

Sabah TLAS Audit Report

Sabah Legality Standard Principles 1 – 4

Licensee	Licensee: Benta Wawasan Sdn. Bhd. (0377414-H) Contractor: Golden Borneo Palm Sdn. Bhd. (1133717-V)	Reference #	GFSSBH 003-159a
Contact Person	Ridwan Bin Mohd Taufik (Golden Borneo Palm)	Date of Report	28/10/2022
Office Address	<u>Licensee:</u> 2 nd Floor, TB14943 & TB14944, Peti Surat 60793, Jalan Abaca, 91000 Tawau, Sabah, Malaysia. <u>Contractor:</u> TB 8283, Lot 20C, Perdana Square Commercial Centre, Mile 3 1/2, Apas Road, 91000 Tawau, Sabah, Malaysia.	Date of close out	20/12/2022
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		Approved By	Dr. Kevin Grace

Statements

Audit Statement	NC: Non-Compliance – Criteria 1.1, 1.2, 1.3, 1.6, 1.7, 2.1, 2.2, 2.3 & 3.1 (Outstanding)		
Issuance Date	Not applicable	Expiration Date	Not applicable

Assessment Details

Assessment Dates	24 – 28 October 2022
Scope of Assessment	TLAS P1-4: Tree Plantation and Forestry Management Agreement [JP(TKA)122/96(CO)]
Species	Plantation species: Oil Palm (<i>Elaeis guineensis</i>), <i>Khaya ivorenses</i> (Mahogany), <i>Falcataria moluccana</i> (Batai), <i>Neolamarkia cadamba</i> (Laran), <i>Terminalia copelandii</i> (Talisai), Rosewood Salvage logging: Mixed species
Lead Assessor	(Acting) Glory Linggou
Assessor(s)	Priera Bagang
SFD Staff	Mohd Zainur Rijal (ADFO Kalabakan), Sidin Barau (SFM Kalabakan), David Shagun (KPPM Kalabakan), Azami Sahak (PPM Kalabakan), Jushandy Japri (PPM Kalabakan)

OBJECTIVES:

- The objective of this checklist is to verify compliance to the Criteria listed in the Sabah Legality Standard as defined by Principles 1 - 4 for Sabah dated 01st January 2015 (**SFD-TLAS-002**).
- Compliance is defined when all applicable criteria are observed to be compliant. A Minor Gap to any indicator does not constitute non-compliance to a criterion. A Major Gap to any applicable indicator does reflect non-compliance to a criterion. Compliance for a criterion where multiple minor gaps are identified in indicators under the criterion may reflect non-compliance to the criterion.
- All issues identified under this standard shall be considered appropriate to the scale and degree of forestry operations undertaken by the parties under the agreement.

Summary Information

Overview of Licensee:

- Yayasan Sabah, Benta Wawasan Sdn. Bhd. (Benta Wawasan) is the licensee of the concession, based on the Tree Plantation and Forestry Management Agreement JP(TKA)122/96(CO). Benta Wawasan assigned Rakyat Berjaya Sdn. Bhd. (Rakyat Berjaya) to manage an area of 26,764 ha from 1st January 2016 to 31st December 2025 located in the Kalabakan Forest Reserve (FMU 26).
- Rakyat Berjaya Sdn. Bhd. appointed Golden Borneo Palm Sdn. Bhd. (Golden Borneo Palm) to develop and manage the licensed area as an oil palm plantation. Areas for conservation, such as riparian, river buffers, road buffers, wildlife corridors and steep areas, are to remain under natural forest.
- Golden Borneo Palm appointed Timjadi Sdn. Bhd. (Timjadi) to carry out salvage logging and land clearing for oil palm plantations.
- List of Coupe permits issued for Golden Borneo Palm:
Oil palm plantation development coupe.

Estate	Coupe Permit #	Block	Expiry	Area (ha)
Rajawali	TWU 10/17	BW9/99	01/11/2092	5,178.65
Helang				
Merbok	TWU 05/16	BW11/02	02/01/2092	2,089.48
Kenari	TWU 01/2020	BW11/01	16/01/2095	2,106.61
Merpati & Walit	TWU 02/2020	BW09/01	08/03/2095	2,634.13
Cenderawasih & Nuri	TWU 04/12	BW09/00	16/04/2042	2,118.58
Kenyalang	TWU 03/2020	BW11/00	08/03/2095	2,058.72
Kasawari	TWU 03/2022	BW09/03A	23/04/2096	1,125.10
ITP area	TWU 06/15		05/01/2091	256.00

Salvage logging coupe.

Coupe permit	Block	Expiry	Area (ha)
TWU 02/2022	BW09/02	12/04/2027	4,175.74
TWU 06/2020	BW09/03	29/11/2023	1,309.57
TWU 05/2021	BW09/00	07/04/2026	3,876.56
TWU 05/2012	BW09/02	22/05/2042	2,799.80

- The previous assessment was conducted in September 2021 that resulted in 5 gap(s) and 0 observation(s) (Report #: GFSSBH003-088a).
- Land use classification:

Land use classification	ADP Area (ha)	Current Status (ha)
Total Concession Area	26,794.00	26,794.00
Conservation Area ¹ - Buffer zone	6,198.72	6,198.72
Conservation Area ¹ - Steep Slope >25 ⁰	Not applicable	EIA 2016: 3,606.46 ha ADP: Not specified
Industrial Tree Plantation ²	149.28	149.28
Infrastructure (Roads, Nursery, Building, etc)	-	1,407.15
Oil Palm Development Area ³	20,446.00	Planted: 12,414.7

Note ¹ **Conservation Area:** Riparian and/or river buffers and road buffers = 6198.72 ha

- Kalabakan, Tiagau and Anjeranjerment Rivers = 100m on each side of the river
- Other rivers = 30m on each side of the river
- Road buffer (to be kept under natural forest)
- Kalabakan – Sapulut highway = 30m on each side of the road
- Buffer with Protection FRs – Class I (i.e. Sg. Sumagas FR, Sg. Tiagau FR, Sg. Anjeranjerment FR and Silimponon FR – to be kept under natural forest = 100m
- Parcel “A” (wildlife corridor) = 307.64 ha
- Steep areas = 3,606.46 ha (EIA Report, 2016) - Not clearly defined in the ADP

Note²: Planting of fast-growing species along the Kalabakan – Sapulut main road = 60m on each side of the main road except where the main road falls within the riparian buffer.

Note³: Actual net area for plantation development estimated.

Summary of planting:

Estate	Coupe	Block	Species	Area	Planted
Merbok	TWU 05/16	BW11/02	Oil palm	2,228.91	1979.77
Rajawali (Mature palm)	TWU 10/17	BW09/99	Oil palm	558.50	466.93
Cenderawasih	TWU 04/12	BW09/00	Oil palm	368.20	308.90
Rajawali	TWU 10/17	BW09/99	Oil palm	2,618.95	2,169.09
Merpati	TWU 02/2020	BE09/01	Oil palm	2599.69	2285.23
Nuri	TWU 04/12	BW09/00	Oil palm	88.90	82.90
Kenari	TWU 01/2020	BW11/01	Oil palm	2133.80	2098.12
Kenyalang	TWU 03/2020	BW11/00	Oil palm	2048.69	1970.76
Walit	TWU 02/2020	BW09/01	Oil palm	16.04	16.04
Helang	TWU 10/17	BW09/99	Oil palm	1175.95	1036.96
Sub-total				13,837.63	12,414.7
ITP Area	TWU 06/15	Not applicable	Batai, Laran, Talisai, Mahogany	256.00	149.28
Grand total				14,093.63	12,563.98

Environmental Context:

- The EIA report for conservation within a proposed development of oil palm on 25,753 ha titled “Proposed Oil Palm Plantation (OPP) Development At Benta Wawasan IIC, Yayasan Sabah Forest Management Area, Kalabakan and Gunung Rara Forest Reserve, Tawau District Sabah was conducted by an appointed environmental consultant firm; Envsolve Sdn. Bhd and submitted to the Environmental Protection Department in 2011. Supplementary revisions for the protection of over 6,100 ha were added to the EIA report by Kiwiheng Environmental Consultants Sdn. Bhd. and submitted to the Environmental Protection Department in March and April 2016.
- Elevation 40 m to 1,200 m above sea level. Dominant soil type is the acidic and nutrient deficient Orthic Acrisols. Site topography:
 - ≥ 20⁰ = 67% or approx. 18,000 ha
 - 21⁰ – 25⁰ = 8% or approx. 2,219 ha
 - ≥ 25⁰ (including road/river buffers) = 25% or approx. 6,674 ha
- Major river within the licensed area is the Sg. Kalabakan which drains into the Cowie Bay.
- 4 tributaries within the licensed area flows into the Sg. Kalabakan. There are Sg. Anjeranjermut, Sg. Kakanak, Sg. Tiagau and Sg. Sumagas.
- Original vegetation was Lowland Dipterocarp Forest up to 300 m asl and Hill Dipterocarp Forest between 300 m and 750 m asl.
- The most common wildlife sighted prior to conversion was Bornean pygmy elephant (*Elephas maximus borneensis*), Long-tailed macaque (*Macaca fascicularis*), Pig-tailed macaque (*Macaca nemestrina*), Wild boar (*Sus barbatus*), Common porcupine (*Hystrix brachyura*) and the highly threatened and totally protected Sunda pangolin (*Manis javanica*). The Crested serpent eagle is the biggest raptor was found in the licensed area and, the smallest raptor in the world, the White-fronted falconet (*Microhierrax latifrons*).

Social Context:

According to the EIA report, there is no human settlement within or associated with the project area.

Scope of Assessment

- The scope of the evaluation is to verify compliance of **Benta Wawasan Sdn. Bhd. (Golden Borneo Palm Sdn. Bhd.)** with the JP(TKA)122/96 (CO) for FMU 26. for **FMU 26 (partly)**.
- The assessment is in accordance on the terms of the agreement for the “Sabah Legality Standard Principles 1 - 4 dated 01st January 2015 (**SFD-TLAS-002**).
- Site evaluation to verify and report the level of compliance by **Benta Wawasan Sdn. Bhd.** and contractors to the standard in respect to each of the criteria within this report.
- Compliance is defined when the auditee demonstrates that the indicators consist of none or only minor gaps against any applicable criteria of the standard. Non-compliance to the Sabah Legality Standard occurs when the auditee does not demonstrate adequate compliance to a criterion.

Itinerary & Mandays: FMU 26 / Benta Wawasan Sdn. Bhd. (Golden Borneo Palm Sdn. Bhd.)/ Kalabakan 24 - 28 October 2022 (Total Mandays = 12)

Date	Activity	GFS Staff	Mandays
24 October 2022 Monday	Public holiday - Deepavali	Priera Bagang, Glory Linggou	2
25 October 2022 Tuesday	Opening meeting at Golden Borneo Palm office and document review	Priera Bagang, Glory Linggou	2
26 October 2022 Wednesday	Field visit to licensed area; BW 09/00, BW09/03, BW09/02, Stumping site, Kenyalang estate.	Priera Bagang, Glory Linggou	2
27 October 2022 Thursday	Document review at Golden Borneo Palm office.	Priera Bagang, Glory Linggou	2
28 October 2022 Friday	Closing meeting at SFD Kalabakan.	Priera Bagang, Glory Linggou	2
29 - 30 October 2022	Reporting GFSSBH 003-159	Dr. Kevin Grace, Priera Bagang	2
Total			12

Highlights of Assessment

(Major Gaps = 8; Minor Gaps = 5; Observations = 0)

December 2022: (Major Gaps = 8; Minor Gaps = 5; Observations = 0)

Benta Wawasan Sdn. Bhd. (Golden Borneo Palm Sdn. Bhd.) has not complied with the Sabah Legality Standard (**SFD-TLAS-002**) as non-compliance was identified for Criteria 1.1, 1.2, 1.3, 1.6, 1.7, 2.1, 2.2, 2.3 and 3.1 during the assessment on 24 – 28 October 2022.

Summary of status of operations by **Principle**:

Principle 1.

Benta Wawasan signed a Tree Plantation and Forestry Management Agreement JP(TKA)122/96(CO) with the Sabah State Government for development of plantations. Benta Wawasan assigned Rakyat Berjaya which subcontracted Golden Borneo Palm to manage an area approximately 26,764 ha located in Kalabakan Forest Reserve from 01/01/2016 to 31/12/2025.

The SFD issued a separate coupe for Oil palm plantation and land preparation (salvage logging). Firstly, salvage logging coupe permit will be issued on the area allowing salvage logging to be conducted and subsequently, another coupe permit will be issued for the purpose of oil palm plantation after the completion of salvage logging. A closing coupe inspection is carried out after the salvage logging activity completed.

The company has an approved ADP and Annual Work Plan (AWP) from the SFD.

September 2021: Gap 001/2021 (Minor) – Checklist 1.3.2.4, 1.6.1

Inadequate identification and quantification of conservation areas in the PDP that include both buffer zones for riparian areas and steep slopes.

October 2022: Gap 001/2021 (Raised to Major)

No evidence of ADP/PDP revision to define areas greater than 25⁰ slope and buffer zones..

December 2022: Gap 001/2021 (Raised to Major) – Outstanding

Golden Borneo Palm has yet to identify the areas greater than 25⁰ slope and buffer zones in the ADP/PDP revision.

Highlights of Assessment

September 2021: Gap 002/2021 (Minor) – Checklist 1.2.3, 2.1.11

No evidence of submission of quarterly ECR reports for 2021.

October 2022: Gap 002/2021 (Raised to Major)

No evidence that the licensee has taken action to rectify the issues raised inside the ECR report.

December 2022: Gap 002/2021 (Major) – Outstanding

Golden Borneo Palm has not moved the location of the water pumps in Coupe 9/99 but only submitted an application letter requesting PPD Kalabakan to inspect the water at Nursery 1 & 2.

October 2022: Gap 001/2022 (Major) – Checklist 1.1.1

Coupe permit did not adequately define steep areas in accordance with the EIA study.

December 2022: Gap 001/2022 (Major) – Outstanding

Golden Borneo Palm has yet to define steep areas in accordance with the EIA study.

October 2022: Gap 002/2022 (Minor) – Checklist 1.3.2.7

The ADP does not adequately define the production yield (salvage logging & FFB) for oil palm development and outdated schedule for planting inside the management planning.

October 2022: Gap 003/2022 (Minor) – Checklist 1.3.2.8

The current ADP did not define the schedule and target for enrichment and silviculture activities.

October 2022: Gap 004/2022 (Minor) – Checklist 1.3.3

There is no evidence of ADP revision as the planned main activities differ from the AWP.

October 2022: Gap 005/2022 (Major) – Checklist 1.7.3, 2.1.13

Inadequate identification and protection of steep areas and buffer zones as required in the approved coupe permit.

December 2022: Gap 005/2022 (Major) – Outstanding

No evidence of protection of steep areas and buffer zones as required, only a letter to PPD Kalabakan stating that the licensee has taken action to erect signboards in steep areas.

October 2022: Gap 006/2022 (Minor) – Checklist 1.8.1, 1.8.2

No evidence of inventory and PSP plots establishment for ITP couped area.

Principle 2.

The company is not compliant with the protection of the buffer zone streams, steep areas and regulatory requirements for workers.

September 2021: Gap 004/2021 (Minor) – Checklist 2.2.2

The stumping site does not have an approved Occupation Permit.

October 2022: Gap 004/2021 (Raised to Major)

Golden Borneo Palm is actively using unregistered OP for stumping site.

December 2022: Gap 004/2021 (Raised to Major) - Outstanding

Golden Borneo Palm has yet to pay the OP registration fees and compound to SFD.

September 2021: Gap 005/2021 (Minor) – Checklist 2.3.1

COI and work permit/passports have expired for several workers that have been submitted to immigration department and SFD District Office for renewal.

October 2022: Gap 005/2021 (Raised to Major)

No evidence that foreign workers were covered by a valid SOCSO, passport and work permit as required.

December 2022: Gap 005/2021 (Major) Outstanding:

Golden Borneo Palm submitted the SOCSO registration; however, the licensee did not take action to make payment for the COI and no evidence that all foreign workers have valid passports & work permits.

October 2022: Gap 007/2022 (Minor) – Checklist 2.1.7

No evidence that the property hammer mark for BW 9/99 was renewed.

October 2022: Gap 008/2022 (Major) – Checklist 2.3.5

No evidence of SOCSO contribution for foreign workers as required.

Highlights of Assessment

December 2022: Gap 008/2022 (Major) – Outstanding

No evidence of SOCSO monthly contributions for all workers (local & foreign) as required.

Principle 3.

The company is not compliant with the statutory charges principle during the assessment.

September 2021: Gap 006/2021 (Minor) – Checklist 3.1.1

Registration of many units of heavy machinery and several occupation permits have expired in 2019 & 2020 that are in the process of renewal.

October 2022: Gap 006/2021 (Raised to Major)

No evidence of FD registration documents for the heavy machinery.

December 2022: Gap 006/2021 (Raised to Major) – Outstanding

Golden Borneo Palm has yet to provide FD registration documents for heavy machinery.

Principle 4.

Not applicable - According to the EIA report, there is no human settlement within or associated with the project area.

Summary Results:

(Major gap = 8, Minor gap = 5, Observation = 0)

December 2022: (Major gap = 8, Minor gap = 5, Observation = 0)

Gap raised against indicators & criteria during the October, 2022 assessment.

GAP	Type	Checklist	Status	Description
001/2021	Raised to Major	1.3.2.4 1.6.1	Outstanding	<p>September 2021: Inadequate identification and quantification of conservation areas in the PDP that include both buffer zones for riparian areas and steep slopes.</p> <p>October 2022: No evidence of ADP/PDP revision to define areas greater than 25° slope and buffer zones.</p> <p>December 2022: Golden Borneo Palm has yet to identify the areas greater than 25° slope and buffer zones in the ADP/PDP revision.</p>
002/2021	Raised to Major	1.2.3 2.1.11	Outstanding	<p>September 2021: No evidence of submission of quarterly ECR reports for 2021.</p> <p>October 2022: No evidence that the licensee has taken action to rectify the issues raised inside the ECR report.</p> <p>December 2022: Golden Borneo Palm has not moved the location of the water pumps in Coupe 9/99 but only submitted an application letter requesting PPD Kalabakan to inspect the water at Nursery 1 & 2.</p>
004/2021	Raised to Major	2.2.2	Outstanding	<p>September 2021: The stumping site does not have an approved Occupation Permit.</p> <p>October 2022: The licensee is actively using unregistered OP for stumping site.</p> <p>December 2022: Golden Borneo Palm has yet to pay the OP registration fees and compound to SFD.</p>
005/2021	Raised to	2.3.1	Outstanding	<p>September 2021: COI and work permit/passports have expired for</p>

GAP	Type	Checklist	Status	Description
	Major			<p>several workers that have been submitted to immigration department and SFD District Office for renewal.</p> <p>October 2022: No evidence that foreign workers were covered by a valid SOCSO, passport and work permit as required.</p> <p>December 2022: Golden Borneo Palm submitted the SOCSO registration; however, the licensee did not take action to make payment for the COI and no evidence that all foreign workers have valid passports & work permits.</p>
006/2021	Raised to Major	3.1.1	Outstanding	<p>September 2021: Registration of many units of heavy machinery and several occupation permits have expired in 2019 & 2020 that are in the process of renewal.</p> <p>October 2022: No evidence of FD registration documents for the heavy machinery.</p> <p>December 2022: Golden Borneo Palm has yet to provide FD registration documents for heavy machinery.</p>
001/2022	Major	1.1.1	Outstanding	<p>October 2022: Coupe permit did not adequately define steep areas in accordance with the EIA study.</p> <p>December 2022: Golden Borneo Palm has yet to define steep areas in accordance with the EIA study.</p>
002/2022	Minor	1.3.2.7	New	<p>October 2022: The ADP does not adequately define the production yield (salvage logging & FFB) for oil palm development and outdated schedule for planting inside the management planning.</p>
003/2022	Minor	1.3.2.8	New	<p>October 2022: The current ADP did not define the schedule and target for enrichment and silviculture activities.</p>
004/2022	Minor	1.3.3	New	<p>October 2022: There is no evidence of ADP revision as the planned main activities differ from the AWP.</p>
005/2022	Major	1.7.3 2.1.13	Outstanding	<p>October 2022: Inadequate identification and protection of steep areas and buffer zones as required in the approved coupe permit.</p> <p>December 2022: No evidence of protection of steep areas and buffer zones as required, only a letter to PPD Kalabakan stating that the licensee has taken action to erect signboards in steep areas.</p>
006/2022	Minor	1.8.1 1.8.2	New	<p>October 2022: No evidence of inventory and PSP plots establishment for ITP couped area.</p>
007/2022	Minor	2.1.7	New	<p>October 2022: No evidence that the property hammer mark for BW 9/99 was renewed.</p>
008/2022	Major	2.3.5	Outstanding	<p>October 2022: No evidence of SOCSO contribution for foreign workers as required.</p> <p>December 2022: No evidence of SOCSO monthly contributions for all</p>

GAP	Type	Checklist	Status	Description
				workers (local & foreign workers) as required.

Observation raised against indicators & criteria during the October, 2022 assessment.

Obs #	Checklist	Description
-	-	-

Highlights of Close Out Visit (if applicable)	Dates	20 December 2022
Eight Major Gaps shall be addressed within 2 months by December 2022. The GFS team could not visit the area due to bad weather conditions. The close-out was based on documents review at the PPD office and the Major gaps remain outstanding.		

Recommendations
<p>Benta Wawasan Sdn. Bhd. (Golden Borneo Palm Sdn. Bhd.) has not demonstrated compliance with the Sabah Legality Standard (SFD-TLAS-002) as non-compliance was identified in Criteria 1.1, 1.2, 1.3, 1.6, 1.7, 2.1, 2.2, 2.3, 3.1 and is NOT eligible to receive a GFS Statement of Compliance or a Sabah TLAS Compliance Certificate from SFD.</p> <p>The Major Gaps shall be addressed within two months by December 2022.</p> <p>Gap 001/2021 (Raised to Major) Outstanding – Checklist 1.3.2.4, 1.6.1: Golden Borneo Palm shall revise the PDP/ADP to define the actual steep slopes and buffer zones.</p> <p>Gap 002/2021 (Raised to Major) Outstanding – Checklist 1.2.3, 2.1.11: Golden Borneo Palm shall take action to rectify issues raised by the EPD consultant to comply with requirements.</p> <p>Gap 004/2021 (Raised to Major) Outstanding – Checklist 2.2.2: Golden Borneo Palm shall pay for the unregistered OP and compounds issued by SFD.</p> <p>Gap 005/2021 (Raised to Major) Outstanding – Checklist 2.3.1: Golden Borneo Palm shall ensure all foreign workers have a valid passport and work permits and valid COI,</p> <p>Gap 006/2021 (Raised to Major) Outstanding – Checklist 3.1.1: Golden Borneo Palm shall maintain the registration for all heavy machinery.</p> <p>Gap 001/2022 (Major) Outstanding – Checklist 1.1.1: Coupe permit shall adequately define the steep areas according to the EIA study.</p> <p>Gap 005/2022 (Major) Outstanding – Checklist 1.7.3, 2.1.13: Golden Borneo Palm shall identify & protect areas >25° and tributary streams and exclude these areas from operations.</p> <p>Gap 008/2022 (Major) Outstanding – Checklist 2.3.5: Golden Borneo Palm shall contribute SOCSO for all workers (foreign & local) as required.</p> <p>Gap(s)/Observation(s) identified in this assessment should be addressed before the next surveillance visit. Action required to close the gap(s)/observation(s) include:</p> <p>Gap 002/2022 (Minor) – Checklist 1.3.2.7: The licensee shall revise the ADP to include production yield and schedule for oil palm planting.</p> <p>Gap 003/2022 (Minor) – Checklist 1.3.2.8: The licensee shall revise the ADP to include the schedule for enrichment and silviculture activities.</p> <p>Gap 004/2022 (Minor) – Checklist 1.3.3: ADP shall be reviewed on the 5th year as per SFMLA requirement.</p> <p>Gap 006/2022 (Minor) – Checklist 1.8.1, 1.8.2: The licensee shall establish and monitor the inventory and PSP plots.</p> <p>Gap 007/2022 (Minor) – Checklist 2.1.7: The licensee shall renew the property hammer mark annually.</p> <p>The next surveillance audit will be scheduled for October 2023.</p>

End of Summary Report