
Malaysia: MTCC certificates logging concession disregarding Penan's rights and will

The Penan in Sarawak have been struggling for their rights to land and forests for more than twenty years, not only by setting up logging road blockades, but also by legally claiming their Native Customary Rights (NCR) in court. In spite of their ongoing resistance against logging and plantations on their native land, the Sarawak government and its concessionaries --logging and plantation companies-- continue to disrespect the Penan's rights on their land.

In an unprecedented move, the Malaysian Timber Certification Council MTCC issued a certificate for Forest Management to Samling Plywood (Baramas) Sdn. Bhd. for a logging concession on which a Penan landright case has been pending since 1998. This means that Samling now sells its timber from the area as being harvested "sustainably" and "legally"--timber extracted from Penan territories against the declared will of the communities. Despite repeated protests by the Penan, MTCC has refused to live up to its own (pretended) standards and to withdraw the abusive certificate granted to Samling in October 2004.

As the European Union is currently discussing to accept MTCC, and the Dutch Keurhout Foundation has already accepted MTCC (for timber from Peninsula Malaysia) as being of "legal" origin, the European NGOs Bruno Manser Fonds, Rainforest Foundation Norway and FERN have felt that governments should urgently be informed about the disregard of indigenous peoples' rights by MTCC and should be urged not to accept MTCC as a proof of sustainability or legality.

Consequently, they have issued the following statement which has been circulated among NGOs for their signature, urging governments and industry not to accept Malaysian Timber Certification Scheme MTCC based on its disregard for indigenous peoples' rights:

"We, the undersigned non-governmental organizations (NGOs), urge the European Union, European governments and the European timber industry not to accept the Malaysian Timber Certification Scheme (MTCC) as a guarantee for sustainable or legal timber forest management because the MTCC does not respect indigenous peoples' rights. We are particularly concerned about the recent certification of a Forest Management Unit in Sarawak, which openly disrespects the Penan people's rights. The undersigning NGOs support the Penan communities' call for an immediate withdrawal of this certificate.

The Malaysian Timber Certification Council (MTCC) prides itself for guaranteeing the sustainable and legal origin of timber products marketed under its certification scheme. However, Malaysian NGOs have criticized MTCC's disregard for indigenous peoples' rights for years. The recent certification of Samling Bhd. --both the first private company and the first Forest Management Unit in Sarawak to be certified-- confirms MTCC's disrespect for indigenous communities in an appalling way: one of the most disputed forest areas in Sarawak was certified without consulting all of the affected Penan communities.

Large parts of the recently certified Samling Sela'an-Linau Forest Management Unit in the Ulu Baram

area of Sarawak are in an area in which the Penan claim to have Native Customary Rights (NCR) and have submitted this to the Court in 1998. The case is still pending at the Sarawak High Court. By certifying the area, MTCC is in breach of its own certification standards according to which "long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established".

Samling first entered the area in the early 1990s, relying on police force to break the indigenous peoples' resistance to logging. Ever since logging began, the Penan have been protesting against the destruction of their forests, on which they depend for hunting as well as for gathering wild sago, medicinal plants and rattan for their handicraft.

In January 2005, more than 600 sedentary and semi-nomadic Penan living in the area protested against the certification, a protest confirmed by a meeting of the community representatives on 18 August 2005.

In a letter of 25 January 2005, to MTCC, headman Bilong Oyau of Long Sait (Miri Division, Sarawak) wrote: "We strongly reject this certification (...) We have been living here in peace until the timber companies came to disturb our life and encroach into our forest.(...) Many of us have suffered due to the Samling logging operations: our rivers are polluted, our sacred sites damaged and our animals chased away by people who deprive us of our livelihood and culture."

While MTCC continues its worldwide public relations efforts, it ignores the Penans' protest and refuses to withdraw the abusive certification of an area which is being logged against the will of the affected indigenous population.

Acceptance or rejection of MTCC as a standard of legality is truly important and can be seen as a barometer of what standards European governments will establish for "acceptable" tropical timber. This is particularly relevant in the light of decisions being made in the FLEGT licensing process and timber procurement policies of EU member states.

The NGO community disagrees with assessments made by EU member states, such as the UK and Denmark, and by the timber industry, such as the Dutch Keurhout Association which have deemed MTCC to be a guarantee of legality.

In terms of indigenous peoples' rights, the certification of the Samling Sela'an - Linau concession in Sarawak is totally unacceptable and a further proof that MTCC's "sustainability" and "legality" does not include the basic rights of the affected indigenous population.

We urgently encourage the responsible ministries and the timber industry to reconsider the Malaysian Timber Certification Scheme MTCC in the light of this new evidence.

[Firms follow]"

For more information a report about the MTCC concession can be found at:
<http://www.bmf.ch/en/pdf/selaan-linau-report.pdf>

