

Trading in Credibility

The myth and reality of the Forest Stewardship Council



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Acronyms used in the text

AMAN	Aliansi Masyarakat Adat Nusantara, Indigenous Peoples Alliance of the Archipelago (Indonesia).	IUCN	International Union for the Conservation of Nature
BRIMOB	Brigade Mobil, Special riot police force deployed in domestic security and defence operations (Indonesia)	KPH	Kesatuan Pemangkuan Hutan, Forest / Plantation Management Area on State land in Java, Indonesia
CAR	Corrective Action Request	LEI	Lembaga Ekolabel Indonésia, Indonesian Ecolabelling Institute
C&I	Criteria and Indicators	MC&I	Malaysian Criteria & Indicators
C&L	Coopers and Lybrand	MoU	Memorandum of Understanding
CFPC	Certified Forest Products Council	MR	Mutual Recognition
CITES	Convention on International Trade in Endangered Species	MTCC	Malaysian Timber Certification Council
COICA	Coordinating Body for Indigenous Organisations of the Amazon	NCO	Norwegian Consumer Ombudsman
DIY	'Do it Yourself' (home improvement)	NGO	Non-governmental organisation
EU	European Union	NSC	National Steering Committee (of the MTCC)
FCF	Fletcher Challenge Forestry	NTCC	National Timber Certification Council (of Malaysia)
FIO	Forest Industry Organisation, Thailand	PEFC	Pan-European Forest Certification scheme
FMU	Forest Management Unit	PFE	Permanent Forest Estate
FoE	Friends of the Earth	PP	Perum Perhutani
FoIE	Friends of the Irish Environment	P&C	Principles and Criteria
FPS	(Irish) Farm Partnership Scheme	PTDR	PT Diamond Raya
FSC	Forest Stewardship Council	PWA	Precious Woods Amazonia
GTZ	German Agency for Technical Cooperation	RFN	Rainforest Foundation Norway
HCVF	High conservation value forests	SA	Soil Association
HPH	Hak Pengusahaan Hutan, Natural Forest Concessions on State Land, in Indonesia	SCS	Scientific Certification Systems, Inc.
IBAMA	Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis	SGS	Société Générale de Surveillance
IFBWW	International Federation of Building and Wood Workers	SPC	Strategic Planning Committee
IFCI	Irish Forest Certification Initiative	SSNC	Swedish Society for Nature Conservation
IPAAM	Instituto de Proteção Ambiental do Amazonas	TFT	Tropical Forest Trust
IPAM	Instituto de Pesquisa Ambiental da Amazônia	TNC	The Nature Conservancy
ISA	Instituto Socioambiental (Brazil)	TWG	Technical Working Group (of the National Steering Committee of the MTCC)
ITTC	International Tropical Timber Council	VOICE	Voice of Irish Concern for the Environment
ITTO	International Tropical Timber Organisation	WALHI	Wahana Lingkungan Hidup Indonesia, Friends of the Earth Indonesia
		WFP	Western Forest Products (Canada)
		WWF	World Wide Fund for Nature

Foreword

The Rainforest Foundation

The mission of the Rainforest Foundation is to support indigenous peoples and traditional populations of the world's rainforests in their effort to protect their environment and fulfil their rights by assisting them in:

- Securing and controlling the natural resources necessary for their long term well being and managing these resources in ways which do not harm the environment, violate their culture or compromise their future
- Developing means to protect their individual and collective rights and obtain, shape and control basic services from the state.

The Rainforest Foundation works in partnership with local organisations and indigenous rainforest communities, assisting them in securing their land rights, protecting their environment, improving their livelihoods and upholding their basic rights. We also work to improve their organisational and administrative capacity to manage their own projects. With national offices in the US, UK, Norway and Japan, the Rainforest Foundation presently supports more than thirty projects with local forest communities in 15 countries.

Internationally, we work to influence and change policies and practices that undermine indigenous peoples' rights and lead to further destruction of the rainforests.

The Rainforest Foundation and the FSC

During 1999 and 2000, the Rainforest Foundation noticed a steady increase in concerns from social and environmental 'stakeholders' about the performance of the FSC and the practices of its accredited certifiers. In October 2001, the Foundation hosted a seminar in London, in

which 22 persons, including representatives of indigenous groups, universities and social and environmental NGOs from 13 different countries, participated. The seminar provided an opportunity to share experiences from various parts of the world. The 'case studies' presented at the meeting suggested that the difficulties being experienced – from Canada to Brazil, and Ireland to Indonesia – were not just isolated 'incidents', but were symptoms of structural problems within the FSC.

Since that time, the Rainforest Foundation has worked with a number of organisations and individuals around the world to document – in the case studies included in this report – their specific issues and concerns. All of the authors of case studies in this report have contributed their valuable time and work on a voluntary basis. The Rainforest Foundation, for its part, has endeavoured to assess some of the underlying structural issues that appear to have resulted in the specific problems identified in the case studies.

One of the concerns that soon became apparent in this initiative was that many civil society groups, especially, but not exclusively, in 'developing' countries, faced serious difficulties in dealing with the new challenges or opportunities being generated by the FSC. The Foundation has thus, over the last two years, endeavoured to support indigenous peoples organisations and NGOs in some countries in their efforts to ensure that FSC certification contributes to securing and promoting the rights of forest peoples and local communities, as well as promoting environmental protection. We are aware that what we have been able to offer in support is a tiny fraction of what is actually needed to ensure that grass-roots civil society in many countries is not excluded from the FSC project.

The Rainforest Foundation FSC project has been jointly managed and funded by RF UK and RF Norway.

Executive Summary, Including Main Conclusions and Recommendations

1. Outline of report

The report consists of a critical analysis of the effectiveness of the FSC. It contains the following main sections:

- A brief review of the evolution of certification;
- A consideration of the main objectives of the FSC;
- An analysis of the main interests involved in the FSC, as well as issues of democracy and accountability of the organisation;
- Nine case studies illustrating some of the problematic issues raised in the preceding sections.

Each of the main sections and a number of the case studies include specific conclusions. The report presents recommendations in response to the problems identified, with the aim of restoring FSC's credibility and ensuring that the FSC logo is only found on products that have been produced in socially benign and environmentally acceptable ways.

2. Summary of findings and main recommendations

The report documents serious flaws in certifications being carried out in FSC's name, to the extent that the public cannot be assured that a wood product carrying FSC's logo comes from a well-managed forest. Such flaws have been found to be linked to certain structural weaknesses in the FSC system, to specific political decisions within the organization and to the lack of effective control mechanisms.

The following issues have been identified as some of the key elements undermining FSC's performance as a credible certification system. The issues described below synthesise the key conclusions drawn in each of the generic sections of the report, as well as those found in the case studies. For each of the issues, a set of general recommendations is presented.

We believe urgent structural, political and practical reform is fundamental if FSC is to survive as a credible mechanism for the certification of environmentally appropriate, socially beneficial and economically viable forestry. The specific recommendations made below are intended to demonstrate that other operational models for the FSC are conceivable and probably preferable to the existing structures and processes. It is not within the scope

of this study to set out a full range of possible alternatives. Other possible models certainly exist, and these may well have other benefits. It is also clear that the model proposed below by the Rainforest Foundation would require the careful establishment of safeguards and mechanisms for accountability to ensure that problems within the existing system are not simply replicated.

Issue 1

Inherent weaknesses exist in the operational model of the FSC, where certification bodies (which compete for clients in the market) function as intermediaries between FSC and forest managers, with whom they have direct economic relations. These flaws have been allowed to develop in the absence of properly functioning disciplinary and control mechanisms.

Specifically;

- Vested corporate interest in ensuring successful outcomes to certification assessments has resulted in certifiers granting certificates to forest managers who are clearly in serious breach both of the FSC Principles and Criteria (P&C) and the certifiers' own assessment requirements. Similarly, certifiers have a vested interest in granting Chains of Custody certificates, regardless of whether they can genuinely be guaranteed to be integral and reliable. As a consequence, consumers of FSC labelled products have been misled about the quality of management of the product's forest of origin.
- The interpretation of the FSC P&C by different certifiers has resulted in assessment systems that in some cases do not fully incorporate the P&C, and are inconsistent. This has also resulted in the granting of certificates to forest managers not in compliance with the P&C. The FSC logo on products therefore has variable 'content', depending on which certifier carried out the assessment, and is misleading to consumers.
- In practice, the FSC has been unable to develop disciplinary procedures to ensure proper certifier compliance with the FSC's requirements, let alone exercise the necessary sanctions. Without such sanctions, the FSC is unable to function effectively as an accreditation body.

Recommendations:

- The organisational model of accreditation of 'independent' certifiers to implement the FSC P&C should be abandoned. Forest managers seeking certification should do so directly through the FSC International Secretariat. The Secretariat should appoint assessors, who would be approved by the National Working Group in the country concerned. Assessments would only be conducted according to National or Regional standards agreed by a properly constituted National Working Group. Certification decisions would be made by the FSC Secretariat on the basis of the recommendations provided by the assessors. FSC would recruit and directly employ specialist Chain of Custody assessors to undertake CoC certification assessments. Certification fees would be paid directly to the FSC.
- Certification assessments should not be undertaken in countries lacking a properly constituted National Working Group or National/Regional standards.
- Periodic (annual) evaluation of the Secretariat's certification decisions (using an appropriate sample) should be conducted by independent evaluators, commissioned by, and reporting directly to, the FSC Board of Directors.

Issue 2

FSC's 'fast growth' strategy has promoted certification of non-compliant forest managers, undermined multi-stakeholder processes, and disregarded the policy context in targeted countries.

Specifically;

- Fast growth has been pursued without consideration of the potential availability of truly certifiable forests. In some countries, the national policy framework appears to be fundamentally incompatible with the FSC's P&C. This has also encouraged the granting of certificates to forest managers not in compliance with the P&C.
- Civil society in many targeted countries is not able to participate as an equal stakeholder at the national or local level, either because of political restrictions or lack of capacity.
- The fast growth strategy has encouraged the making of policy decisions – such as the adoption of a weak percentage-based labelled policy, and the pursuit of inappropriate Mutual Recognition agreements – which have served to expand FSC's market share, but seriously threaten its credibility.
- There is a case to suggest that a fast growth approach is discriminatory against community-based forestry.
- FSC anyway cannot win the 'game of quantities' against other certification schemes, wherein each certification scheme seeks to attain the largest market share. Because FSC aims to be a rigorous, multi-stakeholder

process based on assessment of performance, it is quantitatively at a major competitive disadvantage compared to other schemes. FSC's advantage can only be on quality.

Recommendations

- The 'fast growth' strategy should be formally abandoned. A revised organisational strategy should be developed, based upon a thorough review of FSC's mission and 'activities'. Specific organisational objectives should be defined, based upon a wide consultation with all stakeholders, ensuring that proper mechanisms are established to allow for the full participation of weakly resourced stakeholders.
- A systematic assessment should be conducted of the potential for expansion of FSC in major timber producing countries, taking into account not only the physical constraints (forestry management practices) and policy conditions, but also the possibility for meaningful and equitable participation of civil society, including marginalised stakeholders.
- FSC's relationship with major 'drivers' of demand for FSC products – especially the Trade Networks- should be reviewed. The targets established for, and demand created by, these networks should be clearly related to the assessment proposed above.
- The Percentage Based Claims policy should be abandoned. The FSC label should not be permitted for use on products containing non-recycled wood from non-assessed sources.
- The FSC General Assembly motion of 1999 concerning Mutual Recognition agreements should be fully complied with.

Issue 3

The absence of defined 'major failings' in the P&C is seriously problematic, and also results in consumers being misled about the 'guarantee' provided by FSC.

Specifically;

- The absence of agreed definitions of 'major failings' allows for the making of essentially arbitrary certification decisions. This results in major inconsistencies in the 'content' of the FSC label, allows for the certification of 'non-compliant' forest managers, and misleads consumers.
- The use of 'certification conditionalities' for non-compliance with FSC's P&C, instead of immediate failure against defined 'thresholds', is tending to weaken FSC's basis of performance-based assessment, in favour of a continuous improvement approach to certification.

Recommendations:

- Through a thorough consultation with environmental and social stakeholders, definition and guidance on ‘major failings’ should be incorporated directly into the P&C, at the level of each individual criterion and principle.
- As has already been recognised by FSC (but not yet fully implemented), all National and Regional Standards should also incorporate clear definitions of ‘major failings’ at under each principle.

Issue 4

FSC’s Chain of Custody system is seriously flawed, and allows for easy abuse. This also potentially results in consumers being misled by the FSC’s label.

Specifically;

- The incompleteness of the Chain of Custody (not requiring certification of wholesalers and retailers) allows scope for entry of non-certified products into the certified trade chain.
- Similarly, ‘non-exclusive’ Chains of Custody are, in practice, often unenforceable due to the high costs of monitoring non-certified links in the chain.
- There is, in effect, very little or no opportunity for the public to independently verify certified Chains of Custody.

Recommendations:

- The requirement for Chain of Custody certification should be extended to all parts of the trade chain, from forest to retailer.
- The FSC should establish credible procedures for monitoring legality of non-certified wood back through the entire trade chain, especially all non-certified forest sources and non-certified primary manufacturers.
- The FSC should immediately abolish the Non-exclusive Chain of Custody certification option in trade chains that have been found to either falsely label uncertified but legal wood as certified, launder illegal wood into the legal chain, or falsely label illegal wood as certified.
- Systems should be developed to allow public access to information about all links in certified Chains of Custody.

Issue 5

The FSC functions poorly as a democratic membership-based organisation, and its claim to be based firmly upon multiple stakeholder principles is at least partially unjustified.

Specifically;

- Key stakeholders are effectively excluded from many FSC processes. This problem is manifest at the international, national and local levels, as has recently been recognised in the draft Social Strategy. Whilst the draft Social Strategy contains much of value, the underlying reasons for the lack of social stakeholder participation go beyond the issues addressed in the strategy. The challenge of improving the participation of ‘social stakeholders’ must firstly be addressed through the reforms proposed above.
- Whilst legitimate forest stakeholders, such as local communities and indigenous people, remain marginalised in FSC’s decision-making processes, the influence of other stakeholders – such as certification bodies and their commercial clients - has grown. This has distorted FSC’s priorities, and is undermining its credibility.
- The FSC’s complaints procedures concerning certifiers and their certifications are essentially non-functioning. They are cumbersome and onerous, discriminatory against weaker stakeholders, and biased in favour of the certifiers and their commercial clients. There is therefore no effective means of redress for many stakeholders in the event of dispute.
- There has been a serious lack of transparency or ‘democracy of knowledge’. Key FSC processes have been undertaken without proper information being available to the membership and the wider public. This has undermined accountability of the organisation to its membership.

Recommendations:

- The draft social strategy should be modified so as to take account of the conclusions and reforms detailed herein.
- A policy and working culture of ‘presumption of disclosure’ of information should be established, whereby access would only be restricted to sensitive commercial information. This should embrace information about certifications, policy decision-making processes, complaints, monitoring, and dealings between the FSC and external agencies.
- The complaints procedures should be streamlined and made more accessible to marginalised stakeholders.
- Clear policies should be developed on the relationship between the FSC and potential major sources of ‘informal influence’, including major commercial clients and donor agencies.

Introduction

0.1 Reason for, and purpose of, the report

At the time of writing this report, the FSC was reaching a crucial moment in its history. Its activities now potentially affect the management of a significant area of plantation and forest. 2001-02 were, by all accounts, difficult years for the FSC Secretariat, with two changes of Executive Director, several changes of other key staff, and huge uncertainty about the organisation's long term finances. Though the organisation has been pulled 'back from the brink', and has secured its short-medium term future, the expectations being placed upon it continue to grow. Specific demands being placed upon it by particular interest groups will probably permanently change the focus and means of operationalising its activities. The membership continues to expand, and increasingly includes major players in the international trade in forest products.

The present phase of the FSC's organisational development is crucial. Forest certification has been formally incorporated in the forest sector policy adopted by the World Bank (see below). The FSC's 'clients' are increasingly becoming large-scale commercial interests rather than the smaller-scale interests and NGOs that were responsible for its founding. The structure and location of the international Secretariat is to be changed, as may the methods of electing its Board of Directors. Representatives of large-scale industry have become active in the management of FSC at the highest level. Several current policy developments, and specific certifications, are likely to serve as important test cases. The FSC's 'case law' is becoming established, determining how the Principles and Criteria are interpreted in detail, and how the FSC responds, through its audits, to the activities of its accredited certifiers.

Increasingly the organisation faces fundamental questions such as;

- What exactly are its objectives?
- To whom exactly is it accountable? Whom is it trying to serve?
- Does it aim to try and reward the highest quality forest management, or should it reward those that are 'trying to improve'?
- Is it succeeding in developing a credible system of certifier accreditation, forest certification and product labelling?

Some of these questions have been explicitly addressed in an open e-conference, started in October 2002, which has revealed widely differing viewpoints about these and other issues amongst the membership and other 'stakeholders'. Discussion within some sections of the FSC's membership has increasingly focussed on the limitations of the organisation, its problems, and what possible alternatives might exist. The outcome of some current certification exercises and policy processes may determine whether important member organisations stay within FSC or leave. There has been increasing and outspoken criticism of the FSC, and a steadily growing number of complaints against it and the certifications carried out under its auspices.

Some of the specific issues which this study initially set out to address, were thus:

- Are the objectives of the FSC clear, and are they being achieved?
- Is the balance of interests within the FSC appropriate, and is it a truly 'multi-stakeholder' organisation?
- Does the FSC appear to be exercising proper 'quality controls' over the certifiers?
- Does the 'rapid growth' vision that appears to be driving the FSC have implications for the democratic, multi-stakeholder basis of the FSC?

In seeking to answer some of these questions, a series of case studies of certifications were analysed. In assessing these case studies, important trends and recurring patterns emerged. These in turn gave cause to consider further questions about the FSC, such as;

- Does the FSC operate a credible system of 'independent, third party' assessment of forestry operations? Specifically, do the certification bodies have a commercial interest in certifying forestry operations that influence their certification processes, judgement and decision-making?
- Are forestry operations *actually* being certified on their performance relative to the FSC Principles and Criteria?
- Can the timber consuming public rely on the FSC system to provide guidance on timber produced in an 'economically sustainable, socially beneficial and environmental acceptable' way?

Some of the answers to these questions are, according to

the evidence gathered in this report, very disturbing, and deserving of serious attention on the part of the FSC's Board, Secretariat, and wider membership.

The report was presented, in a final draft form, to the FSC international Board and to the Executive Director and other key staff of the Secretariat in September 2002. At a meeting with the Board on September 22nd, the Rainforest Foundation set out what it believed to be an essential and urgent course of action for the Board in order to start addressing the problems identified in the report. These included that:

1. The Board should take immediate action to cease the issuing of any further flawed certificates.

2. The Board should take immediate steps for reform of the FSC in order to uphold the P&C.

Specifically, it should act to:

- Cut direct commercial relations between forest manager and certification bodies;
- Define major failings in the P&C.

Concretely, the Board should announce by November 5th, 2002, that:

- a system of direct certification by the FSC will be instituted, using properly approved national standards. Within one year this will be the only system for FSC certification;
- accreditation contracts with the certification bodies will be phased out during 2003;
- there will be a process leading to definition of fatal flaws applicable to all Principles and Criteria and all national/regional standards by the end of 2003.
- no new certificates will be issued unless assessed according to approved national/regional standards.
- the FSC's complaints procedures will be streamlined and made more accessible to marginalised stakeholders and non-FSC members.
- there will be a process to establish a policy of access to information at all levels based on a presumption of disclosure of information.

Discussions about these proposals and the contents of the draft report were held between the Rainforest Foundation and the Board (both collectively and individually), the Executive Director and other staff of the Secretariat, during September 22nd-24th. No formal response to the proposals from either the Board or Secretariat had been received by the Rainforest Foundation by November 7th.

This report is therefore offered in the spirit of opening up a wider public debate that hopefully will lead to the implementation of improvements and the development of a more credible FSC.

0.2 Scope and limitations

This report assumes a basic familiarity with the purpose and workings of the FSC and the use of the FSC Principles and Criteria. The structure and functioning of the FSC are thus not described in this report.¹

A starting point for this study is the fundamental assumption that *the potential for success of the FSC 'project' is inextricably linked with its credibility*. The FSC is set apart from most other certification systems, and derives much of its public credibility, because of the following three factors:

- it is a membership organisation, with representation from all sectors with an interest in forests;
- it operates on the basis of certification assessment through third parties, thus guaranteeing 'independence' from those being certified;
- it operates according to a set of Principles and Criteria (P&C), agreed through a multi-stakeholder process, which serve as a basis for the assessment of the performance of forest managers².

The case studies were selected on the basis that they all seem to illustrate inadequacies in the FSC system, and can thus provide lessons for improvement. This approach may be considered by some to be biased or unfair in assessing only what has 'gone wrong'. However, insofar as the FSC claims to present a marque which is reliable, and in which the public is expected to place its trust, any individual failings reflect negatively on the entire system. It is not claimed that the case studies are representative of all FSC certifications.

This report does not attempt to answer questions such as 'has the FSC brought about an improvement in forest management', or 'has the FSC provided a forum for policy debate that would not otherwise exist'? A reliable answer to the former question could only be obtained through exhaustive field research that is beyond the scope of this study. Answers to the second question, and many similar such questions are, in a sense, irrelevant: these are not the issues that the FSC was set up to address, albeit that they are crucially important in their own right.

The FSC had, by the time of writing this report, evolved a very complex institutional structure, which operates at many different levels and incorporates many different policy values and norms. It is inevitable that any report about such a complex structure will rely on generalisations which may not reflect the circumstances pertaining to every level and every element of the 'FSC project'.

0.3 Structure and general approach

The first section of this report briefly considers the origins of the FSC, particularly in relation to consumer campaigns ('boycotts'). It relates how power relations

amongst the organisation's various 'stakeholders' have changed, and charts the transition of certification from a tool with a very specific (consumer information) function, to a 'global public policy' instrument.

Section 2 considers the broad objectives of the FSC, and asks whether these are clear and appropriate, and whether the actual activities of the organisation are being effective in moving towards them.

Section 3 deals with the issues related to the FSC as a multi-stakeholder, membership organisation. It considers who the FSC's stakeholders actually are, how, or if, their interests are balanced, and whether the decision-making process truly reflects the multi-stakeholder approach. Particular attention is given to 'democracy of knowledge', and there is a consideration of whether the FSC is sufficiently transparent to enable the FSC's members, and the public in general, to make properly informed decisions about FSC-related activities. Section 3 also considers issues related to the FSC's complaints procedures, as one of the main mechanisms of accountability and redress for stakeholders.

Section 4 consists of nine case studies. Of these, six concern problematic certifications, two in the Brazilian

Amazon, two in Indonesia, one in Thailand, and one in Ireland. Two case studies deal with different forms of 'national' or 'regional' processes, in Malaysia and in Canada (British Columbia and Ontario). In contrast to most of the case studies, the description of the British Columbia case describes a standards-setting process that may be considered exemplary in a positive sense. The last case study deals with Chain of Custody certification. The emphasis of the cases studies is on certifications that have taken place in tropical regions, but two examples from temperate areas are also included.

The conclusions and recommendations in sections 2 and 3 draw on the key issues and lessons identified in the case studies.

For ease of reference, particularly in relation to the case studies, the FSC's Principles and Criteria are included in their entirety in Annex I. This Annex also contains the FSC's Glossary of Terms, which may be useful in studying this report.

The general conclusions and recommendations in sections 2 and 3 of this report are those of the Rainforest Foundation, and are not necessarily shared by the external authors of the case studies.

1. Certification: an historical overview - from boycotts to 'market mechanism' to 'policy'

In order to understand the present context for forest certification and labelling, it is useful to reflect briefly on its origins and development.

1.1 Boycotts and the ITTO's failure

It is often assumed, wrongly, that certification and labelling originated with the FSC during the early 1990s. In fact, certification emerged as a means of addressing a specific problem faced by campaigners against rainforest destruction during the early 1980s: if consumers were to be urged to avoid timber that was derived from destructive, or 'unsustainable', sources, how, in practice, could they distinguish between what was 'good' and what was 'bad'? To this end some means of physical labelling of wood products was required. Such a scheme would also, in theory at least, have the advantage that it would provide timber producers with an incentive to improve forest management practices, comply with agreed standards, gain certification, and sell products at a premium price (assuming that consumers would be prepared to pay a higher price for a 'green' product).

Friends of the Earth (FoE) England and Wales first proposed a timber certification/labelling scheme when it launched its pioneering rainforest campaign in 1985. Consumers throughout Britain and Europe were encouraged to avoid purchasing tropical timber products, which all the available evidence suggested were, almost without exception, produced on a 'non-sustainable basis' (FoE, 1990; Poore, 1989). FoE instituted its own 'Good Wood Scheme', which aimed to provide guidance to consumers on preferable timber products, including 'Seal of Approval' stickers and tags that could be attached to wood products. These were distributed by FoE to manufacturers and retailers from 1988 onwards.

Of fundamental importance to any such scheme are the criteria which are used to assess whether any given timber producer is 'acceptable' or 'unacceptable'. FoE's original scheme was based upon a four-part Code of Conduct, which set out broad principles of good forest management, focussing on the use of proper forest management plans. Whilst FoE was running its own scheme in the UK, it was also calling upon the International Tropical Timber Organisation (ITTO) to establish an official global system. In 1989, FoE developed a project proposal for ITTO to study

the feasibility of timber certification and labelling. It was hoped that this would pave the way for the development of a practical labelling scheme.

However, FoE had not counted on the furious opposition that the project would meet within the International Tropical Timber Council (ITTC). Although the proposal was formally approved by the ITTC at its meeting in November 1989, all references to 'certification' and 'labelling' had, in the approval process, been expunged from the proposal, which had been turned into a general study of 'incentives for sustainable forest management'³. The eventual report of the study made only vague references to certification, and the whole notion of labelling was swept by ITTO 'under the carpet', where it remained for many years⁴. The refusal of 'timber consuming' country governments during the mid-1990s to renegotiate the International Tropical Timber Agreement as a *Global Timber Agreement* anyway meant that the ITTO could never really develop any kind of certification scheme that would be globally applicable.

The lack of willingness of ITTO to even consider certification and labelling of tropical timber was, perhaps, also a reflection of the extent to which the organisation had been captured by industry representatives and their supporters in the Trade Ministries of the various ITTC member governments (Humphreys, 1996). In fact, senior and influential representatives of the global timber industry had, during the early 1990s, made abundantly clear their fundamental and implacable opposition to any system of distinguishing between forest managers on the basis of standards of *performance*. Thus, during the early 1990s, industry representatives implemented a carefully orchestrated campaign to undermine the performance-based European Union Eco-labelling scheme for forest products, which predated the development of the FSC by some three years. Industry lobbyists from Brazil, the US, Canada and Europe first penetrated the EU's decision-making process, then weakened the proposed assessment standards. Through continued lobbying and agitation, they eventually brought about the complete abandonment of the EU's Eco-labelling performance-based criteria, in favour of a combination of *process-based* criteria and industry self-certification (Counsell, 1996).

After several years of experimentation with the 'Good Wood Seal of Approval', Friends of the Earth eventually withdrew the scheme, which was proving difficult to

control with adequate rigour to guarantee against abuse. Nevertheless, the scheme had shown that there was sufficient interest within parts of the forest industry, particularly from retailers, to make certification and labelling viable. Friends of the Earth became one of the founder members of the FSC, and led its promotion in the UK and more widely in Europe.

It is important to recognise that the early progress towards industry acceptance of certification and labelling was based on a tangible and frequently manifest desire on the part of consumers to boycott products that were perceived to be from destructive sources. Activist groups in scores of cities throughout the UK, Holland and Germany, in particular, organised repeated protests, pickets, leafletting, petitioning and media campaigns against retailers known to be selling tropical timber from sources deemed to be unacceptable. The governments of hundreds of local authorities throughout Europe adopted policies not to buy timber from 'unsustainable sources'. As a result, imports of tropical timbers into the UK began to decline significantly during the late 1980s and early 1990s. Retailers thus had a strong incentive to support certification and labelling, as it promised to keep open markets that were fast being closed by consumer action.

Some of the more influential retail interests in the early days of the FSC candidly acknowledged that they saw certification as a means of keeping the protestors from their door. As Alan Knight of B&Q⁵ put it:

"We weren't losing customers. But what we did know, that it was like a lot of hard work to sort this issue out. We also knew that we weren't ever going to have customers demanding sustainable timber in our stores. But we knew that if our name, B&Q, was associated with destruction of tropical forests or even temperate forests, that our brand name...would be damaged" (Mann, J, et al, 2001).

1.2 FSC's establishment and the dawn of 'multi-stakeholderism'

Thus, to a significant extent, the FSC was founded on the basis of mass consumer movements, which had been used by environmental pressure groups to bring commercial interests to the negotiating table. They, along with a small number of progressive companies that had specifically positioned themselves as responding to ecologically minded consumers, formed the basis of the informal groups that eventually evolved into the FSC's founding membership.

However, by the time of the establishment of the FSC in 1994, the momentum of the mass consumer campaigns had dwindled. Environmental groups were increasingly unable to sustain the costly and difficult task of constantly appealing to the public and government authorities, and reinforcing often-complex messages about purchasing behaviour and policy⁶. By 1994, industry associations had also begun to appreciate that they were as capable as the

environmental movement of utilising labelling schemes in their own interests. Industry labelling schemes had begun to proliferate, often subtly blurring the distinction between true *performance-based schemes* and *marketing exercises* (Reid, 1991). With the force of multi-billion dollar industries behind them, it was clear that such initiatives had the potential to 'out-compete' schemes such as the FSC (see section 2.5.2). Thus the dynamic of power within the certification debate had increasingly shifted: commercial interests had less immediate economic incentive to negotiate on terms set by environmental (and, occasionally, social) interests. *The early promoters and founders of the FSC thus found themselves needing to enlist the support of commercial interests as much as the commercial interests needed certification as a way to placate consumer protesters.*

The 'multi-stakeholder' approach that underpinned the FSC was immediately attractive to governments. Politicians and government officials of countries such as Britain, Germany and the US had, in the 1980s and early 1990s, found themselves uncomfortably caught between the conflicting demands of environmentalists on the one hand, and the timber trade on the other. The former sought formal regulation of the timber trade, based upon the environmental quality of production, whereas the latter argued that forest industries brought social and economic benefits, particularly in remote areas of tropical rainforest. The voluntary, global and 'non-discriminatory'⁷ nature of FSC certification was also, for the most part, consistent with the paradigm of trade liberalisation, the political rhetoric that became ever more loudly voiced during the period in which the FSC was being established. With progress on certification within the ITTO apparently paralysed, FSC began to appear as a viable proposition. Important financial contributions were made to the FSC by governments, including those of Austria and the Netherlands, during its crucial formative years⁸.

However, industry 'self-certification' schemes have continued to thrive, often also with the backing of governments. Whatever the failings of the FSC system, as documented in some detail in this report, it is at least based upon essentially sound principles⁹. As shown clearly in FERN's report, 'Behind the Logo' (Fern, 2001), this cannot be said for the industry schemes. Nevertheless, the development of FSC has largely occurred in the context of a competitive environment in which it strives not only to be based upon the most rigorous principles, but is also the most demanding in terms of its requirements for independent assessment procedures. As a 'multi-stakeholder-based' organisation, it is necessarily structurally and organisationally complex, and its policy-making processes occasionally labyrinthine. The practical consequence of FSC's complexity is that it is, in comparison with other schemes, relatively difficult and expensive for forest managers to gain its certification. Compared to an industry-based labelling scheme run out of the office of a trade federation or marketing agency, which may require

no independent assessment against specific criteria and does not involve difficult policy discussions amongst conflicting interest groups, the FSC is at a distinct competitive disadvantage. Efforts to overcome this fundamental disadvantage can be seen as critical to the development approach taken by FSC, as will be shown later.

1.3 Waning consumer activism and the rise of 'Trade Networks': a shift in power relationships

The period of establishment and development of the FSC must also be seen in the context of largely moribund grass-roots consumer awareness campaigns and declining public pressure on forest industries. Some organisations, such as Greenpeace, still actively promote FSC certified timber to the wider public, but this is generally a secondary aspect of their campaigns to protect 'old-growth' forest and stamp out illegal logging. 'Marketing' of the FSC is now largely dependent on advertising campaigns sponsored by the World Wide Fund for Nature (WWF). Direct demand for FSC-certified wood is driven by WWF's 'Trade Networks', which serve to bring groups of forest sector companies together, with the common aim of progressively switching to trade based only on timber from 'acceptable' (FSC certified) sources.

WWF has invested significant resources into the establishment and maintenance of the Trade Networks, which now exist in more than 15 countries, and contain more than 600 corporate members. It is clear that without these networks, the demand for FSC certified timber would be significantly lower than it currently is. However, in practice, the obligations placed upon corporate members of the Trade Networks have proven to be highly negotiable. Some of what are now called Trade Networks originated as '1995 Groups' or '1998 Groups', the corporate members of which were expected to ensure complete transition to trade only in 'sustainable' timber by the specified date. In no cases were these targets actually achieved, and the deadline dates have been progressively postponed by WWF or abandoned altogether¹⁰. It can be seen that, in comparison to the 'non-negotiable' demands of boycotting consumers, the Trade Networks are weak tools of persuasion.

WWF's approach has occasionally caused direct conflict with other organisations campaigning for trade reform. In Scandinavia, for example, WWF has advised importers and retailers in the 'Nordic Trade Network' to ask their suppliers to 'get certified', while campaigning organisations such as Swedish Society for Nature Conservation (SSNC), and Rainforest Foundation Norway (RFN), for the past two years have asked companies to halt all purchases from forest concessions in Indonesia. While WWF has supported Nordic companies in drawing up a 'progress plan' which allows companies to maintain their current suppliers (even if they are known to be involved in serious human rights violations) while hoping to 'get them certified', the SSNC

and RFN campaigns have continued to target the retailers.

Thus, whilst overall reform of the Trade Network members' purchasing policy has been deferred to an undefined future date, forest sector and retail enterprises have often used their membership of the Networks as a means of potentially insulating themselves from attacks and boycotts by other environmental pressure groups concerned with the companies' actual performance and purchasing policies. In this sense, the Trade Networks have served to undermine one of the original stimuli for the promotion of forest product certification and labelling.

1.4 Institutionalising FSC as 'global public policy'

If the underlying public pressure on companies to demand certified timber has partly diminished as a stimulus to FSC's development, new sources of pressure have emerged. In April 1998, WWF signed an agreement with the World Bank, thereby establishing the WWF-World Bank Forest Alliance. Under the agreement, the two agencies are committed to bring "200 million hectares of the world's production forests under independently certified sustainable management, by the year 2005" (World Bank/WWF, 2002). As WWF is committed to supporting only FSC (and has campaigned vigorously against other certification schemes), this implies that it is seeking to increase the area certified under the FSC by roughly 700% in the 27 months from September 2002.

This could have profound effects on the way the FSC develops. For example, it is noted by the WWF-Bank Alliance that "Indonesia, China, and several Eastern European countries are making preparations that could in time quadruple (up to 80 million hectares) the current amount of certified/verified forests meeting Alliance criteria". Such assurances can be seen not only as wildly optimistic, but actually dangerously oblivious to the realities of certification in the countries mentioned, as is discussed in more detail, particularly in relation to Indonesia, in sections 2.4.2 and 2.5.3.

The WWF-Bank Alliance target is as arbitrary (and almost certainly unattainable) as any of WWF's earlier 'targets', but it carries with it the incentive of significant funding from the Bank and other agencies. Between 1999 and 2001 alone, a total of around \$18 million was expected to flow through the Alliance's coffers (WWF, 1999)¹¹. The rewards to WWF and other conservation groups could be much greater, but for an inconvenient obstacle; the World Bank's 1994 Forest Policy, which prohibits the Bank from providing funding either directly or indirectly for logging operations in primary tropical forests. This policy has, according to officials, not only prevented the Bank from supporting 'tropical forest management' initiatives, but has had a 'chilling' effect on Bank funding for the global forest sector in general (World Bank, 1999).

Perhaps mindful of the constraint this could place on future funding for its certification-related projects, WWF

(along with IUCN) has implored the Bank to relax its ban on funding for forestry activities, and to 're-engage in the forest sector' (WWF, 2001). In this view, WWF and IUCN are distinctly at odds with the vast majority of non-governmental organisations: in a letter dated September 2001, 218 organisations from 58 countries called on the Bank to keep the existing ban (Anon, 2001). The World Bank has evidently tried to stave off criticism of its proposed weakening of the Forest Policy by proposing the incorporation into the policy of a linkage between new Bank funding to the forestry sector and compliance with an independent forest certification scheme (World Bank, 2001). According to the forest 'strategy' eventually adopted by the Bank in October 2002, the Bank would "*encourage independent monitoring and certification of forest operations...Independent monitoring and certification will be additional to the Bank's regular implementation and safeguard procedures. It will help ensure that any direct Bank Group investments in production forests or indirect support through financial intermediaries or forest industries are contributing to improved forest management...*" (World Bank, 2002). The new Bank policy also formally recognises the target of 200 million hectares of forest to be certified by 2005.

Certification has thus evolved from a mechanism needed for effective discriminatory grass-roots boycott campaigns, to become a major international 'forest policy tool' embraced by global decision-makers. Accompanying this shift, and reflecting changed power relationships, there has been, it is argued implicitly throughout this report, a subtle shift from the use of the FSC principally as a tool for improved forest management to one of improved marketing of forest products. This latter trend is perhaps best exemplified by the promotional literature for the 'Certified forest products international conference' held in Atlanta, USA, in April 2002, which noted that "*Billion-dollar retailers are committing their purchasing power to certified forest products... Certification is becoming the new competitive edge*" (CFPC, 2002).

The pressures placed upon the FSC as a result of such enormous expectations may serve to undermine the potential that forest certification and labelling may genuinely hold in advancing specific, but more limited, objectives. The following section considers in more detail whether the FSC's objectives are clear, and whether the activities presently undertaken are contributing towards meeting those goals.

2. FSC's mission and objectives

In this section we consider what FSC's mission is, what its specific objectives are, and whether it is succeeding in achieving those objectives. We then consider some of the problems related to the achievement of its objectives. Specifically, the report considers whether the FSC is actually upholding the P&C, whether it provides a credible guarantee to timber consumers, and whether it is providing an incentive for improved forest management. The report then considers the appropriateness and implications of FSC's strategy of pursuing a rapid expansion of its activities.

2.1 Clear objectives?

The objectives of the FSC are not clearly defined in any of the organisation's basic documentation. According to its Statutes, the first 'purpose' of the organisation is:

"to promote an adequate management of forests, providing assistance required to achieve an environmentally appropriate and economically viable exploitation of natural resources, avoiding deterioration or affectation (sic) of such resources, or the ecosystem or of the surrounding communities. To promote a viable management of the forest resources and a forestry production that preserves the environment" (FSC, 2000c).

Concerning what is generally assumed as being the principal purpose of the FSC, the Statutes state only that the FSC shall:

"promote the principles and criteria of an adequate management of the world's forests through a voluntary accreditation programme".

According to the FSC by-laws, the principle 'mission' of the FSC is to:

"promote environmentally appropriate, socially beneficial and economically viable management of the world's forests" (FSC, 2000d).

The 'mission statement' then goes on to broadly define what the terms *"environmentally appropriate, socially beneficial and economically viable"* actually imply. Following this broad mission statement, the By-laws then define three activities, the first of which is that

"FSC shall promote Principles and Criteria of Forest Stewardship through a voluntary accreditation programme for certification of forest management. FSC shall evaluate and accredit Certification Bodies based upon adherence to FSC Principles and adherence to FSC Guidelines for Certification Bodies".

The second and third of the 'activities' relate to the carrying out of educational activities, particularly concerning certification, and providing guidance on forest management to policy makers.

It is important to note that, within the core organisational documentation, including its legal statutes, there is no statement of what the FSC's **specific objectives** are. There is a gap in the organisational policy framework between its overall mission – which is extremely broad – and its activities, which are relatively narrow, and it is thus not entirely clear how the prescribed activities are intended to contribute towards the overall 'mission'. The only policy process that came close to identifying specific objectives was the 1998 Strategic Plan¹². In practice, as will be seen elsewhere in this report, the lack of definition of the specific objectives has allowed for various interpretations, which are not necessarily compatible, to be made by various interest groups.

If the formal documentation is unclear about the specific objectives, the basic model for the 'FSC project' is described on the FSC's website, which states that the FSC;

"is introducing an international labeling scheme for forest products, which provides a credible guarantee that the product comes from a well-managed forest. All forest products carrying our logo have been independently certified as coming from forests that meet the internationally recognized FSC Principles and Criteria of Forest Stewardship. In this way FSC provides an incentive in the market place for good forest stewardship. The forest inspections are carried out by a number of FSC accredited certification bodies, which are evaluated and monitored to ensure their competence and credibility". (FSC, 2002)

On the basis of this we can say that the specific objectives of the FSC are to:

- Ensure that the certifiers uphold the Principles and Criteria (while the purpose of the certification bodies is to ensure compliance of forest managers with the Principles and Criteria);
- Provide a credible guarantee for consumers that forest products come from 'well managed forests';
- Provide incentives in the market place for good forest stewardship.

Each of these is considered in more detail below.

2.2. Accreditation and upholding the P & Cs

The relationship between the FSC and the certifiers is of crucial importance. According to the FSC's website:

"The Forest Stewardship Council has developed rigorous procedures and standards to evaluate whether organisations (certification bodies) can provide an independent and competent forest evaluation (certification) service. This process is known as 'accreditation'. FSC accredited certification bodies are required to evaluate all forests aiming for certification according to the FSC Principles and Criteria for Forest Stewardship" (emphasis added) (FSC, 2002).

However, there are a number of serious doubts about how this process works in practice, including whether certifications are actually carried out in accordance with the Principles and Criteria. Some of the key issues are considered in the following sections.

2.2.1 Legal basis of the arrangement

According to FSC's definition of the 'Roles, Rights and Responsibilities of FSC Players' (FSC, 1999e), the relationship between the FSC and the certifiers is defined in the FSC Accreditation Contract (1996), the FSC Accreditation Manual (1998) and FSC Guidelines for Certification Bodies (1998).

The 'Manual of Accreditation' and the 'Guidelines for Certifiers' are publicly available, and it is therefore possible to discern some of the requirements placed upon the certifiers by the FSC. The Accreditation Manual sets out in detail the administrative arrangements for certifiers to apply for accreditation, how applications are dealt with, procedures for monitoring, and the basis of the systems of forest (and Chain of Custody) assessment expected by the FSC. Most of the procedures and prescriptions are clearly and precisely defined. The Guidelines contain further practical guidance on the accreditation procedures, as well as interpretation of various elements of the P&C and other policy issues that have proved particularly complex or open to interpretation.

The Accreditation Contract is arguably the most important, as it defines the legal relationship between the FSC and the certifiers. However, this contract is a closely guarded secret, and only FSC staff, certifiers and Board members (who are bound by a confidentiality agreement), appear to have seen it. The FSC's membership, and the wider public, thus does not know the basis for what is probably the most important institutional relationship within the FSC project. In order to gain access to the contract, one of the authors of this report was required to sign the confidentiality agreement, which stated that *"all records, documents, material and information relating to the FSC accreditation programme and its clients, provided by FSC and listed below, shall be deemed and considered confidential information"* (FSC, 2002d).

It appears from the agreement that the Secretariat has ample scope for action against the certifiers, including cancellation of the contract. As will be suggested later, it is

clear that a number of the certifiers have been in breach of the contract and could have faced sanctions. Some of the likely reasons why this has not actually happened – with important implications for the credibility of the FSC scheme – are explored elsewhere in this report. However, it is likely that the FSC Secretariat would be extremely wary of a lengthy and expensive legal dispute with certifiers, particularly when one of the clauses of the agreement allows for the payment of compensation by the FSC to the certification body in the event of loss, damage or expenses arising from negligence, error or omission on the part of the FSC, including any inaccuracy in the FSC's reviews or audits.

Whether because of the Accreditation Contract or other reasons, the ability or willingness of the FSC Secretariat to ensure proper controls over the certifiers appears to be limited. This has been illustrated by the FSC's response to a call for a halt to all FSC certification exercises in Indonesia, issued by Indonesian NGOs in 2001. Finding that FSC accredited certifiers had effectively disregarded this call, 144 NGOs and community groups issued a statement in which they *"in the strongest possible way, reiterate the call to LEI and FSC for a halt in all scoping-, pre-assessment- and assessment activities with concessionaires (HPHs), as well as an immediate moratorium on the issuing of any certificate"* (WALHI et.al, 2001). In response, the FSC Secretariat made it known that it could not impose a moratorium as requested. Alluding to the contracts with the certifiers, the Secretariat noted that it had;

"reacted according to the policies laid down in our organization, the requirements of our relations to certification bodies and the requirements between certification bodies and their respective clients" (FSC, 2001d).

In practice, it therefore appears that the relationship, including the legal contract, between the FSC and the certifiers, and between the certifiers and their 'clients', is such that the FSC's ability to monitor and sanction the certification bodies is heavily compromised. The example above also indicates that for the Secretariat, the commercial arrangements between certifiers and their clients are the key driving force, and override considerations as to whether the FSC process is actually supported by civil society or not ¹⁵.

2.2.2 Lack of clarity over sanctions

Compared to the prescriptions for certifiers to obtain and retain FSC accreditation, the Accreditation Manual largely leaves open the question of what sanctions can or would be applied by the FSC should any of the certifiers fail to comply with the Manual's stipulations. The Manual states that:

"6.2 The FSC Executive Director will normally request authorisation to implement disciplinary measures:

6.2.1 after a certification body has been issued with, and failed to comply with, a Corrective Action Request;

6.2.2 after the identification of serious or substantial non-compliance with FSC requirements”

The Manual also states that:

“6.5 Disciplinary measures may include:

6.5.1 Notification to terminate the accreditation contract within thirty (30) days;

6.5.2 Fines for breaches of the conditions for accreditation;

6.5.3 Other actions as determined by the FSC Board”.

However, there is no further guidance issued as to what constitutes “serious or substantial non-compliance with FSC requirements”, nor what “fines” or “other actions” might consist of. The Manual states that “the details of the FSC disciplinary measures are under development”. However, since 1998, no such ‘development’ has actually taken place (Wenban-Smith, 2002). The ‘FSC Guidelines for Certifiers’ contains no reference to disciplinary measures whatsoever.

There is thus a serious lack of clarity about the powers that FSC vests in itself as an accreditation agency, and what redress the FSC has in the case of non-compliance by the certifiers. In practice, it seems that sanctions have very rarely been executed. The step of suspension of a certifier has only been taken once, despite the fact that, as evidenced by the case studies and other material in this report, there have been many reasons for serious concern about the quality of the certifiers’ work. In some cases, the FSC Secretariat appears to have been well aware, through its own monitoring programme, of serious inadequacies in the certifiers’ work, but still failed to take action, as is discussed below.

2.2.3 Quality of FSC’s monitoring and follow-up of certifiers

According to the Accreditation Manual, FSC is supposed to make publicly available the reports of its accreditation and monitoring of the certifiers. These reports are difficult to obtain¹⁴, but they reveal much about the relationship between the Secretariat and the certifiers.

For example, the Secretariat’s monitoring of the certifiers in 1999 resulted in nine Corrective Action Requests being issued by the Secretariat against both SCS and SGS. In the case of SCS, some of these CARs related to the crucial issue of the quality of the certifiers’ certification reports (both the full reports and the public summaries), which were found to be inadequate. In the report of the monitoring of the certifiers in 2000, the FSC Secretariat issued SCS with a further five CARs, but there was no report of whether the CARs issued already in 1999 had been complied with.

SGS were issued with 23 new CARs in 2000, and still had a number of CARs from previous years outstanding. These included three that had already been outstanding for two years. One of these stated that “SGS UK needs to include in its procedures manual that internal audits and surveillance

visits will take place at least annually” (FSC, 2001f). Another CAR, also outstanding from 1999, was that “SGS shall operate a decision making system for forest management evaluations that complies with the FSC’s requirements...”. According to the FSC’s Accreditation monitoring report for 2001, SGS had a total of 50 CARs outstanding at the start of 2001. The report notes that there was ‘no office visit’ by FSC to SGS during 2001, though ‘much correspondence’, and it was agreed that SGS would be given until 2002 “to allow SGS to develop their system and comprehensively address these CARs” (FSC, 2002e). The report says that “many CARs were addressed in the meantime and closed out during the 2002 visit. Full details will be reported in the 2002 annual summary”. There is no explanation in the 2001 Accreditation report even as to how many CARs have been closed out, nor the reason for their closure. It is thus not possible to ascertain from the FSC’s documentation even how many CARs are now outstanding against SGS, what they relate to, or what action FSC is requesting in order that the CARs are addressed. Another 17 new CARs were issued by the FSC against SGS in 2001, so it is possible that the number of outstanding CARs now exceeds 50.

The 2001 Accreditation report noted in respect of one of SGS’s Chain-of-Custody certificates¹⁵ that:

“significant non-compliances by the certificate holder were not identified [by SGS]...[There was] unclear distinction between minor and major non-compliances and their relation to SGS Qualifor’s decision to issue a CoC certificate...[SGSs’] Certification report doesn’t include proper description of all shortcomings...[There has been] Insufficient monitoring of the use of the FSC Trademarks by certificate holder” (FSC, 2002e).

Despite these failings, some of which appeared to relate to serious undetected breaches of the Percentage-based labelling rules, and which could have resulted in significant mis-labelling of products, the FSC Secretariat failed to demand the immediate suspension of the relevant certificate, or to sanction SGS for its evident shortcomings.

In the case of SmartWood, there were, at the start of 2001, nine CARs outstanding from previous years, including four which had been issued as early as 1999. The FSC’s 2001 Accreditation report says simply that “one CAR is pending for 2001, while others were superseded or closed during the office visit”. Again, there is no explanation in the report as to which CAR is still outstanding, nor what was the basis for closing out any of the others. Thirteen new CARs and 10 ‘recommendations’ were issued, so the number of CARs outstanding against SmartWood has increased from 9 to 14. Intriguingly, one of the FSC’s ‘recommendations’ concerning SmartWood was that “a system should be developed to track changes made to hardcopy reports on file and that such changes are reflected in the official copies of all the reports. Electronic files should be write-protected to ensure their integrity” (FSC, 2002e).

In short, the FSC Secretariat has been aware of significant failings in a number of the certifiers’ systems, but has

tolerated these over a period of years, and has apparently failed to take decisive action to ensure that they are rectified. The accreditation programme appears to have been particularly badly affected by the problems within the Secretariat in 2001-02, and it is recognised by the Secretariat that procedures for monitoring and following-up the certifiers have not been adequate. Efforts appear to have been put in place to tighten up the programme. However, deficiencies in the FSC's report of the Accreditation monitoring programme for 2001 – produced by the Secretariat in November 2002 – mean that it is now not possible to ascertain even how many CARs exist against some of the major certifiers, what they relate to, how they are being closed out, or what actions FSC is taking to ensure compliance with its accreditation requirements. What is clear from the report is that the number of outstanding problems (as reflected in the number of CARs) with some of the certifiers is growing rather than decreasing.

This raises serious questions about the capacity, costs and sustainability of the accreditation programme. According to the FSC's current Executive Director, the accreditation programme has required a substantial 'cross-subsidy' from the Secretariat's core funding. Whilst the fees for accreditation charged by the FSC have been increased substantially in the last year, they are still not adequate to cover the actual cost of the accreditation programme. There is some evidence that the capacity of the Secretariat's accreditation is still substantially below what would be required to ensure regular and rigorous monitoring of the certifiers, and that the costs of accreditation would thus need to be increased still further. There has to be doubt as to whether the certifiers would be willing to pay for further substantial increases in accreditation charges, especially when better monitoring by the Secretariat of the certifiers' activities is likely to lead to demands for more rigorous (and thus costly) certification assessment and monitoring.

The FSC's procedures for monitoring of the accredited certifiers are based partly on office and documentation assessments, and partly on inspections of certified operations ('certificate holders'). The latter are of particular importance, as they would provide FSC with a 'ground-truthing' of the 'process analysis' that would be done by FSC as a 'desk-study'.

According to the conditions set out in the Manual of Accreditation, field checks are generally (and probably, in practice, always) conducted in conjunction with the staff of the certification body under assessment. Furthermore, the certification body has the right to object to individuals appointed by the FSC to carry out the assessment. This means that, in practice, FSC's field checking of the certifiers' work can be strongly influenced by the certifier. The Manual of Accreditation allows for the FSC to carry out unannounced inspection visits, but this has never been done.

2.2.4 Implementation of the Principles and Criteria

2.2.4.1. Translation of the generic P&C into certification standards

Of crucial importance has been the translation or interpretation of the FSC's generic Principles and Criteria into the specific assessment systems, including standards and checklists, used by the certifiers. The way in which the P&C are actually assessed by the certifiers in the field depends upon this process.

From the outset, this has been a deeply problematic matter for the FSC. Whilst most certifiers' systems do make explicit reference to the P&C and ensure that, in theory at least, each of the 56 criteria are included in the assessment, not all of them follow the structure of the FSC's Principles and Criteria. It can thus be difficult to determine how a particular Principle or Criterion is actually assessed by the certifier. This problem was recognised by the FSC in 1998, and it was noted that:

"The FSC Accreditation Manual requires certification bodies to provide an explicit cross reference between their 'generic' standard, and the P&C. The Accreditation Manual has not insisted that the arrangement of the certification bodies' criteria and indicators should follow the structure of the FSC P&C, nor that associated scoring and decision support mechanisms should do so. This has partly been a matter of historical precedence some certification bodies' standards are older than the FSC P&C" (FSC, 1998c).

As noted by FSC, a result of this is that:

"A single criterion developed by a certification body is often designed to contribute towards the implementation of more than one FSC Criterion. Several criteria developed by a certification body may be designed to contribute towards the implementation of a single FSC Criterion. Often, in order to develop a coherent system, the certification body has developed additional criteria of its own that are not clearly related to any of the P&C. Usually certification body criteria are not grouped to reflect the 10 FSC Principles".

The FSC concluded that, despite all this variation, "it is however always possible to create a checklist in which all the certification body criteria and indicators relevant to any one FSC Criterion are specified" (FSC, 1998c). However, this is a complex task. In the case of the SCS system, for example, references to the P&C are distributed through 40 pages of text, with many FSC criteria being referred to numerous times.

Whilst this problem has arisen partly because the certifiers' own assessment systems were mostly developed independently from, and in some cases prior to, the establishment of the FSC's P&C, it is something that the FSC has also apparently tolerated. According to a 1998 paper on implementation of the P&C, in addition to the historical reasons, the situation has been allowed to persist;

"partly [as] a question of strategy (in order to give certification bodies freedom to develop the best possible system of certification, without unnecessary technical constraints being imposed by FSC); but mainly a question of avoiding

any unnecessary dislocation to certification body systems at a time when their systems were better settled in than FSC's." (FSC, 1998c)

Nevertheless, recognising the seriousness of the confusion caused by the unclear relationship between the P&C and some of the certifiers' systems, FSC recommended that:

"As from 1st January 1999 ALL certification body 'generic' standards and FSC national/regional Forest Stewardship Standards MUST be presented in a structure which follows the 10 FSC Principles.

As from 1st January 1999 ALL certification body scoring and decision support systems must demonstrate explicitly, and at the level of each FSC Principle individually, that the Principle has been met by the forest management enterprise in order for a certificate to be awarded." (FSC, 1998c)

Some of the certifiers have apparently been reluctant to change their systems in order to be properly consistent with the P&C. Despite the January 1999 deadline, SmartWood's system was not changed until 2001. In the case of SCS, the generic standard still does not follow the structure of the P&C, being broken into three main sections, each of which incorporates elements relevant to a number of separate principles. Of the four sets of standards inspected by the researchers of this report, those of the Soil Association appear to have the closest structure to the FSC P&C, and include clear 'norms' and 'verifiers' which are used to assess compliance against the FSC criteria. At least one of the certifiers' systems has, for the last three and a half years, been in contravention of the FSC's requirement for an appropriate structure¹⁶.

This indicates that, whilst one of FSC's core functions has

been to accredit certifiers for their ability to properly assess forestry operations on the basis of the P&C, it has been unable to ensure that all certifiers even have systems which properly reflect the structure of the P&C. This appears at least partly to be due to FSC's unwillingness to 'cause dislocation' to the certifiers.

2.2.4.2 'Non-equivalence' of the actual systems of assessment

Another problem evident in the way that the certifier's systems have developed is that there is no equivalence between them in relation to the FSC P&C. That is to say that the system used by any certifier to assess for any given FSC Principle or Criterion is likely to be different from the system used by any other certifier.

For a number of the FSC Criteria, it is probably not a significant problem that different systems are used to assess the same aspect of forestry operations. However, it is evident from the case studies that there are also great differences in the way that the various certifiers assess key aspects of forest management. Table 1 below compares, as an example, the treatment of one of the FSC criterion by three of the certification assessment systems.

Thus, of the three, only one, that of the Soil Association, contains explicit reference to, and incorporates, the key concept within the FSC criterion, that of 'prior informed consent'. The SmartWood 'guideline' considers the issues in terms of the 'perception' of any indigenous people to 'threats' to their land, and refers to 'amelioration' of these threats. The SCS criterion also implicitly accepts that forestry management operations could be conducted even

TABLE 1 TREATMENT OF CRITERION 3.1 BY THREE CERTIFICATION SYSTEMS

Certifier	Treatment of FSC Criterion 3.1 <i>("Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies")</i>
Soil Association	Following the structure of the FSC P&C, the Soil Association system contains 'norms' and verifiers' directly related to the assessment of the criterion. These are: <i>"1. The identity, location and population of all indigenous and traditional peoples including migratory groups living in the vicinity of the management area are documented by the forest managers. 2. All claims to lands territories or customary rights within the management area are documented and clearly mapped. 3. No forest management operations of any sort take place in the areas mapped in norm 3.1 above, without clear evidence of the free and informed consent of the indigenous or traditional peoples claiming such land, territory or customary rights."</i>
Smart-Wood	The SmartWood system also follows the structure of the P&C. The specific guidelines given for assessment of Criterion 3.1 are that; <i>- "Indigenous groups do not perceive [Forest Management Operations] as a major threat to their resources or tenure. - [Forest Management Operations] take explicit actions to ameliorate threats or diminishments to indigenous resources or tenure".</i>
SCS	The SCS assessment structure does not follow the structure of the FSC P&C, and the main reference to criterion 3.1 is found in a section relating to 'Public Use Management'. This states that; <i>"Of concern in this criterion are the efforts taken to facilitate but also manage the use of the forested property by local people such as hunters, fishermen, hikers, campers and fire-wood gatherers. Consistent with the recognised human dimension to sustainable forestry, sound forest management facilitates human use but manages that use so as to assure an appropriate balance with other uses which may be in conflict (e.g. timber harvesting and resource protection). The operation must consider and provide for the continuance of legal or customary tenure or use rights of local communities and indigenous peoples, if such rights duly exist. Where claims of such rights are in dispute, appropriate mechanisms must be employed for resolving disputes".</i> An additional reference to criterion 3.1 appears in a section relating to the 'community and public benefits' of plantations. This states that: <i>"Field and management indicators around which data and other supporting data are gathered include: Policies and track record in support and adherence to the rights and economic interests, traditional and legal, of local residents or indigenous peoples, where applicable".</i>
References for the table: SA, 2000; SmartWood, undated; SCS, 1995.	

where ‘prior informed consent’ has not been granted, by referring to a ‘balance of forest uses’ and ‘mechanisms for the resolution of disputes’.

It is thus clear that, using each of the above three systems to assess any given forestry operation against FSC criterion 3.1 is likely to produce quite different results¹⁷. The same types of differences in interpretation or operationalisation of all the Principles and Criteria appear to exist throughout the various certification systems.

This is not an issue which FSC appears to have considered, presumably because the assumption has always been that, so long as each of the certifiers’ systems as a whole was seen to be broadly consistent with the P&C (an assumption which, as illustrated above in section 2.2.4.1, has not necessarily been true) then it does not matter unduly whether the details within it are different from the details within other systems. However, it can be seen that the **content of the promise** made by FSC to timber consumers about the production conditions of timber products is actually variable, depending on which of the certifiers conducted the certification. Insofar as certification systems have to be consistent to be credible, this problem is one that could seriously damage FSC’s credibility. The example above also gives rise to the question of how either the SmartWood or SCS systems were accredited to the FSC, when their treatment of Criterion 3.1 appears to be so deficient.

2.2.4.3 ‘Major failings’ against the P&C

Another problematic and controversial area has been the question of what constitutes ‘failure’ against the P&C. Specifically, it has been unclear whether all of the P&Cs have to be complied with in order for a candidate to become certified, or some of the P&C, and if so, which ones? This is a crucial issue, as it determines the veracity of the ‘promise’ that FSC makes to the public about the meaning of its label.

The P&C state that:

*“FSC and FSC-accredited organizations will not insist on perfection in satisfying the P&C. However **major failures** in any individual principles will normally disqualify a candidate for certification, or will lead to de-certification”* (emphasis added)

The term ‘major failings’ is thus of absolutely key significance, because interpretation of it determines precisely what failings are deemed as acceptable or unacceptable, and thus who can be certified under FSC and who not. The importance of this definition has long been recognised by the FSC Secretariat, which in a 1998 paper on the ‘Implementation of the FSC P&C’ noted that;

“The first and most obvious implication for FSC is that much greater importance and consideration must be given by all parts of FSC (regional working groups, certification bodies, FSC Board and Secretariat, FSC Members) to the question of what is meant by a ‘major failures’ at the level of

each FSC Principle”. (FSC, 1998c)

The paper concluded that, in terms of practical implementation of this conclusion:

“Certification bodies must ensure that their certification systems are designed to answer the question [of what constitutes a major failing] transparently and explicitly in every certification decision”.

However, this conclusion appears not to have been taken up by most of the certifiers. Of the four generic forest assessment standards inspected by the authors of this report, only one, that of SCS, actually explicitly defines what are termed ‘non-certification thresholds’¹⁸.

One reason for the certifiers’ reluctance to incorporate fatal flaws has evidently been that these might deter their potential customers. Explaining why there are no fatal flaws in their assessment system, SmartWood have noted that

“At the inception of SmartWood, the ‘fatal flaw’ was a part of our guidelines in some of the regions where we worked (e.g. West Coast USA). Over the years we have abandoned the use of the fatal flaw system, largely because it proved to be too rigid for application and in practice it had the chilling effect of turning managers away from certification”. (SmartWood, 2001)

SmartWood also stated that:

*“Since our goal has been to get organizations into the certification process and hold them to the standards, the use of a ‘fatal flaw’ system seemed less practical. As our experience grew we also recognized that trained assessors would nearly always identify the ‘fatal flaw’ and issue a precondition, even if in the context of the exact operation or forest type, one might question whether the fatal flaw should apply”*¹⁹ (SmartWood, 2001).

Thus SmartWood challenged, and refused to adopt, the concept of the ‘fatal flaw’ for precisely the reason which it appears to be urgently needed; to identify problems that would preclude unsatisfactory forest management practices from becoming certified.

In its 1998 paper, the FSC Secretariat also concluded that:

“the FSC Secretariat should prepare, as soon as possible a detailed set of guidelines...describing and explaining the known options for the operational definition of ‘major failures’ at the level of each individual Principle” (FSC, 1998c).

However, this work has also never been undertaken. There are thus neither any overall clear guidelines as to what constitute ‘major failures’, nor, for the most part, clear and transparent systems in use by the certifiers to identify such failures. In practice, therefore, and as evidenced by the case studies in this report, the certifiers are determining the existence of ‘major failings’ (and thus the success or failure of certification assessments) on the basis of informal or arbitrary internal decisions. As was candidly noted by Matthew Wenban-Smith in the 1998 FSC Secretariat paper on Implementation of the P&C; *“At the*

moment one sometimes gets the feeling that it is more important who decides what is a major failure, than what the decision is, or what are its consequences”.

As discussed elsewhere in this report, the certifiers appear to have strong commercial vested interests in successful outcomes to certification assessments. The lack of clear obligations concerning ‘major failures’ provides much scope for inappropriate certification decisions. *The case studies in this report indicate that these two facts combine to create the conditions for serious abuse of the FSC system, whereby certification is being granted to forests despite exhibiting what are clearly major failings against the FSC P&C.*

2.3 Product labelling – providing a credible guarantee to consumers?

2.3.1. Percentage-based claims

The consequence of much of what is described above in section 2.2 is that there are serious doubts about the veracity of FSC’s claim that *“All forest products carrying our logo have been independently certified as coming from forests that meet the internationally recognized FSC Principles and Criteria of Forest Stewardship”.*

A further problem with this claim arises specifically because of the ‘percentage-based claims’ policy. Under the policy adopted in May 2000, assembled wood products can carry the FSC logo if the product contains 70% or more wood from certified sources, while chip and fibre products can carry the FSC logo with as little as 17.5% certified material in the product (FSC, 2000e).

The adoption of such a policy has been intended to overcome problems faced by manufacturers of materials that contain at least some wood from FSC-certified forests, who would be excluded by a policy of allowing only completely certified wood to carry the FSC logo. This has been applied to manufacturers of solid wood products, such as joinery items and wood flooring products, the components of which might derive from a number of different sources, but particularly to paper producers, whose sources of wood-fibre supply may be numerous and constantly changing according to market fluctuations.

The percentage-based claims policy has been controversial from the outset. The policy has been of particular benefit to larger industrial interests, especially pulp and paper processors, who are evidently seen as essential partners in the effort to rapidly expand the area under certification and the number of products carrying the FSC’s label. However, it has been extremely divisive amongst the wider FSC membership, a number of whom are opposed to the concept in principle. The actual technical terms of the policy - including what should be the minimum acceptable levels of FSC content in the various types of percentage-labelled products, the ways in which this content should be quantified (for example, on a product basis or a ‘batch’ basis), whether targets for

progressive increase of the certified percentage should be built in to the system etc. – are all disputed. They are felt by some to be, at present, highly inconsistent (Pro-Forest, 2002).

A major difficulty, which has yet to be resolved, has been the question of what checks, if any, can be applied to the ‘non-certified’ portion of the product, to ensure that it complies with at least minimum standards of acceptability, such as coming from legal and ‘non-controversial sources’. Such sources would, according to the current FSC policy, exclude wood:

- that has been illegally harvested
- from genetically modified trees
- from areas *“where there is a clear demonstration of violation of traditional, customary or civil rights, or of serious extant disputes with indigenous peoples or other stakeholders, including confrontation or violence”.*
- from uncertified high conservation value forests (HCVF).

Under the present policy, certifiers must, in order to verify that percentage-labelled products comply with these requirements, ensure that the company has in place a *“public policy and a responsible contact person, and a monitoring or tracking system in place designed to fulfil the requirements of this policy.”* (FSC, 2000e).

However, as has been noted in a recent review of the percentage-based claims policy:

“Increasingly, governments and major companies are making policy commitments to exclude illegal and other controversial sources from their purchasing. If the FSC aims to be the label of choice to meet these requirements then the origin of the uncertified portion in the labelled products is increasingly important” (ProForest, 2002).

Certifiers have always stated that they are reluctant to police such a scheme, and it can be seen that the requirements as they presently exist are extremely general, leaving a great deal of scope for interpretation, and thus dispute. In practice, as evidenced by the case studies in this report, certifiers have not been effective in detecting non-compliance with these requirements even through *full certification assessments*, let alone the vague requirements of the percentage-based claims policy. As the certifiers are actually only required to ensure that the company has a ‘policy’ covering these requirements, it can be seen that this crucial aspect of the percentage-based claims policy is essentially dependent on industry ‘self-certification’.

Furthermore, as is discussed below and in the case studies, there are serious flaws in the existing Chain of Custody system. In practice, it would thus not be possible for the FSC to guarantee that material from controversial sources is not entering the production chain and being included in products carrying the FSC logo. In short, as a result of the inadequacies in the percentage-based claims policy, timber consumers risk buying FSC labelled

products which are in part derived from controversial sources, including illegally logged forests.

This is clearly a challenge to the FSC's guarantee that FSC-labelled products are independently certified as coming from forests which comply with the Principles and Criteria. The seriousness of this problem has been illustrated recently in the finding of the Norwegian Consumer Ombudsman's office that one particular example of percentage-based labelling was misleading. The case involved that of SmartWood's certification of flooring products made and sold by Tarkett Sommer. The product consisted of a combination of tropical merbau or kempas, with underlying layers of pine/spruce. The product was described as '70% FSC-certified', though only the softwood substrate was actually certified, and not the tropical wood. The Ombudsman ruled that:

"We have...concluded that the company has used the FSC-trademark in a misleading representation which gives the consumers insufficient guidance. This is in conflict with the Norwegian Marketing Control Act section 2 and 3.

When marketed in this way, the impression is given that the merbau-wood is cut in well managed forests. We consider it illegal to market in this way, without saying that the specific wood (merbau) is non-certified and cut in exposed tropical rainforest in Malaysia and Indonesia, see The Marketing Control Act section 2 and 3. In our view it is important that this information is given in a clear and visible way on all non-certified products when marketing these". (NCO, 2002)

It is to be noted that, in the above case, the company had apparently acted in accordance with the FSC's requirements. It seems likely that the percentage-based claims policy would be in contravention of the laws covering marketing, trading descriptions or consumer protection in other countries. Thus, whilst the percentage-based claims policy has undoubtedly helped to expand FSC's 'market share', it has not only served to discredit the FSC, but also possibly brought it into serious disrepute.

2.3.2. Chain of Custody flaws

While the Chain of Custody (CoC) monitoring as developed under the FSC by the accredited certifiers is often argued to be the most rigorous monitoring of trade in wood products, there are indications that it is far from sufficient in contexts where false paperwork and corruption is rampant, and the incentives for laundering of wood are strong.

As argued in the case study on CoC Certification in this report, the actual mechanisms meant to ensure that FSC labelled products genuinely originate from certified operations are rather weak and probably inadequate. While incentives are strong for CoC certified companies to abuse the system by laundering illegal and non-certified wood into certified chains to seek profits, the incentives are also strong for the certification bodies to ignore false claims

and fraud even when detected. Put simply, it is in the interest of the certification bodies to avoid exposing illegalities and fraud among clients and potential clients, as to do so would potentially jeopardise their position in a competitive market for certification services (this is discussed in more detail in section 3.3). At the same time, the lack of transparency in the CoCs enables the certifiers to 'disregard' or actively collude with their clients rather than exposing them, without fear of scrutiny by external agents or sanction by the FSC.

As argued, and explained in detail in the case study on CoC certification in this report, it is a fact that in various regions CoC certification will remain untrustworthy as long as national and international law enforcement mechanisms are not effective in combating fraud in the wood trade sector. As pointed out in the case study, there is also evidence of poor monitoring of Chain of Custody certificates and the certifiers' CoC assessment procedures by the FSC Secretariat. Thus the FSC logo in such contexts is likely to remain little more than another unverified and potentially false claim in the market.

2.4. Providing 'incentives for good forest management'?

2.4.1 Certifying actual performance, or 'continuous improvement'?

One of the issues over which there has been the greatest amount of confusion has been that of how exactly the FSC provides an 'incentive' for good, or better, forest management. There appear to have been two main views on this:

- The FSC certification assessment process will rigorously determine whether any given forestry operation complies with a given set of standards (based on the P&C) *at the time of assessment*. By aspiring to become certified, forest managers and owners will improve their systems in order to achieve the relevant standards *before they seek to become certified*. This could be described as a 'performance-based' assessment system²⁰.
- The process of *certification itself brings about improvements in forestry practices*. Thus, certifier assessments identify problems, which are agreed to be rectified, leading to improved forestry practice, and thus certification. Taken to an extreme, this would tend to become a 'systems-based' or 'continuous improvement' assessment, as what would be assessed would be the extent to which improvements were intended or planned, rather than whether the improved management actually existed at the time of assessment.

In theory, the FSC is principally based on the first approach, and has always described itself as such. In practice, however, there appear to have been huge differ-

ences between the certifiers as to which of these models have been pursued, with most appearing to provide some combination of both.

All the FSC-accredited certifiers' assessment systems studied for this report are based upon assessment against given standards at a particular moment in time. They thus show characteristics of being performance-based systems. However, all also involve an element of 'condition-setting', whereby identified problems are described by the certifiers in such a way that the forest manager can rectify the problem over time. In some cases such improvements are given as 'pre-conditions' of certification, where the granting of certification *depends* on them being complied with. In others, they are 'conditions of certification', such that the certification is granted immediately, but the necessary improvements are expected to be made by the forest manager within a stipulated time period.

There is no consistency or comparability between the different FSC certification bodies' systems as to how or why particular forest management failures are treated in terms of the definition of, and compliance with, 'conditions' or 'pre-conditions'. There is even ambiguity *within* certifiers' systems. Thus, for example, in the Operations Manual for SCS's certification system, it is stated that, for the scoring system used by the forest assessors;

"scores should be based strictly upon observed conditions ("what is") rather than upon intentions, plans, assurances. Specifically, the scores should not reflect anticipated compliance with any stipulated conditions".

However, when referring to conditions of certification, SCS's Manual also states that;

"The process of specifying conditions in situations where some criteria are below the threshold for a certified operation is rooted in a fundamental goal of third party forest management certification - to improve the quality of management of forest lands, over time."

This means that, in practice, FSC certification is being seen not only as providing an incentive for forest management improvements, but that the certifiers, through the issuing of conditions, also provide a service to generate the advice and guidance to forest owners by which that certification can be gained. *These two approaches are not necessarily compatible within the same certification system; they demand quite different systems of assessment, with quite different outcomes, and a different 'guarantee' to consumers.*

However, there is evidence that the certification bodies have increasingly described their role as being to fulfil the second model, that is, to putatively improve forest management through the certification process itself. There are numerous examples in the case studies in this report whereby certifiers have granted certificates with conditions attached, even where these conditions relate to major failings against the FSC's P&C. It is clear that a number of the certificates issued by some of the major certifiers have been issued largely on the basis of 'hoped-for-improvements' - improvements which may or may not ever be forthcoming.

This is seriously problematic for the FSC. Because, ultimately, the certification decisions are made by the certifiers, who themselves have 'informal' means of determining what are 'conditions' or 'pre-conditions' for certification (see also section 2.2.4.3), the extent to which the FSC system is truly based upon actual 'performance' is largely an arbitrary decision taken by the certifiers. Furthermore, whilst certifiers are certifying forest managers that do not actually comply with the FSC P&C (or even the certifiers' own assessment systems) at the time of assessment, the resulting timber products are being sold with the FSC logo attached, which carries with it the promise that, in essence, the product *has* been derived from a source compliant with the FSC's performance-based system. *This is potentially misleading to consumers, and it therefore appears to be essential that this fundamental uncertainty about the nature of 'FSC's incentive' is resolved.*

2.4.2 FSC and the alternative approaches to improved forest management

A further source of controversy has been the exact 'niche' of the FSC in relation to other strategies for encouraging better forest management (such as better implementation of forestry laws, better recognition of forest peoples' rights, better regulation of trade, international agreements etc). The stated FSC position on this, as noted in the preamble to the P&C, is that:

"The FSC P&C should be used in conjunction with national and international laws and regulations. FSC intends to complement, not supplant, other initiatives that support responsible forest management worldwide" (FSC, 2000f).

In practice, there is evidence that the FSC has been used as an *alternative*, rather than a complement, to other policy options, and also that it has in some cases supplanted these other initiatives.

As noted in Section 1, FSC became established at a time when the international political rhetoric became particularly vocal in the promotion of the ideology of global free trade. As a market-based mechanism, FSC thus provided an attractive proposition for many interests seeking to distance themselves from regulatory approaches. In fact, some advances that had been made during the late 1980s and early 1990s to develop better regulatory regimes - such as in the European Union - appear to have been abandoned in favour of a market-based approach reliant on forest certification, of which the FSC project has been an important part.

As also noted in section 1, the World Bank forest policy, which has to some extent served as a 'benchmark' for global policy treatment of the forest industry, has been weakened, by allowing for the resumption of direct Bank funding for logging operations in primary forests. One of the justifications for this change is that such Bank funding will be partly conditional upon the attainment of independent certification by the operation to be funded.

The FSC has thus been used as a legitimisation for the weakening of policy that is widely opposed by many civil society organisations worldwide.

There is much evidence that the practical implementation of the FSC project – specifically the carrying out of certifications – has also often conflicted with, or distracted from, other approaches being taken by civil society groups, forest dwellers and even government agencies at a national level.

For example, in an article in the Ecologist June/July 2001, Klemens Laschefski and Nicole Freris, attempted to deconstruct what they described as some of the myths used in the marketing of FSC certified timber, and the various ‘guarantees of sustainability’ given to consumers (Laschefski and Freris 2001a). The article, which used the certification of Precious Woods Amazon (PWA) (see case study in this report) as an empirical example, argued that if the current objective of the FSC is to simply open markets for tropical timber, then the marketing in use is extremely deceptive, while if the objective is to contribute to the conservation of tropical rainforests, FSC is failing on many fronts.

The article pointed out that even certified industrial logging can have seriously negative impacts on the forest ecosystem, and local communities. The article further argued that certification of large scale industrial logging in the Brazilian Amazon can fuel rather than restrict the expansion of the logging frontier, and could intensify an already grossly inequitable concentration of landholdings. Moreover, certification is providing a survival option for a growing number of large logging companies threatened by bankruptcy due to pressure and regulation from the state environment agency.

In a response to the article, SmartWood, and their Brazilian partner, Imaflora, who undertook the certification of PWA, wrote:

“forest certification, incorporating strict conservation as one component, and as exemplified by the FSC...represents the future of practical tropical forestry from ecological, social, economic and silvicultural perspectives” (Azevedo, Freitas, Donovan - 2001).

Without being able to contest any of the serious assertions in the article, the certification body thus simply states that the activity in which they have a vested interest actually represents the future of forestry in Amazonia from more or less all possible perspectives. In a response to this, Laschefski and Freris point out that:

“The ‘culture’ around the FSC has become a serious diversion from discussions on, and interaction with, the real issues of forest destruction. Through certification, massive human, financial, academic and technical resources are being pumped into promoting the foresters’ future for the remaining rainforests ... We agree that for local peoples dependent on forest resources, forests need to be managed. However we do not understand management, as the defenders of the FSC seem to, exclusively as logging. We assert that

the resources spent on certification of industrial scale logging might be better directed to supporting use of forest resources within a more holistic and less linear manner...Without defining one particular category of forest product, we support the diversification of land use systems, based on the traditional knowledge of local peoples who should be the main beneficiaries of any economic intervention” (Laschefski and Freris, 2001b).

The nature of the problems identified by Laschefski and Freris, and the potential conflict this causes between the FSC and other approaches to forestry reform, have also become apparent in the case of Indonesia. On 15th of January 2001, WALHI together with 11 international NGOs sent a letter of concerns and questions with respect to the ongoing approach to certification in Indonesia, on the basis of doubts about the compatibility of the P&C with the Indonesian legal framework, as well as the possible effects on other efforts to reform the national forestry sector (WALHI et. al. 2001a). The letter restated concerns and included correspondence that had already been raised in September and November 2000.

The response from SmartWood to this letter is highly illustrative, and is cited at length below. Smartwood replied that:

...“It was suggested that there should be a moratorium on FSC certification in Indonesia...It is our understanding that the moratorium...would be effective immediately...and last until the entire [Indonesian logging] concession system has been revised and the legal rights of local communities have been resolved.

Rainforest Alliance ²¹*...has been involved in working towards sustainable forest management and certification in Indonesia for over ten years. With all due respect, we feel that making a decision to stop the entire certification process in Indonesia would have a very negative impact on forests and communities in Indonesia...Rather than preserve FSC standards and integrity, it would undermine our role in causing effective change...The forces of demand are actually working to cause a number of concession managers to take certification principles seriously. In our experience, this is causing fundamental change. Because of forces beyond our control (e.g. politics and market dynamics), we are extremely concerned that this window to effect change, brought about by joint LEI/FSC certification, may close...*

Coupled with a potential scenario of there being no FSC certification in the country, and not a single well-managed forest concession to point to as an example, none of the positive and constructive incentives that certification can provide to raise the standards of forestry will occur. What other mechanism has demonstrated the capability to make commercial forest managers accountable to critical social, economic, and ecological conditions within and around a well-managed forest?

While legal reforms are under debate, and the enactment of any new policies at the national or provincial level may take a considerable time, we feel that the influence of certifi-

ation can be more valuable, more strategic, than not having certification at all.... Using specific certification assessments, with well-intentioned concessions, who are more open to innovative strategies for working with communities, there is more likelihood to influence local governments to try a reform minded approach...If a logging ban were to come into effect in Indonesia, we would certainly respect that. But in the interim, it seems counterproductive to the conservation goals of the sustainable forest management, conservation and Rainforest Alliance, to abandon certification and the role it can play, even if limited, in improving forest management in Indonesia. It is rather unfortunate to give up on the certification process in a country where so few other incentives exist to bring about tropical forest management that embodies any of the principles necessary for FSC certification. Arguing for a logging ban and a certification ban takes us backwards, it would seem, to the time when the only instrument conservation organizations had was timber boycotts. Is that where we want to go with this?" (SmartWood, 2001).

It was thus argued by SmartWood that the limited (and, as illustrated elsewhere, questionable) potential impact of certification with a few concessionaires outweighed the arguments that the concession system itself was a fundamental obstacle to proper forest management. WALHI's strategy for reform of the forestry sector, which was based upon decades of accumulated experience in the national policy dialogue, was bluntly dismissed by SmartWood as 'taking us backwards'.

In early April 2001, PT Diamond Raya became the first natural forest concessionaire in Indonesia to be certified under the FSC system (see case study). Partly as a response to this, on April the 21st, 144 NGO's from all over the Indonesian archipelago jointly called for a halt to all FSC certification activities. It was argued by the 144 NGOs signatory to the statement that certifications would:

"help to legitimise a concession system that is now widely recognised to be at the very root of the problem in Indonesian forestry, and would also negate the challenges that are made across Indonesia to the de facto extinction of adat law which the concession system represents" (WALHI et al, 2001b).

It was further noted that;

"The undersigning organisations believe that further scoping, assessments or issuing of certificates to conventional HPHs²², serves to legitimise the existing concession system, a system that is the root of the problem in Indonesia's forestry sector, and urgently needs reforms...[we] also strongly believe that certification of HPHs in the current situation will work counter productive to securing indigenous and community rights, as long as no independent analysis have been undertaken of FSC's principle 2 and 3 relative to Indonesian laws." (WALHI et al, 2001b).

Thus, whilst the FSC's agreed position has been that it does not want to supplant other strategies for bringing about improved forest management, in practice FSC certification has been seen as an essential activity which is applicable in

all contexts, regardless of potential conflicts with other strategies for forestry reform. In this view, certifiers attempt to deal with fundamental problems in implementing FSC certification – such as conflicts or inconsistencies in the law, and structural problems within the forest sector such as endemic corruption – through the issuing of certification conditions at the forest management unit level. As indicated in some of the case studies, the results of this can be counter productive to other efforts for progressive change, as well as being disastrous for FSC's credibility.

To argue that there are constraints to the implementation of the Principles and Criteria in the political or legal framework in any given context, and thus that certification conditionalities cannot work properly, is to risk being labelled as being 'against the FSC'. However realistic the arguments are, they are often seen as a threat to the 'paradigm of certification'. Of course, this paradigm is strongly defended by those with vested interests in certification itself, thereby limiting an open and healthy debate about what certification can and cannot be used to achieve²³.

2.5 Fast growth

Many of the problems identified in this report appear to be closely related to the FSC's pursuit of a rapid growth in the area of forest and volume of forest products certified under its aegis. This raises the question as to why the FSC has become so locked into this strategy, even though it threatens to undermine the organisation's most basic operating principles, and irreparably damage its credibility.

The following sections consider in more detail the origin of the 'fast growth' approach, the practical implications of it, and the interests that it tends to serve.

2.5.1 Origins of the fast growth scenario

At the centre of debate amongst certification advocates in the 1990's was the question of whether the FSC should aim to quickly establish itself in the market through a rapid expansion of the certified forest area, or whether expansion should be more cautious. The reason this was seen to have such fundamental importance to the FSC was that the first scenario carries with it an explicit recognition that to expand the area will involve much greater involvement of major industrial wood suppliers, and a focus on the countries of the world that account for the greatest levels of forest production or trade. Associated with this scenario was, of course, the risk that expanded certification may lead to a diminution both of the Principles' and Criteria's environmental and social content, and of the rigour with which they are assessed. A further risk was that fast growth, particularly in countries with little or no history of democratic multi-stakeholder decision-making processes and democratic institutions, would compromise the basic FSC tenet of seeking consensus from all the relevant

stakeholders in a fair and transparent manner.

In the 'slow and cautious growth' scenario, the FSC would probably, at least for the foreseeable future, aim to satisfy a specific niche market. This scenario carries with it the implicit assumption that much greater efforts would be placed into a rigorous interpretation of the Principles and Criteria, and that it would be possible, and perhaps necessary, to work principally with smaller community-based forestry initiatives in many regions. A risk (for the FSC) said to be associated with this scenario already in the mid 1990s has been that these other certification initiatives²⁴ may gain market pre-eminence if the FSC remains limited to high-quality niche markets. This has been increasingly argued in the face of the perceived 'threat' from the other certification schemes. Consequently, the fast-growth scenario has apparently largely been favoured by FSC's commercial sector members and clients, while the slow-growth scenario has been favoured by many social and some environmental members.

The draft Strategic Plan for the FSC prepared by the consultancy firm Coopers and Lybrand in April 1998 strongly suggested a rapid expansion of the FSC. The authors of the plan claimed that "Our projections indicate roughly that demand in five years from now will be at around 100 million cu.m., or perhaps slightly over" (C&L, 1998). Alluding to the source of the 'strong pressure' for rapid growth, the report stated that, amongst the "commonly held views" were that "FSC should aim for faster growth in the future. This reflects the strong sense of mission amongst not only the members, staff and board members, but also amongst the [certification bodies] and some of the early key industry champions of FSC, e.g. B&Q in the UK" (C&L, 1998). Whilst the views from the membership about 'fast growth' were, at best, ambiguous, the strong and convergent views about growth expressed by the Secretariat and the certifiers thus tended to prevail.

Serious concern about the 'rapid expansion' vision was expressed by a number of NGOs in 1998. FERN summed up these concerns in a letter to the FSC Board members in noting that;

"the main omission in the [Coopers and Lybrand] report is that no reference has been made to the availability of (potential) certifiable forest. The underlying assumption of the vision of growth is that well managed forests abundantly exists or can be created if demand for certified wood increases. ...By focussing on growth without looking at possible restrictions stemming from the forests and its people...FSC runs a serious risk of making a similar mistake as other global institutions before it; lack of real participation of the people whose forests we talk about both in North and South" (FERN, 1998).

At its meeting in May 1998, the Board endorsed the general vision of growth, but stated that this must "occur within the context and limits of the FSC's mission and P&Cs and the reality of social, environmental and economic conditions within each country" (FSC, 1998a). However,

there is evidence that restrictions on the expansion of the FSC are not accepted by some FSC stakeholders, particularly certification bodies, as is discussed in the following sections. There are also indications in the case studies presented in this report that the Board's 'restrictions' have largely been ignored.

The approach promoted in the 1998 strategy paper was reinforced by the 2001 'Change Management Team' initiative, as illustrated below.

2.5.2 Competition to the FSC, and how to handle it: FSC its own worst enemy?

It seems clear from both the 1998 Strategic Plan, and the subsequent Change Management Team report, that the main drive to expand rapidly is concern over 'loss of market share' to other competing forest product labelling schemes. According to the 2002 report of the Change Management Team review, one of the key impediments to the achievement of FSC's mission is;

"the need to rapidly increase the supply of certified timber for producers and retailers so there is a major increase in the volume of products carrying the FSC brand name. The ultimate success of FSC will depend upon in large part its ability to put labelled products on the shelf...Many are of the opinion that FSC's own onerous and cumbersome policies are a major constraint on the system. With the growing acceptance of certification in the market place and the selection of the FSC as the preferred brand by a number of major retailers (e.g., IKEA, B&Q and The Home Depot), the pressure is on to FSC to deliver. Should FSC fail to respond to the market demand for labelled products, an ever increasing number of competing certification schemes stand ready and able to overtake FSC" (FSC, 2002c).

The Change Management report thus reiterated the earlier (1999) Strategic Plan insistence on fast growth, but also added explicitly the justification that FSC needed to expand rapidly in order to survive against the perceived competition. It also specifically linked this need for rapid expansion with the huge demand for certified products created by certain major retailers, a demand which has been strongly encouraged by the WWF Trade Networks.

The CMT report explicitly suggested a weakening of FSC's policies and requirements in order to remove barriers to fast growth. There are reasons to believe that the fast growth approach has encouraged the development of generic policies of a kind, and in a way, which is not supported by the broad FSC membership. Specifically, there is evidence that the Secretariat's pursuit of fast growth has tended to lead to unjustified interventions in decision making, whereby the views of the wider membership have been overridden in order to adopt policies that facilitate rapid growth of the FSC certified area. A particularly worrying example of this has been the pursuit of Mutual Recognition with other certification schemes – see Box 1.

In the view of the authors of this report, there are several

BOX1: Mutual recognition; expansion at a cost...

The pursuit of Mutual Recognition (MR) agreements by the FSC illustrates how the vision of fast growth can undermine proper multi-stakeholder and democratic decision-making processes.

MR refers to a process in which agencies such as FSC agree with other agencies that the standards operated by each are broadly equivalent, and that decisions or assessments made by each are thus 'mutually recognised'. In theory, this could mean that, where a mutual recognition agreement exists with the FSC, timber producers would be allowed to display the FSC logo on their products, even though FSC accredited certifiers would not have carried out any form of assessment, so long as the producer had been assessed by the 'mutually recognised' agency. MR schemes have thus presented the FSC with a ready means of rapidly expanding its 'market share' of certified wood, without having to undertake the time-consuming process of actually carrying out certification assessments.

However, the FSC's membership quickly appreciated the dangers of such schemes; MR agreements effectively entrust the assessment of FSC's P&C to non-accredited third party agencies, whose objectives may be substantially different from those of the FSC, who may be completely unaccountable to FSC members, and whose actual means of regulating their own criteria and controls may be obscure or doubtful. Thus, at the FSC General Assembly in June 1999, the membership approved a motion concerning MR, which included a requirement that:

"The FSC should not formally endorse or otherwise officially recognise any other body or programme in the absence of an approved FSC policy...The Secretariat, in consultation with the Board of Directors, shall establish a working group to develop a policy and protocol". (FSC, 1999b).

However, it soon became apparent that, despite this clear decision, Secretariat staff, including the Executive Director at the time, continued activities that contradicted the spirit, as well as occasionally the letter, of this resolution. The membership's call for the establishment of a working group to develop FSC's policy on MR went unanswered. In a report to the Board in December 2000, the Executive Director explained that "FSC has obtained no funds for the establishment of a working group [on MR], or for developing a protocol" (FSC, 2000b). Despite the apparent dearth of money, work on mutual recognition by FSC had actually continued apace throughout 1999 and 2000, particularly in relation to the Malaysian National Timber Certification Council (see case study). For example, in January 2001, in a further report to the Board, Dr Synnott noted that a consultant had been employed by FSC to progress the development of relationships between the Malaysian NTCC and FSC (FSC, 2001a). As noted in the case study from Canada, senior FSC Secretariat staff also developed high-level contacts with the Provincial Government of Ontario, evidently with the aim of developing a Mutual Recognition agreement.

It thus appeared that FSC funds, and senior staff efforts, were being used for precisely the activities which the General Assembly decision had demanded should be halted. Meanwhile, the elected Board was being led to believe that no funds are available for activities that the General Assembly of members had specifically requested. By June 2002, there had still been no progress in establishing a formal working group on Mutual Recognition.

Both the Malaysian and Canadian cases have proven to be highly controversial, particularly with local environmental and social stakeholder groups. Both risked undermining the FSC's credibility, including with its own membership, apparently in the pursuit of rapid growth of FSC certified area through Mutual Recognition agreements.

reasons to question whether the FSC's response to the perceived threat of other certification schemes is appropriate, or is likely to be effective:

- The FSC does not have, and probably never will have, the resources available to enable it to truly 'compete' with the combined world forest products trade, and the many governments such as the US and Canada that strongly support this trade, in the ongoing 'quantity game' of certification. Industry interests allied with a variety of governments and agencies will inevitably continue to develop their own labelling systems.
- While the Strategic Plan and CMT report have promoted rapid growth, this approach continues to ignore the very real constraints that may exist to the amount of timber that is truly certifiable under the FSC at any given time.
- What differentiates the FSC from its 'competitors' is precisely that it is based upon performance-based assessment and is discriminating when deciding who achieves certification and who not. In the short term, the only way to remove this key 'competitive disadvantage' would be to largely stop discriminating as to who can be FSC-labelled.

It should also be evident that the very act of FSC compromising in order to 'accommodate the competition', may simply encourage more competition. It is very likely that some of the competitive schemes have been established principally in order to undermine the FSC's performance-based system. If this strategy is seen to have been successful, then these efforts could well be intensified.

2.5.3 Fast growth and the selection of 'focus countries' – in whose interest?

For the FSC to be able to pursue the fast growth scenario, it must become active in some or all of the countries with large areas of forest and/or a large trade in forest products. However, the 'fast tracking' of certification in order to meet the demand for industry could have serious consequences for the balance of interests in certification and the rigour of implementation of the Principles and Criteria.

The Coopers and Lybrand draft Strategic Plan included a list of 'focus countries', which were said to have been produced by the FSC's Strategic Planning Committee, and which were to be specially targeted by the FSC in a bid to rapidly capture large parts of the forest products' market. These were: Brazil, Bolivia, Cameroon, Canada, Finland, Germany, Indonesia, Japan, Malaysia, Mexico, Russia, Sweden, UK, and the US. The criteria against which these were selected were:

- 1. high timber product production;
- 2. high timber product consumption;

- 3. presence of high risks and opportunities to conserving forests;
- 4. FSC already has a major presence (e.g. National Initiatives, buyers' groups etc)²⁵.

According to the Secretariat, the development of the focus list would “*support the efforts of the Board and Secretariat...to identify the particular needs of a globally significant country or region even when there are few known FSC members or supporters there*” (emphasis added).

It should be noted that the selection criteria did not include consideration of whether there was any realistic prospect of multi-stakeholder processes taking place, or whether there was any serious prospect of acceptable quality of forest management occurring within the foreseeable future. The Board resolved in May 1998 that “*Further analysis will be needed to determine the possibilities and difficulties of achieving this vision in different countries and regions*”. In fact, the focus countries were selected without civil society groups in the specific countries being consulted, despite the fact that ‘participation’ from core environmental and social interest groups is a premise for any credible implementation of the FSC project in any country.

There had been strong and explicit concerns about the extent to which the FSC is workable in all geographical regions dating back at least to 1998. In particular, concerns were voiced with respect to whether the approach is viable in countries where there is little opportunity for, or history of, civil society involvement in policy-making, and little scope for meaningful consultation with NGOs or indigenous peoples (FoE, 1998b). Despite these concerns, the FSC’s Executive Director at the time appeared to have already made an executive decision about the countries in which the FSC would develop activities. These included countries where there would clearly be huge obstacles to a truly ‘multi-stakeholder’ FSC process²⁶.

The early stages of the FSC’s attempts to become established in Malaysia provide an example, and are described in Box 2.

The Strategic Plan and the CMT were developed within the context of ‘out-competing’ the other certification schemes through ‘rapid expansion’ and a clear focus on ‘quantity’. This approach, which appears to have placed the interests of certain specific groups above those of other legitimate stakeholders, has proven to be deeply problematic in a number of countries. It has meant that FSC has, effectively, been faced with a choice of either confronting legal and political frameworks which do not allow for the implementation of core Principles and Criteria, or endorsing operations where the forestry sector is marred by corruption, violence, lack of tenure security and illegalities. This has brought FSC increasingly into conflicts with social and environmental interest groups. Had the FSC Secretariat followed the Board’s premises for endorsing the ‘Strategic Plan’, these problems could very likely largely

BOX 2: The development of FSC in Malaysia

In a statement issued by the Secretariat, on 13 March, 1999, under the heading ‘FSC Strategic Plan Implementation’, it was reported that Dr Synnott, at the time FSC’s Executive Director, had held meetings in Kuala Lumpur with government authorities and the Malaysian National Timber Certification Council (NTCC) (FSC, 1999c). The outcome of the meetings was that FSC would collaborate with the NTCC “*by contributing from its international experience in similar issues...A later objective will be to produce a set of C&I for Malaysia which may be recognised by FSC as the Malaysian Forest Stewardship Standards*”. The report went on to note that “*FSC is now seeking funds to enable staff, consultants, certifiers and others to contribute to this collaboration*” (FSC, 1999c).

As had been pointed out by Saskia Ozinga of the environmental NGO, FERN, in May 1998;

“I personally find it difficult to see how in countries like Malaysia a real stakeholder consultation can take place, when our friends and colleagues who have been fighting to protect their forests, cannot speak out (NB three of our friends in Malaysia have had their passports taken away to prevent them from travelling, there are numerous court cases ongoing and several people were shot this year, one of whom was killed)” (FERN, 1998).

Whilst in Malaysia, Dr Synnott met with, amongst others, the Ministry of Primary Industries, the Malaysian Timber Industry Board, and the Malaysian Timber Council. Although he was accompanied in ‘most of the meetings’ by a representative of WWF Malaysia and FSC Board member Sian Tuan Mok²⁷, the official record of Dr Synnott’s visit to Malaysia shows that he did not meet with any NGOs whatsoever (NTCC, 1999).

have been avoided. This, however, would have required the FSC to put a ‘brake’ on the activities of accredited certifiers, a step which it has evidently been highly reluctant or unable to take.

Whilst the countries apparently being considered as a focus for the FSC’s expansion may represent the opportunity for the fastest growth in certified area, they do not necessarily accord with what many members – particularly many of those in the social chamber – would consider to be priority for other reasons. As long-term FSC member Francisco Chapela has pointed out “*The Secretariat does not seem interested in social forestry. It is clear if we check the ‘Focal Countries’ in the Strategic Plan. Most countries with social forestry movements, like India, Peru, Colombia, Philippines or Papua New Guinea, are out from the list*” (Chapela, 1999).

Thus, at a time when many international agencies are increasingly appreciating the value of promoting community forestry, especially in tropical countries, the FSC risks becoming an agent principally for promotion of industrial control of forests. As is explored more in detail below (see section 3.3), this accords closely with the interests of most of the certification bodies, whose ‘bottom line’ is better served through certifying large-scale industrial interests, rather than community-based operations. The fast growth approach also coincides with the interests of the members of the Trade Networks and other ‘committed companies’, for whom there is evidently a serious mismatch between their demand for certified timber, and the FSC system’s ability to supply it.

2.6 Conclusions to Section 2

The overall ‘mission’ of the FSC is extremely broad, and can be interpreted in varying ways. It is implicit rather than explicit that its major objective is to bring about management of the world’s forests according to the FSC Principles and Criteria. However, this is self-evidently an extremely long term prospect. There do not appear to be clearly defined organisational objectives which would be achievable in the short-medium term.

In the absence of clearly defined objectives, FSC’s success or failure is largely measured in terms of the extent to which the Principles and Criteria are actually upheld. Upon this success depends both the veracity of FSC’s claim to provide a ‘credible guarantee’ to forest products consumers, as well as its claim to provide an incentive for improved forest management.

The analysis presented above suggests that there are serious structural obstacles to the FSC’s ability to actually ensure that the P&C are upheld. These are principally related to the FSC’s relationship with the certifiers, which provides the framework for implementation of the P&C at the field level. Specifically:

- The clear provisions for sanctions within the contract between the FSC and the certifiers (including suspension or cancellation of the contract) have only ever been exercised once, despite clear breaches of the contract by the certifiers. A ‘penalty clause’ within the Accreditation contract probably serves as a strong disincentive for the Secretariat to take decisive action against the certifiers.
- The Secretariat’s provisions and procedures for disciplining of the certifiers are woefully inadequate.
- There is evidence that the FSC’s monitoring and follow-up of the certifiers has been extremely lax, with serious inadequacies in the certifiers’ systems being allowed to persist for years.
- The translation of the generic P&C into certifiers’ assessment standards and procedures has been deeply problematic. At least one certifier appears to have disregarded the FSC’s requirement to conduct assessments according to the format of the P&C. There is huge variation between the certifiers’ assessment systems, including significant inconsistency in interpretation of the P&C. The FSC’s requirement for the certifiers to incorporate ‘major failings’ into their assessment systems appears to have largely been ignored.

One consequence of the difficulties and inconsistencies in translating the generic P&C into certifiers’ assessment systems is a ‘disconnect’ between what FSC purports to be the basis of its certification system, and what the basis is in reality. Specifically, the FSC’s P&C have been agreed by the FSC membership as a consensus amongst multiple stakeholders – and it is upon this basis that certification

assessment under the FSC draws its legitimacy and credibility. However, the certifiers’ assessment systems, against which forests are actually assessed, have not been so developed through a multiple stakeholder process. If there is no close linkage between the FSC’s P&C and the certifiers’ systems, then two problems arise;

- forests are being assessed on the basis of standards that have not been agreed through multi-stakeholder input but, rather, unilaterally by the certifier’s themselves;
- the FSC promise to timber consumers that the FSC logo provides a guarantee of compliance with standards agreed through consensus amongst multiple stakeholders is not true.

A further consequence of this is that, because the certifiers’ reports on successful certifications (the ‘Public Summary’ reports) are compiled in terms of their own systems rather than the FSC’s P&Cs, it is difficult or impossible, in the case of some certifiers, for members of the public to ascertain what the certified company’s performance was against any given FSC Principle or Criterion.

As a result of these problems, it is virtually impossible for the FSC, or anyone else, to ensure that forest managers are actually assessed properly against the P&C by certifiers in the field, and the FSC Secretariat appears to be very reluctant to take action in cases where they are not. This throws into serious doubt any claim that products carrying the FSC logo “*have been independently certified as coming from forests that meet the internationally recognized FSC Principles and Criteria of Forest Stewardship*”.

There are additional reasons to believe that FSC’s guarantee to consumers is not entirely supportable;

- The percentage-based claims policy allows, in practice, for the inclusion into FSC certified products of wood from sources that are completely beyond the reach of independent assessment. The marketing of products labelled according to the percentage-based claims policy has already been deemed by one national consumer agency to be misleading to consumers.
- The Chain of Custody systems are inadequate to ensure that wood from non-certified sources do not enter certified trade chains (this is explored in more detail in the relevant case study).

There are further doubts about the extent to which the objective of ‘providing an incentive for improved forest management’ is being achieved;

- The basic model of FSC is that of a performance-based certification system, whereby forest managers strive to improve forest management in order to gain certification. However, certifiers are effectively undermining this incentive through the granting of

certificates for clearly non-compliant companies, by issuing numerous certification ‘conditions’. Associated with this practice is a risk of conflict of interest, as the issuing of certification conditions is tantamount to providing both forestry consultancy advice whilst also assessing compliance.

- Whilst the FSC explicitly states that it will not “*supplant, other initiatives that support responsible forest management worldwide*”, in practice this only extends to ‘other initiatives’ that work within the paradigm and legal frameworks of existing forest logging concession systems. Forest stakeholders that challenge such frameworks, such as forestry tenure reform movements, who may see certification as a legitimisation of illegitimate forest tenure regimes, have been disregarded. It has wrongly been claimed (usually by certifiers, who have a vested commercial interest) that the FSC can work in any political and social context, and that it could not undermine or conflict with other initiatives or approaches to improved forest management.

The overall conclusion here is thus that inherent weaknesses in the operational model of the FSC, where certification bodies (which compete for clients in the market) function as intermediaries between the FSC and forest managers and have direct economic relations with the latter, have been allowed to develop in the absence of properly functioning disciplinary and control mechanisms.

Exacerbating the problems outlined above has been the question of the rate at which the FSC seek to expand its activities. There are reasons for serious concern about the

present strategy of ‘fast growth’;

- Fast growth has been pursued without consideration of the potential availability of truly certifiable forest. However, in some countries, the national policy framework appears to be fundamentally incompatible with the P&C.
- Civil society in many targeted countries is not able to participate as an equal stakeholder at the national or local level, either because of political restrictions or lack of capacity.
- The fast growth strategy has encouraged the making of policy decisions – such as the adoption of a weak percentage-based labelled policy, and the pursuit of inappropriate Mutual Recognition agreements – which have served to expand FSC’s market share, but seriously risk undermining its credibility.
- A fast growth approach is probably discriminatory against community-based forestry.
- FSC anyway cannot win the ‘game of quantities’ against other certification schemes, which are backed by industry and governments. Precisely because FSC aims to be a rigorous, multi-stakeholder process based on assessment of performance, in terms of quantity it is at a major competitive disadvantage to other schemes. Its strength can only be on quality.

The fast growth strategy has thus not only encouraged the granting of certificates to forest managers not actually in compliance with the P&C, but has also brought the FSC into conflict with various forest stakeholder groups. Directly and indirectly it is bringing the FSC increasingly into disrepute.

3. Serving whose interests?

3.1. FSC and the ‘multi-stakeholder’ rationale

The FSC was constructed and presents itself as a multi-stakeholder organisation. This concept is fundamental to the FSC project, and is one of the features that, in theory, sets it apart from other certification systems²⁸. The three-chamber structure and perceived commitment to ‘multi-stakeholder processes’ has been central to FSC’s credibility in its formative years. The basic ‘promise’ of the FSC – to deliver “*environmentally appropriate, socially beneficial and economically viable*” wood products - is a reflection of what are formally the three major stakeholder groups – environmental, social and economic. The membership structure, Board and voting procedures all aim to ensure equitable democratic processes incorporating different interest groups.

The multi-stakeholder basis of the FSC is also enshrined in the Principles and Criteria, which cover the concerns of the three major ‘stakeholder’ groups and have, in theory, been derived through consensus between them. Principles 2 and 3 are crucial as, in theory, they serve to ensure protection of indigenous peoples and other local communities’ rights to their traditional lands, whilst Principle 4 protects the rights of workers and aims to secure local communities rights to benefits from forest operations.

However, the concept of ‘multi-stakeholderism’ seems to be differently understood and used by different interests. Several assumptions are implicit in the manner in which ‘multi-stakeholderism’ has been applied within the FSC project:

- That the FSC ‘stakeholders’, insofar as these are formally defined, are broadly synonymous with, or inclusive of, ‘forest stakeholders’;
- That the stakes held by different ‘stakeholders’ are equal in nature.
- That all FSC stakeholders are somehow equal in terms of equal resources, access, representation and participation in the decision-making processes, both nationally and internationally. (That this is not a valid assumption has recently been explicitly recognised in the FSC’s draft ‘Social Strategy’) (FSC, 2002b);
- That each stakeholder is essentially part of a common project with common objectives;
- That, with sufficient time, dialogue and technical input, any differences between the stakeholders over approach, methodology or objectives can be overcome. The following sections attempt to analyse whether these

assumptions are justified, beginning with an assessment of who the ‘stakeholders’ in FSC actually are. The interests of each of the main stakeholders are then considered.

3.2. ‘Multi-stakeholderism’: the theory and the practice

3.2.1. ‘Stakeholders’ and interests groups, who are they?

Upton & Bass (1995) identify five general forest certification stakeholder groups, these being:

- 1. governments;
- 2. environmental NGOs and independent observers;
- 3. indigenous peoples’ NGOs and social groups;
- 4. forest industry and the timber trade;
- 5. consumers and retailers.

To date, it has generally been assumed by most of those concerned with the FSC that its principle ‘stakeholders’ were its members, as defined in the organisation’s Statutes. However it has become apparent that various other groups also have a strong vested interest in forest certification. These include specifically:

- 6. accredited certifiers and would-be accredited certifiers;
- 7. donor agencies;
- 8. the FSC Secretariat’s own staff and consultants, whose jobs and careers are understandably orientated around the organisation;
- 9. ‘intermediaries’ and providers of certification services, including certification consultancies, and organisations set up to bridge the gap between retailers’ demand for certified timber and the suppliers’ ability to produce it²⁹.

Of these groups, 2, 3, 4, 6 and partly 5 have a formal role in FSC decision-making. The other groups nevertheless ‘claim’ an interest, and in practice tend to exercise influence or express their concerns through other channels, principally through consultation processes and informal means. These ‘informal means’ are not necessarily visible to the formal stakeholders, and strong influences on decision-making can be largely obscured from the membership. (This is explored in more detail in section 3.5 below).

3.2.2. The balance of interests – appropriate and democratic?

3.2.2.1 Balance at the international level

In FSC's formative years, the plurality of the 'stakeholder groups' has supposedly been represented through the FSC's 'chamber' system. However, whilst the FSC has formal mechanisms for representation of each of its member groups, there has been no analysis within the FSC of what is an appropriate *balance* of these interests.

In practice, there appear to be numerous problems related to the way interests are balanced within the FSC's systems and practices. Some of these problems relate to poorly functioning formal routines at an institutional level which makes the 'formal membership democracy' often limited and inefficient.

FSC's claim to be underpinned by a consensus of multiple stakeholders has to be further questioned in view of the lack of participation from relevant social and environmental constituencies. In terms of the actual number of members within each of the chambers, 'social' interests are generally outnumbered by both environmental and economic members, and increasingly environmental interests have been outnumbered by the economic. The economic chamber has grown fast over the last few years and now comprise about 46% of the FSC's total membership, whilst the environment chamber comprises about 36% and the social chamber only 18%. 'Southern' members of all FSC chambers still account for less than 30% of total members. The present and recent trends in membership composition are shown below in Tables 1 and 2 (*below*).

It can be seen that the number of FSC members belonging to the economic chamber is likely to eventually dominate the overall membership, because there are potentially many more economic interests (including all the various companies involved in the timber trade) than either environmental or social organisations.

As has been noted in the recent draft FSC Social Strategy, the representation of social interests, especially indigenous peoples organisations, networks and institutions has, in general, been very limited. There are some examples of active participation, such as the Canadian First Nations' representatives (see Canada case study), as well as Swedish Saami representatives, whose involvement in national standard setting processes has potentially advanced their struggle for the acknowledgement of their rights. However, some of the potentially most important indigenous constituents and stakeholders in the FSC have declined to become involved whatsoever. For example, the Coordinating Body for Indigenous Organisations of the Amazon (COICA) has concluded that;

"The uncontrolled exploitation of timber by companies and governments, does not represent an equitable distribution of benefits for us; on the contrary, it is an attempt against the territorial integrity of our peoples. Accepting forest certification fundamentally gives a "controlled" green light to the exploitation of timber. Therefore, as indigenous

peoples we are not in agreement with authorising the certification of forests, because it goes against our traditional criteria of forest management" (COICA, 1997).

As will be seen later, especially in the case studies, the view that the FSC system is fundamentally in opposition to 'social' interests – because it potentially serves to legitimise forest concession systems which are seen as illegitimately imposed on traditional land tenure regimes – has been expressed by other social constituencies.

Although indigenous peoples' organisations are represented within the membership of the FSC, the absence of groups such as COICA, and the under-representation of social interests generally, presents a serious challenge.

The membership figures do not necessarily reflect the theoretical balance of power within the organisation, because of the chamber voting system that limits the combined voting power of each chamber to one-third of the total vote. However, it does reflect on the extent to which social concerns can be expressed through, for example, consultation processes and national working groups. This, along with the general under-representation of social interest groups, and the practical difficulty that such interests seem to experience in participating in the FSC, has been the stimulus to recent efforts to develop a comprehensive 'social strategy'. However, insofar as the draft strategy recognises the need for the FSC to now 'mainstream' social concerns into its work, this is also implicit recognition that social interests in general have been seriously neglected to date.

3.2.2.2 Balance at the national level

The three chamber balance is supposed to be reflected in the structure of national initiatives, including the National Working Groups and standards-setting committees³⁰. The authors of this study have not attempted a comprehensive survey of the functioning of FSC national initiatives or processes, but it appears that the FSC's work at a national level illustrates both some of the best and worst of the organisation's purported 'multi-stakeholder' approach.

In general, and especially during FSC's initial years, the national initiatives, working groups and standard setting processes have contributed significantly to establishing dialogue between different interest groups at the national level. As such, the FSC has served to bring together disparate and conflicting interests to agree, by consensus, national standards of forest management on the basis of the Principles and Criteria. Social (including indigenous) groups have tended to be under-represented in national processes but, generally, National FSC Working Groups appear to have been inclusive, and not dominated by particular interests. Consultation has often been broad-based, inclusive and effective.

In some national working groups, such as the UK, the

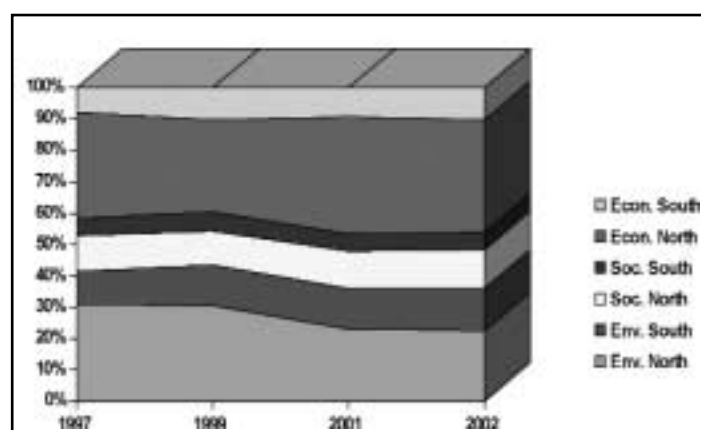
TABLE 1: STRUCTURE OF FSC MEMBERSHIP, JUNE 2002

	North		South		Total	
	No	%	No	%	No	%
Environmental	125	22.4	75	13.4	200	35.8
Social	69	12.4	31	5.6	100	18.0
Economic	200	35.8	58	10.4	258	46.2
Total	394	70.6	164	29.4	558	100
US and Canada					216	38.7

TABLE 2: MEMBERSHIP TRENDS, 1997-2002 (% OF TOTAL MEMBERSHIP)

			1997	1999	2001	2002
Environmental	North		31.0	30.3	23.2	22.4
	South		10.5	13.2	12.5	13.4
	Total		41.5	43.5	35.7	35.8
Social	North		11.5	10.8	12.1	12.4
	South		5.5	6.2	5.3	5.6
	Total		17.0	17.0	17.4	18.0
Economic	North		33.5	29.3	37.4	35.8
	South		8.0	10.2	9.4	10.4
	Total		41.5	39.3	46.8	46.2

FIGURE 1: MEMBERSHIP TRENDS 1997-2002 (% OF TOTAL MEMBERSHIP)



national FSC standard setting process has helped to overcome long-standing tension between, for example, national regulatory agencies, private sector interests and environmental NGOs. In British Columbia, it has helped to establish consensus on the place to be accorded to indigenous ('First Nations') interests in state forest management (see Canada case study). For the most part, such national discussions and decision-making processes appear to have attempted to ensure equitable participation³¹.

However, serious imbalances have also occurred within national groups. In the UK, for example, at the time of development of the UK Standards, only three social chamber members were present in the UK (out of a total of thirty UK-based FSC members), and social interests were consequently under-represented on the UK Standards Working Group (FSC-UK, 1997). This kind of situation appears not to have been unusual.

There is some evidence that conscious efforts have been made in a number of countries – such as Canada – to ensure that, despite the actual imbalances of numbers between the chambers, the concerns of lesser represented, or marginalised, interest groups are properly taken into account. However, the actual balance at the national level could have profound effects upon the policies and standards eventually adopted. Contrary to the experience in countries such as Germany, Sweden and British Columbia, where there has been reasonable representation of most stakeholders, including those with a 'social' interest, there have also been cases where FSC has advanced despite an almost total lack of some stakeholder groups. In at least one case (see Box 3 above and Eire case study), the balance of power has been deliberately manipulated so as to ensure that economic interests have a

decisive share of the votes, and that the national FSC standard accords with the economic chamber's interests.

In the case of Malaysia, social stakeholder groups withdrew when it became clear to them that, not only were their objectives for participating in the national initiative fundamentally different from those of the dominant (economic and governmental) interests within the group, but also that their presence would merely serve to legitimise a process which gave no appearance of actually taking on board their concerns (see case study). In a letter announcing their withdrawal from the process, the NGOs noted that:

"... it became evident that our continued support for the Malaysian Timber Certification Council/Malaysian Criteria & Indicators process would have compromised our position, and jeopardise the livelihoods of indigenous communities involved... The fundamental difference between the objectives of the MTCC and that of ours is that the MTCC is structured to find ways to sell our timber while we are mandated to protect our forests and to secure the livelihoods and interests

BOX 3: The Irish Forest Certification Initiative – ‘fixing’ the balance of power

In Ireland, the National Process has, from the outset, been dominated by economic interests, whereas environmental interests have had virtually no capacity whatsoever to participate. This has allowed a seriously flawed interim standard to be used to certify 70% of the country's forest, and thus to ensure market access for the state forestry company.

The inaugural meeting of the Irish Forest Certification Initiative (IFCI) in January 1999 was, according to environmental participants, “stacked with economic stakeholders”, who quickly voted for the establishment of an additional chamber to represent timber ‘growers’. Economic interests thus accounted for two of the four chambers, and held 50% of the votes (VOICE, 2001a)³³. The environmental NGOs present within the working group suspended their participation in March 2000 in protest at the blatant ‘rigging’ of the group's composition³⁴. Members of the environmental chamber described the conditions under which they found themselves:

“The role of a 4-chamber structure in marginalising social and environmental stakeholders was compounded by unequal access to resources. Economic stakeholders have been sufficiently resourced to know and utilise the complex array of FSC's procedures. The participation of NGOs who had very limited capacity and resources, particularly in the early stages of the process, were constantly undermined. Irish NGOs are notably under-resourced in comparison to most of our European counterparts”. (VOICE, 2001b)

A draft FSC standard for Eire, based upon the UK Standard, and written by a former forester of the state forestry company, Coillte, was approved by the economic-interest dominated group in January 2000. According to Irish environmentalists, the UK standard:

“was adapted to suit Coillte's ongoing practices and targets. It was then passed...without any technical input from under-resourced NGOs. At the time, the NGOs did not know the significance of a draft, i.e. they did not know that Coillte could apply for FSC [certification] before the final standard was agreed” (VOICE, 2001a).

In fact, once the draft standard had been agreed, Coillte, which manages 430,000ha, or approximately 70% of Ireland's forest estate, quickly recruited SGS to assess them for FSC certification, using the draft standards as the basis for assessment. Certification was initially refused, in February 2001, with SGS raising 10 major and nine minor Corrective Action Requests (CARs). However, the CARs were quickly closed out, and Coillte received its FSC certification in May 2001. Environmental stakeholders immediately raised a grievance about the national process, and the use of an interim standard, which had led to what was considered to be a seriously flawed certification.

However, as with many other grievances (see section 3.7), the complainants have been unable to sustain the effort of pressurising the FSC to take action, and the certification still stands. Thus the main beneficiary of certification in Ireland – the state forestry company – seems to have had significant influence over the national process and the development of national ‘standards’ and has been certified despite what is considered to have been serious non-compliance with the FSC Principles and Criteria.

*of indigenous peoples and local communities who live in, depend on and derive their spiritual and cultural identity from the forests*³². (JOANGO Hutan, 2001)

Similarly, in the cases of both Ontario and Ireland, it is clear that the approach taken to FSC establishment was simply to ensure rapid and expedient development of a

national certification process, rather than that it was truly inclusive of all stakeholder groups. The Ireland case illustrates how the use of ‘interim’ standards prior to the establishment of agreed national standards has undermined national and regional multi-stakeholder standard setting initiatives (see case studies).

Apart from deliberate manipulation of the power structures, another major problem faced by the FSC is that in some countries where certification bodies wish to operate (or which have been identified as an organisational strategic priority), there are very few formal FSC members or possible ‘constituents’, and the few that do exist may not represent the legitimate interests in forestry. In the case of Vietnam, a ‘national working group’ was started with no FSC members at all. According to former FSC Director, Dr Synnott, “A working group was formed in 1999, with some FSC funding. Work started on developing standards, promoted by WWF Vietnam and TFT” (Synnott 2001). Despite the apparent lack of participation by, or any representation of, Vietnam's many forest-dwelling indigenous peoples (‘hill tribes’), workers or civil society in general, the FSC confidently expected that draft national standards for Vietnam would be finalised as soon as 2001.

3.2.2.3 Balance in specific cases of certification

At the level of specific certifications, decision-making processes are effectively controlled by the accredited certification body (see section 2.2). The certifiers are supposed to consult with legitimate stakeholders, and thus ensure that their concerns are incorporated. However, there is significant evidence in the case studies gathered in this report that the ‘stakeholder balance’ in specific certifications are being severely altered by the mutual interests between certification bodies and their industrial clients in ensuring a ‘positive outcome’.

Any proper implementation of the Principles and Criteria is dependent on proper consultations with all interest groups, including taking their considerations into account and explaining to them how their inputs were taken into account. In practice, as is evident from a number of the case studies in this report, the balance of interests can easily be altered in favour of industry interests. This can happen in a number of ways. As discussed in 3.3, certifiers have a strong vested interest in not assessing the clients on the basis of actual compliance with the Principles and Criteria at the time of assessment. In many cases, it appears that the balance of interests has been made favourable to the certifiers' clients through poor assessment and inadequate consultation methodologies, which have consequently neglected the views of weaker stakeholder groups.

In addition, there is very little practical guidance from the FSC on what process should be used for considering stakeholder views and weighing them against conflicting views of other stakeholders or of the team carrying out the

evaluation. This encourages arbitrary decisions on the part of the certifier, that can be shaped to ensure an outcome that serves its own interests.

In many of the case studies in this report, such as FIO, PTDR, and the cases from the Brazilian Amazon, many local communities living in or around the relevant areas, even those with various forms of rights to the areas covered by the certified concessions, have been poorly informed about the certification process, if they have been informed at all. In some cases they do not even know that the areas in or around which they live have been certified.

In the case of Perhutani, it appears that the certifier, SmartWood, operated within the paradigm of the State Company and ignored the local communities' rights and aspirations while undertaking certification assessments in 1998 and 1999. SmartWood's 'consultation methodology', which included apparently intimidating visits to villages with company representatives and police/military officials, meant that there was effectively no means for local communities to make their concerns apparent and for their interests to be balanced with those of other stakeholders.

In the case of PTDR, the certified concession encroaches on local communities' traditional lands. The lack of legitimacy of the boundary drawn between the concession and the villages was known by SGS at the time of the assessment. However, this violation of Principle 2 was then 'overlooked' by the certifier, and the certificate granted. In the 'consultations' undertaken for the purposes of the certification, there seems to have been no effort put into defining who were representative in the communities. Some communities were not even visited during the main assessment, despite ongoing conflicts between several of the communities and the concession.

In the case of FIO, the problem of the certifier issuing a certificate on the basis of 'hoped for improvement' has clearly undermined the interest of local communities. In the public summary of the certification, it is noted that "*the forest villagers of Khao Kra Yang (KKY) continue to view land tenure as the problem*", and that "*they do not know how to proceed with this*". SmartWood clearly did not feel that it was their role to inform the villagers of their 'rights' under FSC Principles 2 and 3, and the certificate was issued, with weak conditions attached requiring that;

*"By the end of year 2, KKY and Forest Villagers will have defined alternative long term solutions to the issues of livelihood and land access. By end of year 3, these alternatives will have been evaluated and a mutually acceptable solution to the Forest Villagers, RFD and FIO/KKY adopted and implemented"*³⁵ (SmartWood 2001b).

Having already gained the certificate, FIO is unlikely to see much urgency in dealing with the local stakeholders' concerns. NGO opposition to the 'endorsement' of FIO was effectively ignored. Many of the communities in the 'certified areas' had never heard about certification, SmartWood or the FSC, even after the certificate had been granted.

In all of these cases, the neglect of stakeholder groups, whose rights are, in theory secured in the Principles and Criteria, seriously undermines the notion of 'balance of interest' between the stakeholder groups.

3.3 Certification bodies

Up to July 2002, two certifiers – SGS and SmartWood – have accounted for more than 70% of the FSC's actual forest management certifications, having issued (with their local partners) 329 certificates between them. This represents a very significant proportion of the FSC's operational activities and public exposure. It is perhaps not surprising therefore that the certifiers have been able to exert influence over the direction of the FSC at an institutional level, in addition to their monopoly on decision-making in specific cases of certification. For example, the long running debate over a revision of FSC's Principle 9 was largely fuelled by certifiers' concern about the extent to which the original wording was 'implementable' (FSC, 1997a). This section considers the interests and role of the certifiers, and how this coincides or conflicts with other interest groups.

3.3.1 Conflicts of interest

The FSC has recognised that there are potential problems in the various roles played by the certification bodies, insofar as these might compromise their independence as certification assessors. These concerns focused on the problem that some of the certifiers also provided consultancy services to forest managers. As noted in the FSC Guidelines for Certification Bodies:

"a conflict could arise if, for example, a certification body provided consultancy advice regarding forest management to a client, and then offered to evaluate the client's management for certification...In order to avoid such potential conflicts some accreditation programmes prohibit certification bodies from providing any consultancy services. Some accreditation programmes further prohibit certification bodies from providing even informal advice regarding actions that may be taken by a client to meet certification requirements. Thus a certification body would be required to specify which elements of a standard had been failed by an applicant, but would not be permitted to offer any advice as to actions that might be taken to improve the practices in order to comply with the standard on re-evaluation".

It can be seen that, if also providing forestry consultancy advice, certifiers might, on the one hand, have a vested interest in failing certification candidates such that they could then sell forestry advice services to them, but might then have a vested interest in granting certification once the forestry advice had been taken up, as clearly the certifier/consultancy would have to believe that their own advice would result in good forestry. However, the FSC Guidelines state that:

"FSC does not prohibit accredited certification bodies from offering some consultancy services to clients. This is for two main reasons. Firstly, in many countries expert forestry knowledge is scarce. FSC does not consider it appropriate to require the few organisations in those countries that may consider FSC accreditation to have to forgo all consultancy work, in order to be FSC-accredited. FSC considers that this would create an unnecessary barrier to accreditation.

Secondly, FSC considers it a positive aspect of certification work that the expert consultants who carry out the evaluation work for certification bodies are able to offer informal advice to the forest managers under evaluation, with regard to how their management may be improved. Many forest managers have great difficulty acquiring access to forestry expertise, and appreciate the possibility of receiving advice from other professionals as to how they can improve their forest stewardship. FSC does not consider it appropriate to prohibit certification evaluation team members from offering such informal advice".

Thus, whilst recognising the dangers of conflicts of interest, and in contrast to other accreditation bodies that prohibit even the offering of 'informal advice' by certifiers, the FSC has explicitly allowed for certifiers to 'offer advice'. In practice, as has been seen in section 2.4, the certification bodies often 'offer advice' in the form of 'certification conditions'. Such conditions can be very extensive. For example, the SmartWood certification of Mil Madeireira in Brazil in 1997 involved the issuing of no fewer than 12 'pre-conditions' and 53 'conditions' to certification. Taken together, these conditions constituted detailed advice on almost every aspect of Mil Madeireira's operations. In the case of the certification of the Javanese teak plantation company, Perhutani, in 2000, SmartWood issued 39 conditions.

The question of conflict of interest has thus effectively been sidestepped, both in terms of the FSC's formal policies and the actual operating procedures of the certifiers. As indicated in 2.4, there is evidence that, apart from raising doubts about the integrity of certification decisions, this situation is also seriously undermining the integrity of the FSC as a performance-based certification system.

3.3.2 Competition for certification business

Apart from the potential and actual conflicts between the roles of certifiers, there also appear to be conflicts inherent within the role of certification assessment when it is conducted on a commercial basis.

Certification bodies need to ensure their markets in order to sustain and expand their business³⁶. The profit margins for forest certifiers are thought to be fairly small. De Camino and Alfaro have identified the existence of *"Competition among different certification bodies in order to obtain contracts, with some actively discrediting their*

competitors and even going so far as to guarantee certification ex ante in order to obtain contracts" (de Camino and Alfaro, 1998).

Because most forest managers are only likely to be able to gain, at best, a small price premium from certified products, there is only a very limited 'willingness to pay' for certification services. As noted in 3.5.2, the certification bodies' clients – forest owners and managers – are also interested in obtaining the services of certifiers that will be the least problematic for them.

There is thus a strong incentive for certifiers to interpret the FSC's P&C in as 'generous' a way – for their clients – as possible. This is particularly problematic where there are no national or regional FSC Standards, as the certifiers have an interest in overlooking or neglecting any local particularities that might render the certification process more problematic. In effect, under the worst-case scenario, the 'standard' used for assessment becomes the weakest that the certifiers think they can get away with in order to avoid conflict with potential complainants or sanction from the FSC. As is described elsewhere in this report, the former is unlikely to cause too much concern, because the FSC's complaints procedures are heavily weighted against complainants and in favour of the certifiers. The threat of sanction by the FSC also seems to be of little concern to the certifiers because, although the contract between the FSC and the certifiers allows for the exercising of sanctions for non-compliance, in practice the FSC has proven extremely unwilling to do so, and as illustrated in section 2.2, the FSC has very poorly defined procedures for disciplinary action.

Chain of Custody certificates have offered certifiers particularly lucrative markets. For the major retailers and importers, the CoC certificates are as essential, in terms of placating campaigners, as are the forest management certificates, as they should ensure that the certified product is demonstrably from an acceptable source. However, Chains of Custody have tended to be less contentious with campaigners than forest management operations, and are far less open to their scrutiny. This has meant that Chains of Custody could be certified with less likelihood that campaigners would challenge them.

Certifiers have thus tended to consider CoC certificates as their 'cash cows'. There is nothing inherently wrong with the certifiers making a profit from extensive CoC work that is diligently undertaken. However, it can be seen that this can easily develop into a conflict of interest. In the case of SmartWood, for example, profits from CoC certificates were seemingly seen as strategically important in SmartWood's efforts to expand their business in South East Asia. Under these circumstances, the certifier would, again, have a strong incentive to be 'generous' (or simply lax) in its assessments, and 'turn a blind eye' to any major 'difficulties' – such as the discovery of breakdowns in the CoC, including the 'laundering' of uncertified or illegal wood – that might threaten the commercial relationship between them and their clients.

In practice, as the FSC's monitoring and assessment of certifiers has been so ineffectual and the complaints procedure has been so unwieldy and obstructive (see section 3.7), that there has been little to stop the commercial competition between the certification bodies driving a 'race to the bottom' in terms of the rigour of interpretation of the FSC's Principles and Criteria. Some of the manifestations of this 'race to the bottom' have been:

- The issuing of certificates on a 'hoped for improvement' basis, that is, where forest managers fall far short of compliance with the P&C, but where improvements are set as 'conditions' of certification which can be complied with at some time *after* the certificate has been issued (instead of being obliged to comply with *pre-conditions* of certification);
- A lack of 'fatal flaws' in the certifiers' assessment procedures, such that, whatever the severity of individual problems (such as the lack of a forest management plan, lack of environmental data or safeguards, violent conflict with local communities, extensive illegal logging etc), none of these are necessarily seen as 'instant failures' of certification eligibility³⁷.
- Neglecting, ignoring altogether or deferring until 'a later date', issues that relate to the wider policy context. 'Structural' issues or major difficulties that can actually only be addressed *beyond* the forest management unit – such as conflicts between concession allocation regimes and customary land claims – are reduced to technical issues that, it is hoped, can be resolved within the context of the FMU;
- Weak ('economical') assessment procedures which may neglect to investigate, for example, the clients' former history of corruption or conflict with local communities;
- A 'presumption of trust' in the client. Associated with this has been the hiring of 'sympathetic assessors', who are likely to view clients positively.
- The use of weak interim national standards or, in the absence of standards, internal monitoring systems that are not necessarily closely linked to the FSC's Principles and Criteria.

All of the above problems are well illustrated and documented in the case studies in this report. Each is considered in more detail below.

Where certifiers have, either through their own diligence or that of campaigners, been forced to challenge problems with forest management, their clients simply have the option of moving their business to one of the other certifiers who may be less demanding. In the case of Diamond Raya (see case study) the company started negotiations with another certifier after SGS started to issue Corrective Action Requests following a formal complaint against the certificate.

Admitting that 'stringency' and 'negative results' are not exactly an 'asset' when 'selling' certification services, Richard Donovan, former Executive Director of SmartWood, wrote, after the suspension of the certificate of Perhutani (see case study), that;

"We expect that the suspension may also have a negative impact on organizations considering their involvement in certification because they are now witnessing firsthand the stringency of the process...Frankly, some candidate forest management operations may be scared away" (Donovan 2001)³⁸.

3.3.3. Endorsements on the basis of 'hoped-for improvements': no pre-conditions.

Over the last few years it has become evident, as the cases in this report clearly show, that certificates are often given with many 'conditions' (effectively, 'recommendations'), and few pre-conditions⁴¹. Recommendations /conditions are very weak as a means of ensuring compliance, as the forest manager will be well aware that the certificate will be issued regardless of whether the conditions are complied with. Through the assessment process, and any 'scopings' that precede it, forest managers will gain a clear idea of the certifiers' methods of scrutinising their operations, and therefore would be well-equipped

BOX 4: FSC standards too high for SCS?

The conflicts of interest experienced by commercial FSC accredited certifiers were starkly illustrated in a recent initiative by Scientific Certification Systems Inc., one of the FSC's original and most important accredited certifiers. In March 2002, SCS announced that they were planning to launch their own certification scheme in order to secure and expand their markets. According to Robert Hrubes, SCS's Senior Vice-President;

"The Forest Stewardship Council is a not-for-profit that views itself as a monopolist. They think they can pass whatever rules they want, but there are costs attributable to those rules, and eventually, there's going to be a day of reckoning".

Hrubes further stated that SCS would continue to grant certifications under FSC, but offer its own label as an alternative:

"It's like a Ford dealership that decides to also carry Isuzus...It's been a chronic challenge to make FSC-accredited certification a viable business proposition. The sobering fact is that our clients' willingness to pay is anything but robust – it is weak and getting weaker".

Effectively, SCS have stated that they can only certify in a way that their clients are prepared to pay for, and if this is not the FSC system, then some other, less rigorous system would have to be used³⁹. Of special worry to SCS and their clients was that they might have to change their assessment procedures in order to meet forthcoming regional FSC standards that are being developed in many parts of the USA. To further support the forest industry's outcry against higher standards, Sam Doak, managing director of the Certified Forest Products Council⁴⁰, was seemingly supportive of the SCS move to undermine FSC standard setting processes, as he added with reference to the 'clients': *"It's a business decision for them ... The Standards are headed for the sky and becoming untenable".*

Ref: (Suckerman, 2002)

to ensure that they can appear to have complied with any conditions in subsequent monitoring visits. In some cases, it seems likely that certifiers have an interest in providing advice to forest managers as to what steps should be taken to establish the right appearances.

Where pre-conditions or Major Corrective Action Requests (CARs) are issued, they are often very rapidly down graded or ‘closed out’ to ensure a successful outcome to the certification process. There are well documented cases, such as SGS’s certification of the Irish State Forestry Enterprise, Coillte (see Ireland case study), where the company had been rightly issued with a number of Major CARs, which had then been closed out in a period of time during which it would be inconceivable that the company could have complied in anything but intent, rather than actual *performance*.

The Perhutani case from Java in Indonesia has shown how a company can obtain FSC certification despite massive illegalities, serious tenure disputes and violence *being known* to the certifier at the time of endorsement. Some of the FMU districts were certified with 39 conditions and no pre-conditions. Most of the conditions issued should clearly have qualified as pre-conditions, and thus precluded certification before major reforms of Perhutani’s operations had been undertaken. In this case, the assessors who carried out the first annual audits after the endorsement of the certification of the two of Perhutani’s districts with the 39 conditions (Kendal and Madiun), concluded that the conditions could not anyway have been complied with, because some of the problems identified could not be solved within the limited context of the forest management unit that was being issued with the certificate.

In the case studies concerning Gethal/PWA, and Diamond Raya, industrial concessions in very complex ecosystems in tropical rainforests have been ‘certified’ despite there being a clear potential for, or actual evidence of, direct negative environmental impacts on the forest, in violation of core elements of Principle 6 and 9.

This trend, which enables applicant companies to be certified despite clear and major failings against the P&C at the actual time of assessment, threatens the very foundations of the FSC as a ‘performance based system’. It is clearly a more “*continuous improvement system*”, comparable to the ISO 14,000 approach. While this trend of endorsing operations on a “hoped for improvement” basis contributes to the rapid expansion of the area certified by the FSC, and serves the interests of certifiers and the companies in question, it also creates strong dis-incentives for the companies to actually improve, as well as undermining the Principles and Criteria and thus FSC’s credibility. It also misleads consumers of products carrying the FSC logo.

3.3.4. Lack of fatal flaws

‘Fatal flaw’ refers to aspects of a forest management operation or CoC which will automatically disqualify

the operation from being certified. As noted in section 2.2.4.3, clear and explicit ‘fatal flaws’ or defined ‘major failings’ are an essential element of certification systems.

The certifiers’ rejection of any system of ‘fatal flaws’ is good for the marketing of their services, as it serves to keep forest managers interested in certification. However, the lack of ‘fatal flaws’ means that certifiers are not obliged to give clear guidance to assessors, peer reviewers, companies, or the public as to what would definitely preclude certification. As has been shown through the Perhutani case study, and others, the lack of a system of ‘fatal flaws’ has effectively meant that there is nothing so bad that a forest manager can do that it would preclude them from being certified.

3.3.5 Ignoring policy and structural issues

While the fierce competition between the certifiers to attract clients creates strong incentives for the lowering of standards, the certifiers have a common interest in arguing that certification is a relevant solution in all contexts. The implicit argument is often that the Principles and Criteria can be implemented within all existing legal and policy frameworks, without the need for changes of these policies. This view is important in ensuring that the general market for the certification bodies’ services is not constrained.

Implicit in this ‘no-limit approach’ is an unwillingness to admit that in some contexts there are issues which makes reliable certification currently impossible and which can only be resolved at levels beyond the ‘forest management unit’ prior to any certifications taking place. Such issues often include:

- national or regional industry overcapacity in relation to limits of ecological sustainability, often linked with widespread and uncontrollable illegal logging;
- denial of possibility of legal tenure for indigenous peoples and other local communities where forestry and other laws have extinguished native customary rights;
- endemic corruption, cronyism and nepotism within the forestry sector.

As in a number of the case studies in this report, in order to operate in such contexts, the certifiers are obliged simply to ignore the Principles and Criteria if they are difficult or impossible to implement. Thus they end up endorsing, for example, forestry operations which are in violation of indigenous peoples and local communities’ rights, or which lack needed environmental safeguards in complex ecological conditions.

Apart from ignoring the P&C, one of the key problems with this approach is that certification can undermine other efforts for progressive change. As seen in the Perhutani case in this report, the certification body not only ignored the issue of compliance with FSC’s Principles and

Criteria, but also overlooked or ignored the counterproductive effects of awarding the 'privilege of certification' in a situation where communities and NGOs were calling for land tenure reforms, anti-corruption programs and a total restructuring of the State company. To such 'structural issues' the 'certification' provided nothing, while giving the company highly undeserved 'recognition in the marketplace', sending the message that *changes beyond the reach of the 'certification conditions' were not needed for the company to comply with FSC requirements.*

3.3.6 Weakness of certification assessment procedures

The case studies indicate that there have been serious weaknesses in all of the major FSC-accredited certifiers' assessment procedures. Each of the certifiers operates according to a different system, and it is not easy to generalise about the extent to which these systems are rigorous or lax in upholding the FSC's P&C.

In the case of one of the certifiers, a point-scoring basis is used, whereby companies are required to exceed a total point score of 80 in order to qualify for a certificate. This system allows for major anomalies, in that a total score in excess of the 80-point hurdle could easily mask major failings against several FSC Principles or Criteria. It also appears to be open to 'manipulation'. In the case study from Pará State in the Brazilian Amazon, the certifier issued certificates that scored only 80 and 81 in all relevant categories in their scoring system, i.e., at the absolute minimum level required for certification.

In nearly all the cases presented in this report, the certifiers' abilities to properly assess the complexities of land tenure questions and issues concerning indigenous peoples appear to have been extremely poor. In both the Indonesia and Thailand case studies, there is little indication that the certification body had even a basic understanding of the structural abuse and violence inherent in the existing land use and tenure patterns. In the case of SmartWood's certification of Perhutani, it is evident that corruption and tenure rights were ignored altogether in the assessment process. These are problems which could at least have been partly overcome through a more effective consultation process⁴².

3.3.7. Trusting the client: hiring 'safe' assessors

Certification bodies appear to operate largely on the basis of a 'presumption of trust' in the client, rather than seeking to ensure that any potential problem areas that the client might wish to conceal are investigated and exposed.

It is likely that certifiers liaise to some extent with their clients in the selection of the assessors. In the case of SCS, the description of their 'Forest Certification Programme' notes specifically that *"while SCS makes the final decision*

on the composition of the [assessment] Team, the selection process does include input from the client" (SCS, 1995). Of course, clients would use such opportunities for 'input' to ensure that sympathetic assessors are selected. In various SmartWood assessor-training documents, assessors are instructed to give the benefit of the doubt to the client. Information from the client should, according to SmartWood's training manual, be verified by corroboration from various sources, but it appears they rarely take the time to do this.

The "trusting" approach discourages assessors from carrying out, for example, proper analysis of social conflicts from the point of view of parties in conflict with the client. Instead, there is an emphasis on how to create conditions to mitigate social "impacts" without greatly harming the company's 'bottom line'. For example, in the case of the 1998 Perum Perhutani assessments, consultations with local people took place in situations intimidating to dissenting locals, where assessors spoke only with company-suggested contacts under the watch of government officials. Representativeness of the consultees appears not to have been a serious issue in the major certifiers' methodologies.

There is also evidence to suggest that certifiers seek to ensure that certification assessments are 'successful' by hiring assessors who are likely to produce 'the right results'. Interviews with staff and consulting assessors from major certification bodies over the past four years indicate that in the process of choosing assessors, emphasis is usually put on minimising the risk of negative results for the certification client. It is thus common practice to turn down suggested assessors who are not believed to be 'safe' in terms of supporting certification to go ahead, regardless of the client's 'flaws'.

Assessors who could be liable to insist that companies should be diligently assessed, based on current performance towards the Principles and Criteria, are increasingly squeezed out of 'the market'.

One way to ensure that assessors are suitably sympathetic or compliant is to select individuals that have existing or past connections with the company to be assessed. For example, two of the assessment team members picked by SGS to assess Coillte were closely linked with either the company itself or the state Forest Service, with whom the company had close relations. Coillte refused to accept other proposed candidates (French, 2001). In New Zealand, three of the four assessors hired by SCS to carry out the assessment of Fletcher Challenge Forestry (FCF) worked for the company Forest Research, which runs projects funded by FCF (Lang, 2001)⁴⁵.

Individuals taken on as consultants or assessors by the certification bodies may have little or no means of redress if their recommendations against a certification are ignored or circumvented, as they are usually tied by confidentiality clauses. As noted elsewhere in this report ,

the ultimate decision on certifications may be taken by the certifier's 'Certification Committee' or Council, which is likely to have a strong 'pro-certification' stance, and will not have been directly involved in the assessment. This can be achieved in a number of ways, such as ensuring that any serious problems identified in the client's operations are relegated to 'conditions', or easy 'pre-conditions', which can readily be overcome to ensure endorsement.

It should be noted that certification assessors and consultants also have a vested interest in being generous, rather than rigorous, with their interpretation of compliance with the P&C. Individuals who persistently find difficulties with clients are compromising the commercial interests of their employers, and are unlikely to be selected to carry out future assessments.

As noted by Ronnie de Camino and Marielos Alfaro (1998), conflicts of interest can often arise when NGOs or other organisations support an FMU in its attempt to obtain certification, and also provide members of the certifying team. In addition to those mentioned by the authors in Latin America, there are also examples of such potential conflicts of interest in Indonesia. Consultants float between large international conservationist organisations (such as The Nature Conservancy) and donor organisations (such as GTZ) involved in 'capacity building' for concessionaires (HPHs) and their roles as assessors in FSC accredited certifiers' assessment teams for such concessionaires.

3.4 The FSC Secretariat

This section considers in more detail what are the interests of the Secretariat and how these coincide or conflict with the interest of other stakeholder groups.

3.4.1 The interests and role of the secretariat

The Secretariat is responsible, through the FSC's Board of Directors, to the FSC's membership. The Secretariat's core task as the Executive of an accreditation body, is to accredit and monitor accredited certifiers so as to ensure that standards, (i.e. the Principles and Criteria and the Accreditation Manual), are upheld. The diligent execution of this task is of crucial importance to the credibility of the FSC. The ability of the FSC system to uphold its principle of performance-based evaluations and its Principles and Criteria rests on the Secretariat's ability to effectively ensure that the accredited certifiers conform with the Principles and Criteria, the Accreditation Contract, the Accreditation Manual and the Guidelines for Certifiers, and actively sanction them if they do not.

As clearly indicated by the case studies in this report, and further elaborated in section 2.2, there is much evidence that the Secretariat has been failing in this core task. There are many examples where certifiers have been clearly lacking in ensuring compliance with the P&C, and have been in breach of the Accreditation contract and the Guidelines. However,

the Secretariat appears not to have acted decisively in such cases. There may have been a number of reasons for this:

- As noted elsewhere, a 'penalty clause' in the FSC's contract with the certifiers renders the organisation liable for lost earnings on the part of the certifier resulting from the FSC's actions. For this reason alone, the Secretariat is likely to be highly cautious of retaliatory legal action from a certifier following any cancellation or suspension of the accreditation contract.
- The Secretariat appears to have been seriously lacking in the capacity (both in terms of funds and staff expertise) to conduct a proper accreditation and monitoring programme of the certifiers. As noted elsewhere, the Secretariat's monitoring of the certifiers in 1999 and 2000 revealed numerous serious problems, but there was little effective follow-up of the Corrective Action Requests issued at the time. This situation has been improved in the last year, with more resources being put into the Secretariat's accreditation unit, and training being given to the relevant staff. However, there must still be doubts as to whether the Secretariat is properly equipped for the tasks of properly controlling a growing number of organisations that are, by the very nature of their work, uniquely knowledgeable of the 'techniques of dissembling and concealment'.
- The Secretariat appears to have experienced a serious conflict of interest between 'rapid expansion' to ensure support from industry and certifiers, and diligently undertaking its core task of monitoring the accredited certifiers (see below, section 3.4.2).
- The FSC has, for most of the first five years of its existence, been largely dependent on a small number of major certifiers for the expansion of its own brand. The Secretariat has therefore been unlikely to seriously sanction certifiers, even if they are found to be in breach of fundamental FSC rules and procedures.
- The Secretariat would probably be cautious of sanctioning certifiers, as this might discredit the FSC (particularly in relation to other competing certification schemes). There is also the risk that a serious sanctioning of one of the major certification bodies might cause it to 'transfer' to other certification schemes, or even construct their own (see Box 4 concerning SCS, above).

The certification bodies are thus comfortably aware that the FSC is unlikely to risk de-accrediting one of the major certifiers, as this would reduce FSC's own potential for rapid expansion. The consequence of this has been that, despite the major failings described in this report, the only certifier even to have had its accreditation temporarily suspended was the Dutch-based firm SKAL, which had, at the time, anyway issued very few certificates under the FSC scheme⁴⁴.

3.4.2 The Secretariat's support for 'fast growth'

The pressure on FSC to 'succeed' in 'producing certified material' in large amounts from various regions of the world are very high. For example, Tim Synnott, former ED and Policy Director of the FSC, has repeatedly stressed that the FSC has to succeed in Indonesia and Malaysia, whereby success is apparently measured in generating volumes of certified timber.

In the case of the proposed deal between the FSC and the state of Ontario (see case study), the Secretariat's extraordinary 'coup-like' intervention on behalf of the forest owner risked jeopardising not only the regional FSC process there, but more widely the ongoing 'multi-stakeholder processes' in Canada (see case study). In this case, the Secretariat attempted to sidestep the whole standard setting process and effectively exclude all stakeholders other than government and industry as it pursued its own agenda with the government, Ontario Forest Industries Association and Ontario Lumber Manufacturers Association. The Secretariat clinched a deal to initiate a process which aimed to "achieve a formal agreement" which should "lead to certification of all crown lands in Ontario". As the announcement was greeted with shock and disbelief among those involved with the FSC processes across Canada, the FSC Secretariat replied to critical voices that:

"We would hope that the Environmental NGO's would see this as a significant achievement in furthering FSC's goals of promoting environmentally responsible as well as socially beneficial and economically viable management of the world's forests".

There had been no consultation whatsoever with any interests groups other than government and industry in Ontario prior to the agreement. Had the initiative not been stopped through protest by various FSC members, it would effectively have allowed government and industry interests to 'strike a deal' directly with the Secretariat, whilst ignoring all other interest groups. It is difficult to interpret this particular approach other than that the desire for rapid expansion had overridden all concern for ongoing national and regional multi-stakeholder standard-setting processes.

There are also examples where the secretariat has sided with industrial clients and certifiers against civil society efforts to secure the Principles and Criteria. As noted by Grant Rosoman, of Greenpeace New Zealand:

"Advice given by and the performance of the FSC Secretariat has in some instances been poor. As in the case of the problems raised with SCS's 1999 Fletcher Challenge Forestry certification. The Secretariat for a number of possible reasons failed to rigorously investigate SCS's system and find critical faults, nor to even enforce Corrective Action Requests made previously. They also failed to incorporate General Assembly motions from 1999 into the Certifier Accreditation Manual. In effect it has been left to stakeholders to challenge SCS on systematic weaknesses. To the FSC's credit, they did schedule the annual monitoring of SCS to be

on the FCF certification to review fully concerns raised by stakeholders, but in the several months leading up to this squashed any dialogue and potential progress on issues by advising the SCS to not respond to the stakeholder 'inquiry'". (Rosoman, 2002)

The evidence thus suggests that by prioritising the interests of certification bodies and commercial clients, largely in pursuit of rapid expansion of the certified area, the Secretariat reduces the democratic space for other 'stakeholders' that the FSC project not only could, but should, provide.

3.5 Other interests – donors and clients

There are grounds to believe that other 'non-member' interests play an important role in FSC's decision-making processes, outside of the formal democratic mechanism, and that the FSC has been influenced, at the highest level, by non-member, or 'client', interests. This section considers specifically what are the interests of the FSC's donors, on the one hand, and its commercial clients, on the other.

3.5.1 Donor interests – the case of the 1999 Strategic Plan

One consequence of FSC's organisational and financial model, and its drive for rapid growth, has been that it has come to depend heavily on major external financial assistance. There is evidence that this has created a situation in which the FSC is susceptible to donor influence. One particularly significant example of this relates to the development of the 1999 Strategic Plan, where donor organisations intervened in an apparently successful attempt to dictate the strategic direction of the organisation.

A joint letter sent to the FSC Secretariat by several major potential US donor foundations in May 1998 strongly suggested that the imposition of important changes in organisational strategy, which were about to be considered by the FSC Board, would be conditions of those foundations' financial support to the FSC. The letter, signed by representatives of the Rockefeller Brothers Fund, the Global Wallace Foundation, the MacArthur Foundation and the Ford Foundation, set out specific and detailed changes which the foundations expected to see happen within the FSC. These included that "more forest products business leadership ought to be added" to the FSC Board. The letter concluded that "we remain eager to offer our support to the FSC and its related enterprises in the coming years, but only if there is a credible conclusion to the planning process...Our potential funding interests aside, a great deal is riding on a successful conclusion to the upcoming board decision making process" (Conroy et al, 1998). This attempt to exert direct influence over the FSC decision-making process was particularly galling to some FSC members, as the member-

ship itself had been denied an opportunity even to see the proposals being made in the draft Strategic Plan. The letter was not made available to the FSC membership, nor did the FSC Board formally acknowledge its existence⁴⁵.

The FSC's Statutes are largely silent on the matter of influence over decision-making, but Statute 10.c does state that *"The FSC will accept contributions from non-governmental organisations, foundations, governments sources, multilateral agencies and individuals, as long as no restrictions are attached which would affect the independence or integrity of the FSC"* (emphasis added) (FSC, undated). Any funding from any of the foundations and funds signatory to the May 1998 letter referred to above would therefore appear to be in contravention of FSC's Statutes. Support has been accepted from at least one of these agencies, the Ford Foundation, since May 1998, which in 2001 donated 10 million US \$ over a five year period, where half of the donation is for core support and the other half for projects (WWF/IUCN: October 2001). Prior to this, by 1999 MacArthur Foundation had contributed US \$486,952, Ford Foundation US \$302,488, Wallace Global Fund US \$79,364 and Rockefeller Brothers Fund had contributed US \$50,000 (FSC Annual Report 1999).

3.5.2 FSC's 'clients' – the interests and role of timber producers

When asked in March 1998 who were the primary influences over the FSC's direction, Tim Synnott, the Executive Director at the time, responded that this was the FSC's 'clients', i.e. those companies to whom the FSC was being offered as a service (Synnott, 1998). At the time, according to data compiled by the International Institute for Environment and Development (IIED), this mostly consisted of large scale industrial and state-owned forests. According to IIED, in 1998, ninety-six percent of the area certified by FSC consisted of industrial or governmental forest owners, with 85% being in holdings of more than 100,000 hectares. Only 34% of the total number of certificates, covering 3% of the certified land area, was accounted for by communal groups and non-industrial operations⁴⁶.

This indicates that FSC's principle 'clients', and thus, influences, are principally large-scale industrial enterprises and governmental authorities. It should be noted that these are precisely the interests whose influence over the FSC many members of FSC have sought to limit (in the case of industrial players), or exclude altogether (in the case of governments).

Producing clients have usually become interested in certification due to campaigns against retailers/importers to whom they sell their products. Their interest is largely the same as the retailers', that is, maintaining and possibly expanding their markets. One example is described by Grant Rosoman, of Greenpeace New Zealand and Board member of FSC:

"From the mid 90's to 1999, Fletcher Challenge Forestry

and most other New Zealand plantation companies were opposing FSC certification due to its theoretically high standards and perceived NGO dominance. This partly changed in 1999 when the largest DIY chain, Home Depot, due to NGO campaigning and negative public exposure, changed procurement policies to include a preference for FSC products. The USA is one of FCF's key and expanding markets. Upon the issuing of the FSC certificate, Ian Boid, at that time the Acting Chief Executive of FCF said that the certification would provide FCF with a significant marketing opportunity in those markets which demand environmental responsibility" (Rosoman, 2002).

Clearly, producers wish to minimise the cost and difficulty of obtaining certification, as they purchase the certification bodies' services. They would thus be interested in;

- Purchasing the service of a certifier that is likely to be less problematic, i.e. less rigorous in their interpretation of the FSC's P&C;
- Circumventing or postponing compliance with any difficult preconditions or 'Corrective Action Requests' that the certifier may identify;
- Ignoring or deflecting any issues that can only be solved beyond the FMU level.

As was noted above in section 3.3, the interest of producers in seeking the easiest route to certification actually coincides well with the interest of certification bodies in expanding their own market share. This is achieved by 'guaranteeing' a successful certification assessment, and reducing all problematic areas to technicalities, or postponing them to the future. As such, rigour in implementation of the Principles and Criteria, and assessments based on performance and high standards, are in general seen by producers as negative features of the service that certifiers can provide them.

In addition to maintaining and enhancing market access, producers often also see a possibility of better access to investments from external agencies. In the case of the Thai company, Forest Industry Organisation (see case study), gaining certification was seen almost as a matter of 'corporate life or death', as new investment was desperately needed in order to overcome a chronic debt problem. With the possible introduction of a new forestry policy by the World Bank (see Section 1), under which funding for tropical forestry operations may be made conditional on certification, the FSC may, for many forestry operations in developing and former-Communist countries, become critical as a means of gaining new investment. This will also undoubtedly lead to further pressure on the FSC to certify logging companies (even where they are not strictly compliant with the P&C), as World Bank lending targets and performance become directly or indirectly linked to such certifications.

3.5.3 The interests and role of the major timber purchaser

As noted in Section 1, retailers and importers of timber products in Europe and North America were encouraged to support timber certification after being exposed to NGO-organised consumer campaigns, which targeted the corporations for their unsustainable purchasing practices. Through certification, retailers wanted to ensure that their corporate image was protected, and that market share could also be maintained, or increased, at the expense of competitors.

Two consequences of this have been that;

- Retailers have sought to quickly obtain certified products, as this would serve to ‘placate’ boycotting campaigners
- One of the principle criteria applied by retailers in their choice of certification systems has been its credibility, first and foremost with campaigners, and only secondarily with consumers

Thus, while choosing to ‘go with FSC’, major buyers have sought to ensure that the FSC ‘performs’ according to their expectations. For example, a representative of the UK-based DIY chain B&Q made it quite clear at the first General Assembly of the FSC in June 1996 that, if FSC did not ‘deliver’, then they would cease supporting it:

“if you want corporations to reduce pressure on FSC, we will, but be aware that that will be a clear message for us to shop elsewhere” (B&Q, 1996).

There has therefore been a strong incentive for the FSC project to proceed ‘expediently’, and for difficult matters such as indigenous and local community tenure to be reduced to purely technical matters. As those who have now committed to purchase wood from ‘sustainable sources’ include three out of the five largest global timber buyers (Home Depot, Lowe’s and Ikea), the pressures on FSC to perform according to these retailer demands are enormous⁴⁷.

Whilst the pressure from major retailers such as B&Q has undoubtedly encouraged FSC along the ‘fast growth’ path, it is also clear that the loyalty of these companies to FSC is still only as good as it continues to deliver. For example, as it has become apparent that FSC alone probably cannot deliver the quantities of certified products sought by B&Q, the company has revised its purchasing policy. In the policy adopted in August 2000, new emphasis has been put on ‘Mutual Recognition’ between the FSC and other certification schemes. Thus, in addition to FSC certified products, the policy allows for:

“Products certified by other schemes, which in our judgement are likely to achieve mutual recognition or accreditation by the FSC. Currently we find the LEI (Indonesian) scheme falls into this category, and we are in discussion with the NTCC (Malaysian) scheme...Products

certified by other schemes, which in our judgement require improvement before they are likely to achieve mutual recognition or accreditation by the FSC...Products which are on very limited sales trial with BQ but only when certification is achievable and there is commitment from the supplier to achieve certification within six months of the trial commencing” (B&Q, 2000).

3.5.4 WWF and the ‘Trade Networks’: sustaining the timber industry?

The ‘high growth’ vision of the FSC, as formally established in 1998, coincided with another agenda. As noted in section 1, the World Wide Fund for Nature (WWF) and the World Bank announced in April 1998 a joint initiative with a target to certify 200 million hectares of forest by the year 2005 (by October 2002, less than 30 million hectares had been certified under the FSC scheme). Although the WWF/Bank agreement does not specify that this target should be achieved by FSC alone, WWF has campaigned vigorously against other systems of certification⁴⁸, and it is clear that the FSC would have to play a major role in achieving such a goal. The considerable influence of WWF within the FSC has thus been placed solidly behind the ‘rapid growth’ scenario.

While most campaigning organisations judge companies involved in timber production, trade or purchase on their performance, WWF have seen their strategies better served by embracing companies who show an interest in certification, preferably those who commit to buy certified products when they become available, and join a ‘Trade Network’, or a ‘producers group’. The Trade Networks now include some of the largest timber retailers globally, and have thus generated a potentially very substantial demand for (FSC) certified timber. However, there has been no attempt to link this demand with the potential supply⁴⁹. Nevertheless, because WWF is committed through its ‘promise’ to the many corporate members of the Trade Networks to ‘deliver’ FSC certified timber, it has a strong interest in promoting the rapid expansion of the FSC certified area. It can be argued that this risks generating excessive demands for FSC certified products, in a way that seriously compromises WWF’s interest in ensuring that the Principles and Criteria are rigorously upheld and that proper multi-stakeholder processes are adhered to.

3.6 Transparency

As an organisation with a mission to provide a public system of product labelling, transparency and access to information are central to the FSC’s credibility. As has been noted by Christopher Upton, a Director of SGS’s Qualifor programme, *“...the implementation of Certification and Labelling programmes should have as a key goal ‘to guarantee marketplace confidence’.* In achieving such

confidence, 'credibility' through 'transparency' of the certification and labelling system are paramount" (Romeijn, 1999). Moreover, for the FSC to function effectively, the democratic system requires that a 'democracy of knowledge' exists, especially amongst its membership. In so far as the membership does not have access to relevant information, it is deprived of its ability to influence political agendas and to make decisions from an informed standpoint. The following sections thus consider, firstly, transparency in FSC's policy processes, especially its strategic planning, and then looks at transparency at the implementation level, i.e. in certifications.

3.6.1 Transparency and FSC's Strategic Planning

There is evidence of lack of transparency in the most fundamental planning processes within the FSC. As with any new and expanding organisation, FSC has embarked on various forms of strategic planning. As noted in section 2.5, there have been two principle initiatives; the development of a Strategic Plan in 1998, followed by the commissioning of a 'Change Management Review' in 2001. Despite being of major strategic importance to the organisation, both of these have been characterised by lack of transparency to the FSC's membership.

The first Strategic Plan was agreed by the General Assembly of the FSC in 1996. In January 1997, the FSC Board approved the creation of a Strategic Planning Committee, which, in turn, decided to appoint external consultants and retained the management consulting firm Coopers and Lybrand to commence development of the Plan. Coopers and Lybrand went on to conduct a number of interviews with members of the FSC, and others, as well as sending out a postal questionnaire to FSC members. A workshop was held in Vermont, mostly for FSC "*contact persons and representatives of national initiatives*". A meeting was later held with members of the Strategic Planning Committee at which the consultant's preliminary findings were discussed.

Beyond these initial stages, there was no further discussion with the membership about the Plan. The report of the consultants, setting out the detailed proposal for an organisational plan to the year 2003, was completed in April 1998, and was provided to the Secretariat and to members of the Board for consideration at their meeting in May 1998. The report, marked 'Strictly Private and Confidential', was not made available to FSC members. Despite having profound implications for the future of the organisation – including the continuation or otherwise of the FSC as a membership organisation – there was no process for consultation with the broader membership about the report's contents.

A leaked copy of the report was obtained by one FSC member and circulated. A number of environmental NGO members expressed extreme concern about its contents, and about the fact that the membership had been excluded

from any discussion about the future of the organisation (FoE 1998). In response to members' concerns about lack of information and consultation about the Plan, it was decided, after the Board had considered the report and approved parts of it, that a summary version of the Plan would be available to the members, and that they would be invited to make suggestions about its implementation.

In the case of the Change Management Review, the report was developed without any form of consultation with the membership whatsoever, and its full report was never made available to them. After repeated protest about this from a group of members, a condensed version of the report was made available, though, again, not until after the report had already been considered and discussed by the FSC Board.

3.6.2 Access to information about certifiers and certifications

In practice, most discussion of transparency in FSC certification has focused on the quality of information made available to members and the public about certification exercises.

FSC's credibility depends heavily on the membership's confidence in accredited certifiers, and in the Secretariat's and the Board's ability to scrutinize certifiers' work. In monitoring the certifiers' work, the FSC Secretariat and Board need access to potentially sensitive information, including the details of the certifiers' assessment procedures and finances, and the main certification Assessment Reports. Because of the commercial nature of the certifiers' business, information about the accreditation programme has only been made publicly available on a selective basis. Similarly, information about the actual certifications is limited to what is deemed not to be commercially sensitive. In practice, both these stages represent opportunities for omission or concealment of information.

As noted in 2.2.1, the legally binding contract between the FSC Secretariat and each of the certifiers is shrouded in secrecy. The 'summary reports' of the Secretariat's accreditation and monitoring of the certifiers are supposed to be made publicly available annually, but in practice they have been written progressively later each year⁵⁰ and are apparently not made routinely available to the membership or public (and possibly not even the FSC Board). Other than occasional announcements of new accreditations of certifiers, the FSC's main means of communication – especially its website and newsletter – contain virtually no information about the accreditation programme, such as the Corrective Action Requests that have been issued against certifiers, or how they are responding to such controls. In some cases, the certifiers do not make publicly available the guidelines or checklists which they use for certification assessments.

In practice, therefore, the FSC membership and wider public has very little information as to what is the basis for certification assessments, nor how the Secretariat is ensuring

that this is in compliance with the FSC's requirements. In general, there has been a marked reluctance to openly acknowledge any problems encountered with the certifiers, even though it is essential for the membership to know what steps the Secretariat has taken to uphold the Accreditation Contract, the Manual and Certifiers' Guidelines.

Because the certifiers' full reports of certification exercises are only available to the Secretariat, and the FSC Board⁵¹, the membership and public are obliged to base its views on the effectiveness of both the certifiers and the Secretariat on information that is selectively made available to them in the form of Public Certification Summary reports. However, many Public Certification Summaries do not appear to provide the membership and the general public with sufficient information to assess whether a certification exercise has been conducted rigorously or not. Some summary reports from some of the certifiers still appear to lack key pieces of information, including basic data about human habitation within the relevant forest area. The Guidelines for certifiers specifically stipulate that 'controversial issues' need not be reported in the Public Summaries. However, these are precisely the issues that are likely to be of interest to anyone wanting to independently scrutinise the validity of the certification.

In the few cases where full Certification reports, or the original assessors' reports on which they are based, have become available (usually through 'leakage' within the system, rather than deliberate transparency), significant discrepancies can be identified when comparing them with what is publicly stated in the summary reports. For example, in the case of PT Diamond Raya, problems concerning serious conflict between the company and local communities were identified in the assessor's original field reports, but these were completely absent from the Public Summary (see case study).

In the case of the formal complaint against the SCS certification of J D Irving Inc., the complainant was not allowed access to the report prepared by the assessor appointed by the certifier to investigate the case (Morbia, 1999). Such practice tends to confirm fears that certification decisions have been taken on an inappropriate basis.

3.7 FSC's complaints procedures

The availability of measures for redress is essential in ensuring proper systems of accountability to all stakeholders. The FSC does have a formal complaints' procedure, the Interim Dispute Resolution Protocol (FSC, 1998), which sets out in detail how complaints and grievances between various parties should be resolved.

In practice, the Protocol has proven to be deeply problematic, and virtually unworkable for all but a very limited number of stakeholders. The main problems include:

- The length and complexity of the procedures. The document, which extends to some 55 pages, is written

in highly legalistic terms, with many inter-locking and cross-referred clauses. This makes it very difficult for the non-expert to use, even where English (the only language in which the Protocol has been produced) is their native tongue.

- The Protocol contains 'timeliness' clauses that would prove difficult for many potential complainants to comply with, especially where they are individuals or small non-governmental organisations (such as many 'southern' environmental and social NGOs).
- In cases of complaints against certifiers concerning specific certifications, the requirement to firstly 'informally' raise the concern with the certifiers means that certifiers have the opportunity to liaise with their certified client and conceal any of the problems raised by the complainants. Because there is no 'obligation of timeliness' on certifiers during this 'informal' process, certifiers can string out the complaints process to give their clients ample time to seek solutions or conceal the problems. The complaint can be extended over a long period of time, making it difficult for complainants (especially, again, individuals and small NGOs) to continue devoting the necessary time and resources to following it. The lack of obligation of timeliness can also be used by the certifiers as a means of forestalling any possible intervention by the FSC (see, for example, PTDR case study). A further consequence of the 'informal' stage of complaints against certifications is that the FSC Secretariat and Board may remain unaware of repeated complaints made against specific certifiers.
- Also in the case of complaints against certifiers, the protocol is limited to FSC members. This means that legitimate forest stakeholders, such as local community associations or NGOs, who disagree with a particular certification decision, either have to find an FSC member to represent their case, or are effectively barred from complaining through the internal FSC procedures.
- Complaints concerning specific certifications also require that the 'primary complainants' must each place a deposit of \$1000 with the Secretariat in order to defray possible costs of investigating the complaint, whilst 'secondary complainants (of whom there must be at least two) must deposit \$250 each. Such amounts would be prohibitive for many individual FSC members, as well as many organisational members from southern countries.

This vital check on the FSC, and in particular on the certifiers, is thus essentially non-functioning. It is highly discriminatory against individuals and smaller or poorer organisations, in favour of the larger and better equipped stakeholders, especially the certifiers. In practice, the Secretariat has been very reluctant to become involved in complaints against certifiers, apparently because it is

understaffed and unable to devote proper attention to them

3.8 Conclusions to Section 3

To date, it has generally been assumed by most of those concerned with the FSC that its principle ‘stakeholders’ were its members, as defined in the organisation’s Statutes. However, in the light of the empirical evidence, such assumptions appear not to hold true. Specifically, the evidence presented in this report suggests that;

- As supported by several of the case studies presented in this report, significant and legitimate stakeholders are sometimes excluded from FSC processes, whilst other interest groups occasionally strongly determine the decision-making process.
- The concept of ‘the stakeholder’ has been inadequately defined, and is open to various forms of abuse within the FSC system. It cannot be assumed that what are seen as ‘FSC stakeholders’ are synonymous with ‘stakeholders in forests’. This has proven to be particularly true where FSC accredited certifiers have operated in countries where there is little general support and interest from social and environmental interests groups in certification, and FSC processes are driven almost exclusively by industrial ‘economic’ interests.
- The various interest groups active within the FSC project are far from equal as stakeholders. There are examples of very good practice within some of the National Initiatives, but there have also been serious abuses. The long term strategy taken by the FSC – particularly the ‘fast growth’ scenario defined in the 1999 Strategic Plan – has tended to exacerbate inequalities, notably between the certification bodies and FSC’s corporate clients, and other groups, such as environmental NGOs and social interest organisations. Similarly, shortcomings at the operational level, especially laxity in upholding the P&C, have undermined the position of indigenous people, local communities and forestry workers, also in favour of the certification bodies and the FSC’s clients.

Of particular concern is the role of the certifiers, specifically:

- The competition amongst the certifiers for market share, coupled with the pursuit of ‘fast growth’, and the lack of proper mechanism for control of the certifiers by the FSC Secretariat, has created the conditions for a ‘race to the bottom’ in the certifiers’ actual standards of assessment. In effect, the certifiers see rigorous interpretation of the FSC P&C as an obstacle to expansion of their business.
- As noted elsewhere, the lack of defined ‘major failings’ allows for certification decisions to be taken on an

almost arbitrary basis. Serious failings against P&C are simply being treated through the issuing of certification conditions. In practice, this seems to amount to little more than certification on a ‘hope for improvement’ basis.

- There is consistent evidence that certifiers pay very inadequate attention to issues beyond the level of the Forest Management Unit. This means that the wider policy context is often ignored altogether, and the long-term history and ‘culture’ of large certification candidates – in relation to issues such as the treatment of local communities, and illegal logging – is overlooked when assessing specific management units. Where such issues are recognised, certifiers attempt to deal with them through certification conditions that can actually not be solved at the FMU level.
- There appear to be conflicts of interest between the certifiers’ as ‘independent’ assessors of the performance of forest management, and their de facto role as ‘consultants’, through the issuing of numerous ‘conditions’ and ‘pre-conditions’ to certification that effectively serves as ‘advice’ to the certification candidate. Whilst accepting that there are dangers in such a conflict, the FSC has failed to deal with it, apparently at least partly for fear that it would place a limit on the certifiers’ activities. (This problem appears to have been exacerbated by the lack of adequate policies, procedures and operational controls concerning the conduct of the certifiers, as noted in section 2).
- There are serious doubts about the quality of the certifiers’ assessment procedures. As has been noted elsewhere, it is not entirely clear in all cases how the structure of the assessment procedures relates to the FSC’s P&C. In addition, the procedures appear in some cases to be open to manipulation and abuse in order to ensure successful certification outcomes.
- There are also interests on the part of assessors employed by the certification bodies in producing positive certification outcomes. The confidentiality agreements used by certifiers ensure that dissenting voices are never heard in the public realm.

The role of the Secretariat also has to be called into question. Specifically;

- The evidence suggests that the Secretariat has tended to take a lax view concerning the control of the certifiers. Insofar as the Secretariat has linked itself to the ‘fast growth’ approach, it has a common interest with the certifiers in a ‘generous’ interpretation of the P&C.

The role of donors and ‘clients’ appears to have become increasingly important. Specifically:

- The organisational development model pursued by the FSC has rendered it reliant upon, and susceptible to the

influence of, major donors. Whilst such influence is not necessarily harmful, neither is it necessarily consistent with the views of FSC's membership and legitimate stakeholders. In practice, the influence of external donors over the FSC appears to be largely concealed from the membership.

- According to one view of the FSC, timber producers, or FSC's 'clients' have become the main source of influence over the organisation. Their commercial interest in achieving the benefits of certification with the least possible cost and difficulty accords closely with the interest of the certifiers in expanding their markets and increasing profit margins through lax assessments, and the Secretariat in pursuing rapid growth of the FSC certified area.
- The retailers have similar interests to the producers, although certification is seen principally as a means of maintaining market share and avoiding confrontation with pressure groups. Whilst many major retailers have made commitments to purchasing FSC certified products, their time horizons may not be realistic in terms of the long-term changes that may be required to ensure forest management practices that genuinely comply with the P&C.
- There is some evidence that the Trade Networks are generating demand for FSC certified timber well beyond the supplying capacity of FSC certified forests. The target established by the WWF (through its alliance with the World Bank), a major influence in FSC, to

achieve 200 million hectares of certified forest by 2005, is probably hugely over-ambitious. The combination of these two initiatives is adding significant pressure to the FSC to 'certify at all costs' and potentially undermines rigorous respect of the P&C.

An essential part of a functioning and balanced democratic multi-stakeholder organisation is a 'democracy of knowledge'. However, availability of important information to FSC members and other legitimate stakeholders is often highly inadequate. Specifically;

- Key FSC processes, including the development of the 1999 Strategic Plan, have been largely obscured from the membership. Documents such as the Accreditation Contract, and the reports of Accreditation monitoring activities are not made available to the membership or wider public.
- The information provided by certifiers on certification exercises is often inadequate for FSC members and the public to make a sound judgement as to whether certifications have been conducted rigorously or otherwise.

Added to the above problems, one of the main tools for redress and accountability, specifically the Complaints Procedure, is seriously flawed, by being biased in favour of certifiers and their clients, and discriminatory against weaker stakeholders.

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Notes to sections 1-3

- 1 For a brief overview of the FSC, the reader is referred to the Forest Certification Handbook (Upton and Bass, 1995) and the FSC Website, which can be found at www.fscoax.org.
- 2 It can be argued that, in addition to these core features, it is also crucial for the credibility of any certification scheme that it:
 - is honest in the claims made;
 - is transparent at all levels;
 - has effective disputes/complaints' procedures which allow for access by all stakeholders, including those who are generally marginalized;
 - is able to guarantee a credible Chain of Custody for the certified products.
- 3 Friends of the Earth consequently disassociated themselves from the project, which was carried out by consultants from the Oxford Forestry Institute under UK government funding.
- 4 As noted in Elliott (2000), ITTO subsequently conducted several studies on certification, apparently mostly of a descriptive kind, but these failed to galvanise any substantial political action. ITTO instead embarked upon the development of generic 'guidelines' for sustainable management, linked to a 'Target' of the Year 2000, by which time all ITTO member countries were supposed to have implemented the guidelines. At the time of writing, no single country could claim to have achieved the ITTO's Target.
- 5 The large UK-base home-improvement retail group that was one of the first major commercial enterprisers to support FSC.
- 6 Consumer campaigns have subsequently been taken up or reinvigorated in the UK, on the European continent and in Scandinavia, by various NGOs including Friends of the Earth, Robin Wood, Swedish Society for Nature Conservation, and the Rainforest Foundation Norway. These campaigns have mainly focused on garden furniture imports from South East Asia, but have occasionally had wider targets and impacts through media coverage and lobbying activities directed towards governments and industry. In the US, the Rainforest Action Network's ongoing campaign against major US importers and DIY chains have had major successes and led to important companies such as Home Depot and Lowes' promises to enforce sustainable practices. In addition, detailed documentation about the environmental, social and economic impacts of the tropical timber trade in various countries, such as Cambodia, Vietnam and Cameroon, has been provided by NGOs including Global Witness and Forest Monitor.
- 7 The issue of 'discrimination' arises in two different forms in the context of forest certification. Because of the origins of certification as described in the above section, there were suspicions amongst some tropical country governments and timber producers that certification might be used as a means of discriminating unfairly against tropical timber in general. This has never actually been the case, but one of the main purposes of a performance-based certification system is to discriminate between producers, on the basis of agreed standards for performance (in the FSC's case, the Principles and Criteria).
- 8 By 1999, the Government of Austria had provided the FSC with US\$890,310, which at that time made it the FSC's largest single donor, whilst the Government of the Netherlands had provided US\$ 501,815, making it the third largest donor (FSC, 1999a).
- 9 Though this report argues that some additions to, or revision of, the P&C may be required, such as in relation to workers' rights, health and safety issues, and plantations.
- 10 A typical example would be the targets of the Danish importer and distributor of garden furniture, Dacore, which has gained support from the Nordic Trade Network to develop its 'targets'. According to these targets, Dacore should have 5% of its teak furniture from the Far East certified by 2000, 10% by 2001, 20% by 2002, 30% by 2003, 40% by 2004 and 50% by 2005 (Dacore, 2000). It is worth noting that, when SmartWood indicated that the certification of Perhutani and the suppliers of teak products from its Javanese plantations were all likely to be suspended (see Case Study 3), WWF representatives encouraged SmartWood to uphold the certificates for at least 6 more months in the hope that Perhutani would change.
- 11 Much of the funding through the Alliance is directed towards protected forest area projects, but a significant amount is for initiatives that relate to forest certification.
- 12 Though, as described in section 2.5 there are grounds for believing that this process and its outcomes were seriously flawed.
- 13 The Secretariat eventually called on the certifiers to be 'diligent' in implementing the Principles and Criteria in Indonesia (FSC, 2001e). It also called on the certifiers not to issue further certificates until an independent study on FSC Principles 2 and 3 relative to Indonesian law and reform processes had been finalized and conclusions could be drawn. However, it did *not* put any limitations on the certification bodies' contracting, scoping, pre-assessment and assessment work, and there is evidence to suggest that at least some certification bodies does not refer to the ongoing study, and possible implications of it, when promoting their services to 'clients'. Seemingly the certifiers have subsequently continued with 'preparatory' scoping work, in the clear expectation that they will eventually be given the 'go-ahead' from the Secretariat to continue their certification business in Indonesia in much the same way as previously.
- 14 Copies of recent accreditation and monitoring reports were only made available to the Rainforest Foundation when staff visited the Secretariat office in Oaxaca.
- 15 That of the major UK wood fibre processor, Kronospan.
- 16 The authors of this report have been given verbal assurances by the FSC Secretariat that all of the certifiers' assessment systems are now compliant with the FSC's requirements. However, at least two of the major certifiers' current assessment documents appear not to be available to the public, and it is therefore impossible to verify the FSC's assurances.
- 17 One consequence of this – that of a 'race to the bottom' in standards amongst competing certifiers, is considered in section 3.3.
- 18 The other standards inspected were those of SGS-Qualifor, The Soil Association Woodmark scheme and SmartWood.
- 19 It is interesting to note that the likely identification of 'fatal flaws' is seen by SmartWood as a potential problem, and evidently as an obstacle to their relationship with their client. For most other stakeholders, it is understood that the identification of major problems is precisely the role expected of certifiers, as upon this is based the credibility of the FSC.
- 20 A strict interpretation of this approach would probably foresee FSC as occupying a well-defined specialist 'niche' in forest certification, as only forestry with high quality management standards would actually gain certification.
- 21 SmartWood is an initiative of the New York-based NGO, Rainforest Alliance.
- 22 Logging concessions in natural forest on State Land in Indonesia.
- 23 It is also important to recognise the size of the *opportunity cost* for all those involved in the FSC project. One could speculate on what could have been achieved in terms of forest conservation and protection of forest peoples rights, if the effort to establish and promote the FSC had instead been invested in, for example, improved regulation of the timber trade, or support to grass-roots community movements.
- 24 Such as the Pan European Forest Certification Scheme, the Sustainable Forestry Initiative (US/Canada), and the Canadian Standards Association certification schemes (See section 1.2. and Fern 2001).
- 25 According to the Secretariat, one of the rationales behind the development of a focus country list was to "provide the Secretariat clear targets for raising funds for critical countries, providing training and encouraging the efforts of partner organizations in improving forest management" (FSC, 1999d). This was revealing, in that it clearly envisaged not only a greatly expanded geographical scope, but also a role for FSC that goes beyond the organisation's central task of accrediting certifiers. It appears not to have been appreciated that there was a potential conflict of interest between the Secretariat's role in 'facilitating expansionism' and 'monitoring the certification bodies'.
- 26 There is evidence that the expansion of FSC activities into some of the focus countries was driven partly by funding opportunities linked with

- the interests of other particular groups. According to the former FSC Executive Director, FSC in 1999 *"obtained funds from Tropical Forest Trust (TFT), the World Bank WWF Alliance and GTZ to promote collaboration in SE Asia... More funds were obtained from WWF-Sweden in early 2000... we have gradually developed closer collaboration with Malaysia and Indonesia, aimed at producing standards to satisfy national and FSC requirements"* (Synnott, 2001).
- 27 It is interesting to note the identity of the particular 'stakeholder' that FSC has chosen to represent it in this context. Sian Tuan Mok is the Southern representative for the economic chamber on the FSC board, and has been involved in various FSC missions to South East Asia, together with Tim Synnott, over the last few years. Mok's views on the FSC are obviously well known to the organisation, as he wrote in the FSC 1999 Annual Report, about 'Asia and the Pacific' that: *"Its success has been achieved largely by good forest management, which was recognized for sustainable forest management and FSC's Principles and Criteria (I did it and was the first paid up FSC member)"*. The view that countries such as Laos, Burma, Malaysia, Thailand, and Indonesia have a forestry industry that follows the Principles and Criteria of the FSC is not one that would be supported by any environmental or social NGO.
 - 28 Other existing major forest certification systems exclude meaningful participation of social and environmental interests (see Fern, 2001).
 - 29 A substantial market has been created for such services. The providers of such services have different constituencies and interests. They go beyond the certification bodies' work, while often working closely with them. Some, such as the Tropical Forest Trust (TFT), provide financial donations and support for logging concessions so they can 'work towards certification', while others may sell their services.
 - 30 As of August 2002, there were FSC national initiatives or contact persons in 31 countries, and agreed standards in 8 countries.
 - 31 The relative success of such National Working Groups may be largely a reflection of the particular circumstance under which the earliest groups have been established. In particular, strong commitment has been shown by the group coordinators and secretaries, and by many others who have been involved in the process. Almost all of the work at the national level has been carried out on a voluntary or only partly remunerated basis. Furthermore, most of the successful National Working Groups have been established in countries with liberal democracies, and with strong traditions and histories of civil society participation in forest policy development and implementation.
 - 32 Interestingly, one of the responses to the NGOs' withdrawal from the process was the suggestion by FSC Board member, and member of the Malaysian Timber Certification Council, S T Mok, that the NGOs should simply be replaced. According to the minutes of the 4th meeting of the National Steering Committee, held in February 2002, Mr Mok suggested that, *"In the event that the five NGOs do not want to participate, other representatives of the indigenous people should be invited"* (MTCC 2002). In this case, it was clear that the purpose of the NGO presence was simply to ensure the external *perception* of multi-stakeholder representation, rather than that key civil society interests would actually participate meaningfully.
 - 33 In addition to which, one of the members of the social chamber was connected to one of the 'economic stakeholders', and one of the environmental stakeholder organisations was headed up by a former director of the state forestry company, Coillte (VOICE, 2001a).
 - 34 An appeal was made by the groups to the FSC Secretariat to intervene. However, no intervention was forthcoming, and a meeting of the IFCI in September 2000 confirmed the group's four-chamber structure.
 - 35 It is a matter of conjecture as to whether these 'conditions' will ever be satisfied, but the past evidence of SmartWood's performance in such cases is not good, see specifically Perhutani case in this report.
 - 36 The analysis made in this section, and throughout the report, principally relates to the 'for-profit' certification bodies. 'Not-for-profit' certifiers – such as the Soil Association's 'Woodmark' scheme – do have an interest in expanding their operations, but it is noticeable that they have tended to certify the potentially less profitable and more 'ethically' orientated forest management units and chains of custody, particularly small forest owners and community forest managers.
 - 37 All of these serious problems have been encountered in areas certified under the FSC, as illustrated in the case studies.
 - 38 It should be pointed out that what is 'quality' of the product provided by the certification body to the 'client' (which serve their interests) is very different from what 'quality' is for other interest groups. In the cases where the 'clients' have conflicting interests with local communities over ownership or tenure issues, it is likely to mean that the more 'quality' the certification body provide for the 'client', the less 'quality' it provides for the communities. The faster the certification can be completed, and the simpler the 'consultations' required, the more it serves the short term benefits for the client, and the less other interests are attended to.
 - 39 Such a scheme as proposed by SCS would appear to be in breach of the FSC Guidelines for Certification bodies, which state that *"2.3 A primary objective of FSC policy is to reduce public confusion regarding environmental claims relating to forest management. Such confusion would be created if FSC-accredited certification bodies' names or logos become associated with forest management which does not comply with the FSC P&C.. 2.4. FSC-accredited certification bodies may not, therefore, operate certification schemes or issue certificates (or equivalent public statements) regarding forest management that does not comply with the FSC P&C."*
 - 40 Certified Forest Products Council is a *"not-for-profit business initiative committed to promoting responsible buying practices throughout North America in an effort to improve forest management practices worldwide"*.
 - 41 Each of the certifiers tends to use different terminology, with slightly different formal meanings and procedures attached. For example, SmartWood has used the term 'Conditions' and 'Pre-conditions' to refer to changes in forest management (or CoC) practices that, in the case of the latter, are actions that have to be taken *before* the certificate can be granted. In the case of SGS, the terms 'Minor Corrective Action Request' and 'Major Corrective Action Request' are used, where the latter are effectively 'pre-conditions'.
 - 42 It should be noted that the later audits in the case of Perhutani, which was lead by Walter Smith of SmartWood, seems to have recognised to a greater extent the abuse represented by the company and the land use pattern (see case study).
 - 43 Forest Research is also one of the key New Zealand promoters of genetically modified radiata pine, which FCF is involved in through the US\$ 60 million joint venture company ArborGen. Genetically modified organisms are not allowed under FSC certification, and FCF's compliance with FSC Principle 1.6, for the company to show a 'clear commitment to the FSC' could therefore have been challenged – but the assessors selected would have been unlikely to do this (Lang, 2001).
 - 44 The other existing incentives to keep certification bodies 'in check' are the possibility of formal complaints against their certifications through the FSC 'complaints procedure' (see 3.7), or external public exposure by, for example, civil society groups or journalists, of flaws committed by the certification bodies.
 - 45 The Board was requested by a group of 13 FSC members to issue a statement that funders or potential funders would not have any influence over the FSC's strategic planning process. The Board has so far declined to issue such a statement.
 - 46 This trend has probably been reinforced by the 'fast growth vision' and the implementation of the 'Strategic Plan'.
 - 47 It should be noted that the purchasing policies of these three companies, as for others who are members of WWF-organised 'Trade Networks' (see 3.5.4), have largely meant a commitment to purchase FSC certified material 'when it becomes available', without necessarily cutting their supplies of unsustainable material .
 - 48 Apart from NTCC in Malaysia and LEI in Indonesia, which both have had various forms of co-operation with the FSC despite elements of this being in violation of the 1999 General Assembly motion no. 11 (see section 2.5.2).
 - 49 Many campaigning NGOs have raised concerns with regard to the Trade Networks. These include that: 1) Some companies are exploiting their membership in these networks to boost their 'environmentally friendly' image whilst at the same time making little effort to actually improve business practices; 2) Some of the companies' communications about their membership tend to blur the line between FSC and non-FSC products, thus potentially undermining incentives for the FSC label in the market; 3) There are no clear 'criteria' defining the sources of timber – such as those involving violations of human rights and illegal practices – which the Networks members should totally avoid.
 - 50 The Secretariat report of the accreditation/monitoring programme for 2000 was not completed until the end of August 2001, whilst the report for 2001 was still not completed at the end of October 2002. As noted elsewhere, these delays have probably been at least partly due to staffing changes within the Secretariat.
 - 51 In practice it seems that even the Board members rarely gain access to full certification.

Case Study 1

The making and unmaking of forest certification in the Brazilian Amazon: a study on the certification process of two logging companies in the State of Pará.

Anna Fanzeres¹

Main issues identified

- Inadequate attention to social issues, especially health impacts, within the FSC's Principles and Criteria.
- Questionable compliance with the underlying precepts of FSC's Principles and Criteria.
- Insufficient response from FSC and the certifier company to the raised matters.

1. Summary

This case study assesses the forest certification of two logging companies located in the southern part of the State of Pará, in the Brazilian Amazon. Apart from assessment of certification documents, the case study is based upon two visits to the certified area during the evaluation and consultation processes conducted by an FSC accredited certifier.

Both companies appear to have made important improvements in their logging practices and managerial policy. However, compliance with FSC's underlying precepts is questionable, particularly concerning the companies' treatment of social issues. Due to the exclusive focus of the certification on issues within the Forest Management Units (FMUs), little has been done to realistically deal with the existing problems in the local communities under the FMU's influence. Specifically, the practices of the logging industry in the region have aggravated epidemiological problems, in which malaria has become a major health-care issue. Neither of the companies had any program to prevent or control the spread of malaria in their areas of influence.

Moreover, the rights of both companies' workers need major improvements. There is very limited understanding and awareness of the consequences and implications of certification among workers and local communities in the area. The majority of existing unions or associations that should represent the rights of workers and the interests of the local population are in fact unable to provide any effective action.

This study mainly deals with issues covered by FSC's Principles 4, 5 and 6. Both companies appear to lack appropriate surveys of forest structure and composition, which is necessary to pinpoint potential areas of total preservation as well as critical wildlife species.

2. Introduction

The information herein reported has been extracted from an unpublished document² prepared in October 2000, as part of my doctoral research at Yale School of Forestry & Environmental Studies, USA. The aforementioned report was produced with the intent to call attention to existing problems regarding the certification of logging operations in the Brazilian Amazon. This report's initial goal was to provide some food for thought during an FSC meeting on social issues related to forest certification (Oaxaca, Mexico, November 2000).

However, the reaction to the report was quite surprising to me. Firstly, FSC seemed to have ignored the denunciations being made, thus dismissing the role of members and other stakeholders as an active part of FSC's certification processes. Second, the logging companies admonished me that they were considering legal reprisals, raising interesting questions about the real understanding on their part about the assurance of transparency during FSC's certification processes.

Nevertheless, the facts related in the original report have become more relevant with the passing of time. Other researchers working in Amazônia started to denounce the involvement of logging companies with the enticement of indigenous peoples and, more concerning, drug trafficking (Fisher 2000; Schönenberg 2001). Recently, the news media in Brazil and abroad has described the unresolved illegality of the timber trade in Amazônia. High value timbers such as mahogany continue to drive the invasion of indigenous lands and other protected areas, and the use of slave labor (Rohter 2002).

Thus, I decided to take this opportunity to share some of my research findings with a broader audience. The major aspects pointed out in the original report are being presented here. However, to avoid any possible complications, especially to all the people whose contributions were crucial for the construction of this case study³, I decided to use substitute names for the logging companies, the certifier, their properties and all other designations that could lead to their direct identification. Moreover, as a protective measure and to conform to rules of ethical research, informants' names will not be provided in this report. However to guarantee many of the assertions made in this report, interviews have been taped with consent of interviewees.

3. Background

3.1 The context for logging in Amazônia

Logging in the Brazilian Amazon takes place in the flooded forests along the rivers (*várzeas* and *igapós*; see (Prance 1980) and in areas of upland forests (*terra firme*) (see also Gethal/PWA case study for more background information on logging in the Amazon basin). The former areas have been subjected to commercial exploitation of timber and essence-supplier species since before the Portuguese established colonial control in the region (Barros and Uhl 1995; Dean 1995; Caldeira 1999). On the other hand, most of the upper land areas have been opened up much more recently (although initially not for the extraction of timber) (Uhl et al. 1991; Verissimo et al. 1992). However, despite the differences in intensity and impact, in neither of these areas it is possible to say that logging has been conducted in a sustainable manner (Putz et al. 2000). The high-grading of the native vegetation for the extraction of timber species of high market value and the opening of the forest frontier for human occupation has led to the replacement of primary vegetation with anthropogenic landscapes subjected to fire, floods and other natural and human generated disturbances (Nepstad et al. 2001). Logging companies in the Brazilian Amazon have been accustomed – at least until very recently – to obtaining their resources at very low or no-cost through practices such as the invasion of public lands and protected areas or settlements; the expropriation of resources from native peoples and powerless land owners, the use of violence to ensure their ways, and the evasion of taxes (IBAMA 1997; Fearnside 2001). Federal Government agencies are well aware of these practices and in 1997 declared that 90% of timber extraction in the region was done illegally (SAE 1997).

The massive commercial extraction of trees from the Brazilian Amazon started to cause concern only in the early 1990s. It was at this same time that the loggers and the timber industry began to change their discourse. The first shift in attitude appeared with increasing denunciations of the incentives provided by the Brazilian government to replace the forest with pastures and agriculture ventures – mostly fated to failure and degradation (Uhl et al. 1997). Up until this time, loggers and the timber industry established in the region justified their questionable operations by claiming that they were just giving use to a resource that would be burned down anyway. As this justification became less tenable, due to growing evidence for the integral role the industry played in promoting environmental abuse and social disruption, so a new discourse on the benefits of forest certification by logging companies in Amazônia was adopted. In short, many logging companies are seeking the means to defend their operations and secure existing commercial deals or attain new ones.

3.2 Certification in Brazil

Brazil occupies a potentially unique place in the development of the FSC, as the country contains two-fifths of the world's tropical rainforests. Despite the still low numbers of Brazilian FSC members, many individuals have played an active role in the FSC since its inception. A Brazilian Working Group was established after the inaugural General Assembly, in Canada, in 1993. This working group, which on September 18th, 2001, became officially the FSC Brazil (i.e., Conselho Brasileiro de Manejo Florestal), has been instrumental in the development of regional protocols. So far it has finalized the guidelines for the Amazonian Upland Forest (May 2000) and Tree Plantations (May 2000). Presently underway is the development of protocols for both brazil-nuts and for the Atlantic Coastal forests.

3.3 Certification of two logging companies in southern Pará State

This case study addresses the certification processes of Company A, and Company B, both by one of FSC's accredited certifiers. These two companies have been chosen because their assessments were conducted simultaneously, using the same team of assessors, and the outcomes share a number of similarities (to the extent that the public certification summary reports of the two certifications share significant amounts of identical text). The original assessments took place in September 2000, which resulted in a set of pre-conditions for certification that were issued to the two companies. Follow-up assessments took place in November 2000. Following peer review, the certifications were issued in April 2001 for Company B, and in May 2001 for Company A.

It is important to point out that this particular FSC Accredited Certifier's assessment system operates on a points scoring basis. Candidate companies are scored out of one-hundred in each of the three categories: 'timber resource sustainability', 'forest ecosystem maintenance' and 'socio-economic benefits'. The scores in each of the three categories for Company A were 81, 80 and 81, whilst those of Company B were 80, 81 and 80. The 'threshold' score, below which candidate companies would fail this certifier's certification assessment, is 80.

The certification of Company A was made conditional upon compliance with 24 conditions, whilst Company B was asked to comply with a similar number of conditions.

3.3.1 Company A

Company A's business is in forestry (logging, processing and exporting) and in services (optimization of other businesses). In the forestry sector, Company A was previously located in Maranhão State, where its operation was terminated in 1996 following a conflict with landless settlers in which a settler and three gunmen, allegedly employed by the company, were killed⁴.

Company A's certified property is located in the State of Pará, and is one of three 'forest farms', which are owned by this family/multi-business group. According to the certifier's Public Summary Report, this FMU occupies about 140,000 hectares, of which 120,000 are forested (accounting for about 68% of Company A's total land holdings). Prior to its acquisition by the family, this FMU belonged to one of the major Brazilian private commercial banks. This area was originally established as an incentive provided by the Brazilian government to businessman for the establishment of cattle ranches⁵.

The physical infrastructure of Company A at this FMU is significant, and the company has been investing heavily in establishing new infrastructure and improving old structures. This has included the establishment of a forest department, the purchase of computer equipment (with mapping capability) and machineries for low-impact logging. Approximately one year ago, Company A signed an agreement with a governmental agroforestry research agency, and with two others international research organizations, for the establishment of experiments and transfer of low-impact logging techniques. All the forest operations related to the FMU are administered locally.

3.3.2 Company B

Company B's certified area occupies about 12,000 hectares, also in the state of Pará. The land is rented from a Belém businessman, who also owns a construction company and a number of farming enterprises in southern Pará. Company B's owner was formerly one of the partners of a company that, during the 1990s, was repeatedly implicated in illegal logging activities, and cited for numerous such infractions by the Federal environment agency, IBAMA. This latter company was one of the three companies ordered by a Federal Court in January 1993 to remove its equipment from three tribal reserves in Pará (Apterewa, Araweté/Igarapé Ipixuna and Trincheira Bacajá) and to pay compensation to the Indigenous inhabitants of these reserves.

Company B, has been logging at this FMU for the past three years. Company B has no permanent infrastructure within the concession, other than a camp for the workers. All the company's forest related work is carried out at the office at their sawmill in the nearest town. The company also has the same research agreement described for Company A, concerning experiments in low-impact logging techniques and for the transfer of technology.

4. Compliance with Principles and Criteria

The analysis below focuses on the issues of labor rights, working conditions and environmental issues. Some consideration is also given to the question of sustainability of timber supply. Therefore, only compliance with Principles 4, 5 and 6 are considered in any detail.

4.1 Principle 4

Community relations and workers' rights were recognized by the certifier as weak areas for both companies. Both companies were required to comply with 7 conditions of certification concerning Principle 4. The certifier's main concerns were related to health and safety equipment, labor organization and grievance procedures, training, and quality of food and accommodation. However, as we will point out in this report, there is evidence that the issues under Principle 4 have not been fully addressed.

4.1.1 Labor Rights and Forest Benefits

Brazil has ratified a number of International Labor Organization (ILO) conventions applicable to workers in the forestry sector⁶. Historically, however, the Amazônia region has suffered from violations of the most basic of human rights. The main causes behind this have been rampant poverty, widespread illiteracy and the ineffectiveness of local institutions. It is important to note that in frontier areas such as southern Pará State, democratic elections of local organizations occur very rarely, whereas physical violence, with threats and murder of union members, are frequent occurrences. Therefore, compliance with the FSC requirements is not just a question of implementing ILO's conventions (as would be required by FSC Criterion 1.3) but also of the actual effectiveness of such measures to improve working conditions in the region. Thus, if a certification process only assesses whether workers are affiliated or not to their respective union, it could miss important facts such as whether these institutions are able to act effectively in changing the regional patterns of labor exploitation, the high incidence of accidents, and the lack of health and financial protection for the workers' families.

For example, in accordance with Brazilian law, deductions are made from all workers' monthly paychecks, and paid to the official workers' representative organization. In the case of workers from processing plants (e.g., sawmills and plywood factories), this is the Sindicato das Indústrias Madeireiras e do Mobiliário (Union of Construction Workers, Timber Industry and Furniture Makers). However, in many areas of Amazônia, unions established to oversee workers' rights are established and controlled by the employers themselves and with little or no oversight by any national or international labor organization. Workers in the forest are represented by the Union of Rural Workers. While this organization is considered as being reliable, inherent institutional weaknesses common among civil society organizations in Amazônia place it in a difficult position to effectively protect workers' rights.

The weak performance of local institutions in the area also extends to governmental agencies. The representatives of the "Delegacia Regional do Trabalho" (Labor Ministry's office) seldom visit the region. When the rare visit does take

place, the logging companies are informed beforehand, allowing them time to conceal any irregularities. In addition, mechanisms for public defense, such as the General Attorney's Office, are underutilized by the workers, in many cases due to the fact that workers are unaware they exist. Consequently, illegal practices are poorly reported.

Interviews with employees at each of the companies, including workers in both the forests and the processing plants, generated many insights about labor rights in the area. Some key issues mentioned by employees, which were verified during field investigations, included:

- **Information about the certification process:** At neither company were the workers adequately informed about the certification process taking place. Some of them had heard of it but could not explain what it was or what it implied for their lives. At the time of our field visit, no one from the certifying team had yet spoken with the workers.
- **Worker representation:** Neither the union of rural workers (STR) or the union of workers of the timber industry working at the region of Company A have ever travelled to the actual logging areas to hold a meeting with the workers (though the STR is recognized as at least providing information to workers when consulted in the town closer to Company A). None of the workers of Company A's processing plant ever voted to elect any union representative at union of workers of the timber industry. At neither company had there ever been any collective negotiation between workers and the company's representatives. At the town closer to Company B, workers stated that "*the Union (i.e., of workers of the timber industry) fights more for the rights of the companies' owners than for the workers*" and the only benefits the union gives the workers are coupons for haircuts⁷.
- **Bonus payments:** There were complaints and concerns about payments of bonuses and other obligations among workers of both companies. It was stated that the government issued an order for a 30% raise but Company A had only paid 11%. Company B had proposed to pay a bonus of R\$ 30.00 to the sawmill workers if the employees reached certain production quotas. At the time of this study, workers still had not received the bonuses. Company B made an oral agreement with the workers to pay them a food allotment (*cesta básica*)⁸ every three months, but only if no one missed a working day (apart from authorized sick-leave). The workers attempted to reach the target, but were told shortly before the first *cesta básica* was due that the company had declared the agreement retroactive to April (when there were some missing working days) and thus would not pay the allotment.
- **Living conditions and housing arrangements:** These were also a focus of discontentment among some workers. All Company A's employees reside at the FMU without their families and are not allowed to return daily to the neighboring town⁹ where the families of some workers live. Other workers are from localities much further away, such as Maranhão, and have to travel long distances to get home. In addition, at Company A, new dormitories for the workers at the processing plant were being built since the old ones did not offer adequate living conditions. However, the new dormitories are being covered with "Brasilit", an asbestos based roof of already known health hazards, which absorbs an intense amount of heat under the tropical sun.
- **Working hours:** The working schedule for some of Company A's employees is based on twenty working days per month and a ten-day break. Others work ten to fifteen days per month and receive a five-day break. We were told of cases of employees working more than twelve hours daily without any break.
- **Education:** There are no elementary schools within the areas of either company or in the neighboring areas, which are accessible by the children of workers.
- **Safety and equipment**¹⁰: The equipment provided by Company B was of very low quality (e.g., the boots do not have front protection and last less than 30 days; masks are not efficient to filter the sawdust). Therefore, many workers had to purchase their own higher quality equipment. The uniforms at Company B, especially for those working at the forest, did not comply with the ILO's recommendations of adopting clothing colours that allow for the easy distinction of workers from their surrounding environment. At Company B, employers had hired a "security officer" to implement a Commission for the Prevention of Accidents (CIPA). However, at the time of our visit, the workers had never received any practical training on first-aid or other requirements of the Commission.
- **Charcoal workers:** Close to Company B's sawmill in town, we visited a charcoal producer that receives the residue generated by the sawmill. The workers at the carvoaria (charcoal plant) did not have legal contracts and their living conditions were very poor. Their pay was based on productivity, and no basic safety equipment was provided.
- **Sickness benefits:** The families of Company A's and Company B's employees did not receive any type of benefits; if an employee got sick and did not receive a sick-leave declaration they would lose their salary. At Company B, workers described the annual medical examination as consisting of 'removing their shirt and turning around'. At Company A, workers sick with malaria were directed to the infirmary near the sleeping quarters, but were not allowed sick-leave permits. At both companies, the workers did not report occupational illnesses such as respiratory diseases because they did not know that the companies were responsible for them.

4.1.2 Relations with local communities

It is well known that the impacts of logging go beyond the restricted area of the Forest Management Units (FMUs). Those people who depend directly or indirectly on the natural resources and regulating qualities of the forests but do not live within the FMU boundaries are the most vulnerable. Ironically, these are the people most neglected in forest certification processes in Brazil

The FMUs of both Company A and Company B are surrounded by small communities, which suffer the direct impact of forest management practices (or the lack of it). Perhaps the most striking impact is related to the epidemiological pattern discussed below. In close connection to this pattern is the importance of the forest as a source of food and subsistence resources.

4.1.3 Land conflicts

Although Company A technically holds the legal rights to the land on which it operates, there is little evidence that it has considered the fact its area is located in a context of land disputes and diminishing resources. For Company A to protect its forested areas, it is fundamental that the company establishes clear and strongly accepted mechanisms for dealing with potential invasions of the area. One of the directors expressed the difficulties the company faced in balancing their private property ownership rights and attending FSC's demands to establish good relationships with surrounding communities. At the time of our visit, the company informed us that they had during the previous week been informed of a possible invasion of their land. They were concerned with how to deal with this type of situation now that they were seeking certification. Their approach was to ask the local police to intervene. History has shown that such responses are likely to trigger violence, and would probably not prevent further 'invasions'. We suggest a serious review of the tenurial arrangements and stress the importance of taking local communities' concerns, as well as their rights, into account, as this constitutes a basis for more sustainable long-term solutions. We believe that the proper implementation of the FSC's Principles 2 and 3 could have contributed to this end.

4.1.4 Infrastructure and Social Relations

The use of company infrastructure has also been an issue of contention with local communities. The main access road to the Company A area is of vital economic and social importance to the region. During the public meeting for Company A's certification, there was a request for the opening of the road for public transportation, which would provide the local population with access to medical assistance. However, Company A has insisted on tightly controlling the traffic on this road, ostensibly as a safety measure due to the constant robberies in the area. Such

attitudes have increased the communication gap between the company and the surrounding communities. Likewise, at Company B, the access to the area can only take place by using a barge controlled by the construction company that owns the concession. Such precarious access to means of transportation had many negative implications for local communities, which vary from impairment to reach health care, to increases in the costs of commercialization of subsistence crops.

Companies could argue that they have no obligation to provide basic infrastructure to the local communities and that this is a government role. But, when considering the impact of logging on local health and social conditions (see next section), the sharing of infrastructure and/or the provision of few social services for the local population seems to be a low price to pay. A dismissive attitude to these issues by the companies can compromise not only the success of the forest management program, but also the ability of the local people to improve their quality of life. For instance, many children reportedly do not attend school. While this may be due to a number of reasons, one is particularly important: the long distances between some households and the closest school. Companies could have a critical role in providing or facilitating the use of basic transportation for those school-age children and even creating a program of technical training and capacitation of youths who wish to start a professional career. This type of involvement could have many benefits for the companies as well as for the local people.

4.2 Principle 6

4.2.1 Definition of High Conservation Value Forest

Compliance with Principle 6 was, according to the certifier's Public Summary, also one of the recognized areas of weakness for both companies. As a result, Company A was issued with nine 'conditions of certification' under this principle, and Company B eight. The certifier's concerns included: lack of information about threatened species, inadequate operational guidelines for environmental protection, and poor planning for fire prevention.

Small areas of forest within both the certified areas are recognized as constituting 'High Conservation Value Forests'. In the Company B concession, HCVF has been defined as coincident with an area of 198 hectares, described as '*Floresta Umbrófila Aluvial*', which means 'Lowland Tropical Forest subjected to periodical flooding'. In the certifier's Executive Summary, this nomenclature was poorly translated simply as 'Tropical Rainforest', which could lead to misleading conclusions about the characteristics of the formations found throughout the FMU. At Company A, an area consisting of 2,806 hectares has been set aside and labeled as HCVF besides two other protection areas – 5,502 hectares as Permanent Preservation (i.e., along water bodies and steep slopes) and 7,033 hectares to

be allocated as 5% reserve in accordance with FSC's recommendation (locale not designated yet at the time of the certification).

There are also reasons for believing that other crucial factors have not been adequately taken into account. They are forest fragmentation, disease ecology and their impact on human health.

4.2.2 Forest Fragmentation

Growing fragmentation of forested landscapes worldwide, and the consequent incidence of edge effects on remnants, creates a situation whereby the driving variables acting upon an FMU could be strongly dictated from outside the area¹¹. In Amazônia, the contribution of logging to forest fragmentation has been clearly demonstrated (Laurance et al. 2000). Logging is shown to have accelerated widespread changes in forest dynamics, structure, composition and microclimate, effects, which have increased in the face of human settlements, uncontrollable fires and unsustainable hunting. Fragmentation effects can be visually dramatic, with a crisscrossed network of secondary roads (Uhl and Vieira 1989), but can also be very subtle, due to the thinning of the forest generated by high-grading logging¹². This less obvious fragmentation can jeopardize the functioning of key forest regeneration processes. Creatures such as arthropods, so essential to many forest ecosystem processes such as pollination and decomposition, are very much affected by disturbances of the continuity of the forest canopy (Klein 1989).

Other studies, focused more specifically on impacts on birds, have shown the dramatic decline of some ecological guilds and the disappearance of many others, such as of insectivorous birds (Stouffer 1995). Insectivorous birds are good indicators of logging impacts because they are highly susceptible to changes in forest structure (Owiunji and Plumptre 1998). Brooks et al. (1999) demonstrated that in forest areas close to Manaus the isolation of forest fragments can also lead, in approximately two decades, to extinction of half of the bird species that originally occupied the area. Many other faunal species are susceptible to disturbances resulting from the combined effects of fragmentation and increases in hunting pressure after the opening of the forest, especially through logging. This has been the case with medium-sized primates such as the bearded-sagüis (*Chiropotes satanas satanas*), which, due to its dependence on tree species valued for timber, is becoming extinct in many areas of its original range in south-eastern Amazônia (Johns and Ayres 1987).

This context implies an important role to be fulfilled by landowners of large forested areas. It is fundamental that the allocation of the areas of Legal Forest Reserve (Reserva Legal)¹³ and of Permanent Protected Areas (Áreas de Proteção Permanente)¹⁴, as required by the Brazilian Legislation, is planned in such a way to ensure the establishment of effective forest corridors and guarantee

the protection of key ecosystems¹⁵. For example, Ferrari et al. (1999) suggest that bearded-sagüis (*Chiropotes satanas satanas*) and another closely related monkey (*Chiropotes satanas utahicki*), could be protected in forest fragments of reasonable size (>5000 ha). Their research, conducted in southern Pará, found a unique large population of *C. satanas satanas* at an isolated large forested area (fragmented 20 years ago)¹⁶. Thus, it is fundamental that, prior to the establishment of logging operations in this area, a series of measures are taken to guarantee the maintenance of viable populations of these primate species.

The FMU, belonging to the Company A is also a very important area to ensure the conservation of forest resources. Its large size (120,000 hectares), inserted in a landscape of degradation, so common in southern Pará, makes it a refuge for all types of forest fauna. During our conversations with forest workers, they reported to have seen jaguars' (*onças - Panthera onca*) footprints at the landing area when they arrive in the morning. In addition, we observed other threatened species in the area such as the Maguari egret (*Ardea cocoi*), the blue-macaw (*Anodorhynchus hyacinthinus*), tracajá turtles (*Podocnemis unifilis*) and tortoises (*Geochelone sp.*).

However, satellite images of Company A's FMU area show pockets of areas logged in previous years without the adoption of improved logging techniques. These images clearly showed the openings in the canopy, which need to be monitored for proper regeneration. This type of fragmented environment is very propitious for the development of vectors of diseases such as malaria (see next section). Also, some of the areas previously deforested (where the pastures are currently located) have exposed watercourses and headwaters, which according to the legislation should be protected with forest cover. Furthermore, Company A should have given special attention to the fact that their area at their FMU is prone to blowdowns¹⁷. Logging intensities that leave behind gap-filled areas might be more subjected to the action of such strong wind gusts, thus impairing projections of future forest regeneration.

In parallel to the demands from the Brazilian legislation, FSC's regional protocol for Amazônia requires that another five percent of forested areas, representing each type of existing ecosystem in the FMU, is set aside for preservation purposes. At the FMU of Company A, this five percent area had been proposed to be located at the edge of one of the rivers that form the natural limits of the property. The placement of a protected area in one concentrated spot might compromise the objectives of the criteria. Company A should have considered allocating a buffer zone of preservation around the entire property (due to the fact that they are bordered by rivers on at least two sides). Such zones should be connected with other areas of protection for key ecosystem types in the interior of the FMU. In addition, at the time of our field visits (i.e., the week before and during the certification evaluation), the maps present-

ed to us did not display the actual location of preservation areas.

Furthermore, in Amazônia, it is not unusual to find a mosaic of soil with distinct chemical and physical characteristics within a small area, sometimes in the extremes of the sand-clay continuum. At the FMU of Company B we documented a very acutely demarcated and abrupt shift on the forest floor between an area of high clay content (relatively high nutrient content) and an area of pure sand (low nutrient content), where obviously forest regeneration will take a distinct pace. However, Company B operation's forest management blocks do not consider these distinctions. Moreover, up to the time of our visit, Company B had no formal policy for stopping logging activities when climatic conditions jeopardize proper soil drainage (a practice already incorporated by Company A). Soils characterized by high clay contents can be seriously impacted by the traffic of heavy equipment when it is wet. Thus, negative effects should be expected for forest regeneration in these areas.

4.3 Principle 5

4.3.1 Disease Ecology and Local Human Population

As mentioned before, areas affected by logging are prone to the development of diseases such as malaria. The relationship between forestry activities and tropical diseases is not directly addressed by any of the FSC's Principles and Criteria. However, our analysis of the conditions at both Company A and Company B indicate that this is a matter of great significance to local communities, and therefore should be included in the P&Cs.

It is estimated that 99% of recorded cases of malaria in Brazil are in Amazônia. The disease is described as reflecting the chaotic pattern of human occupation in the region over the last 25 years and is characterized by the exponential expansion of deforestation and rapid population growth (Santos et al. in press). Actually, the role of deforestation in the (un) natural history of malaria is a commonplace and well-recorded phenomena in medical anthropology, human ecology and environmental history in many parts of the world (Desowitz 1987; McNeil 1998; Sournia and Ruffie 1984). In Brazil, the appearance and spread of malaria on the coast and in the hinterlands closely followed the deforestation of the Atlantic forest due to logging and slash-and-burn agriculture (Dean 1995).

The *Plasmodium* parasite is transmitted by the mosquito of the genus *Anopheles*, which mainly reproduces in ponds of stagnant water formed by rainfall or floods. The disturbance caused in forest vegetation through the opening of agricultural fields or the extraction of timber creates the perfect environment for the reproduction of the mosquito. The boom in uncontrolled and unplanned logging in the towns nearby the areas of Company A and B, aggravated by poorly equipped and understaffed public health system, has created the perfect endemic conditions for *P. vivax*, as

well as for the spread of less frequently detected malarial species such as *P. falciparum*. According to data from the National Health Foundation (Fundação Nacional de Saúde), for the years 1999 and 2000 there was a 34% and 36% increase in malaria cases in the towns nearby Company B and A, respectively. Between 1994 and 1999, the town close to Company B has shown an increase of 518% in confirmed malaria cases, while in the town close to Company A, for the same period, the increase was 171%. *P. falciparum* and *vivax*, in the town close to Company B, increased by 2,162% and 410% respectively¹⁸. In the town close to Company A, these two species showed an increase of 119% and 195%, respectively.

During our brief evaluation of the forested areas of Company A and Company B, we observed some of the patterns mentioned above, which can potentially intensify the endemism of malaria in the region. Despite the fact that both companies are trying to develop low-impact extraction techniques, their previous history of exploration indicates them as agents in the dramatic reemergence of *Plasmodium* in the area. Even considering the possibility that the new forms of management are diminishing the impact on vegetation cover, and consequently, decreasing the proliferation of breeding sites for anopheline mosquitoes, a significant parcel of the Company B FMU had been explored through "conventional" (high impact) logging techniques.

Most workers interviewed reported that infected employees had had satisfactory support from both companies. However, the malaria transmission cycle is not only reaching the companies' employees, but also the surrounding population living in small villages and communities. Our informants from the town close to Company B, including the local coordinator of the malaria program of the National Health Foundation (Fundação Nacional de Saúde) expressed their particular concern over the high rates of relapse present in the region, and reported cases of malaria from the Company B FMU area and nearby riverbanks.

The situation at Company A appears to be worse. There are seven small communities directly and indirectly impacted by the company's logging activities. Most of these communities are living at the other side of the two rivers that are the natural limits of the FMU and along the road that links the area to the town close to Company A. There seems to be a complete lack of involvement of the company in these communities, especially regarding issues related to basic health care. In fact, a malaria epidemic in the area is pushing many people away from their homes and subsistence activities. At least two communities have suffered depopulation (especially through out-migration) due to major malaria outbreaks. Reports of fatal cases due to lack of immediate treatment and emergency care were also obtained during our visit. In one of the households we visited in another community, located on the river facing Company A's FMU, we met a

family from one of the previous communities whose members had all had malaria at least once. The two youngest children had caught malaria (or have had relapses) three times. Four other riverine dwellers also reported having had malaria at least once.

Besides becoming sick with malaria themselves, the surrounding community, as well as Company A's employees, can also play a role as vehicles of transmission to other rural and urban areas. The movement of infected people is considered one of the main ways that malaria can emerge or re-emerge in areas where it has never existed or has been eradicated (Martens and Hall 2000). The population of a community, located at the side of the road close to the entrance of the FMU of Company A, provides a particularly illustrative example. The local coordinator of the infectious disease program of the National Health Foundation in town reported that due to its proximity to the bridge crossing, this community has become an obligatory stop for those going to town. Frequently, those who stop by on their way to the city are already suffering a malaria onset. Because there is only one private vehicle transporting people from the bridge to the town, charging R\$3,00 (circa US\$1.50) per person, a prohibitive sum for many people, and the company's trucks have orders to not give rides, many of these travelers are forced to spend the night at the community, thus significantly increasing the risk of the local people to malaria infection. What is even more alarming is the fact that the chain-of-infection probably does not end there, since truck drivers and others can also be infected and take the parasite to other regions of the country as well.

Timber companies (including Company A and Company B) have not had any program to provide basic health care to rural populations or, at least, to help out the neighboring towns' medical organizations and authorities in the control of epidemics that they probably have helped to create or at least exacerbate. Company A used to have a basic laboratory for blood analysis in the FMU main camp with a trained technician, but for some unknown reason, decided to close it. The reopening of the lab located in a strategic place (for example, the entrance of the FMU at the bridge over the river) with the capability of receiving three or four patients, and a good provision of anti-malarial drugs and treatment supervision, could greatly decrease the number of infections in the area. Besides making an enormous difference to the health of local people, such an initiative would help to avoid the spread and establishment of endemic patterns in other areas.

4.3.2 Food Consumption and Health

The dwellers of the main river nearby Company A are highly dependent on fishing and game as protein sources. For both resources, the integrity of vegetation cover is vital. However, game resources present some complicating nuances due to the lack of interaction between the company and the riverine dwellers, and especially the little

concern of the latter with the former. Hunting takes place inside of the FMU, despite Company A's prohibitions, especially during the rainy season. Limited access to other sources of income, and the lack of specific opportunities offered by the company, make even more difficult any kind of agreement on how the FMU's resources could be used sustainably by all parties.

Studies on nutrition in the Amazon points to a pattern characterized by moderate levels of malnutrition, aggravated by the interaction of local endemic diseases and instability of the food production system (Murrieta et al. 1998; Murrieta et al. 1999). A decrease of game meat intake might worsen the already precarious balance between health and nutrition. Especially worrying are the long-term implications of such conditions for children. As we have seen in previous sections, the epidemiological landscape is not promising. The overlap of re-emerging disease patterns, e.g. malaria, with other chronic ones, such as parasite infestation (worms), and diet impoverishment due to environmental degradation or resource control by third parties, are likely to produce conditions of extreme poverty and a possible collapse of many of these populations. Our first impression of the river dwellers living around Company A's management area is that such a pattern might be worsened in the area due to malaria endemism. If these conditions persist, local children will face displacement and impairment of their physical and intellectual potential, which would threaten their survival and future social opportunities.

Company B's owner and the head forester expressed their concern over FSC's demand for the establishment of a means for the local population to use the resources within the area: "*it is complicated to allow these people inside the area*". However, there are many activities that could be promoted or allowed by the logging companies to improve the quality of living of the local population. In small areas such as the one occupied by Company B, wildlife populations could be at levels too low to support even subsistence hunting. Nevertheless, activities such as the collection of non-timber forest products could be a viable alternative. The semi-epiphyte, of the Araceae botanical family, usually known as "cipó-titica" (*Heteropsis genmanii*), appeared to have great market potential in the region for the production of handicrafts and furniture. Also, many oil-producing species could be tapped for the commercialization of their resource. However, it is fundamental that Company B ensures that the slash-and-burn subsistence agricultural practices of the surrounding communities will not negatively affect the FMU (for example, through escaped fires). This could be achieved by the creation of forest management plans for the FMUs' neighboring communities¹⁹.

5. Conclusion

Forest certification potentially represents a positive change in the Brazilian Amazon. Where government's

means of law-enforcement has not been able to induce logging companies to properly plan forest management, forest certification, with a voluntary approach and independent mechanisms of monitoring, might succeed. Company A and Company B's initiative in seeking FSC's forest certification is important, and could make a vital contribution to forest management and conservation as well as the socioeconomic development of Amazônia. We also believe that special recognition should be given to the challenge faced by these two companies.

However, given the recent past of the timber industry in the region, aggravated by the difficulties of access in the area, the constant scrutiny of logging operations (as is more easily carried out in other places), is a daunting task. Even more, the lack of capacity of most stakeholders to participate meaningfully in these processes (because, amongst other reasons, of illiteracy and institutional isolation), creates a great risk of damage to FSC's credibility, inside and outside the region.

This case study illustrates some of the potential problems, including those that are not presently part of forest certification guidelines. Our consideration of labour rights and social relations show that improving the means of communication with forest workers, as well as allowing legitimate means of representation, are vital elements for the success of such a step. With mutual trust, all the actors involved can, at least potentially, create the conditions for a dialogue, of which companies and local populations may take advantage. It is fundamentally important that FSC gives special attention to the relationships between the operations seeking certification and neighboring areas. It is equally important that there is an adequate investment in disseminating FSC ideas in ways that are really accessible in the region (i.e., taking into consideration the high level of illiteracy and weak institutional arrangements).

Regarding the environmental issues discussed, especially the epidemiological scenario taking place in Amazônia, the situation is more troublesome. There is no doubt that the health implications caused by decades of predatory deforestation are becoming dramatic. The advance of malaria in the Amazon is one of the most scandalous outcomes of the demise of tropical rain forests. It is still not known if the adoption of low-impact logging techniques will halt the creation of such disease-prone environments within the forest. We have shown that logging companies and the timber industry have an important role in this context. Consequently, they must become actively involved in the prevention and control of malaria epidemics, including through joint disease eradication programs with the government, the provisioning of basic health care to local population in FMU areas and their surroundings, and partially in supporting health infrastructure in the municipalities.

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Case Study 2

Forest Industry Organisation, Thailand

Noel Rajesh and Chris Lang²⁰

Main issues identified

- Serious failure on the part of the certifier to take into account national forestry discourse, as well as the potential legal and political consequences of the certification, including the implications for local people living in, and depending upon, forest areas.
- Lack of national/regional certification standards.
- Partial certification, potentially legitimising a company widely recognised to be in need of major institutional reforms in order to become environmentally and economically 'sustainable'.
- Weak consultation procedures.
- Non-compliance with P & C; an 'aspirational certification'.
- Inadequate public summary.

1. Summary

The certified company has a dubious record of relations with local communities in Thailand. A number of its operations have effectively evicted local communities from their lands, destroying local and indigenous economies in various regions of the country.

The present certification by SmartWood only covers 3.5% of FIO's plantations. This "partial certification" appears to be seen by FIO as a way to legitimise FIO's activities in general, as pointed out by Director of budgeting and planning, Chittiwat Silapat, when he said that "...after the certification of plantations, many investors will come to work with the FIO" (Chittiwat, 2000). One motivation for the certification appears to be to assist the company to overcome its long-standing financial problems. The certification would thus be counterproductive to more fundamental structural changes that are believed to be needed in order for FIO to become environmentally and economically sustainable. Major stakeholder groups, that SmartWood mostly ignored in their assessment, want to see the company dismantled. The certifier seems to have ignored the political context and the national discourse on forestry, as well as the potential legal and political implications of certifying FIO's commercial forestry operations in the context of an existing national logging ban.

Also, the certificate has been awarded despite the fact that compliance with the FSC Principles and Criteria at the time of assessment is highly questionable; there is good

evidence of non-compliance with numerous criteria and entire principles. Certification appears to have been conducted on the basis of "hoped-for improvements" rather than actual compliance. Particularly problematic areas are: the legal status of the company's operations; relations with local communities and workers, and a lack of proper management planning.

Consultations have been inadequate throughout the process of certifying FIO. Most NGOs active on land and forest issues in Thailand were not consulted by SmartWood, and the consultation with local communities seems to have been totally inadequate to address the communities' concerns and ensure compliance with the Principles and Criteria related to community and indigenous rights.

2. FIO

2.1 Background

Thailand's Forest Industry Organisation (FIO) was established in January 1947 as a state-owned forestry enterprise. Operating under the Ministry of Agriculture and Cooperatives, the FIO was established to carry out three main activities: logging in concession areas; logging in non-concession areas including the sites of proposed reservoirs and dams; and the use or sale of confiscated wood either illegally cut in, or illegally imported into, Thailand. This latter practice has created a massive potential for corruption, and has been an incentive for illegal logging, in which FIO officials have occasionally been involved (see section 2.5 of this case study). In the late 1980s, 80 per cent of FIO's income came from logging (Suphaphan, 1994). In 1988, the agency had a total income of US\$37 million, with annual profits of about US\$4 million.

The period of FIO's existence coincides with the catastrophic decline in Thailand's forests. National timber production peaked at 4.5 million cubic metres in 1968, and by the mid-1980s the country became a net importer of timber. The area of forest declined from 274,000 square kilometres in 1961 to 143,000 square kilometres in 1989. In January 1989, following devastating floods that claimed hundreds of lives, the government introduced a ban on all inland timber concessions in Thailand. Plantations and mangrove forests were still allowed to be cut.

2.2 Financial difficulties

The 1989 logging ban at a stroke deprived the FIO of its major source of income and, according to Chittiwat Silapat, current FIO Director of Budgeting and Planning "everything collapsed overnight". The organisation survived by selling timber stockpiled in its yards, and by running up debts. *"If we were a private company, I think we would be bankrupt"* Chittiwat later reported (Chittiwat, 2000). The company's problems increased during the 1990s, and in 1997 the director, Narong Sukree, was removed after failing to tackle the FIO's financial decline (Bangkok Post, 1997).

In September 1998, the government passed a Cabinet resolution that required FIO to streamline its operations and to privatise some of its businesses. The problems persisted, however, and in 2000 the Agriculture Ministry asked the Cabinet to consider postponing repayment of two FIO loans due before the end of the year: US\$6.9 million to Krung Thai Bank and US\$4.6 million to the FIO Pension Fund, the latter of which had already been extended for more than one year (The Nation, 1999).

Today, the FIO's main activities are commercial tree plantations, timber processing and auctioning of seized illegal timber. The organisation has a total of 144,000 hectares of tree plantations, mainly of teak, rubber, and eucalyptus, three processing mills for sawn timber and manufactured goods for local markets, and is the majority shareholder in the Thai Plywood Company. The most recent figures available show that in 1996, the FIO processed 104,980 cubic metres of teak and 176,180 cubic metres of other tree species including eucalyptus.

2.3 FIO's previous record - Ban Wat Chan

Over the years, the FIO has been involved in a number of controversies. The most notorious of these concerned the Ban Wat Chan forest in Chiang Mai province, northern Thailand. In 1990, the FIO obtained funding from the Nordic Investment Bank to set up a sawmill in the area, and produced plans to clear-cut 24,000 hectares of old-growth pine forests. The operation was opposed by local Karen communities. In 1991, Jaakko Poyry, the Finnish forestry consultants, produced a further plan, entitled "Preparation of a plan for integrated rural development", this time funded by the Nordic Project Export Fund. Local communities continued to challenge FIO's plans, particularly the proposal to cut trees over 200 centimetres diameter, which the FIO claimed to be "old and dying". The Karen pointed out that old trees were an important part of the ecosystem, and that more than 4,000 Karen people in fifteen villages depended on the forests' resources. The FIO was forced to halt its operations.

However, in 1998, FIO returned to Ban Wat Chan, this time wanting to remove 2,000 "dead trees" from the pine forest. An FIO official stated that, *"the trees should be removed and sold to make money. Leaving the trees to decompose where they are is completely useless"* (TERRA,

2000). Villagers rejected these plans, once again forcing FIO to withdraw from Ban Wat Chan. However, FIO has not given up and, in cooperation with the Thailand Authority on Tourism, has begun construction of an ecotourism centre costing US\$3.3 million in the Ban Wat Chan forest. Local communities have voiced concerns that the ecotourism plans, which include expansion of roads, threaten the hilly Ban Wat Chan watershed with increased soil erosion and forest degradation.

2.4 FIO's previous record - Si Sa Ket pulp mill

In the early 1990s, FIO also found itself pitched against local communities in its plans for a US\$168 million pulp mill in Si Sa Ket, northeast Thailand²¹.

The proposed project was opposed by a wide range of villagers and environmental organisations. Villagers wrote letters to the FIO, the Science Ministry, the Office of the Prime Minister's Secretariat, and to the province's nine MPs, asking for the plan to be reconsidered (Walakkamon, 1995). In April 1994, about 200 villagers from Kanthararom district in Si Sa Ket province rallied in front of the provincial hall in protest at the proposed pulp mill. (Bangkok Post 1994). The project was eventually shelved as a result of the local opposition (Carrere and Lohmann, 1996).

2.5 FIO's previous record - illegal logging and auctioning of illegal timber

The FIO has been implicated in several scandals concerning illegal logging. In 1994, police investigating logs found in the Salween National Park discovered that the wood belonged to the FIO, and brought charges against the agency, alleging that it was involved in illegal logging practices. The amount of logs imported from Burma appeared to exceed a quota agreed to between the FIO and the military dictatorship in Burma.

In 1997, FIO was associated with another illegal logging operation in the Salween National Park. Trees were illegally cut down in Thailand, shipped across the Salween River to Burma, and stamped as Burmese timber, which was then imported by Thai companies. A forestry official exposed the scam and revealed that FIO officers were involved (The Nation, 1997). Illegal logging has also been reported in FIO's own plantations. According to a 1998 report, huge volumes of illegal logs cut in FIO plantations by well organised groups, including armed men, have been sent to sawmills and furniture factories in several northern provinces of Thailand (Bangkok Post, 1998b).

One of FIO's most controversial roles is that of auctioning illegally logged timber. In February 1998, Senator Meechai Ruchupan announced that FIO was partly to blame for the destruction of forests in the Salween area. Meechai argued that FIO auctions selling seized logs simply encouraged further illegal felling. (Bangkok Post, 1998). Precisely this argument has, for several years, been made

BOX 1: Community forests vs. plantations

In several instances in Thailand, villagers have successfully regenerated their community forests on land previously planted with eucalyptus. In the early 1990s, in Nong Yak village in Surin province, eight communities grouped together to re-establish community forest on land reclaimed from an FIO eucalyptus plantation. The forest has regenerated and today provides many services and products to villagers. Sa-ad Koonchat, spokesperson of Nong Yak village's Community Forest Recovery Committee, summed up the problem people in his village faced in an interview with Watershed magazine:

"We began to protest when we realised that a eucalyptus plantation is not a forest. Before, the natural forest was very important for us. We gathered mushrooms, bamboo shoots, insects and herbs for food. There was water, and there were animals and birds. The forest was cool and peaceful. Eucalyptus plantations gave us no benefits; there was nothing to eat.

"For fifteen years, we lived with the eucalyptus, protesting against it. We went to the sub-district council, to the district chief, to the provincial government, and then to Bangkok. We told them the problems. They said they understood the problems, but couldn't see a solution. They said they would solve the problems, then they did nothing. For 15 years we had this problem. I wondered, were they stupid? They could not see simple solutions.

"If there is no forest, we can't live. Three years ago we decided to solve the problem by ourselves. We cut down the FIO's eucalyptus trees on 35 rai [5.6 hectares] of land. The police tried to arrest us, but they couldn't - there were too many of us."

by NGOs, who have also pointed out that the auctioning of illegal timber also breeds corruption, since illegal operators can buy back the timber at auction, after which the timber becomes "legal".

Between October 1997 and January 1998, FIO auctioned 5,350 cubic meters of timber, most of which was confiscated from national parks (not including logs confiscated from the Salween National Park). Between 1990 and 1995, the agency put 133,200 cubic metres of confiscated teak logs on auction, which according to the FIO's 1995 annual report, raised a total of about US\$52 million (The Nation, 1998).

3. The certification

3.1 Background

The FSC process arose as a result of a Swedish-funded project, 'Organisational Development of the Forest Industry Organisation', which ran from 1993 to 2001. Under the project, Swedish consulting agency Swedforest - at the time part of the Swedish state-owned forestry group Doman - aimed to assist FIO to transform itself into a pulp and paper and plantation agency. Part of the project was to prepare FIO for assessment of compliance with FSC's Principles and Criteria. In 1998, Swedforest became Scandiaconsult Natura ('SCC Natura' - see Box 2).

The Swedish project was the result of a meeting at the FIO Bangkok headquarters, in 1992, between Carl Mossberg, a consultant working in Laos for Swedforest, and Chittiwat Silapat, who was then head of wood products sales at the FIO. At the time, Chittiwat was considering

ways for FIO to survive in post-logging-ban Thailand. He asked Mossberg whether there was any possibility to have some help from Sweden. Chittiwat visited Sweden in November 1992, discussed the project with officials at the Board for Investment and Technical Support (BITS), and on his return to Bangkok submitted a proposal, which BITS then agreed to fund (Chittiwat, 2000). Not surprisingly, Swedforest subsequently won the contract. Tomas Jonsson, the project manager for the project, said Swedforest won the project "in an open bidding process" (Jonsson, 2001). Yet, FIO's funding proposal (submitted to BITS in 1993) states: "The project will be carried out in close cooperation between FIO and Doman through Swedforest International AB of Sweden" (FIO, 1993).

In what Carl Mossberg described as "finding a new life for FIO" the project aimed to help FIO change focus to a pulp and paper and plantation agency (Mossberg, 2000). As part of the project, SCC Natura spent five years preparing FIO for assessment for compliance with FSC's Principles.

FIO called for proposals for the certification in June 2000, and informed SmartWood of their successful bid in August of the same year. SmartWood announced their intention to carry out the assessment the following month. Two plantations were selected by FIO for the assessment, Thong Pha Phum in Kanchanaburi and Khao Kra Yang in Pitsanulok. These represent only some 3.5% of FIO's holdings. Thong Pha Phum covers 3,008 hectares, of which 2,820 hectares (or 94%) is managed for timber production. 62% of the planted area is teak and 14% is eucalyptus. Before the plantation was established in 1978, the land was used by Karen, Mon and Thai villagers.

The Thong Pha Phum plantation was a pilot project of the "forest village" concept (see Box 3). FIO moved about 50 families who were living in six villages to one area adjacent to the plantation. Villagers were offered plots of

BOX2: SCC Natura and the Swedish links

SSC Natura was founded in 1973 as Swedforest, by the Swedish Forestry Board, as a mechanism for transferring Swedish forestry expertise to the South (Usher 1994). Swedforest was part of Doman Konsult AB, which in turn was part of the Doman Group, Sweden's largest forest owner, with 3.4 million hectares of forest land.

In 1993, Doman merged with Assi, one of Sweden's largest forest product companies. The largest shareholder in AssiDoman, the company resulting from the merger, is the Swedish state. Swedforest was renamed as Scandiaconsult Natura (SCC Natura) in 1998 and today is fully owned by Scandiaconsult, which is one of Scandinavia's largest consulting companies. SCC Natura has benefited from contracts with, among others, the World Bank, the Asian Development Bank, SIDA, the International Finance Corporation, UNDP, FAO and the Nordic Investment Fund. The company has worked in a wide range of countries including Laos, Thailand, Vietnam, Nicaragua, Bolivia, Indonesia, Tanzania, Chile, Ukraine and Sweden.

Although in its publicity material SCC Natura makes claims stressing the importance of "local empowerment" and "sustainable development", its work areas also include industrial forestry: sawmills, pulp mills, plantations and logging operations.

land to build their houses and grow crops. FIO also built a school and Buddhist temple (Janssen, 2000).

The Khao Kra Yang plantation, which was established in 1967, covers 2,420 hectares, of which 2,208 hectares is managed for timber production. Teak trees account for 80% of the total area, with dipterocarp and eucalyptus making up the rest of the production area. The land was also in use by local farmers before it became a plantation, and the "forest village" concept was also applied here. According to SmartWood's public summary report of the FIO certification, since 1984, when the plantation was fully established, no agriculture has been carried out in the plantation.

3.2 The certification exercise

The assessment was carried out from October 2-8 by a three-person team commissioned by SmartWood (SmartWood, 2001). A draft report of the assessment was submitted to FIO in November, which responded in December. A final version of the assessment was sent to FIO in January 2001. The assessment includes one 'precondition to certification': that FIO raise the minimum wage of

its workers to the regional norm – about 130 baht (US\$3.5) per day. In February, the FIO's steering committee agreed to this pre-condition. An audit team, which included two members of the original assessment team, then visited the sites in early April. The certification was confirmed by SmartWood on June 1st, 2001.

3.3 Problems with the certification

3.3.1 Lack of national or regional standards

There were no Thai national or regional standards, or FSC National Working Group, at the time of the certification. In 1997, in a request to SIDA for further funding for the Swedforest project, FIO claimed that "A process has been started, with FIO as lead agent, to develop national criteria for sustainable management of forests in Thailand" (FIO 1997). This process has never materialised, but this does not seem to have affected continued "project support" from Sweden to FIO.

3.3.2 Consultation

Until a small article appeared in the Bangkok Post in August 2000, many Thai NGOs were unaware that FIO had been planning for nearly five years to have its plantations certified. Although SmartWood circulated a note in September 2000 stating their intention to conduct the certification, few NGOs were aware that a certification process was underway, even after the assessment had taken place.

SmartWood's Public Summary report of the certification lists seven organisations with whom SmartWood claim to have consulted, other than those directly connected with FIO. The co-author of this case study was one of those listed in the section of "other stakeholders" who SmartWood claimed had been "contacted and consulted by the Assessment Team". He asked to be removed from the list of people who had been "consulted", after realising that he was only on the list as a result of the fact that he had interviewed Jay Blakeney (the head of SmartWood's assessment team) for the magazine *Watershed*. SmartWood later agreed to remove his name from the list of those "consulted".

The list of local, non-FIO, consultees runs to fifteen people. Of these, four were village headmen, who often fill the role of contractors of village day-labourers for the plantation. The Public Summary report indicates that strong views were expressed to the assessment team by local villagers, particularly concerning land tenure problems. However, there is little evidence that these concerns were reflected in the final certification decision. The Bangkok-based NGO, TERRA, which undertook a visit to villages in the certified areas in Kanchanaburi province, found that most local people had never heard about SmartWood or FSC, let alone the process of certification. Villagers in the certified areas in Phitsanuloke province had also not been informed by the certifying team or by FIO about certification or its meaning. Nor had they been informed of FIO's logging schedule, by

BOX 3: "Forest villages"

Since 1967, FIO has established a series of "forest villages", the first of which was at Mae Moh in northern Thailand (Kuechli, 1997). The "forest village" approach uses a system based on the taungya system developed by the British in colonial Burma during the 19th century. Under the taungya system, Karen villagers provided labour for clearing, planting and weeding of tree plantations, in return for being allowed to grow crops for the first few years between the growing trees. When the trees grew, villagers moved to a new site and repeated the process.

A 1978 report by anthropologist Peter Kunstadter compared FIO reforestation projects with the swidden systems of Lua' and Karen villagers. Kunstadter concluded that Lua' and Karen swidden systems supported six to seven times the number of people for a given area compared to the FIO's "forest village" scheme (Chapman, 1980). The FIO's reforestation amounted to little more than the confiscation of land which Lua', Karen and Thai villagers already used. Villagers have no say in the management of the plantations, and receive no income from the trees in the plantations, which in any case were planned to be cut after 60 years (Chapman, 1980).

Villagers also do not receive land titles under the "forest village" scheme. Chittiwat Silapat explained that this is because "the area of the plantation is forest reserve land and is under the control of the Royal Forest Department." He added, "They can live there, they can work there and they can pass their rights to their children. But we cannot give land titles to them."

In the case of the first forest village at Mae Moh, the Electricity Generating Authority of Thailand claimed a large tract of land for a lignite mine to fuel the Mae Moh power station. As a result, there is no cleared land available for villagers' crops. Villagers have to make their living by working in the plantation and by producing teak seedlings for other plantations in the region (Kuechli, 1997). Many other forest villages face similar problems of land shortage. As a result, FIO has proposed halving the growth cycle to 30 years - for the FIO this has the added benefit of giving FIO profits earlier rather than having to wait another 30 years as previously planned.

either FIO or the Smartwood assessment team, which briefly visited the village.

3.3.3 Promoting the legitimacy of FIO

SmartWood appears to dismiss the argument that FIO's commercial forestry activities (including the establishment of commercial tree plantations, the auction of confiscated timber, and the development of tourism resorts in forest areas) have resulted in the loss of forests, and that its very existence is challenged. FIO's 'ahistorical', apolitical, technocratic approach attempts to side-step issues such as land rights and communities' rights to manage their own resources. The SmartWood consultants who conducted the assessment appear to have supported FIO in glossing over these issues.

In response to a letter from a Thai NGO, Jeffrey Hayward of SmartWood said: *"Certification is a way for any forestry operation to demonstrate that it has changed and is changing for the better. We are solution oriented. The past is a vital part of history and development, but how does it impact the present and future?"* Concerning NGOs' challenge to the very existence of FIO, Smartwood responded: *"FIO is in a process of reform, trying to be a better business. It is certainly not our position to determine their right to be around"*. This ignores the fact that Smartwood is partly determining FIO's "right to be around" by ignoring the reality of social opposition to its very existence.

In describing SmartWood as "solution oriented" in this context, Hayward appears to be looking for solutions for FIO, to which SmartWood has contractual obligations, rather than solutions for other stakeholders. As noted elsewhere in this report, the certifiers' contractual obligations to its client are not transparent to public scrutiny. The certification of two "forest village" projects effectively legitimised a process whereby FIO evicted villagers from their land and employed some of them to work on teak plantations.

In the view of the authors of this case study, the certification of FIO is simply prolonging the survival of an organization that is deeply indebted, under continuing severe criticism for its logging and plantation activities and conflicts with local communities, and that has outlived its purpose ever since Thailand's 1989 nation-wide logging ban. Despite this, SmartWood seems not to admit that their decision to certify these plantations is a highly political decision.

3.3.4 Legal basis for the operation

FIO's plantation areas that comprise mainly teak, rubber and eucalyptus have been established on former logging concession areas, lands that legally belong to the Royal Forestry Department (RFD, which is under the Ministry of Agriculture and Cooperatives). It is possible that the logging of these areas has to be approved by the RFD. But it is not clear whether SmartWood consulted with senior policy-level members of the RFD about these legal and policy issues

relating to the sale of the trees on RFD land.

3.3.5 Impact on local communities

The Karen ethnic people in one village in Kanchanaburi province stated that the FIO plantations had effectively taken over the common areas used by their communities for grazing and collecting forest products. The village people said that, so far, they had received no benefits from the FIO's teak and rubber plantations; on the other hand, they had seen some of their water sources dry up in the areas surrounding the plantations. The local people stated that they wanted the plantation areas returned to the village communities so that they could restore the forest for use by local communities. However, the certifiers as well as the FIO have not taken into account these local perspectives and demands.

Villagers in Phitsanuloke were also concerned about possible loss of water following plantation logging, and were keen to see that banks of local watercourses not be logged. No one from either FIO or SmartWood had discussed this issue with them, however.

4. Compliance with the Principles and Criteria

Although SmartWood's Public Summary certification report includes a short 'principle by principle' table showing where changes had occurred in FIO's practices between the original (October 2000) assessment and the later (April 2001) audit, there is no table showing how FIO was originally assessed against the FSC's P & C. However, it appears from the report's lengthy list of 'conditions of certification', as well as other concerns noted in the text, that there were many aspects of FIO's operations that did not, at the time of the assessment, fully comply with the P & C. These are detailed in the following sections²².

4.1 Principle 1

The ability of FIO to demonstrate either its legal compliance with the relevant laws or its commitment to the FSC is far from clear from the evidence produced in the Public Summary report.

- 'Condition 2' of the granting of the certificate requires that *"by the end of Year 1, FIO must review the Local Administration Organisation (TAO) Act and ensure that the plantations respect all of the act's requirements"*. This suggests that there is some doubt as to whether FIO complied with the act at the time of the assessment (which would contravene FSC Criterion 1.1), and that SmartWood did not rigorously assess this.
- It is noted in the report (p10) that the Khao Kra Yang plantation is located *"in an area classified as a National Park"*.
- 'Condition 3' states that *"By the end of Year 1, FIO will*

make available at the plantations clear documentation that payments were made for taxes and required fees made in the previous year, which specify date, quantity paid, and to whom". This suggests that SmartWood was unable to properly assess whether FIO were in compliance with FSC Criterion 1.2.

- 'Condition 4' of the certification states that "By the end of Year 1, FIO's Administrative Board should endorse its commitment to the FSC P & C and should communicate this to a broad range of stakeholders". The report also notes that "the [plantation] units are trying to understand the conditions [of certification]". This suggests that at the time of assessment, actual understanding of, and conscious compliance with, the requirements of certification was very low. This is supported by other evidence (see conclusions below), and indicates that compliance with Criterion 1.6 has not been demonstrated.

4.2 Principle 2

There is evidence in the Public Summary that the land tenure situation of the plantations is far from clear:

- 'Condition 5' states that "by the end of the year 2, FIO plantations shall produce a complete list and an "ownership map" that includes the location, area, and period of validity etc for each parcel that FIO has land use rights". This suggests that FIO was unable to produce such evidence at the time of assessment, and could not therefore prove compliance with Criterion 2.1
- 'Condition 6' requires that "during the period of certification, Khao Kra Yang [KKY] will take action to legalise KKY's land area related to forest plantation law - in particular they must confirm their land use rights". Condition 8 requires that "by the end of Year 2, KKY and Forest Villagers will have defined alternative long-term solutions to the issues of livelihood and land access". Each of these conditions clearly suggests inability to confirm general compliance of the Khao Kra Yang plantation with Principle 2 at the time of assessment.
- There are allusions in various places in the report to disputes between local communities and FIO. For example, it is noted (p11) that the FIO Forest Villagers "resent" the lack of title to land that has been accorded to them under the Forest Village scheme. This would be consistent with experiences elsewhere in Thailand (see Box 3 in this case study). It is also noted (p22) that "the forest villagers of Khao Kra Yang continue to view that land tenure as the problem (sic)" and that "they do not know how to proceed with this". The report further notes that interactions between the surrounding communities and plantation have "become less close" (p11). This suggests non-compliance with Criteria 2.2 and 2.3.
- The report notes (p6) that the Thong Pha Phum

plantation is effectively surrounded by National Parks, and that these are "strictly managed by the Royal Forest Department [to] ensure maintenance of watershed protection and conservation functions". What SmartWood's report fails to recognise, however, is that this 'protection' effectively circumscribes local community access to forests, and that the plantation therefore contributes to a severely restrictive regional land-use regime.

- 'Condition 7' states that "By the end of year 1, FIO plantations should make plans to formalise existing informal land and resource use arrangements through written agreement or contracts. By the end of year 2, the plans should be implemented". In fact, it should be clear from previous examples of FIO's relations with local communities that such agreements were unlikely to be forthcoming. This 'condition' also suggest considerable naivety on the part of SmartWood concerning the long and difficult struggle by communities throughout Thailand to retain even basic informal rights to forest uses.

4.3 Principle 3

The assessment team seems not to have assessed the FIO plantations against Principle 3, despite at least one of the plantations being established on land traditionally used by the Mon and Karen people, in addition to local Thai communities. The Mon and Karen have not been admitted any rights to this land, and have lost access to the resources these lands used to represent. The public summary reads: "TPP and KKY have not had indigenous people, as per FSC definition. In TPP, most villagers migrated from the lower North of Thailand, e.g. Mae Sot of Tak province, Phrae province, and the Northeast. In KKY, most villagers moved into the area from nearby villages and districts, seeking territory expansion." (p. 12). It therefore appears that a decision had been made by Smartwood that, simply because the "villagers migrated from the lower North of Thailand" they should not be defined as 'indigenous peoples' in the sense used by the FSC.

The basis for this decision is not at all clear, and potentially contradicts the important 'Principle of Self-Identification', which has been strongly endorsed by indigenous peoples and their organisations worldwide, as well as incorporated into the United Nations Draft Declaration on the Rights of Indigenous Peoples, and Article 1 of ILO Convention #169 which reads:

"Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply".

Not assessing compliance with Principle 3 in this case must therefore be considered a serious omission on the part of the certifier.

4.4. Principle 4

- ‘Condition 9’ states that *“During the period of certification, FIO plantations should ensure that a significant portion of its workforce originates from local villages”*. In fact, the report noted that migrants from Burma accounted for an increasing proportion of one of the plantation’s work-force, and suggested that this was related to the very low wages paid by FIO. Compliance with Criterion 4.1 at the time of assessment would thus seem to be doubtful.
- The report records in some detail the reluctance of one of the plantations to increase piecework rates such that daily wages would reach the regional minimum²⁵.
- There are at least three references which suggest that the prevailing working conditions were poor and possibly in contravention of Criterion 4.2. ‘Condition 10’ suggests that safety equipment was not issued to workers, and ‘Condition 22’ suggests that there was poor training and use of safety precautions in the use of herbicides and fungicides.
- There is no evidence in the report of the existence of any kind of consultation process with communities effected by FIO’s operations, and ‘Condition 11’ calls for the appointment of a staff person responsible for implementing and documenting such a process. This would suggest that, at the time of assessment, FIO was not compliant with Criterion 4.4.
- ‘Condition 12’ calls for the development of a *“policy and mechanism for formal resolution of [staff] grievances”*, suggesting that there was no such policy in place at the time of assessment. The report also notes that *“there is still not really any consultation”*, thus contravening Criterion 4.5.

4.5 Principle 5

No conditions are listed in the Public Summary report relating to Principle 5. However, there are grounds for doubting FIO’s compliance with some of the relevant Criteria at the time of assessment.

- No evidence is presented of any local processing of the plantation’s products, and in fact it is stated that 70% of the produce of the Khao Kra Yang plantation is shipped 300 kilometres away. This suggests non-compliance with Criterion 5.2.
- Reference is made to informal arrangements allowing local communities to collect forest mushrooms and plants, and FIO is also engaged in ecotourism and rubber production. However, the report also notes that *“villagers continue to raise concerns that intercropping in newly coppicing plantations will not be feasible as there will not be sufficient space to develop their customary crops”*. This suggests doubtful compliance with Criterion 5.4.

4.6 Principle 6

- No evidence is produced in the report to show that FIO was compliant with FSC’s requirements for environmental impact assessment. ‘Condition 15’ requires that *“effective immediately...site inspection with the purpose of evaluating environmental impact of...activities should happen”*. This suggests that such procedures were not normally carried out by FIO at the time of assessment. Compliance with Criterion 6.1 is thus doubtful.
- Condition 19’ requires that FIO should *“By the end of Year 1, define a policy detailing identification, selection criteria and protection of all eternity trees”*. The report also notes that the Thong Pha Phum plantation should develop *“by the end of Year 2, a simple system for the protection and monitoring the condition of the Queen Sirikit Crab”*. For the Khao Kra Yang plantation, ‘Condition 18’ requires that *“within one year of certification, initiative should be taken to compile a list of the most important plant and animal species of the area”*. These conditions suggest that at the time of assessment, no such documents existed, and that the FIO was thus not in compliance with either Criterion 6.2 or Criterion 6.3.

4.7 Principle 7

- The report does not state clearly that the FIO operations are conducted according to an acceptable management plan. ‘Condition 23’ requires that FIO shall revise what is described as a ‘management file’ in order to *“produce an actual management plan that incorporates a wider range of forest management activities”* (emphasis added). The public summary also states, that *“There is no single document called the “Management Plan”*. Thus, it appears that, at the time of assessment, no such plan existed, and FIO therefore could have failed generally against Principle 7.

4.8 Principle 8.

- ‘Condition 25’ requires that *“By the end of Year 2, FIO plantations will develop a monitoring program as part of their overall management planning...An implementation plan, with time frame, would be drafted and implementation commenced”*. ‘Condition 21’ also requires that *“By the end of Year 2, results of monitoring soil erosion, and/or soil compaction...should be incorporated into FIO plantation management planning”*. These conditions suggest an almost complete absence of monitoring procedures at the time of assessment. Although SmartWood’s later audit reported that FIO had developed a “draft monitoring manual”, compliance with Principle 8 at the time of assessment was, at best, doubtful.

5. Conclusions

The certification of FIO raises many concerns. The certification could serve to legitimise practices that local communities and the environmental movement in Thailand have fought against for many years, and thus serve to legitimise FIO's antipathy towards local communities' rights, and gloss over illegal activities. It also appears that FIO's actual compliance with the Principles and Criteria at the time of assessment was seriously lacking. Of particular concern is the lack of attention given towards essential issues concerning tenure for local communities, and the lack of serious treatment of the tenure complexities in general.

SmartWood's assessment of FIO's commitment to FSC appears to have been, at best, superficial. FIO's financial difficulties have already been noted; whilst the two certified plantations appear profitable from the very limited information provided in SmartWood's Public Summary report, the company as a whole is heavily indebted and continues to make losses every year. That the company sees certification as a way of addressing these problems has been made clear by Chittiwat Silapat, FIO's Director of Budgeting and Planning (named by SmartWood as the 'contact person' for the certification) who has said that *"The certification process will not offer any immediate benefits since the agency does not presently export wood and the trees from FIO's teak plantations cannot satisfy demand in Thailand. But after the certification of plantations, many investors will come to work with the FIO"*.

Concerning relations with local communities, Chittiwat stated, in 2000, that, in spite of the strong, and ultimately successful, local opposition to the Si Sa Ket pulp mill *"Once the pulp mill had been established it would have benefited the local people and they could have had more jobs, and at the same time can create more forest cover. Even if it was eucalyptus"* (Chittiwat, 2000). Concerning the areas actually certified, Chittiwat Silapat said that *"We've left some native trees in the area, we've left some buffer zones along streams and along the border of the plantations. It's almost the same as FSC principles and criteria"*. When viewed in the context of the many failures found by SmartWood's assessment, this all indicates that FIO's actual understanding of the requirements of the FSC was, at best tenuous, and their commitment to it, rather weak. Asked whether controversies and scandals relating to the FIO's previous logging and plantation projects would figure in the assessment, Jay Blakeney, the leader of SmartWood's FIO assessment team, said: *"SmartWood assessment is usually focused at the forestry management unit. The system of assessment doesn't look at the historical and other institutional mistakes"*.

The certification is thus particularly worrying in the context of the movement within Thailand for new approaches to management of forest resources. Since the 1980s, local communities throughout Thailand have strongly opposed large-scale tree plantations - particularly

of eucalyptus - that expropriate village farmlands, replace common forest areas and lead to water scarcity and soil erosion. Since 1996, many communities in north-eastern Thailand have succeeded in forcing the government to remove the eucalyptus trees and return the lands for village farming and recovery of community forests (See Box 1). Some of these areas have included the FIO's eucalyptus plantations.

Thailand's 1997 constitution was preceded by a comprehensive public discussion, and Article 46 of the constitution provides communities with the right to conserve and use natural resources. Community forestry has been another focus of discussion for many years, with villagers, NGOs and academics working together to write a draft Community Forestry Bill. Thailand's press has frequently reported all of these developments. There are a number of NGOs working in Thailand with very long experience of engagement in, and documentation of, these issues. It would therefore not have been difficult for SmartWood to inform itself of the socio-political context for the certification, and to appreciate the possibly counter-productive effects it might have. However, there is no indication within SmartWood's Public documentation that such factors were indeed taken into account. Instead, the Public Summary report reiterates the now widely discredited views about the relationship between local communities, swidden agriculture and forest management, and indeed uses these views to justify the use of communally-used land for plantations.

The idea of certifying FIO's plantations was not developed from an analysis of Thailand's forest problems, nor was it the result of a "consultation" process involving a wide-range of "stakeholders", nor was it the outcome of a debate about forests among citizens' organisations and NGOs in Thailand. The assessment effectively continued the process started by Swedforest in 1993, a process that has involved little discussion with NGOs and no facilitation of public debate about the role of FIO since the logging ban.

The preamble to the FSC Principles and Criteria state that *"FSC intends to complement, not supplant, other initiatives that support responsible forest management worldwide"*. The FIO certification could hardly be said to complement community efforts to gain greater rights. By legitimising a company that continues to deny such rights, it is supplanting those efforts. Thai NGOs have called for the dismantling of FIO, and there are good grounds for believing that the company's future performance as a responsible forest manager is likely to occur only through a major organisational restructuring and complete overhaul of its policy orientation and operations. By certifying, under highly questionable circumstances, two of FIO's many plantations, the company is nevertheless accorded a degree of credibility. Rather than contributing to a discussion of forestry issues in Thailand, the FSC certification process has side-stepped an existing discussion and threat-

ens to undermine it.

The apparent failure of FIO against numerous FSC criteria and entire principles casts serious doubts about the basis on which SmartWood conducted its assessment. It appears from the evidence that the assessment was largely 'aspirational': SmartWood set conditions which it hoped would be met within a certain time frame in order for the certified company to actually comply with the Principles and Criteria. In the intervening period, the company might be lacking in many key elements of acceptable forest or plantation management. Another example of an 'aspirational certificate' issued by SmartWood - that of Perum Perhutani in Indonesia (see case study in this report) - suggests that such failures may be allowed to persist for years before either being rectified or the certificate eventually being abandoned. Apart from the lack of understanding of the social and political context in Thailand, it also indicates that there has been a failure to learn from SmartWood's previous long-running experience of comparable circumstances with Perum Perhutani.

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Case Study 3

The certification and de-certification of Perum Perhutani

Rama Astraatmaja, Faisal Fuad, Longgena Ginting and Kim Terje Loraas

Main issues identified

- Serious lack of compliance with FSC's Principles and Criteria, including intimidation and violence against local villagers, sometimes with lethal consequences, and massive illegal logging in the certified areas.
- Certificate contributed legitimacy to an abusive land tenure regime strongly opposed by local communities.
- Poor assessment methodology, especially on social issues.
- Assessment undertaken using the Generic SmartWood standard which at the time did not cover FSC Principle 2.2., 2.3. or 10.8.
- Decision by SmartWood head office to certify Perhutani was taken against the recommendation from the assessment team, apparently in order to advance SmartWood's strategic business development in Asia and Europe
- Forest management certification was 'pre-empted' by Chain of Custody certificates, which had been awarded and promised to manufacturers and retailers dealing with Perhutani wood *before* Perhutani had actually been certified.
- 'Partial estate certification' caused confusion in the global marketplace for teak; false claims increased and benefited industry while undermining FSC's credibility in Europe. This was not followed up and punished by SmartWood or FSC.
- Public Summaries reports of certification assessments do not contain any references to the FSC Principles and Criteria, and lack crucial information.

1. Summary

The certifications of some of the Javanese operations of the Indonesian State Forestry Company, Perum Perhutani, were part of an apparently close relationship between SmartWood and the company, dating back to 1990. Plantations in three districts in Java were awarded an FSC-endorsed certificate by SmartWood in October 1998. Two more districts were certified in 2000, following assessments in 1999. At the same time, SmartWood was contracted by several furniture manufacturers in Java and wholesalers in Europe to perform Chain of Custody assessments.

This certification illustrates how the interests of a certification body and their client overlap in such a way that

there are strong incentives for serious 'misjudgements' in decision-making on the part of the certification body. Perhutani was certified despite massive illegalities, serious tenure disputes and violence being known to the certifier at the time of endorsement. Key issues, such as corporate corruption and tenure rights, appear to have been ignored in the assessment process altogether.

Apart from ignoring compliance with P&C, the certifier also appears to have neglected the political context, and seemingly did not consider the possibly counterproductive effects of awarding the privilege of certification. SmartWood attempted to deal with issues such as the complex and highly contentious problem of land tenure through a large number of weak certification conditions, even though the problems largely lay outside the remit of the forest manager. Some of the conditions should clearly have been pre-conditions to certification, and were never complied with.

The case study raises serious doubts about the integrity of SmartWood's certification procedures. The certificates were issued against the recommendations of at least two of the assessors, whose advice was apparently reversed by the certifier's head office. There are indications that this decision was taken in order to advance SmartWood's economic position and the strategic development of their programme.

Amidst growing concern, particularly about the relationship between the company and local communities, in which long term disputes over land tenure frequently resulted in lethal suppression of local villagers, the certificates were suspended during 2000 and 2001. Many of the problems that had beset the company, as had been pointed out over a period of years by NGOs, were later acknowledged by SmartWood to have been true, though these were brushed-off at the time of certification.

2. Background.

2.1. Broad outline of history and overview of Java's forests

Originally, most of Java was covered by natural forest, in which teak was the main species. Up to the time when the Dutch colonial interests began in the late 16th century, local communities from the various ethnic groups of Java had access to these lands and forests for agricultural and

other subsistence activities (Peluso 1992, Arupa 2001).

During the first two centuries of Dutch rule, teak forests were cut for shipbuilding and construction, as well as for local uses. There were no attempts at forest regeneration. In the second half of the nineteenth century, this changed and teak planting was started. The Colonial government also established management institutions, management areas and forestry regulations (Peluso 1992). The Dutch defined most of the land on which the teak plantations today exist as owned by the Dutch East Indies Colonial Administration. Local people were subsequently required to gain the Administration's permission in order to have access to forests in their traditional lands (Peluso, 1992, Arupa, 2001). This set the scene for conflicts that were to persist to the present day, including in the certified areas.

Today, about 120 million people live in Java, and about 20 million live in the areas controlled by Perhutani (Arupa, 2001). 23.2 percent of Java's land area is administratively classified as forest lands (Peluso, 1992). About one third of this is designated as reserves or protected forest, while two thirds are 'production forest'. In all these areas, customary rights for local communities are denied.

2.2. Teak and other species

Teak is clearly the most economically important species in Javan forestry, accounting for approximately 92% of Perhutani's annual income (Radite 1985 in Peluso 1992). In natural forests in Java, teak is also the dominant species, and in the older stands of planted teak areas it can sometimes be difficult to differentiate it from a natural teak forest. Local people tend to refer to the teak plantation areas as 'forest'.

While the teak plantations are often described as monocultures, they often include several other tree species, and function as important habitats for various animal species and plant communities that have adapted over the more than hundred years of plantation management. According to Smartwood (SmartWood 2000a) the plantations serve very important forest functions in terms of watershed protection, and habitat for some species that are endangered and covered by CITES. These include certain species of peacock, the lutung monkey, leopard, and the barking deer.

In addition to teak, tropical pine, rosewood and mahogany are timber species produced in significant volumes by Perhutani. Teak forests are on average eleven times more valuable per hectare than other forest land (Peluso, 1992), and they are consequently those that, in general, are most contested, as well as most targeted for illegal logging.

2.3 Illegal logging and corruption

Theft and looting of Java's teak forests are closely related to timber industry demands, and linked with corrupt practices within the 'monitoring and enforcement agencies'

such as the military, police and Perhutani officials.

The 977 wood based industries in Central Java need 6 million m³ wood per year, but only 2.9 million m³ can be supplied from Central Java legally (*Suara Merdeka August 26th 2000*). This means that 3.1 million m³ per year has to be supplied from outside Java or from illegal sources within the island. This has created a strong incentive for timber 'theft'.

2.4. The legacy of land conflict

"Claim and counterclaim had been the condition of forest life for centuries ... Farmers and forest officers had rubbed along together, in a state of running conflict ... What was at issue was not land use but who used the land: that is, power and property right" (E. P Thompson, Whigs and Hunters, in Peluso 1992).

The history of Java's forested areas is a history of struggle for land, in an uneasy relationship between state and society. Understanding the struggle for control of land is fundamental to the possibility of 'sustainable' solutions for the management of those forests. In Peluso's words:

"The history of state forestry and actual forest use points to the tensions over access and control between the state and the peasantry. These struggles leave their mark by damaging valuable, vulnerable, land-based resources, even in areas where so-called scientific principles of forest management have been in place for more than a century. These are the ramifications of conflict between rural people and foresters" (Peluso, 1992).

Local communities are often totally or partly dependent on this land for their subsistence, as well as social and cultural survival. However, under the law²⁴, local communities' customary rights on what is classified as 'State Land' have been extinguished. 'State Land' is land expropriated by the State, on which the State can unilaterally issue logging concessions to State or private companies without any consultation with local communities²⁵.

The pattern of conflict has changed little in the post-Suharto years. Indeed, longstanding unresolved disputes resurfaced during the more fluid political situation immediately following the ousting of the dictator in 1998. New political optimism, combined with desperation caused by the economic crises, prompted people to organise actions to reclaim their land.

3. Background to the certification

3.1. Perhutani

3.1.1 Status and markets

Since 1972, Perum Perhutani, the State Forestry Corporation, which has operated under the authority of the Ministry of Forestry, has managed the 'production forests' on State Land in Java. From 1977, Perhutani in Java has been divided into three major units, corresponding

with the districts of West, Central and East Java. The three Units are further split into 57 Forest Management Units (KPHs). In total, the company manages about two million hectares (20 000 km²) of plantations. The company has frequently used 'out-grower schemes', in which local farmers have been rewarded for planting and maintaining areas of tree crops, but these schemes have been problematic and controversial (see Box 1).

In March 2001, a Presidential Decree was issued which changed the status of Perhutani from a public to a private company, and it was renamed: PT Persero²⁶. However, the Decree was later revoked due to a ruling in Indonesia's Supreme Court, and Perhutani is thus still Perhutani. Although the company also has smaller holdings outside Java, it is only those on Java that have been certified.

Perhutani is the main provider of teak to Europe and US, especially by way of the furniture manufactures in Java, who in turn export to European and US retailers. Perhutani obtains 30% of its income from export markets, while 70% comes from the domestic market. At a peak in 1997, export sales were worth \$44 million, with an additional \$37.7 million from non-wood products. Garden furniture constitutes the largest income for Perhutani, providing \$28.7 million in 2001, down from \$37.4 in 2000.

According to Perhutani Director Marsanto, the most constant markets for wood products from Perhutani have been the UK, US, Spain, Greece, Germany, Turkey, The Netherlands, Sweden, Denmark, Belgium, Japan, Hong Kong and Singapore (Kompas, 2002). As Perhutani have sought to increase their exports so as to reach more than 50% of their total income from export markets, they have launched a campaign to enhance their global marketing. This coincided with the time at which their FSC certificates for teak were suspended.

After years of campaigns against imports of "non-sustainable" timber in Europe and the US, buyers of Perhutani's products have increasingly sought evidence of 'sustainability' in the form of certification. Perhutani has thus increasingly faced the threat of losing share in the global teak market.

3.1.2 Perhutani and illegal logging

There is much evidence of organised theft by wood industries co-operating with Perhutani officials, as well as with police and military. For example, as reported in one newspaper:

"During last 2 years FMD Cepu handled 4 tree-stealing cases involving 7 officials...some officials were formerly transferred out of Blora due to their involvement in a previous forest-stealing case. In fact, these officials were transferred back to Blora and [were involved in] stealing again". (Suara Merdeka, August 7th 2000)

As well as outright theft of timber, Perhutani officials have been engaged in trade and 'laundering' of illegal wood. Illegal logs are slipping readily into production

BOX 1: The 'Social Forestry Program' vs. Villagers aspirations and rights

In 1974, Perhutani started a 'prosperity programme' of 'social forestry', which was aimed at extending job opportunities and increasing community income. These programs were also expected to increase forest security and reduce policing costs. In the 1980s, other 'social forestry' programs were invented. While such programmes have, in some areas, allowed farmers to plant fruit trees within plantation areas, and have given access to some income from thinning operations, there has been no meaningful delegation of authority to communities in terms of planning and reforestation efforts, and no income from the teak production itself. The crucial question of tenure has simply not been addressed.

The 'social forestry programs' are thus seen as little more than a tool to overcome the problem of 'illegal logging' by villagers. The programs have failed to solve the villagers' actual problems. The programme is very 'top-down', and members of Forest Farmers Groups have never been involved in the planning process (see also Ardana and Fuad 2000). It is clearly necessary to radically reform the programme's approach, and rearrange the organizational structure to allow for wider opportunities for participation, including the development of autonomous regional management units (see also Ardana and Fuad 2000).

To villagers interviewed by Arupa in the area of Blora, the lack of commitment from the company to decentralized participatory 'Social Forestry', in which the communities hold real stakes and shares, is evident:

"Perhutani must share its log production, so the villagers could take responsibility on forest protection" (Chief Budiono, quoted in Arupa, 2001).

"Managing forest with local community must not become a mere slogan" (Pesanggem Gangsar, quoted in Arupa 2001).

Because the programmes have failed to take into account the underlying land rights problems, Perum Perhutani has continued repressive security operations (see 3.1.3 below and Boxes 2 and 3), while most communities' aspirations have not been met. Land rights and resource control continues to be seen by communities as the core issue, rather than employment. Village income has not been significantly increased through these programs.

chains through manipulation of inspection passes and intricate ways of mixing legal and illegal timber:

"Deputy of Commission B visitation in Gresik Port found Perhutani officials [were] not able to present information about timber traffic in the port. Member of TNI/POLRI fraction Kol. Inf. Manaf even sensed a cover-up. The seized logs are indicated to disappear [by] manipulating data on volumes and quality in the register." (Pelita, July 14th 2000)

A commission of the Central Java Regional Assembly uncovered misuse of official inspection documents, and has questioned why the forestry regional office and Perhutani had been unable to resolve the problem. (Bernas, July 21st 2000)

"[It was] strongly suspected the inspection pass [used for] shipping GF and Flooring lumber involved Perhutani officials in districts where the inspection pass was printed...there is a possibility that those boarding passes are a remainder of year 1999. However, there is also the possibility that the case is completely a falsification, including the stamps. (Suara Merdeka, August 23rd 2000).

"An inspection pass falsification syndicate is uncovered.

The press house cost Rp. 100.000 per piece of pass. Buyers buy the pass in the price of Rp. 400.000/pcs. With the fake pass, buyers can complete the required information by themselves. The fake pass helped buyers slipping approximately 10m³/truck logs” (Kedaulatan Rakyat, 25th June 2000).

Evidence also indicates that the syndicates involved in illegalities have attempted to corrupt the higher levels of Perhutani:

“Drs. Sutoyo Abdi, a member of Commission B Central Java provincial assembly said, “Wood syndicates have tried to negotiate by offering money to board members [of Perhutani] who try to uncover illegal logging” (Wawasan, July 21st 2000).

The problem of involvement in illegal logging and corruption is recognised officially by Perhutani. Chief of Perum Perhutani’s Human Resource Development Division, Ir. Rijanto Tri Wahyono stated, in 2000, that approximately ‘10% of Perhutani officials’ are involved in forest stealing. He added:

“They come from all level of management. Officials from lower level management tend to involve directly with the theft, while upper level officials have their involvement hard to be proved, i.e. involvement of Direction board.” (Pikiran Rakyat, July 13th 2000)

Furthermore it is clear that not only company officials at all levels, but also the ‘law enforcing agencies’, are involved in illegal logging and the illegal trade in teak. They may operate as investors, traders, brokers or buyers, take bribes to authorise transportation of illegally felled timber, and actively use their ‘power’ to promote their businesses. (see, for example, Santoso 2001 and Yuwono 1998).

3.1.3 ‘Forest-looting’ and violence

While the ‘law enforcement’ agencies and staff of Perhutani have been involved in illegal logging and trade, it has generally been villagers who are identified as the main cause of ‘forest theft’, and at whom repressive measures have been targeted.

Communities have, to some extent, seen ‘forest looting’ as a ‘payback’ for the suffering and loss of resources that had occurred under the Suharto regime. Perhutani’s plantations have been one of the focal points for such confrontation. As SmartWood themselves have observed:

“The sustainable management of Perhutani’s plantations and their relationship with both local communities and the society as a whole is being severely challenged. Citizens feel betrayed by the government from decades of corruption and denial of community participation and benefits. The manifestation of this betrayal has been social unrest in the larger society, and more particularly to Perum Perhutani, timber theft, civil disobedience and violence within the teak plantations. A significant number of the population no longer see timber theft and civil disobedience as lawless acts, but reparation and expression of rights so long denied.” (SmartWood 2000b)

BOX 2: Death of a villager

In October 2002, Wiji (40), a villager living in Jomblang-Jepon sub-district, was caught by Perhutani rangers after he bought timber in Payaman – a village which lies in forest land in Jiken sub-district. Wiji was arrested and tortured by a Perhutani KPH Cepu official for three hours, as a result of which he fell into a coma and died four days later in Cepu Public Hospital. His family demanded compensation for the hospital and medical fees, damages, and want the man responsible to be sacked (Radar Bojonegoro, 2002).

The Blora District Association of Village Heads (Yudistira) issued the following statement in response to the incident²⁷:

STOP PERHUTANI’S VIOLENCE AND TORTURE of VILLAGERS!!!

Perhutani’s police action to protect forests has, once again, claimed a forest villager as a victim.

This incident clearly shows that this company which controls forests throughout the Blora district has no social sensitivity and cannot live side by side with the community, especially with those people who live around the forest margins. For years, villagers have been the target of Perhutani’s brutal actions. The villagers’ dependency on forest product has always been answered with arrests, violence and even shootings.

We were born here not as a community of thieves. We and our ancestors helped you –Perhutani – to establish this forest. But what have we got from you?

We are sick and tired of you!!! In response to your action, the Blora District Association of Village Heads (Yudistira) calls on Perhutani to:

- Stop the violence and torturing of villagers in addressing forest conflict in Blora immediately.
- Discharge and legally process the people involved in violence and torture.
- Reform Blora forest resource management in order to benefit forest-dependent villagers.
- Form a working group to monitor Perhutani actions in addressing forest-based conflict.

Head of Yudistira

When forest managers such as Perhutani have fought back, usually with the assistance of the state police and military, open armed hostilities have arisen (see Box 2) (Arupa 2001).

Such conflicts have become persistent. Successive post-Suharto governments have failed to devise new policies and have instead ignored appeals and warnings from civil society organisations on the urgent need to address the land crisis, in the outer islands as well as in Java (Down To Earth, 2002). While ‘forest security’ was previously mainly carried out by uniformed and sometimes armed Perhutani forestry officers, this role has increasingly been taken over by police or even military²⁸.

During the period covered by FSC certification, the company seems to have operated a ‘shoot to kill’ policy towards people who were thought to be ‘infringing’ in the ‘company controlled’ areas. There are examples where people have been shot, and even killed in certified areas. As confirmed by SmartWood:

“In one of the certified districts, there were three shootings of local thieves ... One of the shootings, by the local police, resulted in a death. In retaliation, a subdistrict office and Asper’s (subdistrict supervisor) house were burned to the

ground. A Perum Perhutani forest guard also shot and wounded a local thief” (SmartWood 2001a).

The violence used in protecting ‘company land’, often in co-operation with armed police such as the Brigade Mobil (BRIMOB), is widespread and institutionalised, and takes many different forms²⁹. Box 3 relates one example of where Perhutani has been directly implicated in violence against farmers.

3.2. The certification

3.2.1 SmartWood and Perhutani; long-term ‘partners’ in certification

Perhutani has a unique history with SmartWood and certification. In 1990, prior to the birth of the FSC in 1993, SmartWood ‘certified’ all of Perum Perhutani’s plantations in the 57 districts of Java. This enabled Perhutani to sell all their products, both teak and other species, with the SmartWood logo on it, and to market their production as independently verified to be ‘sustainable’.

According to SmartWood, the certificate given in 1990 represented:

“... the dawn of the global certification movement - new systems, new guidelines and a new process, attempting to assess the quality of forest management on a global scale”. (Donovan, 2001)

The certification was based upon a tour of several teak areas in Java, undertaken by Ivan Ussach of the Rainforest Alliance. As the assessment preceded the establishment of the FSC system, the procedures for assessment were not as would now be expected, and there are no publicly available reports of this assessment. It is not clear what, if any, checks were made on Perhutani’s involvement in illegal logging or the laundering of timber into chains of custody. According to a more recent SmartWood document, the decision to certify in 1990 was taken:

“based largely on the innovative social forestry initiatives taking place with support from various institutions such as Ford Foundation and Universities based in Indonesia, Europe and the US” (SmartWood, 1999)³⁰.

It is clear that many of the requirements that were later to become formalised in the FSC’s Principles and Criteria were not assessed for the purposes of SmartWood’s own initial endorsement of Perhutani. However, SmartWood was accredited by FSC in 1996, and by doing so, the FSC imprimatur was also imparted on the Perhutani certification.

In 1997, the SmartWood certification of Perhutani was suspended, apparently (according to SmartWood, 1999) because of concerns that the performance of management in the different Perhutani management districts was “too inconsistent”. In reality, by 1997 the FSC Secretariat had received complaints from many international observers and was increasingly concerned not only with the illegalities, corruption, and violence associated with Perhutani, but with the fact that the initial assessment carried out in

1990 was insufficient in relation to FSC procedures. Additionally, it was clear to FSC and SmartWood that none of the requirements set out 1996 had been complied with. Because of the mounting campaigns against uncertified tropical timber in Europe, retailers had begun scrambling for independent verifications of sustainability. The Indonesian media was reporting (wrongly) that Europe would be banning uncertified timber by 2000, and the market pressure on Perhutani was becoming intense.

There was thus a strong incentive for Perhutani to aim to gain re-certification; and the obvious partner with whom to do this was SmartWood, who had proven themselves to be

BOX 3: Banten Peasants Arrested and Beaten³¹

Forty seven farmers were rounded up by armed police, Brimob, forestry company staff and hired thugs in a November pre-dawn raid on Cibaliung village, Banten province, Java. Some were handcuffed and beaten during the forcible eviction from land now claimed by privatised forestry company, PT Perhutani. The farmers were denied access to lawyers. The evictions went ahead even though the Cibaliung farmers have documented proof of ownership of the land and pay taxes on it. While in detention, the farmers’ homes and all their possessions including their clothes were burned. Their crops were destroyed. The farmers have been threatened with further arrests if they try to re-occupy the land and have been told they face indefinite detention if they try to raise support for their case in Jakarta.

Nine out of the 49 farmers arrested in total are still in detention and face charges of timber theft and forest destruction under the 1999 Forestry Law. All but one are members of the Banten Peasants’ Union, which is affiliated to the National Federation of Peasants Unions (FSPI). The house of the union’s secretary general, one of the detainees, was ransacked by Brimob while he was away. The trial of one of the nine started in late January, with charges of theft, destruction and cutting down forests being brought. More trials are due to start in early February.

The evictions and arrests are seen as part of a concerted effort to destroy organised peasant opposition to the combined interests of government, company and security forces in the area.

The farmers made a good living from durian, teak and other cash crops on their land until 1980 when a government reforestation programme was launched in the village. The local government, assisted by the military, ordered local people to grow tree crops on the land, which was then claimed by Perhutani. As the trees grew taller, the farmers could no longer grow other crops on the land and were forced into poverty. In 1999, around 300 families re-occupied 100 hectares of their land. As a result 17 people were arrested and sentenced to 1-2 years in jail. This was a set-back to the campaign, but the need for land was so great that 150 families staged another re-occupation in 2000, this time taking back 200 ha.

The November raid is the latest response by Perhutani to reassert its claim over the land.

The Banten peasants union is organising a letter of solidarity with the detained farmers, to be presented at their trial. They are demanding the return of the land stolen by Perhutani, the release of the nine detainees, legal action against those committing violence acts against the farmers and compensation for the losses suffered by the farmers as a result of the November raid.

(Source: ‘A picture of the land dispute between peasant farmers and the state forestry company, Perum Perhutani.’, by Banten Peasants Farmers Union and FSPI, 14/Nov/0. English translation by Teresa Birks.)

'sympathetic'. FSC insisted that Perhutani could only be re-certified on a district-by-district basis, despite the controversy of 'partial estate' certification, wherein partially certified companies can use the FSC name and logo in conjunction with their name for promotional purposes.

3.2.2. The 1998 certification

The 1998 certifications concerned three of Perhutani's districts, those of Cepu (33 109 hectares), Mantingan (16,535 hectares) and Kebonharjo (17,653 hectares). Official production of teak from these three districts was approximately 63,000 cubic meters per year.

The assessment was undertaken in the summer of 1998 by a team of four assessors. The certificate was awarded on 15th October, 1998. Prior to this, several Chain of Custody (CoC) assessments had taken place in Europe and Java, with Smartwood issuing CoC certificates to Da'Core, Garpa, JcJ Haans, PT Indo Furnitama Raya, CV Rish Adi Jaya Pertama, PT Woodland, PT Asriwood, PT Quartindo and PT Bumi as soon as the Perum Perhutani certificates were awarded. At the SPOGA international trade show of 1998, both DaCore and Indo Furnitama Raya publicly displayed statements from SmartWood that they would be selling certified teak as soon as it became available.

3.2.3 The 2000 certification

In March 2000, three further Perhutani districts, Kendal, Madiun and the pine producing district of Lawu were certified after assessments undertaken in 1999. This endorsement took the total area of Perhutani teak plantations certified to 129,674 hectares. All together, the five teak districts under endorsement during 2000 were estimated to produce between 80,000 and 100,000 cubic meter of teak annually.

3.2.4 Suspensions of certificates

Mantingan was first to be suspended in September 2000 after a year where the amount of illegal logging was higher than the annual allowable cut. The audit team who visited all 5 certified teak areas in 2000 also recommended suspension of Cepu, but this did not happen at this stage. Kebonharjo, Cepu, Kendal and Madiun were issued long lists of time-sensitive Corrective Action Requests, and were finally suspended by SmartWood in October 2001. Lawu, a predominantly 'pine district', is now the only Perhutani district still certified.

4. Problems with the certification

4.1 The certification methodology

The evidence suggests that a worryingly weak methodology was used by SmartWood in its 1998 assessment of Perhutani. Some of the main problems are considered below.

4.1.1 Use of SmartWood's Generic Guidelines, and lack of reference to FSC P&C

SmartWood's assessors used the FSC-approved 1998 Generic Guidelines for Assessing Forest Management, the SmartWood Addendum on Tree Plantation Certification and Forest Conservation, and the Assessor's Manual (27th September, 1996) in the 1998 assessment.

Prior to 2000, FSC-accredited certifier's 'guidelines' and Public Summary reports of certifications were not required to explicitly reference the Principles and Criteria of the FSC. Even so, the assessment appears to have been flawed, even in terms of SmartWood's own assessment requirements. For example, SmartWood's Assessor's Manual requires that the assessors should "*confirm that unauthorized heavy clearings [of trees] are not taking place*". Similarly, SmartWood assessors were required to "*Assess whether there is encroachment into the management unit by loggers, slash and burn cultivators or miners*". The problems of illegal logging and local community tenure in areas managed by Perhutani were very widely known at the time, and it is difficult to believe that SmartWood would not have been aware of them.

This suggests that the 1998 assessment team did not properly evaluate Perum Perhutani on core criteria relating to local communities' tenure rights, criteria on which Perhutani, if properly assessed, would almost certainly have failed (see 4.2.2. below).

4.1.2 Consultation

There are reasons for grave concern about the consultation methodologies used during the assessments.

According to SmartWood, for the 1998 assessments:

"Prior to assessments, a public stakeholder consultation document was distributed by email, fax and hand delivery in Indonesia. The purpose of this document was to seek input for the certification process on Perum Perhutani activities. Environmental, social welfare and community-based natural resource management organisations were contacted as well as foundations, regional universities, and government agencies" (SmartWood 1999).

However, it is impossible to check either who the consultees were, or what were the responses, because, contrary to SmartWood's Assessors Manual, none of these are listed in the assessment report.

The processes described in the Public Summary report of the certification as 'stakeholder consultations' were poorly defined, and it is not possible to determine what public inputs were given, nor how the aspirations, and comments given by different stakeholders were actually considered in the 'certification decision process'. According to SmartWood, the consultations were carried out through "informal discussions". These appear to have resulted in no significant changes to the certification decision-making process.

According to the Public Summary of the three districts certified in 1998:

*“A two day on-site field inspection was conducted in each district. This was preceded by a half-day meeting at the Unit 1 headquarters (June 28) to lay out an overview of the assessment process for the unit and district officials and collect the latest data on field operations at the Unit and district levels. **Site visit locations within each district were chosen by SmartWood assessors, though PP did make suggestion**” (SmartWood 1999) (emphasis added).*

In practice, this meant that Perhutani was allowed to ‘guide’ the assessors from troubled areas to ‘less troubled areas’ as they chose. A former employee of SmartWood has noted that:

“Consultation took place in situations clearly intimidating to local communities as the assessors were ‘toured’ by company officials, and the company’s ‘contacts’ in the villages. There was no concern as to the ‘representativity’ of the villagers interviewed. ‘Prior informed consent’ for land use by the certification applicant, as required in FSC’s Principle 2, was not on the agenda”.

It has to be questioned whether the methodology used by SmartWood could have been in any way adequate to understand the concerns of local people. According to the Public Summary report for Cepu, Kebonharjo and Mantingan:

“The second day was devoted to field visits in each district. The assessment team members split up and visited field areas associated with their assessment responsibilities. Visits were made to forest locations to examine all phases of the forestry operation from newly established plantations to logging operations. The social scientist also visited a number of villages in each district to discuss stakeholder issues with local people. At each district, approximately 12 Perum Perhutani staff were interviewed and approximately 6 local farmers” (SmartWood 1999).

It appears from this that less than one day was devoted to discussions and interviews with local people, and more time was devoted to Perhutani staff. A former employee of SmartWood has also confirmed that these visits took place in the presence of Perhutani officials or police officers, such that the villagers would anyway have been intimidated and afraid to voice their real grievances with the company.

Some of the shortcomings of the consultation process appear to have been recognised and addressed in SmartWood’s 1999 assessment, during which a longer period was allowed for discussion with villagers, and interviews were conducted without the presence of Perhutani staff or government agents (SmartWood 2000a). As result of this slightly more rigorous consultation, SmartWood realised that:

‘Citizens feel betrayed by the government from decades of corruption and denial of community participation and benefits ... A significant number of the population no longer see timber theft and civil disobedience as lawless acts, but reparation and expression of rights so long denied’ (SmartWood 2000b).

A further problem in the consultation process was that there appears to have been no effort made by SmartWood to evaluate who could legitimately represent the community from the villagers’ point of view. Moreover, there is no attempt in the public summaries to explain how the concept of ‘free and informed consent’, as required by FSC Criterion 3.1, has been transferred in a representative way from the relevant local communities to Perhutani to carry out their operations.

The lack of any proper analysis of Perhutani’s ‘Social Forestry Program’ in 1998, which is mentioned briefly in the assessment reports, would also have revealed how this program is viewed by most communities as a ‘top-down’ and intimidating scheme, which in no way accommodates community aspirations and demands.

These multiple failures thus resulted in a highly biased viewpoint of Perhutani’s operations, and allowed the certificate to be granted despite clear failings against numerous FSC Principles and Criteria.

4.1.3 Reporting

There is clear evidence that SmartWood’s assessment process at Perhutani contravened FSC’s accreditation manual, which reads:

“all parties must be satisfied that the certification process and decisions are fully supported by adequate documentation” including “names, affiliations and contact details of people formally consulted” and “a summary of basic information including stakeholders influenced by the enterprise, including indigenous peoples, local communities, workers, contractors, owners and managers” and “use rights (both legal and customary) relating to the land and forest within the scope of evaluation” (FSC, 1998b).

However, there are no lists of those consulted in the 1998 assessments, and it is thus unclear who was ‘formally consulted’.

The Public Summaries of the three teak districts certified in 1998 are all strikingly similar, as are the reports of the two teak districts certified in 2000. In the case of the 1998 assessments, twenty-six conditions issued for each of the three districts are identical, as are the thirty-nine conditions issued for each of the two districts certified in 2000. In some places in SmartWood’s reports, the names of the different districts are even mistaken for others, suggesting that the report for one of the districts had been used as a template for the others, with names simply being substituted.

4.2 Failures against the Principles and Criteria

As mentioned above, there are no references to the FSC Principles and Criteria in any part of any of SmartWood’s Public Summary reports regarding Perhutani. This makes an thorough assessment of the company’ compliance with the P&C a difficult process.

However, the numerous ‘certification conditions’ issued by SmartWood, suggests that compliance with the P&C, at the time of assessment was, at best, very incomplete. In the following, we illustrate the lack of compliance by focusing on the conditions issued to the Kendal and Madiun districts in 2000, and occasionally to Cepu, Kebonharjo and Mantingan in 1998.

4.2.1 Principle 1: Corruption, manipulation and illegal logging

There is strong evidence of a serious lack of compliance with at least Criteria 1.1, 1.4, 1.5.,1.6., and little indication of any compliance with Criteria 1.2 and 1.3.

The problem of corruption within Perhutani, and its direct link with illegal logging, is well known by the public and observers, and it would have been almost impossible for SmartWood not to encounter evidence of it. For example, it was public knowledge that in order to purchase logs directly from Perum Perhutani, it was necessary to obtain a direct purchasing letter, which required having the right political connections and, in most cases, bribing a relevant Perhutani official. Where companies could not obtain purchasing letters, they instead bought illegal letters on the ‘secondary’ (i.e., black) market.

According to Perhum Perhutani’s own information, the loss of trees to illegal logging in certified districts were as follows: In Cepu, 536,255 trees were illegally felled, in Kebonharjo, 191,442, and in Mantingan, 91,627 trees. These three districts were accordingly the 2nd, 3rd and 4th mostly illegally logged KPH units in Central Java (Perhutani, 2000).

In the Public Summary certification report of the three Perhutani districts certified in 1998, SmartWood reported few weaknesses with respect to the legality issues that Principle 1 is supposed to cover. Under the heading ‘Commitment to FSC Principles and legal requirements, Weaknesses...’ it is stated, in what seems to be an almost surreal exercise in omission, that;

“While the local level workers may not understand all the ramifications of the FSC initiative, i.e., the issue and terminology of biodiversity, the FMDs, Unit I and PP/HQ administrators are committed to increase the understanding of the program and implement reforms in the field” (SmartWood 1999).

There are no references here to the massive problems of corruption and illegal logging whatsoever. Later it is however noted in the Public Summary from Kendal, a district certified in 2000, that:

“There is a legacy of irregular access to harvested teak or other forest products depending on the political connections of the recipient. This situation has created a loss of credibility and public support for PP’s practices. Though this situation is not completely under PP’s control, SmartWood has required that it be addressed in the most proactive form possible” (SmartWood 2000c).

While SmartWood in 1998 seemed to overlook the all-important issue of corruption, in 2000 the problem was at least recognised. However, the approach seems to have been to request that the company should ‘de-corrupt itself’. No certification pre-conditions were requested in order to address the issue.

Condition 13 issued to the Kendal and Madiun districts when the two districts were endorsed in 2000, reads:

“Throughout the certification period, actual volumes of theft shall be recorded and reported internally in order to develop a targeted system for theft control at the district level. Data of theft volume and theft control budgets shall be made available for SmartWood annual audits. These data should be used by PP to revise their overall approach to illegal harvesting. Minutes of any meetings to discuss the issue shall be kept and made available to auditors. Throughout the certification period, KPH Kendal must supply SmartWood with verifiable data on the volume and value (at current market rates) of theft on a quarterly basis” (SmartWood 2000c).

Thus, while SmartWood became more aware of the ‘illegal logging’ problem between 1998 and 2000, the very issuing of this condition suggests the contravention by Perhutani of FSC Criteria 1.5, which reads that *“Forest management areas should be protected from illegal harvesting, settlement and other unauthorized activities”*. It furthermore indicates that SmartWood was unable or unwilling to address the structural causes of the illegal logging and trade and how it related to problems of tenure, and corruption within the company itself.

4.2.2 Principle 2: Operating on community lands with armed security forces

There is evidence of contravention of all criteria under Principle 2. In Smartwood’s certification Public Summary report of Kendal District, it appears that SmartWood is aware of the unresolved tenure conflicts. Condition 7 reads:

“By the end of year 1, FMD Kendal must be resolving the outstanding land tenure disputes. Further progress should be documented in written materials and reported at the next audit by SmartWood”. (SmartWood 2000c)

It is also evident that SmartWood was well aware of the violence associated with tenure conflicts, as the Public Summary report noted that:

“Although SmartWood recognizes that accidents happen and tempers can flare in law enforcement situations, it is necessary to devise a publicly-accepted and consistent method of handling and reporting conflict situations.” (SmartWood 2000c)

However, rather than issuing a pre-condition, or declining the certification altogether, SmartWood continued with the certification, relegating the problems of chronic and lethal conflict over tenure to issues that could be dealt with through ‘reports’ and the company’s own processes. The

Public Summary of Kendal district stated that:

“...One condition of certification requires that a third party analysis be conducted and report sent to SmartWood regarding all incidents resulting in serious injury or death during a security violation. Depending on the results of the investigations, certification of the FMD may be suspended or withdrawn. Where conflicts occur, continued and concerted efforts are needed to come to a balance between the needs of the local populations and the forest industry without jeopardizing the environment or the economy” (SmartWood 2000c).

Condition 15 stated that:

“By the end of year 2 of certification, PP/HQ and certified FMDs shall incorporate into the management plans more details of the formal process for local consultation and public feedback as a mechanism to solve any dispute with local communities, including land disputes or illegal harvesting. PP responses to feedback must be documented for certification audits at FMD and HQ levels. HQ and FMD-level planning should more effectively reflect the results of this consultative process”. (SmartWood 2000c).

Whilst the problem of illegal logging and land conflict was to be dealt with through ‘local consultation’, at no point was it insisted by SmartWood that Perhutani should abandon the use of lethal weapons against people seen to be infringing on the lands claimed by Perhutani. Instead SmartWood issued Condition 5, which states that:

“By the end of year of 1, Perum Perhutani [PP] must contract an independent, third-party study, acceptable to SmartWood, on the appropriateness of the armed responses to suspected timber theft. The use of large-scale security operations with the army and police must be reviewed. This review should also include a debate within PP regarding the use and carrying of firearms by any PP staff”. (SmartWood 2000a).

The inadequacy of the prescribed measures eventually became apparent to SmartWood. Several years after the original ‘conditions’ had been issued, but evidently not complied with by Perhutani, SmartWood was forced to concede that;

“... theft and community strife still plagues Perum Perhutani teak plantations. In one of the certified districts, there were three shootings of local thieves (none reported to SW as stipulated). One of the shootings, by the local police, resulted in a death. In retaliation, a subdistrict office and Asper’s (subdistrict supervisor) house were burned to the ground. A Perum Perhutani forest guard also shot and wounded a local thief. Theft volumes, although lower than 2000, are still significant. In the teak producing districts, theft volumes, except for one, were higher than the annual allowable cut (AAC). Although there were isolated incidences of good social forestry projects, in a time of increased need for such, there is no significant change in the improvement of social benefits for local communities. Indeed, the common response to theft has been police arrests, sweeping and sting activities, which are actions that heighten the level of conflict between Perum Perhutani and the local communities”

(SmartWood 2001a).

Furthermore, the failure of the ‘social forestry programme’ (see Box 1) also became apparent, as noted in the Public Summary report for the annual audit of the Madiun District in 2001:

“Joint management and production sharing of the teak resource has been off limits, PP has no formal process for ongoing community consultation and the planning process is antithetical to community-based planning, therefore cannot meet one of the most basic elements of the conditions and CARs. Without the support of the local communities to protect the teak plantations from theft, theft will remain at high levels” (SmartWood 2001b).

The evidence thus suggests that, whilst SmartWood were aware of the chronic problems concerning tenure, they still decided to proceed with the certification. During the several years in which SmartWood’s various ‘conditions’ were outstanding, but evidently not complied with, Perhutani enjoyed the privileged position of selling its teak in international markets under the FSC’s imprimatur. In buying Perhutani products labelled under the FSC scheme, the public would have believed them to be ‘social beneficial’. In this, they were clearly misled.

4.2.3 Principle 4: Violating workers rights and minimum safety standards

There is evidence of contravention of at least FSC Criteria 4.2., 4.3., 4.4 and 4.5., and little evidence of proper compliance with Criterion 4.1.

Condition 35 for the Kendal and Madiun certificates reads:

“By the end of Year 1, PP/HQ will have a consistent strategy in place to ensure that PP workers and contractors follow safety procedures. Such a strategy should include positive incentives for safety and stronger safety enforcement”. (SmartWood 2000a)

This indicates that at the time of endorsement, Criteria 4.2 would not have been complied with.

Condition 37 reads

“By the end of year 1, Perum Perhutani/HQ shall adopt and distribute a formal written policy allowing its employees, including freelance laborers, to organize and negotiate with their employers as they choose, as per national laws and the International Labor Organization” (SmartWood 2000a).

This indicates that there were violations against workers rights to organise at the time of certification, and thus that the company was in contravention of Criteria 4.3, as well as ILO conventions.

Noting what is said above concerning Principle 2, Condition 6, also indicates that, at the time of assessment, Perhutani would have been far from able to comply with Criteria 4.4 and 4.5:

Condition 6: *“By the end of year 1, Perum Perhutani must produce in writing, and begin to implement, a plan for*

further improving social benefits through joint management and production sharing. The primary goal of the plan should be to improve relations with forest villagers through local economic development programs, improved community relations, and increased involvement of communities in forest protection, including detection of the theft organizers and receivers. This strategy should be developed in close consultation with community leaders and NGOs, and may be facilitated by NGOs, University programs, or other outside facilitators” (SmartWood 2000a).

4.2.4 Principle 5: Lack of yield control

A reading of the different conditions issued by SmartWood indicates evidence of contravention of Criteria 5.1, 5.4, 5.5, and 5.6, and little indication of reasonable compliance with Criteria 5.2 and 5.3.

Taking into consideration that during most of the time of endorsement illegal logging was significant and probably at levels beyond the annual allowable cut (in some cases reaching between 300 and 700 % of the AAC) (ProRegenwald, 2001), compliance with any of the criteria under Principle 5, 6, 7, 8 and 10 was, of course, impossible. As such, the conditions issued by SmartWood in relation to ‘yield control’ were little more than fantasies. However, with respect to Principle 5, SmartWood’s Condition 33, which was issued to the three districts endorsed in 1998, indicates that, at the time of assessment, even the forest management putatively under the ‘official direct control’ of Perhutani lacked basic controls in terms of cutting cycles and future yield projections, and was thus in violation of Criterion 5.6. The condition reads:

“PP must complete the ongoing re-evaluations which compare current cutting cycles with future yield projections. Re-evaluation should include a continual process of adjustment, balancing ecological, community and financial concerns. At each audit, certified FMDs must produce an annual report on progress in this regard, which will be reviewed by SmartWood auditors” (SmartWood 1999).

4.2.5 Principle 6: Lack of environmental safeguards

As noted above, the company seemed at the time of Assessment to lack basic information with respect to ecological functions and biodiversity. It therefore, even in theory, had little possibility of complying with any of the criteria under Principle 6. Some examples of non-compliance can be read from the conditions issued. Condition 26 required that:

“By the end of year 3, KPH Kendal, in consultation with experts, shall develop and implement a systematic approach for monitoring ecosystem functions on a stand and landscape level” (SmartWood 2000c).

This indicates a lack of compliance with criteria 6.1, 6.3 and 6.4 at the time of assessment.

Condition 27 required that:

“By the end of year 2, KPH Kendal shall develop and present an overall strategy for improving biological conservation. The next forest management plan shall state how this strategy is to be implemented”. (SmartWood 2000c)

This indicated lack of even the possibility of compliance with 6.2 at the time of assessment.

Condition 29 required that:

“PP/HQ shall create an explicit protocol detailing the circumstances in which chemicals can be used, how they should be stored and handled, and listing the chemicals acceptable to PP which meet criteria 5.12.” (SmartWood 2000a).

This indicates that there was no information available for assessing compliance with 6.6 and 6.7 at the time of assessment.

4.2.6 Principle 7: Lack of guidance on environmental management

Similarly, the conditions issued by SmartWood indicate that Perhutani could not have complied with a key element of Principle 7.

Condition 19 reads:

“By year 2, PP shall develop written guidance and training for field staff that focuses on conservation of biological diversity and environmental management (watercourses, wildlife, soil conservation, etc.)” (SmartWood 2000a).

This indicates a lack of compliance with criterion 7.3 at the time of assessment.

4.2.7 Principle 8: Relevant information not available

In addition to condition 17 (see 5.2.4 above), conditions 18 and 19 suggest non-compliance with Criteria 8.1, 8.2 and 8.4 at the time of assessment:

Condition 17 reads:

“By the end of year 2, KPH Kendal will have conducted a survey of naturally-occurring (not planted) NTFPs, including medicinal plants, and will have prepared a specific NTFP management plan and start implementing it by year 3”. (SmartWood 2000a).

Condition 18 reads:

“By the end of year 1, PP must have aerial photos and topographical maps of a scale adequate in accordance with government or national security regulations, for use in the field and which are available at the BKPH”. (SmartWood 2000a).

4.2.8 Non-compliance with Principle 10: Plantation management out of control

As the basic management of the plantations was largely out of control, there could have been little compliance with most of the criteria under Principle 10. The different conditions prescribed by SmartWood, as described above, indicate serious lack of compliance with Criteria 10.1, 10.2, 10.5, 10.6, 10.7 and 10.8 at the time of certification.

4.3 Certified in whose interest?

The glaring failures and anomalies in the certification of Perhutani, as described in the foregoing, raises the question of why SmartWood in 1998 and 2000 could endorse a company that was so self-evidently non-compliant with the FSC's standards. Some possible answers to this question are explored in the following sections.

4.3.1 Promises and expectations in Europe and the US

There is evidence that the certifier had, in the interests of economic expansion, manoeuvred itself into a position with traders in Perhutani's teak that pre-empted the actual certification of Perhutani's forest management operations. Specifically, for several months in advance of the new endorsement of the Perhutani, SmartWood had been maintaining old Chain of Custody certificates in the United States³² and conducting new assessments for furniture retailers in Europe³³ linked to the trade in Javan teak³⁴.

For example, in August 1998, SmartWood wrote the following to a Scandinavian retailer of teak products:

*"Since we did not hear from you, we could not include Scanindo [retailer's teak manufacturing company in Java] in our last round of Chain of Custody assessments. If they are interested in processing and selling certified teak furniture in the future, they may want to consider signing up for an assessment during our second round of certifications, tentatively scheduled to take place in late September or early October. **By that time we hope that the three districts of Perum Perhutani will be selling certified raw material to certified manufacturers.**"* (SmartWood to Scandinavian retailer, August 1998) (emphasis added).

BOX 4: False claims and different stories

In 1998, a false claim was reported as coming from the Javanese manufacturer PT Arta Glory Buana. It was initially detected by the German NGO, Robin Wood, which reported the existence of Perhutani's own 'certificates' with references to FSC on them. After FSC had inquired and asked for a response from SmartWood, SmartWood informed the FSC that;

*"Perum Perhutani staff have been instructed in no uncertain terms that repetition of such an occurrence would be sufficient grounds for **immediate withdrawal of a SmartWood or FSC approved certificate.**"* (emphasis added).

In fact, however, Smartwood's letter to Perhutani stated only that: *"I suggest that you write a letter to all districts (KPH managers)... They should be informed that they are not to use the FSC and SmartWood names and logos until they are successfully certified... Once the KPHs and companies are certified they may use FSC and Smartwood logos for promotional purposes..."*

Thus, contrary to SmartWood's reassurances to the FSC, it seem they did not inform Perhutani of the possibility of "immediate withdrawal of certification". In fact, at the 1999 'SPOGA' trade fair in Germany, Perhutani's marketing department was found to have misused FSC logos on its products. The only corrective action taken by SmartWood was removal of the tags and the issuing of a verbal warning, and no loss of certification privileges.

At the same time, SmartWood clarified to interested parties that:

"It is correct that a CoC certificate can not really be used until there is a certified supply. In the PP case some processors are going ahead with the CoC assessment in anticipation of the completion of the Perum Perhutani Phase I reassessment." (SmartWood, August 1998)

It thus appears that SmartWood had already 'pre-determined' that some of the districts under evaluation at Perhutani would be certified, as they had undertaken assessments and even issued Chain of Custody certificates linked to the trade in teak from Java to Europe, prior to the recommendation from the assessment team³⁵. In fact, as noted below, the recommendations of the assessment team were not favourable to the certification, and thus had to be ignored in order for the certification to be endorsed.

Apparently unperturbed by the problems which the assessment teams reported, in October 1998 SmartWood's Executive Director, Richard Donovan, wrote glowingly in an update to members of the Rainforest Alliance that the certification had been successful and that further certifications were already envisaged:

"Late breaking news is the finalization of the Perum Perhutani certification in Indonesia (approximately 60,000 hectares). This important certification opens up a highly demanded supply of certified teak and as a result SmartWood has also been busy conducting chain-of-custody assessments on companies who hope to be among the first to sell certified teak products...[A staff member] is now off to Indonesia for 6 weeks to begin the second phase of the Perum Perhutani assessment which will add another 200,000 hectares of teak plantations to the certification."

Apart from pre-empting the actual certification decision, SmartWood's apparent certainty that certification was only a matter of course, and their haste in selling Chain of Custody certificates, also caused problems in terms of the legitimacy of claims made about teak products (see Box 4 below).

4.3.2 The coincidence of interests; how the certification decision was taken

In 1998, SmartWood was seeking sustainable funding for its operations, as the grant-giving community was threatening to move away from grant making to certifiers. As with all other certifiers, it sought to expand its market share, and thus prestige, staff, and resources. The economic importance to SmartWood of the CoC certificates in Java was later confirmed by SmartWood's Director, Richard Donovan, in the paper issued by SmartWood after the suspension of the certificate:

"The Rainforest Alliance's SmartWood Program may lose at least 35 COC certification contracts over the next year because of this suspension. When combined with [Perhutani's] situation, this suspension represents an immediate and significant loss of income to SmartWood. It is also a significant financial loss for broader efforts in

Southeast Asia". (Donovan 2001)

SmartWood may well have assumed that if they had not certified Perhutani, then one of their competitors would have done so; SGS and GFA TERRA systems were both later in contact with Perhutani with regard to undertaking assessments.

Retailers in Europe, under pressure from anti-tropical timber campaigns in the late 90's, were placing pressure on certifiers to quickly grant certification despite "imperfect" management, particularly for key suppliers of tropical wood products, such as Perhutani⁵⁶. As noted above, this also coincided with a period when Perhutani had taken the strategic decision to expand its share in the European and US markets.

There were thus many coinciding interests that would have encouraged the conclusion of a 'successful' certification, regardless of whether such an outcome was actually merited on the basis of Perhutani's actual performance at the time of assessment. This situation would have weighed against the issuing of 'pre-conditions' to certification, especially where these related to issues that could only have been addressed beyond the management unit level, and taken considerable time to resolve, such as anti-corruption programs or changes to government policy concerning the land tenure regime.

In fact, the assessors conducting the 1998 SmartWood assessments had raised concerns with SmartWood about their findings. At least two of the four assessors in the team (both Indonesians) recommended the issuing of preconditions in their evaluations, indicating their belief that the districts should not receive certification before significant changes were put in place by Perhutani. Despite this, SmartWood headquarters informed the peer reviewers of the certifications that:

"Eight districts... were assessed, but several are definitely not certifiable due to social conflicts. The remaining districts may be certifiable according to preliminary team feedback⁵⁷."

The 'pre-conditions' recommended by the assessors were subsequently 'down-graded' to 'conditions', such that the certification could proceed.

A former staff member of SmartWood records that:

"Even though it was always publicly claimed that SmartWood had never promised certification to any company before the assessment was complete, there was a historic legacy to the project: SmartWood clearly wanted to be able to re-certify. SmartWood also wanted to be the certifier to dominate the teak trade from Java to Europe and profit enough from the CoC certificates that it could expand its international business. As plantation teak was widely considered to be relatively less ecologically destructive than teak from natural forests elsewhere in Asia, SmartWood used this justification when dealing with critics who claimed Perhutani should not be certified. Despite human rights violations and illegal logging, SmartWood hoped the certification might leverage improvements in an "otherwise hopeless" system, though there was strong evidence to

indicate this was unlikely. The confidentiality agreements protected SmartWood from having to reveal any details about their own processes, not just those of the company under assessment. The confidentiality agreements meant that only the FSC Secretariat was entitled to review a subset of documents related to completed certifications".

As with other case studies in this report, the question arises as to why (or if) the FSC Secretariat failed to identify the questionable practices involved in SmartWood's certification of Perhutani, and if it did so, why it failed to take action.

4.4 Postscript to the certification: Lessons learned?

On the 11th of July, 2001, SmartWood called for a meeting in Frankfurt in Germany to present its latest findings after the audits at Perhutani, and to start to prepare the European retailers for the suspension of Perhutani-based certificates. In SmartWood's presentation, it was emphasised that:

- Perhutani has no formal process for ongoing community consultation. The planning process is antithetical to community based planning, and therefore it could not meet elements of several Corrective Action Requests.
- Perhutani has not shown that FSC-certification is relevant to the entire organisation.
- The rate of theft of timber from the certified areas is too high and impinges on sustainable management. Illegal logging reportedly made up for nearly half of the harvest in 1999 and more than half of the harvest in 2000⁵⁸.
- Rotation cycles within Perhutani plantations were dropping, and older stands becoming more scarce, also partly due to the problem of illegal logging. Perhutani had not adjusted harvesting plans properly to the actual legal and illegal harvest amount.
- The market was flooded with low-priced illegal teak. A collapse of teak markets was to be expected.
- Perhutani had failed even to report quarterly to Smart Wood about the amount of illegal 'harvest', as required. Security issues had also not been reported adequately. Violence in plantations had occurred, and victims had died when security forces fired on illegal 'squatters' during patrols.
- The selling of FSC-certified teak was problematic, because only 48% was sold in auctions, accessibly for any company. 20% was sold within joint ventures, with the other 32% being sold within direct sales contracts. Any minor company in Europe would have problems to get a legitimate teak supply⁵⁹.

SmartWood's eventual recognition of the scale and nature of the problems, and their frank public revelation of this, was much to be welcomed. The decision taken by

SmartWood to suspend the certificate was also appropriate. In particular, the decision recognised that the problems plaguing the certified districts could not be solved at the level of the Forest Management Unit, or even at the level of the entire company. It seems to have become more apparent to SmartWood that the problems were related to the vast over-capacity of the local timber processing industry, which, in the context of limited legal supplies, provided a strong incentive for illegal logging.

The problem of Perhutani's poor relationship with local communities was also recognised, though this was seen principally as a technical issue that could be dealt with through appropriate company responses, in particular that they should engage more in 'production sharing' (Donovan 2001). This is worrying in that it indicates that SmartWood had still not explicitly recognised that the heart of the problems between Perhutani and the communities was one of land tenure, and that this could not, in the context of Java, or indeed elsewhere in Indonesia, be adequately addressed through forestry certification 'conditions'.

5. Conclusions to the case

5.1 The political context of certification

SmartWood, in general, seems to follow a 'traditional' approach to forestry, and regards its work as a certifier as being isolated from the political context (see also FIO case)⁴⁰. A former employee of SmartWood has said:

"There was little attempt to analyze or resolve major issues that needed solving at levels beyond the KPH level, even though it was recognised that the KPH managers had limited power to execute changes. Structural issues were 'tactically' ignored, as the certifiers' niche is based on promoting certification as a conflict-resolving and forest-conserving solution in any kind of context. Violations of certification conditions were supposed to lead to warnings or suspension of the certificate, but the warnings weren't taken seriously, and if the certification was suspended again, it could take months or years to reinstate, which would cause continuous havoc in the certified trade chain, and potentially alienate the most important supporters, the Western retailers. Observed illegalities by Perhutani were not reported to relevant authorities, as the concern was more to respect the client and avoid causing negative press, rather than react to the "tip of the iceberg" of corruption that SmartWood employees encountered on the job".

This case study indicates that problems are likely to arise if the political context of the forest manager to be certified is not taken into account. By embracing the client's paradigm, the certification of Perhutani legitimised State and company control of land, and effectively ignored local communities' aspirations and the historical and structural reasons for conflict⁴¹.

5.2 Need for pre-conditions and fatal flaws

This case study shows the inadequacy of an approach to certification that allows for endorsement even when the actual performance at the time of assessment is unsatisfactory. In the case of Perhutani, it is clear that any leverage for improvements in 'management' that may, in theory, have been provided through certification pre-conditions, was lost when the certificate was issued with only weak conditions, rather than pre-conditions, attached. The fact that Perhutani under such circumstances suggests an urgent need to establish clear and agreed 'fatal flaws', the breach of which would automatically disqualify forest management operations from being certified.

5.3 Certification and vested interest

It appears from the evidence that, although SmartWood's assessments showed clear problems with the client's compliance with the FSC P&C, a decision was taken from a corporate economic and strategic viewpoint that Perhutani should be certified anyway. This may have been linked to the certifier's efforts to expand its own operations internationally, and may have reflected concerns over competition between certifiers for 'market share'.

The 'market context' potentially makes it difficult for the certifiers to 'learn' from mistakes in a way that could ensure higher quality of certifications, as it necessarily reduces the 'attractiveness' of the product that certifiers have to offer its 'clients'. Unfortunately there are other indications from SmartWood's work elsewhere (see FIO case), which suggest that few relevant changes in practice have resulted from the unfortunate experiences with Perhutani.

5.4 Failure of the FSC

It is clear that, had the certification body diligently assessed the company's performance in relation to the FSC Principles and Criteria, it would not have been certified. It also seems clear that the FSC should have identified the problems with SmartWood's certification of Perhutani, and intervened quickly and decisively. Failure to do so risked major loss of credibility for the FSC scheme.

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Case Study 4

Precious Woods Amazon (PWA) and Gethal; Certification of Industrial Forestry in the Native Amazon Rainforest

Klemens Laschefski and Nicole Freris

Main issues identified

- Direct impact on a High Conservation Value Forest (HCVF) ecosystem caused by certified industrial logging significant and comparable with traditional logging. Non compliance with the essence of FSC Principle 9.
- Significant indirect environmental impacts of logging of HCVF within regional context:
 - certification as a stimulus for the expansion of a new logging frontier of the remote highland regions;
 - certified logging as a factor promoting the expansion of the agricultural frontier.
- Absence of coherent policy to address the issues of land tenure and local peoples' rights of use within the certified area.
- Institutional and financial externalisation of costs of addressing social impacts of the management plan.
- Certification as a stimulus for further land concentration and reduction and centralisation of employment opportunities in the region.
- Certification as a stimulus for a regional economy based on timber extraction at the cost of a diversity of alternative economies based on non timber forest products.

1. Introduction

This case study of PWA/Gethal does not present the dramatic environmental and social abuses encountered in other certified logging operations in native forests. It might be considered one of the best examples of certified management of tropical forests, and within forestry circles is already considered a "gold standard". Non-compliance with the FSC Principles and Criteria could be argued to be a question of interpretation, or seen as part of a process of progressive improvement. However, beyond wishful theorising, it is of urgent importance that the real outcomes of this forestry system are carefully analysed before large tracts of primary forest are turned over to certified logging. Given the weakness of the theoretical arguments used to justify certification of logging in primary forests, this case study focuses on the already demonstrable direct and indirect effects of the introduction of the PWA-forestry system within the regional context of the Amazon. Violation of FSC Principles and Criteria are addressed as specific and inevitable consequences of the

imposition this particular logging practice in a socially and ecologically complex system.

2. Background

In the mid 1990s, after the establishment of WWF-Buyers Groups (now called Trade Networks) in several countries, FSC was encountering difficulties in providing timber traders with certified products. The Buyers Groups were joined by market chains committed to exclusively selling FSC-timber, and this had the effect of pushing demand for such timber well beyond the capacity to supply. Given this market pressure, particularly by tropical timber importers, FSC began to urgently seek certifiable companies in the tropics, independent of debates at the same time on the appropriateness of certified logging of the worlds remaining primary tropical forests. Brazil was among the 14 selected 'focus countries' for FSC, as defined in FSC's Strategic Plan (see Section 2, this report). After several failures in other continents, PWA was chosen and certified as a 'model company' for all tropical regions. Since then, the company has been celebrated as a breakthrough in sustainable forest management, both as a forestry system and a development model⁴². A former board member of Precious Woods remarked:

"The corporate mission of Precious Woods states that Precious Woods intends to demonstrate that it is perfectly feasible to produce wood and other products from the tropical forests, within the vision and methodology of sustainable development, for the benefit of the shareholders, of the population in general, of the consumers and of the environment. Maybe the exception that makes Precious Woods different is that it represents sustainable management of natural forest which considers all dimensions of the concept: the social, economic and environmental...As a means to comply with this commitment, the company seeks to employ highly qualified mainly national and international personnel, to transfer technology and know-how, to develop a viable forest economy whose beneficiaries are local people and the forest ecosystem and contribute to the economic value of the regions and countries where it works". (CAMINO, R. 1997)

These statements suggest a mixture of rational economic thinking embedded in a paternalistic development model of 'one-way' technology transfer, within the rhetoric

of sustainable development. As this rhetoric became the mantra of many FSC-supporters promoting certification of industrial logging concessions, PWA acquired a somewhat mythical status. National and international institutions like IBAMA (Brazilian Environment and Renewable Resources Institute), IPAAM (Institute for Environmental Protection of the Amazon), the World Bank and the PPG 7 programme (Pilot Programme for the Conservation of the Brazilian Amazon⁴³), came to see the FSC certificate as a legitimisation of the Precious Woods Amazon forestry system. The certification of Precious Woods Amazon seemed to have achieved a previously unthinkable alliance between formerly opposing political forces, appearing to conciliate differences between NGOs, corporate and state interests.

However, several NGOs remained critical of any expansion of industrial logging of primary forests and opposed to certification of such operations. This difference of opinion was fiercely contested by the supporters of certification of industrial concessions in tropical primary rainforests as a possible threat to the preservation of remaining native forests: *"If the experts team [of the certification body] are too oriented towards the experience of some NGOs the risk exists that...the comparison scenario will be the untouched forests and not the real alternative uses: traditional logging, deforestation, cattle farming and agriculture"* (ibid. p. 7).

Supporters of certification of industrial logging of primary tropical forests tend to base their argument on the assumption that, if the forest is not logged, a worse fate will become it. However, absolutely no evidence has yet been presented to support this hypothesis. It would, in fact, be more logical to argue that, by opening up large tracts of remote primary forest, certified timber operations are creating a new frontier easing the entry of more damaging forms of land use.

3. Patterns of logging in the Amazon Region

In order to appreciate the relative impact of PWA/Gethal, it is necessary to understand the historical and current dynamic of logging in the Amazon. Different techniques of timber extraction depend on the local environment and degree of mechanisation, the main distinction being between techniques used on floodplains (lower and higher floodplains) and those used on highlands.

3.1 Floodplains

Timber extraction on the lower floodplains is usually carried out manually. The trees are felled during the dry season and when the rivers flood the lumber is brought together in rafts of up to 6000 trunks, and then drawn by steam tugs to the sawmills and wood processing industry. As the transport infrastructure is exclusively on natural waterways and only a few specific flood-plain species are of commercial interest, the impact on the forest ecosystem can be considered relatively low. Nevertheless this form of

extraction can still lead to the overexploitation and local extinction of the extracted tree species⁴⁴.

Companies and wood suppliers continue to trade within the *aviamento* system, a heritage from the rubber boom. This system depends firstly on agro-extractivist labourers who subsist from small-scale agriculture and in the extraction of forest products, and secondly owners of large tracts of land from where the products are extracted. In exchange for permitting the workers to use their land and advancing them staple goods (clothes, tools, salt and sugar, fuel etc.), the landlords charge a fee or receive part of their production as payment. The landlords and traders who receive the products have commercial links through a chain of intermediaries, with wholesalers that operate from the main urban centres of the region (Itacoatiara, Manaus, Belem). With the fall in the price of rubber and Brazil-nuts during the 1970s', these products were increasingly substituted by timber as a commodity. Usually, the intermediaries monopolise the prices and determine payment, often resulting in economic dependency akin to slavery. The social conditions of timber extraction within this system are precarious, as there is no organisation or system for protection of the workers' rights (see Case Study 1 in this report). Clearly, any control of this structure through state authorities is extremely difficult.

The conditions for logging on higher floodplains are similar to those described below for the highlands. However, more often a skidder with rubber tyres is used because of the muddy soils. In addition, local transport infrastructure is required for vehicle access, in order to bring the timber to the waters' edge for shipping. A greater variety of species are exploited than in the lower floodplains, including heavy hardwoods.

3.2 Highlands

Timber extraction in the highlands is, in general, associated with infrastructure projects such as road building for settlement and agricultural and industrial enterprises. The impact on forest canopy depends on the degree of mechanisation and planning. Timber extraction with simple tractors, manual felling and skidding leads to considerably lower impacts, according to studies in Para (Stone, 2000). The *aviamento* system described above is also widespread in the highlands, establishing links to smallholders living in distinct rural areas. In addition, small temporary enterprises (composed of entrepreneurs, the owners of transport and tree-felling equipment, and hired workers) are frequently established for exploitation of high valued species like mahogany. Due to the scarcity of these species, these operations are constantly on the move, opening up new forest areas, often violating existing laws. These companies are often involved in conflicts with forest dwellers and are monitored and occasionally fined by state agencies. Historically, the high-risk nature of the operations has demanded maximum profit in the short term –

effectively until the company is closed down. The company's social structure is comparable to small gold-mining enterprises and the system is often called "*garimpo de madeira*". There is clearly little opportunity within this dynamic of exploitation to introduce measures to ameliorate the environmental and social impact (Lima and Pozzoborn, 2000).

Highly mechanised companies using heavy machinery depend on extensive infrastructure for transport and hauling. Often, caterpillars are used, causing heavy damage to the forest structure, exacerbated by a complete lack of planning. Highland logging is usually associated with colonisation along newly opened or paved roads. A variety of species (up to 200) are extracted, ranging from high-value export species for plywood and the furniture industry to low value timber for construction in the new settlement areas. Often the companies move on when there are no more marketable timber species available, leaving the forests open for further, more damaging, land uses. Usually the logging activities are linked to temporary logging rights issued by landowners, particularly in areas where land tenure has been consolidated (i.e., in 'old frontier' zones⁴⁵). In the last ten years, increasing vertical integration of the wood processing industry and logging operators has occurred, offering workers more stable jobs and some access to social security programmes. Nevertheless, the working conditions continue to be precarious.

4. PWA and Gethal – Origins and Certification Process

4.1 Precious Woods Amazon - PWA

PWA is a Brazilian subsidiary of Precious Woods Switzerland Limited (PWSL), a company registered in the British Virgin Islands in 1990. PWSL was founded by wealthy Swiss nationals, with the intention of proving that sustainable logging in tropical regions is both possible and economically viable. The members of the company's board include public personalities involved in politics or working for trans-national corporations. PWSL acquired its board members and investors when the campaigns of activists and NGOs including Bruno Manser, WWF and Greenpeace against rainforest destruction were receiving extensive coverage in the Swiss media. Many PWSL board members personally invested significant sums in the venture. The company is financed by 638, Swiss and German shareholders, including individuals, pension funds, insurance companies and a 3 million Swiss Francs donation from Swiss Aid and Development.

Precious Wood's first projects were teak and *pochote* plantations in Costa Rica. However the high investments necessary will only start to yield returns from the plantations after 25-30 years when the trees are ready for harvest. In order to guarantee immediate return in the interim, in 1993 the Brazilian subsidiary, PWA, was established to enable timber extraction from natural forests (Wiedmer,

1998).. The company has its operations and infrastructure located in the municipality of Itacoatiara, close to Manaus. In 1993, PWA bought an area of 80,000 hectares of primary forest, nearly 6,000 hectares of which had previously been cleared. Within this property, the company established a 50,000-hectare management area for logging, for which they received certification in 1997.

4.2 Gethal

Gethal Amazonas S/A Industria de Madeira Compensada is a recently formed corporation, officially established in 1998. It is the result of a partition of the Gethal Group, a German capital corporation (Westag), which owns companies in Sao Paulo and Rio Grande do Sul, southern Brazil. The original Gethal Group was established 52 years ago in Caxias do Sul, (Rio Grande do Sul) to produce veneer and plywood. In 1972, as wood supplies became scarce in southern Brazil, the company decided to set up a plant in Itacoatiara to produce veneer for a plywood plant in Santa Catarina state. In 1980, plywood production was moved to Itacoatiara, and the first plywood panel was produced there in 1988. Gethal rapidly became the largest wood processing industry within Amazonas State, acquiring its timber through the *aviamento* system described above. At its peak, Gethal was the centre of a network of timber exploration extending along all the main river tributaries within the state.

In 1989, due to pressure to establish its own management plans, the company started buying forest areas to assure its raw material and also encouraged its independent suppliers to establish forest management plans. At that time management plans were prepared for 26,000 hectares of floodplain forests, which were logged by the company's subcontractors. In 1995 Gethal started to show interest in certification, and in 1996 held the first meeting with representatives of the Imaflores/SmartWood Programme. Between 1995 and 1999, the company expanded its forest base with the purchase of new areas, principally 40,000 hectares of its present management area, which was bought for \$30.00 per hectare (May and Veiga Neto, 2000). Seeking to increase the production timber from certified management plans, Gethal was, at the time of writing, negotiating the acquisition of further forest land in the same region for approximately \$15.00 per hect

In 1998, the part of the Gethal group owning the forest management operations and the plywood plant in Itacoatiara was purchased by the Nilorey Group, represented by its Director, Bruno Stern. This change was consolidated in 1999, when the capital of Gethal Amazonas was divided between the Nilorey Group (75%) and the original German group (25%), which has the rights to the forest areas. In February 2000, an investment fund of Delaware, managed by GMO Renewable Resources of Boston, MA, bought the Nilorey shares and also the Gethal Amazonas

shares that were in the hands of Westag&Getalit, incorporating them as capital of TBU Ltda. It also purchased part of the areas under forest management plans that were owned by Gethal Imóveis. As a result of these transactions, a new company was formed, FLOREAM – Florestas Renováveis da Amazonia, which replaced TBU, and became the owner of 100% of the shares of Gethal Amazonas S/A.

4.3 The certification process

The certifications of PWA and Gethal were undertaken by the FSC accredited certifier Imaflor/SmartWood. Imaflor, a Brazilian organisation, is a member of the SmartWood Alliance based in Vermont, USA. According to SmartWood, the PWA project began in 1993. SmartWood’s field assessment took place over five days in January 1997, and was carried out in conjunction with Imaflora. The certificate was awarded in June 1997. A separate Chain of Custody certificate for Precious Woods Switzerland Ltd was awarded on April 1st, 1998.

With reference to Gethal, the evaluation for ‘pre-qualification’ was carried out in June, 1999, the field work for the full evaluation in October 1999, and a second evaluation, mainly focused on pre-conditions to certification, was performed in May, 2000. Certification was finally received in October 2000.

5. Environmental impacts

5.1 Immediate environmental impacts within the certified management area

According to its promotional material, in contrast to traditional logging operations, PWA promotes “sustainable forest management”, which:

“...is based upon the concept that proper timber inventories, annual management and a long harvesting cycle will safeguard the forest’s ability for perpetual regeneration. Each individual tree above a certain diameter is located, measured and plotted on operational maps to create a detailed inventory of the certified forest area. The operational maps are utilised to identify and select appropriate trees for harvest. These trees are numbered and can be tracked through the entire growth, harvest and production process...Precious Woods Amazon protects and preserves wildlife habitats and water resources while harvesting raw material according to the rules and guidelines of the Forest Stewardship Council” (PWA, 2000).

PWAs’ computer-based planning system and control mechanisms are of exceptional quality within the context of the Amazon. However, the generation of high-quality information and greater planning should not be mistaken for a reduced impact of the company’s operations on the forest ecosystem. The management area is approximately 50,000 hectares, divided into compartments of approxi-

TABLE 1: IMPACTS OF DIFFERENT LOGGING SYSTEMS ON THE AMAZON FORESTS.

	Floodplains (principal system within the Amazonas state)	Highlands ¹ Rudimentary logging (widespread throughout the Amazon in frontier regions)	Highlands ² Mechanised logging (‘Paragominas system’ in old frontier zones)	PWA/Gethal
Equipment	Manual felling in the dryer season, collection of felled timber as the water rises and long-distance transport by rafts, steam tugs or barges	Simple tractors used for hauling, lorries for transport on existing roads, to mainly local markets, or to the nearest harbour for long distance shipping	Heavy forestry machinery, caterpillars trucks for transport, either directly to markets or to the nearest harbour for long distance shipping	Heavy forestry machinery, caterpillars, trucks for transport, either directly to markets or to the nearest harbour for long distance shipping
Transport infrastructure	Natural waterways	Logging roads and skid trails, natural waterways	Logging roads and skid trails, natural waterways	Logging roads and skid trails, natural waterways
Yield (average)	A few stems per hectare	14-19 m ³ / ha	38 m ³ / ha	25-40 m ³ / ha (additionally 10-15 m ³ girdled trees)
Density of roads	-	100 m ² / ha	200 m ² / ha	64 m ² / ha 400 m ² / ha permanent skid trails
Ratio of harvested trees to destroyed/damaged trees	<1:1	1:1	2:1	<1:1
Canopy opening	Low	10%	38%	20% (without girdled trees)
Other impacts	Local species extinction	Species extinction. Near urbanised areas often linked to transformation for other kinds of landuse	Species extinction. Near urbanised areas often linked to transformation for other kinds of landuse	Fixed land use system demanding land ownership augmenting land concentration. Permanent well maintained infrastructure opening up remote forest for transformation into other land use

¹ Higher floodplains are included in these categories, in spite of the differences (see text).

² Data are taken from different studies in Para (Paragominas), summarized by Stone, 2000, and from the management plan of PWA.

mately 2,000 hectares. Within the management system, one compartment each year is to be logged, taking a total of 25 years for timber extraction from the whole area. The principle is that within 25 years, with silvicultural techniques encouraging rapid growth of commercially marketable species, the forest will have recovered adequately to allow a viable second cycle of logging. It is hoped that the managed area can thus be logged indefinitely in 25-year cycles.

However, there is minimal practical experience in re-growth of harvested tree species and most of the data on regeneration are based on assumptions rather than empirical evidence. It is the most ancient trees with the larger diameter that are the first to be removed. Beyond lumber, these trees are ecosystems in their own right, harbouring an enormous diversity of lichens, plants, insects and animals. The forest is given a maximum of 25 years to replace this loss. The direct and indirect environmental impacts of such logging practices can be severe (Rainforest Foundation et.al. 1999).

Table 1 compares the planned PWA system to traditional logging patterns, and demonstrates that it should still be considered a high impact forestry system within the context of the Amazon highlands.

With the expectation of continuous 25 year logging cycles, infrastructure is planned for permanent use. The roads and skid trails are mapped such that any tree in the management area can be reached. This results in a dense network of transport infrastructure (400 km of permanent and 5,000 km of secondary access roads) with significant fragmentation of the forest. In total, the transformation of forest for infrastructure in the managed area (excluding areas in the compartment set aside for preservation) reaches 2,700 hectare, or 5.4% of the total management area. This figure does not include forest transformed for the company's base and administration buildings, a central stocking area, sawmill, charcoal production site, workers' settlement, parking, forest machines and buses and a landing strip. In addition, 35 km of public road from Manaus to Silves pass through the area. Although this road existed before the implantation of the management plan, it is a precondition for the logging activities and functions as the central logging access road.

The activities of timber removal can result in the opening up of around 15% of the forest canopy (ITTO 1998). Silvicultural practices are undertaken to help stimulate the growth of marketable tree species. This previously resulted in the additional removal of up to 14 trees with no market value per hectare. After negotiations with Greenpeace, this number was reduced to 5 trees per hectare. These trees are girdled, a process by which a ring of bark is cut from around the trunk and the tree is left to die standing. The legally permitted yield for the PWA management plan is 40m³ per hectare. However, due to the low concentration of marketable species in the management area, up until now the average yield has been 25m³.

This number does not include girdled trees, which could increase the effective timber removal by 10m³ to 15m³.

The low concentration of marketable timber has led to a profound revision of the management plan, resulting in the logging of two compartments annually instead of one, in order to extract enough wood to sustain production. The whole management area will thus be logged within 12-16 years and not within a 25-year cycle as originally planned (SmartWood, 2001).

The timber is destined for high value export markets and the plywood and veneer industry in Itacoatiara. Local markets are not significant to the company's economy. However, local carpenters and artisans receive some benefits, utilising the waste of the sawmill. Further waste is used for charcoal production and was also given to Gethal to burn for its energy production. Due to the huge amount of waste wood generated, its removal is a continuing problem. Between 1999 and 2000, timber processing became even less efficient. The company's target is utilisation of 40% of timber arriving at the mill. However, in 1998 the percentage use was only 32%, dropping to 30% in 2000. Consequently, the volume of timber processed for the same output has risen from 79,200 m³ to 84 400 m³. To resolve the problem of extra waste wood generated, the company has built a wood and charcoal furnace, generating energy for its own use.

The certifier has expressed concern about the increased pressure on the forests through this inefficient processing, resulting in several Corrective Action Requests (CAR) with respect to FSC Principles 3 and 4. In addition, Smartwood expressed extreme concern in relation to accelerating harvesting rates in response to external market pressure. This was identified as a threat to the quality of the PWA forest management, and resulted in the issuing of a further 18 CARs. The company risked losing the certificate if these rates were not immediately reduced (SmartWood, 2001). It is interesting to note that the years 1999 and 2000, when the PWA environmental and social performance were at their nadir, the company was economically, at its healthiest.

5.2 Indirect and long-term environmental impacts within and around management area.

In retrospect, the above problems indicate that the company would not have been able to guarantee environmental and economical sustainability within the area certified in 1997. However, there are also several broader and more long-term potential consequences of the certification of PWA.

5.2.1 Expansion of logging area

At the time of preparing this case study, in November of 2001, PWA was attempting to resolve its timber supply crisis by buying other larger areas of native forest in the states of Pará and Amazonas, which they plan to then certify

(SmartWood, 2001). In effect, the process of certification has thus actually caused an *increase* in the area under logging. The indirect and long term environmental impacts of the expansion of certified logging operations in the region cannot be adequately addressed within the certification process, but may be of a scale well beyond any of the direct impacts covered by the FSC Principles and Criteria.

The most worrying is the question of physical infrastructure required for certification. The control that certified logging demands could only be established through the laying of permanent and semi-permanent infrastructure of roads within the forest, as described above. These roads are maintained in better condition than most public roads. The impact of transport infrastructure on forest ecosystems is well documented, and might be considered the major threat to the Amazon Rainforest (see for example, Laurance, Cochrane et al, 2001).. Experience to date raises serious doubts over the claim that the PWA management system will guarantee the ‘sustainable’ supply of marketable tree species and thus the permanent presence of the logging company to “protect” their management area. In 1999, PWA was already over-harvesting its original management plan area, which would be left “fallow” to complete the 25-year cycle. Having failed to demonstrate any parameters of sustainability, PWA planned to expand the flawed system of ‘forest management’ into new areas of native forest in order to guarantee the continued supply of tropical timber.

The incentives for certified management could thus be in danger of stimulating a new forest frontier, opening up and establishing infrastructure in ever-remoter areas of native forest. While there remain new, untouched areas of species-rich primary forest to log, companies whose principle incentive is profit are unlikely to stay in a fixed location. When PWA and Gethal move on from their area, the road access will remain, inviting farmers, settlers and other logging companies to wreak a second wave of damage on a weakened forest ecosystem.

5.2.2 Land Concentration

In response to changes in legislation in the 1980s and ‘90s⁴⁶, wood processing companies like Gethal started a process of vertical integration of the logging activities by buying forest land to implement management plans. After

PWA was certified in 1997, this process accelerated. In addition, IBAMA intensified monitoring and fining. This pressure urged the timber business to adopt this specific model of “sustainable forest management”. Companies which did not own forest land on which a management plan could be implanted eventually ran out of raw material, such as for example, Carolina, which was formerly the largest plywood producer in Itacoatiara, but was completely dependent on third party suppliers⁴⁷.

Companies are now seeking to buy land and implement management plans. This development can be seen in the output of Gethal over the last 5 years, where the volume from third-party log suppliers has been reduced by one-half, as the production from its own management plans increased four times. These changes are wholly supported by the monitoring agencies such as IBAMA, enabling them with better tools to control the forest sector.

However, this better control has come at a cost, as the PWA model and certification schemes necessitate land ownership. This will naturally increase the already appalling land concentration in Brazil and provoke legal problems related to land ownership. One example of this development, is Aplub Agroflorestral S/A, a logging company which is now one of the biggest landowners in the Amazon, owning over one million hectares of prime forest in the municipality of Carauari.

The occupation of public land and the administration of land titles in the Amazons is in a chronic state of chaos and illegality. In June 2000, a parliamentary commission was established to investigate the increase of land concentration through false documents (grilagem), involving many judges and registry offices in the rural areas in Amazonas State. The commission stated that the timber industry is increasingly involved in such processes. Even PWA and Gethal S. A. failed to have all of their properties registered by June 2000 (Jornal de Comercio, 2000), in spite of the fact that compliance with land laws is a precondition for certification.

5.2.3 Reinforcement of the logging-dominated economy

Another significant indirect impact of certified logging in the region is the strengthening of a regional culture and economy focussed on logging. It is extremely difficult to contain logging incentives to within a certified management

TABLE 2: VOLUME OF RAW MATERIAL CONSUMED BY THE ITACOATIARA PLANT OF GETHAL (m³)

	1996	1997	1998	1999	2000
Gethal Forests	9,878.00	12,058.00	12,741.45	6,140	44,000
Independant Log Producer (FSC certified)	-	-	979.44	8,813	12,000
Log Suppliers w/Forest Management Plan	95,461.10	73,466.00	47,292.91	50,607	42,000
Othewr Log Suppliers (land clearing authorisation)	920.00	-	200.00	-	-
Total	106,259.60	85,254.00	61,213.80	65,560	98,000

unit. On establishing its management area near the local town of Gethal, Gethal became the talk of the town, and suddenly everyone was 'talking timber'. In a region where there are very few formal economic alternatives for local people, the presence of Gethal helped shift the local populations' economic perspectives to logging. This is manifest in individual stories, for example the grocery store-keeper who has decided to invest in selling chainsaws and logging equipment⁴⁸ or evidence from the local indigenous peoples' organisation that rural communities are now wanting to invest in logging as their preferred economic activity⁴⁹.

Certification of logging is supported by the state environmental agencies, academic institutions and some very influential NGO's. This provides further reinforcement to the local incentives for a logging economy. Many research, academic, legal and lobbying resources dedicated to defending timber as the economic vocation of the region, are thus not available for developing and diversifying other less contentious alternatives. In addition, local organisations contesting this particular development model end up dedicating scarce resources to the issue of certification, resources which might be invested in containing other threats or developing more meaningful and sustainable options for local people. This can all be considered to have an indirect and hidden, but highly significant, impact on the prospects for the survival of natural forest and the development options for local peoples.

5.2.4 Incentives for illegal logging

Using market incentives as a means of changing logging practices, certification may actually help stimulate illegal logging of commercially valued species. This is clearly demonstrated in the case of PWA, which had inadequate timber in their management plan area to respond to a new demand for certified *acuariquara* timber in Germany (see below, section 8.1). Around the time of the order for *acuariquara*, there arose a series of incidents of illegal logging in the various municipalities neighbouring the PWA management plan. In one municipality, Presidente Figueredo, a network of roads for a colonisation programme was used by local people for access to log the forest, the only species removed being *acuariquara*⁵⁰. However, as these were incidents outside the well-monitored PWA management area, and with no formal process to investigate or denounce these activities, the incentive provided by certified operations for predatory and illegal logging continues unregistered.

6. Social impacts of the certified logging

6.1 Social conditions within the companies

6.1.1 Social conditions within PWA

PWA employs approximately 300 people, more than two-thirds of whom work in the sawmill and in

administration. According to the trade unions, PWA employs approximately 85 people in forestry activities, including engineers, technicians, wood-cutters, assistants, cooks, drivers and mechanics. When PWA started, they offered better working conditions for their labourers than other companies. These improvements are reflected in the regulation of working hours, training, appropriate safety equipment, regular food supplies, and better accommodation (barracks with hammocks, kitchen, television and sports field etc.). The monthly salary of R\$182 (77 US\$) was above the average in the region, but below the R\$209 demanded by the local trade unions. These innovations set new standards for the local timber industry and have been partly adopted by other companies through the activities of the trade union.

At the time of writing, however, the company seemed to have fallen back on its progressive lead on workers rights, having offered a 6.25% pay-rise in comparison to the 8.97% offered by other companies. In response, in August 2000, the trade union stated that 'the company with the green label' was reducing the workers rights, adding that;

"workers are [the] last scale of priorities (for PWA), in spite of being the most important source for profits". (SmartWood, 2001).

In general, the salary is still too low to sustain a household outside the companies' area and facilities. This results in significant economic dependency for the workers. In addition, since 1999, as a result of the increasing distance of the compartments being logged, employees have been obliged to stay overnight several days a week in the company's field camp. This strategy helps to reduce the transport costs of taking the workers every day back to their family homes in Itacoatiara (SmartWood 2001).

Some workers have left their families in other regions in the hope that one day they will save enough to finance their move to Itacoatiara. Many workers' families living in Itacoatiara have additional jobs or own plots for agriculture as a supplement income. The company has scaled salaries, and higher earners often invest their surplus in land where they can spend their weekends – forestland effectively transformed into agriculture. This is just one of the repercussions of encouraging urbanised consumption patterns around industrial enterprises such as PWA (see Freris and Laschefski, 2001).

6.1.2 Social conditions within GETHAL

In order to gain certification, Gethal followed the example of PWA and has similar working conditions. However, in contrast to PWA, the forests of Gethal are located a long distance from the processing plant. For this reason, the company has a system of removable facilities (barracks, kitchen etc.) in the logging areas which, according to the certification report, are of a reasonable standard.

6.2 Social impacts on the local population

The FSC claims in its promotional material that the rights of local communities are respected when forestry operations are certified. In practice, this assertion raises a series of difficulties for certified companies operating in the Amazon. The local population can be affected through the occupation (purchase) of land by the logging company resulting in restrictions in their customary land-use or the loss of previous commercial links as wood suppliers through the *aviamento* system (this is also discussed in Case Study 1). The complexity of tenure questions in the Amazon has not been seriously addressed by certifiers. With respect to indigenous people, their legal land rights are supported both constitutionally and institutionally. Conflicts, as in the case of Gethal, tend to be relatively easy to resolve.

More thorny is the question of how non-indigenous traditional groups like riverside dwellers or *caboclos* are to be considered. These 'invisible' groups (Nugent, 1993) have settled within the forest for generations but have no land titles. The principle of *uti possedis* or "whoever has it, holds it"⁵¹ is still effectively valid in the Amazon, and land is owned by anyone who has been using it more than five years. In official Brazilian circles, 'land use' is treated as equivalent to transformation of forestland. With respect to the formal process to check the legality of properties within the certification process, there is an open issue if gathering and hunting need to be considered as 'land use'.

In the context of the Brazilian Amazon, the question of whether companies can be certified, in spite of having bought land that is disputed property of traditional societies, remains open. PWA and Gethal have had to demonstrate their awareness of communities living within their properties in order to gain certification. However, up until now, neither company has developed a coherent strategy of dealing with this issue; settlers did not even know when their lands were sold to the logging companies. It seems obvious that in such a situation the settlers cannot have given 'prior informed consent' to the forestry operations, as is clearly required in order to comply with FSC Principle 2.

6.2.1 Community relationships - PWA

There are approximately 50 families who were living within the limits of the PWA property before the land was bought in 1993. In 1997 the Certification Public Summary report stressed "...that the management units O, I, H, and E and all other management units which share border with the communities... should not be harvested until the boundaries of the community and company forested area are clearly defined" (SmartWood 1997).

In 1998, PWA's planning supervisor, Tim van Eldik, stated in a personal interview that little progress had been made with respect to the relationship with these communities. Some meetings were held with three organised

communities, but without addressing the issue of solitary families. The management compartment represented by Unit O, which overlaps with the communities and is crossed by the road to Silves, has been completely removed from the management plan. Nevertheless, according to Malvino Salvador, director of the IBAMA (June 2000) the annual harvesting plan for unit H, which also impinges on community land, was already authorised. A satellite image from November 1999 confirms road building within units H and G. Heavy logging activities could be identified in unit E, all units which impact on local communities. According to personnel of PWA, in June 2000 the company still had not yet established a stable relationship with the families living in the area. In some cases it was stated that dialogue was not possible because the representatives of the company were received 'with aggression'⁵².

Negotiations on community land took place with the help of EMBRAPA in 1999 and 2000. Finally, in 2000 the company formally mapped the community land, three years after certification and two years after the time limit for the certifier's Corrective Action Request. There is yet to be defined a formal process to deal with community demands, such as access for gathering wood and non-wood products, and to incorporate them into the planning of forest management activities that would directly affect them.

6.2.2 Community Relationship - Gethal

The complexity of the question of land tenure is recognised by Gethal, which is in the process of completing the acquisition of 100,000 hectares within Manicore, an area that represents almost 2% of the total area of the municipality. There are at least 100 land-owners and users involved, and in many cases there exist different land titles for overlapping areas. Soon after it was elaborated, Gethal, had to reduce its certified management plan in Manicore, because of a dispute with the agency for indigenous people (FUNAI), claiming a part of their area as traditional land of the Mura people (Pinatuba reservation 3,452 ha, see SmartWood, 2000). However, the withdrawal of Gethal from the indigenous area did not put an end to conflicts with the Mura, who do not recognise the limits of the neighbouring Gethal territory. They continue to use this land for their traditional fishing, hunting and gathering, and have threatened the company that they plan to start planting within this area. These problems have given rise to a series of internal conflicts within the community, which subsequently split, forming two villages, which continue in attrition.

In addition, according to the certification report, there are 15 communities within the certified management plan area, representing in total of about 300 families, or over 1,600 people⁵³. Many of the members of the communities settled in the region in the 1960's, attracted by the prospects of work as rubber-tappers, and land on which to settle. As with many rural communities, although they

have occupied the land for decades, they do not have any formal land titles. The land titles will have been bought by Gethal from absentee landlords, families who acquired land during the rubber boom, or from state or municipal authorities. However, for these communities, without their knowledge or consent, Gethal became their new landlord.

The economic subsistence of these riverside dwellers comes from fishing, non-timber forest products (Brazil nuts, latex, copaiba oil and titica vine) and agriculture (manioc flour, water melons, coffee and small-scale cash production) and are fundamental to their survival. Although in the past latex from *hevea* trees was produced in significant quantities, according to the certification report it is no longer a product of commercial importance.

The Certification report from October 2000 underlines the advance of the company's initiatives to improve the relationship to these communities:

"Gethal has a harmonic relationship with the families that live in its areas. It recognises the land use rights of individuals living in its areas or in the areas it may purchase..."

However the report also states that:

"Even though Gethal Amazonas has shown to this date an open and conciliatory attitude in the negotiations with dwellers, local communities, and people who base their livelihood on products extracted from the forest, it must establish a clear policy to handle this situation" (SmartWood 2000).

To establish such a policy, the company has entered into partnership with an NGO, Pro-Natura, and the Amazon University Foundation, with the *"objective of carrying out a diagnosis of the situation of the families living in the company areas and neighbouring communities"*. Several meetings with the communities took place, apparently resulting in a better acceptance of the company. Pro-Natura receives financial support for its work from the PPG7, thus effectively economically externalising the social element of the company's certification requirements. Gethal is thus receiving indirect subsidies for issues that should be covered by the profits from selling certified timber.

Nevertheless, a report in April 2000, conducted by IPAAM, mentioned that members of the communities Porto Seguro, Jenipapo, Democracia (port Gethal) Jatuarana, Urucury, Igarapezinho denounced Gethal for restrictions imposed on their traditional subsistence activities and limited access to forest highlands as a refuge when flood-water levels were high.

6.2.3 Communities affected through the loss of trade links

As described above, the conventional timber industry in Itacoatiara depended on the traditional trade system of *aviamento*. Characterised by social exploitation, a change of this system is certainly overdue. The new logging system introduced by PWA results in the vertical integration of the logging operations and the wood processing industry. Logging is carried out by regular company wage labourers

with all the advantages of industrial workers such as representation by trade unions, social security programmes and healthcare. Paulo Adario of Greenpeace, in a letter published in *The Ecologist* magazine in September 2001, remarked on this as an advantage of certification:

"...millions continue to labour for a pittance for the logging companies, 80% of which operate outside all laws and environmental controls in the Amazon. These people are both victims and perpetrators. But they are here and they are cutting trees and that is reality. They can either do this under the security of schemes that promote social and economic standards, in pre-defined areas, or they can continue to be doomed to a life of poverty and injustice, exploited by the "Barons" of the Amazon, while they at the same time continue the unmanaged, uncontrolled destruction of the Amazon rainforest" (Adario, 2001).

The basic idea is to offer local people job opportunities as an alternative to timber exploitation within their traditional landuse systems. No official statistics exist on the numbers of people working within the *aviamento* system. A study during the harvesting period in 1992/93 in the region of the Purus River, estimated that 2,052 individuals were involved in timber extraction of the floodplains (Higuchi et al, 1994). As shown in Table 3, below, in terms of employment per hectare, the highly mechanised system of "sustainable forest management" is highly inefficient. It is very likely that the number of people involved in traditional logging patterns of the floodplains is far beyond those with formal job opportunities in the timber industry. Gethal is now undertaking the process of vertical integration, buying forest land and reducing the third party suppliers. As there are only a few jobs for forestry activities, the rupture with old trade links could lead to the further economic marginalisation or isolation of these former suppliers, rather than to the resolution of their problems.

For most riverside dwellers, logging is merely one element in a highly diversified economy, involving fishing, gathering, hunting and small scale agriculture, which in its totality is dependent on an intact forest ecosystem. This kind of landuse can be considered relatively sustainable and certainly does not result in the large-scale forest transformation resulting from industrial logging. Generally, timber extraction is considered by traditional people as dangerous and highly unpleasant work and only employed when markets for other products have failed (unfortunately, now the case for products like Brazil nuts and latex).

The timber-focus of certification is a reflection of the interests of the economic sector of FSC, which appears to respond principally to the demand of industrial logging enterprises. What rural Amazon needs is not a burgeoning timber industry, but diverse economic alternatives for traditional societies which encourage diverse land-use systems. Timber is clearly the wrong product to choose for a campaign seeking to 'save the Amazon'. Even the few community-based forestry schemes so far attempted in

Brazil have suffered serious problems in controlling illegally sourced timber, establishing appropriate infrastructure and securing markets (O Estado de S.Paulo , 2002). As Philip Fearnside (1999) relates with respect to extractivist reserves, the rubber tappers are highly divided on the question of timber extraction, as it is fundamentally different from the extraction of non-timber forest products. Quite simply, latex could be extracted from the rainforest for over a century without any significant forests loss or damage. In comparison, a few decades of timber exploration has wreaked havoc on the forest ecosystem.

Instead of improving the trade links and economic slavery of riverside dwellers, certified companies such as PWA and Gethal are substituting the floodplain low impact logging with a new, less labour-intensive, mechanised logging of the highlands, resulting in higher ecological impacts and economic marginalisation of traditional people and local communities. Given the arguments above, the FSC is failing to improve the environmental and social situation of rural Amazon with the current practice of endorsement of these concessions.

With respect to traditional communities, the question of control of activities considered as predatory leads to conflict with their traditional land-use rights. As mentioned above, Gethal imposed restrictions on local people after buying their land. The company allows some access for gathering, but hunting is against the principles of the conservation of wildlife. Riverside dwellers depend on hunting for their subsistence. However, their access to the forest is exclusively via waterways, limiting the scope and impact of their hunting. In contrast, PWA's operations offer road access, opening the forests for hunters with vehicles from other regions or nearby towns and cities, hunting as sport rather than for subsistence.

6.3 Certification as an incentive to shifting forms of land occupation

The certified logging of Gethal and PWA tends to concentrate land, resources and technical capacity. It sits in stark contrast to economic and development initiatives built on the foundations of community needs and land ownership, local capacity and social empowerment. One striking outcome of the PWA/Gethal model is the inefficient form of land occupation that it is promoting. In the case of Gethal, the company employs approximately 100 workers in

forestry activities in an area of 40,000 hectare, or one person every 400 hectares, and many of these workers are not actually from the region. Before Gethal arrived, this area sustained 1,600 local people, who in comparison to the model of industrial logging presently being imposed, had minimal impact on the forest ecosystem.

7. Illegal activities

In general, in the context of the Brazilian Amazon, there can be considered three broad categories of illegal activities regarding timber exploitation:

- Extraction without a management plan, or in contravention of one if it does exist;
- Deforestation without authorisation;
- Transportation without, or in discordance with, the documentation of origin of the wood ('ATPF' - Autorização para Transporte de Produtos Florestais).

7.1 Illegal activities and PWA

PWA does not buy from third party suppliers, and thus has control over its timber source. However the case of the acuariquara shipments to the municipality of Rostock in Germany in 1998, indicates that the company was prepared to accept some questionable practices in order not to lose an economically important client.

Acuaricuara is a durable species of tropical timber with insignificant local markets. International demand for the species was created when the German municipality of Rostock decided to use certified acuariquara for coastline construction work. The contract was celebrated as a transatlantic partnership helping to preserve the rainforest. However, PWA had insufficient acuariquara to respond to the demand. To complete the shipments, wood was bought through an Austrian company, MW Florestal from local people, in unmanaged areas. This led to confusion as to which batches of acuariquara arriving in Rostock were certified and which were not.

At the same time, there arose a series of illegal logging incidents involving acuariquara in the neighbourhood of PWA. In one case, authorisation to clear-cut a small plot for agriculture was used to rip out hundreds of acuariquara trees using the company's tractors and personnel. These activities, inside an area of permanent preservation

TABLE 3: EMPLOYMENT IN RELATION TO AREA (HECTARES/EMPLYED PERSON) FROM EXTENSIVE AND INTENSIVE ECONOMIC ACTIVITIES (CASE STUDY OF PARAGOMINAS, PARA)

	Logging ¹		Cattle Ranching		Family Agriculture	
	Extensive Logging cycle of 90 years	Intensive Logging cycle of 30 years	Extensive unimproved pastures	Intensive improved pastures	Extensive slash and burn	Intensive perennial cultures
ha/pers	540	154	29	29	16	1.4

¹ Logging was analysed without considering land investment and/or timber processing at sawmill (Almeida O. and C. Uhl, 1995).

(riverside forests), were discovered by the police, leading to the confiscation of the equipment. IBAMA later declared that these activities were in concordance with the authorisation, PWA stressed that they were not responsible for activities of people who borrow their equipment, and the certifiers stated that PWA had not made any formal mistake. In another incident at a certification consultation meeting, a local mayor denounced the company for illegally removing acuariquara within his municipality. Beyond any alleged direct involvement in illegal logging, opening the market for acuariquara helped stimulate a local boom in illegal logging.

7.2 Illegal activities and Gethal

According to Greenpeace research, GETHAL was fined for buying illegal logs from three separate suppliers in 1997. The fines were for discrepancies between the wood volumes reported and the documentation of the origin of the wood. In practical terms, heavy hardwood species were added to the underside of the rafts of Gethal timber during their transportation from the interior to the sawmill, a long journey, which is extremely hard to monitor.

The certification report states Gethal appealed against these fines, which were subsequently annulled in August 2000, IBAMA issuing a statement clearing Gethal of all previous legal processes. Since the beginning of the certification process, Gethal has been reducing the amount of timber received from third party suppliers, meanwhile urging the remaining suppliers to present the necessary documents to ensure that the timber bought comes from a legally approved source including transport documents and an IBAMA-approved management plan for the area of origin of the timber. Since 1998, Gethal has received no fines. However, in 1998/1999 some of its remaining suppliers were fined for illegal timber extraction⁵⁴.

In theory, the FSC demands control over all illegal activities within the company's management area. This naturally requires a system of surveillance and protection to ensure permanent monitoring. At the time of certification, neither PWA nor Gethal had established such a system. PWA attempts to collaborate with the IBAMA in monitoring its area. However, during the weekends there is no entrance control into the managed forest area, with gates to access roads often left open.

8. Conflicts with FSC Principles and Criteria

Beyond questions of interpretation, both Gethal and PWA appear to have been in conflict with a number of the FSC Principles and Criteria. There follows a resume of specific areas of non-compliance, which relate to the concerns raised in the foregoing.

8.1: Principle 1

Gethal and PWA were not, during the year 2000, registered at the National Institute of Colonisation and Agricultural Reform – INCRA⁵⁵

- In the case of acuariquara shipments for the Municipality of Rostock in Germany, the certifier permitted logging of acuariquara in sections of the management area, which had already been logged. Further uncertified timber was delivered by third party log-suppliers to complete the shipment. PWA machinery and workers were involved in illegal timber extraction, although this was later 'legalised' by IBAMA.
- Neither Gethal nor PWA had an appropriate system to avoid illegal activities in their management area.

8.2 Principle 2

- Both PWA and Gethal were awarded certification without having a clearly defined process to deal with local communities' tenure and land use rights within the management area.
- At the time of assessment, communities had no say over the companies' forestry operations, and PWA lacked a basic structure and policy for communication with local people.
- This raises the question of how any "prior informed consent" can be obtained from relevant communities in a situation where the communities have little or no say in the process where their traditional lands are allocated for industrial logging.
- Communities within the Gethal management area have denounced the company for restricting their subsistence activities.

8.3 Principle 3

- The original area bought by GETHAL included 3,400 hectares recognised as indigenous land which later had to be removed from the management plan. However, at the time of certification assessment, the presence of Gethal near this newly demarcated indigenous territory continued to create conflicts with the indigenous population.
- The management areas of Gethal and PWA include land with specific meanings for the traditional population. In neither case is there a clear picture about the impacts on their cultural identity.

8.4 Principle 4

- Before Gethal arrived, its management area provided more people with subsistence than Gethal now offers in job opportunities.
- PWA had not established any meaningful dialogue with the local people living inside their area, making

impossible their involvement in the management plan.

- At the time of assessment, neither Gethal nor PWA had established dialogue with local communities. Gethal had contracted third parties, paid by the World Bank through PPG7, to research the communities and to mediate between them and the company, thus externalising responsibilities which are basic conditions for certification.

8.5 Principle 5

- The management system of PWA focuses exclusively on wood production, causing a profound alteration in the forest ecosystem (see also Principle 9, below). This diminishes the potential economic viability of other kinds of forest use, such as collection of Brazil nuts, essential oils and latex, as shown in the case of Gethal.
- The consequences of logging in highly complex native tropical rainforests are far from understood. The regeneration cycle of 25 years is arbitrary and there is no evidence that this rate of harvesting could be considered “sustainable”.

8.6 Principle 6

- As the impacts of the logging system on the ecosystem are not known, and probably cannot be known for a number of years, a conclusive evaluation of this principle is hardly possible.
- An official environmental impact assessment of PWA was not available at the Environmental Institution of the State of Amazonas (IPAAM). The relevant issues are addressed in the management plan, which was accepted by the certifiers, but this was not available to the public.
- The environmental impact assessment of Gethal was available at IPAAM. However it was of poor quality, particularly with respect to impacts on the local population.
- Neither PWA nor Gethal had established a satisfactory system for safeguarding threatened and endangered species, due to the lack of knowledge about the impacts in the ecosystem and biodiversity in general. Some specific studies were being carried through by the state agency EMBRAPA and the University of Amazonas. However, SmartWood (2001) noted that the results of this research were not being integrated into improving management practices.
- The only visible control at PWA are gates on the forest roads in the management area. Frequently these gates are open, making access easy for hunters. According to the certification report, Gethal has no visible measures to control access to their management areas.
- PWA had used pesticides on girdled trees to kill them more efficiently. As a more acceptable alternative, they are planning to use diesel oil. The ecological effects of

these chemicals are not clear.

- According to the management plan, PWA is ‘transforming’ (i.e., clearing) 5.3% of the area in logging infrastructure (roads, permanent skid-trails and storage sites), corresponding to an area of 2,700 hectares. Neither the direct environmental impact of this is considered, nor the effects of fragmentation of forest land.

8.7 Principle 7

- The aspects of environmental safeguards and the protection of endangered species are hard to evaluate due to the lack of scientific information. The system of logging has been operating for less than seven years, barely enough to understand its effects on complex forest ecosystems.

8.8 Principle 8

- PWA had no overall system of monitoring of flora and fauna, though as noted above, some research on specific species was being undertaken by state institutions and Universities. The situation with Gethal is similar.

8.9 Principle 9

- According to the agreed definition, these forests can be considered High Conservation Value Forests. The decision about these criteria is largely subjective. PWA was certified before the alteration of FSC Principle 9 in 1999. The certifier demanded an evaluation of the area with respect to HCVF in 2000 (CAR 14, 15 and 16). The formulation of Corrective Action Request 14 shows clearly the very "technical" interpretation of the principle, as it recommends the use of single indicators like the existence of Pau Brasil (*Aniba roseodora*), instead of addressing the diverse elements of a complex ecosystem. According to the definition presented by the FSC, the existence of a complex natural ecosystem "*where viable populations of most if not all naturally occurring species exist in natural patterns of distribution and abundance*" is a criterion of a HCVF and should be considered, if the precautionary approach is to be taken at all seriously.
- The forestry system of PWA, copied by Gethal, profoundly alters the primary forest ecosystem. The obvious and known impacts of logging together with silvicultural treatments include:
 - 5.3 % of forest land is transformed for logging infrastructure. The possible effects of forest fragmentation are not adequately documented.
 - 15 % of the canopy is opened by timber extraction, and a further, unknown, amount, through silvicultural treatments. The effects of this on species composition is

not precisely known, but is certainly altered in favour of younger commercial species, with the lower canopy layer becoming much more dense. There are however strong indications that endangered species like jaguar (*Onca pintada*) are suffering more pressure. In areas of silvicultural treatments an increase of termite populations and other insects can clearly be noticed. It is very likely that many habitats will be radically changed as is the ecosystem as a whole.

- The long-term and indirect impacts on the forest, as referred to in the text, will only be known long after the company has benefited from certification. There is little effort to evaluate these possibly more profound impacts, as the certification process continues to accept the disputable theories used to justify certification of industrial logging in HCVF.

9. Conclusions

Certification is increasingly being incorporated into the range of policy tools being applied to the management of the Amazon rainforests, and is generally accepted unquestioningly as an appropriate tool. For example, Schneider et al (2000) have stated in study edited by the World Bank and IMAZON that *"it is desirable to create a mosaic of conservation areas that combines national forests (sustainable use) with parks and biological reserves (full protection). Forest management in these national forests should be certified in accordance with recognised international standards, such as the FSC..."*. According to the authors of this report, there is an area of 1.15 million km² (23% of Amazon) that could be designated for certified logging. However, there are reasons to question whether the 'timber-centric' model really does offer a long-term, sustainable, solution, and therefore to question the appropriateness of certification, which this case study suggests is serving to strengthen and even help promote the expansion of the forestry industry of the Amazon Basin.

The system of PWA can be considered as an improved, capital-intensive, highland forestry system. Given the company structure, it is best understood as an alternative to the traditional frontier zone logging. Indeed, it was developed as an alternative for mechanised migratory timber exploitation, based on the assumption that a higher market value for certified timber, would stimulate sedentary forestry, as land owners are persuaded not to turn forest land over to agriculture or cattle rearing. Given the political context and the driving forces behind forest destruction, the basis for this assumption must be seriously questioned (Freris and Laschefski, 2001). Through the implantation of infrastructure, logging of the highlands is more likely to operate in symbiosis with more destructive land uses – deforestation for agriculture, cattle ranching and soya production. This is in complete contradiction with the theoretical arguments used to promote and expand certified logging of native forests.

In addition, the existing certified companies are mainly acting in the inner part of the Amazon, far away from the old agricultural frontier in Paragominas. They are replacing a completely different system of logging within the forest lowlands, based on archaic structures from times of the rubber boom. Within this context, certified companies contribute to the concentration of land ownership and employment opportunities, and marginalisation of local people and the diverse extractive economies for non-timber products. The latter need to be recognised as a basis for any attempt for regional development. New research about the "post boom logging" in Amapa indicates interesting perspectives of timber management *"as an integrated component of smallholder management systems" where "activities associated with wood production are not carried out in isolation from activities related to farming and non-timber forest product (NTFP) extraction and cultivation."* (Pinedo-Vasquez et al, 2001). A robust economy based on products from diversified landuse systems attending diversified local, regional and international markets is clearly more sustainable in environmental, social and economical terms than industrial scale logging - certified or not.

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Case Study 5

FSC Chain of Custody Certification: Dim Light at the End of the Tunnel

Jessica Lawrence⁵⁶

1. Summary

This case study analyses the FSC's Chain-of-Custody (CoC) certification and trade monitoring systems for assembled and solid wood products. CoC monitoring, as developed by the FSC and its accredited certifiers, is often promoted as the most rigorous monitoring of trade in wood products developed to date. However, in trades where false paperwork is rampant, the limited mechanism that has been developed to assess if FSC labelled products originate from certified forest management operations is insufficient. Moreover, there is reason to believe that the systems are structurally as well as institutionally inadequate even to prevent or reduce the laundering of illegally logged wood into international trade.

Lessons learned over the past few years by certifiers, and through civil society attempts to monitor certified claims in the marketplace, could improve trade monitoring of certified and/or legal status. However, trade chain complexities and lack of transparency continue to thwart development of adequate monitoring systems. Third-party monitoring must be vastly improved, but more importantly, trade chains must be made transparent through international mechanisms which have yet to be established. Minimum transparency must include public rights to review individual business transactions between legally separate entities, specifically to review volumes of wood products traded.

Until national and international law enforcement mechanisms are clearly effective in reducing fraud in the wood trade sector, FSC CoC certification in many regions will remain problematic if not untrustworthy - the logo will remain simply another unverified and potentially false claim in the marketplace.

2. Chain of Custody – background

Chain of Custody (CoC) certification is fundamental to the FSC system:

"It ensures that forest products carrying the FSC label actually come from FSC certified forests. The Chain of Custody allows companies to manufacture and market forest products with the integrity of the FSC brand through systematic tracking of certified wood. All companies from the forest of origin through the various stages of manufacturing and distribution [Author's note: this statement about distrib-

utors is technically incorrect, as I explain in this paper] must be FSC Chain-of-Custody certified in order for the final product to carry the FSC logo." (FSC Percentage Based Claims Policy May 2000)

Under the FSC system, Chain of Custody certification is voluntarily chosen by a company that wishes to sell certified products. The following types of companies must become CoC certified in order to sell FSC certified wood: certified forest managers, primary manufacturers⁵⁷, and secondary manufacturers⁵⁸. Certified forest managers or forest management units must comply with FSC Principle 8.3, which states that: *"Documentation shall be provided by the forest manager to enable monitoring and certifying organizations to trace each forest product from its origin, a process known as "chain of custody"*.

Certified companies sign agreements (contracts) that allow FSC certification bodies (CBs) to evaluate the company's ability to keep certified wood adequately tracked through their manufacturing and/or trading process. Annual audits are required to monitor compliance with requirements. FSC CoC certification verifies a manufacturer's ability to maintain and document the discrete materials' handling of FSC-certified wood through its facility, ensuring the certified origin of a finished product or wood component. Certifiers monitor corporate trade documents and systems to track certified products from the forest to the final point of product labelling. According to the FSC:

"Chain of Custody certification is an inspection and auditing process performed by FSC accredited certifiers (certification bodies). These audits verify that material handling, inventory, storage and manufacturing procedures ensure the segregation of certified and non-certified wood. Annual audits are performed to ensure that a company's quantity of products sold matches the quantity of raw materials purchased". (FSC Percentage Based Claims Policy of May 2000)

Chains of Custody can be described as being of two broad types: **exclusive** and **non-exclusive**. For exclusive CoCs, a certified company has the right to buy and sell only certified wood. Any non-certified wood in the company's ownership is a breach of their certification agreement. Companies that opt for exclusive CoC certification are those that have a guaranteed supply of certified wood that meets 100% of their volume demands. Exclusive CoC certificates

are granted with the understanding that there is zero risk that the company would buy non-certified wood.

In non-exclusive chains, a certified company has the right to buy and sell both certified and non-certified wood. Certification is granted after a certifier assesses whether or not the company has adequate internal tracking systems to minimize the risk of contamination when buying, transforming, labelling, and selling certified products. Certifiers review annual total volumes of certified wood that were bought, processed (with calculations using the manufacturing conversion rates), and sold as certified. Non-exclusive CoC companies are encouraged, but not mandated, to process products that will be labelled as certified in a batch “run”, where volumes are sufficient to prevent mislabeling or contamination beyond the allowed thresholds. According to the FSC Percentage Based Claims Policy, May 2000:

“All percentages stated in FSC rules, thresholds and labels can be calculated according to the batch system. The minimum percentage must be applicable to either a batch length or a production unit. The batch length may be varied to accommodate different industrial production process, on a case by case basis, however in all cases the length must be specified (for example 30 days). For continuous production systems, a batch length of 30 days is recommended. The batch length should not exceed 60 days except under exceptional circumstances approved by the Certification Body. For the product to carry the FSC Trademarks, the mean proportion of FSC-certified material in each batch, should never drop below the minimum threshold, calculated as the rolling mean (average) of the output. When using a batch system the product types must be equivalent in terms of quality or species”.

With non-exclusive CoCs, certifiers have the additional task of detecting contamination, in which non-certified wood is mixed with certified wood during the manufacturing process beyond the percentage-based claim threshold allowed under FSC rules. If contaminated products become falsely labelled as certified, it is a violation of the CoC certification agreement and would be grounds for suspension of the certificate.

Each CoC certified company receives a unique code (usually the initials of the certification body, the initials “CoC” and a three or four digit number). These codes are granted to each certified company. The codes do not refer to a certified product line, an individual shipment, or a certified forest source. Final products must display the CoC code of the CoC company which gave the product its final label. In most cases, this will be the CoC code of the secondary manufacturer. In rare cases, wholesalers⁵⁹ or even retailers may become CoC certified companies in order to re-label FSC certified products with their own CoC code.

A ‘false claim’ is one where a certifier’s or FSC’s logo or name is used on products which do not contain a minimum percentage of certified wood, or where non-certified companies use a certifier’s or FSC’s logo or name

in promotional material⁶⁰.

3. Problems with FSC Chain of Custody certification

3.1. Limits of the FSC system – an incomplete chain

In reality, the FSC system requires that monitoring be conducted for certified forest managers, primary manufacturers and secondary manufacturers that are responsible for final labelling of the product with that company’s CoC code. It is crucial to note that the required monitoring ends with the sales paperwork of the secondary manufacturer, even though the trade chain beyond secondary manufacturers may include many separate links of brokers⁶¹, wholesalers or distributors. Certification and supply chain monitoring is not required for retailers. Since certifiers are not required to monitor the purchasing documents of the non-certified wholesalers, brokers or retailers, the final links in the chain are not transparent to the certifiers or the FSC, let alone the public.

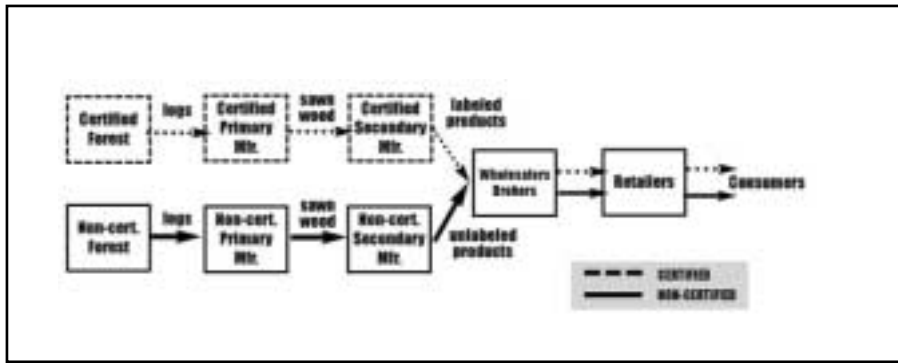
Although retailers do not require a Chain of Custody certification in order to sell FSC certified products, they may choose to become CoC certified or register directly with the FSC itself, either with a national representative or the international Secretariat. Such registration allows retailers to acquire an off-product code to be used in promotional materials, but not for re-labelling individual certified products. In this case, the FSC does not monitor non-certified wood products of the retailer. The minimal requirement for acquiring the right to use the FSC logo on promotional materials is simply possession of one receipt of purchase of an FSC certified product.

Non-certified forest management units, manufacturers, brokers, wholesalers and retailers are exempt from source monitoring. Thus, illegal wood laundered by non-certified primary manufacturers one “chain link” prior to being bought by a certified secondary manufacturer can pass unmonitored into the custody of non-exclusive CoC companies. The FSC has no mechanism to control this. Wholesalers and retailers are exempt from ‘source monitoring’, even if they buy and sell certified products⁶².

A further key limitation concerns what are defined as ‘controversial sources’ of timber. Under the FSC’s requirements, certified companies are not supposed to use wood sourced from High Conservation Value Forests, illegal sources, unknown sources, or forest conversion (i.e., clearance) operations. However, there is no agreed mechanism for CoC auditors to look back through the non-certified trade chain and determine whether timber has been derived from such sources.

3.2 Complexity of chains

Trade chains, from forest to retailer, frequently have many companies in each category of ‘forest managers’,



Note to figure: Boxes indicate categories of companies; dashed-line boxes represent COC companies which must receive certificates in order to sell certified product. Arrows indicate transfer of product from one ownership to another. Importing and exporting in an international trade chain could occur at any one of the arrows (sales event and/or transportation of product).

FIGURE 1: "EXCLUSIVE" CHAIN OF CUSTODY CERTIFIED COMPANIES IN THE TRADE CHAIN⁶³

'primary manufacturer', 'secondary manufacturer' etc. Complete chains can be extremely complex, occasionally involving hundreds of individual companies. In the 'exclusive' arrangement, CoC certified companies only handle and trade in products that are certified. This arrangement is illustrated in Figure 1 below.

Variations of this simplified structure are common - for example, where companies are vertically integrated, such that one company owns more than one step in the production process (i.e. state agencies may own forestry operations, sawmills and furniture production facilities). The risk of falsely labelled products should be low in exclusive trade chains, at least as far along the chain as the secondary manufacturer.

However, a vertically integrated corporate structure may buy raw logs, process them into products that are exported, imported and distributed to retailers without any change in ownership. Thus an entire trade chain may encompass only one owner, and thus only one CoC code. Vertically integrated companies could have an easy time hiding evidence of contamination and false claims, as volumes of certified wood bought, processed and sold are more easily manipulated within one ownership. It is difficult for auditors to determine whether or when non-certified wood was ever labelled and sold as certified if the paperwork is manipulated, as there is no selling and buying data elsewhere in the chain to cross-check a company's data⁶⁴.

Also, since wholesalers/distributors, brokers and retailers may be buying only a fraction of their total purchases from "exclusive" CoC companies, their promotional material should be closely reviewed for misleading claims. A one-off purchase from any CoC company would enable a buyer to gain permission from the FSC Secretariat to use the logo and FSC name on off-product advertisements.

Non-exclusive CoC certifications trade chains include non-certified companies as well as "non-exclusive CoC companies" (see Figure 2 below). These can buy both certified wood and non-certified wood, and sell both kinds of products. Such companies must demonstrate internal mechanisms such as batch processing to reduce risks of contamination, fraud in percentage-based claims for assembled products, or other false claims. At each arrow point in the diagram, dozens of transactions take place between companies in any given year. Certifiers must

monitor the volumes of certified wood, but are not required to monitor volumes of non-certified wood. Risk of falsely labelled products can be quite high in these chains, thus the need for extremely thorough audits by the certifiers.

As can be seen from Figure 3, there is a high risk that non-exclusive CoC chains can be used to launder illegally cut wood. For every grey double-line arrow point shown in Figure 3 (illegal wood), falsified source information, transportation permits or purchase documents are likely to be used. Tracing "laundered illegal" wood (black double line arrows) through the chain is extremely difficult, as there is no mechanism under FSC to monitor trade documents of non-certified companies or illegal sources. It should be noted that only three of the eleven categories of companies shown in Figure 3 would be monitored by FSC certifiers. The rest are monitored only insofar as government agencies monitor legality in trade. Risk of falsely labelled products in these chains is extremely high.

3.3 Lack of Transparency in the Trade Chain

Transparency of trade under FSC structures is poor. The FSC chain of Custody system works within the World Trade Organization's model of corporate "rights" to maintain strict confidentiality over trade information, including who bought and sold what volume to whom, at which price and on what date.

Under the current procedures, only certification bodies and the FSC Secretariat are allowed to review trade data by companies after signing a confidentiality agreement. The confidentiality agreements in contracts between CoC companies and certifiers stipulate that contracted assessors, auditors and certifier staff will not release any information to the public or government without prior company authorization. The only publicly available information is the company name, address, CoC code, and type of certified products for sale. There is no public information available on sources, volumes, names of suppliers or buyers, or percent of sales sold as certified. This effectively prohibits transparency to any party except the FSC Secretariat.

Even within the section of the trade chain that is monitored, different certification bodies can monitor

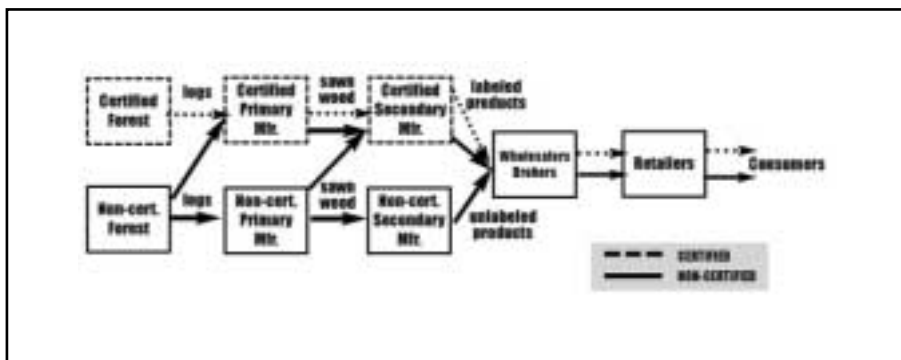


FIGURE 2: "NON-EXCLUSIVE" CHAIN OF CUSTODY CERTIFIED COMPANIES IN THE TRADE CHAIN

Note to figure: This diagram is simplified, but the many arrows indicate the minimal amount of monitoring work that would need to be done to determine which companies are buying laundered or unlaundered illegal wood. This diagram does not include illegal wood that has been confiscated by the authorities before being officially resold into "legal" trade

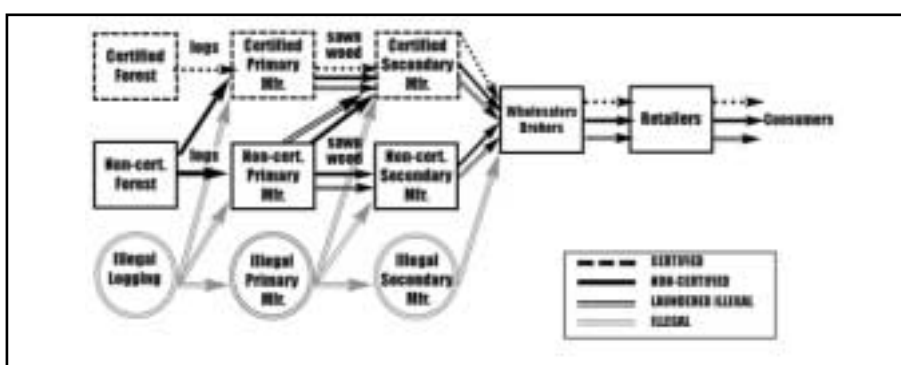


FIGURE 3: "NON-EXCLUSIVE" CHAIN OF CUSTODY CERTIFIED COMPANIES IN THE TRADE CHAIN

various parts of the chain, as companies are free to choose their certifier. Though FSC certification bodies have agreed in principle to share information, it is unclear to what extent certifiers will share meaningfully detailed information with each other, since this violates their contract with the company not to release trade data. Evidence of fraud is thus unlikely to be discovered. If it is discovered, there are much stronger incentives for certifiers not to react than for them to react forcefully enough to enforce compliance and address fraud.

In practice, civil society monitoring of the CoC system is also low to non-existent.

3.4 Incentives for abuse

As shown in Table 1, below, there are strong incentives for the laundering of non-certified and illegally felled wood through certification chains. The comparison of benefits shown in Table 1 suggests that, even if no price premiums for certified products exist anywhere along the trade chain, laundering of illegal products into the trade chain continues to generate profit. The financial incentives for false labelling could easily outweigh the risks of being caught by a certifier. This situation would be compounded if the certifier is lax in the annual audit, or suffering from a conflict of interest in suspending CoC certificates. Economic incentives for both behaviours by certification bodies are intrinsic to the FSC system in its current form.

All FSC certifiers are at high risk of one or more of these failures, and at low risk for being caught, due in part to lack of adequate monitoring on the part of the FSC Secretariat, as discussed below.

3.5. Institutional insufficiency of the FSC Secretariat

The FSC Secretariat is responsible for keeping certifiers 'honest and diligent' in their Chain of Custody monitoring. However, to date it has rarely reviewed Chain of Custody reports or decisions. Obscured or ignored evidence of false claims and/or fraud can easily go unnoticed. Though the FSC Secretariat has employed one dedicated staff person to monitor logo use by CoC companies and police the certifiers, the volume of work is far too much for one person. One full-time person per country producing and selling FSC products would likely be needed to adequately monitor the certifiers and the companies.

In the current certification brand competition, there is an unspoken incentive for FSC to be lax in policing misleading claims in retailer statements, brochures, catalogues, advertisements and product labels. Misuse of the FSC logo could thus actually benefit the FSC by offering the coveted publicity and endorsement by major corporations to members of the public, that are unlikely to recognize a false claim when they see one. The risk of laxity

TABLE 1: INCENTIVES FOR LAUNDERING ILLEGAL WOOD AND MAKING FALSE CLAIMS, RELATIVE TO PRICE STRUCTURES FOR LEGAL (NON-CERTIFIED) AND CERTIFIED PRODUCTS

Status of wood upon purchase	Claim when sold (validity of claim in parentheses)	Relative price, if certified product gains a price premium	Relative price, if certified product does not gain a price premium	Is there an obvious financial incentive to make false claims regarding the source or status of the wood?
1 Certified	Certified (true)	High	Medium	No
2 Certified	Legal (true)	Medium	Medium	No - financial loss
3 Legal	Certified (false)	High	Medium	Yes
4 Legal	Legal (true)	Medium	Medium	No
5 Illegal	Certified (false)	High	Medium	Yes - highest profit
6 Illegal	Legal (false)	Medium	Medium	Yes
7 Illegal	Illegal (true)	Low	Low	No

Note to Table 1: This model assumes that if there is a price premium paid for certified products (third column), then certified products will sell at a "high" price, while non-certified legal wood would be "medium" and illegal wood would be "low". Laundered illegal wood sold as legal could fetch a "medium" price. Laundered illegal wood falsely labelled as certified would fetch the "high" price, thus resulting in the highest profit margin. Legal wood falsely labelled as certified would fetch a medium profit margin. This model refers to only one buying event and one selling event along a chain. As chains have multiple sales events, this model would have to be reconsidered for each transaction. The risk of being caught and economically punished for false claims is also not considered here.

of independent third party monitors will be assumed to be extremely low, especially since the monitors are accredited and audited by an organization with membership of hundreds of environmental and social organizations, which are assumed to be playing an effective role as 'watchdogs'.

There is also a conflict of interest for many of FSC's members who have been promoting FSC certification as the ultimate package of environmental and social requirements for forestry companies. If FSC Chain of Custody certificates and trademark on products turns out to be untrustworthy, there is widespread anxiety within the membership that the only thing left to point industry towards will be even weaker "certification" systems.

3.6. Institutional insufficiency of the certifiers, and conflicts of interest

Certification bodies have inadequate capacity to monitor highly complex trade chains, especially those laundering large volumes of illegal wood. To date, there are not enough trained personnel in countries producing FSC products to rotate responsibilities among many individuals and thus reduce certifier failure. The easiest way for a chain of companies to outwit their monitors is to agree amongst themselves what the "official" volumes of certified wood could be, and manipulate the paperwork to that level, including individual transactions as well as annual composite data. Actual labelling of products can easily exceed this agreed upon volume. Only the retailers would be the wiser. Considering that many large retailers do not have centralized tracking of their own purchases, it becomes even more difficult to verify false claims at the retail level.

In order to keep client costs down, auditors spend the minimum needed time reviewing trade data of a certified company, enough to come up with convincing volume figures for the annual report to the certification body and the FSC. Serious trade chain monitoring would take far more work hours than can be provided by one or two auditors per region, or per trade chain. Experienced timber

buyers know that credible monitoring would be extremely time consuming, but are unlikely to lobby for increased monitoring, as the costs of complete trade chain monitoring would be passed on to certified companies, and would result in increased costs to their businesses.

Certification bodies also suffer an inherent conflict of interest in policing CoC certificates, as they are expected to challenge violations of laws and/or FSC rules by companies that are current or potential clients. In theory, if a certified manufacturer is found to be using illegal wood, the certification must be suspended. Any strong reaction by a certifier, such as suspension or the certificate and/or reporting to the relevant authorities risks loss of current or potential clients, including in some cases, to a competing certifier. Unless evidence of illegal activity has already been suspected or discovered by some other party, certifiers have little incentive to expose it.

In cases where watchdogs hold little power, certifiers would clearly prefer to maintain their client base rather than enforce the standards beyond the level of their competitors. Obfuscation of information is, of course, easy due to confidentiality clauses in the certification contracts. No one but the FSC Secretariat has the right to review what didn't get analyzed and documented in the monitoring reports. In practice, certifiers have a strong interest in not suspending or cancelling certificates.

4. Conclusions

The tool of independent third-party monitoring of trade chains in their entirety could be a useful one. Closely monitored trade, in theory, should become more law-abiding and publicly accountable as transparency is increased according to established standards.

Proponents of certification argue that as certified wood volumes increase over time, more companies, including retailers, will become "exclusive". Both non-certified and illegal wood, it is hoped, will be squeezed out of the market by demand for certified products. However, after years of exponentially-increasing numbers of certified manufactur-

ers, most of which are non-exclusive, there is no data to indicate that non-exclusive companies are becoming “exclusive”, or that levels of non-certified or illegal logging are declining. There may be more certified products on the shelves, but as there are more shelves and ever-increasing numbers of consumers, demand for non-certified and illegally logged wood will continue to undermine voluntary market mechanisms for sustainable forest management and forest conservation.

Buyers who prefer certified products to non-certified are more likely to use market access as the stated incentive for their suppliers to receive certification, rather than price premiums. However, as long as less scrupulous buyers are accessible and buying at reasonably competitive rates, market access will remain a weak incentive for producers to expose themselves to the costs, hassles and risks of gaining - or losing - certification.

Voluntary certification does not reduce illegal logging outside certified forests. Certification may even increase (illegal) logging in or around certified areas (as is suggested in Case Study 4 in this report) because the financial incentive exists to increase the volume of wood sold as certified. Thus over-harvesting may happen within certified areas if enforcement of rules is weak. Alternately, illegal logs from outside certified units may be added to certified logpiles⁶⁵.

Voluntary standards that go beyond legal requirements are not likely to be adopted by the least scrupulous members of the private sector. Thus FSC’s system is not able to reduce levels of illegal logging at the broadest levels - governments and civil society groups have played far more meaningful roles in this.

5. Recommendations

5.1 Recommendations for the FSC

The Forest Stewardship Council should, at a minimum:

1. Do away with the Non-exclusive Chain of Custody certification option in trade chains that have been found to either falsely label legal wood as certified, launder illegal wood into the legal chain, or falsely label illegal wood as certified.
2. Require all aspects of the trade chain to undergo independent third party monitoring, including retailers. Information regarding names of suppliers and volumes traded should be publicly accessible information. Price premiums should be monitored and a mechanism devised to share premiums among certified companies.
3. Strictly enforce the ‘controversial sourcing’ rule at all points in the trade chain, including retailers.
4. Do away with confidentiality agreements for all CoC certifications, and encourage civil society and governmental monitoring of trade chains.
5. Require certifiers to notify law enforcement agencies if any illegal activity is suspected in a client’s operations.
6. Closely scrutinize all certifiers for strict enforcement of

CoC rules, including sharing of detailed trade data with other certifiers involved in the monitoring of a trade chain.

7. Punish companies issuing false claims by taking full legal action as well as publicly prohibiting certification for at least two years.

8. In trade chains known to be laundering illegal wood, the FSC should establish credible procedures for certification bodies to rigorously monitor legality of non-certified wood back through entire trade chain, especially all non-certified forest sources and non-certified primary manufacturers.

5.2 Recommendations for international policy makers

International policy makers and advocates should:

1. Promote comprehensive and mandatory regional-level auditing and verification systems of all companies in illegal logging ‘hotspots’. Avoid promoting or endorsing any system of voluntary partial or full certification of legality at the forest management unit level independent of the full set of FSC Principles and Criteria.
2. Insist upon transparency in the trade of wood products, especially from trade chains known to use controversially sourced wood (unknown, illegal, or non-certified High Conservation Value Forest sourcing). Minimum transparency must include public rights to review individual business transactions between legally separate entities, specifically to review volumes of wood products traded, by species.
3. Develop mechanisms to engage civil society in trade monitoring.
4. Reject confidentiality clauses in the contracts of timber trade auditors and monitors.
5. Establish national and international binding governmental initiatives to tackle and eliminate illegal logging and trade in illegally logged products at a regional level, starting in known illegal logging hotspots. Control of illegal logging cannot be done on a voluntary company-by-company basis, but rather needs to be tackled comprehensively at a regional level using legal tools, including the authority to impose fines and other penalties. Furthermore, the availability of illegally logged forest products on the market directly undercuts the competitiveness of forest products from legal, well-managed sources. Therefore, it is essential that governments work to eliminate illegally logged forest products from international trade if well-managed forests are to become competitive.

5.3 Recommendations for civil society

1. Wholesalers that use the FSC name and/or a certifiers name without use of a CoC code should be reported to the FSC or the certifier in question. It is possible that the wholesaler received permission, but the availability of certified product should be double-checked with the certifier.

2. Misleading claims can be checked by simply going into any store advertising FSC products, and counting how many products are individually labelled with the CoC code of their secondary manufacturer. If none, the retailer is guilty of using misleading claims regarding the availability of FSC products. Its name, address, and contact information should be reported to the FSC Secretariat in a public letter of complaint, along with a copy of the advertising material⁶⁶.

Case Study 6

Canada: a comparison of FSC processes in British Columbia and Ontario

Russell Collier

Main issues identified

- Disregard by FSC Secretariat for on-going multi-stakeholder standards-setting processes.
- Lack of awareness by FSC Secretariat, or concern for, policy context

1. Summary

This case compares the very different approaches taken by the FSC in the Canadian regions of British Columbia (BC) and Ontario. It contrasts the stakeholder-driven British Columbia Regional Initiative with the ‘top-down’ approach taken by the FSC Secretariat and provincial government of Ontario. It assesses the role in each of these initiatives of the various levels of the FSC. It finds that, on the one hand, the development of the FSC process in BC has carefully maintained multi-stakeholder representation, but in the case of Ontario, untimely and ill-considered intervention by the FSC Secretariat risked jeopardising the regional FSC processes.

2. Background to the FSC in Canada

As one of the world’s largest producers of forest products, the development of the FSC in Canada could play an important role in the success or failure of the entire FSC project. The formal launching of the FSC took place in Toronto, and Canada now has by far a larger number of FSC members than any other single country. Perhaps tellingly, well over half of the Canadian FSC members are represented in the economic chamber⁶⁷. Despite this strong association with the development and membership of FSC, actual certification in Canada has been relatively limited; by April 2002, a total of 980, 572 hectares of forest had been certified, in only 11 different forest management units, one of which accounted for 87% of the total certified area. This perhaps indicates that much Canadian forestry is, as yet, far from being certifiable.

The FSC Canada process was started with the creation of an FSC Working Group in 1996. As well as fulfilling the usual functions of such national working groups, FSC Canada also assumed responsibility for “*developing FSC regional standards with the various regional initiatives*”. Due to the size and diversity of Canada’s forests, it had been decided that a number of different regional (or ‘sub-

national’) standards were required, including in the Maritimes region, the British Columbia region, the Ontario Boreal pilot project, and the Great Lakes-St. Lawrence region. In addition, a general process to define National Boreal Forest standards has been commenced. The Maritimes regional standards were approved by the FSC International Board in December 1999, whilst all the other standards were still under development at the time of writing of this case study⁶⁸.

Alongside the usual three FSC chambers, Canadian FSC processes and bodies have adopted a fourth, representing specifically indigenous peoples. This recognises the indigenous peoples’ (First Nations) unique rights regarding land claims and treaty-making and their continued dependence on, and knowledge of, forest lands. The involvement of indigenous peoples has thus generally been encouraged by FSC Canada.

3. The British Columbia Experience

Forest politics within the province of British Columbia (BC) are among the most wildly divergent and fiery anywhere in the world. There have been decades of serious conflict between environmentalists, forestry industry and First Nations, notably (but not exclusively) in the coastal rainforest regions of British Columbia. Considerable

BOX 1: FSC-BC Regional Initiative

“The purpose of the FSC British Columbia Regional Initiative is to develop and maintain internationally recognized and approved regional certification standards, to encourage forest management in British Columbia that is ecologically, economically, and socially sound, through a fair and transparent process that protects the integrity of the policies and guidelines of FSC International. FSC-BC also assists with the implementation of regional standards in BC by:

- Ensuring that the rights and interests of indigenous peoples are recognized in certification initiatives;
- Promoting the involvement of local and regional interests in the development and periodic refinement of regional standards;
- Cooperating with other groups to promote awareness and understanding of FSC certification in British Columbia;
- Monitoring the work of accredited certifiers in British Columbia;
- Promoting the use of certified wood in British Columbia;
- Encouraging forestry operators in BC to pursue FSC certification.

Source: FSC-BC web-site

preparatory work and fund-raising was thus necessary to set the stage for the BC Regional Initiative's Standards-writing process. As with FSC Canada, the FSC-BC Regional Initiative was set up to contain an extra chamber specifically to represent indigenous people. The BC Regional Initiative has benefited from the earlier experience of the Great Lakes-St Lawrence regional initiative and has ensured that the representation of indigenous peoples rights, as well as the involvement of other local and regional interests, figured prominently its 'mission' (see Box 1 below).

In common with other national and regional initiatives, the writing of the first draft of the FSC-BC Regional Initiative Standards was completed entirely by volunteer effort. This was no trivial undertaking, and happened from FSC-BC's

inception in 1996 through 1999. An immense amount of negotiating over interpretations of the international FSC P&Cs had to occur just to get to a stage where an acceptable first draft was available, which occurred in May of 1999.

Diverging from most other FSC Standards-writing processes, the FSC-BC group decided to raise sufficient funds to hire a representative set of contractors to take draft 1 and revise it to reach draft 2. Two people representing each of the four chambers were selected, with some care taken to find eight people who were truly diverse in their skills, political affiliations, and experiences. Once sufficient funding had been raised, a very intensive stage of

BOX 2: Workshop on Principle 3

A workshop on Principle 3 was held in Vancouver on June 6th 2000 which hosted First Nation leaders and key First Nation thinkers familiar with forestry issues in British Columbia. The objectives of the workshop were to:

- provide participants with information about FSC certification and in particular about the relevance of FSC certification to the needs, concerns and issues of First Nations in B.C., as well as to explore the opportunities certification can create for positive partnership between First Nations and FSC certification applicants;
- examine Principle 3 in detail and to solicit input from First Nations on the key issues and concerns that the specific regional standards for BC must address;
- clarify the meaning of some key terminology in the FSC Principles and Criteria such as "prior informed consent", "compensation" and "traditional knowledge" in relation to the language used in other international documents, and;
- obtain advice and guidance on how FSC-BC should go about obtaining both additional input on the development of these standards and greater involvement in FSC-BC activities generally by First Nations throughout BC.

BOX 3: Recommendations from the FSC-BC's Legal Memorandum include:

To conform to the principles of international law and provide a fair and meaningful interpretation of Principle 3, the [BC] regional standards setting process should:

- Use an expansive definition of "lands and resources" that conforms to the definitions in ILO Convention 169 and the UN Draft Declaration on the Rights of Indigenous Populations;
- Reflect that Principle 3 sets a higher standard than does domestic law in Canada because it shifts the onus away from [indigenous] peoples to prove their rights;
- Ensure that the certifiers don't simply assume that the existence of a treaty process in British Columbia and a set of elaborate consultation guidelines means that domestic law is being conformed with;
- Insist that the BC [Ministry of Forests] consultation guidelines do not be used to establish the threshold for Principle 3;
- Require that Indigenous control of their lands and territories be through formal co-management agreements that are not merely elaborate consultation guidelines;
- Be vigilant in ensuring the "informed consent" is actually acquired.

BOX 4; FSC regional standards vs. interim standards; the Timfor example:

It seems very clear from experience in the BC that open and inclusive standard-setting processes are required in order to ensure that indigenous peoples' aspirations are seriously taken into account, by the recognition of - and respect for - Aboriginal title and rights. Worries that certifiers will endorse forestry operations in BC without proper attention being given to the actual implementation of Principle 2 and 3, and before the regional standards have been finalised, have been repeatedly aired by Aboriginal representatives. The Timfor certification undertaken by SmartWood is a case in point, where Aboriginal rights have been treated with very limited understanding on the part of the certifier.

According to the Shuswap Nation Tribal Council member, Chief Cherlyn Billy:

"FSC, in apparent violation of Principles 2 and 3, certified a company called "Timfor" operating on the BC coast. Timfor does not have a long-term tenure, and with respect to Principle 3, according to our information, the "Certification Report" acknowledges that "at the time of assessment there is insufficient evidence that the appropriate First Nations have granted free and informed consent". Yet the certifier involved awarded the certificate with a condition that:

'Within 1 year of the issuance of a certificate, Timfor shall develop or participate in developing and shall have begun implementing an effective process for consultation, interaction and dispute resolution, regarding First Nations involvement in forest management and the sharing of management benefits'.

This is a direct violation of Principle 3 and if it had occurred within our Secwepemc traditional territory, we would have appealed this certification immediately upon learning of it. You can be sure that our Tribal council will definitely not accept the Timfor Certification as a precedent within the BC region".

(Presentation to the FSC Annual Conference, 2000).

Based on the very limited experience FSC certifiers have with actually dealing with Indigenous Peoples and land tenure, Chief Billy added that:

"... we are fully aware FSC certifiers have little or no experience with Indigenous land tenure and rights. This is why we are diligently working at the regional and national levels in Canada in order to accelerate the development of standards for the interpretations and implementation of FSC Principle 3".

It is clear that, if certifiers are allowed by the FSC to certify areas where there is even significant doubt as to whether or not "free and informed consent" to the forestry operations has been granted by indigenous peoples, then FSC Principle 3 will be seen to be virtually ineffective. Certification in indigenous areas could thus prove to be counter-productive to the promotion and securing of indigenous rights, instead of promoting and enforcing such rights through proper standard setting and consultation processes.

work ensued, continuing from January of 2000 through March of 2001.

The group decided to take a highly technical approach. First, they set the nomenclature, or classification system for writing a good set of standards, and agreed on a decision-making process. Agreement was also reached on a definition of 'qualified experts' if any were required for specific parts of their work. A number of focussed consultative workshops were held to convene provincially recognised experts on a variety of topics. Every sentence in the FSC's 10 Principles and 56 Criteria was closely analysed, and text devised to satisfy each part of them. This culminated in what is now known as the 'May 28, 2001' release of the standards⁶⁹.

There are several useful lessons that can be learned from the FSC-BC process. Setting the nomenclature rules for drafting text meant that a consistent product could be accomplished, despite the diverse multi-stakeholder input. Examples of rules set included setting the structure and the language, and defining what would constitute major failures, as well as providing a glossary, endnotes and appendices. Agreeing on the qualifications of experts meant that the quality of advice received would be high. Experts on riparian management, for example, were consulted to help in drafting portions of Principle 6. Workshops were convened to aid the drafting process in Principles 3, 4/5, and 9 (see Box 2). These were critical in reaching consensus on the translation of the FSC's general P&C into regionally appropriate standards.

The level and quality of consultation in the BC process, in general, was quite high. Not only were a lot of people made welcome to participate in this process, their issues and concerns were actually incorporated wherever possible into the drafting. Groups usually excluded from decision-making processes, such as First Nations, were actively sought out and brought together. Indigenous people had a direct say in both content and scope of BC's draft standards text. In the process, the BC working group also commissioned, in early 2000, a legal memorandum with regard to the application of Principle 3, which was finalised in early June the same year. The recommendations from this legal memorandum were then used as a basis to draft "indicators and verifiers" for Principle 3 (see Box 3).

From the current public release of the draft standard, consultations and receipt of comments on specific portions of the draft continued through summer of 2001. Commencing in September, 2001 through to the present, a third draft of the BC draft standards is being negotiated and a final draft will be released sometime in 2002. In addition to the actual standards, all the related methodologies and a chronicle of the process are available to the public⁷⁰.

4. The Ontario experience

4.1 Background

The evolution of FSC in Ontario was markedly different from the process in BC. The province of Ontario

includes several distinct and diverse forest types. The setting of FSC standards for the province has thus been covered by two separate processes, those for the 'Great Lakes-St Lawrence Region', and for the 'Boreal' region in northern Ontario.

The Great Lakes-St Lawrence Regional Initiative was begun in early 1997. The work accomplished by this group was due largely to the efforts of many volunteers, and very few staff. Though much has been achieved in this effort, final approval of these draft standards is still withheld until adequate consultation with, and input from, Ontario's affected First Nations has been completed.

The Boreal Ontario Regional Initiative process was started in the fall of 1999 and will benefit from both the Great Lakes-St Lawrence and the BC regional experiences. It is intended that it will be well-resourced, transparent and fully inclusive. Strong direction from FSC Canada has required specific elements be included as a foundation for the process. These include recommendations from FSC Canada's National Boreal Strategy, some of which are that the process:

- Secures strong Aboriginal involvement in standards development;
- Ensures that local level input is retained;
- Considers the most recent ecological, social and economic research and criteria and indicator studies for the boreal forest;
- Guarantees that all regions and chambers have equal input despite inherent inequities;
- Has effective communications and mechanisms for feedback.

4.2 The great Ontario "Surprise"

This promising start was suddenly jeopardised when, on March 23rd 2001, it was announced by Ontario's Minister for Natural Resources, John Snobelen, that Ontario would be the "First in the world to receive environmental certification". The Minister's office issued a press release which included claims that the Minister had, along with Dr. Maharaj Muthoo, Executive Director of the FSC Secretariat in Oaxaca, "initiated a bilateral process that will result in FSC certification of all Crown-owned forests managed in compliance with Ontario law and the products derived from those forests". The release went on the claim that this was "the first FSC certification of its kind in the world" and that "FSC recognizes that wood harvested on Ontario Crown lands will bear the FSC trademark". It further claimed that "FSC will tell the world that the Ontario government has worked with all the stakeholders to ensure that our standards are met". The release quoted FSC's Executive Director as stating "This will serve the forestry companies very well in Ontario by meeting world standards through our certification process". The press release bore the names and contact details of both the Minister and James Sullivan of the FSC Secretariat.

The Minister's news release was apparently issued with minimal communication with FSC Canada. However, a release issued by FSC Canada three days later confirmed that a staff person had been present at a meeting in Oaxaca between the FSC Secretariat and the Minister when the agreement between the two had been reached, and upon which the Minister's announcement was based. It confirmed that *"an understanding was reached to schedule a set of follow-up bilateral meetings and a process to achieve a formal agreement in April (2001). That agreement, if possible, should lead to certification of all crown lands in Ontario"*.

The press statement from FSC Canada also clarified the nature of the agreed follow-up work, including that:

"Staff from FSC International and Canada will work with the Ministry staff to evaluate Ontario's legislation, regulations and procedures and prepare a public report which details all of FSC requirements, including requirements for certification bodies, group certification systems, the Principles & Criteria, and draft standards for both the Great Lakes/St. Lawrence and the Boreal [region]. The public report will include a list of changes that must be implemented before the usual certification process could proceed, including the necessary consultations".

This announcement was greeted with shock, disbelief and anger by many involved in the FSC process, not only in Ontario, but in Canada more widely, and internationally. The agreement, as announced, would effectively by-pass the agreed national and regional FSC multi-stakeholder processes, as there had been no prior consultation with any stakeholder groups whatsoever. It appeared that FSC Oaxaca was going to grant certification to the entire province of Ontario without requiring the government to follow established procedures. Many of those who reacted with dismay were themselves already committed to their own FSC Regional Initiatives or were members of the Boards of FSC Canada or FSC International.

On April 3rd, a further News Release was issued by the FSC Secretariat, in an attempt to clarify the situation. This stated that:

"We believe that the recent commitment by Ontario to pursue jointly with FSC the certification of Ontario's forests is most promising for the future of responsible forestry throughout Canada, but it is important to look at the details."

The details are these: Ontario and the FSC have agreed to a joint commitment to review Ontario's forest audit processes and forest regulations in the light of FSC's certification system and the FSC Principles and Criteria. "Hopefully this will lead to a more formal agreement," said Dr. Muthoo, "whereby Ontario's forests could become eligible for FSC certification, but we are not there yet."

"This development holds tremendous potential, both for FSC and Ontario, but it does not imply any "mutual recognition" or advance approval. It does not guarantee eventual certification or guarantee the acceptance of the Ontario provincial government's regulations as permitting FSC

certification without the normal and complete assessment and inspection by independent FSC-accredited certification organizations. Furthermore, FSC Regional Standards remain the backbone of the FSC process in Canada, particularly the active participation of members in each of the four chambers: social, indigenous peoples, environmental, and economic."

On April 23, 2001, one month after the Minister's initial announcement, FSC Canada issued a further news release (see Box). This stated that a Special Advisory Committee would be set up to oversee a review of Ontario's forest audit processes and forest regulations against the FSC certification system – what has subsequently been termed a 'gap analysis'. A former FSC Oaxaca staff person was assigned to do the initial work, which was later taken over by a Special Advisory Committee. Some of the language used to describe steps in this process was muted, so that Environmental NGOs, First Nations and individuals involved in FSC processes were not so clearly excluded. Since this release, the analysis has been completed, and at the time of writing this report was being reviewed, but has not been made publicly available.

4.3 Outcomes and implications of the 'Ontario Surprise'

The later 'clarification' issued by the FSC suggests that the whole unfortunate incident may have been due to mis-understanding and mis-communication between the FSC Secretariat and the Ontario government, as well perhaps as a degree of political opportunism on the latter's part.

Nevertheless, the 'fallout' was serious, and could have jeopardised not only the Ontario process but also other regional initiatives. The Steering Committee and Standards Team of the FSC-BC Regional Initiative were at a critical moment in the evolution of draft standards, literally at the point of the Standards Team handing Draft 2 over to the FSC BC Board of Directors, when they learned of the Ontario deal. Fifteen months of very hard work were seemingly rendered obsolete by the announcement, for if Ontario could sidestep its own regional processes, then surely British Columbia would not be far behind. Within hours of Mr. Snobelen's press release hitting the news and e-mail networks, a representative of the BC government was already pursuing a similar private arrangement with Oaxaca, despite there being a highly publicised and well-established FSC presence in this province. At least one representative to the Boreal Ontario standards development process quit out of frustration at the apparent usurpation of FSC by the Ontario government.

There is also evidence that some staff within the FSC Secretariat and FSC Canada were aware of the dangers and inappropriateness of the course they were following, but decided to pursue it regardless. It was only after the depth and breadth of anger to this initiative became apparent

that ameliorative steps were taken. In particular, insights into the FSC's true motivations can be gained from a 'Questions and Answers' sheet", which appears to have been prepared on March 23rd, in order to help deal with the numerous enquiries and complaints that were generated by the Minister's announcements and subsequent developments⁷¹. For example, the question and answer sheet says:

Q: It sounds like FSC has signed a mutual recognition agreement compromising its principles and criteria. Why are you doing that?

A: FSC will not compromise on its principles and criteria. To the contrary, FSC and Ontario have initiated a rigorous process with the confidence that it will result in certification of the Crown-owned forests".

It has to be noted that the 'answer' sidesteps the main part of the question dealing with mutual recognition, and instead concentrates on the "compromising principles" part; it falls short of actually denying that the intention was to proceed with a mutual recognition agreement.

The sheet also reveals that forest industries had been involved in the negotiations:

Q: Have the forest industries agreed to this? And if so, why?

A: Leaders of the Ontario Forest Industries Association and the Ontario Lumber Manufacturers Association were present during the discussions and support this agreement. I am sure that they will be more than willing to provide their views on the advantages of this agreement to their members" (emphasis added).

It should be noted that the participation of forest industry representatives had not been revealed in any of the previous announcements by the Minister, by the FSC Secretariat, or by FSC Canada. This suggests that all those involved in the agreement were aware that this 'one-chamber' participation broke one of the fundamental operating principles of the FSC, that of the equitable involvement of all stakeholders in decision-making processes. That there was expected to be disapproval of the initiative from other stakeholders groups is clear from another of the 'questions and answers', which read:

Q: What objections do you anticipate from the Environmental NGOs?

A: We would hope that the ENGOs would see this as a significant achievement in furthering FSC's goals of promoting environmentally responsible as well as socially beneficial and economically viable management of the world's forests".

The expectation that environmental NGOs would 'see the benefits' of the initiative demonstrates the lack of genuine concern that was being shown for other stakeholders' views. The Boreal Ontario process has a series of directives built into it that require significant First Nation participation right up at the front of its activities. Nevertheless, the FSC didn't actually ask any environmental NGOs how they viewed the initiative, and it is well known that both NGOs and First Nations have been insist-

ing for years that Ontario's legislation is seriously flawed. First Nations, in particular, deeply mistrust any government-led consultation process, due to their long experiences.

The question and answer sheet was not released publicly. The primary impression conveyed by it is that of confidence by the FSC that the entire province of Ontario would, as a matter of course, become certified. The appearance was thus that the government of Ontario and the FSC Secretariat had already decided the outcome in an agreement between the two of them, without ever involving local Ontario people in the decision. As a result of this, at the least, the FSC Secretariat has lost some credibility with NGOs and First Nations across Canada.

4.4 Motives and 'mistakes'

This all suggests that the later statements from the FSC were indeed forced by the strength of opposition and concern that had been voiced following the announcement of the initiative – and in the absence of which the FSC Secretariat may well have envisaged that it would proceed with its bilateral initiative, to the exclusion of other stakeholders. It could thus be important to understand how this situation could have arisen in the first place, and who exactly was involved in it.

It seems clear that the Ontario Minister wanted "mutual recognition" between FSC Standards and Ontario's legisla-

BOX 5: FSC Canada Press release on Certification of Ontario Crown Lands

"Update on Ontario Certification Review" - April 23, 2001

ONTARIO AND FSC HAVE AGREED TO A JOINT REVIEW OF Ontario's forest audit processes and forest regulations against the FSC certification system Principles and Criteria and regional FSC standards under development. The results of this review will culminate in an FSC/OMNR Report, which hopefully will lead to a more formal agreement whereby Ontario's forests could be eligible for FSC Certification.

In cooperation with FSC International, FSC Canada is assisting in the management of the system reviews while respecting the ongoing work of the Great Lakes-St. Lawrence and Boreal Ontario regional standards development processes.

To ensure that the review fulfils its overall objectives in a responsible and timely fashion, FSC Canada has appointed a Special Advisory Committee to provide input to FSC Canada on future action plans and implementation steps required for certification of Crown lands in Ontario. The FSC Canada Special Advisory Committee appointees are: Maureen Kershaw, consulting ecologist, Sudbury, Russ Hughes, registered professional forester, Bowater Canada Inc. Thunder Bay and Dr. Deborah McGregor, Whitefish River First Nation, Instructor, Aboriginal Studies, University of Toronto.

FSC Canada and OMNR have also agreed to three separate reviews of the FSC/OMNR Report. One will be conducted by the FSC Canada Special Advisory Committee, and the others will be independent reviews conducted by Tom Clark, consulting biologist, Bracebridge and Dr. David Balsillie, Faculty of Forestry, University of Toronto.

In addition, FSC Canada and OMNR have confirmed that the FSC/OMNR Report and reviews will be made available for a thorough public comment period to be initiated in May 2001."

tion, which would obviate the need for either Great Lakes-St Lawrence or Boreal Ontario standards to be further developed or applied. There has been speculation that Mr. Snobelen's sudden announcement had more to do with the then-impending expiry of the US-Canada Softwood Lumber Agreement than a sincere desire to adopt FSC standards. Certainly, the timing was right, as FSC certification could have been seen as a means of retaining market share in the face of stiffer competition – and reduced profit margins – in the Canada-US lumber trade.

The FSC international Board appears not to have known of the agreement until the announcement had been made, upon which it began its own process of investigation, led by Dave Nahwegahbow, a Canadian member of the international Board. The Ontario initiative appears to have been fully supported by the FSC Secretariat, particularly James Sullivan, who was identified as the contact point for enquiries about the initiative. Sullivan was also delegated the task of creating a document that would *“be sent shortly to all FSC members in Canada addressing the concerns raised in relation to this issue”* (though this document seems never to have materialized). Dr Muthoo, the FSC Executive Director at the time, clearly was also supportive, in so far as he was quoted in the press release issued by the Minister's office⁷². However, in later correspondence, Dr Muthoo also described himself as ‘flabbergasted’ that there had been no consultation with the FSC international Board, but noted that he had been away from the Secretariat's office in the two weeks prior to the meeting with the Ontario Minister, with the suggestion that the appointed ‘Canada focal point’ staff member (James Sullivan) had been responsible for any inadequacies in process. Dr Muthoo also noted that the Minister's announcement had been ‘hasty and poorly worded’⁷³.

It appears that not only had other members of staff, and the Boards of FSC international and Canada not been informed, the one person who clearly *did* know and could be held accountable was busily blaming someone else. FSC Canada staff had already committed time and resources to regional processes across Canada, and particularly in Ontario. When questioned about the response of certain FSC-Canada board members when they were eventually informed, a staff person said that they were *“very upset”*. The reaction of the environmental and social chambers was said to range from *“surprise to horror”*.

5. Conclusions to the case study

Through the use of focussed and effective consultation, as well as open, transparent and inclusive processes, the BC Standards Initiative could serve as a model for the writing of national/regional standards. In contrast to the BC example, the approach taken in Ontario from March 2001 was led by the FSC Secretariat and the Ontario provincial government, who directly settled issues among themselves, going above the head of all relevant stakehold-

ers as well as the entire complex of well-established FSC initiatives in Canada. The Snobelen announcement nearly derailed the BC process, which was at a critical phase in its own standards development.

A feature of the overlapping responsibilities of the FSC Secretariat, FSC Canada, and the regional initiatives has been that the closer one gets to the actual standards-writing process, the more explicitly do the organisations declare themselves accountable to definable populations. However, the lack of clarity in defining the roles and responsibilities at each level of FSC organisation has also been the cause of considerable confusion and mistrust.

The ‘deal’ between the FSC Secretariat and Ontario appears, as a result of pressure from FSC members and participants, to have been modified to the extent that the ‘gap analysis’ report and recommendations from the FSC Canada Special Advisory Committee, as well as reference to the regional initiatives, will help guide the next steps. But those next steps are, at the time of writing, still not clear. There has never been a definite statement from the FSC Secretariat that it will not pursue mutual recognition with the government of Ontario. At no stage has any justification or explanation been given by the FSC as to why negotiations were undertaken with only the participation of the Ontario forest industry, rather than all stakeholders.

Bypassing established procedures, and thus severely limiting the possibility of participation from the most marginal stakeholder groups, in order to secure an unusual certification, was not a good precedent for Ontario or Canada. Any special agreements between a government and FSC should have been scrupulously scrutinised by the FSC international Board before any decisions were taken or public announcements made.

If it is the case that the Ontario government was indeed motivated to seek rapid FSC certification by the expiry of the softwood lumber agreement, then it demonstrates the FSC's weakness in assessing the wider policy context of its initiatives. The sense of urgency attached to the rapid expansion of the area of FSC-certified forest may have tended to cause FSC staff and officials to disregard policy conditions that would otherwise give serious reason for caution or scepticism.

The two established Ontario FSC processes, the Great Lakes/St. Lawrence and the Boreal, have been carried out very much within the FSC's normal multi-stakeholder approach. The Snobelen initiative, however, overshadowed their good work. What's at stake is the right of local FSC initiatives to organise themselves, to negotiate and draft their own text, and to have their efforts recognised at the level of the FSC Canada, and then by the FSC Secretariat level. The FSC Secretariat could be sending the world the wrong kind of message by stepping over established processes to negotiate its own deals.

The Secretariat itself should not have been so closely involved. That fact alone sets up a conflict of interest. By declaring up front that FSC would certify Ontario's forests,

Dr. Muthoo made it very difficult, if not impossible for lower levels of FSC or certifiers to reach any other conclusion, regardless of how Ontario actually manages its forests or what its relations are with Environmental NGOs and First Nations.

As the FSC's 'Question and Answer sheet' makes plain, the deal was originally about mutual recognition. This must raise suspicions that the FSC was motivated by the prospect of gaining huge swaths of certified forests to satisfy the demand for FSC certified wood, in return for providing the blanket certification by recognising Ontario's laws and policies. This has damaged FSC's credibility in Canada, not the least because it has been perceived that work on Regional Standards could in fact be circumvented by a simple, expedient deal directly with the FSC Secretariat.

There is therefore a need to rebuild trust. Regional FSC initiatives in Canada and elsewhere need to be reassured, officially, that their role in developing regional or national standards will not be usurped by private deals with government. FSC Canada's board and staff need to be reassured that the FSC Secretariat will not 'pull rank' again, and negotiate deals behind their backs. The FSC Secretariat

should also acknowledge that its direct involvement in the Ontario certification would be prejudicial to the outcome, and will place FSC in a conflict of interest. Given the ambiguity remaining around the question of mutual recognition between FSC Standards and Ontario's legislation, FSC needs to state categorically that mutual recognition with Ontario will not be pursued.

FSC in Canada has passed a serious crossroad. Continued pursuit by the FSC Secretariat or Ontario of either mutual recognition or of blanket certification based on Ontario's legislation would be seen by both NGOs and First Nations as a subversion of FSC's stakeholder-driven approach to one that instead serves big government and big industry. This could permanently sink the FSC effort in Canada, and it could send the wrong message to other governments and FSC processes internationally. Instead, the established processes in the Great Lakes/St. Lawrence and Boreal Regional Initiatives must be clearly recognised as the only legitimate processes FSC will permit. The stakeholder-driven processes must be allowed to reach their proper conclusion for non-government and non-industry stakeholders to continue to support FSC certification as the only fair and just certification scheme.

Case Study 7

The Irish National Initiative and Certification of Coillte Teoranta

Main issues identified

- Inappropriate and inequitable process of establishing a national initiative, leading to the adoption of an unacceptably weak interim national FSC standard.
- Failure of FSC Secretariat to respond adequately to problems identified in the national initiative process.
- Use of interim standard for assessment of country's largest forestry manager, the state company Coillte Teoranta.
- Non-compliance of Coillte certification with FSC Principles and Criteria.
- Issuing of Minor CARs even in the case of apparent major failure against the FSC's P&C; failure of certifier to 'upgrade' specific Minor CARs to Major CARs as recommended by peer reviewers.
- Failure to ensure actual 'close-out' of Major CARs; certificate issued on the basis of 'proposed' responses to Major CARs, rather than actual changes.
- Certification has undermined long-running efforts by environmental and social stakeholders for fundamental reform of the Irish forestry sector.

1. Background to the Irish national initiative and the Coillte Teoranta certification:

1.1. The context: forestry in Ireland⁷⁴

Historically, Ireland was a naturally wooded country of mixed broadleaf woods and Scots pine. Over time, woodland cover declined. By 1900, tree cover was reduced to only 1%, composed of semi-natural woodland and broadleaf plantations established in the 19th century. The remainder of the landscape was extensively managed agricultural land with some peatland, wetland, semi-natural grassland, and an extensive hedgerow network. Many natural and semi-natural areas have since been lost to land reclamation, drainage, peat extraction, inappropriate development and afforestation. As a result, Ireland's natural and semi-natural areas, including semi-natural woodlands, are now reduced to small, fragmented habitats. This places significant importance and conservation value on all such habitats.

Ireland remains one of the least forested countries in the western world, with only 9% of tree cover, and less than 1% of the surface of the island containing forests established before 1600. Ireland's national policy has for several

decades encouraged the planting of non-native coniferous softwoods, causing damage to biodiversity. Meanwhile, just over €90 million worth of hardwoods were imported to Ireland in 2001, the majority of it tropical timber.

The Irish Government's 1996-2030 National Forestry Plan calls for planting 17% of the country by the year 2030. 6% of the country has already been planted. 95% of the plantations consist of non-native conifers, mostly Sitka spruce, Lodgepole pine and Douglas fir. The plantations are primarily even-aged, single species industrial tree farms, harvested by clearfelling on a 40-year rotation.

Beginning with employment measures in the 1950s and 1960s, non-native conifers have been planted on agriculturally marginal lands. In 1993, European Union funding was made available *"to contribute to forms of countryside management more compatible with environmental balance"*. However, grants provided under Ireland's forestry policy encouraged the planting of conifers, which were considered to offer the fastest economic returns. In the 1980s, Ireland's Industrial Development Authority gave generous grants to American timber processors to locate in Ireland, further supporting the pursuit of these softwood timbering based forestry policies. While choosing to dedicate its forestry efforts toward non-native softwoods, Ireland has abandoned its fast-growing short-rotation native species such as alder, known as 'Irish mahogany', and birch. Planting of native broadleaved trees represented only 12.9% of the total planting in 2001. Government grants and incentives continue to encourage farmers and industry to plant conifers.

Although forests play a complex role in supporting climate, community and biodiversity, Ireland's forestry policy focuses principally on short-term revenues for sawn timber products. Impacts on biodiversity, water quality and global climate change, which are intimately bound up with forestry, have largely been left outside the scope of forest policy. Because of Ireland's high rainfall and mountainous terrain, the preparation of the ground and the activities of tree-planting and harvesting results in erosion and acidification, with profound ecological damage. Large-scale planting of non-native conifers on heather moorlands and mountains, almost all without appropriate environmental assessments, contributed to a judgement of the European Court of Justice against Ireland in 1999, for failing to apply the European Union Environmental Impact Assessment Directive.

1.2 Background to Coillte

In 1988, under The Forestry Act, the Irish Government removed responsibility for the management of the public forests from the Forest Service by separating the regulators from the forest management and moving the latter into a newly established para-statal company, Coillte Teoranta (usually known simply as 'Coillte'). The company has two shareholders, the Minister for Finance and the Minister for the Marine and Natural Resources (the Minister of State for the Forest Service is part of the latter department). At the same time, the company was given a mandate to become commercially competitive.

The Forest Service, and now Coillte, has been responsible for most of the exotic species plantations to date. Coillte now manages more than 430,000 ha of public lands, almost 70% of Ireland's total forest estate of 660,000 hectares, and more than 90% of the timber ready for harvesting nationally in the next 10 to 20 years.

As noted above, the management of Ireland's public forests has been highly controversial, particularly in terms of environmental impact, a legacy that has been inherited by Coillte. Many observers believe that the basic model of forestry pursued by Coillte remains much the same as it was under the Forest Service.

2. The Irish National FSC initiative

The impetus to the establishment of the Irish national FSC initiative appears to have been the growing demand from retailers and wholesalers in the UK for FSC certified products. The quasi-state firm, Coillte, was instrumental in the establishment of the Irish Forest Certification Initiative (IFCI), which was set up in January 1999. This initiative has proven to be highly controversial.

2.1 Problems with the national process

Economic interests have from the outset, dominated the Irish National 'FSC process', whereas environmental interests have had virtually no capacity whatsoever to participate.

The inaugural meeting of the Irish Forest Certification Initiative (IFCI) in January 1999 was, according to environmental participants, "stacked with economic stakeholders". An early decision of the IFCI was the establishment of an additional chamber within the group to represent 'small timber growers'. Economic interests thus accounted for two of the four chambers, and held 50% of the votes (VOICE, 2001a). In addition to this structural imbalance, one of the members of the social chamber was connected to one of the 'economic stakeholders', and the organisation of one of the members of the environmental chamber, Crann, depends on government funding, and the organisation's president had been a director of Coillte for 5 years (VOICE, 2001).

The establishment of a second economic chamber occurred against the wishes of social and environmental

NGO Resources and FSC "Processes"

For Irish NGOs, engaging in the "FSC process", with only limited resources, has been a 'learning experience' with a high 'opportunity cost'. For the Voice of Irish Concern for the Environment (VOICE), one of Ireland's leading environmental NGOs, following up the national initiative absorbed all the organisation's resources for work on forestry issues. Other campaign activities had to be abandoned in order to remain active within the FSC. However, because of the manipulation of the national process, the failure of FSC Secretariat to provide support to the weaker stakeholder groups, and the certification of Coillte against a weak national standard, the group ultimately felt that their involvement had been almost entirely wasted effort.

stakeholders, who were outnumbered and out-voted by other stakeholders at the first plenary session, and who were also unaware of the likely critical significance of the chamber structure in determining the national standards. Members of the environmental chamber described the conditions under which they found themselves:

"The role of a 4-chamber structure in marginalising social and environmental stakeholders was compounded by unequal access to resources. Economic stakeholders have been sufficiently resourced to know and utilise the complex array of FSC's procedures. The participation of NGOs who had very limited capacity and resources, particularly in the early stages of the process, was constantly undermined". (VOICE, 2001).

Thus, for the first year of the IFCI, NGOs were outnumbered, under resourced and poorly informed. Coillte meanwhile, was able to take a strong and dominating role, supported by other key economic stakeholders. As a consequence, all structures, processes and documents emanating from IFCI, including the Memorandum and Articles of Association and then the interim national certification standards, tended to favour economic interests.

The environmental NGOs present within the working group suspended their participation in April 2000, in protest at what they saw as blatant 'rigging' of the group's composition. The groups requested the FSC Secretariat to intervene, demanding that, before IFCI was granted 'official FSC recognition', the status of the chamber structure should be clarified, and also that resources should be made available to allow non-economic stakeholders to participate fully in the process. In fact, the application from the IFCI to the FSC Secretariat and Board for official recognition was submitted by the IFCI in May 2000 without consultation with the environmental chamber, and without informing the FSC Secretariat that the environmental chamber had withdrawn in protest from the initiative.

However, no formal intervention from the FSC Secretariat was forthcoming. The FSC Board meeting of June 2000 granted official status to the IFCI, and a meeting of the IFCI in September 2000 confirmed the group's four-chamber structure.

Between May and September 2000, pressure was exerted on the environmental chamber members to re-enter the process, including threats that they would be

replaced by more 'agreeable' organisations. The absent organisations subsequently agreed to re-engage in the IFCI, subject to certain conditions. Some of the main NGO organisations involved in the IFCI explained that:

"Social and environmental stakeholders were faced with a choice of leaving the process and giving their place to stakeholders with less capacity and resources to participate, so we reluctantly chose to resume engagement in the IFCI process while informing the national initiative that we were participating with major reservations regarding the 4-chamber structure and the voting procedures" (VOICE et al, 2001a).

Following a meeting with members of the FSC Board and Secretariat and IFCI in November 2001, one NGO representative noted that:

"A number of NGOs are willing to stay in the [national] process and negotiate a standard with the 4 chambers. However, they have no paid staff, no funding, and no funds to run the national initiative" (French, 2001).

2.2 Development of the interim national standard

The development of national standards for Ireland was started soon after the establishment of the IFCI. A first draft of the standards was published in November 1999, and a consultation meeting took place in early 2000. Environmental and social stakeholders were not, at the time, fully aware of the purpose of the standards, or that there was the possibility and intention of using them for an actual certification assessment. However, there was wide criticism of the draft standard, particularly over the inadequate consultation process used in developing, and the weakness of the draft standard's provisions for environmental protection.

In fact, the draft had been prepared by a former forester of Coillte, who had resigned from the IFCI in order to write it. The standard was an amended version of the UK standard which, according to members of the IFCI environmental chamber;

"was adapted to suit Coillte's ongoing practices and targets. It was then passed...without any technical input from under-resourced NGOs. At the time, the NGOs did not know the significance of a draft, i.e. they did not know that Coillte could apply for FSC [certification] before the final standard was agreed" (VOICE, 2001a).

The standard was 'approved' by the economic interest-dominated IFCI in January 2000, even though neither the environmental or social chambers had agreed to it or provided any technical input. According to the National Trust for Ireland (An Taisce), the requirements of the draft standard were so low that they even *"fail[ed] to incorporate the standards required by the Forest Service Guidelines and minimum national environmental standards as set in the 1996 Strategic Plan for the Forest Sector"* (An Taisce, 2001).

The need for equitable multi-stakeholder input into the drafting of the standards seems not to have been fully appreciated, even as late as 2002. In October 2002, the new

chair of the IFCI, also a former employee of Coillte, wrote to one of the key environmental NGO stakeholders saying *"I request that you and other sceptics allow the process to proceed and refrain from judgement until the new standard is completed. It will then go to public consultation. There is a strong desire amongst the current steering group to deliver and your intervention at this time does not help"* (Little, 2002).

3. The certification of Coillte

Coillte first sought certification in November 1999. Although the company had been closely involved in the IFCI, as well as the development of the draft national standards (which were to be produced one month later), environmental and social chamber members of the IFCI were not aware that Coillte were intending to proceed with certification.

A 'pre-assessment' was carried out by SGS in December 1999. The main assessments were conducted in June and August 2000, and resulted in the raising of ten Major, and nine Minor, Corrective Action Requests⁷⁵. Further follow-up assessments were undertaken by SGS in February and April 2001. The certificate was issued in May 2001. A surveillance visit was conducted by SGS in November 2001⁷⁶.

3.1 Problems with the certification

Several aspects of the process of assessment raise doubts as to the appropriateness of the decision by SGS to issue the certificate:

- The assessment was conducted against the interim national standard. Whilst SGS's Public Summary certification report states that the national standard *"was undergoing consultation at the time of assessment"*, it does not note, as detailed above, that the draft had not been derived through a properly constituted multi-stakeholder process, and was not approved by the representatives of two of the IFCI chambers.
- There are doubts about the impartiality of the assessment team selected by SGS to carry out the assessment. Two of the local assessment team members picked by SGS were closely linked with Coillte and the Forest Service. Coillte evidently refused to accept other proposed candidates onto the assessment team.
- Questions have been raised about SGS's understanding of the extent and nature of Coillte's landholdings. Whilst SGS's Public Summary Report refers to Coillte's holdings of *"438,000 hectares of plantation and semi-natural forest"*, Coillte's own reports acknowledge that some 90,000 hectares of this is 'unproductive' land, mostly consisting of heather and grass moorland and sedges, which are particularly important as habitat for wildlife. Some sources believe that as much as 160,000

hectares of Coillte's land requires the application of management values such as 'nature conservation and recreation' as well as timber production (An Taisce, 2001). According to the National Trust for Ireland, the failure by SGS to fully comprehend the extent of Coillte's 'non-productive' holdings meant that *"nowhere in the SGS assessment is there formal consideration or Management Plan distinguishing the management practices for these [non-forest] areas beyond the aspirational 'important role in the conservation and enhancement of biodiversity and nature conservation...'"* (An Taisce, 2001).

- SGS also appeared to either seriously misunderstand or to misrepresent the extent of Coillte's afforestation efforts. The National Trust for Ireland has pointed out that, whilst SGS's Public Summary report claims that *"through the 1990s afforestation rates have been consistently around the 20,000 hectare per annum"*, the only year in which afforestation actually reached 20,000 hectares was in 1995. Afforestation for every year from 1997-1999 was less than 13,000 hectares per year. These facts were readily available to SGS from the publicly accessible Forest Service database (An Taisce, 2001).
- There are doubts about the adequacy of the consultation process undertaken by SGS. Of the 1000 stakeholder questionnaires circulated by SGS in their first round of consultation, only 14 written responses were received. Following suggestions from NGOs, the process for the second stage of consultation was reviewed and adjusted by SGS. Partly perhaps because of SGS's failure to understand the importance of Coillte in the management of non-forest habitats, there was no consultation whatsoever with the Irish Peatland Council, Ireland's leading NGO on the country's peatland heritage (An Taisce, 2001).
- There must be doubts about the process of 'closing-out' the various Major CARs that had been raised. Five of the Major CARs raised in SGS's August 2000 assessment were already closed out by SGS in December of that year. The remaining five were quickly 'downgraded' to Minor CARs (thus enabling a certificate to be awarded) in April 2001. As is discussed in more detail below, the nature of the 10 Major CARs as originally issued by SGS would suggest that the 'closing out' must largely have been done on the basis of a stated intent on the part of Coillte to take corrective action, rather than that the relevant actions had actually happened. The largely aspirational nature of Coillte's proposed response to the CARs is indicated in SGS's Public Summary report, which notes that:

*"A series of meetings between Coillte and SGS Qualifor were convened following the completion of the main assessment in August 2000. The following is a summary of the actions and timeframes **proposed** by Coillte in October 2000 to address the major CARs"* (emphasis

added) (SGS, 2000).

What then follows in SGS's Public Summary report is a long list of very brief descriptions of the actions apparently proposed by Coillte. A number of the proposed actions have completion 'timelines' well beyond the actual date on which the certificate was issued.

3.2 Non-compliance with the P&C

There are grounds for doubt about the actual compliance by Coillte with several of the FSC's P&C, as detailed below.

3.2.1 Principle 1

There are several reasons for doubting whether Coillte was compliant with Principle 1 at the time of assessment.

As noted above, the draft national standard used as a basis for the assessment failed to incorporate the standards required by the minimum environmental standards as set out in the Irish Government's 1996 Strategic Plan for the Forest Sector, particularly as this relates to national planting rates for broadleaf tree species. According to the National Trust for Ireland:

"This [Government Strategic Plan] standard is set at 20% [planting of broadleaf species] and agreed under the National Development Plan to be 30% by 2006. The conditions under which the Minister grants Coillte a General Felling Licence requires Coillte to 'have cognisance of the Minister's policy to achieve, as soon as possible, a level of broadleaf species which is 20% of the total annual planting'. Coillte's broadleaf planting, in contrast, composed in 1995 only 3% of the total planting, rising to 5% by 1999...This in no way meets the conditions of their license" (An Taisce, 2001).

At the FMU level, Irish Government guidelines, which are mandatory for granted-aided afforestation projects, require that 15% per cent of each project area should have biodiversity protection as the primary management objective. However, Coillte has made it clear that, in its view, *"it would be inappropriate to require every forest block to meet these minimum standards"*.

In September 1999, shortly before SGS's original assessment of Coillte, the European Court of Justice ruled that the Irish government had failed to 'adequately transpose' the European Union Directive on Environmental Impact Assessment into national legislation. Although the judgement did not specifically cite Coillte operations as having been undertaken in contravention of the EC directive, the court did note that:

"the most significant example [of non-compliance] with the Directive is afforestation because, when carried out in areas of active blanket bog, it entails, by its nature and location, the destruction of the bog ecosystem and the

irreversible loss of biotopes that are original, rare, and of great scientific interest" (cited in An Taisce, 2001).

Also, at the time of the various assessments, Coillte was involved in a major legal dispute, with serious financial implications, with the European Commission, over the use of EU grant money. Coillte had drawn down EU grants that were earmarked for farmers, to whom payments were made through Coillte's Farm Partnership Scheme. In 1999, the Agricultural Directorate of the European Commission decided that the scheme was not eligible for grants and stopped further payments. In September 2000, it was ruled that 3.8 million Irish punts in grants already paid would be clawed back, and that more than 30 million punts due in premium payments to Coillte up to 2013 would not be paid. The EC ruling was to be appealed by the Irish Government, but these problems appear to have been completely overlooked by SGS, and nowhere are they referred to in the Public Summary report of the certification.

The above all cast doubt about Coillte's compliance with Criteria 1.1 and 1.2 at the time of assessment.

3.2.2 Principle 2

Particular issues arise over the question of Coillte's programme of asset (land) disposal, which has been a major source of national controversy. This programme casts major uncertainty over the ability of Coillte to comply with FSC criterion 2.1, as it is not clear that the present agency will continue to retain tenure over some of its present forest holdings in future years. Irish NGOs believe that land disposals are likely to accelerate if Coillte is fully privatised.

Concerning Coillte's 'demonstration of tenure and use rights', SGS's Public Summary report notes simply that *"All Coillte properties have deeds and associated maps in the company archive...Acquisition files on all lands acquired before 1989 are held in archives in Coillte's head office"* (SGS, 2000). However, there are doubts about Coillte's ability to demonstrate full compliance with criterion 2.2. According to the National Trust for Ireland:

"Coillte fails to hold and maintain for public view a register of burdens [i.e. obligations] on land transferred to it in 1988 but originally left to the State. Estates gifted to the State commonly included environmental burdens and Coillte has consistently refused to make this information available" (An Taisce, 2001).

Neither the issue of land disposals nor the question of Coillte's environmental obligations on 'inherited' land were identified in the SGS Public Summary report.

3.2.3 Principle 4

According to Irish NGOs, stakeholder consultation has been a major weakness in Coillte's operations. Consultation, though expanded, has been insufficient, particularly in relation to the contentious issues of

clearfelling and the sale of public forests to accommodate what are often seen by the public as environmentally damaging operations. The National Trust for Ireland has noted that:

"In order to determine if a local amenity [forest] is to be felled by Coillte, stakeholders must check each week with their local Garda (police) station. This is the only place where the information is made available and the conditions for viewing these applications are often medieval. Such conditions intimidate concerned members of the public and actively discourage consultation" (An Taisce, 2001).

SGS raised a Major CAR against Coillte on the grounds of poor public consultation, but the 'closing out' of this area of concern, as with several others, appears to have been determined on the basis of a stated intent on the part of Coillte, rather than an actual response. According to SGS, the decision to close out of this CAR was made on the basis that Coillte had responded adequately to 11 specific concerns, amongst which were that the company:

"Publish a commitment to consultation with stakeholders...prepare FMU and forest design plans as basis for consultation...prepare a best practice manual on stakeholder consultation...implement uniform approach for consultation on high impact operations...establish social and environmental panel in each region...implement complaints register" (SGS, 2001).

In November 2001, following their first surveillance visit, SGS reported that, whilst the 'social and environmental panels' were now in place in all regions, and that *"consultation surrounding operational sites has improved"*, there nevertheless remained *"concerns about [Coillte's] consultation with individual and NGO stakeholders over specific issues...at both local and national levels"* (SGS, 2001). The report went on to note that:

"Locally, there appear to be some instances of grievances getting in the way of constructive communication. Nationally...stakeholders feel as if there is too little [Coillte] staff time being applied to specific issues to resolve them. Instead, too much correspondence is not replied to in a prompt and constructive manner. Too often, there are examples of information being reluctantly released if at all" (SGS, 2001).

A new Minor CAR was issued by SGS during this surveillance visit concerning *"inadequate consultation relating to an unusual or high impact operation in County Mayo"*. However, SGS evidently did not feel that its own findings concerning continuing problems with Coillte's public consultation processes were an indication that their original Major CAR on this problem had perhaps been closed out prematurely.

3.2.4 Principle 5

Some observers have doubted the economic sustainability of Coillte, and thus compliance with Principle 5. In 2000, Coillte made a profit, but this was principally due to

non-forest activities, including the sell-off of land parcels inherited from the former state Forest Service. In 2001, Coillte reported a loss, due to a drop in markets for low quality softwood and the clawback of EU grant money. Irish environmentalists believe that Coillte's recent purchase of board manufacturer, Louisiana Pacific Europe, might also push the company into further economic difficulties, were it not for public subsidies for forest planting and harvesting.

3.2.5 Principle 6

SGS recognised a number of problems related to Coillte's performance against FSC Principle 6 and the associated criteria, and issued 5 Major and 5 Minor CARs.

There are doubts both about whether some of the Minor CARs should have been issued as Major CARs, and also about the process of closing out the Major CARs that were issued.

For example, the Public Summary report notes that:

"...there is no formal mechanism through which the potential impacts of all forest operations are screened...While the new SOP includes requirements for appraisal of impacts, these were not being fully implemented at the time of the main assessment. This combined with [the] manager's desire to achieve the maximum possible area under conifer plantation has resulted in unnecessary impacts...There was a general paucity of environmental information" (SGS, 2000).

In one case in the year of SGS's assessment, the Irish North West Fisheries Board reported that the Glencar river catchment had been devastated with siltation from Coillte's high impact forestry activities, in spite of formal complaints from the Board. It appears that such incidents were not taken adequately into account during SGS's assessment. Moreover, it appears that relevant officials were not been properly consulted by SGS about Coillte's environmental impact. For example, the Chairman of the Fisheries Board has made it known that he believes that, as a result of Coillte's environmentally damaging activities, it would not be inappropriate to give Coillte a "green label"

The weakness of Coillte's commitment to proper environmental impact assessment has also been pointed out by the National Trust for Ireland (An Taisce). According to the Trust:

"An Taisce is prescribed under a variety of legislation for comments on licensing applications, development consent, and development plans. Never once has Coillte Teoranta sent An Taisce an EIA for any part of any of its operations...The failure of Coillte to adequately assess the impact of its forestry operations is a major failure with far reaching consequences to the environment" (An Taisce, 2001).

Instead of recognising that the weaknesses of Coillte's EIA procedures cast serious doubt over the company's ability to comply with FSC Principle 6 as a whole, and thus to warrant the issuing of a **Major** CAR, SGS simply issued a Minor CAR. In fact, the peer review of the certification

recommended that this Minor CAR should be upgraded to a Major CAR, but this was not done (An Taisce, 2001.)

One of the Major CARs (#5) that was issued, under Principle 6, related to the protection of features of biodiversity value. Major CAR #5 noted that:

"There is no overall strategy in place to ensure that features with biodiversity value are protected and the 15% of the forest area is managed as conservation areas and long term retentions. Current policy does not ensure these requirements are met, nor are they being implemented under current planning" (SGS, 2000).

Of the 15 specific responses 'proposed' by Coillte to address this Major CAR, 10 would not be completed until beyond May 2001, i.e., *after* the certificate was actually issued. Coillte's proposed 'surveying of potential biodiversity managements areas and the writing of management plans' for them would not be completed until as late as December 2005. SGS's November 2001 surveillance visit subsequently reported that an initial pilot study of one of Coillte's 36 FMU areas had been undertaken, and that 7 had been surveyed. However, the report also noted that:

"there was still, however, a tendency not to make the best use of 15% areas designated for biodiversity in the design of FPS schemes with often a failure to link areas and ill-considered use of broadleaved species" (SGS, 2001).

SGS concluded generally about Coillte's response to Major CAR #5 that:

*"While **steady progress is being made**, this work is still at an early stage therefore CAR O5 will remain open for further inspection at subsequent surveillances"*⁷⁸ (emphasis added (SGS, 2001).

It should be noted that, in order for CAR 05 to remain 'open', it must have been downgraded by SGS to a Minor CAR, as an 'open' Major CAR would have precluded certification. However, there appears to be nothing in SGS's publicly available documentation to indicate at what point the Major CAR had been downgraded, thus allowing the certification to take place, nor what was the basis for this decision. If CAR 05 had *not* been downgraded, then SGS would have been operating in clear breach of the FSC's requirements.

The implications of this seems clear: that SGS closed out/downgraded a Major CAR (and thus allowed a certificate to be granted to Coillte) on the basis of improvements that were *intended rather than actual*, and which SGS's own subsequent surveillance visit indicated would take a further significant period of time to be fully addressed.

3.2.6 Principle 10

SGS's assessment of Coillte also recognised a number of problems concerning the company's compliance with Principle 10. The certifier issued two Major and one Minor CARs⁷⁹.

The Major CARs stated:

"Major CAR #03: while some restructuring [of the planta-

tions] is ongoing, this is limited in extent and is not being carried out in a systematic planned manner. Forests are being dealt with in a coupe or piecemeal basis rather than as an entire forest as a whole”;

Major CAR #19; Not all FMUs currently meet the minimum percentage requirements [for broadleaf content] and do not adequately detail how these percentages will be achieved in the future. Additionally, within the selection of species the process is skewed towards consideration of management objectives through the issuance of pre-set targets or limits rather than through an open appraisal which takes due consideration of the capability of the site” (SGS, 2000).

As with the process of ‘closing out’ the Major CARs raised under Principle 6, the closing out of the two Major CARs above seems to have also included a significant element of intent on the part of Coillte, rather than actual compliance.

For example, whilst Major CAR #03 indicated that the Coillte’s plantation operations required major restructuring in order to become compliant with the FSC’s P&C, the specific responses ‘proposed’ by Coillte were to:

“1. Establish a Landscape Working Group; 2. Identify blocks for restructuring; 3. Complete landscape sensitivity analysis; 4. Prioritise blocks for restructuring; 5. Draft guidance documentation for landscape design teams; 6. Develop and implement restructuring plans” (SGS, 2000).

These proposed changes in Coillte’s planning process may well have been desirable, but they did not mean that the company’s actual forestry operations at the time of certification were necessarily compliant with FSC Principle 10 and certifiable. The November 2001 surveillance visit by SGS reported that work on a number of the above had advanced, including that a landscape design team was in place in each region. However, the report also noted that:

“The restructuring programme is however still in its infancy and **Minor** CAR#03 will remain open to allow further inspection of progress at 2nd surveillance” (emphasis added) (SGS, 2001).

As with the ‘closing out’/downgrading of Major CAR #05, there is no explanation in SGS’s public documentation as to why Major CAR #03 had been closed-out/downgraded to a Minor CAR.

A similar process appears to have taken place in relation to Major CAR#19, concerning diversification of plantation species. Although Coillte had responded to the CAR with various commitments concerning their *planning* process, the Major CAR was downgraded to a Minor CAR without any apparent justification by SGS. Again, SGS reported after their November surveillance visit that “**Minor** CAR #19 will remain open to allow further inspection at subsequent surveillance visits” (emphasis added) (SGS, 2001).

It is thus clear that at both the time of the original granting of the certificate, and the subsequent surveillance, it was recognised by SGS that the restructuring of Coillte’s plantations, including the diversification of species, was a long-term initiative, and therefore the actual performance

of Coillte could not have been in compliance with the FSC’s requirements, especially criteria 10.1, 10.2 and 10.3.

In reality, whilst FSC Principle 10 favours native over exotic species and states that plantations “*should complement the management of, reduce pressures on, and promote the restoration and conservation of natural forests*”, Coillte was certified with an estate of 96% exotic conifer species and a target standard demanding a minimal reduction of exotic conifers to 90% of the planted area. Furthermore, the 10% broadleaf component does not have to be of native species nor of local provenance. The standard used for assessment of Coillte allows for the inclusion of open spaces, roads, and the 10% broadleaf component, in the 15% of land that is to be managed for biodiversity purposes. It also allows for changes in plantation management to take place over an extremely long time-scale. In one example of a Coillte Forest Management Unit, that of Slieve Bloom, the management plan anticipates that the target will not be achieved until 2050.

Also, at the time of assessment, around 30% of Coillte’s plantation forestry was carried out through its Farm Partnership Scheme (FPS), and this figure is expected to grow as grant funding for new plantings is withdrawn. According to the National Trust for Ireland, the FPS:

“will represent almost all of Coillte’s planting in the immediate future. The procedures and returns for these partnerships...show no regard for the 15% biodiversity required by the [National] guidelines and are based on clearfell at the end of 40 years. This is not sustainable forestry” (An Taisce, 2001).

Concerning Criterion 10.4, which states that “*Exotic species...shall be used only when their performance is greater than that of native species*”, Coillte has proceeded on the assumption that broadleaf species are ‘uneconomic’ even though the evidence for this is poor. According to the National Trust for Ireland, there are extensive areas of land that would be suitable for economic plantation with broadleaves, and some remnants of native woodland demonstrate that native species can be successfully grown.

There are thus grounds for doubting whether Coillte, which is primarily a plantation company, could be said to be generally in compliance with FSC Principle 10. Whilst it is recognised that the company is taking efforts to alter its former policies, these are long-term initiatives that would not necessarily result, in the short term in compliance of its actual *performance* with the FSC Principle and Criteria.

4. Ignoring policy context and efforts at forestry reform

Some Irish NGOs consider that the certification of Coillte has set back long-running campaigns for fundamental reform of forest policy and practice in Ireland.

In the development of the interim standards and the interpretation of FSC’s Principles and Criteria, the prevailing attitude seems to have been that Ireland’s woodlands

have already been destroyed and that the planting of 90% exotics is therefore acceptable. In the wake of the certification announcement, the Irish government committed another 230 million in forestry investment. With a target forest cover for Ireland of 17% by 2016, the prospect arises of up to 15% of the national land surface being covered in exotic conifer plantations, all of which could be certified by FSC under present conditions.

In a joint statement, several members of the environmental and social chambers of the IFCI stated that:

"Many environmental and social NGOs and individual stakeholders have worked for many years to change forestry policy and practices in Ireland. The issuing of an FSC certificate to Coillte is an affront to all of us and it will have far reaching consequences on our ability to pursue our campaign goals. Irish NGOs are extremely unlikely to be able to make further changes to Irish forestry practice when FSC, an international organisation recognised in dozens of countries, can easily outweigh the opinion of a few local NGOs.

FSC has rendered Irish NGOs powerless on the subject of forestry and has in effect ruined years of hard work by innumerable individuals and organisations, mostly working on a voluntary basis. If the certification of Coillte is allowed to stand, many Irish NGOs and other stakeholders will have wasted scant resources for no gain. That all our work for FSC could have been for nought is most distressing. In light of the current situation we must conclude that to date the net contribution of FSC to Ireland has been negative". (VOICE et al, 2001a).

5 Inadequate response from SGS, the FSC Secretariat and FSC Board

Several appeals were made by environmental and social stakeholders during 2001 and 2002 to SGS and the FSC, but apparently to little effect.

As noted above, representations were made early in 2000 to the FSC's 'contact person' in Ireland, to a member of the FSC international Board and to a member of the Secretariat, concerning the unsatisfactory manipulation of the structure of the IFCI. However, the FSC Board approved the IFCI, including its disputed 4-chamber structure, at its meeting in June 2000.

In April 2001, a meeting was held between NGOs and FSC's Policy Officer, Timothy Synnott, regarding the NGO's opposition to the expected certification of Coillte using interim standards. The NGOs were apparently informed that a general policy paper concerning plantations was being developed by the Secretariat, but the specific issue of the potential certification of Coillte was not addressed.

The following month (May, 2001), 29 stakeholders, including representatives of the Irish National Trust, the Native Woodlands Trust, the Irish Wildlife Trust, Friends of the Earth Ireland and the Irish Peatlands Council, jointly sent a letter to SGS, the FSC Board (in advance of its May 2001 meeting in Bonn), and the FSC Secretariat, calling for

a suspension of FSC certifications in Ireland (VOICE et al, 2001b). The letter again re-stated the problems that had occurred in the formation and running of the IFCI, including the development of the interim national standard, and stated numerous specific concerns about the likely certification of Coillte. The letter noted that:

"In March 2001, SGS provided a briefing on the situation concerning the Coillte certification. This informed us that of the ten Major CARs issued, five had been downgraded to Minor CARs, and provided details of the Corrective Action Plans agreed by Coillte. In our view, the Plans proposed by Coillte are entirely inadequate to address the severity of the CARs. Most of the Plans appear to relate to future actions, the results of which may not necessarily have the effect of properly responding to the problem identified by SGS..

...we therefore call on the FSC Board to suspend further certification activities in the Republic of Ireland. Further certification activities should only proceed once a national standard has been approved through a proper multi-stakeholder process. A reassessment of Coillte should be undertaken once this new standard has been completed" (VOICE et al, 2001b).

However, no action appears to have been taken by the Board or Secretariat in response to this appeal, and the certification of Coillte by SGS was announced only a few days later.

In July 2001, an 'Appeal' to SGS was made by The National Trust for Ireland against the decision to certify Coillte. The Appeal detailed many of the problems noted above in this case study, and concluded that:

"SGS assessment of Coillte failed to adopt an independent position as required by the FSC. SGS did not sufficiently evaluate the information given to it by Coillte according to the FSC Principles...Certification should not be approved until the problems of management and assessment [herein detailed] have been rectified and subject to consultation" (An Taisce, 2001).

In September 2001, many of the stakeholders listed above submitted a 'grievance' to the FSC Board and Secretariat, which detailed the problems of the national initiative and standards, as well as the specific concerns about the certification of Coillte, which had now been issued. The letter called on the FSC:

"to immediately address our concerns regarding the structure and procedures of the national initiative in the Republic of Ireland by...sending a representative to Ireland immediately and without delay to investigate: the structure and operations of the ...IFCI; the procedures used by IFCI to develop the interim standard; informing us of the measures that FSC will take to assist the national initiative to negotiate and finalise a national standard that is acceptable to all stakeholders, given the difficulties posed by the recent certification of the largest forest company through using weak interim standards" (VOICE et al, 2001a).

In response to this request, it was proposed by the FSC that at a member of the FSC Board, two members of the

Secretariat (including the Policy Director - the ex-Executive Director - Timothy Synnott) and an FSC Board representative should hold a 'three-hour meeting' with members of the IFCI. NGOs responded that this was highly inadequate given the serious nature of the problems. They noted in a letter to the FSC Board and Secretariat that:

"We consider the successive responses of FSC personnel unsatisfactory and inadequate in addressing our serious concerns. WE REQUEST THAT FSC SELECT ALTERNATIVE OR ADDITIONAL PERSONNEL TO FULLY INVESTIGATE THE STRUCTURE AND OPERATIONS OF THE NATIONAL INITIATIVE IN IRELAND...Please be aware that the credibility of the FSC certification system has been severely, if not irretrievably, damaged in Ireland since the certification of the largest Irish forest company...We now restate our requests of June and September 2001 to the FSC. By doing so Irish environmental and social stakeholders offer FSC one more opportunity to take the necessary actions to substantiate its claims to be a global leader in forest certification..." (VOICE et al, 2001c).

On November 2nd, 2001, separate meetings were held between the FSC and NGOs and the rest of the IFCI. However, NGOs still felt that the meetings had fallen far short of what was needed in order to comply with requests for a "full FSC investigation of IFCI", as well as the other problems that had arisen and been notified to FSC during the preceding year. According to one participant:

"At the meeting...the group decided on a course of actions that they had already agreed at many previous meetings but had not acted upon...The FSC and IFCI failed to tackle the root causes of the failure of the IFCI to progress beyond the interim [national] standard of December 1999, the standards that were used to certify Coillte" (French, 2001).

It thus appears from the evidence that both the FSC Secretariat and Board were well aware of the serious nature of the problems in Ireland, which had led to the certification of most of the country's 'forests' under an interim standard which was not accepted by major stakeholder groups, under circumstances that raised serious doubts about the certified company's actual compliance with the FSC's P&C. However, both the Secretariat and Board failed to any take actions that meaningfully addressed the problems - and the certificate is still valid.

6. Conclusions and recommendations

6.1 Conclusions

Many NGOs have dedicated scarce resources to the Irish certification initiative on the basis that there was an opportunity to establish a standard for use in Ireland, which would benefit the environment and communities. This process, they believed, was to be an inclusive one in which all were equal partners. However, it is clear that a single organisation from the economic chamber was able to effectively direct the entire process. NGOs, with almost no resources, were completely

overwhelmed and unable to respond.

The problems with the structure of the national initiative allowed a seriously flawed interim standard to be used to certify 70% of the country's forest, and thus to ensure market access for the state forestry company. Problems within the IFCI appeared to continue into 2002. The Annual General Meeting of IFCI in September 2002 was, according to one observer, very poorly attended, indicating that interest in the initiative had declined (perhaps as a result of the *fait accompli* of the Coillte certification). At the meeting, one of the Social Chamber members was removed under dubious circumstances, and replaced with another representative.

NGOs believe that the use of a weak interim standard effectively stymied any real progress on final completion and adoption of the standard, and its use to encourage improved forestry practices in Ireland. Work on the draft standards proceeded through 2002, but as environmental and social stakeholders had earlier pointed out:

"The national initiative has been placed in a stalemate situation: If the current certification [of Coillte] is allowed to stand, we believe that there is no longer an incentive for Coillte to ever agree an Irish Standard that will be acceptable to all stakeholders and to FSC. It is highly likely that Coillte and other economic stakeholders in IFCI, who are almost wholly dependent on timber supplies from Coillte, will block any attempts to raise the interim standards to a higher level during IFCI negotiations. This may subvert and nullify the entire national initiative and render it redundant" (VOICE et al. 2001a).

There is strong evidence that Coillte was not compliant with numerous FSC criteria, and possibly entire Principles, at the time of assessment. By prematurely 'closing out' or 'downgrading' Major CARS, the certificate appears to have been awarded on the basis of proposed or planned improvements, rather than actual ones. NGO stakeholders believe that Coillte has neither the capacity nor the intention to develop capacity to fully comply with the spirit and Principles and Criteria of the FSC. They also believe that, since the application for and issuing of FSC certification, there is little evidence of significant change in Coillte's operations. There are doubts about the certifiers' compliance with FSC requirements in its handling of Corrective Action Requests.

The FSC Board and Secretariat staff appear to have been either unwilling or, at their capacity at the time, unable to properly monitor and address in a timely and appropriate fashion the failures of the national initiative. As in other cases in this report, complainants have, through lack of capacity and resources, been unable to sustain a formal complaint through the FSC's procedures.

The net result has been that the FSC has been deeply discredited in Ireland. Many environmental and social stakeholders feel that FSC has actually been seriously counter-productive to long-running efforts to bring about necessary reform of the Irish forestry sector.

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Case Study 8

Malaysia – the Malaysian Timber Certification scheme and the FSC⁸⁰

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Main issues identified⁸²

- FSC through its ‘collaboration’ with MTCC has been lending legitimacy to a national certification scheme principally set up in order to revive Malaysia’s timber exports to Europe.
- FSC has been lending legitimacy to a ‘standard development process’ which disregards NGO concerns and Indigenous Peoples rights, while potentially legitimizing the extinction of Native Customary Rights to land and forests.
- FSC’s name has been used for public relations purposes by the MTCC in their ‘flawed’ standard development process.

1. Introduction

In order to understand the background for the current confusion and disputes over ‘timber certification’ involving both the MTCC and FSC in Malaysia, it is useful to get an overview of Peoples and forests in Malaysia, land and forest jurisdiction, and the conflicts underpinning forestry in this country. The first section therefore presents such a brief overview.

1.1 Malaysia, Peoples and Forests

Malaysia is comprised of 11 states in Peninsular Malaysia, and two states in East Malaysia i.e. Sabah and Sarawak, on the island of Borneo. The largest state in Malaysia, Sarawak, is approximately equal in area to the whole of Peninsular Malaysia, while Sabah is the second largest state.

Approximately 80% of the population is found in Peninsular Malaysia and 20% in Sabah and Sarawak. The Orang Asli are the indigenous minority peoples of Peninsular Malaysia, comprising just 0.5 per cent of the current national population of 22.8 million. The term ‘Orang Asli’⁸³, meaning ‘first peoples’, is a collective term for the 18 ethnic subgroups officially classified for administrative purposes under Negrito, Senoi and Aboriginal Malay. The smallest among these three categories are the Negritos, comprising a little over three per cent of the Orang Asli population. The Senoi are the largest group, with about 54 per cent of the Orang Asli population and the Aboriginal Malays are the second largest group at about

43 per cent. The major groups in Peninsular Malaysia are the Malays, Chinese and Indians, and others such as Eurasians, and Indonesian and Filipino migrants.

The majority population of Sabah and Sarawak are indigenous peoples. There are 39 indigenous groups and sub-groups in Sabah, with the largest being the Kadazandusuns. In Sarawak, there are 37 different indigenous groups and sub-groups, the largest being the Ibans. The indigenous peoples of Sabah, Sarawak and Orang Asli⁸⁵ of Peninsular Malaysia are collectively termed ‘Orang Asal’, which means ‘Original Peoples’. Although they have distinct languages, cultures, lifestyles and livelihoods, they share one thing in common: a close physical, cultural and spiritual relationship with the land and forests. To the indigenous peoples in Malaysia, land and forest is a living entity, with spirituality and a sacredness of its own. This means that the land and forests provides them with food, clothing, medicines, fuel, and all materials necessary for their existence. Land and forests is also the school for the present and future generation, and the abode of their ancestors. Land and forests, therefore, gives life and meaning to their whole being; for it is in the land that their history and identity is contained.

1.2 Land and Forest Legislation and Policies

In the Malaysian Federation, the 13 states have jurisdiction over land, forests, fishery, agriculture, water resources and local authority areas. This means that individual states have power of decision over the use and allocation of resources. In the administration and management of forestry resources, for example, each State has its own Forestry Department and related agencies to implement forestry policies at state, district and local administrative levels. Constitutionally though, the federal government has the power to establish departments or ministries for resource conservation and inform local government of their plans. State agriculture and forestry departments are obliged, under the constitution, to refer to the federal counterparts on certain matters.

In practice, however, there are contradictions between federal and state policies on land, forests and the environment. The states have pursued their own land and forest policies, even where they appear to contradict federal policies, and vice versa. In practice, too, there are two

contrasting/conflicting views of the forests. On the one hand, forests are seen as physical and economic resources, controlled by the state, private logging companies and individuals whose main concern is in the commercial value of trees to generate revenue and income. On the other hand, forests are generally 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. The state recognises only that the forestry department is the 'custodian' of forest resources, and this being so, disregards that indigenous peoples have been stewards of the forests since time immemorial.

The development options, undertaken by federal and state governments, which view forests as a land resource for commercial agricultural development and timber extraction for domestic consumption and exports, have led to loss of land and livelihoods for indigenous and forest-dependent peoples (see Appendix 2). In particular, the customary rights to land and forests of the Orang Asal (indigenous) communities have been revoked by such practices by states, which deemed it illegal and punishable to occupy lands when legal certificates and titles are not issued to them by the state. As a result, indigenous peoples found accessing or traversing 'state-owned' forest areas have been evicted from their ancestral lands and resettled by the state. Indigenous women have even less power to defend their customary land rights and are often most affected when community access to, and control over, forest and land resources are prohibited or restricted by the state.

1.3 Forests Conflicts and Problems

The forest is thus a contested resource, given the many different values, functions and interests it holds for different people. The state and the powerful private corporations and individuals often have the upper hand in decision-making and control of forests resources. In almost all contested forest areas, there is a long running struggle by indigenous and forest-dependent peoples to defend their rights. Indigenous peoples have been, and still are struggling to defend forests against exploitation or development that has adverse impacts on livelihoods and social, cultural, political and spiritual heritage.

When all efforts at negotiations have failed, the affected communities, or activists, have had no other option but to resort to peaceful demonstrations and have often ended up being arrested, imprisoned, beaten, or even murdered, allegedly by the police, military or hired thugs. In the case of Sarawak, large-scale arrests occurred in the 1980s when indigenous peoples mounted blockades and demonstrations to prevent the encroachment of logging companies into their forests. Today, peaceful blockades and demonstrations against the encroachment of logging and large-scale commercial agriculture projects such as oil palm plantations are still continuing. More recently, the indigenous peoples have begun to resort to the courts to settle disputes,

especially over rights to their traditional territories⁸⁴.

2. The Malaysian Timber Certification Scheme for 'Sustainable Forest Management'

This section briefly considers how the interest in certification among Malaysian industry and government was conceived and how it has developed since the 1980's.

2.1 Background on the development of certification in Malaysia

Indigenous and local forest communities have alleged that logging companies were encroaching into their ancestral lands and forests, threatening their survival and livelihoods. Since the early 1980s, the indigenous Penan, Kenyah, Kayans and Ibans of Sarawak, driven into desperation, began setting up human blockades to defend their tenure and user-rights over ancestral lands and forests. This alerted the national and international communities to support the indigenous cause. Because native livelihood issues are inextricably linked to logging, consumer countries with active environmental movements, such as those of Western Europe, called for the boycott of tropical timber sourced from indigenous peoples' forest areas⁸⁵. Many timber producing and exporting countries, like Malaysia, have had to look for solutions to be able to sell to European markets that increasingly demand 'independent' verification that production is socially and environmentally 'sustainable'.

As international attention on the logging and native land issues grew, the Malaysian state and federal governments became increasingly concerned that the continued calls for boycott of tropical timber could have implications for the highly lucrative timber business. In view of this, various steps were taken such as inviting ITTO to send in a study team to look into Sarawak's forestry (ITTO, 1990). Other measures were continually in use to protect the timber industry and timber interests including the on-going move to 'develop certification in Malaysia'.

2.2 Developing the national certification scheme⁸⁶

The Malaysian Timber Certification Council (MTCC) was created in October 1998 "as an independent non-profit organisation to establish and operate a voluntary national timber certification scheme in Malaysia"⁸⁷ (NTCC 1999). The underlying purpose of the MTCC was stated by Primary Industries Minister Datuk Seri Dr Lim Keng Yaik, in 2002:

"Malaysia wanted to revive its timber-product exports to Europe where the trade has suffered from the ill-founded perception that the products did not come from well-managed forests." (Lim 2002)

As such, the MTCC was, from the outset, principally intended as a way to avoid boycotts and get market access especially to the European and North American markets for Malaysian timber.

The process of developing a national certification standard for Malaysia comprised two phases:

- Stage 1: From 1994 to October 1998 - A technical design phase culminating in the establishment of the National Timber Certification Council and a draft set of standards (MC&I) to be used as the basis of the Malaysia's national certification scheme. The NTCC (henceforth referred to as MTCC) became operational in January 1999.
- Stage 2: From January 1999 to present – Refinement and modification of the standard to ensure international recognition and capacity building (Sandom and Simula 2001).

The first draft of the national certification standard was produced in 1996, which was largely based on the ISO 14000 generic forestry standards and ITTO Guidelines for Sustainable Forest Management. The National Committee on Sustainable Forest Management coordinated the work and largely consisted of government agencies, State Forestry Departments, the timber industry and the research community. NGOs hardly participated, nor were asked to contribute to the process at this early stage (Sandom and Simula 2001).

In 1998 the MTCC started its work for the development of a more detailed national certification standard, called the Malaysian Criteria and Indicators (MC&I) for Sustainable Forest Management (SFM) within the ITTO framework. In mid-1999, MTCC opened up the discussion process by inviting a broader spectrum of social and environmental groups including community-based indigenous groups and communities to be involved in the process “to review, discuss and improve the MC&I”. These groups included the Borneo Resources Institute (BRIMAS), KERUAN Association, and the Institute for Development and Alternative Living (IDEAL) from Sarawak, Partners of Community Organisations (PACOS) from Sabah, Center for Orang Asli Concerns (COAC) from Peninsular Malaysia, as well as the national Sahabat Alam Malaysia (Friends of the Earth Malaysia).

The certification criteria, indicators, activities and standards of performance (SOP) were identified and finalized in 14 months and comprised 7 criteria and 50 indicators. The revised version was published on December 29th, 1999 as the “*Malaysian Criteria, Indicators, Activities and Standards of Performance (MC&I) for Forest Management Certification (Forest Management Unit Level)*” (Sandom and Simula, 2001).

However the concerns and suggestions raised which related to the protection of Indigenous Peoples rights had not been adequately addressed despite numerous inputs and submissions being made to this effect.

On the 6th and 7th of December 2000, the MTCC together with FSC, WWF-Malaysia, Tropical Forest Trust (TFT) and the German Agency for Technical Cooperation (GTZ) jointly

organised a Workshop on Forest Certification as a step “to initiate work towards the formation of the Malaysia Working Group” (MTCC 2000). The workshop was also aimed at providing information on the MTCC and FSC certification schemes as well as explaining the purpose and requirements for forming the Malaysia Working group. At the workshop it became apparent that many things had been decided between MTCC and FSC without relevant stakeholders being kept informed. At the meeting several NGOs issued a statement saying:

“We continue to be involved in this process because we are genuinely interested in achieving sustainable forest management in Malaysia, which fully recognises the rights of indigenous and local communities, is ecologically sound and economically sustainable. ...

We are surprised that since the regional and national consultations in 1999, specific steps have taken place without any information communicated to those of us who took part in those meetings, let alone any consultation over these decisions which culminate in the current workshop.

The FSC and NTCC Malaysia have finalised the Terms of Reference, which leaves little or no opportunities for any serious consultation. ...

We had clearly expressed our views and position over the draft MC & I, as attached. If those issues are not seriously pursued, then any discussion of harmonising the MC & I with the FSC principles and criteria would be premature and inconsistent with the spirit of genuine consultation.

Our aim is not to have a greenwash where a system considered “international” is adopted to certify timber trade that bears no relation to the reality of the forest and its peoples.

We therefore call for continuing and wider consultations on the issues identified at the 1999 regional and national meetings, with full and effective participation of affected communities, including the timely availability of full information, in local languages”. (POASM et al⁸⁸, 2000)

The workshop proceeded and resulted in the formation of a National Steering Committee (NSC) to examine the terms and conditions for further FSC-MTCC collaboration. The NSC consisted of four interest groups namely Economic, Environment, Social and Direct Resource Managers⁸⁹, despite there never being any real consensus about the validity of these four ‘chambers’. Furthermore the MTCC Chair was also to lead the NSC, while claiming that it was ‘independent’.

The MTCC apparently hoped that the deliberations of the NSC would lead to the formation of a working group that the FSC would endorse as an ‘FSC working group’. This, however, has not happened.

The community-based groups and NGOs, despite being concerned about the process as stated above, continued to participate in the MTCC/MC&I process hopeful that their concerns and the aspirations of the indigenous peoples would be adequately addressed. However, during 2001, they became further disillusioned with the MTCC and the reasons for initiating the MC&I. In fact, it became evident

that their continued participation in the MTCC/MC&I process would only have lent legitimacy to the violation of the rights of the indigenous communities involved.

Thus, in July 2001, 10 social and community-based NGOs⁹⁰ which had been involved with the MTCC consultations, plus five nominated members in the NSC, announced their withdrawal from the MTCC/MC&I process and the NSC, stating that:

"We had agreed to participate, and during the process, we have seen how the NTCC is not able to resolve critical "stakeholders" main issues. More importantly, the NSC meeting and other processes give very little room for real dialogue and our presence may only be used to legitimise indigenous and local forest communities' participation in the process.

Furthermore, we expect that critical stakeholders, especially indigenous and local forest communities, will be informed in their own language(s) about the certification processes, rights and responsibilities, and that participation will be genuine and credible. Yet the NTCC and WWFM are cooperating to form a Multi-Stakeholder Working Group, that for some reason other NGOs and communities are not directly involved, and that is in clear violation of FSC's guidelines on Working Group Procedures (FSC Document 4.2). Yet, despite NTCC claiming to be independent of the National Steering Committee (NSC), the fact is that it is NTCC's Dr. Freezailah who heads it. ... There has been no consensus on proceeding with four 'chambers', yet the NTCC/NSC is currently proceeding along this path" (POASM et al 2001).

Their withdrawal was supported by two other NGOs and an Orang Asli community group⁹¹ not connected with the MTCC consultations, which endorsed the *NGOs Statement to MTCC*, July 2001 (see Appendix 2). In September 2001, the groups issued a follow up statement to MTCC, reiterating their firm intention to withdraw *"both our involvement in, and endorsement of, the MTCC/MC&I process"*. Also in September 2001, the groups decided to form a coalition of indigenous communities and NGOs working on certification and forest issues vis-à-vis indigenous and local forest communities ownership rights, user rights and access to resources, known collectively as JOANGOHutan.

Despite the JOANGOHutan groups' withdrawal and stated concerns, the NSC meetings went ahead with the formation of a 'Technical Working Group' (TWG) within the NSC to draft an 'FSC-compatible standard'.

Subsequently, MTCC organized regional-level consultations to identify Verifiers for the respective Indicators. These were held in Sabah, Sarawak and Peninsular Malaysia between April and July 2002. The MTCC claimed that from Sabah, *"There was good representation of the social and environmental stakeholder groups"* given that 17 representatives from 11 organisations attended the two Sabah Regional Consultations held on 17-18 April and 25-26 June 2002 in Kota Kinabalu. The MTCC also claimed that *"These representatives [of Sabah] participated very actively and provided useful inputs into the formulation of*

the Verifiers, especially for Principle 2: Tenure and Use Rights and Responsibilities, and Principle 3: Indigenous Peoples' Rights". MTCC also reported that:

"Just like in Sabah, the response from the social and environmental stakeholder groups in Sarawak was indeed encouraging...Even though the representatives of the indigenous people did not attend the Peninsular Malaysia Regional Consultation held from 24-26 July 2002 in Kuala Lumpur, there was active participation from a sociologist who is an expert on the local indigenous people (Orang Asal)." (MTCC 2002a)

The increasing numbers of social and environmental stakeholder groups invited by MTCC to be involved in the MC&I Development Process may appear encouraging. However, in the perspective of JOANGOHutan:

"The MTCC in proceeding with its voluntary certification scheme without adequately addressing the call of the communities and NGOs for a moratorium on further logging ... in areas where indigenous peoples are asserting their native rights to land, demonstrates the total lack of genuine concern of indigenous peoples rights and the basic principles of forest management" (JONGOHutan 2002).

So, the question remains as to whether or not the presence of added social and environmental stakeholders – in particular those 'representing' indigenous groups but not calling for the amendment or repeal of legislation that impinges on indigenous and local forest communities' rights, is only being used to legitimize indigenous and local forest communities' participation in the standards development process. The composition, functions and objectives of some of these groups may have provided the local identification of them as being indigenous groups, representing, for example the Iranun, Tidung and Kedayan of Sabah, or the Dayak and Orang Ulu of Sarawak. However, they tend to be oriented towards the more traditional and cultural aspects such as indigenous art and crafts, dances, traditional costumes, handicrafts, etc and not fundamental issues pertaining to protection and recognition of rights.

In community workshops in the regions of Sabah, Sarawak and Peninsular Malaysia in February-April 2001, which were initiated by NGOs and communities, and funded by the Tropical Forest Trust, it was concluded that the way to accord legal recognition and protection to native customary rights over land for the indigenous peoples is to amend the laws on land (Yong et al 2001). The workshops emphasized that:

"The NTCC and FSC must ensure that certifiers of FMUs and concessionaires seeking FSC-certification of forest products adhere to FSC Principles and Criteria and to guidelines established on a consultative and participatory basis for certification. In this context, consultative and participatory means the full prior informed and consent of indigenous peoples and forest communities to the establishment of the Forest Management Units or concession areas that does not threaten or diminish, either directly or indirectly, the customary land rights, tenure rights and resources of

indigenous peoples. Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with the indigenous peoples, and recognized and protected by the federal and State governments and their statutory bodies, logging concessionaires or license holders, certifiers, the public” (Yong et. al. 2001).

3. MTCC and the FSC

3.1. How the collaboration started:

According to Timothy Synnott, the FSC’s Executive Director at the time:

“In September 1994, the FSC ED met representatives who had little enthusiasm for collaboration with FSC. In 1995 – 1988 [sic], further meetings were held in KL [Kuala Lumpur], and with the Malaysian Timber Council (MTC) representatives in Europe, but there was little scope for collaboration....

At the end of 1998, Malaysia officials indicated that they wanted to collaborate with FSC. The Minister of Primary Industries [Mr Lim Keng Yaik] announced in London that Malaysia was extremely interested in collaboration with FSC, and the impression that Malaysia was hostile to FSC was a misunderstanding. The ED and two FSC members met the London director of the Malaysian Timber Council in December 1998. The ED went to Kuala Lumpur in March 1999 for meetings with the Minister, forestry officials, NGOs,⁹² and timber exporters... NTCC and FSC agreed to collaborate in revising the MC&I, to make them compatible with latest ITTO and FSC documents” (Synnott 2001).

As was candidly noted in an article in The Star newspaper, the 1998 decision by MTCC to engage with FSC was a ‘180 degree turn’ from the mid 1990’s, when Primary Industry Minister Datuk Seri Dr Lim Keng Yaik used words like *“discriminatory, undemocratic, divisive, misleading and dishonest, impractical and costly, and counter-productive”* when describing the FSC certification drive” (Yoga 2001a).

In December 2000, in conjunction with the mentioned workshop in Kuala Lumpur, a Memorandum of Understanding (MoU) was signed between MTCC and FSC, with agreement to carry out a ‘Gap Analysis’ and a comparative study of the MC&I as well as to carry out a comparative study of MTCC and FSC requirements. The objectives of the ‘Gap Analysis’ study were *“to help MTCC fill the gaps, improve its standards and systems and help the NSC in setting up the standards.”*

Work on the FSC-MTCC Comparative Study started in January 2001. Two ‘independent expert consultants’ were appointed, James Sandom by FSC and Markku Simula by MTCC, to do the assessment and to write the report. According to Sandom and Simula, *“The process of developing national standards in Malaysia has been comprehensive and opportunities have been provided for the main interest groups to participate – at both the national and regional levels.”* (Sandom and Simula, 2001). The comparison of the MC&I and the FSC P&C was completed in late March, while

the study of FSC Process requirements was completed in June 2001.

However, there are reasons to question the motivations of MTCC in collaborating with FSC. From early on, it seems to have been a deliberate strategy for the MTCC to use the collaboration in order to gain international recognition. For example, at a session with Orang Asli communities in Peninsular Malaysia in April 2001, the MTCC told the participants that *“the MTCC would try to cooperate with the FSC towards a long-term collaboration”* and added that, *“the Malaysian standard was compatible with the FSC and thus Malaysian [timber] products are now gaining acceptance in the international market”*. In December 2001, the MTCC announced that they would anyway be going ahead with a voluntary scheme using a set of old criteria which has 29 indicators, and which had been formulated under a Malaysia-Netherlands cooperation program for timber certification in 1996⁹³.

The MTCC further announced that the first phase of the certification process would be using the interim Malaysian Criteria and Indicators for Forest Management Certification (MC&I). The MTCC also said that this interim standards would become “FSC compatible” in ‘Phase 2’. The MTCC scheme was officially launched by the Malaysian government in January 2002.

3.2. MTCC in search of international acceptance

The MTCC sudden ‘u-turn’ with respect to their ‘perspectives on the FSC’ seems to have come from a realization that without any international acceptance the Malaysian certification scheme would not be an effective tool for the promotion of Malaysian timber and timber products in foreign markets. As noted in the article ‘Lumbering process of certification’:

“The NTCC concedes that FSC-endorsement of the MC&I is crucial since it would be difficult to convince the international market to accept the MC&I” (Yoga 2001a).

MTCC has however continued to ‘put pressure’ on the FSC by stating that it will work with ‘other schemes’ if there is no FSC-endorsement of their standards. As noted in the article referred to above:

“if there is no FSC-endorsement, the NTCC will work with other international certification schemes” (Yoga 2001a).

In the Minutes from the 5th NSC meeting of the MTCC the Chairman further states that:

‘... MTCC is also currently collaborating with the Pan European Forest Certification (PEFC) Council, as well as collaborating with other ASEAN member countries to develop a Pan ASEAN Certification Scheme’ (MTCC 2002b).

This indicates that MTCC’s ‘commitment to the FSC’ goes only as far as FSC is a useful institution with which to be associated in order to legitimise the MTCC and its practices (see Box 1 to the right).

In the fifth meeting of the NSC, WWF Malaysia raised a concern with regard to the MTCC’s use of the acronym

'FSC' in the documents related to the MTCC's standard development process. They argued that the use of the initials 'FSC' should be dropped from the draft standard document. To this the Chairman of the NSC replied that:

"... there is a history behind the use of the FSC in the draft standard. Hence it would not be appropriate to stop using the term FSC, as it would be denying the existence of the MTCC-FSC collaboration" (MTCC 2002b).

When drawing up what MTCC has repeatedly referred to as the 'FSC compatible standard' the name 'FSC' is used by the MTCC on documents related to this standard development process within the MTCC. This seems to be in violation of FSC regulations, but nevertheless it has continued up until October 2002, creating confusion as to whether or not the NSC-appointed TWG is actually FSC endorsed, and to what extent the collaboration between MTCC and FSC is still ongoing or has ended.

4. Assessing the MTCC-FSC Collaboration and standards development process

4.1 The process

The MTCC/MC&I process apparently lacked transparency, accountability, full consultation and fair decision-making. Furthermore, the ongoing process has been painted by MTCC as a rosy picture of NGOs participation, by mere fact of the enduring involvement of NGOs such as WWF Malaysia and International Federation of Building and Wood Workers (IFBWW)⁹⁴. With time, more and more 'social and environmental stakeholder groups' have been invited to participate in the MTCC workshops and 'alternate' NSC members have been accepted. However, the majority of these groups and individuals are those that tend to be more 'culturally-oriented', rather than those that take a more independent position on issues of indigenous and local forest communities' rights.

Malaysian NGOs and community groups who have withdrawn from the MTCC process still believe that, whilst social and environmental groups increasingly participate in the development of MC&I to comply with FSC requirements, the process remains questionable when fundamental issues of indigenous and local forest communities' rights that had been raised several times to the MTCC have continuously been ignored and not resolved (see Appendix 2). As an indigenous representative from a Sarawak NGO aptly noted:

"At the 1st NTCC meeting...in KL about one and a half years ago, we, the NGO groups present had already made our stand very clear that the National Timber Certification process is not acceptable for Sarawak...Our opposition was on the ground that the NTCC process will only be implemented within areas gazetted as permanent forest estate (PFE) - which means within the Sarawak context - within areas gazetted as protected forests and forest reserves⁹⁵... As Native Customary Rights (NCR) are extinguished or cannot exist within the PFE, i.e. within the areas to be logged and where

BOX 1: Impatient for certification: Time is money

The text below is quoted verbatim from an article in the Business Times (Malaysia) 19th of June 2001 entitled 'Timber exporters turn to Mexico-based standards' (Zaidi Isham Ismail 2001).

MALAYSIAN timber exporters are, for now, left with no alternative but to subscribe to the Mexico-based Forest Stewardship Council (FSC) timber certification to achieve greater success in the developed nation markets. Industry sources said the environment-conscious consumers of these countries trust the timber certification of FSC, a non-governmental organisation (NGO). "Until the National Timber Certification Council can come up with an inter-nationally-recognised label, the exporters have to rely on FSC's certification," a source told Business Times in Kuala Lumpur.

He noted that the local timber exporters without FSC certification will continue to lose out on markets until Malaysia's very own certification programme is drawn up soon. Certification is important as it indicates that Malaysia's timber come from a sustainable and well-managed forest and certification allows better pricing and value for money. With such labelling, Malaysian timber products should have greater access to overseas markets particularly the US, Europe and other markets that insist on certification for their timber imports.

The National Timber Certification Council (NTCC) was established in 1998 to undertake the task of overseeing the certification process of Malaysia's timber. But progress has been slow somewhat because the international community views Malaysia's certification programme with scepticism. To counter this negativity, NTCC has since sought out the powerful FSC to endorse the council.

An industry source said the NTCC has yet to come up with a timber certification standard that suits FSC criteria on forest sustainability. He noted that at present, NTCC faces too many hurdles before such a labelling can be set up for Malaysia's timber exporters. "I'm afraid timber companies cannot afford to lose markets from waiting because time is money. It is a matter of dollars and sen to them," the source said.

the NTC process will apply, how can the natives be called "a stake holder" in the NTC process? Without NCR or any right, how can the natives [be] asked to be consulted, to participate or to share in the benefits of this NTC process?" (Indigenous representative from a Sarawak NGO, pers. comm, 2002)

The resignation of WWF Malaysia as a member of the MTCC Board of Trustees validated what the NGOs and community-based groups that withdrew from the MTCC/MC&I process had been saying:

"On the 31st January 2002, the MTCC certification scheme was launched by the Honourable Minister of Primary Industries. However, it is in WWF Malaysia's view that the MTCC scheme is not an adequate mechanism to improve forest management as the standards that is being used did not undergo the due consultative process with stakeholders. Therefore, after due consultations with forestry related staff, it was decided that WWF Malaysia could not share in the responsibility of the MTCC scheme in its current form" (WWF Malaysia 2002).

4.2 Stakeholder Participation

The participation and involvement of community-based groups and indigenous community members in the MTCC certification process has been misconstrued as

giving consent and approval to the standards drawn up by the MTCC. It is clearly stated in the numerous NGO Statements to MTCC that:

"The objections that we have raised several times to the MTCC have continuously been ignored and not resolved. We, therefore, had no other choice but to withdraw our involvement from the MTCC process at the end of July last year.

We deeply regret efforts by the timber industry in this country and the MTCC in proceeding to certify timber from Malaysia as being "sustainably produced" when the concerns of indigenous communities and local communities have not been taken into account and their rights ignored" (JOANGOHutan 2002).

Among the NGOs, WWF Malaysia has been the most involved in the MTCC/MC&I process. WWF Malaysia also sat on the MTCC Board of Trustees, until their resignation on 30 January 2002. However, it is still coordinating the four-member Technical Working Group (TWG) formed to work on revising the MC&I to make them 'compatible with the FSC P&C'. As affirmed in WWF's Position Statement:

"WWF Malaysia's resignation from the Board [of MTCC] does not signal our withdrawal from the entire certification process. Rather, WWF Malaysia will remain actively involved in the current multi-stakeholder participatory consultative process, which is running in parallel with the current MTCC scheme" (WWF Malaysia 2002).

Nonetheless, the MTCC and the timber industry tend to assume that WWF Malaysia represents the NGO community, particularly the environmental sector. However, it must be made clear that the WWF Malaysia does not represent the concerns of indigenous, non-governmental and community organisations as a whole, and it is noticeable that WWF Malaysia has never openly and actively supported all the Joint NGOs Statements to MTCC.

4.3 Certification for whom and for what?

The fundamental difference between the objectives of the MTCC in developing certification standards and that of the community-based groups and NGOs is that, according to JOANGOHutan:

"the MTCC is structured to find ways to sell our timber while we are mandated to protect our forests and to secure the livelihoods and interests of indigenous peoples and local communities who live in, depend on and derive their spiritual and cultural identity from the forests" (POASM et al 2001).

To further illustrate this difference, MTCC has yet to provide an adequate and satisfactory response to the concerns repeatedly raised by NGOs and community-based groups that participated in the MTCC process. These concerns were summarized by JOANGOHutan in a press statement in January 2002:

"We had since 1999 been involved in the process to review, discuss and improve the Malaysian Criteria, Indicators, Activities and Standards of Performance (MC&I) for Forest Management Certification because we were genuinely

interested in achieving sustainable forest management in Malaysia.

However, we have also clearly communicated to the MTCC about a number of fundamental issues throughout the process that needed to be addressed and resolved before any credible and effective certification scheme can be in place.

The issues centered on the rights of indigenous peoples to customary lands and forests and livelihoods of the people who live in and around the forests. ...

Among the serious concerns that we had raised with the MTCC included -

1. The encroachment of Forest Management Units, Protected Areas and logging concessions into the community's forest areas which take away or restrict the community's ownership rights, user rights and access to resources. Many of these areas are still being disputed because they involve either part or the whole of lands and forests over which native communities have native customary rights and claims;

2. The concept and process of sustainable forest management and certification is difficult for many of the indigenous and local communities to understand because of the technical terms and lack of full information in local languages. Further, the concept of Sustainable Forest Management (SFM) as enforced through legislation and forest management plans is 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;

3. 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 practice related to land and forest;

4. Involuntary relocation of villages in the FMU results in the loss of ownership and user rights. Besides, governments and development agencies often make decisions to move the communities without consulting them first, resulting in further impoverishment of the communities; and

5. 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.

We had demanded that the process for the development of standards and criteria for timber certification be participatory, consultative, open, transparent and involve representation of all key stakeholder groups at all levels who have a genuine interest in forest management and conservation in Malaysia" (JOANGOHutan 2002).

The MTCC, in proceeding with the process of developing the national certification scheme and 'harmonization of the MC&I with FSC' without adequately addressing the concerns of the communities and NGOs, thus continue to demonstrate the lack of genuine protection and recognition of indigenous peoples rights and basic principles of

sustainable forest management.

4.4. FSC encouraging MTCC to 'proceed rapidly'

In all the NGO Statements to MTCC, it has been made clear that a major concern was the inadequacy of the MC&I to give due recognition to the rights of, and user rights on, the traditional territories of local indigenous and forest communities. Yet Primary Industries Minister Lim Keng Yaik at a press conference at the launch of MTCC's Timber Certification Scheme on the 31st of January 2002, accused NGOs and community groups pulling out of the MTCC/MC&I process due to MTCC's refusal "to give in to our demands, which amounted to asking the MTCC to break the country's laws and regulations." Commenting on the pullout, at the same press conference, MTCC's Chair, Dr Freezailah, said,

"Even though the FSC includes a provision to include representation of the social and indigenous groups, it was the group who pulled out... The FSC knows that we have tried to get them back into the process and I'm sure they will make the necessary adjustments to take this into account."

An FSC international Board member, Sian Tuan Mok, who is Malaysian and has been involved in the MTCC process, has also indicated that those who have pulled out 'have unrealistic demands' and that their places can be taken over by others. For instance, the minutes of the third meeting of the National Steering Committee stated that:

"Mr. Mok believed that the NGOs may have some misperceptions about FSC and therefore they keep on making unrealistic demands ... He however stressed the need to deal with this situation cautiously, and not to be seen to be chasing them away. He saw the need to send the minutes of the NSC meetings to the NGOs concerned, and to let the NGOs concerned know that they have to come in and participate in the NSC. If not, other parties will be invited to represent their interests" (MTCC 2001).

It is apparent from this statement that it is maintaining the illusion of 'multi-stakeholder processes and participation' which is important, and not actual participation and democratic standard development processes based on FSC's Principles and Criteria. FSC's board member from Malaysia has thus instead of stressing the importance of true transparent multi-stakeholder processes and respect for Indigenous Peoples rights in their own territories, rather emphasized that speed is essential. On the 12th June 2001 it could be read in the Star that:

"Mok thinks Malaysia should work fast to have certification in place, otherwise it would be at the losing end. As it is, Brazil and Ecuador already has FSC-certified plywood and sawn timber" (Yoga2001a).

5. Concluding remarks

FSC's 'collaboration' has been used by the MTCC to legitimize a process which aims to serve those with a

vested corporate interest in certification occurring quickly in Malaysia, whilst ignoring difficult and time consuming issues such as Indigenous Peoples' rights and tenure. Those 'representing the FSC' seem even to have encouraged MTCC to 'speed up the process' with little apparent regard for the issues raised by social and indigenous stakeholders. The FSC thus finds itself in a position where it is currently being used by MTCC to legitimize its practices and agendas. This increasingly serves to undermine FSC's own credibility.

As the MTCC 'went alone' to launch their own scheme (see 3.1.) in January 2002, the JOANGOHutan groups, who had all withdrawn half a year earlier in protest, stated that:

"In relation to the forest management performance standards, we had insisted that the indigenous communities' legal and customary tenure or user rights (adat) be recognised."

Establishment of FMUs and concessionaires seeking certification of forest products must comply with the criteria and indicators established on a consultative and participatory basis and the adat. Consultative and participatory means the full prior informed and consent of indigenous peoples and forest communities to the establishment of the FMUs or concession areas that does not threaten or diminish, either directly or indirectly, the customary land rights, tenure rights and resources of indigenous peoples.

Land and forest disputes between the communities on the one hand, and the government, logging concessionaires and licensees on the other hand, are serious and continue to exist in the country. Violations of the rights of indigenous peoples continue and the timber certification process does not acknowledge such concerns" (JOANGOHutan 2002).

At the time of writing it still seems unclear if there is any 'collaboration' ongoing between the FSC and the MTCC. While it has been claimed by staff members of the FSC that the formal collaboration has ended, FSC was represented at the 6th NSC meeting at the end of October 2002. While there appear to be confusion both within the MTCC and the FSC regarding what the content of the 'collaboration' now is, or is not, it is perfectly clear that as of November 2002, MTCC continues to use FSC's name in its standard development process, and refers to the standards as 'FSC-Compatible Malaysian Standards'. They do this despite the fact that the whole JOANGOHutan network has withdrawn, the demands raised since 1999 (see Appendix 2) have not been taken into consideration, and neither the 'working group' nor the 'standard' has any official endorsement from the FSC.

There are important decisions to make for the FSC. Many observers are watching if the FSC will continue to lend support to the Malaysian industry and government's calculated efforts to avoid boycotts and get better access to markets for Malaysian timber, without addressing the violations of indigenous peoples rights and destruction of their livelihoods. If the FSC continues to lend its name to MTCC's development of flawed certification standards and

practices, while ignoring Indigenous Peoples rights to their lands and forests, the FSC will be seen to have become a hindrance to, instead of a catalyst for, the promotion and respect for Indigenous Peoples rights.

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Appendix 1

Member groups in JOANGOHutan

- #1. Persatuan Orang Asli Semenanjung Malaysia (POASM), Semenanjung Malaysia
 - #2. Sinui Pai Nanek Sngik (SPNS), Perak
 - #3. Komuniti Orang Asli Daerah Slim River, Perak
 - #4. Center for Orang Asli Concerns (COAC), Selangor
 - #5. Partners of Community Organisations (PACOS Trust), Sabah
 - #6. KERUAN Association, Sarawak
 - #7. Borneo Resources Institute (BRIMAS), Sarawak
 - #8. SILOP, Sarawak
 - #9. Indigenous Peoples' Development Centre (IPDC), Sarawak
 - #10. Institute for Development and Alternative Living (IDEAL), Sarawak
 - #11. SACCESS, Sarawak
 - #12. Sahabat Alam Malaysia (SAM), Malaysia
 13. SOS Selangor (Save Our Sungai Selangor), Selangor
 14. Suara Rakyat Malaysia (SUARAM), Selangor
- # *These groups have participated in the MTCC workshops since August 1999 until they withdrew from the MTCC/MC&I process in July 2001.*

Appendix 2

Date: 30 July 2001

NGOS STATEMENT TO NTCC, JULY 2001

To: The Board of Trustees
National Timber Certification Council, Malaysia
Via Mr. Chairman, Y. Bhg. Dato' Dr. Freezailah bin Che Yeom

Mr. Chew Lye Teng
The Chief Executive Officer
National Timber Certification Council, Malaysia

Copies to:

1. Dato Seri Dr Lim Keng Yaik, Minister of Primary Industries, Kuala Lumpur
2. Sarawak Chief Minister, Datuk Petinggi Tan Sri (Dr.) Haji Abdul Taib Bin Mahmud, Kuching, Sarawak
3. Sabah Chief Minister, Datuk Chong Kah Kiat, Kota Kinabalu, Sabah
4. International Tropical Timber Organisation (ITTO) Board, Japan
5. Mr. Mauricio Castro Schmitz, Forest Stewardship Council (FSC) Board, Chair, Mexico
6. Mr. Timothy Synnott, Forest Policy Director, FSC International, Mexico
7. Mr. David C. Nahwegahbow, FSC Board Member, Canada and Chair, SSAC
8. Ms. Hannah Scrase, FSC Board Member, UK
9. Mr. Yati A. Bun, FSC Contact Person for PNG, Papua New Guinea
10. Ms. Dominique Irvine, FSC Social Forum, USA
11. Mr. Mok Sian Tuan, Economic-South, FSC Member, Malaysia
12. Mr. James Sandom, FSC-appointed Consultant to Assess the MC&I and FSC P&C
13. Dr. Markku Simula, NTCC-appointed Consultant to Assess the MC&I and FSC P&C
14. Dr. Stephen Howard, Head, Global Forest and Trade Initiatives, WWF-International, UK
15. Tropical Forest Trust Board, UK, Via Mr. Bjorn Roberts, Manager
16. Dr. Kevin Grace, SGS (Malaysia) Sdn. Bhd., Switzerland
17. Ms. Ruth Nussbaum, ProForest/SGS Forestry, UK
18. Mr. Neil Judd, SGS Forestry QUALIFOR Programme, UK
19. Ms. Barbara von Kruedener, Project Officer- GTZ Forest Certification Project, Germany
20. Coordination Office for GTZ-supported Forestry Projects in Malaysia, Kuala Lumpur
21. Mr. Richard Z.Donovan and Mr. Jeffrey Hayward, Rainforest Alliance/SmartWood Program, USA
22. Mr. Rod Nelson, Research & Information Officer, Soil Association/Woodmark, UK
23. Keurhout Foundation, The Netherlands

Dear Dato' Freezailah and Mr. Chew,

We stated clearly in our statements of 19 October 1999, 21 October 1999 and 6 December 2000 (appended), that we have continued to be involved in the process to review, discuss and improve the Malaysian Criteria, Indicators, Activities and Standards of Performance (MC&I) for Forest Management Certification because we are genuinely interested in achieving sustainable forest management in Malaysia.

However, we have also clearly stated a number of fundamental issues throughout the process that needs to be addressed and resolved before any

credible and effective certification scheme can be in place. The issues reiterated in the four regional community workshops in Sabah, Sarawak and Peninsular Malaysia that were held between February and April 2001, centered on the rights of indigenous peoples to customary lands and forests and livelihoods of the people who live in and around the forests. We question the value of participating in a process that is currently not meeting the requirements of either the ITTO Criteria and Indicators, or the FSC procedures, and Principles and Criteria for Forest Management.

THE ISSUES are as follows:

1. The encroachment 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;
2. The concept and process of sustainable forest management and certification is difficult for many of the indigenous and local communities to understand because of the technical terms and lack of full information in local languages. Further, the concept of SFM as enforced through legislation and forest management plans is 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;
3. 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 practice related to land and forest;
4. Indigenous peoples particularly forest-dwellers (e.g. the 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;
5. Involuntary relocation of villages in the FMU results in the loss of ownership and user rights. Besides, governments and development agencies often make decisions to move the communities without consulting them first, resulting in further impoverishment of the communities; and
6. 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.

OUR DEMANDS ON PROCESS ISSUES

1. Participation and Representation

The process should be participatory, consultative, open, transparent and involves representation of all key stakeholder groups at all levels who have a genuine interest in forest management and conservation in Malaysia (Raised in the NTCC Regional Consultation August 1999, NTCC National Consultation October 1999, A Statement of NGO Concerns December 2000, National Consultation on FSC-NTCC Collaboration December 2000 and Community Consultations Feb-April 2001. Also in the FSC National Initiatives Manual, First Secretariat Draft, September 1998)

2. Access to information and fair decision-making process

Up-to-date and accurate materials and information in the local languages and appropriate forms (e.g. visuals) should be available and distributed as widely as possible at the community level, and their views sought, before any decision is made that affects the community's rights to customary lands and forests. Sufficient time should be given for the communities to

understand the issues before they can even make a decision, taking into account the geographical distance and isolation of groups, among other factors (Raised in the NTCC National Consultation October 1999, A Statement of NGO Concerns December 2000, National Consultation on FSC-NTCC Collaboration December 2000 and Community Consultations Feb-April 2001. Also in the FSC National Initiatives Manual, First Secretariat Draft, September 1998).

3. Transparency

We understand that NTCC has been communicating with various bodies such as Keurhout Foundation, Initiative Tropenwald, Tropical Forest Trust, and Forest Stewardship Council. Yet we do not know exactly what is the status of and relationship among different processes, and role of NTCC in all these processes (Raised in A Statement of NGO Concerns December 2000, National Consultation on FSC-NTCC Collaboration December 2000 and Community Consultations Feb-April 2001).

Specifically, we want to know the current development of NTCC in implementing the ITTO requirements and FSC compliance in development of the MC&I. We also want the NTCC to write to the FSC on a number of issues, and the formalised responses be copied to all stakeholders, namely: (i) local forest communities and indigenous peoples rights to land and forests; (ii) process issues (e.g. National Initiatives, Internal Structures, Dispute Resolutions, etc.) in compliance with FSC policies, rules & Principles and Criteria.; (iii) involvement of all stakeholders; and (iv) clarification of the 4 chambers i.e. Social, Environment, Economic and Direct Resource Managers.

4. Independent Facilitation

The Chair or Facilitator of the National Steering Committee, Regional and National Consultations, sessions and associated meetings should be an independent person to allow for balanced and neutral participation and contribution FSC (National Initiatives Manual, First Secretariat Draft, September 1998).

5. Funding

Funding to cover the travel and other costs of stakeholders especially local forest and indigenous communities as well as administration support for especially community-based groups and non-governmental organisations, printing and distribution, among other things should be made available. Funding will be in the form of financial and technical assistance (Raised in the National Consultation on FSC-NTCC Collaboration December 2000 and Community Consultations Feb-April 2001. Also in the FSC National Initiatives Manual, First Secretariat Draft, September 1998).

OUR DEMANDS ON STANDARDS ISSUES

1. Discussion of and initiatives on the development of the Malaysian forest management performance standards must comply with the Criteria and Indicators 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*).

2. The FSC-NTCC collaboration and national/regional initiatives in development of the Malaysian forest management performance standards must get forest communities and indigenous landowners involved to input their knowledge to the process from very early on (Raised in the NTCC National Consultation October 1999, A Statement of NGO Concerns December 2000, National Consultation on FSC-NTCC Collaboration December 2000 and Community Consultations Feb-April 2001. Also in the FSC National Initiatives Manual, First Secretariat Draft, September 1998).

3. Establishment of FMUs and concessionaires seeking FSC-certification of forest products must comply with the criteria and indicators of ITTO, FSC's principles and criteria, community guidelines (e.g. Community Protocol)

established on a consultative and participatory basis and the *adat*. Consultative and participatory means the full prior informed and consent of indigenous peoples and forest communities to the establishment of the FMUs or concession areas that does not threaten or diminish, either directly or indirectly, the customary land rights, tenure rights and resources of indigenous peoples. Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with the indigenous peoples, and recognized and protected by the federal and State governments and their statutory bodies, logging concessionaires or license holders, certifiers, the public.

4. Sign a Memorandum of Agreement between the villagers and FMU/concession holders on the Community Protocol. This means the acknowledgement of community ownership and user rights, community participation in every decision made on the FMU plan and its implementation, obtain prior informed consent of the community, respect the traditional practices of indigenous peoples, among others.

5. Clearly define the boundary of village and FMU or logging concession areas with full involvement of the indigenous peoples in determining and demarcating the boundary. Participatory community mapping to certify, and to reassert, the traditional boundary of indigenous peoples must be recognized, accepted and respected.

6. 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 (see NGO Statement and Malaysian NGOs Position Statement, October 1999). The Workshops on Community Consultations on Forest Certification February-April 2001 proposed that the way to accord legal recognition and protection to native customary rights over land for the Sarawak indigenous peoples is to amend the laws on land, in particular section 5 of the Sarawak Land Code. Consequently, for the Orang Asal (indigenous peoples) of Sarawak as well as Sabah and Peninsular Malaysia, the first concern that will need to be addressed is to fully recognise native customary rights over land, the creation of which is in accordance with the native laws and customary practice of the particular native community occupying that land. Additionally, 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-informed information, such rights. Mechanisms would need to be in place to determine the boundary of the FMU and areas over which the communities exercise their customary rights, to fully involve the indigenous communities in the demarcation of these boundaries, and to recognise and accept the community maps they produce to demarcate the boundaries.

To date, we have not heard anything from the NTCC yet particularly on concerns that have been raised again and again in previous forums.

We wish to stress that we participated (in some way) in the process but our participation was constrained in certain respects. There were a number of matters that were still not answered, or were unsatisfactorily answered. A major concern of many communities and NGOs has been the inadequacy of the MC&I to give due recognition to the rights of, and user rights on, the traditional territories of local indigenous and forest communities. We had agreed to participate, and during the process, we have seen how the NTCC is not able to resolve critical "stakeholders" main issues. More importantly, the NSC meeting and other processes give very little room for real dialogue and our presence may only be used to legitimise indigenous and local forest communities' participation in the process.

Furthermore, we expect that critical stakeholders, especially indigenous and local forest communities, will be informed in their own language(s) about the certification processes, rights and responsibilities, and that participation

will be genuine and credible. Yet the NTCC and WWFM are cooperating to form a Multi-Stakeholder Working Group, that for some reason other NGOs and communities are not directly involved, and that is in clear violation of FSC's guidelines on Working Group Procedures (FSC Document 4.2). Yet, despite NTCC claiming to be independent of the National Steering Committee (NSC), the fact is that it is NTCC's Dr. Freezailah who heads it. The NTCC, a national certification body, is proposing to make the Working Group an ad hoc group to be dissolved once standards are approved by the FSC (Appendix 2, NTCC-FSC Collaboration: Concerns and Proposals, NTCC 24 April 2001), indicating a lack of long-term commitment to participation, representation, equity and other FSC process requirements for national certification initiatives (For details on FSC Working Groups, see FSC National Initiatives Manual, First Secretariat Draft, September 1998). Moreover, the division of the Working Groups into 3 or 4 different sectors is not working well since it seems they are not working towards a common goal of sustainable forest management but instead promoting their own interest. There has been no consensus on proceeding with four 'chambers', yet the NTCC/NSC is currently proceeding along this path.

Also, the potential for the Social Group to reach consensus is difficult as the worker's union has conflicting interest with community organisations within the group. Thus far, the union representatives have also demonstrated inflexibility and lack of openness to indigenous peoples' concerns. Representatives of community organisations question the union's legitimacy to be within this group and thus need clarification on their position and interests.

We reiterate that we have continued to participate in the NTCC process because we are genuinely interested in achieving sustainable forest management in Malaysia. However, we realised that our participation and involvement in the process have been misconstrued as giving consent and approval to the present MC&I. We also felt that the objections raised by us

several times, both in the regional and national NTCC consultations and in writing, have continuously been ignored and not resolved (e.g. That certification in Sarawak be deferred pending the resolution of the establishment of the FMU). We, therefore, have no other choice but to withdraw our involvement in the NTCC/MC&I process until our demands on process and standards are well on the way to being met. We state categorically in no uncertain terms that WE DO NOT ENDORSE THE MC&I as currently proposed by NTCC.

Yours sincerely,

The undersigned Non-Governmental Organisations, Community-Based Organisations and Indigenous Peoples' Organisations.

SIGNATORIES TO THE NGO STATEMENT TO NTCC, 30 JULY 2001

1. Persatuan Orang Asli Semenanjung Malaysia (POASM), Semenanjung Malaysia
2. Center for Orang Asli Concerns (COAC), Selangor
3. Partners of Community Organisations (PACOS Trust), Sabah
4. KERUAN Association, Sarawak
5. Borneo Resources Institute (BRIMAS), Sarawak
6. Indigenous Peoples' Development Centre (IPDC), Sarawak
7. SILOP, Sarawak
8. Institute for Development and Alternative Living (IDEAL), Sarawak
9. SACCESS, Sarawak
10. Sahabat Alam Malaysia (SAM), Malaysia
11. Umui Pai Mamek Group, Perak
12. SOS Selangor (Save Our Sungai Selangor), Selangor
13. Suara Rakyat Malaysia (SUARAM), Selangor

*** Endorsement of this statement is on-going.*

Case Study 9

PT Diamond Raya Timber, Indonesia

Arbi Valentinus and Simon Counsell⁹⁶

Main issues identified

- Lack of national/regional FSC certification standards.
- Inadequate consultation process.
- Lack of adequate assessment.
- Non-compliance with P&C, especially concerning tenure, local community rights and environmental protection.
- Use of multiple Minor Corrective Action Requests instead of a single Major Corrective Action Request (thus allowing certification to proceed despite general failure against Principles).
- Non-suspension of certificate, even though a Major CAR was outstanding.
- Certification carried out despite call for moratorium from Indonesian civil society.
- Inadequate responses to complaints.

1. Summary

PT Diamond Raya is a logging company operating in a 'High Conservation Value Forest' on the island of Sumatra. An independent investigation carried out shortly after the certificate had been awarded indicated serious non-compliance with the P&C. The certifiers' assessment appears to have failed to identify problems of 'illegal logging' within the concession, and also neglected to properly take into account serious local disputes over boundaries and land tenure. Despite the area's unique and globally important wildlife, measures were not in place at the time of granting of the certificate for its adequate protection.

The certification was carried out in the face of long-standing concerns by Indonesia civil-society about the legitimacy, as well as the environmental and social impacts, of the concession system as a whole, and against the expressed demands of a large number of NGOs for a moratorium on certification exercises in Indonesia.

2. Background

2.1 PT Diamond Raya

PT Diamond Raya is part of the large forestry and agri-industrial conglomerate, PT Uniseraya Group, whose total holdings extend to nearly 850,000 hectares. The concession is located across three districts within the

municipality of Rokan Hilir, namely Rimbo Melintang, Bangko and Bagansiapi-api, Riau Province, Sumatra, and consists of natural rainforest, most of which is of peat-swamp forest type. The area was relatively isolated until the mid-1990s, when increasing numbers of transmigrants were brought in to work on oil palm plantations and a road project.

The company's license for the concession (HPH) now certified dates to 1978, although the renewal of the licence for 20 years in 1998 also involved a revision of the area, reducing it from 115,000 hectares to 90,956 hectares. The company produces approximately 60,000 cubic metres of logs per year, mostly consisting of meranti, ramin, durian and suntai. This wood is mostly used in Uniseraya Group's own mills, though these are not within the immediate locality. The concession was recognised by SGS as "definitely" consisting of High Conservation Value Forests.

The 1998 revision of the concession boundaries was supported by the UK Department for International Development (DFID), and was intended to overcome what were perceived as problems of encroachment by shifting cultivation, particularly on the concession's western boundary. Under the revision, a 'buffer zone', consisting of an oil-palm plantation several kilometres wide, was to be established between the concession and community lands.

Although strictly speaking outside the concession as now certified, this land has been the source of considerable contention with local communities. The oil palm plantation was to be established by PT Sindora Seraya, one of PTDR's sister companies within PT Uniseraya, which was duly granted a Timber Utilisation Permit ('IPK') to clear the remaining natural forest on land to be planted. However, local communities have subsequently protested that, whilst they agreed in October 1996 to the re-organisation of the concession's boundaries, no agreement was made about the installation of an oil-palm plantation. The communities have threatened to take legal action over this, thus threatening to undermine the agreement on which the concession area itself is based.

2.2 Certification in Indonesia

There has never been an FSC working group established in Indonesia, and thus there exists no national or regional FSC-endorsed standards. However, since 1995,

FSC has been developing various forms of co-operation with the Indonesian Ecolabeling Institute (LEI), an organisation that also carries out certification of forestry. LEI was initiated in 1993 under the chairmanship of former environment minister Emil Salim. The “LEI Certification System for Sustainable Forest Management”, with its own “Criteria and Indicators”, was agreed by industry and the government in 1998. In 1999 it was revised and it now refers to the Criteria and Indicators as a “National Standard”. While LEI representatives claims that LEI must, as a principle, be a transparent multi-stakeholder organisation, input into the standard-setting process seems to largely have been dominated by government and industry.

The LEI scheme is, like the FSC, a voluntary scheme and follows similar procedures to the FSC in terms of assessments and auditing work. While the LEI Standards on some specific issues can be read as being more demanding, it is considerably weaker than the FSC Principles and Criteria on others, especially in its language with respect to the protection of the rights of indigenous peoples and local communities. In 1999, LEI and FSC signed a Memorandum of Understanding, which in September 2000 was expanded to include a Joint Certification Protocol, whereby operations applying for certificates will have to be assessed by both a LEI accredited, and an FSC accredited certifier, and comply with both LEI’s “National Standard” and the generic FSC Principles and Criteria.

2.3 Indonesian opposition to certification of industrial concessions

The endorsement of the PT Diamond Raya concession was preceded by several warnings from international as well as Indonesian NGOs that any such certification would be challenged (see also section 2.4.2). These warnings were given mainly due to what was argued by Indonesian civil society to be the impossibility of implementing FSC Principles 2 and 3 in concessions on State land, where native customary rights have been extinguished. A related fear was that any certification of ordinary concessions would legitimise a system of industrial forestry that had driven local communities from their lands and resources, and is seen by many as the cornerstone of a forestry model that has brought about the disastrous decline of Indonesia’s forests. On this basis, certification of such industrial logging concessions was seen to be seriously counter-productive to fundamental reform of the forestry sector, including demarcation of indigenous lands and a total revision of the concession system.

After having asked for clarification on such issues since September 2000, Indonesia’s leading environmental ‘umbrella group’, WALHI, called for an immediate halt to certification operations in Indonesia the 10th of March 2001. On the 21st of April, this call was repeated by 144 NGOs and community-based organisations (CBOs) from all

regions of Indonesia. As a result of these calls, a project was initiated late in 2001 to conduct an independent assessment of the compatibility of Indonesian law with FSC Principles 2 and 3. The study is being supported financially by the Ford Foundation, DFID and GTZ, and coordinated by WALHI and AMAN, the Indigenous Peoples Alliance of the Archipelago. The study involves an analysis of several case studies of certification in Indonesia (including Perum Perhutani and PT Diamond Raya). The findings of this assessment are due to be presented at a ‘multi-stakeholder workshop’ in Indonesia in January 2003.

3. The certification of PTDR

3.1 The certification exercise

According to the Public Summary report of the certification, SGS conducted two ‘pre-assessments’ of PTDR, in November 1998 and June 1999. No information is given in the Public Summary report as to the findings of these missions. The main assessment was carried out from December 9th-16th 1999, and a further ‘close-out’ assessment from August 17th-20th 2000. The assessment team consisted of eight people, of whom seven were described by SGS as ‘local specialists’.

The two assessments found a number of serious problems, and a total of 11 ‘Major Corrective Action Requests’ (which, under the SGS system of assessment, would normally preclude successful certification) and 14 Minor Corrective Action Requests were identified and notified to PTDR. To these were added a further three Minor CARs, which were raised as a result of SGS’s internal review process. The Major CARs related to failures found mostly under FSC Principles 4,5,6, 7 and 9 (SGS, 2000).

Eight of the Major CARs were ‘closed-out’ during SGS’s visit of August 2000, and the remainder were either closed out subsequent to this visit or were downgraded to Minor CARs. Information is given in the Public Summary as to how each of the CARs was closed out. The certificate was awarded in April 2001. ‘Surveillance visits’ were carried out in November 2001 and March 2002 (SGS, 2001b).

3.2 Problems with the certification

3.2.1 Lack of consultation

There are grounds for believing that there were serious inadequacies in the local consultation process carried out by SGS:

- In the village of Labuhantangga-kecil, the assessment team met only with a member of the local Village Consultative/Communication Forum⁹⁷. This forum has been created by PTDR to facilitate consultations between the company and local communities, and is financially supported by the company, and therefore cannot be considered as independent from them.
- In the village of Labuhantangga-besar, the assessment

team met only with the village chief.

- The assessment team failed to visit the villages of Sungaisialang and Bantaian, despite, in the case of the former, having notified the village chief that they would do so
- The chief of one of the villages visited has said he did speak with the assessment team, but did not understand the purpose of visit and had no knowledge about the subject of certification.

As it transpired, the failure of the assessment team to visit Bantaian was most serious, as this is one of the communities that had been most in dispute with the company in previous years and, as described below, was, at the time of the assessment, one of the areas most engaged in 'illegal logging'.

3.3 Compliance with the Principles and Criteria

An independent investigation in and around the concession, immediately following the announcement of the award of certification, revealed strong evidence of non-compliance with several FSC Principles and Criteria. SGS's Public Summary report also raised doubts about compliance with several other P&C. Numbers in parentheses below refer to pages in the Public Summary report.

3.3.1 Principle 1

The independent investigations revealed that, at the time of assessment, up to 200 persons were regularly involved in illegal felling, which takes place up to 22 km inside the concession. The investigations indicated that up to 27 tonnes of timber were being removed illegally each day.

The investigation suggested that PTDR was well aware of these activities and indeed had sanctioned them. Underlying the local communities' felling of timber within the concession was a dispute over the boundaries of the concession, which had anyway been imposed on what the communities considered to be their traditional community lands. In 1995, one of PTDR's logging camps was burned down in protest, because of the company's refusal to allow the Bantaian community to fell timber around its village. In response to this, PTDR agreed to allow local communities to fell timber not utilised by the company. Company infrastructure (particularly the railway and locomotives) was 'rented' to logging groups for the purpose of 'illegal logging'. In some cases, PTDR staff appear to have been involved in supervising and carrying out these activities. Two company employees were arrested as recently as April 2001 for their involvement in illegal logging.

For these reasons, it is believed that, at the time of assessment, PTDR did not comply with FSC Criteria 1.1 and 1.2, and should not have been certified on these grounds alone.

3.2.2 Principle 2

The usage of a part of the concession by charcoal producers is noted in SGS's Public Summary (PS) report. The doubts about the legal status of this 'co-management' of part of the concession area was sufficient for SGS to raise a Major 'corrective Action Request (CAR, #5) after the main assessment. This CAR was then replaced with another Major CAR (#21) after the follow-up assessment, which also related to a similar tenure problem with the owner of a cigarette warehouse. CAR #21 has subsequently been closed out.

However, it is not clear that the progress made in resolving the legal tenure/usage rights justified the closing out of this CAR. It is reported in the Public Summary report that PTDR has:

"Set up a programme of research and monitoring to ensure that current levels of [charcoal] exploitation are within safe limits...At the legal level, PTDR have drawn up a Memorandum of Understanding with the charcoal makers to ensure that they abide by the findings of the research and follow the Principles of the FSC" (SGS, 2000).

In the Public Summary report's checklist for the closing out of CARs, the above is contradicted, and it is stated that the MoU had actually been made with the Riau Head of Forestry Service. There was no indication as to whether the charcoal makers themselves had agreed to the MoU, or whether there is any legal basis for it, or likelihood in reality that they would actually comply with the FSC's P&C. Legally, it therefore appears that the charcoal makers retained rights over part of the concession, which is therefore beyond the legal control of PTDR.

In addition to the inadequate treatment of the tenure issues recorded in the Public Summary report, the investigation found that there are also ongoing and serious disputes between PTDR and local communities, particularly in the west of the concession, which had not been identified or addressed in SGS's public certification report.

At the time of the re-definition of the concession boundaries in 1996, it was apparently agreed with local communities (notably Labuhantangga-besar) that the concession boundary would be set at 6 km from the main road. However, the actual boundary now used by PTDR is as little as 5.2 km from the road. Logging of this area is thus disputed. As the LEI-SGS Panel of Experts Report on PTDR dated October 23-28, 2000 notes;

"Despite the participation of the local community and the government in the Boundary Agreement process, the actual practice of the agreement is not participatory. Furthermore, the involvement of the so-called community's representatives has no representative value whatsoever." (LEI-SGS, 2000)

Moreover, part of the land excised from the concession in 1996 was reattributed to PT Sindora Seraya, a sister company to PTDR (with the same parent company), for the purpose of establishing a palm oil plantation. The local communities of both Labuhantangga-besar and Bantaian dispute that their agreement was ever given for the

development of an oil palm plantation. PTDR has been threatened with legal action because of this, local communities have blockaded PT Sindora Seraya's removal of timber from forest clearance operations, and in November 2000, PT Sindora Seraya's camp was burned down in protest.

The nature of these outstanding disputes was known to SGS, as they were recorded in the October 2000 LEI-SGS Panel of Experts Report referred to above. This noted that:

"the local community, especially in the six western villages, has not recognized both the boundary and land usage granted to PT Sindora Seraya Plantation. Based on the recommendation from [LEI] Team 7, PT DIAMOND RAYA TIMBER, as the concession holder, must terminate all of its activities in the disputed territory. However, the company disregarded the recommendation and failed to settle the dispute. Instead, it has applied and subsequently obtained renewal of its logging permit from the government" (LEI-SGS, 2000).

The LEI-SGS report further notes that:

"this conflict is potentially dangerous for the continuity of the Management Unit's efforts for sustainable forest management. This potential has more probability to explode by the advancement of a lawsuit over parts of the eastern Management Unit area by the people of Datuk Laksamana Raja Dilaut" (LEI-SGS, 2000).

There are therefore grounds to believe that CAR #21 should not have been closed out and that, at the time of assessment, PTDR's operation failed to comply with FSC's Criteria 2.2. and 2.3. As is stated under FSC Criterion 2.3:

"Disputes of substantial magnitude [concerning tenure claims and use rights] involving a significant number of interests will normally disqualify an operation from being certified."

The fact that the problems over boundaries and tenure were known to SGS, but not recorded in SGS's Public Summary report, suggests that this information had been knowingly excluded from the report.

3.2.3 Principle 4

The investigation revealed that PTDR was, at the time of the assessment, in heavy arrears concerning agreed payments to local communities for development activities. In particular:

- Of the agreed donation of Rp. 40,000,000 payable to the village of Labuhantangga-kecil during 1999/2000, only Rp. 16,000,000 had been paid.
- Concerning Rp. 240,000,000 worth of assistance payable by the company by March 2001 to certain villages (under the agreement made in 1996), only Rp. 145,000,000 had been paid to the village of Sungaisialang, the building of a school in the village of Bantaian had not yet been started, and the building of a mosque in the village of Labuhantangga-besar was done at an unacceptably low standard.

Furthermore, the Public Summary report notes that few local people are employed by the company, and attributes this to the alternative, more highly remunerated, economic activities available to local people. In fact, local people feel that the wages paid by the company are inadequate. However, they also stated to the independent investigators that PTDR does not even inform them of job opportunities.

For the above two reasons, PTDR cannot be shown to have complied with Criteria 4.1 and 4.5, and therefore failed to satisfy Principle 4.

3.2.4 Principle 5

It is clear from the Public Summary report that there were considerable doubts as to whether the levels of timber harvesting within the concession at the time of assessment were within sustainable levels (FSC criterion 5.6). Although SGS raised this as a Major Corrective Action Request (#13), it is not clear from the Public Summary report what was the basis of the decision to then 'close out' this Major CAR.

The only data presented in the Public Summary report suggests that, using the most optimistic assumptions, the recruitment of trees into the harvestable size class would only just be equal to the amount of trees in that harvestable size class within unlogged forest - the assumption being that trees of 20cm diameter at breast height (dbh) would continue growth of 0.52 cm per year for 40 years in order to attain >40cm d.b.h. However, it was not clear whether the Permanent Sample Plot (PSP) data used to obtain the 0.52 cm/year growth figure had been derived from comparable sites that take into account variation across the concession (which is acknowledged to be high). Also, because the PSP data has only been derived from a five year series, it is not clear whether this data can truly be extrapolated over a 40-year period, during which the growth rates of a particular cohort of trees (>20 cm dbh and <40 cm dbh) may change significantly. Also, it is not clear whether the general increment figure derived from the PSPs takes account of the particular species being harvested, as there are no specific increment data given in the report for any of the main commercial species actually being felled by PTDR.

Normally, the assessment of harvest sustainability would be based upon a comparison of increment of volumes per unit area, against current volume harvesting rates. However, the Public Summary report contained no harvest/yield data, and it is not clear whether such data was actually maintained by PTDR or was otherwise available.

The report is also highly ambiguous about the effectiveness of efforts to encourage forest regeneration through 'enrichment replanting' of trees. It was noted by SGS that *"the effectiveness [of enrichment planting] is likely to be limited..."* and that *"the lack of previous systematic credible monitoring on the rates of mortality and survival [of enrichment planting] do mean there is little evidence for the*

current estimates". One replanting area visited SGS was reported to be 'overgrown with ferns and vines'.

The lack of adequate forest management information is clearly acknowledged in SGS's Public Summary report. For example, it is noted that:

"A major problem is that at such an early stage it is only possible to produce baseline data in a range of areas and it will not be until there is a full time series that clear information will be available to the management" (SGS, 2000).

Whilst it is acknowledged in the report that efforts have been made by PTDR to collaborate with various research institutions and use the available data, it is still noted that *"it is incumbent [on PTDR] to demonstrate how the information they have can justify the current cutting cycle"*.

SGS further substantiated its information on PTDR's forest management planning and yield assessments after the certification. However, SGS also subsequently found during their surveillance visit of November 2001 that the prescribed average yields were being exceeded by 20% and 13% in two cutting blocks visited (SGS, 2001b). This should have resulted in the raising of a Major CAR, and thus the suspension of the certificate, but actually passed entirely without comment.

It was difficult or impossible to determine from the information referred to in the original Public Summary report whether PTDR's timber harvesting levels were sustainable in relation to tree regeneration and growth increment, and there were good grounds for suspecting that they may not have been. This high level of doubt should not have allowed for the closing out of Major CAR #13, and should in itself have been grounds for not granting the certificate. SGS's later observations, which suggested that cutting levels were being exceeded, were not acted upon, even though this again should have been grounds for suspension of the certificate.

3.2.5 Principle 6

The Public Summary report reveals a clear lack of a basis to determine PTDR's compliance with Principle 6.

It is acknowledged that the area contains species of global conservation significance, including one of the rarest creatures on the planet, the Sumatran Tiger. However, yet there were no specific measures identified in the SGS Public Summary report by which PTDR intended to protect this wildlife. It is stated in the report that the company keeps a copy of the relevant environmental protection legislation at its camp office, but does not confirm that it comply with it.

The Public Summary report notes variously that:

"there is no instruction or procedures to perform [environmental] impact assessment before operations..."

"there is no fully comprehensive list of species in the area. There is no baseline data on the numbers of bears, tigers or arboreal spp."

"the flora of the area is not fully documented and the

species mix not fully mapped"

"the lack of information on forest sub-types...is a cause for concern"

"currently, [PTDR] has not identified areas where exploitation will not take place"

"the level of information needed to ensure the relationship between all different aspects of the forest are fully linked will take time..." (SGS, 2000).

The first two of the above points were evidently the basis for the raising of Minor Corrective Action Requests #11 and #12. However, it is clear that, in the absence of any data or measures for environmental protection (other than the setting aside of a few small areas totalling only 820 hectares), PTDR would not have complied with Criteria 6.1, 6.2, 6.3 and 6.4. This should have been sufficient grounds for SGS to raise a Major CAR, not two minor CARs.

The two Minor CARs, #11 and #12, had not been closed out at the time of certification. If, as would have been more appropriate, these had been issued as a Major CAR, for general non-compliance with Principle 6, this would also not have been closed out, we believe, and should have prevented the issuing of a certificate.

3.2.6 Principle 7

SGS's original assessment noted that PTDR's existing management plans, whilst compliant with TPTI requirements were *"very weak and not operationally useful at the field level"*. It was also noted that *"the annual plans produced in order to renew licences amounted to little more than harvesting schedules"*. A Major Corrective Action Request (# 17) was duly raised.

The principal response to CAR #17 appears to have been that a twenty-year operational plan has been developed by PTDR. However, there is no indication in the publicly available certification information that the company has produced adequate 1- and 5- year plans, which are usually the main basis for planning of field operations. There were therefore grounds for believing that an adequate operational planning basis for the company did not exist at the time of assessment.

It therefore appears that Major CAR #17 should not have been closed out.

4. Complaints against the certification

SGS's and FSC's handling of complaints against the certification of PTDR illustrate severe weaknesses in the FSC's complaints procedure, and also raise doubts about FSC's monitoring and control of certifiers.

On 4th July 2001, the Rainforest Foundation and WALHI wrote to SGS raising most of the above points, and demanding that the certificate should be immediately suspended. An initial response to the complaint was received from SGS by the complainants in August 2001. The response mostly refuted the complaints raised, but committed SGS to investigate them during the first surveil-

lance visit planned for October 2001. Due to civil unrest, SGS was forced to postpone the surveillance visit until November. In December, SGS promised to the complainants to make the full report of the surveillance visit available. However, the complainants were then informed by SGS in February 2002 that the report of the November surveillance visit would not be made available until after SGS had completed *another* surveillance visit, due to take place in March 2002. A report of surveillance visit finally appeared on SGS's website in April 2002, five months after the November surveillance visit had occurred.

In keeping with FSC's Interim Disputes Protocol, the complainants requested that the complaint be brought to the attention of SGS's Certification Council. Whilst the complaint was submitted in July 2001, SGS's Certification Council apparently did not meet and consider the complaint until November 20th, 2001. After the meeting, the complainants were merely informed by SGS that the outcome of the Council's deliberations were that they had *"agreed a number of actions relating to Diamond Raya"*. The actual minute of the Certification Council meeting was not received by the complainants until April 2002, i.e. nine months after the complaint had been submitted to it.

Following SGS's 'informal' response, in August 2001, to the original 'informal' complaint, a 'formal-informal' complaint against the certification was submitted to the FSC Secretariat by FSC members Greenpeace International, Rainforest Action Network and Pro-Regenwald, on August 29th, 2001. This complaint reiterated the issues raised in the informal complaint to SGS, and also raised the inadequacy of SGS's response. A response from the Secretariat was received in October 2001, in which it was stated that there appeared to be no grounds for FSC Secretariat intervention, as the matter had not yet been dealt with by SGS's Certification Council.

On 29th March 2002, having still not received a copy of the promised surveillance report from SGS, nor a detailed ruling from SGS's Certification Council, the 'formal' complainants sent a further letter to the FSC's Executive Director, insisting on the Secretariat's intervention. No response to this letter was received from the Secretariat until 28th August (i.e. five months later). The response included a letter dated May 17th, 2002⁹⁸, which merely reiterated the findings of SGS's Surveillance visits, though it did find that there *"seems to have been an omission in the process [of SGS's Certification Council] at the end of 2001"* (FSC, 2002).

Thus, at the end of October 2002, 19 months after the submission of the original complaint, the FSC Secretariat had still failed to act decisively, and the certification was still valid, despite serious doubts about its compliance with the FSC's P&C. It can be seen from an analysis of SGS's responses to the complaint that, at the time of writing, most of the key issues had still not been addressed, or had been 'overlooked'. A full analysis of the various responses

in relation to the original complaint is set out in Annex 1 to this case study. Some of the main points for concern about SGS's responses are that:

- SGS eventually acknowledged (implicitly) that the problem of 'illegal logging' had been overlooked at the time of assessment. As a result, a Major CAR was issued during the November 2001 surveillance visit. Although certificates are not, under SGS's systems, allowed to stand whilst there are Major CARs outstanding, this new CAR (along with one other, see below) was apparently 'kept open' until March 2002, and the certificate was not suspended⁹⁹.

The new Major CARs issued in November 2001 was eventually resolved ('closed out') in March 2002 by shutting down the illegal sawmills that were found to be operating within or on the boundary of PTDR's concession. What was never properly addressed by SGS, however, was that the underlying reason for the 'illegal logging' was that the company had agreed with local communities to allow a certain amount of timber extraction to take place, as 'compensation' for a highly disputed setting of the concession's boundaries. SGS acknowledged that this was the situation in August 2001, but failed to address it in further surveillance visits.

- In its first response to the complaint, SGS stated that *"Any potential discrepancies in the position of the DRT concession boundaries will be investigated during the first surveillance visit..."* (SGS, 2001a). In practice, the promised 'investigation' appears to have amounted only to discussions in one village during the surveillance visit in November 2001, as a result of which SGS *"found no clear evidence of a disputed boundary with PTDR"* (SGS, 2001b). The problem of boundary disputes does not seem to have been considered by SGS at all during their surveillance visit of March 2002.
- In response to the problems raised by complainants about relations with local communities – particularly payments owed by the company to them – SGS issued a Major CAR which stated that *"PTDR shall be able to demonstrate social obligations are to be addressed according to the agreed schedule"* (SGS, 2001b). As with the new Major CAR concerning illegal logging (see above) this should have caused the suspension of the certificates, but SGS evidently failed to do this, even though this new Major CAR was apparently not 'closed out' until March 2002. Even then, the basis for closing out the certificate was ambiguous, as it appears that money due to local communities by PTDR had simply been paid into one of the companies 'reserve accounts', rather than actually being paid over to the communities.
- In its responses to the complaint about lack of evidence to demonstrate compliance with Principle 5

(concerning sustainability of the felling yield), SGS provided a substantive response to the complaint. However, in SGS's November 2001 surveillance visit, data presented for 2 cutting blocks inspected by SGS indicated that the actual rate of felling by PTDR was 20% and 13% above the average yield (SGS, 2001b). There was no comment by SGS on this apparently serious anomaly, even though this finding should have prompted the issuing of at least a Minor CAR.

- In its initial response to the complainants concerning PTDR's apparently inadequate environmental protection safeguards, SGS stated that *"Implementation of monitoring procedures and of enhancement measures will be a key component of the first surveillance visit, and will be comprehensively reported in the public summary report from that visit"* (SGS, 2000). In fact, the 'comprehensive report' which eventually appeared in SGS's surveillance report in April 2002 consisted of only one short paragraph. This actually indicated that whilst PTDR's 'monitoring' had 'progressed', it was still inadequate. This still left open the original complaint that it would have been impossible for SGS to demonstrate PTDR's compliance with FSC Principle 6 when it appeared that the company did not even have monitoring systems in place.

In all, SGS's responses to the complaints were thus seriously inadequate, and failed to properly address most of the substantive issues raised. This should have been recognised by the FSC Secretariat, had it conducted a serious analysis of SGS's responses to the complaints, or properly monitored SGS during 2000 and 2001. However, as noted above, the Secretariat had still failed to take proper action as of the end of October 2002.

5. Conclusions to the case study

The particular concerns raised by this certification are, as with many other case studies, the actual level of compliance of the certified company with the Principles and Criteria at the time of assessment. Also, importantly, there are concerns over the extent to which the certification was carried out without proper regard to the political context of the Indonesian forest industry.

As is noted above and elsewhere in this report, a wide range of NGOs concerned with environment, community rights and development had expressed serious concern that certification of industrial logging concessions in Indonesia would serve to legitimise a system that had proven to be fundamentally deficient. The NGO movement specifically raised concerns that the legal and policy framework for forestry in Indonesia was inconsistent with the requirements of the FSC P & C, particularly concerning indigenous rights and community land tenure (Principles 2 and 3). These concerns were treated in a peremptory way by SGS, which proceeded with the assessment and to issue

the certificate. This suggests a significant mis-match between the motivations of those who profit from certification exercises and those who are actually concerned with the conservation of forests and local community rights.

The case raises doubts about the reliability of short certification assessments in large areas of complex and dense tropical moist forest. For reasons that are not made clear, the assessment team was not able to conduct a fly-over inspection, nor was it able to visit a community that was involved in 'illegal logging'. Had it done so, it might have discovered the 'illegal logging' problem, and how that problem related to disputes over boundaries and land tenure.

However, there is clear evidence that SGS was well aware of the seriousness of the disputes over boundaries and land tenure, but that these were not included in the Public Summary report. Despite the reasons for grave doubts about PTDR's tenure situation, SGS appear to have stopped assessing this after its main assessment, other than conducting a cursory discussion in one village in November 2001.

Furthermore, as an accepted High Conservation Value Forest (HCVF), particular caution should have been taken when dealing with issues related to environment and biodiversity conservation. Instead, major failings were treated by issuing a series of 'non-fatal' Minor Corrective Action Requests, rather than a Major Corrective Action Request, which would have prevented certification until the faults had been addressed. As it is, the concession has been certified, even though the local populations of one of the world's rarest creatures, the Sumatran tiger, is uncounted, unstudied, and unprotected. It is difficult to imagine circumstances in which the logging of HCVF could not be certified if the certification of PTDR is considered by FSC to be acceptable.

The responses by SGS to the complaints were slow and inadequate. The reports of surveillance visits subsequent to the complaint indicate that key issues had still not been addressed. The certificate was not suspended by SGS, even though a new Major CAR appears to have been outstanding over a period of 5 months, from November 2001-March 2002. SGS's internal procedures for handling complaints – particularly as regards the Certification Council – were highly inadequate.

The FSC Secretariat appears to have been either unable or unwilling to intervene decisively, despite being aware of most of the above failings.

References to the case study

FSC, 2002. Letter to complainants, from Heiko Liedeker, '17th May 2002', Oaxaca

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SGS, 2000. Forest Management Certification, Public Summary Report. PT Diamond Raya Timber, 1st April 2000, Oxford.

SGS, 2001a. Letter from Neil Judd to RF UK and WALHI, 'Complaint

concerning certification of PT Diamond Raya', 7th August, Oxford.

SGS, 2001b. Forest Management Surveillance Report for PT Diamond Raya, 27-30 November 2001. Oxford.

Annex to PTDR Case Study

SGS's responses to complaints

Original complaint by RF UK and WALHI, July 2001	Response from SGS, August 2001 (SGS, 2001a)	Findings of SGS surveillance visit, Nov 2001, and actions prescribed (SGS, 2001b)	Findings of SGS March 2002 'close-out' visit (according to report of Nov 2001, surveillance visit - SGS, 2001b)
<p>1. 'Illegal logging' (Principle #1)</p> <p>'Illegal logging' within the concession widespread, with up to 27 tonnes of timber being removed illegally each day.</p> <p>PTDR is aware of the problem, which arises from 1996 agreement with some local villages after boundary dispute, and there is some evidence of company staff complicity.</p>	<p>"[PTDR] are cooperating with requests from the local community, Bantaian, to facilitate some extraction of logs. This was found to be small-scale extraction, undertaken by a group of 4 – 6 community members".</p> <p>"This arrangement derives from the conflict in the area in 1996, as part of an agreement between the company and community to maintain a positive relationship. The assessment team found that this extraction by the community is small-scale, authorised by DRT, and is not considered significant in terms of volumes removed".</p>	<p>"The assessment team found there were concerns of illegal logging on the SW portion of the concession...The team visited two sawmills [outside the concession area] suspected of felling and processing materially illegally [sic] from PTDR [concession]...There are thought to be 5 sawmills of similar size...PTDR estimates that only 400 m3 have been extracted..."</p> <p>"The local Forestry office has known about the problem and planned to take action in November 2001, but postponed until January 2002...In absence of enforcement action, PTDR must take appropriate action to stop these activities..."</p> <p>Major CAR issued: "Inadequate identification and quantification of illegal logging activities and the lack of a system to monitor encroachment and illegal harvesting throughout the concession"</p> <p>Issue not addressed.</p>	<p>Major CAR closed out: "The illegal logging has ceased as the 5 sawmills have been closed down and one owner has been arrested and is still in jail pending trial.</p> <p>Following the [SGS] surveillance visit in Nov. 2001, PTDR along with the local Forestry Dept. made 3 visits to the illegal sawmills to request them to close down their operations...The police...made an inspection visit on the border of the PTDR concession on 9th March..[they] found 4 sawmills not operating but one sawmill still operating...and the owner was arrested..."</p> <p>Site visits by the assessment team on 12th March were made to 3 of the 5 sawmills."</p> <p>PTDR estimates that the total volume extracted illegally was 915m3.</p> <p>"PTDR has also formalised security at the main rail line that provides access into the concession, but has not developed a revised procedure and action plan for monitoring the concession for illegal activities by villagers and staff based on accessibility and security personnel (Minor CAR 030 was raised)".</p> <p>Issue not addressed.</p>

<p>Company is logging outside its current permit area, and inside the permit area for 2002/2003</p> <p>2. Tenure problems (Principle #2)</p> <p>Charcoal burners active within the concession, but with unclear tenure status.</p> <p>Serious dispute with local communities over concession boundary, especially to the west of the concession</p> <p>3. Relations with local communities (Principle #4)</p> <p>Company in heavy arrears concerning agreed payments to local communities for development activities</p> <p>Few employment opportunities available to local people</p> <p>4. Sustainable management of the forest resource (Principle #5)</p> <p>Insufficient basis of evidence that yields are sustainable</p>	<p>Issue not addressed.</p> <p>"As stated [in] the public summary report, [an] MoU has been agreed with the charcoal burners. (it) states that 'it has now been confirmed by local government and the Forest Service that the licences for cutting mangrove are subject to the management controls of DRT'...The company, charcoal burners and Forest Service are all parties to the MOU".</p> <p>"The disputes over boundaries relate to the conversion area managed by PT Sindora Seraya, for the establishment of oil palm plantations outside of the current concession boundaries...The SGS QUALIFOR assessment did not find any affects of these disputes on DRT's current compliance with certification requirements. "Any potential discrepancies in the position of the DRT concession boundaries will be investigated during the first surveillance visit..." "Any grievances are required to be addressed through the company's system for the resolution of grievances, developed in response to CAR #7".</p> <p>"At the time of the re-visit in August 2000, DRT were planning to instigate the donation of agreed funding to six villages...DRT's compliance with the schedule for these agreed payments will be investigated at the first surveillance visit".</p> <p>"The assessment found no evidence that local communities do not have access to employment opportunities. Employment was not raised as an issue during any consultation meetings with villagers".</p> <p>SGS's Major CAR #13 concerning the sustainability of yield had been "closed out on the basis of a full independent review of the growth and yield data...an inventory specialist from IPB University undertook a full independent review of all the data available. The results of the analysis indicate that the current cutting levels are within safe limits'. In addition...overall volume increments were checked against current harvesting levels as a part of the review. The PSPs were established in a scientifically sound manner, with assistance from DFID, taking into account site variability". "All Major CARs have now been reduced to Minor CARs, which require further monitoring at the first surveillance visit (page 39). In addition, as already noted above, the report states that continued PSP monitoring and any required adaptation of management, including harvest rates, will be a major focus of surveillance visits".</p>	<p>"There was no evidence of premature logging in 2002/03 block area as there is still no access by the rail system".</p> <p>Issue not addressed.</p> <p>"SGS team members discussed with of Kg Jati [village] to evaluate claims of boundary disputes but found no clear evidence of a disputed boundary with PTDR. However, boundary disputes with..PT Sindora Seraya are possible".</p> <p>"It was found that, of the scheduled community assistance payments, PTDR has so far deposited only 35.6% of total amount" Major CAR issued: "PTDR shall be able to demonstrate social obligations are to be addressed according to the agreed schedule".</p> <p>"PTDR now employs 38 locals, which is 19.5% of total staff. PTDR policy is to provide employment for local people with 66 from Riau province."</p> <p>"Annual harvest area is now adjusted to 1800ha., with estimated 77,186 m3/yr harvest based on a 43m3/yr harvest level" However, it was also reported that in the two cutting blocks visited (blocks #898 and #899), harvesting was being carried out at the rate of 51.5 m3/yr and 48.7 m3/yr, or 20% and 13% above the planned allowable cut.</p>	<p>Issue not addressed.</p> <p>Issue not addressed.</p> <p>Issue not addressed.</p> <p>CAR closed out: "Payments were made into the reserve accounts to address agreed social obligations. PTDR has demonstrated active measures to make payments into reserve accounts to fund community projects for the year 2001".</p> <p>Issue not addressed.</p> <p>Issue not addressed.</p>
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<p>5. Protection of the environment (Principle #6)</p> <p>Insufficient evidence of adequate measures for environmental protection in general, and concerning rare species in particular.</p>	<p>"An objective of management is the maintenance and enhancement of tiger habitat, in the context of the increasing tiger population in the concession. The assessment process has concluded that implementation of this objective is, so far, progressing systematically...the company has employed a number of technical experts". "Implementation of monitoring procedures and of enhancement measures will be a key component of the first surveillance visit, and will be comprehensively reported in the public summary report from that visit". "Environmental impacts have been assessed at various levels by DRT, in response to a number of CARs. Overall, the assessment found partial compliance with criteria 6.1 and 6.2, with the result that Minor CARs are outstanding". "The links between the different strands of impact assessment should be more clearly made, and more clearly evaluated. The links between the findings for criterion 6.2 and Principle 9 should also have been more clearly stated. This will be comprehensively reported in the public summary report from [the November 2001 surveillance] visit".</p>	<p>PTDR has been actively taking data on wildlife observed both along the rail track and along 3 transect lines one km in length. The data will be suitable for us in trend analysis to evaluate population growth over time in years...Progress on monitoring wildlife...was observed, but additional sample plots must be established to provide reliable information (CAR 025 remains open to provide 6 months for verification of continual progress in establishment of additional sample plots and monitoring lines".</p>	<p>Issue not addressed.</p>
<p>6. Management planning (Principle #7)</p> <p>Apparent lack of short-term operational management plans</p>	<p>"The corrective action has...included upgrading the 1 and 5 year planning elements, and the [Public Summary] report notes that 'substantial work has been carried out to address the operational requirements of the management plans' (section 7.1) and that 'it will be important all future surveillance visits to ensure that the operational plans comply with the new comprehensive approach'".</p>	<p>Issue not addressed.</p>	<p>Issue not addressed.</p>
<p>7. Consultation processes</p> <p>Inadequate consultation with local villagers.</p>	<p>"The consultation process at the village level was based on informal interviews, and not on formal meetings. The persons interviewed included Village Heads, village council members and many other individuals selected by the assessors..." "The selection of interviewees was random, in terms of locations and persons..." "it does seem entirely reasonable to recognize, and make some use of, the consultative mechanisms that have been set up by the company"</p>	<p>The only information given on this in the report of the visit is that a meeting was held in one village to discuss boundary disputes.</p>	<p>Issue not addressed.</p>

Notes to Case Studies

- 1 FSC individual member in the Southern Environmental chamber.
- 2 Fanzeres, A. and R. S. S. Murrieta (2000). Stakeholders' viewpoints of certification processes in the Brazilian Amazon: an opportunity of reflection for FSC's Secretariat, Board, members and supporters. Belém, PA, Brazil, Yale School of Forestry & Environmental Studies and Museu Paraense Emílio Goeldi: 51 pp.
- 3 The author wishes to acknowledge that this study was made possible by the support from many people and institutions. First of all, Rui S. S. Murrieta provided essential expertise on social issues at the time of the field research and preparation of the original report. Second, I would like to express thanks to the personnel of the two companies, the certifier, and other key stakeholders for the information provided during the field assessment. Third, my gratitude to the kind help of Fundação Nacional de Saúde in Belém and, at the towns close to the locations of the companies of this case study, Procuradoria Pública Federal, Ministério Público do Estado do Pará, the Sindicato dos Trabalhadores Rurais. Many thanks are also due for the critiques and suggestions provided by Dr. Elizabeth Santos from the Instituto Evandro Chagas and Dr. Ima Vieira from Goeldi Museum.
- 4 Information extracted from a report issued by the Comissão Pastoral da Terra (CPT) in Maranhão; according to the certification Public Summary report, "this conflict is still in a judicial process and has not been resolved to date". However, the certifier's public summary refers to this topic saying that the company explained that their personnel involved in the conflict were just 'regular employees'.
- 5 The land titling process of most areas that had belonged to this bank have been plagued by violence and illegal appropriation, but after this FMU was purchased by Company A, local rural workers' representatives were adamant in saying that the violence (including slave labor) had ceased. However, the Public Summary report notes that *"while it is very difficult to confirm the veracity of the conflicts that had occurred in the past, the fact is that the history of these events has created in the minds of the inhabitants of the region a negative feeling in relation to the property"*.
- 6 Five major ILO Conventions related to forestry and logging operations, such as C29 (on Forced Labor), C98 (on Right to Organize and Collective Bargaining), C105 (on Abolition of Forced Labor), C100 (on Equal Remuneration) and C111 (on Discrimination) are already fully applicable in Brazil. All these ILO Conventions cited above, in accordance to the recommendations of the International Federation of Building and Wood Workers (IFBWW), should "offer a minimum level of protection for forest workers and should be included in all certification agreements" (IFBWW 1999).
- 7 Even then, it was said by some workers that there were not always enough coupons for everybody or that the barbers refused to cut hair because the Union has not reimbursed them for the services supplied in the previous month.
- 8 A package of coupons for purchase of grocery items listed by the government as basic consumption for each worker that earns a minimum salary.
- 9 The FMU is located 40 kilometres from town and there is no regular public transportation.
- 10 There were no complaints at Company A in relation to equipment provided.
- 11 A recent review by Debinski and Holt (2000) presents some of the most important findings on forest fragmentation in different parts of the world.
- 12 In Amazônia the local expression for the forest after this type of logging is "brocada" (as if a bark-beetle has attacked).
- 13 In Amazônia, 80% of the property has to remain under forest cover and these areas have to be demarcated and declared in the land titling documentation (averbação em cartório).
- 14 Buffer areas along water bodies (i.e., rivers, lakes, headwaters, etc.), ranging from 30 to 500 meters at each margin or around areas with steep slopes (> 45 degrees) along all the contour line and areas located above 1,800 meters of altitude.
- 15 Here the local definition of 'High Conservation Value Forests' would be fundamental.
- 16 This property belongs to a construction enterprise in Belém, and is another area that the owner of Company B has recently submitted for certification.
- 17 This phenomenon has been frequently described in the region (Nelson et al. 1994; Garstang et al. 1998) and can play a crucial role in terms of regeneration capability of the natural vegetation.
- 18 Such an abrupt rise could be due to underreporting of cases in 1994 when data collection was initiated. But Dr. Elisabeth Santos from Instituto Evandro Chagas still believes that the trend is alarming.
- 19 At least for one of the areas, Juruá's Fazenda Santa Marta, we knew of a joint program with EMBRAPA, which was meant to include the local communities.
- 20 Main case study research, conducted and written by Noel Rajesh, TERRA and Chris Lang. Additional text on FSC Principles and Criteria prepared by Simon Counsell and Kim Terje Loraas, Rainforest Foundation UK.
- 21 The Thai pulp and paper companies, Siam Cement Group and Advance Agro were to have held a majority share in this joint venture project, with a 10 per cent share held by the Industrial Finance Corporation of Thailand.
- 22 Page number cited in this section refer to the Public Certification Summary report.
- 23 Though the report claims that the FIO eventually conceded on this point.
- 24 Basic Forestry Law No 5/1967 and Forestry Law No 41/1999.
- 25 It has been argued that the laws represent institutionalised violations of international conventions on human rights, as they have 'institutionalised

- the abuse of social, cultural, economic and indigenous rights into the Indonesian system' (Moniaga 2001).
- 26 This highly relevant transition was something about which Perhutani evidently failed to inform SmartWood.
- 27 This statement was translated from the original by Arupa and Down to Earth.
- 28 The mobile police brigade, BRIMOB, is often engaged by natural forest concessions on state land in the outer islands. This seemingly does not have any impact on FSC accredited certification bodies to attempt to 'certify' these concessionaires.
- 29 There are two kinds of security officer levels. Polisi Khusus Kehutanan (Polhut/Forest Police), which operates at the subdistrict level, and Mobile Police (Polmob), which operates at the KPH level. Polmob is a kind of "commando force" sent by KPH to assist Polhut in situations that cannot be handled by Polhut at the subdistrict level alone. When the situation cannot be handled by any of them, KPH or the Unit level 'invite' Brigade Mobil (Brimob) from the Provincial Police Force (Polda) (Santoso, 2001). Polhut are usually armed with pistols, while Polmob often is armed with rifles, and are known to often fire at 'intruders'. All staff involved in Forest Security can have a licence to carry lethal weapons. Responding to a question on whether or not the 'forest security' personnel may use the gun, a representative of the Law Bureau of Perhutani's Unit 1, says: "Yes, they may use the gun". He adds that: "It is illogical if someone may carry the gun but not use it. How could he protect himself? If there are forest looters, what is the use of the gun without firing it? To be thrown over to the looters?" He further explains: "Of course it is not written that you may shoot with the gun, but it is clear that if someone may carry it, he may shoot it if necessary". As of October 2002 there were about 500 guns in Perhutani Unit I, according to him. Some of these have been purchased by Perhutani, some of them are lent by Provincial Police.. In certain situations, if the 'PolHut', the highest level of 'forest security' directly employed by Perhutani, does not feel it can 'handle' a given situation, BRIMOB is called in for 'assistance'. BRIMOB personnel have been known to occasionally stay in a given area after they have been called in for 'security operations', randomly raid villages and destroy villagers' possessions (see Box 3 below). Along with Perhutani officials (see 3.1.2.), BRIMOB personnel have also been known to be involved in illegal extraction and trade of timber.
- 30 The positive, and possibly crucial, interpretation placed on the social forestry programmes by SmartWood has persisted through their relationship with Perhutani, despite the company's propaganda about these programmes having been widely discredited.
- 31 Text in this box is taken verbatim from Down To Earth Newsletter no. 52, February 2002.
- 32 Among them: Kingsley-Bate, Kingfurn and Smith-and-Hawken were allowed to continue using the SmartWood name, despite having lost their source of certified teak in 1997.
- 33 In summer 1998, Smartwood marketed, and in some cases awarded, CoC certificates to Indian Ocean Trading Co (UK), DaCore (DK), Barlow-Tyrie (UK), Garpa (D), Hartmann (NL), Habitat (UK), JCJ Haans (NL), Global Arts (UK), United Teak Producers (NL), Art Garden (S) and Gloster (UK)
- 34 According to SmartWood, the first Chain of Custody certificates for Javanese teak were issued in the autumn of 1998 'in conjunction with the certified teak plantations' (SmartWood, 2001). However, discussions with European retailers indicate this is not entirely accurate, as some were certified in advance of the 1998 Perum Perhutani certification.
- 35 Without the certified supply from Perhutani, the CoC certificates would have been worthless.
- 36 It has repeatedly been indicated by manufacturers in Java, as well as European brokers/wholesalers, that they largely agreed with the Indonesian NGO perspective that Perhutani was far too troubled with corruption to be reformable using SmartWood's certification conditionalities. Nevertheless, it was still in the retailers' commercial interest to see the certification proceed, and they thus refrained from to publicly criticizing a certifier who they thought could produce a certificate.
- 37 According to SmartWood's 1996 Forest Assessor Manual, the organisation's decision committee '*must reserve the right to contravene the recommendations of the assessment team*' (SmartWood 1996). The committee consists of three persons, these being: 1) a representative of SmartWood headquarters; 2) a representative of one of SmartWood's regional affiliates, and; 3) a 'consensus' third person, such as an advisor or, regional affiliate advisor. The committee is picked for each certification, but their names or affiliations are not available to the public. It can be seen that the committee is unlikely to go against decisions that are of strategic importance for the organisation.
- 38 This estimate is probably conservative, because it is based on rates of recovery of 'stolen' timber, whereas the real level of illegal felling is probably much higher. In certified districts, illegal logging counts in the worst cases for 300% to 700% of the annual allowable harvest, and in the best cases for 100% to 150%.
- 39 These points referred from SmartWood's presentation at the meeting is based on notes from the meeting prepared by ProRegenwald (ProRegenwald 2001).
- 40 As noted by Peluso (1992) "*...foresters tend to think of themselves as neutral experts carrying out their science according to the state's will; they rarely view either their own policies or their implementation methods as 'political' acts. From the forest dweller's point of view, however, nothing could be further from the truth*".
- 41 However it should be recognised that if Principle 2 had been properly applied, the 'political problem' of tenure and violence would have been properly addressed, as 'Pre Conditions' applicable beyond the FMU level would have had to be issued. It would have been up to the relevant authorities to decide whether or not the changes needed in order to acknowledge local communities' rights in accordance with Principle 2 could be made.
- 42 Including foresters (University of Wageningen, Netherlands – Reitze de Graaf, founder of the system), development agencies (the World Bank, GTZ, KFW), the media (several TV reports, for example, from Thomas Weidenbach, Germany 1997, 1998 and many articles in the press) and environmentalists, such as WWF and Greenpeace.
- 43 The PPG 7 program was created in the beginning of the 1990s by the G7 countries. The programme co-ordinator is the World Bank with a budget from about US\$260 Million for the first phase. The objectives of the PPG7 are: demonstrate that sustainable economic development and conservation of the environment can be achieved at the same time in the tropical rain forest: preserve the biodiversity of the tropical rain forest: reduce the contribution of the Brazilian tropical rain forests to the global emission of greenhouse effect gases: provide an example of international co-operation between industrialised and developing countries on global environmental issues. Certification has received increasing attention within some parts of the programme. Both companies, PWA and GETHAL, received funding through a subprogram,

- PROMANEJO, to support them to promote "sustainable forestry" on an industrial scale.
- 44 This is widely documented in literature with respect to Pau Brasil and Pau Rosa or more recently, due to timber industry species like *Virola surinamensis*, *Cedrela odorata*, *Ceiba pentandra*, and *Maquira coriacea* in the estuarine floodplain forests of Amapa (Stone, 2000, Pinedo-Vasquez et al (2001), forcing industry to move to other areas. Gethal itself was encountering difficulties in finding adequate quantities of timber from formerly exploited species in the varzeas, possibly an important influence in the decision to shift to highland logging, which demands a complete change in their production structure.
- 45 The old frontier zones are areas where, after an initial land-rush, the property rights have become formalised and there is a growing market for land. In these areas, it is cheaper and more advantageous for companies to buy land for logging, escaping the costs of the middlemen, and moving on once the property has been exploited (Schneider, 1995; Stone, 2000; Schneider et al 2000).
- 46 For example, Código Florestal, Art. 15 - Portaria 080 –IBAMA, and Portaria n.o 48, de 10 de julho de 1995 – IBAMA.
- 47 According to the press in February 2001, Carolina had to close down its factory resulting in the firing of its 480 workers because of the lack of raw material. The company announced that it would only go back into production if legislation would be more "flexible". It is not exaggerating to state that the logging industry in the Amazon region is in crisis. At its peak, 10 years ago, the timber sector employed over 6000 workers. Today it employs approximately 2300 (Jornal de Comercio, 2001).
- 48 Interview Vicky Haines, UNAIS Health Worker and Project Consultant, Gethal, Manicore, September 2001.
- 49 Interview 15.05.02, OPITAMPI – Indigenous Organisation of the Mura people of the Madeira River.
- 50 Authors visit to Presidente Figueireido with Rural Workers Trade Union, September 1998.
- 51 The expression has its origin in the dispute of Spain and Portugal about the ownership of the Amazon in the 18th century, but during settlement activities during the dictatorships the principle continued, as an unwritten law. " *The region rang with the exploits of marauders, bandeirantes and men of gods, but in 1750, with the treaty of Madrid, Spain ceded its Amazon up to the junction of the Madeira to the Portuguese crown under the principle of uti possedis ("whoever has it, holds it").*" Hecht and Cobckburn, 1990).
- 52 Interview with Reitze de Graaf, June 2000, who described how the local people were armed with pistols when visited by the PWA team.
- 53 These being along the Vila Democracia and access road to Transamazonica, and including: Democracia, Jatuarana, Urucuri, Vista Alegre e, Santa Eva, Rio Mataur Regiona: Ponta Natal, Biriba, Terra Genipapo Uniao, Curralinho, Rio Atininga Region: Santa Marta, Preciosa, Boa EsperanÁa I, Nova Vida, Esplrito Santo, Sao Jose I, Lago do Atininga (SmartWood, 2000).
- 54 These being Raimundo Batista da Silva, Cristov Rosendo de Figueireido, Cesar Augusto das Neves.
- 55 It is legally required to pay annual fees (taxes) to INCRA, but often, as in this case, companies fail to do so (Jornal de Comercio, 2000: Madeireiras sem registro de imoveis. Manaus. internet: www.jcom.com.br.)
- 56 This analysis is based on the author's experience while employed by SmartWood/Rainforest Alliance from 1998 to 1999, administering and conducting FSC Chain of Custody assessments, certifications and false claims' investigations of companies trading in assembled Indonesian teak wood products to European retailers. I do not analyze FSC Chain of Custody systems for group certification or for individual companies processing wood for chips or pulp. Nevertheless, as the difficulties in monitoring these systems can be even more complex than for assembled or solid wood products, the concerns outlined here are likely to be relevant for other types of trade chains.
- 57 'Primary manufacturers' generally refers to any company responsible for processing logs into a sawn product, i.e. lumber, boards, blocks, plywood, veneers, chips, pulp or other component products.
- 58 'Secondary manufacture' generally refers to any company buying already-processed materials or products from brokers, primary manufacturers, and/or another secondary manufacturer. These companies can transform, label or re-label products before selling to brokers, wholesalers, distributors or retailers.
- 59 Wholesaler/distributors are similar to brokers, which buy which buy final, labelled products from secondary manufacturers, wholesalers and distributors.
- 60 The FSC Percentage Based Claims Policy, May 2000, defines in some detail what constitutes a false claim. This includes that "Forest management enterprises, processors and manufacturers that do NOT have a valid FSC-endorsed certificate may NOT make use of the FSC Trademarks in public reports, press releases, advertisements, brochures and leaflets and other market mechanisms and media".
- 61 Brokers may buy, transport and sell wood at many points along the trade chain: between forest managers and primary manufacturers, between primary and secondary, or between secondary and wholesalers/distributors. Brokers may need to be CoC certified and monitored under the FSC systems, depending on where they are in the trade chain. At any point prior to final labelling of a finished product, they would need to be CoC certified. After the final product labelling by a secondary manufacturer, brokers can buy and sell without a certificate. Thus brokers that buy and sell labelled certified products, but also deal in unscrupulous sourcing, are not impacted by the controversial sourcing monitoring rule of the FSC.
- 62 One consequence of the lack of a complete CoC chain through to retailers is that it is impossible for members of earlier parts of the chain, including forest managers, to know whether a final price premium is being gained for the product. Retailers often claim that consumers are unwilling to pay a price premium, but this does not mean that they don't charge a premium whenever possible. As one of the key mechanisms through which FSC is expected to operate is that higher costs for improved forest managed can be offset by price premiums on the final product, the 'hoarding' of price premiums by retailers (which their exclusion from the CoC system allows) could undermine a key functional basis for the FSC project.
- 63 It should be noted that this simplest of possible arrangements does not illustrate the following possibilities:
- Brokers trading in logs before they are bought by a primary manufacturer;
 - Brokers trading in rough lumber before it is bought by a secondary manufacturer;
 - Outsourcing agreements, such as where secondary manufacturers also buy round logs and outsource the primary manufacturing using short-term contracts.
 - Sales where certified logs are sold to non-certified primary

- manufacturers, or where certified lumber is sold to non-certified secondary manufacturers. (When that happens, certified wood loses its certification status and the final products are not allowed to carry the FSC Trademark.)
- 64 The FSC has defined guidelines for the Chain of Custody (CoC) certification of single, large organizations, made up of multiple sites, branches, or production units. According to the FSC, "the guidelines lay out the conditions under which FSC accredited Certification Bodies (CBs) may carry out sampling of various branches or production units of an organization. They will help to ensure consistency of evaluation procedures and sampling mechanisms by all CBs, in all parts of the world. Under the new guidelines, the timber, or wood-handling systems of each participating site must meet all of the existing FSC policy requirements (FSC Guidelines for Certification Bodies, FSC Accreditation Manual, and FSC Group Chain of Custody guidelines)...The intention is that the evaluation provides adequate confidence in the conformity of the Chain of Custody system and on the other hand that such an evaluation is practical and feasible in economic and operative terms". (FSC Percentage Based Claims Policy May 2000).
- 65 Both appear to have occurred during the certification of Cepu Forest Management District of Perum Perhutani in Java, according to Smartwood reports and civil society monitors (see case study in this report).
- 66 The FSC Secretariat releases no information on CoC companies, but the following Trade Networks/Buyers Groups and certifier websites do: ForestWorld.org: www.forestworld.org; Certified Forest Products Council: www.certifiedwood.org. For a complete list of certifier website addresses, see www.fscoax.org. These websites indicate the CoC company's name, headquarters address, CoC code and available types of certified products and wood species. They do not release information regarding which companies trade with each other, or the volumes of certified and non-certified product sold in a given month or year. Companies' own websites sometimes provide more insight into their trade chains.
- 67 As of March 2002, there were 30 Canadian FSC members in the environmental chamber, 31 in the social chamber, and 80 in the economic chamber.
- 68 The Great Lakes-St Lawrence Initiative has nearly completed the draft standards, and is lacking only the input of First Nations in their region.
- 69 The standards can be downloaded from www.fsc-bc.org.
- 70 There appear, however, to have been some ominous developments since the main text of this case study was prepared. In August 2002, the draft BC standard was submitted to the FSC Secretariat in Oaxaca, and was supposed to have been considered by the FSC Board at its September meeting. However, the FSC Secretariat apparently came under intense lobbying pressure from the British Columbia forest industry, which was apparently dissatisfied with some of the draft standard's clauses. Some observers in Canada believed that industry was attempting to 'kill' the standard by negotiating directly with the FSC Secretariat, and by the end of October, BC stakeholders had still not been informed as to the status of the draft.
- 71 Document 'FSC Canada MNR QA 01-03-26.dot'.
- 72 Dr Muthoo acknowledged in later correspondence that the FSC Secretariat had "no doubt reviewed" the press release and approved it, but had refused to issue it jointly from Oaxaca.
- 73 Both Dr Muthoo and James Sullivan have now left the Secretariat.
- 74 The account in this section is based almost verbatim on the summary given in "Telling it like it is: 10 years of unsustainable development in Ireland", as quoted in 'The wrong tree in the wrong place' (FOIE, 2002).
- 75 One of SGS's peer reviewers suggested that a further two Major CARs should be raised, but this was not taken up by the SGS.
- 76 The date of SGS's first surveillance visit is not clear, as the report of the visit is dated November 2001, whilst the report states that the visit took place in December 2001.
- 77 In recognition of this problem, one of the Peer Reviewers of the assessment recommended that one of SGS's Minor Corrective Action Requests should be upgraded to a Major CAR, but this recommendation was not taken up.
- 78 There is at least one report of environmental damage being caused to a Special Area of Conservation by Coillte operations between the dates on which the CAR was first issued and then closed out (An Taisce, 2001).
- 79 Other problems identified in relation to plantation management were covered under CARs issued in relation to Principles 6 and 8.
- 80 This paper is based on various sources, including the author's involvement in the earlier stages of the MTCC, MC&I and NSC processes between August 1999 and July 2001, NGOs statements to the MTCC and press releases by JOANGOHutan. Contact for Carol Yong: joangohutan@yahoo.co.uk.
- 81 JOANGOHutan is a network of 14 non-governmental, community- and Indigenous Peoples organizations. The list of members in the JOANGOHutan coalition can be found in Appendix 1.
- 82 Issues concerning 'Mutual Recognition' between MTCC and FSC, especially in terms of FSC (non) compliance with FSC Motion 11/1999 are not discussed in this case study. For elaboration on this specific issue see section 2.5.2 of the report.
- 83 The Indigenous delegates from Sabah, Sarawak and Peninsular Malaysia unanimously agreed the use of the term 'Orang Asal' during the First National Conference on Land Rights for the Indigenous Peoples of Malaysia (Hak Tanah dan Jatidiri Orang Asal SeMalaysia) 2nd and 3rd September 1996, Kuala Lumpur, Malaysia.
- 84 In two exceptional cases, the courts have ruled in favour of the indigenous communities: (1) Sarawak High Court Judge Ian Chin's verdict on the Rumah Nor case (an indigenous Iban longhouse community), that the Borneo Pulp and Paper (BPP) and Sarawak State Government had illegally acquired their land. Following the Rumah Nor victory, based in part on the evidence of community-based maps of their traditional lands, the Sarawak legislature passed a new law in November 2001 that outlawed community-based mapping; and (2) in April 2002, seven Temuan Orang Asli in Peninsular Malaysia won their case when Federal High Court Judge Mohd. Noor Ahmad ruled that the federal government, the Selangor state government, construction firm United Engineer Malaysia (UEM) and the Malaysian Highway Authority (LLM) had unlawfully appropriated the Orang Asli traditional territories for the Kuala Lumpur International Airport.
- 85 Although Europe is a relatively small market, it exerts significant influence in the global timber trade.
- 86 Information for this section is largely extracted from Sandom and Simula 2001.
- 87 Malaysian Timber Certification Council was formerly known as the National Timber Certification Council (NTCC) the terms NTCC and MTCC are both used inter-changeably to describe the same institution.
- 88 The statement was signed by: Persatuan Orang Asli Semenanjung Malaysia (POASM), Center for Orang Asli Concerns (COAC), Partners of Community Organisations (PACOS), KERUAN Association, Borneo

- Resources Institute (BRIMAS), Indigenous Peoples' Development Centre (IPDC), SILOP, Institute for Development and Alternative Living (IDEAL), SACCESS, Sahabat Alam Malaysia (SAM), Umui Pai Mamek Group, SOS Selangor (Save Our Sungai Selangor), Suara Rakyat Malaysia (SUARAM).
- 89 Direct Resource Managers in MTCC's context refers principally to Ministries, State Forestry Departments, government agencies and statutory bodies, and research/scientific community.
- 90 The groups were Center for Orang Asli Concerns (COAC), Persatuan Orang Asli Semenanjung Malaysia (POASM), Partners of Community Organisations (PACOS Trust), Keruan Association, Borneo Resources Institute (BRIMAS), Indigenous Peoples' Development Centre (IPDC), SILOP, Institute for Development and Alternative Living (IDEAL), SACCESS and Sahabat Alam Malaysia (SAM) .
- 91 The two NGOs were Save Our Sungai Selangor (SOS) Selangor and Suara Rakyat Malaysia (SUARAM), an environmental coalition and human rights organisation, respectively. The Orang Asli group was the Umui Pai Mamek Group, based in the northern state of Perak.
- 92 The NGOs met were bigger environmental NGOs such as WWF-Malaysia, whose views and priority on environmental conservation (soil erosion, wildlife conservation, etc.) do not necessarily represent the concerns of indigenous peoples and community-based social NGOs. For example, conflicts happen between WWF-Malaysia and villagers as in the case when WWF-Malaysia is more concerned with limiting the number of animals hunted, whereas the villagers go hunting to meet subsistence needs respecting the traditional custom of 'not depleting the resource'.
- 93 In 1996, pilot forest and CoC Certification were conducted by SGS Malaysia in three states in Peninsular Malaysia i.e. Selangor, Pahang and Trengganu against the requirements of the Keurhout Foundation within the bilateral Dutch-Malaysia Cooperation programme. If the forests in the three states were found to be in compliance with the Keurhout Standard, comprising of 29 'indicators', the timber would have been labelled with the Dutch Keurhout Hallmark System. However, SGS Malaysia found major contraventions. All three states failed to receive 'certification' (Yoga 2001b). However SGS Malaysia then issued 'audit statements' (not certificates) to the three states, which committed the three pilot states to achieve compliance with MC&I by 2000 (Sandom and Simula, 2001). The three states eventually passed their assessments by SGS Malaysia against this flawed standard between November 2000 and February 2001, after which the final reports went to review by the Keurhout Foundation. However the Forestry Department and MTCC immediately proclaimed the forests in the three states as being certified as sustainably managed. Furthermore MTCC's senior manger Harnarinder Singh informed the Star newspaper that 93,552 cubic meter of 'audited' timber had been exported up to February 2001. The article in the Star concludes that: 'The three states failed even to meet Kerhout's 29 indicators, when the current MC&I has 53. Detractors claimed that the Kerhout guidelines were watered down--after all, the foundation represents the Dutch timber industry which wants to ensure a supply of processed timber'. (Yoga 2001b).
- 94 The IFBWW is the appointed coordinator for the 'social' groups while WWF Malaysia coordinates the environmental groups in the NSC. It was pointed out in the withdrawal letter from the community groups and NGOs in July 2001 that: "... the potential for the Social Group to reach consensus is difficult as the worker's union has conflicting interest with community organizations within the group. Thus far, the union representatives have also demonstrated inflexibility and lack of openness to indigenous peoples' concerns. Representatives of community organizations question the union's legitimacy to be within this group and thus need clarification on their position and interests" (POASM et al 2001).
- 95 Under the Sarawak Forest Ordinance Cap. 126, once a protected forest or forest reserve is gazetted over an area over which the natives claim NCR, their Native Customary Rights are extinguished.
- 96 The authors also wish to gratefully acknowledge the work of Hakiki Telapak and Forest Watch Indonesia in developing this case study.
- 97 The investigation revealed that what has sometimes been described as the "Forum Musyawarah Desa", or Village Consultative Committee, is actually a "Forum Komunikasi Desa", or Village Communication Committee. This implies that the reality is a rather more 'one-way' approach to relations between the company and local communities than has sometimes been suggested.
- 98 Which the Secretariat claimed had not been sent at the time due to a 'technical e-mail problem'.
- 99 During this period, PTDR apparently was also in 'talks' with at least one other FSC accredited certifier; GFA TERRA Systems. This may indicate that the company felt that SGS were being 'difficult', and was thus considering changing its provider of 'certification services'. It is possible that this may have impacted on SGS's decision to 'keep a CAR open' without suspending the certificate. Suspending the certificate would, of course, potentially be problematic for SGS's 'marketing' of its services as it could 'scare' potential clients away.

Annex 1

FSC Principles and Criteria

(FSC Document 1.2, Revised February 2000)

INTRODUCTION

It is widely accepted that forest resources and associated lands should be managed to meet the social, economic, ecological, cultural and spiritual needs of present and future generations. Furthermore, growing public awareness of forest destruction and degradation has led consumers to demand that their purchases of wood and other forest products will not contribute to this destruction but rather help to secure forest resources for the future. In response to these demands, certification and self-certification programs of wood products have proliferated in the marketplace.

The Forest Stewardship Council (FSC) is an international body which accredits certification organizations in order to guarantee the authenticity of their claims. In all cases the process of certification will be initiated voluntarily by forest owners and managers who request the services of a certification organization. The goal of FSC is to promote environmentally responsible, socially beneficial and economically viable management of the world's forests, by establishing a worldwide standard of recognized and respected Principles of Forest Stewardship.

The FSC's Principles and Criteria (P&C) apply to all tropical, temperate and boreal forests, as addressed in Principle #9 and the accompanying glossary. Many of these P&C apply also to plantations and partially replanted forests. More detailed standards for these and other vegetation types may be prepared at national and local levels. The P&C are to be incorporated into the evaluation systems and standards of all certification organizations seeking accreditation by FSC. While the P&C are mainly designed for forests managed for the production of wood products, they are also relevant, to varying degrees, to forests managed for non-timber products and other services. The P&C are a complete package to be considered as a whole, and their sequence does not represent an ordering of priority. This document shall be used in conjunction with the FSC's Statutes, Procedures for Accreditation and Guidelines for Certifiers.

FSC and FSC-accredited certification organizations will not insist on perfection in satisfying the P&C. However, major failures in any individual Principles will normally disqualify a candidate from certification, or will lead to decertification. These decisions will be taken by individual certifiers, and guided by the extent to which each Criterion is satisfied, and by the importance and consequences of failures. Some flexibility will be allowed to cope with local circumstances.

The scale and intensity of forest management operations, the uniqueness of the affected resources, and the relative ecological fragility of the forest will be considered in all certification assessments. Differences and difficulties of interpretation of the P&C will be addressed in national and local forest stewardship standards. These standards are to be developed in each country or region involved, and will be evaluated for purposes of certification, by certifiers and other involved and affected parties on a case by case basis. If necessary, FSC dispute resolution mechanisms may also be called upon during the course of assessment. More information and guidance about the certification and accreditation process is included in the FSC Statutes, Accreditation Procedures, and Guidelines for Certifiers.

The FSC P&C should be used in conjunction with national and international laws and regulations. FSC intends to complement, not supplant, other initiatives that support responsible forest management worldwide.

The FSC will conduct educational activities to increase public awareness of the importance of the following:

- improving forest management;
- incorporating the full costs of management and production into the price of forest products;
- promoting the highest and best use of forest resources;
- reducing damage and waste; and
- avoiding over-consumption and over-harvesting.

FSC will also provide guidance to policy makers on these issues, including improving forest management legislation and policies.

PRINCIPLE #1: COMPLIANCE WITH LAWS AND FSC PRINCIPLES

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

- 1.1 Forest management shall respect all national and local laws and administrative requirements.
- 1.2 All applicable and legally prescribed fees, royalties, taxes and other charges shall be paid.
- 1.3 In signatory countries, the provisions of all binding international agreements such as CITES, ILO Conventions, ITTA, and Convention on Biological Diversity, shall be respected.

- 1.4 Conflicts between laws, regulations and the FSC Principles and Criteria shall be evaluated for the purposes of certification, on a case by case basis, by the certifiers and the involved or affected parties.
- 1.5 Forest management areas should be protected from illegal harvesting, settlement and other unauthorized activities.
- 1.6 Forest managers shall demonstrate a long-term commitment to adhere to the FSC Principles and Criteria.

PRINCIPLE #2: TENURE AND USE RIGHTS AND RESPONSIBILITIES

Long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established.

- 2.1 Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated.
- 2.2 Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies.
- 2.3 Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. The circumstances and status of any outstanding disputes will be explicitly considered in the certification evaluation. Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified.

PRINCIPLE #3: INDIGENOUS PEOPLES' RIGHTS

The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.

- 3.1 Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.
- 3.2 Forest management shall not threaten or diminish, either directly or indirectly, the resources or tenure rights of indigenous peoples.
- 3.3 Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with such peoples, and recognized and protected by forest managers.
- 3.4 Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence.

PRINCIPLE #4: COMMUNITY RELATIONS AND WORKER'S RIGHTS

Forest management operations shall maintain or enhance the long-term social and economic well-being of forest workers and local communities.

- 4.1 The communities within, or adjacent to, the forest management area should be given opportunities for employment, training, and other services.
- 4.2 Forest management should meet or exceed all applicable laws and/or regulations covering health and safety of employees and their families.
- 4.3 The rights of workers to organize and voluntarily negotiate with their employers shall be guaranteed as outlined in Conventions 87 and 98 of the International Labour Organisation (ILO).
- 4.4 Management planning and operations shall incorporate the results of evaluations of social impact. Consultations shall be maintained with people and groups directly affected by management operations.
- 4.5 Appropriate mechanisms shall be employed for resolving grievances and for providing fair compensation in the case of loss or damage affecting the legal or customary rights, property, resources, or livelihoods of local peoples. Measures shall be taken to avoid such loss or damage.

PRINCIPLE # 5: BENEFITS FROM THE FOREST

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

- 5.1 Forest management should strive toward economic viability, while taking into account the full environmental, social, and operational costs of production, and ensuring the investments necessary to maintain the ecological productivity of the forest.
- 5.2 Forest management and marketing operations should encourage the optimal use and local processing of the forest's diversity of products.
- 5.3 Forest management should minimize waste associated with harvesting and on-site processing operations and avoid damage to other forest resources.
- 5.4 Forest management should strive to strengthen and diversify the local economy, avoiding dependence on a single forest product.
- 5.5 Forest management operations shall recognize, maintain, and, where appropriate, enhance the value of forest services and resources such as watersheds and fisheries.
- 5.6 The rate of harvest of forest products shall not exceed levels which can be permanently sustained.

PRINCIPLE #6: ENVIRONMENTAL IMPACT

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

- 6.1 Assessment of environmental impacts shall be completed – appropriate to the scale, intensity of forest management and the uniqueness of the affected resources – and adequately integrated into management systems. Assessments shall include landscape level considerations as well as the impacts of on-site processing facilities. Environmental impacts shall be assessed prior to commencement of site-disturbing operations.
- 6.2 Safeguards shall exist which protect rare, threatened and endangered species and their habitats (e.g., nesting and feeding areas). Conservation zones and protection areas shall be established, appropriate to the scale and intensity of forest management and the uniqueness of the affected resources. Inappropriate hunting, fishing, trapping and collecting shall be controlled.
- 6.3 Ecological functions and values shall be maintained intact, enhanced, or restored, including:
 - a) Forest regeneration and succession.
 - b) Genetic, species, and ecosystem diversity.
 - c) Natural cycles that affect the productivity of the forest ecosystem.
- 6.4 Representative samples of existing ecosystems within the landscape shall be protected in their natural state and recorded on maps, appropriate to the scale and intensity of operations and the uniqueness of the affected resources.
- 6.5 Written guidelines shall be prepared and implemented to: control erosion; minimize forest damage during harvesting, road construction, and all other mechanical disturbances; and protect water resources.
- 6.6 Management systems shall promote the development and adoption of environmentally friendly non-chemical methods of pest management and strive to avoid the use of chemical pesticides. World Health Organization Type 1A and 1B and chlorinated hydrocarbon pesticides; pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement, shall be prohibited. If chemicals are used, proper equipment and training shall be provided to minimize health and environmental risks.
- 6.7 Chemicals, containers, liquid and solid non-organic wastes including fuel and oil shall be disposed of in an environmentally appropriate manner at off-site locations.

- 6.8 Use of biological control agents shall be documented, minimized, monitored and strictly controlled in accordance with national laws and internationally accepted scientific protocols. Use of genetically modified organisms shall be prohibited.
- 6.9 The use of exotic species shall be carefully controlled and actively monitored to avoid adverse ecological impacts.
- 6.10 Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion:
 - a) entails a very limited portion of the forest management unit; and
 - b) does not occur on high conservation value forest areas; and
 - c) will enable clear, substantial, additional, secure, long term conservation benefits across the forest management unit.

PRINCIPLE #7: MANAGEMENT PLAN

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

- 7.1 The management plan and supporting documents shall provide:
 - a) Management objectives.
 - b) Description of the forest resources to be managed, environmental limitations, land use and ownership status, socio-economic conditions, and a profile of adjacent lands.
 - c) Description of silvicultural and/or other management system, based on the ecology of the forest in question and information gathered through resource inventories.
 - d) Rationale for rate of annual harvest and species selection.
 - e) Provisions for monitoring of forest growth and dynamics.
 - f) Environmental safeguards based on environmental assessments.
 - g) Plans for the identification and protection of rare, threatened and endangered species.
 - h) Maps describing the forest resource base including protected areas, planned management activities and land ownership.
 - i) Description and justification of harvesting techniques and equipment to be used.
- 7.2 The management plan shall be periodically revised to incorporate the results of monitoring or new scientific and technical information, as well as to respond to changing environmental, social and economic circumstances.
- 7.3 Forest workers shall receive adequate training and

supervision to ensure proper implementation of the management plan.

- 7.4 While respecting the confidentiality of information, forest managers shall make publicly available a summary of the primary elements of the management plan, including those listed in Criterion 7.1.

PRINCIPLE #8: MONITORING AND ASSESSMENT

Monitoring shall be conducted – appropriate to the scale and intensity of forest management – to assess the condition of the forest, yields of forest products, chain of custody, management activities and their social and environmental impacts.

- 8.1 The frequency and intensity of monitoring should be determined by the scale and intensity of forest management operations as well as the relative complexity and fragility of the affected environment. Monitoring procedures should be consistent and replicable over time to allow comparison of results and assessment of change.
- 8.2 Forest management should include the research and data collection needed to monitor, at a minimum, the following indicators:
 - a) Yield of all forest products harvested.
 - b) Growth rates, regeneration and condition of the forest.
 - c) Composition and observed changes in the flora and fauna.
 - d) Environmental and social impacts of harvesting and other operations.
 - e) Costs, productivity, and efficiency of forest management.
- 8.3 Documentation shall be provided by the forest manager to enable monitoring and certifying organizations to trace each forest product from its origin, a process known as the "chain of custody."
- 8.4 The results of monitoring shall be incorporated into the implementation and revision of the management plan.
- 8.5 While respecting the confidentiality of information, forest managers shall make publicly available a summary of the results of monitoring indicators, including those listed in Criterion 8.2.

PRINCIPLE 9: MAINTENANCE OF HIGH CONSERVATION VALUE FORESTS

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

- 9.1 Assessment to determine the presence of the attributes consistent with High Conservation Value Forests will be completed, appropriate to scale and

intensity of forest management.

- 9.2 The consultative portion of the certification process must place emphasis on the identified conservation attributes, and options for the maintenance thereof.
- 9.3 The management plan shall include and implement specific measures that ensure the maintenance and/or enhancement of the applicable conservation attributes consistent with the precautionary approach. These measures shall be specifically included in the publicly available management plan summary.
- 9.4 Annual monitoring shall be conducted to assess the effectiveness of the measures employed to maintain or enhance the applicable conservation attributes.

PRINCIPLE # 10: PLANTATIONS

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

- 10.1 The management objectives of the plantation, including natural forest conservation and restoration objectives, shall be explicitly stated in the management plan, and clearly demonstrated in the implementation of the plan.
- 10.2 The design and layout of plantations should promote the protection, restoration and conservation of natural forests, and not increase pressures on natural forests. Wildlife corridors, streamside zones and a mosaic of stands of different ages and rotation periods, shall be used in the layout of the plantation, consistent with the scale of the operation. The scale and layout of plantation blocks shall be consistent with the patterns of forest stands found within the natural landscape.
- 10.3 Diversity in the composition of plantations is preferred, so as to enhance economic, ecological and social stability. Such diversity may include the size and spatial distribution of management units within the landscape, number and genetic composition of species, age classes and structures.
- 10.4 The selection of species for planting shall be based on their overall suitability for the site and their appropriateness to the management objectives. In order to enhance the conservation of biological diversity, native species are preferred over exotic species in the establishment of plantations and the restoration of degraded ecosystems. Exotic species, which shall be used only when their performance is greater than that of native species, shall be carefully monitored to detect unusual mortality, disease, or insect outbreaks and adverse ecological impacts.
- 10.5 A proportion of the overall forest management

area, appropriate to the scale of the plantation and to be determined in regional standards, shall be managed so as to restore the site to a natural forest cover.

- 10.6 Measures shall be taken to maintain or improve soil structure, fertility, and biological activity. The techniques and rate of harvesting, road and trail construction and maintenance, and the choice of species shall not result in long term soil degradation or adverse impacts on water quality, quantity or substantial deviation from stream course drainage patterns.
- 10.7 Measures shall be taken to prevent and minimize outbreaks of pests, diseases, fire and invasive plant introductions. Integrated pest management shall form an essential part of the management plan, with primary reliance on prevention and biological control methods rather than chemical pesticides and fertilizers. Plantation management should make every effort to move away from chemical pesticides and fertilizers, including their use in nurseries. The use of chemicals is also covered in Criteria 6.6 and 6.7.
- 10.8 Appropriate to the scale and diversity of the operation, monitoring of plantations shall include regular assessment of potential on-site and off-site ecological and social impacts, (e.g. natural regeneration, effects on water resources and soil fertility, and impacts on local welfare and social well-being), in addition to those elements addressed in principles 8, 6 and 4. No species should be planted on a large scale until local trials and/or experience have shown that they are ecologically well-adapted to the site, are not invasive, and do not have significant negative ecological impacts on other ecosystems. Special attention will be paid to social issues of land acquisition for plantations, especially the protection of local rights of ownership, use or access.
- 10.9 Plantations established in areas converted from natural forests after November 1994 normally shall not qualify for certification. Certification may be allowed in circumstances where sufficient evidence is submitted to the certification body that the manager/owner is not responsible directly or indirectly of such conversion. The FSC Founding Members and Board of Directors ratified principles 1-9 in September 1994. The FSC Members and Board of Directors ratified principle 10 in February 1996. The revision of Principle 9 and the addition of Criteria 6.10 and 10.9 were ratified by the FSC Members and Board of Directors in January 1999. The definition of Precautionary Approach was ratified during the 1999 FSC General Assembly in June 1999.

GLOSSARY

Words in this document are used as defined in most standard English language dictionaries. The precise meaning and local interpretation of certain phrases (such as local communities) should be decided in the

local context by forest managers and certifiers. In this document, the words below are understood as follows:

- Biological diversity:** The variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems. (see Convention on Biological Diversity, 1992)
- Biological diversity values:** The intrinsic, ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components. (see Convention on Biological Diversity, 1992)
- Biological control agents:** Living organisms used to eliminate or regulate the population of other living organisms.
- Chain of custody:** The channel through which products are distributed from their origin in the forest to their end-use.
- Chemicals:** The range of fertilizers, insecticides, fungicides, and hormones which are used in forest management.
- Criterion (pl. Criteria):** A means of judging whether or not a Principle (of forest stewardship) has been fulfilled.
- Customary rights:** Rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit.
- Ecosystem:** A community of all plants and animals and their physical environment, functioning together as an interdependent unit.
- Endangered species:** Any species which is in danger of extinction throughout all or a significant portion of its range.
- Exotic species:** An introduced species not native or endemic to the area in question.
- Forest integrity:** The composition, dynamics, functions and structural attributes of a natural forest.
- Forest management/manager:** The people responsible for the operational management of the forest resource and of the enterprise, as well as the management system and structure, and the planning and field operations.
- Genetically modified organisms:** Biological organisms which have been induced by various means to consist of genetic structural changes.
- Indigenous lands and territories:** The total environment of the lands, air, water, sea, sea-ice, flora and fauna, and other resources which indigenous peoples have traditionally owned or otherwise occupied or used. (Draft Declaration of the Rights of Indigenous Peoples: Part VI)
- Indigenous peoples:** "The existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement, or other means reduced them to a non-dominant or colonial situation; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form a part, under State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant." (Working definition adopted by the UN Working Group on Indigenous Peoples).
- High Conservation Value Forests:** High Conservation Value Forests are those that possess one or more of the following attributes:
 - a) forest areas containing globally, regionally or nationally significant concentrations of biodiversity values (e.g. endemism, endangered

species, refugia); and/or large landscape level forests, contained within, or containing the management unit, where viable populations of most if not all naturally occurring species exist in natural patterns of distribution and abundance

b) forest areas that are in or contain rare, threatened or endangered ecosystems

c) forest areas that provide basic services of nature in critical situations (e.g. watershed protection, erosion control)

d) forest areas fundamental to meeting basic needs of local communities (e.g. subsistence, health) and/or critical to local communities' traditional cultural identity (areas of cultural, ecological, economic or religious significance identified in cooperation with such local communities).

Landscape: A geographical mosaic composed of interacting ecosystems resulting from the influence of geological, topographical, soil, climatic, biotic and human interactions in a given area.

Local laws: Includes all legal norms given by organisms of government whose jurisdiction is less than the national level, such as departmental, municipal and customary norms.

Long term: The time-scale of the forest owner or manager as manifested by the objectives of the management plan, the rate of harvesting, and the commitment to maintain permanent forest cover. The length of time involved will vary according to the context and ecological conditions, and will be a function of how long it takes a given ecosystem to recover its natural structure and composition following harvesting or disturbance, or to produce mature or primary conditions.

Native species: A species that occurs naturally in the region; endemic to the area.

Natural cycles: Nutrient and mineral cycling as a result of interactions between soils, water, plants, and animals in forest environments that affect the ecological productivity of a given site.

Natural Forest: Forest areas where many of the principal characteristics and key elements of native ecosystems such as complexity, structure and diversity are present, as defined by FSC approved national and

regional standards of forest management.

Non-timber forest products: All forest products except timber, including other materials obtained from trees such as resins and leaves, as well as any other plant and animal products.

Other forest types: Forest areas that do not fit the criteria for plantation or natural forests and which are defined more specifically by FSC-approved national and regional standards of forest stewardship.

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

Precautionary approach: Tool for the implementation of the precautionary principle.

Principle: An essential rule or element; in FSC's case, of forest stewardship.

Silviculture: The art of producing and tending a forest by manipulating its establishment, composition and growth to best fulfil the objectives of the owner. This may, or may not, include timber production.

Succession: Progressive changes in species composition and forest community structure caused by natural processes (nonhuman) over time.

Tenure: Socially defined agreements held by individuals or groups, recognized by legal statutes or customary practice, regarding the "bundle of rights and duties" of ownership, holding, access and/or usage of a particular land unit or the associated resources there within (such as individual trees, plant species, water, minerals, etc).

Threatened species: Any species which is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

Use rights: Rights for the use of forest resources that can be defined by local custom, mutual agreements, or prescribed by other entities holding access rights. These rights may restrict the use of particular resources to specific levels of consumption or particular harvesting techniques.

Trading in Credibility

November 2002



The Forest Stewardship Council has come to be seen as one of the most important initiatives to promote the conservation and better management of the world's forests. It aims to do this by setting standards for the independent auditing of forestry operations and companies, and allowing its logo to be used as a 'seal of approval' on wood and paper products that come from certified forests. The public is led to believe that products labelled with the FSC logo are from "*environmentally appropriate, socially beneficial and economically viable*" sources.

However, this report documents serious flaws in certifications being carried out in FSC's name, to the extent that the public cannot be assured that a wood or paper product carrying FSC's logo actually comes from a well-managed forest. Such flaws are found to be linked to certain structural weaknesses in the FSC system, to specific political decisions within the organization and to a lack of effective control mechanisms. The report presents a compelling case that urgent and fundamental reform is essential if FSC is to survive as a credible mechanism for the certification of forestry operations.

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