A voice ON THE LAND

An Indigenous Peoples' Guide to Forest Certification in Canada

Russell Collier
Ben Parfitt
Donovan Woollard

A JOINT PUBLICATION OF THE NATIONAL ABORIGINAL FORESTRY ASSOCIATION AND ECOTRUST CANADA


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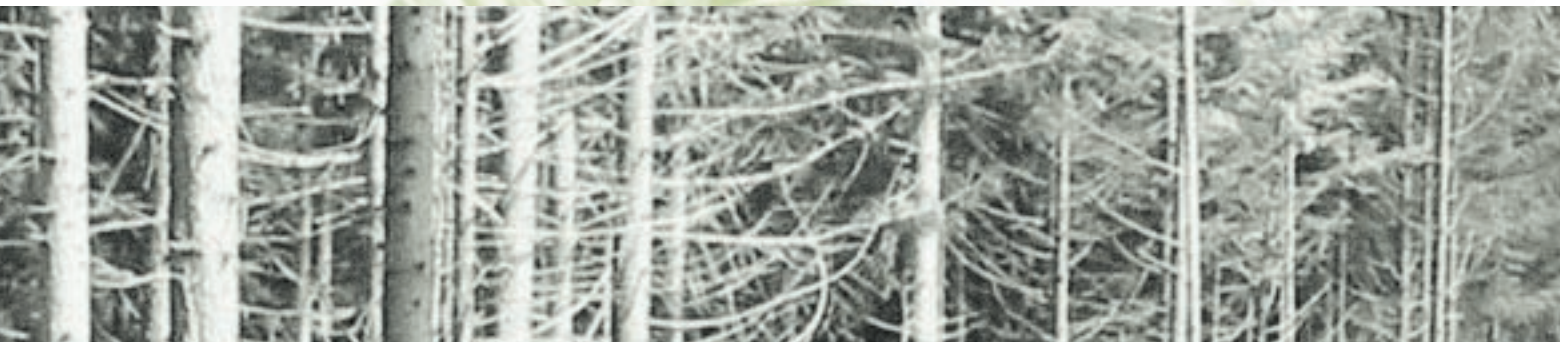

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Table of Contents

ECOTRUST CANADA

List of Case Studies and Side Stories

Foreword BY OVIDE MERCREDI

For far too long Indigenous People have watched as precious natural resources on their traditional lands were taken away for the benefit of others. Fish, trees, minerals water, all these and more have been overexploited, often with devastating consequences.

Today there is growing acceptance that this must stop. We owe it to the land and to one another. The fact of the matter is this: the old ways that instructed Indigenous Nations in their relationships with the land and environment are equally valid now as such beliefs, knowledge and practices were prior to colonization.

The Forest Stewardship Council was founded to help change the status quo. It recognized that the best way to secure the involvement of Indigenous communities was to seek their help in reversing the tide of damaging forest practices by actively working towards a common objective: to change forestry operations in ways that ultimately end the sad legacy of trampling on the rights and interests of Indigenous Nations.

The FSC understands that Indigenous Nations are often the first to bear the brunt of poor industrial forestry practices and the last to see any tangible benefits.

This cannot continue. Indigenous Peoples have sustained themselves over millennia by careful stewardship of lands. Their basic human rights to survival and socio-economic well-being are jeopardized when resources are misused.

I am encouraged that FSC requires of forest companies interested in its certification that they receive the full and informed consent of Indigenous Peoples in the area the company operates. This is important. It is unlikely that Indigenous Peoples will consent to continued exploitation and exclusion from the benefits to be derived from truly sustainable forestry.

I believe that this is the strongest reason why Indigenous Peoples and the forest industry should give the FSC certification program the most serious consideration. It provides Indigenous Peoples the avenues needed to share their beliefs, knowledge and practices that guide their relationships to the land.

Nobody believes that certification will solve all problems confronting Indigenous Peoples as they wrestle with resource uses on their traditional lands. But it presents opportunities. It is not a substitute for the full recognition of treaty and aboriginal rights. Nor is it a convenient opportunity for the provincial or federal governments to continue ignoring the basic human rights and freedoms of Indigenous Nations. It is, however, a means for the forest industry to demonstrate leadership, good citizenship and responsible stewardship. It also provides an immediate and practical way for Indigenous Peoples to address their poverty, be managers of their forestry resources and to share their vast knowledge.

After all, the Old Ones say: We, the humans, are all related to the land, waters and environment. ▲

OVIDE MERCREDI,

former chief of the Assembly of First Nations, October 2002.

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We would like to acknowledge the many people that contributed to making this a successful project. We talked to many, many people in the course of researching and writing this book, and the insights and direction that we were given were essential. From elders to community leaders, technicians, and forest industry and environmental organization representatives, we were guided by the knowledge of those with an interest in Indigenous Peoples forestry issues.

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ECOTRUST CANADA

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LISA MARIE AMBUS

Organizational Address

Because 80% of Canadian Indigenous communities are forest-based, Indigenous Peoples as a group are more impacted by forestry practices than any other. Unfortunately, most of these impacts have been negative. Examples abound of Indigenous communities bearing the brunt of forest activity, in the forms of damaged ecosystems, game habitat, trap lines, sightlines and livelihoods; at the same time, there are not enough examples of these Indigenous communities receiving the benefits of this activity, in the forms of employment, co-ordination with other economic and cultural interests, and involvement in the management and planning of forest activity.

Both the National Aboriginal Forestry Association (NAFA) and Ecotrust Canada have worked for several years to promote social, economic and environmental justice in Canada's forest-based communities. This includes a concerted effort to undo a lengthy history in which Canada's Indigenous Peoples have been alienated from their own resource base. Both organizations work to advance Indigenous Peoples' involvement in Canada's forest resource sector. Indigenous Peoples need an adequate land base to support self-sustaining communities, and that requires a forest management framework in Canada that reflects Indigenous Peoples' values and accommodates Aboriginal and treaty rights.

At NAFA, our overall goal is the promotion of self-determination and self-reliance in Indigenous communities across the country. We are an Aboriginal association working with our members, governments, educational institutions, unions and industry associations to build a policy framework in Canada which enables the capacity of Indigenous Peoples to participate in forest management. We argue for recognition and provision for the rights and interests of Indigenous Peoples within these framework documents.

At Ecotrust Canada, much of our effort is captured in the phrase *"Just Transactions, Just Transitions"*. By Just Transactions, we mean helping Indigenous communities gain greater access, ownership and control over lands and natural resources, as a poverty reduction, conservation and environmental restoration strategy. By Just Transitions, we mean a deliberate and strategic approach to the process of building "more reliably prosperous" communities, through local governance and sovereignty, enterprise development, the building of individual and community assets and capacities, and repatriation of alienated lands.

Forest certification systems have begun to play a prominent role in forest management in Canada and around the world. Certification's potential to create market incentives for companies to practise sustainable and responsible forest management certainly demands attention. We believe that certification in general – and the Forest Stewardship Council in particular – shows great potential to promote dialogue and solutions in forestry and forest communities. Again: just transactions, just transitions.

NOBA ANDERSON

The clearcut hills over the Bamfield/Huu-ay-aht Community Forest. The community forest is a partnership between the Huu-ay-aht Nation and the community of Bamfield and is managed to balance a range of community interests and values. They plan to seek FSC certification in the near future.

Certification will have particular implications for Indigenous Peoples and their traditional territories. We recognize that certification is – by nature of being a market-based tool – voluntary. Ideally, the pursuit of forest certification by industry can facilitate workable relationships between Indigenous communities and forest companies. In fact, with governments slow or unwilling to enact adequate policies or legislation on Indigenous Peoples' forest issues, certification can lead to innovations in dealing with Aboriginal and treaty rights, traditional land use and perhaps other key issues.

But we are concerned by the fact – and our cross-Canada conversations and surveys have demonstrated that this is a fact – that Indigenous Peoples do not have a strong sense of what this tool is, and how it can be used for the benefit of their communities. Furthermore, we found that there is little literature that attempts to demystify forest certification, from an Indigenous perspective, for an Indigenous reader. Indigenous Peoples' values are vital components in natural resource management and must be included within forest management systems as key principles.

NAFA has partnered with Ecotrust Canada to produce this book to serve as an important tool to inform and support Indigenous Peoples in their work on forestry issues so that they may meet their goals and objectives and obtain the highest possible value from forest resources. While recognizing that forest certification is not a panacea for all the natural resource management problems that Indigenous communities are faced with, we are hopeful that forest certification standards will be the first step towards a new era where Indigenous Peoples' interests shape forest management policy in Canada. We have supported the

production of this text as an information tool to assist Indigenous communities in their efforts to undertake meaningful dialogue with industries seeking forest certification.

This book is part of a larger effort by both organizations to build community capacity to engage in effective resource use. Providing communities with information on the intricacies of forest certification will strengthen their efforts to achieve significant results.

For NAFA, *A Voice on the Land* follows in our tradition of guidebooks and information materials for First Nations. Previous publications include: *Aboriginal Participation in Forest Management: Not Just Another Stakeholder*; *Non-timber Forest Products: Exploring Opportunities for Aboriginal Communities*; and *Value Added Forestry and Aboriginal Communities: The Perfect Fit*. NAFA's publication listing can be seen at our website at www.nafaforestry.org.

For Ecotrust Canada, *A Voice on the Land* adds to our collection of publications and tools on resource management and conservation issues. Previous works include *Chief Kerry's Moose*, on land use and occupancy studies (in partnership with the Union of BC Indian Chiefs); *What Lies Beneath* and *Kla-soms Kwuth Tooqen/Answer with Strength* (www.nativemaps.org/referrals/), on Crown land referrals (the latter in partnership with the Sliammon First Nation); and *Falldown*, on forest policy in BC (in partnership with the David Suzuki Foundation). Ecotrust Canada's full publication listing can be seen at our website at www.ecotrustcan.org.

Forest certification alone will not revolutionize the way Canada's forests are managed, nor will it guarantee a more equitable share for Indigenous Peoples of the benefits of our forest economy. But if we are ever to build a forest-based economy that respects ecological limits, values people and culture, and equitably shares the wealth of Canada's forests, we urgently need new tools. Forest certification is just such a tool, and we offer this operating manual as a way to speed the transition that desperately needs to occur.

This is the rationale for our collaboration on the production of this book. We recognized the need that exists, in the communities with which we work directly and in those across Canada, for an engaging and informative text on forest certification. We also recognized that we were well positioned to produce such a document, and get it out to a nation-wide audience. We hope you will use the manual, tell us how it can be improved and, above all, share your stories with us. We can learn from each other, but only if we remember to share what we know. ▲

IAN GILL,
President,
Ecotrust Canada

HARRY M. BOMBAY,
Executive Director,
National Aboriginal Forestry Association

ECOTRUST CANADA

Introduction

CHRIS MCDONELL

ECOTRUST CANADA

Introduction

Why is this word in bold? It lets you know that this term is included in the glossary.

Around the world, Indigenous Peoples have often been the first to bear the brunt of poor forestry practices and the last to see tangible economic benefits.

Whether it's the Russian taiga, the Amazonian jungle, or New Zealand's temperate rainforest, the stories follow familiar lines. Companies secure rights from provincial, state or national governments to log new tracts of forest that are the traditional lands of Indigenous Peoples. The lands get logged – more often than not without regard for **Aboriginal rights** and interests – and the companies move on.

Much the same applies to Canada, a country blessed with some of the world's largest and most diverse forests. From the lush temperate rainforests of the West Coast, to the mixed softwood and hardwood forests of Nova Scotia, to the vast boreal forest that blankets the northern half of the country, Indigenous Peoples have witnessed wholesale changes to forests in their traditional territories.

In this regard, the Heiltsuk Nation is a prime example. Today, about 1,400 Heiltsuk live in Bella Bella, a coastal community hugging the shores of British Columbia's fabled Inside Passage. In recent years, that water body has been a marine highway of sorts. Barges weighed down by thousands of logs from centuries-old cedar, spruce and hemlock trees have chugged south past Bella Bella en route to distant Vancouver. Once in Vancouver, some of the biggest forest companies in the world have cashed in on that green gold, turning logs into lumber and pulp chips.

Since 1910 – but most particularly in the past 15 years – the Heiltsuk have watched that activity accelerate. Today it is estimated that more than $2 billion worth of logs have been taken from Heiltsuk territory. Almost all of that wealth went south, as so much of the forest money trail in Canada does today. In exchange, a handful of Heiltsuk in Bella Bella got some seasonal logging jobs.

The Heiltsuk people understood the phrase "cut and run" long before most environmental groups. The fresh clear-cuts scarring nearby mountain faces and the loaded log barges heading south were a daily reminder. It meant get in quick, get the trees out, then leave and let others figure out how to forge a living from the mess left behind.

Stories just like this abound in Canada, and are a central reason why Indigenous and non-Indigenous Peoples alike have pushed for a better deal, one that helps to sustain forests and local communities.

Happily, they are not alone. David Kaimowitz, Director General of the Center for International Forestry Research, notes that there is "greater public recognition of the importance of forests for rural livelihoods, combined with initiatives by Indigenous communities and others to demonstrate their rights to their local forest resource."

"The outcome," Kaimowitz said in a presentation to a 2002 conference in Vancouver devoted to exploring Indigenous Peoples' forestry, "is a fast moving trend worldwide of governments granting local people more rights over forests. Formally, 15-20% of world forests are presently the property of rural communities, and traditional communities are slowly regaining control over historical forest areas." Kaimowitz went on to note that forest reform was "the land reform of the 1990s." In the Amazon Basin alone, he said, more than 1 million square kilometres of land – an area equivalent in size to Bolivia – was "devolved to community management in the last 15 years."

In September 2002, the United Nations World Summit on Sustainable Development in Johannesburg, South Africa gave further impetus to this trend when it reaffirmed "the vital role" of Indigenous Peoples in "sustainable development."

Clearly, Canada's Indigenous Peoples face a daunting task as they attempt to capitalize on this phenomenon, thus securing new and better ways of doing business in the forested landscapes they have always called home. But their task may be made easier by some rapidly accelerating trends.

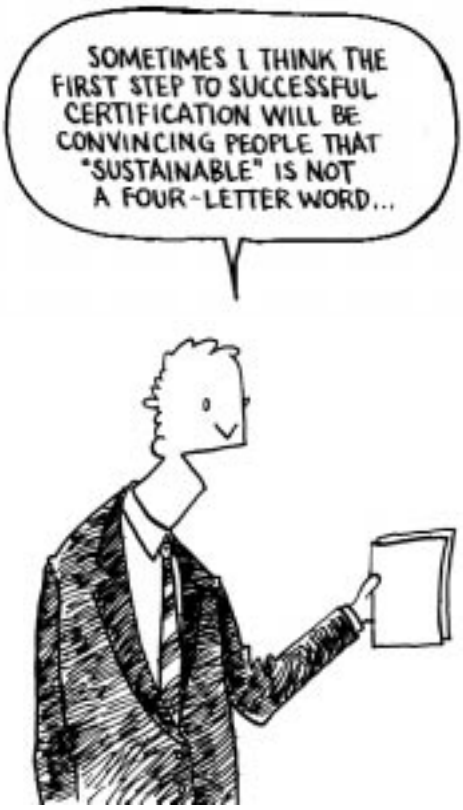
In recent years, there has been a growing if sometimes grudging acceptance by forest companies and governments alike that forests need to be managed in new ways that sustain entire **ecosystems**, not just new crops of wood fibre. There has also been a growing recognition that rural communities need to play a greater role in **forest management**.

The first trend is helping to bring more scientific and Indigenous knowledge to bear in forest planning. The second is helping to open the door for communities – as opposed to corporations – to play a more active role in managing local forests.

Building on these two trends is another that is gaining speed in Canada and, indeed, around the world. That trend is **forest certification**. And it is this trend and its potential benefits for Indigenous Peoples that we explore in this book.

Certification is a voluntary, market-based approach that gives interested forest companies the opportunity to demonstrate to demanding consumers that they manage their operations in a "sustainable" manner.

Obviously, that word means different things to different people. And that is just one reason why the whole business of certification is so interesting: different groups in society have different expectations about what it can deliver. They also have very different ideas about



ECOTRUST CANADA

Another load of logs leaving, unprocessed.

what sorts of values and perspectives certification systems should consider (*see side story* ***Expectations of Forest Certification***).

At the end of the day, certification is not meant to be a replacement to governments enacting new laws pertaining to sustainable forestry. Nor is it meant to settle outstanding issues surrounding Aboriginal rights and land claims. But forest certification, and in particular the certification system administered by the **Forest Stewardship Council** (FSC), appears to be a useful tool in helping advance certain Aboriginal rights and interests pending the formal settlement of those outstanding issues.

How to Use this Book

Written with Indigenous Peoples, Indigenous communities and Indigenous forest managers in mind, this book serves as a guide to what to look for when a company wishes to pursue certification on traditional lands. It features a step-by-step description of what happens when a company decides it wants to seek FSC certification. It also includes a useful list of important questions Indigenous Peoples should ask key players at key points before, during and after an FSC certification. Some of the core questions are discussed in Part 3, while there is an exhaustive list in Appendix 3. As there are some technical terms used in this book, we have also provided a detailed glossary.

APPENDIX 3 (page 103) is designed to be a useful reference tool if and when forest companies approach your community seeking certification.

Real-life examples of where FSC certifications have occurred in Canada are presented along with an explanation of some of the benefits that

EXPECTATIONS OF FOREST CERTIFICATION

Environmental groups were among the earliest proponents of certification. They see it as an opportunity to protect environmental values while letting businesses continue to function. They also believe that it allows greater public input into and control of land- and resource-use decisions. In particular, they see the Forest Stewardship Council (FSC) as their creation. They support it above other certification programs because it requires independent auditors to verify that certain forest protections are in place, rather than leaving it to companies and governments to make those judgement calls.

Forest companies and forest industry associations, on the other hand, may not necessarily support FSC. But they still see value in some form of forest certification, mostly because it provides more certainty in their operating climate. Facing incessant demands to change the way they log, some companies want an environmental stamp of approval that will help put a shine on their tarnished image. For them, certification is a tool that provides a way to show the public that environmental values are being protected, and that they are logging in sustainable ways.

Certification is also seen by many forest products **manufacturers and retailers** as a way to capture greater market share in the "eco-certified wood" niche. This niche is often compared to the organic foods market.

Public opinion polls consistently report that **consumers** will pay a little more (often called a premium) for products that are shown to be ecologically friendly. As markets change, businesses see the need to adapt to new conditions and pursue different customers. But whether or not forest certification translates into significant price increases and profits remains to be seen. For now, the driving reason to achieve certification may simply be that it makes it easier for companies to do business in a world where more people are aware of the environmental, social and economic damages associated with poor forestry practices.

have accrued to Indigenous Peoples, the environment and to companies in terms of improved relations with Indigenous communities.

Finally, this book offers helpful tips on what to consider in deciding whether or not to participate in a certification process and details as to why, among a handful of certification systems, the FSC has the most to offer that is of potential lasting benefit to Indigenous Peoples.

In the pages ahead, you will see that one of the many important reasons why FSC certification stands head and shoulders above other certification systems is because of the active involvement of Indigenous Peoples in the drafting of the **FSC's Principles and Criteria**.

The FSC is truly international in outlook, and from the beginning it has placed a strong emphasis on the importance of companies dealing in new and more respectful ways with Indigenous communities. The FSC has also taken the important step of recognizing that social, environmental and political realities vary from place to place. Those differing circumstances need to be reflected in more regionally-specific **standards.**

Indigenous People across Canada have participated in the development of Regional Standards that are specific to various parts of the country. With the hard work of developing these standards at or near completion, the time appears close at hand when a large number of forest companies, big and small, will be applying for certification.

There is no better time than now to be prepared for that eventuality. ▲

You can look at certified forestry as similar to certified organic food: certification identifies products in the marketplace that meet higher standards than the regular two-by-fours or tomatoes.

In a country such as Canada where **provincial governments** use their control of Crown lands to issue timber-cutting permits or licences to logging companies, certification's appeal may be that it provides more certainty to the forest industry. If certification helps to sustain logging activity, then that means a secure stream of income to government in the form of stumpage or timber-cutting fees and corporate and personal income taxes. Certifications may also boost a province's environmental reputation in the eyes of certain forest product buyers leading to an improved investment climate. And it may provide opportunities for provincial governments to attempt to manage the environmental agenda.

For **labour groups** who have traditionally played a strong role in social justice issues, forest certification may be seen as another tool in protecting workers' rights to safe and meaningful employment, to long-term jobs, and to greater community stability.

Indigenous communities may see forest certification in an entirely different way from the views expressed above. For many Indigenous Peoples, certification may be an opportunity to protect all things in the forest – not just timber, but berry bushes, mushrooms, medicinal plants, cultural sites, hunting and fishing areas, among others. Some Indigenous Peoples may also see it as a new opportunity to participate more fully in the forest economy. For others still it may mean an opportunity to negotiate new relationships with businesses and local communities.

Because the kinds of values that forest certification deals with overlap considerably with Aboriginal title and treaty rights, some Indigenous communities may see it as a tool to move resolution of those outstanding issues along. There is some justification for this view.

While companies cannot be responsible for rights issues outstanding between Indigenous Peoples and provincial and federal governments, they assume some responsibility for these rights when they accept forest licences from governments. How these companies will exercise that responsibility and influence the resolution of Aboriginal rights issues in forest management has become a certification issue.

NELSON KEITLAH JR.

PART 1

Why the Forest Stewardship Council?

LISA MARIE AMBUS

SIGNY FREDRICKSON

We believe that among certification programs, the Forest Stewardship Council has the most to offer Indigenous Peoples at this time. This section presents our reasons for this position, along with an overview of the certification movement and an introduction to the Forest Stewardship Council and other certification systems.

Why the Forest Stewardship Council?

While this book concludes that – of all the certification programs – the Forest Stewardship Council's offers the most that is of potential use to Indigenous Peoples, only time will tell whether participating in FSC certification processes delivers tangible benefits. The FSC basically creates opportunities for dialogue between Indigenous Peoples and industry. It takes time to build trust, and time to see the outcomes of these processes.

Always remember that choosing to embark on a forest certification process is voluntary. Nobody forces a company to do it. But companies don't operate in a vacuum. Their chief executives know which way the wind blows. They've seen how international campaigns by environmental groups have influenced the purchasing decisions of certain companies that buy large volumes of forest products. More than a few purchasers – including several major retailers– have said they want pulp, paper and wood products that come from forests that are responsibly managed. That translates into demands for forest certification. Without secure market access, no forest company stays in business for long. So when buyers say "certify or risk losing business" forest companies pay attention.

More than a few purchasers – including several major retailers – have said that they want pulp, paper and wood products that come from forests that are responsibly managed.

Because certification is voluntary, and because companies are not legally bound by the terms of whatever certification program they pursue, certification is no substitute for forestry legislation that explicitly protects Indigenous Peoples' rights and interests and the environment. But it may be a step in the right direction and it may prompt governments at some point to enact sustainable forestry legislation. That would be a remarkable achievement. Still, it is important to remember that the benefits of certification remain uncertain. And what benefits do emerge, without doubt, will vary from place to place depending upon local circumstances.

As co-publishers of this book, the National Aboriginal Forestry Association and Ecotrust Canada did not arrive lightly at the conclusion that FSC certification has the most potential of all the certification systems to positively impact the lives and communities of Indigenous Peoples in Canada.

For one thing, only the FSC explicitly requires that Indigenous Peoples' issues be addressed in a detailed fashion in every certification process. Furthermore, before reaching the conclusion that FSC best

serves the interests of Indigenous Peoples, we conducted an informal cross-Canada survey of Indigenous Peoples involved in forestry issues. In the course of these discussions, several key issues kept coming up:

- Does the certification program require strong environmental protection?
- Does it require strong provisions for **Aboriginal and treaty rights**?
- Does it use a **precautionary principle** to guide actions?
- Does it require the forest company to be accountable to local communities?
- Is its **consultation** process with Indigenous Peoples good, bad or indifferent?
- Is sustainability emphasized over short-term profit?
- Does the program call for capacity-building for Indigenous Peoples?
- Are the certifiers and auditors independent from industry and government control?
- Are the standards they measure against developed independently from industry and government control?
- Is there opportunity to incorporate traditional ecological knowledge in **forest management plans**?
- Will the certification result in improved relationships between Indigenous Peoples and industry?
- Can local people, particularly Indigenous Peoples, participate in the design of the management plan, the monitoring of its effectiveness and the adaptation of the plan to fit new knowledge?

These are excellent questions. And they are important to ask because companies are moving quickly to have their forestry operations certified. And in the vast majority of cases the certification programs they are pursuing are not FSC. Yet, in almost every case, the FSC is the strongest in addressing these concerns (*for more information see **How FSC Stacks Up***).

Certification – Trends and Industry Commitments

In 1993, forest industry associations across Canada formed a new group called the Canadian Sustainable Forestry Coalition. The Coalition quickly developed a "sustainable forest management" standard for Canadian companies through the Canadian Standards Association (CSA). This marked the beginning of a sharp increase in forest certification across the country.

According to a 2002 Coalition report, "more than 104 million hectares of forest land across the country, representing an annual allowable cut of more than 94 million m^3 [cubic metres] have been certified. This represents almost 52% of Canada's annual harvest of approximately 180 million m^3 and almost 90% of Canada's managed forest lands."

"This strong performance," the Coalition said, "is clear evidence of broad industry commitment to sustainable forest management,

HOW FSC STACKS UP

Across Canada, Indigenous Peoples expressed interest in forest certification programs that addressed a number of important questions. Based on an informal national survey by the National Aboriginal Forestry Association and Ecotrust Canada the following questions emerged as major sources of concern for Indigenous Peoples. We present the questions and an evaluation of how the Forest Stewardship Council's forest certification program fares in answering them.

Q: *Does the certification program require strong environmental protection?*

A: Yes. This is particularly true because environmental organizations created FSC. In practice, however, interpretation has sometimes weakened the environmental aspects of the program because Regional Standards are developed by environmental organizations, social groups, industry and Indigenous Peoples among others.

Q: *Does it require strong provisions for Aboriginal and treaty rights?*

A: Yes. One of the 10 guiding Principles, Principle 3, deals explicitly with Indigenous Peoples' rights, including the right to control forestry on traditional territories and the right to provision for resources, sites of special significance and **intellectual property rights**. It requires **consent** from Aboriginal people before certification occurs.

Q: *Does it use a precautionary principle to guide actions?*

A: Yes. The precautionary principle underlies all FSC Principles and Criteria, although its application may vary depending upon which Regional Standards are in play.

Q: *Does it require the forest company to be accountable to local communities?*

A: Yes. Extensive public consultation is built into the FSC standards. There are also requirements for worker health and safety, and requirements for protection or enhancement of community well-being, including local businesses.

Q: *Is its consultation process with Indigenous Peoples good, bad or indifferent?*

A: If followed, FSC's consultation requirements are very good. But the implementation of consultation results can still be circumvented by interpretations that downplay the importance of this over other aspects of the certification standard. Indigenous Peoples need to be vigilant.

meeting customer needs and assuring Canadians that our forests are well managed."

But there is certified and then there's certified. This total includes forest operations that are certified under a range of systems, each with a different perspective and focus. And issues of Indigenous Peoples' rights are a key area where certification systems differ. By mid 2002, slightly less than 1 million hectares of forest – under 1% of the total then certified in Canada – was certified according to Forest Stewardship Council standards.

There are some important reasons to believe that this pattern is changing, however. First, it is crucial to note that the prime focus of the Forest Stewardship Council in Canada to date has been the development of **Regional Standards**. Regional Standards fit the broad, overarching Principles and Criteria of the FSC to a local context. As these **Regional Initiatives** are completed, the emphasis of the FSC will shift to promotion and implementation… in other words, getting forestry operations certified!

Second, there is clear evidence that industrial, community-based and family-scale **forest managers** are taking a keen interest in the FSC. One of the world's largest forest companies – Weyerhaeuser – recently became a junior partner in a new joint venture company, Iisaak Forest Resources. Majority control rests in the hands of the five Nuu-chah-nulth First Nations on central Vancouver Island. Iisaak has received

ECOTRUST CANADA

This sort of forestry – vast clearcuts with little respect for large old growth stands and culturally modified trees – contributes to the need for a tool like forest certification.

Q: *Is sustainability emphasized over short-term profit?*

A: Yes. It is a basic requirement of FSC standards.

Q: *Does the program call for capacity-building for Indigenous Peoples?*

A: Maybe. FSC has different standards depending on what region of Canada or the world you are in. Capacity-building requirements vary between regions. Under FSC, there is a call to build the capacity of logging crews and local suppliers, but there is no explicit requirement in the FSC's Principles and Criteria for companies to build the capacity of Indigenous Peoples. Opportunities to do so may, however, be available. For example, this could be the focus of consultation and negotiation between a forest company and Indigenous community.

Q: *Are the certifiers and auditors independent from industry and government control?*

A: Maybe. FSC certifiers vary considerably. Each may be predisposed to favour certain constituencies be they industry, environmental, government or Indigenous People. It's best to know something about the certifying body before deciding whether or not to participate.

Q: *Are the standards they measure against developed independently from industry and government control?*

A: Yes. FSC Standards are developed nationally or regionally as an implementation of the international Principles and Criteria. In Canada, there are four **chambers** – economic, environmental, social and Indigenous – that oversee standards development. Industry has no more power in standards development than those in the other three chambers.

Q: *Is there opportunity to incorporate traditional ecological knowledge into the forest management plans?*

A: Yes. Under FSC there is explicit opportunity to do so built into the Standards.

Q: *Will the certification program result in changes in the relationship between Indigenous Peoples and industry?*

A: Perhaps. Because FSC requires Indigenous consent to operate, opportunities for improved relationships are strong.

Q: *Can local people, particularly Indigenous Peoples, participate in the design of the management plan, the monitoring of its effectiveness and adaptation of the plan to fit new knowledge?*

A: Yes. This is an explicit requirement built into FSC's standards. Implementation of this may vary from province to province, however.

Many Indigenous Peoples may be wary of yet another consultation process. But with an active approach, they can use FSC to attain some tangible community benefits.

Certification, and FSC in particular, provides an avenue to collaborate with people. It clearly contains in it the values and standards by which Aboriginal people wish to work with companies.

FSC certification to some 88,000 hectares of first-growth forest, in one of Canada's so-called environmental hot spots, Clayoquot Sound. The joint venture and its certification success arguably advanced local Indigenous forestry interests more than years of unsuccessful treaty negotiations and failed side agreements *(see case study **Iisaak's Clayoquot Venture** on page 74)*.

Another example of Indigenous leadership in this area comes from clear across the country. The Pictou Landing First Nation in Nova Scotia decided to have some of its tribal lands subject to an independent audit as an important step toward FSC certification. Decades of land clearing for farms and commercial logging had completely changed the forest in and around Pictou Landing. The forest surrounding the tiny community became one of the first in Canada to receive FSC certification. The hope now is to engage in low-impact logging, tree-planting and other activities in order to bring back the forest of a bygone era. Along the way, the Pictou Landing First Nation wants to purchase more lands, expand its brand of **restoration** forestry and create new economic opportunities *(see case study **Healing the Land: The Pictou Landing Story** on page 60)*.

Elsewhere, Tembec Inc. has announced plans to have "all its woodlands" FSC-certified "as soon as possible." That decision may provide some interesting opportunities for Indigenous Peoples across the country from New Brunswick in the east through the Central Canadian provinces of Quebec and Ontario, to Manitoba and British Columbia.

The company says a key reason it wants FSC certification of more than 13 million hectares of forest is that, alone among certification systems, FSC offers opportunities for Indigenous Peoples. And that's an important consideration when you're a company operating under licence agreements with provincial governments allowing you to log "public" forest lands that also happen to be the traditional lands of Indigenous Peoples.

"More and more, stakeholders are becoming frustrated with [how] governments [are] responding to the needs of people," says Chris McDonell, Tembec's Director of Environment and Chair of the FSC Canada Working Group. "Certification, and FSC in particular, provides an avenue to collaborate with people . . . It clearly contains in it the values and standards by which Aboriginal people wish to work with companies in particular" (*see case study* ***Tembec's Tale*** *on page 40*).

The Iisaak, Pictou Landing and Tembec stories suggest that forest certification by or in conjunction with Indigenous Peoples may rise in the years ahead. Sprinkled throughout this text are stories offering more information on these important developments.

THE CRITICAL PHRASE

The key to freely given consent is maintaining the essential dignity of an individual's or community's right to choose. **Free and informed consent** involves not only directly informing a participant about a process, but informing him or her of the benefits and risks of that process, the alternatives, and the rights a person or community has to withdraw from that process.

Key to informed consent is the quality, timeliness and appropriateness of information used to decide consent.

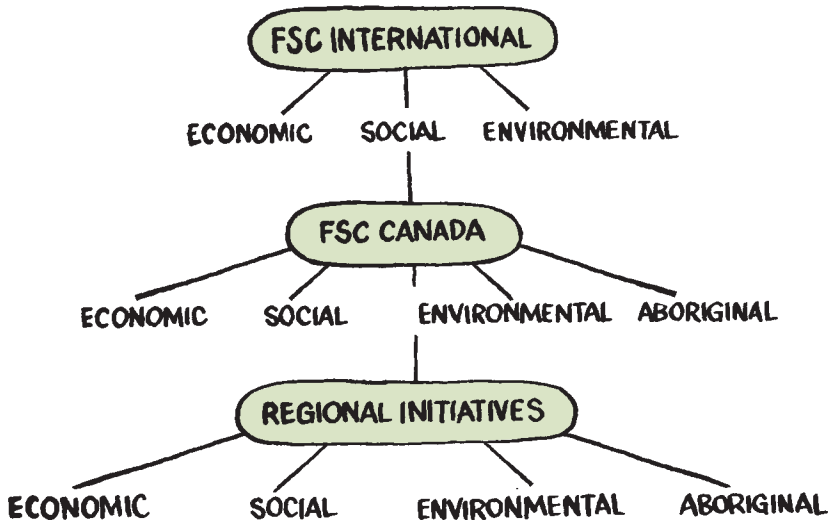
Indigenous Peoples, if their consent is truly and freely given, must possess enough information to weigh potential benefits and risks, to judge when the alternative of not giving consent is appropriate, and to know also when withdrawing from the process is appropriate.

The phrase "free and informed consent" is an integral part of FSC Principle 3. Its inclusion into the text of Criteria 3.1 and 3.4 provides a level of protection to Indigenous People previously unheard of in forestry planning.

The consent requirement in FSC Principle 3 and its Criteria is couched in the strongest possible language. There is no doubt that the authors of the international Principles and Criteria intended the requirement to be strong, and that accredited certifying bodies (ie. approved by FSC to conduct certifications) are to take that requirement seriously too.

The terms "free and informed consent" or "freely given consent" may best be understood in terms of what they are not. For example, consent that is obtained solely through promise of rewards such as employment or cash would not qualify as consent. In fact, we might call it coercion.

Consent obtained through trickery, such as supplying false information or downplaying the potential impacts of a proposed activity, would not be freely obtained or obtained from anything approaching an informed foundation.



The structure of the Forest Stewardship Council.

FSC – Recognition of Indigenous Peoples' Rights and Interests

Nobody should hold illusions that FSC certification will solve all of the numerous problems confronting Indigenous Peoples, particularly those in isolated regions where infrastructure is lacking. And there is evidence that, in some of the certifications that have taken place to date, little initial effort was made to meaningfully consult with Indigenous Peoples (*see case study* ***Westwind's Challenge*** *on page 30*). But certification appears to be emerging as a useful tool in moving unending and frustrating discussions about Indigenous Peoples' rights and land uses away from provincial governments (who insist that they cannot address Aboriginal and treaty rights in forest management) to someplace new. And when that happens some tangible gains may come.

Nobody should hold any illusions that FSC certification will solve all of the numerous problems confronting Indigenous Peoples, particularly those in isolated regions where infrastructure is lacking.

As we will see, perhaps the most important aspect of FSC certification is its explicit recognition of Indigenous Peoples' rights and interests. This is embodied in FSC Principle 3, or "P3" as it is becoming known in forestry and Indigenous circles.

PRINCIPLE 3:
The legal and customary rights of indigenous peoples to own, use and manage their lands, territories and resources shall be recognized and respected.

The first Criterion (3.1) of Principle 3 goes on to say that

CRITERION 3.1:
Indigenous Peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.

Practically speaking, few Indigenous communities in Canada today control all forestry operations within their traditional territories. More often than not when it comes to forest certification, the people or companies who seek it will be non-native forest managers.

In developing its Principles, FSC's members recognized that this was likely to be the case. And they very wisely used strong language to deal with that reality. The most critically important words are **free and informed consent**.

FSC certification requires that an Indigenous community must *freely* consent to a forest company managing certain lands in certain ways. Moreover, that community must be provided the opportunity to make an *informed* decision on the matter before that consent is granted (*for more information on free and informed consent see the side story **The Critical Phrase** on page 21*).

These are important words worth remembering when Indigenous communities consider proposals to have forestry operations certified. It is also important to remember that free and informed consent is not possible in cases where Indigenous communities lack sufficient resources to adequately respond to forest company plans. Lack of capacity is a big barrier to full and effective participation by Indigenous communities in certification processes. Under FSC there is some recognition of this, although in practice it remains to be seen how much capacity-building actually occurs during and after a successful certification drive.

In the next few pages we offer more detail on what FSC is, how it came to be and why different sectors in society value it for different reasons. Other certification programs that Indigenous Peoples may wish to learn more about will also be mentioned.

What is the Forest Stewardship Council?

Formed in Toronto in 1993 and based in Bonn, Germany, the Forest Stewardship Council is an international organization whose stated aim is "to support environmentally appropriate, socially beneficial and economically viable management" of forests.

It is a non-profit group that, from the beginning, has had a diversity of members including environmental and social justice groups, forestry and forest products groups, Indigenous Peoples, and community advocates.

These interests have equal power in the FSC, through the organization's **chamber** system. At the international level, there are three chambers – Environmental, Economic and Social – which ensure that the interests of many groups are voiced, but that none drowns out the rest. In Canada, there is also an Indigenous Peoples' chamber. This gives Indigenous Peoples in Canada a unique and strong position in the development and implementation of FSC Standards.

The FSC arose out of a growing recognition around the world that

destruction of forests was resulting in serious social, economic and environmental problems.

The FSC recognizes that people need to use wood products, but that a growing sector of the population wants to ensure that their purchases do not contribute to these problems. FSC certification attempts to find a constructive way to meet a growing demand for products that come from well-managed forests.

To do so, FSC has been methodically developing a sophisticated certification and labelling system for forest products. According to the organization's web site (www.fscoax.org), this system "provides a credible guarantee" that such products come from a well-managed forest.

Regional Initiatives/Standards

The FSC has also developed an over-arching set of international Principles and Criteria. But in recognition of the fact that forests vary tremendously within and between countries, it has encouraged the drafting of National and Regional Standards.

As is discussed in detail in Part 2, these Regional Standards build upon the FSC's Principles and Criteria and link them to regional environmental, social and political realities

In Canada, several sets of Regional Standards have been or are in the course of being developed. As elsewhere, Indigenous Peoples have

REGIONAL STANDARDS AND ECOSYSTEM-BASED FORESTRY

When each set of FSC Regional Standards in Canada is looked at, a common theme emerges. There is great emphasis placed on restoring, enhancing, or just plain maintaining forests in all their rich and varied complexity. For too long, forests around the world were managed for one thing only – timber. The result was that Indigenous communities suffered huge (but thankfully not always permanent) losses.

The language contained in the Great Lakes St. Lawrence Regional Standards (GLSL) is a good case in point. It challenges the belief in many forestry circles that "sustainability" is principally about sustaining one resource. "Traditionally, sustainability has been considered in terms of the sustained yield of timber. However, forest managers and scientists now realize that a sustained yield of timber is only possible if certain ecological conditions are met: sufficient quantities of downed woody debris are left on the forest floor; the soil maintains its nutrient content and water holding capacity; mycorrhizal fungi remain at characteristic levels; microbial populations are sufficient to break down wood and return nutrients to the soil; processes of disturbance operate with a frequency, intensity and patch size similar to that experienced during the forests' evolutionary histories; and many others... A forest that qualifies for certification in the GLSL forests should be one that is capable of meeting these conditions for a very long period of time."

Successful certifications, as noted in BC's Regional Standards, will be those that pay attention to ecological, social and economic factors. But – and this is an important but – if you want to work in and sustain a healthy forest, economic considerations cannot outweigh the other two.

The concept of everything being connected, a concept well understood by Indigenous Peoples across the country, remains largely absent from many modern-day forestry operations. As a growing number of Indigenous and non-Indigenous people are saying, it's time to re-think how we work in forests so that we maintain or build upon the web of life that makes a forest tick. This concept is becoming an important part of many Regional Standards. Everything – from the microscopic fungus that attaches itself to the fine ends of a tree's root in the dark organic

been active participants in the development of those standards. This participation has been instrumental in promoting new and more sustainable kinds of forestry across the country (*see* ***Regional Standards and Ecosystem-Based Forestry*** *below*).

Third-party, Independent Certification

To get the right to use the FSC logo, applicants must have their forestlands and forestry plans inspected by an independent **certifying body** that has been accredited to do such work by the FSC. Rather than certifying directly, the FSC gives approved organizations the right to conduct FSC certifications on its behalf. These are organizations that have demonstrated their "competence and credibility" to conduct fair assessments. The Silva Forest Foundation, Rainforest Alliance (Smartwood), Soil Association (Woodmark) and SGS Qualifor are among the accredited certifying bodies that have conducted certifications in Canada.

"All accredited certification bodies," the FSC says, "may operate internationally and may carry out evaluations in any forest type. Certified forests are visited on a regular basis, to ensure they continue to comply with the Principles and Criteria. The performance of certification bodies is closely monitored by the FSC. Products originating from forests certified by FSC-accredited certification bodies are eligible to carry the FSC logo."

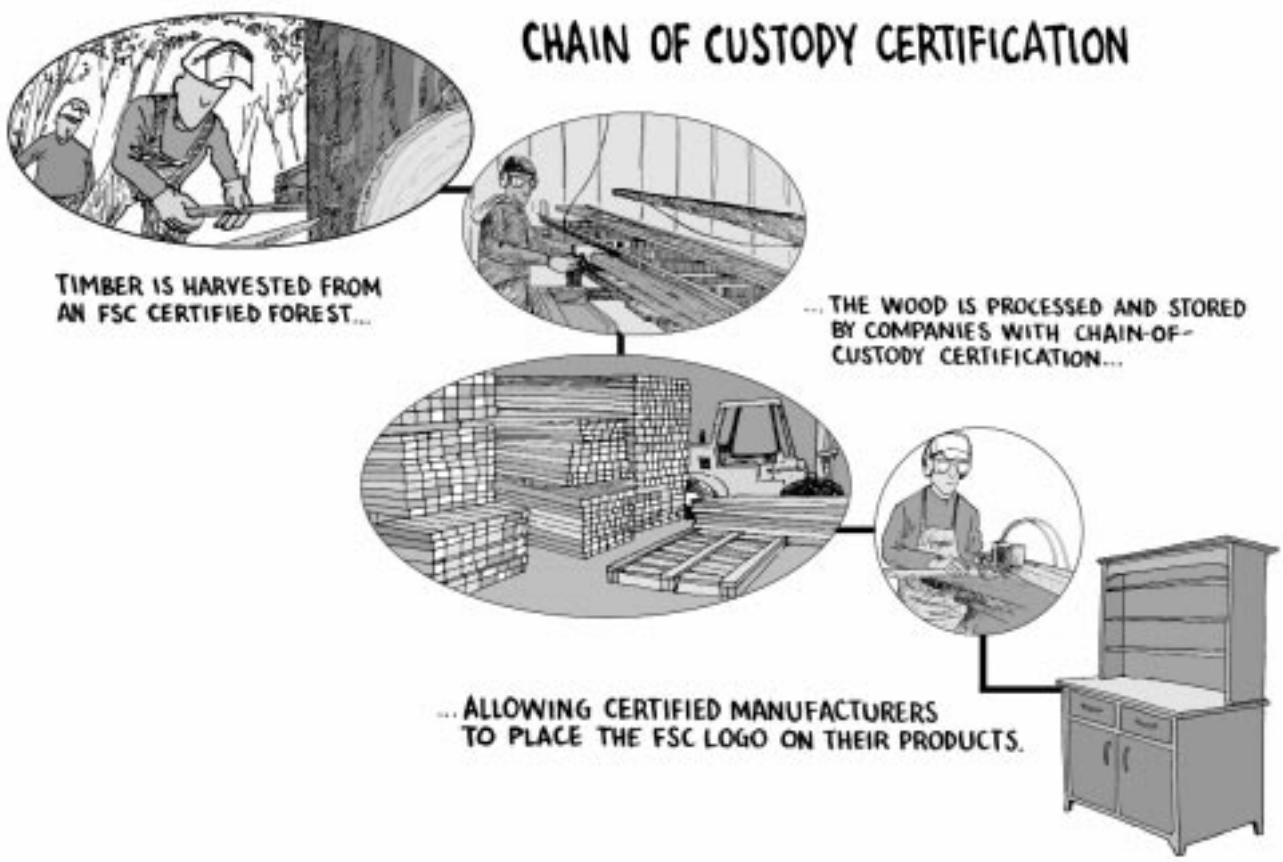
soil beneath the earth's surface to the towering spire of a dead tree that is a haven for insects that woodpeckers feast upon – is vital to a forest's health.

This doesn't mean an end to cutting down trees – far from it. But, as stated in the Maritimes Regional Standard, it means recognizing that "humans are but one of thousands of species in this region, each of which is important in its own right and as an integral part of the entire ecological web." And it means planning very carefully what can be taken from that setting without doing undue harm to what remains. Some call this approach ecosystem-based forestry.

It's like flipping conventional forestry on its head. Instead of focussing on how much to take and how much money to make now, the focus is on what you leave behind and how to space out the money you do make over time. In that way, tomorrow's generation continues to enjoy the same rewards from the forest that today's generation does. That's what ecosystem-based forestry is all about, and what the drafters of Canada's FSC Regional Standards had in mind. Time will tell whether their vision is realized.

CHERYL ONCIUL

These tall dead trees in Alert Bay Ecological Park provide much-favoured perches for bald eagles and ravens.



Chain of Custody

But there is an important caveat to this last point. The FSC logo is only applied if the FSC is satisfied that the "**chain of custody**" between the certified forestry operation and the end user or buyer has been verified. It must be clear that the product sold did, in fact, originate from the forest that its seller claims it did. This is not as simple as it sounds. Forest products typically go through numerous processes between the tree and the final product, changing hands many times. To make sure that what the customer buys came from a certified forestry operation, the FSC has created a second form of certification called Chain of Custody. This certification is available to primary and secondary processors, in other words any business that will have "custody" of the certified material on the way to the retailer and end user.

FSC Certification – By Area, Not by Company

Many forest corporations are large and operate in several countries. Moreover, most countries are made up of several distinct ecological regions. Consequently, FSC certification rarely applies to company-wide operations, but covers geographically specific areas. Area-based certification allows stewardship of a given land and resource base over time, to ensure that any environmental and social benefits endure.

In big countries like Canada the forest and forest communities vary markedly from place to place. This means that an approach that fits one ecosystem, community or jurisdiction may not work as a blanket approach across the company's operations. This may partly explain why, as of the summer of 2002, only a small number of FSC certifications had occurred in Canada. The other, as mentioned earlier, is that the prime focus of the FSC in Canada – to date – has been on the development of Regional Standards (*for a list of FSC certifications in Canada as of the fall of 2002 see* ***FSC Certifications in Canada*** *below*).

It should be emphasized that the FSC tries to dissuade companies from seeking certification for one operation while practising business-as-usual in other areas. Such "partial certifications" would give a company all of the public relations benefit of certification without requiring a full-systems change to the way they do business. Furthermore, companies who are members of the Economic Chamber of the FSC are expected to have significant commitment to the system, ensuring that most or all of their operations and sales are FSC certified.

FSC CERTIFICATIONS IN CANADA AS OF 2002

(for updates see www.certifiedwood.org)

COMPANY	FOREST STATUS	OWNERSHIP/TENURE	LAND AREA	CERTIFIER
Allen Hopwood Enterprises Ltd. (BC)	2nd growth	public/private woodlot	132 hectares	Silva Forest Foundation
Domtar Forest Resources (Trenton Forest Manager) (Ont)	2nd growth	private woodlots	31,178 hectares	Rainforest Alliance (SmartWood)
Groupement Forestier de l'Est du Lac Temiscouata Inc. (GFELT) (PQ)	2nd growth	private woodlots	10,952 hectares	Rainforest Alliance (SmartWood)
Haliburton Forest & Wildlife Reserve (Ont)	2nd growth	private woodlot	22,015 hectares	Rainforest Alliance (SmartWood)
Iisaak Forest Resources Ltd. (BC)	1st growth	Crown (Tree Farm Licence)	87,700 hectares	Rainforest Alliance (SmartWood)
Pictou Landing First Nation (NS)	2nd growth	First Nation lands	384.5 hectares	Rainforest Alliance (SmartWood)
Regional Municipality of York (Ont)	2nd growth	public	2,031 hectares	Rainforest Alliance (SmartWood)
Rodney and Barbara Krimmer (BC)	primarily 1st growth	public/private woodlot	638 hectares	Silva Forest Foundation
Rod Blake (BC)	primarily 1st growth	public/private woodlot	660 hectares	Silva Forest Foundation
Tembec Inc. (Resource Manager) (Ont)	2nd growth	private woodlots	2,811 hectares	Scientific Certification Systems (SCS
Westwind Forest Stewardship Inc. (Ont)	2nd growth	public (Sustainable Forest Licence)	855,000 hectares	SGS Qualifor

DONOVAN WOOLLARD

Chief Leah George and GIS Technician Mike George from the Tsleil-Waututh Nation show off their land. The Tsleil-Waututh recently reacquired 315 hectares of forest land in the heart of their traditional territory. The community is establishing an FSC certified ecoforestry operation. This operation will promote ecosystem restoration, and will complement other community interests for the land, including cultural and ecotourism activities.

Four key things to keep in mind about FSC certification are:

- Forest certification is a way for companies to show that their logging operations don't harm the environment or local communities.
- Companies voluntarily submit to an assessment by an independent professional who compares the company's practices against a set of standards.
- Companies receiving certification get to label their products FSC-approved.
- Processors and manufacturers who wish to use certified materials need to have a Chain of Custody certification in order to put the FSC logo on their products.

Other Certification Programs

Before turning to a closer look at what FSC may have to offer Indigenous communities, mention should be made of other certification programs. Chances are that a forest company in your area has received a stamp of approval through one of these programs and

is telling its customers about it. You must be the judge of whether these programs – or FSC for that matter – deliver positive results for your community and your environment.

One general difference between the FSC and other systems is that the FSC is overtly "results-based," in that it assesses the tangible impacts upon a given operating area; others focus more on management structures and processes. The reasoning for the latter approach is that, if the correct management approach is taken, there will be improvements in practice. The jury is still out on which approach leads to more positive benefits on the ground and in communities.

International Organization for Standardization

The **International Organization for Standardization** (ISO; www.iso.ch/), formed in Amsterdam in 1947 and now based in Geneva, Switzerland, sets standards for a wide range of products and management operations. The majority of ISO standards are specific to particular products, materials, or processes. Of interest here is ISO standard 14000 on "environmental management" which states in part that it concerns:

> *the way an organization goes about its work, and not directly the result of this work. In other words, it concerns processes, and not products – at least, not directly. Nevertheless, the way in which the organization manages its processes is obviously going to affect its final product.*

There is little in the standard that relates specifically to forestry. In fact, the major points taken from the definition don't appear to connect to forestry at all.

1) The forest company uses generic standards to set its own environmental policy, objectives and targets.
2) The company also decides how it is going to accomplish the above. This may include generic strategies, processes and, sometimes, specific practices.
3) The company also decides how it will measure whether it has met its goals.
4) The company can perform its own audits, though to be credible they are encouraged to use an independent auditor.

For these reasons, many observers question whether the ISO approach is technically a forest certification system in same manner as FSC and others.

Canadian Standards Association

The **Canadian Standards Association** (CSA; www.csa.ca) is best known for its standards that guide production of items such as refrigerators, hockey helmets, seat belts, baby toys, house paint and step ladders – pretty much anything that can be manufactured. It's likely that you have several household items that are "CSA Approved."

Without question, the world of certification is full of acronyms, with a number of certification systems, planning processes and information tools. It's enough to make your head spin.

CASE STUDY

WESTWIND'S CHALLENGE

THE FRENCH/SEVERN FOREST covers more than 855,000 hectares of land in the mixed conifer and hardwoods forest of Ontario and runs from the French River south to the Severn River and from Georgian Bay east to Algonquin Park. As of mid-2002, it was the largest tract of forest in Canada to receive FSC certification.

Westwind Forest Stewardship Inc., a non-profit agency funded by the forest industry to carry out planning and silviculture in compliance with Ontario's forestry regulations, received certification in February 2002.

There are a total of eight Indigenous communities in the area in which Westwind operates.

According to Westwind General Manager Steve Munro, a decision was reached in 1999 to pursue forest certification. "We settled on FSC," Munro says. "It seemed to fit well with our community aspect of forestry for the French/Severn. It deals with social, economic, environmental and First Nations [issues]."

When the FSC-accredited certifying body, SGS Qualifor, audited Westwind's plans in late June and early July 2001, they visited a majority of the region's Indigenous communities.

"The auditors went out and spoke with members of roughly six of the communities to get their perspective on what Westwind was all about, and ask all about the questions of Principle 3 of FSC," Munro says.

Based on that work, the auditors noted some serious shortfalls in Westwind's application.

Here's what they said:

"While there is some evidence of consultation with First Nations there is limited involvement in all stages of forest management planning including the prescription process. There is no strategic plan as to how First Nations will be included in forest management. There is no documented consent from First Nations for forest management operations within their traditional lands. First Nations lack capacity and information to participate effectively in the process."

The auditors highlighted three problems that all marked a failure on Westwind's part to meet key aspects of the FSC's Principles and Criteria. Those were:

- There was no strategic plan for dealing with Indigenous Peoples involvement;
- Indigenous Peoples did not see current consultation as meaningful or adequate; and
- There were no documented agreements for forest management.

"While substantial opportunities for non-Aboriginal people for employment, training and other services are available," the auditors went on to say, "there is no strategic plan to identify training and employment opportunities with First Nations, and provide support and initiatives to build First Nations' capacity to develop employment opportunities."

DOUG BRUBACHER

Based upon these concerns, SGS Qualifor made a **Corrective Action Request**. This is a request for certain changes in a company's operations before certification can go ahead.

In this case, this included Westwind convening a new committee to prepare and implement a new strategic plan to address the concerns raised by SGS Qualifor. The new committee included representatives from the Waabnoong Bemjiwang (representing four Indigenous communities) as well as the Shawanaga First Nation and a Native Liaison officer with Ontario's Ministry of Natural Resources.

Further meetings were held with Indigenous Chiefs and forestry representatives, and with each Indigenous community to further discuss the strategic plan.

"The initiative has been received very positively by First Nations, although there was a common view that it should be strengthened with more specific, timetabled commitments," SGS Qualifor noted in its assessment report. "As a result of this feedback, Westwind has further developed its process, updated the Strategic Plan in December 2001 and held another meeting with First Nations representatives."

Based on these and other actions Westwind was granted certification. That said, this is often held up as an example of the need for Indigenous Peoples to hold the FSC accountable on Principle 3.

As a professional standards development body, the CSA's main clients are business, industry, government and (indirectly) consumers. In response to the FSC, the CSA has devised its own set of forestry standards. This was done through a multi-stakeholder process at the request of major forest companies, adopting as its principles the Canadian Council of Forest Ministers' Criteria and Indicators of Sustainable Forest Management.

The CSA straddles the distinction between being a management system and having a prescriptive, results-based approach. CSA does not provide a direct route to forest certification, but rather a framework for a company to design its own certification system. The important parts of the CSA Sustainable Forest Management System are:

- The CSA provides a framework for a company to set its own forestry standards in conjunction with an advisory committee consisting of various community stakeholders; and
- The standards or plans that a company arrives at are supposed to balance economic, social and environmental needs.

Sustainable Forestry Initiative

Finally, the **Sustainable Forestry Initiative** (SFI; www.afandpa.org) is a program of the American Forest & Paper Association, which is a creation of American forest companies.

Here's what SFI says of sustainable forestry and their approach:

> *Sustainable forestry means managing our forests to meet the needs of the present without compromising the ability of future generations to meet their own needs by practising a land stewardship ethic which integrates the growing, nurturing and harvesting of trees for useful products with the conservation of soil, air and water quality, and wildlife and fish habitat. Sustainable forestry is the destination. The [SFI] Forest Principles and Implementation Guidelines are the path to get us there.*
>
> *SFI is a commitment to practice responsible forestry, to recognize responsible wood suppliers, and to educate and inform people about sustainable forestry practices. It represents a partnership between loggers, landowners and the forest industry.*

The CSA standards "offer Aboriginal people nothing more than a promise to comply with what is already an insufficient approach to addressing Aboriginal rights."

There is a noticeable lack of mention of communities in SFI's definition. The definition goes on to say:

> *The Sustainable Forest Initiative (SFI)™ program . . . is a comprehensive system of principles, objectives and performance measures, that integrates the long-term, sustained growing and harvesting of trees, with the protection of the environment in which they grow.*

The SFI approach is based on a relatively limited set of forest values, the two major components being:

- Long-term sustained growing and harvesting of trees, and
- Protection of the environment.

Those companies with SFI approval gain the use of a logo that says they have met SFI standards. SFI requires further certification through CSA or ISO. This means that it is closely linked to CSA and ISO standards for certification.

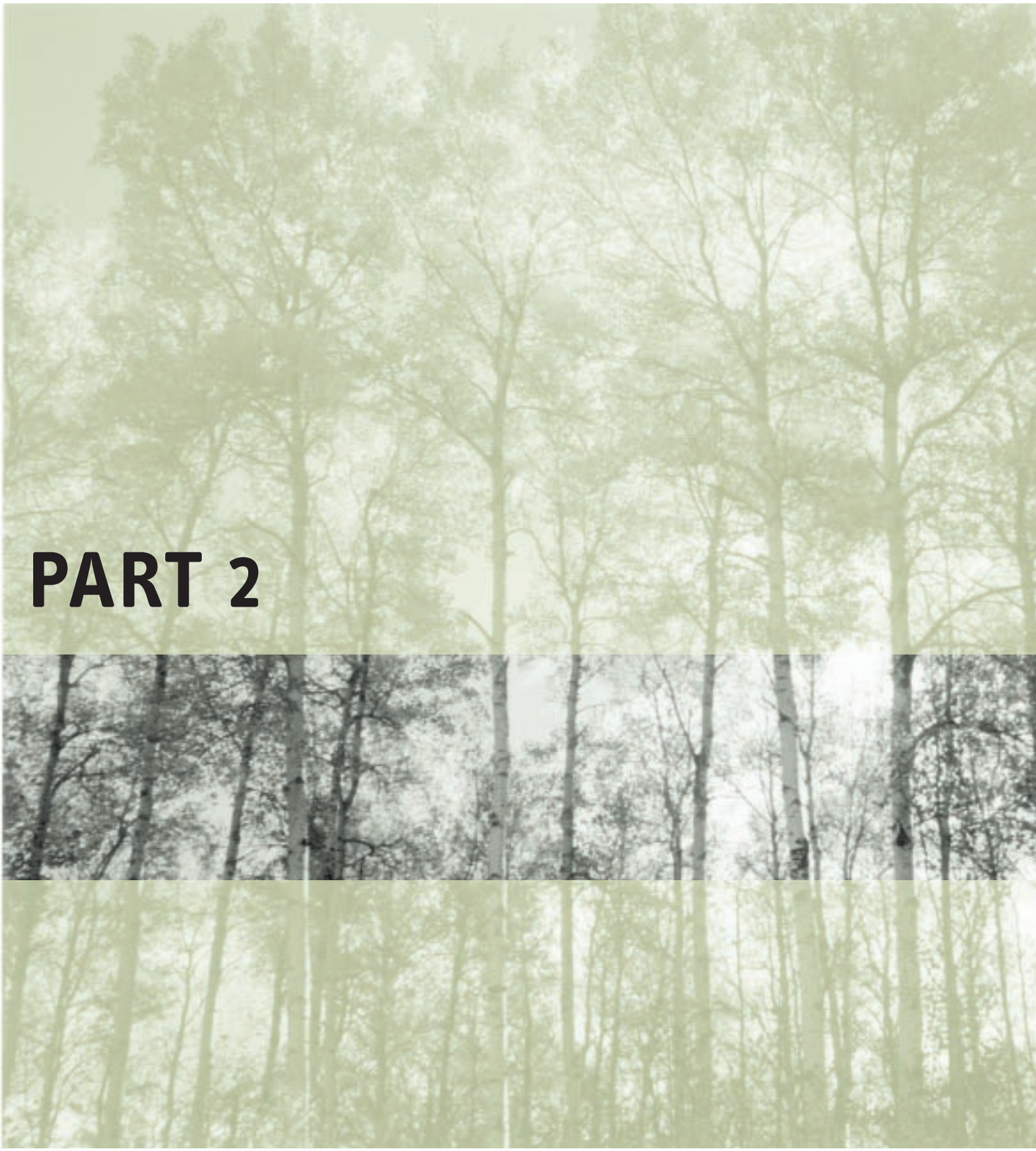
At the time this book was written, SFI was in discussion with Canadian forest companies about how to address Indigenous issues in its standards. The discussions may have been prompted in part by concerns raised by the National Aboriginal Forestry Association and others. In a letter to SFI in February 2002, NAFA said it was "particularly disturbed by the approach taken by SFI towards certification" and its "complete lack of attention" to Indigenous Peoples and consultation on forestry issues. "In Canada, Aboriginal and treaty rights are protected under Section 35 of the Canadian Constitution," the letter read. "There have been numerous rulings with the courts to ensure that rights are not infringed. The SFI does not address any social or cultural issues or concerns within its certification process."

NAFA had similar criticisms of the CSA's sustainable forest management requirements, noting in an April 2002 letter to a CSA committee that its Sustainable Forest Management Requirements and Guidance Document "does nothing more than commit to recognizing Aboriginal and treaty rights as they are currently interpreted by provincial forest management legislation and regulations. The CSA standards offer Aboriginal people nothing more than a promise to comply with what is already an insufficient approach to addressing Aboriginal rights."

The same letter went on to note that the FSC's Principle 3 "goes beyond abiding by existing legislation and provides clear and concise language that acknowledges and respects the legal and customary rights of Indigenous Peoples to own, use and manage their lands, territories and resources."

In summary, none of these certification systems deal as explicitly with Indigenous Peoples' issues as does the FSC. This is largely because these systems are so discretionary, and are grounded in industry perspectives. They need to learn over time how to address the full range of social and environmental issues that forest certification needs to take into account. As indicated above, the other systems are making efforts to better integrate such values and perspectives. At the time that this is being written, however, only the FSC has a relatively comprehensive and progressive approach to Indigenous Peoples' issues. ▲

FSC's Principle 3 "provides clear and concise language that acknowledges and respects the legal and customary rights of Indigenous Peoples to own, use and manage their lands, territories and resources."



DOUG BRUBACHER

PART 2

FSC in Greater Detail

JEAN PAUL GIADU

KEITH SAYERS

The core aspect of FSC certification relating to Indigenous Peoples is Principle 3. Principle 3 and FSC present many opportunities for communities, but these must be considered in light of your community's overall vision and strategies. This section gives an overview of the certification process, and highlights some key issues to consider when deciding whether or not to participate.

FSC in Greater Detail

The rest of this book goes deeper into the FSC and the role that Indigenous Peoples can play in ensuring that it lives up to its potential. This section looks in greater detail at the FSC process, and presents some key issues to consider when deciding how involved your community wants to be in FSC activities in your territory.

Under the FSC, Indigenous communities are invited to participate in both the development of Regional Standards and in individual certification assessments, either as the forest manager seeking certification or as a unique party whose consent is required for certification to go ahead. The role of Indigenous Peoples in FSC certification is presented in Principle 3 *Indigenous Peoples' Rights.*

Principle 3 – An Overview

Taken as a whole, Principle 3 and its Criteria are a remarkable set of statements (*for an overview of some of the more important points, see* ***Standing on Principle 3*** *on page 38*). Let's look at each part in turn, starting first with the overarching Principle.

PRINCIPLE 3

The legal and customary rights of indigenous peoples to own, use and manage their lands, territories and resources shall be recognized and respected.

Opponents of Aboriginal and treaty rights in Canada maintain that very narrow federal and provincial government interpretations should determine what those rights are. Supporters of Aboriginal and treaty rights maintain that Indigenous Peoples themselves should determine the scope and depth of those rights. Critics of FSC certification have been quick to claim that this Principle cannot be observed in Canada until the legal questions surrounding Aboriginal rights and title are settled once and for all.

While it is true that Principle 3 may require companies to go beyond the legal minimum with regard to consultation with Indigenous Peoples, there should not be a legal implication to this. If companies decide to pursue certification, they will be expected to go beyond the legal minimum on a range of environmental, economic and social factors.

The latter part of Principle 3 narrows down the scope of the rights at hand, stating they are the rights "to own, use and manage their lands, territories and resources." It is fair to say that, since this whole topic is about forest certification, it would make sense to focus only on those rights that pertain to forestry, leaving other topics such as health care,

ECOTRUST CANADA

A key aspect of FSC certification is the degree to which wildlife habitat must be valued.

education and housing for another arena. It is also fair to say that the Principle contemplates Indigenous Peoples "owning, using and managing their lands, territories and resources," as opposed to begging for access to lands and resources that were once exclusively and unquestionably theirs.

It cannot be overstated, however, that FSC's Principles and Criteria do not speak of establishing or settling legal land claims, or legally interpreting Aboriginal and treaty rights. They also do not require that Indigenous Peoples' rights be legally settled before certification can occur (*see A**ppendix 2 Principle 3: Implications for Aboriginal Rights and Title** on page 99*). All they do is leave it up to local people to figure out how to make it work. For now, let's look more closely at what the Criteria say.

A Criterion, in the FSC certification program, expands or elaborates upon a basic Principle. It tells you which parts are most important. Criterion 3.1 reads as follows:

CRITERION 3.1

Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.

Unambiguous as this statement is, the challenge is in the application of these strong words. How Indigenous Peoples assert control over potentially disputed lands is not answered. The answer to that question is left for local people to work out.

Nevertheless, the words provide clues. When talking about people, control, agencies, and free and informed consent, the FSC is talking about a series of relationships and levels of trust.

CRITERION 3.2

Forest management shall not threaten or diminish, either directly or indirectly, the resources or tenure rights of indigenous peoples.

CRITERION 3.3

Sites of special cultural, ecological, economic or religious significance to Indigenous Peoples shall be clearly identified in co-operation with such peoples, and recognized and protected by forest managers.

These two are closely related to each other in meaning. Criterion 3.2 deals with resources or tenure rights in defined areas. Criterion 3.3 deals with local sites of special significance, specific locations and features within these geographic areas. Again, probably the only way to implement these two is to talk in terms of who is going to do what, to whom, and when. It's all about relationships in other words.

These two, more than the management and title aspects we saw in Criterion 3.1, are what people most often think Aboriginal and treaty rights are all about. Many Indigenous forestry issues, aside from the fundamental ones of who controls the land itself, revolve around topics like fish and wildlife protection, habitat protection or rehabilitation, and access to other resources. Note that these other resources could be economic in nature, which does potentially add to the confusion over how these Criteria are to be applied.

CRITERION 3.4

Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence.

Traditional knowledge varies depending on place and the value people ascribe to it. For example, it is well known that the Indigenous Peoples

LISA MARIE AMBUS

Indigenous Peoples in coastal British Columbia strip cedar bark for a range of cultural purposes.

STANDING ON PRINCIPLE 3

In summary, the more important points of Principle 3 and its Criteria are:

- The Principle and Criteria are strongly worded, using command words like "shall."
- The breadth of rights contemplated by the Principles and Criteria are wide, strongly suggesting that a "mere consultation" role for Indigenous Peoples will not be satisfactory.
- The Principles and Criteria refer to "the legal and customary rights", not restricting those rights to provincially or federally-recognized legal rights only.
- According to the Principle and Criteria, these rights specifically include an economic component.
- They also include compensation for the use of traditional knowledge in forest management.
- In common with other FSC Principles, the Principle and Criteria requirements extend beyond current legal minimums.
- Sticking to a purely legalistic interpretation of Principle 3 will likely preclude any certification, no matter how desirable certification may be.

of Brazil have great knowledge about tropical plants, knowledge that can be worth big dollars to pharmaceutical companies. In Canada, traditional knowledge may include medicinal and food plants, knowledge of local climate shifts, local use of fire management, or wildlife habitat and pattern shifts.

The Criterion does not require that traditional knowledge be used. But it most certainly does say that when it is used it is worth something. In the world of law, this is known as intellectual property rights. Unlike the previous three Criteria, Criterion 3.4 contains specific requirements for formal and timely compensation for the use of such knowledge. In the event that an Indigenous community is approached by an outside party seeking FSC certification, it should make sure that the applicant knows about this.

Having discussed the overall framework for Indigenous Peoples' involvement in FSC certification, it is now important to discuss the processes in which this participation and consultation will occur. There are two main phases of FSC activity in a region, and each presents opportunities for Indigenous Peoples to shape the nature of certified forestry in their territory. The first phase is the development of Regional Standards; the second involves each individual certification assessment that occurs in the territory. Here is an overview of each of these phases.

JEAN PAUL GLADU

Kim Goetzinger of the Haida Gwaii Watchmen Program in action. The Watchmen Program has been an essential tool for the Haida in establishing a stewardship presence in their territory, and ensuring that industrial forestry does not damage important cultural sites.

Regional Standards, Regional Realities

From the beginning, FSC's architects understood that not all forests are alike.

That is why they supported the development of Regional Standards by people living in the area where the new standards were to apply. Around the world, including here in Canada, Indigenous Peoples have been actively involved in the drafting of those standards.

In Canada as of fall 2002 there were Regional Initiatives in British Columbia, the Great Lakes St. Lawrence, Ontario Boreal and the Maritimes, plus one other Initiative with a broader land base that takes in the boreal forest across the country.

Regional Standards build upon the FSC's Principles and Criteria to situate them in regional environmental, social and political realities. This is typically done through the development of regional **Indicators** and **Verifiers** under each Criterion. For example, the Draft BC Regional Standard refines Criterion 3.1 with an Indicator 3.1.1 which reads:

The manager recognizes and respects the legal and customary rights of the First Nation(s) over their lands, territories and resources.

This is further refined with a Verifier 3.1.1(a) which reads:

3.1.1(a) First Nation(s) formally indicate, clearly, unambiguously and normally in writing, that their legal and customary rights over the lands, territories and resources have been recognized and respected.

For an assessment of what the various Canadian Regional Initiatives have included in Principle 3 of their Regional Standards, visit the FSC Canada web site at www.fsccanada.org, go to the boreal link and then look at the Synthesis Report.

TEMBEC'S TALE

WITH RIGHTS TO LOG over 13 million hectares of land in Ontario, Quebec, Manitoba and British Columbia, Tembec Inc. is a large company, one of the biggest in Canada.

Companies like Tembec gain access to trees on "public", or "Crown," lands through licence agreements reached with provincial governments. Many such agreements date back years if not decades. Most were signed without consultation with Indigenous communities, despite the fact that the lands and resources in question were subject to Aboriginal treaty, title, or traditional use.

CHRIS MCDONELL

Chris McKay of the Mattagami First Nation standing against a white spruce tree near Timmins, Ontario during a field tour organized by Tembec to identify opportunities to improve forestry practices in the territory.

At times, this has created enormous tensions between those communities and various companies. This fact is not lost on Chris McDonell, Tembec's Director of Environment.

"We don't own the land where we harvest trees," McDonell says. "It's both public land and the traditional land of First Nations." For these and other reasons, it makes sense to find new ways to deal with Indigenous communities, and McDonell says one of the ways to do that is through FSC certification.

Tembec intends to eventually have all of the areas in which it does business FSC-certified. This clearly demonstrates that – despite what others claim – at least one major Canadian forest company believes FSC certification is attainable for all of its forestry operations. Tembec is well aware that as it goes through that process there will be significant challenges, particularly in dealing with more remote Indigenous communities.

But those challenges also present opportunities, both for Indigenous communities and for companies such as Tembec.

"Overall, northern communities' populations are declining," McDonell says. "But youth populations are growing very quickly. As the young people gain more skills we will rely on them more heavily as a workforce and they will increase their capacity to manage forests."

"Clearly, companies need to act and behave differently," McDonell continues. "We are neighbours to a whole bunch of communities that, frankly, we haven't understood that well. For our own growth as a company, as part of our staff development side, it's important that we don't create a dichotomy between our own business interests and Aboriginal interests. There's some overlap there."

McDonell believes that that overlap is what makes FSC certification such a sensible choice. As of the summer of 2002, the company had launched certification drives on seven of its area-based forest tenures, each in different ecological regions of the country. If each of these become certified, then it will be easier to certify operations elsewhere because the major organizational hurdles will already have been largely addressed.

CHERYL ONCIUL

Beyond attaining FSC certification, the company is displaying a willingness to continue thinking creatively. On a couple of occasions, it has suggested to the Ontario government (close to half of Tembec's logging rights are in Ontario) that a portion of the stumpage fees collected by the government from companies logging on certain Crown lands be directed to Indigenous People. This money, McDonell says, could then be used to help build capacity, particularly in more remote communities.

"That then could set a precedent for revenue-sharing in other parts of Ontario where Aboriginal communities and ourselves are sharing some harvesting responsibilities. We're continuously evolving toward a co-management approach," McDonell says.

So what, you may ask, is in this for Tembec?

Certainly, improved relations with Indigenous communities translates into an improved business environment. But that's not all.

"Clearly, it's a market access issue," McDonell says. "And for businesses like ours who sell a range of products (Tembec exports to 30 or 40 different countries) that's a very important business need – to have market access and not be excluded."

ERROL MEIDINGER

SmartWood and other certifying bodies host assessor training sessions to provide opportunities for Indigenous Peoples to directly participate on assessment teams.

In essence, the purpose of the Indicators and Verifiers is to convey how people in that region interpret a certain Principle and Criterion, and to convey how certifiers should measure whether or not a forest company has met these Principles and Criteria.

It bears mention that some Regional Initiatives have agreed on language that requires a company to go beyond what is called for in Principle 3 and its Criteria. This isn't always the case, meaning there is some inconsistency between regions.

It is fair to say that even within FSC processes there are ongoing tensions about Principle 3. For example, during the development of Ontario's boreal standards, the Economic Chamber pushed for a more limited view of Principle 3 while the Indigenous Chamber pushed for a broader view.

The Indigenous Chamber's preferred option stated

> *Where Aboriginal communities are interested, and in the spirit and intent of the treaties to share resources, the [FSC] applicant is working towards a joint forest management agreement with the Aboriginal community.*

The Indigenous Chamber went on to say that examples of joint management included the establishment of joint or overlapping tenure arrangements, joint committees or boards to oversee the development and implementation of forest management plans, and recognition of joint management systems.

The Economic Chamber's preferred option was

> *Where Aboriginal communities **and the applicant** [emphasis added] are interested, the applicant is working towards a joint forest management agreement with the Aboriginal community.*

This is a subtle but important difference. This option would effectively leave it up to the applicant (applicants more often than not being a forest company) to determine whether or not it would try to arrive at a joint management agreement with the relevant Indigenous community.

In this particular case, the Economic Chamber's approach drew criticism. In a letter to FSC Canada in July 2002, the Nishnawbe Aski Nation said:

> *While the industrial component of the economic chamber seems willing to acknowledge the existence of Aboriginal and treaty rights in relation to hunting, fishing and trapping, they seem stymied when the discussions go beyond this level. It has always been our position that the Treaties go beyond this. In signing the Treaties, the First Nations never gave up title to the resources. Rather, we agreed to a "sharing." This viewpoint, and its related aspects, is one which is continually being upheld by the courts. Unfortunately, it is one which the Ontario government, and subsequently the forest industry, continues to ignore… Since the Treaties did not sign away sole resource management rights to the Province, it seems appropriate that the concept of "joint management"(sharing) be an integral part of Principle #3.*

Clearly, active participation by the Nishnawbe Aski Nation and others is essential to make sure that the Ontario Boreal Regional Standard is one that contains a strong interpretation of Aboriginal rights.

The Process of Certification

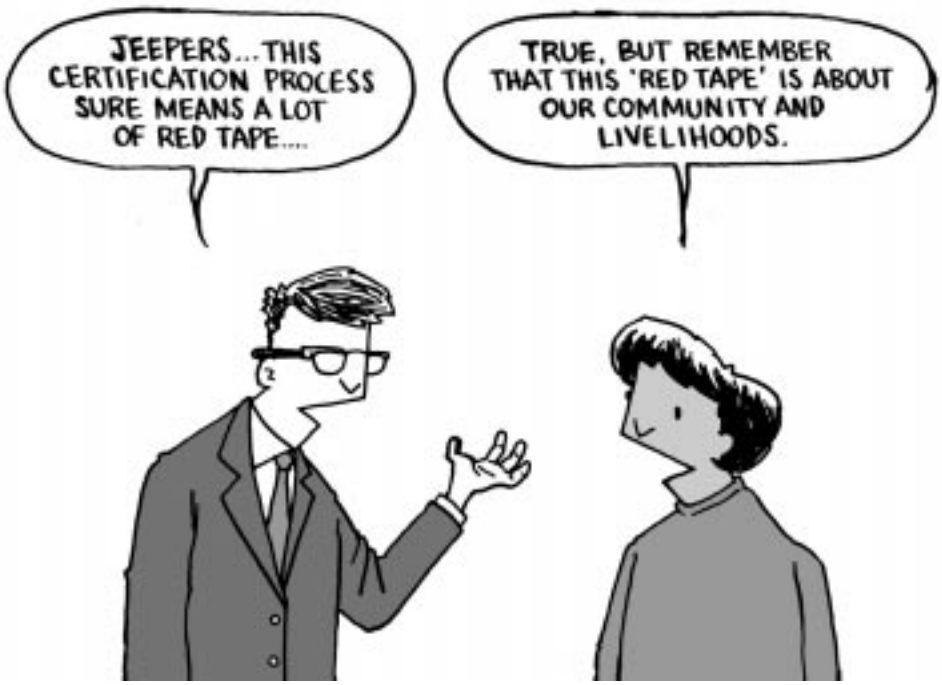
The certification of a forestry operation begins when a company submits an application to an FSC-accredited certifying body such as the Silva Forest Foundation or SmartWood.

Once an application is made, the certifying body typically does a preliminary evaluation. This pre-evaluation identifies the areas where a company may have difficulty meeting various FSC requirements. It can prove invaluable in helping a company determine its readiness to seek certification. During this process – which is not an absolute requirement but is recommended – it is common for discussions to be held with Indigenous Peoples and other stakeholders.

If a company decides to continue with its certification application, then the certifying body draws up a proposed budget and timetable. A formal agreement is signed and the process begins with an **assessment team** being assembled by the certifying body. This team is responsible for doing all of the work associated with completing the certification. The team begins to contact relevant parties who will be impacted by the forestry operations, including Indigenous communities.

NOBA ANDERSON

One of the most important factors that forestry operations must take into account is the protection of culturally modified trees (CMTs). In addition to being important and impressive archeological artefacts, CMTs are also important as legal evidence of occupation.



Both companies and communities should realize that managing a responsible forestry operation requires much research, consultation and planning.

APPENDIX 3: THE NUTS AND BOLTS (page 103) lists many of the questions that Indigenous communities should ask when a forest company approaches them about certification. This list includes questions for the company, questions for the assessment team, and questions for the community to discuss internally. Please use this list as a reference tool if and when your community is approached.

Then they begin the important work of reviewing what, exactly, the company does or proposes to do. The assessment team travels to the forest in question and reviews the company's on-the-ground practices. It reviews all relevant planning documents and stakeholder responses to those documents. And it conducts interviews with company officials, Indigenous Peoples and various stakeholders. These interviews are an important part of the certification process, and are a way for the certifying body to assess whether or not a company is adequately consulting with – and incorporating the views of – other parties.

Based on all this work, a draft report is prepared. The report notes where the company needs to do further work (these are sometimes called **Corrective Action Requests** or CARs) before a preliminary certification is granted (*see case study **Westwind's Challenge** on page 30*). The company decides whether or not to make this report available to other parties.

The report is then **peer reviewed** and a decision is made as to whether or not to grant certification. Sometimes certification is not granted. Usually this is because the certification body concludes that the company has consistently failed to meet one or more of the FSC Principles. If certification is granted, it is normal for the company to have to meet certain **conditions** set out by the certifying body. Always remember that certification does not mean that a company is perfect.

Holding an FSC certificate simply means that a company is willing to embark on a process of making itself more responsible and effective. If certain conditions set out in a certification permit are not met, then the certification is withdrawn.

Once certification is granted, the company must submit to – and pay for – annual audits to ensure compliance with the rules set out in the certification. Once every five years, the company must submit to a full re-evaluation in order to retain its certification status.

Clearly, certification does not occur quickly. That means there are many opportunities for Indigenous communities to participate in the process and to influence outcomes. To be effective, however, means playing an active role. That means asking the right questions of the right people at the right time. Some of these questions are discussed in Part 3 of this book, and a more exhaustive list is provided in Appendix 3.

But before getting involved in forest certification – either in the development of Regional Standards or by diving into a certification process – it is very important to decide whether or not your participation is worthwhile. In most cases the potential benefits may outweigh the negatives, but not always. Let's look at some of the reasons why a community might choose to participate or to give it some more thought.

Reasons To Participate

Improved potential for control over the pace and kind of forestry

FSC certification may give Indigenous communities more control over forestry operations in their territory. Under the FSC's Principles, Indigenous Peoples have the opportunity to participate in decision-making surrounding the pace of forestry, the kind of forestry, and whether or not forestry takes place at all.

Because FSC provisions require Indigenous Peoples' consent for certification, in order for a company's operations to be FSC-certified it must be seen to be addressing Indigenous concerns. For the first time in a long while, this may provide Indigenous Peoples with a strong say in how forests are managed. As of the summer of 2002, there was one significant case in Canada where failure to properly consult resulted in the applicant having to improve its relations with Indigenous communities before the certification was granted (*for more information on this see* ***Westwind's Challenge***).

IAN GILL

An aerial shot of the Tsleil-Waututh Nation's ecoforestry operation – a small patch-cut designed to meet FSC certification standards.

Potential for improved relationships with industry

While some Indigenous Peoples and forest companies have good relationships, or are working to develop them, many do not. Under FSC, companies only gain certification after consulting with local communities, including Indigenous communities. How meaningful those consultations will be depends in large measure upon how

insistent individual Indigenous communities are and upon the company's level of commitment to the FSC process.

FSC Principles 2 through 5 require the company to take greater account of the social well-being of local communities and individuals. This responsibility is frequently lacking in large-scale, industrial timber extraction and processing. FSC certification aims to create incentives for companies to be more responsible to local communities while still serving their own economic interests.

Certification requires that companies strive to be more accountable to local communities and the environment. In return, companies hope to gain improved market acceptance of their products.

Potential for improved protection of "non-timber" resources

FSC Principles 6 and 9 – and to some extent 10 – require significantly better protection for non-timber forest resources. In the past, the only value many forest companies considered was the value of the standing – and soon to be felled – trees. Principles 6, 9 and 10 allow for an objective assessment of how a forest company's environmental claims compare to its on-the-ground performance. This is of obvious interest to Indigenous Peoples and others. Because of their unique role within the FSC certification process, Indigenous Peoples may be in a position to use these Principles to achieve significant environmental gains. An example would be the reclaiming of habitat for rare, threatened or endangered plants and animals.

DONOVAN WOOLLARD

Kathy Graves, Denise August, and Penny Charlie from the Siska Nation beside their display of wildcrafted jellies, soaps, and teas. In addition to creating employment and income opportunities for community members, the Siska have experienced significant rejuvenation in cultural knowledge and community cohesiveness by starting Siska Traditional Products.

Direct and indirect economic benefit

The fact that a company wishes to get certified in an Indigenous community's traditional territory can entail significant economic opportunity for the community. Principle 5 *Benefits from the Forest* states that local communities must have the opportunity to work with the forest company to promote greater economic participation in forest operations. This could include encouraging a forest company to use local suppliers and hire locally. It could also include encouraging a forest company to work more closely with trappers, tourism operators and others to ensure that logging activities don't compromise their businesses. In effect, an FSC certification process gives communities the opportunity to work with industry to ensure that more of the benefits stay local, and that conflicts over resource use are avoided.

Potential for training and capacity building through direct involvement in forestry planning

Needless to say, participation in a certification process can be intimidating if the community wants to do it right. But this is also a great way to learn and apply valuable skills such as planning, negotiating and research.

Reasons to Hesitate

Unfavourable political context

While governments do not drive the certification process, the fact that they control and allocate natural resources means that they cannot be ignored. Although some provinces and regions have expressed positive interest in FSC certification, it is unlikely that all provinces will welcome the program equally. Some governments may wish to wait and see how FSC certification works in other parts of the country before supporting it within their borders.

The same is true for Indigenous Peoples' governance, which varies widely across the country. Some Indigenous communities are profoundly conservative. They may not wish to participate in a process that requires contact with organizations that have different agendas than their own, no matter how much good others think may come of it.

In these contexts, Indigenous communities may see it as more trouble than it is worth to either push for certification of their own operations, or to demand it of those that operate in their territory. Under circumstances where changing a provincial or territorial government's political will requires more effort than an Indigenous community can reasonably expend, they may simply decide to wait. Why enter a process that is still evolving with the development of Regional Standards, or that diverts resources from other areas of community concern?

This is especially the case if they believe that their efforts to push the government on certification take away from their ability to work with government on other pressing issues such as housing, infrastructure, social services, interim agreements or treaty negotiations.

Possible legal ramifications

There may be local situations where participating in a certification process has possible legal ramifications with which Indigenous Peoples are uncomfortable. For example, a community may be reluctant to participate in a process if it appears that a company's right to timber supersedes title or treaty rights.

Many would claim that this reluctance is unfounded. FSC was not created to solve legal questions surrounding Indigenous or treaty rights. It is clearly stated in FSC certifications that consent granted by Indigenous People does not prejudice outstanding issues of Aboriginal rights or title. A recent legal memorandum, prepared by lawyer Mark Stevenson for the BC Regional Initiative, supports this position (*see **Appendix 2** on page 99 of this book for a summary of Stevenson's memorandum*). As will be further discussed below, the purpose of Principle 3 is to promote dialogue and mutually agreeable solutions between forest companies and Indigenous communities, and to move beyond legal stalemates.

NISHNAWBE ASKI NATION RESOLUTION ON FOREST STEWARDSHIP COUNCIL

NISHNAWBE ASKI NATION CHIEFS, REPRESENTING OVER 40 COMMUNITIES IN THE TREATY NINE AREA OF NORTHERN ONTARIO, PASSED THE FOLLOWING RESOLUTION AT A SPECIAL CHIEF'S ASSEMBLY ON LANDS AND RESOURCES, HELD MAY 29-31, 2001 IN THUNDER BAY, ONTARIO.

RESOLUTION 01/83

SUPPORT FOR FOREST STEWARDSHIP COUNCIL ONTARIO BOREAL STANDARDS DEVELOPMENT PROCESS

WHEREAS Forest Stewardship Council Principle 3, Indigenous Rights, promotes the recognition of and respect for "the legal and customary rights of Indigenous Peoples to own, use and manage their lands, territories and resources", the protection of traditional land uses and cultural areas and sharing of economic benefits;

WHEREAS industrial logging is moving North of 50 and Forest Stewardship Council certification could provide an incentive to forestry companies operating in the Nishnawbe Aski Nation territory to improve their forest practices;

WHEREAS Nishnawbe Aski Nation communities getting involved in forestry can learn more about state-of-the-art forestry practices which integrate social, economic and environmental issues; and

WHEREAS Aboriginal companies may gain a market advantage by having their forest products Forest Stewardship Council certified;

THEREFORE BE IT RESOLVED that the Nishnawbe Aski Nation Chiefs-in-Assembly mandate the Nishnawbe Aski Nation Executive Council to work with the Aboriginal Chamber representatives to develop a consultation process with Nishnawbe Aski Nation communities on the draft standards;

FINALLY BE IT RESOLVED that the Nishnawbe Aski Nation Chiefs-in-Assembly mandate the Nishnawbe Aski Nation Executive Council to explore the possibility of adopting the Forest Stewardship Council Ontario Boreal Standards as guidelines for the development of communities' forest policies.

DATED AT THUNDER BAY, ONTARIO, THIS 31ST DAY OF MAY, 2001.

MOVED BY: Chief Norman Hardisty Jr., Moose Cree First Nation

SECONDED BY: Glenn Nolan, Proxy, Missanabie First Nation

CARRIED.

Lack of capacity

When Indigenous communities are confronted by outside parties interested in pursuing forest certification, they may simply not have the time, personnel, information or money to adequately participate in the process. If the outside party is unable or unwilling to assist in building the community's capacity to participate fully, it may make the most sense for the community not to participate at all. When resources are limited, they are best devoted to those things that will achieve immediate and lasting benefits.

In summary, FSC certification raises a lot of issues, and presents a number of opportunities and challenges. It carries certain political and ecological orientations, and requires some capacity and effort on the part of Indigenous Peoples.

FSC certification is intended to ensure that a company recognizes and respects the legal and customary rights of Indigenous Peoples living in the area in which the company operates. How seriously the forest company and the certifying body take that requirement may well depend on how actively local Indigenous Peoples participate in and monitor the certification process.

It is crucial to stress that the FSC will not live up to its potential without the participation and vigilance of Indigenous Peoples. The Nishnawbe Aski Nation has been very proactive in its approach to FSC. This includes a Resolution declaring two main points. First, that the Nation intends to participate in the Ontario Boreal process to ensure that it is consistent with community values. Second, that all forestry activity in its territory – whether conducted by Indigenous companies or outside companies – must comply with the standards of the Forest Stewardship Council (*see the text of the Resolution on the adjacent page*). ▲

ERROL MEIDINGER

PART 3

The Tools of the Trade

DOUG CONNERY

Once your community has decided to participate in an FSC process, it needs to be strategic to ensure that community interests and values guide the process. This section discusses four important tools to help communities engage with FSC effectively.

The Tools of the Trade

If after wrestling with the pros and cons of participating in an FSC certification process you decide to move ahead, then the next thing to do is decide how deeply involved you want to be. You may decide you just want to ask and get the answers to a number of key questions. Or you may want to collect mapped information. Or you may wish to figure out how your traditional knowledge can be put to use to achieve certain desired outcomes. Or you may wish to do a combination of all three.

The important thing is to engage as effectively as possible so that the applicant and the certifying body are absolutely clear about what you want. This may include initiating community planning activities, as described in the side story ***Two Planning Types*** (*see page 54*). This section presents a number of tools that communities can employ in ensuring that consultation processes are meaningful and effective. It situates them in a made-up case study to give the reader a sense of how they fit into the FSC process.

The Birch Forest – The FSC Pitch

Imagine now that you are a member of an Indigenous community located somewhere in the boreal. You are surrounded by forest, a forest that for generations has provided local families with a wide array of important natural resources.

Birch trees are one of the more abundant and important tree species in this forest. Groves and groves of these trees are tapped annually by community members. The sweet sap drawn from the trees is turned into birch syrup. Birch syrup production, much like maple syrup production, is an important part of the local economy. While it doesn't make anybody rich, it is nonetheless a stable source of community income.

You've known for years that a forest company operating in the region has had its eyes on logging your local forest. Not many years ago, the company was regarded as something of an environmental pariah and had paid a price for it. Conservation organizations took the company to task, launching an advertising campaign aimed squarely at convincing buyers of the company's products to cancel purchase orders. As a result, one longstanding customer announced that it would not renew a contract worth several million dollars annually. These and other actions caused the company to rethink its approach to forestry and, more importantly, its relations with communities in the areas it operated. As a result, it decided to seek FSC certification in the forest where your much-prized birch groves are found.

DOUG BRUBACHER

The company approaches your community with a logging plan. It says that before that plan commences it wants to be FSC certified. It asks for your input into the certification process. It also tells you that it believes the logging plan will provide 14 new seasonal jobs in your community. Younger members of the community are torn between wanting jobs with good pay – even if the jobs will last only a few months – and wanting to maintain the community's traditional ways of making a living.

What do you do?

You'll need some tools to assist you in this regard. So before looking at a hypothetical outcome to this hypothetical (but by no means far-fetched) example, let's take a look at what some of the most important tools of the trade are and how those tools may bring about a positive outcome.

Tool 1 – Asking the Right Questions

A wise man once said "knowledge is power." This is certainly true when talking about forestry, even more so when talking about forest certification.

In order to have a reasonable chance of reaching a beneficial outcome, Indigenous communities need to know some basic things during a forest certification process. Free and informed consent is not possible in the absence of vital information. FSC certification requires forest companies to consult with Indigenous Peoples, to help communities get answers to their important questions. (These consultation requirements are outlined in Principles 2 and 4, which are presented on pages 93 and 94 of this book.)

Just as knowledge itself is a tool, so too is knowing how to get it. A good starting point is knowing which questions to ask. Some of the basic questions that communities will need answers to include the following. A more expansive list of questions and where the best opportunities are to raise them are discussed in more detail in Appendix 3.

TWO PLANNING TYPES

WITHOUT QUESTION, it is tiring and time-consuming to constantly respond to logging plans. Attempting to forecast the possible outcomes and implications for your community or landscape is enough to make your head spin. It is much more effective for a community to develop its own plan for the community and region. Instead of *forecasting* the possible outcomes of a proposal, this can be considered *backcasting*; you envision the way you want your community and landscape to look in the future, and plan the way to realize this vision. This enables the community to proactively – and strategically – work toward the future it wants, rather than reacting to the interests of others. You might call this strategic planning.

Strategic planning is where broad decisions are made. If you want to have meaningful input on land use or certification decisions, this is where you put your initial effort.

DOUG ABERLEY

Members of the Heiltsuk Nation identifying key sites, amenities and infrastructure in their territory during a community mapping exercise. This approach is effective during planning processes, as it is helps to draw out local knowledge in an engaging manner.

Under FSC rules, forest companies must provide the public opportunity to participate in this planning. There is one potentially big benefit associated with this – it gives your community greater control over outcomes.

If your area has been heavily logged, then you know that most future forestry work should be in restoration and tree planting. This has implications for developing your strategic plan, not to mention scores of potential benefits in terms of training and future work opportunities for your community's young people.

On the other hand, if your area is largely untouched, then opportunities could include things like logging, woodworking, wildlife studies, tourism development and a host of other forest-related harvesting activities – wild mushroom picking and processing, for example.

While involved in an FSC certification, remember that maintaining or enhancing the environment as well as long-term community needs should be among the driving forces in shaping any forest management plan.

A useful way to approach setting long-term goals is to always think back to the health of the wider landscape or ecosystem. Start by assuming that we are all part of the larger ecosystem and that the ecosystem must remain healthy in order to sustain us.

In contrast to strategic planning, **operational planning** is much simpler. This is the nuts and bolts stage. You've set your long-term objectives. Now you're ready to implement them.

At this point, planning is not "what are we going to do" but "how are we going to do it."

For example, let's suppose that during the development of a strategic plan you've decided that maintaining water quality is of such a high priority that you don't want to use tree fertilizers, herbicides or pesticides.

Now you must decide when and where you will expend resources to train people in the art of manual brushing. Then you'll have to plan when to deploy those people to do the physical work of knocking back the brush so that newly planted or naturally regenerated trees can grow tall enough that their growth will no longer be suppressed by the competing plants.

DONOVAN WOOLLARD

Members of the Heiltsuk Nation participating in a cedar strategy information sharing session. After determining that cedar is being overharvested in their territory, the Heiltsuk initiated a planning process with the community. This included bringing representatives of neighbouring nations in to talk about their approaches to cedar management.

Where is the proposed activity going to happen?

This may seem obvious, but knowing where proposed logging and other forestry activities will take place is vital. At a minimum, the company should accurately identify on maps where the proposed activities will occur. The maps should be at an appropriate scale so that the viewer can easily identify the characteristics of the land in question. If the maps aren't up to snuff, Indigenous communities should insist that the applicant take elders or their designates out to the site to see firsthand what is proposed.

When is it going to happen?

People need to know far in advance when a proposed activity is to take place. The "you have 30 days to reply to this letter" approach just doesn't work under FSC certification. In general, forest companies know years in advance when they will log a new tract of forest. By the time a proposed activity is a month or two away, it is too late to alter any major decisions.

What impact may the proposed activity have?

Forecasting the impacts that logging will have on a forest should not be considered a daunting task. That's because there is plenty of information about what logging has done in various types of forest. To better understand what the potential impacts may be, it is important to ask (and answer) such questions as:

- Where will the proposed logging take place?
- What water bodies cut across the areas of operation?
- What kind of base-line data has been collected?
- How steep or unstable is the terrain?
- What kind of logging is proposed and over what time frame?
- How many trees will be taken? How many will be left behind? Which tree species are targeted for logging?
- How well does the company understand Indigenous land use?
- What inventories does the company have of fish, wildlife, plant, cultural and other "non-timber" resources?
- What kind of cultural research has been done?

If the answers to these questions reveal that inadequate information has been gathered, let it be known. Often, if your gut tells you something is wrong, it is.

Who may be affected?

Is the proposed activity going to negatively or positively impact a few people for a short period of time or lots of people for a long time? Will one community benefit at another's expense? Will one form of

economic activity come at the expense of another form of economic activity in the same community? For example, will proposed logging disrupt or end syrup production, the harvesting of wild edible mushrooms, the fur trapping, the hunting of game, or the return of spawning fish?

These and other questions need to be asked during a forest certification process. Once asked, the community must then weigh the pros and cons of different scenarios before reaching an informed decision on whether or not to grant consent.

A useful resource in preparing questions that reflect core community values and concerns is Ecotrust Canada's *What Lies Beneath*. While written for the BC context, it does provide some useful guidance for Indigenous Peoples across the country. *What Lies Beneath* is available at www.nativemaps.org/.

What alternatives have been considered?

Don't let anyone tell you that there are no alternatives, and that includes no logging. All possibilities must be considered. Don't accept "either/or" propositions. If a proposal strikes you as risky, ask why it applies to that area and not to some other. If the proposal strikes you as too much too soon, ask about scaling it back. If the proposal is to take all the trees from a given area as opposed to some of the trees over a period of time, ask why.

Who makes the decision?

Who decides things has a huge bearing on the outcome. Entering a certification process, you need to know who in the company applying for forest certification normally makes the key decisions. Once you know that, you need to know how he or she proposes to change things during and after the certification process so that the decision-making process is mutually beneficial.

How is input from Indigenous Peoples being considered and integrated?

There is no point in consulting if there is no mechanism in place for integrating the community's input. Consultation processes must allow Indigenous communities to play an active role in decision-making. If the process is merely a formality and decisions have already been made, then it does not live up to the spirit of meaningful consultation.

When do decisions need to be made?

Obviously, if logging threatens to trigger landslides that will destroy your community's water supply, then the time to make a decision on what to do is *now*. But in forest certification, the timelines are long. You can create a schedule for holding meetings, making field trips, reviewing documents and making decisions. As you do, think about planning in general. To be effective, you want to have a strategic up-front plan that sets broad policies and directions. After developing a strategic plan, then you can think about how you are going to implement your plan. You might call that second level of work operational planning (*for more information on this see* ***Two Planning Types*** *on page 54*).

CHERYL ONCIUL

Tsleil-Waututh elders Joe Thomas, Ernie George and Steve Thomas Sr. tell stories from their experiences in the Indian River Valley during a community celebration for the return of much of this valley to Tsleil-Waututh control.

Questions, Questions – A Summary

In closing, it is often best to think about the information you need in allotments of three.

- What do you need now?
- What do you need in the mid-term?
- And what do you need in the long-term?

Start with your end goal then work back. As you do, figure out when the major decisions must be made. Identify what information you will need to make those decisions, then go to the company and see what it can provide or what it is prepared to do to help you get what you need.

Think always about building local expertise to deal with information and decision-making. This is sometimes called **capacity building**. Knowledge and expertise take time to develop, but they are valuable for your community to have. Think, too, in terms of building a relationship with the forest company in your area, especially if the current relationship is not good. If the company is serious about attaining FSC certification then it may have to do business differently.

One of the things it may have to change is how it works with Indigenous communities, and in particular how it uses the information those communities bring forward (discussed below) including land use and occupancy studies and traditional ecological knowledge.

CHERYL ONCIUL

Salmon – and cultural ties to harvesting and preparing them – are a key non-timber forest value of many Indigenous Peoples in Canada.

The Birch Forest – Responding to the Pitch

You and other members of the community were somewhat cynical when this whole process began. Past experience taught you that governments and resource industries talked a good talk about consultation and collaboration, but they often failed to deliver the goods.

Yet you are intrigued. You find that when you ask questions the company appears genuinely interested in getting answers. It seems to be taking this business of FSC certification seriously. Maybe there is hope of a mutually satisfactory outcome.

When you ask the company where exactly it proposes to log, your fears are at first elevated. All the company can tell you is that it wants to "harvest mature birch." That seems to mean all sap-producing trees. The company's preliminary logging plans include only the most rudimentary maps. There doesn't seem to be anything to distinguish between the best sap-producing areas and other tracts of forest.

When you ask the company what thought it has given to how its logging operations will impact those areas that your people have used since time immemorial for berry-picking and other traditional uses, you become even more concerned. Berry-picking areas, trapping lines, traditional hunting grounds – all are absent from the company's preliminary forest surveys.

Yet, when you ask about how input from Indigenous People is to be incorporated in the future forest planning decisions, you are pleased to learn that the company appears anxious to work collaboratively. Maybe there is something to FSC Principle 3 after all.

You tell the company that a good step forward in working together would be to take a hard look at developing a more comprehensive series of maps and other information that is informed by traditional knowledge.

CASE STUDY

HEALING THE LAND – THE PICTOU LANDING STORY

For members of the Pictou Landing First Nation, forestry is all about turning around the mistakes of the past and charting a new course where the social and economic health of the community is rooted in a healthy environment.

This Nova Scotian community was the first Indigenous forest manager in the country to get FSC certification, and one of the first certified operations of any description in Canada.

Much of the land that they own today was once heavily blanketed in a variety of trees of different types and ages. Much the same could be said for surrounding Pictou County, all 250,000 acres of it.

Two centuries of clearing trees for farmland and later for timber changed all that. Today, few trees are older than 100 years. Most are the same age and same species – white spruce. Most are destined for logging at a young age after which they will be turned into wood chips for pulp and later paper manufacturing.

Pictou Landing's residents are intimately familiar with this. In 1965, the waters of Boat Harbour adjacent to their reserve were turned into a lagoon for treating toxic effluent from a nearby pulp mill. Noxious fumes from the lagoon made it difficult to live in the community, let alone to work in the nearby woods.

SARA HILL

Grade 5 and 6 students from Pictou Landing planting trees in the woodlot. In addition to being important economic resources, locally and sustainably managed forests can be important educational resources.

Nearly 30 years later, the community successfully sued the provincial and federal governments as well as Scott Paper for despoiling their harbour. In addition to receiving millions of dollars in damages, the band was also awarded 160 hectares of land around Boat Harbour.

"In many ways, this victory was a turning point," write the authors of a report that eventually resulted in the Pictou Landing First Nation's forestry operations gaining the FSC stamp of approval. "The band has been heading down a new and better path ever since. This change is reflected in the community's goals and expectations for their forestlands."

Those goals and expectations are to heal the land by putting back what was once there, particularly tree species that have become a rarity in the landscape. These include red spruce, red and white pine, hemlock, yellow birch, red oak, sugar maple and ash trees.

What little logging that takes place now and in the near future will be carefully guided by foresters and forest technicians who train and work with harvesting crews (comprised wherever possible of Pictou Landing members) to select single trees for cutting.

Nobody will get rich doing this work. But small amounts of pulpwood will be available at market rates to local forest companies. There will be firewood for band members, small amounts of hardwood to manufacture into mouldings and other wood products, and small amounts of higher-quality softwood for sawlogs.

Over time, the objective is to log less and restore more. As a SmartWood Annual Audit of this unfolding First Nation forestry venture says:

"The managers of the Pictou Landing Forest, as well as the Pictou Landing Band Council, have demonstrated a deep commitment to the restoration of the Pictou Landing Forest. It is believed that restoring the forest will renew the Pictou Landing Band's interest in the forest and their natural environment, provide new opportunities for them on and off the Reserve, and will be a long-term source of pride as well as income."

SARA HILL

Members of the Pictou Landing community learning about their woodlot, and preparing to hang birdhouses to re-establish the bird community in the forest.

Some highlights of this venture include:

- ongoing purchase of adjacent lands for forest restoration;
- designating lands where no logging or limited logging takes place;
- protecting watercourses;
- limiting road building, and
- restoring white pine and red oak trees.

"Today," says SmartWood, "the Pictou Landing First Nation's woodlands are seen primarily as a social resource, from which they expect high quality recreational opportunities, such as hunting and gathering, and viewing of wildlife. Other objectives for the forest are to create and maintain high-order ecological functions, characterized by clean water, and high plant and animal diversity, as well as to create a medium for understanding and learning about the forest environment. The forest is also being seen as a provider of economic benefits for the Band, including employment and training opportunities, income from stumpage, and a source of raw materials for Native crafts."

Tool 2 – Maps

In the introduction to his book, Another America, author Mark Warhus describes an historical encounter between Blackfoot chief *Ac ko mok ki* and Peter Fidler, a surveyor and explorer for the Hudson's Bay Company. At that time, the European explorers and traders considered the land empty, blank, unknown. They had no maps beyond the areas immediately around their forts, so they were heavily reliant on Indigenous informants to "fill in the blanks." Warhus goes on to recount a map drawn in snow by *Ac ko mok ki*. This map – and the oral description that went with it – covered around 200,000 square miles, 32 different Indigenous tribes and all major geographic features for this vast area. The map was copied and sent back to London, and is considered one of the great documents of western exploration.

It is clear from accounts like this that Indigenous Peoples' first-hand knowledge of their own lands and their neighbours' lands was profound and, at times, far-reaching. It is also clear, reading his book, that Mark Warhus considers Indigenous travellers and guides to be accomplished map-makers. They had a well-established mapping tradition to complement their oral tradition of passing information

along. North America could not have been so easily settled had it not been for the Indigenous map-makers.

A map is a wondrous creation, combining beauty and function. And a well-crafted FSC management plan, which depends heavily upon the quality of the information that goes into it, must include solid, mapped information if it is to be worthwhile. This section deals with maps and map-making, especially Indigenous map-making, and (of course) the relationship between maps and FSC.

A good source of useful information about map components and mapping systems is the Aboriginal Mapping Network. This can be accessed at www.nativemaps.org.

A word of caution for what lies ahead. A lot of maps may be required in an FSC certification process. But the good news is that – unless you are directly applying for certification, as opposed to responding to a company that is applying for it – you won't have to produce the maps. The company will. But even the company forest manager will try hard to limit his or her information-gathering activities, hoping to use existing inventory information rather than commissioning new information. If that's the case, make sure that the existing information adequately addresses your interests.

In more cases than not, what you need to concern yourself with is making sure that you have gathered all the necessary Land Use and Occupancy information (see next section). Once you have that, you need to decide whether to make it – as well as the traditional ecological knowledge (TEK) your community members have – available to the applicant. As maps are produced, you will want to review them to make sure that they reflect your understanding of what is on the land and what values need to be protected.

For more information about Land Use and Occupancy Studies and TEK, please see the guidebook *Chief Kerry's Moose*, on the Aboriginal Mapping Network (www.nativemaps.org).

Maps come in all shapes and sizes, and are used for an array of purposes. Many maps include information useful for shaping forest certification management plans. For example, bedrock or surficial maps are useful in understanding the geology of the local area. They help a geologist understand how the land behaves in different seasons, and how it might behave if it is disturbed, say by the introduction of a new road.

Forest cover maps usually describe the standing timber – its volume, age and species diversity. Vegetation inventory maps describe a much fuller range of plant species than forest cover maps do, but are less likely to be available because they are expensive to produce.

FSC Mapping Requirements – A First Glance

It may seem strange to hear, and it is strange to tell, that some provincial governments have awarded forest companies logging licences without requiring the companies to produce any maps at all. All the governments require the company to do is to track the volume of wood removed from a broad geographic area. It's a bit like dipping a bucket into a magic well, to draw up endless quantities of water, without ever checking to see if the water table is dropping. This idea runs counter to FSC forest certification, which requires many different kinds of maps.

Let's look first at the places in the FSC's international Principles and Criteria where one might reasonably expect mapped information to be needed.

Principle 2: Tenure and Use Rights and Responsibilities

There are at least two places in Principle 2 where mapped information would assist the process. First is a clearly delineated map of the area under application for certification. Second is a map of local communities and people, showing legal or customary tenure or use rights such as water, range and mineral rights.

Principle 3: Indigenous Peoples' Rights

The first map requirement under Principle 3 that springs to mind is one showing which Indigenous groups have an interest in the territories where the certification is being considered. These can include treaty lands, customary use lands or land claim areas. The second kind of map needed in Principle 3 is the broader "resource and tenure rights" area: typically hunting, fishing and gathering areas for "social, ceremonial or sustenance" needs. The third kind of map needed in Principle 3 is a site map, detailing sites of special significance. These could be sacred sites, burial sites, village sites (ancient or modern), seasonal village sites and archaeological sites.

There's another kind of map which, strictly speaking, is not required to satisfy Principle 3, but which would be very useful. You might call it an Indigenous community's wish list – for protected areas, logging areas and shared areas, to name but three.

DOUG ABERLEY

Buddy Windsor and James Brown discuss some of the finer points during a community mapping exercise.

Principle 5: Benefits from the Forest

Maps showing other benefits from the forest (such as non-timber resources) might show up under Principle 5, but this is not an absolute requirement. It depends upon what those non-timber benefits are. An example of a possible non-timber service the forest might provide could be a stretch of forested land that acts as an avalanche buffer between a snowy mountain and a community below it. Another example might be a riverside forest that reduces the risk of flooding by stabilizing the river's banks.

Principle 6: Environmental Impact

The first kind of mapped information needed for Principle 6 is relevant inventory information. This is usually divided into two kinds of mapping – landscape and stand. These relate (roughly) to the two planning levels, strategic and operational. Inventory maps present basic information about tree species mix, wildlife populations, **rare, threatened and endangered** species, and so forth. The second type of mapped information needed is of **representative ecosystems**. These include threatened ecosystems that could be targeted for restoration. The third type needed include terrain stability and soils

maps, especially those showing potential for landscape erosion. The fourth are fisheries, stream and water maps. Known as hydrological maps, these show the possible impacts to all water bodies, particularly drinking water sources and fish-bearing streams. The fifth kind of maps needed are those showing areas under consideration for conversion to plantations.

Principle 9: High Conservation Value Forests

High Conservation Value Forests are forested areas and ecosystem types that have special status and which require special handling. Maps showing these areas are required for Principle 9, along with the treatments needed in order to maintain the areas in their integrity. High Conservation Value Forests include: globally, regionally, or nationally significant ecosystems; habitats marked for restoration or preservation to assist rare, threatened or endangered species; and ecosystem types which were once abundant and which are now disappearing.

Principle 10: Plantations

Forested areas that have been heavily modified from their natural state for the express purpose of fibre production are called plantations. They must be mapped as a requirement of Principle 10.

Tools 3 and 4 – Land Use and Occupancy Studies and Traditional Ecological Knowledge

As previously mentioned, the requirement to consult with Indigenous communities is embedded in FSC's Principles and Criteria. Forest managers must accommodate Indigenous communities' concerns including fish and wildlife protection, plant harvest area protection, and special sites. All of this and more can and should be dealt with in management plans.

It is likely that most forest managers will have insufficient information on hand to adequately address the concerns of Indigenous communities.

This is where Land Use and Occupancy Studies and traditional ecological knowledge can play key roles. These two bodies of knowledge are closely related, but they are not the same. Let's take a moment and see how they are similar and how they differ.

A **Land Use and Occupancy Study** – sometimes called a "traditional use study" or a "cultural resource inventory" – is a research project that seeks to document every known place Indigenous Peoples use something that lands or waters provide. At their best, such studies are detailed collections of readily understood data that can revolutionize land and resource planning on traditional lands. At their worst, they can be confusing jumbles of words and images that are of dubious worth. It all depends on how the information was collected.

DONOVAN WOOLLARD

Hilistis (Pauline Waterfall) shares cedar-based cultural artefacts and traditional knowledge. Like many coastal BC nations, the Heiltsuk use cedar for a range of artistic, functional, economic and ceremonial purposes. Many coastal peoples call cedar the "tree of life."

Land Use and Occupancy Studies usually contain information relating to hunting, fishing, trapping, gathering – all the "traditional uses" of an Indigenous community. It may also include burial sites, place names, spiritual or sacred spots, and sites where significant historical events happened. And it contains areas that have been "occupied" by the community or community members at one time or another, including old villages, hunting cabins and camp sites. It includes sites that are key to proving **Aboriginal title** claims. For that reason, this information is often mapped.

Land Use and Occupancy Studies may take a number of years to complete. But once they are done, they become part of the baseline data for the territory.

Traditional ecological knowledge (TEK), on the other hand, is living knowledge. TEK is a person's experience of the land, the wildlife and the seasons. Through TEK we may hear an elder say: "It's too early to hunt moose today. Wait another week."

DONOVAN WOOLLARD

Stories and songs are a common way for traditional ecological knowledge to be passed between generations.

TEK builds over time. It requires keen eyes and a good memory. It often passes down through families a little at a time. The learning continues throughout a person's lifetime enriching her family and her community's understanding of the land. You won't likely find a useful book on how to learn TEK. You learn it by living it or sharing it.

A common way to pass on TEK is through stories that describe what it was like for the person who lived it. Thus, you find Auntie Martha's story of how she came across a bear while she was picking berries, and how she talked to it in her own language, telling it to go find another bush. The soothing, rhythmical voice of Auntie Martha as she tells the story becomes the pattern a new generation borrows for their own encounter with bears in berry patches. You also find it in riddles which grandfathers tell to young men as they send them out into an unknown valley for a week. The riddles contain clues for survival. And sometimes you find it in stories and snippets the whole community shares, such as knowing the salmon are up the river to spawn because a certain kind of berry has suddenly changed colour.

TEK is learned when humans live close to the natural world and when they share the same space for long periods of time. It's called traditional ecological knowledge because the person who learned it observed living things in relation to each other and the environment. You don't have to be a scientist to learn ecological knowledge. Yet just like a scientist, a learner of TEK observes, records and notes.

Imagine a group of people travelling early in the cool, damp morning to reach a nearby lake to watch moose. They could be scientists or village people, but they observe that all that spring, at the same time each morning, there is a moose in the marshy end of the lake eating swampy plants. However, they note that when the afternoon turns hot and dry, the moose leaves. They also see that when spring has

turned to summer, they never see the moose. The little details – time of year, heat of day, change of season, kinds of plants eaten – become part of a reliable body of knowledge for predicting where and when to find moose.

Scientists with university degrees use notebooks to record their observations, go home to write them up on their computers and then print them out so others will benefit. TEK practitioners may use their memories to record their observations, go home to think about their experiences for a while, then relate them to others in a story so they too will benefit from the knowledge. In both cases, living things are observed in relation to each other. Something useful is learned through direct experience and observation – something that will be remembered for the rest of their lives.

Back to the Birch Forest – Outcomes

Returning to the hypothetical example of our Indigenous community in the boreal forest, let's see how the tools described in detail above might come into play as the community responds to a company's certification application.

Let's say that the families who depend on the birch sap collection decide to work with the forest manager to develop a plan where some trees are cut and others are not. Both the loggers and the community can potentially benefit. The forest manager has a mapping system which can handle many layers of information. He agrees to the community's request to create a special series of maps that build upon existing traditional ecological knowledge.

The families know through experience where their best sap trees are. These areas are visited by both forest company and Indigenous community representatives in order to identify the characteristics that make them good for sap production.

The researchers find that each family needs 100 trees per acre of a minimum eight inches in diameter. They also find that about 1,000 trees are needed per family in each sap-collection area. As many of those trees as possible should be on south-facing slopes. These and other characteristics are considered and then mapped.

More maps follow, each adding new layers of information. Maps are produced showing where various game species range, for example the seasonal movement of moose. The traditional hunting ranges of individual families – as determined in the Land Use and Occupancy Study – are noted on another map. They confirm what the hunters know: there is a link between the food animals and the birch groves. The time that is most critical for these species appears to be early to mid spring, when leaf buds – a critically important food source – are most prolific. The timing of these animals' needs coincides with spring melt and the most abundant sap rising. Auntie Martha and other respected community elders point out where the berry picking and other traditional harvesting sites are. All of this information forms more map layers.

VIVIAN PEACHEY

Labrador Tea, just one of many non-timber species found in Canada's forests that have long been used for medicinal purposes.

ECOTRUST CANADA

The link between healthy forests and healthy Indigenous communities cannot be overstated. For countless generations, Indigenous Peoples such as the Haisla – seen here raising a totem pole at the village site of Misk'usa – have relied upon forests to serve a range of economic, social and cultural values.

Still other layers of map information are developed, including the age of various stands of trees. These layers show that in many areas, the birches are nearing the end of their natural life span. The best scientific information for birch trees says they rarely live 100 years. TEK experience says that – locally – they will not usually reach 80 years, and these are not always the best trees for sugar production anyway. Nor, because of their height, are they the best choices for deer, moose and hares as forage food. Grouse don't appear to worry about heights of trees much, though even they will not usually venture up to the tops of the tallest trees for fear of becoming lunch for eagles and hawks.

The logging company's chief forester points out that birch trees often sprout after a disturbance like fire, fallen trees or logging. The elders and hunters agree that this is true, but they point out that it takes time for newly cleared areas to produce trees of sufficient diameter that they can be tapped for birch sap.

Eventually, the logging company and the Indigenous community work out a management plan that calculates forage needs of wild animals, stand replacement needs of syrup-producing trees and a percentage of trees the loggers can take each year. Non-timber resources such as Auntie Martha's berry patches are also recognized. The plan includes small stands and "old-growth nodes" left behind in logged areas. These stands act as seed sources for new birch trees. Logging is timed so that critical springtime sap production and wildlife foraging are not disturbed. Some of the oldest and least commercially useful trees are reserved for the firewood cutters, who don't mind large, knotty trees.

While this example is hypothetical, the on-the-ground realities of birch sap production are drawn from real-life experience (as presented in *The Alaskan Birch Syrup Producer's Manual* by Daniel Humphrey of Birch Boy Products). A story line very similar to the one we have presented will likely confront many Indigenous communities and forest companies as they come together in certification processes.

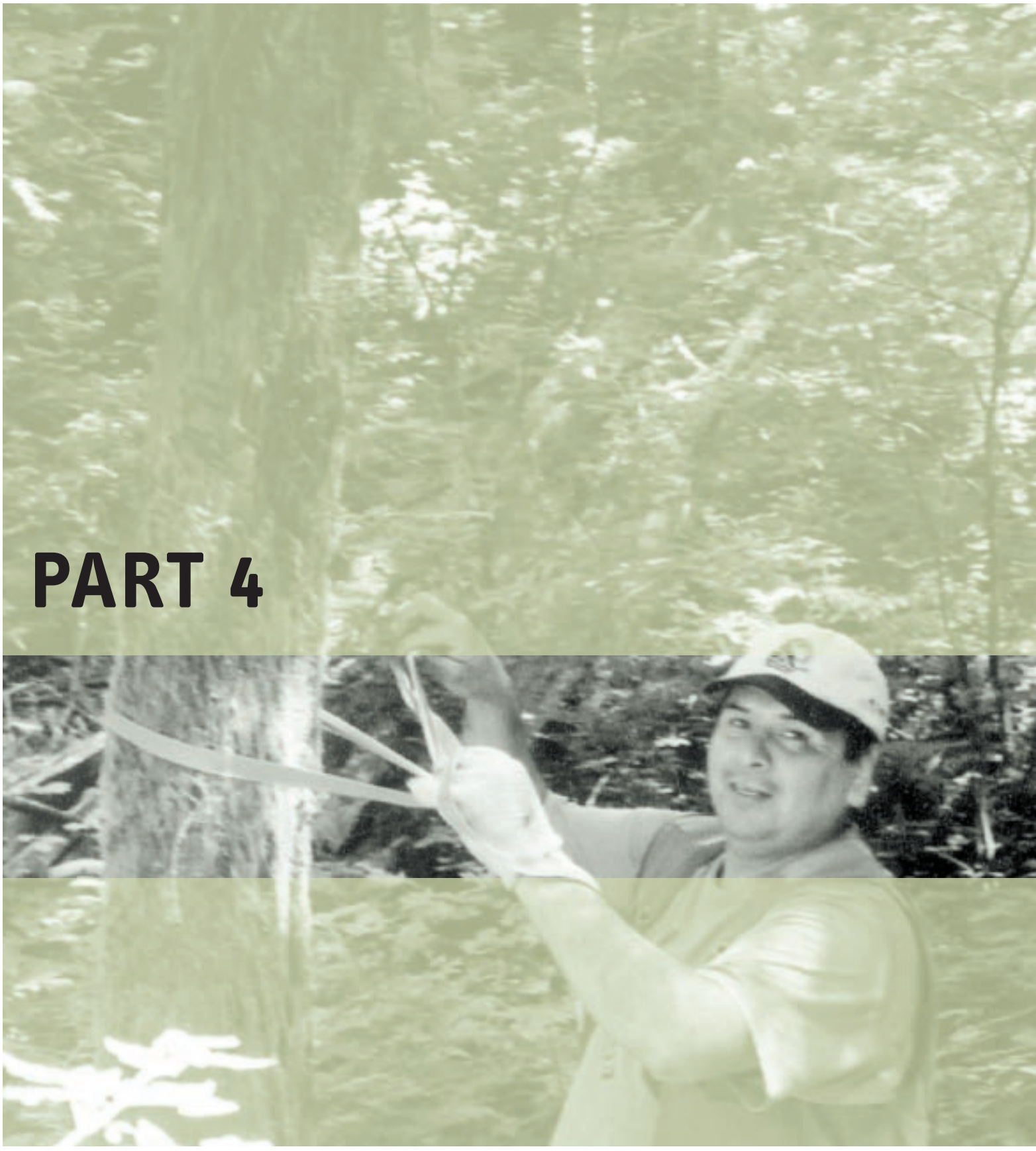
The outcome depends in great part on several factors, including how good the data is. Another important factor is who supplies the information. And yet another is the company's willingness to help incorporate traditional knowledge into its plans and to accept possible reductions in logging rates and methods to accommodate other interests.

In the end, it comes down to negotiation. Consequently, Indigenous communities should be sure that they have the best possible data and that it can be readily translated into a language that company officials understand. In return, companies should make a sincere effort to accept the lessons taught by people who have a lifetime of experience in local forests. In the end, a successful certification will come down to the two parties showing each other mutual respect. ▲

CHERYL ONCIUL

Tsleil-Waututh boys playing in the Indian River Valley. As one elder remarked, "It sure was good to hear kids playing in that river again." After almost two generations of alienation from the area, the Tsleil-Waututh are now seeking FSC certification of their lands.

DOUG HOPWOOD



PART 4

Conclusion – Putting It All Together

CHERYL ONCIUL

ECOTRUST CANADA

This section provides a look back over the information in the book, and a look forward at aspects of an improved future in Canada's forests and forest-based Indigenous communities.

Conclusion – Putting It All Together

In the previous pages, we've given you a lot of information about what Indigenous Peoples should look for and the questions they should ask when considering forest certification.

One important consideration not yet discussed in this book is this: forest certifications and FSC certifications in particular are not so much about looking at past and present practices as they are about looking at the present with an eye to the future.

In light of this, it helps to spend a little time thinking about your ideal vision of the future. While there are certainly no ideal or perfect companies, communities, or relationships between them, there are ways to bring things closer to ideals. One way to do that is to sketch out a vision. This helps you to chart a path toward a future that is better than the present. By keeping this vision in mind as you move forward in a certification process, you can compare it with where you actually are to see if things are changing for the better.

In closing, let's do a little visioning starting with an ideal forest company.

What To Look For In... A Forest Company

Because forest companies vary in size, attitude, business interests and experience, it is best to keep your list of attributes short and simple. If the forest company you are dealing with has these qualities, you're not doing too badly.

How they are certified

We have argued that from an Indigenous community's point of view, the most useful forest certification program is FSC certification. This program offers the most protection of resources valued by Indigenous Peoples. It offers the most input into the management plan. It focuses on the long term and on protecting a diversity of ecosystem functions. And it is grounded in measurable improvement of existing forestry practices. The ideal forest company should be seeking FSC certification.

But don't discount forestry companies that have started with either ISO or CSA certification programs. FSC certification tells a forest manager what to achieve without saying how to get there. ISO and CSA certification programs focus much more on a company improving its internal processes, partly by setting targets for themselves and developing a strategy to meet them. ISO and CSA certification can be thought of as capacity-building for the company. Without question, this is the approach that many forest companies are taking, starting with ISO 14001, moving up to CSA, and ultimately to FSC. Both ISO and CSA can help the company to better carry out whatever objectives it sets for itself. If these objectives include FSC certification, these processes may help them get there.

How they behave

The ideal forest company will not only acknowledge that it has social responsibilities that extend beyond the financial bottom line, but also do something about it. It will willingly look at alternatives, negotiate options and change its plans if circumstances warrant. The company should have a reputation for honesty and fair dealings with local communities. It should be focused on building and maintaining relationships.

Forest certifications are not so much about looking at past and present practices as they are about looking at the present with an eye to the future.

What To Look For In... A Management Framework

A point made several times in this book is that forest ecosystems and forestry legislation vary across the country. No single kind of forest management fits every place in Canada.

Nevertheless, it is possible to aim for the best management framework for a given area of operation, and to seek to constantly improve the way management plans are made. The ideal framework is flexible

CASE STUDY

IISAAK'S CLAYOQUOT VENTURE

When Iisaak Forest Resources received Forest Stewardship Council certification in 2001 it marked some important firsts.

It was the first certification in Canada involving a joint venture between Indigenous and corporate interests.

It was the first certification involving a forest whose trees pre-dated the arrival of the earliest European explorers and their first contact with Canada's first peoples.

It was the first certification in Canada in an "environmental hotbed" – the temperate rainforest of Clayoquot Sound.

CINDY HAZENBOOM

Iisaak Forest Resources, 51% owned by the Nuu-chah-nulth Nations, has FSC certification to conduct their heli-logging activities in Clayoquot Sound.

And at nearly 88,000 hectares, it was then the largest in Canada.

With so many firsts, it is no surprise that expectations run high for Iisaak, a joint venture between the Nuu-chah-nulth First Nations of Clayoquot Sound and one of the world's largest forest companies, Weyerhaeuser.

Perhaps the biggest and so far most elusive expectation is that, having overcome some big obstacles to receive certification, Iisaak's partners will be rewarded in the marketplace with a price premium for the company's sustainably produced products. (Time will tell whether a 1999 **Memorandum of Understanding** between the company and a number of environmental groups in which those groups pledged to promote markets for Iisaak's products will help achieve that outcome.)

"Our costs are more expensive because we are being more environmentally sensitive than other companies," says Gary Johnsen, Iisaak's general manager. "If we're spending more to get the logs to the mill, we're hoping to get more value from the products to cover that cost."

But it's not easy to convince buyers to pay more for something that looks, smells and feels the same as something that is not certified. "If you're Joe Smith buying some decking material, one piece of cedar looks pretty much like another," Johnsen says.

But even in the absence of price premiums, Johnsen says he believes 2002 will be a breakthrough year for Iisaak.

First, the certified forestry venture expects to log somewhere around 35,000 cubic metres of timber – a more than threefold increase over 2000, the first and only other year that the company harvested wood.

Second, the vast majority of the trees (primarily Western red cedar, but also some hemlock and balsam) will be felled and readied for removal from the forest by a Nuu-chah-nulth forestry crew.

"Iisaak doesn't have its own crew," Johnsen explains. "We rely on contractors and try to employ locals as much as possible. The form that most of our harvesting is going to take this year is with helicopters. And nobody local owns helicopters. But we have hired a helicopter company that has an all-Native crew. One fellow is from Tla-o-qui-aht [in Clayoquot Sound] and the rest are from the Ehattesaht area near Gold River, and they'll probably be harvesting somewhere near 80 per cent."

Third, the company believes its economic performance will be good. "Unless the market collapses, we anticipate a sizeable profit margin with this operation this year," Johnsen says.

Under the terms of the joint-venture agreement, 49 per cent of the logs coming off of Iisaak's operating areas must be sold to Weyerhaeuser.

The other 51 per cent may be sold to whomever Iisaak wishes. That means that in the years ahead more wood may go to locally owned businesses in the Clayoquot Sound area, helping to boost a new conservation-based economy, or to emerging businesses that specialize in marketing eco-certified wood.

"There is agreement with local people that if an industry develops here we make 30 per cent available to them," Johnsen says.

Meanwhile, Johnsen adds, he expects that "somewhere in the neighbourhood of 50 to 60 people will get some money out of this and a pay cheque of some kind" in 2002.

This is a far cry from the cut-and-run days of a few years ago when Nuu-chah-nulth people and their neighbours in Clayoquot Sound watched as massive clearcuts spread across their forests while little if anything was returned to them.

CINDY HAZENBOOM

Nuu-chah-nulth elders blessing the harvest of Iisaak's first tree. The word *iisaak* means "respect" in Nuu-cha-nulth language, and it is the basis for the company's approach."

CINDY HAZENBOOM

One of the first trees felled by Iisaak Forest Resources in 2000.

enough to permit changes to operational plans, depending upon local information and changes to predicted outcomes. This is done as greater evidence comes into play over time, or when there is a last-minute change in affairs. Known as **adaptive management**, this tool is critical to having a dynamic, responsive management plan. Used properly, adaptive management allows forest workers to respond quickly to meet unusual conditions without having to pass the problem on to a planning committee.

Ecosystem-based forestry

Recall our earlier discussion of how ecosystem-based forestry is highly compatible with an Indigenous approach to forest management. Any management plans created to serve forest certification needs should use ecosystem-based management tools. You may be faced with sceptics who say ecosystem-based management is too vague and cannot be done. For every one of these sceptics, there is a reputable scientist, professional biologist, forest ecologist or professional forester who can design the plan. ***Insist on ecosystem-based forestry management***.

Measurable changes on the ground

Certification should result in measurable changes on the ground. Obviously, how dramatic those changes are depend on how long it takes for the changes to happen. For example, it may take only a year or so to see that significant berry gathering, hunting, or trapping areas are regenerating. It may take generations, however, to see a badly beaten down ecosystem restored to health.

It is crucial to identify what kinds of changes, or lack of changes, are important in order to assess this properly. Again, this will require some research, so that the community has a good understanding of current conditions.

What To Look For In... Community and Company Relations

Relationships between Indigenous communities and forest companies vary. Some work well, others don't. Here are some key things to look for in building or maintaining strong relationships.

Mutual respect

Mutual respect is critical to a good relationship. Lack of respect makes it easier to act in ways that are harmful, while greater respect makes it easier to act with restraint, to think about consequences before acting unilaterally. Respect is not something that is granted instantaneously. It is earned. Even where relationships between Indigenous Peoples and local forest companies are poisoned, it is possible over time to build the mutual respect necessary to move ahead.

Measurable change for the better

Forest certification, particularly FSC certification, is supposed to result in measurable change for the better. This means better conditions for ecosystems, for Indigenous communities and for forest-dependent communities. Otherwise, why bother to participate? From an Indigenous perspective, measurable improvement ought to include improvements to:

- consultation;
- aboriginal and treaty rights protections;
- ecosystem protections; and
- local economic opportunities.

Mutually beneficial relations

In biology, there are three terms used to describe relationships between organisms. The first is **parasitism**. This is the close association of two or more organisms where the association is harmful to at least one of them. In forestry terms, this kind of relationship may sometimes be experienced between Indigenous communities and forest companies. It is not as common as you might think, given newspaper headlines, but it does occur. If you're currently in this kind of relationship with a forest company, get out of it.

The second is **commensalism**. This is the close association of two or more organisms where the association is advantageous to one and doesn't affect the other(s). In forestry terms, this is probably more common than parasitism. If for whatever reason your community is not interested in being involved in forestry this kind of relationship might come about. The forest company may gain without affecting Indigenous Peoples' concerns. For example, an Indigenous community might grant consent for certified forestry to operate in their territory without receiving any benefit in return.

If, however, your community is already involved in forestry issues (most likely), then you may want to get some reasonable benefit from the relationship. Forest companies expect to retain or to build **market share** as a result of certifying. A reasonable cost to them for gaining a better market share should be an improved life for local Indigenous Peoples.

The third kind of relationship is where you want to aim. It is called **symbiosis**. This is the close association of two or more organisms where *both* receive benefits from the association. Consider the FSC certification of Iisaak Forest Resources in this light (*see case study **Iisaak's Clayoquot Venture** on page 74*). Junior partner Weyerhaeuser draws benefit from the relationship by gaining access to precious old-growth trees in an area where previously it had encountered stiff opposition from local Indigenous communities and some of the world's most powerful conservation organizations. The region's

Nuu-chah-nulth First Nations secured the promise of dramatic change in the way forests in their traditional territories were logged, and became majority stakeholders in a new forest company to boot.

What To Look For In... Your Community

When seeking ways to improve forestry standards, it is also important for Indigenous communities to look at their own strengths and challenges. As we discussed in this book, engaging in strategic planning helps a community to be proactive, to recognize their skills and visions, and to work with others in attaining their goals.

Capacity: technical, human, financial

Technical, human and financial capacities are all closely related to each other. Although it is preferable for an Indigenous community to have in-house capacity in all these areas, it is not always practical or affordable. In these cases, your community might have to contract out certain services, or raise funds to deal with specific projects.

Local people often have an amazing amount of traditional and scientific knowledge of their local environment.

In all cases, however, it is wise to have available the following skill sets. Note that they don't have to be available all the time. They need to be on-call, however, when needed. In no particular order, these skill sets are:

- Forester, preferably a registered professional forester;
- Mapper, preferably a GIS analyst;
- Biologist, preferably a wildlife or registered professional biologist;
- Botanist or forest ecologist;
- Land Use and Occupancy Study expert, preferably known to and knowledgeable about community members;
- Archaeologist, preferably one knowledgeable of local cultures;
- Economic development officer, preferably one with knowledge of community needs;
- Education and curriculum development specialists, to forecast needed skill sets;
- Forest workers and loggers, preferably community members with local experience; and
- Fisheries biologist, preferably one with local knowledge.

Institutional and community support

Individuals who will have responsibility for handling forest certification for their communities need the support of their administration, their political leaders and their community.

For example, community leaders must understand the process and ensure that those representing the community are fully informed on

community interests and values. Or in another example, in order for certain types of land and resource planning to occur, that same staff person may need to talk with families in the community to predict how many moose may be needed over the next five years. In essence, this means planning and community engagement.

Stability: multi-year development planning needs resources

Many Indigenous government offices suffer from insecure program cash flow. Project funding may be stable for a year or two and then disappear as spending priorities change in administrative, foundation or government offices. Because forest certification involves long-term planning, funding and other resources must be secured for multi-year projects.

Looking Back, Looking Forward

We began this document by presenting a story that is sadly familiar to Indigenous Peoples across Canada. It was a story about how one Indigenous community had watched as some of the oldest and most valuable trees found anywhere had been systematically logged and barged away by corporate forestry interests that appeared to have little care about the social, cultural, environmental or economic impacts of their actions.

What wasn't said in that story, but bears saying now, is that some of those same corporations are now reconsidering the way that they do business, in that area and in many other areas across Canada today. The door is opening, however slowly, to new possibilities.

One of the possibilities receiving some serious consideration is FSC certification.

Nobody with a passing knowledge of the social, economic and political climate in Canada today (least of all the publishers of this book) believes that achieving FSC certification will be easy. But there is no doubt that if a certification process is initiated and if the relevant corporations and Indigenous People come together in a spirit of co-operation, then the potential benefits for the forest and the people may be great.

Due to the hard work of people across Canada – including many from Indigenous communities – we are poised to see a sharp increase in FSC certifications in the years ahead. With Regional Standards processes at or nearing completion across the country, the door is open for more FSC certification applications and a clearer timeline for certification assessments and approvals.

Already we have a sense of what new certifications may mean for Indigenous communities from coast to coast. That sense is informed by the trail-blazing role of Indigenous Peoples in FSC certifications to date.

For the Pictou Landing First Nation in Nova Scotia, FSC certification has opened the door for the restoration of local forests. Community members will not only participate in the restoration and tending of forests through tree-planting and tree-thinning programs, but in the years ahead will reap some financial rewards from limited and carefully controlled logging programs.

On the other side of the country, the certification of Iisaak Forest Resources showed that it was possible for a new joint-venture forestry operation to form and to receive FSC certification in an area where only a few years earlier there had been protracted and sometimes violent confrontations. The company is a joint venture between one of the world's largest forest companies – Weyerhaeuser – and Nuu-chah-nulth First Nations in the Clayoquot Sound area. The benefits of this arrangement are many: better managed forests, direct employment opportunities for Indigenous Peoples and a unique agreement with conservation organizations whereby they promise to promote markets for Iisaak's products.

To these examples others soon will follow. But because the Canadian landscape is so diverse and because local social, political and economic conditions vary so much from place to place, it is impossible to say what the specific benefits to local Indigenous communities will be until FSC certifications in their traditional territories occur.

With its strong commitment to advancing Indigenous Peoples' interests in its Principles and Criteria, FSC offers Indigenous communities a major step above all other certification programs. But there is sometimes a big gap between what is held out on paper and what is achieved on the ground. To achieve successes similar to those recorded in Clayoquot Sound or Pictou Landing requires work and vigilance. It requires knowing what the opportunities are and where and when to act on them. So if you decide this certification business has some merit, it's time to put the tools described here into action. ▲

There is sometimes a big gap between what is held out on paper and what is achieved on the ground. To achieve successes requires work and vigilance.

Glossary

Glossary

Aboriginal rights – The rights of Indigenous Peoples are recognized and affirmed by Section 35(1) of the *Canadian Constitution Act, 1982*. The exact nature and extent of these rights are not explicitly described. Indigenous Peoples worldwide argue that their rights are inherent and cannot be given to them by any legal body. Indigenous people define and determine their own rights. However, in many cases rights are being defined by legal decisions in Canada through disputes in the court system. According to Lamer in *R. v. Van der Peet*, rights and title emerge from the fact of prior occupation of the land: "when Europeans arrived in North America, Aboriginal peoples *were already here*, living in communities on the land, and participating in distinctive cultures, as they had done for centuries. It is this fact, and this fact above all others, which separates Aboriginal peoples from all other minority groups in Canadian society and which mandates their special legal, and now constitutional status."

Aboriginal title – The unique title to the Indigenous Peoples' lands, territories and resources which arises from their occupancy before the assertion of British sovereignty, or which arises from and reflects the pattern of land holdings under aboriginal law. Aboriginal title confers more than the right to engage in site-specific activities. Aboriginal title confers the right to the land itself. If a Nation has Aboriginal title, the land may be used for a variety of activities that need not be elements of a practice, custom or tradition integral to the distinctive culture of the Aboriginal group claiming the right: based on *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010. (BC, 2001)

Adaptive management – A management approach that rigorously combines management, research, monitoring and means of changing practices so that credible information is gained and management activities are modified by experience.

Assessment team – Also called *certifiers* in this book, these are the people that conduct the certification assessment.

Binding International Agreements: International agreements – such as CITES, ITTA, ILO Conventions and Convention on Biological Diversity – that must be adhered to in an FSC certification process as stated in Criterion 1.3.

Canadian Standards Association (CSA) – A professional standards development organization which certifies a range of products and production processes, including refrigerators, hockey helmets, seat belts and forestry operations. Their forestry certification systems are called CSA Z808-96 and CSA Z809-96.

Capacity building – The act of working with a person, community, or institution to boost its ability to work effectively and independently. Involves transfer of knowledge, skills and resources.

Certifiers – See *assessment team*.

Certifying body – An organization accredited by the FSC to conduct FSC certifications on its behalf. Examples include SmartWood (Rainforest Alliance), Silva Forest Foundation, KPMG, SGS Qualifor, Scientific Certification Systems (SCS), Soil Association, SKAL International, IMO and GFA Terra Systems.

Chain of custody – The channel through which wood products are distributed from their origin in the forest to their end-use.

Chain of Custody certification – Certification of processors and manufacturers which gives them the right to both use certified wood products and sell their goods as certified.

Chambers – A grouping of FSC members and representatives with similar interests. At the international level, the FSC system contains three chambers (Economic, Social and Environmental), each with equal weight, which guide and approve FSC-related matters. In Canada there is a fourth chamber for *Indigenous Peoples*.

Collaborate – To work together with other groups or interests to achieve a mutually desirable objective.

Commensalism – A relationship in which one party is receiving some benefit from the arrangement whereas the other is indifferent (as opposed to *parasitism* and *symbiosis*).

Conditions – Notices that certification is being granted on the understanding that certain problems with the forestry operation be overcome by the next annual audit.

Consent – To grant approval, permission, or assent for something proposed or requested. FSC calls for "free and informed consent" from *Indigenous Peoples* before certification can occur in their traditional territory.

Consult – To inform and confer with an interested party about one's plans or actions.

Consultation *(Legal)* – The courts have reaffirmed and clarified the governments' obligation to consult with Indigenous Peoples in a number of important cases, including Sparrow and Delgamuukw and, more recently, the Taku River Tlingit and the Council of the Haida Nation cases. Certain federal and provincial laws also impose an obligation on governments to consult with Indigenous Peoples. This means that the obligation may have more than one source.
The obligation to consult arises in circumstances where the federal or a provincial government is proposing to make a decision or take an action that may infringe (i.e. negatively impact) on a group's *Aboriginal rights*, including Aboriginal title. In order for the government to justify its decision or action, it must show that it has a substantial and compelling reason for its decision or action. Secondly, it must show that the decision or action is consistent with the special fiduciary relationship between government and Indigenous Peoples. As part of meeting the second part of the justification test, the government must show that it has consulted with the group in a meaningful and effective way (from Aboriginal Mapping Network, www.nativemaps.org/referrals).

Corrective Action Request (**CAR**) – Also called a *"precondition,"* this is a change that a forestry operation must make before the *assessment team* deems it to be worthy of certification.

Criterion (**pl. Criteria**) – A means of judging whether or not a *Principle* [of Forest Management] has been fulfilled. In the FSC system, there are 53 Criteria that apply to all certification processes anywhere in the world.

Culturally sensitive areas – Areas of traditional use such as trapping, fishing, hunting, or berry picking; may be areas of outstanding scenic value, recreational or wilderness potential; and may be areas from which ceremonial materials such as sweet grass and medicinal products are gathered. Culturally sensitive areas may be further defined by: considering and respecting community values; drawing upon scientific information; mapping a specific area for protection and identifying a buffer zone; rating a protective area to sensitivity to forest stewardship activities and by defining activities within the protected area. (Bill McKay, 2000)

Culturally significant areas – May include, but not restricted to, areas of spiritual or religious value such as burial sites, spirit caves, vision quest areas, ceremonial grounds, lands containing unique historical, archaeological and architectural sites and areas of specific claim or comprehensive claim.

Customary rights – Rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit.

Delegate – To authorize a person to represent one's authority over a resource or task. In certification, a chief can delegate control of a forest resource to a community member or outside body. This gives the "delegate" the right to represent the chief's authority, although the chief has not abdicated ultimate control or authority.

Ecology – The study of living things and their relations and connections to each other.

Ecosystem – A functional unit consisting of all the living organisms (plants, animals and microbes) in a given area, and all the non-living physical and chemical factors of their environment, linked together through nutrient cycling and energy flow. An ecosystem can be of any size – a log, pond, field, forest, or the earth's biosphere – but it always functions as a whole unit. Ecosystems are commonly described according to the major type of vegetation, for example, forest ecosystem, old-growth ecosystem, or range ecosystem.

Ecosystem-based management – Management of *ecosystems* and resources in a way that ensures ecological integrity and stability.

Environment – The physical surroundings in which people and communities are situated.

Forest certification – The process of assessing *forest management* practices to determine whether or not they comply with certain standards.

Forest management/manager – The people responsible for the operational management of the forest resource and of the enterprise, as well as the management system and structure, and the planning and field operations.

Forest management plan – A general plan for the management of a forest area, usually for a full rotation cycle, including the objectives, prescribed management activity and standards to be employed to achieve specified goals. Commonly supported with more detailed development plans.

Forest Stewardship Council (FSC) – An international *forest certification* system designed to create market incentives for forestry operators to manage in an ecologically and socially responsible fashion.

Free and informed consent – Approval for some activity or practice that a person or community grants after having a suitable opportunity to learn about the implications of the decision.

FSC Principles and Criteria – The broad foundation of the FSC system. There are 10 *Principles* and 53 *Criteria* that apply to certifications all over the world.

Geographic Information Systems (GIS) – A computer system for capturing, storing, checking, integrating, manipulating, analyzing and displaying data related to positions on the Earth's surface. Typically, a Geographical Information System (or Spatial Information System) is used for handling maps of one kind or another. These might be represented as several different layers where each layer holds data about a particular kind of feature. Each feature is linked to a position on the graphical image of a map. (Association for Geographic Information)

Habitat – The place where an organism lives and/or the conditions in that *environment*, including the soil, air, water, vegetation and food supply.

Harmonization – In the context of the FSC, the goal of harmonization "is for the regional forest stewardship standards to provide a consistent interpretation of the Principles and Criteria (P&Cs) worldwide. This is of particular concern where ecological boundaries do not match the socio-political boundaries of national or regional borders." (FSC International)

High Conservation Value Forests – A term used by the *Forest Stewardship Council* to refer to areas of forest that exhibit one or more of a range of features that make them unique and important for conservation.

Interim Measures Agreement – A decision on a specific resource or activity reached during a larger (and still ongoing) treaty discussion.

Indicator – A measurable variable used to report progress toward the achievement of a management objective. In the FSC context, *Regional Initiatives* define Indicators (and Verifiers) for each *Criterion*.

Indigenous lands and territories – The total *environment* of the lands, air, water, sea, sea-ice, flora and fauna and other resources which *Indigenous Peoples* have traditionally owned or otherwise occupied or used. (Draft Declaration of the Rights of Indigenous Peoples: Part VI)

Indigenous Peoples – "The existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement, or other means reduced them to a non-dominant or colonial situation; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form a part, under State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant." (Working definition adopted by the UN Working Group on Indigenous Peoples, and subsequently by the FSC-AC, February 2000). In the BC context this term also refers to First Nation(s).

Intellectual property rights – Ownership rights over ideas and inventions. For Indigenous communities in Canada, this may include knowledge of medicinal properties of various fungus and plant species, and other *traditional ecological knowledge* of their territory.

International Organization for Standardization (ISO) – An inter-national standards development organization which certifies a range of products and production processes. Their ISO 14001 series is often considered an "eco-certification", although ISO and most observers of forest certification recognize that this is not an accurate assessment.

Joint Management Agreements – In the FSC BC context, this is an agreement made between a *forest manager* and one or more Indigenous communities, with the purpose of going beyond consultation and into jointly setting goals, objectives, strategies, implementation, restoration and monitoring of the forest within the management unit. This can range from a relatively few areas of common interest to a quite thorough integration of industry and Indigenous ideas throughout the whole management plan. A joint management agreement is not a substitute for consultation on the *forest management plan*, but rather is an enhanced form of consultation. (BC Regional Initiative)

Jurisdiction – Authority or power in general. Also refers to the range or sphere of authority, or the territorial range of authority.

Landscape level planning – A relatively broad planning process dealing with a watershed, or series of interacting watersheds or other natural biophysical (ecological) units. This term is used for conservation planning and is not associated with visual landscape management and view-scape management.

Land Use and Occupancy Study – The recording of the lands and resources that a certain Indigenous group has traditionally used (ie. for hunting, transportation routes, etc.) and occupied (ie. village sites and/or a more intensive presence). Often called a Traditional Use Study or a Cultural Resource Inventory.

Legal and customary rights – See *Aboriginal Rights and Title*.

Legal Memorandum – A legal opinion on a certain issue commissioned from a lawyer in a non-trial setting. For example, the FSC BC *Regional Initiative* commissioned a legal memorandum from lawyer Mark Stevenson on the legal implications of Principle 3 in the BC and Canadian contexts.

Local – People are considered local where they reside, and organizations are considered local where they are based, within commuting distance by car or boat from the management unit, or where they are part of the Indigenous community whose lands and territories contain or are contained within the management unit.

Local community – A group of people with similar interests living under and exerting some influence over the same government in a shared locality, having a common attachment to their place of residence where they have some degree of autonomy. People in the community share social interactions with one another, with organizations beyond government, with the larger society and with the local *environment*, moulding the landscape within it rests and being moulded by it. (Maritimes Regional Initiative, 2000)

Local laws – Includes all legal norms given by bodies of government whose *jurisdiction* is less than the national level, such as departmental, municipal and customary norms. (FSC International, February 2000)

Management activities – Actions that change or alter the land or forest of a management unit either through direct effects on the land or forest, or by altering natural processes that affect the management unit (e.g. fire management). (BC Regional Initiative, 2001)

Management unit – The geographically defined area of land over which the manager has *tenure* and forest *use rights*, and for which certification is sought. (BC Regional Initiative, 2001)

Market share – The portion of the total market for a certain good that is sold by any one producer.

Memorandum of Understanding (MOU) – An agreement between two or more parties that they will jointly engage in defined activities in a manner that is in the stated interests of the parties.

Minimum legal requirements – The basic standards with which one must comply in order to act in accordance with the law.

Non-Governmental Organizations (NGOs) – The broad term for a range of organizations outside the government domain. Many environmental NGOs (ENGOs) have a keen interest in ensuring that forestry is conducted in an environmentally responsible fashion.

Non-timber forest product (**NTFP**) – Any product obtained from the forest that does not necessitate harvesting trees. Typically includes wild edible mushrooms, floral greenery, medicinal and nutraceutical products, wildcrafted products, and eco-tourism.

Operational planning – A process which aims to detail the logistics for development or resource extraction. Methods, schedules and responsibilities for accessing, harvesting, renewing and protecting the resource are set out to enable site-specific operations to proceed. Operational plans include forest development plans, logging plans, access management plans, range-use plans, *silviculture prescriptions*, stand management prescriptions and five-year silviculture plans.

Parasitism – A relationship in which one party receives some benefit while the other(s) suffer as a result. Distinguished from *commensalism* and *symbiosis*.

Partial certification – The certification of one or more, but not all, of a company's management areas within a *jurisdiction*. Many critics interpret FSC *Criterion* 1.6 as meaning that a company must demonstrate long-term commitment to the FSC through committing to certify all of their operations.

Peer review – An independent review of a document by a panel of experts.

Plantation – Forest areas lacking most of the principal characteristics and key elements of native *ecosystems* as defined by FSC-approved National and Regional *Standards* of forest stewardship, which result from the human activities of either planting, sowing or intensive silvicultural treatments. (FSC International, February 2000)

Precautionary principle – The principle that one should only act in a manner that has been proven to be safe, rather than being free to act unless one's actions have been proven to be unsafe.

Pre-condition – See *Corrective Action Request*.

Price premium – An amount paid for a product in addition to a standard price, reflecting the higher value that the market places on it. For example, there is a significant premium on certified organic food, reflecting both the added cost of producing it and a willingness on the part of consumers to pay more. Many hope that FSC certified products will get a premium in the marketplace.

Principle – A broad foundation upon which the FSC *standards* are based. In the FSC system, there are 10 overarching Principles, with *Criteria, Indicators* and *Verifiers* refining them.

Protocol agreement – An agreement between any two (or more) parties to engage in defined tasks according to certain standards of respect, communication and openness.

Rare, threatened and endangered species – Categories for species which are under different levels of threat of extinction. Each comes with its own set of requirements for *forest managers* and other resource users.

Regional Initiative – Processes designed to ensure that FSC Standards reflect local ecological, social and economic factors while adhering to *FSC Principles and Criteria*. Typically involves the definition of *Indicators* and *Verifiers* under each Criterion.

Representative ecosystem – An *ecosystem* which exhibits many of the features of a particular ecosystem type.

Restoration – The act of returning an *ecosystem* or habitat to its original structure and complement of species and natural functions. Includes creek cleaning and managing a forest system to support the re-establishment of native tree species.

Rights – Power, privilege, etc. to which a person or people has a just claim by law, nature, or tradition.

Riparian – An area of land adjacent to a stream, river, lake or wetland that contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas.

Riparian Habitat – Vegetation growing close to a watercourse, lake, swamp, or spring that is generally critical for wildlife cover, fish food organisms, stream nutrients and large organic debris, and for stream-bank stability.

Sever relationship to the land – Management activities will be considered to sever the relationship of *Indigenous Peoples* to the land if the activities can be demonstrated to compromise the ability of the land to sustain future generations of Nation members.

Silvicultural prescription – A site-specific *operational plan* that describes the forest management objectives for an area. It prescribes the method for harvesting the existing forest stand and a series of silviculture treatments that will be carried out to establish a free growing stand in a manner that accommodates other resource values as identified.

Social impacts – The consequences to society as a whole, communities, or individuals of the *forest manager*'s decisions and activities that alter the ways in which people organize to meet their needs, live, work, play or interact. (BC Regional Initiative, 2001)

Stand level planning – Planning pertaining to the level of forest management at which a relatively homogeneous land unit can be managed under a single prescription, or set of treatments, to meet well-defined objectives.

Standards – The regionally defined rules which apply to an FSC certification process. This includes the internationally defined *Principles* and *Criteria* along with regionally developed *Indicators* and *Verifiers*.

Strategic planning – Planning that focuses on achieving specific goals or objectives while taking into consideration the larger political, ecological, cultural and economic conditions. In land use planning terms, this can include formulating higher-level or landscape-level plans that will set targets for what happens on the ground.

Succession – The gradual replacement in an ecosystem of one community of species with another.

Sustainable Forest Initiative (**SFI**) – A *forest certification* system created by the industry group American Forest & Paper Association.

Symbiosis – A relationship between two or more parties in which all gain from the arrangement.

Temporal scale – A way of defining a period of time, eg. a generation, a harvest rotation, a lifetime, etc.

Tenure – Socially defined agreements held by individuals or groups, recognized by legal statutes or customary practice, regarding the "bundle of rights and duties" of ownership, holding, access and/or usage of a particular land unit or the associated resources within (such as individual trees, plant species, water, minerals, etc). (GLSL Regional Initiative, 2001)

Traditional ecological knowledge (**TEK**) – Knowledge that Indigenous Peoples have accumulated over countless generations of intimate contact with all aspects of local ecosystems, including plants, animals and other natural phenomena.

Traditional Knowledge – Includes, but is not limited to knowledge of:

- local behaviour, distribution or cycles of fish, wildlife and plant life;
- broader climatic changes or cycles;
- local ecosystem or geomorphologic responses to natural or human disturbances;
- local population densities or changes in fish and wildlife;
- qualitative information about the utility of a variety of medicinal, edible, or material resource plants;
- requirements or activities needed to maintain or enhance local ecosystems.

Treaty rights – The rights of a group of *Indigenous People* as expressed in a treaty process.

Use rights – Rights for the use of forest resources that can be defined by local custom, mutual agreements, or prescribed by other entities holding access rights. These rights may restrict the use of particular resources to specific levels of consumption or particular harvesting techniques. (FSC International, 2000)

Verifiers – The finest level in the *Forest Stewardship Council Standards*, below *Principle, Criterion* and *Indicator*. Created at the *Regional Initiative* level, it gives very specific guidance to the *forest manager*.

Appendix 1

FSC Principles and Criteria

PRINCIPLE #1: COMPLIANCE WITH LAWS AND FSC PRINCIPLES

Forest management shall respect all applicable laws of the country in which they occur, and international treaties and agreements to which the country is a signatory, and comply with all FSC Principles and Criteria.

1.1 Forest management shall respect all national and local laws and administrative requirements.

1.2 All applicable and legally prescribed fees, royalties, taxes and other charges shall be paid.

1.3 In signatory countries, the provisions of all binding international agreements such as CITES, ILO Conventions, ITTA, and Convention on Biological Diversity, shall be respected.

1.4 Conflicts between laws, regulations and the FSC Principles and Criteria shall be evaluated for the purposes of certification, on a case by case basis, by the certifiers and the involved or affected parties.

1.5 Forest management areas should be protected from illegal harvesting, settlement and other unauthorized activities.

1.6 Forest managers shall demonstrate a long-term commitment to adhere to the FSC Principles and Criteria.

PRINCIPLE #2: TENURE AND USE RIGHTS AND RESPONSIBILITIES

Long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established.

2.1 Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated.

2.2 Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies.

2.3 Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. The circumstances and status of any outstanding disputes will be explicitly considered in the certification evaluation. Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified.

PRINCIPLE #3: INDIGENOUS PEOPLES' RIGHTS

The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.

3.1 Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.

3.2 Forest management shall not threaten or diminish, either directly or indirectly, the resources or tenure rights of indigenous peoples.

3.3 Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with such peoples, and recognized and protected by forest managers.

3.4 Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence.

PRINCIPLE #4: COMMUNITY RELATIONS AND WORKERS' RIGHTS

Forest management operations shall maintain or enhance the long-term social and economic well-being of forest workers and local communities.

4.1 The communities within, or adjacent to, the forest management area should be given opportunities for employment, training, and other services.

4.2 Forest management should meet or exceed all applicable laws and/or regulations covering health and safety of employees and their families.

4.3 The rights of workers to organize and voluntarily negotiate with their employers shall be guaranteed as outlined in Conventions 87 and 98 of the International Labour Organization (ILO).

4.4 Management planning and operations shall incorporate the results of evaluations of social impact. Consultations shall be maintained with people and groups directly affected by management operations.

4.5 Appropriate mechanisms shall be employed for resolving grievances and for providing fair compensation in the case of loss or damage affecting the legal or customary rights, property, resources, or livelihoods of local peoples. Measures shall be taken to avoid such loss or damage.

PRINCIPLE #5: BENEFITS FROM THE FOREST

Forest management operations shall encourage the efficient use of the forest's multiple products and services to ensure economic viability and a wide range of environmental and social benefits.

5.1 Forest management should strive toward economic viability, while taking into account the full environmental, social, and operational costs of production, and ensuring the investments necessary to maintain the ecological productivity of the forest.

5.2 Forest management and marketing operations should encourage the optimal use and local processing of the forest's diversity of products.

5.3 Forest management should minimize waste associated with harvesting and on-site processing operations and avoid damage to other forest resources.

5.4 Forest management should strive to strengthen and diversify the local economy, avoiding dependence on a single forest product.

5.5 Forest management operations shall recognize, maintain, and, where appropriate, enhance the value of forest services and resources such as watersheds and fisheries.

5.6 The rate of harvest of forest products shall not exceed levels which can be permanently sustained.

PRINCIPLE #6: ENVIRONMENTAL IMPACT

Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest.

6.1 Assessment of environmental impacts shall be completed — appropriate to the scale, intensity of forest management and the uniqueness of the affected resources — and adequately integrated into management systems. Assessments shall include landscape level considerations as well as the impacts of on-site processing facilities. Environmental impacts shall be assessed prior to commencement of site-disturbing operations.

6.2 Safeguards shall exist which protect rare, threatened and endangered species and their habitats (e.g., nesting and feeding areas). Conservation zones and protection areas shall be established, appropriate to the scale and intensity of forest management and the uniqueness of the affected resources. Inappropriate hunting, fishing, trapping and collecting shall be controlled.

6.3 Ecological functions and values shall be maintained intact, enhanced, or restored, including:
a) Forest regeneration and succession.
b) Genetic, species, and ecosystem diversity.
c) Natural cycles that affect the productivity of the forest ecosystem.

6.4 Representative samples of existing ecosystems within the landscape shall be protected in their natural state and recorded on maps, appropriate to the scale and intensity of operations and the uniqueness of the affected resources.

6.5 Written guidelines shall be prepared and implemented to: control erosion; minimize forest damage during harvesting, road construction, and all other mechanical disturbances; and protect water resources.

6.6 Management systems shall promote the development and adoption of environmentally friendly non-chemical methods of pest management and strive to avoid the use of chemical pesticides. World Health Organization Type 1A and 1B and chlorinated hydrocarbon pesticides; pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement, shall be prohibited. If chemicals are used, proper equipment and training shall be provided to minimize health and environmental risks.

6.7 Chemicals, containers, liquid and solid non-organic wastes including fuel and oil shall be disposed of in an environmentally appropriate manner at off-site locations.

6.8 Use of biological control agents shall be documented, minimized, monitored and strictly controlled in accordance with national laws and internationally accepted scientific protocols. Use of genetically modified organisms shall be prohibited.

6.9 The use of exotic species shall be carefully controlled and actively monitored to avoid adverse ecological impacts.

6.10 Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion:
a) entails a very limited portion of the forest management unit; and
b) does not occur on high conservation value forest areas; and
c) will enable clear, substantial, additional, secure, long term conservation benefits across the forest management unit.

PRINCIPLE #7: MANAGEMENT PLAN

A management plan — appropriate to the scale and intensity of the operations – shall be written, implemented, and kept up to date. The long term objectives of management, and the means of achieving them, shall be clearly stated.

7.1 The management plan and supporting documents shall provide:
a) Management objectives.
b) Description of the forest resources to be managed, environmental limitations, land use and ownership status, socio-economic conditions, and a profile of adjacent lands.
c) Description of silvicultural and/or other management system, based on the ecology of the forest in question and information gathered through resource inventories.
d) Rationale for rate of annual harvest and species selection.
e) Provisions for monitoring of forest growth and dynamics.
f) Environmental safeguards based on environmental assessments.
g) Plans for the identification and protection of rare, threatened and endangered species.
h) Maps describing the forest resource base including protected areas, planned management activities and land ownership.
i) Description and justification of harvesting techniques and equipment to be used.

7.2 The management plan shall be periodically revised to incorporate the results of monitoring or new scientific and technical information, as well as to respond to changing environmental, social and economic circumstances.

7.3 Forest workers shall receive adequate training and supervision to ensure proper implementation of the management plan.

7.4 While respecting the confidentiality of information, forest managers shall make publicly available a summary of the primary elements of the management plan, including those listed in Criterion 7.1.

PRINCIPLE #8: MONITORING AND ASSESSMENT

Monitoring shall be conducted — appropriate to the scale and intensity of forest management — to assess the condition of the forest, yields of forest products, chain of custody, management activities and their social and environmental impacts.

8.1 The frequency and intensity of monitoring should be determined by the scale and intensity of forest management operations as well as the relative complexity and fragility of the affected environment. Monitoring procedures should be consistent and replicable over time to allow comparison of results and assessment of change.

8.2 Forest management should include the research and data collection needed to monitor, at a minimum, the following indicators:
a) Yield of all forest products harvested.
b) Growth rates, regeneration and condition of the forest.
c) Composition and observed changes in the flora and fauna.
d) Environmental and social impacts of harvesting and other operations.
e) Costs, productivity, and efficiency of forest management.

8.3 Documentation shall be provided by the forest manager to enable monitoring and certifying organizations to trace each forest product from its origin, a process known as the "chain of custody."

8.4 The results of monitoring shall be incorporated into the implementation and revision of the management plan.

8.5 While respecting the confidentiality of information, forest managers shall make publicly available a summary of the results of monitoring indicators, including those listed in Criterion 8.2.

PRINCIPLE #9: MAINTENANCE OF HIGH CONSERVATION VALUE FORESTS

Management activities in high conservation value forests shall maintain or enhance the attributes which define such forests. Decisions regarding high conservation value forests shall always be considered in the context of a precautionary approach.

9.1 Assessment to determine the presence of the attributes consistent with High Conservation Value Forests will be completed, appropriate to scale and intensity of forest management.

9.2 The consultative portion of the certification process must place emphasis on the identified conservation attributes, and options for the maintenance thereof.

9.3 The management plan shall include and implement specific measures that ensure the maintenance and/or enhancement of the applicable conservation attributes consistent with the precautionary approach. These measures shall be specifically included in the publicly available management plan summary.

9.4 Annual monitoring shall be conducted to assess the effectiveness of the measures employed to maintain or enhance the applicable conservation attributes.

PRINCIPLE #10: PLANTATIONS

Plantations shall be planned and managed in accordance with Principles and Criteria 1 – 9, and Principle 10 and its Criteria. While plantations can provide an array of social and economic benefits, and can contribute to satisfying the world's needs for forest products, they should complement the management of, reduce pressures on, and promote the restoration and conservation of natural forests.

10.1 The management objectives of the plantation, including natural forest conservation and restoration objectives, shall be explicitly stated in the management plan, and clearly demonstrated in the implementation of the plan.

10.2 The design and layout of plantations should promote the protection, restoration and conservation of natural forests, and not increase pressures on natural forests. Wildlife corridors, streamside zones and a mosaic of stands of different ages and rotation periods, shall be used in the layout of the plantation, consistent with the scale of the operation. The scale and layout of plantation blocks shall be consistent with the patterns of forest stands found within the natural landscape.

10.3 Diversity in the composition of plantations is preferred, so as to enhance economic, ecological and social stability. Such diversity may include the size and spatial distribution of management units within the landscape, number and genetic composition of species, age classes and structures.

10.4 The selection of species for planting shall be based on their overall suitability for the site and their appropriateness to the management objectives. In order to enhance the conservation of biological diversity, native species are preferred over exotic species in the establishment of plantations and the restoration of degraded ecosystems. Exotic species, which shall be used only when their performance is greater than that of native species, shall be carefully monitored to detect unusual mortality, disease, or insect outbreaks and adverse ecological impacts.

10.5 A proportion of the overall forest management area, appropriate to the scale of the plantation and to be determined in regional standards, shall be managed so as to restore the site to a natural forest cover.

10.6 Measures shall be taken to maintain or improve soil structure, fertility, and biological activity. The techniques and rate of harvesting, road and trail construction and maintenance, and the choice of species shall not result in long term soil degradation or adverse impacts on water quality, quantity or substantial deviation from stream course drainage patterns.

10.7 Measures shall be taken to prevent and minimize outbreaks of pests, diseases, fire and invasive plant introductions. Integrated pest management shall form an essential part of the management plan, with primary reliance on prevention and biological control methods rather than chemical pesticides and fertilizers. Plantation management should make every effort to move away from chemical pesticides and fertilizers, including their use in nurseries. The use of chemicals is also covered in Criteria 6.6 and 6.7.

10.8 Appropriate to the scale and diversity of the operation, monitoring of plantations shall include regular assessment of potential on-site and off-site ecological and social impacts, (e.g. natural regeneration, effects on water resources and soil fertility, and impacts on local welfare and social well-being), in addition to those elements addressed in principles 8, 6 and 4. No species should be planted on a large scale until local trials and/or experience have shown that they are ecologically well-adapted to the site, are not invasive, and do not have significant negative ecological impacts on other ecosystems. Special attention will be paid to social issues of land acquisition for plantations, especially the protection of local rights of ownership, use or access.

10.9 Plantations established in areas converted from natural forests after November 1994 normally shall not qualify for certification. Certification may be allowed in circumstances where sufficient evidence is submitted to the certification body that the manager/owner is not responsible directly or indirectly of such conversion.

The FSC Founding Members and Board of Directors ratified principles 1-9 in September 1994.

The FSC Members and Board of Directors ratified principle 10 in February 1996.

The revision of Principle 9 and the addition of Criteria 6.10 and 10.9 were ratified by the FSC Members and Board of Directors in January 1999.

Appendix 2

FSC Principle 3: Implications for Aboriginal Rights and Title

It is clear that in order to meet every one of FSC's 10 Principles a forest manager must be prepared to exceed minimum legal requirements.

The reason is simple. FSC was set up to get forest companies and land managers who voluntarily seek certification to move beyond the bare minimum in order to lessen the impact that their operations have on the environment and communities.

Some people may believe that this requirement to go beyond the minimum places the Principle in conflict with current law. But this simply isn't so.

Few people argue against the idea that protecting water quality requires leaving some unlogged streamside forest. Fewer still argue against the idea that a legal requirement establishing minimum widths of unlogged forest along streams is just that – a minimum.

Theoretically, forest companies could leave even more forest unlogged to protect lands and waters.

Under FSC certification, the expectation is that those companies that make the effort to have their operations certified will be rewarded in the marketplace for going the extra distance in protecting the environment and local communities.

Simply exceeding minimum consultation requirements with Aboriginal people in Canada is not a conflict unless a provincial or federal law forbids a forest manager from doing so. And there is no law in Canada that ties a forest manager's hands in this way.

Now that we have established that doing more than the law requires is not a conflict, let's dig deeper into why some people may feel threatened by this Principle.

Legal Implications

In his Legal Memorandum to FSC's BC Regional Initiative, Mark Stevenson, a constitutional lawyer with experience in Canadian law concerning Aboriginal people, examined the legal implications of a forest company living up to Principle 3. In particular, he explored Canadian law and international law, and the international treaties, agreements and conventions that Canada has signed.

Stevenson highlighted some potentially serious problems and reached some useful conclusions. Let's look at some of the problems he identified. We'll look at problems industry may face first, then problems governments may face next. After that, we'll look at possible solutions Stevenson's conclusions suggest.

Potential Problems for Indigenous Peoples / Industry Relations

Companies are reluctant to support Aboriginal rights and title. That's because many of them have been granted rights to log vast areas of Crown forest, land to which various Indigenous communities have legal and customary rights. By actively supporting Aboriginal rights and title, companies place themselves in the uncertain position of potentially having to relinquish control to some resources, which may result in profit losses.

Potential Conflicts with Government Law and Policy

Provincial and federal governments are also reluctant to enter into any process that recognizes Aboriginal rights and title. Should title be established, provincial governments could see large tracts of land removed from the land base from which they derive revenues. Federal government departments, too, are reluctant to disturb federal/provincial relations more than they are already. Both levels of government are also reluctant to lose potential control of a lucrative tax base.

It is important to be clear about the difference between law and policy here. *Law* is established either through legislation at provincial or federal levels, or through provincial and federal courts. Canada-wide law, such as that established through the *Delgamuukw* Decision, applies to all provinces, while individual provinces create laws unique to their context. Policy, on the other hand, is an interpretation of law. Most provinces use policy as the method by which they implement or constrain various laws.

Let's look at an example of policy and law to see how this works. The *Delgamuukw* Decision says that Aboriginal title is unextinguished. This is law. Provincial policy, on the other hand says that Aboriginal title is a nice concept, but until it is conclusively proven it doesn't exist.

Where the problem arises with regard to FSC certification is the question of whether or not Aboriginal rights and title must be conclusively proven before any province participates in the process. While the provincial and federal governments may not want to contemplate dealing forthrightly with Aboriginal rights and title, this doesn't have to be an insurmountable obstacle to certification.

Possible Solutions: Indigenous Peoples/Industry/Government

Stevenson examined a variety of domestic and international laws that Canada must honour. He also examined the draft standards for the FSC's BC regional initiative.

He arrived at the suggestions outlined below. Though the suggestions are focused on BC, they undoubtedly offer a useful guide to understanding Principle 3 across Canada.

- Use an expansive definition of "lands and territories" that conforms to the definitions in ILO Convention 169 and the United Nations Draft Declaration on the Rights of Indigenous Populations;
- Reflect that Principle 3 sets a higher standard than does domestic law in Canada because it shifts the onus away from Indigenous Peoples to prove their rights;
- Ensure that certifiers don't simply assume that the existence of a treaty process and elaborate consultation guidelines means that domestic law is conformed with;
- Insist that "consultation guidelines" developed by provincial "government forestry officials not be used to establish the threshold for Principle 3;
- Require that control of Indigenous lands and territories be through formal co-management agreements that are not merely elaborate consultation guidelines;
- Be vigilant in ensuring the "informed consent" is actually acquired in order to avoid skulduggery and sharp dealings; and
- Be certain to reflect that the degree of "control" required or amount of disclosure contemplated for "informed consent" may vary with the degree of connection to the land.

Though originally aimed at addressing on-the-ground realities in BC, several of Stevenson's points speak directly to implementing Principle 3 across Canada.

In essence, this important Principle attempts to create room for industry, government, and Indigenous Peoples to collaborate on workable solutions rather than interminably pursuing legal remedies.

Appendix 3

The Nuts and Bolts

As noted at the beginning of FSC in Greater Detail (*Page 36*), certification assessments are lengthy and provide important opportunities for Indigenous communities. The following guide provides an overview of the certification process, along with a list of questions to ask of various parties.

The Assessment Process

Outlined below is the assessment process. The symbol ● indicates where Indigenous Peoples may have a more active role in providing input into the process.

NOTE TO READER: Have this ready to use when a company calls

1) A forest company submits an application to FSC-accredited certifying body.
2) A preliminary evaluation is conducted. ●
3) A schedule and budget are determined.
4) An agreement is signed between the forest company and the certifying body.
5) If no Regional Standard exists, an Interim Regional Standard is developed. ●
6) An evaluation team is assembled. ●
7) Indigenous and other stakeholders are consulted. ●
8) The evaluation team assesses field practices, reviews documents and conducts interviews. ●
9) A draft report is prepared.
10) A draft report is reviewed by the company and interested parties that are identified at the discretion of the company. ●
11) The report is peer reviewed.
12) The certification status is determined.
13) There is ongoing compliance annual audits and a five year full re-evaluation.

Questions

As indicated in Part 3, being equipped with the right questions is a key tool for Indigenous Peoples. A comprehensive list prepared in advance of a certification assessment ensures that key community interests and concerns are addressed. While every community should develop its own questions reflecting its own context, we provide a list here of questions for:

- the assessor
- the forest company seeking certification
- internal dialogue within the Indigenous community

Questions for the assessor

- Who in the community do you want to communicate with, and who do you perceive as the decision maker(s)?
- Do you need help in accessing a wider range of Indigenous views? For example, political and economic leaders, social leaders (friendship circles), other professionals (e.g. Indigenous nurses, teachers), elders and youth, and Indigenous advisors (e.g. consulting foresters and planners).
- Who will be on the assessment team, and who is assigned to assess Indigenous issues? Is this person sufficiently independent from the forest management company and the Indigenous community? What is this person's experience working with Indigenous Peoples, and do they understand the regional issues?
- What standards will be used during the assessment?
- What is the timeline of the assessment process, and what is the time allocation for the Indigenous discussion/assessment process?
- How often will you monitor the company, and how will this be done?
- If the company is certified, what does this mean (e.g. market connections, commitment to improved forest management)?
- Will our concerns be reflected in future management activities and plans even after a certificate is granted?
- What will be our role in ensuring that the company respects its commitments to continued improvement?
- What is the FSC's approach to dispute resolution?
- What are the appeal mechanisms within the FSC system, if we are not satisfied once a certification has been granted?
- Will we be engaged in a dialogue on all of the things of importance to us, not just what is found in Principle 3?

Questions for the forest company seeking certification

- What are the reasons for your company's interest in seeking certification?
- Whom in the community do you want to communicate with, and who do you perceive as the decision makers or granters of consent?
- How is your company working to access a wider range of Indigenous views?
    - political and economic leaders;
    - social leaders (friendship centres);
    - other professionals (e.g. Indigenous nurses, teachers etc.);
    - elders, youth and broader Indigenous public; and

- advisors, both Indigenous and non-Indigenous (e.g. consulting foresters, planners etc.).

- Are you committed to a spirit of openness, respect and co-operation in planning and implementing forest activities?
- Are you willing to learn from our Indigenous communities, our laws, customs and protocols?
- Do you recognize the special relationship Indigenous Peoples have in Canada and our rights and title?
- Which management units is your company seeking certification for?
- What happens with overlapping territories and claims and how will this be addressed during the assessment process?
- How does the process address arbitrary boundary territories, where management issues cross boundaries onto other tenure areas?
- What is the timeline that you are allotting for working towards certification?
- What is your company's track record to date in working with Indigenous Peoples?
- Does your company have a staff person who is responsible for consulting and working with Indigenous Peoples?
- Does your company have a strategy that addresses Indigenous Peoples' views on forest management and consultation?
- How does your company deal with non-Indigenous communities and are these opportunities available to Indigenous communities?
- What is your company's approach in dispute resolution and conflict?
- Is there a corporate commitment to work with Indigenous communities to resolve issues and conflicts?
- Do you currently employ Indigenous People and do you have plans to hire more?
- Have you done a study to identify the traditional sites and areas of significance in the management areas that will be under assessment?
- How do you incorporate traditional ecological knowledge into the company's management planning?
- How will you compensate Indigenous Peoples when we are consulted with for special knowledge?
- How will you approach data sharing and control over traditional knowledge?
- How will our community directly benefit from the certification (e.g. jobs, revenue sharing, joint management, assurance that the forests are being well managed)?

Questions Indigenous community members may want to ask themselves

- How does the company's plans for certification align with our plans?
- Do we feel comfortable with the company's spirit of openness, respect and co-operation?
- Has the company demonstrated an awareness of Indigenous interests and culture?
- What are the limitations of the certification process, and where do other regulatory processes end and FSC's start?
- Is there some dovetailing of the FSC standards and certification process and other regulatory processes?
- What are the limitations of other regulatory processes?
- Do we have the proper capacity to adequately work through the certification process and make informed choices?
- Are there issues that we need to resolve before we engage in this process, and what are they?
- Can certification be used as a tool for continued change leading to improved forest management, and a better relationship and involvement with the company?
- Who in our community will be the main contacts when requests are made by the assessor and company?
- Will this certification improve our knowledge and access to forest management?
- How can we be strategic during the certification process so as not to be stretched too thin (e.g. dividing up consultation topics with other Indigenous groups/communities)?

Organization Biographies

The National Aboriginal Forestry Association (NAFA) has a mandate from its members to advance Aboriginal control and sustainable development of forest resources to serve the needs of Aboriginal communities. NAFA assists communities to achieve a standard of land care which is balanced, sustainable and reflective of the traditional knowledge and forest values of Aboriginal peoples. NAFA facilitates capacity-building through the development of human resource strategies and models for increased participation in natural resource decision-making. NAFA has partnered with Ecotrust Canada on this project to provide Indigenous Peoples with a helpful guide to certification.

Ecotrust Canada is a Vancouver-based non-profit organization with a mandate to promote the emergence of a conservation economy in the coastal temperate rainforests of British Columbia. Our goal is to transform an economy that has been based on industrial-scale resource extraction to a conservation economy, one with equitable and sustainable resource use. Our strategy is to form long-term partnerships with coastal communities (primarily, but not exclusively, Indigenous communities) and act as a catalyst and broker to create the capacity, institutions and knowledge needed to envision, inform, and finance the conservation economy.

Author Biographies

Russell Collier is a member of the Gitxsan Nation, which is perhaps best remembered as one of two litigants in Canada's longest running land claims court case. Drawing on his experience in Aboriginal GIS and field cultural inventorying, Russell has worked in such diverse places as Gitanmaahix, Vancouver and Papua New Guinea. Recently, he has spent 3 years seeing the FSC BC Regional Standards through to completion and hopes to see much of Canada offering FSC-certified wood in the near future. Russell's Gitxsan name is *Hli Gyet Hl Spagayt Sagat*, which means, "The Man Who Comes Down From The Sharp-Pointed Mountain." You can call him *Spaiyt Sagat* for short. Russell is the father of four children, Tana, Russell, Jesse and Alyssa.

Victoria resident **Ben Parfitt** is a writer and researcher specializing in natural resource and environmental issues. He covered forestry issues for *The Vancouver Sun* until 1993 and is today a frequent contributor to Vancouver's weekly news-magazine *The Georgia Straight*. He is co-author with Michael M'Gonigle of *Forestopia: A Practical Guide to the New Forest Economy*, and author of *Forest Follies: Adventures and Misadventures in the Great Canadian Forest*.

Donovan Woollard is a Community Economic Development Planner with Ecotrust Canada. He also co-ordinates the organization's forest certification work, including the creation and delivery of workshops on certification for Indigenous communities and providing ongoing technical assistance for ecoforestry operations in British Columbia. He lives in Vancouver.

Forest products certification is one part of an international movement to conserve forests. It's a voluntary, market-based mechanism that allows forest managers to demonstrate that their products come from well-managed forests.

While there are several competing certification systems out there, this book focuses on the system which offers the most explicit opportunities for Indigenous Peoples in Canada – the Forest Stewardship Council (FSC).

But choosing the right certification system is only the first step. A strong understanding of certification is needed for Indigenous communities to seize the opportunities it can provide. The FSC's true value to Indigenous Peoples depends upon communities gaining the knowledge – and having the vigilance – to make it work at home.

The only book currently available which looks at forest certification from an Indigenous Peoples' perspective, *A Voice on the Land* is required reading for Indigenous leaders, technicians and forest companies looking for clarity about forest certification in Canada and the opportunities it provides for local communities.

NAFA
NATIONAL ABORIGINAL FORESTRY ASSOCIATION

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FSC

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