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Keurhout

The background of the central section is a photograph of a dense forest of tall, thin trees, likely pines or spruces, with a bright yellow overlay that filters the light and creates a warm, golden atmosphere.

Keurhout

Protocol for the Validation of Claims of Legal Timber

in particular with a view on

Legal Origin

Netherlands Timber Trade Association

Third working edition
Version September 15th 2007

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Keurhout Protocol for the Validation of Claims of Legal Timber

in particular with regard to

Legal Origin

1) Introduction

1.1) Development process of the protocol¹

There is a fair amount of evidence that currently, in addition to ongoing governmental efforts to curb illegal logging, there is also a clear need for a Protocol to validate claims of legal timber, in particular with regard to the aspect of legal origin.

When drafting this Protocol various organizations and persons from several backgrounds have been consulted and they have provided input to its present version².

This Protocol has been established and approved by the Netherlands Timber Trade Association. Comments on this second working edition are welcomed. It is anticipated that a third? edition will be produced within a year, on the basis of further experiences gained with the implementation of the Protocol and any comments received.

The Protocol comprises an assessment scheme (Ch. 2) and a normative part on which the assessment by an independent Board of Experts (BoE) of conformity will be based. The normative part is subdivided into two components: the requirements for the legality of origin of timber (Ch. 3), and requirements for the Chain of Custody (CoC, Ch. 4). In both components the requirements are expressed in terms of Criteria and Indicators (C&I).

Verification of the legality of timber is not an isolated process; the processes of governance and legislation reform, as well as improvement of forest management towards internationally recognized quality levels (up to the level of well/responsibly managed forest certificates) are equally important. The results of the latter two processes should for that reason be integrated into the schemes of legality verification and, *vice versa*, the lessons learned from the legality verification process should be incorporated in these two processes.

1.2) Legal Origin

Illegal logging and trade cause indiscriminate depletion of forests, including fully protected areas; deprive governments and local communities from income and benefits; disturb timber markets; and discourage good forest management practices.

The Keurhout Protocol has been established based on the great concern about the harvest of large volumes of trees which according to legislation were not supposed to be harvested. **Therefore, this Keurhout Protocol for the Validation of Claims of Legal Timber has been developed in order to be able to distinguish between timber with a demonstrable legal origin, and timber that does not satisfy that requirement.**

Legal origin is an indispensable prerequisite for responsible forest management. Considering that many more legal requirements must be met to qualify for a certificate of "well managed forest", the introductory document explains how the Keurhout validation of legal origin fits in a

¹ This Protocol has been developed simultaneously with a non-binding informative background document titled "Introduction to the Legal Timber Issue and the Keurhout Protocol for the Validation of Claims of Legal Timber" (ISAFOR, September 10, 2004), see Keurhout website, www.keurhout.nl.

² They are acknowledged in the introductory document. The same document contains also a selection of the numerous references, which have been helpful in the process of establishing the Protocol.

concept of legal compliance and an approach towards SFM. A matrix table shows how compliance with all legal requirements pertaining to responsible forest management might be gradually achieved during the transition stage between satisfying the requirements of legal origin and certification for well-managed forests. For information, this matrix table has been copied and attached as Annex II to this protocol. Also for the purpose of information, the overview of most outstanding other legal requirements, which should be met for full legal compliance and for a certificate of well managed forests, has been copied from the introductory document and is attached as Annex III to this protocol.

The effective implementation of the Protocol requires the availability of evidence to assess the legality of origin of the timber. The protocol's philosophy is that timber with a legal origin should meet the requirement that it has been harvested in compliance with relevant rules and legislation related to legality of permits, and that protected zones and species, tree dimensions and volumes per ha. are respected. Rules and legislation refers to laws, rules, sub-national legislation, and Governmental prescriptions in the country of origin, including laws and rules pertaining to international Treaties and Agreements ratified by the country or for which compliance is required under international law.

1.3) Chain of Custody

Assessing the legality of harvesting a particular tree is the first step in the process of validating legality. The second step is the assessment of the CoC. The Protocol's philosophy with regard to the latter is that, all parties in the CoC must have a system in place which identifies, documents and **separates, both physically and administratively, the flow of logs or derived products that have been verified as legal by a third party** from non-verified logs and products, both on the input and the output side.

This Protocol has been developed to validate the CoC of timber with third party endorsed claims of legality **outside the European Union**. Within the European Union the parties in the CoC must follow the detailed Keurhout CoC-procedure.

1.4) Other Keurhout Protocols

Validation of legality of timber is not the only activity of Keurhout. The Keurhout Hallmark system comprises an additional protocol for the validation of the reliability and quality of **SFM certificates (SFM-Protocol)** and a protocol for the validation of **SFM certification systems (SYS-Protocol)**, which are presented in separate documents (see Keurhout website). Both protocols contain requirements as to the Chain of Custody.

2) Procedure for the Validation of the Legal Origin of Timber (assessment scheme)

2.1) Request for Validation

Third party verified claims of legal (origin) timber are being assessed upon request. The BoE will accept exclusively from Keurhout members a request for Keurhout validation of a claim of legality. The BoE will forward this request to the third party which has determined the legality of the timber, and will ask for its cooperation in BoE's judgement, to the extent necessary.

The BoE at least needs the following information to enable the validation of the claim for legal origin:

- a copy of the certificate for legal origin issued by an independent 3rd party certifier;
- a copy of the standard against which the certificate has been issued;
- a full copy of the underlying audit report;
- information on the assessment scheme applied and competence of auditors assigned by the Certification Body;

- information on the accreditation status of the Certification Body.

All information provided to the BoE for validation will be treated confidentially throughout the validation process (see chapter 2.5).

2.2) Assessment process

The independent BoE will assess the legal (origin) timber claim (Ch. 3) and the CoC (Ch. 4) by comparing the assessment elements and results of the third party with the criteria and indicators listed in the Keurhout normative chapters of this Protocol. Most of the assessment will and can be based on the study of documents which should be made available by the submitter of the request or the third party which has established the legality of the timber. In some cases the BoE may consider fact-finding field checks necessary.

In the future, Keurhout BoE/NTTA may wish to create the conditions for accredited certification bodies to run the validation process. In that case Keurhout/BoE will enter into contracts with certification bodies, which are interested in obtaining an accreditation for this purpose from a member of the International Accreditation Forum, such as the Dutch Accreditation Council. The contract will stipulate the conditions under which the certifying body is allowed to grant the right to use the qualification “Keurhout-Legal admitted timber only” for timber originating from a specified location. Other aspects to be addressed in the contract are the rules for treatment of complaints and appeal, and financial arrangements.

The assessment relates to:

- In case of a non accredited third party, the competence of the third party which has established the legality of the timber and or the CoC (Ch. 3.1 and 4.1).
- In case of a non-accredited third party, the assessment scheme followed in establishing the legality of the timber and/or the CoC.(Ch. 3.2 and 4.2).
- The normative documents (C&I) against which the verification of legality (Ch. 3.3) and the CoC (Ch. 4.3) have been carried out by the independent third party.

Specific aspects of each element have been identified as relevant for the validation. C&I have been attached to each of the specific aspects in order to facilitate the assessment and to enhance transparency.

2.3) Decision making and validity

Decision making rules

For a positive decision on the legality of origin, all criteria of the legal origin standard have to be met, unless a criterion relates to an aspect which is not applicable (for instance in areas where customary rights do not appear, aspect 3, or in cases of conversion forest, elements of aspect 4). Indicators serve as practical parameters to assess compliance with the criteria. The BoE is responsible for carrying out the validation and taking the decision based on the outcome of the validation. Should views within the BoE differ, majority voting applies (if votes match, the Chairman will decide).

In the future, accredited Certification Bodies may execute the Protocol upon agreement on the assessment scheme between the BoE and these Certification Bodies. Then the decision whether or not the timber complies with Keurhout’s legality requirements is left to the Certification Body.

Evidence

After a positive decision by the BoE, the owner is entitled to refer to the timber concerned as “**Keurhout-Legal admitted timber only** ” or a comparable reference, subject to approval by Keurhout. This reference may take the shape of an accompanying document to the particular timber freight.

Validity

The origin itself will be specified as an area with well-defined boundaries, e.g concession or community forest, and with a well-defined forest management authority, e.g the concessionaire, owner, or the authority of the community. The permission to refer to the timber as “Keurhout validated legal origin timber” is granted to the forest management authority or CoC company for **the entire validity of the certificate**, subject to the outcome of annual surveillance audits, as of the date of BoE’s decision and applies to all timber from the same

origin and delivered according to an annual operational plan. The validation statement, granted to the management authority, applies exclusively to timber that entirely comes from the verified origin.

Public information

Summary reports of assessments by the BoE with a positive outcome will be made available through the secretariat of the BoE upon request and/or through the Keurhout website.

2.4) Monitoring and withdrawal procedure

In order to secure the reliability of the legality claims on timber, which will be granted the predicate “Keurhout verified legal origin timber”, the BoE will monitor the outcome of the periodical surveillance audits conducted by the third parties, along the lines of this Protocol. If no deficiencies are found by the BoE with respect to the elements of the standard and the possibly established additional Keurhout conditions for admission, the admission will automatically continue. If deficiencies are found, the third party that has issued the legality claim will be informed accordingly. Subsequently, a procedure will start that requires immediate corrective actions by the party involved in the CoC and/or the third party itself. If deliberate obstruction against the rules/requirements for legal origin timber has been noted, immediate withdrawal of the right to use the predicate “Keurhout verified legal origin timber” will follow, *i.e.* as of the moment of notification timber leaving the location of the obstructing party in the CoC is no longer allowed to carry the predicate “Keurhout verified legal origin timber”. The obstructing party can be any party from the timber license holder to the last retailer in the CoC.

If a certificate expires and a new certificate is issued after a positive re-assessment result, the BoE will carry out a re-validation, which requires a new BoE decision on admission.

Disclaimer: The BoE may temporarily extend admittance of a certificate, e.g. in view of an anticipated or on-going re-validation.

2.5) Complaints and appeal

Participants in the CoC of the relevant timber or any other party with an established interest in the relevant timber may raise an objection against BoE decisions. “Parties with an established interest” are: parties directly involved in a decision of the BoE; for corporate bodies also their general and collective objectives according to their goals represented in specific are accepted. Objections shall be filed with the secretariat of the BoE within 4 weeks of the date of publication of a decision and must be substantiated by objective verifiable information relevant to the specific admitted certificate or system and documented. The objecting party may ask for confidential access to all documents which are subject to the specific decision of the BoE. In case of unprecedented importance the BoE may decide to deny partly or full access to the requested documents. A deposit of € 2,000 shall be made by the party raising the objection in order to cover the costs of the objection procedure. The BoE will only discuss the objection after receipt of the deposit and will come to a judgement within 6 weeks. The BoE may reconsider its earlier judgement. In case the objection is considered justified, the deposit will be refunded and the earlier BoE decision will be annulled. In case the BoE declares the objection unfounded, the objecting party may start an appeal procedure with the independent Committee of Appeal. The final decision of the Committee of Appeal is binding. Details on the procedure to follow are given in the Annex X: “Keurhout Regulations for Board of Appeal” of the “Keurhout Participants Agreement”, available on request at the Netherlands Timber Trade Association (NTTA) secretary.

The NTTA shall provide for this Board of Appeal. The Board of Appeal consists of independent experts. The chairman is a lawyer. The other members have an affinity with the subject itself and an affinity with the legal context. The members of the Board of Appeal are independent and are sufficiently independent of any of the parties involved. The Board of Appeal is authorized to take the decision to annul the BoE and to make binding judgements regarding the resolution of disputes.

The Council for Accreditation in the Netherlands also accepts complaints in higher appeal but exclusively concerning the complaint treatment procedure that has been followed by an accredited Certification Body. The Council does not give a verdict on the conclusion.

2.6) Establishing and changing the Validation Protocol

The Protocol is established and approved by the Netherlands Timber Trade Association, and with regular intervals will be surveyed and, if necessary, amended on the basis of comments and experience.

2.7) Procedure for situations not covered by the Rules

The Netherlands Timber Trade Association will take decisions on situations not covered by the Validation Protocol.

Disclaimer: The correct use of the Keurhout logo's and use of correct references to the Keurhout systems in public communications, advertisements and on websites is governed by the "Keurhout Protocol for the control on the CoC" and Keurhout Provisional Guidelines and Procedures 'Keurhout Legal Timber Only', which are controlled by accredited Certification Bodies. In case of abuse the NTTA, owner of the Keurhout Hallmark, is entitled to take necessary actions.

The procedures (Ch. 2) and the normative documents in the Chapter 3 to 5 jointly establish the Keurhout validation scheme for the assessment of legality of the harvested trees from which the timber, with third party endorsed claims of legality, is supposed to originate.

3) Legal Origin standard (normative document)

The BoE will verify the validity of the claim of legality against the following standard (C&I).

There is only one **Principle**: *Timber shall come from a legal origin.*

Aspect 1: Legal registration of logging company

- Criterion 1.1.: The company which processes a harvesting permit and claims legal origin is **registered** according to national legislation and regulations.
 - *Indicator 1.1.1.:* Legally authorised registration form and number showing that the company legally exists and meets the legal requirements to operate.
- Criterion 1.2.: Subsidiary companies and contractors operating on behalf of the company with the harvesting permit are **registered** according to national legislation and regulations, and therefore have a valid licence to operate.
 - *Indicator 1.2.1.:* An authorised registration form and number can be provided showing that the subsidiary company or contractor legally exists and meets the legal requirements to undertake harvesting activities.

Aspect 2: Lawful permit for logging

- Criterion 2.1.: The entity (licence-holding company, owner of the land, community) which claims to have (the) timber harvesting rights on the area, can prove that it has **valid and legally obtained rights** to access and use the forest land.
 - *Indicator 2.1.1.:* The concessionaire, owner or community holds a legally authorised harvesting licence and permit for a specified area. .
 - *Indicator 2.1.2.:* Licence has been issued by the proper competent administrative authority, and, if legally required, through a transparent public procedure. (In case another governmental authority challenges the competence of the authority, the independent third party should verify and report in what way the matter has been resolved. If deemed desirable, an agreement between the government of the exporting country and the government of the importing country may be reached to establish mutual understanding of the competent authority).
 - *Indicator 2.1.3.:* The anticipated issuing of the licence has been publicly announced (if legally required).
 - *Indicator 2.1.4.:* Licence holder meets the legal and publicly available generic requirements (organisational structure, financial position, professionalism, etc...).

- **Criterion 2.2.: Boundaries** of the licence area are clearly defined and do not conflict with land-use classifications in which timber harvesting is forbidden, such as protected areas.
 - *Indicator 2.2.1.:* The relevant forest area (licence area, ownership, customary rights area) is clearly indicated on a map with a scale of at least 1: 25.000.
 - *Indicator 2.2.2.:* The boundaries do not straddle areas where timber harvesting is prohibited.
 - *Indicator 2.2.3.:* The boundaries are marked in the forest at trails, skid roads and logging roads.
 - *Indicator 2.2.4.:* The boundaries are officially recognized, if the law so requires.
- **Criterion 2.3.: Impact assessments** (if legally required).
 - *Indicator 2.3.1.:* Social and environmental impact assessment prepared and accepted by the competent authority.
- **Criterion 2.4.: Area-based royalties and timber fees** have been declared and paid.
 - *Indicator 2.4.1.:* Official central and local government documents showing the royalties and fees to be paid, including dues to local communities.
 - *Indicator 2.4.2.:* Paid royalties, fees and dues that appear in the administration of the licence holder and of the recipient.
 - *Indicator 2.4.3.:* Acknowledgement of receipt of royalties, fees and dues by beneficiaries.

Aspect 3: Customary cutting rights (in and outside concession areas).

- **Criterion 3.1.: Customary cutting rights** are accepted or recognized.
 - *Indicator 3.1.1.:* Agreements with the relevant community(-ies) have been established on volumes to be cut under customary rights. Timber harvested under these agreements is considered to be legal.

Aspect 4: Process of selecting trees to be logged.

- **Criterion 4.1.:** The process of selecting the trees to be logged respects legally required '**no-go areas**' within the licence area, such as protection and buffer zones, steep slopes and areas of cultural significance.
 - *Indicator 4.1.1.:* 'no-go areas' are properly identified and respected.
 - *Indicator 4.1.2.:* 'no-go areas' are indicated on a map with a scale of at least 1:25,000.
 - *Indicator 4.1.3.:* 'no-go areas' are marked in the forest, particularly in cases where harvesting is planned or taking place in the vicinity.
- **Criterion 4.2.:** **Process of selecting trees to be logged** respects **protected species**.
 - *Indicator 4.2.1.:* Protected species and species listed by CITES are marked during inventories.
 - *Indicator 4.2.2.:* The harvesting and felling plan, and the harvesting operations are designed in such a manner as to avoid damage to protected trees.
 - *Indicator 4.2.3.:* Protected species are not among the harvested trees. Harvested trees belonging to species which appear on one of the CITES-lists are labelled as such and should follow the CITES protocol in case of export.
- **Criterion 4.3.:** Harvested trees have been selected in compliance with legal **tree dimension limits and volumes per ha** standards, and with approved timber harvesting plans (pertaining to the inventory and identification of trees to be harvested) and/or, as far as legally required, operational plans..
 - *Indicator 4.3.1.:* Timber harvesting plans and/or operational plans meet legal requirements with respect to the inventory and identification of trees to be harvested and have been approved by the competent forest authority.
 - *Indicator 4.3.2.:* Trees selected for harvesting are marked on maps or listed in a felling register. Trees exceeding the allowable diameter range are not included.
 - *Indicator 4.3.3.:* All trees that have been harvested come from the legally agreed upon annual cutting area and comply with the marked trees on the map and/or the felling register. Trees beyond the allowed diameter range are not among the harvested trees.
 - *Indicator 4.3.4.:* The aggregated volume for each tree species to be harvested is within the authorised volume of the specified annual operational area (reference: timber harvesting plan and operational plans).
 - *Indicator 4.3.5.:* The aggregated volume of trees actually being harvested is within the authorised volume of the specified annual cutting area. Log measurement is in accordance with the prevailing rules and legislation.

- *Indicator 4.3.6.:* Harvested trees/logs are numbered/marked and registered in accordance with legal requirements.
- *Indicator 4.3.7.:* All logs have been registered on the cutting register and can reliably be traced back to the stump, which should have the same number, with the assistance of an accurate administrative system.
- *Indicator 4.3.8.:* Adequate provisions are taken to prevent harvesting, by any party, of other trees than the legally authorised ones within the licence area.
- **Criterion 4.4.:** **All wood** in the licence area **has been legally acquired**.
 - *Indicator 4.4.1.:* All timber harvested within the license area and that has been brought to the area from elsewhere for further transport or processing comply with the criteria in this standard applied to the origin area of the wood and the license holder of the origin area.

Aspect 5: Monitoring and corrective actions.

- **Criterion 5.1.:** The licence holder monitors compliance with the full scope of legal origin requirements (this standard).
 - *Indicator 5.1.1.:* Monitoring system is in place and implemented.
 - *Indicator 5.1.2.:* Management actions are taken in response to monitoring results.

4) Chain of Custody standard (normative document)

Verifying the CoC will commonly require at least two processes of verification: one in the country of origin and one in the end-use country; if the timber passes through other countries, an additional verification is necessary for each and every part in the CoC.

The independent BoE is responsible for the validation of the third party verified CoC in the country of origin against the following standard (C&I):

Aspect 1: Legal registration

- **Criterion 1.1.:** The parties in the CoC are **registered** according to national legislation and regulations and have a valid licence to operate.
 - *Indicator 1.1.1.:* Legally authorised registration form and number showing that the parties legally exist and meet the legal requirements to operate.

Aspect 2: Management system certification

- **Criterion 2.1.:** The party in the CoC operates an internal management system for sound tracking of timber and/or timber products.
 - *Indicator 2.1.1.:* An (internal) management system for sound tracking of third party verified legal timber products is documented and meets the requirements of ISO 9001 or a comparable management system standard.
 - *Indicator 2.1.2.:* The management system for sound timber product tracking is implemented and preferably certified against ISO 9001 or a comparable system taking into account the size of operations.

Aspect 3: Separation of flows of timber

- **Criterion 3.1.:** Flows of third party verified legal logs, sawn timber or other wood products which have been fed in the system **physically and administratively identified and separated** from not verified logs all the way through the system.
 - *Indicator 3.1.1.:* Individual pieces of timber or bundles are marked, followed, and kept separately during the full handling, transport and storage process with each party in the chain of custody.
 - *Indicator 3.1.2.:* Individual pieces of timber or bundles are adequately registered.
 - *Indicator 3.1.3.:* Verified legal logs, sawn timber or other wood products show the evidence of its validated legal origin on accompanying documents.

5) Certification Bodies (normative document)

The Keurhout Protocol sets the following requirements related to the certification body (C&I):

5.1) Third party assessment

Aspect 1: Competence and independence of the 3rd party

- Criterion 1.1: The certification body, and any subcontracted party, complies with international guidelines for organisational structure and operating procedures.
 - *Indicator 1.1.1:* The certification body meets the requirements as specified in the ISO/IEC 17021 and/or ISO/IEC guide 65 (CoC) and the additional guidelines specified by the IAF, for the application of these guides.
 - *Indicator 1.1.2:* The certifying body is accredited by an accreditation body which demonstrably meets the requirements of the ISO 17011 guide and/or is a member of the IAF.

In the absence of certification schemes for assessing legality of timber and/or CoC, accreditation on the basis of ISO/IEC 17021 (equivalent to ISO Guide 62 and ISO Guide 66) and/or ISO Guide 65 is accepted. However, it is preferred that the third party and any subcontracted party is specifically accredited by a member of the International Accreditation Forum (IAF) to assess the legality of timber and/or CoC separately or as a component of compliance with sustainable forest management standards.

Aspect 2: Qualifications of audit personnel

- Criterion 2.1: The team engaged in the assessment of legality of origin has professional knowledge of forest legislation, administrative knowledge of forest management, and is acquainted with national and local conditions related to forest management.
 - *Indicator 2.1.1:* The CV's of the team members provide evidence that they have sufficient professional knowledge and experience.
- Criterion 2.2: The team engaged in the assessment of the CoC has professional knowledge of CoC, in particular as far as timber and timber products are concerned, and is acquainted with national and local conditions with regard to the forest.
 - *Indicator 2.2.1:* The CV's of the team members provide evidence that they have sufficient professional knowledge and experience.

5.2) Validation of the third party assessment scheme

Aspect 1: Audit procedures.

- Criterion 1.1: Audit procedures comply with relevant requirements in ISO/IEC 17021 and/or ISO Guide 65.
 - *Indicator 1.1.1:* The normative document, on which the assessment of the legality is based, is available.
 - *Indicator 1.1.2:* The actual assessment process in and around the timber licence area has been elaborated.
 - *Indicator 1.1.3:* The normative document, against which the CoC has been assessed, is available. (The normative document should preferably include requirements for technology-based timber product tracking systems, *i.e.* unique identification and electronic data processing and communication systems).
 - *Indicator 1.1.4:* The assessment process with the various parties in the CoC is elaborated on.
- Criterion 1.2: The procedure to identify relevant legislation and existing (customary) rights has been clearly formulated.
 - *Indicator 1.2.1:* Legislation applicable to ownership and management or use of the particular forest unit has been identified through consultation with Government agencies, the licence holder and local authorities and communities.

Aspect 2: Audit report

- Criterion 2.1: The assessment scheme, which is operated by the third party, contains requirements for the content of the audit report.
 - *Indicator 2.1.1*: The audit report will present:
 - the composition of the assessment team and its competence;
 - the normative document;
 - the actual implementation of the assessment procedure;
 - key findings, including solutions for any conflicting issues (contradictory, overlapping legislation, customary rights in concession areas, *etc.*);
 - any non-compliance issues with the normative document used by the third party;
 - the decision making process.

Aspect 3: Monitoring

- Criterion 3.1: The third party assessment scheme contains requirements for the monitoring of continuing compliance with the requirements.
 - *Indicator 3.1.1*: A contract, certificate or other document between the third party scheme or the certifier and the timber licence holder shows the duration of validity of the legality claim .
 - *Indicator 3.1.2*: A contract, certificate or other document stipulates the frequency (at least once a year, at random or planned) and method of monitoring.

If the third party has been specifically accredited by a member of the International Accreditation Forum (IAF) for determining the legality of timber and/or CoC, the Accreditation body sets the requirements addressed under aspects 1 to 3. The accreditation will then implicitly secure the appropriateness of the audit procedure including the audit report and monitoring. The accreditation then also implies adequate supervision by the relevant IAF member of the correct implementation of the relevant requirements on which the accreditation is based.

Annex I: Definitions

These definitions have been formulated and are being used in the context of the Keurhout validation processes. They complement the definitions which are contained in "The Keurhout Verification Procedure", October 2002. **Keurhout** is an independent process of assessing the quality and reliability of certificates. Third party issued certificates or third party verified claims of legal (origin) timber are being assessed on the basis of protocols. The protocols have been established by the Netherlands Timber Trade Association and are publicly available. The assessment is carried out by the independent Board of Experts.

- **Country of origin:** country where the trees have been harvested from which the wood (product) has been derived.
- **Legal:** according to legislation.
- **Legal compliance:** (in the context of timber harvesting and forest management): timber harvesting is being executed under forest management which complies with all relevant legislation pertaining to forest management including environmental and labour conditions and customary rights.
- **Legal origin:** (in the context of this protocol, refers to timber that is not stolen): origin that satisfies the criteria used in this protocol , for the appraisal of standards against which the claim of legal timber is being made (section 3.3).
- **Legal Origin timber:** (in the context of this protocol): timber from legal origin.
- **Legislation:** laws, rules and government prescriptions in the country of origin including laws and rules pertaining to international Treaties and Agreements which have been ratified by the country, or for which compliance is required under international law.
- **Protocol:** Description of procedures to be followed and references to be used for the purpose the protocol has been established for.
- **Protocol for the Validation of Claims of Legal Timber:** Description of assessment schemes and normative requirements on which the validity will be assessed of claims of the legality of timber.
- **Re-validation:** repeated validation of the same object after an earlier admission of a certificate has been expired or terminated. A re-validation requires a full validation procedure.
- **Standard for Legal (Origin) timber:** Set of criteria and indicators by which legal (origin) timber is defined.
- **Temporary extension:** temporary extension of the validity of an admission of a certificate (and thus of the right to use the Keurhout-label), e.g. in case of anticipated or on-going re-validation.
- **Validation of Claims of Legal Timber** (in the context of this protocol): Assessment of evidence that the third party endorsed claim of legal timber fulfils specified requirements as have been laid down in this protocol.
- **Verification of conformity:** Assessment of evidence that a product, process or service fulfils specified requirements.

Annex II: Keurhout approach towards the issue of Legal Timber

Status of timber 1)	Level of forest management performance 2)	Scope of legal concern 3)	Applicable legal requirements 4)
Legal origin timber	a) Responsible forest manager, i.e. license holder or community complies at least with the basic principle of harvesting only those trees that he is legally allowed to.	a) Timber is not stolen: Legal permit and timber extraction. <i>(and control of unauthorized extraction of timber)</i>	a) * legal registration and permits; payment timber fees and area taxes. * legislation and prescriptions as to protected areas, zones and species. * legislation and gov. prescriptions as to tree dimensions, allowed volumes.
Transition timber	b) a) plus, license holder participates in (third party verified) programme to progressively achieve SFM and move to certification.	b) a) plus, additional legal environmental and labour condition requirements and customary rights.	b) a) plus an agreed program setting time targets to comply with * environmental operating rules and legislation * (inter)national labour condition legislation * customary rights * other relevant laws
Certified timber (well managed forest, SFM)	c) Well managed forests, certified by independent third party, i.e. environmentally sound, economically feasible and socially justified forest management.	c) all relevant legislation and forest management rules. (see a and b)	c) * all legislation and rules pertaining to forest management and forest operations and license holders and operators. (a and b)

The table shows the legal requirements, column 4, which should be fulfilled in relation to the three levels of forest management as named in column 1 and described in column 2.

Annex III: Legal requirements to be met for SFM certification (after completion of the transition stage)

Societal pressure to distinguish legal timber from illegal timber stems from the concern about the indiscriminate harvest of trees, which according to legislation were not supposed to be harvested. Further more, securing legal origin is an indispensable prerequisite for responsible forest management. Therefore the **first level** of legal compliance assures that trees and timber have not been stolen i.e. timber comes from a Legal Origin. Timber from a legal origin meets the requirement that it has been harvested in compliance with rules and legislation related to legality of permits, respecting protected zones and species, tree dimensions and volumes per ha.

The **second level** of legal compliance is reached when forest management meets all the requirements of relevant international, national and local legislation and rules pertaining to sound forest management including environmental and labour conditions and customary rights. Most outstanding aspects, in addition to the five aspects contained in the Legal Origin standard, mentioned above, are:

Aspect 6: Customary rights as to NTFP (on concession areas).

- **Criterion 6.1.: Customary hunting and collecting rights** are tolerated, accepted or recognized and respected
 - *Indicator 6.1.1.:* The concessionaire has identified the local communities whose livelihoods are likely to be effected by its activities.
 - *Indicator 6.1.2.:* The concessionaire has established agreements with the communities providing details on access and use of the area by the communities and compensation for adverse effect of the company's activities.
 - *Indicator 6.1.3.:* Management plans, operational plans and harvesting operations show evidence of minimizing and where appropriate compensating adverse impacts on the ability to exercise customary rights by the communities.

Aspect 7: Fauna management protected animals, bushmeat

- **Criterion 7.1.:** The laws pertaining to fauna management and protected animals are respected and protected animals are not captured or hunted.
 - *Indicator 7.1.1.:* Forest management staff includes a wildlife coordinator. (optional but preferred)
 - *Indicator 7.1.2.:* Personnel working for the forest manager or his contractors has oral and written instructions complying with relevant fauna and animal protection laws.
 - *Indicator 7.1.3.:* Permanent control post are established and day and night serving at the entrances to the concession area.
 - *Indicator 7.1.4.:* Adequate provisions are taken, to prevent poaching, hunting or trading protected animals in the licence area, by any party including Government Agencies.
 - *Indicator 7.1.5.:* Competent Government Authorities have taken adequate measures to be able to seize and arrest persons who violate the relevant laws.

Aspect 8: Other environmental legislation(water regulation, soil retention, disposal etc)

- **Criterion 8.1.:** Laws and regulations pertaining to environmental pollution and biological control are adhered to.
 - *Indicator 8.1.1.:* Instructions covering all rules and legislation are available to supervisors.
 - *Indicator 8.1.2.:* Forest workers have been made understood rules as to biological control and chemical use.
 - *Indicator 8.1.3.:* A system to monitor compliance with these instructions is operational.
 - *Indicator 8.1.4.:* Provisions are taken to prevent oil and fuel spill in the forests.
- **Criterion 8.2.:** Regulations concerning soil and water conservation, including gazettes water retention areas are adhered to.
 - *Indicator 8.2.1.:* Operating instructions include erosion prevention and mitigation, at least to the extend to what is legally required.
 - *Indicator 8.2.3.:* regulations concerning stream flows are respected (e.g. no storage of pesticides near river banks, adapted road building near rivers, adapted harvesting rules near rivers, etc.).
 - *Indicator 8.2.4.:* Management plan and maps distinguish water retention areas.

- *Indicator 8.2.5.*: Operations on water retention areas follow specific instructions in order to comply with the formal rules and the purpose of the area.

Aspect 9: Labour rights and social impact

- Criterion 9.1.: Labour must be employed according to the relevant social and labour legislation and regulations
 - *Indicator 9.1.1.*: Personnel is officially registered with the competent government authority
- Criterion 9.2.: In countries which are party to the ILO the concessionaire and its contractors will respect the conventions such as the right for forest workers to organise and voluntarily negotiate their employment conditions.
 - *Indicator 9.2.1.*: Workers are free to join unions and are not discriminated when they are union members.
 - *Indicator 9.2.2.*: The license holder and its contractors or their union/federation negotiate with labour unions about employment conditions.
- Criterion 9.3.: Employer and personnel comply with health and safety rules and legislation.
 - *Indicator 9.3.1.*: The license holder and its contractors have established safety and health protocols which cover at least all legal requirements, including proper registration of (near) accidents, if so required.
 - *Indicator 9.3.2.*: The employer provides the required safety gear.
 - *Indicator 9.3.3.*: Employees are aware of the health and safety rules and wear and use the necessary safety equipment appropriately.

Aspect 10: Forest management and operations

- Criterion 10.1.: Government rules and legislation pertaining to forest management planning and operations are adhered to.
 - *Indicator 10.1.1.*: Forest management plan is available, up to date, and according to Government requirements and/or a model forest management system.
 - *Indicator 10.1.2.*: Formally established Codes of Practice for forest operations are being followed. (Reduced impact logging).

Aspect 11: Land tenure and land use

- Criterion 11.1 Legislation allowing for other land use in the area is respected.
 - *Indicator 11.1.1.*: Maps indicating formal land use rights (e.g.. mining) and actual other land uses (e.g.. agriculture) are available with the forest manager.
 - *Indicator 11.1.2.*: Formal land use rights are not disputed.

Aspect 12: International treaties, conventions and agreements

- Criterion 12.1.: In signatory countries, the provisions of all binding international treaties, conventions and agreements, which have been ratified and implemented by the government are respected.
 - *Indicator 12.1.1.*: The competent manager of the concession or community forest has a file containing relevant parts of ratified international treaties and conventions.
 - *Indicator 12.1.2.*: Implications, stemming from these treaties and conventions, have been identified and translated into management actions.