



**RECORDS OF DISCUSSION:
SABAH'S FLEGT TLAS 2ND STAKEHOLDER CONSULTATION MEETING**

DATE : 27th FEBRUARY 2013
TIME : 8.00 A.M. – 5.00 P.M.
**VENUE : MING GARDEN HOTEL & RESIDENCES,
KOTA KINABALU, SABAH.**

ATTENDANCE

List of attendance is as per Annex 1.

1.0 INTRODUCTION:

This second Stakeholders Consultation Meeting on Sabah's FLEGT TLAS was organized as a follow-up of the 4th Joint Expert Meeting (JEM) which was held on 22 – 25 January 2013 at the Sabah Forestry Department, Sandakan.

2.0 OPENING REMARKS BY THE DEPUTY DIRECTOR OF SABAH FORESTRY DEPARTMENT

- The Chairman, Mr. Frederick Kugan, the Deputy Director of the Sabah Forestry Department welcomed all the participants to the Sabah's FLEGT TLAS 2nd Consultation Meeting and thanked all the participants for their support and cooperation in the formulation of the Sabah's FLEGT TLAS document.
- He gave some updates on the FLEGT VPA implementation and the transfer of powers from MTIB to Sabah Forestry Department (FDS) with regards to the export and import of timbers/logs, as follows:
 - FLEGT VPA implementation
 - VPA may not be signed or concluded. However in the meantime, Sabah will continue to promote Sabah's FLEGT TLAS.
 - Compliance audit is scheduled to be conducted in April by an appointed third party auditor and based on the revised Sabah's FLEGT TLAS document.
 - Certificate will be issued once audit has been done.
 - Mooted the proposed issuance of MyTLAS Sabah certificate as an interim measure to prepare for VPA implementation and also in support of the Due Diligence which is required by the EUTR starting from 03 March 2013.
 - A series of follow up consultations with stakeholders will be conducted before the commencement of the audit between mid-March and early April for P5 & P6 (including P1 to P4) and to inform members of relevant industries on the scope of audit.
 - Transfer of powers
 - The effective date for the transfer of powers on matters related to export and import of timbers/logs from MTIB to FDS which was tentatively scheduled on 1st March 2013 has been deferred to 1st May 2013.

- A Technical Working Committee meeting will be held on the 1st of March 2013 to iron out technical issues to ensure a smooth transfers. An update on what the industry should expect will be made upon conclusion of the Technical Working Committee's recommendations.
- The Chairman requested that all participants of the second stakeholders consultation meeting to have a closer look at the revised Sabah's FLEGT TLAS document which was revised based on the 1st stakeholder consultation meeting and JEM's recommendation. The Chairman hoped that the document can be finalized and accepted by all stakeholders. The outcome of the consultation meeting will be presented in the Fifth Expert Meeting (JEM) between Malaysia and the EU scheduled on the 12th – 14th March 2013.
- He concluded his welcoming remarks by calling upon Mr. Roslan Junaidi of the FDS to present the amendment and revision of the Sabah's FLEGT TLAS document.

3.0 PRESENTATION BY HEAD OF FLEGT UNIT ON THE AMENDMENTS FOR THE REVISIONS OF THE SABAH'S FLEGT TLAS DOCUMENT

- The presentation was made to highlight the amendments for the revision of the Sabah's FLEGT TLAS document after the 1st stakeholder meeting and the Fourth Joint Expert Meeting on 22nd – 25th January 2013. A copy of the presentation was distributed during the stakeholders meeting.
- The changes were classified as major and minor revisions. Major revisions involve mostly on improvements such as reconstruction of the whole tables, including reclassification of principles, deletion of table or addition/deletion of content of the tables. On the other hand, minor revisions involve rephrasing, rearrangement or addition/deletion of a few contents of the tables. A total of six (6) tables have undergone major revisions with the rest are only minors. Four new (4) tables were developed.
- After the 1st stakeholder's consultation meeting, the Sabah's FLEGT TLAS document was revised and comprising of 22 tables. After the fourth JEM, the document was again revised and consists of 23 tables.
- The meeting was requested to discuss relevant tables with major revisions for a speedy discussion before going through tables with minor revisions and new tables.

4.0 DISCUSSION ON SABAH'S FLEGT TLAS DOCUMENT

4.1 PRINCIPLE 1 - RIGHT TO HARVEST

4.1.1 Table 1 : Approval of harvesting area

The following were highlighted and amended in Table 1:

- A question was raised whether Table 1 covers planted rubber tree from alienated land (AL). It was clarified that Table 1 only covers natural timbers.
- There was a suggestion to use either U.K. English or U.S English in the documents, and to polish the wordings/sentences accordingly.

- Since the letter of approval will be issued from various authorities, it was suggested that it would be more appropriate to mention "Letters of Approval" instead of "Letter of Approval" under the Output.
- The matter on "gazetted water catchment" was raised and the meeting was informed that there is no document available to proof the gazette notification of water catchments throughout Sabah. In view of that, it was suggested that "gazetted water catchment" be replaced with "designated water catchment" under the verification procedure (iii).
- Issue on how SUHB chooses "eligible applicant" was raised and it was clarified that the verification procedure will not go into the details and allow the higher authorities the prerogative to make the decisions.
- Under Legislative Reference: Rearrangement of the sentence "Sabah Land Ordinance (Cap 68)..." to "Land Ordinance (Sabah Cap. 68)..."
- Under criterion: "SUHB" was added as an abbreviation to Secretary of Natural Resources for consistency.
- Under the Sources of Timber (heading), the sentence "short term license" was added for more clarity and consistency with the other tables for the above criterion.

4.1.2 Table 2: Approval of harvesting area (SFMLA/LTLA)

This is a new table which was developed in accordance to the EU expert comments during the Fourth JEM. The table was adopted with no changes. The followings were highlighted in the discussion of Table 2.

- The meeting was informed that if an area for harvesting is not completely logged within a prescribed year, it will be brought forward to the next AWP.
- It was suggested that, as a matter of consistency, the type of license in the sources of timber in Table 2 should also be applied to Table 1.
- It was explained that SFMLA and LTLA were included in the sources of timber since both are long term licenses with different conditions.

4.1.3 Table 3: Approval of harvesting area (FDS own managed area)

This is a new table which was developed in accordance to the EU expert comments during the Fourth JEM. There are no significant changes to the table except for the following:

- Under verification procedure: the sentence "[Deputy Director (Forest Management Enterprise)]" was added to the abbreviation of TP (FME).
- Under Output: the sentence "Director of Forestry" was added to indicate the authority issuing the letter of approval.

4.1.4 Table 4: Issuance of harvesting license/ or coupe permit

No changes/amendments were proposed for this table.

4.1.5 Table 5: EIA requirement

Several changes were made as follows:

- Under sources of timber: The sentence "Including ITP timbers" was added since EIA is also applied for ITP.
- There was a suggestion that documents showing the protected areas must be made available by the relevant authority. EPD will provide the definition of the protected areas.
- A new criterion was added, i.e. "The licensee/land owner has an approved EIA from the Director of EPD for forest related activities involving removal of timber involving an area of 50 ha and above adjacent to any protected areas" in replacement of the present (third) criterion "The licensee has an approved special EIA for sensitive areas".
- Under Legislative Reference: Section 37 of the Enactment Protection Enactment 2002 was removed since this section is not relevant. The sentence "Prescribed activities" and year "2012" was added in replacement of the year 2005.
- Under verification procedure (ii) Rephrased "EIA report/PMM" to "EIA/PMM report", and added "submitted by a registered environmental consultant" to replace the "proposed by a registered consultant", and added "AEC" for abbreviation of Agreement of Environmental Condition and "MD" for abbreviation of Mitigation Declaration.
- Under verification procedure (iv) "AEC/MD" was added to replace "Agreement".
- Under frequency: The sentence "on any area upon receipt of complaint for serious non-compliance verified from the ECR" was added to replace the sentence "every four months based on the consultant's recommendation".
- Under Output: A new output "Letter of Compliance issued by EPD" was added, the sentence "towards..." in the third output was deleted and replaced with the sentence "on the..." and "...s" was added to the sentence "Environmental Condition".

4.1.6 Table 6: Harvesting Plan

The followings were highlighted and amended in Table 6:

- There was a question as to whether the legislative reference documents are available for public. It was clarified that all relevant documents will be made available and will be uploaded in the relevant website for public domain.
- There is a recommendation in regards to the RIL Operation Guide Book that should there be any amendment or changes in the current guide book it needs to be reflected or to have references. It was clarified that the RIL Operation Guide Book which is currently being used is the latest edited version – Third edition 2009.
- A question was raised on whether CHP compartment needs to be fully recognized. In view of this, timbers from compartment without CHP may not be able to enter the supply chain.
- The meeting was informed that there is an existing RIL audit which is being conducted by a third party auditor for the compliance of CHP. The meeting took note of the various levels of readiness to implement RIL amongst the logging operators.
- The "bracket" on the legislative reference needs to be revised whether to use square or round "bracket" and it needs to be consistent throughout the documents. It was clarified

that this matter to be sought out with the State Attorney General (AG) on which "bracket" is more appropriate to be used in the Sabah's FLEGT TLAS document.

- Under Verification Procedure: The sentence "DoF issues approval" was added to reflect the authority issuing the document listed in the Output.

4.1.7 Table 7: Area demarcation for outer boundary of harvesting licence area.

A few changes were made to Table 7 as follows:

- Under Criterion: the sentence "Registered Survey Paper" was added to the abbreviation of RSP.
- Under Legislative Reference: The sentence "Sabah Land Ordinance (Cap 68)" is rephrased to "Land Ordinance (Sabah Cap. 68)", and the year "1958" was deleted for consistency.

4.1.8 Table 8: Forest Inventory

No changes/amendments were proposed for this table.

4.2. PRINCIPLE 2-FOREST OPERATION

4.2.1 Table 9: Control of harvesting operation

This is a new table which has been developed in accordance to the EU Expert comments in the Fourth JEM. The followings were highlighted and amended in Table 9:

- A question was raised whether wood residues from salvage logging requires serial number. It was clarified that all logs including wood residues need to be incised with serial numbers.
- Under criterion: the sentence "EIA" was deleted and replaced with the sentence "AEC/PMM".
- Under legislative reference: Section 37 of the Environment Protection Enactment 2002 was deleted since it is not relevant.
- The frequency need not be listed for every procedure thus has to be deleted. Instead, it has to be generalized for consistency.
- The table should consider on the ground people with different competency should be absorbed.
- Matters were raised on the requirement of RIL certified workers in harvesting operation. The meeting was made to understand that it is quite difficult to comply with the requirement, for instance, RIL certified tree feller. Since not all tree fellers are RIL certified, this will lead to non-compliance. It was clarified that the requirement for specific skills in harvesting is outlined in the RIL Operation Guide Book. Institute Perhutanan Sabah (IPS) is currently conducting specific training for workers to improve their skills in accordance to RIL techniques. For instance, training for supervisor will be carried out for two months and certificate will be issued upon completion of training. The training is conducted in the IPS or onsite.

- It was further clarified that the Sabah Forestry Department (FDS) has given the licensee ample time since 2000 to train their workers. Therefore this requirement has to be complied without failed. FDS presently has a RIL panel for non-compliance whereby if a worker is not RIL trained, the licensee can be penalized up to RM10,000.

4.2.2 Table 10: Control of timber production (Form IIB)

The followings were highlighted and amended in Table 10:

- A question was raised on whether this table includes rubber wood from small holders. It was explained that this table does not include rubber wood or any planted trees that are extracted from alienated land. Rubber wood is covered in Table 11 under the ITP (SL&AL). However, rubber wood is not specifically mentioned as the table covers any kind of planted tree species.
- It was suggested that wild acacia be included in the TLAS document.
- The representative of PROTEM informed the meeting that in Peninsular Malaysia, small holder lands do not have land title, only a letter of confirmation of land ownership. There is a suggestion that a clarification on small holder and plantation be made and these be indicated in the table. It was clarified that these were indicated by land status under the sources of timber.
- Under criterion: "letter/agreement..." was added to be consistent with the documents stated in the output.
- Under legislative reference: The sentence "Sabah Land Ordinance (Cap 68)" was rephrased to "Land Ordinance (Sabah Cap. 68)".
- The sentence "Timber Disposal Permit" was added into the verification procedure (v) and an abbreviation "(RP)" was added into the verification procedure (vi).
- Under output: The output "evidence of land title (ownership and example)" was deleted and replaced with "evidence of ownership (land title and other documents)".

4.2.3 Table 11: Control of timber production PF, SL & AL (ITP)

The followings were highlighted and several amendments were made in Table 11:

- The meeting was informed that although the table currently covers logs extracted from SFI, a similar procedure will also be applied for other land owner in future.
- Under criterion, the sentence "...or volume" was added into the last bullet of the criterion since some of the logs extracted are weighed and royalty assessed based on volume. It was explained that for weighed logs, volume is determined either by tonnage or cubic meter (converted through local conversion factor).
- Under criterion: the sentences "Registered Logging Contractor" and "Quarterly Progress Report" were reworded and "Plywood" was added in.
- The sentence "Including relevant government agencies" was added into the criterion under the ITP (SL/AL) and the verification procedure (i) under ITP (SL/AL) to reflect the

sources of timbers from land developed by the government agencies such as FELDA, FELCRA, SAFODA, LIGS, SLDB, etc.

- The meeting was informed that the EIA requirement was added into this table in accordance to the EU requirement highlighted during the Fourth JEM.
- Representative from STIA highlighted the problem of rubber wood that requires a speedy issuance of required permit for removal since the delay would be detrimental to the rubber wood quality.
- It was explained that the procedures could be improved but shall not exempt timbers from TLAS compliance.
- The Chairman recalled that from the 1ststakeholders consultation meeting, the representative from STIA had been requested to propose a simplified procedure for rubber wood extracted from small holders' areas. In this regard, it was explained that the procedure could be simplified but the industries would have to submit a proposal to the Sabah Forestry Department before the next JEM which will be held on 12 – 14 March, 2013.
- Under the verification procedure: The sentence "SFI" and "SAFODA" were deleted since the procedure is applicable to other ITP areas.
- The frequency listed under every procedure be deleted and be generalized for consistency.
- A suggestion was made that under the output, the sentence "applicable to PF and any other area" be added since it was informed that Quarterly Progress Report is only applicable to areas within Forest Reserve and other selected areas (SL).
- The representative form EPD informed that the Department has never issued any certificate for EIA compliance. Hence, the "EIA compliance certificate" under output was deleted and replaced with "Letters of Compliance issued by EPD".

4.2.4 Table 12: Log transportation [PF, SL & AL (excluding ITP)]

The table was adopted without any amendment.

4.2.5 Table 13: Log transportation [PF, SL & AL (ITP)]

The table was adopted without any amendment.

4.2.6 Table 14: Workers safety and health

The followings were highlighted and a few amendments were made to Table 14:

The sentence "...at least once a year..." was added to replace the sentence "... based on regular basis" in the frequency under Department of Labor verification procedures.

- It was suggested that the protective clothing mentioned in the criterion needs be specified. However, it was clarified that the protective clothing is clearly described in the RIL Operation Book. It was further clarified that it is a requirement in the RIL Operation Book. In addition, the Forestry Department itself has a SOP for this requirement which is being enforced.

4.3 PRINCIPLE 3–STATUTORY CHARGES

4.3.1 Table 15: Statutory Charges

The table was adopted without any amendment.

4.4 PRINCIPLE 4–OTHER USERS’ RIGHT

4.4.1 Table 16: Community benefits and rights to occupy and use

The followings were highlighted and several amendments were made in Table 16:

- The meeting was informed that previously there was only one table created for this principle. However, after the Fourth JEM, two tables were developed for this principle after taking into consideration the EU Expert comments. Table 16 only covers area within Forest Reserve. It was also informed that the occupational permit and Domestic Forest Reserve Class III which were previously listed in the criterion were taken out since it is no longer relevant. The table only includes the community benefit and rights to occupy and use within the harvesting area.
- It was further clarified that users’ right refers to the use of the area concern by the community, whether for livelihood or economy. In the Social Baseline Survey (SBS), these elements are raised or covered in the questionnaire. Thus, SBS is sufficient to reflect the impact assessment unless Social Impact Assessment is to be imposed. Impact assessment therefore is not necessary to be included in this table since the table only discusses users’ right.
- The meeting agreed that the Impact Assessment is to be deleted since it is unclear how the assessment is carried out, what is the criterion used, and what is the acceptable level or the national level assessment threshold.
- The representative of the Kadazandusun Community Association (KDCA) highlighted that the participation of community is not reflected in the table. It was suggested that “face to face consultation for community in Sabah” be reflected in the verification procedure. It was clarified that community is consulted during the SBS conducted by licensees.
- There was a question on who approves the SBS. It was clarified that the licensee conducts the SBS and the report is to be approved by the Director of the Sabah Forestry Department. The results of the SBS are also incorporated into the Forest Management Plan (FMP).
- Under frequency: the word “natives” was replaced by “community” to be consistent with the word community used in the criterion.
- Under output: “Social baseline Survey report” was added into the output. “Record of consultation with community” was also added into the output as well to reflect the consultation with the community.

4.4.2 Table 17: Users’ Right by Natives

The followings were highlighted and several amendments were made in Table 17:

- The representative of the KDCA proposed to add the sentence “traditional genetic resources, wild food & beverages, traditional medicine, material medica & spiritual plants

for domestic use” into the criterion (vii) as an additional information to elaborate the common benefits mentioned in criterion (vi) and to strengthen the document and as a respect to the natives as well. For instance, the use of cinnamon tree combined with ginger can mitigate cancer for the benefit of native inhabitant of an area. However, it was clarified that it is inappropriate to add this into the criterion since the table only focuses mainly on those relevant to use of timbers. In addition, the Sabah Forestry Department has never issued Form IIA for removal of traditional medicine. The rest of non-timber forest produce (NTFP) uses will be tackled in separate forum. Further to that, it needs to include the relevant legislative references and to add responsible agencies. Nevertheless, it will be discussed in the JEM whether to include NTFP in TLAS.

- The meeting agreed that the sentence “including for traditional medicine purposes” be added into the criterion (vi) to cover the uses of non-timber forest produce by natives.
- The word “...leases” under the criterion, the verification procedure (ii) under state land and the output was deleted and replaced with “license”.
- Under legislative reference: the “Sabah Land Ordinance (Cap 68)” was rephrased as “Land Ordinance (Sabah Cap. 68)”.
- “Interpretation (definition of native) Ordinance Cap. 64” was added into the legislative reference as a document for interpretation of natives.

4.5 PRINCIPLE 5 -MILL OPERATION

4.5.1 Table 18: Issuance of mill license and conditions for operation.

The table was adopted without any amendment.

4.5.2 Table 19: Workers’ safety and health

The meeting was informed that since Malaysia has not ratified to the International Labor Organization (ILO) Convention, this table is only confined to safety and health issues. The table was accepted without any changes.

4.6 PRINCIPLE 6 -TRADE AND CUSTOM

4.6.1 Table 20: Export regulation

The followings were raised and amended in Table 20:

- A question was raised whether moulding includes furniture and joinery. It was clarified that this table covers only products imposed with royalty. Furniture is not mentioned as it is free from royalty payment.
- Under legislative reference: “... (Prohibition of Export) Order 2008” was rephrased to “...Order (Prohibition of Export) 2008”.
- There was suggestion to add “random” after “...10%” under verification procedure because logs or timbers are not in the running number due to stacking.
- Pulp and paper is not mentioned as it is free from royalty payment.

- The used of CD2 Form for timber products as mentioned in Table 20 will be further discussed with the Royal Malaysian Custom (RMC) as currently only K2 chit is used which is generated by the company. CD2 form is no longer used. While waiting the request for CD2 to be maintained for timber products, as a matter of consistency, it was decided that CD2 in the TLAS document be maintained. CD2 which is also referred to as K2 is the same document.

4.6.2 Table 21: Import regulation

The following changes/clarifications were made:

- Under criterion: the word "import" was added in replacement of the word "export" as this table is for the import regulation, "FDS" was also added into the criterion.
- The sentence "company intending to import timber must be registered with FDS as an importer" was deleted from the criterion.
- Under legislative reference: "...(Prohibition of Export) Order 2008" was rephrased to "...Order(Prohibition of export) 2008".
- The suggestion to add "random" after "...10%" under verification procedure as logs or timbers are not in the running number due to stacking was accepted.
- Under output: the sentence "company ROC certificate and trading license" was added to reflect the requirement for company registration listed in the criterion.

4.6.3 Table 22: Transportation of imported logs, sawn timber and veneer

The table was accepted without any amendment.

4.6.4 Table 23: Timber from Sarawak

The following changes/clarifications were made:

- Under verification procedure: The sentence "Custom Declaration Form" was added to the abbreviation of CD3 in the verification procedure (i).
- The representative from RMC clarified that the movement of timbers or any goods from different regions, e.g. from Lawas through Sipitang have to be declared with custom under CD3.
- The movements of any goods within Sabah or any other part of Malaysia are also considered as port carriers and have to be declared using CD3.
- Imported goods from Labuan and Langkawi are considered goods outside from Malaysia.

5.0 THE WAY FORWARD

Mr. Frederick Kugan briefly recapped on what had been discussed in the consultation meeting and outlined the way forward for Sabah TLAS as follows:

- The discussions are recorded and will be distributed to all.

- The revised documents will be further revised based on the outcome of the consultation meeting. The document will be tabled in the Fifth JEM on 12 – 14 March.
- Compliance audit will be implemented in April.
- Discussions with industry sectors will be continued and enhanced.
- The TLAS documents will be made available to all stakeholders in public domain.
- SFD will look into the resources required to undertake compliance audit with potential donors.
- SFD will discuss with the industry regarding the cost of the successive audit at a later stage.
- Before the implementation of compliance audit, guidelines to be used for the audit will be discussed and decided. Principles 1 to 4 will be based on the previous TLAS audit with further revision.
- Acceptable TLAS audit compliance level will be up to the committee level to decide. In Sabah, the level of acceptable compliance level is 70 %.

6.0 A.O.B

- The Sabah Forestry Department (SFD) will take further action on the issue of pulp and paper as whether to include this product in the product list.
- SFD will need STIA to submit proposal on simplified procedure for small holders before the Fifth JEM.
- WWF proposed that EU to have a session with the stakeholders particularly the industry players, in regards to the latest development related to Due Diligence and EUTR.
- Notice of JEM will be prepared by the ministry concerned and the Programme will be informed to stakeholder.
- The National Consultation meeting will be held on the 28th March 2013 at the MTIB, KL. All participants are invited. Sabah will present its TLAS document. There is strong request for all NGOs to attend the National Consultation meeting.
- All participants of the second Sabah's FLEGT TLAS stakeholders consultation agreed to all the outcomes of the meeting.

As concluding remarks, Mr. Frederick thanked everyone for their attendance, cooperation, active participation and the cordial environment in the consultation meeting. Having no matters to be discussed, the consultation meeting was adjourned at 5.00 p.m. on the 27th February 2013

Recorded by:
 SECRETARIAT
 FLEGT UNIT, SFM DIVISION
 SABAH FORESTRY DEPARTMENT