



MENTERI PERUSAHAAN PERLADANGAN DAN KOMODITI MALAYSIA
(Minister of Plantation Industries and Commodities Malaysia)

KPPK C 1/3 Jld.2 (62)
17 February 2011

H. E. State-Secretary Mr. J.J.C.M. Atsma,
Ministry of Infrastructure and the Environment,
P.O. Box 20901,
2500 EX The Hague,
THE NETHERLANDS.

Dear Mr. Atsma,

**RE: ACCEPTANCE OF MTCS IN DUTCH PROCUREMENT POLICY
FOR TIMBER**

Since our very constructive meeting on 17 November in The Hague, I have been closely following the developments on the above matter. After our bilateral discussion, and the progress made in reaching an agreement, I was of the impression that this matter would have been resolved in due course. The recent turn of events, especially in the last fortnight, has compelled me to write to you to enquire on the current situation and what the outlook is for formalizing your intended decision to accept the Malaysian Timber Certification Scheme (MTCS) in the Dutch procurement policy.

Following our meeting in November 2010, I know that the MTCC has taken action to deliver appropriate additional measures discussed at that meeting. Based on the October 2010 TPAC revised final judgement, which says that the MTCS conforms to most of the Dutch procurement criteria, MTCC has issued two new instructions on 16 February to address the TPAC's remaining concerns. These instructions are intended to provide clarity and further ensure that the practices on the ground meet the requirements on paper. I consider the implementation of these measures as a further clear signal of our commitment to sustainable forest management and to strengthen our bilateral relationship with The Netherlands.

Despite our joint efforts, I have now been informed that your formal decision on the acceptance of the MTCS has been delayed due to an intervention by the Dutch Parliament. I am not sure why the acceptance of an independent certification scheme in a government procurement policy is being subjected to, and reliant upon, a debate in the Dutch Parliament. Moreover, I understand that the Dutch Parliament has decided to postpone its debate until at least May 2011, anticipating that the outcome of the appeal procedure on the TPAC assessment will be announced by then. I consider this delay to be unnecessary, as the appeal procedure will most likely only review the procedural applications by the TPAC in the assessment of the MTCS.

Just today I have also been informed that following a civil suit filed on 9 February by a coalition of Dutch NGOs against the Ministry for Infrastructure and the Environment, a postponement of the court case until the end of February was agreed, conditional upon you not taking a formal decision on the matter before then. Although MTCC is affected by the legal proceedings, MTCC unfortunately has not been granted access to the documentation filed. With this agreement, the decision-making process on the acceptance of the MTCS is affected again.

It has always been my understanding that as the Minister in charge, you will make the final decision on the acceptance of any scheme. I am therefore concerned that your decision on a policy matter now appears to be subjected to a Parliamentary debate and/or a court ruling, where it appears to me that both these events are aimed at further delaying this process. I have to inform you that the reputation of the MTCS, MTCS-certified timber from Malaysia and the Malaysian timber industry has been seriously damaged due to the prolonged uncertainty caused by events that definitely have nothing to do with promoting sustainable forest management.

Whichever way we look at it, what remains at the crux of this matter is the TPAC's revised final judgement issued on 22 October 2010. The TPAC's ruling is causing us problems in forwarding our common objectives. In line with our 17 November discussion, I hope that you can request the TPAC to review the additional instructions that the MTCC has implemented and confirm whether the MTCS, together with the additional instructions, now meet the requirements of the TPAS. In this connection, I wish to bring to your attention that the additional instructions have been discussed, agreed and accepted by your senior officials. A confirmation from the TPAC that the MTCS now meets the

TPAS requirements will obviate the need for the TPAC appeal procedure to continue, render the civil suit by the Dutch ENGOS redundant, and will assure the Dutch authorities a credible evaluation of the MTCS in two years' time of these additional measures implemented by MTCC.

It is in both our interests to reach a conclusion as soon as possible. I am aware that the Dutch Parliament goes on recess from 18 until 28 February 2011. In the meantime, I will be seeking an official appointment to see the Dutch Ambassador to Malaysia H.E. Paul Bekkers as I foresee the current situation impacting upon other aspects of the good relationship enjoyed by The Netherlands and Malaysia. Secondly, I will be requesting the Malaysian Ambassador to The Netherlands H. E. Dato' Dr. Fauziah to seek an official appointment to meet with your kindself as soon as practicably possible to discuss the best way forward.

I very much look forward to your early reply and thank you in anticipation,

Yours sincerely,

(BERNARD GILUK DOMPOK)

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