

In Harmony with CITES?

An analysis of the compatibility between current forestry management provisions and the effective implementation of CITES listing for timber species in Malaysia

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Giant Logging truck with logs, Brumas Sabah, WWFM/ Ken Scriven

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ACRONYMS

AAC	Annual Allowable Cut
CBD	Convention on Biological Diversity
CoP	Conference of Parties to CITES
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora in Commerce
DOA	Department of Agriculture
DWNP	Department of Wildlife and National Parks, Peninsular Malaysia
FAO	Food and Agriculture Organisation, United Nations
FDPM	Forestry Department, Peninsular Malaysia
FDS	Sabah Forestry Department
FDSW	Sarawak Forest Department
FhD	Fisheries Department
()FMU	Forest Management Unit
FRC	Forest Research Centre
FRIM	Forest Research Institute of Malaysia
FSC	Forest Stewardship Council
ITTA	International Tropical Timber Agreement
ITTO	International Tropical Timber Organisation
MC&I	Malaysian Criteria and Indicators
MITI	Ministry of Trade and Industry
MNS	Malaysian Nature Society
MOSTE	Ministry of Science, Technology and Environment
MPI	Ministry of Primary Industry
MTC	Malaysian Timber Council
MTCC	Malaysian Timber Certification Council
MTIB	Malaysian Timber Industry Board
NPWD	National Parks and Wildlife Division, Forest Department, Sarawak
NREB	National Resources and Environment Board, Sarawak
PFE	Permanent Forest Estate
RC	Royal Customs Department
RFO	Regional Forest Officers, Forest Department Sarawak
SBC	Sarawak Biodiversity Centre
SFM	Sustainable Forest Management
STA	Sarawak Timber Association
STIA	Sabah Timber Industries Association
STIDC	Sarawak Timber Industry Development Corporation
TWG	CITES Timber Working Group
UNDP	United Nations Development Programme
WD	Wildlife Department, Sabah
WWFM	World Wide Fund for Nature Malaysia

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EXECUTIVE SUMMARY

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has been in force since 1975. The Convention in its preamble states two very important principles: that countries are and should be the best protectors of their own wild fauna and flora, and that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade. Malaysia has been a CITES member country since 1977. Malaysian authorities have designated Management Authorities throughout the country to implement CITES. Over the last 25 years of implementing CITES, a number of problems and obstacles relating to the legislation base, administration, monitoring, enforcement, advisory Scientific Authority and non-detriment findings have been encountered.

For matters relating to timber and tree species, these were not given much attention until recently. This is quite understandable as not many tree species are listed under CITES at the global level. In addition, many countries including Malaysia have opposed the listing of commercially valuable timber species in CITES Appendices. There have been fears that such a listing could lead to species being banned from trade. However, a CITES Appendix II listing is far from a trade ban, and in fact could complement other national instruments in ensuring sustainable trade of timber species, and eliminate illegal international trade. Other arguments raised against the listing of timber species on CITES include the increased costs and loss of opportunity by industry when taking time to obtain CITES permits for trade. However CITES can assist in curbing illegal logging and illegal timber trade through the verification of permits and the chain-of-custody process that is implicit in CITES provisions. It has been alluded to that it would be difficult for many countries to implement CITES Appendix II under current legal, administrative and management regimes. This report focuses on Malaysia as a case study to review the challenges to effective implementation of a CITES timber listing and recommend approaches to overcome the constraints, both perceived and actual, that were found.

As a CITES member, ratification of the Convention means accepting to put necessary administrative structure in place and implementation of rules and regulations within the country (de Klemm, 1993). Malaysia can implement CITES provisions for any listed timber species. Some changes would be required to achieve an effective and efficient implementation for a timber listing. The changes would require the support of the State governments as forest issues are under the control of the States and not under Federal administration and management. Even while there are a number of issues of implementation, Sabah and Sarawak appears to have sufficient legal and administrative provisions to implement a timber listing with minimal changes to the current structure.

The first recommendation to address legal issues is to Peninsular Malaysia to draft new regulations perhaps attached to the Wildlife Protection Act 1972, Amended 1991, that has provisions for appointing all relevant CITES agencies, details the administration, management and enforcement for CITES species. Sarawak has to ensure the strongest protection for all CITES Appendix I species which it has

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differentiated into a lower category of protection if the species do not naturally occur in the State.

The second recommendation is the need for all States to increase the coordination and cooperation between agencies that are implementing CITES timber species or with the potential or expertise to assist in implementing CITES. The agencies include the Department of Agriculture (DOA), Department of Forests in all the States, Malaysian Timber Industry Board (MTIB), Sarawak Timber Industry Development Corporation (STIDC), Customs, and Wildlife Departments.

Timber trade data are obtained and kept by various agencies using a standard form and format but the data could be put to much greater use, for example to detect possibilities for illegal timber harvest and trade. Therefore, the third recommendation is for all States to work closely to improve the monitoring of the timber trade domestically and internationally.

Enforcement efforts for timber species are already well established through current structures and mechanisms within the Forest Departments, STIDC and MTIB. However, coordination could be improved to deal with illegal timber harvesting and illegal timber trade. The fourth recommendation is to improve the coordination and use of the various capabilities and capacities of the agencies, including Customs to improve the ability of Malaysia to control and prosecute forest crimes both internally and internationally.

Malaysia has some research programmes and institutions for timber species, such as the Forest Research Institute Malaysia (FRIM), the Forest Research Centres within the Forest Departments of Sabah and Sarawak, as well as local universities. The objectives of the research do not touch on the subject of determining non-detrimental findings in relation to CITES requirements. Of course, only two tree species listed in CITES occur in Malaysia but it is important that non-detriment studies are carried out for these species. The fifth recommendation is to encourage current research plans for forest species in Malaysia to devote some of their efforts towards research on tree species found in Malaysia that can benefit from using some form of eco-labelling, including the possible use of CITES Appendix II listing.

The research and advisory role to ensure sustainable trade in timber species should be coordinated by the Ministry of Science, Technology and Environment (MOSTE). MOSTE is the only Scientific Authority in Malaysia. The sixth recommendation is for MOSTE to take the lead in fulfilling its responsibilities under CITES. MOSTE could form sub-committees and task forces that are tasked to carry out analysis on non-detriment findings for selected CITES taxonomic groups for decision making to the CITES National Steering Committee. As the CITES National Steering Committee meets irregularly, reporting and delegation of responsibility need to be managed resolutely to increase the effectiveness of this body.

Malaysia has an established system for administrating, monitoring and enforcement for timber species and trade. Malaysia has already contributed to deliberations of the CITES Timber Working Group that came out with a flexible system to assist in timber

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trade. The last recommendation is for Malaysia to take the lead in reducing some of the difficult CITES implementation issue for timber species, such as identification problems if and when any timber species are listed under CITES.

1 INTRODUCTION

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) entered into force in 1975. It is an international agreement between governments that aims to ensure that international trade in species of wild animals and plants do not threaten their survival in the wild. It is also one of the largest conservation agreements in existence with current membership of 160 member countries, and is one of the most successful conventions in place today.

Malaysia officially became a CITES Party on 20th October 1977, with the Convention's "date of entry into force" beginning 18th January 1978. The Convention provides a legal framework that has to be respected by each Party, which in turn has to adopt appropriate domestic legislation to ensure that CITES can be implemented at the national level.

CITES subjects international trade of selected species to certain controls – all imports, export, re-export and introduction from the sea of species covered by the Convention have to be authorised through a licensing system (see also Chapter 4). The species covered by CITES are listed in three Appendices, according to the degree of protection required (see Annex 1 for the definition of the Appendices). Each Party of CITES must designate one or more Management Authorities in charge of administering the licensing system and one or more Scientific Authorities to advise them on the effects of trade on the status of the CITES listed species.

Until 1992, only 15 timber species were listed although there are altogether at least 49 tree species in CITES Appendices currently. None, however, was of commercial importance (or large-scale international trade). During the 8th Conference of Parties to CITES (or CoP 8) in 1992, proposals to list in Appendix II commercially important timber species, including Ramin (*Gonystylus* spp.) and Merbau (*Intsia palembanica*) were unsuccessful due to intense protest from tropical timber producing countries, including Malaysia, Brazil, Congo and Cameroon.

Attempts were made again during CoP 9 to propose tree species for listing. A total of 7 species and 2 genera of trees were proposed to be listed in Appendix II. This included Agarwood or Gaharu *Aquilaria malaccensis*, which was eventually accepted. Together with Yellow wood (*Podocarpus neriifolius*)¹ and Ramin (*Gonystylus* spp.)² in Appendix III, these are the only tree species native to Malaysia currently listed under CITES. *Gonystylus* spp. has at least 27 distinct species that are found in the eastern parts of Indonesia and Malaysia. Malaysia has a reservation on *Gonystylus* spp. Appendix III listing by Indonesia for all recognisable parts and derivatives except for logs and sawn timber. Malaysia feels that it will be difficult to implement CITES provisions for parts and derivatives of timber species as enforcement agencies such as Customs will not have the expertise to enforce CITES timber species listings.

¹ Tree species of non-commercial value which was included in CITES Appendix III by Nepal in 1975

² Ramin's listing in CITES Appendix III was done unilaterally by Indonesia at genus level in August 2001.

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Successful listing in Appendix II does not mean the trade in these tree species are banned. It means that CITES permitting procedures would have to be followed for all exports and imports. Export permits should only be granted on the grounds that the trade is not detrimental to the survival of wild population of the species involved. One of the reasons that countries oppose to timber listing in Appendix II is the issue of administrative burden for the government agencies involved in CITES implementation, and the costs and time lost to the industry because of the additional administrative paperwork for their shipments.

This TRAFFIC project was initiated with this conviction in mind: *that CITES is a tool that could complement national instruments to ensure that commercial timber trade is carried out at a sustainable level for the benefits of the present and future generations.* This case study reviews the ability of Malaysia to implement CITES timber species, and outlines the current situation of CITES implementation for timber species in Malaysia. It also recommends options to strengthen Malaysia's implementation to better meet its CITES obligations for timber species if any additional species are listed in the CITES Appendices.

The aims and objectives of this study were to:

- a) Examine the issues that effect the implementation of CITES listing for tree species in Malaysia, which will be approached by analysing specific requirement of CITES. These can be separated into five different areas:-
 - Law:- with focus on legislative arrangement;
 - Administration:- roles and responsibilities of CITES management authorities and complementing that with agencies responsible for forest management;
 - Monitoring:- focus on record keeping and forest operations procedures for timber trade;
 - Enforcement:- various agencies involvement, enforcement training and implementation of law; and
 - Research:- focus on non-detrimental studies, and the role and responsibility of the Scientific Authority.
- b) Provide recommendations and inputs on government policy, regulations and administrative changes so that CITES can become an effective conservation tool in Malaysia for tree species.

2 METHODS

The methodology employed in this six month-exercise was straightforward; using a combination of desk-based research and consultative forums with stakeholders. The approach involved the steps below:

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- a) Desk based literature research on Malaysian laws that relate to trade in CITES species and timber trade, relevant articles on wildlife trade and other relevant literature including grey literature.
- b) One-to-one meetings with the people involved in or subjected to the CITES process. The exercise also formed the basis for identifying the relevant stakeholders in the trade (See list of people interviewed in Annex 3).
- c) Consultation of and coordinative feedback on administration and management of timber species listed in the CITES Appendices with relevant government agencies, industry, researchers, through a series of State level workshops. Seven such workshops were held; two each in Peninsular Malaysia, Sabah and Sarawak at the state level, and one at the national level. (See list of workshop participants in Annex 4).
- d) Preparation and distribution of summary minutes of the workshop dialogue to the relevant stakeholders to consolidate their comments and inputs.
- e) A national level workshop (as mentioned in (c) above) arranged to bring all the stakeholders together to discuss the various options proposed by the project to strengthen the ability of Malaysia to enhance implementation of CITES for tree species, especially timber species.

It is hoped that through this exercise, a more constructive climate for dialogue among government, industry, and NGO stakeholders on timber trade, forest and biodiversity conservation in Malaysia would have been generated, and the role that CITES can play in ensuring that international trade is not detrimental to the survival of timber-producing tree species is not overlooked or undermined.

3 BACKGROUND TO THE FORESTRY SECTOR IN MALAYSIA: CURRENT CONSERVATION AND MANAGEMENT FRAMEWORK

The total land area of Malaysia, which consists of three sub-regions: Peninsular Malaysia, Sabah and Sarawak, is 32.97 million hectares (Shaharuddin, 1999). In 2000, the total area of forests in Malaysia was estimated to be 20.20 million hectares or 62% of the total land area. Out of this forested land, only 0.25 million hectares were plantation forest while the rest, 20.20 million hectares, were natural forest. This natural forest is composed of 17.91 million hectares (88.6%) of Dipterocarp forest, 1.46 million hectares (7.2%) of swamp forest and 0.58 million hectares (2.8%) of mangrove forest. (Table 1a)

In Malaysia, a total of 14.45 million hectares or 44% of total land area has been designated in 2000 as Permanent Forest Estate (PFE). (Peninsular Malaysia has 40% of Malaysia's land area and 45.0% of land in Peninsular Malaysia is forested. Sabah has 22.4% of Malaysia's land area and 60% of the State is forested while Sarawak has 37.5% of Malaysia's total land area and 80% of State land under forest). These PFEs are classified and managed under four major functions, namely Production Forest, Protection Forest, Amenity Forest, Research and Education Forest. The total Permanent Forest Estate consists of 10.61 million hectares of Production Forest and 3.84 million hectares of Protection Forest (including 0.11 million hectares of Virgin

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Jungle Reserves). In addition to the gazetted Protection Forest within the PFEs, another 2.15 million hectares have been gazetted as national parks and wildlife and bird sanctuaries. Of this total, 0.32 million hectares overlaps with the PFEs. (Table 1b)

Table 1a: Distribution and extend of natural forests by major forest types in Malaysia, 2000 (million ha)

Region	Land area	Dipterocarp forest	Swamp forest	Mangrove forest	Plantation forest	Total forested land	Percentage total of forested land
Peninsular Malaysia	13.15	5.46	0.30	0.11	0.07	5.94	45.2
Sabah	7.37	3.81	0.12	0.34	0.15	4.42	60.0
Sarawak	12.30	8.64	1.04	0.13	0.03	9.84	80.0
Malaysia	32.82	17.91	1.46	0.58	0.25	20.20	62.0

Source: Anon (2001c)

Table 1b: Areas under Permanent Forest Estate in Malaysia 2000 (million ha)

Region	Protection forest	Production forest	Total PFE	Total forested land
Peninsular Malaysia	1.90	2.95	4.85	5.94
Sabah	0.91	2.69	3.60	4.42
Sarawak	1.03	4.97	6.00	9.84
Malaysia	3.84	10.61	14.45	20.20

Source: Anon (2001c)

Among Asian countries, in 2000, Malaysia supplies 61% of the tropical sawn timber (excluding other categories of timber products and logs) to international trade (Anon, 2001d). Malaysia is the world's second largest tropical timber exporting nation after Indonesia for all categories of tropical timber products. The importance of the forestry sector to the Malaysian economy is best reflected by the fact that it contributed MYR14.33 billion (USD3.77 billion) to the national revenue in 2001; the third highest among commodities after petroleum and palm oil, and employs a workforce of 225,826 people (about 3% of the total labour force in the country). Malaysia's total export of forestry products in 2001 comprised logs (MYR1.55 billion or USD407 million), sawn timber (MYR2.17 billion/ USD570 million), plywood and veneer (MYR3.99 billion/ USD1.05 billion), mouldings and joinery (MYR1.34 billion/

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USD350 million), medium density fibreboard (MYR0.87 billion/ USD228 million) and wooden furniture (MYR3.78 billion/ USD995 million) (Anon, 2002e).

Timber is also a major source of revenue for the State governments largely through the collection of royalties, premiums and other forest charges. At the Federal level, export levy or cess and corporate income tax are collected from all forestry related economic activities. In 2001 the total forestry revenue collected in Peninsular Malaysia, Sarawak and Sabah was MYR6,960 million (USD1.83 billion), MYR2,201million (USD579 million) and MYR5,171 million (USD1.36 billion) respectively.

Legally under Article 74(12) of the Malaysian Constitution, land and forest are State matters. Each of the 15 States is empowered to formulate policies and enact laws to govern and manage land and forest resources within each respective State. The executive authority of the Federal Government only extends to the provision of advice and technical assistance to the States, training and the conduct of research, unless the State agrees to delegate some of their authority to the Federal Government (Anon, 2000).

In 1978, the National Forestry Policy was implemented aimed at achieving a definite and stable forest resource base for sustainable forest management. Under this policy, the above mentioned PFE was established. In 1992, the National Forestry Policy was further revised to take into account the emerging issues of conservation of biological diversity, sustainable utilisation of genetic resources and involvement of local communities in forest development (Shaharuddin, 1999). Recent forest amendments in the state forest laws (Sabah Forest Enactment [1992]; Sarawak Forest Ordinance [1996]; National Forestry Act [1993] - applicable to Peninsular Malaysia only) contain provisions for curbing/controlling forest crimes (including illegal logging and laundering of timber) and the ability of enforcement officers and the courts to impose much higher fines and penalties for forest crimes.

The Forest Department of Peninsular Malaysia (FDPM), realising the need to better understand the resource that it is managing, has instituted activities that seek to improve their knowledge of the forests in Peninsular Malaysia. A peninsular-wide forest inventory was conducted in Peninsular Malaysia from 1970 to 1972 under the FAO/UNDP Forest Industries Development project to determine the forest resource availability, especially timber resources in Peninsular Malaysia. This inventory was updated in the second and third national forest inventories in 1981-1982 and 1991-1993 respectively. A follow-up forest management level inventory is now planned for each of the forest management units³. In Sarawak, a forest resource inventory was conducted with FAO technical support during the period 1969-1972 for over 1.2 million ha or 13% of the forest area of the State. The Forest Department Sarawak (FDSW) has continued this inventory and, by the end of 1985, 3.6 million ha had been inventoried, representing 41.2% of the total forest area in the State. A State-wide forest inventory was also carried out in Sabah between 1969 and 1972 under the

³ Each state is an FMU in Peninsular Malaysia.

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Canadian bilateral aid programme, followed by an inventory of the logged-over forests from 1986 to 1988 by the Sabah Forestry Department.

In Malaysia, the Selective Management System is a framework that is generally applied to forest management and conservation. The treatment which is applied to logged-over forest, is dependent on stand condition, securing an economic cut and determining the most feasible way in which the stock may be replenish either naturally or artificially. Within this context, the preparation and implementation of a forest management plan is made compulsory, and is currently adopted and implemented by each of the States in the country. The plan outlines the annual allowable cuts (AAC), silviculture prescriptions for harvested forests, the minimum cutting limits for harvestable species and also specifies the species that can be removed.

Demand for certified timber and timber products by certain markets, and pressure from environmental groups, have been perceived to have imposed additional restrictions for market access of Malaysian wood products in Europe, especially in the United Kingdom and the Netherlands. In this context, basing their work on the International Tropical timber Organisation (ITTO) *Criteria for the Measurement of Sustainable Tropical Forest Management*, Malaysia formulated a set of criteria and indicators (called MC&I) for assessing progress in achieving sustainable forest management at the national and forest management unit (FMU) levels, and for forest management certification. These are currently being implemented by the Malaysian Timber Certification Council (MTCC), which was established in 1998 to plan and operate a timber certification scheme, as well as to facilitate the trade in certified timber. To date, three FMUs – in the States of Selangor, Pahang and Terengganu have been certified with MTCC certification. The other certification scheme active in Malaysia which has seen some success in certifying forest is the Forest Stewardship Council (FSC). Two forest concessions have received their FSC certification; the Deramakot Forest Reserve in Sabah and the Perak Integrated Timber Complex (PITC) in Perak, Peninsular Malaysia.

At the international level Malaysia is a signatory to the Convention on Biological Diversity (CBD), the International Tropical Timber Agreement (ITTA), the Framework Convention for Climate Change and of course the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), all of which have direct relevance to forestry issues. Currently, Malaysia is actively engaged in the implementation phase of the above conventions/agreements.

4 CITES AND TIMBER - HISTORY

4.1 What is CITES?

CITES is an international treaty whose terms and conditions have been agreed-to by 160 current member nations. It was negotiated and signed in 1973 and entered into force in 1975. Every member State implements CITES through adopting a set of

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domestic legislation using CITES provisions as a framework. Each Party to CITES are expected to coordinate the work of the Convention domestically and report back to CITES. At the international level the work of the *Convention* is accomplished primarily through regular meetings of the *Plants Committee*, the *Animals Committee*, the *Standing Committee* (which handles administrative functions between each CoP), and biennial *Conference of Parties* (CoP's). Official participants in these forums are delegates from the governments of the member nations.

4.2 Description of how CITES works

CITES regulates the international trade in wild animals and plants and their parts (specimens⁴) when it is determined that this trade does, or potentially could, threaten their continued survival in the wild. After scientific study and open debate at the Conference of Parties of a proposal by a member State, a species can be included in Appendix I or II of CITES (see Annex 1 of this report for the definition of the Appendices) if the proposal obtains a 2/3 majority of accredited Parties present and voting. Shipments of species included in CITES Appendices require an export permit. This permit may only be issued after the Management Authorities of the exporting country have determined that the shipment was legally obtained and that its export will not be detrimental to the survival of the species. These requirements assure exporters, importers, wholesalers, retailers, and consumers that properly-documented products of CITES-listed species come from legal sources and are produced in a sustainable manner. In addition, certain countries have taken stricter measures, for example by requiring an import permit for Appendix II species. Such stricter measures are allowed under Article XIV of the text of the Convention.

In the case for plants, CITES also has provisions to specify the recognisable parts and derivatives for Appendix II and III listings. CITES felt that it was necessary to exclude certain specimens from CITES controls. These exclusions are included as annotations for the specified species. Annotations for timber species are found in Annex 2. The list of annotations stating which parts and derivatives are controlled for tree species are found in Annex 5. CITES Parties can also enter a reservation within 90 days of the notification of a species under Appendix I and II as provided under Article XV paragraph 3 of the text of the Convention. For Appendix III species, Parties can enter a reservation at any time after the listing has been communicated to the Parties by CITES Secretariat as provided in Article XVI, paragraph 2. Once a reservation is taken, that Party shall be treated as a State not a party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation. For example, Malaysia has taken out a reservation on Ramin *Gonystylus* spp. for all parts and derivatives except for logs and sawn timber.

4 Definition of Specimens follows the text of the Convention, Article 1, para (i) any animal or plant, whether alive or dead; (ii) in the case of an animal: for species included in Appendices I and II, any readily recognisable part or derivative thereof; and for species included in Appendix III, any readily recognisable part or derivative thereof specified in Appendix III in relation to the species, and (iii) in the case of a plant: for species included in Appendix I, any readily recognisable part or derivatives thereof, and for species included in Appendices II and III, any readily recognisable part or derivative thereof specified in Appendices II and III in relation to the species.

4.3 History of CITES and timber listing

There are currently at least 49 tree species listed in the CITES Appendices. At the time of the Convention coming into force in 1975, there were 18 tree species listed in the CITES Appendices. Since then, nine of the tree species have been deleted from the Appendices. Five species, again all originally listed in 1975, but not traded are still in the Appendices (see Annex 5 of current CITES-listed tree species and their main use and annotations). Many of the timber species currently in the Appendices are not traded internationally to any large extent and not all of these species are exploited just for timber for construction or similar purposes.

The issue of extinction threat in the context of tree species trade is a controversial topic. Recent attempts to develop means to judge extinction threat to timber species have met with considerable opposition from the timber trade and some governments, among others. Given this situation, it is important that CITES timber listings are judged with reference to scientifically-based or defensible criteria which are appropriate for threatened tree species. More importantly, trade criteria for CITES listing must also be met.

The CITES Timber Working Group (TWG) was created at CoP 9 as a result of these concerns, and because of the reluctance of many range States to have their timber species included in Appendix II – for fear of possible trade bans by member countries. This fear is misplaced as an Appendix II listing only seeks to monitor and control trade so that trade is not contributing to the drastic decline in the survival of the species in the wild. Malaysia (as one country that opposes the listing of timber species in CITES) is an active member of the TWG, and the Director-General of FDPMP is one of the two current Plants Committee member from Asia. The TWG met several times in 1996 and 1997 to pursue the matter and reported back to CoP 10 in Harare, Zimbabwe. The recommendations of the TWG are included in Resolution Conf. 10.13 (See Annex 2 for the text of the Resolution). Of these, two recommendations demonstrate the flexibility of CITES procedures to adapt to specific timber trade regimes; possibility to extend the validity of a permit to 12 months, and the possibility to change destination mentioned on the permit under certain conditions.

CITES permits are normally valid for a maximum of six months only from the date of issuance. This period is sufficient time for the trade to be completed from seller to final destination across international borders. For timber trade, this time restriction may create problems as the harvest to processing prior to export at exporting country has a longer time delay possibility. Shipments may also have to be re-routed at sea or port of original destination, to alternative destinations as markets shift due to demand. Hence, the adoption of Resolution Conf. 10.13 as elaborated above.

At present, CITES is neither designed nor intended to be a general purpose management regime for all international timber trade, but it has the potential to be an effective safety net for some species when other management regime might be failing. As with any traded species, effective international trade controls are only one aspect of management that will need to be addressed if threatened tree species are to be successfully conserved. There are numerous other local, national and international

bodies which have legitimate role to play in the conservation of traded tree species. At the international level, some of the more important players are the Forest Stewardship Council (FSC), the Convention on Biological Biodiversity (CBD), the International Tropical Timber Organisation (ITTO) and the United Nations Forum on Forests (UNFF). None of them will individually be able to solve all the world's forest problems. Recognising this, the attempts to foster a true spirit of cooperation between CITES and these different initiatives is the key to maximising their impact to individually and collectively further the conservation of traded tree species.

4.4 Possible benefits of CITES Appendix listing for timber species

Forest certification encompasses broader requirements than CITES, and together with the ITTO's guidelines for Sustainable Forest Management are the key standards for forest management. Promoting forest certification is a slow, incremental process. Therefore, a CITES Appendix II listing of a tree species should be seen as a complementary strategy which in some ways is more limited in scope as it covers international trade only, and requires the fulfilment of two provisions: that the tree, its timber or by-product has been legally obtained and that the harvest was not detrimental to the survival of the species.

CITES is a mechanism which can operate quickly after the species is listed under the Appendices, in particular to help control illegal logging, as the push toward certification and Sustainable Forest Management is continued. The permits have to be verified at both the export and import points by relevant authorities which issue the permit as well as Customs and perhaps other border controls as well as required by a government. This dual checking mechanism at both export and importing points is a powerful tool that can help in curbing illegal timber trade and hence assist a Party in its management and conservation efforts for timber species.

The work of CITES authorities in both importing and exporting countries can help to assure producers, exporters, importers, wholesalers, retailers, and consumers of wood products that CITES-regulated trade are being legally and sustainably conducted. For Appendix II species, the Convention dictates that exports are allowed with a CITES permit. CITES Appendix II species export is managed so that trade is not detrimental to the survival of the species, or which compromise its role in the ecosystem. A CITES Appendix II listing, therefore, is not a ban or a boycott and should not be misconstrued as such. On the contrary, documentation that can demonstrate legal acquisition and sustainable production could serve as a positive marketing tool in these times of environmental awareness among consumers. In a sense, a CITES permit could well be presented or explained as a 'green certificate' that is already widely accepted by all CITES Parties.

5 CURRENT CITES FRAMEWORK FOR TIMBER SPECIES IN MALAYSIA

The Ministry of Science, Technology and Environment (MOSTE) is the national coordinating Authority for CITES implementation in Malaysia. It is also the CITES Scientific Authority for Malaysia. Because of the differing legal, political and administrative framework among Peninsular Malaysia, Sabah and Sarawak, there are also different Management Authorities for CITES implementation at the state level. Table 2 shows the authorised Management Authorities in Malaysia.

Table 2: CITES Management authorities in Malaysia

Products	Peninsular Malaysia	Sabah	Sarawak
Fauna	Department of Wildlife and National Parks (DWNP)	Wildlife Department (WD)	Forest Department (FDSW)
Fisheries	Fisheries Department (FhD)	Fisheries Department (FhD)	Forest Department (FDSW)
Plants	Department of Agriculture (DOA)	Wildlife Department (WD)	Forest Department (FDSW)
Timber	Malaysian Timber Industrial Board (MTIB)	Malaysian Timber Industrial Board (MTIB)	Forest Department (FDSW)

The following sections will focus on the present CITES implementation for timber species in Malaysia. Table 3 shows the relevant CITES legislations in Malaysia that were reviewed in preparation of this report.

Table 3: Malaysian legislation and relevant agencies responsible for CITES implementation

Corresponding Legislation	Implementing Agency
Federal:	
<ul style="list-style-type: none"> • Customs Act 1967 • Customs (Prohibition of Imports) Order 1998 • Plant Quarantine Regulations 1981 	<ul style="list-style-type: none"> • Royal Customs Department • Royal Customs Department • Department of Agriculture
Peninsular Malaysia:	

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<ul style="list-style-type: none"> • Malaysian Timber Industry Board Act 105 (1973) • National Forest Act 1984 (Amend. 1993) • Wildlife Protection Act 1972 (Amend. 1991) 	<ul style="list-style-type: none"> • Malaysian Timber Industry Board (MTIB) • Forest Department • Department of Wildlife and National Parks (DWNP)
Sarawak:	
<ul style="list-style-type: none"> • STIDC Ordinance (Amendment) 1999 • Forest Ordinance 1958 (rev. 1997) • Sarawak Biodiversity Centre Ordinance and Regulations 1997 • Sarawak Wildlife Protection Ordinance 1998 	<ul style="list-style-type: none"> • Sarawak Timber Industry Development Corporation (STIDC) • Forest Department • Sarawak Biodiversity Centre • National Parks and Wildlife Division (Division of Forest Department)
Sabah:	
<ul style="list-style-type: none"> • Forest Enactment 1968 • Sabah Wildlife Conservation Enactment 1997 • Malaysian Timber Industry Board Act 105 (1973) 	<ul style="list-style-type: none"> • Forest Department • Wildlife Department • Malaysian Timber Industry Board (MTIB)

5.1. Peninsular Malaysia

In Peninsular Malaysia, the Wildlife Department (PERHILITAN) is in charge of CITES for fauna trade only, except for fisheries resources which is under the responsibility of Fisheries Department (Table 2). Its empowering legislation, Protection of Wildlife Act 1972 (Act 76), however, is limited to the fauna trade. For plants and plant products the agency responsible for issuing CITES permit is the Department of Agriculture (DOA). Under Regulation 5 of the Plant Quarantine Regulations 1981, the DOA is authorized to issue import permit for plant and plant products imported into the country (Anon, 2002d). The DOA provides CITES export permits for CITES Appendix I and Appendix II species of plants excluding timber species (this also include Agarwood or gaharu *Aquilaria malaccensis* an Appendix II-listed tree species considered as non-timber). The DOA also issues phytosanitary permits.

For current Appendix III listed timber species i.e. Ramin *Gonystylus* spp, the Malaysian Timber Industry Board (MTIB) is the responsible authority for issuing CITES certificates of origin. MTIB was established in 1973, as a statutory body to undertake the market promotion of timber products and to assist the establishment of timber based industries in Peninsular Malaysia, which was later expanded to include Sabah⁵. As MTIB already has a network to monitor and control the flow of timber

⁵ Due to political jurisdiction, some of MTIB's provisions like taxes are not implemented in Sabah.

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products trade, it has been assigned the role of issuing Certificates of Origin for Ramin *Gonystylus* spp.⁶.

5.2 Sarawak

In Sarawak, the Forest Department (FDSW) is the management authority for CITES. The National Park and Wildlife Division (NPWD), a division within the Forest Department, is the only authorised Division to issue CITES permits for both wildlife and plant products under the Sarawak Wild Life Protection Ordinance 1998⁷ (Table 2). In addition, the Regional Forest Officers (RFO) within the Forest Department were also given the administrative responsibility to issue CITES permit for Ramin *Gonystylus* spp.. In the case of Ramin, the control for import and export is also jointly implemented by the Sarawak Timber Industry Development Corporation (STIDC), a State government statutory body that manages the establishment of timber based industry and promotion of timber products (Anon., 2002)⁸.

In Sarawak, the export of Ramin in the form of logs is prohibited. For the export of Ramin sawn timber, each consignment needs to be supported by a CITES Certificate of Origin issued by the FDSW (NPWD and RFO). Application for this certificate should be supported by the Ramin Sawn timber Export Permit (also issued by FDSW) under section 96 (1)(b). of the Forest Ordinance. Malaysia has a CITES reservation on Ramin parts and derivatives, except for logs and sawn timber. Hence for Ramin parts and derivatives, Malaysia is considered a non-CITES Party. Therefore, Malaysia does not have to issue CITES certificate of origin for those parts and derivatives.

All exports of Ramin parts and derivatives (dowels, mouldings, picture frames, furniture and furniture parts and components) do not require a CITES permit. But Malaysia has a CITES reservation for veneer, plywood and other parts (Refer to Annex 2 for a definition of parts and derivatives for timber). Those reservation parts and derivatives that originate from Sarawak should be supported by a Certificate that states the origin as coming from Malaysia (not CITES document but equivalent) issued by FDSW for each consignment. This is consistent with Article X of the Convention Text on trade with a non-Party. Application of this certificate should be supported by the Export Permit for Ramin Dowels and Mouldings (also issued by FDSW).

Export of Ramin sawn timber sourced from Indonesia is considered as re-export and should be supported by Sarawak CITES re-export certificate for each consignment.

⁶ See Annex 1 for the role and responsibility of a range country for Appendix III listing. Indonesia has included Ramin *Gonystylus* spp. in Appendix III through CITES Notification to the Parties 2001/026 of 18 May 2001.

⁷ This Ordinance does not include CITES Appendix III species.

⁸ STIDC supports the procedures of the Sarawak FD and issues export permits (not CITES permits) for every shipment of Ramin wood products. Each company (manufacturers, exporters and person/s engaged in or associated with timber activities) must be registered with them. STIDC also provide assistance in implementation of CITES through identification of tree species at the entry point.

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The application for the re-export certificate should be supported by a CITES export permit issued by the CITES Management Authority of Indonesia (Anon., 2001a)⁹.

5.3 Sabah

In Sabah the Wildlife Department, empowered through the Sabah Wildlife Conservation Enactment 1997, is in charge of issuing CITES permits for Appendix I and Appendix II species for both animals and plants (including Agarwood *Aquilaria malaccensis*), except for fisheries resources which falls in the ambit of Fisheries Department (Table 2). This legislation include provision for automatic amendments to the CITES Appendices. However, there is no provision within the Enactment to deal with regulation of trade in Appendix III species. During the national deliberation to assign the responsibility for issuance of the Certificate of Origin for Ramin, the administrative process in Sabah was assigned to the MTIB Branch in Sabah, which operates under similar guidelines to those already described pertaining to MTIB in Peninsular Malaysia.

For Malaysia, in addition to the principal agencies that are responsible for implementing CITES, Customs Department is responsible for checking of CITES permits at points of entry and exit. Border controls for CITES species are empowered under Customs Act 1967. This Act is applicable to all States in Malaysia. Customs is empowered to control import and export, check consignments at points of exit and entry. Malaysian agencies can use the power of Customs by requesting for the products and goods to be included in the Customs Prohibition Order which provides for the procedures and permits to be used to accompany the export and import of goods, including CITES specimens.

6 KEY WEAKNESSES WITH CURRENT MALAYSIAN MANAGEMENT FRAMEWORK TO IMPLEMENT CITES FOR TRADE IN TIMBER SPECIES

The weaknesses in implementing CITES for timber species vary between the three regions due to circumstances relating to legislation, policy development and implementation. In general, the weaknesses outlined in this section are not restricted to timber species but are germane to the management of trade in other wildlife species as well.

⁹ This process, however, has now been superseded by the ban of all log exports from Indonesia, and is no longer valid except for the exports by one registered company in Indonesia, PT. Diamond Raya Timber and its associated processing company PT. Uniseraya. This single concessionaire which has been granted a certificate of eco-labelling in Sustainable Forest Management (SFM) will be exempted, and will be given an annual quota based on the annual target of production. This was stated in the supporting statement for Indonesia's Appendix III listing of Ramin *Gonystylus* spp. that was sent to the CITES Secretariat for notification to CITES Parties.

6.1 Legislative Limitations

The provisions to up-date new CITES listings after each CITES Conference of the Parties for Peninsular Malaysia requires adoption of the CITES list through publication in the government gazette. Peninsular Malaysia is able to up-date their listings through gazettal by the Minister of Science, Technology and Environment (MOSTE). Sarawak Wildlife Protection Ordinance 1998 and Sabah Wildlife Conservation Enactment 1997 provides for the automatic up-dating of the CITES list in their schedules.

For the whole of Malaysia, implementation of a CITES Appendix III listing is not included in any legislation that refers to CITES. Hence the present mechanisms for issuing CITES certificate of origin throughout Malaysia do not have strong legal and enforcement provisions.

Sarawak legislation provides for the protection of CITES Appendix I and II listed species. However, CITES Appendix I species, except for those found and totally protected in Sarawak, are not given the strongest protection as required under CITES. Many Appendix I species are placed under Part II protection list of the Schedules under the Sarawak Wild Life Protection Ordinance 1998, which is a lower category of protection status compared to what is obligated under Article III of the Convention Text governing the trade in Appendix I species.

All the Malaysian States should have legal provision to differentiate between pre-convention specimens for Appendix I and II¹⁰. This could be in some form of marking

¹⁰ Pre-Convention specimens

Specimens that are proven to have been acquired before 1 July 1975 are considered pre-Convention, and are exempt from the provisions of the Convention (unless stricter domestic measures apply, such as not recognising pre-Convention status). However, as species have been added over the years, and as countries have acceded to the Convention at different times, determining what is eligible for the pre-Convention exemption for specimens acquired since 1 July 1975 can be confusing. The following should explain how this can be determined.

In considering whether a specimen qualifies for exemption from the provisions of the Convention as a pre-Convention specimen, two important dates must be taken into account, the date of acquisition and the date of reference.

Date of Acquisition

- For live or dead specimens taken from the wild, this is the date of their initial removal from their habitat.
- For parts and derivatives, this is the date of taking possession (the first proven date).

Dates of Reference

- The date of entry into force in the country of export and the date of entry into force in the country of import are considered, and the earliest is the date of reference.

Determining if pre-Convention or not:

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that is difficult to be copied and the specimen can then be accompanied by a pre-convention certificate. However, this provision may be quite difficult to administer and enforce for various reasons including the inability to identify products to species level, inability to date a timber specimen accurately, etc. These constraints may delay or make it impossible for the implementation of a CITES timber species in a country. In some countries, a blanket amnesty could be given when a species comes into force, and this depends on individuals stepping forward to get their certificates by a certain dateline. If individuals procrastinate, then the amnesty process would not work effectively.

There is also no legislative provision to empower competent authorities in Malaysia to refuse to accept permits from exporting countries when they have reasonable grounds to believe that substantial irregularities have been committed. This provision would project a strong commitment on the part of Malaysia to assist in the regulation of trade and to aid in conservation efforts in exporting countries. An even stronger provision is to rule that the Management Authorities must be satisfied that the specimen was not obtained in contravention of the laws of the exporting State, and in accordance with the provisions of the Convention.

6.2 Administrative Constraints

The administration of CITES listings for timber species appears to be straightforward for all three regions. The designated authority can issue permits and check on the shipments. However, administrative coordination between various authorities that are not directly issuing the permits but which have the expertise in identification and management of the resource and products could be improved. For example, while the Department of Agriculture in Peninsular Malaysia is empowered to issue phytosanitary CITES permits for tree seedlings including for timber species, the timber product trade is controlled by MTIB, and the trees are managed by the Forest Department. Staff changes in CITES units also disrupts the efficiency and effectiveness of implementation when key staff members are rotated out of the CITES units.

At the National level, there is a need for greater coordination between the various government ministries and departments, as well as the State agencies on CITES implementation. A National CITES Steering Committee created under the Ministry of Science, Technology and Environment (MOSTE) provides a platform and possible mechanism that would allow for discussion and adoption of coordination protocols. However, the CITES National Steering Committee meets irregularly and the responsibility to report to MOSTE has not been effectively managed. This may

If the date of acquisition is before the date of reference..... YES, pre-Convention

If the date of acquisition is after the date of reference.....NO, not pre-Convention

The Conference of the Parties adopted Resolution Conf. 5.11 on this subject, recommending further that if neither of the dates can be determined, the specimen can not qualify for this exemption, and for cases where species were uplisted or downlisted, the specimens concerned would be subject to the provisions applicable to them at the time of export, re-export or import.

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change following the last National CITES Steering Committee meeting in July 2002, when mechanisms for reporting to the Cabinet was deliberated and will be looked into. A schedule of future meetings has also been discussed. At the ASEAN level, historically, CITES has been coordinated by the Ministry of Primary Industry, even though there has not been a CITES implementing agency under the Ministry until 2002 when Malaysia decided to authorise MTIB as a Management Authority. This decision was notified by the CITES Secretariat to the CITES Parties to confirm MTIB as a responsible agency in Peninsular Malaysia and Sabah to issue CITES permits for Appendix III Ramin *Gonystylus* spp.

As a function of the Management Authority, training of staff within the departments and related agencies is important to create the understanding and knowledge of procedures for CITES implementation. However, CITES training is carried out on an *ad-hoc* basis, although Department of Agriculture has an annual CITES training event for their officers from various DOA divisions.

Another function to which the Management Authorities should allocate budget and other resources is the public awareness and training for government officials on CITES. The general public would be able to assist in providing information on illegal activities if they are aware of their role and how they can help. Government officials are required to understand CITES better to ensure that the conservation policy and development agenda of the nation do not clash but can form a balanced approach.

Parts of Malaysia are progressing towards training their forest rangers and field staff to identify timber trees to species level. When and if timber species is listed on CITES, this action would go a long way towards ensuring Malaysia is well placed to implement CITES for timber species. However, it should be noted that the timber trade mostly only records to trade name only. This is a serious problem in terms of effective and efficient implementation of CITES which requires species names (*i.e.* in Latin nomenclature). However, it is possible for foresters to identify trees for logging to species level with proper training of forest rangers or to use experts in identification when doing the pre-inventory felling activity at the harvest site. This would allow for species to be recorded and marked for identification. The movement of logs is monitored through the use of removal pass that accompanies each truck load of logs from forest to processing destination. At the saw mills, the responsibility in Malaysia to monitor and control the timber products that are produced rests with the MTIB and Sarawak Timber Industry Development Corporation (STIDC). Therefore, if there is a way to integrate species information obtained by the Forest Departments, a chain-of-custody mechanism could possibly be available for use. CITES Resolution 10.13 (See Annex 2) defines timber products to recognisable parts, which excludes furniture and other tertiary manufacturing process. However, further work is required to ensure that this resolution can be practically implemented. The Forest Research Institute of Malaysia (FRIM) is working with the Forest Department of Peninsular Malaysia to re-train foresters on dendrology¹¹ and identification of timber resources to species level. Such identification training project should be carried out in Sabah and Sarawak as well. Further research would be needed to ensure that timber products which have

¹¹ Dendrology is the scientific study of trees

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been reasonably identified to species level prior to delivery for processing can be tracked after leaving the saw mills, veneer manufacturers, and other timber products industry to export points and at import.

A third channel to verify the legality of the permit and consignments in trade is to have the Department of Agriculture carry out additional inspection and checking of certification of consignments for sawn timber and fuel wood and other timber products together with MTIB, and STIDC.

6.3 Monitoring Weakness

The monitoring process for Appendix III Ramin species in terms of chain-of-custody appears to be relatively robust and involves the most appropriate agencies in each region. It is not clear if similar procedures and processes for Appendix I and II timber species would work effectively as there are no such cases at the moment. The rigour of monitoring between Appendix III timber species and those for Appendix I and II differs significantly as there has been no previous precedence (see also Table 4). Obviously then there are no comparative studies for CITES data on timber species in Malaysia at least. The comparative data study is one way of cross-checking trade data supplied from importing to exporting countries, as well as re-exports in an attempt to determine discrepancies in the export figures and those obtained from importing countries for a timber species in trade. Discrepancies need to be checked to determine the cause. Some discrepancies could be legitimate and have nothing to do with illegal activities.

Table 4 : A comparison of CITES Appendix II and Appendix III requirements

Cites Requirements	Appendix II	Appendix III
Parties responsible for implementation	<ul style="list-style-type: none"> All Parties 	<ul style="list-style-type: none"> All Parties
Authorities responsible for implementation	<ul style="list-style-type: none"> CITES Management and Scientific Authorities 	<ul style="list-style-type: none"> CITES Management Authority
CITES documents required for export/ presentation on import	<ul style="list-style-type: none"> Export permit Re-export certificate 	<ul style="list-style-type: none"> Export permit (range States listing the species in Appendix III) Certificate of origin (other range States) Re-export certificate (all countries that re-export)
Standards for document issuance	<ul style="list-style-type: none"> Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that state for the protection of fauna and flora Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species (Article IV) 	<ul style="list-style-type: none"> Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora (Article V)
CITES annual reporting	<ul style="list-style-type: none"> All imports and exports 	<ul style="list-style-type: none"> All imports and exports

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requirements		
Means to secure a listing	<ul style="list-style-type: none"> Proposal submitted to the Conference of Parties agreed by 2/3 majority of Parties present and voting or postal procedure 	<ul style="list-style-type: none"> Request by a range State sent to the CITES Secretariat (Resolution Conf. 9.25 provides further guidance)

Also, the trade records that are kept by the various agencies, such as Forest Departments, Customs, Ministry of Trade and Industry (MITI) are not coordinated in a manner that allows for rapid and ease of checks and balances. The objective and use of the statistics are quite diverse leading to problems of analysis. For instance, MITI would use the statistics to examine foreign exchange revenue but Customs might use the information to analyse illegal transactions. Conservation agencies could if they wish, place a species name, instead of trade name under the Customs schedule, in which case all records should be recorded down to species or trade name level. This is on the premise that the agencies can identify and track the species with reasonable degree of confidence.

The current timber tracking and control mechanisms already include the designation of specified ports of entry and exit to control the movements of timber and timber products in trade. This can be acknowledged under CITES and notified to Parties. The monitoring of potential CITES listed timber species would include coordination through standardised licensing, log marking (Anon., 2001b), permits, removal pass (a paper trail to track log movements domestically), can and should be linked between MTIB or STIDC and the respective State's Forest Department, especially their enforcement units.

6.4 Inadequate Enforcement Mechanisms

Enforcement procedures and processes appear to be in place already for timber species under direct management of the respective Forest Departments and trade agencies such as MTIB, but they are in general not specifically catered to meet CITES obligations. Under the present circumstances, Peninsular Malaysia and Sabah designates the CITES-listed timber species e.g. Ramin *Gonystylus* spp. under the Customs Prohibition Order where the Customs penalties can then be used to enforce the permitting mechanism. This is not ideal for enforcement of CITES species but could offer an interim solution to the problem of effective enforcement. Further options are given and elaborated in Annex 6.

In addition to inadequate legal basis for enforcement, there is inadequate training of enforcement officers in various agencies on the use of the agencies own legislative and enforcement capacity to carry out actions against illegal timber trade. For example, greater coordination and exchange of information between MTIB, STIDC and the Forest Departments may help in greater effectiveness in enforcement actions due to the ability to detect the flow of product description from logs to sawn timber to other timber products. When CITES timber species gets listed in CITES, this training would be important to ensure the effective implementation of CITES in Malaysia.

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The training could include some simple identification of CITES timber species in trade to readily recognisable parts. Such identification manual will not be bulky and the training to use the manual should not be difficult to carry out as there are so few timber species on CITES.

6.5 Lack of ‘non-detriment finding’

Currently, Malaysia does not carry out non-detriment findings for tree species. Except for Agarwood *Aquilaria malaccensis* and Yellow Wood *Podocarpus neriifolius*, there has been no need for a CITES non-detriment study. There are a number of research activities on forests and some timber species being implemented or planned within forest concessions, universities, forest research institutes and centres throughout Malaysia. These include forest inventories, research plots, and transect line studies. The forest inventory of Peninsular Malaysia that forms the basis for allocating extraction volumes and rates can complement or contribute to a non-detriment finding study for specific tree species. Peninsular Malaysia also requires inventories to be carried out for each timber concession that can contribute localised information on species status and distribution. Sabah and Sarawak’s state-wide forest inventory exercise are not complete, hence have to depend on pre-inventory studies carried out for each forest concession. These inventories could contribute adequate information for non-detriment findings if carried out for the whole State. Some donors such as Danish Aid Agency and GTZ have been working with the Forest Departments to carry out tree inventory and tree biological studies in forests in Sarawak and Sabah.

Malaysia needs to urgently institute the procedures and mechanism for carrying out CITES non-detriment findings for Agarwood *Aquilaria malaccensis*. Discussions have begun in some Research Divisions of Forest Departments and Research Institutes to determine the best way forward in conducting scientific studies to determine sustainability of harvest of timber species, which hopefully includes Agarwood as a focal species for research. At the national level, the National Science Academy and various other committees such as Committee on Convention on Biological Diversity (CBD) could work together with MOSTE to coordinate the various relevant researches on potential CITES timber species to ensure that Malaysia are in a position to manage its tree resources effectively for conservation and revenue generation and income for livelihoods.

Another urgent issue related to the non-detriment findings is the need for a functioning Scientific Authority in Malaysia. MOSTE has been the responsible agency since Malaysia joined CITES in 1977. However for various reasons, not limited to staff changes, lack of manpower, knowledge and understanding of CITES obligations, MOSTE requires a lot of support to make it function effectively as Malaysia’s only Scientific Authority. MOSTE has just started discussions to create the protocols and processes that will make it a functioning Scientific Authority for Malaysia.

It is possible to learn from the model for the Malaysian implementation of the responsibilities under the Convention on Biological Diversity (CBD). Malaysian tasks

forces or expert groups on CBD issues are formed which can correspond to the formation of various taxonomic groups under CITES. The delegated lead agencies would constitute each group, and the deliberations on species for listing or non-detriment findings and advice can be fed to the National CITES Steering Committee for adoption or approval.

8 CONCLUSION AND RECOMMENDATIONS

Despite the efforts of ITTO, FAO and other international bodies to promote the sustainable harvest of logs for the timber trade, progress is still undermined by illegal logging and illegal timber trade. CITES is a trade management mechanism. It can complement domestic and international efforts to corroborate the sustainability of timber resources. CITES has well-established processes to encourage compliance by Parties to follow its provisions. This will help Parties to reduce the incidences of illegal timber trade through the verification processes under CITES where importing countries would scrutinise the timber shipments.

The recommendations are in some cases, not restricted to increasing effectiveness of Malaysia's implementation of CITES timber species but for CITES implementation in Malaysia overall. This is because there are inherent weaknesses in the current national CITES mechanisms.

RECOMMENDATION 1: *Peninsular Malaysia should develop a Regulation specifically on CITES with provisions for administration, monitoring and enforcement as well as delegation to appointed authority to various relevant agencies including the Forest Department. Sarawak has to strengthen its list of Scheduled species to give the strongest protection status to CITES Appendix I species. For all States, there is a need to include flora, and flora parts and derivatives into the Wildlife legislations, which could assist in enforcement for timber products, as well as a schedule and procedures for control of CITES Appendix III species.*

In Malaysia, the legislative and policy structures for administering, managing and controlling timber resource are relatively advance and there is a reasonable network of enforcement units scattered throughout the country to carry out enforcement actions. However, these procedures and structures are not relevant to CITES timber species or future CITES timber species listing. There are no provisions in the Forest legislations to carry out CITES provisions even as the Forest Departments, MTIB and STIDC have parallel provisions that could take care of various requirements of CITES. The various possible mechanisms to take care of CITES timber listing have been elaborated and the options discussed during the national-level workshop (see also Annex 6).

Sabah has the legal requirements in the Wildlife Conservation Enactment 1997 to implement CITES including automatic up-date of CITES listings. There is no significant issue that can constrain the implementation of timber species under CITES in the State, except for administrative issue of identification of timber species as there is no expertise within the Wildlife Department. However, secondment of experts from

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Sabah Forest Department could overcome this obstacle, or the provisions in the Wildlife Conservation Enactment can be delegated to the Forest Department or other appropriate agencies in the State.

Sarawak has most of the legal requirements to implement CITES, with the exception of strengthening their schedule for Appendix I CITES species and to include Appendix III species in the Wildlife Protection Ordinance 1998 schedule. Other than this weakness, the State has the designated Management Authority to handle any listing of timber species in Appendix II of CITES.

In Peninsular Malaysia, CITES implementation for species other than that protected within the Wildlife Protection Act 1972 has been the weakest in the country for there is no provision for the protection of flora, including timber species. The most acceptable option for Peninsular is to design a new regulation that would have provisions to delineate the role and responsibility among various agencies, provide the administrative procedures and provisions, management and enforcement provisions for all the agencies in Peninsular that should be involved in implementing CITES trees listing.

RECOMMENDATION 2: *All States should increase the coordination and cooperation between agencies that are implementing CITES for timber species or with the potential or expertise to assist in implementing CITES.*

In Peninsular Malaysia, in addition to the Wildlife Department (DWNP), these agencies include the Department of Agriculture (DOA), Malaysian Timber Industry Board (MTIB), Forest Department Peninsular Malaysia (FDPM), Forest Research Institute Malaysia (FRIM), Ministry of Primary Industry (MPI), and Customs. Each are able to provide some aspects of administrative support for CITES implementation. For example, identification of timber species in trade for logs, sawn timber, and cross checking of CITES permit. In Sabah, in addition to the Wildlife Department Sabah, these agencies include the MTIB, FDS, with possible roles for DOA, the State University, and the Customs. These varied agency involvement could only be harnessed effectively and efficiently if there are regular coordination meetings, training programmes to improve the understanding and their roles and responsibility to implement CITES in the country. Sarawak CITES implementation is mainly under one agency, the Sarawak Forest Department, with the National Parks and Wildlife Division (NPWD) taking on the main responsibility for implementing CITES. The NPWD has ready access to expertise and resources of the Forest Department. Even so, enhancing coordination within the Forest Department Sarawak, and with Sarawak Timber Industry Development Corporation (STIDC) and Customs will further improve the effectiveness of CITES implementation for timber in the State. STIDC especially has the State mandate to monitor and control trade in timber products.

RECOMMENDATION 3: *All States should work closely to improve the monitoring of the timber trade domestically and internationally.*

Timber trade data are obtained and kept by various agencies using a standard form and format mostly. These data are used in economic analysis and to assist in timber

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trade management. They are in general, not analysed for detecting illegal timber trade. The established timber extraction and trade control could be improved through greater coordination between Customs, the various Forest Departments that manage the resource, and the statutory bodies, like MTIB, and STIDC that manage the timber products and trade to gain a seamless integration in monitoring movements of logs and timber products both internally and internationally.

RECOMMENDATION 4: *Enforcement efforts can be improved through better coordination and the use of various capability and capacity within forest and timber trade enforcement agencies in Malaysia, as well as Customs.*

Currently the Forest Departments, MTIB, STIDC and Customs have the necessary capacity and capability to deal with illegal harvesting and illegal timber trade in Malaysia. Regular meetings are held within the timber sector in Malaysia, for instance the meetings that resulted in the administrative arrangements for issuing CITES permits for Appendix III Ramin *Gonystylus* spp. Regular national level coordination meetings on enforcement issues would enhance the control of forestry crimes in the country and also to stop the movement of illegal timber shipments into the country. This would be a valuable boost towards increasing the competitiveness of Malaysia's legitimate timber industry, and at the same time gain international recognition for Malaysia by assisting other Parties to control their illegally exported timber and timber products. The forest crimes could be enforced through provisions in the forest laws, and/or using Customs provisions. The possibility of using either of the legal structures under Customs or Forestry towards prosecuting forest crimes means that Malaysia can control both import and export of forest products, as well as domestic timber trade.

RECOMMENDATION 5: *Current research plans for forest species by various bodies in Malaysia should devote some of their efforts towards research on selected tree species in Malaysia which can benefit from using some form of eco-labelling, including possible use of CITES Appendix II listing.*

The objectives of the various research plans currently being developed or implemented in Malaysia do not include the direct link to the possibility of labelling the tree species for conservation or the export market. A number of governments in developed countries in Europe, and consumer companies marketing timber products are especially moving towards the use of certified timber species. CITES is the most widely known scheme that is equivalent to a form of certification or eco-labelling. The chain-of-custody procedure that is implicit in the issuance of a CITES permit is similar to those required for certification schemes such as Forest Stewardship Council (FSC). Malaysia, with the resources available for research is well-placed to carry out such research needs for tree species that can assist in economic and conservation efforts of the country.

RECOMMENDATION 6: *The Ministry of Science, Technology and Environment (MOSTE) has to take the lead in providing advisory services as required under the provisions of Article III, IV and IX of CITES on the role of a Scientific Authority.*

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Currently, MOSTE do not have the manpower and capacity to take the lead as the designated Scientific Authority for Malaysia. However, it has set in motion the mechanism to carry this out through the creation of sub-committees and task forces on taxonomic species under the CITES National Steering Committee. This mechanism can function effectively provided MOSTE provides the coordination, guidance and leadership qualities. MOSTE can use its influence with various Ministries to ensure funding allocation to make the mechanism work, and that resources for research can be apportioned based on a balanced approach to national interest to protect the economic, social and conservation needs of the country.

RECOMMENDATION 7: *Malaysia has an established system for administering, monitoring and enforcement for timber species and trade. Malaysia has already contributed to deliberations of the CITES Timber Working Group that came out with a flexible system to assist in timber trade. Malaysia could further take the lead in reducing some of the difficult CITES implementation issue for timber species, such as identification problems if and when any timber species are listed under CITES.*

Malaysia has been implementing CITES for the last 25 years and the time has come for Malaysia to be considered as a category 1 CITES implementing Party. Malaysia can and should take the lead in encouraging other lesser nations to become more effective in implementing CITES for the benefit to global species conservation while generating a steady stream of income from sustainable exploitation of wildlife, especially timber species given the huge economic and conservation impact of the industry and trade both domestically and internationally.

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The Sarawak Biodiversity (Access, Collection and Research) Regulations 1998, Sarawak Government Gazette Part II, Vol. LIII (55).

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Wildlife Rules 1998, Government Gazette, Vol LIII (S4), Sabah

Annex 1: Definition for CITES Appendix I, II, III

CITES (The *Convention on International Trade in Endangered Species of Wild Fauna and Flora*) is an international treaty that regulates trade and ensures sustainable utilization of the species. It strives to protect certain plants and animals that are determined to be threatened by international trade, based on import and export permits, on species listed in three Appendices. It operates through a system of permits.

Appendix I

Appendix I applies the most stringent controls to trade. This level of protection is reserved for those species determined to be imminently threatened with biological extinction. Trade in listed wild specimens is not permitted for commercial purposes. Trade in artificially propagated specimens, however, is permitted. An export permit, issued by the Management Authority of the exporting country, is necessary to verify that these are legally obtained specimens. Legally obtained is defined as wild specimens for scientific/non-commercial purposes, those removed from the wild before their inclusion in the CITES appendices, or specimens from certain plantations or forestry practices determined as artificial propagation. An import permit from the destination country is required for wild specimens only.

Appendix II

Species listed in Appendix II are not currently threatened with extinction, but may become so if trade is not regulated. International trade in species on Appendix II is allowed, as long as an export permit has been issued by CITES Management Authority from the exporting/ originating country, based on certain required findings of legality and sustainability. Documents must be verified on import.

Appendix III

Appendix III includes species listed by an ‘individual’ State in an effort to enlist international cooperation to control trade from their country. Any Party may include a species for which it is a range country in Appendix III, and this does not require a proposal to be submitted to and approved by the CoP. While these listings are country specific, their implementation is the shared responsibility of all exporting and importing countries. The listing country must issue an export permit to accompany shipments. Countries not taking a listing must issue a CITES certificate of origin to demonstrate that the shipment is coming from a country other than the one that requested the listing. Documents must be verified on import.

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**Annex 2: Resolution Conf. 10.13
Implementation of the Convention for timber species**

RECOGNIZING that amendment proposals should contain the maximum amount of biological and trade information on the taxon concerned;

AWARE that such information is frequently available from international organizations that have expertise related to timber trade and/or forest management;

RECOGNIZING that parts and derivatives mentioned in the Interpretation of Appendices I and II and in the Interpretation of Appendix III should be clearly defined;

EMPHASIZING the need for Parties to adequately report on their annual trade in timber and to use agreed units of measurement;

RECOGNIZING that identification sheets suitable for inclusion in CITES Identification Manuals have not yet been published for any of the timber species currently included in the Appendices of the Convention;

AWARE that unambiguous identification of timber, by its nature, can be a complex procedure, requiring particular expertise;

RECOGNIZING also that the development of timber identification materials is essential for the effective implementation of the Convention and that the cost of production will be considerable;

NOTING that the approach that authorities of some countries have taken, whereby they meet with timber trade groups and enforcement officers and agree to use standard nomenclature for vernacular and corresponding scientific names of timber species, appears to be a useful one;

NOTING further that the objective of the Convention is to ensure the conservation of wild fauna and flora for this and future generations through the protection of certain species against over-exploitation through international trade;

NOTING also that the Convention can play a positive role in promoting the conservation of animals and plants, including timber species, through trade in accordance with the requirements of Articles III, IV and V of the Convention and through improving trade monitoring for evaluation of biological status and effective enforcement;

RECOGNIZING that commercial trade may be beneficial to the conservation of species and ecosystems when carried out at levels that are not detrimental to the survival of the species in question;

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RECOGNIZING also that Parties have the right to take stricter domestic measures concerning any species listed in the Appendices;

AWARE that such measures can have effects unrelated to the conservation of listed species and could be taken for purposes not directly related to the purpose for which the species concerned were included in the CITES Appendices;

NOTING also that there are misconceptions that inclusion of a species in Appendix II or III represents a ban on trade in that species;

RECOGNIZING that such misconceptions can have negative impacts including the prohibition of or restriction on the use of CITES-listed timber species by architects, engineers, commercial businesses and others, and reduced use of such items by consumers;

ACKNOWLEDGING that education is an important tool in the effective implementation of the Convention;

NOTING that many internationally traded timber species, boreal, temperate and tropical, can be managed on a sustainable basis through the application of appropriate silvicultural techniques, but that for other timber species such knowledge is currently lacking;

NOTING that some timber species may be under threat because of detrimental levels of use and international trade;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION
RECOMMENDS that:

Regarding international organizations

- a) any Party that intends to present an amendment proposal for a timber species (irrespective of other agreed procedures) should consult with at least four different organizations listed in the table below [two from each of the two types (B and T)], to verify or request biological and trade data and should include any relevant information in the amendment proposal before this is sent to the Secretariat for distribution to the Parties; and

Acronym	International organization	Data	
ATO	African Timber Organization		T
ATTO	Asian-Pacific Timber Trade Organization		T
CIFOR	Center for International Forestry Research	B	
FAO	Food and Agricultural Organization of the United Nations; Forestry Department	B	T
IBFRA	International Boreal Forest Research Association	B	
IHPA	The International Wood Products Association		T

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ITTO	International Tropical Timber Organization	B	T
IUFRO	International Union for Forest Research Organizations	B	
IUCN	IUCN-The World Conservation Union	B	
SPT-TCA	Pro-tempore Secretariat of the Treaty for Amazonian Cooperation	B	
TRAFFIC	Trade Records Analysis of Flora and Fauna In Commerce	B	T
UCBD	Union pour le Commerce des Bois Durs dans l'U.E. (European Hardwood Federation)		T
WCMC ¹	World Conservation Monitoring Centre	B	
WWF	World Wide Fund for Nature	B	
B = Biological data T = Trade data			
¹ From July 2000, called UNEP World Conservation Monitoring Centre (UNEP-WCMC)			

b) when any proposal is submitted to amend the CITES Appendices for timber species, for the implementation of paragraph i) of the second RESOLVES of Resolution Conf. 9.24, the Secretariat should seek the views of ITTO, FAO and IUCN and present these to the Conference of the Parties;

Regarding parts and derivatives

c) the following definitions be applied with respect to the current annotations #5 and #6:

i) Logs

All wood in the rough, whether or not stripped of bark or sapwood, or roughly squared, for processing, notably into sawn wood, pulpwood or veneer sheets (HS code 44.03¹);

ii) Sawn wood

Wood simply sawn lengthwise or produced by a profile-chipping process. Sawn wood normally exceeds 6 mm in thickness (HS code 44.06¹, HS code 44.07¹); and

iii) Veneer sheets

Thin layers or sheets of wood of uniform thickness, usually 6 mm or less, usually peeled or sliced, for use in making plywood, for veneering furniture, veneer containers, etc. (HS code 44.08¹); and

d) for the purpose of annotations in the Appendices for parts and derivatives of species traded as timber, definitions to be used should, to the extent possible, be based

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on the tariff classifications of the Harmonized System of the World Customs Organization;

Regarding amendment proposals for timber species

e) proposals for the inclusion of timber species in Appendix II or III indicate clearly which parts and derivatives should be regulated; and

f) where these are different from the parts and derivatives included in the current annotation #5, the proponent also propose the relevant amendment to Resolution Conf. 10.2² if the procedures for extending the period of validity of, and/or changing the destination on, the export permit or re-export certificate should apply;

Regarding the definition of 'artificially propagated'

g) timber taken from trees grown in monospecific plantations be considered as being artificially propagated in accordance with the definition contained in Resolution Conf. 9.18 (Rev.)³;

Regarding improvement of public understanding of the role of the Convention in the conservation of timber species

h) Parties consider any possible deleterious conservation and trade impacts before they impose stricter domestic measures on trade in timber specimens of species included in Appendix II or III; and

i) Management Authorities work with governmental agencies (including local governments), non-governmental organizations, industry and the general public to develop and provide information on the objectives, provisions and implementation of the Convention to counter the misconception that the inclusion of species in the Appendices represents a ban on the trade in specimens of these species, and to disseminate the message that international trade and utilization of timber species included in Appendices II and III are generally permitted and can be beneficial; and

Regarding timber species of concern

j) the range States pay particular attention to internationally traded timber species within their territories for which the knowledge of the biological status and silvicultural requirements gives cause for concern.

¹ HS refers to the Harmonized System of the World Customs Organization describing and coding goods in trade. The codes referred to in this document for timber include the following

44.03 - Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared

44.06 - Railway or tramway sleepers of wood

44.07 - Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm

44.08 - Veneer sheets and sheets for plywood (whether or not spliced) and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness not exceeding 6 mm

² Amended at the 11th meeting of the Conference of the Parties

³ Replaced by Resolution Conf. 11.11

Annex 3: List of people consulted during the course of the project

State	Name of the person	Organization/ agency represented	Contact No.	
Sabah	Mr. Sam Mannan Deputy Director	Forestry Department, Sabah	Tel: 089 – 660126 Fax: 089 - 669170	
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	Mr. Christopher A. Matunjau	Forestry Department, Sabah	pnplh.bc.htan@sabah.gov.my Tel: 089 – 660811 Fax: 089 - 669170	
	Mr. Andurus Abi Economy, Industry & Statistics Division	Forestry Department, Sabah	peecon.htan@sabah.gov.my Tel: 089 – 660726 Fax: 089 - 666170	
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	Mr. Robert Ong	Forest Research Centre	frc@tm.net.my Tel: 089 – 531184 Fax: 089 – 531068	
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	Mr. Yip Kin San	Department of Agriculture (Quarantine)	Tel: 088 – 283264 Fax: 088 – 239046	
	Mr. Mohd Yusof Hj. Othman	Royal Customs Malaysia	Tel: 088 – 211511 ext. 121 Fax: 088 - 233217	
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	Mr. See Yu Seong Assistant Treasurer General	Sabah Timber Industries Association	stia@tm.net.my Tel: 088 – 249186 Fax: 088 - 233516	
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Annex 4: Participant's list for the series of workshops held for the project

1 st series of State-level Workshops	Name of the person	Organization/ agency represented
State: Sabah Date: 7 th March 2002 Time: 9.00 am – 12.30 pm Venue: Sabah Wildlife Department, Kota Kinabalu	Mr. Augustine Tuuga	Sabah Wildlife Department
	Mr. Mohd. Sopian	Sabah Wildlife Department
	Mr. Andurus Abi	Sabah Forestry Department
	Tn. Hj. Mahpar Atan	Malaysian Timber Industries Board
	Dr. Sining Unchi	Forest Research Centre (FDS)
	Mr. Frankie Gidju	Sabah Timber Industries Association
State: Sarawak Date: 13 th March 2002 Time: 9.00 am – 12.30 pm Venue: Sarawak Forests Department Petra Jaya, Kuching	Mr. Ali Yusof	Sarawak Forest Department
	Mr. Engkamat Lading	National Parks and Wildlife Division (FDSW)
	Mr. Pascal Dagang	National Parks and Wildlife Division (FDSW)
	Mr. Julaihi Abdullah	Forest Research Centre (FDSW)
	Mrs. Dayang Nena	Sarawak Timber Industry Development Corporation
	Mr. Meekiong Kalu	Sarawak Biodiversity Centre
	Mr. Barney Chan	Sarawak Timber Association
	Ms. Celina Yong	Sarawak Timber Association
State: Peninsular Malaysia Date: 29 th March 2002 Time: 9.00 am – 12.30 pm Venue: Department of Wildlife and National Parks, Cheras, Kuala Lumpur	Mr. Burhanuddin Mohd. Nor	Ministry of Science, Technology and Environment
	Mr. Ahmad Loman	Ministry of Primary Industry
	Mrs. Khairiah Mohd. Sharif	Department of Wildlife and National Parks
	Mr. Loo Kean Seong	Department of Wildlife and National Parks
	Mrs. Kassmiza Kassim	Department of Wildlife and National Parks
	Mr. Pasil Abdul Patah	Department of Wildlife and National Parks
	Mr. Che Nor Che Ismail	Department of Wildlife and National Parks
	Mr. Ismail Mahmud	Department of Wildlife and National Parks
	Mr. Masran Md. Salleh	Forestry Department Peninsular Malaysia
	Dr. Lilian Chua	Forest Research Institute Malaysia
	Mr. Mohd. Khairuddin Md. Rani	Malaysian Timber Industry Board
	Mr. Wan Deraman Wan Salleh	Malaysian Timber Industry Board
	Mr. S. Ramasamy	Department of Agriculture

2 nd series of State-level Workshops	Name of the person	Organization/ agency represented
State: Sabah Date: 26 th April 2002 Time: 9.00 am – 12.30 pm Venue: Sabah Wildlife Department, Kota Kinabalu	Mr. Augustine Tuuga	Sabah Wildlife Department
	Mr. Christopher A. Matinjau	Sabah Forestry Department
	Mr. Andulus Abi	Sabah Forestry Department
	Mr. Mazree Iman	Malaysian Timber Industries Board
	Dr. Sining Unchi	Forest Research Centre
	Mr. Mohd Yusof Hj. Othman	Royal Customs Department, Sabah
	Mr. Yip Kin San	Department of Agriculture (Quarantine)
	Mr. Frankie Gidju	Sabah Timber Industries Association
State: Sarawak Date: 16 th April 2002 Time: 9.00 am – 12.30 pm Venue: Sarawak Forests Department Petra Jaya, Kuching	Dr. Lee Hua Seng	Sarawak Forest Department
	Mr. Ali Yusof	Sarawak Forest Department
	Mr. Engkamat Lading	National Parks and Wildlife Division (FDSW)

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	Mr. Pascal Dagang	National Parks and Wildlife Division (FDSW)
	Mrs. Lucy Chong	Forest Research Centre (FDSW)
	Mrs. Rahmah Biak	Natural Resources & Environment Board
	Mr. Manaffery Madham	Natural Resources & Environment Board
	Mr. Meekiong Kalu	Sarawak Biodiversity Centre
	Mrs. Nolle Lily Morse	Royal Customs Department, Sarawak
	Mr. Abang Yusuf Abang Hassan	Department of Agriculture, Sarawak
	Ms. Celina Yong	Sarawak Timber Association
	Mr. Anthony Sebastian	Malaysian Nature Society
State: Peninsular Malaysia Date: 3 rd May 2002 Time: 9.00 am – 12.30 pm Venue: Department of Wildlife and National Parks, Cheras, Kuala Lumpur	Mrs. Khairiah Mohd. Sharif	Department of Wildlife and National Parks
	Mr. Loo Kean Seong	Department of Wildlife and National Parks
	Mrs. Kassmiza Kassim	Department of Wildlife and National Parks
	Dr. Lilian Chua	Forest Research Institute Malaysia
	Mr. Mohd. Khairuddin Md. Rani	Malaysian Timber Industry Board
	Mrs. Mangaiyarkarasi a/p S. Manickam	Royal Custom and Excise
	Mrs. Noorainie Awang Anak	Traffic SEA

National-level Workshop	Name of the person	Organization/ agency represented
State: Wilayah Persekutuan PutraJaya Date: 24 th July 2002 Time: 2.00 – 5.00 pm Venue: 4 th Flr. Meting Room , MOSTE, PutraJaya	Mr. Burhanuddin Mohd. Nor	Ministry of Science, Technology and Environment
	Mr. Abdul Rashid Samsuddin	Department of Wildlife and National Parks
	Mr. Loo Kean Seong	Department of Wildlife and National Parks
	Mrs. Kassmiza Kassim	Department of Wildlife and National Parks
	Mr. Ahmad Loman	Ministry of Primary Industry
	Mr. Masran Md. Salleh	Forestry Department Peninsular Malaysia
	Dr. Lilian Chua	Forest Research Institute Malaysia
	Mr. Mohd. Khairuddin Md. Rani	Malaysian Timber Industry Board
	Mr. S. Ramasamy	Department of Agriculture
	Mr. Augustine Tuuga	Sabah Wildlife Department
	Mrs. Dayang Nena	Sarawak Timber Industry Development Corporation
	Mr. Julaihi Abdullah	Sarawak Forest Research Centre
	Mrs. Noorainie Awang Anak	Traffic SEA
	Mr. James Compton	Traffic SEA

Annex 5: Tree species currently listed in the CITES Appendices

Appendices	Scientific Name Common Name	Distribution	Year Listed	NOTES (Uses and annotations)
Appendix I	<i>Abies guatemalensis</i> Guatemalan fir	Central America	1975	(Timber) NT
	<i>Araucaria araucana</i> (Popn of Chile) Monkey-puzzle tree	Argentina, Chile	1975	Originally listed in Appendix II, Chilean population transferred to Appendix I in 1979.
	<i>Dalbergia nigra</i> Brazilian rosewood	Brazil	1992	(Timber)
	<i>Fitzroya cupressoides</i> Alerce	Argentina, Chile	1975	(Timber) T Chile coastal population transferred to Appendix II in 1983 and back to Appendix I in 1987
	<i>Pilgerodendron uviferum</i> Parlatore's podocarp	Argentina, Chile	1975	NT
	<i>Podocarpus parlatorei</i> Parlatore's podocarp	Argentina, Bolivia, Peru	1974	
Appendix II	<i>Aquilaria malaccensis</i> Agarwood	India, Bhutan, Myanmar, Bangladesh, Malaysia, Indonesia and Philippines	1995	(Medicinal/Aromatic) #1
	<i>Araucaria araucana</i> (excl. popn. of Chile) Monkey-puzzle tree	Argentina, Chile	1975	T Originally listed in Appendix II, Chilean population transferred to Appendix I in 1979. #1
	<i>Caryocar costaricense</i> Aji	Costa Rica, Panama	1975	(Timber) #1
	<i>Guaiacum officinale</i> Commoner Lignum Vitae	Caribbean, Columbia, Venezuela	1992	(Timber) #1
	<i>Guaiacum sanctum</i> Holywood Lignum Vitae	Central America	1975	(Timber) T #1
	<i>Oreomunnea pterocarpa</i> Caribbean Walnut	Costa Rica	1975	(Timber) NT Originally listed in Appendix I, 1975 transferred to Appendix II in 1992. #1
	<i>Pericopsis elata</i> * Afrormosia	West Africa	1992	(Timber) #5
	<i>Platymiscum pleistachyum</i> Quira macawood	Costa Rica	1975	(Timber) Originally listed in Appendix I; transferred to Appendix II in 1989. #1
	<i>Prunus africana</i> African cherry/stinkwood	Angola, Burundi, Cameroon, Ethiopia, Kenya, Madagascar, Mozambique,	1995	(Timber/ Medicinal) #1

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		Rwanda, South Africa, Sudan, Swaziland, Tanzania, Uganda, Zaire and Zambia		
	<i>Pterocarpus santalinus</i> Red sandalwood	India	1995	(Timber/ Medicinal) #6
	<i>Swietenia humilis</i> Mexican mahogany	Central America	1975	(Timber) NT #1
	<i>Swietenia mahogany</i> American mahogany	Caribbean, USA	1992	(Timber) NT #5
Appendix III	<i>Cedrela odorata</i> West Indian Cedar	Central America, Caribbean and South America (Argentina, Brazil, Colombia, Peru and Venezuela)	2001 2002	Peru Colombia #2 ³
	<i>Gonystylus</i> spp. Ramin	Indonesia, Brunei, Malaysia, Singapore, Papua New Guinea and Solomon Islands.	2002	Indonesia = 27 species (Timber)
	<i>Podocarpus nerifolius</i> Yellow wood	Nepal, India, Indochina, Thailand, Malaysia, Indonesia, Papua New Guinea, Solomon Islands and Fiji.	1975	Nepal #1 ³
	<i>Swietenia macrophylla</i> Big-leaf mahogany	Central America and South America (Bolivia, Brazil, Colombia, Ecuador, Peru and Venezuela)	1995 1998 1999 2001 2002	(Timber) Costa Rica Bolivia, Brazil Mexico Peru Colombia #2 ³

NOTES:

T Included since 1975, but currently traded
 NT Included since 1975, but currently not traded

#1 Designates all parts and derivatives, except:
 a) seeds, spores, and pollen (including pollinia)
 b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
 c) cut flowers of artificially propagated plants

#2 Designates all parts and derivatives, except:
 a) seeds and pollen;
 b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
 c) cut flowers of artificially propagated plants; and
 d) chemical derivatives and finished pharmaceutical products

#3 Designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas and confectionery

#4 Designates all parts and derivatives, except:
 a) seeds, except those from Mexican cacti originating in Mexico, and pollen;
 b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
 c) cut flowers of artificially propagated plants

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- d) fruits and parts and derivatives thereof of naturalised or artificially propagated plants; and
- e) separate stem joints (pads) and parts and derivatives thereof of naturalised or artificially propagated plants of the genus *Opuntia* subgenus *Opuntia*

#5 Designates logs, sawn wood and veneer sheets

#6 Designates logs, wood-chips and unprocessed broken material

#7 Designates all parts and derivatives, except:

- a) seeds, spores, and pollen (including pollinia)
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
- c) cut flowers of artificially propagated plants; and
- d) fruits and parts and derivatives thereof of artificially propagated plants of the genus *Vanilla*.

The numbering for annotations in Appendix III has been revised using the superscript ³, in order to distinguish the numbers of annotations from those in Appendix I and II.

#1³ Designates all parts and derivatives, except:

- a) seeds, spores, and pollen (including pollinia)
- b) seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and
- c) cut flowers of artificially propagated plants

#2³ Designates logs, sawn wood and veneer sheets

#3³ Designates, in addition to whole animals, fins and parts of fins only.

Annex 6: Complementary mechanisms to implement CITES timber species listing in Malaysia

In Malaysia the present CITES framework is not adequate to implement the Convention for timber species listed on Appendix I and II. There are a number of weaknesses that needs to be addressed to get better implementation of CITES in the country as elaborated in preceding sections of this report. However, these weaknesses are not major obstacles for Malaysia to have more effective implementation of CITES timber species. There are a number of options that the States in Malaysia could take to improve the CITES implementation for tree species. Historically, at each CITES CoP, only a few tree species were proposed for listing. This trend does not appear to be changing. Hence, the CITES options to complement current timber administration and management in Malaysia will be mutually exclusive according to the possibility of a tree species listed under Appendix I or II. The options that appear to be logical and in many cases are based to a large extent on present forest and timber trade controls supported by various government agencies are listed below.

A. Possible Appendix I mechanisms

OPTION 1:

The Wildlife Act referring to CITES for Peninsular Malaysia has provisions to update the Schedules within the legislation through an act of gazette by the Minister of Science, Technology and Environment. Hence, it would not prove a daunting task to get up-dated CITES list within the Schedules where legal provisions such as administration and enforcement actions can be undertaken. However, the Wildlife Act does not include provisions for flora species although the Attorney General's office is looking into this. Sabah and Sarawak have the best resolution through automatic updating of their Schedules after each CITES CoP. The main concern expressed has been the reluctance of the Departments and supervising Agencies involved in Sabah and Peninsular for CITES to include plant species (including timber species) that are not considered as traditionally under the purview of the Wildlife Departments.

OPTION 2:

Appendix I timber species could theoretically be placed under Regulation 5 of the Plants Quarantine Regulations 1981, which authorises the Department of Agriculture (DOA) to issue import permits for plant and plant products imported into the country. This would correspond to the need for an import permit for Appendix I species. For export permit, there is already provision using Customs (Prohibition of Exports) Order 1998 where DOA can list the species which needs the permit, and details the types of forms and fees to be used and paid.

In both the options above, the Ministry of Science, Technology and Environment (MOSTE) as the Scientific Authority would still need to approve the import and export of Appendix I species. The administrative paperwork can be handled by the Wildlife Departments in Peninsular Malaysia and Sabah, or the National Parks and Wildlife Division of the Forest Department in Sarawak, or in Option 2, the permits can be issued by the Department of Agriculture (DOA).

B. Possible Appendix II mechanisms

i. PENINSULAR MALAYSIA

OPTION 1¹²:

The authority already empowered to DOA can be used to handle timber species as well, if DOA is not disinclined to handle timber species and the Forest Department and timber agencies and industry can support such a mechanism. The Regulation 5 as stated in the above elaboration for Appendix I is applicable here. At the same time the inclusion of CITES timber species in the Customs (Prohibition of Exports) Order 1998 on the request of DOA would be sufficient to ensure the administration and possible enforcement of CITES Appendix II timber species.

OPTION 2:

There is an option to continue with the current mechanism under MTIB. The administration for Appendix II can be assigned by the Minister of MOSTE, via the Ministry of Primary Industry, the parent Ministry of MTIB. MTIB has the provisions to administer, manage and control timber products trade, and similar to the Forest Department, has provisions that are needed to enforce CITES under the Customs (Prohibition of Export) Order 1998.

OPTION 3:

The Forest Department of Peninsular Malaysia has the network of offices and enforcement capacity to carry out the administrative, management and control of forest resource from the trees to the timber mills. For logs, the control is to the point of exit. These mechanisms and legal provisions can be used to implement CITES provided the forest legislation is changed to reflect CITES articles for issuing permits.

OPTION 4:

Peninsular Malaysia has a number of different agencies that has been given responsibility to issue CITES permits. But the legal basis for enforcement is not provided for. Hence, if all the responsibilities of the various agencies such as MTIB, Forest Department, and Agriculture Department can be amalgamated in one piece of legislation this would make the administration, management and control of CITES implementation for timber species much more effective.

This option suggests that a new Regulation, listing the role, responsibility and enforcement structure and penalty for CITES specific provisions be attached to Wildlife Act 1972. The Attorney-General's office has to study the Act carefully as the Act does not appear to include flora species.

¹² The main disinclination to DOA or DWNP issuing CITES permit for timber is the inability of the agencies to identify timber species. This could partly be overcome by placing a staff of the Forest Department or Forest Research Institute/ Centre within the CITES units of DOA or DWNP to handle timber identification and issuance of permits.

ii. SABAH

OPTION 1:

Similar to the case for Appendix I, timber species could be included in the Sabah Wildlife Conservation Enactment 1997 schedules of protected species. This is carried out automatically. The actual implementation of issuing permits, managing and controlling the timber species can be delegated to the Sabah Forest Department and MTIB as provided for under the Enactment. Alternatively, the Wildlife Department can issue the permits themselves.

The main contention against Sabah Wildlife Department issuing CITES permit for timber is the inability of the Department to identify timber species. This can partly be overcome by placing a staff of the Forest Department (more appropriately from the Forest Research Centre) within the Wildlife Department's CITES units to handle timber identification and issuance of permits. In addition, if regulation of trade in timber species is to be effectively enforced, there should be provisions in the Sabah Wildlife Conservation Enactment to use the Forest Department's provision for chain-of-custody, and that plant products should not exclude those timber products that have undergone process of heat and drying.

OPTION 2:

An alternative option is to continue with the current mechanism under MTIB extending the responsibility to include Appendix II timber species. The administration for Appendix II can be assigned by the Minister of MOSTE, via the Ministry of Primary Industry, the parent Ministry of MTIB, in consultation with the Sabah State Government. MTIB has the provisions to administer, manage and control timber products trade, and similar to the Forest Department, has provisions that are needed to enforce CITES under the Customs (Prohibition of Export) Order 1998.

OPTION 3:

Forest Department of Sabah has similar networks to those elaborated under Option 3 in Peninsular Malaysia. The State forest offices can carry out the administrative, management and control of forest resource from the trees to the timber mills. For logs the control is to the point of exit from the country. These mechanisms and legal provisions can be used to implement CITES provided the forest legislation is changed to reflect CITES articles for issuing permits.

iii. SARAWAK

The current responsibility and function of the National Parks and Wildlife Division in the Sarawak Forest Department, as the CITES implementing unit is already able to carry out Appendix II CITES provisions. The implementation of CITES measures can be strengthened if the coordination in verification of CITES permit can include STIDC given their role and responsibility to monitor trade in timber products in the State.