

WWF Global Forest Trade Network: Common Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Malaysia

<i>Indicator</i>	<i>Guidance note/Verifiers</i>
PRINCIPLE 1: LAND USE, ACCESS AND TENURE RIGHTS	
Criterion 1.1: The company is legally registered with the relevant administrative authorities	
Indicator 1.1.1: Company is registered as a business entity and with relevant agencies/authorities as appropriate	<p>Verify that the company is registered with the Registrar of Companies and in:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Registration with the Forestry Department • Registration of contractors and sub-contractors with the Forestry Department where appropriate <p>Sabah and Sarawak</p> <ul style="list-style-type: none"> • Registration with the Forestry Department • Registration of contractors and sub-contractors with the Forestry Department. <p>Legal references:</p> <ul style="list-style-type: none"> • Companies Act 1965, Section 16 <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 (amended 1993) Part IV, Chapters 1, 2 & 3 <p>Sabah</p> <ul style="list-style-type: none"> • Sabah Forest Enactment 1968 (amended 1992) • Forest Rules 1969 <p>Sarawak</p> <ul style="list-style-type: none"> • Sarawak Forest Ordinance 1954 • Forest Rules 1962
Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations	
Indicator 1.2.1: Company has paid all required fees, royalties, taxes and other charges before the logging activities	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Availability of list of required fees, royalties, taxes and other charges. • Record of payment of required fees, royalties, taxes and other charges <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 (amended 1993) – section 61 • Forest Rules enacted by the States <p>Sabah</p> <ul style="list-style-type: none"> • Sabah Forest Enactment 1968 (amended 1992) – sections 24 & 27 • Forest Rules 1969 – Rule 4 <p>Sarawak</p> <ul style="list-style-type: none"> • Sarawak Forest Ordinance 1954

	<ul style="list-style-type: none"> • Forest Rules 1962
Criterion 1.3:	Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations
Indicator 1.3.1: Evidence of licences, permits and other documents granting rights to harvest, extract or otherwise exploit timber in the forest	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of gazettment of Permanent Reserve Forests (PRF); • Records of classification of PRFs; • Concessionaire agreement, and • Licence To Take Forest Produce as well as other relevant permits as applicable like: • Entry permits • Road permits • Use permits • Records of aboriginal reserves • Records of aboriginal areas <p>Sabah</p> <ul style="list-style-type: none"> • Sustainable Forest Management Licence Agreement • Long term timber licence agreement • All relevant customary native right decision of the Civil Courts <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Timber Licence • Grants, leases, native customary right and native communal reserves • Decisions of the Civil Courts pertaining to legal or customary tenure or use rights • Solicit evidence of no dispute through legal channel in the affected areas where the timber from <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984, Sections 14, 19, 62(2)(b)(i) to (iv), 71, 76 to 80, 98(1) & 104 • Aboriginal Peoples Act 1954 – Section 8 & 19 • Land Conservation Act 1960 – Sections 3 & 4- • National Land Code 1965 – Section 62 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968, Sections 5 and 5A • Land Ordinance (Cap 68), Part IV • Parks Enactment 1984, Part II • Water Resources Enactment 1998 • Native Court Enactment 1992 <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 • Forest Rules 1962 • Land Code 1958

	<ul style="list-style-type: none"> • Sarawak Land Consolidation and Rehabilitation Authority Ordinance 1976
<p>Indicator 1.3.2: Availability of documentation of legal status in the case of land that is not in the permanent reserved forest or forest management areas and is subject to clearing for a non-forest use</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Approval or harvesting licence from forestry authorities <p>Sabah</p> <ul style="list-style-type: none"> • Approval or harvesting licence from forestry authorities • Form 2(b) licence for alienated land • Form 1 licence <p>Sarawak</p> <ul style="list-style-type: none"> • OT Licence <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 • Land Ordinance (Cap. 68) <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958
<p>Criterion 1.4: Use, access and tenure rights are subject to stated conditions within the laws and regulations</p>	
<p>Indicator 1.4.1: Control of encroachment, illegal harvesting, hunting, settlement and other unauthorized activities in PRFs and State Land for Peninsular Malaysia and forest management areas for Sabah and Sarawak</p>	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Record of monitoring by FDs, SFC, Wildlife Departments, District offices, etc. <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act, 1984 – Sections 32,47, 50, 81-87 • National Parks Act, 1980 – Sections 4 & 11 • Protection of Wildlife Act, 1972 – Sections 48 & 50 • State Forest Enactments and Rules • National Land Code 1965 – Section 62 • State Park Enactments <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 – Sections 7, 20 & 23 • Forest Rules 1969 – Part IV • Wildlife Conservation Enactment 1997 • Water Resources Enactment, 1998 • Conservation of Environmental Enactment 1996 (existing Environmental Protection Enactment 2002?) • State Cultural Heritage (Conservation) Enactment 1997 • Biodiversity Enactment 2000

	<ul style="list-style-type: none"> • Native Court Enactment 1992 • Interpretation of the Native Ordinance 1952 • All customary native right recognized and enforceable by the Native Courts, including relevant decisions of the Civil Courts • Sustainable Forest Management Licence Agreement • Long Term Timber Licence Agreement <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 – Sections 21, 36, 77 – 80, 85, 90, 90A and 92A • Forest Rules, 1962 • Land Code 1958 • Wild Life Protection Ordinance, 1998 (Cap. 26) – Part IV (Protection of Wild Life) and Part V (Provisions as to Procedures and Trials) • Wild Life Protection Rules, 1998 – Part VI (Enforcement) and Part VII (Compounding of Offences) • Native Courts Ordinance 1992 • Native Courts Rules 1993 • Native Customs (Declaration) Ordinance, 1996, any other Adats recognized and enforceable by the Native Courts under the Native Courts Ordinance, 1992 and the Native Courts Rules 1993 • Decisions of the Civil Courts pertaining to legal or customary tenure or use rights • Sarawak Biodiversity Center Ordinance, 1997 – Part IV (Legal Proceedings, Offences and Penalties etc.) and regulations made there under
<p>Indicator 1.4.2: Forest management shall not diminish the resources or affect the rights and interests of aboriginal peoples and natives</p>	<p>Audit could include field observations and interviews that the provisions listed are adhered to.</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Licences and permits containing provisions to ensure resources are not diminished and provisions that affirm the rights and interests of aboriginal peoples and natives in land <p>Sabah</p> <ul style="list-style-type: none"> • Sustainable Forest Management Licence Agreement with relevant provisions • Long Term Timber Licence Agreement with relevant provisions • All native customary rights recognized and enforceable by the Native Courts, including relevant decisions of the Civil Courts • Forest Management Plan reflecting this indicator <p>Sarawak</p> <ul style="list-style-type: none"> • Compliance with the Forest Timber Licence • Recognition of tenure and resource-based rights

	<p>under established laws</p> <ul style="list-style-type: none"> • Compliance with the Forest Management Plan <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Aboriginal Peoples Act, 1964 <p>Sabah</p> <ul style="list-style-type: none"> • Land Ordinance (Cap. 68) • State Cultural Heritage (Conservation) Enactment 1997 • Native Court Enactment 1992 <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 • Land Code 1958 • DF Circular No. 6/1999 on Conservation of Wildlife in Forest Timber Licence Areas
<p>PRINCIPLE 2: HARVESTING REGULATIONS</p>	
<p>Criterion 2.1: Forest Management Plan in accordance with the government policies, guidelines and regulatory requirements, approved by relevant authority</p>	
<p>Indicator 2.1.1: The forestry management plan documents have been prepared in accordance with the rules and standards prescribed by the forest administration and with clear demonstrate of the implementation of guidelines and/or procedures to identify and demarcate sensitive areas for the protection of soil and water, watercourses and wetlands</p>	<p>Check and verify that the preparation of the following documents follows the standards prescribed by law, as well as implementation of the documents and plans:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Forest Management Plan • Record of monitoring by FDs • Record of demarcated boundaries • EIA • Record of mitigating measures taken <p>Sabah</p> <ul style="list-style-type: none"> • Harvesting plan • Manual on Forest Management Planning • Record of monitoring by FDs • Record of demarcated boundaries • Forest Management Plan • EIA • Comprehensive harvesting plan <p>Sarawak</p> <ul style="list-style-type: none"> • Procedures for identifying and demarcating sensitive areas • Detailed Harvesting Plan on scale of 1:10,000 to show excluded areas • Record of monitoring by FDs • Record of demarcated boundaries • Forest Management Plan • Timber Licence <p>Legal references:</p>

		<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Forest Management Plan • National Physical Plan • Environmental Quality Act 1974 – section 34A <p>Sabah</p> <ul style="list-style-type: none"> • Water Resources Enactment, 1998 • Guidelines for Logging and Forest Clearance Activities, 2002 <p>Sarawak</p> <ul style="list-style-type: none"> • Protection of Soil and Water, 1999 • The Manual of Silviculture for the Permanent Forest Estate of Sarawak, 1999 • Guidelines for Forest Road Layout and Construction, 1999 • DF Circular No. 6/1999 on Conservation of Wildlife in Forest Timber Licence Areas
<p>Indicator 2.1.2: The forest management plan demonstrate the implementation of management guidelines to assess forest composition before harvesting</p>		<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Pre-felling inventories • Forest Management Plan <p>Sabah</p> <ul style="list-style-type: none"> • Forest Management Plan <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Management Plan
		<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 20 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 – Sections 28A and 28B <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958
<p>Criterion 2.2: Harvesting/timber licence with stated conditions in accordance with the government policies, guidelines and regulatory requirements, approved by relevant authority</p>		
<p>Indicator 2.2.1: Forest maps have been drawn up according to the available standards</p>		<p>Detailed harvesting plan and map drawn up.</p>
		<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 20 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 – Sections 28A and 28B <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958
<p>Indicator 2.2.2: Boundaries demarcated on maps are clearly marked on the ground in compliance with the regulations in force</p>		<p>Detailed harvesting plan and map is checked and verified against demarcated boundary on the ground.</p>
		<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 20

	<p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 – Sections 28A & 28B <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958
<p>Indicator 2.2.3: The company demonstrate the implementation of guidelines and/or procedures on rare, threatened and endangered species</p>	<p>Peninsular Malaysia and Sarawak</p> <ul style="list-style-type: none"> • Forest Management Plan • Compliance report <p>Sabah</p> <ul style="list-style-type: none"> • Forest Management Plan • EIA • Compliance report <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Protection of Wildlife Act 1972 • National Forestry Act 1984 – Section 20 <p>Sabah</p> <ul style="list-style-type: none"> • Wildlife Conservation Enactment 1997 • Forest Enactment 1968 – sections 28A & 28B • Biodiversity Enactment 2000 <p>Sarawak</p> <ul style="list-style-type: none"> • Wildlife Protection Ordinance and Rules 1998 • Forest Ordinance 1958 • DF Circular No. 6/1999 on Conservation of Wildlife in Forest Timber Licence Areas
<p>Indicator 2.2.4: The extent of harvest of forest products shall be based on regulated requirement in the licence</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Forest Management Plan • Harvesting Plan • Reduced Impact Logging • Production records • Analysis of National Forestry Inventory plots <p>Sabah</p> <ul style="list-style-type: none"> • EIA • Compartment record book • Production records • Analysis of Permanent Sample Plots (PSP) data • Compliance report <p>Sarawak</p> <ul style="list-style-type: none"> • Records and analysis of Permanent Sample Plot data • Production records • Forest Department’s monthly production limit <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 20

	<p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 – Sections 28A & 28B • Annual Work Plan <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 – Section 67 (8 to 11) (??)
<p>Indicator 2.2.5: Appropriate laws, procedures and institutions are in place for the preservation and protection of the rights of aboriginal peoples and natives with respect to land</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of land reserved for aboriginal peoples and natives. • Records of areas predominantly or exclusively inhabited by aboriginal peoples or natives • Decisions of the Civil Courts pertaining to legal or customary title, tenure or use rights • Evidence of any dispute and land claims <p>Sabah</p> <ul style="list-style-type: none"> • Records of established Native Customary Rights • Records of native title • All customary native right recognized and enforceable by the Native Courts, including relevant decisions of the Civil Courts • Evidence of any dispute <p>Sarawak</p> <ul style="list-style-type: none"> • Notification in Sarawak Government Gazette • Decisions of the Civil Courts pertaining to legal or customary tenure or use rights • Records of Communal reserves <p>Evidence of any dispute</p>
<p>Criterion 2.3: The company implements harvest operations in accordance with the legally prescribed silvicultural system and relevant regulations</p>	
<p>Indicator 2.3.1: Application and implementation of road and tracks in compliance with operating standards, log extraction operations and reduced/low impact logging that minimize impacts, degrade and foregone revenue opportunities</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Availability of procedures on reduced and low impact harvesting included in harvesting licence • Provisions for the utilization of harvesting residue • Environmental Impact Assessment (EIA) • Cable logging • - Record of monitoring by FDs. <p>Sabah</p> <ul style="list-style-type: none"> • Procedures on reduced and low impact harvesting included in harvesting licence • Cable logging techniques • Environmental Impact Assessment (EIA) • Record of monitoring by FDs • Comprehensive harvesting plan • Compliance report <p>Sarawak</p> <ul style="list-style-type: none"> • Procedures on reduced and low impact harvesting included in harvesting licence

	<ul style="list-style-type: none"> • Record of monitoring by FDs • Timber licence <p>Include field observations and documentation inspection to verify.</p> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Guidelines for Reduced Impact Logging in Peninsular Malaysia, 2003 • Environmental Quality Act 1974 – section 34A • <i>Spesifikasi Jalan Hutan (Jalan Tuju dan Lorong Penarik) untuk Semenanjung Malaysia, 1999</i> [Forest Road Specification (Feeder Road and Skid Trails) For Peninsular Malaysia, 1999] • <i>Manual Kerja Luar Sistem Pengurusan Memilih, Bab 4, JPSM, 1997</i> [Selective Management System, Chapter 4, Forest Department Peninsular Malaysia, 1997] <p>Sabah</p> <ul style="list-style-type: none"> • RIL Operation Guide Book Specifically for Crawler Tractor Use 2001 • Reference Manual for Timber Harvesting Operations in Commercial Class II Forest Reserves in Sabah 1996 • Environmental Protection Enactment <p>Sarawak</p> <ul style="list-style-type: none"> • Guidelines / Procedures on Reduced and Low Impact Harvesting Systems 1999 • Basic Chainsaw Maintenance and Directional Tree Felling, 2001 • Natural Resources Environmental Ordinance 1993 (to check the year)
<p>Indicator 2.3.2: Minimum harvestable diameters are respected during harvesting operations, harvested timber species are duly authorised by the forest management plan, and quantity of residual stands is maintained, taking cognizance of their sustainability in the long term according to the regulatory requirements, licence conditions and appropriate guidelines</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of timber products, species and quantity harvested under licence • Quarterly reports on areas harvested • Compliance report <p>Sabah</p> <ul style="list-style-type: none"> • Daily felling record • Quarterly progress report • Compliance Report • Compartment Record Book • Sustainable Forest Management Licence Agreement <p>Sarawak</p> <ul style="list-style-type: none"> • Data on the quantity and species of timbers harvested within the forest management area • Enumeration Data • Compliance report

<p>Indicator 2.3.3: Demonstrate the implementation of management guidelines to assess post-harvest natural regeneration, and measures to supplement regeneration, where necessary</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Results of post-felling inventories • Records of silvicultural treatments • Analysis of change of forest stand/species composition in relation to the pre-felling inventories <p>Sabah</p> <ul style="list-style-type: none"> • Post-harvest Inventory • Closing Inspection Report • Records of silvicultural treatments • Permanent Sample Plot Records • Sustainable Forest Management Licence Agreement <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Management Plan <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • <i>Panduan Kerja Luar Inventori Hutan Selepas Tebangan</i> [Field Manual on Post-felling Forest Inventories] • <i>Manual Kerja Luar Sistem Pengurusan Memilih (Selective Management System – SMS), Bab 10</i> [Field Manual of Selective Management System (SMS), Chapter 10] • Handbook on Enrichment Planting, 1978 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Enactment 1968 • SFMLA <p>Sarawak</p> <ul style="list-style-type: none"> • Instruction for the Inspection of Logging Areas, 1982 • The Manual of Silviculture for the Permanent Forest Estate of Sarawak, 1999
<p>PRINCIPLE 3: TRANSPORTATION OF LOGS AND WOOD PRODUCTS</p>	
<p>Criterion 3.1: Clear evidence of documents and licences for companies and carriers involved in timber products transportation shall be demonstrated in accordance with the laws and regulations</p>	
<p>Indicator 3.1.1: Company are registered as a business entity and lorries and other transport vehicles are also registered with relevant agencies/authorities as appropriate</p>	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Certificate of incorporation of company • Ministry of transport licence for commercial vehicles • Forestry Departments, SFC records <hr/> <p>Legal references:</p> <p>Peninsular Malaysia Sabah and Sarawak</p> <ul style="list-style-type: none"> • Companies Act 1965 – Section 16 • Ministry of Transport legislation

Criterion 3.2:	Clear evidence of documents and corresponding markings of timber products for transport shall be demonstrated by companies and carriers in accordance with the laws and regulations	
Indicator 3.2.1:	Stumps of harvested trees are hammer marked or paint marked according to regulatory requirements	Peninsular Malaysia <ul style="list-style-type: none"> • Removal pass/permits • Log tags or identification as appropriate • Hammer marks
Indicator 3.2.2:	Billets of timber in forest yards are marked according to the rules in force so that they can be easily traced	Sabah <ul style="list-style-type: none"> • Timber Disposal Permit • Log tags or identification as appropriate • Hammer marks
Indicator 3.2.3:	Log transportation documents are filled in prior to departure from the harvesting site and are kept by the carriers during the whole transportation route	<ul style="list-style-type: none"> • Removal Pass • Export Declaration Form Sarawak <ul style="list-style-type: none"> • Removal pass • Log tags or identification as appropriate • Hammer marks
		Legal references: Peninsular Malaysia <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 70 Sabah <ul style="list-style-type: none"> • Forest Rules 1969 – Rule 15 Sarawak <ul style="list-style-type: none"> • Forest Ordinance 1958 • Forest Rules 1962 – Rule 22(5) • Manual for Timber Royalty Assessment, 1997
PRINCIPLE 4:	PROCESSING REGULATIONS	
Criterion 4.1:	Clear evidence of documents and licences for companies involved in timber processing shall be demonstrated in accordance with the laws and regulations	
Indicator 4.1.1:	Timber processing company is legally registered in accordance with the laws	<ul style="list-style-type: none"> • Peninsular Malaysia, Sabah and Sarawak • Certificate of Incorporation of Company • Registration with MTIB and STIDC as appropriate
		Legal references: Peninsular Malaysia, Sabah and Sarawak <ul style="list-style-type: none"> • Company Act 1965 – section 16 • MTIB Act • STIDC Ordinance
Criterion 4.2:	Timber processing companies are subject to stated conditions within the laws and regulations	
Indicator 4.2.1:	The company keeps evidence that processing quotas have been respected	Sarawak has a log reservation quota of 60% log production in the State has to be processed within the State which is monitored by Harwood. Harwood issues an Endorsement Clearance Certificate after inspection of the quota logs at base camps, final log ponds, transit points and licensed mills.

	<ul style="list-style-type: none"> • Receipts and bill of sale • Report of analysis of records of logs royalty assessed for local processing • Report of analysis of records of removal pass • Report of analysis of records of installed capacity of wood-based industries as indicated in their licences • Log input book <p>Legal references:</p> <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958, Section 67A(5) • STIDC Ordinance
<p>Indicator 4.2.2: Timber volume entering the plant and timber products out from the plant are recorded according to official procedures</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Receipts and bill of sales • Report of analysis of records of sawmills (Shuttle Return No. IV) • Report of analysis of records of plywood mills (Shuttle Return No. V) • Report of analysis of records of moulding mills through Shuttle Return No. VII • Log input book <p>Sabah</p> <ul style="list-style-type: none"> • Receipts and bill of sale • Monthly Production Return • Log input book <p>Sarawak</p> <ul style="list-style-type: none"> • Receipts and bill of sale • Report of analysis of records of logs royalty assessed for local processing • Report of analysis of records of removal pass • Report of analysis of records of installed capacity of wood-based industries as indicated in their licences • Log input book <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 <p>Sabah</p> <ul style="list-style-type: none"> • - Forest Enactment 1968 (amended 1992) <p>Sarawak</p> <ul style="list-style-type: none"> • - Forest Ordinance 1958
<p>Indicator 4.2.3: The company has valid official documents for imported logs</p>	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • - Import licence • - Customs Import Declaration Form 1 • - Removal pass <p>Legal references:</p> <p>Peninsular Malaysia, Sabah and Sarawak</p>

	<ul style="list-style-type: none"> - Customs Import Prohibition Order (Fourth Schedule, item 50 and 51, First Schedule item 15 (June 2006) - Customs Act 1967
PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS	
Criterion 5.1: Clear evidence of licence/permit of company involved in import and export shall be demonstrated in accordance with the laws and regulations	
Indicator 5.1.1:	<p>Company is legally registered in accordance with the laws and all timber exporters, suppliers, processors, graders and jetty operators have to be registered with the relevant agencies</p>
	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Certificate of Registration (Form 9)- Register with the Companies Commission of Malaysia (Suruhanjaya Syarikat Malaysia) <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Licence according to product and company type with Forestry Department • Register with the MTIB <p>Sabah</p> <ul style="list-style-type: none"> • Licence according to product and company type with MTIB • Forestry Department licence <p>Sarawak</p> <ul style="list-style-type: none"> • Sarawak Timber Industry Development Corporation (STIDC) export licence for timber or timber products • CITES permit
	<p>Legal references:</p> <p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Companies Act , 1965 <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Malaysian Timber Industry Board (Incorporation) Act 1973 – Section 14 • Wood Based Industry Act 1984 <p>Sabah</p> <ul style="list-style-type: none"> • Malaysian Timber Industry Board (Incorporation) Act 1973 – Section 14 • Forest Rules 1969 <p>Sarawak</p> <ul style="list-style-type: none"> • Perbadanan Kemajuan Kayu Sarawak Ordinance 1973 • Sarawak River Board Ordinance 1993 • Customs Act 1967
Criterion 5.2: Clear evidence of official documents of timber products for import and export shall be demonstrated by companies and carriers in accordance with the laws and regulations	
Indicator 5.2.1:	<p>Export procedures and licences for timber and timber products have to be in accordance with relevant laws</p>
	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of cess account in MTIB for log, sawn timber, plywood, moulding, veneer, particleboard/chipboard and block board • Timber export licence issued by MTIB

	<ul style="list-style-type: none"> • Customs Department K2 form <p>Sabah</p> <ul style="list-style-type: none"> • Records of cess account in MTIB for log, sawn timber, plywood, moulding, veneer, particleboard/chipboard and block board • Timber export licence issued by MTIB • Custom Department K2 Form • Invoices • State Royalty Fees <p>Sarawak</p> <ul style="list-style-type: none"> • Harwood Export Clearance Certificate approved document for export of logs • STIDC Export licence • Wildlife permits • CITES licence • Licence on Sepetir by the Forest Department • Customs Department K2 form <hr/> <p>Legal references:</p> <p>Peninsular Malaysia, and Sabah</p> <ul style="list-style-type: none"> • MTIB (Incorporation) (Amendment) 1990 – Section 14 • Customs (Prohibition of Exports) Order, 1998 • Customs Act, 1967 <p>Sarawak</p> <ul style="list-style-type: none"> • MTIB (Incorporation) (Amendment) 1990 – Section 14 • Forests Ordinance Section 67A(7)(a) • Customs (Prohibition of Exports) Order, 1998 • Customs Act, 1967
<p>Indicator 5.2.2: Import procedures and licences for timber and timber products have to be in accordance with laws</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Import licence issued by MTIB for logs • Removal pass (for logs) from FD • Customs Department K1 form • Customs Department K3 form as appropriate (within Malaysia) <p>Sabah</p> <ul style="list-style-type: none"> • MTIB import permit • Receipt from FD export and import inspection fee • Removal pass (for logs) from FD • Customs Department K1 form • Customs Department K3 form as appropriate (within Malaysia) <p>Sarawak</p> <ul style="list-style-type: none"> • Import licence (JK 69) • Removal pass from STIDC

	<ul style="list-style-type: none"> • Customs Department K1 form • Customs Department K3 form as appropriate (within Malaysia)
	<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Customs (Prohibition of Imports) (Amendment) (No. 4) Order, 2006 – 1st Schedule Item 15 & 4th Schedule Items 50, 51, 52 & 53. • Customs Act 1967 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Rules 1969 • Customs (Prohibition of Imports) (Amendment) (No. 4) Order, 2006 – 1st Schedule Item 15 & 4th Schedule Items 50, 51, 52 and 53. • Customs Act 1967 <p>Sarawak</p> <ul style="list-style-type: none"> • Perbadanan Kemajuan Kayu Sarawak Ordinance 1973 • Customs (Prohibition of Imports) (Amendment) (No. 4) Order, 2006 – 1st Schedule Item 15 & 4th Schedule Items 50, 51, 52 and 53. • Customs Act 1967
<p>Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations</p>	
<p>Indicator 5.3.1: Import ban on logs and large square scantlings (LLS) from Indonesia</p>	<p>Peninsular Malaysia, Sabah, Sarawak</p> <ul style="list-style-type: none"> • Directive from the Minister of Primary Industries 2002 and 2003 • Customs prohibitive list <p>Legal references:</p> <p>Peninsular Malaysia, Sabah, Sarawak</p> <ul style="list-style-type: none"> • Cabinet decision • Customs Act
<p>PRINCIPLE 6: ENVIRONMENTAL REGULATIONS</p>	
<p>Criterion 6.1: State/Company conducts environmental impact assessments or other required assessments within the laws and regulations</p>	
<p>Indicator 6.1.1: Environmental Impact Assessment (EIA) shall be conducted for logging area of more than 500 hectares</p>	<p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • EIA Report approved by the Department of Environment and relevant FDs <p>Legal references:</p> <ul style="list-style-type: none"> • Environmental Quality Act, 1974 <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Act 1984 – Section 70 <p>Sabah</p> <ul style="list-style-type: none"> • Forest Rules 1969 – Rule 15 <p>Sarawak</p> <ul style="list-style-type: none"> • Natural Resources and Environment Ordinance

		1958, Forest Rules 1962, Rule 22(5) Form IX <ul style="list-style-type: none"> Manual for Timber Royalty Assessment, 1997
Criterion 6.2:	State/Company takes mitigation measures on negative environmental parameters in accordance with the laws and regulations	
Indicator 6.2.1:	Demonstrate the implementation of guidelines for conservation of buffer strips along streams and rivers	<p>To ensure no discharge into Malaysian waters, no open burning, no pollution of soil</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> Forest Management Plan Compliance report <p>Sabah</p> <ul style="list-style-type: none"> PMM/EIA Forest Management Plan Comprehensive Harvesting Plan Compliance report <p>Sarawak</p> <ul style="list-style-type: none"> Forest Management Plan Compliance report
		<p>Legal references:</p> <ul style="list-style-type: none"> Environmental Quality Act, 1974 <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> <i>Spesifikasi Jalan Hutan (Jalan Tuju dan Lorong Penarik) untuk Semenanjung Malaysia, 1999</i> [Forest Road Specification (Feeder Road and Skid Trails) for Peninsular Malaysia, 1999] <p>Sabah</p> <ul style="list-style-type: none"> RIL Operation Guide Book Specifically for Crawler Tractor Use 2001 Water Resources Enactment 1998 Environmental Protection Enactment, 2002 <p>Sarawak</p> <ul style="list-style-type: none"> Procedures for Identifying and Demarcating Sensitive Areas for the Protection of Soil and Water 1999 Guidelines for Forest Road Layout and Construction 1999 Natural Resources Environmental (Amendment) Ordinance 1993
Indicator 6.2.2:	Legal provisions concerning water and air pollution are respected	<p>To ensure no discharge into Malaysian waters, no open burning, no pollution of soil</p> <p>Legal references:</p> <p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> Environmental Quality Act, 1974
PRINCIPLE 7:	CONSERVATION REGULATIONS	
Criterion 7.1:	State/company takes mitigation measures on negative conservation values in accordance with the laws and regulations	
Indicator 7.1.1:	Demonstrate the	Peninsular Malaysia

<p>implementation of regulations and guidelines to identify and protect endangered, rare and threatened species of forest flora and fauna, including features of special biological interest such as seed trees, nesting and feeding areas in the PRFs for Peninsular Malaysia and forest management areas for Sabah and Sarawak</p>	<ul style="list-style-type: none"> • Circulars from Forestry Director General • Protection Forest with the licensed area • Endangered, rare and threatened tree species marked and felling is prohibited and will be protected, if present • List of endangered, rare and threatened species of flora and fauna, including features of special biological interest such as seed trees, nesting and feeding areas in PRFs • Records of infractions and monitoring <p>Sabah</p> <ul style="list-style-type: none"> • -PMM/EIA • Forest Management Plan • -Sustainable Forest Management Licence Agreement • Records of infractions and monitoring • Comprehensive harvesting plan • Compliance report <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Management Plan • Compliance report • Records of infractions and monitoring
	<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Guidelines on Criteria for the Selection and Procedures for Marking Mother Trees, 1997 (<i>Garis Panduan Kriteria Pemilihan and Prosedur Penandaan Pokok Ibu, 1997</i>) • Forestry Manual Peninsular Malaysia, 1953 (revised 1995) (<i>Manual Perhutanan Semenanjung Malaysia, 1953 (pindaan 1995)</i>) • Protection of Wildlife Act, 1972 <p>Sabah</p> <ul style="list-style-type: none"> • Wildlife Conservation Enactment, 1997 • Biodiversity Enactment, 2000 Sections.15,16 & 17 • Environmental Impact Assessment (EIA) Guidelines for Logging and Forest Clearance Activities, 2002 <p>Sarawak</p> <ul style="list-style-type: none"> • Wild Life Protection Ordinance, 1998 (Cap. 26) (First and Second Schedule) • Forest Ordinance 1958 • Forest Rules 1962
<p>Indicator 7.1.2: Demonstrate the implementation of management guidelines to establish representative conservation and protection areas, in accordance with</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Forest Management Plan • Harvesting Plan • Compliance report <p>Sabah</p>

<p>existing forest ecosystems, appropriate to the scale and intensity of forest management</p>	<ul style="list-style-type: none"> • PMM/EIA • Forest Management Plan • Comprehensive harvesting plan • Compliance report <p>Sarawak</p> <ul style="list-style-type: none"> • Forest management plan • Compliance report <hr/> <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • <i>Manual Perhutanan Semenanjung Malaysia, 1953 (pindaan 1995)</i> [Forestry Manual Peninsular Malaysia, 1953 (revised 1995)] • <i>Panduan Penubuhan dan Penyelenggaraan Kawasan-kawasan Simpanan Hutan Dara, 1987</i> [Guidelines for the Establishment and Maintenance of Virgin Jungle Reserves, 1987] <p>Sabah</p> <ul style="list-style-type: none"> • Wildlife Conservation Enactment, 1997 • Biodiversity Enactment, 2000 • Environmental Impact Assessment (EIA) Guidelines for Logging and Forest Clearance Activities, 2002 <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 • Master Plan for Wildlife in Sarawak 1996 • Natural Resources and Environment Ordinance 1958
<p>PRINCIPLE 8: SOCIAL REGULATIONS</p>	
<p>Criterion 8.1: Company recognizes legal or customary rights of indigenous/local people in accordance with the laws and regulations</p>	
<p>Indicator 8.1.1: Identify legal and customary rights of local communities in the forest management unit</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • List of number of licences approved to local communities for the collection of non-wood forest produce • List of number of contracts awarded to local communities for undertaking forest development activities <p>Sabah</p> <ul style="list-style-type: none"> • The right and privileges of the natives under the existing laws and regulations including customary law are observed • Forest Management Plan <p>Sarawak</p> <ul style="list-style-type: none"> • List of number of permits or licences issued for taking minor forest produce • List of number of contractors awarded to local communities by timber operators • Employment records of timber companies

	<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • National Forestry Policy 1978 – Paragraph 2.2.8 • National Forestry Act 1984 – Sections 19, 28, 33 & 34 • Forest Rules – Rules 28 to 30 • Aboriginal Peoples Act 1954 – Sections 6(2)(iv) & 10 <p>Sabah</p> <ul style="list-style-type: none"> • Sustainable Forest Management Licence Agreement – Clause 23 <p>Sarawak</p> <ul style="list-style-type: none"> • Land Code 1958 • Timber Licence (Second Schedule) • Forest Ordinance, 1958
<p>Indicator 8.1.2: Forest managers shall evaluate, through consultation, social impact of forest operations directly affecting communities, and the people as required by policy</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Minutes of meetings of the District Action/Development Committee (<i>Jawatankuasa Tindakan/Pembangunan Daerah</i>) • Records of meetings and/or consultations between forest managers with communities affected <p>Sabah</p> <ul style="list-style-type: none"> • EIA compliance report • Social baseline studies / Impact assessment • Records of meetings and/or consultations between forest managers with communities affected <p>Sarawak</p> <ul style="list-style-type: none"> • Social baseline study report • Records of meetings and/or consultations between forest managers with communities affected • Report on inquiry on the constitution of Permanent Forest Estate • Agreement on consulted parties and minutes of the meetings • Forest Management Plan <p>-</p>
<p>Indicator 8.1.3: Social impact evaluation report is available to the public in accordance with the laws</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of meeting minutes handed to affected communities <p>Sabah</p> <ul style="list-style-type: none"> • Minutes of dialogue with affected communities on social baseline studies/Impact assessment handed to affected communities <p>Sarawak</p> <ul style="list-style-type: none"> • Social baseline study report handed to affected communities • Report on inquiry on the constitution of Permanent Forest Estate

	<p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • <p>Sabah</p> <p>Sarawak</p> <ul style="list-style-type: none"> • All Adats codified under the Native Customs (Declaration) Ordinance, 1996, and any other Adats recognised and enforceable by the Native Courts under the Native Courts Ordinance, 1992, and the Native Court Rules, 1993
<p>Criterion 8.2: Company complies with the laws and regulations on its employees' and workers' rights and welfare</p>	
<p>Indicator 8.2.1: Company should meet all applicable employment laws and regulations covering health and safety of employees and their families</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Work permit for foreign workers, if any • Employee Provident Fund (EPF) • Social Security Organization (SOSCO) • OSHA records where applicable • Records of insurance policies • OSH Committee <p>Sabah</p> <ul style="list-style-type: none"> • PMM/EIA • Policy statement • Work permit for foreign workers, if any • Employee Provident Fund (EPF) • Social Security Organization (SOSCO) • Records of insurance policies • OSH Committee • FD Certificate of identity <p>Sarawak</p> <ul style="list-style-type: none"> • Work permit for foreign workers, if any • Employment Provident Fund (EPF) • Social Security Organization (SOSCO) • Records of personal accident insurance policies and coverage • Monthly Labour Return to Labour Department • Recognition of the Union • Up-to-date Collective Agreement • OSH Committee <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Occupational Safety and Health Act 1994 • Employees' Social Security Act 1969 • Workmen's Compensation Act 1952 • Industrial Relations Act, 1967 • Employees Provident Fund Act, 1991

	<p>Sabah</p> <ul style="list-style-type: none"> • Occupational Safety and Health Act 1994 • Labour Ordinance (Cap. 68) • Employees’ Social Security Act 1969 • Workmen’s Compensation Act 1952 • Clause 34 and 37 of the Sustainable Forest Management Licence Agreement • Industrial Relations Act, 1967 • Employees Provident Fund Act, 1991 <p>Sarawak</p> <ul style="list-style-type: none"> • Occupational Safety and Health Act 1994 • Amended Labour Ordinance 1952 (Sarawak Cap. 76) • Employees’ Social Security Act 1969 • Employees’ Social Security (general) Regulations 1971 • Forest Ordinance 1958 – Section 54A • Industrial Relations Act, 1967 • Employees Provident Fund Act, 1991
<p>Indicator 8.2.2: The employment of staff in the forestry sector, including indigenous groups and local communities plus foreign workers is in accordance with the law</p>	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Compilation of data on employment in the forestry sector • Quarterly reports on direct employment in the logging and wood processing sectors through Shuttle Returns No. IV, V and VIII • Annual report on direct employment in management and administration of the forest resources • Annual report on injury rate in the forestry sector • Work permits for foreign workers <p>Sabah</p> <ul style="list-style-type: none"> • Records of number of people employed • Compliance Report • SFMLA • Work permits for foreign workers <p>Sarawak</p> <ul style="list-style-type: none"> • Monthly Labour Return to Labour Department • <i>Borang</i> [Form] 10 and 21 of SOCSO • Forest Management Plan (action: MTUC to provide and licence conditions) • Work permits for foreign workers <p>Legal references:</p> <p>Peninsular Malaysia, Sabah and Sarawak</p> <ul style="list-style-type: none"> • Immigration Act, 1959/63 (Revised 1974) • Income Tax Act
<p>PRINCIPLE 9: TAXES, FEES AND ROYALTIES</p>	

Criterion 9.1:	Clear evidence of current paid taxes, fees and royalties in a timely manner shall be demonstrated by the company in accordance with the laws and regulations	
Indicator 9.1.1:	Demonstration of settlement of all current list of legally prescribed fees, royalties, taxes and other charges and are paid on time	<p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • Records of payments for legally prescribed fees, royalties, taxes and other charges <p>Sabah</p> <ul style="list-style-type: none"> • Gazetted royalty structure and rates • Performance bond for Sustainable Forest Management Licence Agreement • Community forest cess fund • Royalty based on species group • Occupational permit • Machinery registration fee • Rehabilitation fund <p>Sarawak</p> <ul style="list-style-type: none"> • Royalty bills under Fourth Schedule of the Forest Timber Licence • Liquidated damage under Fifth Schedule of Forest Timber Licence • Fees for licence and permit under Second Schedule of Wild Life Rules <p>Legal references:</p> <p>Peninsular Malaysia</p> <ul style="list-style-type: none"> • State Forest Rules <p>Sabah</p> <ul style="list-style-type: none"> • Forest Rules 1969 • FD circular <p>Sarawak</p> <ul style="list-style-type: none"> • Forest Ordinance 1958 – First Schedule [Section 52(3)]: Produce taken under licence – rates of royalty and Second Schedule [Section 52(5)]: Produce taken under permit

Legal System in Malaysia

Malaysia is a constitutional monarchy, nominally headed by the Yang di-Pertuan Agong ("paramount ruler"), and customarily referred to as the King. Kings are elected for 5-year terms from among the nine Sultans of the Peninsular Malaysian States.

Executive power is vested in the cabinet led by the prime minister; the Malaysian constitution stipulates that the prime minister must be a member of the lower house of parliament who, in the opinion of the Yang di-Pertuan Agong, commands a majority in parliament. The cabinet is chosen from among members of both houses of parliament and is responsible to that body.

The bicameral parliament consists of the Senate (Dewan Negara) and the House of Representatives (Dewan Rakyat). All 69 Senate members sit for 6-year terms; 26 are elected by the 13 State assemblies, and 43 are appointed by the King. The 193 members of the House of Representatives are elected in general elections to maximum terms of 5 years. Legislative power is divided between federal and state legislatures.

The federal government has authority over external affairs, defence, internal security, justice (except civil law cases among Malays or other Muslims and other indigenous peoples, adjudicated under Islamic and traditional law), federal citizenship, finance, commerce, industry, land, communications, transportation, and other matters. The State Governments however retain some authority over matters relating to land and particularly the granting of concessions for the extraction of timber.

The hierarchy of the Judicial system is as follows:-

1. The Federal Court, which hears reviews and appeals from the Court of Appeal and applications involving constitutional questions;
2. The Court of Appeal which hears appeals from decisions of the High Courts;
3. The High Courts which have both original as well as appellate civil and criminal jurisdiction;
4. The Sessions Courts and Magistrates Courts which have original civil and criminal jurisdiction subject to certain stipulated limits according to the value of the claim and the maximum punishment allowed by law.

The Attorney General's Chambers acts in an advisory role to the Government and all criminal prosecutions are undertaken by Deputy public Prosecutors while all civil suits by or against the Government are undertaken by Federal Counsels, both of whom are members of the Attorney General's Chambers.

Finally there are subsidiary tribunals which are administrative in nature and set up under government ministries and enabling legislation. They are:-

1. The Industrial Court set up under the Industrial Relations Act, 1967;
2. The labour Court set up under the Employment Act, 1955;
3. The Consumer Claims Tribunal set up under the Consumer Protection Act, 1999.

The decisions of these courts/tribunals are subject to judicial review by the High Court.

Authority

- Parliament (Comprising upper house and lower house)
- Prime Minister (Head of Government) and Cabinet of Ministers

Text

- Federal Constitution, Acts, Ordinances
- Regulations, Rules, Directives and Orders made under Acts of Parliament

- State Legislative Assemblies
- Federal Court of Malaysia
- Court of Appeal
- High Courts
- Sessions Courts and Magistrates Courts
- Local by-laws, rules and regulations relating to certain Land relating matters and syariah law enactments
- Judgments, Orders Interpretation of Constitution
- Judgments and Orders on appeals from High Court
- Judgments and Orders
- Judgments and Orders

Definition of terms

Adat: Adat means native customs which include way of life, basic values, systems of belief, code of conduct, manners, conventions and cultural practices according to which indigenous society is ordered (Source: Malaysian MC & I 2002)

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 (Source: FSC Principles and Criteria)

Forest management area: A forest management area refers to the clearly defined area which is under direct management of the company undertaking forest management assessment for the purpose of timber certification (Source: Malaysian MC & I 2002)

Permanent Reserved Forest: Any land constituted or deemed to have been constituted a permanent reserved forest under the National Forestry Act 1984 (Source: National Forestry Act, 1984)

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 (Source: FSC Principles and Criteria)

11.6 WWF Global Forest Trade Network: Common Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Republic of Congo PDF

<i>Indicator</i>	<i>Guidance note/verifier</i>
PRINCIPLE 1: ACCESS, USE RIGHTS AND TENURE	
Criterion 1.1: The company is legally registered with the relevant administrative authorities	
<p>Indicator 1.1.1: Registration with the economic, social and forestry authorities</p>	<p>Verify that the company is in possession of the following documents:</p> <ul style="list-style-type: none"> • Trade registry • Bank guarantees • Valid licence • Certificates of registration with the National Centre of Statistics and Economic Affairs • Certificate of tax morality • Registration with the National Office of Social Security. • Receipts for payments of employer’s social contributions • Official agreement to operate from the forestry profession • Professional identity card <hr/> <p>Legal references:</p> <ul style="list-style-type: none"> • Decree 2002-437, of 31st December 2002 fixing the conditions pertaining to the management and use of the forest (Article 157). Undoubtedly, other texts of reference exist. Auditors will have to contact the other relevant administrations (Including the Ministries in Charge of Justice, Interior and Commerce), for any other provisions.
Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations	
<p>Indicator 1.2.1: All the steps required to obtain a licence to operate have been scrupulously respected by the company within the set time limits provided for in the laws and regulations of the country</p>	<p>Verify that the company is operating in respect the allocation procedures of the Ministry in charge of Forestry by reviewing the following documents:</p> <ul style="list-style-type: none"> • Statement from the special committee set by the Minister in charge of Forestry for the allocation of forestry titles • Notice Letter • Forestry operation title. <p>Note: in the Republic of Congo eligible candidates for allocation of forest concessions must make an application to be reviewed by a forest committee. The allocation of concessions is done following an invitation to tender.</p> <hr/> <p>Legal references</p>

		<ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002 fixing the conditions pertaining to the management and use of the forest, Articles 162 to 166
Indicator 1.2.2:	The company has paid all the costs pertaining to each step of the licensing process	Verify that a company can provide evidence of a bank deposit. Note: when a forestry operation title is granted a company is required to make a financial deposit.
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002 fixing the conditions pertaining to the management and use of the forest, Article 166
Indicator 1.2.3:	Companies must inform all parties involved in the management of forest on the allocation of their forestry titles in the concerned area	In the Republic of Congo, the information to the public is closely linked to the tender procedure for the allocation of forestry operation titles. Calls for tender are published at the national and local levels and results are communicated at both levels. Each proponent is subject to a morality (moral standards) investigation. Any potential opposition to the allocations must be notified in writing. During the audit, the whole procedure should be reviewed. The auditors should review: <ul style="list-style-type: none"> - The moral in investigation report - The minutes of the information meetings organised by the concessionaires in villages within its area of operation
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002 fixing the conditions pertaining to the management and use of the forest, Articles 157 to 167
Criterion 1.3:	Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations	
Indicator 1.3.1:	The company holds a licence for annual harvest from the forestry administration (and other permits from the local economic authorities on a regular basis)	Verify that the company holds a valid harvesting licence supported by the following information: <ul style="list-style-type: none"> Results of a tree inventory marked on a 1/20 000 map A 1/50 000 map showing details of the access roads Evidence of payment of taxes and other charges Working site books Activity report for the first eight months of the current year Note: in order to obtain an annual cutting licence a company managing a forest concession must provide the above documents and apply before the 31st October of the previous year.
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002 fixing the conditions pertaining to the

		management and use of the forest, Article 71
Indicator 1.3.2:	The other permits from the local economic authorities on a regular basis are valid	The company must provide its permits and its up to date trader's licence. Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002 fixing the conditions pertaining to the management and use of the forest, Article 71
PRINCIPLE 2:	HARVESTING REGULATIONS	
Criterion 2.1:	Forest Management Plan in accordance with the government policies, guidelines and regulatory requirements, approved by relevant authority	
Indicator 2.1.1:	Preliminary studies have been conducted according to the rules and standards prescribed by the forest administration	A documentation review will be undertaken to ensure that the reports of the various studies (forest inventories, socio-economic study) exist and have been approved by the forest administration. The most important documents include: <ul style="list-style-type: none"> - A socio-economic study report - A forest inventory report - An environmental impact assessment report Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 24 to 30.
Indicator 2.1.2:	The forest management plan has been prepared in accordance with the rules and standards prescribed by the forest administration	The forest management plan should be approved by the ministry in charge of forestry; during the audit, the company should have an official letter of approval Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 66 to 69
Indicator 2.1.3:	The five-year and annual management plans comply with the rules and regulations of the forestry administration	The audit should check the letter of approval of annual and the five year management plan from the forestry administration Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 66 to 69
Criterion 2.2:	Harvesting/timber licence with stated conditions in accordance with the government policies, guidelines and regulatory requirements, approved by relevant authority	
Indicator 2.2.1:	Forest maps have been drawn up according to the prescribed standards	Verify that maps contained in the forest management plan comply with standards and show the main subdivisions of the forest, location of trees to be harvested as ascertained from a forest inventory and the access road network. Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 71, Forest Code, Article 55
Indicator 2.2.2:	Boundaries demarcated on maps are clearly marked on the	Verify on the ground that boundaries of the harvest area have been demarcated.

	ground in compliance with the regulations in force	<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 80, 83 and 84
Criterion 2.3:	The company implements harvest operations in accordance with the legally prescribed silvicultural system and relevant regulations	
Indicator 2.3.1:	The company builds access road and tracks in compliance with operating standards (with emphasis on planning of access road network, sizes of road and tracks, conservation of water courses and steep slope) in forest areas	Verify the availability of maps drawn up according to the standards in force, and verify correct field implementation
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 71, 99, 139 and 140
Indicator 2.3.2:	Minimum harvestable diameters are respected during the harvesting operations	Verify on the ground that only trees of minimum diameter are harvested. Note: the Minimum Harvestable Diameters (DME) to be complied with by the company are included in the related legal provisions. DME can be modified during the development of the forest management plans to become Minimum Management Diameters (DMA) which are then included in the forest management plan and it will be necessary that any changes to plans are verified with the authorities.
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 91, management plan
Indicator 2.3.3:	Harvested timber species are duly authorized by the forestry management plan	Verify on the ground that only authorized species are harvested as detailed in the management plan.
		<p>Legal reference</p> <ul style="list-style-type: none"> Approved management plan. Forest Code, Article 55
Indicator 2.3.4:	The company respects all the provisions of the legislation in force, on timber waste disposal in forestry operations	Verify on the ground that timber of economic value is not abandoned in the forest after felling, which is prohibited by legislation.
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 93
Indicator 2.3.5:	Trees accidentally broken during the harvesting process and those used for development of infrastructure are recorded	Verify that data on broken trees or on trees used for infrastructure development is recorded in the working site books.
		<p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 92

PRINCIPLE 3: TRANSPORTATION OF LOGS AND WOOD PRODUCTS	
Criterion 3.1: Clear evidence of documents and licences for companies and carriers involved in timber products transportation shall be demonstrated in accordance with the laws and regulations	
Indicator 3.1.1: Lorries and other means of transport for forest products have valid registration licence and number	Verify that the company is in possession of insurance, licences, inspection certificates and other required authorizations covering lorries and other means of transport.
	Legal reference <ul style="list-style-type: none"> Regulations from the Ministry of Transport
Indicator 3.1.2: Company vehicles are not involved in transport of biodiversity products which are prohibited by national or international legislation and agreements	Verify with Forest rangers that there is no evidence or allegations that the company or its staff are involved in illegal transport of bushmeat or other forest products. Note: national legislation provides a list of fully protected animal species.
	Legal reference <ul style="list-style-type: none"> Decree No. 3863/MEF/SGEF/DCPP, Annexe I
Criterion 3.2: Clear evidence of documents and corresponding markings of timber products for transport shall be demonstrated by companies and carriers in accordance with the laws and regulations	
Indicator 3.2.1: Stumps of harvested trees are hammer marked or paint marked according to regulatory requirements	Verify by random checking on the ground that all stumps are correctly marked. Note: all stumps of harvested trees must be marked with the company hammer and an order number in an uninterrupted series from 1 to 99,999.
	Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31 December 2002, Article 86
Indicator 3.2.2: Billets of timber in forest yards are marked according to the rules in force so that they can be easily traced	All the billets coming from the same harvested tree have the same marks, plus the billet number.
	Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31 December 2002, Article 86
Indicator 3.2.3: Log transportation documents are completed prior to departure from the harvesting site and are kept by the carriers during transportation	Verify by random checking on the ground that all transport timber is accompanied by the correct documentation. Note: documents provide complete information about transported products, the origin and the destination and these should be in the possession of the person in charge of the transport vehicle for the entire journey.
	Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31 December 2002, Article 121

PRINCIPLE 4: PROCESSING REGULATIONS	
Criterion 4.1:	Clear evidence of documents and licences for companies involved in timber processing shall be demonstrated in accordance with the laws and regulations
Indicator 4.1.1:	<p>Licences related to timber processing plants should be available for inspection from the company</p> <p>Verify that a company undertaking timber processing is in possession of an licenses from the Ministry in charge of Forestry. As required by current legislation.</p> <p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 114 to 115
Criterion 4.2:	Timber processing companies are subject to stated conditions within the laws and regulations
Indicator 4.2.1:	<p>The company maintains records of processed timber volumes</p> <p>Verify that companies comply with a processing plan required in the agreement (see 4.1.1) and that the capacity of the processing unit is compatible with Forest Management Unit resources.</p> <p>Note: the current legislation does not set any quota but companies are required to include a processing plan in their request for agreement, and will have to comply with this in the future.</p> <p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 116 to 117, Forest Code, Articles 48 to 49, agreement signed with the Government.
Indicator 4.2.2:	<p>Records of timber volume entering the plant and timber products leaving the plant are maintained according to official procedures</p> <p>Verify that the company registers all timber products entering and leaving the mill using the official format.</p> <p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 119
PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS	
Criterion 5.1:	Clear evidence of licence/permit of company involved in import and export shall be demonstrated in accordance with the laws and regulations
Indicator 5.1.1:	<p>The company holds an export/import licence</p> <p>Verify that timber product exporting/importing companies possess a licence issued by the Ministry of Commerce after written authorization by the Ministry in charge of forestry.</p> <p>Legal reference</p> <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 127 and 128
Criterion 5.2:	Clear evidence of official documents of timber products for import and export shall be demonstrated by companies and carriers in accordance with the laws and regulations
Indicator 5.2.1:	<p>All documents required by legislation covering the export/import of timber products according are in</p> <p>Verify that a timber product exporting/importing company completes specification sheets detailing species, quality and quantity of all timber products exported by, and submits monthly reports to the</p>

possession of the company	Ministry in Charge of forestry Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 133.
Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations	
Indicator 5.3.1: The company respects log export quotas	Verify that a company is only exporting processed products or is in possession of a special authorization if exporting logs and respects its exports quotas. Note: in principle, only processed timber products can be exported. To export raw logs a special authorisation should be provided by the Ministry in charge of Forestry. Legal reference <ul style="list-style-type: none"> Forest Code, Article 48, Decree No. 2002-437 of 31st December 2002, Article 129
Indicator 5.3.2: All timber species exported are authorised by existing regulations	Verify that species exported are not restricted under the: <ul style="list-style-type: none"> CITES Convention List of authorised species in the forest management plan Note: the only lists of protected timber species at the national level are the CITES Convention, to which the Republic of Congo is a signatory, and the list of authorized species in the forest management plan. Legal reference <ul style="list-style-type: none"> Approved forest management plan CITES Convention
PRINCIPLE 6: ENVIRONMENTAL REGULATIONS	
Criterion 6.1: State/company conducts environmental impact assessments or other required assessments within the laws and regulations	
Indicator 6.1.1: When required, environmental impact assessments have been conducted according to regulations and approved by the competent authorities from the Ministry in Charge of the Environment	Verify that companies are in compliance with relevant legislation. Note: drafting of legislation on protection of the environment is currently in process. A ministerial department in charge of the environment was created in March 2007 and auditors will have to verify with this department the status of relevant legislation. Legal reference <ul style="list-style-type: none"> in process
Indicator 6.1.2: Legal provisions concerning water and air pollution are	Verify with appropriate agencies that there are no records or complaints of companies discharging pollutants into water courses, or, if there is evidence

respected	of discharge, what action was taken.
	<p>Legal reference</p> <ul style="list-style-type: none"> • Water code, Articles 20 to 23 • Forest Code, Article 48, • Decree No. 2002-437 of 31st December 2002, Article 142
PRINCIPLE 7: CONSERVATION REGULATIONS	
Criterion 7.1: State/company conducts conservation assessment/evaluation within the laws and regulations	
Indicator 7.1.1:	Nationally protected species of fauna and flora and fragile sites are identified during the forestry inventory according to official forestry and other relevant agencies' regulations and guidelines
	<p>Verify that the forest management plan is based on a multi-resource forest inventory that takes into account protected species of flora and fauna and fragile sites.</p> <p>Legal reference</p> <ul style="list-style-type: none"> • Forest inventory guidelines from the forestry administration
Criterion 7.2: State/company takes mitigation measures on negative conservation values in accordance with the laws and regulations	
Indicator 7.2.1:	The company's commitment to contribute to the fight against poaching and illegal forest exploitation in its area of activities as part of Corporate Social Responsibility is adhered to if stated in the contractual obligations with the State
	<p>Verify that the company complies with commitments in the management plan contributing to prevention of poaching and illegal logging.</p> <p>Note: legislation requires that specific measures be inserted in the management plan for each Forest Management Unit dedicated to nature conservation. After approval the management plan is legally binding and a company is obligated to implement commitments to nature conservation.</p>
Indicator 7.2.2:	The company contributes to the fight against illegal forest exploitation in its forest concession
	<p>Legal reference</p> <ul style="list-style-type: none"> • Forest Code, Article 55
PRINCIPLE 8: SOCIAL REGULATIONS	
Criterion 8.1: Company maintains or strengthens socio-economic welfare of local communities/indigenous people in accordance with the laws and regulations	
Indicator 8.1.1:	In the event that local community property and possessions are destroyed by the company, compensation is paid according to the regulations in force
	<p>Verify by interviews with communities whether there is any evidence of damage to local property and if there is, review:</p> <ul style="list-style-type: none"> • Statements on the destruction • Evidence that compensation has been correctly paid <p>Note: the destruction of local community property must be ascertained by the competent administration (agriculture, housing, etc.) and compensation determined according to the regulations of the relevant administration.</p> <p>Legal reference</p> <ul style="list-style-type: none"> • The relevant ministerial departments concerned
Indicator 8.1.2:	When workers are hired from
	Verify that companies meet the employment

	local communities/indigenous people, they are paid according to legal provisions	provisions in the Terms and Conditions (see legal reference below). Note: provisions on the recruitment of local people in forestry operations are included as an annex to approved management plans.
		Legal reference <ul style="list-style-type: none"> • Terms and conditions, Collective agreement of farming and forestry companies, Articles 52 to 63
Indicator 8.1.3:	The contractual clauses (terms and conditions) annexed to the management plan with respect to a contribution of the company to the improvement of local infrastructures are respected	Verify that a company complies with the management plan conditions on provision of benefits to local communities. Note: the legislation stipulates that the forest management plan must contain measures in favour of local communities, and after approval of the plan these measures become a legally binding commitment.
		Legal reference <ul style="list-style-type: none"> • Forest Code, Article 55
Criterion 8.2:	Company recognizes legal or customary rights of indigenous/local people in accordance with the laws and regulations	
Indicator 8.2.1:	User rights of local communities in the forestry concessions are recognized and respected	Verify by meetings with communities that user rights as defined in the Forest Code and included in the management plan are respected by the company.
		Legal reference <ul style="list-style-type: none"> • Forest Code, Articles 40 to 42 and 55, Management Plan
Criterion 8.3:	Company complies with the laws and regulations on its employees' and workers' rights	
Indicator 8.3.1:	The freedom of labour union activities within the company is guaranteed	Verify with employees that they are free to be involved in labour union activities and that they are no restrictions or bans on such activity imposed by the company. Note: in the event of employee allegations that the company impose any restrictions on union activities documentary evidence should be provided.
		Legal reference <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Article 7
Indicator 8.3.2:	The workers' representatives have been appropriately trained to carry out their duties	Confirm that the company authorizes absence of 15 days annually to worker's representatives for attending meetings, seminars, symposia and other gatherings concerning labour law, without deduction from pay or from leave entitlement.
		Legal reference <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Article 8
Indicator 8.3.3:	The employees of the company	Confirm that the company provides notice boards

	have access to relevant documents on the Labour Law	for worker's representatives to inform the employees on their rights.
		<p>Legal reference</p> <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Article 9
Indicator 8.3.4:	Relations between the company and its employees have been formalised in accordance with legal requirements	<p>Verify by review of documents and staff interviews:</p> <ul style="list-style-type: none"> • Existence of the contracts • Duration and format of contracts meet legal requirements • Assistance (healthcare and education) provided to workers
		<p>Legal reference</p> <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Articles 12 to 14
Criterion 8.4:	Company complies with the laws and regulations on its employees' and workers' welfare	
Indicator 8.4.1:	The company workers are paid in compliance with the regulations in force applicable to their sector of activities	<p>Review of payslips and meetings with employees and employers</p>
		<p>Legal reference</p> <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Articles 52 to 63
Indicator 8.4.2:	Sanitary and safety conditions for workers comply with the legislation in force	<p>According to the regulations in force in Congo, the company must draw up a development plan and implement for the living infrastructures, with details on:</p> <ul style="list-style-type: none"> • Accommodation in modern dwellings • Health and social centre • Schools • Electrification • Drinkable water conveyance • Sport and leisure infrastructures • Food security programme
		<p>Legal reference</p> <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Articles 49 to 51 • Decree No. 2002-437 of 31 December 2002 fixing the conditions pertaining to the management and use of the forest, Article 170
Indicator 8.4.3:	Working hours applied by the company comply with legal provisions	<p>Verify by interviews with staff that the company complies with legal requirements concerning:</p> <ul style="list-style-type: none"> • Daily duration of work • Extra hours • Night work
		<p>Legal reference</p> <ul style="list-style-type: none"> • Collective agreement of farming and forestry companies, Articles 34 to 38

Indicator 8.4.4:	The recruitment of workers is done with respect to the age, gender and disability conditions set by the national legislation and the International Labour Organisation (ILO)	Verify that the company complies with regulations related to employment of women, children and disabled workers that cover age restrictions, maternity leave, facilities for the disabled etc,
		Legal reference <ul style="list-style-type: none"> Collective agreement of farming and forestry companies, Article 39 Ref.: Collective agreement of farming and forestry companies, Article 39
PRINCIPLE 9: TAXES, FEES AND ROYALTIES		
Criterion 9.1: The company fills in its tax returns in accordance with its effective professional activity		
Indicator 9.1.1:	Tax returns on timber production are done in compliance with rules and regulations	The company keeps working site books which record the quantity and the quality of the harvested timber in each site. These working site books must be submitted to the forest administration within the time limits. The audit will verify the compliance of the company book keeping with the relevant regulations.
		Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Articles 87 to 88
Indicator 9.1.2:	Tax returns on timber processing comply with rules and regulations	Every month and every year, the company must communicate its statistical data on timber entering the processing factory and on its production through filling in semi-completed forms. The auditors will verify that these forms are appropriately kept.
		Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 119
Indicator 9.1.3:	Tax returns on trade in timber and product importation are done in compliance with rules and regulations	Auditors will have to verify that the following documents are appropriately kept: <ul style="list-style-type: none"> Specification sheets Declaration to the Customs
		Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 133
Criterion 9.2: Clear evidence of current paid taxes, fees and royalties in a timely manner shall be demonstrated by the company in accordance with the laws and regulations		
Indicator 9.2.1:	All forestry related taxes and fees are paid on time	Availability of receipts and other payment evidence.
		Legal reference <ul style="list-style-type: none"> Decree No. 6380 of 31st December 2002, Articles 2 and 3; Decree No. 6386 of 31st December 2002, Articles 2 and 3
Indicator 9.2.2:	All taxes linked to timber processing operations are paid on time	<ul style="list-style-type: none"> Registry Schedule of payment
		Legal reference <ul style="list-style-type: none"> Decree 6384 of 31 December 2002, Articles 2

		and 3
Indicator 9.2.3:	All taxes linked to the exportation and the importation of forest products are paid on time	Availability of receipts and other payment evidence Legal reference <ul style="list-style-type: none"> Decree No. 6384 of 31 December 2002, Articles 2 and 3
PRINCIPLE 10:	SUBCONTRACTORS AND PARTNERS	
Criterion 10.1:	The company respects the contracts made with subcontractors and partners	
Indicator 10.1.1:	Relationships between the company and its subcontractors are formalized by a contract certified and/or authorized by the competent administration	Verify that the company holds legally certified contracts for all subcontractors. Legal reference <ul style="list-style-type: none"> Ministries of Interior and Justice
Indicator 10.1.2:	The company satisfies all its contractual obligations with respect to subcontractors and ensures all operations are legally licensed, employment is in accordance with the law and all timber is legally harvested, transported, processed and traded	Review contracts and verify that the company is in compliance with contractual obligations. Legal reference <ul style="list-style-type: none"> The legalised contract
Criterion 10.2:	The company ensures that all subcontractors and partners are operating within the law	
Indicator 10.2.1:	In case of partnership with other companies of the forest sector, the company will ensure that the procedural regulations and contractual responsibilities are complied with	In Congo, forest companies are often obliged to subcontract some of their activities (security, forest operations, transport, etc.). Similarly, they can do partnerships with other companies of the forest sector from whom they get their supplies in timber products and subsequently ensure their exportation. Where appropriate, the companies concerned have to ensure that their partners/subcontractors are operating within the law. This prevents them from being involved in operations of “laundering” of illegal timber and/or from acting as “receiver” of illegal products for the partners/subcontractors. In Congo, in case transportation is subcontracted, the regulations in force stipulates that the road haulers must make sure that his client is effectively in possession of a valid harvesting title, otherwise he could be declared jointly responsible in case of illegal cutting. Legal reference <ul style="list-style-type: none"> Decree No. 2002-437 of 31st December 2002, Article 126

Legal references:

1. Anonyme. 1977. conventions collectives des entreprises agricoles et forestières en République du Congo
2. Loi No. 003-91 du 23 Avril 1991 portant protection de l'environnement au Congo en ses titres III consacré à la protection de la flore et de la faune (articles 15 à 20) ; titre IV portant sur la protection de l'atmosphère (21 à 24).
 - a. Titre V protection de l'eau (article 28) ; titre XII consacré aux taxes et redevances (articles 66) ; titre XIII relatif aux sanctions à la présente loi (articles 67 à 85) ;
3. Traité du 17 Octobre 1993 relatif à l'harmonisation du droit des affaires en Afrique (O.H.A.D.A.), notamment l'Acte Uniforme Relatif au Droit des Sociétés Commerciales et du Groupement d'Intérêt Economique.
4. Loi No. 25-94 du 23 Août 1994 règlementant l'exercice du commerce en République du Congo, en son titre II et IV consacré à la procédure d'accès à la profession de commerçant (articles 4 à 8) et à l'exercice du commerce (articles 16 à 25).
5. Loi No. 3-2000 du 1^{er} Février 2000 fixant les conditions d'exercice de la sous-traitance e République du Congo en son article 8.
6. Décret No. 436-2002 du 31 Décembre 2002 portant attribution, organisation et fonctionnement du service de contrôle des produits forestiers à l'exportation.
7. Décret 2002-437, 31 décembre 2002 fixant les conditions de gestion et d'utilisation des forêts ;
8. Loi No. 3-2007 du 24 janvier 2007 règlementant les importations, les exportations et les réexportations.

Additional document:

1. ADOUKI, D. E. 2005. Code de l'environnement