

# CPET Category A 2010 Review of PEFC Stakeholders' comments and responses

November 2010

The forest certification schemes approved as 'Category A evidence' are reviewed biennially to ensure that they continue to provide evidence of compliance. The methodology was based on schemes requirements set out in publicly available documentation. Evidence of non-compliance submitted by stakeholders was also considered.

Comments contained in this document were submitted as part of the 2010 Review of forest certification schemes. The comment period closed on the 14<sup>th</sup> May 2010. Though the names of the stakeholders have been kept anonymous, each comment has been assigned a number, and has grouped according to the CPET criteria.

CPET collated all comments received from stakeholders and sent these to PEFC. PEFC provided feedback on some but not all criteria. The Technical Panel took into account of stakeholders comments when assessing the schemes.

This document is consisted of 2 parts. The first part contains comments specifically relevant to CPET criteria. It also includes PEFC responses to the comments when a feedback was provided by PEFC. The second part contains comments which are not directly related to CPET criteria.

## 1. Comments on CPET criteria

Comment number	Criterion 1.1.1 The Standard requires that the forest owner/manager hold legal use rights to the forest	Feedback from scheme	CPET comment
1	X is of the opinion that when there are clearly documented disputes about ownership rights and user rights between communities on the one hand and the state or a company on the other hand (e.g. such as when a case has been brought to the (native) or other courts), one can and should assume that customary or statutory tenure or use rights are not being	PEFC did not provide feedback on this comment.	This comment relates to the outcomes of certification and is outside the scope of the review.

Comment number	Criterion 1.1.1 The Standard requires that the forest owner/manager hold legal use rights to the forest	Feedback from scheme	CPET comment
	respected, until the ruling says otherwise. Only in Sarawak there are over 170 court cases pending. Recent rulings across the country show that the Government is violating local peoples' tenure rights on a continuous basis. Although there have been several land mark cases in the last two years, which all show that the Government has failed to respect its own laws, there seems to be no change in attitude in the Government, who continues to hand out logging or oil palm concessions on community owned land. It is against this background that the handing out of MTCC certificates needs to be seen.		

Comment number	Criterion 1.1.2 The standard requires compliance from both forest management organisation and any contractors with local and national legal requirement relevant to other parties' tenure and use rights	Feedback from scheme	CPET comment
2	Same as comment number 1	PEFC did not provide feedback on this comment.	As number 1

Comment number	Criterion 1.2.3 The standard must ensure that harm to ecosystems is minimised. In order to do this the standard must include requirements for:  a. Appropriate assessment of impacts and planning to minimise impacts;  b. Protection of soil, water and biodiversity;  c. Controlled and appropriate use of chemicals and use of Integrated Pest Management wherever possible.  d. Proper disposal of wastes to minimise any negative impacts.	Feedback from scheme	CPET comment
3	<p>PEFC AFS National Scheme</p> <p>There is failure by the PEFC scheme to implement its own documented requirements with regard to the CPET criterion 1.2.3 for the AFS Scheme and a failure to minimise impacts on biodiversity.</p> <p>Operations certified by AFS, which hold an RFA [Regional Forestry Agreement] have an exemption from the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and are not bound by law to protect biodiversity. An example of this is the Federal Court of Australia ruling attached as evidence to this submission:</p> <p>Section 38 of the EPBC Act (<i>Environment Protection and Biodiversity Conservation Act 1999</i>) that states:</p> <p>"(1) <i>Part 3 does not apply to an RFA [Regional Forestry Agreement] forestry operation that is undertaken in accordance with an RFA.</i></p>	PEFC did not provide feedback on this comment.	This comment relates to a national legal framework issue and is outside the scope of this review. The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and

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	<p>Part 3 of the EPBC Act states:</p> <p><i>"A person must not take an action that:</i></p> <p><i>(a) has or will have a significant impact on a listed threatened species included in the endangered category; or</i></p> <p><i>(b) is likely to have a significant impact on a listed threatened species included in the endangered category.</i></p>		<p>relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 1.2.6 The standard must seek to ensure that biodiversity is maintained. In order to do this the standard must include requirements for:  a. Implementation of safeguards to protect rare, threatened and endangered species.  b. The conservation/set-aside of key ecosystems or habitats in their natural state.  c. The protection of features and species of outstanding or exceptional value.	Feedback from scheme	CPET comment
4	<p>The Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) are both PEFC endorsed and do not include the appropriate mechanisms to ensure maintenance of biodiversity as they relate to items b. and c. of the criterion. The criterion states that the <b>standard must include requirements</b> and given that “requirement” are not “options” then neither the SFI or ATFS comply with this criterion</p> <ul style="list-style-type: none"> <li>- SFI has an indicator that addresses promotion of conservation of biodiversity – but nothing more than protection of threatened and endangered species is actually required. The SFI standard is rife with requirements to have programs that address issues, but has very few requirements to actually achieve the protection or conservation of anything.</li> <li>- SFI has no requirements to address item b. and of the criterion.</li> <li>- ATFS has no requirements to address item b. and of</li> </ul>	PEFC did not provide feedback on this comment.	The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC’s checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.

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	<p>a. Implementation of safeguards to protect rare, threatened and endangered species.</p> <p>b. The conservation/set-aside of key ecosystems or habitats in their natural state.</p> <p>c. The protection of features and species of outstanding or exceptional value.</p>		
	the criterion.		

Comment number	Criterion 1.2.7 The standard must require that the legal, customary and traditional tenure and use rights of indigenous peoples and local communities related to the forest are identified, documented and respected.	Feedback from scheme	CPET comment
5	<p>There is failure by the PEFC scheme to implement its own documented requirements with regard to the CPET criterion 1.2.7 for its national schemes in Finland, Sweden, Australia, USA and Canada in relation to rights of traditional or indigenous peoples.</p> <p>The following evidence is from the Review of PEFC adequacy in delivering ACE Commitments Final report 11th September 2009, a report commissioned by Tetra Pak and written by Proforest:</p> <p><b>PEFC Finland</b></p> <p>'Criterion 23 of FFCS adequately covers most issues related to violation of civil rights. However, criteria 27 and 28 of FFCS</p>	<p><b>Sweden</b></p> <p>Please note that according to the information we received, the legal challenge referenced by the stakeholder appears to relate to hunting rights in the mountains above the tree line, unrelated to sustainable forest management activities or forest certification.</p> <p>Legal, customary and traditional tenure and user rights of indigenous peoples in Sweden are predominately related to the reindeer herding rights of the Sami people, which are</p>	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the</p>

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	<p>only partially address the issues of traditional rights. Existing legal requirements are not sufficient to ensure that traditional rights are not violated...'</p> <p><b>PEFC Sweden</b></p> <p>'The Swedish PEFC standard does not fully address the issues relating to land tenure or land use rights of traditional or indigenous peoples...</p> <p>In term of legal framework, the traditional rights of Sami are not fully protected. Sweden has not ratified ILO Convention 169, though the rights of reindeer herding of Sami are regulated under Reindeer Husbandry Act. The Act gives the Sami the right to use land and water for their own maintenance and that of their reindeer. However, in practice, their rights may not be sufficient covered. In May 2009, a small village has taken the State to court contesting legislation that diminishes their traditional hunting and fishing rights.'</p>	<p>comprehensively covered in Appendix E of PEFC Sweden's documentation, "<i>Policy for balancing the Forestry and the Reindeer herding interests in Swedish PEFC adopted by the board 28th March 2006</i>" (see attachment). This policy defines how dialogue and collaboration between the parties involved shall take place in order to maintain a sound balance between forestry and reindeer herding. Please note that the two certification systems operating in Sweden have comparable requirements on this issue.</p> <p><b>Finland</b></p> <p>The Finish forest management standard includes comprehensive and detailed specifications on legal, customary and traditional tenure and use rights of indigenous peoples and local communities. These specifications expand on existing Finnish legislation, which comprehensively covers issues related to reconciling reindeer husbandry and forestry, as well as issues related to safeguarding Sámi culture and the traditional means of livelihood of the Sámi people and detail how the laws on reindeer husbandry and Sámi culture should be applied in forestry (PEFC Finland Criterion 29).</p>	<p>endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

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		<p>The legislation requires reconciling the needs of reindeer husbandry and forestry on state lands.</p> <p>The PEFC Finland Criterion 29 (Preconditions for Sámi culture and for the traditional means of livelihood shall be safeguarded in Sámi Homelands in accordance with Sámi definition of sustainable development) is valid in Sámi Homelands. The criterion secures the preconditions for Sámi culture and Sámi traditional means of livelihood. The Sámi Parliament and Skolt Councils are the main stakeholders in applying the criterion.</p> <p>Compared to the preceding FFCS Criterion 27 the number of indicators has been increased significantly. Indicators bring extra requirements for the verification of conformance to the criterion, include:</p> <ul style="list-style-type: none"> <li>• compliance with the national and international legislation on Sámi rights in forest use,</li> <li>• exact procedures for Sámi stakeholder participation in the elaboration of Nature Resource Plans, and</li> </ul>	

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		<ul style="list-style-type: none"> <li>• consideration of the requirements of reindeer herding when planning harvesting.</li> </ul> <p>Forest plans are made for each reindeer herding cooperative and municipality. Reindeer husbandry must not be restricted with fencing unless reindeer herding cooperative has approved it. In addition, the Sámi Parliament and Skolt Council representatives are compensated for the travel expenses caused by their participation in the establishment of regional Nature Resource Management Plans or reindeer herding cooperative-specific plans. The Sámi Parliament and the Skolt Council are always consulted in audits. The detailed requirements presented in the indicators exceed statutory requirements.</p> <p>The requirements for participatory planning are defined more precisely than before which improves the possibilities of the Sámi people to have an influence on forest planning and forest management implementation measures.</p> <p>All standard criteria are based on statutory requirements, but on top of that they expand and specify them, the result of which is that the</p>	

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		<p>required performance level of the standard exceeds the legal requirement level. The PEFC Finland Criterion 29 concerning Sámi culture and livelihood significantly increase the requirement level of the criterion compared to FFCS criterion 27. The re-writing of indicators and definitions clarify the requirements and reduce the possibility for interpretation that existed before updating. A more accurate definition of and emphasis on the participatory planning obligation increases Sámi people's opportunities, and also expands the standard criteria to apply to the sustainable development of the Sámi culture.</p> <p>The criterion identifies the characteristics of Sámi culture and reindeer herding as well as participatory planning procedures in more detail than before. In addition, the criterion requires reindeer herding cooperative level planning and reindeer grazing land mapping in Sámi areas.</p> <p>The criterion specifies participatory planning procedures that aim at safeguarding Sámi culture and traditional means of livelihood with collaborative means and improves Sámi people's influence on forest management planning.</p>	

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		<p>It should be noted that the Sámi Parliament was one of the members of the PEFC Finland Standard Setting Working Group, represented by the Sámi Parliament's chair Mr. Klemetti Näkkäljärvi. The Sámi Parliament is the official representative of Sámi people in Finland. All the Standard Setting Working Group members accepted the content of the revised forest management criteria. Sámi Parliament is the highest political organ for the Sámi people in Finland and it is elected every four years.</p> <p>In Finland the definition 'local population' includes the following groups of people: forest owners, forest users for recreation purposes, traders of non-wood forest products, reindeer herders in Northern Finland and the Sámi people. Issues of legal, customary and traditional tenure and use rights of indigenous peoples and local communities are covered especially in the following four PEFC Finland criteria:</p> <p>PEFC Finland Criterion 26: Everyman's rights shall be safeguarded</p> <p>PEFC Finland Criterion 27: The preconditions for multipurpose use of forests</p>	

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		<p>shall be promoted</p> <p>PEFC Finland Criterion 28: Preconditions for reindeer husbandry shall be secured</p> <p>PEFC Finland Criterion 29: Preconditions for Sámi culture and for the traditional means of livelihood shall be safeguarded in Sámi Homelands in accordance with Sámi definition of sustainable development</p> <p><b>PEFC Finland criterion 29:</b></p> <p><b>Title: Criterion 29: Preconditions for Sámi culture and for the traditional means of livelihood shall be safeguarded in Sámi Homelands in accordance with Sámi definition of sustainable development</b></p> <p><b>Criterion</b></p> <p>In the Sámi<sup>68)</sup> Homelands the management and use of areas and natural resources administered by the State shall be organized in such a way that they ensure the facilities for Sámi culture and traditional livelihoods.</p> <p>Indicators:</p> <p>1) The management of state forests is carried</p>	

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		<p>out in compliance with the international laws, article 8j in Biodiversity Convention<sup>69)</sup> and the rights of Sámi as defined in the Constitution, as well as in such a manner that the engagement of the Sámi Parliament in preparation and decisions on the issue is secured.</p> <p>2) Sámi cultural landscapes and heritage sites are taken into consideration and protected in forestry operation by consulting the Sámi Parliament and the Skolt Council in the region of Skolt people.</p> <p>3) The Sámi Parliament and the Skolt Council negotiate on the nature resource plans and on the level of sustainable allowable cut in Sámi Homeland. Local natural conditions and Sámi culture and livelihoods are taken into consideration when defining the level of the allowable cut. Nature resource plans include: the measures to implement sustainable development, the proposals of Sámi people and how these are taken into consideration in the plan. The levels of allowable cut, and harvesting plans are calculated and reviewed specifically for each reindeer herding cooperative and municipality.</p>	

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		<p>4) The interests of reindeer herding are integrated in forest use according to the consultations with the Sámi Parliament, reindeer herding associations and their siidas/ local units of reindeer herding cooperatives. Harvesting operations shall not cause significant harm to reindeer herding. Soil scarification is not applied on dry heath types or on barren heath type soils. On other lichen pastures soil scarification is avoided, when possible, and the lightest measures possible complying with the Forest Act are used.</p> <p>The forest management regimes applied are defined in negotiations between the Sámi Parliament, the Skolt Council and Metsähallitus.</p> <p>5) Manager of state forests makes the forest management plans in Sámi Homeland. The plans include the most important horse hair lichen and lichen pasture lands of reindeer herding cooperatives and their local units as well as relevant trails and constructions.</p> <p>6) The manager of state forests maintains reindeer maps and statistics on lichen lands by herding cooperatives and develops reporting on</p>	

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		<p>other areas important for Sámi reindeer herding.</p> <p>7) Environmental impact assessment of forest road construction in Sámi Homeland includes an estimate on the impacts of construction to Sámi culture and traditional livelihoods. Construction of forest roads on Sámi Homeland shall be integrated with the interests of Sámi culture, livelihoods and nature values as consulted with the Sámi Parliament and in Skolt region with the Skolt Council.</p> <p>8) Manager of state forests shall not prevent reindeer herding in Sámi area by fencing if reindeer herding cooperative has not given its consent on fencing.</p> <p>9) Travel expenses are compensated to the representatives of the Sámi Parliament or to the Skolt Council or to the reindeer herders that participate in the preparation of nature resource plans or plans for reindeer herding cooperatives.</p> <p>10) The Sámi Parliament and the Skolt Council shall be always consulted in forest certification audits</p> <p>Definition</p>	

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		<p><u>68) Sámi people</u> referred to in the criterion mean the persons that comply with the definitions of the Sámi Parliament Act (Section 3). The municipalities belonging to the Sámi Homeland are listed in the Section 4 of the Act, the Skolt area in the Section 2 of the Act on Skolt. Traditional Sámi livelihoods include the livelihoods listed in Section 17, subsection 3 of the Finnish Constitution.</p> <p><u>Biodiversity Convention</u> 8j: ... in conformity to the national legislation respects, protects and maintains such knowledge, inventions and practices of indigenous people and local communities that in the context of biodiversity conservation and sustainable use are part of significant traditional ways of living. It also promotes and widens the application of such knowledge, inventions and practices in cooperation with the societies referred to, as well as encourages the fair distribution of benefits gained from them.</p> <p><b>Please note</b></p> <p>The 2009 PEFC General Assembly adopted a new requirement on this issue as outlined in</p>	

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		Annex 3, 3.5 of the PEFC International documentation: <i>“Property rights and land tenure arrangements shall be clearly defined, documented and established for the relevant forest area. Likewise, legal, customary and traditional rights related to the forest land shall be clarified, recognised and respected. Forest management activities shall be conducted in recognition of the established framework of legal, customary and traditional rights, which shall not be infringed upon without the free and informed consent of the holders of the rights, including the provision of compensation where applicable. Where the extent of rights is not yet resolved or is in dispute there are processes for just and fair resolution. In such cases forest managers shall, in the interim, provide meaningful opportunities for parties to be engaged in forest management decisions whilst respecting the processes and roles and responsibilities laid out in the policies and laws where the certification takes place.”</i>	
6	We consider that <b>criterion 1.2.7 is not met by PEFC systems</b> , owing to stakeholder dialogue on specific cases, of which one relating to the Sami people of Sweden can be used as an	Please see response on comment number 5	The Technical Panel considered that they were unable to address

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	example. The Swedish PEFC standard has not addressed issues relating to land use rights of traditional or indigenous peoples.		comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.
7	<p>It is also important to note that respect for Native Customary Rights, as required by the CPET criteria outlined above, has not yet been accepted by the Government itself as part of its 'legality definition' in the context of the FLEGT negotiations. Again, despite (or because of) recent landmark court cases, which have been won by natives, the Government refuses up to date to include the relevant laws that respect Native Customary Rights into its legality definition.</p> <p>In the 'Joint Technical Evaluation report of the Malaysian Timber Legality Assurance System -TLAS- (October 2008), carried out in the context of the FLEGT negotiations, the</p>	<p><b>Malaysia</b></p> <p>Please note that Samling was never certified to a PEFC-endorsed forest certification scheme. With regard to the mention of 170 pending court cases in Sarawak, we wish to clarify that there is no PEFC-certified forest area in Sarawak</p> <p>There are a number of criteria, indicators and corresponding verifiers in the <i>MC&amp;I(2002)</i>, the standard that is used in the MTCS, that deal with tenure and use rights of indigenous peoples (IP)</p>	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing</p>

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	<p>consultants conclude that</p> <p>“Despite relevant legislation covering the above three areas (i.e. native customary rights, labour and health and environmental assessments) being included in the TLAS, the requirement for legal compliance is not taken into account in issuing export licences and further consideration needs to be given of how export procedures can ensure compliance with all legislation cited”.</p> <p>The report points to over 50 issues where the TLAS does not meet EU requirements for legality assurance.</p> <p>In this political context to accept the MTCC scheme, which obeys government rules by also ignoring these court judgements, as proof of sustainability and legality means supporting a Government undermining human rights and specifically Native Customary Rights to land in violation of international conventions (notably CERD and ICCPR) and statements (notably UNDRIP).</p> <p>Of course there is a theoretical chance that despite the Government not implementing its own laws, the MTCC would implement all the relevant laws as per its stated principles. A quick look though at just a few cases, shows that this is not the case.</p> <p>The first one is the well- documented case of the Samling</p>	<p>living in the FMU or adjacent to it.</p> <p>Under the MTCS, the audit of the FMU can only proceed if the CB is satisfied that the forest manager has been granted the legal right to manage the FMU concerned. In addition, the forest manager has to declare during the audit application that the FMU (or part thereof) is not linked to any disputes, or has any case pending in the courts of law, related to the tenure and use rights of IP. As stated in Criterion 2.3 of the <i>MC&amp;I(2002)</i>, “<i>disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified</i>”.</p> <p>In addition, while conducting the audit, the CB will need to consult the stakeholders which have an interest in, and/or are affected by, the forest management practices in the FMU concerned. If, during the audit, the CB is informed or becomes aware of any dispute between the FMU manager and any of the stakeholders, including the IP, the CB will have to assess and arrive at a judgement whether the dispute is of substantial magnitude involving a significant number of interests to disqualify the FMU from being certified under the</p>	<p>PEFC’s checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

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	<p>concession in Sarawak; the second one are the various cases documented in the report presented to the Dutch Government concerning their acceptance of the MTCC. Thirdly, in a hard hitting report the Malaysian National Auditor shows that the performance of the state forestry departments, who hold most MTCC certificates, is often in violation of national or state laws and documented various cases of illegal logging.</p> <p>Against this background of non compliance, a detailed study on the implementation of the MTCC on the ground would therefore be required, as a minimum, before concluding that any MTCC certificates are not in violating of the MTCC's own principles and national or state laws and do identify, document and respect legal, customary and traditional tenure. Evidence available to date shows the opposite.</p>	MTCS.	

Comment number	Criterion 1.2.8 The standard must require that appropriate mechanisms are in place for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions	Feedback from scheme	CPET comment
8	<p>Of course there is a theoretical chance that despite the Government not implementing its own laws, the MTCC would implement all the relevant laws as per its stated principles. A quick look though at just a few cases, shows that this is not the case.</p>	See response to comment number 7.	The Technical Panel considered that they were unable to address comments relating specifically to

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	<p>The first one is the well- documented case of the Samling concession in Sarawak; the second one are the various cases documented in the report presented to the Dutch Government concerning their acceptance of the MTCC. Thirdly, in a hard hitting report the Malaysian National Auditor shows that the performance of the state forestry departments, who hold most MTCC certificates, is often in violation of national or state laws and documented various cases of illegal logging.</p> <p>Against this background of non compliance, a detailed study on the implementation of the MTCC on the ground would therefore be required, as a minimum, before concluding that any MTCC certificates are not in violating of the MTCC's own principles and national or state laws and do identify, document and respect legal, customary and traditional tenure. Evidence available to date shows the opposite.</p>		<p>national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 1.3.2 The standard-setting process must seek to ensure balanced representation and input from the economic, environmental and social interest categories.	Feedback from scheme	CPET comment
9	<p>We consider that <b>criterion 1.3.2 and 1.3.3 in conjunction with the guidance on interpretation are not met by PEFC systems</b> due to the current structure of the PEFC system under the PEFC statutes.</p>	<p>PEFC did not provide feedback on this comment.</p>	<p>The Technical Panel took this comment into consideration during their review of PEFC.</p>

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	<ul style="list-style-type: none"> <li>- PEFC has established a new category of membership – International Stakeholder, but this revision is limited in that this is open to participation where an applicant operates in two or more countries, is legally registered as international</li> <li>- The applicant must be proposed by two members of PEFC’s existing council, which may act as a barrier to participation</li> <li>- And is then voted on by ballot of the remaining council members, which could further bar participation</li> <li>- Voting rights of International Stakeholder members are explicitly structured to ensure that these membership participants vote does not exceed collectively the equivalent of 50% of the number of votes of the NGB members, i.e. a maximum of one third of the General Assembly votes.</li> </ul> <p>It is therefore our contention that the PEFC statutes create a situation where one group of membership interests are structurally reinforced to the detriment of the new participant category explicitly set up and promoted by PEFC International to redress the balance of participation to a broader and more representative mix of forest stakeholders (<a href="http://www.pefc.org/index.php/news-a-media/general-sfm-">http://www.pefc.org/index.php/news-a-media/general-sfm-</a></p>		

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	<p><a href="#">news/news-detail/item/472-new-opportunity-to-join-pefc</a> ). Additionally, we believe that at the national level, there is significant latitude to delimit participation of wider forest stakeholders, and whilst this could be used to broaden participation, it also leaves an area as potentially very weak when stakeholder balance is managed in the local standard setting process. Evidence suggests this is currently the case.</p>		
10	<p>In the United States, the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) are both PEFC endorsed and do not include the appropriate mechanisms to ensure balanced representation from economic, social, and environmental interests:</p> <ul style="list-style-type: none"> <li>- SFI is not a member-based organization. The SFI Board of directors, which is the decision-making and approving body for the SFI standard is not elected by interest groups – it is elected by the existing board. There is no mechanism for meaningful participation by environmental interest groups such as WWF, Greenpeace, or others because they would never be accepted by the existing board, which was originally from appointment by forest industry members.</li> <li>- ATFS recently underwent a standards review and established an Independent Standards Review Panel. The panel comprised 15 members, 10 of whom would be classified as Economic representatives. The panel</li> </ul>	PEFC did not provide feedback on this comment.	The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.

Comment number	Criterion 1.3.2 The standard-setting process must seek to ensure balanced representation and input from the economic, environmental and social interest categories.	Feedback from scheme	CPET comment
	makeup was the following: 10 Economic (two forest owners, one product buyer, three from government land management agencies, one forester, one forest manager representing groups, and two from large industry); 2 Academics; 2 Social representatives (one forest worker representative and one from general labor); and 1 Environmental (one ENGO).		

Comment number	Criterion 1.3.3 The standard-setting and decision-making process adopted must seek to ensure: <ul style="list-style-type: none"> <li>No single interest can dominate the process;</li> <li>No decision can be made in the absence of agreement from the majority of an interest category.</li> </ul>	Feedback from scheme	CPET comment
11	Same as comment number 8	See response to comment number 8.	As number 8.

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment
12	We consider that criterion 2.3 -'relating to the requirements that certification audits must include assessment of systems	SFI's audit requirements are detailed in Section 9 - <i>SFI Audit Procedures and Auditor Qualifications</i>	The Technical Panel considered that they were

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment
	<p>and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met’-, are not being met by SFI and that therefore, as a component part of the PEFC system, the criterion is not being adequately met by the PEFC systems. Evidence has been presented within the market place for forest goods, and publicly, that insufficient time is being spent in the field on SFI certification audits, and audit team make up is inappropriate.</p>	<p><i>and Accreditation.</i> Part 6 describes the qualifications of the audit teams and auditors.</p> <p><b>6.1. Qualifications of Audit Teams</b></p> <p><i>Audit teams shall have the knowledge and skills to conduct an audit in accordance with the principles of auditing. The certification body shall select audit team members appropriate to the scope, scale and geography of the operation being audited. Additionally, at least one member of the audit team shall have knowledge of forestry operations in the region undergoing the audit, at least one member shall have knowledge of applicable laws and regulations, at least one member shall have knowledge of the socio-demographics and cultural issues in the region, and at least one member shall be a professional forester as defined by the Society of American Foresters (SAF), the Canadian Institute of Forestry, or licensed or registered by the state(s) or province(s) in which the certification is conducted. For forest management audits, the audit team shall have expertise that includes plant and wildlife ecology, silviculture, forest</i></p>	<p>unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC’s checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment
		<p><i>modeling, forest operations, occupational safety and health, international labor standards, and hydrology. One specialist per discipline is not required to meet any of the above requirements.</i></p> <p><b>6.2. Qualifications of Auditors</b></p> <p><i>ISO 19011 Section 7.3 Knowledge and Skills addresses a broad range of skills required of auditors. This is supplemented by ISO 19011 Section 7.3 Education, Work Experience, Auditor Training and Audit Experience.</i></p> <p><i>In addition, for certifications to the SFI 2010-2014 Standard, audit team members shall have the education, formal training and experience that promotes competency in and comprehension of:</i></p> <ul style="list-style-type: none"> <li><i>a. forestry operations as they relate to natural resource management, including wildlife, fisheries, recreation, ecology, etc.;</i></li> <li><i>b. international and domestic sustainable forestry management systems and performance standards</i></li> </ul>	

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment
		<p><i>including occupational safety and health, and labor standards; and</i></p> <p><i>c. certification requirements related to the SFI program.</i></p> <p><i>Audit team members who have obtained a professional degree in forestry or a closely related field shall have a minimum of two years' relevant work experience.</i></p> <p>Furthermore, all certification bodies must be accredited by the Standards Council of Canada (SCC) or the ANSI-ASQ National Accreditation Board (ANAB) to conduct SFI certifications. Both SCC and ANAB are part of the International Accreditation Forum.</p> <p>Requirements for how an Audit Team determines conformance is outlined in part 5.3.</p> <p><b>5.3. Determination of Conformance.</b></p> <p><i>The certification body shall assess conformance to each element of the SFI 2010-2014 Standard's, objectives, performance measures and indicators within the scope of the audit. SFI 2010-2014 Standard elements are objectives,</i></p>	

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment
		<p><i>performance measures and indicators.</i></p> <p><i>Evidence shall be compiled by examining operating procedures, materials relating to forestry practices and on-the ground field performance, and through meetings with employees, contractors and other third parties (e.g., government agencies, community groups, conservation organizations), as appropriate, to determine conformance to the SFI 2010-2014 Standard.</i></p> <p><i>The certification body shall ensure that the objectives and scope of the audit:</i></p> <ul style="list-style-type: none"> <li><i>• allow for accurate field determination of conformance for the entire operating unit;</i></li> <li><i>• verify that the Program Participant's SFI program conforms to SFI principles, policies, objectives, performance measures, indicators, and any additional indicators that the Program Participant chooses; and</i></li> <li><i>• verify whether the Program Participant</i></li> </ul>	

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme	CPET comment				
		<p><i>has effectively implemented its SFI 2010-2014 Standard program requirements on the ground.</i></p> <p><i>If a major nonconformity is found, a certificate of conformance shall not be issued until the certification body verifies that corrective action approved by the lead auditor has been implemented. A revisit may be required to verify implementation of corrective action.</i></p> <p><i>If a minor nonconformity is found, a certificate of conformance may be issued only after the lead auditor approves a corrective action plan that addresses the nonconformity within an agreed-upon period, not to exceed one year. Verification that the corrective action has been effectively implemented shall occur during the next surveillance audit.</i></p> <p>The table below describes the main elements and provides commentary to the SFI approach for certification.</p> <table border="1" data-bbox="1111 1233 1686 1331"> <thead> <tr> <th data-bbox="1111 1233 1355 1286">Audit phase</th> <th data-bbox="1359 1233 1686 1286">SFI</th> </tr> </thead> <tbody> <tr> <td data-bbox="1111 1289 1355 1331">Pre-assessment</td> <td data-bbox="1359 1289 1686 1331">Optional</td> </tr> </tbody> </table>	Audit phase	SFI	Pre-assessment	Optional	
Audit phase	SFI						
Pre-assessment	Optional						

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme		CPET comment
		Document Review	Mandatory (must include a readiness assessment if a pre-assessment has not been completed).	
		Interviews and stakeholder engagement processes	Amount of time required for this element is generally fairly limited due to focus on systems for stakeholder engagement and consideration of regulatory requirements in relation to First Nations	
		Field assessment of forestry activities	Mandatory	
		Post -Assessment document review	Generally not required due to pre-field audit document review.	
		Reporting	Technical and public reports required.	

Comment number	Criterion 2.3 The requirements for certification audits must include assessment of systems and documentation together with verification of outcomes in the forest adequate to ensure that both system and performance requirements in the standard are being met.	Feedback from scheme		CPET comment
			Reports focus on audit findings (i.e. non-conformities) rather than a full description of the forestry organization and require limited additional time.	
		Summary	The vast majority of the total time is focused on field assessment of forestry activities.	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme		CPET comment
13	<p>The Sustainable Forestry Initiative (SFI) does not include the appropriate mechanisms to ensure that all relevant issues are identified relating to compliance with the requirements of the standard:</p> <ul style="list-style-type: none"> <li>- SFI guidelines are NOT explicit and without specification of “all relevant issues” (in this case taken</li> </ul>	<p><b>SFI</b></p> <p>Certification Bodies conducting audits for SFI <b>must</b> consult external stakeholders directly to seek input for use in the certification audit. An example of what this entails is PricewaterhouseCoopers, a SFI accredited</p>	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
	<p>to mean social, economic, and environmental issue) being addressed. A certification body, when issuing a certificate, could comply with a very abbreviated consultation and <b><u>it does not need to include external stakeholders</u></b>.</p> <ul style="list-style-type: none"> <li>- Additionally, there is no requirement for consultation with external stakeholders within the SFI standards with regards to decision-making regarding social values, indigenous values, and environmental values. This is an egregious oversight in that forest owners may not have adequate capacity to represent these values. This is especially apparent given that it is often in a forest owner's best economic interest to not find determinations of social and environmental values on their lands.</li> </ul> <p><b><u>The American Tree Farm System (ATFS) does not include any mechanisms for stakeholder consultation in the audit process</u></b> nor is there any mechanism for meaningful public summaries of audit reports. The importance here is that SFI chain of custody includes have no mechanism to distinguish wood from ATFS certified forests from SFI certified forests (see comments addressing Chain of Custody). Thus what appears to be SFI claims (e.g. 100% from certified forests) may, in fact be 100% from ATFS certified forests which have no</p>	<p>certification body, who complies with the consultation requirement as follows:</p> <ol style="list-style-type: none"> <li>1. "During SFI Forest Management assessments, PricewaterhouseCoopers conducts direct interviews with a sample of stakeholders including: state agencies responsible for compliance and planning, the chairperson of the local SIC, representatives of local ENGOs and groups using the same landbase such as hunting clubs, snowmobile clubs, etc."</li> <li>2. All of the SFI 2010-2014 Standard requirements are subject to the same stakeholder consultation in the audit process as required in item 5.3 (Determination of Conformance) in Section 9 of the SFI 2010-2014 Standard Requirements package. These requirements are also <ul style="list-style-type: none"> <li>5.3. Determination of Conformance</li> </ul> <p>The <i>certification body</i> shall assess conformance to each element of the <i>SFI 2010-2014 Standard's, objectives,</i></p> </li> </ol>	<p>requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
	mechanisms for stakeholder consultation.	<p><i>performance measures and indicators</i> within the scope of the audit. <i>SFI 2010-2014 Standard</i> elements are <i>objectives, performance measures and indicators</i>.</p> <p><b>Evidence shall be compiled by examining operating procedures, materials relating to <i>forestry</i> practices and on-the-ground field performance, and through meetings with employees, contractors and other third parties (e.g., government agencies, community groups, conservation organizations), as appropriate, to determine conformance to the <i>SFI 2010-2014 Standard</i>.</b></p> <p>The <i>certification body</i> shall ensure that the <i>objectives</i> and scope of the audit:</p> <ul style="list-style-type: none"> <li>• allow for accurate field determination of conformance for the entire operating unit;</li> <li>• verify that the <i>SFI</i> program conforms to <i>SFI principles, policies, objectives,</i></li> </ul>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p><i>performance measures, indicators, and any additional indicators that the Program Participant chooses; and</i></p> <ul style="list-style-type: none"> <li>• verify whether the <i>Program Participant</i> has effectively implemented its <i>SFI 2010-2014 Standard program</i> requirements on the ground.</li> </ul> <p>If a <i>major nonconformity</i> is found, a certificate of conformance shall not be issued until the <i>certification body</i> verifies that corrective action approved by the <i>lead auditor</i> has been implemented. A revisit may be required to verify implementation of corrective action.</p> <p>If a <i>minor nonconformity</i> is found, a certificate of conformance may be issued only after the <i>lead auditor</i> approves a corrective action plan that addresses the nonconformity within an agreed-upon period, not to exceed one year. Verification that the corrective action has</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p>been effectively implemented shall occur during the next surveillance audit.</p> <p>Similar requirements, including “Evidence shall be compiled by examining operating procedures, materials relating to <i>forestry</i> practices and on-the-ground field performance, and through meetings with employees, contractors and other third parties (e.g., government agencies, community groups, conservation organizations), as appropriate, to determine conformance to the <i>SFI 2010-2014 Standard</i>.” are contained in the ANAB Accreditation Rule 17 (page 5) which outlines accreditation requirements for Certification Bodies seeking to conduct SFI certifications  <a href="http://www.anab.org/media/3868/ar17.pdf">http://www.anab.org/media/3868/ar17.pdf</a></p> <p>3. In addition, the SFI program operates in two extremely open societies-the United States and Canada. There is no shortage of information about stakeholder interests</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p>available to landowner and no shortage of private and local, state, provincial and federal regulatory and judicial processes to influence landowner decisions. The SFI Implementation Committees (<a href="http://www.sfiprogram.org/sustainable-forestry-initiative/outreach-training.php">http://www.sfiprogram.org/sustainable-forestry-initiative/outreach-training.php</a>) and the External Review Panel (<a href="http://www.sampsongroup.com/sfi/erp.htm">http://www.sampsongroup.com/sfi/erp.htm</a>) also provides additional mechanisms for consultation with external stakeholders.</p> <p>4. The SFI also has a comprehensive complaints process.</p> <p>The first is a process that is centered around SFI Implementation Committees . SICs are defined as: SFI Implementation Committee (SIC): A state, provincial, or regional committee organized by SFI Program Participants to facilitate or manage the programs and alliances that support the growth of the SFI program, including sustainable forest management. See Item 9 in Section 6 of the SFI 2010-2014 Standards requirement for more information on the SFI</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p>Implementation Committees. In 2009 there were 37 SFI Implementation Committees with 952 members--almost half of which were not SFI Program Participants SICs are required to establish inconsistent practices procedures to address concerns at the local levels regarding any forest practice observed that appears to be inconsistent with the SFI Standards. Here is an example from one state:</p> <p><a href="http://www.sharplogger.vt.edu/virginiasfi/incon.html">http://www.sharplogger.vt.edu/virginiasfi/incon.html</a></p> <p>Standard requirements:</p> <p>Performance Measure 17.3. Program Participants shall establish, at the state, provincial, or other appropriate levels, procedures to address concerns raised by loggers, consulting foresters, employees, unions, the public or other Program Participants regarding practices that appear inconsistent with the SFI Standard principles and objectives.</p> <p>Indicators:</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p>1. Support for SFI Implementation Committees (e.g. toll-free numbers and other efforts) to address concerns about apparent nonconforming practices.</p> <p>2. Process to receive and respond to public inquiries. SFI Implementation Committees shall submit data annually to SFI Inc. regarding concerns received and responses.</p> <p>The second is the process whereby a formal complaint is lodged that challenges the validity of a certification. That process is focused on the requirements of the Accreditation and Certification Bodies. Certification bodies must be accredited as noted below in order to conduct SFI certifications. The Accreditation bodies have formal complaints procedures that also require certification bodies to have complaint procedures as the first response.</p> <p>Introduction, Section 9</p> <p>The SFI program requires certification bodies to be accredited in order to conduct SFI</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<p>certifications and issue certificates.</p> <p>Certification body: an independent third party that is accredited by:</p> <ul style="list-style-type: none"> <li>• ANSI-ASQ National Accreditation Board (ANAB) as being competent to conduct certifications to the SFI 2010-2014 Standard.</li> <li>• American National Standards Institute (ANSI) as being competent to conduct certifications to the SFI Chain-of-Custody Standard.</li> <li>• Standards Council of Canada (SCC) as being competent to conduct certifications to the SFI 2010-2014 Standard and the SFI Chain-of-Custody Standard.</li> </ul> <p>Here is an example of the multiple complaint processes/levels for ANAB:  <a href="http://www.anab.org/feedback/complaints/complaint-help.aspx">http://www.anab.org/feedback/complaints/complaint-help.aspx</a></p> <p>ATFS</p>	

Comment number	Criterion 2.4 The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.	Feedback from scheme	CPET comment
		<ul style="list-style-type: none"> <li>The American Tree Farm System audit process includes significant consultation with external stakeholders. Third-party auditors conducting American Tree Farm System audits must be accredited by the ANSI-American National Accreditation Board (ANAB) or the Standards Council of Canada (SCC) which hold identical accreditation rules for American Tree Farm System audits. The accreditation rules state, "The audit evidence to determine the conformity with the forest management standard shall include relevant information from external parties (for example, governmental agencies, community groups, and conservation organizations) as appropriate" (See section 3.1 of ANAB AR 27). Third-party certifiers are required to adhere to the accreditation rule for all audits.</li> </ul>	

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
14	<p>There is failure by the PEFC scheme to implement its own documented requirements with regard to the CPET criterion 1.2.7 for its national schemes in Australia and the US in relation to conversion.</p> <p>The following evidence is from the Review of PEFC adequacy in delivering ACE Commitments Final report 11th September 2009, a report commissioned by Tetra Pak and written by Proforest:</p> <p><b>For AFS:</b></p> <p>'There is evidence that conversion of native forests still takes place in Northern Territory (e.g. Tiwi Islands) and Tasmania (with existing licenses still valid after new legislation stopping conversion on public land only was introduced in 2006).'</p> <p><b>For SFI:</b></p> <p>'There is no provision in the SFI Standard to prevent conversion of natural forest to plantation....'</p> <p>'...Everglades (located in Southern Florida) and Pacific Lowlands Mixed Forests (located in Western Washington and</p>	<p><b>SFI</b></p> <p>The SFI 2010-2014 Standard does have provisions that accomplish the intent of this criterion. Indicator 2.1.6 requires "planting programs that consider ecological impacts of a different species mix from that which was harvested". As such, conversions are not allowed except in justified circumstances where the program participant can document that ecological impacts are not significant if managing for a different species mix after a final harvest.</p> <p>Finally, any forestland that is being converted to non-forest uses would not meet any of the SFI Standard requirements (prompt reforestation, biodiversity, etc.) and could not be certified under the SFI program and wood from forests being converted to non-forest uses cannot be</p>	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
	Oregon state)...these two ecoregions are at risk of conversion...'	<p>counted as certified content in any of the SFI program labels.</p> <p>According to the most recent US Forest Service statistics, the decline in natural forest represents roughly one million acres per year or a rate of 1/10th of one percent (0.1%) per year, which is considerable less than the 0.5% conversion rate typically allowed under FSC. This decline is due to several causes, including development. Conversion from natural forest to plantation likely represents a small part of this 0.1%.</p> <p><u>SFI 2010-2014 Standard Requirements, Section 13 Definitions</u></p> <p><b>conversion sources:</b> Roundwood and/or chips produced from conversion of forestland to other land uses. Manufacturers can use this wood to avoid wasting it but cannot include it when calculating <i>certified forest content</i> component.</p>	

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		<p><b>AFS</b></p> <p>Concerning the stakeholder's reference to the ACE report, please note that there are no forests or plantations certified in the Tiwi Islands or in the Northern territory. Should these regions pursue certification then all evidence of adherence to the Australian Standards would need to be met before they would be considered for certification. In 2009 a certified organisation operating in Tasmania had its certified status taken away due to failure to provide evidence of compliance to the Australian Standard.</p> <p>Extract from Australian Standard for forest management - AS 4708</p> <p>4.3.2 The forest manager shall not convert native vegetation to plantation forest cover or non-forest cover except in the limited</p>	

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
		<p>circumstances, as follows:</p> <ul style="list-style-type: none"> <li>a) Infrastructure development either required by legislation or regulation, or ancillary to the approved forest management plan or equivalent instrument under requirement 4.1.2, or</li> <li>b) Small-scale clearing (less than 10%, up to a limit of 40 hectares on a single forest management unit) with appropriate offsets.</li> </ul> <p>In any of these circumstances, the forest manager shall ensure that the following:</p> <ol style="list-style-type: none"> <li>1. Planning (identification and assessment) and practices (operations and monitoring) support the protection and maintenance of Significant Biological Diversity Values and that, as a minimum, conversion occurs only where it does</li> </ol>	

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
		<p>not involve occurrences of—</p> <ul style="list-style-type: none"> <li>• threatened (including vulnerable, rare or endangered) or regionally significant ecosystems or ecological communities;</li> <li>• old-growth forest; and</li> <li>• important habitat of threatened (including vulnerable, rare or endangered) or regionally significant species</li> </ul> <p>2. No native vegetation community, ecological community or ecosystem becomes depleted, or qualifies as threatened (endangered, vulnerable or rare) in accordance with Commonwealth, State and Territory legislation, regulation or species recovery plans.</p>	

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
		<p>Extract from Australian Standard for forest management - AS 4708 - Supplement 1</p> <p>A-4.3.2 Permanent forest estate</p> <p>GUIDE TO VERIFICATION</p> <p>The intent of this requirement is the following:</p> <p>To contribute to the maintenance of an extensive and permanent native forest estate, acknowledging (as a general principle) that conversion of native vegetation, while sometimes justifiable in limited circumstances for forestry operations, has adverse impacts on biological diversity values.</p> <p>The forest manager should not convert native vegetation on the defined forest area to plantation forest cover or a non- native vegetation cover. The requirement acknowledges</p>	

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		<p>that limited conversion may be allowable under specific circumstances including smallscale (up to 40 hectares) native vegetation clearing activities intended to provide some flexibility for plantation configuration in larger operations.</p> <p>Clearance of contiguous 40 hectares areas in smaller operations, simply to increase the available area of plantation development, would be considered against the spirit of this requirement. Offsets are required for small-scale clearing of native vegetation. To ensure the maintenance of a permanent forest estate by requiring the forest manager avoids native vegetation clearance for conversion to plantation on the defined forest area.</p> <p>Any land clearance in this context refers explicitly to conversion of native vegetation to another forest land use or non-native vegetation</p>	

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
		<p>cover. It does not include the harvesting and regeneration of native forests.</p> <p>Type of requirement</p> <p>Document-based with verification in the field</p> <p>Basis of assessment</p> <p>That the impact of any small-scale conversion of native vegetation on Significant Biological Diversity Values is identified and a risk assessment is undertaken which includes appropriate technical expertise, and appropriate offsets are identified and implemented.</p>	
15	Although this criterion is formulated in a rather convoluted way, it seems to be saying that conversion is only allowed in very specific circumstances. This would be in line with principles 1.2.3, 1.2.4 and 1.2.5, as conversion of forests to timber, oil palm or rubber plantations has serious negative	PEFC did not provide feedback on this comment.	<p>This comment relates partly to the outcomes of certification, which is outside the scope of the review.</p> <p>The comment also refers to</p>

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
	<p>environmental and social consequences.</p> <p>In the case of Malaysia conversion of forests to plantation is a serious and well-documented problem. Plantations have been expanding both within and outside (MTCC certified) Permanent Forest Reserves.</p> <p>The MC&amp;I 2002 interpretation document of criterion 6.10 of 7 April 2010 seems to indicate that certification on basis of MC&amp;I 2002 shall be confined to natural forests only and shall exclude plantations. This is, however, not the case in practice, where certificates have been handed out to FMUs comprising of full permanent forest reserves, including plantations.</p> <p>Furthermore the document states that conversion should only have long-term conservation benefits, which is not conceivable when it comes to conversion of oil palm or rubber plantations, which don't have 'conservation benefits'.</p> <p>This problem seems to have been picked up in the new draft 'MC&amp;I (Natural Forests) First draft 16 December 2009', where</p>		<p>a draft scheme document – the review only relates to scheme documentation that is current at the time of the review.</p>

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
	<p>indicator 6.10.2 only refers to 'higher economic value', which clearly is the case with conversion to oil palm.</p> <p>However this indicator is in contradiction of UK Government Principles outlined above, as this type and scale of conversion cannot be called in any way 'sustainable forest management' and is also in clear contradiction of criterion 6.10.c in both drafts.</p> <p>Therefore it is clear that the MTCC scheme allows for conversion to other uses, notably oil palm and rubber, in several states at least and therefore is in violation of the UK Timber Procurement Policy and should therefore not be accepted as proof of sustainability.</p>		
16	<p>In the United States, the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) are both PEFC endorsed and do not address conversion, as noted above, in their standards. We view the intent of the Criterion to address the simplification of forest ecosystems and interpret the Criterion to include concepts such as:</p>	See feedback on SFI on number 14.	The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the

Comment number	Criterion 2.7 The certification scheme must include measures which limit and clearly describe and justify the circumstances in which certification may be awarded to a forest, the character of which has been subject to planned and systematic transformation in a concentrated period of time with the consequence of significantly reducing the forest's biodiversity and/or health and vitality of the forest ecosystem; for example, the conversion of natural forest or forest with many of the characteristics of natural forest to industrial forest plantation.	Feedback from scheme	CPET comment
	<ul style="list-style-type: none"> <li>- the elimination of natural forests and replacing them with plantings of exotic species, or genetically modified species, or large blocks of single clones of species that don't normally reproduce clonally (e.g. somatic embryogenesis cloning of pine trees);</li> <li>- the use of clear-felling techniques in natural forests where clear-felling and the resulting even-aged forest stand is not representative of natural disturbance regimes;</li> <li>- the conversion of natural forest land to non-forest uses (e.g. development).</li> </ul>		available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.

Comment number	Criterion 4.2 There must be a certified chain of custody in place from the forest of origin to the final certified product which provides a link between the certified material in the product or product line and certified forests.	Feedback from scheme	CPET comment

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17	<p>We consider that <b>criterion 4.2 in conjunction with the guidance on interpretation is not met by PEFC systems</b> which use the option of regional certification. Under regional certification forest owners do not hold certificates issued by accredited certification bodies and consequently also do not hold chain of custody certification. The right to use the Logo on-product is granted by the national PEFC scheme in such cases.</p> <p>The PEFC standard on Logo use (s. below) states under point 6.2 (c) that ‘individual forest owners as holders of individual certificate or members in regional or group certification’ are eligible to use the PEFC Logo on-product and thus identify their products as PEFC endorsed (s. also point 7 of this standard). Members in regional certification are therefore eligible to sell timber without being in possession of a certificate for their chain of custody issued by an accredited certification body as required by the CPET criterion 4.2 above.</p> <p>Individual forest owners participating in regional certification normally hold an attestation issued by the regional entity indicating their participation in the scheme. This is the case e.g. in the German PEFC scheme. However, this does not constitute an equivalent to a certificate from an accredited certification body as it is not issued by an independent entity and not controlled by this entity.</p>	<p>PEFC forest management certification certifies forest management, while CoC certification applies to all entities beyond “the forest gate”. This means that all entities along the supply chain must be CoC certified once certified timber is no longer under ownership of the forest owner, independent of whether the FMU is covered by regional or individual certification.</p>	<p>The Technical Panel took this comment into consideration during their review of PEFC.</p>
18	<p>The SFI chain of custody standard has no mechanism for distinguishing materials that come from any PEFC source (their term “<i>certified forest content</i>” refers equally to all PEFC</p>	<p>PEFC did not provide feedback on this comment.</p>	<p>The Technical Panel considered that they were unable to address</p>

Comment number	Criterion 4.2 There must be a certified chain of custody in place from the forest of origin to the final certified product which provides a link between the certified material in the product or product line and certified forests.	Feedback from scheme	CPET comment
	<p>certified input). Thus the determination if SFI is compliant with all of these CPET criteria is to ensure that all other PEFC standards are compliant (including ATFS, CSA or any other PEFC endorsed standard).</p> <ul style="list-style-type: none"> <li>- For example, noting that ATFS has no mechanisms to ensure sustainability as noted in Criteria 1.2.3-1.2.6 (see comments on these Criteria) and noting that SFI chain of custody standards have no mechanism for distinguishing SFI certified from ATFS certified, then SFI cannot make these claims credibly.</li> <li>- If any North American PEFC standards are judged to be non-compliant (including ATFS), then SFI claims should also be judged to be non-compliant since there is no mechanism to distinguish the source of the material to be from an SFI-certified forest or from any other PEFC certified forest in North America.</li> <li>- Although CPET has noted in its previous assessment that the SFI Fiber Sourcing label has no ties to any certified forest, we would like to ensure that this separation is fully acknowledged and recognized.</li> </ul>		<p>comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>

Comment number	Criterion 4.4 If mixing of certified and uncertified material in a product or product line is allowed and the proportion of uncertified material can exceed 30%, then the uncertified material must be covered by a verifiable system which ensures that it is from sustainable forest sources where the requirements for sustainability set out in criteria 1.2.3 - 1.2.6 above are being met.	Feedback from scheme	CPET comment
19	<p>The Sustainable Forestry Initiative (SFI) does not include the appropriate mechanisms to ensure that all relevant issues are identified relating to compliance with the requirements of the standard:</p> <ul style="list-style-type: none"> <li>- SFI guidelines require avoidance of “<b>controversial sources</b>” which is defined by SFI as: “<i>Controversial sources include illegal logging and fiber sourced from areas without effective social laws</i>”.</li> <li>- There is no statement in the SFI standards that addresses ecological components of sustainability for the uncertified material in and SFI certified product.</li> <li>- Given that SFI includes all material that qualifies as <i>certified forest content</i> equally in their chain of custody standards and material claims, the only mechanism to ensure that this component of sustainability is met is to ensure that all potential sources of <i>certified forest content</i> qualify. Thus, noting that ATFS additionally has no mechanisms to ensure sustainability as noted in Criteria 1.2.3-1.2.6 (see comments on criterion 1.2.6), SFI cannot make these claims.</li> </ul>	PEFC did not provide feedback on this comment.	The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.

Comment number	Criterion 4.4 If mixing of certified and uncertified material in a product or product line is allowed and the proportion of uncertified material can exceed 30%, then the uncertified material must be covered by a verifiable system which ensures that it is from sustainable forest sources where the requirements for sustainability set out in criteria 1.2.3 - 1.2.6 above are being met.	Feedback from scheme	CPET comment
	Please see the opening comment for rationale on why ATFS is being addressed here and needs to be included in the analysis.		

## 2. General comments

Comment number	General Comments	Feedback from scheme	CPET comment
20	As CPET noted on 21 <sup>st</sup> of May 2009, MTCC would only be accepted as proof of sustainability once it had fully implemented 'the revised scheme requirements'. As of today, these requirements have not yet been fully implemented. Notably the MC&I 2002 has still not been rolled out across the country and FMUs (in practice whole Permanent Forest Estates in a state) remain certified that do not meet the MC&I 2002. For that reason alone MTCC should not be approved, as yet, as prove of sustainability. See MTCC website for data (print out available from FERN).	PEFC did not provide feedback on this comment.	CPET only accepts certificates assessed against FSC or PEFC endorsed standards and requirements, i.e. PEFC certified FMU and PEFC certified CoC holders. Non-PEFC endorsed MTCS certified FMU and CoC certificate holders do not meet CPET requirements.
21	It is unclear which MTCC certificates relate to which standards. There is the MC&I 2002, operational since 2005,	PEFC did not provide feedback on this comment.	CPET only accepts certificates assessed against

Comment number	General Comments	Feedback from scheme	CPET comment
	<p>but now being revised and presented as MC&amp;I (Natural Forests) First Draft 16 December 2009. Then there is the MC&amp;I (Forest Plantations) – no date- . Then there is a previous MC&amp;I standard – which is not on the MTCC website anymore – but which seems to be still active (at least one FMU has been and remains certified (e.g. in Johor), despite the certificate being handed out in 2003). At the moment there therefore seem to be at least three standards (possibly four) leading to MTCC certificates. This is another reason why MTCC should not yet be approved as prove of sustainability, as some of them don't meet CPET criteria. See MTCC website for data (print out available from FERN)</p>		<p>FSC or PEFC endorsed standards and requirements, i.e. PEFC certified FMU and PEFC certified CoC holders, certified against the MC&amp;I (2002). Non-PEFC endorsed MTCS certified FMU and CoC certificate holders do not meet CPET requirements.</p>
22	<p>The MTCC is very much a government lead scheme. Although in theory it meets the CPET governance related criteria, in practice the Government has a dominant say in all levels of governing of the system. This is an issue of serious concern, which should be looked at in detail by CPET and the technical panel. The question 'How independent is the MTCC' needs to be answered. This should also be seen in the light of the relationship between the MTCC and the MTC and the fact that MTC staff has played a key role in negotiating the FLEGT agreement with the EU, despite not being part of the government, and that MTC staff often formally represents the Malaysian Government at public meetings, such as at Chatham House. Unlike many other countries, there seems to be a continuum between Government and Industry if not on paper, at least in practice. This has a direct impact on how the MTCC is functioning.</p>	<p>PEFC did not provide feedback on this comment.</p>	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national</p>

Comment number	General Comments	Feedback from scheme	CPET comment
			schemes.
23	<p>The MTCC does not certify Forest Management Units in the usual sense of the word, and as assumed in principle 1.1.2. The MTCC's certified Forest Management Units (FMUs) in Peninsular Malaysia consist of the whole Permanent Forest Reserve of these states, managed by the State's Government. It is therefore also the forestry departments of these different states that hold the certificates, not the companies contracted for logging. It is therefore at best very unclear if principle 1.1.2. has been met. Based on the publicly available documentation on the MTCC website this cannot be verified. Is CPET and the technical panel therefore certain that principle 1.1.2 has been met? The situation is different in Sarawak and Sabah, where certificates have been issued to private companies.</p>	PEFC did not provide feedback on this comment.	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.</p>
24	<p>It appears that many MTCC certificates have been given to FMUs before they have actually been assessed. Data on the MTCC website show that in several cases certificates have been issued before the actual assessment has taken place. E.g. in case of Anap Muput, certificate was issued on 19<sup>th</sup> February 2008 while the Assessment did not take place till March 2008, or in case of Kelantan where the assessment took place in February 2008 and the certificate was issued on 18<sup>th</sup> of January 2008. This needs to be looked at and if found</p>	PEFC did not provide feedback on this comment.	<p>The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and</p>

Comment number	General Comments	Feedback from scheme	CPET comment
	correct, acted on by CPET and the technical panel.		have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.
25	<p>American Tree Farm System (ATFS - Governed by American Forest Foundation) has not been fully assessed by CPET for compliance, but current SFI labelling systems and claims include ATFS certified material as equal to SFI with no mechanisms for distinction. Thus, for SFI to be considered compliant, ATFS must also be assessed and be determined compliant.</p> <p>The SFI chain of custody standard makes repeated reference to "<i>certified forest content</i>" and has no mechanism from distinguishing wood from an SFI certified forest from any other PEFC endorsed system. As defined in the glossary: "certified forest content: Raw material from lands third party certified to <i>acceptable forest management standards</i>". ATFS as well as CSA are subsequently identified as acceptable forest management standards.</p> <p><b><u>Thus, SFI chain of custody standard and resulting claims rules include no mechanism for distinguishing material</u></b></p>	PEFC did not provide feedback on this comment.	The Technical Panel considered that they were unable to address comments relating specifically to national scheme requirements within the available time period, and have proposed that the next review includes specific provision for comparing PEFC's checklist for the endorsement of national certification schemes and relevant evaluation reports of specific national schemes.

Comment number	General Comments	Feedback from scheme	CPET comment
	<p><b><u>inputs from SFI certified forests from material inputs from other certification systems (such as ATFS).</u></b> For this reason, please note that I have included reference to noted areas where SFI and ATFS are short of full compliance and in some instances where either is fully non-compliant. Otherwise stated, any analysis of SFI compliance is not complete without an additional analysis of ATFS and CSA compliance.</p>		