organization without members or a General Assembly. However, when the Founding Assembly participants discussed the issue, they almost unanimously decided in favor of the Association approach, with three chambers and an equal weight voting system.

This is worthy of mention for two reasons. One, it shows the validity and accuracy of the informal agreement system. The members had agreed, through no formal consensus mechanism,

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[22] This group was loosely led by Simon Counsell, a member of FoE. In 1996 he broke away completely from FoE and FSC to become the Director of the Rainforest Foundation UK. Counsell remains one of the FSC's strongest critics. (Hance, 2008)

that membership was essential to the FSC, and when tested this informal consensus became formal. Two, by showing a contrasting approach often taken by large organizations, it highlights the members' commitment to inclusivity. Membership meant the organization would be more open to hearing and including diverse views, and the Assembly attendees were adamant about maintaining that ideal, even if it meant sacrificing efficiency. While this is not a unique argument, it is rare to find large organizations choosing the membership route for precisely that reason. Indeed, a few representatives from an initiative looking to start a Marine Stewardship Council were present at the meeting, and they decided to use the Foundation approach to avoid the havoc they saw at the Assembly.[23] As a result the MSC has taken a very different direction.

When the FSC chose this route, it immensely increased the difficulty of its work, as even the smallest changes or moves forward could only be taken after extensive consultation, working groups, and discussions led to some kind of consensus upon which the members could vote. Not only did it have to produce standards and criteria, but it also had to reach consensus between members first.

However, this decision also gave the FSC two key advantages unavailable with the Foundation approach. One was that "the institution, programs, and decisions of the FSC had the support of an impressive array of other organizations, representing almost every imaginable interest in the forestry sector, in all parts of the world."[24] The other was that since much of what FSC does has very political elements, its democratic base has been very helpful in allowing it to successfully maneuver through the political realm.

Once the Assembly decided this crucial piece, it settled down to discuss details, which still required considerable debate. The rest of the Assembly was spent in more-or-less amiable bickering over such details as selecting a location for headquarters (in an effort to create a balance between the North and South and tropical and temperate forests, the Board chose Mexico as a country that could bridge myriad sectors), electing a Board of Directors, and finalizing the Principles and Criteria (based on the seventh draft previously mentioned).

The Early Years

Directly after the Founding Assembly the FSC began the business of setting up its official operations. The newly elected FSC Board of Directors made most of these initial decisions, the most important being the choice of Tim Synnott for the Executive Director in April 1994.

Synnott wasted very little time in getting to work. That summer Synnott, along with the only two other staff members, opened up the FSC Secretariat and head offices in Oaxaca, Mexico. Having established a place to work, Synnott describes their immediate tasks: "to finalize the documents that had been broadly approved at the Founding Assembly, to establish FSC's physical presence in national initiatives around the world, to develop a system for FSC's prime function as an accreditation body, and to set up FSC as a legal entity". Synnott adds fatuously that he and his miniscule staff "got used to working on several fronts simultaneously".[25] Establishing a physical presence and setting up the FSC legally took legwork, but were relatively straightforward tasks.

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[23] Synott notes, page 25
[24] Ibid
[25] Synnott, page 26.

Under Synnott's guidance FSC representatives began to visit national initiatives of the FSC[26] to establish global recognition. By October 1995, FSC had official legal status as a Mexican NGO, FSC-AC.[27]

The three-man crew sent out the tentatively agreed upon Principles and Criteria and the Statutes to nearly all FSC-FA attendees for approval to finalize them. Interestingly, the only attendees excluded from this list were the governmental representatives. Despite having attended the crucial founding meeting, during said meeting it had been decided that government representatives would not play an active role in FSC governance.

Developing the system for the accreditation body and certification process took perhaps the most work, as it was the FSC's primary objective. When Synnott and his team sat down to build this system in 1994, members had already informally agreed the FSC would not directly handle certification. There were already several certification bodies working on certifying forest products and the FSC saw no point in reinventing the wheel, especially when those certification bodies were doing a decent job already, despite being more limited in scope and scale than the FSC intended to be. So it decided to leave actual certification up to independent organizations, while it focused its energies on creating the general guidelines, policies, and standards that the certification organizations would follow and then ensuring quality control via accreditation.

To develop the accreditation process, Synnott's team began visiting the sites certified by the existing certification organizations, gradually building an idea of what an accreditation body would need to look for to accredit official Certification Bodies (CBs). By the beginning of 1996, the first four accreditation contracts had been signed with most well-established of these: Scientific Certification Systems in the U.S., SGS-Qualifor in South Africa, the Soil Association in the UK, and the Rainforest Alliance's Smart Wood program in the U.S. These contracts were signed with the FSC itself, via the accreditation unit *within* the FSC – the Accreditation Services International (ASI) as an independent body did not occur until nearly a decade later (discussed in Chapter 3).

By 1996, with the signing of these contracts, for those to whom FSC's only value lay in accreditation and certification the FSC was finally doing what it had been created to do. However, from another perspective the FSC had been successfully operating for years, building consensus, engaging in dialogue, and creating versatile, useable networks for the forest sector. Its accreditation and certification operations took so to establish because they had to incorporate an extremely wide range of views. Additionally, the FSC decided that in order to gain legitimacy on the global arena their standards would be in accordance with the International Standards Organization (ISO) and the ITTO, which took even more time. But this well-spent time resulted in a very solid, well-accepted system.

Once in place, the FSC picked up the pace. By 1998, it had established annual Conferences and tri-annual General Assemblies and was beginning to churn out Accreditation Contracts and National Standards. By the turn of the century it began to rapidly expand. By 2002 the International Secretariat had moved to Bonn, Germany, and the small staff of three had grown to 25 people.

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[26] National Initiatives became the established method for creating an active presence within various countries. These are described in detail in Chapter 2.

[27] The AC stands for Asociación Civil (Civil Association, the Spanish equivalent of Non-Governmental Organization). The FSC-AC is still used to denote the parent organization.

Chapter 2: The Governance Architecture

<u>Basic Structures</u>

Because the FSC was put together with much care, anticipation, and deliberation on the parts of all the stakeholders, the initial structures and guiding documents served their purpose very well for the budding organization. While never perfect, they allowed the FSC to establish itself, begin work, and navigate the differences between members. Both the organizational framework and the main documents evolved slowly over the years to help it accomplish this, some parts undergoing almost continual review and others changing only slightly. The FSC is currently revising large portions of its system (discussed in Chapter 3).

The FSC is a membership organization, which means that members directly handle all decision-making and governance. The main decision-making body of the FSC is the General Assembly, a tri-annual gathering of all members. The members, either as individuals or as representatives of their respective organizations, organize themselves into three chambers: Environmental, Social, and Economic. The Social Chamber, while significantly smaller than the other two, is the most diverse of the three, since it includes unions, research, technical, and academic institutions, NGOs, indigenous people organizations, and concerned individuals. The Environmental Chamber includes NGOs, institutions, and individuals with "an active interest in environmentally sustainable forests and forest management."[28] The Economic Chamber includes organizations and individuals with commercial interests. Applicants to membership in this chamber must show active commitment to implementing the FSC Principles and Criteria (P&C).

Importantly, membership to these chambers (and to the FSC) is not open to just anyone. The FSC has a separate set of criteria for entry into each chamber, and prospective members have to undergo a lengthy application process, overseen by the Board of Directors. As a general, but highly important, criterion, all members must be willing to work with other agendas to come up with a joint solution. The FSC knows that if members are dogmatic or myopic they accomplish nothing, so it makes an effort to exclude such people from its membership. Members also pay annual dues, determined on a sliding scale basis.[29]

The three chambers are each further divided into North and South sub-chambers, in an effort to ensure the voices of the less powerful countries are heard just as clearly as their more powerful neighbors. The Northern chamber is for High Income countries, while the Southern is for low, middle, and middle-high income countries, as defined by UN criteria.[30] Members are placed in the North and South sub-chambers according to the country from which they or the organization they represent originates. The chambers and sub-chambers have equally weighed votes, so no single interest can dominate in the General Assembly. While the Assembly tries to make decision by consensus, approval of motions requires only a simple majority in each chamber and a two-thirds majority total.[31]

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[28] FSC website: www.fsc.org/membership_chambers.html?&L=518%D0%93%D1%93%D0%92%D1%9B%D0%93%E2%80%9A%D0%92%E2%82%AC
[29] FSC By laws
[30] The UN defines High Income Countries as those having a gross national income per capita of $9,206 or more. www.un.org/cyberschoolbus/infonation3/glossary.html#income
[31] FSC By laws

In between General Assembly meetings the Board of Directors runs the organization, which has no fixed meeting schedule or required (or minimum) number of meetings.[32] The General Assembly elects the Board members for three-year terms from a pool of candidates chosen by a nomination committee (also appointed by the GA). The Board Members are chosen to represent the Chamber category of which they are a member (ie: they must represent the ideas/needs of the Environmental North, rather than the specific goals of the WWF, for example). There are nine Board members, three from each chamber (and one each from the North and the South, with the third rotating to achieve an equal balance over the whole Board). The Board is in charge of managing the organization. They also appoint an Executive Director, who runs the Secretariat, which is in charge of the day-to-day management. Historically, the Board has also elected the 6-member dispute resolution/accreditation appeals committee, although this is changing (see Chapter 3).

Funding for FSC has always been an important issue. Initial funds were very erratic. Funds for the CWG meetings came from grants made by the World Wildlife Fund (UK Chapter), and B&Q (a large Home Depot type business in the UK).[33] These funds were augmented by grants given for very specific purposes, such as grants from the MacArthur Foundation and the WWK-UK that exclusively supported the Consultation Working Group in 1992.[34] Funds for the initial set-up costs in Mexico came from an unlikely source and unusual circumstances: the Austrian Parliament had allocated funds for and made laws about labeling sustainable timber in 1992, and when those laws were declared to be against the GATT, the WWF in Austria convinced the government to shift the already-allocated funds to the FSC.[35]

As the FSC became better known, its funding base began to diversify and stabilize. Currently about 60% of its funds come from donations,[36] and 40% come from fees and services rendered. Into this latter category falls membership fees and annual dues, determined on a sliding scale basis,[37] and the fees paid to the accreditation body by the certification bodies. The FSC is trying very hard to reverse this ratio, however, and its goal is self-sufficiency. The FSC expects National Initiatives to fund themselves, although it does help some start-ups.

Principles and Criteria

The FSC Principles and Criteria are a fundamental part of the FSC that form the basis for all other standards. The FSC P&C is perhaps the FSC's most defining document. According to their

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[32] FSC Statutes, page 9

[33] Conroy, 2007, page 67.

[34] Synnott, page 20

[35] Ibid 26.

[36] The 2008 General Assembly, for example, was funded by various industry and NGO donations. The list of donors on the website includes Mondi as the primary funder and the following providing additional support: Brunnen, Casares Castelazo, FSC Global Fund, Faber-Castell, Fairwood, Fujitsu Siemens Computers, Greenpeace, GTZ, Heilemann Schreibgerate, ICCO, IKEA, MSP Druck, MTO Forestry, Paarl Media, Precious Woods, Rockefeller Brothers Fund, Sainbury's, SGS South Africa, Stabilo, Sveaskog, Tembec, Woolworths, WWF Denmark, WWF France, WWF Sweden and WWF International. This list has a fair number of both non-profit organizations and business. http://www.fsc.org/gasponsors.html

[37] FSC By-Laws

website, the P&C describe how forests need to be managed in order to "meet the social, economic, ecological, cultural and spiritual needs of present and future generations."[38]

A handful of criteria follow each principle, providing further elaboration. These criteria are "a category of conditions or processes by which forest management can be assessed"[39] and they are used to judge whether the Principle has been followed adequately. There are a total of 56 criteria. *See insert box of 10 Principles*

Conroy defines the P&C as "not necessarily the scientifically best, environmentally strongest, or socially most ideal set of standards. It was, however, the strongest set of standards that could be developed politically, with balanced representation of economic, social, and environmental interests."[40]

The 10 FSC Principles

Principle #1: Compliance with laws and FSC Principles
Forest management shall respect all applicable laws of the country in which they occur, and international treaties and agreements to which the country is a signatory, and comply with all FSC Principles and Criteria.

Principle #2: Tenure and use rights and responsibilities
Long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established.

Principle #3: Indigenous peoples' rights
The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.

Principle #4: Community relations and worker's rights
Forest management operations shall maintain or enhance the long-term social and economic well-being of forest workers and local communities.

Principle #5: Benefits from the forest
Forest management operations shall encourage the efficient use of the forest's multiple products and services to ensure economic viability and a wide range of environmental and social benefits.

Principle #6: Environmental impact
Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest.

Principle #7: Management plan
A management plan -- appropriate to the scale and intensity of the operations – shall be written, implemented, and kept up to date. The long term objectives of management, and the means of achieving them, shall be clearly stated.

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[38] http://www.fsc.org/pc.html
[39] FSC glossary
[40] Conroy, 2007. p64.

Principle #8: Monitoring and assessment
Monitoring shall be conducted -- appropriate to the scale and intensity of forest management -- to assess the condition of the forest, yields of forest products, chain of custody, management activities and their social and environmental impacts.

Principle #9: Maintenance of high conservation value forests*
Management activities in high conservation value forests shall maintain or enhance the attributes which define such forests. Decisions regarding high conservation value forests shall always be considered in the context of a precautionary approach.

Principle #10: Plantations**
Plantations shall be planned and managed in accordance with Principles and Criteria 1 - 9, and Principle 10 and its Criteria. While plantations can provide an array of social and economic benefits, and can contribute to satisfying the world's needs for forest products, they should complement the management of, reduce pressures on, and promote the restoration and conservation of natural forests.

***High Conservation Value Forests:** High Conservation Value Forests are those that possess one or more of the following attributes:
    a) forest areas containing globally, regionally or nationally significant: concentrations of biodiversity values (e.g. endemism, endangered species, refugia); and/or large landscape level forests, contained within, or containing the management unit, where viable populations of most if not all naturally occurring species exist in natural patterns of distribution and abundance
    b) forest areas that are in or contain rare, threatened or endangered ecosystems
    c) forest areas that provide basic services of nature in critical situations (e.g. watershed protection, erosion control)
    d) forest areas fundamental to meeting basic needs of local communities (e.g. subsistence, health) and/or critical to local communities' traditional cultural identity (areas of cultural, ecological, economic or religious significance identified in cooperation with such local communities).

****Plantations:** Forest areas lacking most of the principal characteristics and key elements of native ecosystems as defined by FSC-approved national and regional standards of forest stewardship, which result from the human activities of either planting, sowing or intensive silvicultural treatments.

After undergoing the original arduous drafting process, the P&C became extremely difficult to change. This was not through any intentional impediment – it was simply due to the nature of the P&C and of the multi-stakeholder structure. It took so much work to reach an agreement in the first place that attempting to change that agreement (which often becomes essentially an attempt to form a different agreement) is a daunting task.

When the first draft of the P&C was written in 1991, there were only nine Principles. Various groups suggested a tenth principle on the management of plantations soon after, and a fierce debate ensued. Many environmental organizations saw plantations as *by their nature* inimical to good forest management, and found it quite impossible to reconcile plantations with sustainable or well-managed forests. This controversy was so intense that for many years the 'Plantation Question' was again and again set aside without achieving consensus, until finally in 1996

Principle #10 on plantations was added. This Principle is up for review again (indeed, to a certain extent the review on the Plantation Principle never stopped), which is discussed in Chapter 3.

The addition of the tenth Principle made the purpose of Principle #9 on the Maintenance of Natural Forests unclear, so after the 1996 General Assembly an informal working group began revising that Principle. After two years of comments, consultations, and drafts, it was clear that the informal process was not working for reaching a consensus. Defining what exactly constituted a natural forest was too difficult, and the opinions too varied, for such an informal setting. So the Board set up a formal FSC Working Group, which developed a nearly unanimous new draft in about a month. The Board formally ratified and adopted the new draft at its next meeting in January 1999. This accepted Principle clearly defined the concept of High Conservation Value Forests, but, in order to satisfy all stakeholders and give it the flexibility necessary to adapt to a wide range of situations, it left much open to interpretation. As a result, the FSC had to provide special guidance to NIs and certification bodies on how to meet the new Principle #9.

Each one of the Principles has a similar story of controversy, discussion, and compromise behind it. Principle #6 on Environmental Impact, for example, has ten criteria, three of which deal with chemical pesticides. The World Health Organization had already developed a series of generally accepted regulations for toxicity levels, persistence, accumulation, etc, in regards to chemical use, in addition to a long list of forbidden chemicals. The FSC created a series of expert consultations and based their list on previous WHO lists, not expecting much controversy. But they encountered significant resistance to the criteria from certain stakeholders who wanted to legitimize specific chemical use for specific reasons. These dissenters wanted to be able to use, for example, special toxins designed to work against particularly tenacious and harmful rodents, if the situation called for such measures. To compromise, the FSC set up a process for evaluating, approving, and defining exceptions (called derogations).

The above examples serve to illustrate how complex the process behind each principle truly is. It was no simple thing, reaching an agreement for each one. In general, the principles with a highly definable, technical core and specialized knowledge have been the easiest and cheapest to develop (although Principle #6 shows that this is not always the case) whereas those that did not were significantly harder to create but had a profound effect on forest management.

National Initiatives

The CWG participants recognized from the start that one organization could not do it all – it would need national initiatives to define regional particulars. So they informally agreed that such national initiatives would create national certification standards based on the global principles developed by the parent organization. This is an anchoring idea behind the FSC. It is also a significant factor in the organization's success, as it means the FSC does not vainly seek a single, universally applicable solution. Instead, it recognizes that various strategies will be necessary and lets national and regional organizations determine what those are.

Like many key FSC factors, the National Initiatives (NIs) started fairly informally. NIs would begin with a Contact Person (CP), a qualified individual working with FSC-International. The CP would set up an FSC Working Group, which would eventually evolve into a full-fledged organization of its own. Because of this structure, the initial success of the NIs depended heavily

on a few persistent individuals. This reliance on individuals has not hampered the success of the NIs – on the contrary, they are "one of the most important of FSC's successes".[41] They provide a forum for main stakeholders to enter into discussion and negotiation, and the result is a "high degree of agreement about the basic elements of good forest resource management", which is one of the FSC's fundamental goals.[42]

The very factors that made the NIs so strong also played a role in their greatest challenges. Initially, the NIs developed without following any defined institutional framework or implementing any proven set of rules.[43] This policy (if any structure so informal can be called a policy) of 'active learning' meant each NI solved its own problems as they arose. On the positive side, this allowed them to begin forming active organizations without waiting for the FSC to define a framework and rules, which gave them a great deal of flexibility and sent a significant flow of learning back to the FSC headquarters. On the other hand, it required significant personal investment by the CPs and other NI members, especially the fundraising efforts, since the FSC did not provide any funding. It also meant the NIs began developing in different directions, with different ideas and plans of their own.

As it realized these negatives, the FSC discovered that the informal structure would only work for so long. As many of the first NIs grew, they wanted more autonomy and more of the rights and responsibilities for deciding how FSC would work within their countries. The FSC realized that any use by the NIs of the FSC name and logo without concrete agreements meant the FSC was risking fragmentation. In order to avoid this and maintain control over the FSC logo, FSC formally implemented some agreed-upon ground rules.

Having begun so informally, however, many of the stronger NIs found switching to a more defined and supervised structure difficult. Transitioning quickly became a very serious issue, involving high levels of tension, and in October of 1997 the NIs met in Vermont to work out a solution. They drafted agreements covering the roles, rights, and responsibilities of every aspect of the NIs, from the characteristics expected of the CPs to the national Working Group processes to the workings of the formal organizations. Using these agreements the FSC created a nearly 100-page manual detailing guidelines and protocols that fit the NIs into the larger FSC structure. For the most part, the manual simply formalized what the NIs and FSC tacitly agreed upon already. The contracts clarified that NIs existed to support the efforts of the FSC in individual countries or regions by developing and endorsing national certification standards. The national standards only required final approval from FSC-AC, maintaining the decentralized structure. The manual also made it clear that the NIs were not to certify or accredit any part of the FSC processes, putting an abrupt halt to the expansion of NI responsibilities and removing the threat of fragmentation.

While patching up the shaky relationship between the parent entity and certain NIs did take time, the agreements themselves were written quickly, with less acrimony than seen in the Founding Assembly or early General Assemblies. By early 1998 most of the operating NIs had signed contracts with FSC-AC. Synnott attributes this speed in part to the "extraordinary mobilization of energy" coming from the national processes, and notes that a great deal of grief could have

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[41] Synott, 33
[42] Synott, 33
[43] Ibid, 29

been avoided completely if the FSC had drawn up simple contracts with the CPs and Working Groups at the beginning.[44]

Cementing the relationship between FSC and its NIs did not solve all of the NIs problems, however. They are still in charge of their own funding and organization, and for many developing countries where an NI would be most needed, that has proved a very difficult task. Some NIs, particularly the Northern ones, are well established and well managed, but the same cannot be said for many in the South. Many of the NIs in Africa and South America in particular are barely functioning; the Brazilian NI, for example, floundered significantly in 2008, went bankrupt, and is now in the process of trying to resurrect itself.[45]

Obtaining the FSC Logo: Accreditation and Certification

The accreditation and certification systems were briefly discussed above. At its core, the purpose of the Forest Stewardship Council is to promote worldwide good forest management. Its chosen method of doing so is by using market forces to induce companies to change their forest management practices. As the main method of achieving this stated goal, the accreditation and certification processes are essential to the FSC system.

The FSC set up certification as a two-step process with independent third-party organizations operating in each step. First, an accreditation organization 'accredits' Certification Bodies (CBs). The main FSC website defines accreditation as "the procedure which gives formal recognition that a certification body is competent and conforms with the FSC requirements of an accreditation system."[46]

FSC recognizes only one accreditation organization: Accreditation Services International (ASI). As FSC's for-profit branch, ASI monitors the accreditation process. For many years ASI functioned as an integrated part of the FSC-IC. In 2006, however, the advantages of independence outweighed the disadvantages, and ASI broke away from FSC-IC in April[47] (although FSC is still the sole shareholder[48]). Several months later it was well-established enough and well-known enough to become the principle accreditation body for the Marine Stewardship Council as well.[49]

The second step of the process is certification, in which accredited CBs inspect products and certify individual forests and businesses. Certification is defined as "the procedure by which an independent body (FSC accredited certification body) gives written assurance that a product, process or service conforms with specified requirements."[50] While there is only one accrediting body, as of March 2008 there were 20 Certification Bodies and seven applicants.

Accreditation and certification are not lifetime guarantees. A significant portion of the work done by these bodies involves ensuring that clients continue to conform to requirements. Both ASI and the various CBs follow similar systems of audits that include office inspections and multi-day

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[44] Synnott 32
[45] Private e-mail exchange with FSC Board member
[46] http://www.fsc.org/glossary
[47] http://www.fsc-uk.org/about/news/9/fsc-accreditation-and-business-unit-becomes-independent-company/
[48] http://www.accreditation-services.com/AboutUs.htm
[49] http://www.accreditation-services.com/Programs.htm
[50] Ibid.

field visits. They schedule regular audits, letting their clients (ASI clients are CBs and CB clients are forests and companies, or 'certificate holders') know about the audit date several months in advance. If the audit reveals problems, the inspecting body outlines those problems in detail and recommends corrective steps. If the client does not take those steps within a specified time period, their accreditation or certification is suspended and all rights to the FSC logo revoked. This mechanism has proved very useful – the FSC has used suspension multiple times to ensure compliance.

Types of Certification

There are two main types of FSC certification. The first and most fundamental is the Forest Management certification, which, when given, attests to the fact that the certified forest is managed in a socially beneficial, environmentally appropriate, and economically viable manner. Within this certification are two special programs: group certification and certification for especially small operations.

In order to keep the costs of certification down for the clients, in 1998 the FSC set up "group certification", which allows an unlimited number of small forest-owners and workers, who would not be able to pay for certification on their own, to come together to share the costs of the certification process. While this does drastically lower costs, it also means that if a single member fails, the entire group comes up for review. The largest group certified so far has 300 members.

In 2003 the FSC also added a special certification program for 'small and low intensity managed forests' (SLIMF).[51] The technical committee designed the program, which is essentially an adjusted, streamlined version of normal certification, to make certification a "valid proposition for all forest operations of all sizes".[52] A SLIMF refers to operations no larger than 100 to 1000 ha, relative to the standards set by each NI, with harvesting rates of less than 20% of annual timber growth. This program also includes operations that harvest exclusively non-timber forest products (excluding any plantation operation).

The second type of certification is Chain of Custody certification (CoC), given to those companies and businesses that use or sell forest products but do not grow and harvest the trees directly. This certification is quite broad, covering everything from pulp-making companies to lumberyards to local print shops.

These two types of certification are fairly standard to certification schemes. The FSC recently introduced a third type that is much less standard, much more controversial, and much more cutting-edge. The Controlled Wood Standard is so highly controversial because it attempts to control (but not actually certify!) non-certified wood in FSC-certified products. ASI accredits CBs for the first two types, but not for Controlled Wood.

Controlled Wood Standard: Mixed Sources

Like every controversial aspect of the FSC, it took some time to develop the Controlled Wood Standard. When the CWG sat down to devise a plan for certification in 1991, it envisioned a very simple system in which a 'certified' product would indicate that 100% of that product had come from certified forests. All early drafts of the certification and accreditation processes reflect that

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[51] http://www.old.fsc.org/slimf/
[52] http://www.fsc.org/slimf.html?&L=518%DE%88

ideal, and when ASI began accrediting certification bodies it followed that guideline. In the late 1990s, however, it became clear that this ideal hindered FSC development. For many companies, the raw materials put into a single product came from a wide variety of forests. In order to certify that product, the company would have to either change all sources over to certified forests or wait for their current sources to become certified. Both options involved processes that could take years. For companies using recycled products or materials, this dilemma became even more complex.

Many companies were willing to go through such a process, but only if their progress in the meantime was recognized. They felt that without any recognition for progress, it would not be worth their time and effort to start. They did not want to go through years of hard work and extra costs before obtaining the use and benefits of the FSC label. This was a significant cause of disagreement between industry players seeking reward for their effort and environmental groups who felt that anything less than 100% certification defeated the purpose. By 1997 the FSC Board agreed that, "FSC's mission is primarily to promote forest stewardship, not certification. If FSC insists on 100% certification, to the disadvantage of good forest stewardship, FSC is failing in its mission".[53] By making this statement, the Board declared its belief that more industries and products with the FSC logo would create higher demand for certified forests, which would in turn increase the rate of implementation of the FSC Principles and Criteria.

Intertwined with this issue was the parallel argument over recycled forest material. Various NGOs and companies promoting recycled products complained that the FSC ignored the benefits of recycling. These groups viewed the FSC as threat to the rise of recycled paper,[54] basing their fears on a zero-sum philosophy that environmentally aware consumers with a finite amount of purchasing power would chose FSC-certified products over recycled materials. They argued that recycled material, particularly post-consumer recycled material, was just as, if not more, valuable to maintaining healthy forests as the standards addressed by FSC-certification.

To address these two issues, the FSC carefully crafted and implemented a new policy, Percentage Based Claims. To receive the FSC logo, products now had to meet minimum requirements, which left room for some non-FSC certified raw and recycled materials to enter the market under the FSC logo. The idea was that companies just beginning to use FSC-certified material in their products would get credit for that *while they switched over to using only certified products.* But there was no phase-out program or similar requirement to ensure companies continued switching, so companies could obtain the minimum for a Mixed Sources label and stop there, effectively greenwashing their entire operation. While this policy has always been controversial, it has recently come under intense scrutiny, discussed in Chapter 3.

The policy is simple. For virgin ingredients to be certified, at least 70% has to come from certified forests. For products with some recycled material to be certified, at least 25% has to be virgin ingredients. This means that for a product with the maximum amount of recycled material (75% recycled), then the minimum amount of FSC-certified virgin material it can conceivably have and still receive the FSC-logo is 17.5%, or 70% certified of the 25% virgin ingredients.[55]

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[53] Synnott, 40

[54] This information came from a confidential e-mail exchange between the author and A member of the FSC Board of Directors.

[55] Synnott, page 40

It took long months of consultations, from April 1996 to October 1997, to reach agreement on this new policy, but approving it did not stop the debate. Discussion continued, often very heatedly. Since certifications were increasing, companies were pleased to be getting recognition for having some certified materials, and environmental and social groups were horrified that large quantities of wood from highly questionable sources could be sold under the FSC label. Recycling companies were not satisfied either, and a one of the biggest debates that continued after the Percentage Based Claims passed centered on the merits of recycling.

A policy revision in 1999 finally put an end to the recycling debate. The FSC abandoned the debate about the actual merits of recycling, leaving that up to the consumer to decide. Instead they introduced a 100% recycled label that simply confirmed a product was indeed made from recycled materials. In Synnott's words, the message of the 100% recycled label means "that 'FSC endorses the claim that this product is recycled, or contains recycled material', without any claim that the product is socially, environmentally or economically beneficial."[56]

While the 100% Recycled label neatly ended recycling complaints, it did nothing to stop continued displeasure with the percentage policies. It took until 2004 to find a solution that quelled some of the heat. The FSC introduced their Controlled Wood Standard, which created minimum standards for the non-FSC certified raw materials required to receive the FSC logo. They chose five basic criteria for this standard, so that while an FSC-labeled product might not be 100% certified, no product with the FSC label would have timber from fundamentally unacceptable origins. Following the introduction of the new Standard, the FSC began a series of public consultations and formed two Technical Working Groups to further improve the Standard, which went through several more revisions. The Board of Directors approved the current version in October, 2006, with minor amendments approved by the Executive Director in April 2007.[57]

Controlled Wood Standard
FSC STD 40-005 v2.1

The company shall have a publicly available written policy commitment, endorsed by the most senior management level of the company, to implement its best efforts to avoid trading and sourcing wood or wood fiber (herein referred to as wood) from the following categories:
  a) Illegally harvested wood;
  b) Wood harvested in violation of traditional and civil rights;
  c) Wood harvested in forests where high conservation values are threatened by management activities;
  d) Wood harvested in forests being converted to plantations or non- forest use;
  e) Wood from forests in which genetically modified tress are planted.

To help Certification Bodies and companies navigate the Controlled Wood Standard, the FSC has set up a Controlled Wood Toolkit, which is still in development, or in "early beta phase", as the website states.[58] The Toolkit walks certificate holders through the necessary steps of how to ensure the controlled wood framework. Since it doesn't require certification, this standard is

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[56] Synnott, page 42
[57] FSC Controlled Wood Standard (2006)
[58] http://www.fsccontrolledwood.org/Default.aspx

necessarily more difficult to follow; the guidelines are more broad, and the consequences for not following to the letter less well defined.

FSC Labels: 100%, Mixed Sources, and Recycled

Note: The phrase beneath the first Mixed Sources label also has two other possible definitions, depending on the product receiving the label: *Product group from well-managed forests and other controlled sources* or *Product group from well-managed forests and recycled wood or fiber.*

Source: FSC Product Labeling Guide

<u>FSC Global Development</u>

The most recent addition to the FSC group, the FSC Global Development, is the second of FSC's business units. Unlike the ASI, however, FSC-GD is a non-profit organization.[59] It handles all

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[59] Presentation by Eric Palola, Vice-Chair of the FSC Board of Directors, at Global Action Network's 3rd Strategy-Structure-Governance Community of Practice conference, held at Harvard Business School, Feb 12-13, 2009.

business dealing with the FSC logo and trademark.[60] The Trademark Services Unit (TSU), a special committee within the FSC, previously handled all trademark and labeling issues. In October 2007 this committee morphed into an independent organization that appoints and coordinates the Nominated Agents,[61] administers the labels, regulates trademark/logo use, and punishes trademark misuse, all tasks the TSU used to do.

Now that it is an independent organization, however, it has an additional charge. Its new role is to develop, implement, and manage a new licensing system to give the FSC greater control over the use of its trademark, labels, and logo.[62] The purpose of this new system is to increase the revenues gained from more efficient use of the trademark. Ideally, FSC-GD as an independent body will also be better able to prevent green-washing and inappropriate use of the logo. The FSC-GD has yet to truly launch, however, due to a lack of funds. It is expected to be up and running by fall 2009.

Dispute Resolution Committee

The FSC Dispute Resolution Committee (DRC) is perhaps one of the weakest structures of the FSC architecture. The FSC foresaw the need for a dispute resolution mechanism, but believed that during the beginning years an informal process would be sufficient, so it focused its efforts elsewhere. As the organization grew, so did the number of complaints. In 1998 the Board created a Dispute Resolution Committee. The Board appointed the six members of the DRC, and a short time later adopted an Interim Dispute Resolution Protocol,[63] which outlines a three-step process.

The Protocol was at heart simply a reiteration of the informal processes already followed, so the first step maintains those informal roots. The Protocol begins by insisting that it only to be initiated once all other avenues and options had been exhausted. It recommends the complaining party bring its grievance directly to the body it has issues with, whether that is a Certification Body, the ASI, a National Initiative, a certificate holder, or any part of FSC-IC itself. Because steps two and three are expensive and lengthy, the FSC insists the complainant try other avenues, and even provides a basic guide on how to approach the various bodies.[64]

If such informal avenues *outside the FSC* fail, then the aggrieved party can begin the second step, which is an informal process inside the formal FSC structures. The Protocol requires that the complainant send a letter to the FSC Executive Director briefly explaining the complaint.[65] The ED then determines whether the chair of the FSC Board of Directors or of the DRC should handle the complaint. Whomever the ED chooses then attempts, through informal negotiations, to achieve resolution between the parties.

If the negotiations fail, the complaint formally becomes a dispute, and the third, most formal step begins. For this step, the party bringing the dispute to the table must be a member – non-members have to work through a member. The member must pay a fee for all charges incurred

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[60] The FSC has three officially trademarked items: its full name, its initials, and the logo and all variations
[61] Nominated Agents are representatives of the TSU, now FSC-GD, that oversea trademark issues in their regions. They appear to be a relatively new addition to the GD, as there are only ten Agents, nine in Europe and one in Africa. www.fsc.org/fileadmin/web-data/public/document_center/contact_details/Nominated_Agents_6-3-09.pdf
[62] Greenpeace (2008) p9
[63] ASI Interim Dispute Resolution Protocol, 1998
[64] FSC Complaints and Disputes (2003)
[65] Ibid.

once the formal dispute resolution process is initiated.[66] The Secretariat looks at the complaint and makes a proposal to the Board about whether or not the Board needs to review it personally. If the Board decides not to use its discretion to be the initial reviewing committee, the issue moves before the DRC. Decisions made by the DRC are final, and usually made by consensus among the six members, or, when that fails, by a two-thirds majority.[67]

There is some exchange of cases and appeals between the Board and the Committee, although in general a decision made by either one is considered final. The Protocol states that the Committee "may not overturn a Board decision simply because it would have reached a different solution had it been the Board; rather, the DRC may only overturn the Board's decision if no reasonable Board could have reached that decision."[68] This means that there must be very clear reason to believe that the Board's decision has serious and unreasonable flaws. This happens rarely, but when it does, the Protocol includes detailed steps for proceeding.

The FSC's fondness for informality has meant that this Interim Dispute Resolution has not been so 'interim' – it has now been in place for over ten years. However, during the recent reevaluation of the majority of the FSC policies and structures (discussed in Chapter 3), it was definitively decided that the current process was no longer sufficient, and a motion was accepted to dismantle the current DRC and recreate it as an independent body.[69]

Before this change ASI was nominally 'in charge' of the DRC or more accurately, ASI housed the DRC. This was set up not for ASI to direct the DRC, but because it made sense to view the DRC as a 'side bar' of accreditation since most of the disputes revolve around contesting contractual relationships.[70] ASI has its own dispute resolution process as well, because it annually reviews all the complaints directed against each Certification Body. As a body independent from the FSC it has sole authority over the decisions it makes, but those decisions can be, and occasionally are, appealed, thereby entering the formal Protocol process. Since this link between ASI and the DRC is often used, it was decided to house the DRC with ASI, but it is important to note that ASI does not actually have any jurisdiction over the DRC.

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[66] This fee can be waived or reduced at the Board's discretion. This clause that greatly increases the chances that members from the South will voice a complaint.
[67] FSC Statutes
[68] ASI Interim Dispute Resolution Protocol, paragraphs 29.10.2.2 and 29.10.2.2.1
[69] FSC Governance Review Process
[70] Interview with a member of the FSC Board of Directors

Chapter 3: Evolving Nature of the FSC

The FSC has acknowledged since the beginning that it is far from perfect. It has never claimed to have the best or final answer, and it has never labeled any document as unchangeable. It is a process, a work in progress, and as such it constantly initiates reviews and revisions of its main documents, procedures, and structures. It has shown over the years that it is fully capable of recognizing what isn't working and making changes.[71] Perhaps due to its discussion-oriented origins and its rejection of the less-inclusive Foundation model, transparency, inclusiveness, and openness of process have always been cornerstones of how the FSC functions.

All steps, consultation progress, and final reports are clearly posted on the main FSC website (they are often posted to NI websites as well), which greatly increases transparency. All of the motions considered in each General Assembly are also posted in detail, including exact voting percentages.[72]

Building on its initial experience with consulting in 1991, the FSC developed careful processes for making changes. While each process is tailored to the document in question, a general format is followed. First, the FSC holds public consultations, in which interested stakeholders and members of the public comment on the documents up for review. Either in conjunction with, afterwards, or instead of the public on-line consultation, another more specific Consultative Forum opens, to which only stakeholders (FSC members, NIs, CBs, and others sufficiently interested to register for participation) can contribute. Importantly, for all reviews some form of public input is not only encouraged, but actively pursued.

A Working Group forms to sort through the comments and prepare revisions and drafts. Other groups, such as Advisory or Technical Committees, usually support the Working Group. This aspect greatly depends on what is being revised. The Working Group for the Principles and Criteria review, for example, has only an Advisory Group for support, while four Technical Expert Teams augment the Plantations Working Group. Working together, these groups then present their proposed changes to the General Assembly, or if the document is less vital, to the Board of Directors, for discussion and vote.

It is important to note that all groups in the review process are formed in the 'FSC-way' – that is, with equal representation from all six chambers and subchambers. The Board reviews the applications for participation and selects the group members. While this system maintains FSC ideals, it also has some significant drawbacks, as it does not necessarily recruit the best talent for the jobs at hand, only the most interested. With particularly competitive selection processes for hotly contested issues or high positions (such as the Board member selection), it is quite possible to get candidates who are more popular than effective.[73]

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[71] Greenpeace "Holding the line with the FSC"
[72] This is only true with votes done by written ballot. A show of cards, another common form of voting, is not directly counted and therefore only shows passed or not passed.
[73] Interview with FSC Board member

The Most Recent Spate of Changes

While the FSC has always had a good portion of its major documents under revision, around late 2004 it began to take a serious look at nearly every aspect of its organization, from its policy on plantations (Principle #10) and to the larger FSC governance structure itself. Activist NGOs drove much of the call for change. They began scrutinizing Certification Bodies and certificate holders more closely as the FSC gained in prominence in the early 2000's, and that scrutiny led to serious accusations of green-washing, ineffectiveness, and bureaucratization. Critics claimed the FSC consistently failed to revoke certification contracts when certificate holders and CBs reneged on the conditions of their contract.

The FSC certainly responded to these accusations when it began its review. But it would be a mistake to credit all or even most of the impetus for change to FSC's detractors. The FSC never envisioned itself as a static organization, and always had a very real sense of its own evolution. The members themselves were aware of the flaws in FSC operations and were just as determined as the critics, if not more so, to fix the problems. In a way, the membership system has meant that the FSC is its own worst critic, which is why it continually finds areas to improve.

By 2005 the number of needed improvements was growing rapidly. While the "sources of friction"[74] in the FSC global network varied, they all pointed to one underlying fact: the FSC was growing too large and complex to continue operating under its current system. So the 2005 General Assembly called for a "comprehensive review of FSC's operational and decision-making models and structures", a motion which passed with "overwhelming support".[75] In the three years since that call for resounding reform, the number of changes has been impressive.

Governance Structure

The most significant changes so far occurred to the overall FSC governance structure. As expected, the FSC's review of its global governance structure produced various recommendations for reform, mild improvements, and serious changes. These recommendations were presented in the form of motions at the 2008 General Assembly in November 2008, held in Cape Town, South Africa, and attended by 300+ representatives from 65 countries. The GA examined the review's recommendations and approved the majority of the motions, with few significant revisions or alterations. The governance changes will be implemented during 2009.

Many of the accepted motions are straightforward, designed to make the organization run more smoothly and efficiently. For example, a motion providing a non-voting Technical Advisor to the Board will strengthen the Board's technical expertise. Another motion will strengthen executive governance by creating a Senior Executive Group, composed of all the Executive Directors of each FSC Business unit (ASI, FSC-IC, FSC-AC, FSC-GD) and headed by the Executive General of the FSC-AC (*see diagram below*).[76]

One profound change to strengthen the Membership system proposed the creation of Supporting Members (in addition to the current Voting Members). Supporters will have membership fees, belong to the international member database, and be active participants in all FSC activities, but they will not have a vote. This expansion of membership will have significant implications for

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[74] The FSC outlines some of these sources of friction, many of which were identical to those shouted about by its detractors, in its 2007 Global Strategy. FSC Global Strategy, page 17

[75] Ibid.

[76] This table was taken from Eric Palola's presentation for the Global Action Network (see footnote, page 23)

FSC governance, that largest being that it allows the FSC to include governments, which have been excluded ever since the Founding Assembly in 1993. Despite this exclusion, in general the FSC has had good relationships with governments, as National Initiatives often work quite closely with state forestry departments. The National Initiatives provide a platform for debate that helps to strengthen government policy, and as a result many governments have begun incorporating FSC standards into their national policies.[77] This change reflects that positive relationship and builds upon it.

Another series of reforms aimed to profoundly strengthen the NIs. As mentioned in Chapter 2, the NIs have long grappled with serious problems internally with regards to funds and externally with regards to their role in the larger FSC structure. The motions that passed mandated the set-up of Regional Networks, established 5-year contracts between the FSC-IC and the NIs with clearly delineated roles and responsibilities, and gave the NIs a delegate on the Board of Directors. Finally, one motion called for the FSC-AC Executive Director to develop a model for fund distribution that would enhance support for least developed NIs.[78]

One of the largest charges leveled against the FSC in recent years has been that it excludes the smaller, poorer forests and companies. The FSC is acutely aware of this charge, as those areas are precisely the areas it set out to protect in the beginning, and so several motions targeted this deficiency. The GA agreed to change the fee schedule to demand significantly more from high income companies and less from the certificate holders from the South. The high fees are generally seen as a significant barrier to certification for the Southern groups, so changing the fees will hopefully allow the FSC to lend more support to the Southern holders in obtaining certification while still earning enough money from the Northern groups to continue to function successfully.[79]

The GA also passed a motion called Community Labeling, which mandates the FSC to "develop a strategy to differentiate community forest products from other products, that allow a phrase like 'COMMUNITY ORIGIN PRODUCT' in the claim on the FSC product"[80].The idea behind this motion is to create a larger demand for community products so that small enterprises in the South, who see certification as costly and without market premiums, can find a viable market and reconsider certification. Relatedly, a motion to set up a Support Unit to focus specifically on the needs of the communities and small forest owners (in both the North and South) was passed. Yet another motion to increase tropical forest certification was also passed, giving FSC a mandate to "develop a strategy with clear actions, measurable goals and indicators, budget and source of funds to increase the certification in the tropics"[81].
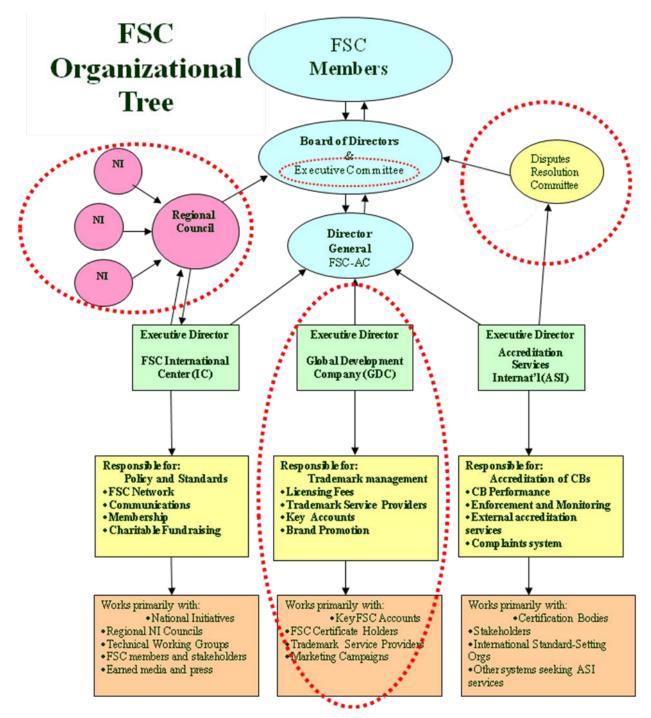
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[77] Bass, 2002
[78] FSC Governance Review Process, page 2
[79] Interview with FSC Board member.
[80] Final Motions and Results of the FSC General Assembly 2008. Motion #19, p20
[81] Ibid. page 25 motion #28.

FSC Organizational Tree

FSC Members

Board of Directors & Executive Committee

NI

NI

NI

Regional Council

Director General FSC-AC

Disputes Resolution Committee

Executive Director

FSC International Center (IC)

Executive Director

Global Development Company (GDC)

Executive Director

Accreditation Services Internat'l (ASI)

Responsible for:
Policy and Standards
• FSC Network
• Communications
• Membership
• Charitable Fundraising

Responsible for:
Trademark management
• Licensing Fees
• Trademark Service Providers
• Key Accounts
• Brand Promotion

Responsible for:
Accreditation of CBs
• CB Performance
• Enforcement and Monitoring
• External accreditation services
• Complaints system

Works primarily with:
• National Initiatives
• Regional NI Councils
• Technical Working Groups
• FSC members and stakeholders
• Earned media and press

Works primarily with:
• Key FSC Accounts
• FSC Certificate Holders
• Trademark Service Providers
• Marketing Campaigns

Works primarily with:
• Certification Bodies
• Stakeholders
• International Standard-Setting Orgs
• Other systems seeking ASI services

*Red dotted lines indicated new additions. The Global Development Company was added in 2006 – the rest of the additions were added according to the results of the 2008 General Assembly

Not all of the motions discussed were for dramatic changes. There were a few small motions, such as one to dismantle the current Dispute Resolution Committee and reform it, with significant changes, as an independent organization. There was another to increase funds for the ASI, to improve its basic ability to carry out its stated mission and increase quality control on its audits of CBs.

Finally, it was also decided at this meeting that further review of certain policies was necessary, including a review of Principle 3, the labeling policy, and the Controlled Wood Standard. These decisions to review certain policies will produce a whole new round of consultations and redrafting, which will lead to another spate of changes in two more years when the reviews are brought up to the next General Assembly for vote.

Plantation Policies

In September of 2004 FSC began a systematic review of its plantation policies. The plantation policies had always been controversial; Principle 10 is a good example of a document (or in this case, part of a document), that never really settled well with many of the members, and was always in the midst of some part of the consultation process.

This particular review began with an International Stakeholder meeting on Plantations, followed by the establishment of a Policy Working Group, which outlined the underlying issues and possible solutions. The Board approved the recommendations made by the group, advancing it into a technical phase in 2007. The Technical Teams developed sets of guidelines and tools for practical application of the proposed changes. By January 2009 the four technical teams had finished their reviews and the entire set of recommendations and guidelines was incorporated into the larger FSC Principles and Criteria Review.

Principles and Criteria

During the consultation process on the Plantation principle, various comments were received that pointed to deeper problems with several of the other Principles. The Board of Directors decided that these concerns were valid and, rather than consider them one by one, decided to examine the entire P&C as a whole, announcing in September 2008 that they would undergo a comprehensive Review and Revision of its Principles and Criteria. The P&C have been revised in bits and pieces over the years, Principle by Principle, but never as a whole, so the review process is expected to be quite a large undertaking. To do the review, it asked for applicants to a Working Group from the General Assembly. The applicants were voted on internally by each chamber and confirmed by the Board of Directors. The final six were announced on January 27th, 2009, and the Group held its first meeting the first week of March.[82] The review is expected to be completed by the end of the year and will be scheduled for a vote in early 2010.

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[82] http://www.fsc.org/pcreview.html?&L=

The Good, the Bad, and the Ugly

<u>The Bad and the Ugly</u>

Since its beginning the FSC has had critical voices raised in opposition. As mentioned above, often these critics are actual members of the FSC, and as such they most often offer constructive criticism out of a desire to see the FSC grow to fulfill its mission and its vision. And the FSC as a whole is, as we have seen, very responsive to these criticisms.

But there are some critics (outside and inside) that bring up very valid points about severe flaws in the FSC system, flaws which the FSC has so far had a hard time addressing. The most important criticisms leveled against the FSC are that it excludes tropical timber, small-scale and community operations, it is too complex and bureaucratic, and it greenwashes over bad practices.

Market Exclusion and Bureaucratization

When the FSC was still in its embryonic stages, various environmental NGOs were conducting well organized campaigns against large scale market players, such as B&Q and Home Depot, in an effort to get them to stop using products from destroyed tropical forests.[83] As the FSC gathered momentum these industry giants agreed to begin the FSC certification process, which generated a very large demand for FSC certified products in a very short period of time. This encouraged the FSC to focus on large-scale operations that could satisfy this demand relatively quickly. As a result, it neglected to focus to the same extent on small-scale operations, which hindered the development of standards for these operations.[84]

The consequences of this small but crucial mistake in focus were not immediately obvious to many. But as the FSC continued to grow so did the consequences. Certification gradually became more or less a requirement for access into the powerful northern markets, and small producers and companies who could not obtain certification, for any number of reasons, were blocked out of the market. Since those without the resources for certification are usually from the South, some critics argue that FSC certification actually increases the disparity between North and South.[85]

There are lots of reasons why smaller producers in general and Southern operations in particular have a harder time getting certified. In general, the Southern companies and industries are operating in a regulatory environment that does not require anything close to the standards already required in Northern areas, irrespective of the FSC standards. Consequently, southern businesses often have twice the legwork, for it requires a significant amount of lengthy, costly work to reach the point from which their northern partners are starting.[86] Furthermore, once they are in compliance the actual certification process is long and complex. The SmartWood certification process for Forest Management and Chain-of-Custody certification, for example[87],

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[83] Conroy (2007).
[84] Taylor, 2005.
[85] Ibid.
[86] Patterson 2005, The FSC: Risk and Potential
[87] SmartWood is the Rainforest Alliance's Certification Body. Each CB has slightly different procedures, but the guidelines set down by the ASI do not leave too much room for variation.

has eight very involved steps that include an initial application, a budget, a service agreement, field assessments, stakeholder consultation, an assessment report, and peer reviews.[88]

The costs of certification fall mostly to the client, but the benefits are not immediately as obvious. The FSC label provides a unique market access, true, but that access does not necessarily confer any price premiums or competitive edge. Potential certificate holders are therefore spending a significant amount of resources for very little immediate or even long term gain, which means resource-poor areas are less likely to get certified.

Many of the arguments that apply to potential Southern certificate holders also apply to potential Southern certifiers. The accreditation process is even more complex and significantly more costly than the certification process. The ASI application process includes a list of over 20 documents and reports that must be successfully navigated and submitted (in English), followed by an on-site visit from an assessment team. The initial fee to gain accreditation is quite significant, and that is followed by an annual fee (which includes payment for audits). The fees are based on size and production levels, so there is some allowance made for CBs certifying smaller forests and companies[89], but critics insist this allowance is not nearly enough.

While some of the changes to the governance structure were designed specifically to mitigate these substantial deterrents to smaller and poorer companies gaining certification, it is still much too soon to tell whether or not they will have any success.

While the complexity of the certification process without a doubt has a greater impact on Southern operations, it draws significant criticism from Northern companies as well. These critics point to the huge lists of standards and procedures that must be followed, each one thick with processes and protocols, and they accuse the FSC of being too bureaucratic.[90] They insist it only needs to be a third party certification system, and it's begun to look entirely too much like an inter-governmental organization. The FSC is certainly feeling its own bureaucratic weight as it expands and grows more complex, and this was a significant focus to the governance review. It remains to be seen whether or not the reforms taken will succeed in reducing the bureaucracy, although it must be kept in mind that, due to its size and scope, there is a certain amount of bureaucracy that is unavoidable.

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[88] http://www.rainforest-alliance.org/forestry.cfm?id=management_certification

[89] Individual forests and companies come in to play during the accreditation process because the ASI looks at examples of forests that the certification body in question has certified, to ensure that it is issuing certificates according to the FSC rules.

[90] Interview with FSC Board member

Step	Description of Charges	Cost Estimate (EUR)
Application Pack	Printed Materials	600
Application Fee	Application	3,000
Document Review (Estimate)	ASI Lead Assessor 10 days	7,000
Office assesment including preparation, stakeholder consultation, site audit, report writing and finalisation (Estimate)	ASI Lead Assessor 8 days	5,600
Forest assessment including preparation, stakeholder consultation, site audit, report writing and finalisation (Estimate)	ASI Lead Assessor 8 days Local Expert 5 days (if needed)	5,600 3,000
Chain of Custody assessment including preparation, site audit, report writing and finalisation (Estimate)	ASI Lead Assessor 5 days	3,500
Final Accreditation Report + Accreditation procedure (Estimate)	ASI Lead Assessor 4 days	2,800
ASI Accreditation Committee Decision Making Process Costs		3,000
Travel and accommodation depends on location		
TOTAL of ASI Staff and Material *Travel and accommodation costs are not included and have to be added see section 3 above		€ 34,100*

Greenwashing

One of the strongest criticisms of the FSC, voiced loudly both within and without, is that it issues certificates to companies with extremely poor environmental and social records and long histories of bad practices.[91] Now that the FSC is more mainstream, there is a greater demand pull from the market, so more companies seeking certification have less of a commitment to sustainability and more of a commitment to simply not getting shut out of market.[92] As the number of FSC certificates continues to grow, so do the number of voices raised against the FSC. The leading organizations in these campaigns are the FSC-watch, World Rainforest Movement, and the Rainforest Foundation.

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[91] Hance, 2007.
[92] From Eric Interview

These groups, along with various other environmental and social organizations have been putting pressure on the FSC to keep the standards up, and ensure that companies doing the absolute minimum are nonetheless fulfilling the FSC mandate. These watch-dog campaigns are actively working to ensure that the FSC does not cave to industry interests. When certified companies are perceived by environmental and social NGOs (FSC members and non-members) to be violating the FSC Principles and Criteria, campaigners ask the FSC to withdraw the certificate.

Before it can do so, however, the FSC has to investigate the forest or company in question, which is another lengthy and involved process. It usually includes sending in a special independent audit team and interviewing both the ASI and the CB that issued the certificate in question. Sometimes these processes end with the termination of the certificate, other times the company is allowed to remain certified if certain conditions are met, and other times the FSC allows the company to keep its certificate without requiring any action. When either of the later two options occurs, a general outcry ensues. The FSC is often accused of allowing verifiably bad organizations to continue working under the FSC label.

The Controlled Wood standard in particular has come under harsh criticism as a greenwashing method. FSC-Watch and various other watch-dog NGOs insist that the standard, designed to regulate the non-FSC-certified product in the Mixed Sources categories, "is effectively useless in terms of ensuring exclusion of wood from undesirable sources, including those that are illegal"[93]. Many organizations within the FSC agree entirely; Greenpeace recommended that the Controlled Wood system be "phased out within five years or changed into a stepwise program that leads to full certification in 3–5 years."[94] The 2008 General Assembly called for a complete review of the Controlled Wood Standard.

Other Criticisms

There are myriad other problems and flaws in the FSC system. Simon Counsell, a member of the original CWG and the Founding Assembly who quickly became disillusioned by the FSC and began his own organization to independently monitor the FSC, the Rainforest Foundation, has listed what he sees as systemic flaws within the FSC system itself. He explains one of the most important of these is that:

> "…companies wanting to get certified directly contract with and pay the certification companies to assess them and issue certificates. This means that the certifiers have a vested economic interest to issue certificates, even when their 'clients' do not deserve them. Because the numerous accredited FSC certifiers are all competing with each other for business, there is, I believe, a 'race to the bottom' of certification standards going on, with the certifiers all trying to be more 'generous' than their competitors to capture more certification business."[95]

This criticism leads to two important points. One, the FSC will need to break this economic link if it expects to escape the criticism that it caters to industry whims. Two, a large number of the criticisms leveled against the FSC actually have more to do with the FSC's inability to ensure its Certification Bodies follow its rules than they do with the FSC itself. The CBs issuing

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[93] FSC-Watch, 2008.
[94] *Out of Control*, Greenpeace, October 2008, page 13
[95] Simon interview

certificates to companies that are clearly violating the FSC P&C are the true target of the anger, but the FSC receives most of the heat because it allows the CBs to get away with such certificates.

The FSC recently took steps to tighten the leash. The South African CB SGS-Qualifor, FSC's second largest CB, was thoroughly audited by the ASI in 2008. SGS had become the target for a larger and larger number of accusations of wrongly-given certificates; more and more proof was being accumulated that the companies it was certifying were highly and consistently non-compliant.[96] As a result of the audit, the company 'voluntarily' adopted an open-ended moratorium to stop issuing certificates, as of May 29th, 2008.[97] This was both a large step in the right direction, and proof that the FSC processes, while slow, do work.

Another issue that Counsell points to as a problem is the FSC's tendency to look at every company or forest as a separate entity, thereby missing the greater ecological damage being done. Counsell claims that "whilst a logging concession might appear to be 'sustainable' at this small-scale level, the whole development model that accompanies industrial logging concessions might be highly non-sustainable and destructive," and the FSC, by failing to recognize this, is doing great harm with its programs.[98] However, this could also be seen as an important strength of the FSC, because it brings the debate down from the theoretical abstracts into the practical realities. With the FSC, protecting forests through improved forest management became a real possibility, rather than a vague idea.

Dealing so closely with practical realities does have other drawbacks, however. Becoming so bogged down in the details of the processes means that the FSC occasionally struggles to keep its focus on the primary goal of promoting good forest management. The certification bodies especially often fall into the trap of seeing certification as a goal in and of itself, not as a means to an end, which is what it was originally intended to be.

This criticism brings up a very important and oft repeated question: Is the FSC losing touch with its origins? This question has been brought up with more frequency recently. The detractors say yes, it is, claiming that the FSC was supposed to focus on tropical and smaller forests. They point to the fact that less than 14% of the FSC certified forests are tropical,[99] and accuse the FSC of straying from its origins by becoming an industry pawn. The supporters say the FSC is still true to itself, pointing to consistent efforts to maintain transparency, include tropical forests, and maintain equality between the three Chambers. In a sense, this debate has always been present in the FSC, ever since the CWG first met. The founders were always aware of these issues and since the beginning struggled to balance the need to respect environmental and social goals with the need to gain enough market demand to have a significant impact. The only difference is that now, because it is growing so quickly in size and importance, those problems have become more visible. The FSC originally debated these questions in small forums as a small, little-known organization; now, it debates the same questions in a global public arena as a global force to be reckoned with.

In his notes on the early years, Synnott bemoaned the fact that often the tremendous differences of opinions so hindered the process that no actual rational discussion of possible approaches to

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[96] www.fsc-watch.org/archives/2008/07/07/SGS_halts_all_new_FS
[97] www.fsc.org/news.html?&tx_ttnews[tt_news]=31&tx_ttnews[backPid]=107&cHash=83d614654d
[98] Hance, 2008.
[99] FSC, Global FSC Certificates: type and distribution, March 2009

forest certification occurred.[100] This is still happening – the debates during the General Assemblies are as full of different opinions now as they were during the Founding Assembly. So the FSC's support for industry and the surrounding debate is not a sign of the FSC straying from its origins – it's a sign of the same struggles for balance, writ large.

The Good

That the FSC will have critics is unavoidable. Some more extreme environmental organizations will never support any effort that works with logging companies. Some will automatically condemn for certifying plantations. Others condemn it for certifying any kind of extraction or logging in the Amazon.[101] There are also those who condemn it on the basic principle that any further consumption of wood products is not sustainable and therefore any organization that works with wood consumption is not something they can support.

These critics, however, when asked how they would prefer the global forest industry be governed, have very few viable suggestions. Some suggest greater government regulation, apparently forgetting (or forgiving) that the FSC only gained such prominence in the beginning precisely because of a lack of governmental regulation. Others suggest simply a cessation of all forest product consumption. Others only condemn, and offer no alternative solutions at all.

So, while the majority of the complaints leveled against the FSC are basically true, they must be taken with a grain of salt. The FSC-Watch, and several other NGOs campaigning against the FSC, very much focusing on doom and gloom (claiming more than once that the FSC is "doomed to failure"[102]) failing to see the transparency of the process, the enormity of the problem, and the sincere steps towards a solution.

In general, to every critique the FSC has a response. They are suspending CBs and canceling certificates. (This might not be happening as fast or to as many companies as the detractors would like, but it is still happening). They are initiating policy reviews, revising drafts, and changing their structures.

Now, whether or not their actions will have any significant impact or effect is another matter entirely. It remains to be seen whether or not suspending SGS will help bring the other CBs back into line. It remains to be seen the changes to the governance structure will help eliminate bureaucracy and streamline the processes. It remains to be seen whether or not an independent Dispute Resolution body will make the process more easily accessible and faster, or whether the revised fee policy and community labeling program will make certification more viable for smaller companies. The FSC's intentions are good, and the hope is that these changes will have significant impact. It is not at all a guarantee, however, as several initiatives have significant potential to become nothing more than talk shop addendums. One motion on supporting tropical companies, for example, has phrases such as "recognize its role" and "develop a strategy"[103], which are often considered red-flag language, codes for "do nothing at all". Whether or not it will remains to be seen, although so far the FSC has a very good track record for not devolving into talk-shop nothings.

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[100] Synnott, page 50
[101] Hance, 2008.
[102] FSC-Watch www.fsc-watch.org/about.php
[103] From "Final Motions", 2008. Policy 28. p24-25.

The FSC is also unique in that the very organizations that are most often the quickest to call foul, like Greenpeace, Sierra Club, World Wildlife Foundation, Rainforest Action Network, and Friends of the Earth, are some of the FSC's staunchest supporters. This does not mean they support it blindly; on the contrary, they are still quite quick to point out its flaws. But they so in order to help the FSC stay true to its stated goals and improve its general credibility and integrity; theirs is truly very healthy constructive criticism. They also point out the enormity of the task it has set itself, the sincere (and even often successful!) efforts at improvement, and the lack of any other viable alternative.

This last point is a very strong point in the FSC's favor, and worth another mention. Even its strongest detractors, from Simon Counsell at the Rainforest Foundation to the FSC-Watch, grudgingly agree that the FSC is by far the best certification system available. The FSC is a much stronger organization than any of the competitors that have emerged. In the United States, its main competitor is the Sustainable Forestry Initiative (SFI), an industry-led system. In Europe, the main competitor is the Program for Endorsement of Forest Certification (PEFC, originally Pan-European Forest Certification). Both of these initiatives have laughably weak standards, almost zero transparency, and almost no support from environmental and social NGOs, who tend to attack these systems with much more regularity and venom than they do the FSC.[104]

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[104] Conroy, 2007.

Final Thoughts: Legitimizing Alternative Governance

What has gained the FSC its success and distinction as the only certification scheme civil society supports? What makes it worthy of being used as a model for global governance?

The FSC occupies a unique position in the arena of global governance. Like most international organizations, it began by identifying a complex, globally recognized problem. But it rejected the standard methods for handling such problems, choosing instead to make its own way forward, building its own framework and find a distinct form of legitimacy.

To avoid the mistakes made by other initiatives attempting similar feats of cooperation and governance, the FSC first extricated itself from all current structures. It made a clearly defined break from the state-centered realm of international relations. It did not participate in UN-sponsored international negotiations, nor did it choose to act as a consultant to international organizations and agreements, which is how many large NGOs choose to influence global policies.[105] Rather than limiting itself this way, the FSC chose instead to influence global policies by creating them itself and then convincing others of their validity. It could do this because it considered itself an equal on the international field. So while it did not participate in any international forums, it was not afraid to use the results from said forums. Many of its standards incorporated key parts of international norms, such as the ILO labor norms.

While using international norms did bestow a sense of legitimacy on the international realm, the majority of its recognized legitimacy comes from its developed expertise, its democratic governance structure, and its unique entrepreneurial focus.

Its expertise was initially the easiest route to legitimacy. FSC members included some of the very first individuals to begin considering the problem of harmful forest exploitation, from industry leaders like Kwisthout to the first NGOs to notice the problem, such as WWF and FoE. Forest management was not a new concept, but forest certification was so new at the time of the FSC's founding that those with just a few years experience were experts. FSC incorporated the expertise of its members into its own budding knowledge. This meant it almost immediately surpassed the expertise of the international regimes, because its inclusive structure allowed it to become an expert in conflicting aspects of forest management. It became an integrated expert with a type of expertise not found in any other organization.

The legitimacy generated by its expertise was therefore based upon the legitimacy of its architecture. From the beginning, long before the international community's official attempt to solve the forest problem at the Earth Summit, the FSC founders recognized that diplomats could not represent all the conflicting interests within their countries. It realized that exponentially more important to forest management than the territorially bound concerns of individual sovereigns were the border-crossing concerns of the interest groups themselves. So rather than feed these interests through the lens of the nation state, the FSC gave the various stakeholders the decision-making power. It organized them into chambers and equalized the vote between chambers. It institutionalized ways for all stakeholders to engage in fruitful dialogue. The inclusive and democratic nature of these structures gave it the legitimacy to become the primary global authority on forest management and certification.

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[105] Pattberg, 2005, "What Role…", page 179

The entrepreneurial aspect of these structures is also a large part of FSC's success. Unlike so many governance efforts, the FSC focuses on rewarding good practice rather than punishing bad process. This shift in focus does not automatically pit civil society (environmental and social NGOs) against commercial society. Instead, it provides a platform upon which they can work together to arrive at mutually acceptable solutions, which gives the FSC method much more power than boycotts or campaigns. The standards themselves are also entrepreneurial, because they protect a series of conflicting rights: those of the industrial sector, of the environmental sector, and those of the social sector. The FSC does not focus on the rights of just one player – instead, it considers the rights of all stakeholders, which gives it a great degree of legitimacy.

As the FSC has gained traction, it has also gained legitimacy with the players who had been most reluctant to recognize its legitimacy earlier on. This is especially true for governments, who objected strongly in the 1990s, seeing it as a usurpation of their sovereignty.[106] The legitimization of the FSC in the eyes of the governments is reflected in the procurement standards that some nation states are beginning to adopt that are based on the FSC P&C.[107]

The FSC did not accomplish all of this overnight. It spent nearly a decade carefully crafting what many organizations have from the outset: agreement between participants as to their purpose and structures for reaching consensus. Those years were well spent, however, as they provided a solid platform from which the FSC could affect change. The second decade of its existence has seen significant successes and a real difference in global forest management. The problem, which once seemed so immense it threatened to destroy the FSC in its infancy, now seems entirely conquerable.[108] It has managed to create a rule of law in the forest sector, and while this law is not yet universal across the sector, it certainly appears to be headed there.

Without models or guides, the FSC found a way to bridge the tremendous chasms between schools of thought. Occupying such a tenuous and unknown space means that the bridge often trembles with the force of the tensions pulling it in opposite directions, but those same tensions also serve to make it stronger. As one author put it, they are "sources of valuable innovation in a changing, globalizing world".[109]

It is impossible to claim that the FSC is perfect, and indeed, no one denies that it has areas in need of significant improvement. However, its structure is such that it constantly searches for solutions to its flaws. In the meantime it remains infinitely better than any other system tried. It has more supporters than it does detractors, and more areas of success than areas of failure. It is accomplishing its goals where other attempts (by NGOs, inter-governmental organizations, industry leaders, and governments) have failed.

Slowly but surely, both the rule of law being developed by the FSC and the structure being used to develop said rule are being accepted and legitimized in the global arena. As long as this trend continues, the FSC will also continue to transform both global governance and the global forest industry.

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[106] In his notes, Synnott finds it 'bizarre' (p35) that governments would see the FSC as a threat to national sovereignty. However, this shows that even then, before the FSC had gained any momentum at all, some nation states saw the possible repercussions of an independent rule-making organization. They saw the FSC as a governance organization, and subsequently responded to it as a threat.
[107] FSC Board member interview
[108] Although, granted, the parties still have very different ideas on how best to tweak the FSC system to accomplish that conquering.
[109] Taylor, 2005. p144

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[110] These documents are all official FSC documents, and are available on the FSC website. Save for the National Initiative Manual, no author appears listed because the authors of these documents are the General Assembly and the Board of Directors.