



Summary of key NFSS Draft 2-0 issues

Background to the Forest Stewardship Council (FSC) and the development of a National Forest Stewardship Standard (NFSS) for Malaysia

The Forest Stewardship Council A.C. (FSC) was established in 1993, as a follow-up to the United Nations Conference on Environment and Development (the Earth Summit at Rio de Janeiro, 1992) with the mission to promote environmentally appropriate, socially beneficial, and economically viable management of the world's forests. FSC is an international organization that provides a system for voluntary accreditation and independent third-party certification. This system allows certificate holders to market their products and services as the result of environmentally appropriate, socially beneficial and economically viable forest management. FSC also oversees the development and approval of FSC National Forest Stewardship Standards (NFSS), which are based on the FSC Principles and Criteria (FSC P&C).

Starting in 2002, efforts were made to embark upon an FSC National Initiative for Malaysia. In compliance with FSC requirements, a National Working Committee (NWC) was formed in 2007. The NWC became a legal entity following endorsement from the Malaysian Registrar of Companies, and was legally registered as Forest Stewardship (Malaysia) Sdn. Bhd., or FSM. Upon FSM's acceptance as a FSC National Office in 2014, FSC Malaysia was launched in Kuala Lumpur on 19 November 2014 to lead the development process for a NFSS to promote responsible management of forests in Malaysia.

The development of a NFSS for Malaysia officially began in June 2011 upon the approval of FSC. The Malaysian Standards Development Group (SDG) is an independent chamber-balanced group representing environmental, economic and social chambers consisting of individuals from the three regions in Malaysia (Sabah, Sarawak and Peninsular Malaysia). The objective of the SDG is to develop and maintain the NFSS according to FSC's standards and procedures.

The SDG is chaired by Anthony Sebastian of aonyx Consultancy and consists of the following 6 members:

Economic chamber
1. Edmund Gan, Sabah Forest Industries Sdn. Bhd.
2. Chin Tong Tan, Independent
Environment chamber
3. Yii Tan Chang, Independent
4. Kanitha Krishnasamy, TRAFFIC Southeast Asia
Social chamber
5. Thomas Jalong, Jaringan Orang Asal SeMalaysia (JOAS)
6. Si Siew Lim, Grassroots Consulting

Key issues identified during the development of NFSS Draft 2-0

As the NFSS Draft 2-0 is being opened for public consultation and commenting, the SDG identified several key issues in its efforts to interpret the generic FSC P&C and develop national indicators. Any international standard for forest management needs to be adapted at the regional or national level to reflect the diverse legal, social and geographical conditions of forests in different parts of the world. The FSC P&C therefore require the development of indicators that are adapted to national conditions to be implemented at the Management Unit level.

The following are a summary of key NFSS Draft 2-0 issues for Malaysia as identified by the SDG:

1. Scale, Intensity and Risk (SIR)

The three factors 'Scale, Intensity and Risk' determine the likelihood that a management activity might have a negative impact on social, environmental or economic values associated with the Management Unit or The Organization.

As the first nationally developed FSC standard for Malaysia, stakeholders agreed that a special focus should be placed on ensuring the standards are applicable across a wide range of forest operations given the differences in character, and conditions, of Malaysian Management Units across the country's three geographically, ecologically and politically distinct regions. Thus, stakeholder consensus was to start with the most basic version of Malaysian standards, test it over five years, and then revise it to take into account factors regarding SIR.

This standard does not differentiate its requirements based on scale, intensity or context for the criteria. SIR was considered in the context of each and every indicator, but the wording was not specifically modified to reflect scale or intensity. The results of the forest tests, conducted in two arguably small Management Units of 10,000ha and 17,000ha, indicated no substantial areas of concern with the indicators or verifiers.

The SDG commits to a full incorporation of specific stipulations and requirements of SIR in the next review and revision of the Malaysian NFSS.

2. High Conservation Values (HCVs)

To meet FSC P&C requirements on the identification, management and monitoring of HCVs in Malaysia and setting of baseline values, the current HCV Toolkit for Malaysia (National Interpretation for Malaysia based on the Global HCV Toolkit) has been identified as a necessary reference for Management Unit-level HCV assessments. Specifically, the HCV Toolkit for Malaysia provides an overview of practical guidance available to forest managers and other stakeholders to manage, and monitor HCVs in Malaysia as specified by various national and international standards for management of forests and other resources. The new National Interpretation on the HCV Common Guidance on Identification of HCVs in Malaysia is currently being finalised.

3. Indigenous Peoples' and local communities' land rights

On the issue of land rights in Malaysia, conflicts between government authorities and communities who do not have land titles in the strictest sense are still rife. At a values-level, FSC Principles 3 (Indigenous Peoples' Rights) and 4 (Community Relations) clearly demands legal and customary rights as well as ownership be identified and upheld, and that may contradict or conflict with the prevailing policies and practices of State governments and rights given to Management Units across Malaysia. As part of the solution to the issue of land conflicts, the NFSS provides clear direction, guidance, tools on key areas like appropriate stakeholder engagement/consultation leading to the attainment of the Free, Prior and Informed Consent (FPIC) of communities.

4. ILO Core Labour Conventions

The Malaysian economy is highly dependent upon foreign workers supplementing the local workforce. In forestry and plantation operations the employment of foreign workers does not deviate from national patterns, due to the nature of their labor-intensive production system. Some labor practices in Malaysia may be contravening the ILO Core Conventions while the NFSS attempts to provide clarity on the issue in terms of its requirements.

Additionally, the NFSS Draft 2-0 now incorporates several new criteria and indicators from the 'FSC report on generic criteria and indicators based on ILO Core Conventions principles' under the previous Criterion 2.1, 'The Organization shall uphold the principles and rights at work as defined in the ILO Declaration on Fundamental Principles and Rights at Work (1998) based on the eight ILO Core Labour Conventions' and now explicitly addresses the following key elements of the ILO Convention:

- The effective abolition of child labour
- The elimination of all forms of forced or compulsory labour
- The elimination of discrimination in respect of employment and occupation
- Freedom of association and the effective recognition of the right to collective bargaining

Correspondingly, new definitions have been added to the NFSS Draft 2-0 glossary chapter to provide clarity.

5. Forest conversion and FSC's 1994 cut-off rule

FSC Criteria 6.9 and 6.10 (on forest conversion) could be contradicting State policies on forest conversion resulting in the ineligibility of Management Units that were responsible for post-1994 conversions for FSC certification. National interpretation of these particular criteria has been challenging, limited by the fact that any changes at criterion-level require the approval of the FSC General Assembly (GA).

Globally, Motion 12, passed at the FSC GA 2014 asks FSC to: "fast-track the implementation of Motion 18 from FSC GA 2011 to create a chamber-balanced process to consider challenges and opportunities related to restoration and conversion. At the recent FSC GA 2017 in October, Motion 7, which requested the FSC membership to continue providing the mandate to FSC to develop the actual text for the establishment of the rules, criteria and other indicators for a future standard on past conversion, was passed.

During the first public consultation on NFSS Draft 1-0, Malaysian stakeholders decided to accept Criteria 6.9 and 6.10 as is in the Malaysian NFSS with the following conditions:

- a) Voice concern to FSC that many Malaysian forestry operations will not be able to comply with FSC's 1994 rule,
- b) Voice support for FSC's Motion 12 Working Group, and
- c) Form Malaysian working group to monitor, provide feedback and proactively engage with the Motion 12 Working Group.

FSC Malaysia voiced Malaysian stakeholders' concerns at FSC GA 2017 and is currently forming a Malaysian working group to continue discussions, find practical solutions for Malaysia and provide input to the ongoing Motion 12 WG process.

6. Verifiers

The NFSS Draft 2-0 contains a complete set of verifiers for each indicator, which is not always the case with other approved national standards or interim standards developed by Certification Bodies in the absence of national standards. Based on positive feedback received from forest managers and during forest testing, the inclusion of verifiers in the standard improves clarity and provides a sound basis for describing the types of evidence that forest managers will need to have available to auditors.