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Senatskanzlei  
Herrn Ole von Beust  
Erster Bürgermeister der Freien und Hansestadt Hamburg und Präsident des  
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19 April 2010

Dear Mr. Beust,

We, Members of the Network of Indigenous Peoples and Non-Governmental Organisations on Forest Issues (JOANGOHutan) and the Network for Malaysian Indigenous Peoples (JOAS), write to express our concern over the full acceptance by the government of the City of Hamburg for the Malaysian Timber Certification Scheme (MTCS) of the Malaysian Timber Certification Council (MTCC) from 2010.

We urge instead that the government of the city of Hamburg reconsiders the decision to endorse the MTCS label. In our view, there are serious shortcomings in the MTCS standards and procedures to ensure the protection of the Malaysian rainforests and peoples who depend on the forests.

We are aware that the City of Hamburg have provided scientific support to refine the MTCS Standards [MC&I 2002] in order to fulfil the requirements of the City of Hamburg for the use of tropical timber. However, the credibility of the MTCS remains questionable as the Scheme fundamentally fails to address critical concerns:

- Destructive, including illegal logging continues to be rampant despite of MTCS [MC&I 2002] certifications. Specifically, the Auditor-General's Report of 2008 revealed that four states - Sarawak, Kelantan, Pahang and Johor - had mismanaged their forest (see, <http://www.audit.gov.my>). Of these, Kelantan, Pahang and Johor have the MTCS-certified Forest Management Units (FMUs). Despite the Auditor-General's reports for the other MTCS certified states are barely less critical in their findings;
- The MTCS is of little help to improve the overall forest management in the country. For instance, the Auditor-General's report mentioned above has revealed the confiscation of some 272,588 logs believed to be illegally harvested in Sarawak for the period 2006 and 2008. The audit also revealed that the number of confiscated logs has significantly increased from 29,179 units in 2006 to 108,413 units in 2007 (an alarming 271.5% increase) and further increased by 24.5% in 2008 (134,996 units). [Auditor-General's Report of 2008, Activity of Ministry/Department/Agency and Sarawak State Government

Corporation.] This trend shows that MTCS is not a useful tool for many FMUs to achieve forest sustainability despite over a decade of promotion;

- The MTCS does not prove itself as performance based. For instance, the assessment of the Anap Muput FMU (Sarawak) to close-out a major Corrective Action Requested (CAR) was based on procedural measures, such as establishment of boundary and signing of agreement with the headmen that does not necessarily obtain the free and informed consent of the community collective;
- The Verifiers for Principle 2.2 [MC&I 2002] on local community rights states, “Contractual agreement entered into with free, prior and informed consent, with local communities with legal or customary tenure or use rights for use of land.” However, in the state of Sarawak, most of the logging concessions were issued in the 1970s and 1980s with no informed consent of the local communities. The MTCS [MC&I 2001] certified Sela’an Linau FMU (Timber Licence T/4012) issued to Samling Plywood Sdn Bhd in 2004, which has since expired in December 2009, overlapped with local customary claims. The affected communities had filed the dispute with the court since 1998 but the MTCS certificate of sustainable forest management was nonetheless granted;
- Dispute resolution mechanism was included in the MTCS only after February 2009, which seemed to be an afterthought in order to fulfill the requirement placed on MTCS. There was no inroad provided for the communities of the formerly certified FMU, such as the Sela’an Linau FMU, to file a formal grievance with MTCC on the tenure dispute;
- A recent study by a coalition of Dutch conservation, environmental and indigenous peoples NGOs found that the MTCC secretariat has secretly overhauled its standard and certification system by ordering its assessors in October 2009, to not base their certification decisions on the extent of deforestation in certified FMUs (criterion 6.10 (a)). Instead, MTCC will be *greenwashing* all deforestation for plantations in its certified forests. With its decision, the MTCC secretariat has retracted on the system’s policy to allow assessors to make the certification decisions. (*Rubbery certification: A critical review of the endorsement of the Malaysian Timber Certification System (MTCS) by the Dutch Timber Procurement Assessment Committee (TPAC)*); and
- The same report also points out that treating the whole state Permanent Forest Reserve (PFR) as one FMU in the Peninsula Malaysia is far too broad for effective management.

We have made various submissions to the MTCC and other authorities since 2001 expressing our dismay and rejection of the MTCC consultation process that has serious flaws and that civil society’s participation and indigenous rights have not been well taken in any meaningful sense in the MTCS. Hence the confirmation and acceptance of MTCS-certified timber would pose threats to both the environment and the society of Malaysia.

In light of the above, we respectfully urge the city of Hamburg not to proceed with confirming and accepting the MTCS label. A credible Malaysian timber certification scheme requires the fulfilment of the following conditions:

- 1) The MTCS Standards must be applicable and enforceable throughout the country to effect sustainable forest management with performing results;
- 2) The MTCS is to be scrutinized by its system of governance and implementation, rather than the seemingly perfecting standards that are currently being revised.

- 3) Indigenous land claims and rights should be fully respected in line with state, federal and international laws and instruments. MTCC must ensure that all disputes and land rights matters are addressed and actual implementation on the ground.

We maintain that no low standard timber, even if judged as acceptable on paper and technical points by MTCC and the buyers, should be allowed to enter the markets in the EU and the city of Hamburg.

Honorable Mayor, we believe that by reversing your decision you can help constitute the way forward to the elimination of unsustainable timber both legally and illegally harvest as well as to protect the rights of indigenous and forest-dependent peoples and to prevent potentially negative impacts on forests.

We thank you for your attention,



Meng-chuo Wong (Mr.)  
Director of IDEAL

For and on behalf of

1. Jaringan Orang Asal dan NGO Tentang Isu-Isu Hutan (JOANGO Hutan)
2. Jaringan Orang Asal SeMalaysia (JOAS)

JOANGO Hutan consists of the following organizations:

Borneo Resources Institute of Malaysia (Brimas), Sarawak  
Center for Orang Asli Concerns (COAC), Selangor  
Institute for Development of Alternative Living (IDEAL), Sarawak  
Keruan Association (Penan), Sarawak  
Partners of Community Organisations (PACOS Trust), Sabah  
Peninsular Malaysia Orang Asli Association (POASM)  
Sarawak Access (SACCESS), Sarawak  
Sabat Alam Malaysia (Friends of the Earth Malaysia)  
Save Our Sungai Selangor (SOS Selangor), Selangor  
Sinui Pai Nanek Sngik (SPNS/'New Life One Heart'), Perak-based Orang Asli community group

JOAS comprises 33 Orang Asli/Indigenous communities and community organizations or networks of Malaysia.

C.C

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