

## **ANNEX 5: FOREST CERTIFICATION IN MALAYSIA**

*by Saskia Ozinga*

### **BACKGROUND**

Malaysia covers an area of approximately 32.86 million hectares, consisting of 11 states in Peninsular Malaysia and the states of Sabah and Sarawak on Borneo Island. The largest state in Malaysia, Sarawak, is approximately equal in area to the whole of Peninsular Malaysia, while Sabah is the second largest state. Approximately 80% of the population of 23.8 million is found in Peninsular Malaysia and 20% in Sabah and Sarawak. The majority population of Sabah and Sarawak is indigenous peoples.

Tropical forests form the dominant natural terrestrial ecosystem in the country; the dominant habitats include species-rich lowland and hill dipterocarp forest. There are also extensive areas of peat swamp and mangroves. This diverse assemblage of forest habitats and ecosystems makes Malaysia a country very rich in flora and fauna; it also contributes significantly to the fact that it is rated as one of the 12 “megadiverse” countries of the world. Over 90% of the country’s terrestrial biological species occur in natural forests.

In Malaysia, states have jurisdiction over land, forests, fishery, agriculture, and water resources. The individual states have power of decision over resource use and allocation. For the administration and management of forestry resources, for example, each State has its own Forestry Department and other key institutions to implement forestry policies. However, the Constitution does give the federal government powers to establish departments or ministries for resource conservation and local government plans. State forestry departments are obliged to refer to federal counterparts on certain matters.

In practice, however, there are contradictions between federal and state policies on lands, forests and the environment. The states have pursued their own land and forest policies, even where they appear to contradict federal policies, and vice versa. In practice, too, there are two potential conflicting views of the forests. The first one is that forests are seen as a physical and economic resource, controlled by the state, private logging companies and individuals whose main concern is in the commercial value of trees to generate revenue and income. The second one is that forests are seen as a physical, social, cultural and spiritual resource for livelihoods as well as the basis of beliefs, identity and survival, by indigenous and forest-dependent peoples. These different visions often clash and conflicts around forest use have been well documented all over Malaysia and specifically in the State of Sarawak.

It is against this backdrop that the discussion of forest certification takes place.

## FORESTRY PRACTICES AND FOREST CERTIFICATION

Logging in Malaysia has gone far beyond the level of sustainability, and today most of its forests are seriously degraded. According to FAO figures, the country lost 13.4% of its natural forest during the 1990s. Furthermore, there is some evidence that Malaysia's wood-based industry is dependent on illegal timber to sustain its activity; in 2001, 39% of the timber used by the Malaysian timber industry was suggested to be illegally imported or logged inside Malaysia.<sup>1</sup> This is, however, disputed by Malaysia's Minister of Primary industries Datuk Seri Dr. Lim Keng Yaik who told key Scandinavian ministers that illegal logging was no longer a serious problem in Malaysia as the country had taken various measures to curb such illegal activities. Nonetheless the trade in illegally sourced timber from Malaysia to European markets has been well documented.<sup>2</sup> In May of 2003, an investigation revealed that Indonesian timber listed on CITES (the Convention on International Trade in Endangered Species) was being smuggled into the port of Batu Pahat in the Johor state in southern Peninsular Malaysia. Along with disregard for CITES, the evidence proved that Malaysia's own import ban of Indonesian logs was being ignored: in the period of one hour, 32 Indonesian vessels loaded with illegal logs arrived at the port of Muar, also in Johor state in Peninsular Malaysia.<sup>3</sup>

With different visions about what a forest is and how it should be used, it comes as no surprise that a debate on sustainable forest management is difficult. It has certainly become clear that the forest certification debate in Malaysia highlights the fact that sustainable forest management is a controversial issue. The debate is centered on the Malaysian Timber Certification Scheme run by the Malaysian Timber Certification Council (MTCC). The Council was established in 1998 to develop and operate a voluntary certification scheme that would enhance sustainable forest management practices and supply certified timber products that meet the requirements of Malaysia's markets.<sup>4</sup>

The forest-based industries contribute significantly to Malaysia's socio-economic development, with the export of timber and timber products valued at US\$3.7 billion in 1998.<sup>5</sup> It is therefore understandable that the Ministry of Primary Industries has been keen to develop a system that would promote its timber. In a leaflet the MTCC states "*with the growing concern over deforestation and the associated environmental effects, consumers of forest products, such as timber, want to be assured that these products have been produced through sound forest management practices. In this regard, timber certification has been promoted as market-linked, told to encourage sustainable forest management practices in producer countries*". In a typical candid remark the Primary Industries Minister Datuk Seri Dr. Lim Keng Yaik furthermore explained the main aim of the MTCC scheme: "*Malaysia wanted to revive its timber*

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<sup>1</sup> Dr. David Brown: Estimate of Malaysian consumption of illegal timber, September 2002. Figures based on USDA Global Agricultural Information Network figures 2002.

<sup>2</sup> Environmental Investigators Expose Laundering of Illegal Indonesian Timber by Malaysia and Singapore. EIA/Telapak 15th May, 2003.

<sup>3</sup> Research carried out by the Indonesian NGO Telapak, jointly with the UK-based NGO Environmental Investigation Agency.

<sup>4</sup> As a leading exporter of tropical timber and timber products, Malaysia is in the process of implementing timber certification to further enhance sustainable forest management practices and to supply certified products to meet the requirements of its markets. Malaysia sustainable forest management and timber certification NTCC leaflet.

<sup>5</sup> NTCC leaflet; Malaysia sustainable forest management and timber certification

*product exports to Europe where the trade has suffered from the ill-founded perception that the products did not come from well-managed forests<sup>6</sup>.”*

To meet the “credibility” demands for these markets, specifically in Europe, the MTCC developed a working relationship with the Forest Stewardship Council (FSC), perceived as the scheme with the highest credibility in Europe. A 180-degree turn from the mid 1990s when Dr. Lim described the FSC as undemocratic, misleading, dishonest and counter-productive.<sup>7</sup> As the FSC requires the participation of environmental NGOs and indigenous organizations in the national working groups, representatives of NGOs and indigenous groups were invited to participate, and for over one year numerous environmental organizations and community groups participated in the building of the MTCC scheme by commenting, critiquing and participating in regional working groups. The issues they had brought forward that needed resolution included the encroachment of logging on indigenous lands, the difference in vision of sustainable forest management between communities and government, and the lack of due recognition for indigenous rights. The demands they had put forward for improving the process included full participatory processes, access to information, and transparency.<sup>8</sup> However, there was no or insufficient response from the MTCC and in July 2001, the indigenous organizations and most NGOs withdrew from the process.<sup>9</sup> The clash in visions had already been alluded to the year before: *“The MTCC is structured to find ways to sell our timber while we are mandated to protect our forests and to secure the livelihoods and interests of indigenous peoples and local communities who live in, depend on and derive their spirituality and cultural identity from the forests.”*<sup>10</sup>

Subsequently the co-operation between the FSC and the MTCC collapsed. The MTCC has since become a member of the Pan European Certification Scheme (PEFC) and it remains to be seen if their scheme will become accepted under the PEFC label.

The MTCC has started certifying forests and as of December 2001 three forest management units (FMU), namely Pahang State FMU, Selangor State FMU and Terengganu State FMU with a total of 2,310,567 hectares were certified. The average size of the three certified forests is 770,189 hectares. However, Terengganu State FMU (557,661 ha) was suspended in November 2002 and has to seek for re-assessment. Four other states, namely Perak, Negri Sembilan, Johor and Kedah have also been assessed in 2003 and certification is pending for approval. All certified forests are “government-owned.”

## **WAYS FORWARD**

Malaysia’s forests are a contested resource, given their many different values, functions and interests for different people. In these cases, the state and powerful private corporations and individuals often have the upper hand in decision-making and control on forests resources. In

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<sup>6</sup> Quoted in:Yong; Malaysia, the Malaysian timber certification scheme and the FSC; CarolYong; published in Trading in Credibility; Rainforest Foundation, November 2002.

<sup>7</sup> Quoted inYong, ibid.

<sup>8</sup> NGO statement to NTCC, July 2001.

<sup>9</sup> JOANGOhutan 2002

<sup>10</sup> POASM, et al. 2001, quoted in Yong ibid.

almost all contested forest areas, North and South, there is a long running struggle of indigenous and forest-dependent peoples to defend their rights to land and forests. Malaysia is no exception. In its most recent annual report Sukaham, the Malaysian Human Rights Commission stated that the indigenous people of Malaysia must be given the right to empower themselves to choose their own course, especially in the face of development.<sup>11</sup> *“The government should understand and recognise that decisions affecting indigenous people especially in relation to development projects involving native customary land should be made by the indigenous people themselves and not by private companies or any government agency,”* the report added

By including environmental and social NGOs as well as indigenous communities in the certification process between late 1990 and the beginning of 2000, there seemed to be some hope for this important debate to start. In addition, community workshops initiated by several social and community-based NGOs as well as indigenous communities themselves discussing forest certification across Malaysia were a great step forwards in the certification debate. These workshops clearly brought out the needs of these communities, and emphasized the need for full and informed consent of communities and recognition of indigenous rights.<sup>12</sup> By not recognizing these efforts but instead alienating many environmental and social NGOs, the MTCC has raised public doubts of its sincerity in becoming a truly credible certification scheme. Considering recent quotes from the Malaysian Minister for Primary Industries, Dr. Lim,<sup>13</sup> that *“the Penan are the most backward people in Malaysia”* and that *“the Malaysian NGOs that withdrew from the MTCC process are unregistered organisations, just like triads, mafia and gangsters,”* there clearly is at least in some parts of the government a lack of openness in accepting dissenting views and a lack of political will to recognize the contributions of critical NGOs and community groups. This makes the future of certification in Malaysia very doubtful. The credibility of certification, and thereby its acceptance in the markets, depends to a large extent on the full participation of environmental, social, and indigenous groups, rather than a monopoly of timber industry and government caretakers.

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<sup>11</sup> Human Rights Commission Malaysia; Annual report 2002; ISSN 1511-952; Available at [http://www.suhakam.org.my/annual\\_report/pdf/anreport02.pdf](http://www.suhakam.org.my/annual_report/pdf/anreport02.pdf)

<sup>12</sup> “The MTCC and FSC must ensure that certifiers seeking certification adhere to FSC principles and criteria and to guidelines established on a consultative and participatory basis for certification. This means the full prior informed consent of indigenous peoples and communities to the establishment of the forest management unit or concession areas that does not threaten or diminish the customary land rights...”  
Quotes in Yong, *ibid*.

<sup>13</sup> Quotes from a meeting between a delegation of MTC, including Dr. Lim with representatives of Norwegian government and NGOs, May 2003.

Based on:

- ◆ US Department of State; Malaysia Report; 31 March 2003;  
[www.state.gov/g/drl/rls/hrrpt/2002/18252pf.htm](http://www.state.gov/g/drl/rls/hrrpt/2002/18252pf.htm)
- ◆ Memorandum David W Brown; Estimate of Malaysian consumption of illegal timber;  
September 2002
- ◆ Sahabat Alam Malaysia; Implementation of Commitments of Convention of Biological  
Diversity by Malaysia;
- ◆ IDEAL; The MTCC a case study (2003, not yet published)
- ◆ Yong; The Malaysian timber certification scheme and the FSC; published in Trading in  
Credibility, the Rainforest Foundation, November 2002