

Forest Certification in Malaysia

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ABSTRACT

Forest certification emerged in Malaysia through direct initiatives of the states' forestry departments acting as trustees of Permanent Forest Estates (PFEs), through bilateral projects for sustainable forest management between these departments and international bodies, and through direct interest from individual forest concessionaires. Currently, certification is very much market-driven and is serving as a tool to promote sustainable forest management.

There are two certification programs in Malaysia: the Forest Stewardship Council (FSC) and the Malaysian Timber Certification Council (MTCC). Certification receives support from various stakeholders, including the government and the private sector. Support from the local community is growing in strength, particularly for the FSC. The MTCC is working towards gaining the trust of the indigenous community, constrained by the issue of the native customary rights over forestland. This issue is within the domain of state constitutions and beyond that of the MTCC. Various parties – including national and international NGOs, governmental agencies, and international markets – play their synergistic roles towards garnering domestic support for certification and in streamlining the national MTCC certification in its phased approach towards global acceptance. MTCC is continuing its attempt to obtain international recognition of its program by attempting to comply with FSC's Principles and Criteria.

Certification has provided a new dimension in forest management. Forest management is no longer principally the domain of state forestry departments; nor does it focus solely on the issue of sustainable timber production. Social considerations have emerged and indigenous peoples' concerns have to be taken on board. There are various environmental, economic and social impacts of certification and these are discussed. Certification is at the growth stage in the country and some thoughts as to the future roles of both the FSC and MTCC programs are provided.

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INTRODUCTION¹

The Malaysian case has five important features. First, certification has been driven by the market with market-oriented actors (industry, including workers) at the forefront of efforts to establish a Malaysian Timber Certification Council (MTCC). Second, the national and state governments have been extensively involved in all aspects of the development of MTCC. Third, domestic and international NGOs have played an important role in attempting to steer MTCC towards accepting a more consensus-building certification program. These NGOs together with certifiers have also promoted FSC. Fourth, indigenous peoples issues have substantially complicated the development of forest certification in Malaysia, especially in Sabah and Sarawak.

Governments and interested parties have faced difficulties in addressing the issue of indigenous peoples' rights. These difficulties have led to the development of environmentally and economically strong but socially weak MTCC standards. In particular, indigenous communities' claims of land ownership in forest reserves are preventing negotiations with FSC from moving forward. State legislation on forestland prevents recognition of indigenous peoples' land claims because it vests Malaysian states as trustees of public forest land. Finally, there has been the emergence of a contest between MTCC and FSC schemes, which was latent at the beginning of the 1990s, but appears to have emerged into the open in the past few years. The two schemes represent, in effect, different norms with respect to the status of law, with MTCC giving priority to positive law over customary law and FSC requiring that considerably more attention be paid to customary law.

Unlike Indonesia, at present the path dependence of certification seems to be less important, as there do not appear to have been any high profile cases of natural forest certification suspension. This chapter will trace in more detail the arguments in support of the above features of the Malaysian case.

BACKGROUND FACTORS

Historical Context

Malaysia is a tropical country located north of the Equator within latitudes 1° to 7° North and longitudes 100° to 119° East. The country is separated into Peninsular and East Malaysia by the South China Sea. The total land area is approximately 32.8 million hectares with 13.1 million hectares in Peninsular Malaysia, which comprises eleven states and the Federal Territory of Kuala Lumpur, and 19.7 million hectares in East Malaysia, which consists of two large states, Sabah and the Federal Territory of Labuan (7.4 million hectares), and Sarawak (12.3 million hectares).

Forestry Problems and Existing Policy Response

Forestry in Malaysia faces various problems. Small-scale and isolated illegal logging, partial compliance to harvesting specifications, deforestation, and loss of biodiversity in harvesting activities are typical grievances being faced by a rapidly developing nation.

¹The research technique adopted involves conducting first a literature review of the subject matter involving a search in the internet and published materials. Key stakeholders were identified and interviews arranged to solicit first hand information. Analysis was done on primary reports where available such as on minutes of meetings and reports from certifiers of field audit exercises. Data were collected from statistical reports from national and international agencies. Other information was also compiled from the author's previous personal research effort on the subject matter.

The occurrence of illegal logging, partial compliance to harvesting specifications and loss of biodiversity have a better chance of being checked within certified forest management units (FMUs). Monitoring the use of imported illegal logs by domestic processors is proving more challenging. Despite the federal government's placing a ban on the importation of illegal logs, there are suggestions that Malaysia's wood-based industry is utilizing illegal Ramin logs (Telapak 2003). Ramin was listed by Indonesia in Appendix III of CITES (the Convention on International Trade in Endangered Species).

Malaysia responded by arguing that it is illogical and unfair to draw the conclusion that the steady export of Ramin from Malaysia constitutes proof of illegal Indonesian Ramin imports (MTC 2004). There is selective logging going on in the Ramin-rich production forest in southeast Peninsular Malaysia. Malaysia put up a partial reservation to the Convention for Ramin parts and derivatives as a step to ensure that the trade that had arduously been built up over the years is not jeopardized by unnecessary procedures and misidentification.

Despite certification making some headway with illegal logging, it does not address the problem of conversion of forests outside the forest reserves to non-forest uses. Government policies and regulations do not prevent forestland located outside the forest reserves from being converted to other land uses. This policy response is to meet the demands of development.

Structural Features

Ownership and Tenure

At the end of 2002, the total forest area in Malaysia was estimated to be 19.01 million hectares or 57.9 percent of the total land area, with the proportion of forested land being higher in Sabah and Sarawak than in Peninsular Malaysia. Malaysia has a total area of 16 million hectares of natural forest, of which 14.19 million hectares are designated as Permanent Forest Estate (PFE) or forest reserve. Approximately 10.53 million hectares of the PFE are production forests, with the remaining 3.66 million hectares being protection forests. Another 1.8 million hectares located outside the PFE are designated as national parks and wildlife sanctuaries.

In Malaysia, there is a separation of power over land matters. Under Article 74(2) of the Malaysian Constitution, forestry comes under the jurisdiction of the respective state governments. As such, each state is empowered to enact laws on forestry and to formulate forestry policies independently. Each state has power of decision over resource use and allocation. It has its own forestry department and other institutions to implement forestry policies. The executive authority of the federal government only extends to the provision of advice and technical assistance to the states, training, the conduct of research and in the maintenance of experimental and demonstration stations.

The constitution does give the federal government powers to establish departments or ministries for resource conservation. State forestry departments are obliged to refer to their federal counterparts on certain matters. Nevertheless, in practice,

contradictions between federal and state policies do occur from time to time. State governments have been known to pursue their own forest policies, even when they appear to contradict federal policies.

There are two potential conflicting views of the forests. The first is that forests are seen as a physical and economic resource, controlled by the state government, private logging companies and individuals whose main concern is in the commercial value of trees to generate revenue and income. The second is that forests are seen by indigenous and forest dependent peoples as a physical, social, cultural and spiritual resource, for livelihoods as well as the basis of beliefs, identity and survival. These different visions clash, and conflicts around forest use have been well documented, especially in the state of Sarawak.

Currently all forestlands in Malaysia are owned by the government, except for a few thousand hectares of plantation forests which are privately owned. Although the management of all natural forests is under the purview of the respective state departments of forestry, state governments do lease out long-term concessions of various lengths to integrated timber companies. Such companies include Kumpulan Pengurusan Kayu-Kayan Terengganu (KPKKT) with 128,720 ha in the state of Terengganu; Perak Integrated Timber Complex (PITC) with 9,000 ha in the state of Perak; and Kumpulan Perkayuan Kelantan (KPK) with 92,500 ha in the state of Kelantan.

The management of leased forestland has to be guided by Forest Management Plans (FMPs) approved by the respective state forestry departments. Indigenous communities living in the forest have usufruct rights over forest goods and services. They do not own the forestland. In East Malaysia, there are larger forestlands classified as native customary rights (NCR) land. Given this situation, no forest harvesting agreements involving local communities in co-management responsibilities are practiced in the country.

Markets

In Malaysia, the forest sector primary production base was composed of 3.2 million tonnes of wood fuel and 17.9 million tonnes of industrial round wood in 2002. The country encourages secondary and tertiary processing of timber. In the same year, 4.6 million tonnes of sawn wood, 6.8 million tonnes of wood-based panels, 123.7 thousand tonnes of pulp for paper, and 851.0 thousand tonnes of paper and paperboard were manufactured.

The forest sector total export (not inclusive of furniture) was 13.8 million tonnes valued at US\$2.7 billion in 2002. The main export contributors were industrial round wood with 37.5 percent in volume but 18.0 percent in value; sawn wood with 20.7 percent in volume but 13.9 percent in value; and wood-based panel with 40.8 percent in volume but 60.3 percent in value.

It is interesting to note that for both industrial round wood and sawn wood the percentage contributions to total forest sector exports were higher in volume over value in contrast to the case of wood-based panels. This is an indication of lower

value per unit volume for industrial round wood and sawn wood than for wood-based panels. The major export destinations of Malaysian forest products were China (31.2 percent) and Japan (25.1 percent). Other important destinations were Korea (5.6 percent), U.S.A. (4.3 percent) and the Netherlands (3.5 percent).

The forestry sector has contributed significantly towards the country's socio-economic development. This can be highlighted from the following statistics for 2002:

- The forestry sector contributed US\$3.7 billion in gross value added, accounting for about 4.7 percent of the country's Gross Domestic Product in the year 2000;
- The total export of the forest sector (excluding furniture) was valued at US\$2.8 billion or 2.8 percent of the country's total export earnings in 2002. Imports were valued at US\$1 billion, making the country a net exporter of US\$1.8 billion;
- In 1998, the total forest revenue collected by the various states in Malaysia amounted to US\$368.8 million, based on a production of 21.7 million m³ of round logs. In some states, such as Sarawak, Kelantan and Pahang, forest revenues made a very important contribution to governments' revenues.
- The forestry sector (excluding furniture) also provided employment of about 2 percent of the country's labour force.

Given the above performance, the timber and timber products industry is an important contributor to the economy of the country, in terms of foreign exchange earnings, employment and value added creation. Throughout the first and second Industrial Master Plans (1985-1995 and 1996-2005), the timber and timber products sector has been earmarked to provide domestic and export growth for the economy. Hence, the declining trade – seemingly caused by importing countries' negative perception that the products do not come from well-managed forests – is taken seriously by the federal government (Yong 2002).

Various efforts have been undertaken to confront this challenge, including ascribing to timber certification and developing a system that can provide assurance that the timber products have been manufactured using timber from sound forest management practices.

THE EMERGENCE OF FOREST CERTIFICATION

Initial Support

Given the long-term prospect of limited supply of forest, the government has to approach development efforts judiciously. The future patterns of forest resource management in Malaysia have to be restructured by adopting strategies of sustainable management by treating the environment as integral, in order to ensure that maximum economic and social benefits are derived from managing this resource. Any

environmental changes have to be guided through proper long-term management of the forest resource by maintaining an optimum equilibrium between resource utilization and the need to protect the environment as a prerequisite for the sustainable production of forest goods and services. Adherence to forest management regulations and its certification is taken as one move to ensuring that this end is met.

In the post-United Nations Conference on Environment and Development (UNCED) period, issues of forest certification were new to the Malaysian government, which was more interested in ensuring the implementation of its Selective Management System (SMS), an approach that the government has high faith in as promoting forest sustainability. At this time the scheme by the Forest Stewardship Council (FSC) was under active consideration with a founding convention held in 1993.

Although the Malaysian government at that point was expressing little interest in certification, it had taken the recommendation of the ITTO for all producer member countries to set up a certification scheme (Abdul Rashid, personal communication, July 2004). In 1994, in discussions among timber-related government agencies, it was decided that the Malaysian Timber Industry Board (MTIB) was to lead in the formulation of the certification scheme. MTIB became the secretariat to the Malaysia-Netherlands cooperation in certification in 1995. Hence, the Malaysian certification scheme got going later in 1995.

There was a realization that Malaysia's Selective Management System (SMS), although sound on paper, was not being implemented satisfactorily on the ground by concessionaires and logging teams. Certification was looked upon as a tool to make concessionaires and logging teams change their mindset towards complying with the SMS. It can be perceived that the early endorsement of certification was very much motivated towards achieving sustainable and economical timber production and environmental concerns. Social considerations at that early stage were given less emphasis. Hence, the Malaysian Criteria and Indicators (MC&I) were modelled more on the ITTO's SFM.

Malaysia's intention to set up its own certification program is related to several factors. One is its ease of fit with the ITTO's C&I of SFM (Abdul Rahim, personal communication, 2004), an approach that espouses the same objective of forest sustainability as set by the SMS promoted by the Forestry Department. Another was that it is the right of a country that has a critical interest in the timber trade, which is an important national economic contribution, to determine its own destiny (Chew, personal communication, 2004).

It was felt that the country ought to be a party in the implementation of a certification scheme. The country is keen to cooperate in any certification scheme and felt it should have some input in the formulation and application of such schemes. It believed that there should be a two-way involvement of certification schemes with Malaysian timber trade authorities to prevent any unilateral changes in certification rules so that Malaysian concessionaires are not constantly under threat and Malaysian interests are protected. The fact that Malaysia is a major exporter of tropical timbers also influenced the decision to set up its own certification program. This

program ought to be globally acceptable but yet should not jeopardise the interest of the nation's forestry agenda of sustainable forest management and economic contribution.

A third important reason is the latent fear of a new approach or mindset change (Ng, personal communication, 2004). Relevant government agencies are uncertain of how to tackle social issues, particularly on native customary rights that have long been unresolved to the satisfaction of all parties. And forestry departments were used to handling forestry matters internally without being required to have consultative discussions on social implications. Hence, because of the need for this mindset change, modification in approach of the formulation of the MTCC program occurred to establish a more balanced representation of interests in its structure. This explains the delayed entry of non-governmental organizations (NGOs), especially social groups, into the consultative discussions.

In general, the government views forest certification as a double-edge sword. On the one hand, it is a marketing mechanism to gain market access by being consumer-driven, market-based and on a voluntary basis. On the other hand, it is a pre-requisite for improving practices on the ground. In the case of forest certification, the Malaysian government took leadership in the certification drive. Its involvement is to allay doubts in the minds of consumers about the sustainability of the management of forestland that is overwhelmingly owned by the government and the financial requirements of forest management certification schemes that are mostly yet to be self-financing.

The Malaysian government's involvement in forest management certification schemes has some advantages in ensuring:

- consistency of criteria and indicators applied;
- balance in the views of the different parties involved;
- greater accountability to the public;
- greater transparency in the schemes used; and
- an additional channel for presenting their interest to labeling authorities.

Early leadership was provided by the Ministry of Primary Industries, which initiated approval at the Federal Cabinet level, set policy to adopt timber certification and established a national committee to oversee its implementation. The government agencies initially involved included the Forestry Department Headquarters for Peninsular Malaysia, Sabah and Sarawak, and the Malaysian Timber Industry Board. The industry and its associations went along with the government's drive. Forest harvesting rights were getting scarcer and there were excess demands to obtain these privileges. The timber industry and the private sector too were seeking certification as a method of demonstrating and informing consumers that their timber products came from well-managed forests, thereby ensuring their products' continued popularity and sale.

Private Sector View

The private sector was realistic about the certification requirement and indicated its willingness to seek certification. This position is supported by the following quote from Barney Chan, the Chief Executive Officer of the Sarawak Timber Association (STA). Sarawak is the largest state in Malaysia with the largest forest resources.

STA must be prepared for the inevitable: eco-labeling will be introduced, it is only a question of time. However, I feel that this move is not necessarily bad for us. If we are indeed looking after our forests in the correct way, we should have not much difficulty in getting appropriate certification for our timber products. Such being the case, we should look at the positive side and use eco-labeling as a marketing tool so that we can maintain the European market for our timber. Here I want to report to members that STA is still in consultations with the State and Federal authorities on this eco-labeling matter (Chan, personal communication, 2004).

The private sector was willing to work closely with relevant authorities to ensure that certification did not stall trade. This included working with the Malaysian Timber Industry Board and the Forestry Department in a government-industry-NGO coalition created to set up a Malaysian scheme in support of the Government's intention to see that the MTCC came to fruition.

NGOs

Conservation organizations – particularly the environmental non-governmental organizations (NGOs) and indigenous peoples organizations actively involved in timber certification including the World Wide Fund for Nature (WWF) and the Malaysian Nature Society (MNS) – have all along been wary of the impact of forest harvesting in the country, both environmentally and socially. They actively participated at the early stages (1995) in the formulation of the policy statements and implementation procedures of the Malaysian scheme on certification, hoping to influence it to incorporate their conservation and social interests. NGOs like the WWF looked upon certification as a tool to demonstrate good forest management. While indigenous peoples organizations looked upon certification as a means to gain recognition of native rights upon forestland, particularly the NCR land.

The NGOs set several criteria to ensure certification met the intended objectives. The certification systems should be institutionally and politically adapted to local conditions, cost effective, accepted by all involved parties and compatible with generally accepted international principles. To be accepted, the systems should be transparent and credible to consumers and based on objective and measurable criteria, reliably assessed by independent parties that are uninfluenced by others with vested interests (Ng, personal communication, 2004).

From the above observations, it can be concluded that the Government through the forestry departments, initially had more influence over the industry by virtue of its institutional function of allotting concession rights to the industry. New

harvesting specifications and practices that were deemed required for SFM were being put in place that the industry was duty bound to accept. As the deliberations on consensus building proceeded, the strong influence of the NGOs emerged, particularly on social issues that Malaysian forestry has for a long time not given as much emphasis to as the objective of sustaining the timber resource.

Institutional Design

Timber certification programs adopted in Malaysia belong to two categories: the government-sanctioned Malaysian Timber Certification Council (MTCC) program and the Forest Stewardship Council (FSC). The first is driven directly by the government by formulating the MTCC certification, initially guided by the International Tropical Timber Organization (ITTO)'s criteria and indicators (C&I) in the first phase followed by further attempts to comply to the FSC's principles and criteria (P&C) in the second phase. The adoption of the MTCC certification program was spearheaded by the forestry departments of various states acting as trustees of the permanent forest reserves (PFEs) and a few timber firms who gained long-term concessions from the state. The adoption of the FSC is a proactive move by the Malaysian-German Sustainable Forest Management Project (M-GSFMP) in Sabah and the private sector to obtain internationally acclaimed best practice acknowledgement and/or to meet the requirements set by international consumers.

The forestry departments in the states of Peninsular Malaysia, Sabah and Sarawak ascribe to the MTCC program while having an attitude open to new approaches and permitting the industry to take its own choice on which certification scheme to adopt including that of FSC and ISO 14000. In Sarawak, the Samleng Group has carried out an FSC pre-assessment while the KTS Group has begun developing its Environmental Management System (EMS) under the ISO 14000 scheme. In Peninsular Malaysia, FSC-certified PITA has also begun EMS activities in its attempt to obtain ISO 14000 certification, while the MTCC-certified KPKKT (a subsidiary of Golden Pharos) has opted to seek FSC certification as well.

The FSC program is a well-established certification scheme and its development has been discussed in detail in earlier chapters. This chapter will deliberate more on the MTCC program.

MTCC Certification Program

The MTCC certification program is motivated by the country's commitment to ITTO's "Guidelines for Sustainable Management of Natural Tropical Forests" and its "Criteria for the Measurement of Sustainable Tropical Forest Management" (CMSTFM).

As mentioned earlier, Malaysia had taken action to build on and operationalize these guidelines for two reasons. Certification is seen as a step to protect its interest of ensuring the production of a continuous flow of desired forest products and services from the forest reserves. In doing so, it also commits to ensuring that production be conducted without undue reduction of the forest's inherent values and

future productivity, and without undue undesirable effects on the physical and social environment.

Further, certification is being actively pursued to ensure continued market access of Malaysian timber products particularly in environmentally sensitive markets. Certification is seen as critical for long-term access to key markets in Europe, United States and Japan since the market is being undercut in less green-sensitive markets like China, Taiwan and South Korea by low-cost producers in Indonesia and Cambodia.

Typical of decision-making approaches adopted in the country, the nation formed two committees at two different levels: (i) a National Committee on Sustainable Forest Management (NCSFM) comprising of representatives from relevant Government agencies and universities, with the task of setting the elaborated ITTO's CMSTFM for implementation; and (ii) a Working Party on Sustainable Natural Forest Management (WPSNFM) comprising of state forestry departments in Peninsular Malaysia, Sabah and Sarawak with the task of operationalizing the ITTO's C&I on SFM at both national and forest management unit levels.

In order to ensure that the agreed activities are implemented in the field by the respective state forestry departments in Malaysia, a task force was formed to develop an effective mechanism and procedures for the periodic monitoring of the implementation of all the activities, and produce reports on their progress to the higher authorities in Malaysia for their information and further action. This task force, established in May 1996, comprised of representatives from the Ministry of Primary Industries, Malaysia; the Forestry Departments of Peninsular Malaysia, Sabah and Sarawak; the Forest Research Institute, Malaysia; the Malaysian Timber Industry Board; the Malaysian Timber Council; and the Faculty of Forestry, University Putra, Malaysia. To complement this effort, Peninsular Malaysia also formed a Technical Monitoring Committee at the Forestry Department Headquarters, Peninsular Malaysia in October 1995 to monitor the implementation of all the activities undertaken by the respective state forestry departments.

To enhance the implementation of the certification scheme, the National Timber Certification Council, Malaysia (NTCC) with representation from academic and research and development institutions, timber industry, non-governmental organizations (NGOs) and government agencies was incorporated as a company limited by guarantee in October, 1998. NTCC was later renamed the Malaysian Timber Certification Council (MTCC).

The academic institution selected was the Faculty of Forestry, Universiti Putra Malaysia while the R&D institution was the Forest Research Institute, Malaysia. In addition to a representative from the timber industry, environmental NGOs were represented by WWF. The activities undertaken by the MTCC, among others, included the following:

- Development and implementation of a timber certification system in Malaysia to ensure sustainable forest management, as well as to facilitate the trade in timber from Malaysia;

- Development and implementation of training programs in all aspects related to timber certification;
- Development and implementation of standards related to timber certification;
- Establishment and implementation of a system to oversee and monitor the implementation of the certification system, including appeal mechanisms;
- Establishment of networks and cooperation with national and international bodies related to timber certification to facilitate cooperation and mutual recognition arrangements; and
- Collection, processing and dissemination of data and information related to timber certification and sustainable forest management.

Standards

To help gauge the level of compliance, criteria, indicators, activities and management specifications were formulated. Like the institutional arrangements, these standards were also developed for both national and forest management unit (FMU) levels. The C&I at the national level provided a common framework for monitoring and evaluating progress towards sustainability nationally. However, they did not specify requirements for sustainable forest management practices in the field. In this context, the C&I at the FMU level assessed directly the sustainability of forest resource management, conservation and development in practice. It should also be noted that no single C&I was alone an indication of sustainability. Rather, the set of C&Is were to be considered as an integral system to assess the practice of sustainable forest management.

An FMU was defined as an area of forestland managed by an organizational entity, which decided on and subsequently implemented forest activities to ensure the economic, ecological, biological and socio-cultural sustainability of the area. The unit consisted of forest districts having a number of forest reserves, which were further divided into compartments and sub-compartments for the purpose of effective management, conservation and development of the forest resources.

In Peninsular Malaysia, each individual state was subsequently defined as an FMU. Hence, it is important to note here that MTCC is a regional certification scheme, rather than a purely FMU-based scheme. The concept of an FMU seems to be in contention in part; a question arises as to whether the entire state, for example, can be viewed as an FMU? MTCC argues that it can in view of legal and administrative requirements for managing forest at the state level, with the state forestry director being responsible to the state authority for the preparation and implementation of the state forest management plan, reforestation plan and programmes relating to amenity forests. The allocation of Annual Allowable Cuts (AACs) for the production forests of the PFE by the National Forestry Council is determined on a state-by-state basis. In Sabah and Sarawak, the concept of FMU is defined differently using the more recognized definition at the concession level.

In formulating the activities, the NCSFM reviewed the P&C for Forest Management of the FSC and those of the Tropenwald Initiative (TI), and also took into account the Principles and Recommendations enshrined in ITTO's "Guidelines on the Conservation of Biological Diversity in Tropical Production Forests."

National Level

At the national level, the MTCC used the ITTO's five Criteria and 27 Indicators as a starting point to develop a total of 206 management specifications and 92 activities. The five criteria cover the forest resource base, continuity of flow, level of environmental control, socio-economic effects and institutional framework. Two new indicators were added to the MTCC at the national level, while two original ITTO indicators were omitted. The two new indicators were on Plantation Establishment of Non-wood Forest Produce and Annual Planting Targets under the ITTO's criterion on the Forest Resource Base and on Expenditure Budgets for Forest Administration under the ITTO's criterion on Socio-Economic Effects.

The indicators omitted were on the Availability of Environmental Assessment Procedures under the criterion Socio-Economic Effects and on the Relationship of National Policy to ITTO Guidelines under the criterion on Institutional Frameworks. The former was omitted since this indicator was already included under the criterion on the Level of Environmental Control, which the Committee deemed to be more appropriate. The latter was omitted because the National Forestry Policy of Malaysia had adequately met the objectives of the ITTO guidelines in terms of sustainable forest management.

Forest Management Unit Level

To ensure effective monitoring and evaluation of the criteria and indicators in the field, Malaysia established activities at the level of the FMU. A total of 84 activities were identified to be implemented at the FMU level under six criteria and 23 indicators. The six field-level criteria covered resource security, the continuity of timber production, conservation of flora and fauna and other forest resources, an acceptable level of environmental impact, socio-economic benefits, and planning and adjustment to experience. Of the 84 activities identified for implementation on a state basis, a total of 70 activities (or 83 percent) were identical to those identified at the national level.

In its development, seven additional indicators beyond those identified at the national level were added to the FMU level. These were:

- Length of cutting cycle;
- Areas of Protection Forests and Production Forests within the PFE;
- Establishment of forest plantations for wood production;
- Establishment of forest plantations for non-wood production;
- Availability of environmental assessment procedures;

- Expenditure budgets for forest management; and
- Expenditure budgets for forest administration.

A total of 191 management specifications have been formulated at the FMU level, of which 161 (or 78 percent) are identical to those formulated at the national level. This set of criteria, indicators, activities and management specifications for forest management certification formed the *first phase* of MTCC certification. They were initially used to certify three forest management units in Peninsular Malaysia, namely, the states of Selangor, Pahang and Terengganu, under the Malaysia-Netherlands Joint Working Group's (JWG) Pilot Study on timber certification in mid-1996.

MTCC Revisions

Between 1996 and 1999, the MC&I underwent several series of revisions. Under the coordination of the MTCC, the Forestry Departments of Peninsular Malaysia, Sabah and Sarawak agreed on a common set of C&I both at the national and FMU levels for the whole country in July 1999. Standards of Performance (SoP) for each of the Activities were identified at the regional level by the respective Forestry Departments of Peninsular Malaysia, Sabah and Sarawak in their regions in August, 1999. In the case of Peninsular Malaysia this entailed the refinement and/or addition to the Management Specifications of the MC&I formulated earlier in 1994. These regional SoP were then integrated into the draft MC&I for the whole country under the coordination of the MTCC in September, 1999.

The draft MC&I was then tabled at the national-level consultation held in October, 1999 where a total of 85 organizations and companies, representing interested parties such as the timber industry, social and environmental non-governmental organizations, trade unions, women's organization, academic/research institutions and government agencies, were invited to attend. A total of 111 participants representing 58 organizations, including two representatives from the Forest Stewardship Council (FSC) participated in the meeting. Through this process, Malaysia adopted a set of MC&I for forest management certification to be used in assessing forest management practices in all forest management units for the purpose of certification under MTCC's scheme.

MTCC started operating its certification scheme in October 2001. Under the timber certification scheme, MTCC as the timber certification organisation receives and processes applications for certification, arranges for assessments to be carried out by registered independent assessors, and decides on all such applications based on the reports of the assessors. MTCC also provides an appeals procedure, should there be parties not satisfied with its decisions.

The launching of MTCC was not well received by all parties. WWF Malaysia who accepted an invitation to serve on the Board of MTCC to help formulate a scheme to improve forest management, encourage conservation of biodiversity, solve social conflict and provide a credible guarantee of good forest management, resigned a day prior to the launching date. WWF's concerns were that (WWF Malaysia 2002):

- The standard used in the MTCC scheme is derived from agreements between the Malaysian Timber Industry Board (MTIB) and the Netherlands Timber Trade Association (NTTA) under the Malaysia-Netherlands Ad-Hoc Working Group. This standard was not developed through a duly established, multi-stakeholder consultative process, and emphasizes economic considerations while failing to adequately safeguard social and environmental conservation values;
- MTCC saw its scheme as being transitional but WWF Malaysia argued that this was not clearly demonstrated due to the lack of a work plan and timeline to progress from the current scheme to a standard compatible with the Forest Stewardship Council's requirements of process and substance.

Nevertheless, NGOs like WWF are of the opinion that the MTCC label is able, in principle, to provide a verification of legal compliance and a verification of legal origin. MTCC needs to strengthen its chain of custody requirements through the product supply chain to prevent the mixing of MTCC labeled products with products from unknown sources. In the absence of such strengthening, the concern remains over non-transparent tracking of illegal movement of Indonesian logs into Malaysia. Specifically WWF Malaysia is concerned about the products classified under the Minimum Average Percentage System (WWF Malaysia 2003b). There are no clauses or requirements to ensure that the non-MTCC source does not come from contentious sources like the conversion of High Conservation Value Forests (HCVF) and illegal materials. It is felt the absence of this requirement undermines MTCC's purpose of providing a credible market label on the legality of the MTCC labeled product.

MTCC has approached the implementation of its scheme phase by phase. Relevant concerns tabled by various stakeholders are adopted and MTCC has planned to use a new standard that has been developed based on the P&C of FSC. The development of this new MC&I involved broad-based consultation and consensus between social, environmental and economic stakeholder groups through several meetings of the multi-stakeholder National Steering Committee (NSC) and regional consultation held separately in Peninsular Malaysia, Sabah and Sarawak. These consultations were held in October 2002 where the representatives of all the stakeholder groups from the three regions met to finalise and adopt the national standard. An action plan has also been adopted towards the formation of an FSC National Working Group (NWG) as a new body to advance the work of the NSC. The NWG will develop a standard that will be submitted to the FSC for endorsement.

Seeking Mutual Recognition from FSC

The timber industry in the country has a choice either to apply for FSC certification that is perceived to be highly credible in Europe or apply for an MTCC certification. The timber industry utilizing logs for conversion into value added products for the export market require a certificate that is credible and recognized internationally. Hence, to meet the credibility demands for these markets, the MTCC needs to

develop a working relationship with the FSC, which is perceived to be the most credible scheme in Europe.

As the FSC requires the participation of environmental NGOs and indigenous peoples organizations in the working groups, representatives of these NGOs and indigenous peoples were invited to participate, and provided comments and critiques in the building of the MTCC scheme for over a year. Various issues and demands were put forward at the regional workshops covering Peninsular Malaysia, Sarawak and Sabah. However, there was insufficient response from MTCC and in July 2001, the indigenous peoples organizations and most NGOs withdrew from the process. The differences in visions were too wide. The MTCC is structured to find ways to sell timber while the Indigenous Peoples Organizations and NGOs are mandated to protect the forests and to secure the livelihoods and interests of indigenous peoples and local communities who live in, depend on and derive their spirituality and cultural identity from the forests (POASM *et al.* 2001 as quoted in Yong 2002).

Consequently the cooperation between the MTCC and FSC collapsed. The FSC is said to have strong social commitment. The MTCC felt that seeking the recognition of community land rights is beyond its scope. Recognition of such rights would require changes in state constitutions on land rights. MTCC felt that the Social Principle should not trump the Principle on Legal Framework of Local Conditions, which required that the state constitution on land matters should be followed. In Sarawak there are 28 ethnic groups staking claims upon customary land. The Sarawak Forestry Department takes a stand that 'custom' is not a law unless enacted in the State Constitution. The Majlis Adat Istiadat recognizes that each ethnic group has Native Code or 'adat'. According to the State Constitution, the Native Code is below the State land code. Local headman or 'penghulu' will resolve any land dispute at the community level. If this is not resolved, land disputes have to be resolved at the higher level State Land Code. Accordingly, as long as land conflicts are not resolved then FSC certification is in jeopardy.

When the negotiation for endorsement by the FSC stalled, the MTCC found that its global recognition waned. It has developed at least two strategies to ameliorate this: opening to the demands of the FSC and approaching the PEFC. According to MTCC, PEFC is a natural choice since it recognises national certification schemes. As a small national scheme, MTCC recognises the need to work with bigger schemes including both FSC and PEFC. At the moment, MTCC has not yet submitted membership to PEFC for endorsement but has the intention to do so possibly in 2006. MTCC feels that being a member to PEFC may be advantageous as PEFC adopts the concept of mutual recognition and MTCC can fall under its umbrella scheme.

In terms of obtaining mutual recognition of MTCC certification from FSC, it has proven to be a long and haggling process. Hence MTCC, in keeping to its phased approach, has announced, through its press release dated 26 August 2003, its intention to use the new standard entitled Malaysian Criteria and Indicators for Forest Management Certification [MC&I (2002)] which is based on the P&C of the FSC. There is a contention whether MTCC's intention of adopting the new standards is totally due to its phased approach or whether it has reluctantly altered its approach

in response to both indigenous NGOs and market pressures. Based on discussions with the MTCC and WWF, it appears to be a combination of both. It is a common practice in the country to introduce new rules and regulations in stages to allow more time for relevant parties and society to adapt to changes. But in this case, the process has been further enhanced by responses from NGOs and market forces.

The MC&I (2002) was finalised and adopted by consensus at the National-Level Consultation held on 28-30 October 2002 Kuala Lumpur. The MC&I (2002) is currently being field-tested, following which it will be refined to take into account the results of the field tests. A target date of January 2005 was set to start using the MC&I (2002) to assess all FMUs for the purpose of forest management certification under the MTCC scheme. The certificate for Forest Management awarded to applicants who have been found to comply with MC&I (2002) would carry a status of FSC compliance but not endorsement. In other words, technically FSC requirements have been complied but no endorsement from the organization would be implied.

THE REACTION TO CERTIFICATION

Indigenous People

The NGOs feel that a number of fundamental demands need to be addressed before any credible and effective certification scheme can be put in place. Many of these demands revolve around the decision-making process affecting the community's rights to customary lands and forests and include:

- The need for participatory, consultative, open, transparent and involved representation of all key stakeholder groups at all levels;
- Wide distribution of up-to-date and accurate materials and information in the local languages with appropriate visual forms to the communities and with sufficient time given for the communities to understand the issues before they can make a decision. The geographical distance and isolation of indigenous groups would have to be taken into consideration;
- Greater transparency in the communications between MTCC and various bodies such as Keurhout Foundation, Tropenwald Initiative (TI), Tropical Forest Trust, and Forest Stewardship Council (FSC) in relation to indigenous peoples;
- The demands that standards comply with the C&I of ITTO (Criteria 7.14 to 7.17) and with the FSC's Principles and Criteria (Principle 2 and Principle 3) on local forest and indigenous communities' legal and customary tenure or user rights (adat);
- The requirement that a Memorandum of Agreement between the villagers and FMU/concession holders on the Community Protocol be negotiated and signed. Further, when defining the boundary of village and FMU/concession areas, full involvements of indigenous peoples be required to certify and reassert their traditional village boundary;

- A request that the chair or facilitator of the National Steering Committee, Regional and National Consultations sessions, and associated meetings be an independent person to allow for balanced and neutral participation;
- A request for funding to facilitate travel and administration to ensure a wider participation by indigenous people and NGOs.

Owing to the inability of the MTCC certification scheme to meet their demands, indigenous people fear that their tribal lands may be signed off to logging concessions without their consent. They want their right to prior informed consent and to be able to use their customary laws. To them 'prior informed consent' means being told—with consent obtained—before national governments move in to delineate protected areas around sacred lands. They feel that they must do whatever is necessary to protect their resources at the local level, as they are not going to be recognised at the state, national or international level. The modern laws and competing private sector interests are alien to their traditional ways (Loh 2004a, 2004b)

Forest Owners

PITC, whose interests are to produce certified timber that is accepted internationally, have begun to seek additional certification other than MTCC. FSC program seems to be alternative certification program being sought after. PITC is also seeking ISO 14000 environmental management system standards.

NGOs

Despite the encouraging interest shown by the Malaysian Government and Malaysian companies in certification, NGOs reception is less encouraging. Environmental and social NGOs and community-based groups in Malaysia and abroad have argued that the MTCC certified 'sustainably managed' status of most of the states in Peninsular Malaysia is not credible. The FSC certified concessions are exempted from this concern.

According to WWF Malaysia (2003a), there are many different problems with the MTCC scheme, but the main concerns are:

- It does not give due recognition and acceptance of customary land rights, tenures and user rights of indigenous peoples and local forest communities;
- It was not developed through a due consultation process, and emphasizes economic considerations while failing to adequately safeguard social values and environmental conservation.

Industry

Because of the stalemate in getting recognition of FSC for MC&I, the Sarawak Timber Association (STA) began working on an initiative since the middle of 2003 to generate an interim chain-of-custody verification scheme. This initiative involves placing a mark on the timber and timber products of Sarawak. This mark is tentatively called

the “STA Stamp.” It is essentially a chain-of-custody system, a clear method of tracking the timber from logging to milling to export points. This mark will indicate that verification of legal status has been carried out by third-party assessors. The essential framework of the STA Stamp is a COC with particular emphasis on the legal status of the material being tracked. Third-party assessors, typically globally known accounting firms, add credibility to the system. The STA Stamp is a voluntary marking system for STA members.

Current Status of Forestland Certification

As of December 2003, MTCC has certified seven FMUs (Pahang State FMU, Selangor State FMU, Terengganu State FMU, Perak State FMU, Negeri Sembilan State FMU, Johor State FMU and Kedah State FMU) with a total of 2,310,567 ha. However, it should be noted that Terengganu State FMU was a reassessment and re-certification case after being suspended in November 2002. As mentioned earlier, certifying the whole state as an FMU is contentious but the Government and MTCC view on this has been elaborated. All these certified forests are ‘government owned’.

One concession area under Perak Integrated Timber Complex (PITC) with an area of 9,000 ha has also applied for FSC certification. It was assessed as complying and obtained its FSC certificate at the end of July 2002. Another concession area receiving an FSC certificate is the Deramakot Forest Reserve, Sabah involving an area of 55,000 ha in September 1997. This forest reserve was certified as being a “well-managed forest” adopting management concepts and practices in full compliance with the MC&I and hence the ITTO’s criteria and indicators for sustainable forest management as well as the FSC P&C (Gilley 2000).

None of the FMUs in Sarawak has been certified yet. But there are two projects – one bilateral and the other multilateral – being established. The Malaysian-German SFM project involving bilateral cooperation between the Sarawak Forestry Department and GTZ undertaken by the Samleng Group at Ulu Baram involving 170,000 ha of hill forest where a FSC certificate is being sought. The multilateral project is the MTCC-ITTO SFM project undertaken by the Ta Tau Group at Ulu Anap involving another 170,000 ha where the MTCC certification program is underway. The enabling conditions for both FSC and MTCC certification program have already been met with the enactment of the Sarawak Forest Ordinance, National Parks and Wildlife Ordinance and the establishment of the Permanent Forest Estate (PFE).

Current Status of the Certified Marketplace

The first shipment of MTCC-certified timber was exported in July 2002 to the Netherlands. According to MTCC, at the end of February 2004, 9,217 m³ of MTCC-certified sawn timber products had been exported to the Netherlands, Germany, Belgium, France and the United Kingdom. A number of authorities and companies have shown interest in accepting MTCC-certified timber products. For example, the Danish Ministry of Environment and Energy has included the MTCC scheme as one of the accepted schemes in its document entitled “Purchasing Tropical Timber: Environmental Guidelines” (Ismail 2004).

As of January 2004, 38 companies have received the MTCC Certificate for Chain-of-Custody (Ismail 2004). Certified sellers usually boost their market share because of the cachet of certified timber in eco-sensitive markets. Innoprise Corp, the state company in charge of logging the Deramakot Forest, has seen better efficiency and booming sales of its garden furniture to Germany since the project started in 1994 with German aid. Another concession, PITC is producing 12,000 m³/year on average from an annual coupe of 300 ha. The small volume is due to its relatively small concession area. According to its chief executive officer, market orders are brisk and the company is facing difficulty in meeting demand (Tan, personal communication, 2004). The number of companies receiving FSC COC certificates is not known.

EFFECTS OF CERTIFICATION

Power

The advent of certification has obviously shaken the power dynamics within forestry circles. Forest policy, authority and decisions over practices have always been the domain of the governments and forestry departments. The entry of FSC and other certification programs have introduced a 'threat' to this domination. The Government is intent on achieving SFM at its own determination, but certification has hastened the urgency. Hence, among other things, on grounds of patriotism and in keeping to the recommendation of the 1993 ITTO conference for all producer member countries to set up a certification scheme, the country established the MTCC to certify that the timber with the MTCC logo comes from sustainably managed forest. Despite the focus and determination to improve forest management practices, the MTCC scheme has found that NGOs have a strong influence on market endorsement.

NGOs have often questioned MTCC's ability to establish the necessary credibility to be an assurance of SFM. The issue of smuggling of timber from Indonesia has been raised as one of the major concerns for importing countries. The inability to reassure importing consumers despite the Malaysian Government's log-import ban on June 25, 2002 and subsequent announcement of efforts to increase its effectiveness is a further indication of the dynamics of the influence of global issues and of NGOs upon trade. The NGOs have demanded a higher level of transparency about the extent of illegal wood movement between Malaysia and Indonesia. It is a certainty that the Malaysian Government, and MTCC in particular, has to reckon with this power shift.

Social

Limited evidence of social effects of certification is available. Certified concessions have an obligation to take care of the interest of local residents. For instance, PITC has created two social programs in its effort to fulfill the third FSC principle on financial, socio-economic and legal considerations of indigenous peoples. Two programs were created to fulfill the elements of community and public involvement particularly on the employment from within the local and regional workforce and involvement of employees in community affairs.

The Orang Asli (or Indigenous Peoples) Program involves getting them employed as logging workers, even though there were no Orang Asli in the forest concession area initially, but living nearby. The Orang Asli proved to be the firm's most stable workforce. They were employed in various capacities including in pre-felling activities (such as timber tree survey and tagging), felling, and post-felling silvicultural activities. Eleven Orang Asli workers perform multi-function tasks involving logging road maintenance and tree surveying including reading using measuring equipments such as clinometers to determine a tree's height. Another eight workers perform specific felling operations like chainsaw attendance and pulling of cable to facilitate skidding operations. This program required on-the-job training of these Orang Asli workers, including inculcating a more disciplined work attitude. There was no discrimination against the Orang Asli workers and there was no wage difference between Malay and Chinese workers. The wage rate for a worker is RM30/day* [US\$1 = RM3.8] and an Orang Asli worker can obtain a monthly salary of about RM700 plus an amount for employment providence funds (EPF).

PITC also supports the Government's program to promote the involvement of local small and medium scale entrepreneurs in the wood-based processing industry. Under its Bumiputra Entrepreneur Development Program, three Bumiputra entrepreneurs involved in the manufacturing of furniture components were given priority in obtaining FSC accredited sawn timber supplies from PITC sawmills. This has enhanced the international trade opportunities of these Bumiputra firms.

Economic

In terms of market opportunities, for the few forest concessionaires having FSC certification, access to export markets have been brisk – so much so that some orders could not be met. Although the door of opportunity is opened, but with a limited annual allowable cut, only a limited volume of wood material can be processed and exported. For the moment, the surplus demand for certified material is fetching a price premium. This is the experience of concessionaires like PITC and Deramakot DFM project – a situation noticed by other concessionaires. Despite having an MTCC certification, KPKKT is seeking FSC certification as well as a means of getting more access into markets that demand it.

There are definite indications that firms obtaining FSC accreditation have received an economic benefit. Peninsular Malaysia has imposed a ban on the exportation of logs in a bid to encourage domestic processing and to meet local demand under a log-supply deficit situation. Any export of timber has to be processed. Hence, PITC is involved in the sawmilling industry and in sawn timber exporting. PITC exports sawn timber to niche markets requiring FSC labeled supplies. It has received sawn timber orders at prices with an average premium of 37 percent. These higher prices occurred due to direct ordering by international manufacturing firms. Hence, not all of the premium should be allocated to effects of certification. The higher premium was possible due to a transfer of the marketing margin that normally goes to traders or middlemen direct to PITC.

Prices quoted by buyers vary by destinations. PITC has exported to Germany, U.K. and Holland, with the German market offering 20 percent higher prices than the UK market. Currently PITC manages 300 ha producing an average yield of 40 m³/ha, a reduction from its previous production of more than 80 m³/ha from virgin forest and 60 m³/ha from previously logged forest. PITC has computed that at its increased production cost, the break-even point production has to be 30 m³/ha. The breakdown log production is 40 percent *Shorea* sp., 20 percent other popular or known species (such as keruing, merbau, kledang and kelat), and the rest from lesser-known species (LKS). The average price ranges from RM1,100/ton (RM611/m³) for *shorea* sp., to RM700/ton (RM389/m³) for other known species, to RM500/ton (RM278/m³) for the LKS.

As expected, firms obtaining forest certification have to incur incremental costs owing to compliance to additional forest management activities. PITC reported an average increase in direct production cost of about 15 percent to RM160/ton or RM89/m³. This is not inclusive of cost of pre-felling and post-felling activities. An International Tropical Timber Organization-Forest Research Institute Malaysia research project conducted in the MTCC forest certified compartment belonging to Kompleks Pengurusan Kayu-Kayan Terengganu (KPKKT) found that overall log production cost inclusive of pre-felling, felling and post-felling activities increased 50 percent to RM167/m³ (Mohd Shahwahid *et al.* 2002). But of course, this higher proportion is due to the comprehensive cost elements included such as on forest management and harvesting plans, pre- and post-felling inventory activities, incremental training to adhere to certification SoP and management activities including greater supervisions and inspections (not only by the contracted harvesting team and concessionaire but also by the Forestry Department as trustee of forest reserves).

The computed shares of the incremental costs are 11.9 percent by the Forestry Department, 23.5 percent by the concessionaire and 64.7 percent by the harvesting contractor. The incremental costs incurred by the contractors during pre-felling and felling activities are for salaries and wages, and material and machinery rental for excavators needed in road construction. The Forestry Department would incur incremental costs for supervisory and monitoring costs during tree marking and mapping operations and road design. The concessionaire's cost was mainly on salary and wages for supervision and monitoring. In complying with forest certification, there is limited evidence of changing effects upon annual allowable cut area but annual allowable volume was reduced.

Doubts exist whether the Selective Management System (SMS) could generate a sustainable forest at a 30-year rotation/cutting cycle. It should be noted that provisions exist in the "Guideline on the Determination of Cutting Limit from Pre-felling Inventory Information" to lengthen the cutting cycle in areas with less than 32 residual trees from 30-45 cm class by using the equivalent concept of trees in the 15-30 cm class. The cutting cycle can in fact be longer (between 30 and 44) years to ensure sufficient economic cut in the next cutting cycle.

Environmental

Certification has led to greater planning and monitoring of the environment. This assertion can be deduced from reviews of certification audits of forest concessions and responding comments from state forestry departments. Taking the case of the certification audit for the state of Trengganu, several activities were conducted taking environmental concerns into consideration (Terengganu State Forestry Department 2002). Although various forest plans were prepared, such reports had to be redrafted in response to certification audits to incorporate environmental and social concerns. For instance, the Forest Management Plans (FMP) were prepared following a new format whereby information related to the environment, community participation and social issues were considered as well. Mother trees and threatened or endangered trees were marked in areas to be felled. The requirement is that four mother trees be marked for every hectare of felling area. The 1:50,000 resource map is updated with markings of all illegal logging areas if such activity does in fact occur in or outside active logging licenses from information recorded in the Forest Offence Record Book.

Although previously buffer zones were reserved for primary rivers with free flowing water, the State Forestry Department is now willing to include buffer zones for seasonal rivers as well. To minimize environmental damage during road construction due to bulldozers, excavators are now being used as a replacement in cutting earth-works on sloping areas.

Further, state forestry departments have committed themselves to revise the License Closing Report to incorporate information related to environmental monitoring including information on area lost or destroyed after logging, the number and length of secondary/skid trails, and area of log yards.

CONCLUSION

Summary

Forest certification emerges from several initiatives including from direct initiatives of the states' forestry departments as trustees of PFEs, bilateral projects for sustainable forest management between the state forestry departments with international bodies, and direct interest from individual forest concessionaires. The FSC certification of Deramakot Forest Reserve is a typical bilateral project while the MTCC certification of forest management units in seven Peninsular Malaysian states is an illustration of direct support from state governments. The FSC certification of PITC forest concession is the case of a direct private sector initiative. As it stands certification is still at the growth stage in the country and there are no indications of path dependence.

The state governments and forestry departments of the three regions are all committed to supporting the certification program with a view that the program is voluntary and market driven. The belief is that the program could serve as a tool towards achieving SFM and in gaining market access. More and more concessionaires are

seeking certification in line with meeting the requirements of their customers. It is not appropriate to single out any particular group as championing certification in Malaysia. Various parties including national and international NGOs, governmental agencies, and international markets play their synergistic roles towards garnering domestic support for certification and in streamlining the national MTCC certification in its phased approach towards global acceptance.

Market forces, particularly from international customers' demand, have provided the necessary impetus for forest certification among concessionaires. The positive impacts of the certification drive can be seen from the primary stakeholders' acceptance and willingness to comply with SFM practices, albeit with appropriate supervision and regular inspection. It has provided hope that SFM is attainable. Certification has provided a new dimension in forest management. Forest management is no longer principally the domain of state forestry departments; nor does it revolve solely around the issue of sustainable timber production. Social considerations have to be taken into the picture and indigenous peoples concerns have to be taken on board. The negative impacts pertain to the difficulty of resolving issues on NCR land. It has been perceived that certification is encroaching into sovereignty rights of independent nations.

Compliance with certification rights also proved to be costly. Despite that, price premiums are obtained by FSC certified concessions that are currently trading certified timbers on a limited scale. It is not certain that such advantage in price premium could be sustained once sizeable areas are certified. Similar circumstances for MTCC-certified FMUs have not been reported.

Owing to the need to comply with principles, criteria, indicators and standards of performance, forest management of PFEs has become more systematic, transparent and sensitive to accepted international trade practices. The requirements of the COC have made the country more conscious on controlling illegal logging. Certification has made concessionaires more aware of international customers' requirements for timbers from well-managed forests. This has indirectly disciplined harvesting crews in certified concessions. Certification has not tackled the conversion of state land forests that are earmarked for development projects. It is not appropriate in this paper to make any conclusion on this specific matter as the Government has its own development master plan.

Roadblocks and Challenges

There are various roadblocks and challenges to certification. Since the draft MTCC 2002 standards are closely aligned to the FSC (Maynard, personal communication, 2004), the main barrier is not their content but more their procedural aspects, especially on the consultative processes. The main challenges gravitate around the recognition of the rights of the indigenous peoples, land and forest disputes, the lack of consensus among the social groups, and the inability of obtaining mutual recognition of MTCC certification program from FSC.

Indigenous People

Obtaining the approval of NGOs forms the biggest roadblock and challenge to obtaining endorsement by FSC of MTCC certification scheme. These NGOs continue to reiterate the rights of indigenous peoples to customary lands and forests and livelihoods of the people who live in and around the forests. Many NGOs who had agreed to participate in the stakeholder consultative processes felt that the MTCC was not able to resolve critical “stakeholders” issues. Various meetings and workshops gave little room for real dialogue and they felt their presence might be used to legitimize indigenous and local forest communities’ participation in the process.

The NGOs have withdrawn their involvement in the MTCC/MC&I process until their concerns and demands are on the way to being met. These NGOs, community-based organizations and Indigenous Peoples’ organizations do not endorse the MC&I as currently proposed by MTCC. The main issues in contention included:

- The encroachments of FMUs, Protected Areas and logging concessions into the community’s forest areas takes away or restrict the community’s ownership rights, user rights and access to resources. Many of these areas are still being disputed because they are either part or the whole of the NCR lands/forests of the communities and individuals within the community.
- The concept and process of SFM as enforced through legislation and forest management plans are different from communities who see SFM as a means to ensure the continuity of forest resources for food, medicines, other daily needs and inheritance to the future generations.
- Indigenous peoples have particular rights to land and use of forestland, which is different from other forest users. There must be due recognition and respect for indigenous values, knowledge and practices related to forestland.
- Indigenous peoples, particularly forest-dwellers (e.g. Penans and Bhukets of Sarawak or the Orang Asli Batek and Jahai), are not “just another stakeholder” in forest management. They are the rightful stewards of the forest and thus there must be protection of their way of life.
- Involuntary relocation of villages in the FMU results in the loss of ownership and user rights. Further, governments and development agencies often make decisions to move the communities without consulting them first, resulting in further impoverishment of the communities.
- Participation of indigenous and local forest communities must not be limited to just a few appointed leaders or members of the community. The entire village must be informed, consulted and involved in decision-making processes in order to have meaningful participation before they give their informed consent to the planning or implementation of development on their land or forest areas.

Land and Forest Disputes

Land and forest disputes between the communities on the one hand, and the government, logging concessionaires and licensee on the other hand, are serious especially in Sarawak where there are greater number of communities living in the forests (Malaysian NGOs Position statement, October 1999). Workshops on Community Consultations on Forest Certification (February–April 2001) proposed that the way to accord legal recognition and protection to native customary rights (NCR) over land for the Sarawak indigenous peoples is to amend the laws on land, in particular Section 5 of the Sarawak Land Code.

The concern is about the full recognition of NCR over land of the Orang Asli of Sarawak as well as Sabah and Peninsular Malaysia, in accordance with the native laws and customary practice of the particular native community occupying that land and that native customary rights over land shall not be extinguished or terminated without the consent of the natives or unless the natives have voluntarily surrendered, after full information, such rights.

Lack of Consensus

The formation of a Multi-Stakeholder National Working Group into three or four different sectors is not working well since they are not working towards a common goal of SFM but instead promoting their own interest. There has been no consensus on proceeding with four “chambers” involving representatives from social, environment, economic and direct resource manager interests. Yet the MTCC and NSC are currently proceeding along this path. This is a source of major disagreement.

There is also a rift between the aspirations of members of the Social Group. The potential for the Social Group to reach consensus is difficult as the workers’ union has conflicting interest with community organizations within the group. According to the NGOs, the union representatives have demonstrated inflexibility and lack of openness to indigenous peoples’ concerns. To make matters worse, representatives of community organizations question the union’s legitimacy to be within this group and thus need clarification on their position and interests.

FSC Endorsement

Malaysia through the NTCC approached the FSC as early as 1999 to work together on timber certification. FSC does not support mutual recognition of MC&I. Instead Malaysia has to adapt its P&Cs to obtain FSC endorsement/certification.

Further, FSC has several reservations with the MC&I for SFM (Synnott, quoted in Gilley 2000). These reservations particularly include two points (Gilley 2000):

- Rights for workers and indigenous peoples;
- Better forest management.

The rights of workers and indigenous peoples is a foundation of the environmental groups that make up the FSC, many of which started by protecting

people dispossessed by the forestry industry in Central and South America. The FSC wants Malaysia to entrench more legal rights for workers and indigenous peoples on issues such as compensation and consultation. The Malaysian agencies felt that their own system is adequate, and like other timber-producing countries, sees such demands as an encroachment on its national sovereignty.

Despite the lengthy and repeated explanations by MTCC, the indigenous community rejected the MTCC with endorsements from 59 communities, 80 villages in Sabah and 114 longhouses in Sarawak (John 2004).

With respect to SFM, the FSC wants changes in areas such as removing felled logs from forests using overhead winching to on-the-ground dragging and efforts at protecting ecological diversity.

Future Developments

The Malaysian government is committed to ensuring that MTCC certification remains relevant and globally accepted. The current popular certification scheme globally is FSC. These two schemes are expected to remain important in Malaysia. With the MTCC certifications sanctioned by the government and the FSC recognized by customers, it is anticipated that concessionaires may have to seek both certifications. In Peninsular Malaysia, concessionaires who obtain long-term harvesting rights from the Forestry Department would have to comply with its request to obtain MTCC certification. At the same time, in compliance with requests from customers, these concessionaires would have to seek FSC certifications.

NGOs and indigenous peoples' concerns over recognition due the customary land rights, tenures, and user rights of indigenous and local forest communities, and interests over adequacy of social value safeguards and environmental conservation, are expected to take centre stage over FSC recognition of the MTCC certification program.

Owing to the above stalemate, the private sector may be impatient and might seek alternative approaches while waiting for the recognition of the MTCC certification program. The concessionaires would need an interim program that, if subscribed, would show strong commitment towards fulfilling FSC requirements. Such a support program should be temporary in the run up to full certification compliance to any of the recognized programs. One support program is WWF's step-wise approach towards credible certification and wood tracking for legal verification of origin of the wood material based upon the Global Forest Trade Network (GFTN). In Malaysia one of the service providers is Global Forest Services (GFS), which has designed their forestry programs to meet the requirements set by GFTN.

Future Research

Further research has to be conducted to advance understanding of forest certification and its impacts in Malaysia. Considering the important role that government has in the development of forest certification and how it managed change and built on the decision making process, an obvious research topic is the role of government.

Government involves multiple agencies and functions, be it policy or implementation. It is important to identify specifically the different agencies involved and the functions they play. An understanding of government agencies' motivations and basis of action would go a long way in understanding the way they behave. To be meaningful, there is a need to engage in empirical assessment using testable hypotheses.

Another interesting issue is that certification involves a long supply chain involving many parties. It is necessary to analyze the political and socio-economic structure all along the supply chain to understand why certain decisions are made.

Finally, certification involves cost and contributes to various impacts. It is interesting to observe the incremental and full cost of a certification program at the firm and country levels. A cost-benefit analysis could be conducted on forest certification programs in the country to obtain a better understanding of the impacts for various parties and along the supply chain.

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ACRONYMS

AAC	Annual Allowable Cut
C&I	Criteria and Indicator
CMSTFM	Criteria for the Measurement of Sustainable Tropical Forest Management
EMS	Environmental Management System
FMP	Forest Management Plan
FMU	Forest Management Unit
FSC	Forest Stewardship Council
FSCNWG	FSC National Working Group
GFS	Global Forest Services
GFTN	Global Forest Trade Network
HCVF	High Conservation Value Forests
ITTO	International Tropical Timber Organization
KPK	Kumpulan Perakayan Kelantan
KPKKT	Kumpulan Pengurusan Kayu-Kayan Terengganu
MC&I	Malaysian Criteria and Indicators
M-GSFMP	Malaysian-German Sustainable Forest Management Project
M-NJWG	Malaysia-Netherlands Joint Working Group
MR	Mutual Recognition
MTCC	Malaysian Timber Certification Council
MTIB	Malaysian Timber Industry Board
NCR	Native Customary Rights
NGO	Non-Governmental Organization
NSC	National Steering Committee
NTCC	National Timber Certification Council
NTTA	Netherlands Timber Trade Association
P&C	Principles and Criteria
PFE	Permanent Forest Estate
PITC	Perak Integrated Timber Complex
RAP / CoC	Requirements and Assessments Procedures of Chain-of-Custody Certification
SFM	Sustainable Forest Management
SMS	Selective Management System
SoP	Standards of Performance
STA	Sarawak Timber Association
TI	Tropenwald Initiative
UNCED	United Nations Conference on Environment and Development
WPSNFM	Working Party on Sustainable Natural Forest Management
WWF	World Wide Fund for Nature