

Final Judgement detailed research MTCS

11 June,2025

Introduction

Initial investigation

The Ministry of Infrastructure and Water Management (I&W) has commissioned the Timber Procurement Assessment Committee (TPAC) to undertake a surveillance study on how the Program for the Endorsement of Forest Certification Systems (PEFC) controls the performance of the Malaysian Timber Certification System (MTCS). Cause for the request were the sustained complaints by NGOs and indigenous people about non-compliance of the MTCS on three pertinent issues: (1) free, prior and informed consent by local communities and indigenous peoples (**FPIC**), including availability of **maps**; (2) **conversion**; and (3) handling of **complaints** (see Annex 1, complaints).

The above mentioned complaints relate to specific number of criteria of TPAS (as mentioned in Table 1. Below), which gave reason to TPAC to start a detailed research on these specific issues. TPAC that a field mission was necessary to compare the actual practice with the systems on paper and to determine if MTCS does comply with the specific criteria in question.

What is also at stake is whether or not PEFC as a meta-system can guarantee its compliance with the Timber Procurement Assessment System (TPAS) principles and criteria, when it comes to the performance in practice of PEFC endorsed Malaysian country system MTCS. Immediately in relation to the performance of MTCS is the reliability of the Program for the Endorsement of Forest Certification Systems a matter of concern, as MTCS has been endorsed by PEFC, and as such is accepted under TPAS by the Dutch Minister.

Comparison of TPAS standards with standards of PEFC and MTCS

At an earlier stage TPAC has exercised a **desk study** on the standards of PEFC and MTCS (see Annex 2, comparison). TPAC concluded that the standards of both systems did not fail to comply with the TPAS standards, despite some uncertainties. Below, more information is provided on the comparison with the relevant TPAS criteria in relation to the complaints.

FPIC

The three systems use different wording, but express a similar meaning.

TPAS C 2.1: *Claims of the local population, including indigenous peoples, in the property/tenure or use rights are respected.*

TPAS C 2.3: *Indigenous peoples have a say in forest management on the basis of free, prior and informed consent (**FPIC**), and hold the right to grant or withhold permission.*

TPAC C 2.4: *The forest management plan and accompanying maps are publicly available.*

Both PEFC criteria 7.3.1 and 6.3.2.2 and MTCS criterion 3.1 comply with TPAS FPIC Criteria C 2.1 and C 2.3, while TPAC criterion C 2.4 on maps seems partially addressed. Although PEFC does not make explicit reference to maps, C 6.2.7 of the PEFC standard requires: *a summary of the management plan, appropriate to the scope and scale of forest management, shall be publicly available.* A management plan normally contains maps.

Conversion

Basically, the standards of the three systems, TPAS, PEFC and MTCS, use similar language: *Conversion of forests in the FMU to other types of land use shall not occur unless in justified exceptional circumstances.* TPAS mentions in its guidance for interpretation: *conversion can take place if the area to be converted is insignificant.* Also: *Conversion can take place if it is*

based on undisputed governmental decisions. The standards of PEFC and MTCS allow for conversion of a very limited portion. Not more than 5% of the total area of the certified Forest Management Unit (Red: meaning maximum 5% of the originally certified FMU area).

Both the standards of PEFC and MTCS comply with TPAS Criterion 4.3.

Complaints TPAS C 2.5: *Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services.*

TPAS DAM C 3.3: *Objection and appeal procedures are publicly available and clearly indicate the entity a stakeholder must turn to.*

TPAS DAM C 3.5: *Objection and appeal procedures contain clear and reasonable deadlines.*

The TPAS contains general requirements regarding complaints, whereas PEFC specifies complaint requirements for standard setting and complaints addressed to a National Governing Body. MTCS specifies requirements on dispute resolution for tenure claims and use rights (see Annex 2, comparison).

PEFC C 5.3.1 and MTCS C 2.3 partially address the requirements of TPAS DAM C 3.3. PEFC GL 7/2007 Criteria 7.1 and C 8.1 complies with TPAS DAM C 3.5 on deadlines, while MTCS does not seem to have concrete deadlines.

The Dutch Government has accepted PEFC as an umbrella organisation for national certification systems that guarantees compliance with the PEFC criteria. However, because of repeated complaints by NGOs and Indigenous people on the **performance of MTCS in practice**, the Ministry requested TPAC to undertake a surveillance study on the performance of MTCS in practice, to show if PEFC is indeed in control over MTCS.

TPAC studied the complaints of the NGOs and consulted PEFC. Initial attempts to discuss the outstanding issues directly with MTCS failed. PEFC was made aware of the complaints brought to the attention of the Ministry and TPAC. PEFC then proposed to organise a field visit to study the situation in Malaysia and invited TPAC to participate in the mission as observer.

Preliminary advice

Responding to the request of the Ministry, TPAC submitted on 25 November 2024 a preliminary judgement based on the complaints from NGOs and information received from PEFC (see Annex 3, Preliminary judgement). The Ministry did not consider it desirable to seek direct contact with the NGOs and other stakeholders for further information. TPAC was therefore not able to verify the complaints and subsequently, TPAC could not make a final decision on the scores at Principle-level for FPIC and Maps (P2: interest of stakeholders), Conversion (P4: Biodiversity) and for handling of complaints (DAM P3: Decision making bodies). For these three Principles the scores could be 0 (inadequately addressed) or 1 (partially addressed). If - within the TPAS scoring methodology - any Principle-scores 0, the conclusion is that the system as a whole does not comply.

In its preliminary advice to the Ministry, TPAC argued that a field visit, as proposed by PEFC, would allow TPAC to observe directly the local situation and to communicate with the NGOs and other relevant stakeholders involved, including Certification Bodies. TPAC considered it also important to get an up-date from the NGOs about the way the complaints were handled by MTCS in addition to MTCS' and PEFC's points of view. Moreover, a field visit would enable to better judge the quality of the audits and the fact finding by PEFC and its response on the performance of MTCS. In line with stipulations in TPAC's manual (par. 3.9), such a field visit is considered essential in this assessment procedure and would bring clarity on the three issues.

Field visit

The Ministry has followed the advice of TPAC and asked a delegation of TPAC to join the field visit organised by PEFC as an observer. The field visit took place from 11-19 February 2025. It revealed thus far unknown facts and provided valuable insight in the situation on the ground (see Annex 4, Field Visit Report).

Findings

TPAC's final judgement on PEFC's control over MTCS is based on the results presented in its preliminary advice and the findings from the field visit. The field visit has dramatically improved the insight in the nature of the complaints and the way they were handled by the forest manager, the auditor and MTCS. The field visit allowed also some insights in how PEFC monitors a national certification system and whether or not there is room for improvement, particularly in the context of its newly developed integrity policy. The findings during the field visit enabled TPAC to reconsider the scores of P2, P4 and DAM P3.

Table 1 below shows the preliminary judgement (December 2024) next to the final judgement after the field visit. For more detailed and complete information for justification of the final judgement we refer to Annex 4, Field visit report. The differences between the preliminary judgement and the final judgement demonstrate the importance of timely actual and correct information as a firm basis for a judgement.

Table 1 – Preliminary and Final Judgement

Issues and Relevant TPAS Principle and Criteria	Preliminary judgement TPAC Before field visit	Score at P level	Final judgement TPAC after field visit	Score at C and P level
FPIC SFM P2 <i>Interest of stakeholders</i> C 2.1; C.2.3	<p>The repeated complaints of NGOs and indigenous peoples (IPs) regarding disrespect and violation of FPIC rights, limited availability of maps with relevant information, as well as the use of juridical procedures against NGOs that lodged complaints, give at least the impression that in practice the MTCS system does not comply with the basics of FPIC and the relevant TPAS criteria.</p> <p>These complaints should be reflected in the audit reports of the Certification Body. But not always can reference to the issues be found. In other cases, it is unclear what follow-up is given to identified non-compliances. With no more concrete information at hand and due to the lack of communications with the NGOs, TPAC does not feel competent to give a final verdict on the issues raised by the NGOs.</p>	Undecided 0 or 1	<p>As for the complaints of the NGOs regarding FPIC, it is often unclear where and when something had happened (place and time are missing). Some events seem to have taken place in the distant past or sometimes even outside the FMU.</p> <p>In Malaysia and especially in Sarawak, obtaining land rights is a problem. In practice, it appears that this is extremely complicated and takes a very long time. Although logging companies and MTCC as a certification body are not responsible for this, they are associated and the criticism of local communities and especially the NGOs is directed at them.</p> <p>Though there is certainly room for improvement in terms of FPIC procedures, agreements between the FMU management and local communities were actually made, and contributions either in kind or in cash were made to affected communities, both in Sarawak and Perak. Internal divisions within the community make it difficult to decide to what extent the entire (or the larger part of the) community agreed to the conditions. Improvements could be made in terms of regular updates of the agreements, involvement of women in the decision-making process and information up-dates to communities. Overall, the feed-back received from communities on FPIC implementation was rather positive. In the case of Samling, community representatives of the Gerenai area confirmed the receipt of agreed contributions, generally suggested that their interests were discussed with and considered by the company and indicated that the positive experiences with the company outweighed the negative ones; they rather wanted them to restart logging</p>	SFM C.2.1: ≈ C 2.3: ≈

		<p>operations.</p> <p>In retrospect the FMU manager of Gerenai FMU apologized for the juridical steps against the NGOs. The case was finally settled outside the court with the approval of the judge.</p> <p>Several villages in Sarawak were satisfied with the way in which they had been approached by Samling. In the villages in Sarawak, it appeared that a significant number of the villagers spoken to worked or had worked for Samling; this was also experienced as important for the development of their community.</p> <p>FPIC documents and other expressions of 'agreement' were present at various locations. The monitoring of changes and the recording of changes including recent community education by Samling could be improved. Also, there seems to be less concrete attention for other elements of the forest, such as attention for biodiversity.</p> <p>Sarawak will focus on Carbon credits. Samling is no longer interested in logging operations in natural forests, but now wants to go for carbon credits. Ending logging activities also means the loss of employment, loss of maintenance of roads and bridges, and obtaining other benefits. The population is not well prepared for this, which has also led to complaints.</p> <p>In Perak, the villagers were satisfied with their relationship with the forest department, the way they were involved in the preparation of logging activities and the extent to which their interests were taken into account. The relationship with the contracted logging companies was also experienced positively.</p>	
<p>Maps</p> <p>SFM P2 <i>Interest of stakeholders</i></p> <p>C 2.4</p>	<p>NGOs and indigenous peoples reported limited availability of maps with relevant information, which reinforces concerns that MTCS does not fully comply with TPAS criterion C 2.4</p>	<p>Maps of sufficient quality, containing the elements of importance for the community, and of large enough scale were present in some of the locations that we visited (FPMU, FMU). Communities in Sarawak and Perak generally indicated that their elements of concerns had been discussed with and mapped by the forest managers and were taken into consideration during logging. They also indicated that such maps are more relevant to the forest operators, to guide them in where to log and where not to log, while they themselves could monitor the logging without a map, based on their local knowledge. In some cases, copies of maps were stored in the village head's house. The distribution and regular updating of maps deserve more attention. In the audit report, recent information based on satellite images regarding conversion or forest degradation should be made visible on updated maps.</p> <p>In case of deviation from agreements made regarding elements shown on maps, the logging company is contacted, which then corrects its activities and compensates for any damage caused.</p> <p>Samling and the Perak State Forestry Department produce and use maps on an acceptable scale (from 1:50,000 to 1:5,000). These maps are known to the communities, but are not always available in the communities.</p>	<p>C 2.4: ≈</p> <p>P 2: 1</p>

Conversion SFM P 4 <i>Biodiversity</i> C 4.3	conversion of parts of MTCS certified forests occur and incidentally on a considerable scale, far beyond 5% of the originally certified area. Specified data on conversion within certified forests are not available for TPAC. Malaysia, forest conversion, is a state matter as defined by the Malaysian Federal Constitution and outside the control of certification system. So MTCS, nor any other certification system, is able to prevent state-initiated conversion. TPAC has no accurate information on the actual frequency and scale of conversion in the entire area certified by MTCS.	Preliminary 0	The alleged conversion of approximately a quarter of the Geranai concession was based on a misunderstanding. The auditor SIRIM strictly enforces conversion, which is evident from the Kelantan case. Auditors from SIRIM and professionals from PEFC (with years of auditing experience) indicate that it is not uncommon to exclude forest parts that are removed from a FMU due to higher government policy (as in the case of Johor) from the percentage conversion for which the forest manager is responsible. This also happens in other countries and even at FSC. However, this is in contrast to what TPAS requires in the criteria; this underlines the necessity and urgency for adjusting the TPAS criteria, as has been requested to the Ministry on several occasions.	SFM C 4.3: ≈ P 4: 1
Handling Complaints SFM P 2 <i>Interest of stakeholders</i> C 2.5 DAM P3 <i>Decision making bodies</i> DAM C 3.3, C 3.5	NGOs continue their complaints about seemingly unnecessary long and untransparent procedures of dealing with their complaints. This raises reasonable doubts with TPAC on compliance by MTCS with the relevant TPAS criteria. MTCS may not (score 0), or only partially (score 1), comply with TPAS criteria C 2.5, DAM C 3.3 and C 3.5. c	Undecided 0 or 1	An up-to-date chronology of NGO complaints with answers from MTCC and PEFC indicates that complaints have indeed been dealt with. The SIRIM auditors indicated that they also look closely at these complaints. On Sarawak, at Samling, evidence was shown that the complaint procedures are in place (including forms for complaints, requests for assistance and suggestions for improvement). Copies are held at company headquarters, field offices and in the communities. Most cases concerned requests for assistance rather than complaints. In some cases, procedures took too long and if requests are not dealt with in a satisfying manner, a complaint could be filed. Getting an answer to a request sometimes turned out to be complicated and time consuming. In other cases, local managers were praised for acknowledging community requests. Both on Sarawak and in Perak community representatives seemed aware of the procedures, but in Perak they had not used them as -according to them - there was no need to complain. Evidence was provided on correct handling by SIRIM in cases where non-availability of appropriate conflict resolution mechanisms was an issue. TPAC has the impression that some of the answers that are unsatisfactory for the NGOs stem from the fact that the logging company and MTCC have little or no influence on the underlying problems of recognition of Native Customary Rights and the establishment of boundaries. Many villagers are not positive about the role of NGOs. NGOs are often accused of using villagers for their own ends and putting them under pressure, without really standing up for their interests or consulting with them so that the villagers feel they are truly represented by them.	SFM C 2.5: ≈ P 2: 1 DAM C 3.3: ≈ C 3.5: ≈ P 3: 1
Performance PEFC DAM P 2 <i>System manager</i> C 2.2 requires supervision of proper performance of	PEFC should monitor and guarantee compliance in practice by its endorsed systems with the PEFC standards. The continuing array of complaints by NGOs and indigenous people of (perceived) mal functioning of MTCS raises questions about the execution of PEFC's supervising task.	The reliability of PEFC is therefore at stake	In the past, the monitoring of MTCC by PEFC has been rather limited. There was no direct way of closely following serious complaints. Only at a very late stage would PEFC actually get involved unless NGOs were addressing PEFC directly, bypassing the normal complaint procedure. This field visit has made clear that there is a need for active monitoring of national systems like MTCC, especially in case of complaints. It also made clear, that there is willingness to professionally and openly discuss critical issues and readiness to make	DAM C 2.2: ≈ P 2: 1

<i>tasks and compliance with the rules.</i>	In the opinion of TPAC, PEFC should monitor and guarantee compliance in practice by its endorsed systems with the PEFC standards. The continuing array of complaints by NGOs and indigenous people of (perceived) mal functioning of MTCS raises questions about the execution of PEFC's supervising task. TPAC has no evidence that PEFC has so far adequately and effectively intervened to address the cause of the continuing complaints by NGOs. The reliability of PEFC is therefore at stake.		adjustments that will make MTCS and PEFC more solid. PEFC was found to assess the implementation of MTCS at field level in a professional and critical way, coming with suggestions for improvement, where applicable. Implementation of the PEFC integrity policy under construction will take some time, but once implemented will most likely yield improved results. For the time being both MTCS as PEFC seem committed to work on suggested recommendations.	
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Conclusion on MTCS

The Ministry has asked for a general conclusion about compliance of MTCS with the PEFC standard and subsequently with the Dutch timber procurement principles and criteria (TPAS). This requires a full assessment of MTCS while TPAC has been commissioned to investigate only the compliance with a limited number of criteria regarding the issues raised in the complaints of NGOs and indigenous peoples. Nevertheless, TPAC could provide a final judgement, making use of previous assessments for those principles and criteria that were not part of this study. This means, TPAC will use the conclusions of the issues studied in this surveillance study as presented in Table 1, in addition to the scores of the final judgement of 2010 on the other principles (see Annex 5, MTCS scores at C and P level).

Role of PEFC

PEFC is the umbrella organisation that endorses national and regional forest management certification systems that comply with the standard set by PEFC. Timber originating from forest certified by a PEFC endorsed certification system is allowed to carry the PEFC logo. All timber with a PEFC logo is accepted by the Dutch government. Thus, this also applies to the timber from Malaysia, originating from MTCS certified forests.

TPAC has no indication that PEFC has, until the field visit in February 2025, adequately and effectively intervened to address the cause of the continuing complaints by NGOs about MTCS.

As it happens, PEFC recently started a project to improve its system integrity. TPAC deems it necessary that part of the project should be the development of a reliable system to monitor the performance of endorsed certification systems and to intervene when appropriate. However, the PEFC integrity system is not yet fully developed, and it still will take time before it will be fully implemented. However, based on the experience in the field and the recommendations made, both in terms of PEFC's own functioning as well as in terms of support for a national system like MTCC, TPAC is of the opinion that PEFC is taking its integrity policy very serious. A range of steps in terms of training, additional guidance, research on the complicated legal and land right issues, deeper analysis of NCs (Non Conformities) etc. is foreseen to be implemented in the near future for the case of MTCS and will be part of this policy.

It would be worthwhile to follow the implementation of this integrity system in the future and to see whether this will lead to a higher level of performance of national systems as well as to a reduction of complaints from NGOs. It would also be worthwhile if a constructive dialogue could be initiated between PEFC and MTCC on the one hand and the NGOs on the other hand to avoid future mutual

misunderstanding, incorrect accusations that in some cases even lead to lengthy and costly legal procedures.

Advice to the Ministry

Thanks to the field visit TPAC is able to give an evidence-based judgement on the compliance of MTCS with the PEFC standard and subsequently with the TPAS criteria SFM C 2.1, C 2.3, C 2.4, C 2.5, C 4.2, C 4.3 and DAM C 2.2, C 3.3 and C 3.5. This set of investigated criteria is extended with SFM C 4.2 en DAM C 2.2, in comparison with the assignment, as these two criteria turned out to be also relevant in relation to the issues. To reach a final judgement, TPAC has reviewed the scores of this selection of criteria. Annex 5 shows the table of all these scores, but not the scores on criteria that were not subject of the detailed research and field mission. TPAC has made no judgement on the compliance with other criteria that were no part of the study. For a total judgement, TPAC therefore relies on previous judgements on these other criteria.

Although not on all criteria MTCS scores the highest result, the final judgement is that MTCS is compliant with the principles of TPAS . This final judgement is made according to article 3.11 of TPAS, included in Annex 5.

TPAC advises the Ministry to:

1. maintain the acceptance of PEFC and its endorsed system MTCS.
2. request PEFC to develop and exercise an effective monitoring and detection program of (non)compliance in practice by endorsed forest certification systems.
3. enable TPAC to monitor PEFC in the development and implementation of the Integrity Policy in the future.
4. inform the NGOs that have submitted the initial complaints, about the results of this study and invite them for an explanatory meeting.

In response to recurrent complaints of international and local NGOs about the performance of the Malaysian Timber Certification System (MTCS) the Dutch Ministry for Infrastructure and Water management has been in contact with PEFC. The implementation of the Dutch Timber Procurement Policy and its Timber Procurement Assessment System (TPAS), has demonstrated to be instrumental for PEFC to undertake a fact-finding mission to Malaysia with the aim to assess the performance of the MTCS in practice. Two members of the Dutch Timber Assessment Committee (TPAC) joined the PEFC mission, as observers. This mission was the first field visit ever of PEFC to judge the actual performance in practice of systems endorsed by PEFC. The mission has been acknowledged as being “very valuable”, by both MTCS, PEFC and TPAC. The proceedings and the outcome of the mission are a major step on the path of further strengthening and improving the reliability of PEFC and its endorsed national certification systems in general and more specifically of MTCS.

Annex 1 Complaints

Annex 2 Comparison standards

Annex 3 Preliminary judgement

Annex 4 Field visit report

Annex 5 MTCS scores at C and P level

Annex 1: Overview of complaints

(note: this document is similar to Annex 2. produced on 26-6-2023)

Introduction

The following documents are the sources from the various complaints and remarks:

A: Letter:	personal data	concerns regarding MTCS	- to Ministry
B: Presentation:	Bruno Manser Fonds <i>et al</i>	concerns regarding MTCS	- to Ministry
C: Letter:	Both Ends	concerns regarding MTCS	- to Ministry
D: Audit report	FORM International	concerns standard revision MTCS	- for PEFC
E: Complaint:	Bruno Manser Fonds <i>et al</i>	complaints regarding 2FMU&MTCS	- to PEFC and MTCS

Sources used to process this information are:

Information exchange with PEFC/MTCS

-Chronology of follow-up complaints to Gerenai and Ravenscourt (Feb 2023 and update May 2023)

-Questions from TPAC to PEFC (in preparation for the meeting)

-Questions from TPAC to MTCS (in preparation for the meeting – this meeting has expired)

-Written response from PEFC

-Oral response from the meeting between PEFC and TPAC

-Written response from MTCS

-Additional written responses PEFC/MTCS

Other sources

-Report Malaysian Audit Office

-TPAS criteria

-TPAC assessment of PEFC April 2022

In this Annex I, the complaints and signals received are systematically presented in the first column of the tables. In the second column, the applicable TPAS criteria are listed as well as the most important information from the communication with PEFC. In the third column of the tables, an analysis is made of the meaning of the information obtained, and conclusions are drawn per subject.

Please note that some of the remarks below are not translated into English. In particular the analysis and conclusions can also be found in the Comparison and ultimately in the advice.

Tabel A: Brief van personal data – gericht aan het Ministry I&W (8 dec. 2021)

personal data Letter - Ministry I&W 8 dec. 2021		
	Bevindingen	Analyse en conclusie
Signalen in de brief van personal data	-Relevante TPAS criteria -Beschrijving van de situatie (ontvangen informatie)	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is, met toelichting wat het doel is van het vervolgonderzoek, en wat (op dit moment) als voornaamste partij(en) wordt gezien om deze informatie te verkrijgen.
1: Request to Minister to suspend recognition of MTCS because – the new standard MC&I 2020 has not been assessed by TPAC, – earlier agreed points for improvement have not been monitored	1: <u>TPAS criteria:</u> -niet relevant Toelichting: Het betreft een procedurele vraag aan het Ministerie. MTCS is goedgekeurd binnen de goedkeuring van PEFC International, en niet meer als een apart systeem. Het monitoren van MTCS was een advies van TPAC aan het Ministerie waar het Ministerie geen gevolg aan heeft gegeven.	1: <u>Analyse/Conclusie:</u> Niet aan TPAC om op te reageren
2: Unclear how non-compliances - which had led to the suspension of the certificate of Kedah – have been resolved.	2: <u>TPAS criteria:</u> DAM C 4.1. The certification bodies are accredited on the basis of the requirements and guidelines in ISO 17021 'Conformity Assessment - Requirements for Bodies Providing Audit and Certification of Management Systems' and/or ISO Guide 65 (EN 45011) 'General Requirements for Bodies Operating Product Certification Systems' and preferably on the basis of specific supplemental requirements for performance of conformity assessments according to the standards for sustainable forest management and the chain of custody. <u>Bevindingen:</u> - Schriftelijke toelichting van PEFC dat de afwijkingen die tot schorsing hebben geleid zijn verholpen, en dat dit het onderwerp betrof van EIA (Environmental Impact Assessment).	2: <u>Analyse:</u> -Er is geen verificatie materiaal verschaft (zoals een audit rapport, communicatie met belanghebbenden), die aantoonbaar maakt hoe de afwijkingen zijn gesloten en of de huidige situatie adequaat is. -Dit is de enige klacht die direct raakt aan het voldoen aan de accreditatie-eisen van de certificeringsorganisatie, inhoudelijk wordt op andere punten geadviseerd om de afhandeling van afwijkingen op te volgen, waarmee dit onderwerp ook aan bod komt. <u>Conclusie:</u>

	<p>- PEFC/MTCS geeft aan dat detailvragen over het sluiten van afwijkingen aan de certificeringsorganisatie gesteld moeten worden.</p>	<p>-Het is niet noodzakelijk om op dit specifieke geval door te vragen. -vervolgonderzoek: niet noodzakelijk</p>
<p>3a: -Reference to complaints of Save Rivers, Borneo Initiative and Bruno Manser Fonds against Samling regarding FMUs: Ravenscourt and Gerenai.</p>	<p>3a: <i>(zie tabel E: klacht van Bruno Manser Fonds en anderen (Save Rivers, Borneo Initiative, Bruno Manser Fonds))</i></p>	<p>3a: <i>(Zie tabel E: klachttopvolgning van Save Rivers, Borneo Initiative, Bruno Manser Fonds)</i></p>
<p>3b -Observation by personal data: user and customary rights are not being protected e.g. rights of Temiar Orang Asli (Kampung Cunex Boundary) in Perak Peninsular.</p>	<p>3b. TPAS criterium:</p> <div style="border: 1px solid black; padding: 5px;"> <p>SFM C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake.</p> <p><i>Guidance: Free and informed consent is interpreted in the sense that the activity will not be undertaken before the relevant consent is given.</i></p> <p><i>Guidance: The local population and indigenous peoples can only prevent activities through withholding their consent where their property/use rights are at stake</i></p> </div> <p>Bevindingen: Ten aanzien van Perak is geen aanvullende informatie ontvangen. PEFC/MTCS geeft aan dat dit soort vragen aan de certificeringsorganisatie gesteld moeten worden.</p>	<p>3b Analyse: -Met betrekking tot het voorbeeld van Perak is geen aanvullende informatie ontvangen die de observatie ontkracht of bevestigt.</p> <p>Conclusie: -Gerede twijfel, aangaande toepassing FPIC. -Vervolgonderzoek: wenselijk -te raadplegen bronnen: NGO's, CB, community reps.</p> <p><i>(noot: Dit voorbeeld sluit aan bij andere gevallen waar gebruiksrechten niet voldoende gewaarborgd zouden zijn.)</i></p>
<p>4 Observation by personal data: Submitters of the complaints got stuck in the malfunctioning complaint procedure of MTCS</p>	<p>4: TPAS criteria:</p> <div style="border: 1px solid black; padding: 5px;"> <p>DAM C 2.2. The distribution of the responsibilities, authorities, and tasks among the entities, comprising an organisational and/or functional part of the certification system, and the procedures to be followed are clear and publicly available. The certification system comprises at least rules for the following functions:</p> <ol style="list-style-type: none"> a. standard development; b. certification; c. accreditation; </div>	<p>4: Analyse: -Onduidelijk hoe structureel dit probleem is en wat PEFC/MTCS hier concreet aan heeft gedaan; komen indieners van klachten bij de juiste contactpersoon terecht en worden deze klachten adequaat afgehandeld.</p> <p>Conclusie:</p>

	<p>d. supervision of proper performance of tasks and compliance with the rules;</p> <p>e. objection and appeal handling;</p> <p>f. design and use of logos and labels.</p> <p><u>Bevindingen:</u> In het gesprek heeft PEFC aangegeven dat het een actieve(re) rol op zich neemt wat betreft het ondersteunen van indieners van een klacht. Bij deze klacht draagt PEFC er zorg voor dat de klacht bij de verantwoordelijke instantie wordt ingediend en dat deze klacht wordt opgevolgd. TPAC beschikt niet over documentatie of andere informatie om één en ander te verifiëren.</p>	<p>-Gerede twijfel blijft bestaan over een correcte en tijdige <u>klachtenafhandeling</u>;</p> <p>-Vervolgonderzoek: noodzakelijk</p> <p>-te raadplegen bronnen: stakeholders, PEFC, en MTCS.</p>
<p>5a: Disagreement with the launch of a SLAPP (Strategic Lawsuit Against Public Participation) by Samling against SAVE Rivers</p>	<p>5: <u>TPAS criterium:</u> Geen directe vereiste.</p> <p><u>Bevindingen:</u> -NGO's noemen de ingediende klacht wegens smaad een SLAPP -PEFC heeft de term SLAPP niet overgenomen. PEFC heeft mondeling gereageerd dat het eenieder vrij staat een rechtszaak aan te spannen. -de aanklacht wegens smaad heeft Samling ingediend in reactie op het indienen van een klacht jegens haar.</p>	<p>5a: <u>Analyse:</u> -PEFC, MTCS en TPAS standaarden bevatten geen eisen met betrekking tot SLAPP -De uitwerking van een SLAPP kan afbreuk doen aan het adequate afhandelen van geschillen (SFM C 2.5 geschillen-afhandelingsmechanisme), omdat belanghebbenden worden afgeschrikt kritiek te uiten of een klacht in te dienen. Dit geldt ook voor de inbrengt tijdens het proces van het tot stand komen van FPIC (SFM C 2.3).</p> <div style="border: 1px solid black; padding: 5px;"> <p>C 2.5. Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services. <i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i></p> </div> <div style="border: 1px solid black; padding: 5px;"> <p>C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake.</p> </div> <p>-Er is niet beoordeeld of er hier sprake is van een SLAPP.</p> <p><u>Conclusie:</u> -Duidelijkheid, omdat er geen TPAS eisen zijn ten aanzien van SLAPP.</p>

		<p>-Vervolgonderzoek: wenselijk, om vast te stellen of de aanklacht tot smaad (al dan niet als SLAPP betiteld) tot gevolg heeft dat FPIC onder druk komt en klachten niet of minder worden ingediend waar dit wel het geval zou moeten zijn.</p> <p><i>(noot: internationaal is er een tendens voor het voorkomen van SLAPP en het ontwikkelen van anti-SLAPP wetgeving (zie b.v. Wikipedia) om onrechtmatig gebruik van juridische procedures te voorkomen.)</i></p>
<p>5b: Disagreement with suspension of complaints procedure.</p>	<p>5b: <u>TPAS criterium:</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>SFM C 2.5. Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services. <i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i></p> </div> <p><u>Bevindingen:</u> Het feit dat de klachtenprocedure zou zijn opgeschort is door PEFC weersproken. Bewijs: - brief aan belanghebbenden dat klacht wel wordt opgevolgd (Ref: brief PEFC - 12 November 2021) - bewijs van opvolging in auditrapporten met afwijkingen over de onderwerpen van de klachten (Ref: Public Summary audit report Ravenscourt (20 May 2022) – zie ook E)</p>	<p>5b: <u>Analyse:</u> -Het signaal van de stakeholders dat lopende de rechtszaak de klachten niet worden opgevolgd door MTCS is weersproken door PEFC. (en voldoet daarmee aan TPAS SFM C 2.5). <i>(zie tabel E: de inhoudelijke opvolging van klachten)</i></p> <p><u>Conclusie:</u> -Duidelijkheid, ten aanzien van de afhandeling van deze klacht: onduidelijk is wel of de klachtenprocedure tijdelijk was opgeschort.</p> <p>-Vervolgonderzoek: niet noodzakelijk</p>
<p>6: Observation: starting logging operations during a running complaints procedure is violation of principles of FPIC. Three parties have submitted a complaint with PEFC, October 2021. They request PEFC to suspend recognition of MTCS until the case has been resolved and Samling temporarily stops logging. PEFC responded November 2021 that it would wait for the handling of the complaints with the Complaint procedure of MTCS.</p>	<p>6: <u>TPAS criterium</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>SFM C 2.5. Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services. <i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i></p> </div> <p><u>Bevindingen:</u> -Schriftelijke reactie PEFC: PEFC en MTCS hebben eisen om FPIC te garanderen.</p>	<p>6: <u>Analyse:</u> -Het signaal van de stakeholders dat tijdens lopende klachten werk moet worden stilgelegd is niet ontkracht in de reacties van PEFC/MTCS. -Er is geen inzicht gegeven of in dit of andere gevallen de certificaathouder de werkzaamheden moet stoppen als er klachten zijn over deze werkzaamheden (PEFC/MTCS verwijzen naar certificeringsorganisatie om in te gaan op specifieke gevallen).</p>

	<p>PEFC maakt de algemene opmerking dat in landen als Maleisië de rechtelijke uitspraak gerespecteerd moet worden (zie hieronder).</p> <div data-bbox="808 323 1451 884" style="border: 1px solid black; padding: 10px;"> <p><u>Aanvullende antwoorden van PEFC (15-5-2023):</u></p> <p>In cases where legal, customary and traditional rights are disputed, PEFC ST 1003 6.3.2.1 requires that “[w]here the extent of rights is not yet resolved, or is in dispute, there are processes for just and fair resolution,” such as through juridical proceedings.</p> <p>PEFC ST 1003 6.3.2.1 further specifies that “[i]n such cases forest managers shall, in the interim, provide meaningful opportunities for parties to be engaged in forest management decisions whilst respecting the processes and roles and responsibilities laid out in the policies and laws where the certification takes place.”</p> <p>This means that free, prior and informed consent is required within the established framework of legal, customary and traditional rights. If these rights are disputed, there needs to be a process for resolution, which in countries like Malaysia is offered through its legal system, which needs to be respected.</p> </div>	<p>-De reactie van PEFC geeft aanleiding tot extra twijfel over compliance met TPAS: PEFC geeft aan dat in Maleisië in het geval dat er geschillen zijn, de weg kan lopen via rechterlijke uitspraken en stelt dat deze uitkomsten moeten worden gerespecteerd.</p> <p>Dit is in tegenstrijd met de beginselen van FPIC. Het kan zijn dat iets wettelijk gezien mag, maar dat partijen met gebruiksrechten hiervoor geen “free, prior, informed consent” voor hebben gegeven. Het komt voor dat zaken waar wettelijke en rechterlijke goedkeuring voor is, niet worden uitgevoerd omdat er geen FPIC tot stand is gekomen met alle relevante partijen. Het toepassen van FPIC is een essentieel onderdeel van een duurzame certificeringsbenadering.</p> <p>-Deze vraag gaat over het stoppen van werkzaamheden lopende een geschil. Het antwoord lijkt aan te geven dat met een rechterlijke uitspraak waarin houtkap is goedgekeurd, dit niet gestopt hoeft te worden als er een geschil ontstaan is.</p> <p><u>Conclusie:</u></p> <p>-Gerede twijfel, ten aanzien van klachtenafhandeling: specifiek ten aanzien van de beoordeling van de klacht, in dit geval, het verzoek tot het stilleggen van werk waarover geschillen zijn.</p> <p>-vervolgonderzoek: noodzakelijk</p> <p>-te raadplegen bronnen: CBs, NGO’s, Community representatives.</p>
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<p>7: Observation: MTCS offers insufficient protection against conversion/deforestation e.g. Pahang Peninsular, conversion to palm oil plantations, YP Olio. Unclear whether the 5% maximum conversion is permitted per year or cumulatively over the years since 1 July 2011 Converted areas and planned conversion areas are not clear on maps.</p>	<p>7: <u>TPAS criterium:</u> -SFM C 4.3</p> <div data-bbox="806 287 1451 632" style="border: 1px solid black; padding: 5px;"> <p>C 4.3. Conversion of forests in the FMU to other types of land use, including timber plantations, shall not occur unless in justified exceptional circumstances.</p> <p><i>Guidance: Exceptional circumstances are for example natural disasters. In addition conversion can take place if the area to be converted is insignificant, if it enables clear long term conservation benefits, or if it is based on undisputed governmental decisions.</i></p> <p><i>Guidance: The forest manager of a plantation should aspire to make clear how the plantation helps in relieving pressure from natural forests; for instance when the plantation is established on degraded land instead of by conversion of natural forest.</i></p> </div> <p><u>Bevindingen:</u> -PEFC/MTCS verwijst naar criteria die dit onderwerp behandelen. Tevens is de volgende toelichting gegeven:</p> <div data-bbox="806 794 1451 1034" style="border: 1px solid black; padding: 5px;"> <p><u>Schriftelijk antwoord PEFC:</u> <u>Question TPAC:</u> How is the 5% limitations for conversions interpreted <u>Answer PEFC/MTCS:</u> 5% conversion is interpreted in relation to the total area of the certified forest management unit (FMU) as defined in the certificate and by extension the forest management plan and/or timber</p> </div> <div data-bbox="806 1037 1451 1359" style="border: 1px solid black; padding: 5px;"> <p><u>Question TPAC:</u> Could you explain the status of Johor FMU <u>Answer PEFC/MTCS:</u> Johor FMU was initially audited and certified by SGS Malaysia Sdn Bhd. A recertification audit conducted by SGS in 2015 found that the Johor State Government has degazetted and/or converted a total of 9.082% of natural forests in the FMU. This led to the suspension and termination of the Certificate for Johor FMU. (RED: 2014 public summary report shows 321,841.06 ha was certified)</p> </div>	<p>7: <u>Analyse:</u> -Er is een voorbeeld gegeven van het overschrijden van het areaal dat ontbost mag worden (namelijk maximaal 5%), waarna de organisatie geschorst is. Door de grenzen van de FMU aan te passen ligt het ontboste gebied buiten de huidige FMU. Daarom heeft de organisatie opnieuw een certificaat kunnen krijgen. -PEFC heeft toegelicht dat het inderdaad mogelijk is om door het aanpassen van grenzen van de gecertificeerde FMU het areaal dat eerder ontbost is nu buiten de grenzen te laten vallen, zodat het niet meer wordt meegeteld in de berekening van PEFC/MTCS.</p> <div data-bbox="1478 647 2096 1043" style="border: 1px solid black; padding: 5px;"> <p><u>Toelichting TPAC</u> -De gecertificeerde FMU (Forest Management Unit / bosbeheereenheid) is het areaal dat binnen het certificaat valt. -Een organisatie kan ervoor kiezen niet al het bos in haar beheer te laten certificeren. Het niet gecertificeerde bos kan onbeperkt ontbost worden. Er is niet aangegeven of er beperkingen zijn in het veranderen van de grens tussen wel en niet gecertificeerd bos en het is niet duidelijk wat het effect is van het uit geplaatste areaal op de berekening van de maximum van 5% ontbossing.</p> </div> <p><u>Conclusie:</u> -Gerede twijfel; ten aanzien van <u>conversie</u>: De ontbossing kan boven de 5% uitkomen. Vraag is hoe structureel dit gebeurt. Daarvoor is aanvullende informatie nodig. -vervolgonderzoek: noodzakelijk -te raadplegen bonnen: CBs, en/of CHs.</p>
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	<p><i>Johor FMU was certified under SIRIM QAS International Sdn Bhd with a new scope of certification limited to 285,292.87ha on 3 July 2020 after the exclusion of the forest plantation area, dam and quarry. This is due to matters related to the Johor State Government policies. The SIRIM QAS audit team has verified and confirmed that the audit scope for forest management certification during the Stage 2 audit on 2-6 February 2020 only consists of natural forest areas that were gazetted as Permanent Reserve Forest (PRF).</i></p> <p>-Het aanpassen van grenzen gebeurt alleen als een hogere overheid besluit dat het betreffende (deel van het) oorspronkelijk gecertificeerde bos een andere gebruiksbestemming krijgt (bv palmolie of dam/meer voor waterkrachtcentrale).</p> <p><u>Aanvullend bewijs van de Maleisische rekenkamer (2023)</u> -Er wordt gesteld stelt dat er onduidelijkheid is ten aanzien van het vastleggen van de bosbeheereenheid van de staat Selangor door “gazetting” en “degazetting” van gebieden binnen de bosbeheereenheid van de staat. (bron: https://lkan.audit.gov.my/laporan/manage/1597 title: LAPORAN KETUA AUDIT NEGARA - AUDITAN KHAS PENGURUSAN HUTAN DAN IMPAK KEPADA ALAM)</p> <p>Toelichting bij termen: -Gazetting: is het toekennen van een gebied aan een bosreservaat. -Degazetting: is het verwijderen van een gebied uit een bosreservaat.</p>	
<p>8: Observation: Availability of maps with relevant information, e.g. conversion, user rights, HCV, is a problem. Although in Johor maps with relevant information are available, in other FMU’s the information on maps lack relevant details.</p>	<p>8: <u>TPAS criteria:</u> -SFM C 2.4 and C 8.3 (kaarten)</p> <p>C 2.4. The forest management plan and accompanying maps, relevant monitoring results and information about the forest management measures to be applied are publicly available, except for strictly confidential business information.</p>	<p>8: <u>Analyse:</u> -Belanghebbenden geven aan dat de begrenzing van de FMU in het veld niet altijd duidelijk is, en dat de grenzen op de kaart niet duidelijk zijn en/of niet overeenkomen met de realiteit.</p>

	<p><u>Assessment of PEFC by TPAC 2022:</u> Criterion: C 2.4 Score: Partially addressed Justification: Public availability of maps and of monitoring results is not specifically mentioned.”</p> <p><u>Bevindingen:</u> -MTCS standard (MC&I SFM 1/2020) vermeld niet dat kaarten onderdeel moeten zijn van de publiek beschikbare informatie:</p> <p>Indicator 7.4.1 “A summary of the primary elements of the forest management plan as prepared and implemented under Indicator 7.1.1 shall be made publicly available.”</p> <p>Indicator 7.1.1 Availability and implementation of forest management plan including consideration of risks and opportunities concerning compliance with the requirements of the standard.”</p> <p><u>Aanvullende schriftelijke antwoorden van PEFC (mei 2023)</u> <u>Vraag TPAC:</u> What provisions does MTCC make concerning the availability of maps <u>Antwoord PEFC/MTCS:</u> The standard contains requirements for forest managers to possess maps of the certified forest area. Auditors accept the maps provided by the forest manager so long as they contain the crucial information e.g. title, orientation, legend, coordinate grid/number, scale, and published date, required for its purpose.</p> <p>As a scheme operator, MTCC engages with stakeholders involved in forest management and strives to push the boundaries of good forest management practices. The latest in information technology related to geographical information systems (GIS) is shared and forest managers are encouraged to adopt the latest practices.</p>	<p>-Er zijn signalen dat kaarten niet voldoende beschikbaar worden gesteld. Dat is geen afwijking van PEFC maar wel ten opzichte van TPAS.</p> <p>-PEFC en MTCS hebben geen expliciete eis dat kaarten publiek beschikbaar moeten zijn.</p> <p>-Stakeholders noch PEFC, noch MTCS hebben melding gemaakt van uitstaande klachten hierover.</p> <p>-TPAC heeft geen inhoudelijke aanvullende informatie ontvangen betreffende problemen vanwege het ontbreken van voldoende informatief kaartmateriaal.</p> <p><u>Conclusie:</u> -Zekerheid, de PEFC en MTCS standaard vereisen in tegenstelling tot TPAC niet dat er kaarten met relevante informatie voor betrokkenen beschikbaar en aanwezig moeten zijn.</p> <p>-vervolgonderzoek noodzakelijk; -te raadplegen bronnen: CBs, NGO’s, Community reps.</p> <p><u>Noten:</u> -De impact van deze situatie op de beoordeling van PEFC/MTCS kan nog niet worden vastgesteld omdat de schaal waarop de noodzakelijke publieke informatie ontbreekt nog niet beoordeeld kon worden.</p> <p>-Dit onderwerp is gerelateerd aan de signalen over FPIC en conversie en de daarvoor benodigde beschikbaarheid van informatie zoals kaarten.</p>
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	<p>–Aanvullende informatie Maleisisch rekenkamer rapport (2023): In het veld is vaak niet duidelijk aangegeven waar de grenzen zijn van de bosbeheereenheden. (bron: https://lkan.audit.gov.my/laporan/manage/1597 title: LAPORAN KETUA AUDIT NEGARA - AUDITAN KHAS PENGURUSAN HUTAN DAN IMPAK KEPADA ALAM)</p>	
<p>9: Concerns about protection of biodiversity: -a Kedah: HCV area dropped from 14.000 to 2 ha. CB had no questions about this enormous difference. - b Pahang: Virgin Jungle Reserves (VJR) seems not fully protected.</p>	<p>9: <u>TPAS criterium:</u> SFM C 4.1</p> <div style="border: 1px solid black; padding: 5px;"> <p>C 4.1. Objects of high ecological value and representative areas of forest types that occur within the forest management unit are identified, inventoried and protected. <i>Guidance: 5% is considered to be a relevant proportion.</i></p> </div> <p><u>Bevindingen:</u> Er is inhoudelijk niet ingegaan op de vragen die over deze gevallen gesteld zijn. PEFC/MTCS heeft aangegeven dat de certificeringsorganisatie (CB) deze specifieke gevallen moet beantwoorden.</p>	<p>9: <u>Analyse:</u> -Over deze onderwerpen kan TPAC in dit stadium geen uitspraak doen. Er is geen verifieerbaar bewijs die deze signalen bevestigen of ontkrachten.</p> <p><u>Conclusie:</u> -Gerede twijfel, ten aanzien van <u>ecologie</u>: Indien dit soort gevallen structureel voorkomt zou de vigerende beoordeling van PEFC/MTCS door TPAC op dit criterium (SFM C 4.1)) lager uitvallen. -Vervolgonderzoek: wenselijk -Te raadplegen bronnen: CBs, CH, NGO's, Community reps.)</p>

Tabel B: Presentation Bruno Manser Fonds *et al* - to Ministry

<u>SAVE Rivers, KERUAN, Penan community, Bruno Manser Fonds Fonds - Presentation for Ministry I&M 12 May 2022</u>		
	Bevindingen	Analyse en conclusie
Inhoud van de signalen (samengevat)	-Relevante TPAS criteria -Beschrijving van de situatie (ontvangen informatie)	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is, met toelichting wat het doel is van het vervolgonderzoek, en wat (op dit moment) als voornaamste partij(en) wordt gezien om deze informatie te verkrijgen.
1: Reference to complaint against 2 Samling certified FMUs: Ravenscourt and Gerenai. <u>Native Customary Rights</u> to land are not met in practice (200 court cases, no FPIC) no proper representation (not elected, no woman/youth)	1: <i>zie E (klachten Bruno Manser Fonds e.a. – welke zijn opgevolgd door PEFC, MTCS en certificeringsorganisatie SIRIM)</i>	1: (zie tabel E)
2: Observation: Transparency is insufficient regarding <u>maps</u> , customary land rights are, villages, catchment areas are not indicated (example map Gerenai). <u>SEIA</u> (social environmental impact assessment) is not easily available.	2: <i>zie E (klachten Bruno Manser Fonds e.a. – welke zijn opgevolgd door PEFC, MTCS en certificeringsorganisatie SIRIM)</i>	2: (zie tabel E)
3. Observation: Flaws in the complaint mechanism - MTCC only made their complaints procedure available online after our complaints to Samling (logging company), SIRIM (certification body) and MTCC and PEFC International.	3: <i>zie E (klachten Bruno Manser Fonds e.a. – welke zijn opgevolgd door PEFC, MTCS en certificeringsorganisatie SIRIM)</i>	3: (zie tabel E)
- An ongoing Dispute Resolution Process (DRP) by MTCC is put on hold because of Samling's lawsuit against SAVE Rivers in May 2021	- <i>zie E (klachten Bruno Manser Fonds e.a. – welke zijn opgevolgd door PEFC, MTCS en certificeringsorganisatie SIRIM)</i>	3: (zie tabel E)
- Timber from Gerenai and Ravenscourt FMU is being sold under MTCS while DPR is stalled.	- <i>zie A.6 (signaal van personal data ten aanzien van doorwerken bij klachten)</i>	3: (zie tabel A.6)

- MTCC has no means according to MTCS to suspend certificates	(TPAS criterium: niet van toepassing) Reactie PEFC: -certificeringsorganisaties hebben de taak te controleren en waar nodig certificaten te schorsen. Als daar klachten over zijn worden deze afgehandeld door de accreditatie organisatie (conform ILO principes).	3: <u>Analyse en conclusie:</u> - Zekerheid: Deze gang van zaken is gebruikelijk in de praktijk en niet in strijd met TPAS.
- SIRIM is directly paid by the logging company in Sarawak	(TPAS criterium: niet van toepassing) Toelichting TPAC: -certificaathouders betalen de certificeringsorganisatie (vooraf) voor het uitvoeren van de controle bezoeken. Dit is in lijn met ISO vereisten.	3: <u>Analyse en conclusie:</u> - Zekerheid: deze gang van zaken is gebruikelijk in de praktijk en niet in strijd met TPAS.
4. Disagreement that it is allowed to start a Strategic Law Public Participation (SLAPP) to silence stakeholders.	4: <i>zie A.5a (brief personal data)</i>	4: <i>Zie tabel A.5a (brief personal data)</i>
5. Observation that forest conversion has an unclear time line for the allowance of 5% conversion. From Gerenai FMU ¼ was excised. It is unclear how this has affected the certificate.	5: <i>Zie A.6 (brief personal data)</i>	5: <i>Zie tabel A.6 (brief personal data)</i>

Tabel C: Signals from Both Ends - to Ministry

Both ends Letter to Ministry I&W 22 April 2022		
	Bevindingen	Analyse en conclusie
Inhoud van de signalen (samengevat)	<ul style="list-style-type: none"> -Relevante TPAS criteria -Beschrijving van de situatie 	<ul style="list-style-type: none"> -Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is, met toelichting wat het doel is van het vervolgonderzoek, en wat (op dit moment) als voornaamste partij(en) wordt gezien om deze informatie te verkrijgen.
<p>1: Reference to the points 1, 2 and 3 from the presentation of SAVE Rivers.</p> <p>2: Opinion that Samling should withdraw the SLAPP</p> <p>3: Advice to Minister to suspend recognition of MTCS because the new standard MC&I 2020 has not been assessed by TPAC, earlier agreed points for improvement have not been monitored</p>	<p>1: zie E: <i>klacht Bruno Manser Fonds et al.</i></p> <p>2: zie eerdere tekst over SLAPP</p> <p>3: (zie A.1 (brief personal data</p> <ul style="list-style-type: none"> -TPAS criterium: <i>niet relevant</i> -Toelichting: <i>Het betreft een procedurele vraag aan het Ministerie.</i> <p><i>MTCS is goedgekeurd binnen de goedkeuring van PEFC International, en niet meer als een apart systeem.</i></p> <p><i>Het monitoren van MTCS was een advies van TPAC aan het Ministerie waar het Ministerie geen gevolg aan heeft gegeven.</i></p>	<p>1: zie Tabel E:</p> <p>2: zie Tabel A.5.a:</p> <p>3: zie Tabel A.1:</p> <p><u>Analyse/Conclusie (alle punten):</u> Niet aan TPAC om op te reageren.</p>

Tabel D: Re-assessment report of MTCS by FORM

Deze bron is aangehaald in een van de signalen van de belanghebbenden. In dit proces hebben belanghebbenden klachten ingediend over:

- (1) De praktijk van MTCS (die voldoet niet aan de toe geldende standaard).
- (2) De inbreng van inheemse volkeren zou benedenmaats zijn (*o.a. beschikbaarheid van compensaties om deelname aan het stakeholderproces mogelijk te maken*).
- (3) TPAC heeft onderzocht of en hoe de open afwijkingen in dit rapport van FORM zijn opgevolgd.

Deze drie onderwerpen zijn bevraagd aan PEFC, er is reactie op genomen. Hieronder per onderwerp de ontvangen informatie.

Re-assessment report of MTCS by FORM		
	Bevindingen	Analyse en Conclusie
Inhoud van de signalen zoals opgenomen in het herbeoordelingsrapport van FORM International (samengevat)	-Relevante TPAS criteria -Beschrijving van de situatie	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is, met toelichting wat het doel is van het vervolgonderzoek, en wat (op dit moment) als voornaamste partij(en) wordt gezien om deze informatie te verkrijgen.
(1): praktijk van gecertificeerde bedrijven voldoet niet aan de bestaande standaard van MTCS	<p><u>1:</u> <u>TPAS criterium:</u> -niet nader te specificeren</p> <p><u>Bevindingen</u> -FORM heeft gereageerd dat klachten niet via het herbeoordelingsproces behandeld worden, maar via de verantwoordelijke (certificerings)organisatie</p> <p>-Reactie PEFC: FORM heeft in het proces aangegeven dat de klachten over de praktijk moeten worden geadresseerd aan de certificeringsorganisaties, dit is ook gebeurd, evenals het indienen van de klacht bij PEFC en MTCS.</p> <p><i>(noot: de klacht is ingediend bij PEFC/MTCS en SIRIM (certificeringsorganisatie), zie tabel E: voor de opvolging van deze klacht)</i></p>	<p><u>1:</u> <u>Analyse:</u> -De herbeoordeling betreft het proces van standaard wijziging. -De klachten over de praktijk lopen via andere processen (zie aparte analyse van TPAC van het afhandelen van klachten), het was geen tekortkoming in de beoordeling van FORM dat deze punten niet zijn meegenomen.</p> <p><i>(noot: signalen over de opvolging van de klachten door de certificeringsorganisatie worden behandeld in tabel E.)</i></p> <p><u>Conclusie:</u> -FORM heeft correct gehandeld. -Vervolg onderzoek: niet nodig</p>

<p>(2) Stakeholders, vooral inheemse volken, zijn onvoldoende gefaciliteerd om adequaat inbreng te kunnen leveren in het herzieningsproces van de SFM standard van Maleisië.</p>	<p><u>2:</u> <u>TPAS criterium:</u> -DAM C 1.4</p> <div data-bbox="808 288 1400 443" style="border: 1px solid black; padding: 5px;"> <p>DAM C 1.4. The development of the standard takes place with input of the relevant stakeholders. Potential limitations for certain groups such as indigenous peoples and small forest owners to contribute directly are taken into account.</p> </div> <p><u>Bevindingen:</u> -Reactie PEFC: FORM wijst erop dat er middelen ter compensatie van onkosten beschikbaar waren. Ook blijkt uit het indienen van de bezwaren dat de consultatie effectief is geweest om ook partijen te bereiken die eerder niet op de stakeholderlijst stonden. Bewijs: Geschreven antwoord in het rapport van FORM.</p>	<p><u>2:</u> <u>Analyse:</u> -PEFC weerlegt deze situatie en stelt dat er wel middelen beschikbaar waren. -Er is geen verifieerbaar bewijs aanwezig, daardoor is het niet bekend of relevante stakeholders daadwerkelijk gebruik hebben kunnen maken van de beschikbare compensaties en of dat hen geholpen heeft om deel te nemen aan het proces van de standaardherziening en of daarmee de praktijk overeenkomt met de standaard van PEFC.</p> <p><u>Conclusie:</u> -Gerede twijfel, over effectiviteit van de inbreng van stakeholders met beperkingen om deel te nemen (<u>standaardontwikkeling</u>). Vervolg onderzoek: wenselijk -te raadplegen bronnen: PEFC, betrokken vertegenwoordigers Orang Asli.</p>
<p>(3) De rapportage geeft geen inzicht of en hoe de 15 minor afwijkingen zijn opgevolgd voor acceptatie van de nieuwe versie van de MTCS standaard voor duurzaam bosbeheer.</p>	<p><u>3:</u> <u>TPAS criterium:</u> -DAM C 1.1.</p> <div data-bbox="808 911 1400 1114" style="border: 1px solid black; padding: 5px;"> <p>DAM C 1.1. The development process of the standard fulfils the requirements established in the ISEAL 'Code of Good Practice for Setting Social and Environmental Standards', the ISO Guide 59 'Code of Good Practice for Standardisation' or equivalent requirements. The development process and application of the standard at least fulfil the following criteria: 1.2. through 1.10.; 2.1. and 2.2.; 3.3. through 3.6. of this assessment table.</p> </div> <p><u>Bevindingen</u> -Reactie PEFC: De afwijkingen zijn gesloten door PEFC, op basis van aanpassingen in de MTCS standaard tekst. -Bewijs: overzicht van sluiten afwijkingen FORM door PEFC; aangepaste standaard teksten van MTCS.</p>	<p><u>3:</u> <u>Analyse:</u> De open afwijkingen in het rapport zijn gesloten voor de goedkeuring van de herziening van de MTCS standaard.</p> <p><u>Conclusie:</u> -Duidelijkheid, aangaande standaardherziening: De open afwijkingen in herbeoordeling zijn gesloten door MTCS voordat PEFC de standaard heeft goedgekeurd. -Vervolg onderzoek: niet nodig</p>

E: Complaints to MTCS and PEFC by KERUAN, GCRAC, SAVE Rivers, The Borneo Project, Bruno Manser Fonds Fonds

Four complaints were addressed:

- 1- Gerenai FMU (4 topics) (same as Ravenscourt)
- 2- Ravenscourt FMU (4 topics) (same as Gerenai)
- 3- MTCS complaint procedures (20 days period)
- 4- MTCC Dispute Resolution Committee refuses to continue the dispute resolution process.

E.1: Gerenai FMU (4 onderwerpen)

Chronologie klachtenbehandeling Gerenai

Wat	Wanneer	Toelichting
-Certified	12-4-2020	
-Keruan and GCRAC Complaint Letter to SIRIM	(22 June 2020)	Klacht van GCRAC aan Sirim over Gerenai (over implementatie FPIC, consultatie lokale gemeenschappen – minder uitgebreid als de klachtbrief van die 11 May 2021 is verstuurd aan MTCC)
-SIRIM response letter to GCRAC	(9 October 2020)	Reactie op klacht: -Toelichting wat in eerdere audits gedaan is aan stakeholder consultatie, en -Toelichting dat consultatie een doorlopend proces is en dat afwijkingen opnieuw gegeven kunnen worden. <i>(noot TGPAC: in 2021 zijn opnieuw afwijkingen gegeven – zie Pub Sum 2021)</i>
-Keruan and GCRAC Complaint Letter to MTCC	(11 May 2021)	Klachtbrief namens GCRAC gericht aan MTCS over Gerenai, Bevat de 4 punten die hieronder behandeld worden (dit is specifiek dan de eerste klacht).
-MTCC requests response from SIRIM	(31 May 2021)	Brief MTCS (CEO) aan de CB (certificeringsorganisatie) van Ravenscourt en Gerenai om te reageren op de klacht van Keruan en GCRAC (indieners klacht) (met deadline)
-SIRIM Brief to MTCC	(13 July 2021 to MTCC) (sent to Keruan/GCRAC on 16 July 2021)	Toelichting hoe klacht wordt opgevolgd (tijdens surveillance audit),
-MTCC response letter to Keruan	(7 August 2021)	MTCC (Dispute Resolution Committee) reageert: -klacht moet door CB worden opgevolgd -lopende de rechtszaak van Samling zal MTCS niet op de specifieke inhoud ingaan, maar wel het algemene (klachten)proces toelichten

-MTCC public response on website	(13 August 2021)	
-Bruno Manser Fund et al, Complaint Letter to PEFC regarding MTCC	(25 October 2021)	Klachtenbrief van Bruno Manser Fonds, The Borneo Project, GCRAC over Gerenai, gericht aan PEFC. Zelfde onderwerpen als die van Keruan.
-PEFC response letter	(12 November 2021)	Reactie PEFC (CEO): dat MTCC en de CB deze klacht in behandeling nemen en dat PEFC dit proces afwacht
-Public summary report 24 June 2022 of -audit on 29 Nov – 3 Dec. 2021 ; (inclusief NC Verification Audit; Date 25 – 27 May 2022) -publication Public Summ. 24 June 2022 Audit report 2022 is niet beschikbaar.		Overzicht major en minor afwijkingen. Major afwijkingen zijn gesloten (toelichting is gegeven) Minor NC die verlopen waren zijn major geworden en ook gesloten Minor NCs die niet verlopen waren, worden met de audit geverifieerd.

TABEL E.1: Klacht van GCRAC en Bruno Manser Fonds et al aan PEFC en MTCS t.a.v. Gerenai FMU		
	Bevindingen	Analyse en conclusie
Inhoud van de klacht	-relevante TPAS criterium -beschrijving van de situatie	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is (met toevoeging van het doel van het vervolgonderzoek, en wat op dit moment als voornaamste partij wordt gezien om deze informatie te verkrijgen) niet
	<u>Afhandeling (voor alle 4 punten gelijk):</u> <ul style="list-style-type: none"> Klachten gericht aan: MTCS (11 May 2021) en PEFC (25 October 2021) Inhoud: 4 punten (zoals hieronder in deze tabel zijn beschreven) Reactie MTCS (7 August 2021) en PEFC (12 November 2021): De klacht wordt in behandeling genomen door SIMIR (de verantwoordelijke certificeringsorganisatie) Audits zijn uitgevoerd (27-3-2022 en 3-12-2022) Toelichting PEFC:	<u>Analyse (voor alle 4 punten gelijk)</u> <ul style="list-style-type: none"> -de effectiviteit van de klachtenprocedure van PEFC/MTCS kan op basis van de beschikbare informatie niet worden beoordeeld omdat onderstaande punten niet duidelijk zijn. Reactie van stakeholders op reactie MTCS/PEFC, en op conclusies van het audit rapport. Hoe en wanneer SIRIM/MTSC/PEFC de uitkomsten van de audit met de stakeholders heeft gecommuniceerd. Wat de reactie is van stakeholders op conclusies van het auditrapport.

	<ul style="list-style-type: none">wegens Corona is het veldbezoek uitgesteld en heeft de klachtenafhandeling langer geduurd dan regulier. <p><u>Uitkomst/status van het de praktijk (situatie in het veld):</u></p> <ul style="list-style-type: none">De klachten zijn in behandeling genomen en opgevolgd door de certificeringsorganisatie wat tot constatering van afwijkingen heeft geleid met betrekking tot deze klachtonderwerpen.	<ul style="list-style-type: none">Op welke basis zijn afwijkingen gesloten (28-5-2022); en welke staan nog open; en zijn de afwijkingen duurzaam gesloten.Wat is de huidige status van de klachten (wie gaat wanneer nog communiceren over de status van deze klachten). <p><u>Conclusie:</u></p> <p>-Gerede twijfel, ten aanzien van:</p> <ul style="list-style-type: none"><u>FPIC</u>,<u>ecologie</u>,<u>kaarten</u><u>klachtenafhandeling</u><u>systeemintegriteit</u> <p>-Zekerheid: dit signaal bevestigt dat <u>kaarten</u> niet <u>publiek</u> gemaakt moeten worden.</p> <p>-vervolgonderzoek: noodzakelijk voor alle onderwerpen.</p> <p>-bronnen: CBs, NGOs,</p>		
1: Lack of transparency: The Social Impact Assessment (SIA) and Environmental Impact Assessment (EIA) of Ravenscourt FMU/Gerenai FMU were not available to the public or local communities. (TPAC SFM P2)	<p><u>-TPAS criterium :</u> SFM Principe 2 (C 2.2-6) ten aanzien van de sociale aspecten van duurzaamheid</p> <table><tr><td>SFM C 2.2. Effective communication with, and consultation and participation of stakeholders take place regarding the management of the forests. <i>Guidance: A plan and reports on how and when communication with stakeholders takes place are considered to be indicators of effective communication.</i></td></tr><tr><td>SFM C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake. <i>Guidance: Free and informed consent is interpreted in the sense that the activity will not be undertaken before the relevant consent is given.</i></td></tr></table>	SFM C 2.2. Effective communication with, and consultation and participation of stakeholders take place regarding the management of the forests. <i>Guidance: A plan and reports on how and when communication with stakeholders takes place are considered to be indicators of effective communication.</i>	SFM C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake. <i>Guidance: Free and informed consent is interpreted in the sense that the activity will not be undertaken before the relevant consent is given.</i>	<p>Zie analyse 1^e rij.</p> <p><i>Noot: Om te beoordelen of alle klachten zijn beoordeeld door de certificeringsorganisatie tijdens de audits, zoals PEFC heeft aangegeven, is gekeken naar het laatste auditrapport. Voor Ravenscourt (zie tabel E.2) heeft TPAC kunnen beoordelen dat elk van de vier klachtenonderwerpen terugkomen in een afwijking in het auditrapport. Omdat het laatste auditrapport van Gerenai nog niet beschikbaar is, is deze analyse hier niet uitgevoerd. (Dit heeft geen invloed op de huidige conclusies.)</i></p>
SFM C 2.2. Effective communication with, and consultation and participation of stakeholders take place regarding the management of the forests. <i>Guidance: A plan and reports on how and when communication with stakeholders takes place are considered to be indicators of effective communication.</i>				
SFM C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake. <i>Guidance: Free and informed consent is interpreted in the sense that the activity will not be undertaken before the relevant consent is given.</i>				

	<p><i>Guidance: The local population and indigenous peoples can only prevent activities through withholding their consent where their property/use rights are at stake.</i></p> <p>SFM C 2.4.</p> <p>The forest management plan and accompanying maps, relevant monitoring results and information about the forest management measures to be applied are publicly available, except for strictly confidential business information.</p> <p><i>Guidance: Public availability implies that if stakeholders should have limited access to certain media, the management plan is dispersed through other channels. Depending on the level of detail in the management plan, the full plan or a summary should be available.</i></p> <p><i>Guidance: Wherever practical and necessary, information on the forest management can also be communicated to the people in the forest through in situ markings or information displays.</i></p> <p>SMF C 2.5.</p> <p>Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services.</p> <p><i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i></p> <p>SFM C 2.6.</p> <p>Objects of cultural and traditional economic value are identified and inventoried in consultation with the stakeholders and are respected.</p>	
<p>2: Failure to obtain free, prior and informed consent: Samling is not properly/openly consulting communities within Ravenscourt FMU/Gerenai FMU as most of the Penans/Kenyah are not aware that their community are within an MTCS certified area. (TPAC SFM P2)</p>	<p><u>TPAS criterium:</u></p> <p>SFM C 2.1-2</p> <p>SFM C 2.1.</p> <p>The legal status of the management of the forest management unit and claims of the local population, including indigenous peoples, in the property/tenure or use rights regarding the forest management unit or a portion thereof have been inventoried and are respected.</p> <p>SFM C 2.2.</p> <p>Effective communication with, and consultation and participation of stakeholders take place regarding the management of the forests.</p> <p><i>Guidance: A plan and reports on how and when communication with stakeholders takes place are considered to be indicators of effective communication.</i></p>	<p>Zie analyse 1^e rij.</p>

<p>3: Disregard of community dependence on forest resources: The public summary provided by Samling on Ravenscourt FMU/Gerenai FMU indicates either a lack of proper research or blatant falsehoods regarding community use of forest products. (TPAC SFM P2)</p>	<p><u>TPAS criterium:</u> SFM C 2.1- 2 (zie hierboven)</p>	<p>Zie analyse 1^e rij.</p>
<p>4: Disregard of community initiatives for forest conservation: The community's right to control forest management on their lands has not been granted. (TPAC SFM P2 and P4)</p>	<p><u>TPAS criterium:</u> SFM C 4.1</p> <div data-bbox="808 453 1451 608" style="border: 1px solid black; padding: 5px;"> <p>SFM C 4.1. Objects of high ecological value and representative areas of forest types that occur within the forest management unit are identified, inventoried and protected. <i>Guidance: 5% is considered to be a relevant proportion.</i></p> </div>	<p>Zie analyse 1^e rij.</p>
<p><u>Aanvullend punt van onderzoek door TPAC:</u> -In hoeverre is het proces van Klachtbehandeling duidelijk: wanneer is wat bij wie in behandeling, zijn de termijnen duidelijk, zijn eventuele conclusies duidelijk?</p>	<p><u>TPAS criterium:</u> DAM C2.2.d en e ten aanzien van effectiviteit van de klachten procedure van SIRIM/MTCS</p> <div data-bbox="808 751 1451 1161" style="border: 1px solid black; padding: 5px;"> <p>DAM C 2.2</p> <p>C 2.2. The distribution of the responsibilities, authorities, and tasks among the entities, comprising an organisational and/or functional part of the certification system, and the procedures to be followed are clear and publicly available. The certification system comprises at least rules for the following functions:</p> <ol style="list-style-type: none"> a. standard development; b. certification; c. accreditation; d. supervision of proper performance of tasks and compliance with the rules; e. objection and appeal handling; f. design and use of logos and labels. </div> <p>DAM 3.3/3.5 duidelijke klachtenafhandelingsproces (wie handelt wat af, en zijn redelijke termijnen aangehouden)</p> <div data-bbox="808 1262 1451 1353" style="border: 1px solid black; padding: 5px;"> <p>DAM C 3.3.</p> <p>Objection and appeal procedures are publicly available and clearly indicate the entity a stakeholder must turn to in the event of an</p> </div>	

	<div>objection or appeal against the operation of a particular entity or against a decision made by a particular entity.</div> <div>DAM C 3.5. Objection and appeal procedures contain clear and reasonable deadlines for handling of the objection or appeal.</div> <div>-PEM C.1.16 ten aanzien van de effectiviteit van de klachten procedure van PEFC</div> <div>PEM 1.16. Objection and appeal procedures are publicly available and clearly indicate the entity a stakeholder must turn to. The procedure also indicates clear time schedules.</div>	
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E.2: Ravenscourt FMU (4 onderwerpen) (zelfde als bij Gerenai)

Chronology:

Wat	Wanneer	Toelichting
-Certified	(4 June 2018)	
-Keruan Complaint Letter to MTCC	(10 May 2021)	Klachtbrief namens Keruan gericht aan MTCS over Ravenscourt
-MTCC requests response from SIRIM	(31 May 2021)	Brief MTCS (CEO) aan de CB (certificeringsorganisatie) van Ravenscourt en Gerenai om te reageren op de klacht van Keruan en GCRC (indieners klacht) (met deadline)
-SIRIM Brief to MTCC	(13 July 2021 to MTCC) (sent to Keruan/GCRC on 16 July 2021)	Toelichting hoe klacht wordt opgevolgd (tijdens surveillance audit),
-MTCC response letter to Keruan	(7 August 2021)	MTCC (Dispute Resolution Committee) reageert: -klacht moet door CB worden opgevolgd -lopende de rechtszaak van Samling zal MTCS niet op de specifieke inhoud ingaan, maar wel het algemene (klachten)proces toelichten
-MTCC public response on website	(13 August 2021)	
-Major NCRs closed	(16 February 2022)	<i>Zie Public Summary hieronder</i>
-Public Summary	(20 May 2022)*	Audit: 8-13 November 2021 – -samenvatting met afwijkingen 2021 + onderbouwing hoe major afwijkingen zijn gesloten (minors worden tijdens komende audit gesloten) -afwijkingen 2020 (toelichting waarom ze gesloten konden worden)

TABEL E.2 Klacht van Keruan en Bruno Manser Fonds et al – t.a.v. Ravenscourt <i>(noot: grote overlap met Tabel E.1, zie verwijzingen)</i>		
	Bevindingen	Analyse en conclusie
Inhoud van de klacht	-relevante TPAS criterium -beschrijving van de situatie	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is of niet (met toevoeging van het doel van het vervolgonderzoek, en wat op dit moment als voornaamste partij wordt gezien om deze informatie te verkrijgen) niet
	<u>Afhandeling (voor alle punten gelijk):</u> <ul style="list-style-type: none"> • Klachten gericht aan: MTCS (11 May 2021) en PEFC (25 October 2021) Inhoud: 4 punten staat hieronder • Reactie MTCS (7 August 2021) en PEFC (12 November 2021): De klacht wordt in behandeling genomen door SIMIR (de verantwoordelijke certificeringsorganisatie) • Audits zijn uitgevoerd • De vier klachtenonderwerpen (zie hieronder), zijn gerelateerd aan afwijkingen in het audit rapport. (zie analyse van de afwijkingen in de kolom analyse bij elke klacht) <p>Toelichting PEFC:</p> <ul style="list-style-type: none"> • wegens Corona is het veldbezoek uitgesteld en heeft de klachtenafhandeling langer geduurd dan regulier. <p>Uitkomst/status van het de praktijk (situatie in het veld):</p> <ul style="list-style-type: none"> • De klachten zijn in behandeling genomen en opgevolgd door de certificeringsorganisatie wat tot afwijkingen heeft geleid. 	<u>Zie Tabel E.1</u>

1: Lack of transparency: The Social Impact Assessment (SIA) and Environmental Impact Assessment (EIA) of Ravenscourt FMU/Gerenai FMU were not available to the public or local communities. (TPAC SFM P2)	<u>Zie tabel E.1</u>	1 <u>Analyse: De klacht is opgepakt door de CB en heeft in de audit geresulteerd in</u> Major CAR and minor CAR Afwijking komt overeen met onderwerp van de klacht
2: Failure to obtain free, prior and informed consent: Samling is not properly/openly consulting communities within Ravenscourt FMU/Gerenai FMU as most of the Penans/Kenyah are not aware that their community are within an MTCS certified area. (TPAC SFM P2)	<u>Zie tabel E.1</u>	2. <u>Analyse: De klacht is opgepakt door de CB en heeft in de audit geresulteerd in</u> Major CAR Afwijking komt overeen met onderwerp van de klacht
3: Disregard of community dependence on forest resources: The public summary provided by Samling on Ravenscourt FMU/Gerenai FMU indicates either a lack of proper research or blatant falsehoods regarding community use of forest products. (TPAC SFM P2)	<u>Zie tabel E.1</u>	3. <u>Analyse: De klacht is opgepakt door de CB en heeft in de audit geresulteerd in</u> CARs (major and minor) related to insufficient consultation Afwijking komt overeen met onderwerp van de klacht
4: Disregard of community initiatives for forest conservation: The community's right to control forest management on their lands has not been granted. (TPAC SFM P2 and P4)	<u>Zie tabel E.1</u>	4. <u>Analyse: De klacht is opgepakt door de CB en heeft in de audit geresulteerd in</u> CAR (major and minor) related to insufficient consultation Afwijking komt overeen met onderwerp van de klacht
<u>Aanvullende onderwerp van onderzoek door TPAC:</u> -De duidelijkheid tijdens het proces: wanneer is wat bij wie in behandeling, zijn de termijnen duidelijk, zijn eventuele conclusies duidelijk.	<u>Zie tabel E.1</u>	

Tabel E.3: MTCS complaint procedures (20 days period)

Klacht van Bruno Manser Fonds e.a. aan PEFC en MTCS 3: 20 dagen reactie periode in MTCS klachtenprocedure		
	Bevindingen	Analyse en conclusie
Inhoud van de klacht	-relevante TPAS criterium -beschrijving van de situatie	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is of niet (met toevoeging van het doel van het vervolgonderzoek, en wat op dit moment als voornaamste partij wordt gezien om deze informatie te verkrijgen) niet
Het is niet redelijk dat in de klachtenprocedure van MTCS staat dat binnen 20 dagen gereageerd dient te worden.	TPAS criteria: <ul style="list-style-type: none"> • Direct relevant: SFM C2.5 / DAM C3.5 • Indirect relevant: DAM C 2.2.d en e. <div data-bbox="808 732 1453 914" style="border: 1px solid black; padding: 5px;"> SMF C 2.5. Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services. <i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i> </div> <div data-bbox="808 949 1453 1050" style="border: 1px solid black; padding: 5px;"> DAM C 3.5. Objection and appeal procedures contain clear and reasonable deadlines for handling of the objection or appeal. </div> <div data-bbox="808 1085 1453 1362" style="border: 1px solid black; padding: 5px;"> DAM C 2.2 C 2.2. The distribution of the responsibilities, authorities, and tasks among the entities, comprising an organisational and/or functional part of the certification system, and the procedures to be followed are clear and publicly available. The certification system comprises at least rules for the following functions: a. standard development; b. certification; c. accreditation; </div>	<u>Analyse:</u> -klacht is in behandeling genomen, en heeft geleid tot een interne afwijking door PEFC, geadresseerd aan MTCS. Dit is een passende oplossing. -het is niet duidelijk hoe PEFC het sluiten van de NC bewaakt en welke termijn hier aan is verbonden <u>Conclusie</u> - Gerede twijfel , ten aanzien van <u>systeemintegriteit</u> . Vervolgonderzoek: wenselijk -te raadplegen bron: PEFC

	<p>d. supervision of proper performance of tasks and compliance with the rules;</p> <p>e. objection and appeal handling;</p> <p>f. design and use of logos and labels.</p> <p><u>Bevindingen:</u></p> <p><u>Afhandeling:</u></p> <ul style="list-style-type: none"> Klacht ontvangen door PEFC (Complaint Letter to PEFC regarding MTCC (25 October 2021) <u>Inhoud:</u> 20 dagen deadline voor klachten in procedure MTCS is niet acceptabel Reactie PEFC (PEFC response letter (12 November 2021)) <u>Inhoud:</u> klacht is ontvankelijk verklaard. NC is gegeven aan MTCS om deze deadline te herzien Aanvullende informatie van PEFC zoals aan TPAC is aangeleverd: -20 dagen is niet in praktijk toegepast. -PEFC monitort de afhandeling. <p><u>Uitkomsten</u></p> <ul style="list-style-type: none"> Status van de klacht: Onbekend (in behandeling of gesloten?) Huidige situatie: De procedure van MTCS is nog niet aangepast. Opvolging klacht wordt door PEFC bewaakt <p><u>Onbekend:</u></p> <ul style="list-style-type: none"> Reactie van stakeholders op informatie van PEFC Deadline voor de afwijking Huidige status van de klacht Of en wanneer PEFC aanvullende informatie aan indieners klacht zal geven. 	
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Tabel E.4: MTCC Dispute Resolution Committee refuses to continue the dispute resolution process.

Klacht van Bruno Manser Fonds e.a. aan PEFC en MTCS 4: klachtenafhandeling		
	Bevindingen	Analyse en conclusie
Inhoud van de klacht	-relevante TPAS criterium (indien relevant) -beschrijving van de situatie	-Analyse van de situatie -Conclusie of vervolgonderzoek wel of niet nodig is of niet (met toevoeging van het doel van het vervolgonderzoek, en wat op dit moment als voornaamste partij wordt gezien om deze informatie te verkrijgen) niet
Volgens NGO's zou MTCC geen opvolging geven aan de afhandeling van de klachten over Gerenai en Ravenscourt.	<p><u>TPAS criteria:</u></p> <ul style="list-style-type: none"> • Direct relevant: SFM C2.5 • Indirect relevant: DAM C 2.2.d en e. <div data-bbox="808 687 1453 868" style="border: 1px solid black; padding: 5px;"> <p>SMF C 2.5.</p> <p>Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services.</p> <p><i>Guidance: In case of a conflict of significant dimension, the FMU will not be certified.</i></p> </div> <div data-bbox="808 903 1453 1315" style="border: 1px solid black; padding: 5px;"> <p>DAM C 2.2</p> <p>C 2.2. The distribution of the responsibilities, authorities, and tasks among the entities, comprising an organisational and/or functional part of the certification system, and the procedures to be followed are clear and publicly available. The certification system comprises at least rules for the following functions:</p> <ol style="list-style-type: none"> standard development; certification; accreditation; supervision of proper performance of tasks and compliance with the rules; objection and appeal handling; design and use of logos and labels. </div>	<p><u>Analyse:</u></p> <p>- Inhoudelijk is dit punt afgehandeld: de klacht is opgevolgd door de relevante instantie (CB), zoals blijkt uit de afwijkingen voor de Gerenai en Ravenscours. Het signaal dat de klacht niet wordt afgehandeld is ongegrond.</p> <p>-Er is geen duidelijkheid of de klachtenafhandelings-procedure van PEFC zelf adequate is omdat de reactie NGO's en PEFC niet bekend zijn (DAM C 2.2.d en C 2.2.e)</p> <p><u>Conclusie</u></p> <p>-Gerede twijfel, ten aanzien van <u>klachtenafhandeling</u>.</p> <p>-Vervolgonderzoek: wenselijk</p> <p>-te raadplegen bronnen: stakeholders en PEFC</p>

	<p><u>Bevindingen:</u></p> <p><u>Afhandeling klacht:</u></p> <ul style="list-style-type: none"> • Klacht Bruno Manser Fonds e.a. ingediend bij PEFC (2021-10-25) Inhoud: verzoek om reactie van MTCS op te volgen, NGO's hebben begrepen dat klachten over Gerenai en Ravenscourt lopende de rechtszaak Samling tegen de NGO's het onderzoek niet worden opgevolgd. • Reactive PEFC (2021-11-12 aan BMF) Inhoud: klacht wordt wel opgevolgd door de certificeringsorganisatie. <p><u>Uitkomst</u></p> <ul style="list-style-type: none"> • Status onduidelijk: behandeling van de klacht is niet opgeschort (de klachten worden wel opgevolgd door de CB, ook al loopt er een rechtszaak). • Huidige situatie: De klachten zijn inhoudelijke opgevolgd, <p><u>Onbekend:</u></p> <ul style="list-style-type: none"> • Het is onduidelijk of de klachten zouden zijn opgevolgd door de certificeringsorganisatie als er geen klachten waren ingediend bij PEFC/MTCS. • Het is niet duidelijk wat de NGO's vinden van de afhandeling. 	
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Subject	TPAS Criterium	PEFC Criterium	MTCS Criterium	Conclusion conformity with TPAS based on desk study.	Notifications from NGO's and audit reports	Conclusion conformity with TPAS based on detailed research 2024	Conclusion conformity with TPAS based on field visit 2025
Conversion	<p>C 4.3. Conversion of forests in the FMU to other types of land use, including timber plantations, shall not occur unless in justified exceptional circumstances.</p> <p><i>Guidance: Exceptional circumstances are for example natural disasters. In addition, conversion can take place if the area to be converted is insignificant, if it enables clear long-term conservation benefits, or if it is based on undisputed governmental decisions.</i></p> <p><i>Guidance: The forest manager of a plantation should aspire to make clear how the plantation helps in relieving pressure from natural forests; for instance, when the plantation is established on degraded land instead of by conversion of natural forest.</i></p>	<p>PEFC ST 1003:2018 8.1.4 The standard requires that forest conversion shall not occur unless in justified circumstances where the conversion:</p> <p>a) is in compliance with national and regional policy and legislation applicable for land use and forest management and is a result of national or regional land-use planning governed by a governmental or other official authority including consultation with affected stakeholders; and</p> <p>b) entails a small proportion (no greater than 5 %) of forest type within the certified area; and</p> <p>c) does not have negative impacts on ecologically important forest areas, culturally and socially significant areas, or other protected areas; and</p>	<p>Criterion 6.10: Forest conversion to other land uses shall not occur, except in circumstances where conversion:</p> <p>a) entails a very limited portion of the FMU; and b) does not occur on high conservation value areas; and c) does not occur on or negatively impact ecological corridors and environ-mentally sensitive areas identified by the relevant authorities; and d) does not negatively impact areas of significantly high carbon stock; and e) will enable clear, substantial, additional, secure, long-term conservation, economic and social benefits across the FMU.</p> <p>The forest manager shall ensure that conversion from natural forest to forest plantations or non-forest use:</p> <p>a) Shall not include any High Conservation Value areas; and b) Covers a very limited portion* of the FMU and shall enable clear, substantial,</p>	Fully Addressed according to latest assessment in 2020	<p>Under the MTCS, forest conversion in an FMU must not exceed 5% of the <u>originally</u> certified area.</p> <p>In Malaysia, land and forests, including forest conversions, are state matters as defined by the Malaysian Federal Constitution and outside of the control of the Johor State Forestry Department (JSFD) or the certification. Initially, Johor FMU covered 397,392 hectares. Following the de-gazettement of forest area by the State Government Authorities and subsequent forest conversions, the certificate was suspended.</p> <p>The Johor State Forestry Department, together with the Forestry Department of Peninsular Malaysia, subsequently entered negotiations with the State Government Authorities to seek a solution to re-certify the Johor FMU to ensure that the additional safeguards provided by certification are in place and obtained certification of 285,292.87 hectares, excluding the de-gazetted forest areas.</p>	<p>TPAC concludes that, in practice - although not caused by forest managers, but by Johor State Authorities – the MTCS requirement on limiting conversion to at most 5% of the original certified area was circumvented by degazetting 28 % of the original certified area, after which it was effectively converted.</p> <p>The demand for max 5% conversion from the originally certified area cannot be guaranteed by MTCS.</p> <p>This therefore resulted in a major shortcoming in the MTCS system and in the justified suspension of the FMU.</p> <p>However, the recertification under MTCS, means that, in fact, the certified status of the FMU continued, while 28% of it was converted. TPAC considers this beyond reasonable interpretation of its criteria and guidance. Nonetheless, a fact-finding mission may shed light on the frequency and scale of conversion in MTCS certified forests, enabling TPAC to make a better substantiated judgement.</p>	<p>The alleged conversion of approximately a quarter of the Gerenai concession was based on a misunderstanding. The auditor SIRIM strictly enforces conversion, which is evident from the Kelantan case. Auditors from SIRIM and professionals from PEFC (with years of auditing experience) indicate that it is not uncommon to exclude forest parts that are removed from a FMU due to higher government policy (as in the case of Johor) from the percentage conversion for which the forest manager is responsible. This also happens in other countries and even at FSC. However, this is in contrast to what TPAS requires in the criteria; this underlines the necessity and urgency for adjusting the TPAS criteria, as has been requested to the Ministry on several occasions.</p>

		<p>d) does not destroy areas of significantly high carbon stock; and</p> <p>e) makes a contribution to long-term conservation, economic, and social benefits.</p>	<p>additional, secure, long-term conservation, economic and social benefits across the FMU</p> <p>*"A limited portion" is defined as not more than 5% of the total area of the certified FMU</p>				
Subject	TPAS Criterium	PEFC Criterium	MTCS Criterium	Conclusion conformity with TPAS based on assessment.	Notifications from NGO's and audit reports	Conclusion conformity with TPAS based on detailed research 2024	Conclusion conformity with TPAS based on field visit 2025
Availability of maps	<p>C 2.4. The forest management plan and accompanying maps, relevant monitoring results and information about the forest management measures to be applied are publicly available, except for strictly confidential business information.</p> <p><i>Guidance: Public availability implies that if stakeholders should have limited access to certain media, the management plan is dispersed through other channels. Depending on the level of detail in the management plan, the full plan or a summary should be available.</i></p> <p><i>Guidance: Wherever practical and necessary, information on the forest management</i></p>	<p>PEFC ST 1003:2018 6.2.7 The standard requires that a summary of the management plan, appropriate to the scope and scale of forest management, shall be publicly available and shall include information on the general objectives and forest management principles.</p> <p>6.2.8 The standard requires that the publicly available summary of the management plan may exclude confidential business and personal information and other information made confidential by applicable legislation or for the protection of cultural sites or sensitive natural resource features.</p>	<p>Criterion 2.1</p> <p>Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated.</p> <p>Availability of documentation of legal status, and established forest use rights of the land or forest resources within the relevant federal, state and local laws in the FMU.</p> <p>Verifier: Maps showing the location of settlements of local communities / indigenous peoples in and adjacent to the FMU.</p> <p>Criterion 3.3.: Sites of special cultural, ecological, economic or religious significance to</p>	<p>Partially addressed according to latest assessment in 2020:</p> <p>Public availability of maps and of monitoring results is not specifically mentioned. Also, not all country standards include a specific reference to making maps publicly available (matrix PEFC Indonesia, Netherlands and Russia also score partially addressed).</p>	<p>According to information from PEFC the availability of maps is required by MTCC. They are easily accessible through the internet and provided in audit reports.</p> <p>NGO's and IP claim to have insufficient access to internet and that the maps are often not in the right scale and provide insufficient information. Maps being part of the Forest Management Plan or audit report are available for stakeholders. However, the scale (too large) of the map is not useful for IP</p> <p>According to an audit report "access to the map/document is limited. However, the map can be sighted or seen as it was being displayed in the meeting room at the General Camp (Camp Silat)". (Red: reference is made here to the camp of the logging company)</p>	<p>It appears it is the common practice according to most audit reports to make maps available on internet in audit reports. For IP, internet is mostly available on smart phones, but this is not the proper way to provide detailed information. Often audit reports will not yet be available at the time that stakeholders are supposed to be consulted and FPIC is being sought. Next to this, the audit reports show that the scale and information level of the maps are insufficient to understand what is happening or planned on any location in a FMU.</p> <p>Adequate maps should be available at local and/or regional offices of the responsible Forestry Department. This can only be checked in practice .</p> <p>TPAC therefore concludes that in practice, maps are not</p>	<p>Input was requested from the communities for the creation of maps, prior to logging activities. The maps produced generally show the elements that are important to the communities. Samling and the Perak State Forestry Department produce and use maps on an acceptable scale (from 1:50,000 to 1:5,000). These maps are known to the communities, but not always present in the communities. The usefulness of detailed maps is mainly that the companies then know where they should be careful and/or not log. In the event of deviation from agreements made regarding elements shown on maps, the logging company is contacted, which then corrects its activities and compensates for damage caused. In most cases, the villagers were satisfied with the way things were done, but sometimes compensation ended up</p>

	<p><i>can also be communicated to the people in the forest through in situ markings or information displays.</i></p> <p>C2.6. Objects of cultural and traditional economic value are identified and inventoried in consultation with the stakeholders and are respected.</p> <p>C8.3 Essential elements for forest management are indicated on maps.</p>		<p>indigenous peoples shall be clearly identified in cooperation with such peoples and recognised by the forest management who shall ensure that the forest operations do not encroach the site in question.</p> <p>Availability of appropriate procedures within current administrative processes for identifying and protecting such sites and provisions for rights of access to these sites by indigenous peoples within relevant federal, state and local laws or by mutual agreement.</p> <p>Verifier: List and maps depicting locations of important cultural, ecological, economic or religious sites in the FMU</p>		<p>There are also examples that stakeholders could not get access to maps in an adequate manner (MTCC).</p>	<p>sufficiently available and detailed and IP are therefore not properly informed through maps. This shall be further checked in practice during a field visit.</p>	<p>in the pockets of the village head, without the community benefiting from it.</p>
Subject	TPAS Criterium	PEFC Criterium	MTCS Criterium	Conclusion conformity with TPAS based on assessment.	Notifications from NGO's and audit reports	Conclusion conformity with TPAS based on detailed research 2024	Conclusion conformity with TPAS based on field visit 2025
FPIC	<p>C 2.1. The legal status of the management of the forest management unit and claims of the local population, including indigenous peoples, in the property/tenure or use rights</p>	<p>PEFC ST 1003:2018 7.3.1: The standard requires that effective communication and consultation with local communities, indigenous peoples and other stakeholders relating to sustainable forest</p>	<p>Criterion 3.1.</p> <p>Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free, prior and informed consent to other</p>	<p>Fully Addressed according to latest assessment in 2020</p>	<p>Could a complaint result in stopping the logging activities temporarily during investigation and handling of a complaint by the DRC (Dispute Resolution Committee)? In Malaysia, a stop-work order is a legal instrument that requires strong justification and supporting legal</p>	<p>There seems to be a conflict between the right of IP to exercise FPIC, as the certification system demands, and the legal system.</p> <p>There is no TPAS criterion that requires 'stop working orders' during a complaint.</p>	<p>In the Gerenai FMU on Sarawak the picture regarding FPIC was not clear. Several villages were satisfied with the way in which they were approached by Samling. FPIC documents and other expressions of 'agreement' were present at various locations. The</p>

	<p>regarding the forest management unit or a portion thereof have been inventoried and are respected.</p> <p>C 2.3. The local population and indigenous peoples have a say in forest management on the basis of free and informed consent, and hold the right to grant or withhold permission and, if relevant, receive compensation where their property/use rights are at stake.</p>	<p>management shall be provided.</p> <p>6.3.2.2: The standard requires that forest practices and operations shall be conducted in recognition of the established framework of legal, customary and traditional rights such as outlined in ILO 169 and the UN Declaration on the Rights of Indigenous Peoples, which shall not be infringed upon without the free, prior and informed consent of the holders of the rights, including the provision of compensation where applicable. Where the extent of rights is not yet resolved, or is in dispute, there are processes for just and fair resolution. In such cases forest managers shall, in the interim, provide meaningful opportunities for parties to be engaged in forest management decisions whilst respecting the processes and roles and responsibilities laid out in the policies and laws where the certification takes place.</p>	<p>agencies and/or parties.</p> <p>Availability of documentation of the customary rights of indigenous peoples' lands within relevant federal, state and local laws.</p> <p>Peninsula x Decisions of the Civil Courts pertaining to legal or customary tenure or use rights x Maps of Aboriginal Reserve x Records of aboriginal lands under the Aboriginal Peoples Act 1954 x Records of consultations with the aborigines x Records/maps of aboriginal areas and aboriginal inhabited places within PRF x United Nations Declaration on Rights of Indigenous Peoples, 2007</p>		<p>documents. As a result, stop-work orders are not automatically issued upon receiving a complaint.</p>	<p>Nevertheless, in our (Dutch) legal context TPAC considers it not less than normal that a process that damages the interests of others is temporarily stopped while waiting for a final conclusion/judgement, in order to avoid inevitable irreversible damage.</p> <p>Given the limited information that seems to be provided to the local population including IPs, it is questionable to what extent effective application of FPIC is taking place in practice.</p>	<p>maintenance of the changes and the recording of the changes including recent information to the community by Samling could be improved. In Perak the villagers were satisfied with their relationship with the forest service, the way in which they were involved in the preparation of logging activities and the extent to which their interests were taken into account. The relationship with the contracted logging companies was also experienced positively.</p>
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		8.6.5 The standard requires that the best use shall be made of forest-related experience and traditional knowledge, innovations and practices such as those of forest owners, NGOs, local communities, and indigenous peoples. Equitable sharing of the benefits arising from the utilization of such knowledge shall be encouraged.					
Subject	TPAS Criterium	PEFC Criterium	MTCS Criterium	Conclusion conformity with TPAS based on assessment.	Notifications from NGO's and audit reports	Conclusion conformity with TPAS based on detailed research 2024	Conclusion conformity with TPAS based on field visit 2025
Complaints handling	<p>DAM C 1.6. With the development of the standard, the standard setting organisation takes into account any comments submitted in writing and communicated verbally. The organisation maintains reports of the development process of the standard including the received input and how it is dealt with. A summary of this report is freely available.</p> <p>DAM C 3.3. Objection and appeal procedures are publicly available and clearly indicate the entity a stakeholder must turn to in the event of an</p>	<p>PEFC ST 1001:2017 5.3.1 The standardizing body shall establish procedure(s) for dealing with any substantial and process complaints and appeals relating to its standard-setting activities. It must make procedure(s) accessible to stakeholders. Upon receipt of a complaint or appeal, the standardizing body shall:</p> <p>a) acknowledge receipt of the complaint or appeal to the complainant, b) gather and verify all necessary information to validate the complaint or appeal, evaluate</p>	<p>Criterion 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 must be subject to objective and unbiased consideration, based on substantiated evidence, to determine whether or not the dispute</p>	<p>Fully Addressed according to latest assessment in 2020</p>	<p>According to PEFC "When the Forestry Department in any of the three regions (Peninsular Malaysia, Sabah, and Sarawak) receives a complaint, whether from local communities or other parties, it first conducts its own investigation if the issue involves forested land under its jurisdiction. The investigation may start with satellite or aerial imagery and proceed to on-the-ground inspections if the claims are validated."</p> <p>In practice this complaints procedure takes around a year, which is the reason a stop working order is not part of this procedure.</p>	<p>Complaints range from not having given permission for concession or harvesting activities to not being informed about proposed certification. The information provided by PEFC is mainly a process description: when and where the audit team heard stakeholders. While several tribes of IP were heard, those who filed complaints could not be traced in the reports.</p> <p>The audit reports make clear there is lots of back-and-forth discussions between Dispute Resolution Committee (DRC) and CB. All in all, procedures take too long before conclusions are drawn. Covid played a role, also a lawsuit and the routine that the CB will only give</p>	<p>It has become apparent that a functioning system of registration of complaints, requests for assistance and suggestions is used by FMU Management (Samling). It is also clear that not all requests and/or complaints are always answered within the intended period. In Perak the complaints system was known to villagers but had not been used in absence of complaints. Many villagers are not positive about the role of the NGOs. NGOs are often accused of using villagers for their own ends and putting them under pressure, without really standing up for their interests or consulting with them so that the villagers feel</p>

	<p>objection or appeal against the operation of a particular entity or against a decision made by a particular entity.</p> <p>DAM C 3.5. Objection and appeal procedures contain clear and reasonable deadlines for handling of the objection or appeal.</p>	<p>the subject matter of the complaint or appeal impartially and objectively, and make a decision regarding the complaint or appeal, and c) formally communicate the decision on the complaint or appeal to the complainant and describe the handling process.</p> <p>5.3.2 The standardizing body shall establish at least one contact point for enquiries, complaints and appeals relating to its standard-setting activities. The contact point shall be easy to access and readily available.</p> <p>GL 7/2007 7.1 If the complaint relates to the activities of a PEFC National Governing Body, the Secretary General shall formallyask the PEFC National Governing Body to provide, within 30 days, a full account of how the complaint has been dealt with, and the outcome.</p> <p>8.1it is expected that appeals not requiring an on-site investigation should normally be investigated by the</p>	<p>would disqualify the operation from being certified.</p> <p>Availability of appropriate mechanisms to resolve disputes over tenure claims and use rights.</p>			<p>an opinion on the follow-up of identified non-conformities at the next audit. It is often not clear what the ultimate outcome of a dispute is, even after the auditor has given a Major NC.</p> <p>The information provided also causes confusion: There is a clear discrepancy between information in audit reports and complaints from IP and NGOs.</p> <p>A field mission could shed more light on the actual practice as experienced by relevant stakeholders, including IPs.</p>	<p>they are truly represented by them.</p>
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		TFG (Task force Group) within 1 month.					
Subject	TPAS Criterium	PEFC Criterium	MTCS Criterium	Conclusion conformity with TPAS based on assessment.	Notifications from NGO's and audit reports	Conclusion conformity with TPAS based on detailed research 2024	Conclusion conformity with TPAS based on field visit 2025
System Integrity	DAM C 2.2. The distribution of the responsibilities, authorities, and tasks among the entities, comprising an organisational and/or functional part of the certification system, and the procedures to be followed are clear and publicly available. The certification system comprises at least rules for the following functions: d supervision of proper performance of tasks and compliance with the rules	Complaints against certified organisations and certification bodies can be registered through the Find Certified page and be stored on the database thus if filtered they can be sorted by NGBs. PEFC International has regular contact and feedback loops to/from ABs and CBs and NGBs to discuss specific issues where there are learning points, and/or the issues have been escalated up to AB level.	not applicable			<p>Apparently, the signals regarding MTCS over the past 15 years have not prompted PEFC to take effective action itself.</p> <p>Recently, PEFC has started working on an integrity policy. 7, this policy is neither yet fully developed, nor accepted and implemented. At this moment (and over the last decennia), effective monitoring of the practice of national systems appears to have been non-existent (at least TPAC has not seen any evidence thereof).</p> <p>A field mission can provide impressions on how the current PEFC-International management views this situation, gets inspired to make the necessary changes to its monitoring approach and to what extent they will be willing to undertake the necessary action regarding non-compliance of a national system that falls under its umbrella system.</p>	The professional and open attitude of the staff of MTCS, PEFC, SIRIM and the forest services and ministries that were spoken to inspire confidence for the future. This does not alter the fact that in the past - and in fact up to now - there has been too much laxity in monitoring complaints and that, in the case of PEFC, there has in fact been no functioning mechanism to adequately receive information about complaints regarding a national system, to monitor them, for example by means of a field mission, and to act adequately on them, and thereby ensure that they were resolved in a timely manner. Implementation of the new integrity policy should lead to improvements and the recommendations that emerged from this field visit certainly offer good prospects in this regard and give cause for hope.

(Preliminary) Final Judgement MTCS/PEFC

Results Detailed Research 2024

Introduction

The Ministry of Infrastructure has commissioned the Timber Procurement Assessment Committee (TPAC) to undertake a surveillance study on the performance of MTCS. Cause for the request were the sustained complaints by NGOs and indigenous people about non-compliance of the Malaysian Timber Certification System (MTCS) on three pertinent issues, (1) free, prior and informed consent by local communities and indigenous peoples (**FPIC**), including availability of **maps**; (2) **conversion**; and (3) the handling of **complaints** (See Annex 9. Overzicht bevindingen NGO's).

What is at stake is the compliance of MTCS with the Timber Procurement Assessment System (TPAS) principles and criteria, both regarding their standards and the performance in practice. Immediately in relation to the compliance of MTCS is the reliability of the Program for the Endorsement of Forest Certification Systems (PEFC) a matter of concern. The Dutch Government has accepted PEFC as an umbrella organisation that guarantees compliance with the PEFC criteria. Based on the judgement of TPAC, the Dutch government has established that the requirements set by PEFC comply with TPAS.

TPAC has studied the complaints of the NGOs and has consulted PEFC. PEFC is aware of the complaints brought to the attention of the Ministry and TPAC. PEFC has proposed to organise a field visit to study the situation in Malaysia and has invited TPAC to participate in the mission as a witness.

So far, the Ministry did not allow TPAC to contact the complaining NGOs and local stakeholders. A field visit, as proposed by PEFC, will allow TPAC to observe directly the local situation and to communicate with the NGOs and other stakeholders involved. In line with stipulations in TPACs manual (par. 3.9), such a field visit is considered essential in this assessment procedure.

Attempts to discuss the outstanding issues directly with MTCS failed.

Findings

TPAC reached the following findings.

FPIC

The three systems use different wording but express a similar meaning (see Annex 5. Comparison).

TPAS C 2.1: *Claims of the local population, including indigenous peoples, in the property/tenure or use rights are respected.*

TPAS C 2.3: *Indigenous peoples have a say in forest management on the basis of free and informed consent (**FPIC**) and hold the right to grant or withhold permission.*

TPAC C 2.4: *The forest management plan and accompanying maps are publicly available.*

Both the standards of PEFC criteria 7.3.1 and 6.3.2.2 and MTCS criterion 3.1 comply with TPAS FPIC Criteria C 2.1 and C 2.3, while TPAC criterion C 2.4 on maps seems partially addressed (see Annex 5. Comparison). Although PEFC does not make explicit reference to maps, C 6.2.7 of the PEFC standard

requires: *a summary of the management plan, appropriate to the scope and scale of forest management, shall be publicly available.* A management plan normally contains maps.

However, the repeated complaints of NGOs and indigenous peoples (IPs) regarding disrespect and violation of FPIC rights, limited availability of maps with relevant information, as well as the use of juridical procedures against NGOs that lodged complaints, give at least the impression that in practice the MTCS system does not comply with the basics of FPIC and the relevant TPAS criteria. These complaints should be reflected in the audit reports of the Certification Body. But not always can reference to the issues be found. In other cases, it is unclear what follow-up is given to identified non-compliances.

With no more concrete information at hand and due to the lack of communications with the NGOs, TPAC does not feel competent to give a final verdict on the issues raised by the NGOs. The score on TPAS C 2.1, C 2.3 and C 2.4 could either be inadequately addressed (score 0) or partially addressed (score 1). TPAC considers a field visit necessary to come to a final verdict on these scores.

Conclusion: MTCS may not (score 0), or only partially (score 1), comply with TPAS criteria C 2.1, C 2.3 and C 2.4. A **field visit** should provide the necessary insight and information to come to a final conclusion.

Conversion

Basically, the standards of the three systems, TPAS, PEFC and MTCS, use similar language: *Conversion of forests in the FMU to other types of land use shall not occur unless in justified exceptional circumstances.* TPAS mentions in its guidance for interpretation: *conversion can take place if the area to be converted is insignificant.* Also: *Conversion can take place if it is based on undisputed governmental decisions.* The standards of PEFC and MTCS allow for conversion of *a very limited portion. Not more than 5% of the total area of the certified Forest Management Unit (Red: meaning maximum 5% of the originally certified FMU area).*

Both the standards of PEFC and MTCS comply with TPAS Criterion 4.3 (see Annex 5. Comparison). However, conversion of parts of MTCS certified forests occur and incidentally on a considerable scale, far beyond 5% of the originally certified area. Specified data on conversion within certified forests are not available for TPAC.¹

In Malaysia, land and forests, including forest conversions, are state matters as defined by the Malaysian Federal Constitution and outside the control of the State Forestry Departments (SFD) or the certification system. So MTCS, nor any other certification system, is able to prevent state-initiated conversion.

Conclusion: State authorities in Malaysia do not enable MTCS to comply with TPAS criterion 4.3. For the same reason, MTCS is even not able to comply with its own criteria and the PEFC criteria.

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In 2023 the forest cover of Malaysia was about **18.3 million ha**, of which **6.4 million ha** was certified by MTCS. According to Global Forest Watch, during the years 2020 – 2023, overall forest conversion in Malaysia was approximately 1,5 % per year. They do not specify data on conversion within certified forests.

Unfortunately, TPAC has no accurate information on the actual frequency and scale of conversion in the entire area certified by MTCS.

Based on the present indications, conversion seems not in line with TPAS 4.3. This leads to the following preliminary conclusion.

TPAS C 4.3 is inadequately addressed in Malaysia.

Complaints

TPAS C 2.5: *Adequate mechanisms are in place for resolving disputes regarding forest management, property/usage rights, work conditions, or social services.*

TPAS DAM C 3.3: *Objection and appeal procedures are publicly available and clearly indicate the entity a stakeholder must turn to.*

TPAS DAM C 3.5: *Objection and appeal procedures contain clear and reasonable deadlines.*

The TPAS contains general requirements regarding complaints, whereas PEFC specifies complaint requirements for standard setting and complaints addressed to National Governing Body. MTCS specifies requirements on dispute resolution for tenure claims and use rights (see Annex 5. Comparison).

The standards of PEFC C 5.3.1 and MTCS C 2.3 partially address the requirements of TPAS DAM C 3.3. PEFC GL 7/2007 Criteria 7.1 and C 8.1 comply with TPAS DAM C 3.5 on deadlines, while MTCS does not seem to have concrete deadlines. Moreover, NGOs continue their complaints about seemingly unnecessary long and untransparent procedures of dealing with their complaints. This raises reasonable doubts with TPAC on compliance by MTCS with the relevant TPAS criteria. In this case also a field visit could provide more clarity about the complications with handling complaints.

Conclusion: MTCS may not (score 0), or only partially (score 1), comply with TPAS criteria C 2.5, DAM C 3.3 and C 3.5. A **field visit** should provide the necessary insight and information to come to a final conclusion.

Conclusion on MTCS

The Ministry has asked for a general conclusion about compliance of MTCS with the Dutch timber procurement principles and criteria (TPAS). This requires a full assessment of MTCS where TPAC has been commissioned to investigate only the issues raised in the complaints of NGOs and indigenous peoples. Nevertheless, TPAC could shed some light on possible outcomes of a final judgement. To that end it will use the conclusions of the issues studied in this surveillance study as presented above, in addition to the scores of the final judgement of 2010 on the other principles.

The result is presented in the Annex Constructed Final Judgement. In order to comply with TPAS at least one of the two principles on the social aspects, on the biological aspects and on the economic aspects should score 2. If and when P 2 and P 4 and DAM P 3 would score 1 this will be the case. However, if any principle scores 0, the system as a whole does not comply.

Principle 2 and DAM P 3 could score 0, if the complaints of NGOs appear indeed to direct at serious shortcomings of the system. If not, the scores become 1.

Principle 4 is considered to score a 0 for the time being; it could score a 0 or 1 depending on the actual frequency and scale of conversion in MTCS certified forests, information which should result from a field mission.

A field visit shall bring clarity on the three issues. TPAC considers it crucial to communicate directly with the NGOs and local stakeholders, including Certification Bodies, for additional information on the actual local situation. It is also important to get an up-date from the NGOs about the way the complaints were handled by MTCS in addition to MTCS' and PEFC's points of view. More over a field visit will enable to better judge the quality of the audits and the fact finding by PEFC and its response on the performance of the MTCS.

Role of PEFC

PEFC is the umbrella organisation that endorses national and regional forest management certification systems that comply with the standard set by PEFC.

Based on the judgement of TPAC, the Dutch government has established that the requirements set by PEFC comply with TPAS. Timber originated from forest certified by a PEFC certification system is allowed to carry the PEFC logo. All timber with a PEFC logo is accepted by the Dutch government. Thus, also the timber from Malaysia originating from MTCS certified forests.

TPAS DAM C 2.2 requires *supervision of proper performance of tasks and compliance with the rules*. In the opinion of TPAC, PEFC should therefor monitor and guarantee compliance in practice by its endorsed systems with the PEFC standards. The continuing array of complaints by NGOs and indigenous people of (perceived) mal-functioning of MTCS raises questions about the execution of PEFC's supervising task. TPAC has no evidence that PEFC has so far adequately and effectively intervened to address the cause of the continuing complaints by NGOs. The reliability of PEFC is therefore at stake.

Fortunately, PEFC has recently started a project to improve its system integrity. TPAC deems it necessary that part of the project should be the development of a reliable system to monitor the performance of endorsed certification systems and to intervene when appropriate. However, the PEFC integrity system is not yet fully developed, and it still will take time before it will be implemented.

Advice to the Ministry

With reference to the stipulations in the TPAS manual (3.9), TPAC cannot make a final judgement on the acceptance of MTCS at this stage because it was not allowed to communicate directly with the parties that filed the initial complaints. TPAC considers it necessary to communicate directly with the NGOs and other relevant stakeholders, including Certification Bodies in Malaysia, and to check and observe the situation in the field, before it can take a final decision. Based on the findings of the detailed research and its preliminary conclusions, TPAC advises the Ministry as follows:

1. Allow two members of TPAC to participate as observers/witnesses in the fact-finding mission of PEFC to Malaysia. At this stage TPAC is not able to decide on the final scores of criteria C 2.1, C 2.3, C 2.4, C 4.3 and DAM C 3.3. After the field visit TPAC expects to be able to give an evidence-based judgement on the compliance with these criteria.
 - 1.a In case the result of the fact-finding mission would be negative for MTCS, TPAC will advise the Ministry to contact PEFC and inform them about the need to exclude MTCS timber from the PEFC CoC, in order to prevent that MTCS certified timber enters the Dutch market with a PEFC

logo. This would imply the suggestion to suspend or terminate the admission of MTCS to PEFC International.

- 1.b In case the result of the field mission would be sufficiently positive for MTCS, TPAC will advise the Ministry to maintain the acceptance of MTCS as endorsed system of PEFC.
2. In case the Ministry would not allow TPAC to participate in the fact-finding mission of PEFC, TPAC advises the Ministry, on the basis of the precaution principle, to no longer accept MTCS timber, based on the ambiguous judgement of TPAC at this stage. In this case, PEFC should be asked to suspend or terminate the endorsement of MTCS, in order to prevent MTCS certified timber from entering the Dutch market with a PEFC logo.
3. The Ministry is invited, through TPAC, to urge PEFC to develop and exercise an effective monitoring and detection program of (non)compliance in practice by endorsed forest certification systems.

TPAC, 25-11-2024

Appendix list MTCS Detailed Research

Belonging to Preliminary Final Judgement MTCS 2024

1. Responses to TPAC – 21062024
2. TPAC Ideas on field visit to Malaysia – 16.07.24
3. Report online meeting TPAC PEFC – 09.07.24
4. TPAC – PEFC Response.08.2024
5. Comparison regulation and practice MTCS 2024 def – 11.11.24
6. Preliminary Judgement MTCS 2024
7. Project Proposal Quality Assurance and Integrity System PEFC
8. Constructed final judgement November 2024
9. Overzicht bevindingen NGO's ('Annex 2') – 26.06.23
10. Presentation concerns with MTCS – 202205 – Save Rivers
11. Staatssecretaris (...) inz MTCS Both Ends – 22.04.22
12. Letter PEFC to Secretary of State – 22.07.22

Internal report of joint field visit of PEFC and MTCC with TPAC

Malaysia, 12 – 19 February 2025

By **personal data** and **personal data**

INTRODUCTION

Looking back on the visit to Malaysia, we must first report that the program was very well put together in terms of content and organization. It was a more than full program and MTCC had succeeded in getting all relevant parties (representatives of ministries, Samling, the Forestry Services of Sarawak, Peninsular Malaysia and Perak State, District Officers, local communities and NGOs) at the agreed times and places at the table in meeting rooms, in logging camps or on verandas of longhouses. Usually, the invited parties were large delegations, had prepared good presentations and were prepared to answer all kinds of questions. It became clear that there was an enormous commitment from MTCC and the other parties to take this field visit very seriously. After the meetings all presentations were also made available, and if necessary additional material was sent afterwards.

We worked together with MTCC and PEFC as a group throughout the trip: four representatives from PEFC (**personal data** [CEO], for part of the programme, **personal data** [Head of Standard and Integrity], **personal data** [Head Advocacy] and **personal data** [independent consultant for PEFC]), four people from MTCC (**personal data** [CEO], **personal data** [Director Forest Management], **personal data** [Executive Forest Management] and **personal data** [Executive Forest Management]) and we as observers on behalf of TPAC. Only once was the group split up for a day in Sarawak. Our doubts about the organisation of everything until just before departure, turned out to be mainly due to uncertainty on the part of Malaysia where the Sarawak government seemed to have second thoughts about the appropriateness of the visit due to recent withdrawals by related Certificate Holders, at the last moment, but these were resolved in time by MTCC.

The field visit took place in a turbulent period regarding the new developments in the field of Forest Management in Sarawak. Samling recently (early February 2025) announced that one of their six FMUs in Sarawak (Gerenai) the MTCC certification is no longer valid and that another four FMUs will be withdrawn in the near future.: Samling is largely withdrawing from MTCC certification for natural forests (FMUs), because it wants to focus on carbon schemes for natural forests and timber supply through certified plantations (FPMUs). Samling will only try to maintain the certification for the Ravenscourt FMU. No one knows exactly what the consequences of these changes will be. In addition, it turned out that the logging activities in Gerenai FMU had already been greatly reduced five years ago and have even been completely stopped for three years. In other words, no timber has been logged in the area for years.

As a result, all activities have been reduced and there is less employment. There are also less transport options for the population, the roads and bridges are less well maintained and there are fewer benefits for the local population, such as the usual Christmas bonus, which was provided by Samling to affected villages in the area. In addition, the Sarawak State has on the one hand required forest operators to have a valid certificate for sustainable forest management and on the other hand it has recently announced that provisional licenses will no longer be issued for oil palm plantations. There is increased investment in carbon credit schemes. What all this will mean for forest management and the relationships between government, companies and local communities is still unclear at this time. For us and also for PEFC, this was largely new information.

1. THE FIELD VISIT

The joint field visit was prompted by complaints from NGOs in 2022. The main research points based on our official preliminary advice, as issued to the ministry, were:

- a. FPIC
- b. Maps
- c. Complaints procedures
- d. Conversion
- e. Last but not least: the assessment of PEFC as a meta system under which MTCC falls.

2. PROGRAMME

The programme provided a busy schedule of visits, presentations and discussions with a wide range of stakeholders, including officials from forest services and ministries, forest operators (Samling in Sarawak, a local licence holder in Perak, the Perak State Forestry Department), local communities and indigenous peoples, and NGOs. Long journeys were required to realise these visits and interactions. Appendix 1 provides a table with all discussions and meetings with the various stakeholders. It also indicates which themes were discussed during the meetings. In addition, during the long journeys and during the joint breakfasts, lunches, dinners and suppers, there was ample opportunity to exchange experiences and thoughts and to answer each other's questions. In accordance with the role of the TPAC members as 'observers', we have been reserved in asking questions to stakeholders, but at times, when we considered it important to gain clarity or to ask additional questions, we did so.

3. FINDINGS

During all discussions, the focus was on the above-mentioned themes, but, when necessary, additional questions were asked and we also requested to view and possibly take photos of relevant evidence, such as maps, complaint forms and situations in the field. In addition, there were also findings regarding other matters that seemed to be important for sustainable forest management or that are related to the broader context in which forest management takes place.

a. Free, Prior and Informed Consent (FPIC)

FPIC was discussed in almost all discussions. The picture that emerges from it is not clear. In some cases, such as the Paong FPMU, the engagement process was done well and the community was satisfied with the signed agreement with Samling. The administration also appeared to be in order. We actually saw that Goodwill Agreement. We also saw such an agreement in the village of Long Tebanyi (community in the Paong FPMU). That agreement states that the company will provide the community with agreed benefits, until the moment the company decides to stop its logging activities. In Long Sela'an (community in the Gerenai FMU) no problems with FPIC and maps regarding logging by Samling were reported. However, there were complaints about the lack of clear boundaries with other communities, as a result of insufficient action by the government's Land and Survey Department. This is a general problem, which has consequences for many villages. Due to the unclear demarcation of the boundaries, areas near Kampong Budrisa that were previously part of the Long Sela'an area are now claimed by the Penan. Even the waterfall, which was known as "Ong Sela'an" has been renamed by the Penan. It was also reported that it would have been better if Samling had implemented sustainable forest management under certification restrictions from the beginning (late 1980s), suggesting that there was heavy logging during the early years when they were not yet certified. The general impression in this village was that there were both positive and negative experiences with Samling, but that the positive outweighed them. They would therefore like to see the company resume its logging activities. Of the 40 villagers present, 12 had worked for Samling, indicating that Samling was an important employer.

In Tanjung Tepalit (community just outside Gerenai FMU), there was much less satisfaction with the FPIC process. Of course, there is also the problem of division within the community. In theory, it is often assumed that a community can come to an unambiguous decision about the FPIC process. This is not always the case and then the power relations within a community naturally play a role. In many cases, the village head appointed by the government will play a major or even decisive role. Another point is that Goodwill Agreements are sometimes relatively old and that it is not carefully recorded which changes have occurred over the years, and whether these changes are also recorded in writing. There should be periodic consultation about such agreements, including the transition from Goodwill Agreements to FPIC documents, in which notes are also kept about what has been discussed and agreed upon. A FPIC declaration is not a once-and-for-all document. In some cases, the administration at village level also appears not to be completely in order. When positions change, the transfer of the administration can sometimes be careless.

Dissatisfaction was reported in Tanjung Tepalit about the lack of information about the consequences of reducing and then completely stopping logging operations in the period after 2020, and recently about Samling's complete withdrawal from MTCC. The population in various villages has not been sufficiently and timely informed about the consequences of these steps, both in terms of benefits and other matters, and there is uncertainty about it. Stopping such benefits after stopping logging activities seems to be in line with what is written in the agreement with the community. This obviously does not apply to the villages where FPMUs continue to be actively managed. During audits, the Certification Body should actively monitor whether Samling adheres to the agreements made in such cases.

In Perak, a suitability report is made by the Perak State Forestry Department (PSFD) for the issue of a logging license, taking into account salt licks, burial sites and other elements of social relevance. The planning and approval process takes approximately two years. The contracted company receives an extensive briefing by means of a slide show and a field visit, during which instructions are given by PSFD. PSFD staff performs a "social impact assessment (SIA)" prior to logging activities, with input from the community through the village committee (village head, treasurer, secretary and two members) and monitors during and after logging activities. If problems arise, PSFD investigates and, if applicable, logging activities can be stopped.

According to the representatives of the Orang Asli village of Ayer Karah, logging has been taking place in the area since the 1970s. They know about it and live with it: "The community and the concessionaires are like brothers; the concessionaires provide the community with transport and food". The village (15 houses with approximately 70 inhabitants) has been granted the use of 81 ha of land with rubber plantations, cocoa and bananas, even though they do not formally own the land, only usage rights. There is a long-term good relationship with the PSFD (Note: after the meeting in the village a considerable stock of food was left behind by PSFD as compensation for the time used by the villagers).

Conclusion: In Sarawak the picture regarding FPIC was not clear. Several villages were satisfied with the way in which they were approached by Samling. FPIC documents and other expressions of 'agreement' were present at various locations. The maintenance of the changes and the recording of the changes including recent information to the community by Samling could be improved. In Perak the villagers were satisfied with their relationship with the forest service, the way in which they were involved in the preparation of logging activities and the extent to which their interests were taken into account. The relationship with the contracted logging companies was also experienced positively. In a more technical sense, there is ample room for improvement of the FPIC process: better involvement of certain groups of inhabitants (women, youngsters), communication and documentation of the FPIC results. PEFC will formulate recommendations for MTCC towards that end.

b. Availability of Maps

Traditionally, maps and their availability have always been a difficult issue at MTCC. This was already an issue during the visit of TPAC in 2016. Discussions about maps again produced a mixed picture. In most villages, there were no clear maps available. However, villagers often said that they had no problem with the maps and that – if the company threatened to cut down trees on sites that were important for the local community (for example, on agricultural plots, or too close to the settlement), villagers would make that clear to the loggers and in most cases, conflicts could be avoided. It was also reported that if damage had already been caused unjustly, compensation payments were made.

During the general meeting with community representatives, some criticism was expressed regarding the quality of the maps. A representative from the village of Long Julian said that the maps were basically good, but not detailed enough: they should clearly indicate where something would be done in relation to the longhouses; in his case, a storage was planned almost on his doorstep, but that was not clearly indicated on the map. There were also some reports of logging outside the agreed cut areas, or close to villagers' gardens.

Samling settled the damage with the village chief, but the community did not benefit from this (this kind of “damage settlement” was not considered unusual in the region). According to a representative from Long Mato, their agricultural lands, water catchment area and religious sites were well indicated on Samling’s map based on the community’s indications. The villagers themselves monitored whether Samling adhered to the agreements and warned Samling if they came too close; the logging activities were well coordinated with Samling.

Sometimes maps were available but were in a cupboard in a village chief’s house. Lack of public availability in such cases can of course not be blamed on the forest manager. In Long Tebanyi (community in the Paong FPMU) villagers said they had a map. According to them, it contained all the important elements, but was not available at the time of our visit, because it was kept by the village head (who was in hospital in Miri during our visit). In Long Sela’an (community in the Gerenai FMU), there were no problems with maps regarding logging were reported by Samling (all elements relevant to the community were included according to the villagers).

According to SIRIM, the companies do indeed meet the requirements regarding the maps, but there may be a lack of public availability. It is also unclear how often maps are updated based on changes. The map of the Paong FPMU was indeed recent, but it was suggested that Samling could be more pro-active in this area, and could emphasise the importance of maps during consultations with the population. On the other hand, it was suggested from the side of the community (Ayer Karah, next to Piah Forest Reserve, Perak) that having a clear map is mainly important for the company and less for the community; the villagers know where the locations are that need to be protected (houses, farmlands, cemeteries, water intakes and salt licks) and keep a close eye on them and if something goes wrong, they sound the alarm. According to the villagers, a good map is therefore mainly important for the company workers, who know the terrain less well, than for the villagers themselves, who are also less familiar to actually reading maps. The input of the villagers is essential for this.

At the Paong FPMU, they had a good and detailed map at their disposal with the important elements indicated on it (scale 1:50,000), and which had been created in close cooperation with the population, who had indicated cemeteries, fields, salt licks etc.

The maps of the Perak State Forestry Department were very detailed with maps up to a scale of 1:5000 for the coupes in which logging takes place. Important elements were included and indicated on these maps. The marking of the FMU boundaries was also discussed, which had often been the subject of discussion in the past. They were said to be absent or unclear. In any case, the outer boundaries of the FMU as well as the boundaries of logging licenses in Perak are clearly indicated in the field with cleared undergrowth zones of approximately 1 meter wide, clearly visible red paint rings on trees (every 40 meters) in that zone, and signs along paths. Other indications in the field were those of protected Water Catchment Areas (WCA) or High Conservation Value (HCV) sites. There was also some discussion about the usefulness of maps for local people who may not be used to reading maps well and about the risk of indicating features such as salt licks (as concentrations of game), as this could attract poachers from outside.

Finally, there was discussion about the lack of clearly recognised boundaries of fields claimed by communities for agriculture (shifting cultivation sites), for which NCR (Native Community Rights) may or may not apply. If the boundaries of these fields are officially recorded (“claims recognised”), then they are by definition outside the FMU. As long as this is not the case, they would formally be part of it. In practice, it appeared that Samling mapped such areas before logging commenced and these areas were excluded from logging operations. This was confirmed by the communities.

Conclusion: input was requested from the communities for the creation of maps, prior to logging activities. The maps produced generally show the elements that are important to the communities. Samling and the Perak State Forestry Department produce and use maps on an acceptable scale (from 1:50,000 to 1:5,000). These maps are known to the communities, but not always present in the communities. The usefulness of detailed maps is mainly for the companies to know where they should be careful with their logging operations and/or not log at all. In the event of deviation from agreements made regarding elements shown on maps, the logging company is contacted, which then corrects its activities and compensates for damage caused. In most cases, the villagers were satisfied with the way things were done, but sometimes compensation ended up in the pockets of the village head, without the community benefiting from it.

c. Complaints procedures

An important argument in the letters from the NGOs to the ministry was that Samling and MTCC do not respond sufficiently to complaints submitted or that the handling of complaints takes far too long.

During our visit to Gerenai FMU we found out that Samling does indeed have a clear complaints procedure. There are standard forms for submitting a) a complaint, b) a request for assistance and c) an idea or suggestion for improvement to the logging company. At the FPMU there appeared to be extensive files of complaints and requests indicating how they had been handled. A copy is kept at the local F(P)MU office, at the head office and at the community. Although the archive was not entirely complete (an annual folder was missing), it made a solid impression. If complaints cannot be handled at the FMU level, it will of course be more difficult. The higher levels (head office) are far away and the processes will undoubtedly become more complicated. The SIRIM auditors indicated that they did indeed look at these complaints and included their findings in the full audit reports (we did not see these reports). It was also reported that the lack of adequately functioning complaints mechanisms had led to Major CAR’s (Corrective Action Required) in the past.

We have the impression that some of the answers that are unsatisfactory for the NGOs stem from the fact that the logging company and MTCC have little or no influence on the underlying problems of recognition of Native Customary Rights. Indigenous communities and the NGOs say that the local communities have these rights, but the state (particularly Sarawak) has not granted or recognized these rights. Numerous court cases to prove NCR’s (Native Customary Rights) are still ongoing (and often have been for many years) and can therefore not possibly be resolved at the level of the FMU or by MTCC.

In practice, the logging company often solves this problem pragmatically. If members of the local community open up forest fields within an FMU or an FPMU, even if they do not formally have these rights, this is taken into account in the logging operations. The population density is relatively low in this area anyway. At Paong FPMU, it turned out that village fields, although they were established within the FPMU, were kept outside plantation activities and were also marked on the map. We also heard from people that if problems occur in

practice, regardless of whether those fields were on a map or not, those problems are solved, in the sense of compensation for real damage or adjustment of the logging activities.

During several meetings in villages, it became clear that the conflicts with Samling were less serious than the NGOs sometimes suggest, or they refer to situations in the more distant past. It is of course good to remember that Samling's activities in Gerenai FMU have been greatly reduced since 2020 and have even stopped completely for three years. And recently the Gerenai FMU certificate was withdrawn by Samling. Due to these recent developments, Samling has also significantly reduced the benefits for the community and the discussions focused much more on the problems that result from this: less maintenance of roads and bridges, less transport to school, fewer subsidies for local activities, including a reduction in the 'Christmas bonus' for the villages (the latter was reduced from RM 10,000/year (more than 2,000 Euro) to RM 300 in 2024 (about 60 Euro), and will then even be stopped completely).

Some villagers have submitted requests and in a number of cases these requests remained unanswered for far too long (for example 6 months). The procedure would then be to file a complaint about this, which must be properly processed within 1 month. Whether a request is answered with a "yes" or a "no" has to do with both the (financial) possibilities and the person responsible. Some logging camp managers were praised by communities for their willingness to transport villagers to school and/or to a local clinic while others were not.

We received a chronology of complaints from the NGOs with answers from MTCC and PEFC from which it can be concluded that most complaints were indeed dealt with. Or the submitters were referred to the authorities (e.g. the auditors) to which this type of complaint should be reported according to the standard procedure. However, the complaint handling sometimes took longer than prescribed and the bureaucratic structure of the complaint procedure discourages the rapid progress of this. Some support in this process, rather than discouragement, would be appropriate here.

It is also interesting to note in this context that Samling mentioned in the presentation the charges against the NGOs, and in particular against Save Rivers, for defamation. This case was eventually settled out of court, but with the approval of the court, in September 2023. Samling made the following statement about this case in its presentation:

It was with regret that Samling initiated legal action against Save Rivers, a local NGO seemingly supported by foreign NGOs, because it continually published spurious articles that were deemed harmful and significantly damaging to Samling's reputation. The case was eventually settled amicably outside the court.

Initiating this legal action was seen by some as an attempt to stifle the voices of the NGOs. The reality was that Samling had no choice as Save Rivers refused all attempts to meet and resolve the matter.

During the field visit, it became clear from conversations with villagers that a number of NGOs cannot simply count on the sympathy of all villagers and that in some cases their role has even been highly questionable. The strong impression arose that the NGOs, sometimes under false pretenses, tried to harness the villagers to their cart, while subsequently not fulfilling their agreements with the villagers. On the other hand, during the meeting in Tanjung Tepalit, the NGOs were thanked for their efforts, and in particular the role of Save Rivers in the successful resistance against the development of a dam in the Upper Baram area was mentioned.

Conclusion: it has become apparent that a functioning system of registration of complaints, requests for assistance and suggestions is used by Samling. It is also clear that not all requests and/or complaints are always answered within the intended period. Many villagers are not positive about the role of the NGOs. NGOs are sometimes accused of using villagers for their own ends and putting them under pressure, without really standing up for their interests or consulting with them so that the villagers feel they are truly represented by them.

d. Conversion

We have talked a lot about conversion.

Gerenai FMU

First, let's correct a misunderstanding. In the Gerenai FMU, a 2022 audit report seemed to indicate that 47,859 ha would be taken out of the FMU to be converted into oil palm plantations. This was also a claim made by the NGOs in the original complaint letter and the presentation to the ministry. Initially, TPAC also thought that it had read this in the audit reports. But this turned out not to be the case. The certified FMU amounts to 148,305 ha and together with the 47,859, it is an area of 196,164 ha for which Samling had obtained a Forest Timber License (FTL) from 1993 to 2018. However, only the FMU of 148,305 ha had been certified. The other part of 47,859 ha was never included within the certified FMU area, because it was destined from the beginning to be converted into oil palm plantations. SIRIM was addressed on using confusing language in the audit reports by referring to 'excision' for this planned conversion (which was cancelled again at a later stage).

Johor

Certified FMU of the State of Johor of 397,392 ha in 2013 (by SGS). Major CAR in 2015/2016 due to conversion on too large a scale. Permanently suspended in 2016. In 2019, application for recertification at MTCC by the Johor State Forestry Department, arguing that they had done everything possible to prevent the conversion imposed by the state government. Audit phase 1 by SIRIM in 2019. Audit phase 2 in February 2020: 3 major and 4 minor CARs. The auditor was satisfied with the steps taken afterwards and as of July 2, 2020, FMU Johor was certified for 285,292 ha. In the conversation with SIRIM, the auditors indicate that the conversion is always closely monitored and that 5% of the original FMU remains the standard and that this is strictly enforced. The state of Kelantan was given as an example. This state was threatened with suspension in 2016 due to repeated conversion of approximately 1% of the area with a cumulative conversion percentage that was ultimately too high (> 5%) compared to the original area of the FMU. They were given the opportunity to add other forest to the certified FMU, but failed to do so. Before the suspension was finally implemented, Kelantan withdrew from MTCS. The certificate of the FMU of the state of Kedah was terminated for the same reason in mid-2020.

In the meeting with SIRIM, the auditors were also asked (in response to the comments from the NGOs) to what extent SIRIM works with up-to-date maps and to what extent auditors use e.g. satellite imagery to detect 'creeping' conversion or forest degradation within an FMU over a longer period of time. The answer to this question was that auditors do indeed use satellite imagery to detect such processes. Our response to this was that it would be good to also report this aspect of the audit process in the reports (including the public summaries).

After the interview with SIRIM, both **personal data** and **personal data** (both experienced auditors for both PEFC and FSC) indicated that they considered the SIRIM auditors to be competent and that they themselves would not have given any different answers to the questions asked. This confirms the impression we got during this interview, namely that SIRIM is indeed a professional CB and that in principle their reports can be viewed with confidence. Recently, Control Union has also started carrying out audits for MTCS.

In the interview about Johor, **personal data** and **personal data** indicated that giving up part of an FMU due to conversion as a result of a state-imposed land use change is not at all unusual. This also occurs frequently in the UK and in many other countries: a piece of forest is converted into a wind farm or solar energy park, for example, or a piece is removed because a road has to be built. Or the FMU is sold and the new owner is not interested in maintaining the certificate for the entire FMU. The size of the FMU is then adjusted but the certificate is retained or renewed. Or a new piece of land/forest is added to the FMU elsewhere. We were given an extensive list of such adjustments in the size of certified FMUs from countries all over the world in recent years. TPAC needs to take a closer look at this in relation to its own criteria.

Perak. The replacement of forest areas ("degazetting") by other forest areas ("gazetting") was also discussed. In the case of the Perak FMU, it was explained that this has nothing to do with possibly removing parts of primary forest and adding parts of secondary forest in return (a trick that would maintain the area, but would mean a relative deterioration of the forest quality in the FMU). The Permanent Reserved Forest of Perak (1,025,705 ha, over 49% of the land area) is larger than the certified Perak FMU (988,722 ha, of which 48.2% Protection Forest and over 51.8% Production Forest). There are therefore ample opportunities to introduce additional parts of good quality forest into the production forest of the FMU. During the visit to Perak, we did not get the impression that the forest service would have any interest in allowing the quality of its forest area to deteriorate. On the contrary, they seem to be keen to maintain the quality of the (certified) forest area at a high level. Incidentally, it became clear to us during the field trip in Perak that favourable growing conditions are also guaranteed in the secondary forest, so that a decent forest can grow and (with a rotation of 30 years and under strict application of the MC&I) mature trunks can also be harvested from the forest during a 2nd logging cycle.

Sarawak. In Sarawak, forests still cover 62% of the land area (7.7 million ha); 3.9 million ha of which are intended for sustainable forest management. Sarawak's current forest policy dates from 2019 (the previous one from 1958) and requires that managed forests are certified. In February 2025, there were 18 certified FMUs and 8 certified FPMUs in Sarawak, together accounting for an area of over 1.82 million ha. The area that Samling recently withdrew amounts to a total of 720,000 ha and is therefore no longer included. Samling currently has 67,500 ha of plantation spread over 5 FPMUs and plants about 400 ha per year with seedlings. This area is good for a production of 365,000 tons/year of which 2/3 is certified and the rest 'controlled sources'.

Finally, MTCS was requested to produce an overview of all certificates that were temporarily suspended or definitively terminated during the last 5 years. This showed that the number of areas whose certificates were temporarily or definitively withdrawn was not too bad and that heavier sanctions are imposed if the lighter sanctions do not lead to the desired results, which indicates that the CB acted correctly. To a significant extent (over 30%), the termination of certificates was due to the fact that the logging license was not extended by the forestry department concerned.

Conclusion: The alleged conversion of approximately a quarter of the Gerenai FMU concession was based on a misunderstanding. The auditor SIRIM (also government body) strictly enforces conversion, which is evident from the Kelantan FMU case. Auditors from SIRIM and professionals from PEFC (with years of auditing experience) indicate that it is not uncommon to exclude forest parts that are removed from an FMU due to higher government policy (as in the case of Johor FMU) from the percentage conversion for which the forest manager is responsible. This also happens in other countries and also under FSC. However, this is in contrast to what TPAS requires in the criteria; this underlines the necessity and urgency for adjusting the TPAS criteria, as has been explicitly requested to the Ministry on several occasions.

e. Assessment of PEFC and MTCC

To our surprise, it has turned out that in the past PEFC has not made regular field visits to national certification systems to see how certification works in practice. Not even when serious complaints were made, as in the case of Malaysia. And not even when other national systems admitted to PEFC expressed their concerns to PEFC International about the continuing negative reporting on MTCS. However, at an earlier stage, during the admission assessment of MTCS, PEFC had an independent consultant visit as part of its standard procedure, who assessed the application for admission to PEFC. This field visit was therefore also a new experience for PEFC, which was considered as very useful by the participating PEFC representatives.

Compared to the previous contacts with both MTCC and PEFC, a new wind now seems to be blowing through the organisations. We experienced the appointment of **personal data** (CEO) and **personal data** (Director Forest Management), and their support staff at MTCC and **personal data** (CEO), **personal data** (Head of Standards and Integrity) on behalf of PEFC and the support of **personal data** (independent consultant for PEFC) as very positive. They are experts and have a lot of experience. They are open, listen well and are not afraid to receive well-founded criticism and to do something with it to improve the system. **personal data** and **personal data** in particular can draw on years of auditor experience, which means they know exactly where the bottlenecks and pain points are. Their doubt was and is that the complaints reported about MTCC were exaggerated and partly incorrect. However, they also clearly indicated that improvements are necessary and possible on various points. The discussions with **personal data** were also open and constructive. We can confirm that the PEFC report contains clear recommendations on these various elements, as was also discussed during the many discussions during the visit (See PEFC report and recommendations).

At the same time, PEFC and MTCC are very critical of the position of various NGOs that 'misuse' MTCC and PEFC for 'higher goals' such as rights for indigenous peoples and absolute protection of the rainforest (*'Stop the Chop'*). The difficult struggle for rights of and for indigenous peoples in Malaysia and especially within Sarawak to have NCR (Native Customary Rights) recognized, offers opportunities for international attention via MTCC and PEFC. Criticism of timber certification is therefore used as an instrument in that larger struggle. In many cases, it is not at all about the details of the certification process itself or the daily experiences of the local communities, and certainly not about building mutual trust in order to achieve substantial, and realistic improvements in the certification procedures.

During the field visit, open and professional discussions were held with the staff of MTCC, PEFC and CB SIRIM, which contribute to a positive basic feeling about their professionalism and good intentions in carrying out their tasks in respectively managing a national certification system for sustainable forest management, managing an umbrella system for sustainable forest management systems and independently assessing operators for sustainable forest management certification. This feeling is reinforced by the indicated interest and expressed willingness to improve the respective systems:

- For example, MTCC indicated that it is prepared to work together with NGOs on a project basis, under the guidance of PEFC;
- PEFC is developing an integrity policy (although according to PEFC, full implementation of this could take another 3 years ...) and indicated that it wants to build a bridge between MTCC and local NGOs and also to facilitate training for MTCC staff and CBs, where relevant;
- SIRIM indicated that it is interested in the recommendations of the mission, to see if they can find points for improvement.

And also, at national level there are signs that serious work is being done on sustainability: the Secretary General of the Ministry of Commodities, Plantations and Industries indicated that the Federal Government of Malaysia has the objective of keeping at least 50% of its land area under forest and managing it sustainably; some 35% of this (some 6.4 million ha) is currently already certified. This is necessary to meet the requirements for export of commodities, including to the EU (for example in the context of the EUDR, where everything will be done to meet the sustainability requirements). The stakes are high: the export of oil palm alone amounts to approximately 35 billion euros per year; a significant portion of this goes to the EU. He literally stated: "Sustainability is the future for all commodities. If we do not cope, we will miss the boat."

Even though it is a complication that land use is the direct responsibility of the states, the developments are favourable, as can be seen from the requirement of the State of Sarawak that all forest management must be certified and the new policy that no more licenses may be issued for the construction of additional oil palm plantations. The Secretary General also explicitly asked the mission to honestly indicate where they could improve. The above gives confidence for the future. Recently, the prime minister of Sarawak announced a reduction of the reliance on forest resources as the economic driver.

In the PEFC mission report, a large number of recommendations are made based on the field visit to improve the quality of certification, both by tightening the guidelines and their implementation. In the area of FPIC and maps in particular, concrete recommendations are made that should lead to an improvement of the situation in the short term. Trainings and workshops for all parties involved, with recognized experts, are planned for later this year. This gives confidence in the functioning of PEFC as a supervisory organization.

A major point of concern remains the relationship between PEFC and MTCC on the one hand and the NGOs (Save Rivers, the Borneo Project, and Bruno Manser Fund) on the other hand. There is a great deal of distrust on both sides, with confrontation being sought, especially via the media and via the organisations' own websites. The press releases following this field visit are a clear illustration of this (where the facts in the NGO reporting were demonstrably distorted). There is hardly any direct consultation in an attempt to settle disputes.

PEFC and MTCC accuse the NGOs of one-sided reporting and 'unsolicited representation' for local communities. Furthermore, NGOs expect PEFC and MTCC to make improvements in various areas such as the legal recognition of the rights of indigenous peoples, which lie far beyond the competence and sphere of influence of PEFC and MTCC. Moreover, according to PEFC and MTCC, the NGOs would in fact want to get rid of timber production altogether, certified or not (*'Stop the Chop'*). The campaigns primarily serve their own constituency and furthermore lack legitimacy in terms of representation from local communities.

Conversely, the NGOs point to the negligence of PEFC, MTCC and also Samling with regard to the application of their own principles and criteria, such as the meaningful FPIC procedures, efficient control of activities in the field such as dormant or even explicit conversion, and openly doubt the professionalism and independence of SIRIM as CB. The NGOs often prefer publicity and campaigns aimed at the outside world, in the hope that through third parties (governments, media) the alleged abuses will receive attention and improvements can be made. And, in a sense, this field mission proves that they have partially succeeded in this because without the original complaints filed with the Dutch Ministry, PEFC, MTCC and TPAC would never have decided on this field visit, and the new insights and recommendations would not have been achieved.

Unfortunately, we must also conclude that this field mission has certainly not reduced the differences between PEFC and MTCC on the one hand and the NGOs on the other. Distrust and reproaches on both sides remain characteristic of the relationship, for which we do not see a solution in the short term, other than a new attempt to enter into serious contact with each other on the basis of the findings of this mission.

Conclusion: The professional and open attitude of the staff of MTCS, PEFC, SIRIM and the forest services and ministries that were spoken to inspire confidence for the future. This does not alter the fact that in the past - and in fact up to now - there has been too much laxity in monitoring complaints and that, in the case of PEFC, there has in fact been no functioning mechanism to adequately receive information about complaints regarding a national system, to monitor them, for example by means of a field mission, and to act adequately on them, and thereby ensure that they were resolved in a timely manner. Implementation of the new integrity policy should lead to improvements and the recommendations that emerged from this field visit certainly offer good prospects in this regard and give cause for hope.

f. Other observations during the field mission

1. The logging companies spoken to in both Sarawak and Perak have actively tried to provide local residents with work. In the villages on Sarawak, it appeared that a significant proportion of the villagers spoken to worked or had worked for Samling and that this was also experienced as important for the development of their community. In some villages, up to 70% of the residents would have worked for Samling in certain years. The Orang Asli in Perak indicated that they had been asked, but had not responded, because they themselves did not feel sufficiently capable or were not interested. Due to the loss of employment in logging on Sarawak, more and more young men from the villages are looking for work elsewhere. Many even go to Miri (almost 300 km away and around eight hours travel time), which means that especially the men, say in the age group 20 to 50, are often absent. This reduces the possibilities for consultation, as the auditors also note in their reports. They often refer to the (un)inhabited units ('doors') in the long houses to indicate this situation.
2. The process of recognising NCRs is based on proven formal issuance ("gazettement") of land rights. This often takes a very long time, as it has to be done through various layers of the judicial system. It was also suggested that the limited establishment of boundaries by the Land and Survey Department of Sarawak was a deliberate choice by the government to maintain more flexibility for development opportunities (after all, if more boundaries are established, it becomes more difficult to carry out projects and to issue the necessary licences). As an example, the "Baram channel project" was given on a billboard at Miri Airport, a project for the development in Sarawak of seaports, storage and port facilities, duty free zones and transport channels for the supply of bulk materials from the interior. If few NCRs are recognised, the development of such projects will lead to much more hassle and delay.
3. The visit to the Perak State Forestry Department and especially the administration of the 'sustainable logging' practice, made a good impression on the participants. Maps, inventories, labelling of trees etc. all seemed to be in order. Only there seemed to be less concrete attention for other elements of the forest, such as attention for biodiversity. For example, the use of information on wildlife populations, which is available on the basis of (satellite) studies by the Ministry of Natural Resources and Environmental Sustainability (NRES), is not included in the preparation of logging licenses, which is mainly focused on the trees present in the area. This can lead to disturbance of wildlife (elephants, breeding birds, etc.). This was clearly illustrated in the case of the visited logging license AK-01-48-24 (80 ha) of Aneka Enigma Sdn Bhd, where the inventory and preparation according to the PSFD did not take into account the possible presence and effects on the elephant population, while 2.5 kilometres further, next to the village, a project had been facilitated by the Orang Asli Development Authority, to protect the banana plantation of the village from elephants by means of an electric fence. In discussions with the Perak State Forestry Department and the aforementioned Ministry, both independently indicated that they see opportunities for improvement and further cooperation here. While these entities previously did not cooperate at all, there are now cooperation agreements in the field of enforcement; these could, according to both, be expanded.
4. In Perak (and also in Sarawak) it was noted that villagers are actively informed about protected animal and plant species, including by means of posters at the entrance of villages, which are placed in a clearly visible place.
5. The presence and functioning of village committees shows a mixed picture. For example, in the community of Long Tebanyi there is no Community Representative Committee (CRC), because they have chosen to have only one committee, namely the Village Development and Security Committee (JKKK). In Long Sela'an, there was a CRC, but it only met once (in 2020). Then first there was COVID and no visitors were allowed into the area (not even from Samling). Then there were no more activities from Samling. This meant that the members of the committee also no longer received compensation ("allowance") for attending meetings.
6. In Sarawak, the indigenous peoples consist of different ethnic groups, who often live in separate villages. It is not the case that they always speak with the same voice.
7. SIRIM was asked by PEFC to explain the reasons for upgrading minor CARs to Major CARs. The auditors presented a clear overview of non-conformities for the Gerenai FMU with an explanation of what has been done. According to them (and the PEFC staff) this gives a normal picture of what happens to certified FMUs.

4. TO CONCLUDE

During the field visit, issues emerged that did not directly belong to the themes to be investigated, but are nevertheless worth mentioning here.

- a. **The complaints of the NGOs in retrospect.** When reading back the complaints submitted and looking at the presentation of the NGOs in the Netherlands, we noticed a few things. Firstly, it was often unclear where and when something had happened (place and time are missing). Some events seem to have taken place in the more distant past or sometimes even outside the FMU. The accusations against SIRIM are not substantiated, and the argument that the auditor is paid by the FMU holder is common practice in the auditing world and therefore nothing special. The accusation of the conversion of one quarter of Gerenai FMU was factually incorrect (due to confusing language by the auditor), as indicated above. The FMU has remained the same, only something has changed in the Forest Timber License area.
- b. **Relations of the local population with NGOs.** Several times, both people from the local communities and representatives of Samling or government agencies have been critical of the actions of the NGOs (BMF, The Borneo Project, Save Rivers). People or groups would be 'misused' for other goals. MTCC is used as a peg for larger goals such as recognition of land rights. Some said that they are foreign organizations without roots in the local communities, who pretend to act on their behalf, such as Bruno Manser Fund (Switzerland) and The Borneo Project (California). In sometimes emotional speeches that even went back to the infamous blockades of the late 1980s, several people indicated that promises had not been kept by the NGOs, that they were not listened to, and that their interests were not properly represented and that they were used under false pretences for the NGOs' cart, and sometimes even blackmailed. Some groups explicitly distance themselves from foreign NGOs in particular.

In a positive sense, we also heard support for Save Rivers, which took better action than other NGOs when some villages were in danger of disappearing under water as a result of the construction of a dam. The role of WWF was often experienced as positive, because they were constructively involved in training both staff and villagers. There is another additional problem with the representation of the villagers. The village head is appointed by the government. Not everyone is always happy with this situation because they feel insufficiently represented. That is also the reason why a new NGO has been established in Gerenai FMU with representatives from all villages and who, in addition to the official village heads, want to have a say in the discussions. Incidentally, these are not democratically elected representatives. This organization is called GCRAC (Gerenai Community Right Action Committee).

- c. **Carbon credits.** As already indicated in the introduction, there are complicating changes: from logging to carbon credits. Since the end of last year and the beginning of this year, Samling has withdrawn five out of six certificates for FMUs. They are no longer interested in logging operations in natural forests, but now want to go for carbon credits and for expanding the area of plantations on degraded forest areas. At the moment it is still unclear how this will work out and what consequences it will have for the local communities. Locally, especially in the case of management for carbon credits, the loss of employment, loss of maintenance of roads and bridges plays a role. In the background, the costs of logging in remote areas are high (transport, maintenance of roads and bridges, benefits local communities, etc.). The state of Sarawak plans to focus on carbon credits. As yet, no one knows in what directions the financial benefits will flow. The question is to what extent local communities in the area will benefit from such benefits.
- d. **Land rights.** A fundamental problem in Malaysia and especially in Sarawak is the problem of land rights. In the peninsula, the Orang Asli have only very limited land use rights on relatively small areas and they have limited access to the forests to collect NTFPs for their own needs and they still have to obtain special permission for this. No NTFPs may be collected in the forests for commercial purposes. In Sarawak, there is the possibility of recognition of Native Customary Rights on the land. For this, people must demonstrate that they already had rights to land before 1 January 1958. In practice, this means indicating that they already lived on that location or that they already worked the land there for instance by opening up the forest for agricultural purposes. In practice, it turns out that recognition of these conditions is extremely complicated and takes a very long time. And it also explains the large number of lengthy court cases to obtain recognition. We came across a poignant example of this in the village of Tanjung Tepalit, where the village head told us that even for the land on which the houses are built, there is no NCR recognition, despite the fact that people have lived there for generations. This lack of recognition of rights to the land results in a range of problems and this also fuels the great dissatisfaction about the allocation of rights to other parties (logging companies, oil palm plantations, hydro power projects, etc.). Although logging companies and MTCC as a certification body are not responsible for this, they are associated with it and criticism from local communities and especially NGOs is often directed at them.

Appendix 1: Meetings with stakeholders and themes discussed

TIME	MEETING	VENUE / LOCATION	NUMBER OF PARTICIPANTS	TOPICS DISCUSSED
DAY 1 – 12th February 2025 (Wednesday)				
10:00	Courtesy Call Secretary General of Ministry of Plantation Industries and Commodities, Putrajaya (PM)	MPIC	1 (+10)	Permanent forest cover, SFM, FMC, EUDR, commodity trends, developments on sustainable policies, COVID effects, carbon certification, dealing with NGOs, conversion, mission programme
19:30	Opening meeting with FDS and Samling	Pullman Miri Waterfront	20 (+9)	Forest cover, SFM, FMC, importance of royalties, challenges, history Samling FMC, issues with NGOs, dispute handling communities, Native Customary Land claims, compensation, FPIC, community involvement (CRC, others), community support, awareness creation (meetings, seminars, billboards, posters, QR-codes), withdrawal of 6 FMUs out of 7 (high production costs, difficult circumstances, NGO pressure), carbon scheme, mission programme
DAY 2 – 13th February 2025 (Thursday)				
08:45	Morning briefing by MTCC / PEFC	Pullman Miri Waterfront	10 (+9)	Preparation for stakeholder meeting.
09:00	Meeting with Community Leaders	Pullman Miri Waterfront	60 (+12)	intro MTCS, intro PEFC, intro complaints NGOs and report TPAC, explanation of Samling on withdrawal, community issues on SFM/FMC and experience with Samling, government policies, benefits (roads, internet, electricity), negative social effects, discussion on maps, FPIC, complaints
DAY 3 – 14th February 2025 (Friday)				
11:00	Briefing by Samling on Paong FPMU	Paong FPMU (Gerenai)	20 (+9)	PFMU charecteristics and management, discussion on maps, SIA, FPIC, dealing with complaints, support to communities, road works, security briefing
12:30	Meeting community at Long Tebanyi	Long Tebanyi	60 (+9)	community experiences with maps, NCRs, coordination with company, FPIC, complaints, work, benefits, NGOs, logging agreement, compensation arrangements
DAY 4 – 15th February 2025 (Saturday)				
09:00	Meeting community at Long Selaan (team 1, including TPAC member)	Long Sela'an	40 (+4)	community experiences with maps, NCAs, FPIC, requests and complaints, work, benefits, NGOs, CRC
09:30	Meeting NGO's and community at Tanjung Tepalit (team 2, including TPAC member)	Tanjung Tepalit	47 (+5)	NGOs, Save Rivers, Keruan and GCRAC. Forestry Department. FPIC, Maps, Conversion, Complaints. Presentation MTCC. Employment. Mapping by Save Rivers. Inside or outside Certified Areas. Penan delegation. Certificate withdrawn. Lack of information about the process. Practical solutions in case of conflicts. Representation by GCRAC vs official village leaders. Walk around the village.
DAY 5 – 16th February 2025 (Sunday)				
08:00	Meeting with Penan leaders (pengulu)	Pullman Miri Waterfront	3 (+9)	experience with NGOs since 1988
08:30	Wrap up meeting with FDS and Samling	Pullman Miri Waterfront	10 (+9)	feed-back on community complaints, maps, FPIC, conversion in Gerenai case, generally intensely logged forest in flatter areas, withdrawal from FMC, effects for community, focus on certified PFMU development, role and quality of CBs, training workshop for auditors (PEFC)
21:00	Briefings by FDPm and PSFD	Casuarina Meru Hotel	10 (+10)	Forest areas, zoning, SFM, FMC, challenges, community engagement, awareness creation, mission programme

NB: Number of participants: stakeholders (+ mission members)

DAY 6 – 17th February 2025 (Monday)				
10:00	Briefing PSFD on forest governance and forestry operation	log yard, Piah Forest Reserve	20 (+10)	FMU, licence area, SFM, FMC, NCAs, maps, community outreach and awareness creation, logging, pre-inventory, licence operation plan, discussion on inclusion of data on timber species (not on wildlife), FPIC, complaints mechanisms
11:00	Meeting pengulu and Orang Asli villagers	Ayer Karah, Lenggong	10 (+10)	maps, FPIC, compliants, cooperation with PSFD
12:30	Site visit, explanation and demonstration operation site	Piah Forest Reserve	20 (+10)	SFM issues, maps, pre-inventory and preparations, boundary markaton in the field, logging, skidding, erosion control, tagging, hammer marking, adminstration, first-aid kits, personal security forest workers, electric fencing of banana fields against elephant raids
DAY 7 – 18 th February 2025 (Tuesday)				
09:30	Meeting with Netherlands Embassy	MTCC Office	2 (+10)	field visit, forest resources encountered, issues of focus and concern, feed-back from communities, experiences with NGOs, way forward
14:00	Closing Meeting MPIC, NRES, FDS, FDPM, PSFD	MTCC Office	7 (+10)	field visit, forest resources encountered, feed-back from communities, experiences with NGOs, developments at Samling, preliminary findings, policy developments and concerns, way forward
DAY 8 – 19 th February 2025 (Wednesday)				
10:00	Meeting SIRIM	MTCC Office	3 (+9)	Preliminary findings field visit, forest resources encountered, feed-back from communities, experiences with NGOs, developments at Samling, policy developments and concerns, discussions on FPIC, maps, conversion (Gerenai, Johor, Kelantan, others), compliance with complaints procedures, up-scaling of NCRs, closing out of NCRs.

Constructed final judgement on MTCS compliance with the TPAS Principles using the conclusions on the issues as presented in the in the **preliminary judgement**, added with the scores of the final judgement of 2010 on the other Principles

Score	Sustainable Forest Management (SFM)									Development, Application and Management (DAM)				
	P1	P2	P3	P4	P5	P6	P7	P8	P9	P1	P2	P3	P4	P5
2														
1														
0														
n.r.														

P 1 Legislation

P 2 Interest of stakeholders (undecided)

P 3 Health and Labour conditions

P 4 Biodiversity (undecided)

P 5 Regulation function

P 6 Production function

P 7 Contribution to local economy

P 8 Management system

P 1 Standard development

P 2 System manager

P 3 Decision making bodies (undecided)

P 4 Certification Bodies

P 5 Accreditation

Constructed final judgement on MTCS compliance with the TPAS Principles using the conclusions on the issues as presented in the in the **final judgement**, added with the scores of the final judgement of 2010 on the other Principles

Score	Sustainable Forest Management (SFM)									Development, Application and Management (DAM)				
	P1	P2	P3	P4	P5	P6	P7	P8	P9	P1	P2	P3	P4	P5
2														
1														
0														
n.r.														

P 1 Legislation

P 2 Interest of stakeholders (undecided)

P 3 Health and Labour conditions

P 4 Biodiversity (undecided)

P 5 Regulation function

P 6 Production function

P 7 Contribution to local economy

P 8 Management system

P 1 Standard development

P 2 System manager

P 3 Decision making bodies (undecided)

P 4 Certification Bodies

P 5 Accreditation

Scores at criterion level for relevant Principles

SFM	(2010)	(2025)	P score	SFM	(2010)	(2025)	P score	DAM	(2010)	(2025)	P score	DAM	(2010)	(2025)	P score
P.2			1	P.4			1	P.2			1	P.3			1
C.2.1	≈	≈		C.4.1	=	=		C.2.1	=	=		C.3.1	=	=	
C.2.2	≈	≈		C.4.2	=	≈		C.2.2	=	≈		C.3.2	≈	≈	
C.2.3	=	≈		C.4.3	≠	≈						C.3.3	=	≈	
C.2.4	=	≈		C.4.4	nr	nr						C.3.4	=	=	
C.2.5	=	≈		C.4.5	nr	nr						C.3.5	≈	≈	
C.2.6	=	=		C.4.6	≈	≈						C.3.6	=	=	
				C.4.7	=	=									