

Sabah TLAS Audit Report

Sabah Legality Standard Principles 1 – 4

Licensee	Licensee: Chong Nyet Thiam @ John Chong Contractor: Win Win Contractor (Sole proprietorship)	Reference #	GFSSBH 003-218a
Contact Person	Chong Fui Leong (Win Win Contractor)	Date of Report	22/09/2023
Office Address	Lot 156, Taman Sibuga, Jalan Sibuga, 90000 Sandakan, Sabah, Malaysia.	Date of close out	24/11/2023
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		Fax	-
		Approved By	Dr. Kevin Grace

Statements

Audit Statement	NC: Non-Compliance – Criteria 1.2 & 2.1 (Outstanding)		
Issuance Date	Not applicable	Expiration Date	Not applicable

Assessment Details

Assessment Dates	18 – 22 September 2023
Scope of Assessment	Sabah TLAS 1-4: Form IIB permit JPHTN/FRM 700-2/4/1/845/9, JPHTN/FRM 700-2/4/1845/14, JPHTN/FRM 700-2/4/1/845/16 and JPHTN/FRM 700-2/4/1/845/19
Species	<i>Parashorea spp.</i> (White Seraya), <i>Shorea spp.</i> (Red Seraya, Yellow Seraya, Oba suluk), <i>Neolamarckia cadamba</i> (Laran), <i>Pentace spp.</i> (Takalis), <i>Dipterocarpus spp.</i> (Keruing), <i>Sapotaceae spp.</i> (Nyatoh), <i>Prerospermum spp.</i> (Bayer), <i>Dryobalanops spp.</i> (Kapur), Other timber (OT)
Lead Assessor	Priera Bagang
Assessor(s)	Glory Linggou, Aleeza Ho, Vanessa Abin
SFD Staff	Jamain Alias (DFO Kinabatangan), Sidin Barau (ADFO Kinabatangan), Janiu Gangon (ADFO Kinabatangan), Afandi Rahman (PPM Buang Sayang), Abd. Rahman (KPPM Buang Sayang)

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 November 2020 (**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:

- The Sabah State Government, through the Land & Survey Department, has awarded a Country Lease (CL) land title, No. 095324860, with an area of 118.80 ha to Chong Nyet Thiam @ John Chong in 1994. Based on the land title condition, Chong Nyet Thiam @ John Chong is allowed to convert the area into agriculture development. The lease period stated in the land title is from 01/01/1994 to 31/12/2092 and is subject to the conditions imposed by the Land & Survey Department from time to time.
- In 2020, Chong Nyet Thiam @ John Chong appointed Win Win Contractor as the land developer and logging contractor to extract and sell logs inside the licensed area. The Power of Attorney was given on 24/09/2020 and witnessed by a registered Justice of Peace in Kota Kinabalu (Ref. Reg.#: JP96/22).
- Win Win Contractor does not engage any other sub-contractor to conduct forestry activities, such as log harvesting, grading, hauling, boundary marking and royalty payment inside the licensed area.
- The total area for development is 118.80 ha.
- The area is under the jurisdiction of the Kinabatangan District Forestry Officer.

Current Operations:

- Based on records, 2,922 logs (6,740.90 m³) have been harvested from the licensed area.
- No records of total logged area are reported in the Form IIB approval.
- As of the assessment, four (4) FIIB permits have been approved by the SFD.
- Land use classification:

Land classification	Total Area (ha)	Current Status (ha)
Total Concession Area	118.80	118.80
Production Area	118.80	1 st Form IIB application: <ul style="list-style-type: none"> - Total log production = 528 - Total volume production = 1,326.00 m³ 2 nd Form IIB application: <ul style="list-style-type: none"> - Total log production = 842 - Total volume production = 2,169.92 m³ 3 rd Form IIB application: <ul style="list-style-type: none"> - Total log production = 1,044 - Total volume production = 2,084.33 m³ 4 th Form IIB application: <ul style="list-style-type: none"> - Total log production = 508 - Total volume production = 1,160.65 m³

Environmental Context:

- The Form IIB area is located at Kg. Lungmanis, Kinabatangan, Sabah.
- Based on the survey plan map, the land title shares a common boundary with a Class VI Lung Manis Forest Reserve.
- Based on the field visit, the area's topography is relatively flat and has undulating terrain consisting of a mix of lowland dipterocarp and pioneer species.
- The soil is made up mostly of Lokan Association, Maliau Association, and Dalit Association. The parent materials of these associations are sandstone and mudstone.
- For areas of 100 ha or more but less than 500 ha, the landowner shall have a Proposed Mitigation Measure report (PMM) developed by a qualified environmental consultant and approved by the Director of EPD. As of the assessment, PMM has yet to be developed for Chong Nyet Thiam @ John Chong area.

Social Context:

- The nearest settlement is in Kg. Lungmanis, Kinabatangan, Sabah, located approximately within a radius of 1 km from the project area.
- There is no other Native Customary Right (NCR) claim area inside the titled land.

Scope of Assessment

- The scope of the evaluation is to verify compliance of Chong Nyet Thiam @ John Chong (Win Win Contractor) with the Form IIB permit #: JPHTN/FRM 700-2/4/1/845/9, JPHTN/FRM 700-2/4/1845/14, JPHTN/FRM 700-2/4/1/845/16 and JPHTN/FRM 700-2/4/1/845/19.
- The assessment is in accordance on the terms of the agreement for the “Sabah Legality Standard Principles 1 - 4 dated November 2020 (SFD-TLAS-002).
- Site evaluation to verify and report the level of compliance by Chong Nyet Thiam @ John Chong 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: Form IIB: Chong Nyet Thiam @ John Chong (Win Win Contractor) / Kinabatangan District / 18 – 22 September 2023 (Total Mandays = 22)

Date	Activity	GFS Staff	Mandays
18 September 2023 Monday	Travelling and overnight in Sandakan.	Priera Bagang, Glory Linggou Aleeza Ho, Vanessa Abin	4
19 September 2023 Tuesday	Opening meeting at SFD Kinabatangan. Document review.	Priera Bagang, Glory Linggou Aleeza Ho, Vanessa Abin	4
20 September 2023 Wednesday	Field visit to licensed boundary, stumping and campsite.	Priera Bagang, Glory Linggou Aleeza Ho, Vanessa Abin	4
21 September 2023 Thursday	Document review and compiling report.	Priera Bagang, Glory Linggou Aleeza Ho, Vanessa Abin	4
22 September 2023 Friday	Closing meeting at SFD Kinabatangan. Travel to home base.	Priera Bagang, Glory Linggou Aleeza Ho, Vanessa Abin	4
23-24 September 2023	Reporting GFSSBH 003-218	Dr. Kevin Grace Priera Bagang	2
Total			22

Highlights of Assessment

(Major Gaps = 2; Minor Gaps = 1; Observations = 1)

November 2023: (Major Gaps = 2; Minor Gaps = 1; Observations = 1)

Chong Nyet Thiam @ John Chong (Win Win Contractor) has not complied with the Sabah Legality Standard (SFD-TLAS-002) as non-compliance was identified under Criteria 1.2 & 2.1 during the assessment on 18 – 22 September 2023.

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

Principle 1.

The Sabah State Government through the Land & Survey Department has awarded a Country Lease (CL) land title, No. 095324860 (starting 01/01/1994 to 31/12/2092), with an area of 118.80 ha to Chong Nyet Thiam @ John Chong in 1994 for conversion to agriculture.

As of assessment, four (4) FIIB permits have been approved by the SFD. Based on records, 2,922 logs (6,740.90 m³) have been harvested from the the licensed area.

A Proposed Mitigation Measure report (PMM) is required for areas over 100 ha, which has yet to be developed for Chong Nyet Thiam @ John Chong area.

September 2023: Gap 001/2023 (Major) – Checklist 1.2.2

No evidence that the Proposal Mitigation Measures was developed and approved by the EPD for the 118.80 ha with respect to land conversion as required.

Highlights of Assessment

November 2023: Gap 001/2023 (Major) - Outstanding

No evidence that the Proposal Mitigation Measures was developed and approved by the EPD for the 118.80 ha with respect to land conversion as required.

September 2023: Gap 002/2023 (Major) – Checklist 1.2.3

ECR monitoring reports were not submitted since the PMM was not developed. The campsite is constructed less than 10 meters from a waterway, and there is evidence of littering and oil spillage.

November 2023: Gap 002/2023 (Major) – Outstanding

ECR monitoring reports were not submitted since the PMM was not developed. Chong Nyet Thiam @ John Chong did not take action to relocate the campsite that was constructed less than 10 meters from a waterway, and clear littering and mitigate oil spillage.

September 2023: Observation 001-2023 – Checklist 1.7.1

Inconsistent in maintaining a clear licensed boundary at Phase 1 and Phase 2 licensed boundaries.

Principle 2.

Based on the survey plan map there are areas subject to protection. Chong Nyet Thiam @ John Chong has taken the initiative to reserve a 50m buffer bordering the Class VI Lungmanis Forest Reserve.

The logging is based on clear cutting of all trees for conversion to agriculture.

In 2020, Chong Nyet Thiam @ John Chong appointed Win Win Contractor as the land developer and logging contractor to extract and sell logs inside the licensed area. The Power of Attorney was given on 24/09/2020 and witnessed by a registered Justice of Peace in Kota Kinabalu (Ref. Reg.#: JP96/22).

September 2023: Gap 002/2023 (Major) – Checklist 2.1.11

ECR monitoring reports were not submitted since the PMM was not developed. The campsite is constructed less than 10 meters from a waterway, and there is evidence of littering and oil spillage.

November 2023: Gap 002/2023 (Major) – Outstanding

ECR monitoring reports were not submitted since the PMM was not developed. Chong Nyet Thiam @ John Chong did not take action to relocate the campsite that was constructed less than 10 meters from a waterway, and clear littering and mitigate oil spillage.

September 2023: Gap 003/2023 (minor) – Checklist 2.3.2, 2.3.7

No evidence of safety and fire training conducted for workers.

Principle 3.

Win Win Contractor has paid all the associated fees to the SFD.

Principle 4.

Not applicable – The nearest settlement is in Kg. Lungmanis, Kinabatangan, Sabah, located approximately within a radius of 1 km from the project area. There is no Native Customary Right (NCR) claim area inside the titled land.

Summary Results:

(Major gap = 2, Minor gap = 1, Observation = 1)

November 2023: (Major Gaps = 2; Minor Gaps = 1; Observations = 1)

Gap raised against indicators & criteria during the September 2023 assessment.

GAP	Type	Checklist	Status	Description
001/2023	Major	1.2.2	Outstanding	<p>September 2023: No evidence of the Proposal Mitigation Measures was developed and approved by the EPD for the 118.80 ha with respect to land conversion as required.</p> <p>November 2023: No evidence of the Proposal Mitigation Measures was developed and approved by the EPD for the</p>

GAP	Type	Checklist	Status	Description
				118.80 ha with respect to land conversion as required.
002/2023	Major	1.2.3 2.1.11	Outstanding	September 2023: ECR monitoring reports were not submitted since the PMM was not developed. The campsite is constructed less than 10 meters from a waterway, and there is evidence of littering and oil spillage. November 2023: ECR monitoring reports were not submitted since the PMM was not developed. Chong Nyet Thiam @ John Chong did not take action to relocate the campsite that was constructed less than 10 meters from a waterway, and clear littering and mitigate oil spillage.
003/2023	minor	2.3.2 2.3.7	New	September 2023: No evidence of safety and fire training conducted for workers.

Observation raised against indicators & criteria during the September 2023 assessment.

Obs #	Checklist	Description
001-2023	1.7.1	September 2023: Inconsistent in maintaining a clear licensed boundary at Phase 1 and Phase 2 licensed boundaries.

Highlights of Close Out Visit (if applicable)	Dates	24 November 2023
The Major Gap 001/2023 and 002/2023 shall be addressed within 2 months by November 2023. The Major Gaps remain outstanding since Chong Nyet Thiam @ John Chong has not taken action to develop the PMM study, submit the ECR monitoring report, and did not take action to relocate the campsite that was constructed less than 10 meters from a waterway, and clear littering and mitigate oil spillage.		

Recommendations
<p>Chong Nyet Thiam @ John Chong (Win Win Contractor) has not demonstrated compliance with the Sabah Legality Standard (SFD-TLAS-002) as non-compliance was identified under Criteria 1.2 & 2.1 and is NOT recommended to receive a GFS Statement of Compliance or a Sabah TLAS Compliance Certificate from SFD.</p> <p>The Major Gap shall be addressed within two months by November 2023.</p> <p>Gap 001/2023 (Major) Outstanding – Checklist 1.2.2: Chong Nyet Thiam @ John Chong shall prepare a Proposal Mitigation Measures for the project area and submit to EPD for approval.</p> <p>Gap 001/2023 (Major) Outstanding – Checklist 1.2.3, 2.1.11: ECR monitoring reports shall be developed and submitted to the EPD to convert the 118.80 ha to agricultural land use. Win Win Contractor shall ensure the campsite is constructed 50m away from any waterway, maintain cleanliness and implement mitigation measures for oil spillage as in the EPD regulations.</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 003/2023 (minor) – Checklist 2.3.2, 2.3.7: Win Win Contractor shall conduct safety and fire training prior to the logging operations.</p> <p>Observation 001-2023 – Checklist 1.7.1: Win Win Contractor shall consistently maintain a clear licensed boundary.</p> <p>The next annual surveillance audit will be scheduled for September 2024.</p>

End of Summary Report