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### Introduction

With the growing recognition of the scale, extent and adverse impacts of illegal logging throughout the world, practical solutions are needed for companies to demonstrate that illegally harvested forest products are not found within their supply chain. Verifying legal compliance is one way of realizing that objective.

Rainforest Alliance's SmartWood Program (hereafter SmartWood) has developed a Generic Standard for Verification of Legal Compliance (VLC) which is used to assess and verify that timber or non-timber forest producers have complied with all the laws applicable to forest harvesting in the country and jurisdiction of operations. In addition to this the standard includes verification that all points along the defined supply chain maintain systems to document and control the chain of custody. Audits to the standard shall verify on-site that the forest source has obtained the license to harvest; has acquired planning approvals and permits; has paid the required taxes, royalties and/or harvesting fees; has adhered to trade, transport and registration requirements; has followed laws relating to environmental protection, wildlife, water and soil conservation, has harvesting rules, worker health and safety, and fairness to communities; and that a rigorous chain of custody system has been maintained.

This standard has been adapted from the SmartWood Generic Standard for VLC (Version 18 January 2010) to incorporate the laws and regulations of Sabah, Malaysia.

SmartWood requires that companies apply legality verification as a first step towards sustainable forest management certification and will carry out an evaluation of the organization's activities to attain a higher level of certification, based on which a decision whether or not to continue the provision of verification services will be taken. SmartWood also actively promotes entry of verification clients into the SmartWood stepwise approach to FSC certification; the SmartStep Program. Please go to the Rainforest Alliance's legality verification website for more information about stepwise approaches to certification ([http://www.rainforest-alliance.org/forestry.cfm?id=legal\\_verification](http://www.rainforest-alliance.org/forestry.cfm?id=legal_verification)).

### Public Comment

The Rainforest Alliance encourages public comments and inputs to standards and procedures, also outside the official consultation period. Organizations and individuals are encouraged to

submit their concerns or comments regarding this standard to SmartWood, using the email address above.

### **Note on the use of this standard**

All aspects of this standard are considered to be normative, including the scope, standard effective date, references, terms and definitions, tables and annexes, unless otherwise stated.

### **Contents**

- A Scope
- B Standard Effective Date
- C References
- D Terms and Definitions
- E Standards and Requirements
  - Part I: Principles and Criteria for Verification of Legal Compliance
  - Part II: Verification Statement, Reporting and Auditing
  - Part III: Verification Service Policies

### **Annexes**

- Annex 1 Glossary of Terms
- Annex 2: Nominally legal sources and tenure in Sabah, Malaysia
- Annex 3: List of applicable national or local forest laws, administrative requirements and legal documents for Sabah, Malaysia
- Annex 4: List of endangered species in Sabah, Malaysia
- Annex 5: List of international conventions Malaysia has ratified

### **A Scope**

This standard shall be applicable to producers, manufacturers, traders and suppliers of forest products either as individual companies or as parts of a defined supply chain.

Forest management enterprises (FMEs) shall be evaluated to all principles of the standard. The standard is area-based and does not verify individual batches of material.

Other processing, manufacturing or trading companies within the supply chain under evaluation which purchase, manufacture, handle, and/or sell forest products from VLC forest sources shall have a documented Chain of Custody system linking verified material to the forest of origin.

In cases where manufacturing or trading companies are buying, processing, and selling verified material, these shall only be evaluated against Principle 4 and the CoC Principle under the pre-condition that the companies in question can document a supply of verified material.

In order to verify the existence of credible Chain-of-Custody systems, this standard incorporates elements from the *SmartWood Chain-of-Custody Standard for General Applications*, or Generic CoC (CoC-36).

Principles 1 through 4 of the VLC standard are the same as the Verified Legal Origin (VLO) standard, while the principles 5 through 8 complete the requirements for full legal compliance. The Principle on CoC contains the Chain of Custody requirements which refer to the process and systems used to trace wood or wood products from point to point.

## **B Standard Effective Date**

This standard shall be effective from the date of the approved final version. The standard may be updated annually, replacing outdated versions as revised. All verified operations shall be required to comply with a national or regional adaptation of this standard within 6 months of the new version date.

## **C References**

VER-03 SmartWood Generic Standard for Verification of Legal Origin (VLO), FINAL 18 JAN 10  
VER-04 SmartWood Generic Standard for Verification of Legal Compliance (VLC), FINAL 18 JAN 10  
COC-33 SmartWood Master Report Template 05 Jan 09  
COC-36 SmartWood Chain-of-Custody Standard for General Applications (Generic CoC)  
COC-52 SmartWood Guidance for Multi-site and Group CoC Revisions in 2007  
FSC-STD-30-010 V2-0 EN Controlled Wood Standard for Forest Management Enterprises  
FSC-STD-40-005 V2-0 EN Standard for Company Evaluation of Controlled Wood  
FSC-STD-40-003 (version 1) EN Standard for Multi-site certification of COC Operations

## **D Terms and Definitions**

**CAR:** Corrective Action Request  
**CITES:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora  
**CoC:** Chain-of-Custody  
**CW:** Controlled Wood  
**FMEs:** Forest Management Enterprises  
**ILO:** International Labor Organization  
**RA:** Rainforest Alliance  
**SW:** SmartWood Program  
**VLC:** Verification of Legal Compliance  
**VLO:** Verification of Legal Origin

## **E Standards and Requirements**

### **Part I: Principles and Criteria for Verification of Legal Compliance**

In the standard each principle and its associated criteria are stated along with generic indicators and adapted requirements for Sabah Malaysia. All the criteria and indicators shall be audited in every verification audit, unless certain criteria or indicators are not applicable for the jurisdiction or the operation under evaluation.

#### **Principle 1: Legal Right to Harvest**

*The legal status of the forest management unit (FMU) shall be clearly defined and boundaries delineated. The forest management enterprise (FME) shall prove that it has validly obtained the legal right to operate and to harvest timber from within the defined forest management unit.*

- 1.1: Clear and documented legal registration of FME with authorization to carry out forest management activities shall exist.
  - 1.1.1: FME shall have valid tax registration number/forms and business license to operate within the jurisdiction.
  - 1.1.2: The registration of the FME shall have been granted according to the legally prescribed process.
  - 1.1.3: Where legally required, the issuance of legal rights and registration shall have been subject to public disclosure prior to commencement of any activities within FMUs.
  - 1.1.4: Legal status of the operation or rights for conducting the established activities shall not be subject to a court or other legally established order to cease operations.
  - 1.1.5: If the legal status and rights are being challenged, the FME shall be engaged in a legal process to resolve the challenges.
- 1.2: FME shall have authorization to harvest in Forest Management Units.
  - 1.2.1: FME shall have documented permission from the resource owner to harvest, including those with rights held according to customary law, where legally recognized.
    - *In the case of harvesting on alienated land there shall be written permission by the owner or lessee of such land.*
  - 1.2.2: Where applicable, the FME shall hold a valid permit, license or similar instrument governing the harvesting of forest resources.
    - *a “License to Take Forest Produce” (Form I, Forest Rules 1969);*
    - *a “License to Take Forest Produce Free of Royalty” (Form IIa, Forest Rules 1969);*
    - *a “License to Take Forest Produce on Prepayment of Royalty” (Form IIb, Forest Rules 1969); or*
    - *a “Sustainable Forest Management License Agreement” (Section 15(1) Forest Enactment 1968). In the SFMLA the name and legal status of the entity managing the forest is stated under “License Agreement”*
  - 1.2.3: Legal permit, license or similar instrument shall have been issued pursuant to the relevant laws and regulations by the legally designated competent authority.
- 1.3: Evidence shall exist that the forest management area has been legally classified for the type of land-use or commercial activities conducted.
  - 1.3.1: The forest harvesting activities shall correspond to the legal land use classification for the forest management unit.
  - 1.3.2: If legally required, the forest harvesting area shall be indicated on a map at a scale to permit identification of boundaries.
  - 1.3.3: The harvesting areas shall not conflict with land-use classifications for areas where timber harvesting is prohibited.
  - 1.3.4: The designation of the FMU for timber harvesting of the type being carried out shall have followed the legally prescribed procedures.

**Principle 2: Approved Planning Authorizations and Operations**

*The forest management enterprise shall have received the necessary approval for the basic and fundamental planning requirements legislated as necessary to enable forest management and shall adhere to fundamental planning and operational requirements and production restrictions and quotas within the permitted harvest rights.*

2.1: If legally required, a forest management plan shall be in place and approved by the relevant authorities.

2.1.1: A forest management plan shall be in place and approved by the relevant authorities, if legally required.

- *For an SFMLA, a forest management plan or forest harvesting plan (or exception to this) shall have been approved by the Director of Forestry, Sabah. (Form I and Form IIb licenses do not need an FMP).*

2.1.2: The forest management plan shall have been approved according to the legally prescribed process.

2.1.3: Clear evidence (e.g. maps) shall confirm that the management plan area is located within the licensed FMU.

2.1.4: Where legally required, plans for carrying out harvesting operations shall have been subject to public disclosure and objections prior to commencement.

2.2: If legally required, annual operating or harvesting plans shall be in place and approved by legally qualified authorities.

2.2.1: If legally required, a current, approved operating or harvesting plan shall exist.

- *In the case of land under a SFMLA, the company shall hold a valid Annual Work Plan that has been approved by the Director of Forestry, Sabah.*

2.2.2: The contents of the operating and harvesting plans shall be consistent with approved forest management plans and adhered to in the field.

2.3: Legally prescribed dimension restrictions and annual allowable cut or production quotas shall clearly be included in applicable planning and operational documents and adhered to in practice.

2.4: Harvesting and felling shall be strictly confined to areas and species approved for harvesting by national, regional or local regulations; these shall be adhered to in practice and, if legally required, identified in the operating or harvesting plans.

2.4.1: Only species allowed for harvest by applicable laws shall be harvested.

2.4.2: If legally required, tree species found within the FMU for which felling is prohibited shall be listed in operational plans, identified on maps, and marked on the ground.

2.4.3: Harvesting shall only be conducted within the authorized boundaries of FMU and shall not take place in areas where harvesting is prohibited or subject to restrictions.

- *Harvesting shall comply with the boundaries specified in the Coupe Permit; Licence Agreement and approved Annual Work Plan.*

2.4.4: If legally required, the management plans and maps shall include identification of areas within the FMU where harvesting is not permitted or subject to legal restrictions (e.g. riparian buffers, slopes exceeding a set gradient, etc.).

- 2.4.5: Wood confiscated or seized from illegal operations shall not in any case be allowed as legally verified.
- 2.5: If legally required, Environmental and Social Impact Assessments shall be prepared.
  - 2.5.1: Social and Environmental Impact Assessments shall be approved by the legally qualified authority.
    - *Environmental Impact Assessments (EIAs) shall be prepared and accepted under the requirements of the Environmental Protection Enactment 2002.*

### **Principle 3: Payment of Relevant Fees and Taxes**

*The forest management enterprise shall fulfill all obligatory taxes, fees and/or royalty payments associated with maintaining the legal right to harvest and permitted harvesting volumes.*

- 3.1: All applicable and legally prescribed fees, royalties, taxes and other charges shall be paid.
  - 3.1.1: Clear and documented evidence shall exist that FME is current with required payments and maintains documentation for receipt of royalties, fees and dues by beneficiaries.
    - *The company records the royalty payment for logs extracted using a valid “Disposal Permit for round Logs for Processing” (Form VI, Forest Rules 1969).*
  - 3.1.2: Taxation of species, size, volume and qualities shall be carried out according to legal prescriptions.
  - 3.1.3: Taxes and royalties for the actual harvested volume, species and qualities shall be paid according to the legislation.

### **Principle 4: Legal Registration, Transport, and Trade**

*The organization (company or FME) shall be legally registered and approved for conducting the defined business as well as it shall adhere to applicable transport as well as trade, import or export regulations, procedures and restrictions.*

- 4.1: Organization shall be legally registered and licensed as a business and approved for conducting the defined business activities with the relevant authorities as required by law.
  - *Company shall be registered with the Companies Commission of Malaysia (SSM) and with the Sabah Forestry Department.*
- 4.2: Income from wood and wood products sales shall be declared according to the legislation, and income tax shall be paid in full within required timelines.
- 4.3: Organization shall adhere to applicable wood and wood products transport regulations and/or restrictions.
  - *Company shall adhere to all restrictions on transport outlined in its license agreement.*
- 4.4: Organization shall adhere to applicable trade, import and/or export regulations and restrictions.
  - 4.3.1: Permission to trade CITES-listed species shall be documented, and compliance with the applicable provisions and requirements of CITES shall be demonstrated.

- 4.5: Organization shall document clear evidence of possession of all applicable official documents of wood and wood products for import and export in accordance with relevant laws and regulations.
- 4.6: The terms of wood and wood products sales agreements or contracts shall be adhered to.

#### **Principle 5: Fulfilment of Harvesting Regulations**

*The FME shall be operating in compliance with all local and national laws relating to the harvesting of forest products. Management plans and annual operating plans as required by law shall exist, shall contain accurate information, and be adequately implemented. This principle provides additional requirements that should be regarded in combination with the requirements of Principle 2.*

- 5.1: Compliance with all relevant local and national laws, and legally binding codes of practice relating to forest management and harvesting operations shall be documented.
- 5.1.1: The FME shall adhere to all legally prescribed specifications for harvesting (in addition to those covered in criteria 2.3 and 2.4) covering aspects such as timing or layout of harvest.
- *Company shall comply with legally-binding codes of practice applicable to Sabah which are specified in the Malaysian Criteria and Indicators (2002).*
- 5.2: The FME shall be in compliance with all forest management plan requirements.
- 5.2.1: Forest management plans shall contain all legally required information and procedures.
- 5.2.2: The FME shall implement the management plan according to all relevant legal requirements.
- 5.3: The FME shall be in compliance with all requirements in annual operating or harvesting plans.
- 5.3.1: Annual operating or harvesting plans contain accurate information and procedures, according to all legal requirements.
- 5.3.2: The FME shall implement the annual operating or harvesting plans according to all legal requirements.

#### **Principle 6: Fulfilment of Environmental Regulations**

*The FME shall demonstrate compliance with all local and national laws relating to the environmental obligations of a forest management operation.*

- 6.1: Environmental precautions and mitigations required as a result of the impacts identified in the environmental assessment shall be implemented or demonstrated.
- *Compliance with mitigating measures prescribed by the Environmental Protection Department under the Environmental Protection Enactment 2002 shall be demonstrated.*
- 6.2: All legally required procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.
- 6.3: Employees of the organization shall be prohibited from hunting and trade in wildlife, unless it is legally permitted and they have documented permission from the resource owner .

- *Hunting permits are required from the Sabah Wildlife Department under the provisions of the Wildlife Conservation Enactment 1997.*

**Principle 7: Fulfilment of Social Regulations**

*The FME shall demonstrate compliance with all local and national laws relating to social issues such as health & safety, labour laws, and other parties' use rights.*

- 7.1: The FME and contractors shall meet all applicable laws and/or regulations covering health and safety of employees and their families.
  - 7.1.1: Occupational Health and Safety requirements shall be met.
    - *Compliance with the requirements of the Occupational Safety and Health Act 1994 shall be demonstrated, in particular, workers shall be represented in the safety and health committee formed at the workplace*
  - 7.1.2: National or regional minimum age established for persons involved in hazardous work shall be adhered to if applicable.
- 7.2: All employees of the FME and contractors shall be employed under formal contract if legally required.
- 7.3: All employees of the FME shall be paid and treated in conformity with national law and international conventions as applicable.
  - 7.3.1: The FME shall document adherence to the International Labor Organization's Fundamental Principles:
    - Freedom of association and the effective recognition of the right to collective bargaining
    - Elimination of all forms of forced or compulsory labour
    - Effective abolition of child labour
    - Elimination of discrimination in respect of employment and occupation
  - 7.3.2: Minimum wage laws shall be followed if applicable.
- 7.4: Legally recognized customary user rights shall be taken into account in management of forest resources.
  - 7.4.1: Documented agreements with those who hold customary user rights shall be in place prior to harvesting.
    - *Letter of approval from native communities supporting the letter of verification by the Forests Department.*
    - *Maps indicating native territorial boundaries and claims produced with the community's participation and extent of their consent, if any.*
  - 7.4.2: Appropriate mechanisms and procedures shall be implemented to mitigate and resolve conflicts and grievances related to land rights and user's rights.
    - *Before designation as a harvesting area, an inventory to identify native territorial boundaries and claims must first be undertaken.*
    - *Field inspection of potential harvesting area is to be undertaken with communities' permission and the participation of representatives from:*
      - *Affected communities;*
      - *Sabah Forestry Department;*
      - *Lands & Surveys Department;*

- *Majlis Hal Ehwal Anak Negeri;*
- *Other Relevant State and District Offices/Agencies; and,*
- *Any other relevant persons, including but are not limited to - legal advisors, surveyors and other experts from all parties.*

- *The nature, stature and extent of these rights must adhere to statutory and legislative provisions as well as common law and the principles of natural justice.*
- *Where necessary, any tenure disputes shall be resolved through an independent arbitration process.*
- *Rights to harvest can only be established if affected natives provide their free, prior and informed consent.*
- *Affected natives are free to subject the consent to a set of detailed conditions for the licensee, if they so choose.*
- *Affected natives dissatisfied with the arbitration and consent process are free to pursue their objections in the court of law*

7.5: Where notification of stakeholders affected by forest operations is legally required, timely announcements shall be made about planned activities within the legally specified time limits.

### **Principle 8: Control of Unauthorized Activities**

*The FME shall work to control unauthorized or illegal activities. The FME shall identify, monitor, and implement activities to control illegal or unauthorized activities that may occur within the FMU.*

- 8.1: Illegal or unauthorized activities that may occur within or through the forest shall be identified.
- 8.2: Illegal or unauthorized activities shall be controlled in collaboration with the resource owner, regulatory agencies, and other interested parties as appropriate.

### **Principle CoC: Chain of Custody**

*Documented control of the chain of custody (CoC) of forest products is a fundamental requirement in the traceability of the verified forest products from the forest source through manufacturing and distribution to ensure the authenticity of a verified product claim.*

*This principle applies from the point of harvest up to the forest gate for forest management enterprises (FMEs) and between handling steps for processing facilities, suppliers, manufacturers, and traders. The “In-forest Production Criteria” refer specifically to CoC for FMEs. The multi-site criteria are only applicable in case the verification includes multiple sites in the scope of verification. The CoC checklist is currently only applicable to SmartWood standards for VLO and VLC; other legality verification schemes may be approved by SmartWood as equivalent to VLO or VLC; such approvals will be posted on the Rainforest Alliance website when applicable. Note: in the CoC criteria, “verified” refers to materials qualifying as SmartWood VLO/VLC or equivalent.*

### **Quality System Criteria:**

CoC 1: Organization shall define CoC system responsibilities and appoint staff positions, including the following:

- a. One overall responsible person shall be designated for the CoC control system; and,
  - b. Individual responsible persons shall be designated for each part of the CoC control system.
- CoC 2: Organization shall develop and maintain an up-to-date documented control system, procedures and/or work instructions to ensure implementation of all applicable CoC standard requirements.
- CoC 3: Organization shall develop and implement procedures for addressing non-conformances (corrective action requests, observations) identified by auditors.
- CoC 4: Organization shall develop and implement procedures for internal auditing of its systems as related to the requirements in this standard.
- CoC 5: Organization shall develop training requirements and implement training as follows:
- a. All applicable staff and workers shall be trained according to the CoC procedures; and,
  - b. Records shall be kept to demonstrate training has taken place.
- CoC 6: Organization shall define and document verified Claim Categories and shall define each product group that will be tracked under the applicable Claim Category.
- CoC 7: Organization shall document the availability of supply of verified material.
- CoC 8: Organization shall develop and maintain records to document quantities of verified materials for the following:
- a. Production of raw material;
  - b. Purchased as inputs/raw material;
  - c. Used in production, including conversion factors;
  - d. Inputs and final products in stock;
  - e. Final products sold with and without a claim.

***In-forest Production Criteria:***

*In-forest production criteria are only applicable to FMEs. In addition to the in-forest production criteria FME under evaluation shall also comply with all additional applicable criteria in the CoC Principle.*

- CoC 9: FME procedures and practices shall provide effective control of forest products from standing timber until ownership is transferred at the forest gate.
- CoC 10: FME procedures and practices shall control the risk of mixing verified forest products with non-verified products which originate outside the scope of the verification.
- CoC 11: FME shall identify the “Forest Gate”, for each verified product covered by the COC system: standing stock; sale from log yard in the forest; sale at the buyer’s gate; sale from a log concentration yard, etc.
- CoC 12: A system shall exist to identify FME products as verified (e.g. through documentation or marking system) at the forest gate.

***Segregation of Material:***

- CoC 13: Organization shall keep verified material physically separate as secure units during all stages of receiving, processing, storing, and shipping.
- CoC 14: All material that cannot be identified as verified shall be kept physically separate from verified material. Note: material that is pending evidence of its legal status shall be kept separate until such time that adequate documentation is obtained.
- CoC 15: Organization shall use a distinguishing mark (e.g. the verification code) to identify products as verified during processing and transport.
- CoC 16: Organization shall develop and implement procedures to ensure that other verification bodies' claims, marks or codes are distinguishable from that used to identify SmartWood verified material.
- CoC 17: Organization shall not mix verified and non-verified material through processing; only products containing 100% verified material (or material verified or certified against an equivalent or higher level standard approved by SmartWood) are eligible for SmartWood claims.
- CoC 18: If VLO or VLC verified material is mixed with material verified or certified against an equivalent or higher standard approved by SmartWood, the organization shall only apply the lowest level verification claim to the total amount of the mixed product.

***Purchasing and Receiving Criteria:***

- CoC 19: Organization shall verify the validity of the supplier's Certificate or Verification Statement.
- NOTE: verification can be carried out on the Rainforest Alliance website for legality verification services.
- CoC 20: Organization shall verify that material purchased and received is consistent with the Claim Category specified.
- NOTE: Organization should use invoices and shipping documents as documentation in combination with Verification Statements.

***Processing Criteria:***

- CoC 21: Organization shall use a tracking system and production records to document production of verified material.
- CoC 22: Organization shall ensure that any off-site processing that takes place at a subcontracted facility follows CoC procedures and is covered by a signed outsourcing agreement.

***Shipping and Sales Criteria:***

- CoC 23: Organization shall include claim information on sales invoices and shipping documents, including the following:
- a. A description of the product as verified by SmartWood ("SW VLO" or "SW VLC");
  - b. The quantity/volume and species for each product;
  - c. The SmartWood verification code (SW-VLO-XXXXXX or SW-VLC-XXXXXX).

***Claims and Public Information Criteria:***

- CoC 24: Organization shall have procedures in place to ensure that all VLO or VLC verification claims and marks follow the applicable SmartWood policies:
- a. On-product labeling shall not be permitted;
  - b. Use of the Rainforest Alliance Verification Mark off-product shall only be allowed in combination with a qualifying and approved Verification Claim;
  - c. Use of the verification code (SW-VLO-XXXXXX or SW-VLC-XXXXXX) on products shall only be used for traceability of products; and
  - d. Use of the Rainforest Alliance verification mark in promotion of the Organization's verification shall not imply that any aspects are included which are outside the scope of the verification.
- CoC 25: Organization shall have procedures in place to ensure and demonstrate submission of all Rainforest Alliance/SmartWood claims to SmartWood for review and approval prior to use.
- CoC 26: Organization shall have procedures in place and demonstrate that all review and approval correspondence with SmartWood for verification claims is kept on file for a minimum of five (5) years.

#### **Multi-site Criteria:**

*The multi-site Chain-of-Custody criteria have been developed to facilitate CoC evaluation for organizations that have a number of company sites/facilities or participating entities (hereafter referred to as "sites") included in the scope of their supply chain. The multi-site management requirements, plus communication with SmartWood, are coordinated by the Verification Statement Holder. Multi-site criteria allow SmartWood to evaluate the participating sites based on audit sampling in recognition of control and reporting systems monitored by the Verification Statement Holder. In addition to these criteria, SmartWood shall ensure that all sites of a multi-site supply chain also comply with all other relevant requirements in the VLO/VLC verification standard.*

#### Documented Procedures and Responsibility

- CoC 27: The Verification Statement Holder shall appoint one person (or position) with overall responsibility for the Organization's multi-site management and conformance with SmartWood's multi-site requirements.
- CoC 28: The Verification Statement Holder shall have documented procedures in place, covering all multi-site requirements of this standard.

#### Records

- CoC 29: The Verification Statement Holder shall have access to, and collate data from all sites for SmartWood's annual audits as well as upon request.
- CoC 30: The Verification Statement Holder shall maintain up-to-date, centralized records for all sites, including:
- a) List of sites in the scope, including name, address, site manager, date of entry, and removal when applicable;
  - b) Signed consent forms for all sites;
  - c) Records showing the scope of verification for each site;
  - d) Volume summary data for each product group, including purchases, production and conversion, inventory, and sales for each site.

## Site Management and Auditing

- CoC 31: All sites in the scope of the verification shall have signed a consent form that includes the following:
- a) Agreement to conform to the obligations and responsibilities of participation in the multi-site verification for the period as described in the Verification Statement Holder procedures and the SmartWood VLO or VLC Verification Agreement;
  - b) Agreement to conform to the relevant SmartWood Standard(s) and any Corrective Action Requests (CARs) issued by SmartWood and/or the Verification Statement Holder.
- CoC 32: Prior to being admitted as a site within the scope of the verification, the Verification Statement Holder designated auditor shall carry out an initial audit of each site to ensure that it complies with all the requirements of the applicable SmartWood verification standard.
- CoC 33: The Verification Statement Holder designated auditor shall carry out an annual audit of each site to confirm continual conformance with all the requirements of the applicable SmartWood verification standard.
- CoC 34: When non-conformances are found during internal audits, the Verification Statement Holder shall issue CARs to applicable sites and verify implementation.
- CoC 35: The Verification Statement Holder shall provide an annual report on the results of all internal audits.

## **Part II: Verification Statement, Reporting, and Auditing**

### **1. Verification Statement**

SmartWood will provide any organization that has been successfully audited and compliant with these standards opportunities to communicate that message by means of a Verification Statement that SmartWood issues. The Verification Statement is regulated similarly to a certificate, with reference to scope, period of validity, and other required information.

The Verification Statement includes the following information:

- Company, seller, or representatives' name(s) and contact details;
- Verification code;
- Validity period of the statement;
- Forest products types;
- Location and jurisdiction of suppliers;
- Overview of all participating sites in case of multi-site verification scope.

### **2. Reporting**

SmartWood shall provide public summary reporting of information about the companies audited and those covered by an active verification statement. This public summary information is maintained up to date and posted on the SmartWood website. The verification statement shall be available upon request.

All legality verification shall be documented and supported by both a *SmartWood Verification Audit Report* and *Verification Statement*.

### **3. Auditing**

SmartWood shall determine the frequency and scope of surveillance audits for the application of this standard, with a minimum frequency of 6 months. Surveillance audits (e.g. 6 months audits) may be carried out in the form of desk audits. SmartWood provides further guidance on audit frequency and on what entities need to be audited within the SmartWood verification evaluation procedures.

### **Part III: Verification Service Policies**

SmartWood policies related to VLO/VLC:

1. SmartWood reserves the right to refuse the provision of VLO/VLC to a client where association may damage SmartWood's reputation. This decision shall be based on an analysis of the organization's activities and the portfolio of facilities and/or entities under its management, both as it relates to the sites directly included in the scope of the verification as well as other company owned or managed companies or facilities.
2. SmartWood shall not provide VLO or VLC verification of wood or wood products originating from conversion of natural forest to plantation or other land uses, even if the local regulatory authority has deemed it legal for natural forest to be cleared.
3. SmartWood require that clients verified to either VLO or VLC standards are proactive in attaining a higher level of performance and strive to achieve sustainable forest management and FSC certification of their sources of wood. SmartWood may decide to limit the time during which it will provide verification services to 3 years if it is found that the client does not take appropriate action to seek a higher level of certification or identify certified sources. The decision on whether or not to continue verification services will be taken based on an evaluation of the organizations activities to achieve a higher level of certification. Dependent on progress and the type of organization (FME or industry) SmartWood may require the organization to enter into our SmartStep Program or move on to a higher level of verification.
4. SmartWood will allow material or products verified as VLO or VLC to pass through a portion of a supply chain with a COC control system audited by another certification body only when SmartWood has approved said system (contact SW for information about which systems have been formally approved).
5. SmartWood requires full access to audit all entities included in the scope of the verified supply chain even if these are not under the direct ownership of the Verification Statement Holder. If auditors are denied access to any facilities, places, or documents the site in question shall be immediately excluded from the scope of the verification. If the holder of the Verification Statement exercises such limitations of the auditors, the Verification Statement shall be immediately terminated.
6. Customary rights are considered to be an integral part of legality verification and it is expected that applicants for legality verification have identified and recognized customary rights and tenure where applicable and are recognized by law. In cases where customary tenure is regarded as a particularly important issue, SW may choose to carry out stakeholder consultation in connection to the verification assessment or audits.
7. Rainforest Alliance will determine the limits of use to Rainforest Alliance and/or SmartWood names, verification mark or logos in conjunction with this service for business to business and off-product communications.

## Annex 1: Glossary of terms

**Chain-of-Custody (CoC):** CoC in the forest products industry refers to the path taken by raw materials from the forest to the consumer, including all successive stages of processing, transformation, and distribution. For the purposes of the SmartWood generic CoC standard, CoC refers to the tracking and handling systems in use for specific materials from the point of purchase to the point of shipment and sale for the organization being audited.

**CITES:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a convention established in 1973 that regulates or prohibits the international trade of plant and animal species that are believed to be harmed by or that may be harmed by international trade. The authority to implement this is under section 8 of the [Endangered Species Act](#).

**Claim Category:** Definition of the type of certification or verification scheme that applies to the material/product that is being tracked within the CoC control system.

**Controlled Wood (CW):** Wood or wood fiber that has been determined not to originate from one of the 5 excluded categories within the Forest Stewardship Council's (FSC) Controlled Wood standards. These categories are: forest areas where traditional or civil rights are violated; non FSC-certified forest areas having high conservation values which are threatened; genetically modified trees; illegally harvested wood; and natural forest areas converted to plantations or for non-forest use. FSC CoC certification requires that non-certified wood materials used in products with FSC claims must be controlled.

**Corrective Action Request (CAR):** Required action or improvement that addresses a non conformance identified in assessments, audits, or evidence presented at other points in time. CARs include defined timetables or deadlines for completion. Note: failure to successfully complete/close out CARs in a timely manner will mean suspension or termination of the Verification Statement.

**Customary Use Right:** The FSC defines customary rights as rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit.

**Documented Control System (DCS):** Site-specific procedures for handling and tracking VLO or VLC verified material.

**Forest Gate:** Defined as the point at which the timber harvested in the FME changes physical or legal ownership from the FME to a second legal entity. This may be at the point of felling (the standing tree or stump, the log landing, log yard, off-site mill or log yard, or at another defined point.

**Forest Management Enterprise (FME):** An organization or other single legal entity engaged in forest management. The forest management enterprise may be responsible for forest management over one or more forest management units.

**Forest Management Unit (FMU):** A clearly defined forest area with mapped boundaries, managed by a single managerial body to a set of explicit objectives which are expressed in a self-contained multiyear management plan. This may also refer to privately held small-holder forest areas.

**ILO:** The International Labor Organization (ILO) is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue in handling work-related issues.

**ILO Fundamental Conventions:** Adopted in 1998, the Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor, and the elimination of discrimination in respect of employment and occupation. These ILO Conventions have been identified as fundamental and are at times referred to as the core labor standards:

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

- Forced Labor Convention, 1930 (No. 29)
- Abolition of Forced Labor Convention, 1957 (No. 105)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labor Convention, 1999 (No. 182)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

[View the text via this link.](#)

**Legality verification:** Verification of the source of raw material for compliance with legal issues, which could be Verification of Legally Harvested, Legally Traded, or Legal Right to Harvest.

**Legally Harvested:** Raw material harvested:

- Pursuant to a legal right to harvest timber in the forest management unit in which the wood was grown; and,
- In compliance with national and sub-national laws governing the management and harvesting of forest resources.

**Legally Traded:** The wood, or products made from the wood, was:

- Exported in compliance with exporting country laws governing the export of wood and wood products, including payment of any export taxes, duties, or levies;
- Imported in compliance with importing country laws governing the import of wood and wood products, including payment of any import taxes, duties or levies or not in contravention of exporting country laws governing the export of wood and wood products, including payment of any export taxes, duties, or levies;
- Traded in compliance with legislation related to the Convention on International Trade in Endangered Species (CITES), where applicable.

**Legal Right to Harvest:** Authorization to harvest in the forest management unit has been granted:

- From the resource owner(s);
- Under a valid permit, license or similar instrument issued pursuant to the laws and regulations governing the management and harvesting of forest resources.

**Organization:** May be a company or a FME or may refer to a specific client of Rainforest Alliance or the Verification Statement Holder.

**Outsourcing:** Subcontracted manufacturing or other handling services of materials by an off-site operation.

**Product group:** A product or group of products specified by the organization, which share basic input and output characteristics and thus can be combined for the purpose of Chain of Custody control and labeling.

**Resource owner:** The holder(s) of property and usufruct rights over the land and/or trees within a forest management unit, including legally recognized rights held according to customary law.

**Set of sites:** Describes sites that are producing or handling the same kinds of products, and producing or handling them according to fundamentally the same methods or procedures.

Example: A multi-site verification applicant receives material from 10 participating sites: 2 FMEs, 4 saw mills, and 4 molding and carpentry plants. The verification scope would include 3 sets of sites. SmartWood shall check that the products originating from or handled at all sites within a potential set are substantially of the same kind, and are produced or handled according to fundamentally the same methods and procedures. This will enable SmartWood to determine if and how the sites may be divided into sets.

**Site:** Refers to a company/facility/business that is included in the scope of the verification; a participating site may or may not be directly owned by the Verification Statement Holder. Participating sites do not hold

individual certificates, but as long as they comply with all the requirements of their agreement with the Verification Statement Holder, and with the SmartWood verification standard(s), they can be included in the multi-site verification scope. Participating sites may include FMEs, processing, and storage facilities. Participating sites within multi-site supply chain verification can be divided into “set of sites”.

**SmartLogging:** The SmartWood certification program for loggers that includes evaluation for best practice logging standards, quality of harvesting activities, protection of high conservation values, and Controlled Wood requirements, as well as optional evaluation according to FSC CoC requirements and Sustainable Forestry Initiative (SFI) procurement requirements. The SmartLogging service is not accredited or recognized by either FSC or SFI (or PEFC) at this time, but steps are being taken to achieve this. [Visit the Rainforest Alliance website for information.](#)

**SmartStep:** The SmartWood stepwise approach to FSC certification, designed to provide forest management operations with a clear path to achieving FSC certification, while gaining access to potential market benefits before achieving certification. The SmartStep service, which is provided by the SmartWood Program, is not accredited or recognized by the FSC, but FSC is currently developing a system for accrediting “stepwise” approaches such as SmartStep. [Visit the Rainforest Alliance website for information.](#)

**Subset of sites:** See “Set of Sites”.

**Verification Claim:** A statement clarifying the scope of the Verification required to be accompanying any use of Rainforest Alliance or SmartWood Verification Mark.

**Verification Scope:** A definition of all participating sites and species included under the Verification Statements coverage.

**Verification Statement:** The Verification Statement is issued by the Rainforest Alliance and constitutes proof that the Organization fulfills the requirements of the VLO or VLC standard and defines the scope of the verification.

**Verification Statement Holder:** Organization that has been audited by SmartWood, approved against a specific verification standard, and issued a third-party verification statement with a specified scope and period of validity.

## Annex 2: Nominally legal sources in Sabah, Malaysia

<b>Elaboration of 'Nominally' Legal Sources</b>		
	<b>Legal Sources of Timber</b>	<b>Clarification</b>
1	SFMLA FMUs ( <i>Sustainable Forest Management License Agreement</i> )	SFMLA FMUs (Large-scale timber concessions) can be allocated in production forest and limited production forest areas. There are approximately 10 SFMLA FMUs in Sabah.
2	Industrial Tree Plantations (ITP)	There are a number of large-scale ITPs in Sabah, these are mostly <i>Acacia mangium</i> , but also include some teak, eucalyptus and even oil palm in places.  All ITPs are required to possess a valid <i>Plantation Development Plan</i> approved by the Director of Forestry.
3	Community Forests	The Forest Enactment 1968 gives provision for the gazettelement of a number of forestry classes for use by local communities.  These include: Domestic Forest ('Class III') for the supply of timber and other produce for local consumption; as well as Amenity Forest ('Class IV') for local amenity and arboretum work.
4	Alienated Land	There are numerous classes of alienated land (with privately held title) where logging is permitted.  However, any logging on alienated land requires approval by the Forestry Department should the logs be removed from the area where they were felled.
5	Legitimate imports	Sabah's sawmills import a significant quantity of low grade timber from neighbouring countries.  The Malaysian Timber Industry Board does not issue licenses for the import of logs from Indonesia with a cross-sectional diameter greater than sixty square inches <sup>1</sup> .
6	Legitimate auctions	While legitimate, better guidelines need to be developed to identify legitimate auctions. This is because auctions are commonly used to legalise illegal timber confiscated in law enforcement operations.

<sup>1</sup> Imported logs and lumber from Indonesia and logs or lumber obtained through auction would not be verifiable to the source, and thus imported and auctioned logs and lumber should not be within the scope of this standard at this point in time.

### **Annex 3: List of applicable national or local forest laws, administrative requirements and legal documents for Sabah, Malaysia**

1. State Forest Policy, 1954
2. Forest Enactment, 1968
3. Forest Rules, 1969
4. Conservation of Environment Enactment, 1996
5. Parks Enactment, 1984
6. Wildlife Conservation Enactment, 1997
7. Water Resources Enactment, 1998
8. Cultural Heritage (Conservation) Enactment, 1997
9. Biodiversity Enactment, 2000
10. Environmental Protection Enactment 2002
11. Occupational Safety and Health Act, 1994
12. Land Ordinance, 1930 (Sabah Cap. 68)
13. Labour Ordinance (Sabah ) Cap 67
14. Sabah Forest Management Licence Agreement
15. Environmental Quality Act, 1974
16. Native Court Ordinance, 1952 (Cap 86)
17. Interpretation of the Native Ordinance, 1952

### **Annex 4: List of endangered species in Sabah, Malaysia**

A list of the endangered species in Malaysia can be obtained from the Convention on International Trade in Endangered Species ([www.cites.org](http://www.cites.org)) website, of which Malaysia is a member country.

### **Annex 5: List of international conventions Malaysia has ratified**

1. United Nations Convention on Biological Diversity Convention which leads to
2. National Policy on Biological Diversity 1998
3. Convention on Wetlands of International Importance Especially on Waterfowl Habitat (RAMSAR) 1971
4. International Tropical Timber Agreement 1994
5. UN Framework Convention on Climate Change 1992 follows by Kyoto Protocol
6. Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
7. International Labour Organization Conventions