

How forest certification systems meet the EUTR requirements

The Programme for the Endorsement of Forest Certification (PEFC): International, Brazilian and Malaysian national standards

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About NEPCon

NEPCon (Nature Economy and People Connected) is an international non-profit organisation that works to build capacity and commitment for mainstreaming sustainability. For almost 25 years, we have worked to foster sustainable land use and responsible trade in forest commodities. We do this through innovative projects, capacity building and sustainability services.

A self-managing division of NEPCon promotes and delivers our certification services. Surplus from certification activities supports the development and implementation of NEPCon's non-profit activities.

To support the legal timber trade, NEPCon makes its LegalSource™ Due Diligence System freely available. NEPCon is recognised by the EU as a Monitoring Organisation under the EU Timber Regulation. Learn more about NEPCon at www.nepcon.org

Contents

Acronyms	4
Definitions	5
A. Introduction	6
B. Methodology	6
C. Certification system evaluation	10
Introduction and background	10
Standards	11
<i>Forest management</i>	11
<i>Chain of custody</i>	12
<i>Other normative documents included in the evaluation</i>	13
Verifying PEFC COC certificates	14
Findings of the evaluation	14
Conclusions for buyers of PEFC certified material	18
Annex I: Evaluation details	20
PEFC International	20
MTCS	33
CERFLOR	45

Acronyms

CB:	Certification Body
Cerflor:	Brazilian Program for Forest Certification (endorsed by PEFC)
CITES:	The Convention on International Trade in Endangered Species of Wild Fauna and Flora
CoC:	Chain of Custody
CSOs:	Civil Society Organisations
EUTR:	EU Timber Regulation
FLEGT:	EU Action Plan on Forest Law Enforcement, Governance and Trade
FM:	Forest Management
FME:	Forest Management Enterprise
FMU:	Forest Management Unit
FSC:	Forest Stewardship Council
MTCC:	Malaysian Timber Certification Council
MTCS:	Malaysian Timber Certification Scheme
NEPCon:	Nature, Economy and People Connected
NGOs:	Non-governmental Organisations
PEFC:	The Programme for the Endorsement of Forest Certification Schemes
SMEs:	Small and Medium-Sized Enterprises

Definitions

Applicable legislation (EUTR def.):

“Applicable legislation” means the legislation in force in the country of harvest covering the following matters:

- rights to harvest timber within legally gazetted boundaries,
- payments for harvest rights and timber including duties related to timber harvesting,
- timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,
- third parties’ legal rights concerning use and tenure that are affected by timber harvesting, and
- trade and customs, in so far as the forest sector is concerned.

Certification System: The system of standards and procedures governing certification, quality assurance and other directly related activities to the standards and the certified organisations and certification bodies – for example, the system applied by PEFC.

Certification Body: An organisation accredited to certify organisations against the certification standard(s).

Certification System Evaluation Standard: Standard developed by NEPCon to evaluate certification systems. See: <http://www.nepcon.org/legalsource-standard>

Controversial Sources (PEFC): Forest activities which are:

- a) not complying with local, national or international legislation, applying to forest related activities, in particular in the following areas:
 1. forestry operations and harvesting, including biodiversity conservation and conversion of forest to other use,
 2. management of areas with designated high environmental and cultural values,
 3. protected and endangered species, including requirements of CITES,
 4. health and labour issues relating to forest workers,
 5. indigenous peoples’ property, tenure and use rights,
 6. third parties’ property, tenure and use rights,
 7. payment of taxes and royalties,
- b) not complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned,
- c) utilising genetically modified forest-based organisms,
- d) converting forest to other vegetation type, including conversion of primary forests to forest plantations.

Standard: the list of normative requirements that organisations seeking certification shall adhere to and be evaluated against.

A. Introduction

This evaluation aims to assess how the PEFC forest certification system (including MTCS and Cerflor) meets fundamental aspects of legality requirements for timber legality as well as how the certification is set up to provide quality assurance and transparency, enabling the system to provide meaningful indication of legality in relation to the EU Timber Regulation (EUTR).

The evaluation is based on a framework and legality definition developed by NEPCon, based on the legality definition of the EU Timber regulation and additional requirements in that regulation related to the use of certified material as part of the due diligence process.

The NEPCon Certification System Evaluation Standard can be accessed here:

<https://www.nepcon.org/file/1698/download?token=Xn7DbkeX>. Note that the evaluation conducted in this report only covers requirements directly related to the EUTR, and does not include an evaluation against the full NEPCon standard.

The result of the evaluation can be used by organisations as part of their due diligence procedures to source material that carries the claims of the evaluated systems. Any gaps or weaknesses in the system can indicate potential legality risks and therefore assessed in detail and mitigated where necessary.

Most certification and verification systems, including PEFC, have undergone rapid development in recent years, partly to align themselves with the EUTR and other timber legality regulations.

The result of this evaluation is an overview of how the PEFC system covers the requirements in the NEPCon Certification Scheme Evaluation Framework, with focus on the EU Timber Regulation 95/2010 (Article 6 Due diligence system), as well as the European Commission's Implementing Regulation (No 607/2012 Article 4 Risk assessment and mitigation).

A similar report contains a similar evaluation of the FSC system.

With this assessment, we have tried to establish a clear and concise evaluation of (1) whether the systems in question meet the NEPCon certification evaluation requirements, based on the EUTR certification system criteria; and (2) whether the systems provide an appropriate level of indication of legality to meet the NEPCon definition of legal timber.

B. Methodology

The evaluation was based purely on a desk-review of documents. Draft reports were shared with the scheme owner and comments received considered and incorporated into the final version.

The NEPCon Certification Scheme Evaluation Framework is built on the EU Timber Regulation and related regulations and guidance as follows:

- EU Timber Regulation 995/2010
- EU Commission Implementing Regulation 607/2012
- EU Commission Delegated Regulation 363/2012

- EU Commission notice of 12 February 2016 guidance document for the EU Timber Regulation

All documents are available here:

http://ec.europa.eu/environment/forests/timber_regulation.htm

The EU Commission Implementing Regulation (607/2012) contains the following specific requirements related to the use of third-party certification systems (Art. 4):

Certification or other third-party verified systems referred to in the first indent of the second paragraph of Article 6(1)(b) and in Article 6(1)(c) of Regulation (EU) No 995/2010 may be taken into account in the risk assessment and risk mitigation procedures where they meet the following criteria:

(a) they have established and made available for third-party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation;

(b) they specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with;

(c) they include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;

(d) they include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.

This evaluation is conducted against a framework for evaluating certification and verification systems to assess their ability to provide assurance of the legal harvest, transport and trade of forest products, and to assess the level of transparency and quality control of such systems, based on the EU Timber Regulation and related implementing regulations and guidance, but adapted by NEPCon.

Also, it shall be highlighted that the legality definition applied here is the NEPCon specification of what constitutes legality within the EUTR definition of what “illegally harvested” means.

The EU Timber Regulation 995/2010 (article 2) defines illegal timber as follows:

'illegally harvested' means harvested in contravention of the applicable legislation in the country of harvest;

'applicable legislation' means the legislation in force in the country of harvest covering the following matters:

- *rights to harvest timber within legally gazetted boundaries,*
- *payments for harvest rights and timber including duties related to timber harvesting,*

- *timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,*
- *third parties' legal rights concerning use and tenure that are affected by timber harvesting, and*
- *trade and customs, in so far as the forest sector is concerned.*

This definition is supposed to be interpreted broadly and making room for incorporating national legislation. The EU Commission Guidance Document (12.2.2010) states:

“The EUTR takes a flexible approach by listing a number of legislative areas without specifying particular laws, as these differ from country to country...”

Due to the broad categories applied by the EUTR, NEPCon have expanded these into 19 sub-categories against which we evaluate the scope of certification standard’s ability to meet the EUTR.

Table 1: Categories for evaluation

Category	Description
Legality	<p>Evaluation of the certification system standard’s coverage of legal requirements. The report also evaluates how well the criteria and indicators of certification standards are formulated to ensure compliance with the legal requirements covered in the standards. We apply 5 criteria and 19 sub-criteria for legality.</p> <p>This refer to the EUTR 995/2101 definition of legally harvested timber and Implementing Regulation 607/2012 Article 4a.</p>
Chain of Custody	<p>The system shall include requirements to ensure that material included in the scope of certification/verification will not be mixed with other material, irrespective of the method applied. These requirements do not necessarily require the tracking of all timber from the forest, but may include risk-based systems to assure that risks of contamination with illegal or unknown material is managed.</p> <p>This refer to Implementing Regulation 607/2012 Article 4c and d.</p>
System requirements	<p>The system shall include requirements for certified or verified organisations to have in place systems and procedures that enable them to meet all applicable requirements of the respective system.</p> <p>This refer to Implementing Regulation 607/2012 Article 4a.</p>
Transparency	<p>The system shall ensure that standards and requirements for certified organisations are publicly available.</p> <p>This refer to Implementing Regulation 607/2012 Article 4a.</p>
Auditing process	<p>The system shall ensure that assurance providers have in place and implement procedures for audits, including field visits, which include frequency of audits (minimum annually).</p> <p>This refer to Implementing Regulation 607/2012 Article 4b.</p>

The evaluation was conducted entirely by desk evaluation of publicly available information and documents. In some cases, not all system documents were available publicly and we sought to obtain these through direct contact with the certification system manager.

The systems were evaluated in turn. Where criteria were identified as not being covered by a specific certification/verification system, comments were provided. A summary for each system evaluation demonstrates the gaps to be aware of for each system.

C. Certification system evaluation

The Programme for the Endorsement of Forest Certification (PEFC): International, and Brazilian and Malaysian national standards



Introduction and background

The Programme for the Endorsement of Forest Certification (PEFC) is an international non-profit, non-governmental organisation dedicated to promoting sustainable forest management through independent third-party certification. It was founded in 1999 as an umbrella organisation that endorses national forest certification systems. Each national forest certification system undergoes third-party assessment against PEFC's Sustainability Benchmarks to ensure consistency with the PEFC international requirements. There are 39 national certification systems endorsed by PEFC. The Malaysian Timber Certification System (MTCS) and the Brazilian Forest Certification Programme (Cerflor) are two of these, which were chosen for evaluation under the Project. The MTCS was first endorsed by PEFC in 2009 (re-endorsed in 2014), and Cerflor was first endorsed in 2005 (re-endorsed in 2011).

Institutional setup and system

PEFC is an international membership association. Its members are national forest certification organisations, that develop and implement a PEFC system within their country, and international stakeholders, including NGOs, companies, and associations committed to supporting PEFC's principles. PEFC champions a 'bottom up' approach to governance, whereby local expertise of national members is complemented by the experiences of internationally-active organizations. The bottom up approach is also used in standard setting, where the national certification systems are developed independently but come together in PEFC through endorsement.

The Malaysian Timber Certification Council (MTCC) is the national PEFC member in Malaysia, and the governing body of the MTCS. It was established as a company limited by guarantee in October 1998 and started its operations in 2001.

Cerflor was developed within the national framework of Brazil's National System of Metrology, Standardization and Industrial Quality (SINMETRO), guided by the rules of the National Council of Metrology, Standardization and Industrial Quality (Conmetro), and by its executive body, the National Institute of Metrology, Standardization and Industrial Quality (Inmetro). The Brazilian System, in which Cerflor is established, is structured into independent sub-systems. The first is related to the development of standards and uses the

Brazilian Association for Standardization (ABNT), a private and non-profit organization, as its National Forum for Standardization. The second sub-system, for conformity assessment procedures, is managed by Inmetro.

PEFC certification systems operate as 3rd party systems. Accredited certification bodies receive and process the applications for certification, conduct the audits according to the standards developed at the national or international level, and make the decisions to award the certificates. All bodies certifying on behalf of PEFC shall meet the requirements for certification bodies defined by the International Standardisation Organisation (ISO) standards (ISO/IEC 17065:2012 and/or ISO/IEC 17021:2015). Accreditation to audit PEFC-endorsed forest management standards is country specific and managed at the national level by national accreditation bodies that are required to be members of the International Accreditation Forum¹.

For the **MTCS**, Certification Bodies are required to obtain accreditation from the national Accreditation Body (AB), Department of Standards Malaysia (Standards Malaysia). MTCS certification bodies are accredited against the requirements of ISO/IEC 17021:2015, MS ISO/IEC Guide 17065:2012 and against PEFC ST 2003:2012 and/or PEFC TD Annex 6, specifying additional requirements for Certification Bodies. Lists of accredited certification bodies and their contact information is maintained at www.mtcc.com.my/certification-body. The list gives contact information for certification bodies for both Forest Management and Chain of Custody.

Accreditation for the Cerflor system is managed by General Coordination for Accreditation (CGRE), which is within the organizational structure of INMETRO, which is the main organizational unit that has full responsibility and authority over all aspects of accreditation, including accreditation decisions. INMETRO maintains a list of accredited certification bodies for both forest management and chain of custody certification at http://www.inmetro.gov.br/qualidade/cerflor_organismos.asp.

Standards

Forest management

PEFC International - As above, PEFC endorses national forest management certification schemes. The PEFC standard *PEFC ST 1003:2010 Sustainable Forest Management – Requirements* sets international requirements for forest management standards applicable to all types of forests. These must be reflected in the national forest management standards submitted for PEFC endorsement. The *PEFC ST 1003:2010* is thus not a standard used to audit forest management, but a framework for developing national standards to be recognised by PEFC and the benchmark that national standard is independently assessed against and must comply with in order to become PEFC endorsed.

MTCS has two forest management standards that are evaluated in this report; one for natural forest, and the other for plantations:

¹ <http://www.iaf.nu/>

- Malaysian Criteria and Indicators for Forest Management Certification (Natural Forest), MC&I (Natural Forest), and
- MC&I Forest Plantation.v2.

Cerflor also has two forest management standards – one for natural forest, and the other for plantations:

- ABNT NBR 14789:2012 – Forest Management – Principles, Criteria and Indicators for Planted- Forests (Manejo Florestal - Princípios, Critérios e Indicadores para Plantações Florestais)
- ABNT NBR 15789:2013 - Forest Management – Principles, Criteria and Indicators for Native Forests (Manejo Florestal - Princípios, Critérios e Indicadores para Florestas Nativas)

Chain of custody

All PEFC-endorsed schemes, which allow products to be labelled with PEFC claims, use the international PEFC chain of custody system for tracking PEFC-certified material from the forest to the final product to ensure that the material contained in the product or product line can be traced back to PEFC-certified forests. It is used to certify entities all along the value-chain of forest-based products. PEFC Chain of Custody certification is a pre-requisite for companies to use the PEFC logo on products.

The PEFC standard for chain of custody evaluated in this report is:

- *PEFC ST 2003:2013 Chain of Custody of Forest Based Products*

The document PEFC_GD_2001-2014_Guidance_for_use_of_Chain_of_Custody_2014-06-23 provides non-normative interpretation of the chain of custody standard. Due to the fact that its guidance is informative, and any conformity assessment activities shall be carried out against PEFC ST 2002:2013, this document was not part of the evaluation.

The chain of custody standard contains requirements for two mechanisms for tracing the origin of forest-based products:

- The percentage-based method allows mixing certified and non-certified raw material during the production or trading process. The (average) percentage of the certified raw material must be known and communicated to the company's customers. Alternatively, the company can sell the proportion of its production that equals the percentage of certified raw material used (volume credit) as certified.
- The physical separation method requires certified and non-certified raw material to be separated during all phases of the company's production/trading process to ensure that certified raw material is not mixed with non-certified raw material. When the physical separation method is used for products with percentage-based claims, every delivery must be processed or traded separately.

To prevent wood from controversial sources (including material from illegal harvest) finding its way into products through mixing under the percentage-based system, PEFC has put in place a due diligence mechanism for the avoidance of raw material from Controversial

Sources. These are defined as those activities that do not comply with local, national, or international legislation, in particular relating forest activities which:

- Do not comply with local, national or international legislation, applying to forest related activities, in particular in the following areas:
 - forestry operations and harvesting, including biodiversity conservation and conversion of forest to other use,
 - management of areas with designated high environmental and cultural values,
 - protected and endangered species, including requirements of CITES,
 - health and labour issues relating to forest workers,
 - indigenous peoples' property, tenure and use rights,
 - third parties' property, tenure and use rights,
 - payment of taxes and royalties,
- Do not comply with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned,
- utilising genetically modified forest-based organisms,
- Convert forest to other vegetation type, including conversion of primary forests to forest plantations.

Section 5 of the standard contains requirements for conducting due diligence to minimise the risk of sourcing material that originates from controversial sources. These requirements are mandatory for all PEFC chain of custody-certified companies and have been included as part of this evaluation.

Other normative documents included in the evaluation

Other relevant normative documents used as part of this evaluation include:

PEFC International

- *Annex 6 Certification and Accreditation Procedures*
- *PEFC ST 2003:2012 Requirements for Certification Bodies Operating Certification against the PEFC International Chain of Custody Standard.*

MTCS

- The Malaysian Timber Certification Scheme (MTCS) and Its Implementation Arrangement, MTCS 8/2015
- NCB 5/2014 Procedure for PEFC Notification of Certification Bodies Operating Forest Management Systems or Chain of Custody Certification.

CERFLOR

- NIT-DICOR 026 - TESTEMUNHA DA AUDITORIA EM ORGANISMO DE AVALIAÇÃO DA CONFORMIDADE
- NIT-DICOR-008 - Rev. 22 – AUG/2017 - Accreditation Criteria for Management System Certification Bodies
- INMETRO Specific Rule for PEFC Notification of Accredited Bodies

Verifying PEFC COC certificates

PEFC maintains a database of certified organisations which can be accessed here: <http://www.pefc.org/find-certified/certified-certificates>.

Findings of the evaluation

The assessment for the legality requirements was conducted separately for the PEFC standard for forest management used as part of the endorsement of national standards, the PEFC chain of custody standard, and the MTCS and Cerflor forest management standards. The PEFC chain of custody standard was assessed against the evaluation's chain of custody requirements, while system requirements, transparency, and audit process evaluated the national schemes, as well as PEFC at the international level, separately.

Table 2 summarises the findings of the evaluation of the PEFC international standards. The results of the evaluations of the MTCS and Cerflor systems are presented in Tables 3 and 4, respectively. More detailed findings, where evaluations for the different components of each system are contained in Annex 1. The following colours are used to represent the level of conformance of the system with the requirements of each evaluation category:




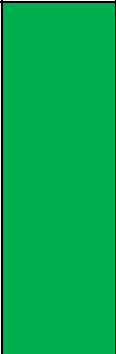

-  Green indicates categories where full coverage with the requirements was found.
-  Yellow indicates areas of partial coverage of requirements of a category or areas where special concern about the systems standards or credibility has been identified.
-  Red indicates areas where systems are not covering specific issues or where significant gaps have been identified in their standards or systems.

Table 2: Overview of the evaluation of the PEFC international system – both for forest management and chain of custody.

Category	Sub-Category	Finding	Specification of findings PEFC ST 1003:2010 Sustainable Forest Management	Finding	Specification of findings PEFC ST 2002:2013 Chain of Custody of Forest Based Products
Legality	Legal right to harvest		The forest management standard was assessed to cover land tenure and management rights.		The chain of custody standard's definition of Controversial Sources specifically covers all of the relevant areas of law, but would require more specificity to be evaluated as fully covered. However, the Guidance document PEFC GD 2001:2014, Table 4, provides additional details which are found to cover these areas.

	Taxes and fees		Legislation related to the payment of royalties and fees are covered.		Legislation related to the payment of royalties and fees are covered.
	Timber harvesting activities /regulations		The standard is evaluated to require compliance with legislation covering all aspects of timber harvesting activities/regulations.		The standard is evaluated to require compliance with legislation covering all aspects of timber harvesting activities/regulations.
	Third parties' rights		The standard contains requirements related to compliance with legislation on customary and indigenous/third parties' rights, and laws related to free, prior, and informed consent.		The definition of Controversial Sources (3.9) includes reference to legal requirements for "third parties' property, tenure and use rights". However, there is no specific mention of FPIC in the COC standard or the definition of controversial sources.
	Trade and transport		The PEFC forest management standard does not contain requirements covering trade and transport.		The definition of Controversial Sources in the chain of custody standard includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned" and legal requirements covering CITES. However, compliance with legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport, either by certified organisations, or within the due diligence process, is not explicitly required. There are no requirements related to illegal offshore trading (tax evasion) or illegal manipulation of transfer pricing.
Chain of custody	-		Not Applicable – see evaluation of the CoC standard.		The PEFC COC standard describes requirements for tracking material with a PEFC claim along the supply chain. Organisations are required to have access to information on country of harvest of the material and where applicable sub-national region and/or concession of harvest, as well as information on tree species included in material/product by their common name and/or their scientific name where applicable. However, the system does not include any validation of volumes transferred from seller to purchaser, which is considered as a gap in the System.

					<p>Requirements for the due diligence system which is intended to prevent material from controversial sources being mixed with certified material is considered to have a number of weaknesses that open up risks of sourcing material with potential illegal, unknown or controversial origins.</p> <p>It should be underlined that, even if CoC systems as implemented in the standard, are not considered to provide effective measures to prevent mixing, they are obviously providing some ability to track materials and this does give a level of traceability in the supply chain.</p>
System requirements	-		COVERED		The CoC standard contains requirements for procedures where 'own-verification' is permitted (the CoC DDS), requirements for organisations to review and revise their management procedures, and requirements for updating a risk assessment and mitigation whenever there is a change in the risk related to illegality.
Transparency	-		PEFC standards are publicly available on the PEFC website (https://pefc.org/standards/overview), however there are several references of requirements to ISO standards, which are not publicly available.		PEFC standards are publicly available on the PEFC website (https://pefc.org/standards/overview), however there are several references of requirements to ISO standards, which are not publicly available.
Audit process	-		The maximum period for surveillance audits is one year and the maximum period for reassessment audit is five years, for both forest management and chain of custody certifications.		The maximum period for surveillance audits is one year and the maximum period for reassessment audit is five years, for both forest management and chain of custody certifications.

Table 3: Overview of the evaluation of the MTCS system

The results apply to both natural forests and plantations – while there are separate forest management standards, the evaluation results are the same.

Category	Sub-Category	Finding	Specification of findings
Legality	Legal right to harvest	Green	MTCS forest management standards explicitly require compliance with legislation related to legal rights to harvest. Note commentary under third parties' rights.
	Taxes and fees	Yellow	MTCS forest management standards cover the payment of royalties and fees, however, some tax laws present in Malaysia that would come under value added taxes and sales taxes are not included. It should be noted that the forest management standards preceded the imposition of the value added taxes which was only introduced in 2015. The standards are currently undergoing revision, which will consider relevant new legislation.
	Timber harvesting activities /regulations	Green	MTCS forest management standards explicitly require compliance with legislation related to timber harvesting activities/regulations.
	Third parties' rights	Green	MTCS forest management standards explicitly require compliance with legislation related to third parties' rights. It should be noted that the issue of limiting indigenous customary rights to those that have received a formal legal recognition is considered as a contentious legal issue in Malaysia.
	Trade and transport	Yellow	Except for regulations related to CITES, MTCS standards do not contain requirements for compliance with laws related to trade and transport. Compliance with laws relates to forest management and transportation of logs from harvesting area. Within the PEFC chain of custody standard, the definition of Controversial Sources includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned" however the requirements of this evaluation are not met for specific requirements related to transfer pricing manipulation and customs.
Chain of Custody	-	Yellow	See evaluation and analysis for PEFC chain of custody standard.
System Requirements	-	Green	1 st and 2 nd party audits are not possible in the MTCS and it is not a risk-based system, so requirements regarding these points are not applicable. The requirement for the review and revision of procedures is covered.
Transparency	-	Green	All standards are available on the MTCS and PEFC websites.
Auditing process	-	Green	Certification bodies are required to audit MTCS-certified organisations at least once a year.

Table 4: Overview of the evaluation of the Cerflor system

The results apply to both natural forests and plantations – while there are separate forest management standards, the evaluation results are the same.

Category	Sub-Category	Finding	Specification of findings
Legality	Legal Rights to harvest	Green	Nearly all aspects are covered.
	Taxes and fees	Green	Organisations are required to comply with tax legislations.
	Timber harvesting activities /regulations	Green	Cerflor forest management standards explicitly require compliance with legislation related to timber harvesting activities/regulations.
	Third parties' rights	Green	Cerflor forest management standards explicitly require compliance with legislation related to third parties' rights.
	Trade and transport	Yellow	Cerflor forest management standards do not contain requirements for compliance with laws related to trade and transport. Within the PEFC chain of custody standard, the definition of Controversial Sources includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned" however the requirements of this evaluation are not specifically met
Chain of Custody	-	Yellow	See evaluation and analysis for PEFC chain of custody standard
System Requirements	-	Green	1 st and 2 nd party audits are not possible in the Cerflor system and it is not a risk-based system, so requirements regarding these points are not applicable. However, the requirement for the review and revision of organisational procedures is covered.
Transparency	-	Green	All standards are available on the PEFC website.
Auditing Process	-	Green	Certification bodies are required to audit Cerflor-certified organisations at least once a year.

Conclusions for buyers of PEFC certified material

From the above analysis, it can be concluded that the PEFC system covers most of the requirements that were evaluated. However, there are issues that buyers of products with a PEFC claim should be aware of and proactively manage. The most important gaps in the PEFC and PEFC-endorsed systems are found within requirements for legality (particularly for legislation related to trade and transport, as well as legal right to harvest, taxes and fees, and third parties' rights), and the ability of the chain of custody system to mitigate risks of contamination of the material stream with un-certified material.

Regarding legal requirements, a key issue for all forest management standards evaluated is a lack of specificity in the definition of applicable legislation and requirements related to legality compared to the evaluation framework. Vague descriptions of the types of laws that apply to the certification means it cannot always be known whether certain types of laws will be included. This was an issue for PEFC's international forest management standard, and while it is not used directly for certification, it means that the types of laws covered in

national standard have the potential to vary by country – however, as the standard is not meant as a direct certification standard, but a standard used to provide the framework for recognising national standards, this is not seen as a gap in itself, as details will be included in national standards. However, it is noted that the evaluation resulted in different findings for the two national forest management standards for one of the evaluation framework’s sub-categories of legality. This means it is important for buyers of PEFC material to know the country of origin of the material. Information on the country of origin is already required to comply with the EUTR but becomes more important as it also affects the steps that should be taken to address gaps.

The PEFC international forest management standard was found to only partially cover requirements for legislation related to legal right to harvest, taxes and fees, and third parties’ rights. However, both the MTCS and Cerflor standards were found to cover legislation related to third parties’ rights, while MTCS was found to cover legislation related to legal right to harvest. None of the PEFC standards were found to fully cover compliance with trade and transport legislation. Buyers of PEFC material are therefore advised to pay particular attention to the risk of non-compliance with trade and transport legislation by organisations in the supply chain in their due diligence systems. Buyers of PEFC material certified under the MTCS should also pay attention to the risk of non-compliance with legislation related to taxes and fees, while buyers of PEFC material certified under Cerflor should also assess the risk of non-compliance with legislation related to legal right to harvest and taxes and fees.

Two very important gaps in the PEFC system relate to the PEFC chain of custody standard:

1. Due diligence requirements for mixing PEFC certified material with material from “Controlled Sources” were assessed to contain several weaknesses, which could open risks of sourcing material with potential illegal origin, as the requirements were found to only partially cover the various legal requirements of the EUTR; and
2. The lack of verification of the volume flow of certified material between certified organisations.

It shall be noted that the findings related to the CoC system is not particular to the PEFC system – the weaknesses of a document-based CoC system, without tamper proof volume reconciliation between supply chain entities is found to be a universal challenge in all the systems evaluated.

To address the first gap, buyers of PEFC-certified material should determine whether the PEFC material they are buying includes material sourced under the requirements for ‘controlled sources’, and if yes, determine the country or countries of origin of the material, and assess the risk of non-compliance with legislation deemed not to be covered by the PEFC chain of custody standard (under legal rights to harvest, taxes and fees, third parties’ rights, and trade and transport).

To address the second gap, buyers of PEFC-certified material should conduct a risk assessment of their supply chains for the risk of mixing of certified material and material from noncontroversial sources with material that has not been subject to PEFC requirements, which could have been harvested illegally.

Annex I: Evaluation details

PEFC International

					PEFC ST 1003:2010 Sustainable Forest Management – Requirements		PEFC ST 2002:2013 Chain of Custody of Forest Based Products - Requirements	
P	C	I	Requirements	Guiding description of the criteria and sub criteria	Evaluation	Analysis	Evaluation	Analysis
1			Legal Compliance	The system shall ensure that the certification standards contains requirements that relate to or cover applicable legislation related to the categories below.				
1	1		Legal rights to harvest					
1	1	1	Land tenure and management rights	Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses.	COVERED	Clause 5.6.3 states "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." As standard outlining requirements for standard setting organisations nationally, this is considered to cover the requirement.	COVERED	The definition of Controversial Sources (3.9) includes reference to "national or international legislation, applying to forest related activities," but does not specifically refer to land tenure and management rights. Indigenous peoples' and third parties' property, tenure and use rights are mentioned, but not those of the forest operations themselves. However, this is found to be covered in PEFC GD 2001:2014, Table 4.

1	1	2	Concession licenses	Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses.	COVERED	Clause 5.6.3 states "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."	COVERED	The definition of Controversial Sources (3.9) includes reference to "national or international legislation, applying to forest related activities", including in the area of "forestry operations and harvesting", but does not specifically refer to concession licences. However, this is found to be covered in PEFC GD 2001:2014, Table 4
1	1	3	Management and harvesting planning	Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities.	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including forest management practices; nature and environmental protection; protected and endangered species; property, tenure and land-use rights for indigenous people; health, labour and safety issues; and the payment of royalties and taxes."	COVERED	The definition of Controversial Sources (3.9) includes reference to "national or international legislation, applying to forest related activities" including "forestry operations and harvesting". Laws related to management and harvest planning are not explicitly referred to. However, this is found to be covered in PEFC GD 2001:2014, Table 4.
1	1	4	Harvesting permits	Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits.	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including forest management practices". As standard outlining requirements for standard setting organisations nationally, this is considered to cover the requirement.	COVERED	The definition of Controversial Sources (3.9) includes reference to "national or international legislation, applying to forest related activities" including "forestry operations and harvesting", but does not specifically refer to laws related to harvesting permits.

								However, this is found to be covered in PEFC GD 2001:2014, Table 4
1	2		Taxes and fees					
1	2	1	Payment of royalties and harvesting fees	Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... the payment of royalties and taxes."	COVERED	The definition of Controversial Sources (3.9) includes reference to payment of taxes and royalties.
1	2	2	Value added taxes and other sales taxes	Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales).	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... the payment of royalties and taxes." As standard outlining requirements for standard setting organisations nationally, this is considered to cover the requirements.	COVERED	The definition of Controversial Sources (3.9) includes reference to payment of taxes and royalties. It is not defined if VAT and sales taxes are covered by the definition of "taxes and royalties". The guidance document PEFC GD 2001:2014, does mention VAT documentation as an example of documents that can be collected as evidence in supply chains under the DDS, but only for countries where the Transparency International CPI is below 50.
1	3		Timber harvesting activities					
1	3	1	Timber harvesting regulations	Any legal requirements for harvesting techniques and technology including selective	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest	COVERED	The definition of Controversial Sources (3.9) includes reference to legal

				cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.		management issues including forest management practices ..."		requirements for "forestry operations and harvesting".
1	3	2	Protected sites and species	Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats.	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including nature and environmental protection; protected and endangered species..."	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "protected and endangered species".
1	3	3	Environmental requirements	Covers legislation related to environmental impact assessment in connection with harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, sessional limitation of harvesting time, and environmental	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... nature and environmental protection ..."	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "biodiversity conservation", "management of areas with designated high environmental and cultural values" and "operations and harvesting, ". While there is no direct mention of environmental requirements related to harvesting, it is

				requirements for forest machineries.				considered that the above wording would cover this.
1	3	4	Health and safety	Legally required personal protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations).	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... health, labour and safety issues ..." Additionally, Clause 5.6.12 states "Working conditions shall be safe, and guidance and training in safe working practices shall be provided to all those assigned to a task in forest operations" and Clause 5.6.13 states "Forest management shall comply with fundamental ILO conventions. Note: In countries where the fundamental ILO conventions have been ratified, the requirements of 5.7.1 apply. In countries where a fundamental convention has not been ratified and its content is not covered by applicable legislation, specific requirements shall be included in the forest management standard."	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "health and labour issues relating to forest workers"
1	3	5	Legal employment	Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements,	COVERED	Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... health, labour and safety issues ..." Additionally, Clause 5.6.12 states "Working conditions shall be safe, and guidance and	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "health and labour issues relating to forest workers".

				and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association.		training in safe working practices shall be provided to all those assigned to a task in forest operations" and Clause 5.6.13 states "Forest management shall comply with fundamental ILO conventions. Note: In countries where the fundamental ILO conventions have been ratified, the requirements of 5.7.1 apply. In countries where a fundamental convention has not been ratified and its content is not covered by applicable legislation, specific requirements shall be included in the forest management standard."		
1	4		Third parties' rights					
1	4	1	Customary rights	Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.	COVERED	Clause 5.6.3 states "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." Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ... tenure and land-use rights for indigenous people...".	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "third parties' property, tenure and use rights"
1	4	2	Free prior and informed consent	Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and	COVERED	Clause: 5.6.4 Forest management activities shall be conducted in recognition of the established framework of legal,	PARTLY COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "third parties'

				customary rights to the organisation in charge of the harvesting operation.		customary and traditional rights such as outlined in ILO 169 and the UN Declaration on the Rights of Indigenous Peoples, which shall not be infringed upon without the free, prior 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		property, tenure and use rights". However, there is no mention of FPIC in the COC standard or the definition of controversial sources.
1	4	3	Indigenous/traditional people's rights	Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.	COVERED	Clause 5.6.3 states "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." Clause 5.7.1 requires forest management to "comply with legislation applicable to forest management issues including ...	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "indigenous peoples' property, tenure and use rights".

						tenure and land-use rights for indigenous people..."		
1	5		Trade and transport					
1	5	1	Classification of species, quantities, qualities	Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees.	NOT COVERED	Requirements, including those related to compliance with legislation and regulations, do not cover or mention classification of species, quantities, qualities.	PARTIALLY COVERED	Section 5.2.1 requires recording information on species names and Table 2 mentions species as an indicator of risk. However, compliance with legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport, either by certified organisations, or within the due diligence process, is not explicitly required.
1	5	2	Trade and transport	All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation.	NOT COVERED	Requirements, including those related to compliance with legislation and regulations, do not cover trade and transport.	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned".
1	5	3	Offshore trading and transfer pricing	Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation	NOT COVERED	Requirements, including those related to compliance with legislation and regulations, do not cover offshore trading and transfer pricing.	NOT COVERED	The PEFC CoC standard does not contain requirements related to illegal offshore trading or illegal manipulation of transfer pricing. The definition of Controversial Sources (3.9) includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is

				and personal involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here.			concerned", but it is considered that offshore trading and transfer pricing would not be included as "concerned" with the forest sector.	
1	5	4	Custom regulations	Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).	NOT COVERED	Requirements, including those related to compliance with legislation and regulations, do not cover customs regulations.	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements for "... complying with legislation of the country of harvest relating to trade and customs, in so far as the forest sector is concerned".
1	5	5	CITES	CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).	NOT COVERED	Requirements, including those related to compliance with legislation and regulations, do not cover CITES.	COVERED	The definition of Controversial Sources (3.9) includes reference to legal requirements covering CITES.

PEFC ST 2002:2013 Chain of Custody of Forest Based Products - Requirements

P	C	I	Requirements	Guiding description of the criteria and sub criteria	Evaluation	Analysis
2			Chain of Custody	The System shall include requirements to ensure that material included in the scope of certification/verification will not be mixed with material with unknown or non-COVERED material, irrespective of the method		

			applied. The requirements below does therefore not require tracking of all timber to the forest, but allows for risk based systems to assure that risks of contamination with illegal or unknown material is managed.		
2	1	The system shall require systematic processes to enable the identification of the country of origin of the material, and where applicable to a higher level of detail, such as the sub-national region or concession level.	Depending on the system approach to tracking and sourcing, there shall be systems in place either to track all material (product certification systems) or to track and trace products to a level of detail that is appropriate to the level of risk identified in the supply chain (risk based Due Diligence systems).	COVERED	Clause 5.2.1 requires organisations to have access to information on country of harvest of the material and where applicable sub-national region and/or concession of harvest.
2	2	The system shall require systematic processes to enable the identification of the species included in materials or products included in the scope of certification.	The name of the species of trees included in all products included in the scope of certification shall be available and identified by the common or trade name, as well as the scientific name (genus and species).	COVERED	Clause 5.2.1 requires organisations to have access to information on tree species included in material/product by their common name and/or their scientific name where applicable.
2	3	The System shall include clear and effective measures to prevent material from high risk, unverified or potentially illegal sources from entering the supply chain.	Systems to assure segregation of material from unknown or potentially illegal sources shall exist. This may be done via different types of systems, but there shall be a well-documented process to assure that materials are not mixed in cases several different material categories (origins) are handled.	PARTLY COVERED	The findings here relate to both the COC requirements as well as the DDs requirements of the standard. Section 5 of the PEFC CoC standard contains due diligence requirements aimed at minimising the risk that the procured material originates in controversial sources. The system is considered to have some weaknesses that result in risk of sourcing material with potential illegal, unknown or controversial origin:

					<p>2. The note to indicator 5.3.5 states that "...indicators indicating "low likelihood" on the supply chain level or the origin level ... always overrules a high "likelihood" indicator on the same axis. When reviewing table 1, 2, and 3, that contains indicators of low risk, as well as high risk for origin and supply chain levels respectively, it is evident that this rule would allow for a "Low Risk" conclusion in almost any case. Example: Assume a case where there is evidence of illegal practices by a company in the supply chain. This issue would signify an indication of "high likelihood" in supply chain according to Table 3. Further assume that the company in question then submits a COC certificate from a local consultancy company. This would in principle fulfil the wording of the indicator of "low Likelihood" in table 3 stating: "Supplies declared as certified against a forest certification system (other than PEFC endorsed) supported by a forest management or chain of custody certificate issued by a third-party certification body". This in turn means that evidence of illegal activity could be overruled by provision of a COC certificate, which might not include any consideration related to the illegal activities, for which evidence has been provided. This is in direct contradiction to the approach to certification systems as used in the EUTR.</p> <p>Separately, it is not considered that the PEFC COC system includes effective measures to prevent mixing with material from high risk, unverified or potentially illegal sources from entering the supply chain. The system is considered to contain gaps in which material could be mixed into the supply chain, with little ability of buyers of the material to effectively verify the connection between the material and the documentation.</p> <p>It should be underlined that, even if CoC systems as implemented in the standard, are not considered to provide effective measures to prevent mixing, they are obviously providing some ability to track materials, and this does give a level of traceability in the supply chain.</p>
2	4	Where applicable system shall require a system to track certified or verified	Chain of Custody system requirements shall be formulated and implemented in order to assure that	PARTLY COVERED	The standard contains CoC system requirements for tracking material with a PEFC claim through the supply chain. However, it is not considered that the PEFC COC system includes effective measures to prevent mixing with material from high risk,

			legal wood along the supply chain, using appropriate inventory methods and documented controls where necessary to ensure that risks of mixing are managed.	material carrying the certification or verification claim can be traced through processing and transport.		<p>unverified or potentially illegal sources from entering the supply chain. The system is considered to contain gaps in which material could be mixed into the supply chain, with little ability of buyers of the material to effectively verify the connection between the material and the documentation.</p> <p>It should be underlined that, even if CoC systems as implemented in the standard, are not considered to provide effective measures to prevent mixing, they are obviously providing some ability to track materials, and this does give a level of traceability in the supply chain.</p>
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Various standards as cited in analysis

P	C	I	Requirements	Guiding description of the criteria and sub criteria	Evaluation	Analysis
3			System requirements	The system shall include requirements for certified or verified organisations to have in place systems and procedures covering all requirements of the standard/requirements		
3	1		If the System includes an option to apply own-verification (using 1st, 2nd or 3rd parties), the System shall contain requirements to ensure consistent implementation of requirements at all levels included in the scope of the certification.	For companies implementing own-verification (1st, 2nd, or 3rd) systems (of sources or supply chains), the System shall include clear requirements for such systems and for oversight by the assurance provider of the scope and quality of their implementation. In cases where other 3rd party Systems are recognised by the System, it shall be clear on what basis recognition is done and how it is verified that other Systems assure conformance with the	COVERED	Section 5 of the chain of custody standard contains requirements for the implementation of a risk based due diligence system. The requirements are detailed and the organisation's implementation of them is audited by a 3 rd party.

			specific System requirements.		
3	2	The System shall ensure that the procedures of certified organisations are evaluated and revised - when necessary - on a regular basis.	There should be clear requirements in the System to require certified organisations to regularly review the proper functioning of their own procedures. Ensuring the continued implementation of procedures is important to the on-going ability of the organisation to meet certification requirements.	COVERED	Requirements for risk assessment in the CoC standard's due diligence system (5.3) state that risk assessments shall be reviewed and if necessary, revised, at least annually. Requirement 8.2.1.3 of the CoC standard required the organisation's management to carry out a regular periodic review of the organisation's chain of custody and its compliance with the requirements of the standard. The FM standard does not contain requirements for organisational procedures, but the standard is not implemented by organisations.
3	3	The System shall ensure that whenever there is a change in the risk related to illegal harvest, trade or transport in a verified supply chain - or a supply chain covered by a DDS - the risk shall be assessed and mitigated.	There should be clear requirements embedded in the System to ensure that any procedures applied by certified companies are able to efficiently address changes to supply chains. Changes in supply chains may introduce new risks and these should be dealt with prior to including products from these new supply chains in the scope of the certification.	COVERED	The risk assessment conducted by the organisation shall be carried out/revised when there are changes in area or species, and evidence related to these, and identification of the material/product (CoC standard 5.3.7, 5.3.8 d)).
4		Transparency	System standards and requirements shall be publicly available		
4	1	The System shall ensure that standards and requirements for certified organisations are publicly available on the internet.		COVERED	PEFC standards are publicly available on the PEFC website (https://www.pefc.org/standards/overview), however there are several references of requirements to ISO standards, which are not publicly available.
5		Auditing process (assurance provider requirements)	Compliance with the system is audited regularly.		

5	1		System shall ensure that assurance provider have in place and implement procedures for audits, including field visits, that include frequency of audits (minimum annually)		COVERED	<p><i>Annex 6 Certification and Accreditation Procedures</i> defines the certification and accreditation procedures for national certification schemes. It sets the maximum period for surveillance audits at one year and the maximum period for reassessment audit at five years, for both forest management and chain of custody certifications.</p> <p>Section 7.9 of PEFC ST 2003:2012 Requirements for Certification Bodies Operating Certification against the PEFC International Chain of Custody Standard requires audits to be conducted at least once a year.</p>
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MTCS

						MC&I (Natural Forest) and MC&I Forest Plantation.v2.	
P	C	I	Requirements	Guiding description of the criteria and sub criteria	Evaluation	Analysis	
1			Legal Compliance	The System shall ensure that the certification standards contains requirements that relate to or cover applicable legislation as defined by to the categories below.			
1	1		Legal rights to harvest	The System shall include a definition of applicable legislation related to harvesting, trade and transport enabling efficient evaluation of legal compliance where needed. The system shall clearly specify the applicable laws			

				that shall be complied with in order for harvesting of timber to be considered legal. In this regard it shall not be considered adequate where a generic statement like "all relevant laws and regulations shall be met".		
1	1	1	Land tenure and management rights	Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. There shall be safeguards to ensure that licenses, right of tenure etc has been issued according to the legally prescribed procedure and excluding corrupt practices	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p> <p>Criteria 2.1 and 2.2 cover requirements for legal tenure rights.</p>
1	1	2	Concession licenses	Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses.	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p> <p>Criterion 2.1 requires clear evidence of long term forest use rights as well as legal documentation.</p>

1	1	3	Management and harvesting planning	Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities.	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p> <p>Principle 7 describes what the forest management plan should include, and Principle 8 describes how to carry out monitoring and assessment.</p>
1	1	4	Harvesting permits	Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits.	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p> <p>Criterion 2.1 has requirements for obtaining harvest permits.</p>
1	2		Taxes and fees			
1	2	1	Payment of royalties and harvesting fees	Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.	COVERED	<p>Criterion 1.2 covers legally prescribed fees, royalties and taxes. Relevant laws are listed for this criterion.</p>

1	2	2	Value added taxes and other sales taxes	Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales).	PARTLY COVERED	<p>Criterion 1.2 mentions taxes and fees, but does not specifically refer to VAT or sales taxes.</p> <p>The indicators and verifiers do not mention company tax obligations such as those outlined in the Companies Act 1965. Furthermore, the Goods & Services Tax came into effect on 1 April 2015, for taxes on 'goods' covering any kind of movable and immovable items, and this is not referred to in the standards. The Goods & Services Tax is a multi-stage tax on domestic consumption. GST is charged on all taxable supplies of goods and services in Malaysia except those specifically exempted. GST is also charged on importation of goods and services into Malaysia.</p> <p>GST upstream activity (supply of logs) and GST downstream activity (conversion by manufacturing of logs in primary and secondary processes and subsequently supplied) is subject to tax.</p>
1	3		Timber harvesting activities			
1	3	1	Timber harvesting regulations	Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p>

				well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.		
1	3	2	Protected sites and species	Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats.	COVERED	<p>Relevant laws at the Federal and regional/State level are listed as verifiers under Criterion 1.1 "Forest management shall comply with all applicable federal, state and local laws and administrative requirements".</p> <p>Criterion 6.2 requires safeguards for protecting rare, threatened and endangered species and their habitats, and verifiers include relevant laws and regulations.</p>
1	3	3	Environmental requirements	Covers legislation related to environmental impact assessment in connection with harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, and environmental requirements for forest machineries.	COVERED	<p>Criterion 1.1 requires forest management to comply with all applicable federal, state and local laws and administrative requirements, while Principle 6 includes various relevant requirements, some with legal compliance of relevant laws as verifiers.</p>
1	3	4	Health and safety	Legally required personal protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to	COVERED	<p>Criterion 4.2 requires organisations to meet or exceed all applicable laws and/or regulations covering health and safety of employees and their families.</p>

				chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations).		
1	3	5	Legal employment	Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association.	COVERED	Criterion 4.3 covers aspects legal employment including the right to organise (4.3.1), collectively bargain (4.3.1), and benefits and protections as afforded by law.
1	4		Third parties' rights			
1	4	1	Customary rights	Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.	COVERED	Customary rights are covered in Criteria 2.2 and 4.5, as well as Principle 3.

1	4	2	Free prior and informed consent	Legislation covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.	COVERED	Free, prior and informed consent is covered by Criteria 2.2, 3.1 and 3.4.
1	4	3	Indigenous/traditional people’s rights	Legislation that regulates the rights of indigenous/traditional people as far as it’s related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.	COVERED	<p>Indigenous people’s rights are covered through requirements to adhere to internationally binding agreements, which in this case relates to United Nations Declaration on Rights of Indigenous Peoples, 2007 – Articles 8, 12, 24, 26, 28 and 29 (criteria 1.3).</p> <p>Indigenous and Adat forest use rights are covered in criterion 2.2 and in Principle 3.</p> <p>As far as the legal requirements related to third parties’ rights, including indigenous customary rights, are concerned, the standards contain requirements covering the applicable legal framework and requires respect of legally recognised indigenous and customary rights.</p> <p>It should be underlined that the issue of limiting indigenous customary rights to those that has received a formal legal recognition, is considered as a contentious legal issue in Malaysia.</p> <p>However, since these issues lie on the boundary of what is evaluated here (scope and coverage of the standard) it shall be concluded that the standard as such, fully cover the legally requirements.</p>
1	5		Trade and transport			
1	5	1	Classification of species, quantities, qualities	Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect	COVERED	The natural forest and plantation standards requires legally required documents to be verified for removal of timber from the forest. Verifiers specify requirements for each state.

				classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees.		
1	5	2	Trade and transport	All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation.	COVERED	Trade and transport is not directly mentioned in the MTCS standards. The main legal criterion requires 'forest management' to comply with laws on forest management and transportation from point of harvest to primary mill/point of export..
1	5	3	Offshore trading and transfer pricing	Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personal involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here.	NOT COVERED	Illegal offshore trading and transfer pricing manipulation is not mentioned in the MTCS standards. The main legal criterion requires 'forest management' to comply with laws, and not trade and transport.

1	5	4	Custom regulations	Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).	NOT COVERED	Customs regulations is not mentioned in the MTCS standards. The main criterion requires 'forest management' to comply with laws on forest management and transportation from point of harvest to primary mill/point of export, but does not cover trade or customs
1	5	5	CITES	CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).	COVERED	Criterion 1.3 includes reference to compliance with binding international agreements, including CITES.
2			Chain of Custody	The System shall include requirements to ensure that material included in the scope of certification/verification will not be mixed with material with unknown or non-COVERED material, irrespective of the method applied. The requirements below do therefore not require tracking of all timber to the forest but allows for risk based systems to assure that risks of contamination with illegal or unknown material is managed.		
2	1		The system shall require systematic processes to enable the identification of the country of origin of the material, and where applicable to a higher level of detail, such as the sub-national region or concession level.	Depending on the system approach to tracking and sourcing, there shall be systems in place either to track all material (product certification systems) or to track and trace products to a level of detail that is appropriate to the level of risk identified in the supply chain (risk based Due Diligence systems).	See evaluation and analysis for PEFC chain of custody standard	
2	2	The system shall require systematic processes to enable the identification of the species included in materials or products included in the scope of certification.	The name of the species of trees included in all products included in the scope of certification shall be available and identified by the common or trade name, as well as the scientific name (genus and species).			

2	3		The System shall include clear and effective measures to prevent material from high risk, unverified or potentially illegal sources from entering the supply chain.	Systems to assure segregation of material from unknown or potentially illegal sources shall exist. This may be done via different types of systems, but there shall be a well-documented process to assure that materials are not mixed in cases several different material categories (origins) are handled.		
2	4		Where applicable system shall require a system to track certified or verified legal wood along the supply chain, using appropriate inventory methods and documented controls where necessary to ensure that risks of mixing are managed.	Chain of Custody system requirements shall be formulated and implemented in order to assure that material carrying the certification or verification claim can be traced through processing and transport.		
3			System requirements	The system shall include requirements for certified or verified organisations to have in place systems and procedures covering all requirements of the standard/requirements		
3	1		If the System includes an option to apply own-verification (using 1st, 2nd or 3rd parties), the System shall contain requirements to ensure consistent implementation of requirements at all	For companies implementing own-verification (1st, 2nd, or 3rd) systems (of sources or supply chains), the System shall include clear requirements for such systems and for oversight by the assurance provider of the scope and quality of their implementation. In cases	N/A	1 st and 2 nd party assessments are not possible in MTCS certification.

			levels included in the scope of the certification.	where other 3rd party Systems are recognised by the System, it shall be clear on what basis recognition is done and how it is verified that other Systems assure conformance with the specific System requirements.		
3	2		The System shall ensure that the procedures of certified organisations are evaluated and revised - when necessary - on a regular basis.	There should be clear requirements in the System to require certified organisations to regularly review the proper functioning of their own procedures. Ensuring the continued implementation of procedures is important to the on-going ability of the organisation to meet certification requirements.	COVERED	The management plan shall be periodically revised to incorporate the results of monitoring or new scientific and technical information, as well as to respond to changing environmental, social and economic circumstances (Criterion 7.2).
3	3		The System shall ensure that whenever there is a change in the risk related to illegal harvest, trade or transport in a verified supply chain - or a supply chain covered by a DDS - the risk shall be assessed and mitigated.	There should be clear requirements embedded in the System to ensure that any procedures applied by certified companies are able to efficiently address changes to supply chains. Changes in supply chains may introduce new risks and these should be dealt with prior to including products from these new supply chains in the scope of the certification.	COVERED	The requirement for risk assessment is embedded within the PEFC COC DDS
4			Transparency	System standards and requirements shall be publicly available		
4	1		The system shall ensure that standards and requirements for		COVERED	Standards and other normative and scheme documents are freely available on the MTCC (https://mtcc.com.my/certification-standards/) and PEFC

		certified organisations are publicly available.			(https://pefc.org/standards/national-standards/endorsed-national-standards/37-Malaysia) websites.
5		Auditing process (assurance provider requirements)	Compliance with the system is audited regularly.		
5	1	System shall ensure that assurance provider have in place and implement procedures for audits, including field visits, that include frequency of audits (minimum annually).		COVERED	Covered in MTCS-7-2014-MTCS-Implementation-Arrangement, which requires assurance providers to audit companies at least once a year.

CERFLOR

ABNT NBR 15789 Forest management - Principles, criteria and indicators for native forests
and
ABNT NBR 14789 Forest management - Principles, criteria and indicators for planted forests

P	C	I	Requirements	Guiding description of the criteria and sub criteria	Evaluation	Analysis
1			Legal Compliance	The System shall ensure that the certification standards contains requirements that relate to or cover applicable legislation as defined by to the categories below.		
1	1		Legal rights to harvest	The System shall include a definition of applicable legislation related to harvesting, trade and transport enabling efficient evaluation of legal compliance where needed. The system shall clearly specify the applicable laws that shall be complied with in order for harvesting of timber to be considered legal. In this regard it shall not be considered adequate where a generic statement like "all relevant laws and regulations shall be met".		
1	1	1	Land tenure and management rights	Legislation covering land tenure rights, including customary rights as well as	COVERED	Criterion 1.1 requires the organisation to "carry out the activities related to forest management, according to legislations and forest and current environmental regulations."

				management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. There shall be safeguards to ensure that licenses, right of tenure etc has been issued according to the legally prescribed procedure and excluding corrupt practices		Criterion 1.2 requires the “rights of the local, traditional, and indigenous populations, of using and occupying forestlands” to be respected “according to the legislation in force”. Indicators for Criterion 1.2 require evidence of land tenure.
1	1	2	Concession licenses	Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses.	COVERED	Concession licenses are not mentioned in the standards, but criterion 1.1 and in particular, criterion 1.2, are judged to cover this. Indicator 1.2 (c) requires the “existence of document of direct use, domain or land tenure, according to the current agrarian legislation”.
1	1	3	Management and harvesting planning	Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities.	COVERED	<p>Criterion 1.1 requires the organisation to “carry out the activities related to forest management, according to legislations and forest and current environmental regulations.</p> <p>Laws related to management and harvest planning are not explicitly referred to but it is assumed that they would be covered under forest legislation and regulations.</p> <p>Furthermore, Criterion 2.2 of the native forest standard states “The Forest operations shall be backed by sustainable forest management plans.” The first indicator for this is “a) existence of a legally approved forest management plan.”</p>

						In the planted forests standard: "3.2.2 Criterion 2.2 The forest operations shall be based on an up to date forest management plan."
1	1	4	Harvesting permits	Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits.	COVERED	<p>ABNT NBR 15789</p> <p>...</p> <p>3.1 Principle 1 – Compliance with the laws The forest venture must be managed through attitudes and actions ensuring the fulfillment of the Federal, State and Municipal Laws, as well as international agreements, treaties and conventions applicable to forestry. The organization must supply adequate forest protection, in order to prevent unauthorized activities, such as illegal wood exploitation and other illegal activities, and to respect the laws applicable to the issues of forestry, such as environmental protection, endangered and protected species, rights of possession, property and use of land for indigenous peoples and traditional communities, labor, health and safety issues and those related to the payment of royalties and taxes. Criteria and indicators to be fulfilled are those indicated in 3.1.1 to 3.1.4.</p> <p>3.1.1 Criterion 1.1 The organization must carry out the activities pertaining to forestry, according to the forest and environmental laws and regulations in effect.</p> <p>...</p> <p>b) Existence of records proving the <u>fulfillment of the laws and other regulations applicable</u> to the activities carried out in the forestry area.</p> <p>...</p> <p>3.1.2 Criterion 1.2 The rights of the local, traditional and indigenous populations, of use and occupation of forest lands, must be respected, according to the laws in effect Indicators:</p> <p>...</p> <p>c) existence of a <u>document of right of use, domain or possession of land, according to the agricultural laws</u> in effect;</p>

					<p>3.2 Principle 2 – Reasonability in the use of forest resources on short, medium and long terms, in search of sustainability Forestry planning must have the purpose as health and vitality of forest ecosystems, seeking at maintaining and increasing the economic, ecologic, cultural and social values of the forest. One must handle forest so as the activity contributes for the conservation of the renewable natural resources. Criteria and indicators to be fulfilled are those indicated in 3.2.1 to 3.2.4.</p> <p>...</p> <p>3.2.2 Criterion 2.2 Forest operations must be grounded on an updated sustainable forestry plan. Indicators: a) Existence of a legally approved sustainable forestry plan. In this plan, the forestry area must be clearly defined in maps showing the features of the area to be handled, including, for instance, subdivisions, distribution of resources, human settlements and social significant areas. Such information must be made available in the public summary of forestry;</p> <p>ABNT NBR 14789 3.1 Principle 1 – Legal Compliance The forestry enterprise shall be managed by employing attitudes and actions that ensure compliance with current Federal, State and Municipal legislation, as well as international treaties and agreements related to forest management. The organization must provide adequate protection of the forest to prevent unauthorized activities such as illegal logging and other illegal activities and comply with the legislation applicable to forest management issues, such as environmental protection, endangered and protected species, ownership rights, ownership and use of land for indigenous peoples and traditional communities, labour and health and safety, and payment royalties and taxes. The criteria and indicators to comply with are described in 3.1.1 to 3.1.3.</p> <p>3.1.1 Criterion 1.1</p>
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						<p>The organization must undertake the pertinent activities for establishing and managing forests in accordance with current legislation and other forest and environmental regulations applicable.</p> <p>Indicators:</p> <p>...</p> <p>b) existence of records providing evidence of <u>compliance with laws and other regulations that are applicable to the establishment and management of the forest management unit.</u></p> <p>...</p> <p>3.1.2 Criterion 1.2 The rights of local communities to use and occupy land with natural forests must be respected, according to the law in force.</p> <p>Indicators:</p> <p>...</p> <p>c) existence of a <u>land tenure or land use document which proves the demarcation of the forest management unit and which is consistent with the management plan;</u></p>
1	2		Taxes and fees			
1	2	1	Payment of royalties and harvesting fees	<p>Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in</p>	COVERED	<p>Criterion 1.3 states that "The labor, pension, and tax legislations shall be complied with". Indicators c) requires "evidence that the organization has fulfilled its fiscal and tax obligations".</p>

				charge of controlling the classification.		
1	2	2	Value added taxes and other sales taxes	Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales).	COVERED	<p>ABNT NBR 15789</p> <p>3.1 Principle 1 – Compliance with the laws</p> <p>The forest venture must be managed through attitudes and actions ensuring the fulfillment of the Federal, State and Municipal Laws, as well as international agreements, treaties and conventions applicable to forestry.</p> <p>The organization must supply adequate forest protection, in order to prevent unauthorized activities, such as illegal wood exploitation and other illegal activities, and to respect the laws applicable to the issues of forestry, such as environmental protection, endangered and protected species, rights of possession, property and use of land for indigenous peoples and traditional communities, labor, health and safety issues and those related to the payment of royalties and taxes. Criteria and indicators to be fulfilled are those indicated in 3.1.1 to 3.1.4.</p>
1	3		Timber harvesting activities			
1	3	1	Timber harvesting regulations	Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc.	COVERED	<p>Criterion 1.1 requires the organisation to “carry out the activities related to forest management, according to legislations and forest and current environmental regulations.”</p> <p>Existence of procedures that identify and prove fulfilment of the legislation and other regulations applicable to the activities carried out in the forest management area are required.</p> <p>Criterion 1.2 requires a forest management plan to be in place, as well as evidences that the forest management plan assures the sustainability of the harvest, and existence of planning of the pre-harvesting and harvesting operations, aiming at minimizing the negative impacts, caused by the harvest of the remaining forest.</p>

				Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.		
1	3	2	Protected sites and species	Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats.	COVERED	4.1.1 Criterion 1.1 requires the organisation to “carry out the activities related to forest management, according to legislations and forest and current <u>environmental regulations</u> . The focus of the standard on biodiversity issues is further demonstrated in 4.3 Principle 3.
1	3	3	Environmental requirements	Covers legislation related to environmental impact assessment in connection with harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, and environmental requirements for forest machineries.	COVERED	Criterion 1.1 requires the organisation to “carry out the activities related to forest management, according to legislations and forest and current <u>environmental regulations</u> . The focus of the standard on environmental issues is further demonstrated in 4.2 Principle 2 and 4.4 Principle 4.
1	3	4	Health and safety	Legally required personal protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around	COVERED	4.1.3 Criterion 1.3 states “The labor, pension, and tax legislations shall be complied with.” It is assumed that health and safety is covered by “labor”. Indicator b) refers to work regulatory standards, and Indicator e) requires the existence of an occupational safety and health management program.

				harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations).		
1	3	5	Legal employment	Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association.	COVERED	4.1.3 Criterion 1.3 states "The labor, pension, and tax legislations shall be complied with." The following indicators are relevant: a) evidence that pension issues of all forest workers are in conformity with the current legislation; b) evidence that the aspects pertinent to the labor issues are in conformity with the legislation in force, regulatory labor standards, agreements and collective conventions; d) evidence that the measures with the service providers are taken, aiming its compliance labor, tax, and pension legislation, as well as regulatory labor standards, agreements, and collective conventions; e) existence of an occupational safety and health management program.
1	4		Third parties' rights			
1	4	1	Customary rights	Legislation covering customary rights relevant to forest harvesting activities including requirements	COVERED	Criterion 1.2 covers "The rights of the local, traditional, and indigenous populations, of using and occupying forestlands, shall be respected, according to the legislation in force."

				covering sharing of benefits and indigenous rights.		
1	4	2	Free prior and informed consent	Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.	NOT COVERED	4.1.2 Criterion 1.2 covers "The rights of the local, traditional, and indigenous populations, of using and occupying forestlands, shall be respected, according to the legislation in force". However, free prior and informed consent is not mentioned in the standard.
1	4	3	Indigenous/traditional people's rights	Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.	COVERED	4.1.2 Criterion 1.2 covers "The rights of the local, traditional, and indigenous populations, of using and occupying forestlands, shall be respected, according to the legislation in force."
1	5		Trade and transport			
1	5	1	Classification of species, quantities, qualities	Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees.	NOT COVERED	No requirements are related to classification of species, quantities, qualities.
1	5	2	Trade and transport	All required trading permits shall exist as well as legally required transport document	PARTLY COVERED	There are no requirements covering Criterion 2.1 indicator c) requires existence of documented procedures for ... transport of forest products', however legal requirements related to trade or

			<p>which accompany transport of wood from forest operation.</p>		<p>transport are not mentioned.</p> <p>The control of the origin of forest products is regulated by Federal Law 12651/2012, which requires the issuance of a document of forest origin (DOF) for the transportation and storage of timber and other forest products.</p> <p>According to the Law, all those who receive or acquire, for commercial or industrial purposes, wood, firewood, coal and other products or by-products of forests of native species are obliged to require the presentation of the DOF and to provide themselves with the path that must accompany the material until the final beneficiation.</p> <p>In addition, the Chamber of Foreign Trade - CAMEX may adopt measures restricting imports of goods of forest origin produced in countries that do not comply with norms and standards of environmental protection compatible with those established by Brazilian legislation.</p> <p>The Forest Origin Document (DOF), established by Ministry of the Environment Ordinance 253, of August 18, 2006, constitutes a compulsory license for the transportation and storage of native forest products, including native charcoal, containing information on a procedure in the products, in accordance with art. 36 of Law No. 12,651, of 2012 (Law of Protection of Native Vegetation).</p> <p>The DOF system acts as an accounting tool that records the flow of credits granted in forest permits, in the current account system, from the launch of the initial volume, to the place of extraction of the forest product or entry into the country by import, to the exit point of the flow, where the material meets its final consumption or leaves the object of forest control.</p>
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						More information can be found at http://ibama.gov.br/flora-e-madeira/dof/o-que-e-dof
1	5	3	Offshore trading and transfer pricing	Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personal involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here.	NOT COVERED	There are no requirements covering offshore trading and transfer pricing.
1	5	4	Custom regulations	Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).	NOT COVERED	There are no requirements covering customs regulations.
1	5	5	CITES	CITES permits (the Convention on International Trade in Endangered Species	NOT COVERED	There are no requirements covering in the standard related to CITES.

			of Wild Fauna and Flora, also known as the Washington Convention).		<p>Federal Decree 3607, of September 21, 2000, provides the implementation of CITES in Brazil.</p> <p>Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) is the designated Administrative Authority, as determined by Article IX of the Convention.</p> <p>More information is available at http://ibama.gov.br/cites-e-comercio-exterior</p>
2		Chain of Custody	The System shall include requirements to ensure that material included in the scope of certification/verification will not be mixed with material with unknown or non-COVERED material, irrespective of the method applied. The requirements below do therefore not require tracking of all timber to the forest, but allows for risk based systems to assure that risks of contamination with illegal or unknown material is managed.		
2	1	The system shall require systematic processes to enable the identification of the country of origin of the material, and where applicable to a higher level of detail, such as the sub-national region or concession level.	Depending on the system approach to tracking and sourcing, there shall be systems in place either to track all material (product certification systems) or to track and trace products to a level of detail that is appropriate to the level of risk identified in the supply chain (risk based Due Diligence systems).	See evaluation and analysis for PEFC chain of custody standard	
2	2	The system shall require systematic processes to enable the identification of the species included in materials or products included in the scope of certification.	The name of the species of trees included in all products included in the scope of certification shall be available and identified by the common or trade name, as well as the scientific name (genus and species).		
2	3	The System shall include clear and effective measures to prevent material from	Systems to assure segregation of material from unknown or potentially illegal sources shall exist. This may		

			high risk, unverified or potentially illegal sources from entering the supply chain.	be done via different types of systems, but there shall be a well-documented process to assure that materials are not mixed in cases several different material categories (origins) are handled.		
2	4		Where applicable system shall require a system to track certified or verified legal wood along the supply chain, using appropriate inventory methods and documented controls where necessary to ensure that risks of mixing are managed.	Chain of Custody system requirements shall be formulated and implemented in order to assure that material carrying the certification or verification claim can be traced through processing and transport.		
3			System requirements	The system shall include requirements for certified or verified organisations to have in place systems and procedures covering all requirements of the standard/requirements		
3	1		If the System includes an option to apply own-verification (using 1st, 2nd or 3rd parties), the System shall contain requirements to ensure consistent implementation of requirements at all levels included in the scope of the certification.	For companies implementing own-verification (1st, 2nd, or 3rd) systems (of sources or supply chains), the System shall include clear requirements for such systems and for oversight by the assurance provider of the scope and quality of their implementation. In cases where other 3rd party Systems are recognised by the System, it shall be clear on what basis recognition is	N/A	1 st and 2 nd party assessments are not possible in Cerflor certification.

			done and how it is verified that other Systems assure conformances with the specific System requirements.		
3	2	The System shall ensure that the procedures of certified organisations are evaluated and revised - when necessary – on a regular basis.	There should be clear requirements in the System to require certified organisations to regularly review the proper functioning of their own procedures. Ensuring the continued implementation of procedures is important to the on-going ability of the organisation to meet certification requirements.	COVERED	<p>There are requirements for a presence of a forest management plan (Criterion 2.2). Indicator g of this criterion requires 'evidence that the forest management plan is monitored and revised by a legally licensed professional, incorporating the surveillance results'. Furthermore, Indicator 2.3 b) requires 'evidence of revision of the procedures for execution of the forest management operations'.</p> <p>Criterion 3.2 states 'The biological resources of the Forest management area shall be monitored in order to provide information for the confirmation or revision of the forest management plan. Within this (indicator b), there shall be evidence of incorporation of the surveillance results of the flora and fauna to the forest management plan.</p> <p>The production of wood and other forest products (resins, roots, barks, vines, etc.), has as a source of legal raw material only the forests exploited under a sustainable regime, through Forest Management Plans Sustainable - PMFS. Only after the issuance of the Prior Authorization to the Technical Analysis of the Forest Management Plan - APAT, is the technical evaluation of a PMFS in private forests started. The technical analysis of a PMFS concludes in the approval of the PMFS or indication of pending to be fulfilled for the sequence of the analysis.</p> <p>Each year, the PMFS holder must present the Annual Operational Plan (POA) for the next activities that will be carried out, as a condition to receive the Exploration Authorization.</p> <p>PMFSs should be periodically subjected to technical surveys by IBAMA or environmental agencies in order to ensure follow-up</p>

					and control of the operations and activities involved in the Forest Management Area. More information is available at http://www.florestal.gov.br/pngf/manejo-florestal/apresentacao
3	3	The System shall ensure that whenever there is a change in the risk related to illegal harvest, trade or transport in a verified supply chain – or a supply chain covered by a DDS – the risk shall be assessed and mitigated.	There should be clear requirements embedded in the System to ensure that any procedures applied by certified companies are able to efficiently address changes to supply chains. Changes in supply chains may introduce new risks and these should be dealt with prior to including products from these new supply chains in the scope of the certification.	N/A	The requirement for risk assessment is embedded within the PEFC COC DDS
4		Transparency	System standards and requirements shall be publicly available		
4	1	The System shall ensure that standards and requirements for certified organisations are publicly available on the internet.		COVERED	Standards are available on the ABNT database for a fee (http://www.abntcatalogo.com.br/), but are available for free on the PEFC website (https://www.pefc.org/standards/technical-documentation/national-standards/31-Brazil). There are several references of requirements to ISO standards, which are not publicly available.
5		Auditing process (assurance provider requirements)	Compliance with the system is audited regularly.		

5	1	System shall ensure that assurance provider have in place and implement procedures for audits, including field visits, that include frequency of audits (minimum annually)		Covered	The maximum period for surveillance audits does not exceed one year (ISO 17021, 9.3.2.2).
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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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