



FORUM ON ENVIRONMENTAL LEGISLATION ON 14TH MAY 2015

“ENVIRONMENTAL LEGISLATION FOR FORESTRY PROTECTION”

By :

**DEPUTY DIRECTOR-GENERAL OF FORESTRY
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KUALA LUMPUR, MALAYSIA**



Forestry Department of Peninsular Malaysia



OUTLINE OF PRESENTATION

- I. FOREST COVER IN PENINSULAR MALAYSIA**
- II. SUSTAINABLE FOREST MANAGEMENT**
- III. SELECTIVE MANAGEMENT SYSTEM (SMS) FOR TIMBER PRODUCTION**
- IV. FDPM ENGAGEMENT IN FOREST MANAGEMENT CERTIFICATION**
- V. MC&I AUDITING PROCESS**
- VI. FOREST LEGISLATION**
- VII. CONCLUSION**



I. FOREST COVER IN PENINSULAR MALAYSIA

FOREST COVER IN PEN. MALAYSIA IN 2013 (mil. ha)
5.83 (44.2% of P. Malaysia land area of 13.18 mil ha)



**Stateland Forest (SLF)
and Alienated Forest
(ALF)
(5.32%)**

0.31 mil. ha.

**Permanent Reserved
Forest (PRF)
(84.56%)**

4.93 mil. ha.

**Production
Forest
2.98 mil. ha.**

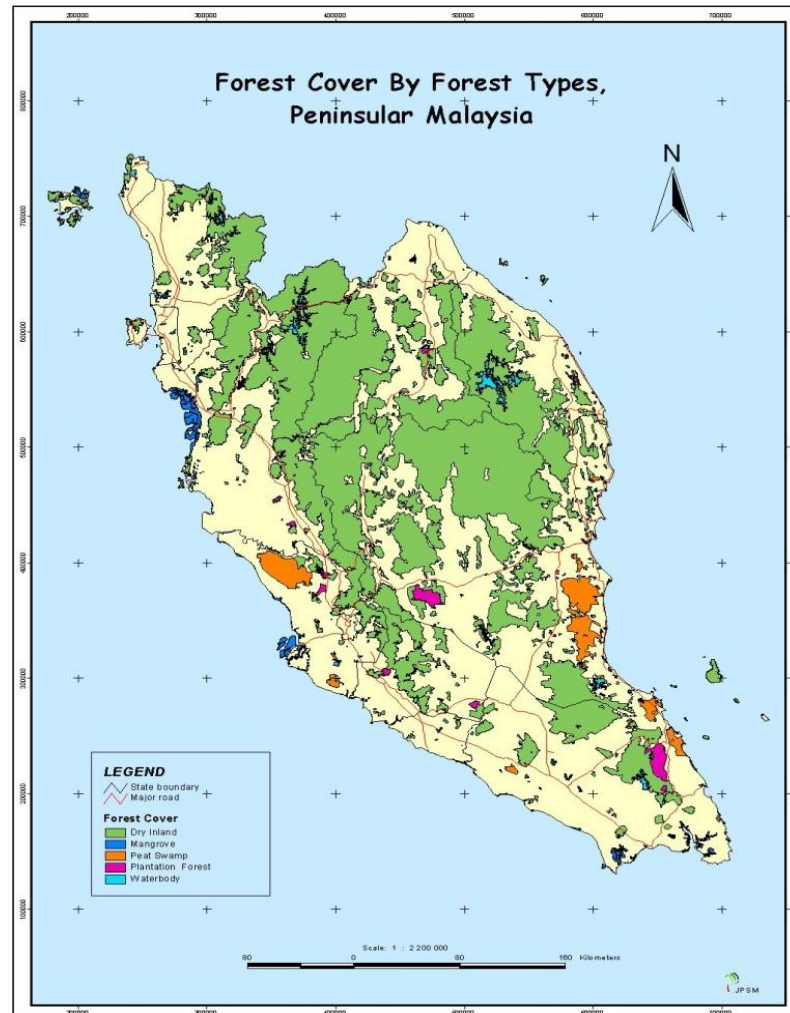
**Protection
Forest
1.95 mil. Ha.**

**National Parks, Wildlife
Reserve & Bird
Sanctuaries
(10.12%)**

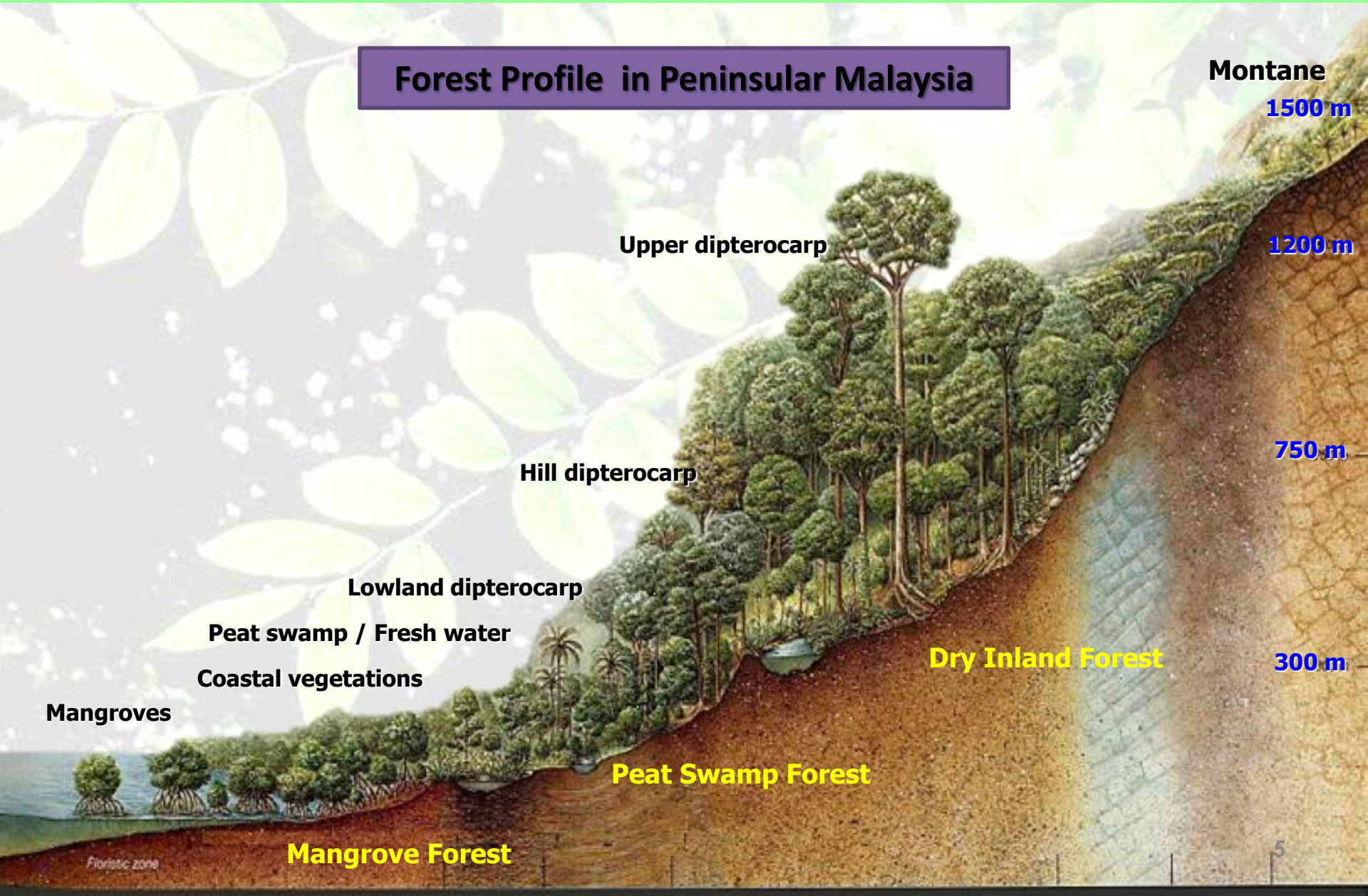
0.59 mil. Ha.

Under Sustainable Forest Management (SFM) Practices

FOREST COVER IN PENINSULAR MALAYSIA



Forest Profile in Peninsular Malaysia





MULTIPLE VALUES OF FOREST

Section 10, NFA 1984, allows PRF be classified into any of the following **twelve (12) functional classes** for effective contribution to livelihood; and to further promote sustainable forest management and taking into account the multiple roles/uses of forest:

1. Timber Production Forest under sustained yield
2. Soil Protection Forest
3. Soil Reclamation Forest
4. Flood Control Forest
5. Water Catchment Forest
6. Forest Sanctuary for Wildlife
7. Virgin Jungle Reserves
8. Amenity Forest
9. Education Forest
10. Research Forest
11. Forest for Federal purposes
12. Forest State Parks

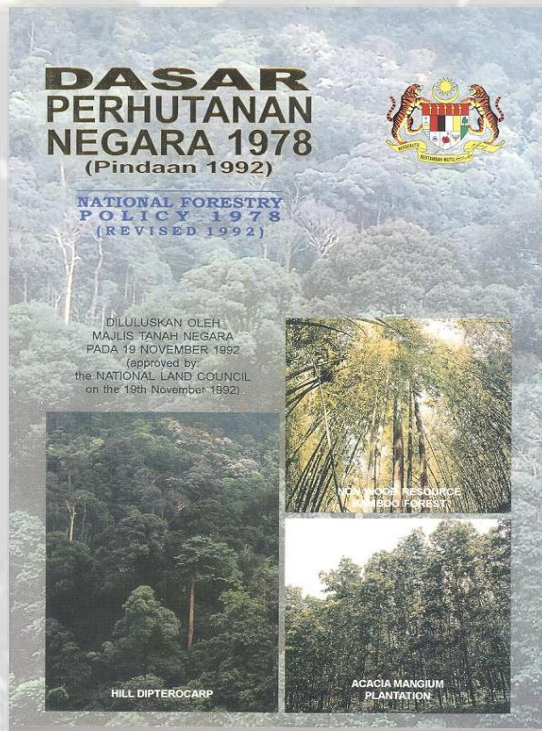


Multiple Values of Forest

"Forest Beyond Timbers"



NATIONAL FORESTRY POLICY, 1978 (REVISED 1992)



Objectives of the policy:

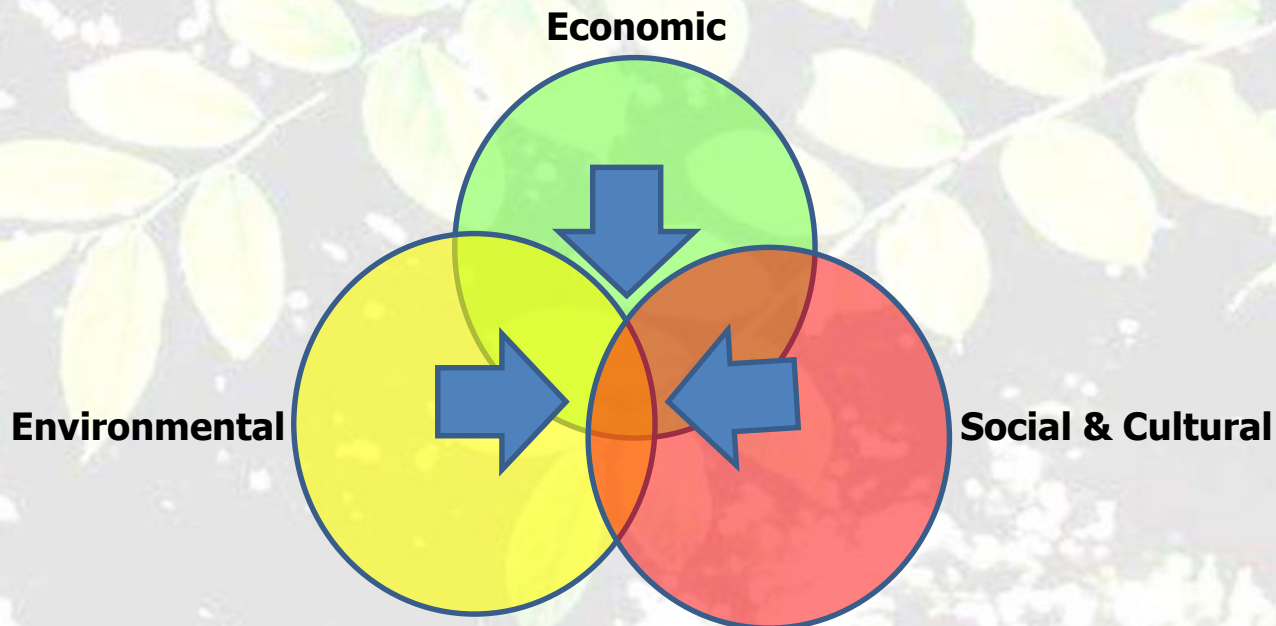
- to **conserve** and **manage** the nation's **forest** based on the principles of **sustainable management**;
- to **protect the environment** as well as to **conserve biological diversity, genetic resources**, and to enhance **research and education**.



II. SUSTAINABLE FOREST MANAGEMENT

“The process of managing permanent forest land to achieved one or more clearly specified objectives of management with regard to the production of continuous flow of desired forest products and services without undue reduction in its inherent values and future productivity and without undue undesirable effects on the physical and social environment”

ITTO 1992





THE 3 MAIN PILLARS OF SFM

Economically viable

.... this requires that the benefits to the group in question exceed the costs incurred, and that some form of equivalent capital is handed down from one generation to the next

Environmentally sound

.... this entails an ecosystem being able to support healthy organisms, whilst maintaining its productivity, adaptability and capability for renewal; it requires forest management respects and builds on, a natural process

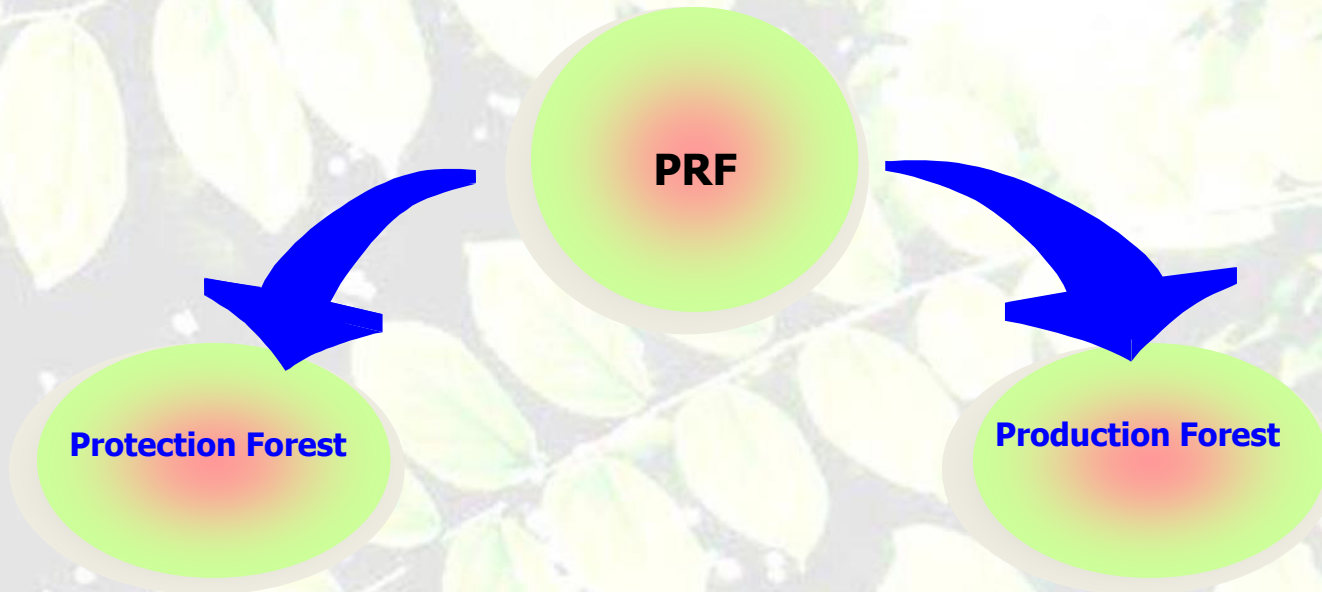
Socially acceptable

.... this reflects the relationship between development and social norms, an activity is socially sustainable if it conforms with social norms, or does not stretch them beyond a community's tolerance for change



Embedded in the SFM practices

SUSTAINABLE FOREST MANAGEMENT PRACTICE



- For ensuring favourable climatic and physical conditions of the country
- Safeguarding of water resources
- Soil fertility
- Environmental quality
- Preservation of biological diversity
- Minimization of damage by floods and erosion to rivers and agricultural land.

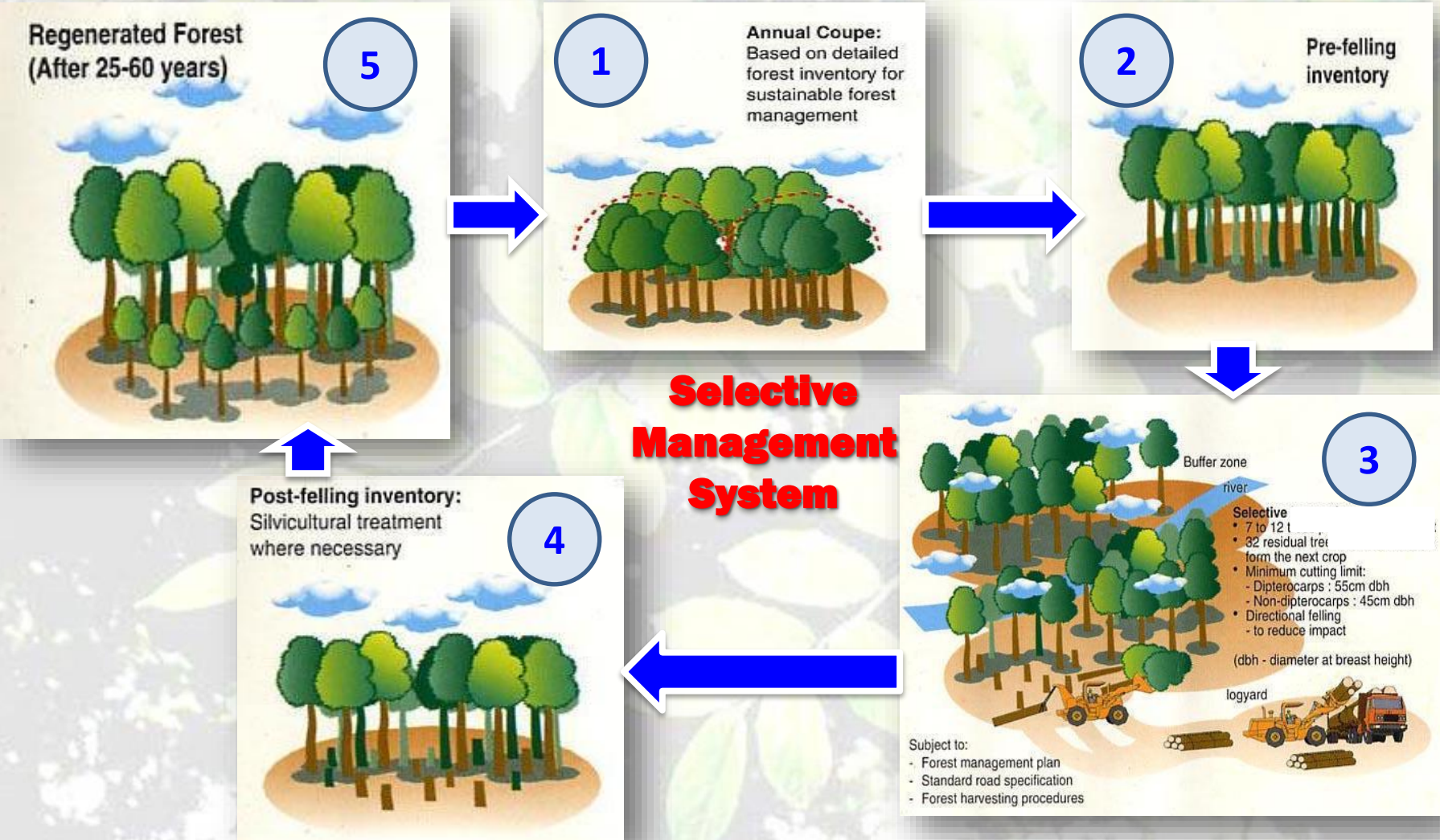
- For the supply in perpetuity, at reasonable rates of all forms of forest produce which can be economically produced within the country and are required for agricultural, domestic, industrial purposes and for export.



SFM

- **The tropical rainforest of Malaysia will continue to play its vital role and contribute significantly to the socio-economic development of the country. Therefore it is imperative to manage this valuable forest resource in compliance with the fundamental principle of SFM.**
- **Undertaking SFM will continue to support and address the requirement of sustainable development, by taking up balancing approach in incorporating wider scope of current economic, social and environmental aspects.**

III. SELECTIVE MANAGEMENT SYSTEM (SMS) FOR TIMBER PRODUCTION





SFM IMPLEMENTATION

Annual Felling Coupe

- It is a production forest area in the PRF that **can harvested within the period** of a Malaysian Plan.
- It seeks to ensure that forest **management planning** are **carried out properly** and **effectively** in order to **balance the rate of harvesting** of current forest production area in the PRF.

Cutting Limits

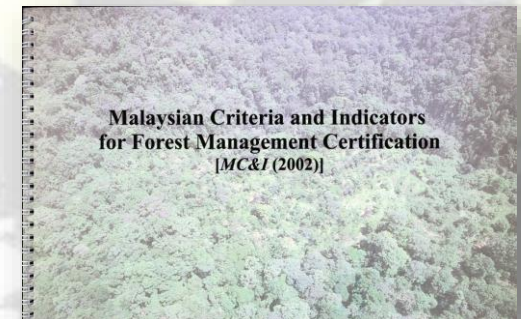
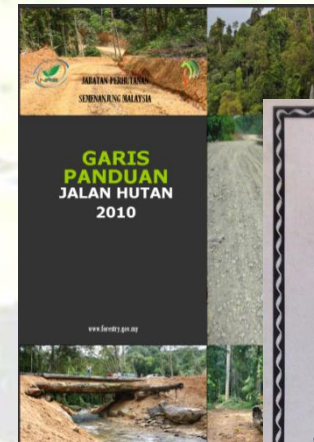
- Minimum cutting limits for dipterocarp species is 65cm dbh, while for non-dipterocarp species is 55cm.
- Cutting limits difference between dipterocarp species and non-dipterocarp species shall not be less than 5cm.

Residual Stands

- Remaining trees in 1 hektar for both dipterocarp species and non-dipterocarp species should be at least 32 trees (diameter > 30 – 45cm).

GUIDELINES AND RULES RELATED TO SUSTAINABLE FOREST HARVESTING

- Forestry Manual 2003
- MS ISO 9001:2008 - *Pengurusan Pengeluaran Kayu Secara Berkekalan bagi Hutan Darat Asli dalam Hutan Simpanan Kekal*
- Guidelines for Reduced Impact Logging in Peninsular Malaysia (RIL)
- *Kod Amalan Pengusahaan Hutan Darat Asli Semenanjung Malaysia*
- Guidelines for Forest Road 2010
- Natural Forest Management Certification “*Malaysian Criteria and Indicators for Forest Management Certification [MC&I(2002)]*”



Demand for timber and timber-based products from legal or sustainable sources

- **FDPM fully subscribed to the “ITTO Objective Year 2000” .**
- **Promotion of trade of timber and timber-based products from sustainable managed forest.**



Demand for Good Forest Governance in Forest Management Practices

- **Good Forest Governance principles** are very crucial in current forest management practices in line with the current global and national demand on forestry.
- **Combating Illegal timber harvesting.**



Malaysia's total export of timber and timber products in 2013 was valued at RM19.33 billion. This accounted for 2.7% of the total gross export earnings at RM719,82 billion. In term of employment, the forestry sector provided employment to 137,443 (31.1%) persons, the second largest employer after oil palm, amongst the six primary commodity sectors which employed 441,704 persons in 2013.

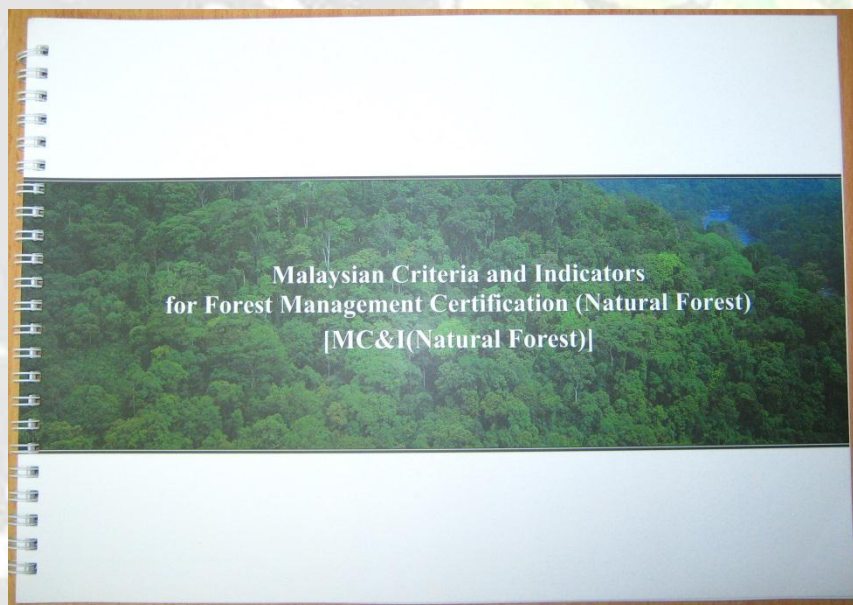


IV. FDPM ENGAGEMENT IN FOREST MANAGEMENT CERTIFICATION

- Forest Management Certification is a **voluntary market-based instrument to promote SFM** as well as **promoting trade of timber and timber-based products from sustainable managed forests.**
- Third party auditing or assessment of the existing forest management practice in the natural forest of Forest Management Unit (FMU), at **State level** using set of standard (MC&I).
- Forest Management Certification process is very demanding and FDPM is fully committed.
- **Forest Management Plan (FMP) – crucial document.**
- Forest Management Certification is a major commitment of FDPM to **maintain good image of forest management in Peninsular Malaysia.**
- Certification is also perceived as opportunity to enhance the **product positioning for a price premium** and ensuring **better forest management practices.**

Malaysian Criteria and Indicators for Forest Management Certification (Natural Forest) [MC&I(Natural Forest)]

PRINCIPLES	CRITERIA	INDICATOR	VERIFIERS
9	47	97	307



**MC&I (Natural Forest)
document**



Malaysian Criteria and Indicators for Forest Management Certification (Natural Forest) [MC&I(Natural Forest)]

The 9 Principles covering the following :-

- Principle 1 : Compliance with Laws and Principles;**
- Principle 2 : Tenure and Use Rights and Responsibilities;**
- Principle 3 : Indigenous People's Right;**
- Principle 4 : Community Relations and Worker's Rights;**
- Principle 5 : Benefits from the forest;**
- Principle 6 : Environmental Impact;**
- Principle 7 : Management Plan;**
- Principle 8 : Monitoring and Assessment; and**
- Principle 9 : Maintenance of High Conservation Value Forests.**

Summary of MC&I (Natural Forest)

Principle	Criteria	Indicator	Verifier
			Peninsular Malaysia
1	6	12	66
2	3	5	21
3	4	9	23
4	5	15	51
5	6	12	32
6	10	25	79
7	4	6	7
8	5	6	16
9	4	7	12
TOTAL	47	97	307



V. MC&I AUDITING PROCESS



Certification Body

- Accredited by STANDARDS MALAYSIA
- Appointing certification body for audits

Internal Audit

- Opening meeting
- Documentation assessment
- Field assessment
- Closing meeting
- Report writing

Surveillance / Recertification Audit

- Opening meeting
- Documentation assessment
- Field assessment
- Stakeholder consultations
- Closing meeting

Report Writing

- Peer review comments
- FMU feedback

Verification Audit (if necessary)

- Issues raised by stakeholders
- Closing Major CAR (Correction Action Remedy)

Certificate Issuance

- 3 year validity
- Ratify timber legality

FIELD ASSESSMENT



In Harvesting area

In Logging camp



In Log yard

CONSULTATION SESSIONS



Consultation with
villagers



Consultation with forest workers



Consultation with Forestry department staffs

VI. FOREST LEGISLATION

- ***Article 74(2) of Federal Constitution related with List II in the Ninth Schedule of Federal Constitution provides that forest is under the jurisdiction of the state. Under this provision, the Legislature of a State may make laws and regulations for the administration and management of forestry matters in the state. Federal Government only provides advice and technical assistance to the states, maintenance of trail stations and demonstration stations, training and research.***
- ***According to Article 91(5) of Federal Constitution, the functions of the National Land Council (NLC) to formulate from time to time, a national policy for the promotion and control of the utilisation of land throughout the Federation for mining, agriculture, forestry or any other purpose, and for the administration of any laws relating there to; and the Federal and State Governments shall follow the policy so formulated.***



JURISDICTION OF FOREST LEGISLATION

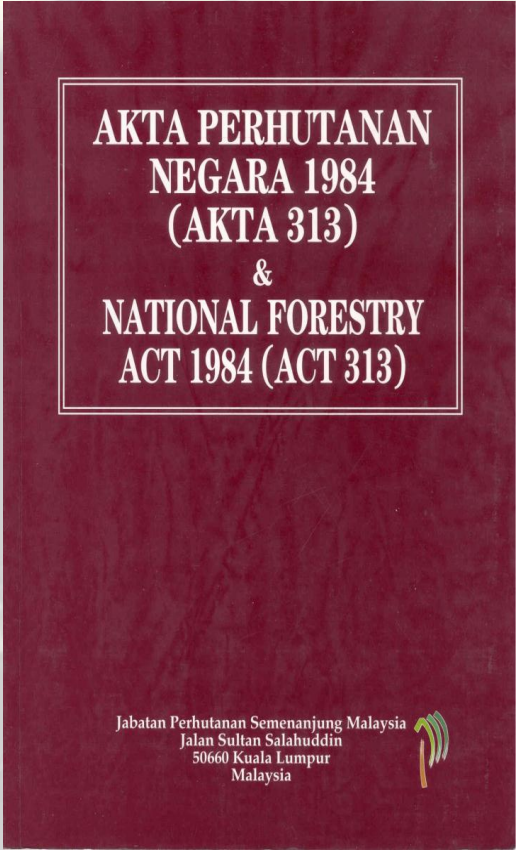
1. For purposes of uniformity, Parliament had enacted the **National Forestry Act 1984 (Act 313)** as a Federal Legislation and which has subsequently been respectively adopted by the legislatures of all states except Sabah and Sarawak, as the law on forestry in the respective States.
2. The Act also applies to the Federal Territories of Kuala Lumpur and Labuan with modification.



CONT.. JURISDICTION OF FOREST LEGISLATION

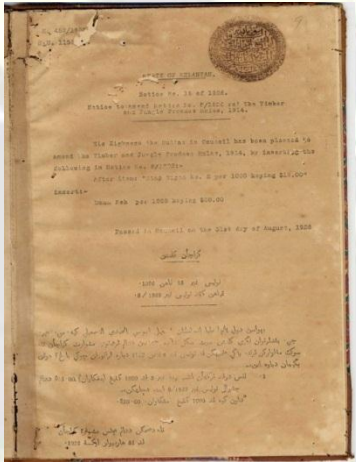
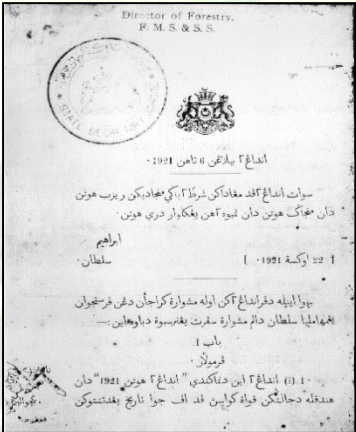
3. Apart from that, Parliament had enacted the **Wood Based Industries (State Legislatures Competency) Act 1984** as an Act to confer on State Legislatures authority to pass laws with respect to the establishment and operation of wood-based industries.
4. Wood Based Industries (State Legislatures Competency) Act 1984 come into force in a State upon the adoption of the National Forestry Act 1984.
5. In Sabah, the governing law on forestry is the Forest Enactment 1968 and the Forest Rules 1969.
6. While the laws relating to forestry in Sarawak are the Sarawak Forest Ordinance 1958, the National Parks and Nature Reserves Ordinance 1998, the Forests (Planted Forests) Rules 1997 and the Forests Rules 1973.

NATIONAL FORESTRY ACT, 1984



An Act to provide for :

The administration, management and conservation of forests and forestry development within the States in Malaysia





WOOD BASED INDUSTRIES (STATE LEGISLATURES COMPETENCY) ACT 1984

An Act to provide for :

The administration, management and conservation of forests and forestry development within the States in Malaysia



FEDERAL AND STATE RELATIONSHIP IN FORESTRY

- 1. The role of Federal Government towards forestry matters is confined to some administrative matters such as research, training and advising the State Forestry Department in Peninsular Malaysia.**
- 2. The Federal Government does not have any power to enforce the forestry laws in the States.**
- 3. Thus, the responsibility of enforcing the laws lies with the respective States and each State Forestry Department has its own Director.**



FOREST LEGISLATIONS AND OTHER RELATED LAND USE LEGISLATION

Peninsular Malaysia

- **National Forestry Act, 1984**
- **Wood-based Industries Act, 1984**
- **Water Enactment, 1935**
- **Land Conservation Act, 1960**
- **Environmental Quality Act, 1974**
- **National Parks Act, 1980**
- **Wildlife Conservation Act 2010**

LICENSE AND PERMIT ISSUED UNDER NFA 1984

Item	Take Forest Produce		
License/ Permit	License {section 21(3)}	Minor license {section 43(3)}	Removal License {section 43(3)}
Form	Form 1	Form 3	Form 5
Types of Forest Produce/ Activities	Major forest produce: round timber, poles, fuelwood, charcoal and all types of rattan.	major forest produce not exceeding 70 m3 or any minor forest produce	Major forest produce and minor forest produce
Area	PRF and state land	PRF and state land	alienated land;, land held under a temporary occupation license; reserved land
Original Effective Period	12 months	expiring not later than the end of the calendar year (31 December)	not exceeding six months
Renewal	not exceeding six months	not exceeding six months	not renewable

LICENSE AND PERMIT ISSUED UNDER NFA 1984

Items	Use and carry out activities in PRF		
Licence/ Permit	Use Permits {section 36 (4)}	Entry Permit in PRF {section 47(3)}	Road Permit {section 50(2)}
Form	Form 4	Form 6	Form 7
Types of Forest Produce/ Activities	Occupied or carrying out any activities in PRF	entry into closed forests	Use of forest roads
Area	PRF	PRF	PRF
Original Effective Period	expiring not later than the end of the calendar year (31 December)	expiring not later than the end of the calendar year (31 December)	expiring not later than the end of the calendar year (31 December)
Renewal	not more than one calendar year	not renewable	not more than one calendar year



PENALTIES UNDER NFA 1984

**Maximum fine of RM 500,000
and/or imprisonment not exceeding 20 years with
a mandatory imprisonment of not less than 1 year**

- Section 15** - Taking of any forest produce from Permanent Reserved Forest or State land without license
- Section 40** - Removal of forest produce without Removal License from alienated land, TOL, mining land and reserved land
- Section 86** - Counterfeiting or defacing, or possessing implements for counterfeiting, marks on trees and timber and altering boundary marks



PENALTIES UNDER NFA 1984

**Maximum fine of RM 50,000
and or maximum imprisonment of 5 years**

Include offences such as:

- 1. Illegal occupation or carrying out any activities in forest reserved;**
- 2. Removal of forest produce not in the place & time specified;**
- 3. Taking & collect any forest produce include rattan, fruits, herbal plants, minerals; and littering or disposal of any toxic waste;**
- 4. Prohibition as to any fire in forest reserved such as kindle, keep or carry any fire or leave any fire burning;**
- 5. Prohibiting forest officer from executing their duties and refuse to give full cooperation**

As stated under Section:

32, 66, 67, 68, 69, 81(1)(b), 81(1)(c), 82(1), 84, 85, 87, 92, 96, 97, 98 & 100



PENALTIES UNDER NFA 1984

**Maximum fine of RM 10,000
and/or maximum imprisonment of 3 years**

Include offences such as:

- 1. Trespassing;**
- 2. Graze cattle or without permit to graze;**
- 3. Search for, collect, subject to any manufacturing process or removed any forest produce or minerals;**
- 4. Clear or break up any land for cultivation or any other purpose;**
- 5. Used poisonous substance or dynamite or other explosives for fishing or hunt, shoot, fish or set traps or snares)**

As stated under Section 47, 81(1)(a), 81(1)(d), 81(1)(e), 81(1)(f) & 83



FORFEITURE OF THINGS SEIZED UNDER ACT 313

- **Section 94 (3)- Any order for the forfeiture or for the release of any thing liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been held and an order for the forfeiture of the thing shall be made if it is proved to the satisfaction of the court that a forest offence has been committed and that the thing was the subject matter of, or was used in the commission of, the offence notwithstanding that no person may have been convicted of such offence.**
- **Section 94 (5)- All things forfeited or deemed to be forfeited shall be delivered to the District Forest Officer and shall be disposed of in accordance with the direction of the Director.**



VII. CONCLUSION

- 1. Issues on the jurisdiction between Federal and State Government may poses an obstacle to the effective enforcement of forestry laws as each state has autonomous powers over forestry matters.**
- 2. Each state has to provide their own resources to carry out their functions which if combined would require less resources and yield better enforcement.**



THANK YOU

<http://www.forestry.gov.my>