



On The Ground 2011

*The controversies of
PEFC and SFI*



On The Ground 2011

The controversies of PEFC and SFI

A report published in September 2011 by:

Climate for Ideas (United Kingdom), Forests of the World (Denmark), Dogwood Alliance (United States), Hnutí DUHA (Friends of the Earth Czech Republic), Les Amis de la Terre (Friends of the Earth France), Greenpeace, Sierra Club of British Columbia, Suomen Luonnonsuojeluliitto (Finnish Association for Nature Conservation), Netherlands Centre for Indigenous Peoples



GREENPEACE



Editors: Jim Ford and Anna Jenkins

Designed by Tracey Greenwood

Cover photographs by Reijo Pokkinen. A PEFC certified Woodland Key Habitat (WKH) in Finland, legally protected for its ecological importance. As it was in 2007 (top), and then clearcut in 2009 (bottom).

Contributors included Jim Ford from Climate for Ideas, Anna Jenkins from Ethical Change, Sylvain Angerand from Les Amis de la Terre, Sini Eräjää from Finnish Association for Nature Conservation, Sean Cadman from The Wilderness Society, Luis Astorga from Agrupación de Ingenieros Forestales por el Bosque Nativo, Tracey Greenwood, Peter Goldman from Washington Forest Law Center, as well as other NGOs, academics, scientists, certifiers, auditors, independent analysts and observers. WWF and Greenpeace contributed funding to the research in preparation for this report.

4	Executive Summary
7	Introduction
8	What is PEFC?
8	PEFC claims
9	Concerns about chain of custody
9	Historical context – broken promises?
10	PEFC's new standards
13	Why These Cases Happen
13	Standards
14	Governance
16	Stakeholder consultation and participation
17	Transparency and the availability of information
17	Voluntary participation
17	Audit practices
18	Complaints and disputes resolution systems
19	The Future – will PEFC keep its promises?
20	Performance Case Studies
20	C.0 Sweden, Woodland Key Habitats
22	C.1 Finland, Lohja, Mustamäki
24	C.2 Czech Republic, Královský hvozd
26	C.3 Sweden, Sámi traditional rights
28	C.4 USA, Western Timberlands, Washington & Oregon
30	C.5 Canada, Kenogami Forest, Ontario
32	C.6 Canada, Muir Creek, British Columbia
34	C.7 USA, Moosehead Lake, Maine
36	C.8: USA, Battle Creek & Sierra Nevada, California
38	C.9 Malaysia, Segaliud-Lokan
39	C.10 Australia, Tasmania
41	C.11 Chile, CERTFOR
43	C.12 Spain, Andalucia
45	C.13 USA, Green Swamp
47	Procedural Issues Case Studies
47	I.1 PEFC France: Poor certification procedures
48	I.2 PEFC Finland: Poor standards enforcement
50	I.3 PEFC Finland: Lack of environmental input
51	I.4 PEFC Finland: Group certification
52	I.5 PEFC Germany: Flawed audit system
53	I.6 SFI Greenwash
54	I.7 Indonesia: Controversial sources / poor complaints procedure
56	I.8 PEFC Finland: Poor complaints procedure
57	List of Acronyms

This report details 21 case studies and examples of issues from around the world which are causing concern about the Programme for the Endorsement of Forest Certification Schemes (PEFC), including the US-based Sustainable Forestry Initiative (SFI). *Table 1* below gives an outline of the cases and the issues they highlight. The cases demonstrate the failure of PEFC to deliver on promises made in a number of areas, focusing on the following key issues:

- ***Whether the system allows conversion of natural forests*** to other uses, and especially the degradation of natural forests with high biodiversity and high carbon storage values, to low biodiversity forests with low carbon storage values, plantations or development.
- ***Whether the system protects critical forest ecological values and endangered forests.***¹ Key in this regard is whether there is adequate protection for the habitats of endangered and threatened species, and for special, rare or disappearing ecosystems.
- ***Whether local communities or indigenous peoples' rights are respected.***

On the Ground 2011 concludes that the principal drivers for PEFC's current weaknesses include weak standards, weak governance, poor or non-existent stakeholder consultation, a lack of transparency, an inadequate dispute resolution system and audit practices that cannot meet the expectations of a system for ensuring practices on the ground meet even the current weak standards.

The report acknowledges recent changes to PEFC standards but highlights where change is still needed. It challenges PEFC to ensure that there is real improvement made **on the ground**.

¹ ForestEthics et al (2006) *Ecological Components of Endangered Forests*. ForestEthics, Greenpeace, Natural Resources Defense Council, and Rainforest Action Network. April 2006. http://forestethics.org/downloads/EFDefinitions_April_2006_2.pdf

Table 1: Overview of controversial cases

Case No.	Case	Habitat & biodiversity issues	Indigenous/ local people issues	Conversion of natural forests	Soil / water damage	Use of chemicals issues	Positive changes being made
C.0	Sweden, Woodland Key Habitats	X					
C.1	Finland, Lohja county	X					
C.2	Czech Republic, Královský hvozd	X			X		
C.3	Sweden, Sámi traditional rights		X				
C.4	USA, Western Timberlands, Washington & Oregon	X		X	X		
C.5	Canada, Kenogami Forest, Ontario	X	X				
C.6	Canada, Muir Creek, British Columbia	X		X			
C.7	USA, Moosehead Lake, Maine	X		X	X		
C.8	USA, Battle Creek & Sierra Nevada, California	X		X	X	X	
C.9	Malaysia, Segaliud-Lokan FMU, Sabah			X			
C.10	Australia, Tasmania	X		X		X	x
C.11	Chile, CERTFOR	X	X	X	X	X	x
C.12	Spain, Andalucia	X			X		
C.13	USA, Green Swamp	X		X	X	X	
I.1	PEFC France: Poor certification procedures						
I.2	PEFC Finland: Poor standards enforcement	X					
I.3	PEFC Finland: Lack of environmental input						
I.4	PEFC Finland: Group certification						
I.5	PEFC Germany: Flawed audit system						
I.6	SFI: Misleading claims						
I.7	Indonesia: Controversial sources / complaints process						
I.8	PEFC Finland: Poor complaints procedure						

Case No.	Case	Legal compliance issues	Poor or absent stakeholder consultation	Poor or absent public summaries	Complaints procedure issues	Audit & certification process issues	Chain of custody procedure issues
C.0	Sweden, Woodland Key Habitats			X			
C.1	Finland, Lohja county	X	X	X	X		
C.2	Czech Republic, Královský hvozď	X		X			
C.3	Sweden, Sámi traditional rights		X	X			
C.4	USA, Western Timberlands, Washington & Oregon	X		X	X		
C.5	Canada, Kenogami forest	X	X	X			
C.6	Canada, Muir Creek, British Columbia		X	X			
C.7	USA, Moosehead Lake, Maine	X	X	X	X		
C.8	USA, Battle Creek & Sierra Nevada, California	X		X			
C.9	Malaysia, Segaliud-Lokan FMU, Sabah						
C.10	Australia, Tasmania		X	X			
C.11	Chile, CERTFOR	X	X	X			
C.12	Spain, Andalucía	X	X	X		X	
C.13	USA, Green Swamp		X	X			x
I.1	PEFC France: Poor certification procedures	X				X	
I.2	PEFC Finland: Poor standards enforcement		X			X	
I.3	PEFC Finland: Lack of environmental input		X				
I.4	PEFC Finland: Group certification					X	
I.5	PEFC Germany: Flawed audit system					X	
I.6	SFI: Misleading claims						X
I.7	Indonesia: Controversial sources / complaints process	X			X		X
I.8	PEFC Finland: Poor complaints procedure				X		

Introduction

This report documents and discusses the impacts of a selection of Programme for the Endorsement of Forest Certification Schemes (PEFC) endorsed companies and forestry management units around the world. It looks at PEFC's ability to demonstrate a minimum level of responsible forestry practices, focusing on three minimum requirements for responsible forest management certification:

- * Whether the system allows conversion of natural forests to other uses, and especially the degradation of natural forests with high biodiversity and high carbon values, to low biodiversity forests with low carbon storage value, plantations or development.
- * Whether the system protects critical forest ecological values and endangered forests.² Key in this regard is whether there is adequate protection for the habitats of endangered and threatened species, and for special, rare or disappearing ecosystems.
- * Whether local communities or indigenous peoples' rights are respected.

The report assesses whether the PEFC label gives buyers of wood and paper products minimum assurances around those issues. It examines cases from around the world that show clear problems in the three key areas above, as well as basic compliance issues such as upholding the law. It also looks at the PEFC system itself, noting system problems that contribute to on the ground impacts.

This report is published as new PEFC international chain of custody and forest

management standards are set to come into effect over the coming year. National PEFC forest management standards should reflect changes by May 2013 according to PEFC rules. These new standards have been strengthened in several places and this report asks whether improved practice will indeed be reflected on the ground or whether future PEFC endorsed practices will continue to show weaknesses when scrutinised.

On the Ground 2011 is **not** a comparison of certification systems - it does not comprehensively consider how PEFC compares with the Forest Stewardship Council (FSC) and makes few references to the FSC system. FSC is excluded from this analysis because of its balanced governance system, equal participation by NGOs and social stakeholders, and its more robust complaints mechanism. The NGOs responsible for this report are all involved in the FSC system in some way - both through membership and consultations, as well as holding FSC to account to deliver on its promises.

This report is also **not** an analysis of PEFC standards. Current PEFC standards and PEFC marketing materials make reference to many of the issues that are important to wood products buyers and the public in general. What is key, however, is what happens **on the ground**. This report therefore illustrates several ground level cases where the above three issues and other related areas of concern are not being addressed.

² ForestEthics et al (2006) *Ecological Components of Endangered Forests*. ForestEthics, Greenpeace, Natural Resources Defense Council, and Rainforest Action Network. April 2006. http://forestethics.org/downloads/EFDefinitions_April_2006_2.pdf

What is PEFC?

PEFC describes itself as “the world's largest forest certification system dedicated to promoting Sustainable Forest Management (SFM) through independent third-party certification.”³ It says that it “works by endorsing national forest certification systems developed through multi-stakeholder processes and tailored to local priorities and conditions. Each national forest certification system undergoes rigorous third-party assessment against PEFC's unique Sustainability Benchmarks to ensure consistency with international requirements.”⁴ The PEFC system currently recognises 28 national certification schemes, e.g. the Sustainable Forestry Initiative (SFI) in North America and the Australian Forestry Standard (AFS) in Australia.

PEFC is the largest forest certification scheme in the world in terms of endorsed forest area, and has undergone rapid growth in recent years: “Between 2008 and 2009, the area of PEFC endorsed forest increased by 7%, or 15.7 million hectares, to over 223.5 million hectares.”⁵ PEFC is active on all continents and in more than 30 countries worldwide.⁶ Other claims made by PEFC, such as whether it consistently promotes forest management that is sustainable or uses multi-stakeholder processes, will be examined more closely in both the case studies and the discussion that follows.

PEFC claims

PEFC laid out a series of claims about the sustainability of the products it certifies in its 2009 PEFC Annual Review (emphasis added):

- * “PEFC’s flexibility assists in maintaining forest cover in the tropics and **avoids conversions** to agricultural and / or other non forest land uses.

- * Forest certification means that **forest resources are maintained or enhanced**, ensuring that they can act as a sink, capturing and storing carbon dioxide.
- * We understand that **ecologically rigorous, demanding**, and independently certified forest management practices are critical.
- * PEFC certification is based on **multi-stakeholder participation** and **rigorous assessment** and endorsement processes. These provide assurances that forestry management and exploitation systems in place either meet or exceed PEFCs stringent, internationally defined Sustainability Benchmarks.
- * The **strictest social standards**. PEFC is the only certification system that requires adherence to all of the International Labour Organisation’s core labour standards even for countries who have not adopted these critical human right protections.
- * The **widest accepted environmental standards**. PEFC core standards are based on a series of Intergovernmental processes recognised by governments around the globe, developed and agreed upon by thousands of stakeholders. This is unlike other systems that develop core standards in a political vacuum or rely solely on their member’s opinions.
- * [PEFC claims to have] the **highest standards for forest certification and sustainable forest management** aligned with the majority of the world’s governments, including:
 - * **maintaining or enhancing biodiversity**, [...]
 - * **respecting established traditions and indigenous peoples’ rights**” [sic]

3 <http://www.pefc.org/resources/brochures/item/502-why-pefc-is-the-certification-system-of-choice>

4 <http://www.pefc.org/about-pefc/who-we-are>

5 PEFC Annual Report 2009.

6 PEFC Annual Report 2009

The case studies in this report demonstrate that these claims cannot be consistently demonstrated throughout the PEFC system. The language used in the claims made by PEFC can be confusing and misleading, with some statements appearing to be stronger in words than they are in practice. In the case of conversion, for example, it states that conversion will be avoided - but it does not state that natural forests will not be converted to plantations. Other statements are considered false, such as the term 'strictest social standards' from the perspective of various Indigenous Peoples. Elsewhere, PEFC describes itself as "the world's largest environmental movement"⁷ - a claim both misleading and difficult to defend.

Such claims, often referred to as greenwash, are being formally challenged in some parts of the PEFC system. Issues Study 1.6 summarises a complaint that has been put to the US Federal Trade Commission about SFI claims.

Concerns about Chain of Custody

There are concerns that PEFC and its participant schemes' chain of custody systems do not match expectations of providing a clear verified connection between certified 'sustainable forest management' and their labels stating that. PEFC Germany's regional forest certification system, for example, (detailed in Issues Study 1.5) allow the PEFC label to be used on products without a valid chain of custody and where compliance with the PEFC German standard is not guaranteed.

In the case of SFI, while it is part of the PEFC mutual recognition system it still continues to use its own SFI label. The chain of custody arrangements for this label differ from those of PEFC and do not use PEFC's chain of custody standards, relying instead on SFI's weaker standards. SFI's 'Fiber Sourcing' label, its most common label type, does not require any chain of custody tracking of its contents or origins.⁸

PEFC 'non-controversial wood' can turn out to be very controversial, as seen in the case from Indonesia – (see *Audit Practices* section and Issues Study 1.7). Both a weak definition of 'controversial' sources in chain of custody standards and weak auditing means there is insufficient rigour to ensure that wood from sources many would deem controversial do not enter PEFC labelled products. Currently such sources could be from areas of conservation importance, areas that are converting to plantations, or where there are on-going social disputes.

New PEFC chain of custody standards contain a broader definition of 'controversial sources' that represents a significant improvement. Further details are given in the *New Standards* section below.

Historical context – broken promises?

Historically, PEFC has been largely considered by observers to be a weak system for protecting a variety of forest values. Over the last decade various commentators, researchers and NGOs⁹ have expressed similar concerns about the PEFC system and its participating national schemes. The summary here expresses the most common concerns: "PEFC has no minimum requirements on such critical issues as the rights of indigenous peoples, protection of high conservation value forests, and chain of custody processes, and provides no limits on the size of clear cuts, the use of GMO trees, or the use of pesticides and other chemicals."¹⁰

Table 2 lists some of the most prominent recent forest practice controversies, including the loss of habitat, particular forest values and concern over the rights of local communities and indigenous peoples. In all cases, PEFC endorsed the forest practices in question but resolution of the issues occurred outside of the PEFC system. Such resolution was not required by the PEFC system.

7 <http://www.youtube.com/watch?v=pSAXK7wDJJs>. Viewed 5 February 2011.

8 ForestEthics (2010) *SFI: Certified Greenwash. Inside the Sustainable Forestry Initiative's Deceptive Eco-label*. ForestEthics. November 2010. pp 10.

9 See also for example:

Cashore, B., et al (2004) *Governing Through Markets - Forest certification and the emergence of non-state authority*. Yale University, USA.

The Coalition for Credible Forest Certification including American Lands Alliance, Dogwood Alliance, ForestEthics, Greenpeace, National Wildlife Federation, Natural Resources Council of Maine, Rainforest Action Network, Sierra Club (U.S.). www.credibleforestcertification.org. Last accessed 22 January 2011.

10 Conroy, M. E., July 2007 *Branded! - How the 'certification revolution' is transforming global corporations*, New Society Publishers, Canada.

PEFC took no public action regarding the controversies, no certificates were suspended or withdrawn.¹¹ At the same time PEFC allowed the PEFC label to be applied to products from these areas, assuring buyers that the products were ‘sustainable.’ The fact that changes were made in the cases listed below vindicates the claims made by critics of these forest practices but at the same time calls into question the degree to which the PEFC system can be depended upon to correct poor forest practice.

PEFC’s new standards

PEFC has recently published new forest management and chain of custody standards that will supersede existing standards on 12th May 2011 and 26th November 2011 respectively.¹² While the international forest management standards were introduced in May this year, in some countries it may take 12 months before the new standards are implemented on the ground, depending on when national standards were last formally revised.

During its December 2010 General Assembly, PEFC stated that its new PEFC standards include the following provisions:¹³

- * Recognition of free, prior and informed consent (FPIC), UN Declaration on Indigenous Peoples Rights, and ILO Convention 169 on Indigenous and Tribal Peoples
- * Provisions for consultation with local people and stakeholders
- * Respect for property and land tenure rights as well as customary and traditional rights
- * Compliance with all fundamental ILO conventions
- * Prohibition of forest conversions

- * Protection of ecologically important forest areas
- * Exclusion of certification of plantations established by conversions
- * Adherence to all applicable laws.

These new standards show a clear improvement in language, as the provisions detailed above illustrate with the use of clearer less ambiguous words such as ‘prohibition’ instead of ‘avoidance’ (see by comparison *PEFC Claims* section above). A recent WWF analysis of the new standards however, found that while there are significant improvements in the forest management aspects of the standards, including stronger requirements for protecting biologically valuable forest, indigenous peoples rights and prohibiting the conversion of natural forest to plantations, significant weaknesses remain within the PEFC system.¹⁴ The new standards only cover the forest management standards and chain of custody requirements of the system; they do not cover other key aspects such as audit procedures and governance. Areas that remain weak or that are not covered in the new standards include weaknesses in or a lack of a requirement for: accreditation and certification field visits; fulfilling non-conformity (corrective action) requests to a given deadline; transparency in decision making and public reporting; stakeholder consultation; universal accessibility and voluntary participation; and equitable and balanced participation of social, environmental and economic interests in governance, standard development and certification decisions.¹⁵

Some situations highlighted in this report where problems stem particularly from weak audit, stakeholder consultation, governance and other systemic factors, would therefore almost certainly not improve as a result of the implementation of the new standards. Examples include: PEFC Germany (see Issues Study **I.5**), PEFC Finland (see

11 Whether certifiers of the PEFC standards observed and sought to correct non-compliances can in most cases not be seen because of either the total absence of, or minimal information contained within, public summary reports on PEFC certifications in most participating countries.

12 PEFC (2010) *Sustainable Forest Management – Requirements*. PEFC ST 1002:2003. PEFC Council. Geneva. 26 November 2011. & PEFC (2010) *Chain of Custody of Forest Based Products – Requirements*. PEFC ST 2002:2010. PEFC Council. Geneva. 26 November 2011.

13 PEFC News. General Assembly Special, No. 48 December, 2010.

14 Walter, M. (2011) *Analysis of the FSC and PEFC Systems for Forest Management Certification using the Forest Certification Assessment Guide (FCAG)*. WWF International. February 2011.

15 Walter, M. (2011) *Analysis of the FSC and PEFC Systems for Forest Management Certification using the Forest Certification Assessment Guide (FCAG)*. WWF International. February 2011.

Table 2: Resolved forest controversies despite lack of PEFC action

Forest region	Country or region	Issues and resolution	PEFC-endorsed certification during the controversy	Certificates revoked by PEFC schemes due to the controversies
Northern Finland old growth forests	Finland	Logging of forests critical to Sámi indigenous people's livelihoods. A protection agreement now in place between Sámi people, NGOs, government and industry.	PEFC Finland	None
Canadian Boreal Endangered Forests	Canada	Logging of caribou habitat, intact forest landscapes and other valuable forests. Disagreements with First Nations in many areas. Tentative agreement now in place between industry and NGOs, who will develop conservation plans for approval by provincial and First Nations governments. Interim protection for 29 million hectares (75 million acres) of Endangered Forests while conservation plans are developed.	SFI and CSA	None
Inland Temperate Rainforest, British Columbia	Canada	Logging of caribou habitat, intact forest landscapes and other valuable forests. Disagreements with First Nations in many areas. A protection agreement is in place between NGOs and industry, leading to the protection of Endangered Forests throughout the region.	CSA	None
Green Swamp	Southeast U.S.	Landscape-wide solutions are still lacking, but agreements with one major producer are in place, protecting some of the region's conservation values.	SFI	None
Cumberland Plateau	Southeast U.S.	Landscape-wide solutions are still lacking, but agreements with one major producer are in place, protecting some of the region's conservation values.	SFI	None
Tasmania	Australia	Conversion of native old growth forests to non-native pine plantations. The company in question has offended conversion of native forests.	AFS	None
Chilean Native Forests	Chile	Conversion of native forests to non-native eucalyptus and pine plantations and loss of conservation values. Two of the largest companies involved have suspended conversion and are studying protection of forest values and improved practices.	CERTFOR	None
Espirito Santo	Brazil	The Brazilian indigenous peoples Tupiniquim and Guarani claimed lands that the company in question subsequently occupied with non-native plantations. Final resolution was achieved with an agreement between the government, company and community representatives. Large tracts of land were returned to the indigenous communities.	CERFLOR	None

Issues Studies **I.2, I.3, I.4 & I.8**), PEFC France (see Issues Study **I.1**), and the SFI system (see Issues Study **I.6**). Systemic weaknesses would be likely to remain in nearly all the cases featured in this report.

A key area of change in the new PEFC chain of custody standards is the definition of ‘controversial sources’ (see box below). The new standard also sets out slightly revised requirements for the ‘due diligence’ system to ensure that controversial sources are avoided.¹⁶ The new definition of controversial sources represents a significant improvement in the chain of custody standards, however there are no clauses ensuring that areas of high biological value are protected and that basic indigenous and community rights are respected (beyond the law). The new ‘due diligence’ system also represents a slight

strengthening of requirements in some respects. For example, the new standard states that in the case of statements regarding legality of supplies issued by government departments: “Special attention shall be given to a statement which is produced by a governmental body of the country with TI PCI [sic] [Transparency International Corruption Perceptions Index (TI CPI)] below [sic] 5.0.”¹⁷ This new point would in future, in a situation similar to the Indonesian case (see Issues Study **I.7**) for example, draw auditors’ attention to the fact that extra caution would be needed when verifying legality in a country with a low TI CPI of 2.8.

As with the new forest management standards, the new chain of custody standards will only deliver improvements in on the ground standards if they are properly implemented and audited to ensure that they are complied with.

PEFC definition of ‘controversial sources’ (valid from Nov 2011)

Forest management activities which are:

- * Not complying with local, national or international legislation, in particular related to the following areas:
 - * forestry operations and harvesting, including 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,
 - * payment of taxes and royalties,
- * Utilising genetically modified organisms,
- * Converting forest to other vegetation type, including conversion of primary forests to forest plantations.¹⁸

16 PEFC. (2010)¹⁶*Chain of Custody of Forest Based Products – Requirements*. PEFC ST 2002:2010. PEFC Council. Geneva. 26 November 2011. pp 24 – 28.

17 PEFC. (2010) *Chain of Custody of Forest Based Products – Requirements*. PEFC ST 2002:2010. PEFC Council. Geneva. 26 November 2011. pp 27

Why these cases happen

This section of the report will explore the potential underlying drivers for the failure of PEFC participant schemes to meet the three minimum requirements detailed at the beginning:

- * a prohibition on natural forest conversion
- * the protection of key habitats and species
- * respect for indigenous peoples and local community rights

as well as other areas of poor performance. The section outlines some of the structural and systems issues that allow these practices to occur.

This report does not set out to provide a detailed analysis of the causes of PEFC's poor performance. Several studies have made such assessments and are drawn on here in order to summarise the key weaknesses in the PEFC system:

1. WWF assessments of PEFC using the WWF/ World Bank Global Forest Alliance Forest Certification Assessment Guide (FCAG), including a recent analysis of the new PEFC standards;¹⁸
2. Comments on the PEFC International system in the context of the Dutch Procurement Criteria for Timber by a consortium of WWF - Netherlands, ICCO, Greenpeace, the Netherlands Committee for Indigenous Peoples (NCIV) and Friends of the Earth - Netherlands with replies by Timber Procurement Assessment Committee (TPAC);¹⁹
3. The ForestEthics report *SFI: Certified Greenwash*.²⁰

The areas that will be looked at in the sections below are:

- * Standards
- * Governance
- * Stakeholder consultation
- * Transparency

- * Voluntary participation
- * Audit practices
- * Complaints and dispute resolution procedures

Standards

Protection of key forest conservation values and ensuring that natural forest cover is maintained are not part of many of the PEFC system standards. Poor practices in these areas are therefore common in many PEFC endorsed forest management units.

Failures due to weak standards potentially cause problems in all the case studies detailed in this report. Cases of note in this regard include: the Kenogami case in Canada (C.5) where caribou and wolverine habitat has been fragmented and indigenous rights threatened; in Finland (C.1) where standards only require meeting legal requirements; in Sweden (C.0) where Woodland Key Habitats can be harvested without constraint if they cover more than 5% of the area of a forest management unit (5% is conserved) and where Sámi grazing rights are not properly protected (C.3); in Malaysia where 'natural forest' management involves enrichment planting with exotic species (C.9); in the US where natural forest conversion features in all four cases in this report (C.4, 6, 7 & 8); in Spain (C.12) where natural forest conversion occurred and the resultant habitat damage was acted upon by Spanish courts but apparently ignored by auditors; and in Australia (C.10) where logging of native forest has had few legal restrictions and no appreciable restrictions imposed via the PEFC system.

The number of non-conformances found during audits and subsequent corrective action requests (CARs), conditions or recommendations issued, can be viewed as an indication of the strength of the standards: stronger standards are more difficult to meet and require more change from the status quo in forest management practices. A Canadian study found significant

18 http://wwf.panda.org/what_we_do/footprint/forestry/certification/which_system/

See also:

PEFC. (2010) Chain of Custody of Forest Based Products – Requirements. PEFC ST 2002:2010. PEFC Council. Geneva. 26 November 2011. pp 8-9.

19 WWF-NL et al (2010). *Dutch Procurement Criteria for Timber. Comments on the PEFC INT System, replies by TPAC and comments and score by consortium of WWF-NL, ICCO, Greenpeace, SNCIV [sic] and Friends of the Earth Netherlands*. 23 July 2010.

20 ForestEthics (2010) *SFI: Certified Greenwash. Inside the Sustainable Forestry Initiative's Deceptive Eco-label*. ForestEthics. November 2010.

differences in the number of conditions and recommendations issued during audits under the SFI, Canadian Standards Association (CSA – now under the SFI system) and FSC. SFI and CSA issued approximately one fifth of the conditions issued under FSC audits. Some areas received significantly less conditions than others under the SFI and CSA systems: protected and high conservation areas and First Nations relations in particular were poorly represented.²¹ A different analysis found that the average number of non-conformances found per SFI certificate was only two (in FSC certificates it was 23).²² Such differences in the number of non-conformances found by auditors may also relate to the rigorousness of the auditing (see *Audit Practices* section below).

Governance

The PEFC system was established by the forest and wood products industry, and the governance structure reflects this with the balance of power sitting with industry representation. In a detailed analysis of PEFC and three other forest institutions, Cadman (2009) comments that: “These origins need not have mattered significantly if they had not had such a profound impact on the structures and processes that underlie the Programme’s governance system as a whole. Internationally, key stakeholders such as environmental NGOs, unions and indigenous peoples are effectively excluded from actively participating in the institution’s highest organ, the General Assembly. While they enjoy a degree of representation on the Board of Directors, it does not match... [that of] forest owners and the forest industry.”²³

Inclusion of NGO and other stakeholders in the PEFC General Assembly and PEFC Board is thus limited to a few representatives. Balanced representation and real decision-making authority does not exist either at the level of the international governance of PEFC (see *Box 1, Tables 3 & 4*) nor in many of the national-level governance structures.

Because of this imbalance in focus, representation and decision making, the majority of environmental NGOs have become discouraged from engaging with PEFC at both governance and stakeholder levels.

In 2008 PEFC held a Governance Review that recommended the establishment of a PEFC Stakeholder Forum to address the criticisms about poor stakeholder consultation and engagement in the PEFC system. WWF released a statement on the proposal which, while it acknowledged that PEFC was “taking steps in the right direction” and that the “Stakeholder Forum will, in the best scenario, create a broader interest base for the decision-making process,” it went on to say: “However, it will fall far short of guaranteeing a process which elicits balanced decisions. The Stakeholder Forum will, as a collective, have a maximum of one-third of the votes in the PEFC General Assembly, however the situation remains that there are no mechanisms to ensure that decisions are not dominated by a single interest group.”²⁴ No reference to an active PEFC Stakeholder Forum could be found either on the PEFC website or elsewhere during the research for this report. The PEFC International Stakeholder Members Group, meanwhile, is dominated by the forest industry itself and not social or environmental NGOs and therefore has made no meaningful progress in bringing non-industry voices to decisions at PEFC.

Box 1

PEFC Governance overview

The **PEFC General Assembly** (GA), the highest authority of PEFC, is made up of **National members** (the national governing bodies that implement PEFC nationally) and **International Stakeholder members** (international entities committed to supporting PEFC). The GA elects the international **Board of Directors**²⁵ who can be members of the national governing bodies or International Stakeholder members.²⁶

- 21 Masters, M., Tikina, A., & B. Larson (2010). Forest certification audit results as potential changes in forest management in Canada. *The Forestry Chronicle*. July/ August 2010, 86:4 pp 458.
- 22 Moola, F.; Young, A.; Brooks, R.; Rycroft, N.; Hebert-Daly, E.; Batycki, C. & Lourie, B. (2009). Letter to the Presidents of the US and Canadian Green Building Councils. David Suzuki Foundation, Canadian Boreal Initiative, Greenpeace, Canopy, Canadian Parks and Wilderness Society, and ForestEthics. 11 August 2009.
- 23 Cadman, T. (2009). Quality, Legitimacy and Global Governance: A Comparative Analysis of Four Forest Institutions. Degree of Doctor of Philosophy, University of Tasmania. September 2009. pp 422. Available at: <http://eprints.utas.edu.au/9288/>
- 24 Renstrom, M. (2009). *WWF statement regarding the PEFC Governance Review and the new PEFC Stakeholder Forum*. 9 February 2009
- 25 <http://pefc.org/about-pefc/governance>. Viewed 4 February 2011.
- 26 PEFC (2009). *PEFC Council Statutes*. PEFC. Geneva. 13 November 2009. pp 4

Table 3: PEFC's international Board of Directors' member affiliations²⁷

Organisation	Interest
Finnish Central Union of Agricultural Producers and Forest Owners (MTK)	Economic
American Forest Foundation	Economic / Standards
Sustainable Forestry Initiative	Economic / Standards
PaperlinX Singapore	Economic
Asda	Economic
Malaysian Timber Council	Economic / Standards
Forestry Tasmania	Economic / Government
Confederation of European Forest Owners	Economic
France Nature Environment	Environmental
Uweltdachverband	Environmental
Community of Communes of Haute-Bruche	Social
International Woodworkers of America	Social
International Alliance of Indigenous and Tribal People of the Tropical Forests	Social

Table 4: PEFC's International Stakeholder members²⁸

Organisation	Interest
Building and Wood Workers' International (BWI)	Social
Confederation of European Forest Owners (CEPF)	Social / Economic
International Family Forestry Alliance (IFFA)	Social / Economic
European Network of Forest Entrepreneurs (ENFE)	Economic
European Tissue Symposium (ETS)	Economic
Confederation of European Paper Industries (CEPI)	Economic
Metsaliitto Group	Economic
Stora Enso	Economic

At the national level, few environmental stakeholders are evident that do not have financial or other direct ties to the industry itself. *Table 5* shows the members of PEFC Finland. The list does

not include any of the NGOs who seek to improve forestry and forest management in Finland, or those who advocate for better practice of Finland's forest conservation values on the ground.

²⁷ <http://pefc.org/about-pefc/governance>. Viewed 4 February 2011.

²⁸ <http://pefc.org/about-pefc/governance>. Viewed 4 February 2011.

Table 5: Members of PEFC Finland²⁹

Organisation	Interest
Association of Forest Machine Entrepreneurs	Economic
Central Union of Agricultural Producers and Forest Owners (MTK)	Economic
METO - Forestry Experts Association	Economic
Timber Truck Transport Entrepreneurs	Economic
Finnish Forest Industries Federation	Economic
Finnish Sawmills	Economic
Central Union of Swedish Speaking Agricultural Producers & Forest Owners (SLC)	Economic
Metsähallitus / State forestry organisation	Economic / Government
Union of Academic Foresters	Economic / Academia
Ecclesiastical Board / Church of Finland	Social
Wood and Allied Workers Union	Social
Finnish 4-H Federation	Social

Cadman (2009) in his in-depth look at the quality and legitimacy of the global governance structures concluded that “structurally” the PEFC system “is not capable of delivering meaningful participation for anything other than a restricted set of interests.” And further that “increasing inclusiveness, and other such governance shortcomings, might even prove counter-productive for current participants... But if no change is instituted, opponents to the current paradigm will remain unable to participate meaningfully or make substantive contributions to policy and procedural decisions.”³⁰

Stakeholder consultation and participation

A key part of responsible forest management decision making and practice involves consulting stakeholders (such as conservation advocates and local communities), listening to what they have to say, and then modifying plans accordingly. In terms of certification, such a process must be

visible to the auditor. The cases in this report have found that PEFC systems around the world have been very weak on consulting and listening to stakeholders, whether at the time of certification or later on when concerns have been raised (see also the *Poor complaints and disputes resolution* section below). Sometimes consultation takes place but there may be no acknowledgement of stakeholder views or subsequent action taken. The PEFC Finland case study from Lohja (C.1) and Issue Study I.2 (below) show, for example, that because NGO concerns were considered to pertain to just an individual case, the auditor deemed no action was necessary. As a result, stakeholders can lose faith in the process and decline to participate. (See Issue Study I.3). Weak stakeholder consultation is a consistent issue throughout the case studies featured in this report. It was found to be particularly inadequate in the case studies on SFI in Kenogami, Canada (C.5), CERTEFOR in Chile (C.11) and AFS in Tasmania, Australia (C.10) for example.

²⁹ <http://www.pefc.fi/pages/en/pefc-finland/pefc-finland-members.php>. Viewed 4 February 2011.

³⁰ Cadman, T. (2009). *Quality, Legitimacy and Global Governance: A Comparative Analysis of Four Forest Institutions*. Degree of Doctor of Philosophy, University of Tasmania. September 2009. pp 592-3. Available at: <http://eprints.utas.edu.au/9288/>

Transparency and the availability of information

Freely available, transparent information about the forest management practices and decisions - such as forest management plans - are essential to stakeholder consultation and independent system evaluation. To date PEFC has not required this. No public summaries were readily available for the case studies from Germany, Sweden and Chile for example. Where public summaries were found for the cases in this report they were usually sparse³¹ and always lacked the full details of any non-conformances found by the auditor. In some cases disputes with stakeholders, key environmental issues, and even court rulings on environmental issues are not mentioned in public summaries. It is usually impossible to see if stakeholder input took place at either the forest management or audit levels and, if it did, whether it influenced the outcome of either forest management decisions or the certification process. The AFS case study from Tasmania (C.10) and SFI cases from Washington State, USA (C.4), Muir Creek, Canada (C.6), Moosehead Lake, USA (C.7) and Battle Creek Watershed (C.8) illustrate these points.

Voluntary participation

Voluntary participation is seen as a key tenet of credible certification. The rules of the International Standards Organisation (ISO) state that a contract must be signed between certification body and certificate holder so that the obligation of continual compliance with the relevant standards is clear.³² Even though under PEFC group certification, contracts exist between the forest owners or their designated intermediary and the entity that holds the group certificate which include owners having to sign a commitment to adhere to the standards, PEFC does not have requirements for verification that these commitments are being met nor expulsion rules for group members that are in violation its standards.

Furthermore, this requirement has been waived in many PEFC group and regional certification arrangements. Without such a commitment it is possible that some forest owners may not know that they are certified under a

regional system, or may be unaware of the standards they are required to meet. Issues Study I.4 gives an example from PEFC Finland.

Audit practices

There are three levels of potential audit within forest certification systems. All levels of audit are crucial to ensure a credible system is maintained:

1. 'Internal' audits within a group certification (which may be a regional group with many hundreds of members) to ensure group members meet the required standards. The audit would normally be carried out by the group's own administration.
2. Certification audits carried out by certification bodies on individual or groups certificate holders.
3. Accreditation audits carried out by accreditation bodies on certification bodies.

This report has found concerns at all three levels of audit. Audit practices within the PEFC system have been found to differ greatly and are often weak. As one PEFC certifier revealed to this report's authors in April 2011:

"I see the biggest challenge with PEFC not in differences between standards, rather in standards being implemented and executed by customers as well as certifiers in a less stringent manner. Being part of a recent PEFC training it [was] revealed to me that PEFC audits and report writing in general for a certifier require approximately 60-80% less time effort as for FSC. Why is that? FSC's standards are not only much more detailed, but also supported by a long list of directives, guidelines, etc. addressing specific cases that otherwise would be left to interpretation by auditors and certifiers. Consequently this resulting in potential minimum efforts and fast / easy certifications.

I am under the impression that auditors do not need to collect objective evidence during the audit and attach copies of it to the report. I may be wrong here, but there seem to be challenges that are caused by standards providing too much leverage for interpretations and opening doors for potential misuse by auditors who try to get away with minimum efforts maximising their time / income ratios."

³¹ See SFI public summaries for the Kenogami, Canada case for example.

³² WWF/World Bank Alliance (2006). *Forest Certification Assessment Guide (FCAG). A framework for assessing credible forest certification systems/schemes*. WWF/World Bank Global Forest Alliance. Gland, Switzerland & Washington, USA. July 2006. pp 26.

A case in France found that a non-existent company could be granted a PEFC certificate simply by sending in a cheque to the PEFC France scheme - no audit was required (see Issues Study **I.1**). Closer inspection of the PEFC Germany system has shown that no 'certified' forest areas under its regional system actually hold accredited certification to the PEFC Germany standard (see Issues Study **I.5**).

Key problems cited by stakeholders include: small audit teams and too little time devoted to assessing performance; poor standards enforcement; and a lack of oversight of the certifying bodies by the PEFC system itself. An illustrative example of the small size of audit teams and brief amount of time spent auditing within the SFI system is that of the certification of 12 million hectares of public forest in British Columbia and Manitoba. Two auditors (foresters) assessed the area over five days. There were no non-conformities noted or opportunities for improvement identified. No other specialists such as First Nations experts or ecologists were included in the audit team.³³ An analysis of 15 SFI certificates covering over 23 million hectares of forest found that no specialists beyond foresters were included in audit teams and that the average number of auditor days in the field per audit was six days (the average for FSC was 29 days auditing smaller areas on average)³⁴. An analysis of PEFC Finland public summaries found poor standards enforcement. Despite frequent non-conformities noted by the audits across a range of issues, usually they are only classified as 'mild' and the same mild non-conformance can persist for up to five years in a row without it being upgraded to a 'severe' non-conformity (see Issues Study **I.2**).

Without a strong certification audit system, neither high voluntary standards nor legal compliance can be assured. The cases from PEFC Czech Republic (**C.2**) and PEFC Spain (**C.12**) show

that either auditors did not detect that the law had been broken or decided not to act upon that knowledge. Chain of custody audits in Indonesia that were checking whether uncertified wood entering the PEFC supply chain was 'controversial' or not, failed to check the depth of peat that wood was being taken from. A subsequent audit by the same audit firm has shown that the wood originated from plantations on peat areas with a depth greater than three metres. According to Indonesian law areas of peat more than three metres deep should not be developed, yet the auditors have declared the wood is legal and therefore, de facto, non controversial' (see Issues Study **I.7**).

At the accreditation audit level, forest audits are not a requirement within the PEFC system.³⁵ Achieving consistent certification body performance is difficult without systematic direct field level accreditation inspection and action, and an absence of this leaves the system open to a significant weakness. Experience with the FSC system shows that accreditation level field auditing is critical in order to maintain the credibility and rigour of the certification system as a whole. Performance improvements to date have come about because of more focused accreditation inspections by the accreditation authority used in the FSC system, Accreditation Service International (ASI).³⁶

Complaints and dispute resolution systems

Stakeholder consultation problems (detailed above) are further exacerbated by poor complaints and dispute resolution mechanisms at both national and international levels within the PEFC system. An example from PEFC Finland is featured in Issues Study **I.8**. An NGO consortium in the Netherlands that looked at PEFC as part of the Dutch Timber

- 33 Moola, F.; Young, A.; Brooks, R.; Rycroft, N.; Hebert-Daly, E.; Batycki, C. & Lourie, B. (2009). Letter to the Presidents of the US and Canadian Green Building Councils. David Suzuki Foundation, Canadian Boreal Initiative, Greenpeace, Canopy, Canadian Parks and Wilderness Society, and ForestEthics. August 11, 2009. SFI report: <http://www.sfi-program.org/AuditPDFs/LP%20Western%20CanadaJuly2006.pdf>
- 34 Moola, F.; Young, A.; Brooks, R.; Rycroft, N.; Hebert-Daly, E.; Batycki, C. & Lourie, B. (2009). Letter to the Presidents of the US and Canadian Green Building Councils. David Suzuki Foundation, Canadian Boreal Initiative, Greenpeace, Canopy, Canadian Parks and Wilderness Society, and ForestEthics. August 11, 2009.
- 35 Accreditation in the PEFC system has to be in compliance with ISO standard 17011. There is no explicit requirement in this standard that forest management units have to be part of the accreditation body's assessment and surveillance program. Walter, M. (2011) *Analysis of the FSC and PEFC Systems for Forest Management Certification using the Forest Certification Assessment Guide (FCAG)*. WWF International. Draft for review. January 2011. pp 24 (section 8.2).
- 36 See for example: Rosoman, G., Rodrigues, J., & A. Jenkins (2008). *Holding the Line with FSC: Recommendations and progress to date on Certification Body and FSC performance following a critical analysis of a range of 'controversial' certificates*. Summary Report vol 1. Greenpeace International, Amsterdam. November 2008.

Procurement Assessment Committee (TPAC) process, concluded from an analysis of field reports that “the ‘dispute resolution system’ of the PEFC simply is not working.”³⁷ While researching cases for this report no examples of PEFC certificates having corrective action requests applied or being revoked as a result of stakeholder complaints were found.

Complaints about PEFC certified areas are dealt with in the first instance by certification bodies, however there is no provision for dispute resolution at the PEFC International level if the certification bodies fail to resolve the disputes. While PEFC Council procedures exist for complaints pertaining to the PEFC Council or its members, its complaints procedures state that: “Complaints and appeals relating to the decisions and activities of a certified entity, an accredited certification body or an accreditation body shall be dealt with by the complaints and appeals procedures of the relevant accredited certification body, accreditation body, or by the International Accreditation Forum.”³⁸

At an international level PEFC has no routine role in resolving disputes about certified areas or businesses, it can only make a complaint to certification or accreditation authorities in the same way as any other stakeholder. The case of Greenpeace's concerns over ‘non controversial’ wood verification in Indonesia (see Issues Study I.7) illustrates this point. The complaint about certification body performance from PEFC itself was addressed by asking the certification body to re-inspect its own work. The PEFC system is dependent upon multiple national accreditation bodies rather than a single international one. Because PEFC has no contractual relationship with the accreditation body (that would task the accreditation body with ensuring PEFC standards are upheld, therefore protecting the PEFC brand), it does not have the ability to get accreditation auditors sent in quickly to investigate serious complaints and assess a certification body's performance. In the Indonesia chain of custody case, PEFC has not initiated a complaint with the accreditation body in question to flag up stakeholder concerns and the need for independent verification of the situation. However, as detailed in the ‘Audit Practices’ section above, since the national accreditation bodies that the PEFC system relies upon do not routinely carry out field

audits, an accreditation field audit of the situation would be unlikely to occur and any investigation is more likely to be desk-based, focusing on the certification body's systems and procedures rather than its on the ground performance.

The Future – Will PEFC keep its promises?

PEFC have made a series of claims which, as illustrated in this report, have not hold up to scrutiny in the past. PEFC certified forest areas have been demonstrated to display poor practices including conversion of natural forests, loss of biodiversity and carbon storage values, and little respect for the rights of indigenous peoples or local communities. PEFC makes claims to the public and to buyers of its products on its website and in other marketing material that simply do not reflect the reality on the ground. Buyers depend on certification for assurances and to maintain their own reputations through their supply chain; they require a more robust, credible system.

Given PEFC's new standards and stronger claims about the assurances PEFC offers to buyers of products that carry its label, this report challenges PEFC to live up to its new promise. Into the future, if PEFC claims are credible, one of two outcomes can be expected:

- * There will be a sharp decrease in the extent and number of PEFC certificates as it revokes certificates that allow conversion of natural forests to plantations or non-forest uses, where indigenous and community rights are not respected and biodiversity values are not adequately protected; or
- * The on the ground practices in PEFC endorsed forests will have changed, protecting these values and assuring consumers about the practices allowed and endorsed by PEFC **on the ground.**

Continued monitoring of PEFC certified companies will be required to ascertain whether PEFC has instituted changes leading to a more credible system that wood and paper products buyers can depend upon.

37 WWF-NL et al (2010). *Dutch Procurement Criteria for Timber. Comments on the PEFC INT System, replies by TPAC and comments and score by consortium of WWF-NL, ICCO, Greenpeace, SNCIV [sic] and Friends of the Earth Netherlands.* 23 July 2010. pp 4.

38 PEFC (2007). *PEFC Council procedures for the investigation and resolution of complaints and appeals.* PEFC. Geneva. 28 June 2007. pp 1

C.0

PEFC Sweden Woodland Key Habitats

* Forest ecological values threatened

Woodland Key Habitats (WKH) are the hotspots for biodiversity in the Swedish forest landscape. However, they are not clearly protected within PEFC certified forestry in Sweden, and several cases already exist where such areas have been commercially logged resulting in the loss of their biodiversity values.

Organisation: Skogsägarna Mellanskog ek. för
Certificate No: 1700001
Certifying Body: Intertek Semko Certification AB
Status: Valid as of Jan 2011

Certifying Body: Intertek Semko Certification AB
Status: Valid as of Jan 2011

Organisation: Norra Skogsägarna ek.för.skog
Certificate No: 1700041

Organisation: Skogscertifiering Prosilva AB
Certificate No: 1700081
Certifying Body: Intertek Semko Certification AB
Status: Valid as of Jan 2011

Woodland Key Habitats (WKH) is a concept originally developed in Sweden in order to capture and identify the most valuable parts of the forest landscape where red listed and/or threatened species occur or potentially occur. Extensive inventories have been carried out during the past

15 years in Sweden to identify these areas, and there is a general consensus that these areas should be managed solely for biodiversity protection as they only constitute around 2% of the productive forest land in the country.

The recommendation by the Forest Agency is always to protect WKH and to manage them exclusively for biodiversity objectives. However, they do not receive legal protection automatically, and economic compensation is needed in most cases for the authorities to enforce this recommendation if the forest owner does not follow the practice voluntarily. Such compensation could potentially be very



Olli Manninen /Swedish Society for Nature Conservation

expensive and the state budget can only cover protection of a limited number of the identified WKH sites.

PEFC Sweden standard requires certified forest managers to protect WKH up to a maximum of 5% of the forest holding. If the area is above 5% of the individual holding, there is an opportunity for the forest manager to cut down the area above 5% if certain steps in PEFC Sweden WKH policy have been followed (which includes asking the state for compensation). Magnus Norrby, Director of PEFC Sweden, states that PEFC's WKH policy gives the opportunity for forest owners to log WKH above 5% of the holding and states that this is a way to "save the value of locked-in forests"² In a few private holdings in Sweden, WKH can represent a substantial part of the area.

Several cases already exist where WKH have been commercially logged within PEFC certified forest operations and sold as PEFC certified timber due to the lack of state resources to fully compensate forest owners.^{1,3,4,5} One company has already carried out two WKH loggings on PEFC certified holdings, with one more planned for spring 2011 and two further cases are being investigated. This practice is seen as part of their ordinary activities.⁶ Most, if not all, of the biodiversity values of these WKH are lost by such logging operations.

1 <http://www.skogsland.com/norra-avverkar-fler-nyckelbiotoper/2010-12-09>

2 <http://www.lantbruk.com/pefc-raddar-vardet-pa-inlast-skog/2010-12-05>

3 <http://www.lantbruk.com/klart-for-avverkning-efter-4-ars-kamp/2010-02-05>

4 <http://www.atl.nu/Article.jsp?article=55474&a=H%C3%B6gg%20skogen%20av%20r%C3%A4dsla%20f%C3%B6r%20reservat>

5 <http://norr.se/nyheter/norrochvasterbotten/article83544.ece>

6 Jonas Ericsson from Norra Skogsägarna

C.1

PEFC Finland
Lohja, Mustamäki

- * Degradation of natural forest
- * Logging of protected areas
- * Forest ecological values threatened
- * Non-compliance with the law
- * Stakeholders not listened to
- * Complaint poorly investigated/not resolved

In 2007 the inventory of a PEFC Finland certified forest in Lohja county identified several areas of WKH to receive legal protection under the Forest Act. Two years later these protected areas of old-growth forest were clearcut, resulting in the loss of these ecologically important habitats. Complaints were made by the Finnish Association for Nature Conservation (FANC) to both the regional Forestry Centre and the auditors of the certification scheme, but no legal action was taken and the group's certification status was not affected.

Organisation: Forest Owner's Union of South-Finland
Certificate No: PEFC 2035-02

Certifying Body: Inspecta Sertifiointi Oy
Status: Valid as of Jan 2011

In Southern Finland only 1.2 per cent of the forest area is actively protected, largely through small areas of Woodland Key Habitats (WKH), which are special areas of biological diversity carrying legal status under the Forest Act of Finland.¹ In practice this means that they must be excluded from forestry operations. The areas around springs and other small-scale waterways in forests, for example, are spared from logging. The duties of the Ministry of Agriculture and Forestry are managed on a regional level by 13 Forestry Centres, which are responsible for enforcing the Forest Act and managing the forest planning for regions and individual farms.²

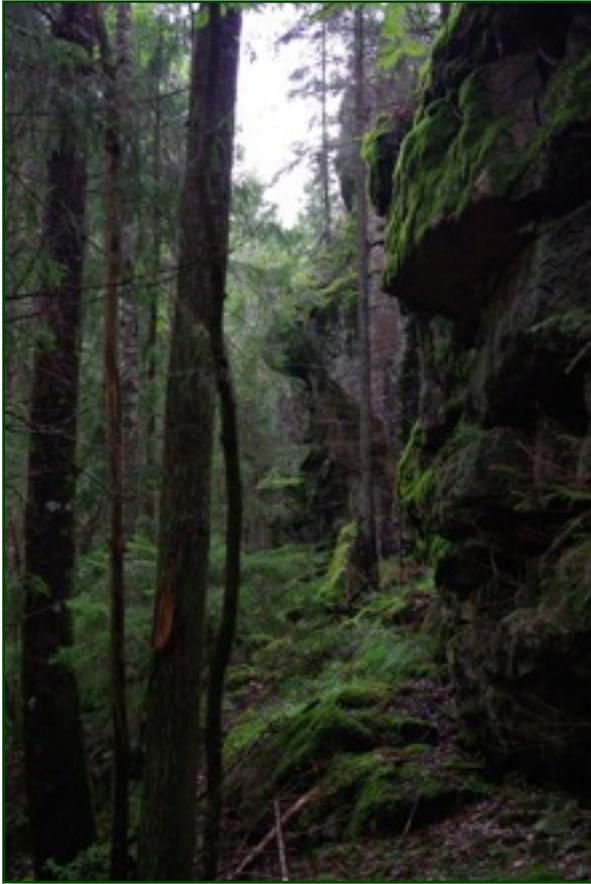
Mustamäki in the county of Lohja has been identified as having many biodiversity values, including:

- * Herb-rich forests with rich vegetation and several small streams and rivulets: Herb-rich forests in Southern Finland are rare, relatively species rich and the most important forest type for endangered forest species. The area in question had been identified as having national level value due

to its rich vegetation in a survey of the county of Lohja.³ Natural or near-natural state streams and rivulets and their immediate surroundings are WKH and protected under forest law.

- * Old-growth forest rich in dead wood, rocks etc: The area in question was relatively large and its landscape varied. It was known to be the habitat of flying squirrels, a species protected under Finnish law and in the EU's Nature Directive. Two endangered and one near-threatened fungi species had been found in the area, as well as other indicator species of old-growth forest.
- * Several steep rocky bluffs with underlying forest: These areas provide a moist and shady micro-climate containing a rich diversity of plants and mosses, especially on the rocky surfaces. Underlying forests of bluffs are also rich with dead wood. Steep bluffs and their underlying forest should be protected by the forest law as WKH.

Reijo Pokkinen



The ecological values of the area were well known because of an inventory undertaken in 2007 by a professional nature surveyor for the city of Lohja.⁴ When an announcement of the logging was made to the regional Forestry Centre, FANC particularly asked the authorities to check the planned logging area to make sure that no WKH were to be logged. When the clearcut was carried out, including the areas of legally protected WKH, FANC made complaints to both the Forestry Centre⁵ and the police,⁶ though no legal action arose from these complaints.

The case was also presented in a stakeholder interview with the certification body in 2010 who was conducting the annual audit of the Forest Owner's Union of South-Finland's certificate, including Lohja county. The complaint was noted by the auditor, but they stated that it was seen as an individual case which did not jeopardise the certification in any way.

Reijo Pokkinen



- 1 Päivi M. Tikka. 2003. "Conservation Contracts in Habitat Protection in Southern Finland". *Environmental Science and Policy*, Vol. 6 Issue 3.
- 2 <http://www.forest.fi/smyforest/foresteng.nsf/allbyid/DF0A3DA04A09A3CCC2256F34004117FA?Opendocument>
- 3 Pykälä Juha. 1992. Lohjan kunnan arvokkaat lehdot, Lohjan kunnan ympäristönsuojelulautakunta julkaisu 3 / 1992
- 4 Lohjan kaupungin Kruotinojan, Munkkaanojan ja Veijolan alueen luontokartoitus. Reijo Pokkinen, 15 December 2007
- 5 Tutkintapyyntö Lohjan Mustamäen alueen metsänhakuista 21.12.2009, Suomen luonnonsuojeluliiton Uudenmaan piiri. <http://www.sll.fi/uusimaa/kannanotot/asia-tutkintapyynto-mahdollisista-rikkomuksista-tai-rikoksista-jotka-on-tehty-lohjan-mustamaen-alueen-metsanhakuissa>
- 6 Länsi-Uudenmaan poliisilaitos, tutkinnan päätös 04.05.2010, 8180/S/212019/09

C.2

PEFC Czech Republic Královský hvozd

- * Degradation of natural forest
- * Forest ecological values threatened
- * Severe soil damage
- * Non-compliance with the law.

The approach of commercial forests to dealing with storm and bark beetle problems in the Královský hvozd has led to extensive windblown areas. Abrupt and careless clearing of these areas has resulted in negative impacts on ecologically important habitats and wildlife, breaching legal requirements under the Forest Act of the Czech Republic (289/1995 Coll.)

Organisation:	SVSLM CR (Forests of the Czech Republic)	Certifying Body:	Bureau Veritas Certification Czech
Certificate No:	PEFC 00029	Status:	Valid as of Jan 2011

The Královský hvozd is situated in South-western Bohemia in the western part of the Šumava Mountains. The area is managed by the state enterprise Forests of the Czech Republic (State Forests) and is part of the Protected Landscape Area (PLA) Šumava. The mountain range is covered by mountain spruce forests, with peaks above 1,300 metres, and contains two glacial lakes where peregrine falcons nest. It is home to several endangered bird species like the three-toed woodpecker, hazel grouse and capercaillie.¹

Because of these important habitats some parts are protected as national nature reserves or natural monuments, and the whole area is involved in the Natura 2000 sites under the European habitat and bird directives.^{2, 3}

Wind and spruce bark beetle both play key roles in the natural dynamics of mountain spruce ecosystems. The two main approaches to dealing with them are the use of a forestry technique called the 'dead canopy system' or by clearcutting. Commercial forests aim to avoid the outbreak of bark beetle by cutting and removing infested trees, but this practice can leave forests open to large areas of windfall which then leads to step-by-step

clearcuts in mountain forests. Apart from in the national nature reserves around the glacial lakes, such clearcuts are expanding every year in Královský hvozd due to this approach.

The neighbouring national parks of Šumava and Bayerischer Wald take a different approach in their core zones by not intervening against bark beetle. This leaves an area covered by dead trees,

but the natural regeneration under the dead canopy is very intense (approximately 4-5,000 trees per hectare⁴) and leads to a more stable forest than one planted on clearcut land. This approach has a more positive effect on biodiversity with less impact on the composition of plant species⁵, and an increase

in the presence of dead wood which is very important ecologically.

In January 2007 the Šumava Mountains were hit by a storm which caused large sections of wind blown trees, particularly in areas where cutting of infested trees had taken place. The Šumava National Park Administration carried out an assessment of different approaches to the situation.⁶ Although the study focused on the national park, it was equally applicable to Královský hvozd which



Jaromír Bláha, Hnutí DUHA

contained similar natural conditions, habitats and species. It concluded that the savage cutting and removal of wind blown trees would have a significant negative impact on the mountain spruce forest habitat and the capercaillie population in particular, with a mildly negative impact on lynx, three-toed woodpeckers and hazel grouse.

Despite the Šumava Administration study, PLA and State Forests only reached a deal on clearing the windfalls from Královský hvozd. State Forests were allowed to skid (drag) large quantities of timber away on existing tracks providing they repaired any damage to the tracks, and where the soil was too vulnerable they were required to leave de-barked timber without transporting it. The repairs, at least in some identified cases, did not occur. During the clearance work the PLA fined two contractors for damage done to the soil, where in one case heavy machinery had created grooves in the soil up to 1.5m deep.⁷

A survey carried out by Hnutí DUHA (Friends of the Earth Czech Republic) in June 2010 confirmed that the problems caused by skidding were on-going. Soil erosion was evident and often went down to the bedrock. In vulnerable sites like steep slopes, some of the older forest roads only consisted of stones without any soil. Some of the skidding tracks are so eroded that machinery can no longer use them, while in others the machinery used has damaged the roots of trees.

Hnutí DUHA submitted a complaint to the Czech Environmental Inspection (CEI) department at the beginning of July 2010,⁸ listing some of the laws that were broken:

- * The Nature Conservation Act (114/1992) forbids the application of intensive technologies in the first and second zones of protected landscape areas, especially

procedures which could irreversibly damage the soil surface or change the water regime.

- * For natural monuments there is a general prohibition against damaging them.
- * The Forest Act (289/1995) forbids damage during harvesting and skidding operations.

After the CEI surveyed the area it confirmed that the Forest Act had been broken because contract partners working for State Forests did not sufficiently prepare work areas in the forest before



Jaromír Bláha, Hnutí DUHA

harvesting and skidding, and did not do enough to prevent the damages to trees and skidding tracks, etc. It also stated that measures taken after harvesting and skidding were insufficient, especially the fact that fresh material placed in damaged skidding tracks is not sufficient to resist water erosion.⁹ As a result of these findings the CEI imposed a 'corrective action' on the contracting partners of the State Forest, requiring much greater attention to be paid in the areas of preparation, harvesting and skidding in order to minimise the damage caused.

1 Buřka, L., (2004) "Monitoring populace tetřeva hlušce (Tetrao urogallus) na Šumavě." *AKTUALITY ŠUMAVSKÉHO VÝZKUMU II*. Smí 4. – 7. October 2004, p. 233 – 235

2 Council of the European Communities Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

3 Council of the European Communities Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds

4 e.g. see here: http://www.nationalpark-bayerischer-wald.bayern.de/detail/veroeffentlichung/publikationen/d_berichte/doc/berichte_np_heft_2_2003_ba.pdf

5 e.g. see Jonášová M., Prach K.: *The influence of bark beetles outbreak vs. salvage logging on ground layer vegetation in Central European mountain spruce forests*. *Biological Conservation*, Vol 141, pp. 1525-1535

6 Bejček V., Chvojková E., Lysák F., Volf O.: *Řešení následků orkánu Kyrill v NP Šumava – Expertní posouzení vlivů záměru na Evropsky významnou lokalitu a Ptačí oblast Šumava*, 2007

7 Standpoint of the PLA to the facts mentioned in the partial protocol about the control from 27th July 2010 Nr. NPS 07185/2010, Decision of the PLA from 4th June 2007, Nr. NPS 04880/2007

8 Inducement of the examination of the damages of forests and forest soil, and the changes in water regime in the special protected area Natural monument Královský Hvozd and the Land protected area Šumava from 1st July 2010

9 Communication of the CEI from 3rd September 2010 about the results of the control, Nr. ČIŽP/43/OOL/1010724.008/10/ZLU

C.3

PEFC Sweden
Sámi traditional rights

- * Indigenous people's rights not protected
- * Degradation of natural forest
- * Weak standards that go no further than compliance with the law

Reindeer grazing is a customary right exclusive to the Sámi, and includes the right to practice reindeer herding on both private and publicly managed land within the reindeer herding area. But in large parts of the reindeer herding area these rights are being legally contested by forest owners. As a result, both the tradition of reindeer herding and the Sámi culture are under threat.

The following large PEFC group schemes operate in the contested regions and have several thousands of group scheme members situated in the areas where Sámi reindeer herding is contested and/or unclear. Other PEFC certified forest certificates also exist in these areas but they are either smaller and/or also FSC certified which means that the same problem does not occur

<i>Norra Skogsägarna *</i>	Certificate number 17 00 041
<i>Skogsägarna Norrskog *</i>	Certificate number 17 00 051 + PEFC/05 -22-13
<i>Skogsägarna Mellanskog *</i>	Certificate number 17 00 01
<i>Skogscertifiering Prosilva AB</i>	PEFC/05-22-19
<i>Status:</i>	All certificates valid as of Jan 2011

*Regional forest owner organisations that have been actively supporting members in one or more of the court cases mentioned in the references.

The Sámi are the indigenous people of Northern Europe, including northern Sweden. Semi-nomadic reindeer grazing is central to their culture and is

practiced today on 50-60% of the area of Sweden, the majority of which is forested land. Reindeer grazing is a customary right exclusive to the Sámi,



www.therealrugcompany.co.uk

and includes the right to practice reindeer herding on both private and publicly managed land within the reindeer herding area. Sámi reindeer grazing rights have a long legislative history in Sweden, but in large parts of the reindeer herding area these rights been legally contested, especially during the last 10-15 years. Several high profile court cases have taken place, most of which have been lost by Sámi villages due either to lack of resources for

legal costs or the difficulties in documenting long-term reindeer herding tenure rights.

Reindeer herding is based on a system of grazing rotation where the reindeer move freely between different seasonal grazing lands, as they have done for thousands of years. The Sámi continue to follow the reindeer's yearly cycle today, though modern equipment like snow mobiles and lorries now help in moving the animals between different areas. In summer the reindeer graze in the publicly owned mountain ranges, but in winter grazing takes place in private and state forest lands. The Sámi people do not own any land themselves - their right to free access for grazing reindeer is based on customary rights.

In winter the forests provide the soft snow cover that the reindeer can dig through to find the lichen needed as their basic food source. Old-growth forests have hanging tree lichens necessary for fodder when the lichens on the ground cannot be reached. These hanging tree lichens grow predominantly in spruce forests that are 120-210 years old. Increasingly greater numbers of these old-growth spruce forests are being clearcut and replaced with planted trees which are then cut before they have aged sufficiently for the hanging tree lichens to develop. Large clearcuts and young forest areas without older trees both act to impede the dispersion of these lichens.

For the Sámi and their reindeer there are generally three conditions that must be met:

- * Access to forest land,
- * Undisturbed forests with a good supply of ground-growing lichens, and
- * Old forests with a good supply of hanging tree lichens.

Today, all three conditions are hard to meet.

PEFC in Sweden deals with the Sámi reindeer grazing rights in its Technical Document section 6.3.8 and Appendix E "Policy for Forestry and Reindeer herding." The appendix clearly states that requirements for respecting and taking into consideration Sámi reindeer herding does not have to be implemented in a large part of the winter grazing area because the official legal status is unclear. This also involves areas where court cases are ongoing or have been finalised. It should also be noted that PEFC certified forest owners are allowed to challenge the rights of Sámi reindeer grazing in the other parts of the winter grazing area, where PEFC requirements for Sámi reindeer herding should be implemented.

As a result, both the tradition of reindeer herding and the Sámi culture are under threat. Large parts of the winter grazing areas are owned by PEFC certified forest operations that are not required to respect Sámi reindeer herding rights. These forest owners are often part of recent court cases that have challenged and undermined the Sámi's reindeer herding rights and yet this does not affect their certified status.

1 Borchert (2001) *Land is Life: Traditional Reindeer Grazing Threatened in Northern Sweden*

2 Johansson (1999) *Reindeer Herding and Forestry in Northern Sweden – Case study*

3 http://www.sapmi.se/jur_3_0.html

4 <http://www.sametinget.se/1126>

5 Statement on PEFC Sweden -The National Association of the Swedish Sámi – March 2009

SFI (USA)

C.4 Western Timberlands, Washington & Oregon

<ul style="list-style-type: none"> * Forestry operations impact wildlife * Conversion of natural forest to plantations * Landslides caused by forestry operations 	<ul style="list-style-type: none"> * Poor water quality caused by forestry operations * Flooding caused by forestry operations * Non compliance with the law
--	---

Two SFI non-conformance complaints have been filed against Weyerhaeuser since 2006 for issues in their Western Timberlands forests. The first was for logging activities which could harm the northern spotted owl (a protected species) and its habitat. The second was for clearcutting and road building on steep and unstable slopes.

Organisation: Weyerhaeuser
Certificate No: 0015722

Certifying Body: QMI-SAI
Status: Valid as of Jan 2011

Weyerhaeuser is one of the largest pulp and paper producers and timberland owners in the world. It grows and harvests trees on more than 12.7 million hectares in the United States and Canada.¹ The majority of its forestlands in the United States are in Washington and Oregon, which have been certified under the SFI certification scheme since August 2001 as one block called Western Timberlands.

In December 2006 an SFI non-conformance complaint was filed against Weyerhaeuser by Washington Forest Law Center on behalf of Seattle Audubon Society for logging in Southwest Washington that directly or indirectly harmed northern spotted owls, a species protected under the federal Endangered Species Act.² Weyerhaeuser's forests in this area are considered especially important as a bridge for the owl populations between the Olympic Peninsula, the Oregon Coast Range and the Washington Cascades which they border.



Of the 13 northern spotted owl home range sites identified by the Washington Department of Fish and Wildlife in southwest Washington, four sites fall within Weyerhaeuser's lands. These sites are protected and have stipulations placed upon them regarding the protection of species habitat, Weyerhaeuser was put on notice by both the state and federal governments that its forest operations in these areas were potentially harmful to the remaining owl population, and that it was potentially violating the 'no take' provision of the Endangered Species Act.³ Washington Forest Law Center considered Weyerhaeuser to have violated several of the SFI principles, including those relating to identification and protection of known endangered species and their critical habitat, and compliance with local and national laws.⁴ This complaint was ultimately withdrawn under settlement of related litigation, but the judge did restrict harvest in some areas of concern in order to increase protection of the northern spotted owl population.⁵

In October 2009 another SFI non-conformance complaint was filed against Weyerhaeuser by Washington Forest Law Center, this time on behalf of the Sierra Club for clearcutting and roadbuilding on extremely steep and unstable slopes in the Upper Chehalis and Stillman districts of southwest Washington.⁶ Weyerhaeuser were clearcutting forests and building roads on slopes that were known to have a history of landslides, high slope instability and soil erosion. In December 2007 a big storm resulted in flooding that caused more than \$57 million of property damage in the area. The flooding had been exacerbated by Weyerhaeuser's clearcut practices and failure to

promptly replant on high risk slopes, which led to a greater number of landslides and substantial sediment accumulation a long way downstream.⁷ In March 2010 Weyerhaeuser came to a voluntary agreement with Washington's Department of Natural Resources to review logging practices on unstable slopes, but as of November 2010 there was still no response from SFI regarding the SFI non-conformance complaint on this issue.⁸

Neither of these problems were raised by SFI auditors in their public summaries between 2005 and 2010.⁹ The 2005 surveillance audit conducted by QMI had praised Weyerhaeuser for its "excellent protection of... unstable slopes... in all areas."¹⁰



Steve Ringman

- 1 2009. Weyerhaeuser Annual Report and Form 10-K.
- 2 Washington Forest Law Center & Seattle Audubon Society. 2006. "Forest Practices of the Weyerhaeuser Company in Grays Harbor and Pacific Counties, Washington."
- 3 Washington Forest Law Center & Seattle Audubon Society. 2006. "Forest Practices of the Weyerhaeuser Company in Grays Harbor and Pacific Counties, Washington."
- 4 Washington Forest Law Center & Seattle Audubon Society. 2006. "Forest Practices of the Weyerhaeuser Company in Grays Harbor and Pacific Counties, Washington."
- 5 No. C06-1608MJP. United States District Court Western District of Washington at Seattle.
- 6 Washington Forest Law Center & Sierra Club. 2009. "Sustainable Forestry Initiative (SFI) Non-Conformance Complaint - Weyerhaeuser Forest Practices - Logging on Steep and Unstable Slopes in Lewis and Pacific Counties, Washington State."
- 7 Washington Forest Law Center & Sierra Club. 2009. "Sustainable Forestry Initiative (SFI) Non-Conformance Complaint - Weyerhaeuser Forest Practices - Logging on Steep and Unstable Slopes in Lewis and Pacific Counties, Washington State."
- 8 "Weyerhaeuser agrees to review logging practices on landslide-prone lands." The Seattle Times. 29 March 2010.
- 9 <http://www.sfiprogram.org/AuditPDFs/WeyerWestTimbJuly2005.pdf>
[http://www.sfiprogram.org/AuditPDFs/Weyerhaeuser%20Co.%20\(Western%20Timberlands\)%20-%20July%202006.pdf](http://www.sfiprogram.org/AuditPDFs/Weyerhaeuser%20Co.%20(Western%20Timberlands)%20-%20July%202006.pdf)
<http://www.sfiprogram.org/AuditPDFs/Weyerhaeuser%20-%20July%202008.pdf>
http://www.sfiprogram.org/AuditPDFs/Wey_WTL_10-RFPD-R149-R00-Rev1.pdf
- 10 <http://www.sfiprogram.org/AuditPDFs/WeyerWestTimbJuly2005.pdf>

C.5

SFI (Canada) Kenogami Forest, Ontario

- * Indigenous peoples' rights not protected (First Nations peoples)
- * Degradation of natural forest
- * Forestry operations impact wildlife
- * Concern that biologically important forest areas are not being conserved
- * Non compliance with the law
- * Poor stakeholder consultation

Kenogami is the largest boreal forest in Ontario, but only about one quarter of its intact forest lands now remain and much are under threat from future logging plans. The loss of so much old-growth forest has threatened the existence of several native animals, particularly caribou and wolverine. Indigenous First Nation communities who have been excluded from consultation on forest management plans, are taking action to try and get the government to address their environmental and economic concerns over the forest's future.

Organisation: Terrace Bay Pulp Inc (current)
Certificate No: SFI 2005-2009, SFI COC
Certifying Body: QMI-SAI
Status: Valid as of Jan 2011

Organisation: Neenah Paper (previous)
Certificate No: SFI 2002-2004
Certifying Body: KPMG
Status: Ceased when business was sold

The Kenogami Forest is the largest Sustainable Forest License in the province of Ontario, covering nearly two million hectares of boreal forest land. Nearly all of Kenogami is publicly owned and falls under the jurisdiction of Ontario's Ministry of Natural Resources which is responsible for issuing its Sustainable Forest License. From 1937 to 2004 this license was held by Kimberly-Clark, the world's largest producer of tissue products, which built the pulp mill at Terrace Bay. In 2004 the license for Terrace Bay Mill and its associated forestry operations was sold by Kimberly-Clark to an independent company Neenah Paper. The mill was

sold again in 2006 to Buchanan Forest Products Ltd, which established it as a subsidiary called Terrace Bay Pulp Inc. Nine First Nation communities are situated within or adjacent to Kenogami and have treaty rights on the land which include harvesting, hunting, fishing, trapping and consultation on management of the forest. The Terrace Bay pulp mill and most harvesting operations were shut down in February 2009 due to market uncertainty. The mill re-opened in October 2010, however many of Terrace Bay Pulp's previous customers have cancelled their contracts because of continuing environmental and social controversy.

Seventy-five years of industrial logging has left Kenogami's land-base severely fragmented, with more than one million hectares of trees felled. Little more than a quarter of its intact forest lands remain today.¹ Old-growth stands of 90 years old or more, important habitat for a range of species, have been severely depleted, and those that do remain are threatened by the draft management plan for 2010-2011 where 76% of the trees scheduled to be cut are 100 years or older.² It is projected that the amount of existing old-growth in the forest could decline by up to 50%.³ In



www.therealrugcompany.co.uk

December 2001, a government-appointed task force classified 82% of the Kenogami Forest as inadequately protected, and 78% as high priority for conservation.

The loss of such large intact and old-growth forest areas has had a devastating effect on numerous species of wildlife. Wolverines which once ranged across Ontario have essentially disappeared from Kenogami, and woodland caribou are in rapid decline, having disappeared from over 65% of the area due to clearcut felling of the mature conifer trees which they need to survive.⁴ This practice is set to continue, even though Kenogami overlaps four of the five caribou recovery zones identified by the Ontario government and provides winter habitat and calving grounds.⁵ Despite receiving SFI certification in January 2005, field visits in that year by the Ministry of Natural Resources to Kenogami found several breaches of legal requirements and compliance guidelines in Ontario. These included failure to complete 50% of its inspection reports and failure to collect satisfactory information about the winter habitat of caribou, improving water crossings, and reducing the amount of area lost to slash piles (waste wood from the previous felling).⁶



The nine First Nation communities which together make up the Matawa First Nations have repeatedly been left out of Kenogami's management and deprived of economic benefits from the industrial

activities there.⁷ In March 2007 they filed a legal case against the Ontario government, Neenah Paper and Buchanan which aimed to nullify the license transfer from Neenah Paper to Terrace Bay Pulp / Buchanan on the grounds of lack of consultation. It also sought the government's fulfilment of its obligations under the Class Environment Assessment Order to provide First Nation people with a more equal share of the

benefits provided by forest management planning, including decision-making capacity, employment, business, and financial benefits.⁸ In July 2009 the Matawa First Nation Chiefs were joined by Robinson-Superior First Nation Chiefs in lobbying Ontario's Ministry of Natural Resources regarding the

continued lack of consultation over Kenogami's decision-making process. They called for the Sustainable Forest License to be taken over by the First Nations people in order to ensure that their economic and environmental concerns are met.⁹ These issues have not been resolved and legal action by the Matawa First Nations is still in progress.

In spite of the high profile lobbying carried out by the First Nation communities over the Kenogami Forest plans, and the breaches in legal requirements found by the Ministry of Natural Resources, there were no non-conformity issues raised in either Neenah Paper's or Terrace Bay's SFI audit public summaries from 2005-2010.¹⁰ There was no mention of any of the issues raised above.

- 1 Greenpeace. 2009. *Terrace Bay Pulp: Driving environmental devastation and social conflict in the Kenogami Forest*. Pg 9
- 2 2010-2011 Contingency Plan for the Kenogami Forest, Ontario Ministry of Natural Resources, Nipigon District, Northwest Region and Terrace Bay Pulp Inc, SFL No.542256.
- 3 2005-2010 Forest Management Plan for the Kenogami Forest. Ontario Ministry of Natural Resources, Nipigon District, Northwest Region and Neenah Paper Company of Canada, SFL No.542256.
- 4 Dawson, FN. 2000. *Report on the status of the wolverine (Gulo gulo) in Ontario. Species status report for the Committee on the Status of Species at Risk in Ontario (COSSARO)*. Ontario Ministry of Natural Resources, Thunder Bay, Ontario, Canada. 39 pp. (In: *Cut & Run*. Greenpeace. 2006.)
- 5 Ontario woodland caribou recovery team. 2005. *Recovery strategy for forest dwelling woodland caribou (Rangifer tarandus caribou) in Ontario (Draft)*. Species at Risk Unit, Biodiversity Section, Fish and Wildlife Branch, Ontario Ministry of Natural Resources, Peterborough, Ontario. (In: *Cut & Run*. Greenpeace. 2006.)
- 6 Room to Grow Task Group. December 2001. Methodology for identifying and assessing candidate sites for completing the system of representation in the Ontario Living Legacy planning area. Ontario Ministry of Natural Resources. (In: *Cut & Run*. Greenpeace. 2006.)
- 7 Press release, December 13, 2006. "Aroland First Nation prepares to stop access and operations in Kenogami Forest."
- 8 Press release, March 13 2007. "First Nations file to protect rights in Kanogami Forest." Released by Matawa First Nations tribal council.
- 9 Press release. 8 July 2009. "Chiefs Stand Together for Ontario Forests." Released by Matawa and Robinson-Superior First Nation Chiefs.
- 10 http://www.sfiprogram.org/AuditPDFs/Neenah_Ont_Dec2005.pdf
<http://www.sfiprogram.org/AuditPDFs/TerraceBayNov2006.pdf>
<http://www.sfiprogram.org/AuditPDFs/Terrace%20Bay%20Pulp.%20Inc%20-%20November%202007.pdf>
<http://www.sfiprogram.org/AuditPDFs/Terrace%20Bay%20Pulp%20-%20October%202008.pdf>
http://www.sfiprogram.org/AuditPDFs/Terrace%20Bay%20Pulp_2009.pdf
<http://www.sfiprogram.org/AuditPDFs/2010%20Terrace%20Bay%20SFI%20public%20report.pdf>

C.6

SFI (Canada)
Muir Creek & Great Bear Rainforest

- * Conversion of natural forest
- * Forest ecological values threatened
- * Stakeholders not listened to
- * Public summary makes no mention of key issues
- * Stakeholders not listened to

Muir Creek watershed and its old-growth forest is a particularly species-rich environment, home to spawning salmon grounds and other ecologically important habitats. When TimberWest announced plans to develop the area, local communities and environmental groups came together to call for the area to be preserved as a public park. TimberWest also operates in the south of the Great Bear Rainforest, an area with a low level of protection and risk of species extirpation because of a lack of old growth forest.

Organisation: TimberWest
Certificate No: PRI-SFI-009

Certifying Body: KPMG
Status: Valid as of Jan 2011

TimberWest is the largest private timber and land management company in Western Canada. It owns 322,000 hectares of land on Vancouver Island, where its growing and harvesting operations are predominantly in second-growth Douglas fir and hemlock stands.¹ It also controls 221,000 hectares of forestry tenure (Tree Farm Licence 47), with a significant portion in the southern part of the Great Bear Rainforest, the largest mostly intact temperate

rainforest of the world. A separate division of TimberWest, Couverdon Real Estate, operates the company's real estate business, which is very controversial because of a concern shared by both environmental organisations and forestry workers that forest lands will be lost to urban sprawl.²

In 2009 TimberWest came under pressure from local communities and activists to cease extensive logging of old-growth forest around Muir Creek. TimberWest also operates in the south of the Great Bear Rainforest, an area with a low level of protection and risk of species extirpation because of a lack of old growth forest. Unlike other major operators TimberWest has until recently not supported the implementation of Ecosystem-Based Management to achieve low ecological risk in this region. In June 2011, after public criticism, a spokesperson stated that the company supports the model. It remains to be seen how the company will engage in the process in the near future.³



Kristiina Ovaska

Muir Creek lies on the west side of lower Vancouver Island, where less than 3% of the land is protected for biodiversity or as public parkland. The forest is home to some of the largest old-growth veteran trees in the province, including the second largest Pacific yew listed in the Big Tree Registry of British Columbia. Three species of salmon (spring, coho and chum) spawn in Muir Creek. The estuary of Muir Creek is a wildlife haven for river otters, mink, bears, eagles, herons, kingfishers and dippers, all of which depend on runs of chum, cutthroat and steelhead fish. Muir Creek is also one of the few habitats in British Columbia where the red-listed warty jumping slug can be found.⁴ TimberWest owns virtually all of the Muir Creek watershed. When the company started logging in the area with long-range plans to sell the property for residential and commercial development, local residents formed the Muir Creek Protection Society to try and preserve the existing habitat.⁵ Along with numerous environmental organisations and special interest groups, they lobbied for the Capital Regional District (CRD) to intervene and use the parks acquisition fund to protect the area by creating a new public park. The CRD had

montesjesse / flickr



already identified Muir Creek as one of the two highest priority areas for acquisition through the fund.⁶

Following public pressure, the CRD and TimberWest engaged in talks about the land being bought for creating a public park. In May 2010 the CRD launched a public input process on creating public parklands within its boundaries, which included the Muir Creek watershed.⁷

Despite the strong views of local people regarding the area, the potential loss of salmon

spawning habitat, and loss of other biodiversity values including rare old-growth forest, SFI granted certification of the area as 'sustainable forestry.' It is unclear however when the CRD will be in a position to buy the lands and there is a serious risk of losing the conservation values of Muir Creek if TimberWest continues to log in the watershed.

1 <http://www.timberwest.com/about-timberwest/about-timberwest.aspx>

2 <http://www.citadelsecurities.ca/assets/images/TimberWest%20May%205%202008%20R.pdf>

3 <http://www.sierraclub.bc.ca/campaign-spotlights/coastal-rainforest-at-risk>

4 <http://www.cathedralgrove.eu/text/09-Related-Stories-3.htm>

5 http://www.muircreek.org/Welcome_to_Muir_Creek.html

6 J. Wieting. Sierra Club press release. "Proposed CRD Regional Park Near Sooke Being Clearcut!" 23 November 2009.

7 <http://www.ancientforestpetition.com/news-item.php?ID=74>

C.7

SFI (USA) Moosehead Lake, Maine

- * Non compliance with the law
- * Conversion of natural forest
- * Forest ecological values threatened and destroyed
- * Water quality threatened by forestry operations
- * Stakeholders not listened to
- * Complaint poorly investigated/not resolved

The SFI certification of Plum Creek has been challenged because of various state land use violations they have committed on their extensive forest holdings in Maine, resulting in threats to water quality and ecological habitats. The company's plans to develop the eastern shore of Moosehead Lake for resorts and housing received a great deal of local opposition and is being legally challenged by a collection of environmental organisations.

Organisation: Plum Creek Timber
Certificate No: SFI-PWC-SFIS-239

Certifying Body: Price Waterhouse Coopers
Status: Valid as of Jan 2011

Plum Creek Timber is the largest owner of private timberlands in the USA, with more than 2.8 million hectares in 19 states. As well as producing lumber, plywood and medium density fibreboard (MDF) in their wood products manufacturing facilities, Plum Creek also operates a real estate development business called the Township 110 Land Company.¹

In 1998 Plum Creek purchased more than 360,000 hectares of forest land in Maine, widely claiming that they would practice sustainable forestry. But by 2006 Plum Creek was being fined \$57,000 for repeatedly violating Maine's Forest Practices Act by harvesting too much timber, harvesting without approved plans, and failing to notify the Maine Forest Service of its extensive clearcuts as required by law.² In addition, Plum Creek



developed a 7,500 foot long power line corridor through forest lands without a permit; it violated Land Use Regulation Commission (LURC) standards that protect water quality; and it consistently ignored appeals by state agency biologists to refrain from destroying deer wintering habitat within its ownership.³

In 2007 the Natural Resources Council of Maine (NRCM) challenged Plum Creek's SFI certification because of these numerous violations. Price Waterhouse Coopers mentioned this challenge in their SFI surveillance assessment that year, but in their report they praised the company for good management practices in the areas of "environmental studies, protection measures for ephemeral streams, collaboration with state and federal agencies when planning operations that are

considered environmentally sensitive, and voluntarily committing productive forestland into managed deer wintering habitat.”⁴

In 2005, Plum Creek announced its proposal for re-zoning nearly 165,000 hectares in Lily Bay State Park on the eastern shores of Moosehead Lake, to allow Maine’s largest development of more than 2,000 units for resort areas, housing subdivisions, and commercial developments.⁵ The proposal was met with intense opposition from local residents and environmental organisations as the development would permanently destroy the unspoiled and tranquil character of the lake’s eastern shore, as well as threatening habitats used by the endangered Canada Lynx and many other species.⁶

In September 2009 LURC approved Plum Creek’s proposal, including two ‘conservation’ easements on the remaining land which

include 163 miles of lake shore.⁷ The easements guarantee public access and allow ongoing commercial forestry, but they also allow ecologically destructive practices such as gravel mining, commercial water extraction, road building and the erection of power-lines within the forest management area.⁸ In October 2009 NRCM, the Forest Ecology Network, and RESTORE: The North Woods all filed appeals in Maine’s Superior Court against LURC’s approval for this development.⁹ As of January 2011, this case is still on-going.¹⁰



Dana Moos / danamoos.com

1 <http://www.plumcreek.com/AboutPlumCreek/tabid/54/Default.aspx>
 2 Natural Resources Council of Maine. Report based on Freedom of Access Act (FOAA) analysis of documents in the possession of Maine’s Natural Resources Agencies. 15 November 2006.
 3 Natural Resources Council of Maine. Report based on Freedom of Access Act (FOAA) analysis of documents in the possession of Maine’s Natural Resources Agencies. 15 November 2006.
 4 [http://www.sfiprogram.org/AuditPDFs/Plum%20Creek%20\(Maine\)%20--%20September%202007.pdf](http://www.sfiprogram.org/AuditPDFs/Plum%20Creek%20(Maine)%20--%20September%202007.pdf)
 5 <http://dlsoucy.wordpress.com/page/79/?pages-list>
 6 http://www.nrcm.org/news_detail.asp?news=2398
 7 Richert E., AICP, Pinette A. (2010). “A Really Big Rezoning: Maine’s Moosehead Lake region puts landscape-level tools to work.” *American Planning Association*. November 2010.
 8 <http://www.earthfirst.org.uk/actionreports/node/21545>
 9 Maine Public Radio news story. 22 October 2009. http://www.nrcm.org/news_detail.asp?news=3319
 10 http://www.nrcm.org/plum_creek_update_dec2010.asp#rebuttal

C.8

SFI (USA)

Battle Creek & Sierra Nevada, California

- * Conversion of natural forest to plantations
- * Forest ecological values destroyed
- * Concerns about the impact of forestry operations on water availability
- * Water quality threatened by forestry operations
- * Heavy use of chemicals
- * Non compliance with the law
- * Public summary makes no mention of key issues

Protests and legal actions have been brought against Sierra Pacific Industries by community and environmental groups, over the company's policy of converting natural forestry to plantation in California. There are concerns that the company's forest management practice will negatively affect endangered wildlife, as well as water quality and availability.

Organisation: Sierra Pacific Industries
Certificate No: PRI-SFIS-003

Certifying Body: KPMG
Status: Valid as of Jan 2011

Sierra Pacific Industries (SPI) is a forest products company which owns and manages nearly 770,000 hectares of forest land in California and Washington. They are the largest private landowner in California and the second largest timber producer in the United States.

In 1999, SPI acknowledged plans to convert 70% of its California forest lands to even-aged, short-rotation pine plantations.¹ Community and environmental groups have been protesting against SPI's clearcutting and conversion policies ever since. The California Department of Fish and Game found that a number of SPI's logging operations could harm endangered species including the California spotted owl, northern goshawk, foothill yellow-legged frog, mountain yellow-legged frog, California red-legged frog, willow flycatcher, Pleasant Valley mariposa lily, and other rare plants.²

Clearcut logging can impair the quality of water and reduce water reserves. As much as 80% of the water used by Californians comes from forests. Historically, the Sierra Nevada has acted like a giant sponge, receiving the snowfalls of winter and then steadily releasing the water to the

valleys below. As more vegetation is lost following clearcut practices, winter flooding and summer drought are increasingly common. Logging on steep slopes and close to streams causes silt to be washed into the watercourses. Water districts must then treat the water to remove the silt and the herbicides that accompany clearcutting.³ One area of particular concern is Battle Creek watershed, which is home to one of the largest cold water anadromous fish restoration efforts in North America. In spite of this, SPI clearcut over 2,000 hectares in this watershed alone between 2000 and 2008 and applied nearly 29,000 kilograms of herbicides.⁴

Lawsuits brought by the Centre for Biological Diversity in 2009 against the California Department of Forestry for illegally approving SPI's logging plans without analysing the carbon and climate consequences of the logging, resulted in SPI formally withdrawing their plans to clearcut nearly 650 hectares of Sierra Nevada forest.⁵

No mention is made of these protests or lawsuits in any of SPI's public certification summaries.⁶

Ebbetts Pass Forest Watch



- 1 Lippe, T., & M. Graf. 2001. Opening Brief Filed in the California Superior Court, Nevada County, on Behalf of Petitioner, Ebbetts Pass Forest Watch vs. California Dept. Forestry & Fire Protection and Sierra Pacific Industries. October 12, 2001. Law Offices of Thomas Lippe, San Francisco, CA.
- 2 DFG (2002b). DFG (2002d). DFG. 2002a. Letter to California Dept. Forestry & Fire Protection: Nonconcurrency with Review Team Chairperson's Recommendation to Approve Timber Harvest Plan 2-01-143 PLU(1) Pine Creek. March 12, 2002. California Dept. Fish & Game, Sacramento, CA. DFG. 2002c. Letter to California Dept. Forestry & Fire Protection: DFG First Review, 4-02-82/CAL-19 North Menzies THP. November, 6, 2002. California Dept. Fish & Game, Sacramento, CA. DFG. 2002e. Letter to California Dept. Forestry & Fire Protection: DFG First Review, 4-02-73/CAL-14, Airola THP. October 2, 2002. California Dept. Fish & Game, Sacramento, CA. DFG. 2002f. Letter to California Dept. Forestry & Fire Protection: DFG First Review, 4-02-71/CAL-13, Mokey THP. September 27, 2002. California Dept. Fish & Game, Sacramento, CA. (In: *The Bottom Line: Sierra Pacific Industries and the AF&PA "Sustainable Forestry Initiative"*. Nov 2003. American Lands Alliance)
- 3 Karen Maki, Forest Protection Committee Chair. March/April 2002. *Clearcutting: Serious Trouble in our Forests*.
- 4 http://www.sierraforestlegacy.org/Resources/Conservation/FireForestEcology/IndustrialForestlands/SPI_Clearcutting_Lassen_Area.pdf
- 5 25 August 2009. Centre for Biological Diversity, USA. http://www.illegal-logging.info/item_single.php?it_id=3661&it=news
- 6 See:
<http://www.sfiprogram.org/AuditPDFs/SierraPacificAugust2005.pdf>
<http://www.sfiprogram.org/AuditPDFs/SPI%20-%20February%202007.pdf>
<http://www.sfiprogram.org/AuditPDFs/Sierra%20Pacific%20Industries%20-%20August%202007.pdf>
<http://www.sfiprogram.org/AuditPDFs/SPI%20-%20May%202008.pdf>

C.9

MTCC (Malaysia)
Segaliud-Lokan FMU, Sabah

* Conversion of natural forest

The Segaliud-Lokan FMU is in an area whose forest ecosystems are considered to be one of the world's 'biodiversity hotspots' because of the commercial threats they are under and the consequent rate at which they are disappearing. Despite plans stating that the area will be managed as natural forest, there is the potential for ongoing conversion.

Organisation: KTS Plantation
Certificate No: FMC 001

Certifying Body: SIRIM QAS International
Status: Valid as of Jan 2011

The Segaliud-Lokan Forest Management Unit (FMU) is in the Sandakan Forest District of Sabah on the island of Borneo. It covers an area of 57,247 hectares and has been managed by KTS Plantation (KTSP) since 1993 on a 96-year lease from the Sabah Government. The FMU consists of lowland *Dipterocarp* forests with the original vegetation made up mainly of White

Lauan *Parashorea tomentelia* / Borneo ironwood *Eusideroxylon zwageri*, dominated by *Parashorea* and associated species. The forest ecosystems of this area number among the world's Biodiversity Hotspots,¹ Conservation International's 10 Most Threatened Forests Worldwide,² and

WWF's Global 200 ecosystems.³ Conservation International estimates that only 7% of the region's rich, tropical rainforest remain in a natural state.

The December 2009 public summary audit report for Segaliud-Lokan FMU states that the forest

management plan for 2009-2018 (approved by the Sabah Forestry Department in 2009) plans that "the whole FMU will be managed as a natural forest except for the 2,163 hectares which had already been planted with rubber trees."⁴ The report details that "the earlier unrestricted felling regimes and the multiple entries into the FMU had resulted in many sites now left with few original primary forest species and some blocks in the south-eastern portion completely denuded of big trees. The FMU is now embarking on an enrichment planting programme for these degraded sites."⁵

Given both the high value of the region's forest biodiversity and the economic potential of natural and sustainable forestry practices, a programme of rehabilitation is understandable. However, the choice of species for this 'enrichment' planting goes against the intention stated in the management plan. As part of its enrichment planting KTSP have utilised exotic species: Latin American big leaf mahogany (*Swietenia macrophylla*), African mahogany (*Khaya ivorensis*) and Indonesian batai (*Paraserianthus falcataria*), but no evaluation is being carried out on their ecological impacts.⁶ The planting of these species is not natural forest management and may represent the conversion to plantation by stealth. The summary also points out that the FMU contains 115 hectares of Black wattle (*Acacia mangium*)⁷ native to Australia and Papua New Guinea.



flickr.com/timparkinson *

1 <http://www.biodiversityhotspots.org/xp/Hotspots/sundaland/Pages/default.aspx>

2 <http://www.conservation.org/newsroom/pressreleases/Pages/The-Worlds-10-Most-Threatened-Forest-Hotspots.aspx>

3 <http://www.worldwildlife.org/science/ecoregions/WWFBinaryitem4811.pdf>

4 SIRIM QAS International (2009). Public certification summary of Segaliud-lokan forest management unit. SIRIM QAS International Sdn Bhd. Selangor, Malaysia. 14 December 2009. pp 5

5 SIRIM QAS International (2009). Public certification summary of Segaliud-lokan forest management unit. SIRIM QAS International Sdn Bhd. Selangor, Malaysia. 14 December 2009. pp 5

6 SIRIM QAS International (2009). Public certification summary of Segaliud-lokan forest management unit. SIRIM QAS International Sdn Bhd. Selangor, Malaysia. 14 December 2009. pp 14

7 SIRIM QAS International (2009). Public certification summary of Segaliud-lokan forest management unit. SIRIM QAS International Sdn Bhd. Selangor, Malaysia. 14 December 2009. pp 5

* flickr.com/timparkinson - www.flickr.com/photos/timparkinson/233457767/in/set-72157600013165898

C.10

AFS (Australia) Tasmania

The case presented here is a historical one to illustrate problems associated with the Australia Forestry Standard (AFS). A major breakthrough was reached in October 2010 over the future of Tasmania's forests. Under the Tasmanian Forests Statement of Principles a moratorium on the logging of high conservation value native forests will be phased in over three months, while maintaining essential supplies for necessary timber mill operations. At the same time, Gunns' new chief executive Greg L'Estrange announced that the company would pull out of native forest logging. The AFS certification scheme has played no part in driving this positive change.

Key Issues before commitment to change was made:

- * Conversion to non-native species
- * Heavy use of chemicals
- * Forest ecological values threatened and destroyed
- * Public summary makes no mention of key issues

Organisation: Gunns
Certificate No: 67463-2009-AFS-AUS-JAS-ANZ

Certifying Body: DNV (Det Norske Veritas)
Status: Valid as of Jan 2011

Gunns is Australia's largest woodchip exporter, the majority of its output going to Asian pulp and paper companies. The company owns and manages over 200,000 hectares of plantation forestry in Australia, including 150,000 hectares of eucalyptus hardwood plantations in Tasmania. In October 2010 Gunns announced that the company would cease all logging of native old-growth forest in Tasmania.

Tasmania contains some of the most biologically important forests in Australia. A key tree species in these forests, *Eucalyptus regnans*, can reach heights of nearly 100 meters, making it the world's tallest flowering plant.* Specimens can live up to 400 years. This rare forest type only grows in two places on Earth, one of which is the wet fertile lands of Tasmania. Clearcut logging of these areas for conversion to plantation has caused controversy for over 30 years.

Between 1999 and 2006 an average of 35,431 hectares of native forest were logged in Tasmania every year, of which 15,852 were

officially identified as clearcut.¹ Gunns was the main company clearing native forest for conversion to plantations at that time, and it was its clearing practices which caused the most controversy. After using bulldozers to create large openings, these areas would then be burned. Carrot bait would be put down which was poisoned with the toxic compound 1080, even though its use was banned in state forests from 2005. The poison indiscriminately exterminated native wildlife that might feed on the newly established industrial plantation seedlings. Regular aerial sprayings of herbicides and pesticides were used to eliminate competition for their newly planted crops.² Equally as controversial was the clearcutting of public native forest lands by Forestry Tasmania to provide Gunns with pulpwood and saw logs. Following clearcut, Forestry Tasmania would burn away remaining vegetation with petrol-based incendiary bombs dropped from helicopters.

Local and international groups campaigned for years to protect the remaining old-growth

forests, largely by highlighting the forestry practices used by Gunns and its main supplier Forestry Tasmania, and by targeting the recipient Asian paper manufacturers. In December 2004 Gunns tried to call a halt to protests by suing 20 environmental activists, organisations and concerned citizens, claiming AU\$6.9 million for actions it claimed damaged their business and reputation. The case went on for over five years, but in February 2010 it collapsed just days before trial, with Gunns agreeing to pay the remaining 4 defendants AU\$155,088. The company also paid AU\$1.3 million in defendants' legal costs and stated in 2009 that its own costs amounted to AU\$2.8 million.³

However, a major breakthrough was reached in October 2010 over the future of Tasmania's forests. After 5 months of talks, timber communities, forest unions, industry and environment groups reached an in-principle agreement to develop a sustainable timber industry and end the logging of Tasmania's remaining valuable native forests. Under the tasmanian Forests Statement of Principles⁴ a moratorium on the logging of high conservation value native forests will be phased in over three months, while maintaining essential supplies for necessary timber mill operations.⁵ At the same time,



flickr.com/buzzlement *

Gunns' new chief executive Greg L'Estrange announced that the company would pull out of native forest logging, and that it would quit the Forest Industries Association of Tasmania which was arguing for a continuation of native forest logging in the state.⁶ The groups involved will now seek the support of both the Tasmanian and federal governments and major political parties before a timeline for implementation is finalised.⁷

While it is good news that an agreement in principle has now been reached in Tasmania, it is surprising that the previous years of high profile campaigns, protests and legal actions warranted no mention in Gunns' AFS public certification summaries, and that they had no impact on the company's certification status.^{8, 9, 10} Given this fact, it would be possible for a similar situation to occur unless the AFS standards are changed and more tightly regulated.



AB Creative Edge **

* "Giant Trees Register". Forestry Tasmania
 1 The Wilderness Society (2006). *The Truth Behind Tasmanian Forest Destruction and the Japanese Paper Industry: Who Logs Them? Who Buys Them?* Pg 7.
 2 The Wilderness Society (2006). *The Truth Behind Tasmanian Forest Destruction and the Japanese Paper Industry: Who Logs Them? Who Buys Them?* Pgs 7, 13.
 3 <http://www.gunns20.org/>
 4 http://www.acfonline.org.au/uploads/res/Tasmanian_Forest_Principles_Statement_19-10-10.pdf
 5 http://www.acfonline.org.au/articles/news.asp?news_id=3185
 6 <http://forests.org/blog/2010/09/releasevictory-australian-timb.asp>
 7 http://www.acfonline.org.au/articles/news.asp?news_id=3139
 8 http://www.gunns.com.au/Content/uploads/documents/Gunns_AFS_Report_Apr_2006.pdf
 9 <http://www2.gunns.com.au/corporate/download/DNV%20Environmental%20Management%20Audit%20Report.pdf>
 10 http://gunns.com.au/Content/uploads/documents/Gunns_AFS_Report_Apr_2010.pdf
 * <http://www.flickr.com/photos/puzzlement/3226317587/>
 ** AB Creative Edge - abcedge.com.au - www.flickr.com/photos/edgetas/4515612117/in/set-72157627744759593/

The companies involved in this case have made a commitment to make major changes and are seeking to do so through certification to FSC standards. Certain concrete steps have already been taken, including a forest values mapping project. To achieve FSC certification the two companies have undergone a pre-certification assessment to determine the companies' compliance with Principles and Criteria set out by FSC.

- | | |
|--|--|
| * Indigenous peoples' and local community rights not protected | * Poor stakeholder consultation |
| * Conversion of natural forest to plantations | * Non compliance with the law |
| * Concern that biologically important forest areas are not being conserved | * Concerns about the impact of forestry operations on water availability |
| * Damage to riparian zones | * Concern over use of chemicals |

Organisation: Bosques Arauco
Certificate No: PEFC/24-23-200 & CFC-FM/CoC 0001
Certifying Body: QMI – SMI Global
Status: Valid as of Jan 2011

Organisation: Forestal Mininco SA
Certificate No: PEFC/24-23-100 & CL04 / 0002 FM
Certifying Body: SGS Chile
Status: Valid as of Jan 2011

The two largest forestry, wood and paper conglomerates in Chile are Forestal Mininco (over 600,000 hectares) and Bosques Arauco (1.2 million hectares). Both companies are currently certified under Chile's CERTFOR (PEFC Chile) scheme.¹ Both companies have promised major changes and are seeking to do so through certification to FSC standards.

In 2010 both Bosques Arauco and Forestal Mininco underwent FSC pre-certification assessments as they made efforts to improve their forest management practices. The certifying bodies carrying out the assessments were SmartWood for Forestal Mininco and the Soil Association for Bosques Arauco. Both certifying bodies found major areas of non-compliance with the issues raised in this report.

In the case of Bosques Arauco, the assessors found the following serious issues:²

- * Non-compliance with forestry legislation in harvest and post-harvest practices that harmed riparian zones.

- * The rights of the indigenous peoples of the region, the Mapuche, have not been established and the impact of the management activities of the companies is simply unknown and not addressed by the company. The indigenous peoples of the region themselves have concerns about the impact on the availability of water in the region. The assessment further found that other local community members feel similarly that Bosques Arauco does not address their concerns and needs, although some non-timber benefits of these forest areas are allowed to accrue to the local community.

- * The company began an assessment of forest areas required for conservation in 2003 after a concerted campaign by national and international NGOs to protect native forests³. However, stakeholders and other NGOs have not participated in the identification of and prescriptions for conservation forests, and the results are therefore in question.

In the case of Forestal Mininco, SmartWood's assessment of the company's PEFC-certified operations⁴ revealed that the company has not resolved conflicts with indigenous peoples in the region of its forest holdings to date, and does not have any adequate processes for doing so in future. Sites of cultural, historical and economic value to indigenous peoples have not been identified and protected by the company. Likewise, other social impacts for local communities have not been identified and dealt with in a manner that is sufficient for the communities. With regard to protecting local communities against the polluting effects of chemical herbicides and pesticides used in its plantations, the assessors found no evidence that the company has a plan to reduce or eliminate potential impacts. In terms of conserving biodiversity and other forest values, the assessors found that the company has not completed a plan for protecting forests with high conservation values nor does it have a formal plan for stakeholder consultation over the issue.

The Mapuche people, who have traditionally resided in the areas where the two companies have established plantations, have suffered considerable losses that have not been recompensed. A letter from Mapuche leaders to SmartWood regarding the potential for certification of the region states:

"[...] we hope that your assessment concludes that said companies Mininco and Arauco that operate in our territories have caused profound cultural, environmental, hydrological, social and economic damages for the products that they offer to global markets. Because of this forest management regime, there exists an incalculable loss of culture, [...] of the environment, of productive soil, of hydrologic energy, of medicinal plants, of fresh water sources, and sacred sites such as the cemeteries and ceremonial sites that are the patrimony of our community."

PEFC certified forest management plans have failed to address the major issues in these cases:

- * Protection of biodiversity and other high conservation values;
- * Protection of the rights of indigenous peoples and local communities;
- * Ensuring that plantation establishment is not a continuing problem;
- * Ensuring that sufficient native forest in representative ecosystems are maintained.

1 http://www.certfor.cl/certificacion_empresas_mfs.html

2 FSC Pre-Assessment of Forestal Arauco S.A., 2009. Pre-Assessment summary report. The Pre-Assessment was carried out by Soil Association Woodmark between 7th September and 8th November 2009.

3 <http://www.forestethics.org/forest-success-stories>

4 Cadin, A. et al (2011). Letter by email from Mapuche community groups to Smartwood regarding FSC certification of Arauco and Mininco. Wallmapu, Temuko. Chile. 25 January 2011.

C.12

PEFC Spain
Andalucía

- * Damage to areas protected for conservation of biodiversity and protected species
- * Negative impacts on vegetation, soil and landscape
- * Non-compliance with legal requirements

Silvasur Agroforestal is the forestry subsidiary of a major Spanish pulp and paper producer, ENCE. Between May and November 2009 Silvasur undertook major forest management activities in various plots near the municipality of El Berrocal in Huelva province. Some of these forest plots are located within the Rio Tinto Protected Natural Landscape, an area which is included in the Network of Natural Protected Areas of Andalucía.

Organisation: Silvasur Agroforestal
Certificate No: PEFC/14-23-00001

Certifying Body: AENOR
Status: Valid as of Aug 2010

In December 2007 Silvasur sought permission to clearcut an area of eucalyptus planted on terraces 30 years previously. These forest plots also included cork oak (*Quercus suber* L.), madroño (*Arbustus unedo* L.), mastic/lentisco (*Pistacia lentiscus* L.), heathland shrubs/brezales (*Erica spp.*), and other species that had survived along the slopes when the area was originally converted and terraced.

One of these areas was within the Rio Tinto Protected Natural Landscape. In February 2008 Ecologistas en Acción challenged the potential negative consequences of these proposed management activities, resulting in the Provincial Delegation of the Environment for the province of Huelva asking Silvasur to demonstrate the compatibility of their proposed activities with the area's officially protected status. Following Silvasur's response, the Protected Natural Landscapes Service of Huelva province imposed strict conditions on the company's proposed management activities. It also stated that in order to avoid damage and to comply with the laws on Protected Natural Areas, "the proposed management activities should be modified in such a way as to avoid negative impacts on the landscape, in order to respect the maintenance of

the maximum area of the existing plant cover and native tree species."¹

The province's Environmental Council authorised Silvasur's management activities, but prohibited any activities being carried out on 11 hectares of an area known as 'El Ojo,' (the Eye), and issued a list of conditions for reforestation and respect for native tree species and other natural ecosystems being adhered to.² Silvasur did not comply with the requirements, which resulted in the Forest Agents imposing eight sanctions for serious infractions in three forest plots, including the cutting, removal or damage to 11,225 specimens of native species and 592 specimens of native shrubs, as well as the creation of new terracing leading to destruction of the lower part of the hills on which the forest plots were located.³

Due to the profound damage within the Protected Natural Landscape, Ecologistas en Acción brought the case before the Prosecution Service for the Environment of Huelva province on 31 August 2009. According to a letter from the Directorate General of the Civil Guard (Seprona) submitted by the Prosecution Service, Silvasur had undertaken management activities that were not in accordance with agreements made between the oversight agencies and Silvasur.⁴ The Prosecution Service

summed up the case by saying: “There has been repeated non-compliance with the conditions imposed by the Environmental Administration’s authorisation.”

The prosecutors were also concerned that the habitat of the endangered booted eagle (*Hieraetus pennatus*), had been negatively affected. The judgement of Seprona states that the activities undertaken by Silvasur “have damaged the low altitude areas of the hills” and that “there have been clear cases of non-compliance with the conditions and limitations of the authorisation [for the management activities] that are on their own incompatible with environmental legislation.” The Prosecution Service asked the Environmental Council of the Andalusian administration to proceed with the “completion of the expedited sanctions that are underway.”⁵

Silvasur has also created problems in another area of Huelva province - the protected area of the Sierra Pelada and Aserradores River. According to the NGO Andalus, the forest management activities undertaken by Silvasur in 2008 and 2009 near the nesting sites of the endangered black vulture

(*Aegypius monachus*) provoked the birds to abandon their nests. Andalus felt it necessary to resign from the Commission for the Monitoring of the black vulture in January of 2010 because of the repeated breaches by Silvasur of agreements made between the company and the Environmental Delegation of Huelva and the General Directorate for Environmental Management.⁶ The Andalusian administration has yet to resolve these issues.

Silvasur held a PEFC certificate during the period in question, and in 2009 they applied for recertification to the PEFC standards. In response, Ecologistas en Acción and Greenpeace Spain presented a complaint to AENOR,⁷ the certification body, clearly stating how Silvasur had not complied with various parts of the PEFC standard for sustainable forest management (UNE162001:2007). Despite these facts, AENOR renewed Silvasur’s PEFC certificate for another five years. The certificate includes the areas affected by the new terracing within the protected landscapes, despite the fact that these activities have been the subject of legal sanction by the public administration.

-
- 1 Comunicación interior de 9 de abril de 2008 del Servicio de Espacios Naturales Protegidos de la Delegación Provincial de Huelva de la Consejería de Medio Ambiente. Asunto: Conservación del Paisaje Protegido de Río Tinto, en el monte “Los Colonos de Berrocal”.
 - 2 Resolución de 3 de agosto de 2008 del Delegado Provincial de Medio Ambiente de Huelva por la que autoriza la corta, desbroce y reforestación del monte particular. Consejería de Medio Ambiente. Delegación Provincial de Huelva.
 - 3 Servicio de Protección de la Naturaleza de la Guardia Civil (SEPRONA). Informe con fecha 03 de febrero de 2010 solicitado por la Fiscalía de la Audiencia Provincial de Huelva para el esclarecimiento de los trabajos forestales realizados sobre las fincas “El Ojo”, “Agua Fría” y “Mascote” situadas en el término municipal de Berrocal (Huelva).
 - 4 Servicio de Protección de la Naturaleza de la Guardia Civil (SEPRONA). Informe con fecha 03 de febrero de 2010.
 - 5 Escrito de la Fiscalía Provincial de Huelva de 12 de marzo de 2010 en la que se comunica el archivo de las Diligencias Informativas 220/09 relativas a la denuncia de Ecologistas en Acción de 31 de agosto de 2009 por los aterrazamientos llevados a cabo por Silvasur Agroforestal S.A. en las fincas “El Ojo”, “Agua Fría” y “Mascote” en el término municipal de Berrocal (Huelva).
 - 6 http://www.asociacion-andalus.org/andalus/index.php?option=com_content&view=article&id=88:andalus-denuncia-a-la-consejeria-de-medio-ambiente-ante-la-union-europea&catid=20:conservacion-not&Itemid=31
 - 7 <http://www.greenpeace.org/espana/es/reports/queja-de-greenpeace-y-ecologis/>

C.13

SFI (USA) Green Swamp, North Carolina

- * Weak definition of 'Controversial Sources'
- * Conversion of natural forest to plantations
- * Negative impact on wildlife
- * Forest ecological values destroyed
- * Water quality threatened by forestry operations

International Paper sources widely from a high biodiversity region in North Carolina called Green Swamp for its mill in Riegelwood. The region has suffered a long period of conversion of natural forest habitat to industrial tree plantations and loss of biodiversity.

Organisation: International Paper, Riegelwood Mill
Certificate No: BV-SFIS-US09000484 (SFI) and BV-COC-209908-A (PEFC)

Certifying Body: Bureau Veritas
Status: Valid as of Jan 2011

Green Swamp is located on the Coastal Plain in southeastern North Carolina, extending over the South Carolina border. The array of wetlands also includes Lake Waccamaw, the Upper Waccamaw River drainage and a protected remnant, the Green Swamp Preserve.

Large-scale conversion and destructive logging in the Green Swamp region can be seen in the Discovery television programme *Swamp Loggers*.¹ The program documents both the current destructive logging of natural habitats and the delivery of that wood to International Paper's Riegelwood mill. International Paper, under its SFI program certificate, has no effective operational screen for these destructive practices, and yet uses the SFI label in its promotional materials and on products. International Paper also holds a PEFC chain of custody certificate.

The Company's website states that the Riegelwood mill produces its Everest, Fortress and Carolina Coated Cover brands.² Everest and Fortress are listed as both "SFI®" and PEFC Chain-of-

Custody Certified"³, Carolina Coated Cover grades are listed as "SFI® Certified"⁴.

Green Swamp is home to globally important biological features; it is within the Middle Atlantic Coastal Forests Ecoregion, an ecoregion which has been recognised by the World Wildlife Fund (WWF) US as 'critical/endangered'. The ecoregion as a whole ranks among the top ten ecoregions of the USA and Canada in reptiles, birds, and tree species⁵. It features examples of bald cypress and Atlantic white cedar old growth forest, forested wetlands, pine savannahs, bay forests and pocosins with hundreds of different plant species. Unusual animals found in the swamp include the endangered red-cockaded woodpecker, the eastern diamondback rattlesnake, Bachman's sparrow and the American alligator. In

longleaf pine savannahs the highest density of small-scale plant diversity in North America can be found with over 40 species of plants in a single square meter. These extremely important communities should be protected across the entire landscape where they persist.

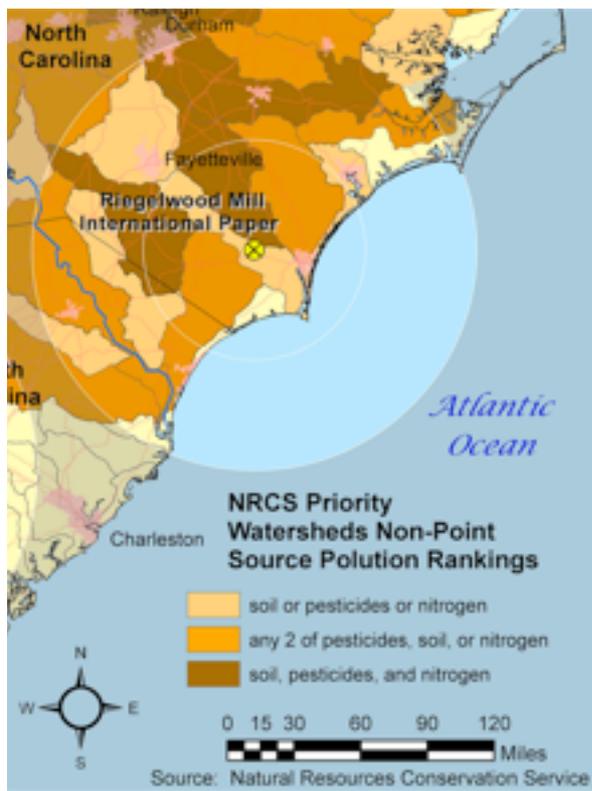
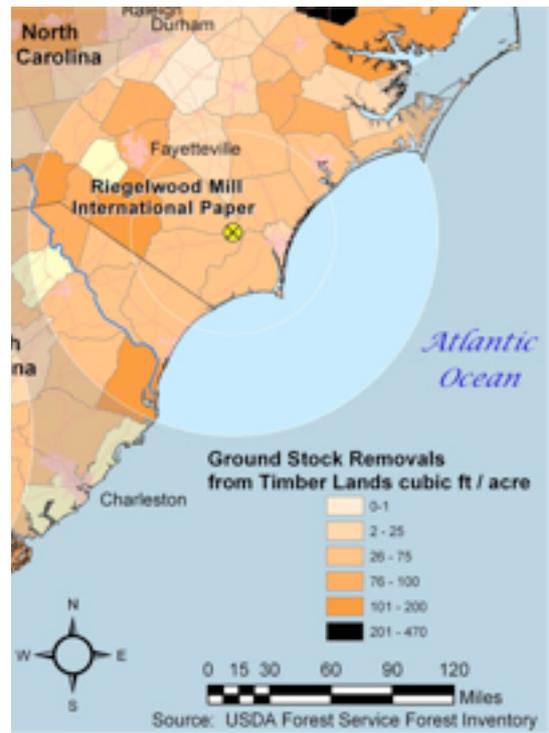


Greg Lavaty

According to the US Forest Service Southern Forest Resource Assessment, the leading cause of the loss of forested wetlands across the region and the South has been the conversion of natural forests into industrial pine plantations. This process of “ditching and draining” results in a total loss of this habitat. Other driving factors beyond ditching and draining have included growth and development pressures and agricultural use that have altered the hydrological function of the entire region.⁶

International Paper’s website states that: “International Paper has a long-standing policy of using no wood from endangered forests. Our wood fiber procurement policies are based on Sustainable Forestry Initiative (SFI) operating principles and Best Management Practices [...]”⁷

Its 2010 Sustainability Report further defines and states that: “Endangered forests are those forests that are either naturally rare or have lost much of their



original extent due to human influence and continue to be threatened with further habitat loss or degradation. Our Company works to protect these forests, including old growth forests, through our wood fiber procurement systems.”⁸

However, the evidence from the Swamp Loggers program suggests that the SFI label is not preventing endangered forest material from entering the SFI labelled wood supply chain.

In addition, priority watersheds identified by the Natural Resources Conservation Service show that the watersheds within the mill sourcing area suffer non-point source pollution impacts that can be tied directly to agriculture and forestry. The area mapped included pollution from soil erosion, pesticide contamination, and nitrogen loading. The Riegelwood mill sourcing area clearly has degraded water quality from these pollution sources.

The paper from International Paper’s Riegelwood mill is therefore a high-risk source for consumers of paper products.

- 1 <http://dsc.discovery.com/videos/swamp-loggers-meet-the-loggers.html>
- 2 <http://www.internationalpaper.com/US/EN/Company/Facilities/Riegelwood.html>
- 3 For example: <http://www.internationalpaper.com/US/EN/Products/Everest/index.html>
- 4 <http://www.internationalpaper.com/US/EN/Products/CarolinaPK/index.html>
- 5 Weakley, A. et al (2001). Middle Atlantic coastal forests (NA0517) in *Terrestrial ecoregions of North America: a conservation assessment*. Island Press. This specific information available at: http://www.worldwildlife.org/wildworld/profiles/terrestrial/na/na0517_full.html
- 6 Riggs, S.R. et al (2001) *The Waccamaw Drainage System: Geology and dynamics of a coastal wetland, southeastern North Carolina*. East Carolina University.
- 7 <http://www.internationalpaper.com/US/EN/Company/Facilities/Riegelwood.html>
- 8 *International Paper 2010 Sustainability Report*. pp 18.

I.1

PEFC France
Poor certification procedures

- * No audit required to become certified

30% of French forests are covered by PEFC certification.¹ Forestry co-operatives encourage forest owners to adopt the PEFC scheme in order to satisfy market demand for timber certified as coming from 'sustainably managed sources.'²

In September 2010, Les Amis de la Terre France (Friends of the Earth France) along with two local environmental groups, brought a complaint against PEFC to the Directorate General for Competition, Consumption and Fraud. The complaint highlighted a number of concerns with PEFC certification:

- * It does not involve any independent auditing of forest management practices. Forest owners only have to apply and pay a registration fee in order to achieve certification.
- * The requirements for certification are minimal and do not go any further than compliance with the law. They do not require any change to existing forest management practices which means extensive clearcutting on the ground.
- * The management practices used in certified forests can have a negative impact on biodiversity and soil quality.³

These concerns are illustrated by a telephone conversation between Les Amis de la Terre and a PEFC representative in Limousin, shown in a TV documentary produced by Télé-Millevaches in April 2010. In this conversation the PEFC representative confirms that a forest owner seeking certification only has to sign some papers and send a cheque. In return, they will be sent a certificate and may be subject to a 'small control' visit although only a sample of suppliers will be visited. The PEFC representative goes on to confirm that there are no restrictions on clearing the forest and it is up to each forest owner to decide what to replant afterwards.⁴

1 "PEFC: le label qui cache le forêt." Documentary produced by Telemillevaches, Magazine 179, April 2010. Viewed at <http://www.amisdelaterre.org/Les-Amis-de-la-Terre-denoncent-le.html>

2 Letter from Les Amis de la Terre et al to Direction Departementale de la Protection des Populations de Paris, dated September 20th 2010.

3 Les Amis de la Terre dénoncent le label de gestion durable des forêts PEFC auprès de la DGCCRF. 2010. <http://www.amisdelaterre.org/Les-Amis-de-la-Terre-denoncent-le.html>

4 PEFC: le label qui cache le forêt. Documentary produced by Telemillevaches, Magazine 179, April 2010. Viewed at <http://www.amisdelaterre.org/Les-Amis-de-la-Terre-denoncent-le.html>

I.2

PEFC Finland
Poor standards enforcement

- * Stakeholders not listened to
- * Complaint poorly investigated/not resolved
- * Poor categorisation of non-conformities and insufficient requests for corrective action by auditor

There are no cases of a PEFC certificate holder ever losing their certified status in Finland, even though several serious complaints have been presented to auditors.

Since the introduction of the PEFC scheme in Finland, Finnish NGOs have issued reports on cases where certified forest owners have engaged in inappropriate activities, such as violating the traditional livelihood of the Sámi people or destroying valuable forest areas. Between 2001 and 2006, eight different such reports were published, but to date PEFC Finland have not taken corrective action by revoking a certificate that is in non-compliance with the standards.³ NGOs are still continuing to highlight cases of PEFC certified companies engaging in unsustainable activities.

Regional associations of the Finnish Association for Nature Conservation (FANC) have presented cases to both certificate holders and their auditors of instances where PEFC criteria, particularly environmental criteria, have been broken. So far the complaints have not led to any concrete improvements. When presented to the auditors they have been considered 'individual cases' which the auditors claim are not serious enough to influence the certification process. From the standards it is unclear how many such cases would need to be presented, and how big the violations would need to be, before they are considered as more than 'individual cases' and would therefore have an effect on the certification process.

Even though negative reports from environmental stakeholders have not affected the status of any certificate holders, summaries of the

auditors' annual reports do reveal many non-conformities amongst all certificate holders. Under PEFC in Finland, non-conformities are classified as either mild or severe. According to all audit report summaries during 2008-2009, there was only one case of a severe non-conformity - all the others were classified as mild.

A survey of the annual audits carried out with each of the 13 Finnish certification holders found frequent cases of non-conformities, especially of environmental and social criteria concerning employment (see *Table 6*). It seems that a certificate holder may have the same mild criteria non-conformity for 5 years in a row without it ever becoming a severe non-conformity issue.

In 2008 in the area of Southern Savo¹, non-conformities with criterion 9 of the PEFC standard were found on seven Natura 2000 protected sites and in one other protected area. This criterion relates to the conservation value of protected areas and sites included in ratified national nature conservation programmes. Despite the seriousness of violating nationally protected areas, the PEFC certificate holders received only mild non-conformities on their annual audit reports.

The certifying procedures and qualification criteria for auditors and certification bodies appear to be weak and leave much up to the consideration of the auditor, which makes it difficult for a level of non-conformity to be reached that could lead to a certificate being withdrawn.²

Table 6: The proportion of annual audits of all certificate holders in Finland that have found a non-conformity with the selected criteria during 2006-2009 *

Criteria	Percentage of audits showing non-conformity with the criteria
No 9: Conservation value of protected areas and sites included in ratified national nature conservation programmes are not endangered	25%
No 10: Typical features of habitats of special importance are preserved	29%
No 11: Known habitats of endangered species are safeguarded	16%
No 16: Buffer zone is left along watercourses and small water bodies to capture solid and nutrient run-off	39%
No 17: Peatland nature is preserved	16%
No 18: Water protection is safeguarded in draining sites	41%
No 21: Employees' competence and ability to work are safeguarded	43%
No 22: Preconditions for the high quality and safe working are ensured	43%
No 23: Adherence to statutory obligations of employers	71%

* Source information compiled from the audit summaries 2006-2009 from each region, available at:

<http://www.pefc.fi/pages/en/pefc-certificates-and-logo/forest-management.php>

1 Summary of audit report:

<http://www.pefc.fi/media/Sertifikaatit/Auditointiraportin%20tiivistelma%20Etelä-Savo%202008.pdf> (in Finnish)

2 [http://www.pefc.fi/media/Standardit/FFCS_1004_2007%20\(ENG\).pdf](http://www.pefc.fi/media/Standardit/FFCS_1004_2007%20(ENG).pdf)

3 See <http://www.pefcwatch.org>.

I.3

PEFC Finland

Poor environmental stakeholder consultation

* Poor environmental stakeholder consultation

Experts in environmental issues such as the conservation of habitats and species are insufficiently consulted, and the impact of any such consultations on forest management decisions is not clear.

Although it remains poor, consultation with environmental NGOs has been increasing since the start of PEFC certification in Finland.¹ In 2006 only 15% of audits asked for stakeholder opinion from an environmental NGO (ENGO). In 2009 this figure had risen to 60%, which is an improvement, but it still means that many audits rely solely on the local state environmental authority for feedback. For the standard revision process in 2008-2009

many ENGOs were invited to comment, but all declined the invitation due to lack of confidence in the process and to previous bad experiences when trying to influence the standard. Complaints by regional ENGOs on non-conformance issues with criteria have not led to any actions or improvements.

¹ Source: information compiled from the audit summaries 2006-2009 from each region, available at: <http://www.pefc.fi/pages/en/pefc-certificates-and-logo/forest-management.php>

I.4

PEFC Finland
Group certification

* Certification not voluntary

* Regional certification

Under the regional group approach of PEFC Finland, certification of private forests can take place without the owner's explicit approval and sometimes without their knowledge.

Private individuals and families own just over half of Finland's forests, making a total of almost one million private forest owners. Because of the large number of small forest owners, PEFC certification in Finland is carried out using a regional group certification method. A regional union of forest owners acquires the certificate and all forest owners are automatically members of these unions through their local associations. This means that certification of a privately owned forest is not always a conscious decision of each forest owner, and they may not be aware of what management is required in order to comply with the certification standards.

All private forest owners in Finland are required to pay a forest management fee for membership of a local Forest Management Association (FMA). These Associations are statutory bodies considered to be advocates of forest owner's interests. They also offer and sell forest management services to forest owners. The decision to apply for PEFC group certification of an area is taken by the decision making body of an FMA.

This means the process to become certified does not start directly from individual forest owners and has led to situations, especially during the early days of certification in Finland, where forest owners have not even been aware that their forests have been certified.¹ Because of this approach it is questionable who carries the final responsibility of whether the forest management practices are done according to the certification requirements. It is unclear what the real impacts of the certification can be if forest owners can be unaware that they belong to such a scheme.

PEFC Finland's regional group scheme allows associations and unions to apply for certification and then implement it "top-down". Group certification is an understandable option for small land owners, allowing them to reduce certification costs by sharing them collectively, but it is important that the decision to become certified starts with each individual forest owner who is aware of the standards required and is prepared to commit to them.

¹ Further information and references: "Certifying extinction? An assessment of the revised standards of the Finnish Forest Certification System."
<http://www.greenpeace.org/international/Global/international/planet-2/report/2004/10/certifying-extinction-an-asse.pdf>

I.5

PEFC Germany
Flawed audit system

* Fundamentally flawed audit system

* Regional certification

Certificates issued to regional working groups whose members have not individually applied for certification and may not know that they have it or what is required of them under the scheme. The regional working groups only receive attestations of participation, which do not constitute proper certificates, yet their timber is sold as 'PEFC certified'.

German accredited certification bodies issue PEFC certificates to regional working groups. Regions are defined according to the German federal states or 'länder', and may contain more than one hundred thousand individual forest owners.

However, under this set-up the scope of the accredited certificate does not include certification to the forest management standard issued by PEFC Germany. The regional working group itself does not manage forests, and it is therefore not certified for forest management. Instead, forest owners participating in the PEFC Germany scheme receive an 'attestation of participation'. These 'attestations'

are not signed by accredited certification bodies and therefore do not constitute a certificate. But forest owners are allowed to sell their timber as 'PEFC certified' and this is what they are doing. They also declare their forests as 'PEFC certified' to PEFC international standards. Because they are not actually certified for forest management, forest owners are also not required to hold an independent and accredited chain of custody certificate in order to make a PEFC claim.

I.6

SFI: Misleading claims

* Misleading claims

The US-based forest conservation organisation, ForestEthics, submitted a complaint to the Federal Trade Commission (FTC) asking the regulatory body to stop the Sustainable Forestry Initiative (SFI) from using marketing claims which mislead consumers. ForestEthics has also asked the Internal Revenue Service to examine SFI's claim to non-profit status.¹

* Chain of custody procedures absent for SFI's "Certified Fiber Sourcing" label

In September 2009, the Washington Forest Law Center submitted complaints to the US Federal Trade Commission (FTC) and Internal Revenue Service (IRS) on behalf of ForestEthics. The FTC complaint asserts that SFI violated the Commission's established deception guidelines and fair advertising laws in the following ways:

- * SFI's "Certified Fiber Sourcing" label appears very similar to SFI's regular label, thereby making the implied claim that the source of the fiber in that product is known, tracked, and certified by SFI. However, the source of the fiber in products bearing this label may be unknown, and could come from forests not audited or certified by SFI.
- * SFI markets itself as a "non-profit independent public organisation" because it fails to inform the public that it is principally funded and governed by private timber interests who use its certification label.
- * The SFI forest practices certification system deceptively relies on vague, ambiguous, heavily qualified, unenforceable, and unmeasurable environmental standards.
- * Contrary to SFI's claims, numerous aspects of SFI forest certification lack transparency. Forest management plans are not required to be made available for public inspection.

- * SFI's forest practices certification system claims that it maintains a transparent and consumer enforceable complaint and audit procedure.²

The IRS complaint asks the IRS to review whether SFI is properly organised and operating as a "public charity." The complaint asks the IRS to consider:

- * SFI maintains itself as a "public charity" that serves the public interest, yet virtually all of SFI's funding comes from the private companies it certifies and these companies dominate SFI's governance structure and standards-setting process. SFI does not... serve the public charitable purpose of promoting sustainable and environmentally-friendly forestry. Instead, SFI's serves the private interest in maintaining a green label for forestry that is no more protective than that required by applicable forestry laws.
- * SFI is organised as a "public charity" but may not receive one-third of its financial support from donations by the general public, as required by federal tax law and regulations. IRS [is requested] to investigate SFI's claim that it raises sufficient "public support" to qualify as a "public charity."³

No decision had been made on the complaints by either the FTC or IRS 15 months later.

1 Anon. *SFI: Certified Grenwash. Inside the Sustainable Forestry Initiative's Deceptive Eco-label*. ForestEthics. November 2010. Pg 12
 2 Washington Forest Law Center. 9 September 2009. Letter of complaint to the Federal Trade Commission on behalf of ForestEthics.
 3 Washington Forest Law Center. 9 September 2009. Letter of complaint to the Inland Revenue Service on behalf of ForestEthics.

I.7

Indonesia
Controversial sources / poor complaints procedure

- * Weak definition of 'controversial sources'
- * Precautionary principle not applied

- * Complaints about the same situation not considered together

PEFC's current chain of custody standard states that wood from 'controversial sources' must be excluded from PEFC labelled material. The current standard defines controversial as "illegal or unauthorised harvesting".¹ The definition has been expanded to include other situations in the new PEFC chain of custody standard that comes into force in November 2011.²

In the summer of 2010 Greenpeace published the report *Pulping the Planet* that detailed the case of Asia Pulp & Paper (APP) subsidiaries receiving logs from plantations established on deep peat of a depth greater than 3 metres and which are illegal to develop under Indonesian law. In particular, the APP subsidiary PT Arara Abadi Riau is noted in the report to harvest from such a plantation.³

Three APP mills hold PEFC chain of custody certificates under the PT Indah Kiat name. The Greenpeace report alleges that wood from plantations on peat deeper than 3 metres is supplied to PT Indah Kiat and that it is wrongly considered a 'non controversial source'. This wood is then mixed with PEFC material to produce PEFC labelled pulp.⁴

On publication of the report the PEFC Council (PEFCC) responded by making a complaint to the certification body, SGS, requesting an investigation to re-inspect the following certificates:

- * PT. Indah Kiat Pulp and Paper - Perawang Mills (SGS-PEFC/COC-0858)
- * PT. Indah Kiat Pulp and Paper – Serang Mill (SGS-PEFC/COC-0442)
- * PT. Indah Kiat Pulp and Paper – Tangerang Mill (SGS-PEFC/COC-0449)
- * PT. Pindo Deli Pulp and Paper Mills (SGS-PEFC//COC-0331)
- * PT. Pabrik Kertas Tjiwi Kimia (SGS-PEFC/ COC-0302)

The investigation was "relating to the compliance of the above mentioned companies with the PEFC Council requirements for the avoidance of raw material from controversial sources." The same letter promises to publish the results of the investigation,⁵ which can now be found on the PEFC website.⁶

The letter from SGS to PEFC confirms that peat more than three metres deep was indeed found through sampling in the concession area. However, the letter went on to conclude that it was the responsibility of local officials, not APP to identify areas that should be protected. It concluded that because officials had not designated these areas as 'protected' and because APP had the necessary permits, the plantings were legal.⁷ SGS confirms that it has no plans to share the audit report with PEFC or any stakeholders and has instead simply sent a letter summarising its findings.⁸

There are at least 2 Indonesian legal documents that relate to the depth of peat and plantations:

1. Presidential Decree: Number 32/1990
2. Government Regulation: Number 26/2008

Government Regulation 26/2008 states that peatlands with average peat depths of 3 metres or more which are situated upstream or in a swamp are considered "National Protection Forests." However the previous Presidential Decree of 1990 states it only applies to forests that are upstream and in a swamp.⁹ This small difference in wording has led to considerable confusion in interpretation. However, peat experts at Wetlands International point out that these deep peat areas are always upstream from more shallow areas and thus would logically have to be covered by these regulations.¹⁰ SGS, however, has taken the view that as the

company has acquired permits for these areas there is no case to answer and the plantations are legal.¹¹

Greenpeace is not alone in its view that peat over 3 metres deep is illegal - an audit by BSI of oil palm plantation on deep peat reached the same conclusion, that plantations on such deep peat are "in breach of the Presidential Decree with regards to deep peat issued in 1990."¹² In 2007 Riau Police Chief, Brig.-Gen. Sutjiptadi, ordered another APP subsidiary, PT Bina Duta Laksana, to halt clearcuts on peat over 3 metres deep because it was "clearly breaching the laws".¹³ There has been no formal legal view on Indonesian law and peat depth regarding which interpretation is correct. In lieu of a formal legal ruling, where there is ambiguity about the precise interpretation of the law, from a precautionary perspective the timber from such situations would best be considered 'controversial'.

This is the second complaint that has been put to SGS about PEFC chain of custody certification and controversial sources in Indonesia. The first was in 2008 from the Australian union the CFMEU.¹⁴ The response from SGS at the time, further to an SGS re-inspection, found that the material in question was non controversial

according to the PEFC definition (i.e. legal).¹⁵ This response is alleged by Greenpeace to contain a number of inaccuracies.¹⁶ For example, SGS claimed that only "pulp produced from Acacia/Eucalypt plantations" was being "categorized as non controversial."¹⁷ However an SGS audit statement from December 2007 states that "mix hardwood residues from plantation development" (sic)¹⁸ (i.e. natural forest timber) were being supplied into the Indah Kiat Pulp & Paper Mill by PT Arara Abadi.¹⁹

Given this further context it would be more credible if an independent third party, i.e. an accreditation body, were to audit SGS, the certificate holders and "non controversial" material entering the supply chain and reach its own independent conclusions. This, however, will only occur under the PEFC system if a formal complaint is made to the accreditation body in question and even under these circumstances a field audit to confirm whether wood materials are in fact legal and therefore non controversial is very unlikely. (See the Complaints and disputes resolution section for further discussion).

-
- 1 PEFC (2005). *Annex 4: Chain of Custody of Forest Based Products – Requirements*. PEFC, Geneva. 17 June 2005. pp 5 & 11.
 - 2 PEFC (2010). *Chain of Custody of Forest Based Products – Requirements. PEFC International Standard. PEFC ST 2002:2010. Requirements for PEFC scheme users*. PEFC, Geneva. 26 November 2010.
 - 3 Greenpeace International (2010). *How Sinar Mas is Pulping the Planet*. Greenpeace International, Amsterdam. July 2010. pp 20 – 21.
 - 4 Greenpeace International (2010). *How Sinar Mas is Pulping the Planet*. Greenpeace International, Amsterdam. July 2010. pp 20 – 21.
 - 5 Gunneberg, B. (2010). Letter to Gerrit Marais, SGS. PEFC, Geneva. 7 July 2010
 - 6 <http://www.pefc.org/news-a-media/general-sfm-news/news-detail/item/786-pefc-publishes-results-of-complaint-against-app>. August 2011
 - 7 <http://www.pefc.org/news-a-media/general-sfm-news/news-detail/item/786-pefc-publishes-results-of-complaint-against-app>. August 2011
 - 8 Marais, G. (2011). Pers. Comm. to Andy Tait, Greenpeace by email. SGS South Africa, Johannesburg.. 1 February 2011.
 - 9 Tait, A. (2011). Pers. Comm. to authors via email. 24 January 2011.
 - 10 Email communication from Marcel Silvius, Wetlands International to Andy Tait, Greenpeace. 2 February 2011.
 - 11 Tait, A. (2011). Pers. Comm. to authors via telephone. 23 February 2011.
 - 12 Edney, M. (2010). *Clarification and summary statement. BSI-CUC Verifying Greenpeace Claims Case: PT SMART Tbk report*. BSI, London. 19 August 2010. pp 1.
 - 13 Eyes on the Forest (2007). *Police raid APP's subsidiary concession*. Eyes on the Forest website. http://www.eyesontheforest.or.id/index.php?option=com_content&view=article&id=135%3Apolice-raid-apps-subsidiary-concession&catid=3%3Alates&Itemid=3&lang=english. 25 July 2007.
 - 14 O'Connor, M. (2008). Letter to SGS Qualifor Programme Director. Construction Forestry Mining Energy Union (CFMEU), Forestry & Furnishing Products Division, Melbourne, Australia. 20 October 2008.
 - 15 Marais, G. (2009). Letter to Michael O'Connor, CFMEU - *Chain of Custody APP: Complaint*. SGS South Africa, Johannesburg. 11 February 2009.
 - 16 Tait, A. (2011). Pers. Comm. to authors via telephone. 24 January 2011.
 - 17 Marais, G. (2009). Letter to Michael O'Connor, CFMEU - *Chain of Custody APP: Complaint*. SGS South Africa, Johannesburg. 11 February 2009. pp 3.
 - 18 SGS Indonesia (2007) *Audit Statement. Verification of Origin & Chain of Custody*. PT Indah Kiat Pulp & Paper TBK. PT SGS Indonesia. Jakarta. 9 – 15 December 2007.
 - 19 SGS Indonesia (2007) *Audit Statement. Verification of Origin & Chain of Custody*. PT Indah Kiat Pulp & Paper TBK. PT SGS Indonesia. Jakarta. 9 – 15 December 2007.

I.8

PEFC Finland
Poor complaints procedure

* Complaints investigated by those with potential vested interest

* Complaint poorly investigated

Under the PEFC certification scheme in Finland, non-conformity complaints are mostly dealt with by individuals and organisations that are either certified themselves or have a commercial interest in the certification scheme.

On a regional level the PEFC certification scheme in Finland is monitored and managed by certification committees made up largely from members of the forest owners associations, unions, and forestry companies. Many of these committee members are certification owners themselves or have other economic interests in making sure their region keeps its certificate.

These committees are also in charge of handling any complaints on non-conformity with the standard in their region. According to the model regulations of these regional certification committees, all complaints submitted to the committee or its members need to be resolved by the committee, and the committee then decides if any action is needed.

The model regulations state that the committee should hear an explanation from the individual or organisation against whom the complaint is being made, before any decision is reached.¹ However, stakeholders who submit complaints have no right to appear before the committee and no right to appeal the committee's decision. These committees can therefore be seen as a kind of self-regulatory body rather than objective evaluators of the certification standards.

¹ Model Regulations for a Regional Forest Certification Committee in the Area of a Forestry Centre: <http://www.pefc.fi/media/Standardit/FFCSregionalcommitteecentrelevelENG.pdf>

List of Acronyms

AFS	Australian Forestry Standard
BWI	Builders and Woodworkers International
CAR	Corrective Action Request
CEPF	Confederation of European Forest Owners
CEPI	Confederation of European Paper Industries
CFCI	Coast Forest Conservation Initiative
CoC	Chain of Custody
CSA	Canadian Standards Association
ENFE	European Network of Forest Entrepreneurs
ENGO	Environmental Non-Governmental Organisation
EoF	Eyes on the Forest
ETS	European Tissue Symposium
FANC	Finnish Association for Nature Conservation
FMA	Forest Management Association (in Finland)
FSC	Forest Stewardship Council
GA	General Assembly
ICCO	Dutch Christian NGO
IFFA	International Family Forestry Alliance
MTK	Finnish Central Union of Agricultural Producers and Forest Owners
NCIV	Netherlands Committee for Indigenous Peoples
NGO	Non-Governmental Organisation
NRCM	National Resources Council of Maine
PEFC	Programme for the Endorsement of Forest Certification Schemes
PLA	Protected Landscape Area
SFI	Sustainable Forestry Initiative (North America)
SLC	Central Union of Swedish Speaking Agricultural Producers & Forest Owners
WWF-NL	WWF Netherlands
WKH	Woodland Key Habitat

Photographs

All photographs used are the copyright of the photographer named and may not be reproduced without their permission.