

Agreed Minutes of Meeting Between H.E. Tan Sri Bernard Dompok, Minister of Plantation Industries and Commodities Malaysia and H.E. Mr. Joop Atsma, State Secretary for Infrastructure and Environment, 17 November 2010 at The Hague

Present for Malaysia	Present for The Netherlands
H.E. Tan Sri Bernard Dompok – Minister of Plantation Industries and Commodities	H.E. Mr. Joop Atsma, State Secretary for Infrastructure and Environment, The Netherlands
H.E. Dato’ Dr. Fauziah Mohamad Taib – Ambassador of Malaysia to The Netherlands	Deputy Director-General, Ministry for Infrastructure and Environment
Chairman, Malaysian Timber Industry Board	Head of Department, Ministry for Infrastructure and Environment
Chief Executive Officer, Malaysian Timber Certification Council	Head of Department, Ministry for Infrastructure and Environment
– Chief Executive Officer, Malaysian Timber Council	Policy Officer, Ministry for Infrastructure and Environment
– Director-General, Malaysian Timber Industry Board	
Vegetable Oils, Fats and Sago Division, Ministry of Plantation Industries and Commodities	
Director, Malaysian Timber Council, London	
Principal Private Secretary to H.E. Minister of Plantation Industries and Commodities	

1. H.E. Tan Sri Dompok started off the meeting by referring to the delay by the previous Dutch Minister of Environment, H.E. Mrs. Tineke Huizinga-Heringa, in making a decision on the recognition of the Malaysian Timber Certification Scheme (MTCS) under the Dutch procurement criteria based on the Final Judgement of the Timber Procurement Assessment Committee (TPAC) in March 2010, which can potentially impinge on the good relations between Malaysia and The Netherlands. He highlighted that The Netherlands is a traditional trade partner for timber products from Malaysia, accounting for nearly half of the total exports of timber products from Malaysia to the European Union.
2. He highlighted the two issues which were of concern to the TPAC – the indigenous peoples (IPs) and the future conversion of certified natural forest to forest plantations. With regard to the land rights of the IPs, he pointed out that the States in Malaysia have their own laws governing these rights, and that in his home State, Sabah, claimants for customary rights, following a hearing, could be given native title to their lands. An aggrieved party can also turn to the courts of law, adding that some cases had been resolved in favour of the IPs. He expressed his view that MTCS is not in a position to ignore the existing State laws.
3. With regard to the conversion of natural forests to forest plantations, Tan Sri Dompok pointed out that these decisions were made by the respective State authorities, and that the MTCS is again not in a

position to prevent such conversions. He asserted that it was not appropriate to include this expectation as part of the criteria to assess any scheme, particularly for a scheme from a developing tropical country.

4. Tan Sri Dompok also referred to his discussion with the Ambassador of The Netherland to Malaysia, H.E. Mr. Paul Bekkers on 10th November 2010 regarding the TPAC decision on the MTCS, during which he had expressed the same views and concerns.
5. Tan Sri Dompok also mentioned that in his meeting on 15th November 2010 with the EU Commissioner for Environment, Mr. Janez Potočnik, he had explained to the Commissioner the situation faced by the MTCS, and the reasons for seeking the meeting with Mr. Atsma.
6. H.E. Mr. Atsma assured Tan Sri Dompok that his Ministry was not requesting for any Malaysian laws to be changed. He explained that he was aware of the allocation of power and it should be clear that he does not want or expect MTCC to dictate State governments in any decision-making. What he does expect of MTCS as a voluntary certification system is to uphold ambitious criteria for sustainable forestry. It is subsequently up to the respective State government as a forest manager to decide whether or not to go for sustainable forest management certification. If the State government indeed decides to opt for certification, a certification body should assess compliance with the SFM criteria and award a certificate if the FMU complies with these criteria or withhold/withdraw a certificate if the FMU does not.
7. He informed that Dutch Parliament had requested the State Secretary to send the TPAC advice (second reading) to the Lower House and give the Lower House the opportunity to discuss the matter before the State Secretary makes a final decision. He explained that a decision on MTCS would be likely to face strong opposition from certain parties in the Dutch Parliament if he deviated from the TPAC advice without the assurance that the main objections of TPAC will be addressed by MTCS.
8. In further elaborating on Mr. Atsma remarks, _____ stated that the Dutch government wanted to encourage the positive developments in Malaysia related to sustainable forest management. He explained that Mr. Atsma was not asking to change the laws in Malaysia, but merely to adjust their own 'house rules' of the MTCS in order to ensure consistent implementation of the criteria.
9. _____ stated that Mr. Atsma would be more able to convince the Parliament of a decision to accept MTCS under the Dutch procurement policy if he can be confident that MTCS will make the necessary arrangements to ensure compliance with the TPAS criteria.
10. Tan Sri Dompok pointed out that as the leader of a political party (UPKO) which represents the IPs in the State of Sabah, he understood the concerns expressed regarding the rights of the IPs. He however pointed out that if the MTCS is not accepted under the Dutch procurement policy, the forestry situation could become worse, including the possibility of the State authorities in Malaysia losing interest in timber certification; this might even result in increased forest conversion and/or illegal logging.

11. He emphasized that Malaysia had succeeded in keeping more than 50% of its total land area under forest cover, compared to the low forest cover in many countries in Europe, including The Netherlands. He reiterated that the IP rights are protected by the State laws and that his party as a member of the coalition Federal Government in Malaysia was committed towards uplifting the welfare of the IPs.
12. In response to the enquiry from Mr. Atsma regarding the position of the Dutch MPs related to the MTCS assessment, informed that certain Dutch MPs were sympathetic towards the IPs due to pressure from the environmental NGOs. Simultaneously, certain Dutch MPs fully support Malaysia's efforts in implementing sustainable forest management and acknowledged the tremendous progress achieved on the ground in the last decade. She pointed out that the MTCS had ensured that IP rights were protected in the standard used.
13. elaborated that the Dutch Procurement Criteria concerning indigenous communities are meant to ensure that these communities are able to continue their traditional use of the land. The criteria therefore demand that indigenous communities "*have a say in forest management on the basis of free and informed consent*". This does not imply that indigenous peoples have, or should have, legal ownership to the land, but that forest managers have to identify indigenous communities in the FMU, and that the forest manager and indigenous communities have to interact in a process aiming at an agreement on how the traditional area of the communities is to be managed, both by the communities themselves and by the forest manager. This requirement for forest managers should be transparently and systematically incorporated in the certification scheme.
14. He further explained that the MTCS criteria 2.2, 3.1, 3.2 and 4.5 do require all of the above, but that these criteria are currently considered not applicable in MTCS certified forests. The requirement for forest managers to involve indigenous communities as described under 13 could be embedded in the certification scheme by making the mentioned criteria applicable in MTCS forests, or in another way.
15. clarified that the free and informed consent of the IPs would only be relevant and applicable in situations where the IPs are recognized as the legal owners of the land. He also clarified that in the case of the permanent forests, where ownership claims by the IPs have been resolved, the issue of free and informed consent does not arise and is therefore not relevant. Nevertheless, IPs residing in or adjacent to these permanent forests are able to continue exercising their use rights in these forests. stated that these rights are clearly recognized and protected under Criterion 2.6 of TPAS and the corresponding MC&I 2002 Criterion 3.3 further clarified that the use rights of the IPs were also recognized and protected by other sections in the standard, particularly Principle 9 dealing with high conservation value forests. The implementation of the Indicators and Verifiers under Principle 9 have already been audited under the MTCS.
16. pointed out that through the 18 month assessment period, the MTCC went to great lengths to provide all the additional information requested by TPAC in order to assist TPAC

with its assessment of the MTCS. This information was provided in writing, teleconferences as well as in person at TPAC hearings in November 2009 and September 2010.

17. [redacted] pointed out that the cooperation between Malaysia and The Netherlands had been ongoing for the past 14 years, starting with the Joint Working Group on Forestry, cooperation in relation to the BRL, and the current cooperation with TPAC in relation to the Timber Procurement Assessment System (TPAS).
18. [redacted] also pointed out that some Dutch MPs have publicly acknowledged that they want only one certification scheme to be accepted under the Dutch procurement policy, while others prefer to promote healthy competition between the different schemes. [redacted] also stressed that it was important to distinguish between what the MTCS can aim for, and what it can do.
19. Tan Sri Dompok reiterated that if the MTCS is not accepted, there may be wide ranging effects. These include the Malaysian timber trade being forced to look for other markets such as China and Japan, which are not so environment-sensitive. He however stated that Malaysia wants to be part and parcel of the 'enlightened market', as evidenced by its involvement in the EUFLEGT VPA negotiations. He stressed that encouragement from The Netherlands would go a long way towards the successful conclusion of the VPA negotiations.
20. [redacted], who has been closely involved in negotiations related to palm oil, provided information where a successful outcome had been achieved by supplementing the technical considerations with a 'political' document in the form of Agreed Minutes between the parties concerned. He suggested that such an approach could be used by Mr. Atsma in resolving the current situation faced in relation to the TPAC revised Final Judgement of the MTCS.
21. Mr. Atsma informed that he wanted to help resolve the situation, and felt that the suggestion by [redacted] could be a good solution. He explained that he had been requested to send a letter on his decision on the MTCS assessment to the Dutch Parliament.
22. [redacted] explained that the only issue still on the table was related to the 'free and informed consent of the IPs', as specified in certain criteria and indicators in the forest management standard. He explained that the requirement for free and informed consent, as described under 13, could be incorporated in the MTCS scheme in a way and a language that is acceptable to Malaysia.
23. With regard to the 'next steps', the meeting was informed that Mr. Atsma plans to send a letter to the Dutch Parliament this week or the next to provide information on the discussion and agreement reached during this meeting, to give assurance to the Dutch MPs related to Mr. Atsma's decision to accept the MTCS under the Dutch procurement policy. In view of this, the Agreed Minutes would need to be finalized as soon as possible.
24. It was also agreed that the agreement reached in this meeting should not be made known to the mass media until the matter has been discussed in the Dutch Parliament.

25. Tan Sri Dompok sought further clarification regarding the deadline of 3 December 2010 for MTCC to submit its appeal against the TPAC Revised Final Judgement in view of the agreement reached during this meeting and the next steps to be taken by Mr. Atsma to provide information to the Dutch Parliament.
26. Following some discussion, the meeting was informed that, in view of some uncertainty regarding how fast the matter would be resolved in the Dutch Parliament, it was very likely that the MTCC will proceed to submit its appeal, in order to avoid missing the deadline.
27. Mr. Atsma confirmed that the measures proposed by the MTCC in its letter to him dated 12 November 2010 relating mainly to the matter of conversion are acceptable.
28. In the light of discussions during this meeting, the agreed measures are as follows:

Indigenous communities

MTCC will issue clear guidance to the certification bodies in the interpretation of the requirement for 'free and informed consent of the IPs', as specified in certain criteria and indicators in the forest management standard. MTCC will issue this guidance within the next three months.

This proposal is being welcomed by the Dutch ministry. The outcome should be that the forest manager is required to identify indigenous communities in the FMU, to confer and agree on what areas they traditionally use, including sites of significant importance to them. In doing so, the forest manager and indigenous communities have to interact and agree on how these sites are to be managed, both by the communities themselves and by the forest manager. This is expected to lead to respect for customary rights of IP's in practice, even though those rights are not formally recognized.

Conversion 1

MTCC has stated in its letter that:

- i. According to MTCC, the interim guidance on conversion explicitly stipulates that the actual and planned conversions should be made known by the forest managers to the CBs, so that these areas are excluded from the certified FMU. The CBs have informed MTCC that if the surveillance visit one year later reports that there are additional areas in the natural forest which has been converted or proposed for conversion, the CB will suspend or withdraw the MTCS certificate.*
- ii. Although MTCC had previously indicated its preference not to issue additional guidance over and above the existing interim guidance to the independent CBs the MTCC will now take appropriate measures to issue the additional guidance within the next three months.*

The Dutch Ministry of Environment calls to mind that TPAC has concluded earlier that the interim guidance for C6.10 is not sufficiently clear that areas that are scheduled for conversion are indeed excluded from the FMU and that that additional conversion will lead to suspension or withdrawal of the

certificate. Therefore the proposal by MTCC to issue additional guidance on this issue is being welcomed by the Dutch ministry. This additional guidance is expected to result in a clear instruction to certifying bodies that the converted areas and areas scheduled for conversion are excluded from the certified FMU and that additional conversion will lead to suspension or withdrawal of the certificate.

Conversion 2

MTCC stated in its letter that:

- iii. *So far the MTCC has not made any reference to the new MTCS standard [MC&I(Natural Forest)], which would be the output of the ongoing review of the current MC&I 2002 under the multi-stakeholder Standards Review Committee (SRC). The relevant Malaysian social NGOs (workers' unions, indigenous communities), environmental NGOs, economic (industry) stakeholders and government agencies participate in the SRC. In the revision of the current standard, the issue of putting a cap on conversion will be discussed and finalized by the SRC. As the review is a multi-stakeholder process, it will be process-bound.*

This proposal is being welcomed by the Dutch ministry. A suggestion to the SRC is to include "conservation benefits" not only in the criterion, but also in the indicators; and to clarify the interpretation of 6.10 a) [a very limited portion] either through a guidance for certifying bodies or a specific cap.

Maps

MTCC stated in its letter that:

- iv. *During the 14 September 2010 TPAC hearing in The Hague, MTCC has indicated that all relevant maps (criterion 2.4) have been made available by the forest managers to the CBs and have been placed together with the summary of the audit reports on the websites of the respective CBs. However if it is the TPAC's requirement that such maps should also be made available on the website of the FMU manager, MTCC can request for this to be done, through the CBs, within the next 2 months.*

The Dutch ministry welcomes MTCC's notification that maps of the certified FMUs are placed on the respective websites of the certifying bodies.

20. The meeting concluded on the following next steps:

- i. That an Agreed Minutes of this meeting be prepared within this week;
- ii. That the information contained in the Agreed Minutes will form the basis for Mr. Atsma's assurance to the Dutch Parliament at its forthcoming debate; and
- iii. That MTCC will implement the agreed measures as reflected in this Agreed Minutes within the suggested timeframes.

Agreed Minutes
14 February 2011

Annex I

Based on follow-up discussions held between representatives of the Ministry of Infrastructure and the Environment and MTCC, the measures agreed during the meeting on 17 November have been further elaborated as follows:

A Indigenous communities

MTCC will issue clear guidance to the certification bodies in the interpretation of the requirement for 'free and informed consent of the IPs', as specified in certain criteria and indicators in the forest management standard. MTCC will issue this guidance within the next three months.

This proposal is being welcomed by the Dutch ministry. The outcome should be that the forest manager is required to identify indigenous communities in the FMU, to confer and agree on what areas they traditionally use, including sites of significant importance to them. In doing so, the forest manager and indigenous communities have to interact and agree on how these sites are to be managed, both by the communities themselves and by the forest manager. This is expected to lead to respect for customary rights of IP's in practice, even though those rights are not formally recognized.

The guidance on 'free and informed consent' has been finalized and sent out to all forest managers and certification bodies on 16 February 2011 by MTCC, and is attached. The contents of this instruction will be addressed in the next audit reports, thus providing the possibility to verify that these requirements are indeed applied by the certification bodies.

B Conversion

MTCC has stated in its letter that:

- i. According to MTCC, the interim guidance on conversion explicitly stipulates that the actual and planned conversions should be made known by the forest managers to the CBs, so that these areas are excluded from the certified FMU. The CBs have informed MTCC that if the surveillance visit one year later reports that there are additional areas in the natural forest which has been converted or proposed for conversion, the CB will suspend or withdraw the MTCS certificate.*
- ii. Although MTCC had previously indicated its preference not to issue additional guidance over and above the existing interim guidance to the independent CBs the MTCC will now take appropriate measures to issue the additional guidance within the next three months.*

The Dutch ministry of Environment calls to mind that TPAC has concluded earlier that the interim guidance for C6.10 is not sufficiently clear that areas that are scheduled for conversion are indeed excluded from the FMU and that that additional conversion will lead to suspension or withdrawal of the certificate. Therefore the proposal by MTCC to issue additional guidance on this issue is being welcomed by the Dutch ministry. This additional guidance is expected to result in a clear instruction to certifying bodies that the converted areas and areas scheduled for conversion are excluded from the certified FMU and that additional conversion will lead to suspension or withdrawal of the certificate.

This guidance on forest conversion has been finalized and sent out to all forest managers and certification bodies on 16 February 2011 by MTCC, and is attached. The contents of this instruction will be addressed in the next audit reports, thus providing the possibility to verify that these requirements are indeed applied by the certification bodies.

Furthermore, MTCC stated in its letter that:

- iii. So far the MTCC has not made any reference to the new MTCS standard [MC&I(Natural Forest)], which would be the output of the ongoing review of the current MC&I 2002 under the multi-stakeholder Standards Review Committee (SRC). The relevant Malaysian social NGOs (workers' unions, indigenous communities), environmental NGOs, economic (industry) stakeholders and government agencies participate in the SRC. In the revision of the current standard, the issue of putting a cap on conversion will be discussed and finalized by the SRC. As the review is a multi-stakeholder process, it will be process-bound.*

This proposal is being welcomed by the Dutch ministry. A suggestion to the SRC is to include "conservation benefits" not only in the criterion, but also in the indicators; and to clarify the interpretation of 6.10 a) [a very limited portion] either through a guidance for certifying bodies or a specific cap.

C Maps

MTCC stated in its letter that:

- iv. During the 14 September 2010 TPAC hearing in The Hague, MTCC has indicated that all relevant maps (criterion 2.4) have been made available by the forest managers to the CBs and have been placed together with the summary of the audit reports on the websites of the respective CBs. However if it is the TPAC's requirement that such maps should also be made available on the website of the FMU manager, MTCC can request for this to be done, through the CBs, within the next 2 months.*

The Dutch ministry welcomes MTCC's notification that maps of the certified FMUs are placed on the respective websites of the certifying bodies. More detailed maps can be made available to stakeholders, showing:

- The boundaries of MTCS-certified areas (showing in accordance with the interim-guideline, any areas of planned or realized conversion)
the location of the Orang Asli communities
- Areas that are traditionally used by Orang Asli (resulting from the implementation of the new instruction)

D Timeframe and assessment of implementation

MTCC has indicated that most of the proposed measures will be taken within a few months. The results of these measures should be addressed in the next audit reports of the MTCS-certified FMUs. This will provide the necessary transparency and accountability to assure the Dutch Parliament that the agreed improvements have been realized.

Within two years the Dutch Ministry of Environment will assess, in consultation with TPAC, whether the agreed improvements have been realized and whether these have resulted in the agreed outcomes. This assessment will be based on the audit reports of MTCS-certified FMU's, as well as a review of the way any complaints on the issues above have been handled.

<i>Guidelines</i>		
Interpretation of the Term 'Free and Informed Consent' under the MC&I(2002)	16 February 2011	MC&I 3/2011

INTERPRETATION OF THE TERM 'FREE AND INFORMED CONSENT' IN THE MC&I(2002)

1. Objective

The objective of these Guidelines is to provide guidance on the interpretation of the term 'free and informed consent' which is specified in several criteria and indicators in the *Malaysian Criteria and Indicators for Forest Management Certification [MC&I(2002)]*, the forest management standard for natural forest used under the Malaysian Timber Certification Scheme (MTCS).

2. Background

- 2.1 The term 'free and informed consent' is specified in Criteria 2.2, 3.1 and 3.4, as well as Indicator 3.1.2, in the *MC&I(2002)*, in relation to the requirement to obtain the free and informed consent of the indigenous peoples regarding any forest management activities that affect the forests owned by the indigenous peoples (Criteria 2.2 and 3.1, and Indicator 3.1.2), and any compensation for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations (Criterion 3.4).
- 2.2 Since the MTCS only covers the certification of permanent forests, where the ownership claims by the indigenous peoples have been legally defined, the issue of 'free and informed consent' as specified in Criteria 2.2, 3.1 and Indicator 3.1.2 does not arise. 'Free and informed consent' is however applicable for Criterion 3.4.

3. Interpretation of the Term 'Free and Informed Consent'

- 3.1 The term 'free and informed consent' is described as a decision-making process where **consent** (involving granting or withholding consent, saying 'yes' or 'no' to an activity, programme or policy) is given or withheld following a process that is **free** (does not involve coercion or manipulation) and **informed** (is founded upon an understanding of the activity, programme or policy).
- 3.2 Therefore any consent given by the indigenous peoples in connection with Criterion 3.4 shall be on the basis of the indigenous peoples being given the full information and implications of the compensation proposed. In addition, the consent shall be freely given by the indigenous peoples without any pressure or coercion.

- 3.3 Several other criteria and indicators in the *MC&I*(2002) recognize the traditional use of the permanent forests by the indigenous peoples (i.e. Criteria 3.2, 3.3, 4.4, 4.5, 9.1 and 9.2). While 'free and informed consent' is not specifically mentioned in these criteria and indicators, in order to ensure that the indigenous peoples are able to continue their traditional use of the forest, the forest manager is required to identify the presence and location of indigenous peoples in and adjacent to the FMU, to confer and agree on what areas they traditionally use, including sites of significant importance to them (e.g. cultivated areas, water sources, burial sites, sacred sites, forest plants, etc). In doing so, the forest manager and indigenous peoples have to interact and agree on how these sites are to be managed, both by the indigenous peoples themselves and by the forest manager.
- 3.4 Under Criterion 3.2, the forest manager shall ensure that the forest management practices shall not threaten or diminish the indigenous peoples' resources or tenure rights, while under Criterion 3.3, sites of special cultural, ecological, economic or religious significance to the indigenous peoples shall be clearly identified in cooperation with such peoples, and shall be recognized and protected by the forest manager.
- 3.5 Under Criteria 4.4 and 4.5, where the indigenous peoples are living in or adjacent to the forest, the forest manager shall consult with the indigenous peoples to evaluate the dependence of these peoples on the forests involved and the potential social impacts of the forest operations on these peoples, prior to the commencement of the operations. The forest manager shall incorporate the results of such evaluations into the forest planning and management process so as to prevent loss or damage affecting the indigenous peoples' customary rights, property, resources, or their livelihoods. Where loss or damage affecting the indigenous peoples' customary rights, property, resources or their livelihoods has been caused by the forest operations, appropriate mechanisms within relevant federal and state laws shall be employed to resolve the grievances and provide fair compensation.
- 3.6 In addition, under Criteria 9.1 and 9.2, the forest manager shall consult the affected indigenous peoples and other relevant stakeholders to assess the attributes consistent with high conservation value (HCV) which are found in the FMU. In the case of the indigenous peoples, the HCV areas may be areas fundamental to meeting the basic needs of these peoples and/or critical to their traditional cultural identity. The forest manager has to demonstrate that steps have been taken to protect these HCV areas, including marking these areas on maps and having management prescriptions in the Forest Management Plan to maintain and/or enhance the HCV attributes. The forest manager is also required to conduct annual monitoring to assess the effectiveness of the measures employed to maintain and/or enhance the HCV attributes, and incorporate the results of the monitoring into the implementation and revision of the Forest Management Plan.
- 3.7 All Certification Bodies shall ensure that the forest manager of the FMU undergoing the audit is assessed for compliance with the above requirements, and that the audit findings are reflected in the audit report and related public summary.

4. Effective Date

These Guidelines shall apply with **immediate effect** for the audits of the FMUs for forest management certification under the MTCS.

<i>Normative Document</i>		
Interpretation of Criterion 6.10 of the MC&I(2002)	16 February 2011	MC&I 2/2011

INTERPRETATION OF CRITERION 6.10 OF THE MC&I(2002)

1. Objective

The objective of this Normative Document is to ensure a clear interpretation of Criterion 6.10 in the *Malaysian Criteria and Indicators for Forest Management Certification [MC&I(2002)]*, the forest management standard for natural forests used under the Malaysian Timber Certification Scheme (MTCS).

2. Background

- 2.1 Under Criterion 6.10 in the *MC&I(2002)*, restrictions are imposed on the extent to which the permanent reserved forests (PRFs) in a Forest Management Unit (FMU) can be converted to forest plantations or non-forest land uses. Criterion 6.10 stipulates that:

“Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion:-

- a) entails a very limited portion of the forest management unit; and*
- b) does not occur on high conservation value forest areas; and*
- c) will enable clear, substantial, additional, secure, long-term conservation benefits across the forest management unit.”*

- 2.2 To address the concern that the allowable threshold for conversion of PRFs to forest plantations and non-forest land uses stipulated in Criterion 6.10, entailing *“a very limited portion of the FMU”* is currently not quantified, this document is adopted for the interpretation of Criterion 6.10, pending the conclusion of the ongoing review of the *MC&I(2002)*.

3. Interpretation of Criterion 6.10

The interpretation of Criterion 6.10 by the accredited Certification Bodies (CBs) under the MTCS when conducting forest management audits of FMUs shall be as follows:

- 3.1 The scope of certification against the requirements of the *MC&I(2002)* shall be confined to **only** the natural forests located in the PRFs of the FMU and shall **exclude** any forest plantations and any planned conversion in the PRFs. The external boundaries of the natural forests located in the PRFs will be redrawn on relevant maps, prior to certification.

- 3.2 In situations where forest plantations are established in the PRFs, during the audit under the *MC&I(2002)*:
- a) the forest manager shall be required to provide information and statistics with regard to the extent of the forest plantations as well as any planned conversion in the PRFs to forest plantations and/or non-forest land uses. Such information and statistics provided by the forest manager shall be included in the audit report; and
 - b) the FMU shall be assessed for compliance in relation to Criterion 6.10(b) which requires that the conversion *does not occur on high conservation value forest areas*; and Criterion 6.10(c) which requires that the conversion *will enable clear, substantial, additional, secure, long-term conservation benefits across the forest management unit*.
- 3.3 Such established forest plantations and areas planned for conversion in the PRFs should be managed in a responsible manner and undergo forest management certification against the *MC&I(Forest Plantations)* under the MTCS.
- 3.4 Logs harvested from areas in the PRFs converted to forest plantations and/or non-forest land uses shall not be claimed as certified logs under the MTCS.
- 3.5 In addition, the forest manager shall not make any claims associating such converted areas with the MTCS-certified FMU.
- 3.6 If during the subsequent surveillance audit, the CB finds that in addition to the areas that have been reported earlier under paragraph 3.2(a) above, there are new areas of the natural forest in the certified FMU which have been converted or planned for conversion since the last audit, a major non-compliance will be issued by the CB which could result in the suspension and subsequent withdrawal of the MTCS certificate.
- 3.7 All CBs shall ensure that the forest manager of the FMU undergoing the audit is assessed for compliance with the above requirements, and that the audit findings are reflected in the audit report and related public summary.

4. Effective Date

This Normative Document shall apply with **immediate effect** for the audits of the FMUs under the MTCS.