Annex II: Overview of legally required documents

Domestic material

Documents to Indicate Legality for timber from Forest Management Units in Forest Reserves Class II: Production forest).

a) Legal right to harvest and other key forest level legality documents
   - Sustainable Forest Management License Agreement (Figure 1)
   - Assignment Agreement (Figure 2)
   - Forest Management Agreement (Figure 3)
   - Forest Management Plan (Figure 4)
   - Approved Comprehensive Harvesting Plan (Figure 5)

b) Transport from Forest to primary processing
   - Removal Pass Form IV (Figure 6)
   - Disposal Permit for Round logs Form V (Figure 7)

c) Processing
   - Trading license issued by municipal / town council (Figure 8)
   - Sawmill license issued from Sabah Forestry Department (Figure 9)
   - Registration as Sawmill contractor (Figure 10)
   - Manufacturing License issued by MITI (Figure 11)

d) Further transport and processing (if relevant)
   - Removal Pass for Forest Produce Form IV (Figure 12)

e) Export
   - Export License issued by Sabah Forestry Department (Figure 13)
   - Registration with Malaysian Timber Industries Board (MTIB) (Figure 14)
   - Bill of Lading (Figure 15)
   - Certificate of Origin (Figure 16)
   - Phytosanitary certificate (Figure 17) – Optional if required by Import Country
   - Fumigation Certificate (Figure 18) – Optional if required by import Country
Figure 1: Sustainable Forest Management License Agreement
Figure 2: Assignment Agreement

Figure 3: Forest Management Agreement
Figure 4: Forest Management Plan

Figure 6: Removal Pass for Round logs Form IV
Figure 7: Disposal Permit for Round Logs (Form V)

Figure 8: Trading license

Figure 9: Sawmill license
Figure 10: Registration as Sawmill contractor

Figure 11: Manufacturing License
Figure 12: Removal Pass for Processed Timber

Figure 13: Export License
Figure 14: Registration with Malaysian Timber Industry Board

Figure 15: Bill of Lading
Figure 16: Certificate of Origin

Figure 17: Phytosanitary Certificate
Figure 18: Fumigation Certificate
# Annex III: Laws and regulations

<table>
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<tr>
<th>P</th>
<th>C</th>
<th>Principle</th>
<th>Legal Requirements (from TLAS May 2013) and explanation of requirements</th>
<th>Applicable legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>Approval of harvesting area</td>
<td>i. Any registered company, company with trading license or qualified individual (Sabahan) who intends to harvest forest produce from permanent forest (PF) and State Land (SL) shall obtain an approval from the Natural Resources Office (NRO) under the Chief Minister’s Department or the Director of Forestry (DoF) for Alienated Land (AL).&lt;br&gt;ii. Areas gazetted for specific purposes, including Native Customary Right (NCR) land are excluded from the area to be approved for harvesting in PF and SL.</td>
<td>• Land Ordinance (Sabah Cap. 68)&lt;br&gt;• Sabah Forest Enactment, 1968 (Section 24(5))</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>Land title</td>
<td>i. Land owner shall have a valid land title/or letter of confirmation of land applicant from Assistant Collector of Land Revenue on the land status and receipt of payment of land premium.&lt;br&gt;• Evidence of ownership (land title and other documents)&lt;br&gt;• Payment Receipt of land premium&lt;br&gt;• Letter/agreement/contract between the land owner and contractor&lt;br&gt;• Letter of confirmation of land ownership or status from the ACLR&lt;br&gt;Timber Licences are also issued in Alienated lands on Form 2B basis. The issuance of Form 2B Licences is important as logs produced from this type of licence supplements the needs for the raw material supply for the wood-based industries in Sabah, in order to sustain their operations. Similarly, it also helps to promote the economy of the ‘small-scale’ timber operators in Sabah. Form III licences are issued for the purpose of removing felled logs from alienated lands during land clearing activities and, they are assessed for royalty and other charges by Sabah Forestry Department staff before they can be removed from the respective land. Essentially, royalty and other charges collected from logs under Form 2B licences, add to the coffers of the State government.</td>
<td>• Land Ordinance (Sabah Cap. 68)&lt;br&gt;• Forest Rules, 1969 (Rule 3)&lt;br&gt;• Sabah Forest Enactment, 1968 (Section 24(5))</td>
</tr>
<tr>
<td>1</td>
<td>3</td>
<td>Harvesting license and/or coupe permit</td>
<td>Any company or person/licensee who intends to harvest forest produce from a forest area shall have a valid harvesting licence. The issuance of a harvesting licence is subject to:&lt;br&gt;• Approval of forest harvesting area (refer Tables 1, 2, 3).&lt;br&gt;• Letter of approval for issuance of licence from NRO (PF &amp; SL – short term licence).&lt;br&gt;• Approved EIA study / PMM where applicable (refer Table 5).&lt;br&gt;• Demarcation of harvesting area (refer Table 7).&lt;br&gt;• Approved Inventory Report (refer Table 8).&lt;br&gt;• Payment of licence fees and other charges imposed (refer Table 15).&lt;br&gt;• Letter of approval for issuance of harvesting licence in AL from DoF (refer Table 1).&lt;br&gt;Forest licences are issued under Section 24 of the Forest Enactment 1968. As a requirement of the licence conditions, coupe permits are issued to licensees subscribing to Sustainable Forest Management (SFM) under the Sustainable Forest Management Licence Agreement (SFMLA).&lt;br&gt;The coupe permits are issued to the SFMLA holders for allowing them to carry out various activities such as: Harvesting and Silvicultural Tending Treatments.&lt;br&gt;-Industrial Tree Plantations.&lt;br&gt;-Forest Restoration and Enrichment Planting.&lt;br&gt;-Agro-Forestry establishment.&lt;br&gt;-Nursery Development.&lt;br&gt;-Helicopter Logging / Eco-logging.&lt;br&gt;-Animal Husbandry.&lt;br&gt;The coupe permits issued are in compliance with the licence agreement meant for systematic harvesting with Reduced Impact Logging (RIL) techniques, silvicultural treatment, industrial timber plantation development, and forest restoration/enrichment planting. These management activities are monitored and administered by the District Forestry Officers.</td>
<td>• Forest Rules, 1969 (Rule 3)&lt;br&gt;• Sabah Forest Enactment, 1968 (Section 15 and 24)&lt;br&gt;• Director of Forestry Circular: FD26/2009</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>EIA requirement</td>
<td>i. The Licensee/Land Owner has an approved EIA Report from the Director of Environment Protection Department (EPD) for forest related activities involving removal of timber in an area of 50 ha and above.&lt;br&gt;ii. The Licensee/Land Owner has an approved PMM from the Director of EPD for forest related activities involving removal of timber in an area between 100 ha and 500 ha.&lt;br&gt;iii. The Licensee / Land Owner has an approved EIA from the Director of EPD for forest related activities involving removal of timber in an area of 100 ha or more bordering any protected areas.&lt;br&gt;iv. The Licensee/Land Owner has an approved PMM from the Director of EPD for forest related activities involving removal of timber in an area between 50 ha and 100 ha bordering any protected areas.&lt;br&gt;v. The licensee shall implement relevant mitigation measures as required.</td>
<td>• Environment Protection Enactment 2002 [Sections 12, 13, 14 &amp; 20]&lt;br&gt;• Environment Protection (Environmental Impact Assessment) Order 2012&lt;br&gt;• Environment Protection (Registration of Environmental Consultant) Rules 2005&lt;br&gt;• Environmental Quality Act, 1974</td>
</tr>
</tbody>
</table>
### Table: Malaysia Forestry Risk Profile: Sabah

| 1 | 5 | **Forest Management Plan**  
|---|---|---|
| i. The licensee shall develop a 10-year Forest Management Plan (FMP) and/or 10-year Plantation Development Plan (PDP).  
ii. The FMP or PDP shall be approved by FDS  
iii. The FMP clearly describes the policy, management systems, forest resources, environmental and social elements associated with the SFMLA to be revised every 5 years as defined in the agreement.  
iv. The licensee shall implement operations according to the FMP | • Forest Enactment, 1968 (Section 15 & 28A)  
• Sustainable Forest Management Licence Agreement (SFMLA)  
• Sabah Forest Management Licence Agreement  
• Director of Forestry Circular: FD26/2009 - Guidelines for Logging and Forest Clearance Activities, 2002  
• Long Term Licence (LTL) conditions |

| 1 | 6 | **Annual Work Plan and Comprehensive Harvest Plan**  
|---|---|---|
| i. The licensee (SFMLA/LTLA) shall have an approved Annual Work Plan (AWP) consisting of harvesting components.  
ii. The licensee shall have an approved Comprehensive Harvest Plan (CHP) consisting of harvesting components.  
iii. CHP shall comply with Reduced Impact Logging (RIL) Operation Guide Book such as roads, skid trails and log landings density and location, harvestable tree marking and stream buffer zones identification.  
iv. The licensee shall employ registered CHP contractor. | • Forest Enactment, 1968 (Section 15 & 28A)  
• Sustainable Forest Management Licence Agreement (SFMLA)  
• Long Term Licence (LTL) conditions  
• Forest Enactment 1968 (Section 28A)  
• Director of Forestry Circular: FD26/2009 - Guidelines for Logging and Forest Clearance Activities, 2002  
• Long Term Licence (LTL) conditions |

| 1 | 7 | **Plantation development plan**  
|---|---|---|
| The licensee shall develop a 10-year Plantation Development Plan (PDP). The PDP shall be approved by FDS | • Forest Enactment, 1968 (Section 15 & 28A)  
• Director of Forestry Circular: FD26/2009 - Guidelines for Logging and Forest Clearance Activities, 2002  
• Long Term Licence (LTL) conditions |

| 1 | 8 | **Annual Work Plan**  
|---|---|---|
| The licensee (LTLA) shall have an approved Annual Work Plan (AWP) consisting of harvesting components. The licensee is required to obtain approval for Annual Work Plan (AWP) based on the 10-year Plantation Development Plan (PDP). Annual Work Plan containing maps and description of areas and types of operations to be carried out during the year is available and approved by FDS | • Forest Enactment, 1968 (Section 15 & 28A)  
• Director of Forestry Circular: FD26/2009 - Guidelines for Logging and Forest Clearance Activities, 2002  
• Long Term Licence (LTL) conditions |

| 1 | 9 | **Area demarcation and mapping**  
|---|---|---|
| i. SL: Licensee to appoint a licensed surveyor to demarcate the area upon receiving Registered Survey Paper (RSP) from LSD.  
ii. AL: The landowner and/or authorized contractor has to maintain boundary stones for field verification.  
iii. PF: Licensee to appoint a licensed surveyor upon receiving Letter of Offer and survey permit from the DoF to demarcate the area based on Second Class accuracy standard.  
iv. PF / SL: The licensee (via appointed licensed surveyor) surveys, marks with picket (PF)/boundary stones (SL) and underbrushes licence boundary on the ground. | • Land Ordinance (Sabah Cap. 68) (Part VIII-Demarcation and Survey)  
• Sustainable Forest Management Licence Agreement  
• Long Term Licence conditions  
• The Surveyors (Conduct of Title Surveys) Regulations, 1962  
• Surveyor Ordinance 1960 |

| 1 | 10 | **Forest Inventory**  
|---|---|---|
| i. The licensee conducts systematic plot sampling forest inventory in accordance with the Director’s Circular: FDS 26/2009 as follows:  
a) Area below 600 ha – Timber cruise  
b) Area above 600 ha – L-shape  
Note: Not applicable under Form IIB application after trees are felled. | Director of Forestry Circular: FD26/2009 |
### Harvesting Operations

1. The licensee shall adhere to the harvesting license condition/coupe permit.
   
   - Meeting operational elements of RIL (such as road alignment and construction, directional felling, log extraction, etc.)
   - Registered RIL contractors
   - Trained RIL workers
   - Daily Felling Records
   - Quarterly Logging Progress Report & Closing Inspection Report
   - Harvest practices shall be in accordance with the RIL Code of Practice

2. Non-RIL (SL & AL)
   
   - Registered logging contractor
   - Quarterly Logging Progress Report & Closing Inspection Report

iii. The licensee and/or appointed contractors shall comply with the AEC and MD. (Refer Table 5)

iii. The licensee shall notify the Director of Wildlife Department one month before commencing harvesting operation for any area to be harvested.

iv. The licensee shall not commence operations before receiving notification or approval from the Wildlife Department

v. The licensee and/or appointed contractors shall comply with EIA mitigation measures.

vi. Areas prohibited from harvesting such as steep slopes and buffer zones are protected

vii. The licensee shall maintain records of all trees felled and extracted that include species, diameters & volume traceable to the tree - (Compartment felling records)

ix. The organisation shall demonstrate implementation of elements listed in the Annual Work Plan

x. Organization shall demonstrate compliance to tree marking regulations on diameter limits, species, slope limits etc.

### Control of Timber Production

1. ITP (PF)

   i. Licensee only allowed to extract planted trees from compartments approved in the AWP.

   ii. Licensee records all productions of plantation logs based on volume or weight and submits records to DFO for the issuance of Transit Pass and submits monthly production reports to the DFO.

   iii. The licensee shall adhere to the harvesting license condition/coupe permit.

   iv. Licensee ensures that their logging contractor is registered with FDS.

   v. The Licensee submits the Quarterly Logging Progress Report to DFO.

   vi. The licensee shall register Property Hammer Mark for sawmill/plymill processing.

   vii. Licensee shall incise a serial number on all logs for sawmill processing.

   viii. The licensee shall register Property Hammer Mark, FDS Inspection Hammer Mark. Logs shall be accompanied with Removal Passes upon payment of royalty.

   ix. The licensee carries all logs transported to approved stumping area with Property Hammer Mark.

   x. The licensee and/or appointed contractors shall comply with EIA mitigation measures. (Refer Table 5)

2. ITP (SL/AL)

   i. Land owner and developer shall get all harvested trees inspected by the DFO prior to removal.

   ii. Plantation logs to be removed are covered by Removal Pass.

   iii. DFO records all productions of plantation logs based on the number of logs or volume as in the Removal Pass.

   iv. The land owner shall comply with EIA/PMM. (Refer Table 5)

### Log Transportation

2. For logs where royalty is assessed at the Pangkalan or Weigh Bridge at the Mill Gate:

   i. Licensee transports logs from the Stumping Point to the Pangkalan or weigh bridge at the mill gate bearing Property Hammer Mark and FDS Inspection Hammer Mark. Logs shall be accompanied with a Transit Pass and/or CS Form.

   ii. Licensee transports all logs from the Pangkalan to the Port of loading/to the mill bearing FDS Royalty Hammer Mark. Logs shall be accompanied with Removal Passes upon payment of royalty.

   iii. The licensee transports marked logs to approved stumping area.

   iv. For logs transported between mills shall be accompanied with Removal Passes.

   v. Logs transported from a designated area to another destination only allowed from 07:00 a.m. to 07:00 p.m. unless with the DoF’s approval outside the stipulated time period.

   2. For logs where royalty is assessed at the Stumping Point/licensed area:

   The licensee transports all logs from the Stumping Point/licensed area to the mill or port of loading bearing Property Hammer Mark, FDS Inspection Hammer Mark, FDS Royalty Hammer Mark. Logs shall be accompanied with Removal Passes upon payment of royalty.

   3. Logs transported between mills shall be accompanied with Removal Passes.

   4. Logs transported from a designated area to another destination only allowed from 07:00 a.m. to 07:00 p.m., unless with the DoF’s approval outside the stipulated time period.

   5. The validity of Removal Pass is determined by the distance and mode of log transportation and may range from 1 to 3 days for land transportation or maximum 1 week for river/sea transportation subject to extension with a new removal pass by the DoF.

### Log Transportation

2. The land owner has a letter/agreement/contract/[Power of Attorney] with the contractor to remove logs and wood residues.

   - Form IIB
   - Timber Disposal Permit
   - Removal Pass

License conditions:
- Coupe Permit Conditions
- Forest Rules
- Environment Protection Enactment 2002 [Sections 12, 13, 14 & 20]
- Wildlife Conservation Enactment 1997 (38)
- Annual Work Plan -PF/SL
- License conditions- PF/SL
- Forest Rules, 1969 (Rule 15(1))
- Director of Forestry Circular FD: 21/2010 (Removal Pass for Plantation Logs) - SL/AL
- Environment Protection Enactment 2002 [Sections 12, 13, 14 & 20]
- Forest Rules, 1969 (Rule 15(1))
- Forest Rules, 1969 (Rule 3)
- Sabah Forest Enactment, 1968 [Section 24(5)]
- Land Ordinance (Sabah Cap. 68)
### Principle 4 Other users’ rights

<table>
<thead>
<tr>
<th>4 1</th>
<th>Community benefits and rights to occupy and use</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. SFMLA/LTL holder or its appointed consultant conducts Social Baseline Survey of the licensed area during the preparation of a 10-year FMP.</td>
<td></td>
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<tr>
<td>ii. SFMLA/LTL holder identifies and set aside Community Forestry Areas in their licensed area (where relevant) in the Forest Management Plan (FMP).</td>
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</table>

### Principle 3 Statutory charges

<table>
<thead>
<tr>
<th>3 1</th>
<th>Royalty and fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Licensee pays license fees upon issuance of a license and other charges prior to issuance of harvesting licence.</td>
<td></td>
</tr>
<tr>
<td>ii. Licensee pays all royalty based on volume and species, premium (unless exempted), Community Forestry Cess, Forest Rehabilitation Fees (unless exempted) before the licensee can remove the timber from the licensed area.</td>
<td></td>
</tr>
<tr>
<td>iii. Licensee pays Removal Pass fees before removal of timbers.</td>
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</tbody>
</table>

On application, the DoF may exempt Natives from payment of royalty through the issuance of Form IIA licence for any of the following forest produce taken from SL and AL:
- The construction or repair of a dwelling – house for the abode of himself and his family;
- The construction of fences and temporary huts on any land lawfully occupied by him;
- The construction or repair of native boats;
- The upkeep of his fishing stakes and landing places;
- Fire-wood to be consumed for his domestic purposes; or
- The construction and upkeep of clinics, schools, community halls, places of worship, bridge and any work for the common benefit (including for traditional medicine purposes) of the native in-habitants of his kampung

### Principle 2 Log transportation

<table>
<thead>
<tr>
<th>2 5</th>
<th>Log transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. For ITP Logs With Royalty (PF)</td>
<td></td>
</tr>
<tr>
<td>i. The licensee transports all plantation logs from the harvesting area to an approved weigh bridge/weigh bridge at the mill gate for royalty assessment bearing Property Hammer mark and FDS inspection Hammer Mark (Marked randomly). All plantation logs shall be accompanied with a Transit Pass.</td>
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<tr>
<td>ii. The licensee transports all plantation logs from the weigh bridge to the Port of loading/to the mill bearing FDS inspection Hammer Mark (marked randomly). All plantation logs shall be accompanied with Removal Passes upon payment of royalty.</td>
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<tr>
<td>2. For ITP Logs With No Royalty (SL/AL, including rubber wood from small holders)</td>
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<tr>
<td>i. The land owner has a letter/agreement/contract/[Power of Attorney (PA)] with the contractor to remove logs.</td>
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<tr>
<td>ii. Land owner/authorized contractor obtains approval to transport plantation logs to an approved weigh bridge from the DoF (SL) or the District Forestry Officer (AL). Logs shall bear Property Hammer Mark and FDS Inspection Hammer Mark (marked randomly).</td>
<td></td>
</tr>
<tr>
<td>iii. Land owner/authorized contractor transports all logs from the weigh bridge to the Port of loading/to the mill shall be accompanied with Removal Passes upon recording of volume (weighed volume).</td>
<td></td>
</tr>
<tr>
<td>3. Logs transported between mills shall be accompanied with Removal Passes.</td>
<td></td>
</tr>
<tr>
<td>4. Licensee transport logs from a designated area to another destination only from 7.00am to 7.00pm, unless with the DoF’s approval for transportation outside the stipulated time period.</td>
<td></td>
</tr>
<tr>
<td>5. The validity of Removal Pass is determined by the distance and mode of log transportation and may range from 1 to 3 days for land transportation or maximum 1 week for river/sea transportation subject to extension with a new removal pass by the DoF.</td>
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### Principle 2 Worker safety and health

<table>
<thead>
<tr>
<th>2 6</th>
<th>Worker safety and health</th>
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</thead>
<tbody>
<tr>
<td>Employer</td>
<td></td>
</tr>
<tr>
<td>i. Pays insurance premium/contribution for all workers.</td>
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<tr>
<td>ii. Provides adequate training on safety measures/personnel protective equipment.</td>
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<tr>
<td>iii. Undertakes remedial measures as directed by relevant authorities (DOSH and FDS) following their inspection.</td>
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<tr>
<td>iv. Submits appropriate report to DOSH / Department of Labour (DoL) in a timely manner as required.</td>
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<tr>
<td>v. Reports to:</td>
<td></td>
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<tr>
<td>- SOCSO</td>
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<tr>
<td>- DOSH and</td>
<td></td>
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<tr>
<td>- Department of Labour</td>
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<td>on accidents related to employment immediately.</td>
<td></td>
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<tr>
<td>vi. Maintains monthly records of contribution to SOCSO.</td>
<td></td>
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<tr>
<td>vii. Maintains records of worker’s training on safety and health showing what training was conducted, who attended and any certificates were awarded.</td>
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<tr>
<td>viii. Provide protective clothing and safety equipment requirement in accordance to the RIL Operation Guide Book.</td>
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<tr>
<td>ix. Directional felling technique to be complied.</td>
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<tr>
<td>x. Ensure adequate precaution for worker’s safety in the event of fire or other accidents</td>
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</table>

### Principle 2 Legal Employment

<table>
<thead>
<tr>
<th>2 7</th>
<th>Legal Employment</th>
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<tbody>
<tr>
<td>Minimum wages rules shall be adhered to</td>
<td></td>
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<tr>
<td>All workers shall have valid work permit</td>
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</tbody>
</table>

### Workmen’s Compensation Act 1952
Minimum wages order 2012
Guidelines on the implementation of the minimums wage order 2012

### Forestenactment 1968 (Sections 24C & 42(d), (e))
Forest Rules, 1969 (Rule 15(1))
- Customs (Prohibition of Imports) (Amendment) (No. 4) Order, 2006 – 1st Schedule Item 15 & 4th Schedule Items 50, 51, 52 and 53.
- Malaysian Timber Industry Board (Incorporation) Act 1973 – Section 14
- Companies Act 1965 – Section 16
- Ministry of Transport legislation
  - Forest Rules 1969 (Rule 15(1))
  - Director of Forestry Circular FD: 21/2010 Issuance of Removal Pass for Plantation Logs
  - Director of Forestry Circular: FD: 05/2010.

### Other references
- Occupational Safety and Health Act 1994 [Section 15]
- Labour Ordinance (Sabah Cap 67)
- Workmen’s Compensation Act 1952 (Act 273)
- Employee’s Social Security Act 1969
- Workmen’s Compensation Act 1952
- Minimum wages order 2012
- Guidelines on the implementation of the minimums wage order 2012
- Malaysian Timber Industry Board (Incorporation) Act 1973 – Sections 24 & 27
- Revision
- CF Circular 1/81 Measurement of Timber For
- Forest Rules 1969 (Rule 12(1))
- CF Circular 1/81 Measurement of Timber For Royalty Assessment-CF No 1/81 2006 Version, 1st Revision
- Forest Rules 1969 – Rule 4
- Sustainable Forest Management License Agreement
- Long Term Licence conditions.
| 4 | 2 | Users' Right by Natives | 1. Area with Native Customary Right (NCR) claim described under the Land Ordinance is excised from Temporary Occupation Licence (TOL) area after a land inquiry is conducted to verify the claim and found to be justifiable by the Lands and Surveys Department prior to the issuance of TOL and the timber harvesting licence. On State land (outside forest reserves), several types of "native" forest rights are recognized. Those "whose ancestors have been, and who themselves are dependent on shifting cultivation in Sabah for subsistence" may clear secondary growth for cultivation on land which is not under licence or closed to shifting cultivation (Rule 9). A native may also take forest produce from State land for the specified purposes of his own use or that of his village (Section 41, Rule 9).
The Land Ordinance provides a degree of protection for indigenous or native customary rights through the codification of aspects of the adat laws. This provides indigenous peoples with legal ground to fight for their rights to their traditional land. However, adat is inherently complex and adat land use is changeable over time and according to circumstances – factors that a codified law such as that for indigenous customary rights cannot capture. In the LO, native customary rights (NCR) are defined as follows:
Native Customary Rights shall be held to be:
- (a) land that is possessed by customary tenure;
- (b) land planted with fruit trees, when the number of fruit trees amount to fifty and upwards to each hectare;
- (c) isolated fruit trees, and sago, rattan and other plants of economic value, that the claimant can prove to the satisfaction of the Collector were planted or up kept and regularly enjoyed by him as his personal property;
- (d) grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the vegetation;
- (e) land that has been cultivated or built on within three years;
- (f) burial grounds and shrines;
- (g) usual rights of way for men and animals from rivers, roads, or houses to any or all of the above.
(LO, 1968, Section 15) |
| 4 | 3 | Users' Right by Natives | Forest Enactment provides for traditional uses. The rights and privileges of traditional uses are specified when a forest reserve is declared. These rights and privileges may not be granted, other than by succession, without the Minister's consent. They are subject to cancellation if they are not exercised for three years, and the Yang Di Pertua Negeri (Governor) may at any time "rescind, modify or add" to them (Section 14). The holder of a right or privilege may be required to obtain a free permit in order to remove products from a reserve (Rule 10).
The Land Ordinance provides a degree of protection for indigenous or native customary rights through the codification of aspects of the adat laws. This provides indigenous peoples with legal ground to fight for their rights to their traditional land. However, adat is inherently complex and adat land use is changeable over time and according to circumstances – factors that a codified law such as that for indigenous customary rights cannot capture. In the LO, native customary rights (NCR) are defined as follows:
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- (d) grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the vegetation;
- (e) land that has been cultivated or built on within three years;
- (f) burial grounds and shrines;
- (g) usual rights of way for men and animals from rivers, roads, or houses to any or all of the above.
(LO, 1968, Section 15) |
| 4 | 4 | Free Prior Informed Consent | Any surrender of land title by Natives shall have been done with free prior and informed consent |
| 5 | 1 | Principle 5 Mill operations | i. All wood processing mills are required to be licensed with the Sabah Forestry Department.
ii. Applicant applies for mill licence to the District Forestry Officer together with the application form and other supporting documents as stipulated in the Licensing Guidelines For Wood-Based Industry in Sabah-Version 2, 2012.
iii. Licensed mill shall comply with mill licence conditions including submission of monthly Mill Production Returns and maintenance of Log Arrival Book (for mills processing logs)
iv. Annual renewal of mill licence is to be submitted to the DoF |
| 5 | 1 | Issuance /renewal / upgrading of mill licence and conditions of operation | - Forest Enactment 1968 [Section 41] - (SL, AL)
- Forest Rules 1969 [Rule 8] - (SL, AL)
- Land Ordinance (Cap. 68)
- State Cultural Heritage (Conservation) Enactment 1997
- Forest Rules 1969 [Rule 19(1)]
- Land Ordinance (Sabah Cap. 68) [Section 13, 14, 15, 16, 64, 65, 69 and 82] - (SL)
- Interpretation (definition of native) Ordinance (Sabah Cap. 64)
- Native Court Ordinance, 1952 (Cap 86)
- Native Court Enactment 1992
- Interpretation of the Native Ordinance, 1952

- Forest Enactment 1968 (section 41)
- Land Ordinance Cap. 68.
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<td>Log input and output</td>
<td>Logs transported between mills shall be accompanied with Removal Passes. All wood processing mills receiving log consignments are required to maintain a log input book containing information on the number of removal passes, date of entry into the mill, log number and species. The original copy of removal pass which is kept by the mill will be stamped &quot;cancelled&quot; by relevant authorities after verifying that the logs have been received through physical inspection at the mill and/or recorded in the mill's log input book. The information on volume input into the mills, volume input into the processing machinery, and output of final products, is forwarded to the relevant authorities through the monthly returns to be checked and verified. Physical checks on the information contained in the monthly return are carried out by the respective authorities on a random basis or upon information received.</td>
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| Worker safety and health | Employer i. Pays insurance premium/contribution for all workers. ii. Provides adequate training on safety measures/personnel protective equipment. iii. Undertakes remedial measures as directed by relevant authorities (DOSH and FDS) following their inspection. iv. Submits appropriate report to DOSH / Department of Labour in a timely manner as required. v. Reports to: - SOCSO - DOSH and - Department of Labour on accidents related to employment immediately vi. Maintains monthly records of contribution to SOCSO vii. Maintains records of worker’s training on safety and health showing what training was conducted, who attended and any certificates were awarded. viii. Ensure adequate precaution for worker’s safety in the event of fire or other accidents. |

| Legal Employment | See Workmen’s Compensation Act 1952 |

| Principle 6 Trade and Customs’ |   |

| Export Regulations | i. A company intending to export timber and timber products shall possess an Annual Export Licence from the FDS. ii. Company/sole proprietor (Enterprise) declares timber and timber products to be exported to the District Forestry Officer with a valid export permit or annual export licence with supporting documents such as Log summary, Sales Contract, Invoice, Packing List, Borang EIS 1/2000 (declaration on the source of processed timber to be exported), CITES Permit, where applicable, receipt of royalty payment and other fees where applicable (for logs, sawn timber, veneer, plywood and moulding) (not applicable to planted timber from SL and AL and other products not mentioned herein). |

| Import Regulations | i. A company intending to import timber and timber products needs to register with the Registrar of Companies (ROC), FDS and poses a trading licence. Note: ROC registration is not applicable to sole proprietors/enterprise/individual and only a trading licence is required. ii. Company intending to import timber products (logs/veneer/sawn timber) is subject to phytosanitary requirements and obtains an import permit from the Department of Agriculture (DoA). iii. Company intending to import timber products is required to obtain Customs’ clearance (using CD1 Form) by Royal Malaysian Customs (RMC). iv. Company requests for inspection of imported timbers and pay the inspection fees to the FDS. |

| Transportation of imported logs, sawn timber and veneer | Importer of logs/sawn timber/veneer applies to the nearest DFO to inspect the consignment of imported logs/sawn timber/veneer and pays inspection fees. |

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| **Timber from Sarawak** | i. Company operating in Sabah ensures that no timbers brought in from Sarawak are included in export consignments to be shipped to the EU.  
ii. Company submits Customs Declaration form (CD3) to FDS and requests for physical inspection upon arrival of timber.  
iii. Company maintains records of buyers, sales and distribution of timber from Sarawak and timber products manufactured using such timber.  
iv. Timber exporter to EU must declare that the products exported to EU do not contain or include any timber sourced from Sarawak. |