



Advancing a Sustainable Global Timber Trade through the EU FLEGT Action Plan

**Improving Forest Governance and
Forest Sustainability workshop**

**Mega Hotel, Miri, Sarawak
8th-9th May 2014**



Improving Forest Governance and Forest Sustainability Workshop Report

Mega Hotel, Miri, Sarawak
8th-9th May, 2014

By

Nicholas Fong , Tan Hao Jin, Lydia Ayog & Leanne Hong

Report Produced Under Project MY03100I
Advancing a legal and sustainable global timber trade through the EU FLEGT
action plan
(The Project is funded by the European Union, represented by the European
Commission)

*In collaboration with Responsible Forestry Programme (FP010102- 904-
INTL) and Sarawak programme (SW010302-000-INTL)*

November 2014

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Abbreviation

ADUN	Ahli Dewan Undangan Negeri
CMIS	Centre of Malaysian Indigenous Studies
EIA	Environmental Impact Assessment
EU	European Union
FLEGT	Forest Law Enforcement Governance and Trade
FPIC	Free, Prior and Informed Consent
FSC	Forest Stewardship Council
HCV	High Conservation Value
HCVF	High Conservation Value Forest
IPs	Indigenous Peoples
NCR	Native Customary Rights
NCL	Native Customary Land
NGO	Non-Governmental Organisation
PL	Provisional Licence
RSPO	Roundtable for Sustainable Palm Oil
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNIMAS	Universiti Malaysia Sarawak
VPA	Voluntary Partnership Agreement
WWF	World Wide Fund for Nature

1.0 Introduction

The workshop was held over two days at Mega Hotel, Miri from 8 to 9 May 2014, and attended by 29 participants representing various organizations of the civil society and local communities. The workshop aimed to raise awareness among the social and indigenous groups on forest governance and the High Conservation Values (HCV) concept in the forestry sector. It also served as a platform for social NGOs and community-based organisations to share their opinions.

1) Forest governance

Overall, governance is a system of rules and institutions that provides the basis for societies to make decisions and take action. In most aspect of forest governance, it really matters on who makes decisions about forest resources and land, how the decisions are made and carried out, and who is accountable for the decision made? (RECOFTC, 2011). Lack of transparency leads to lack of reliable information on matters such as illegal logging and legal but unsustainable logging practices, which have prevented the progress of forest governance. There is therefore an urgent need to create a platform in order to facilitate for access to information through multi-stakeholder processes to take place and deals with the pressure points from all angles of the various stakeholders.

The objective of the workshop is primarily to increase awareness and effective stakeholder participation, giving support for a Voluntary Partnership Agreement (VPA) process that is acceptable to all. By sharing information that covers a diverse range of topics within the forest governance components, it is anticipated that this workshop would build the capacity of the social and indigenous groups to enable a meaningful engagement in the VPA process. The goal here is ultimately to secure good forest governance, legal and sustainable timber and wood product trade, and delivering equitable benefits to local and indigenous communities.

2) High Conservation Value Concept

The HCV concept has long been developed for forest management certification and is being increasingly used by many other non-forest certification schemes such as the Roundtable for Sustainable Palm Oil (RSPO). The concept deliberates on six values, ranging from biodiversity to natural habitats and landscapes to social and cultural values associated to a particular area.

In 2009, WWF-Malaysia developed a HCV toolkit in Malaysia to provide guidance on how to identify and manage these six values. The toolkit can be used by the local communities and forest managers to determine how forests should be sustainably managed. The toolkit is also due for revision and the process would involve social non-governmental organizations (NGOs) and community participation.

High Conservation Value Forest (HCVF) is an inherent part of local communities who depend heavily on forests produce for livelihood. Although in certification schemes, principles and criteria have incorporated local legislation when it comes to the protection of environmental and social values in the forest there are also elements of the HCV concept, for instance the Free, Prior and Informed Consent (FPIC) process that provides an addition to the current legislative system, with respect to recognising native rights. Hence, the HCV concept could fill in gaps where current legislation could not, and that the local communities can better utilise this concept to help manage forests in a sustainable way.

2.0 Workshop Agenda

Thursday, 8 th May 2014			
Time	Topics	Content	Speaker/ Facilitator
0800-0930	Registration (Coffee and refreshments provided)		
0930-1000	<ul style="list-style-type: none"> Welcoming remarks Getting to know each other 		WWF-Malaysia
1000-1100	Legal overview:	Land, native rights, constitutional protections on rights to livelihoods, customary rights, forestry laws	TRAFFIC
1100-1115	Break		
1115-1300	Legal overview continue	Land, native rights, constitutional protections on rights to livelihoods, customary rights, forestry laws	TRAFFIC
1300-1400	Lunch Break		
1400-1445	Dialogue on community consent:	<ul style="list-style-type: none"> Processes in planning/development for forestry; explore means for FPIC & participation processes, community representation Video case study 	TRAFFIC & Wild Asia
1445-1530	Community Forestry and FSC Certification		Thomas Jalong (JOAS)
1530-1545	Break		
1545-1630	Community Forestry and FSC Certification (cont.)		Thomas Jalong (JOAS)
1630	Q & A; Wrap up		TRAFFIC & WWF-Malaysia
Friday, 9 th May 2014			
Time	Topics		Speaker/ Facilitator
0800-0830	Registration		
0830-0930	Introduction to HCVs: -HCV Process -Common Guidance	<ul style="list-style-type: none"> Overview of HCVs Use of HVCs HCV Process: Identification, Management, Monitoring, Reporting Setting the context for HCV, FPIC & SIA 	Wild Asia

0930-1030	HCV 4, 5 & 6		Wild Asia
1030-1100	Coffee break		
1100-1230	Conflict resolution & UNDRIP	<ul style="list-style-type: none"> • Complications of Malaysia not ratifying the UNDRIP 	Dr. Ramy Bulan
1230-1400	Photo session and Lunch		
1400-1430	Recap of Day 1 and Day 2 morning		WWF-Malaysia
1430-1600	<p>Group discussion:</p> <ol style="list-style-type: none"> 1. Land policies and land tenure 2. Land use 3. Being the “eyes of the forest” 	<p>Discuss:</p> <ol style="list-style-type: none"> 1. Issues and challenges faced 2. Positives outcomes & resolutions 3. Stakeholders involved 	All facilitators
1600-1630	Break		
1630-1700	Open Forum	Questions and Answers	All facilitators
1700 - 1715	Wrap-up and concluding remarks		WWF-Malaysia

3.0 Attendance

Improving Forest Governance and Forest Sustainability Workshop
 Centre for Malaysian Indigenous Studies
 &
 WWF-Malaysia
 8 - 9 May 2014, Mega Hotel, Miri

NO.	NAME	ORGANIZATION	TEL/EMAIL	8 May	9 May
				SIGNATURE	Signature
1.	Mark Bujang	BRIMAS			
2.	Thomas Jalong	JOAS	0138393530		
3.	Dominic Langat	NTPP	014 599 3686		
4.	George Sigar	FORMADAT	0678521500		
5.	John Trawe	FORMADAT	09 4381777		
6.	Ricky Ganang	FORMADAT	014-3511305		
7.	Elbson Marajan	SDNU	019-8394363 elbsmarajan@qohas.com		
8.	Sagung Raja	Sarawak Penan Association			

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Tel / Email

8 May 9 May
Signature

9.	Kelawing Turau	Sarawak Penan Association		<i>Rahy</i>	<i>Rahy</i>
10.	Michael Jok	SCRIPS	019-8583207	<i>Ming</i>	<i>Ming</i>
11.	Louis Nyagong Lenjau	SCRIPS	0114605370	<i>Louis</i>	<i>Louis</i>
12.	Robinson Anye	SCRIPS	0105288360	<i>Robinson</i>	<i>Robinson</i>
13.	Beatrice Shamala Joachim	EU Delegation to Malaysia	010 404 7155 beatrice-shamala.joachim@eeas.europa.eu	<i>Beatrice</i>	<i>Beatrice</i>
14.	Lindsay Duffield	FERN			
15.	Josie Fernandez	SCRIPS	012 233 6351	<i>Josie</i>	<i>Josie</i>
16.	Dr. Rany Bulan	Centre for Malaysian Indigenous Studies	012-6348554		<i>Rany</i>

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30
8 May
Signature
30
9 May

No.	Name	Organization	Tel/Email	Signature	Signature
16.	Julaini b. Kadir	Proj. Residen Miri	019 8857055		
17.	Francis Tangah	Reksa Persewaan Berawan	019 4591634		
18.	Joseloo Taging Ruth	Reksa	019 4837077		
19.	Alvin Ng	WWF	016 5667998		
20.	Henry Che	WWF	019 8853230		
21.	EDWIN NYARUNG	SPA			
22.	Yasaya balah	SPA		Yasaya	
23.	Raymond Abin	Briman	017 844 9 245		
24.	Jayl Langub	WWF	013-803-7007		
25.	Han Kwai Hin	WWF	012-5152056		
26.	CHEN HIN KONG	TRAFFIC	012 278 3445		
27.	Edward Cuatrecasas	Persewaan Berawan	012 823 12 15		
28.	Nick	WWF			
29.	Hoo Jin	WWF			
30.	Lydia	WWF			
31.	Su Mei				
32.	Ruzaini Hanum	TRAFFIC	012-296 0162515189		

The workshop was attended by 29 participants -- 8 women and 11 men – comprising representatives from various organizations of the civil societies and local communities. They were:

1. JOAS- Jaringan Orang Asli Se-Malaysia
(Network of Indigenous Peoples of Malaysia)
2. NTFP- Non-Timber Forest Products
3. FORMADAT- Forum Masyarakat Adat Dataran Tinggi Borneo
(Alliance of the Indigenous People of the Highlands of Borneo)
4. SDNU- Sarawak Dayak National Union
5. SCRIPS- Society for Rights of Indigenous People of Sarawak
(Pertubuhan Hak Asasi Orang Asal Sarawak)
6. European Union Delegation to Malaysia
7. Centre for Malaysian Indigenous Studies
8. Pejabat Residen Miri
9. Persatuan Berawan
10. Persatuan Bisaya Sarawak
11. Sarawak Penan Association
12. BRIMAS- Borneo Research Institute
13. TRAFFIC-SEA (T-SEA)
14. Wild Asia
15. World Wild Fund for Nature-Malaysia (WWF-Malaysia)

4.0 Session Summaries

Opening Remarks

The workshop was chaired by Dr. Henry Chan from WWF-Malaysia and he welcomed and thanked all participants who made the time to come to the workshop. This two-day workshop focussed on topics such as forest governance, sustainable forestry, including the HCV concept. The chairman briefed that the workshop was to have the participants share issues which are important to them, and hoped that the concerns and suggestions will form the basis of change to forest governance in Sarawak.

First Day Discussion (8th May 2014)

Legal Overview - Ruzaini Hanum, TRAFFIC

Ruzaini Hanum (RH) from TRAFFIC firstly presented an overview of legal matters on forest governance, native rights, constitutional protections on rights to livelihoods, customary rights and forestry laws.

Discussions and comments as point form below (initials and organization in brackets):

- Josie Fernandez (JF; SCRIPS): state laws on social and native customary land are important as the Federal government does not have the jurisdiction over these laws.
- Chen Hin Keong (CHK; TRAFFIC) asked on how to identify the availability of laws-- whether one can get it online or in writing to the government.
- Fruit trees such as *durian* and *tapang* are listed in the Wildlife Protection Ordinance. Sago and rattan are not protected under any law, but during logging operations they (usually) will be excluded from harvesting.
- Although there are clauses for burial grounds, fruit trees, river reserve and water catchment, the enforcement to abide by these laws do not happen or are not respected. The Forestry Department should ensure good enforcement on the ground.
- Melawing Turau (MT; Sarawak Penan Association) informed that many of the Penan (who lives in the headwaters of the Baram) does not know about the laws and their rights. He highlighted that the logging companies use the license to operate as an excuse to “thrash” the forest and disregard community laws and customs.
- John Trawe (JT; FORMADAT): informed that he and the Rurum Kelabit are doing community mapping whereby they document all the details on the landuse in Bario, in collaboration with UNIMAS.

This map will be handed to the government. He further suggested that the participants need to identify the regulations and use it as a tactic to conduct an open dialogue with the government in order to amend the regulation. The definition of sustainability has to be from the community and brought to the Parliament as well as to look at the economic distribution (of the indigenous peoples amongst society). It is important to highlight the gaps in the existing Act so as to empower the communities to represent their interests and their rights. It was recommended by the participants to create a forum for discussion of the violation that is happening and inform the related parties so information can be escalated to other areas.

- Francis Tanggah (FT; Berawan Association): there is no clarity as to how to channel questions/ complaints if the logging companies violate laws and regulations, and also to protect the indigenous people's rights. He raised the question of the motive of changing Native Customary Rights (NCR) to Native Customary Land (NCL). He also mentioned that when the community claimed their rights when the companies have violated the (customary) laws and regulations, they were in turn sidelined and blamed for the problems occurred.
- JT: There is a by-law at the village level (in Ba' Kelalan), measures to protect the community forests and wildlife. However, plantations are the biggest threat to the community as the concessionaires do not respect the by-laws. How do we strengthen the by-laws? Would they have any use in Sarawak Court?
- CHK: how can we then expand the civil court decisions to all states?
- Beatrice Shamala Joachim (BSJ; EU Delegation to Malaysia) asked on what is the support mechanism for the community as there are many laws to conserve the forest but the implementation is very poor.
- When a report has been made, the forestry department did not monitor the situation.
- Illegal logging's impacts can be seen on the ground.
- CHK: Villagers concerned (impacted by logging) should equip themselves with the knowledge of which laws are applicable during logging operations (from the cutting down of trees to the logs being transported out of the forests).
- Ricky Ganang (RG; FORMADAT): previous experience has shown that there is always the risk of logs with different royalty (licenses) ended up being processed as different end uses (chance for corruption).
- Raymond Abin (RA; BRIMAS): how do we improve our laws as the current law does not recognise community rights? The rights of the

indigenous people need to be respected and recognised for the laws (on community rights) to be changed.

- Jayl Langub (JL; WWF-Malaysia): the Penans have a history of working together with logging operators in their own settlement. Some companies asked the villagers to paint the tree (used by the Penans) in red so it won't be logged. There is mutual understanding amongst companies and villagers. But the government must also recognize indigenous peoples' (IPs') rights.
- MT: knowing the laws is important. Local communities have the rights to access the basic necessities of life.
- RA: Sarawak Forest Ordinance does not have provisions for community forest. It should be encouraged into having one.
- CHK: Identify existing laws to help fight for the rights of IPs, and create an open dialogue with the government to amend the regulations; utilise the power of the district officers for the benefit of the IPs.
- JF: Policies and laws are decided at the Parliament. The definition of sustainability has to come from community and channelled through to the policy makers.
- Edward Guatee (Sarawak Bisaya Association): Urged this forum to be extended to other areas (within Sarawak). The discussions/ conclusions from this forum can be extended to other fora. He also highlighted the loopholes present in the law; policy is good but implementation and enforcement is lacking. He also questioned the communal reserves which were supposed to be provided by the government.
- BSJ: create a forum for discussion of the violation that is happening and inform the related parties so information can be shared with residents of other affected areas.
- HC: It is important for the local communities/ IPs to understand what kind of license is involved in logging, their customary rights, and also the law that is relevant and applicable to these people involved.
- RH: TRAFFIC, WWF/GFTN Compliance Framework can help identify violation of the law such as illegal logging, land rights violation, criminal offense and etc. This document can be used as an indicator for violation of law.
- HC: important to empower local communities and IPs to voice out their concerns

Free, Prior and Informed Consent - Toh Sumei, Wild Asia

Sumei shared a video on FPIC to the participants. She informed that Malaysia has signed the UN Declaration of Human Rights but it is not legally binding. Even though there is no customary land title law in Malaysia, the indigenous people still have their customary rights at the global level. Sumei also shared a video on community conflict between Chevron and communities in the Niger Delta around Chevron's facilities. The film conveyed how and why the communities decided to engage in the dialogue, what progress and challenges emerged along the way, and the achieved outcomes. It reflects how this experience spawned a continuing process with transparency, accountability, ownership and full participation of the communities themselves, to keep them relevant and vital.

Discussions and comments as point form below:

- Only a few participants understood the meaning of FPIC.
- Sagung Raja (SR; Sarawak Penan Association): expressed concerns on the importance of forests in the Penans' lives.
- George Sigar (GS; FORMADAT): hopes that the NGOs will collaborate with the government. Most importantly, the community must work together to express their views and claim their rights. He suggested publishing a book or an article on the identification of the timber species to be delivered and shared with the community.
- CHK: need to find a tactic to change the views of Ahli Dewan Undangan Negeri (ADUN) to amend the laws; Apart from using aerial imagery, we can also use surveys to obtain evidence.
- JF: experience in the Chini Lake project. The failure in getting recognition for the IPs rights was partly due to weak coordination among agencies.
- CHK: If two conflicting parties need to solve an issue, there should be an intermediary/ neutral party trusted by both conflicting parties to resolve the issue.

Community Forestry and FSC Certification - Thomas Jalong, JOAS

Thomas Jalong (TJ) first described in brief about FSC certification and how it relates to local communities and IPs. It has quite a comprehensive principle and criteria that respect IPs rights to land and water resources including the common and customary law. One of the principles not only respects, but also to support and preserve the rights.

TJ elaborated on the system and challenges faced by IPs in relation to community forestry, such as to name a few: (i) lack of capacity amongst the

IPs on this subject matter, (ii) lack of openness in attitude by other stakeholders towards local communities and IPs (iii) lack of self-governance—most village leaders are elected by the ruling government party.

He presented the traditional practices which utilises forest resources and the concept of village territory. There are a few new initiatives which are current and adaptive, and which is part of the commitment from the community. These are communal forest reserves, restoration projects and community-based forest management with the support of agencies, micro-hydro project, Peace Park (Ulu Baram) and the Kelabit Maligan Highlands conservation area.

Discussions and comments as point form below:

- HC: FSC gives a new perspective for a better forest management and WWF has a program on FSC certification. He hoped that Mr. Thomas could lead them as an organization.
- Michael Jok (MJ; SCRIPS) expressed his concerns on negotiating with the state government when the IP's rights are not even recognised. There is a lot of corruption and no ground for negotiation. In terms of forest conservation, the government must recognize the rights of community otherwise conflict will always occur. One of the challenges of FSC for community is the need to have the capacity where both parties need to discuss and consult to avoid any conflict. Other than that, there is a need for self-governance as most of the village heads are elected by the ruling party, as well as to have an attitude of openness from related parties.
- JF: How do we establish conflict resolution formally in Sarawak as there are no formal conflict resolution mechanisms in Malaysia?
- TJ: Currently, as there is no mechanism in place, JOAS approaches at every level to resolve the issue.
- JL: an example of hydro projects in Canada whereby local communities are involved, utilising traditional knowledge.
- TJ: Companies that are FSC certified should comply with the Principles and Criteria, and recognise the rights of the local communities.
- RA: in terms of forest conservation, the government must recognise the rights of local communities and IPs, otherwise conflict will always occur. That is happening to the forest community. But the government does not provide any help. If both parties want to resolve the issue, they need to share a common ground, especially to recognize the community/native rights. The community does not approve of the Bakun dam and every dam project. To achieve an agreement, there is no win-win situation in terms of dam project.

- HC: to hold a dialogue next year on the topic of hydropower dams project.
- Chen: The hydropower project is a different issue from land conversion, involving different sets of laws and regulation.

Second Day Discussion (9th May 2014)

Overview of HCV - Toh Sumei, Wild Asia

There are six HCVs which include species, landscape, ecosystem, ecosystem services, community needs and cultural values. HCV is a science-based process providing a systematic framework for identifying what is significant to the particular area. It is also stakeholder-based where it needs feedback from stakeholders especially the local community who will be affected from forest management. This concept can be applied to a wide geographical area at different scales and can be used at the land-use planning stage to manage forest concession. Dr. Henry shared examples of a HCV assessment conducted in Kubaan Puak, upper Baram. The HCV report is crucial for the company to consult and discuss with the villagers to avoid any future conflicts.

Discussions and comments as point form below:

- Elbson Marajan (EM; SDNU): apply pressure to all financial institutions with regard to their investment activities.

UNDRIP - Dr. Ramy Bulan, Centre for Malaysia Indigenous Studies

UNDRIP is a declaration on the rights of indigenous people. There are four concepts which are treaty, agreement, convention and declaration. Treaty is a binding instrument at international law concluded among various international states or entities intended to create legal rights and duties. Agreement is less formal and employed as an instrument of a technical or administrative nature. Convention is a formal multilateral treaty with a broad number of parties. It normally is opened for participation by the international community. Lastly, the declaration concept is used for various international instruments for declaration of certain aspirations. However, it is not always legally binding. The UNDRIP is an instrument for international human rights as it sets the minimum standards for guaranteeing the collective rights that have been long exercised by the indigenous peoples. Dr. Ramy gave an example of a case in Kenya whereby the communities have successfully used international guidelines in order to push for their rights.

Discussions and comments as point form below:

- BSJ asked about the lessons learned that the indigenous peoples can benefit from to further improve their lives.
- Dr. Ramy advised that the community must be proactive to voice their concerns at any level.

Group Discussion

Based on the key points and issues that were discussed as above, participants were asked to form groups according to the following themes and to discuss on (i) issues and challenges faced, (ii) positive outcomes or resolutions, (iii) players and stakeholders involved:

- 1) Land policies and tenure
- 2) Land use
- 3) Local communities being the “eyes of the forest” (to monitor transport of logs out of the forest, i.e. Chain of Custody)

The following are main points and the summary from the discussion. Full details can be found in Appendix 1.

- *Land Policies and Tenure.* The challenges include having no transparency at all during the implementation/ enforcement of policies/ laws and regulations. There is no recognition at all with regards to native rights to land in state or federal government policies. There is also weak interagency coordination when it comes to forest (and the land associated with it) governance. The lack of knowledge amongst IPs also contributed to them not being able to participate meaningfully or contribute to decision-making at the policy level. Participants recommended conducting dialogues or forum at the district areas. It was stressed that the community need more information so they can make better decision. One of the strategies is to work together with the village chief or political party leadership. Encouraging forest certification can also improve transparency on the forest policies. In the long-run, we should also aim at amending the land and forest policy to incorporate HCVs, Environmental Impact Assessment (EIA), FPIC, and provisions for wildlife corridor within the framework. Suggestions were also to lobby at the high level in State Government to produce a circular for a more comprehensive forest management plan.
- *Land Use.* There is widespread lack of awareness and knowledge within local communities/ IPs on forest management and forestry

operations, including how much forest resources are left. There is also almost no opportunity for them to participate in policy and decision-making with regards to forest management. On the other hand, logging operators have no regard for laws and regulations, or the environment, causing negative impacts on the environment such as river pollution which is a source of drinking water to the local communities. Food source of forest dependent communities are also affected from unsustainable logging operations—food plants/ trees, animal migration routes are destroyed. Furthermore, no benefit sharing exists for local communities in terms of employment and revenue from the forest, or even compensation from the negative effect on the environment. In terms of forest governance, there is weak enforcement of forest laws and regulations and no transparency during the issuance of timber licenses. So far, there has only been one case whereby the company had consultation with the local community before the start of logging operations. This practice is certainly not the norm in Sarawak timber concessions. To address these issues, the participants came up with a few suggestions: there should be laws and regulations for protecting riparian buffers and water catchment based on research and analysis; enforcement of laws and regulations must be strengthened and monitored constantly; lobby for more transparency in forest management and logging operations; degraded forest-land should be rehabilitated, preferably with fruit trees; encourage and lobby for forest managers to set aside HCV areas, including wildlife and animal migration corridors; lobby/ promote recognition of IPs rights—benefit sharing, involving local communities in forest management; lastly, local communities should receive more awareness on matters related to forest management and forestry operations.

- *Local communities to be the “eyes of the forest” to monitor transport of logs out of the forest.* In general, there is a lack of awareness amongst IPs on the laws and regulations regarding forest management and forestry operations. Even though if there is realisation that the companies are going against the laws, there are no channels for the local communities/ IPs to voice their concerns or lodge a complaint to the right authorities. Logging operators also do not respect the rights of IPs and local communities; benefit sharing does not exist—logging operators do not provide job opportunities to local communities, and they sometimes take in illegal workers, creating social issues within the local communities. Logging operators are not penalised for the detrimental effects

logging operations have caused on the environment. Logging roads built on IP land caused health and safety problems. Lack of transparency and weak enforcement of laws create loopholes for illegality to happen. Some participants feel that there is a problem with the existing logging system—royalties on logged trees are based on volume only, instead of taking into account also the timber species. Although the presence of operators means that there is free transport for local communities, there are risks associated with it. Suggestions to overcome the issues were: awareness building for local communities and IPs on forestry operations; certification to increase transparency and to improve environmental practices amongst companies; lobby for more transparency in forest management, including having public consultations before logging operations are carried out; lobby/ promote recognition of IP rights—benefit sharing and suitable compensation for local communities if their environment is degraded by logging operations. Lastly, the participants suggest to set-up channels to voice out concerns to the international community to build pressure on the Sarawak government. There are two existing platforms for the participants to voice their concerns, which are through meetings with government administration and by writing in to the EU to state their intention to be part of the Forest Law Enforcement, Governance and Trade (FLEGT) process.

Way Forward

JT requested to get the authorities and international organisations to meet, with the help of European Union (EU) as a speaker. HC suggested that WWF can coordinate with the authorities to conduct a multi-stakeholder consultation in the near future. WWF will prepare a workshop report and it will be circulated to all associations for feedback. The draft report will also be translated into Malay to be given to the local community, and circulated to the authorities. HC suggested conducting a dialogue next year related to the dam projects. CHK agreed the need for more dialogue to identify the dam development as dam project problem is different from land conversion. In general, all participants thought it was a good start. A few suggestions were brought forward by the group as to what should be the next steps:

- Write to the European Union and state the intention to be part of the FLEGT-VPA process
- Use the political influence (local MB) to voice concerns, with the acknowledgment that it will be a long process
- Get management authorities (Forestry Department, EU representatives etc.) to come to a common workshop/event/meeting

- WWF-Malaysia & Centre of Malaysian Indigenous Studies (CMIS) to coordinate interactions with authorities & other institutions
- SCRIPS to facilitate discussions amongst Indigenous People & social groups

5.0 Any other matters

Nicholas Fong (NF; WWF-Malaysia) mentioned about the traceability of timber and Native Customary Rights that may have been changed to Native Customary Land. In addition, there is inadequate information on licensing and land usage. The establishment of forest control has become an issue whereby the rights of the indigenous peoples are immediately removed. The management option in the context of HCV must be done with the involvement of community including women and children. HC expressed his concerns that it is important to understand the scope of legality as well as to monitor the transport of logs out from the concession. RA stressed that in order to strengthen the laws of community rights, the rights of the communities need to be respected and recognised first.

6.0 Concluding Remarks

The two-day session covered the national and state laws applicable to forestry, social, and native customary lands, among others. The workshop also touched on the global perception of Sarawak's logging practices, the socialization of FPIC as well as information sharing from JOAS on community forestry and FSC certification. The workshop generated a productive discussion on issues concerning the rights of indigenous people and the problems and conflicts over land due to a lack of clarity on the tenure rights which exacerbates the issues within the forest sector involving private logging companies. Although many of the participants were well aware of the issues, they did not seem to be able to address and resolve the conflicts in the areas where they reside. The participants also reckoned that FPIC must be practiced before any activities could be carried out, and there is a need for conflict resolution to be established and accepted by all stakeholders in Sarawak; private sector should recognize and respect the rights of the native.

Through WWF-Malaysia's facilitation, one of the outcomes generated from the workshop was that two NGOs (T-SEA and SCRIPS) were to submit a proposal each requesting funding from the EU FAO FLEGT Programme. If these proposals are approved, these two NGOs would foster a collaboration focusing their work on Sarawak with technical assistance from WWF-Malaysia

Having no other matters to be discussed, the workshop ended at 5.00 p.m.

6.0: Plates



Group photo of Improving Forest Governance and Forest Sustainability workshop



Participants during break-out session



Workshop participants



Ms. Su Mei of WildAsia

Appendix 1: Group discussion¹

<i>Group 1 Land Policies and tenure (Facilitated by TRAFFIC)</i>			
Issues & Challenges	Positive Outcome/Resolutions	Stakeholders	Recommendations & Next Steps
<ul style="list-style-type: none"> • No transparency • Apakah policy <i>tanah asal usul</i> (native land) Federal/State <ul style="list-style-type: none"> ➤ Recognise ➤ Renew ➤ Multi-stakeholder consultation • Weak interagency coordination • Lack of knowledge amongst the IPs • Ahli Dewan Undangan Negeri (ADUN) –Rules & regulations (<i>peraturan</i>) 	N/A	Smart partnership with: <ul style="list-style-type: none"> - Private companies - Academics - NGO—local, federal and international - Media (for monitoring, guidance) - FPIC/ MAPT 	<ul style="list-style-type: none"> • Strategy: <ul style="list-style-type: none"> - Leadership - Politic - Ketua masyarakat - Ketua kampung • Knowledge • Integrity • Forest policy-- Transparency from certification • Amend land policy • Amend forest policy <ul style="list-style-type: none"> - HCV, EIA, FPIC - prescribe activity for EIA - wildlife corridor • Circular for more comprehensive management plan

¹ Discussions were captured as close to the meaning as possible— corrections/ additions were made where there were inconsistencies, repetitions and unclarity, but the general meaning was retained.

Group 2 Local communities to be the “eyes of the forest” to monitor transport of logs out of the forest (Facilitated by TRAFFIC)			
Issues & Challenges	Positive Outcome/Resolutions	Stakeholders	Recommendations & Next Steps
<ul style="list-style-type: none"> • Not informed on the procedure of transport & forestry, for e.g. compensation • Company take for granted --- not informing the community of the company' operations in the area. • Companies get people from other areas (not local) to work in transportation & other sectors – illegal workers • No transparency; inaccessible information • No fees imposed on heavy machinery to be paid to state government ministries. i.e. Forest Department & Department of Transport (<i>Jabatan Pengangkutan</i>); documentation of machinery incomplete • Road destruction during logging operations • Log pond has many licenses (logs get mixed-up) • Companies use IP Land to build logging road <ul style="list-style-type: none"> ➤ dust ➤ health ➤ safety (accidents arising from vehicles) • Communities do not know how to justify compensation • Not enough information on the logging site <ul style="list-style-type: none"> ➤ no chain- of- custody (COC) info ➤ truck drivers don't know ➤ Logging operators do not wish to inform IPs ➤ Land-use benefits sharing for road (where and how much) • Stealing of logs during transportation. • How and where to channel complaints (about 	<p>Free transportation for local communities (but with associated risks)</p>	<ul style="list-style-type: none"> • IPs • Logging Companies • Labour Department • NRDO • Immigration Department • EPF • Sarawak Forestry Corporation /Forest Department • JKR – public road usage • Hardwood Timber Sdn Bhd • Malaysian Anti-Corruption Commission • Auditor General • NREB 	<ul style="list-style-type: none"> • Right to know – get IPs more informed on CoC • Forest Department to provide training to IPs on the (logging) procedure. • Get local IP as workers. • 1 license for 1 company for 1 log pond's wood • More well-organised process on how to voice out internationally • IP must know about royalties • CSR: <ul style="list-style-type: none"> - Company must help on transportation - Insured and compensate on safety - Where will this recommendation go? - Who will implement - Where is the platform • House cleaning – FD, SFC, Harwood • Company to go for certification → more transparency of company operations, i.e. public summary of audits • Register the heavy machineries in logging operations • Inform to IP (all) prior to logging • All environmental effects must be borne by companies and paid to IP

illegality) <ul style="list-style-type: none">• Initial existing roads are purposely damaged• Corruption at all levels• Royalties based on volume instead of taking into account the timber species• Access to good (and credible) information			
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Group 3 Land use (Facilitated by Wild Asia)			
Issues & Challenges	Positive Outcome/Resolutions	Stakeholders	Recommendations & Next Steps
<ul style="list-style-type: none"> • Forest Management: knowledge of different categories of FM – state, ladang etc. • River Protection: <ul style="list-style-type: none"> - pollution - not following the laws - unclear about buffer zones • No permanent protection for land-use change • No enforcement of laws or regulations • lack of preliminary survey (before land-use change happens) • Tanah Adat (<i>Customary land</i>)—unsustainable logging destroys and degrades forest--no more forest produce for IPs • Livelihood – Food resources eg. Sago, wild food, animals, game migration, salt lick, employment, partnership, commission from logs • Cultural: archaeological site – gravesites, holy sites, ritual sites are not respected • Provisional lease(PL) & TIMBER LICENSE, SYARAT2 & OTL - not transparent • Forest policy: <ul style="list-style-type: none"> - don't understand - cannot participate at policy level & forest management level • Lack of respect of rights of community- 	<ul style="list-style-type: none"> • There are companies who listen to the IPs, e.g. Ta Ann, but these are very far and few in between (taking Kubaan Puak example) – they are adopting good practices and taking the right steps • However, it is yet to be seen if the company is sincere • Should beware the risks of “greenwashing” by company 	<ul style="list-style-type: none"> • NREB • Health Dept. • Kampung-kampung • Company • Perikanan • DID (Federal agency in charge of rivers) • Villagers • License holders • Forestry Department • All interested stakeholders, researchers and NGOs 	<ul style="list-style-type: none"> • Laws or regulations for riparian buffer & water catchment (based on science)-Policy Research and Analysis • Forest and land laws vs. SCORE—which is stronger and has precedence? • Enforcement needs to be strengthened –but who does the monitoring? • Water source of local people need to be protected • Replanting on degraded land with native species which bear fruits. Done with agreement with the land owner • Protection Zone eg. HCVs including (animal) migration corridors, wildlife corridors • Partnership/agreement e.g. Keresa • Transparent mechanism: benefit sharing from logs - how many tonnes, volume & price? • Study ways where rights can be recognised • New policy statement to include local community involvement in forest management <ul style="list-style-type: none"> - “Policy Dialogue” – who and what platform? • Timber certification to improve transparency: “public summary” -- <ul style="list-style-type: none"> - Influence dept. to go for certification. • Issue Moratorium on logging concession until commitment to respect (IP) rights. • Supporting evidence/proof/research <ul style="list-style-type: none"> - Suhakam N1 report - JOAS resolution - Financial institutions: who's funding who?

<p>hooligans and gangsters</p> <ul style="list-style-type: none"> • Understanding forest management issues: <ul style="list-style-type: none"> - data/statistics about what/how much forest is left? - getting the right data - what is a forest? 			<ul style="list-style-type: none"> - Global Witness etc. • Awareness and understanding • Rights, history & proof; mapping • Write to company/authority • Lodge police report every year <ul style="list-style-type: none"> - IPs were asked to not disturb company - Land taken away from community - How to claim rights to land by Michael Jok
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Appendix 2: Facilitators

TRAFFIC - Chen Hin Keong has over 20 years' experience working on conservation and environmental issues globally. During the course of his career, he has worked with and interacted with a wide range of organisations from the civil society in the Asia-Pacific region. He has been working with TRAFFIC, the wildlife trade monitoring network for the last 19 years, initially as the Director of TRAFFIC Southeast Asia, and in the last 13 years as the Forest Trade Programme Leader, working on timber supply chain transparency and forestry governance issues, based in Kuala Lumpur, Malaysia. TRAFFIC is a strategic alliance of WWF and IUCN. TRAFFIC aims to ensure that trade in wild plants and animals are not a threat to the conservation of nature. Chen has worked on the role of customs in controlling and enforcing illegal timber trade.

Wild Asia - Toh Sumei is a natural resource biologist trained in environmental and development studies. Her auditing experience focuses on social aspects of certification systems using the FSC and MTCC Principles & Criteria for forestry, as well as the RSPO Principles & Criteria for oil palm. She has also been involved in social assessments in Malaysia as part of HCVF studies for both oil palm and forestry sectors, with clients ranging from corporations to government departments to NGOs.

Centre of Malaysian Indigenous Studies (CMIS) - Dr. Ramy Bulan is Associate Professor of Law at the Faculty of Law, University of Malaya. She is founder Director of the Centre for Legal Pluralism and Indigenous Law at the Faculty of Law and is also the Director of the University of Malaya's Centre for Malaysian Indigenous Studies. Dr Bulan's research and publications focus on indigenous peoples and the law, particularly on customary laws and indigenous land rights. She has been commissioned to write a number of reports for international and national organisations. Dr Bulan is also an Advocate and Solicitor of the High Court (Sabah and Sarawak).

TRAFFIC - Ruzaini Hanum (*Not available*)