

**BREAKING THE LINK BETWEEN FSC CERTIFIERS AND THE
LOGGING INDUSTRY:
Improving the Quality of FSC Certifications by Competitive
Tendering for Certification Contracts**

Simon Counsell, May 2006

The problem

At present, contracts for certification assessments are arranged directly between logging companies and the FSC's accredited certifiers. Because of this – and especially because the award of a certificate will ensure future profits for the certifiers from monitoring and re-assessments – certifiers have a strong financial incentive to award certificates even when the logging company does not comply with the FSC's Principles and Criteria.

Another consequence is that certifiers are effectively competing with each other to show that they are the most likely to award a certificate – and the way that they do this is by lowering their assessment standards, 'turning a blind eye' to any major problems that they find, or taking a very 'sympathetic' view towards the company under scrutiny. This serves to completely undermine the integrity of the FSC system.

The FSC should, through its monitoring and accreditation procedures, be dealing with these problems, but in practice it cannot and does not: its contract with the certifiers prevents it from doing anything that might 'harm the economic interests' of the certifiers. Moreover, some of the 'Big 4' certifiers (SGS, SCS, SmartWood and Soil Association Woodmark) have simply threatened to leave the FSC if it is too strict in applying the rules.

Thus, the certifiers are effectively completely out of control.

The proposal

Contracts to carry out FSC certification assessments should be awarded to accredited certifiers by the FSC Secretariat. The company seeking certification would request the FSC Secretariat for a certification assessment, would pay the FSC directly, and the FSC would in turn pay the certifier winning the contract¹. Part of the money paid to the Secretariat would be retained for the services provided.

Certifiers would be asked by the Secretariat to tender for upcoming certification assessments². Tenders for certification contracts would be assessed against a number of criteria, including:

¹ The value of a contract (i.e, how much FSC has to be paid and in turn pays the certifier) would be set, as at present, on a 'per hectare' basis

² Award of contracts for certification assessments would, in the first instance also include provision for the yearly monitoring of the company if it gains a certificate. However, the possibility that monitoring contracts would be tendered for separately could also be considered. This would create a situation whereby certifiers would be aware when carrying out its assessments that, if it does award a certificate, then that certificate might be monitored by one of its competitors

- technical quality of the proposed certification assessment, including;
 - The expertise and range of staff to be employed in the assessment, i.e, specialists in forest ecology, anthropology, forestry and 'economic forensics' (to be able to check for corporate fraud and other financial malpractices);
 - Quality of the local, national and international consultation processes to be undertaken;
 - Proven knowledge of the history and broader policy and socio-economic context in which the company to be certified is operating;
 - Clear indication of how any specific issues or challenges within the approved national or regional FSC Standard would be addressed³.

- The certifiers previous track record, including:
 - The number of outstanding Corrective Action Requests (CARs) issued against them through the FSC's regular certifiers' monitoring programme, and the speed with which any CARs have been 'closed out';
 - The current number of certificates issued by the certifier against which complaints have been initiated.
 - The certifiers' record in payment of FSC 'subscription' fees, penalty fines etc (long-term non-payment of fees and fines would exclude certifiers from eligibility for tendering for contracts).

- The certifier's overall 'certification portfolio'
 - Certifiers would be required to hold a minimum level of certain types of certifications, such as in community forests and 'eco-forestry' operations⁴. Extra preference in the award of certification contracts would be given to certifiers exceeding this minimum quota.

The certification contract issued by the FSC would make specific stipulations, such as the date by which the Public Certification summary would be made available. A further condition could be that certifiers would have to commit to making random unannounced monitoring visits to certified companies. The contract would include penalty clauses such that any failures to properly implement the contract would result in reductions in final payment by the Secretariat and/or losing the contract. The contract would also provide provision that any subsequent failure identified in the assessment (see below) would render the assessment fee returnable to the Secretariat.

³ Certifications would only be undertaken where such standards exist. In keeping with the expressed wishes of the FSC's membership, the FSC Secretariat would reject any requests for certification assessments where such standards do not exist.

⁴ This would prevent certifiers from simply refusing to certify such activities and only certifying the larger - and thus more profitable - companies. The exact 'level' required could be assessed in terms of percentage of the total area covered by the certifiers' certificates.

The Secretariat would be required to report to the Board on a regular (monthly or quarterly) basis the request for certification assessment that had been received, and the results of the tendering process, including the full 'scoring' of each tendering certifier for each contract awarded.

In order to avoid 'slippage' by the Secretariat in the assessment of the quality of tenders – or corruption of Secretariat staff – a random sample of certification contracts and assessments would be inspected annually by an independent external evaluator. This evaluator would report directly to the FSC Board, and its report would be publicly available.

Disadvantages

- It is possible that no certifiers would wish to tender for any given certification contract. However, this would seem unlikely, as the growing number of smaller accredited certifiers would probably wish to pick up on contracts that the current 'Big 4' (SGS, Soil Association, SCS and SmartWood) were not interested in.
- It is possible that some or all of the certifiers would form a 'cartel' or attempt to rig the bidding process by agreeing who would bid for what contracts, in advance. However, also because of the growing number of smaller certifiers, this would also seem to be fairly unlikely.
- The system proposed would probably serve to increase the *risk* of corruption within the Secretariat. However, this could be mitigated through the proposed random auditing of certificates each year.
- The proposed system would probably serve to increase the demands on the members of the Board, as they would be required to oversee proper implementation of the tendering and award-issuing system. However, this could also be seen as an advantage, as it would ensure that Board members were required to be more vigilant in the execution of the FSC's 'core functions', and less inclined to engage in activities which distract from this.
- The proposed system would probably serve to increase the overall cost of certification assessments. However, this would probably be most pronounced for the larger companies, and could be said to be a 'test' of their genuine commitment to the FSC (as is required under Criterion 1.6).

Advantages

- The tendering system would ensure that certifiers were required to compete for business on the basis of the rigour of their assessment process (rather than, at present, competing with each other for the *weakness* of their systems);

- The system would greatly increase the transparency of the certification assessment process to the Board and members of the FSC and the public;
 - The system would encourage certifiers to include community-based and 'eco-forestry' in the operations that they certify;
 - Whereas, at present, the relationship between the FSC and the certifiers is 'static' (and set out in one multi-year agreement which 'ties the hands' of the FSC's Secretariat), the proposed system would allow for rapid adjustment and adaptation, either by changing the 'tendering criteria' or the terms of the contract between the FSC Secretariat and the certification body;
 - Whereas, at present, almost all the income from certification assessments is accrued by the 'for-profit' certifiers, this proposal would ensure that the FSC itself would financially benefit from certification activities. This would help to ensure its long-term financial sustainability and independence from external funders.
 - The elected, multistakeholder, Board would become more directly responsible for ensuring the operational quality of FSC's core activities, i.e, the quality certification of forestry activities. There would thus probably be less time wasted in protracted policy discussions etc. that serve principally to advance the interests of the forestry industry (such as the 'partial certification' debate, percentage-based labelling debate, 'controlled wood (sic) standard' etc etc etc).
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