

WWF GFTN: Common Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Viet Nam

<i>Indicator</i>	<i>Guidance Note/Verifiers</i>
PRINCIPLE 1: ACCESS, USE RIGHTS AND TENURE	
Criterion 1.1: Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations	
Indicator 1.1.1: The company must hold valid land use title	<p>Verify that the company has valid documentation authorizing land use. Required documentation will be one of the following:</p> <ul style="list-style-type: none"> • Land Use Certificate issued by the provincial Department of Natural Resources and Environment (DONRE) • A document of company establishment endorsed by the provincial People’s Committee • A signed Decision issued by provincial People’s Committee on land allocation • Contract of land use right transfer agreement <p>Legal references:</p> <ul style="list-style-type: none"> • Land Law 2003, Articles 31, 51, 52, 122 & 123 • Decree No. 181/2004/ND-CP, 29 October 2004, Articles 30, 31, 38, 40, 41, 68, 71, 78, 84, 86, 87 & 125 on the enforcement of the Land Law • Decree No. 84/ND-CP, 25 May 2007, Article 20 on granting land use right certificates etc.

<p>Indicator 1.1.2: The company holds valid title to the forest</p>	<p>Verify that the company has valid documentation authorizing forest use. Required documentation will be one of the following:</p> <ul style="list-style-type: none"> • Decision of forest allocation issued by the provincial People’s Committee • Contract of forest use transfer between organizations, individuals, households with enterprises <p>Guidelines for forest allocation are listed in the relevant regulations.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 23/2006/ND-CP, 3 March 2006, Article 53 on enforcement of the Forest Protection & Development Law 2004 • Decision No. 186/2006/QD-TTg, 14 August 2006, Provision 1, Point a Provision 2, Point b and Provision 4, Article 42 on the regulation of forest management.
<p>Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations</p>	
<p>Indicator 1.2.1: Permitted activities in non-forested areas within production and protection forests are stipulated by MARD</p>	<p>Verify that company activities are detailed in the decision of forest allocation of the Chairman of the provincial People’s Committee and in management plans.</p> <p>Note: Regulations list several activities that are allowed depending on the forest category.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 23/2006/ND-CP, 3 March 2006, Article 53 issued by the Government on enforcement of the Forest protection and development law 2004 • Decision No. 186/2006/QD-TTg, 14 August 2006, Provision 1 Point a, Provision 2 Point b & Provision 4, Article 42 on the regulation of forest management.

<p>Indicator 1.2.2: Areas covered by the forest title have approved 10-year, 5-year and annual management plans</p>	<p>Verify that the company has 10-year, 5 year and annual plans covering forest protection and development which are approved by the Ministry of Agriculture and Rural Development.</p> <p>Note:</p> <ul style="list-style-type: none"> • Management plan requirements are listed in relevant regulations. <p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 23/2006/ND-CP, 03 March 2006, Article 10 on the implementation of the law on forest protection and development • Decision No. 40/2005/QD-BNN, 07 July 2005, Articles 8 and 9 on issuing the regulations on harvesting timber and other forest products.
<p>PRINCIPLE 2: HARVESTING REGULATIONS</p>	
<p>Criterion 2.1: Harvesting/timber license with stated conditions in accordance with government policies, guidelines and regulatory requirements, approved by relevant authority</p>	
<p>Indicator 2.1.1: Harvest plans have been approved by the appropriate government authority</p>	<p>Verify that the company has approved harvest plans and maps</p> <p>Note: management and design plans may only be developed by registered organizations: Forest Inventory and Planning Institute (FIPI), technical Forestry Colleges (FC), licensed State Forest Enterprise (SFE) and local organizations with prescribed business licenses.</p> <p>In cases where the company borrows, with interest, from the government, harvesting plans are approved by either DARD (for companies belonging to the province) or Viet Nam Forest Corporation (VINAFOR) with subsequent MARD approval.</p> <p>Companies investing themselves do not require any harvest permission.</p>

	<p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 40/2005/QD-BNN, 07 July 2005, Chapters II, III, Articles 33 & 34 – Chapter IV on issuing the regulations on harvesting timbers and other forest products Decision No. 200/QD-KT, 31 March 1993 on the silvicultural technologies applied for wood and bamboo production stands (QPN 14-92).
<p>Criterion 2.2: The Company implements harvest operations in accordance with the legally prescribed silvicultural system and relevant legislation</p>	
<p>Indicator 2.2.1: Harvesting operations for natural forests comply with official requirements</p>	<p>Verify that the company's harvesting operations comply with official silvicultural procedures.</p> <p>Note: Harvesting design requirements are listed in the relevant regulations.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 200/QD-KT, 31 March 1993, Article 25 on the silvicultural technologies applied for wood and bamboo production stands Decision No. 40/2005/QD-BNN, 07 July 2005 on issuing the regulations harvesting timber and other forest products Decision No. 186/2006/Qd-TTg, 14 August 2006, Clause 1, Article 18 and Clause 1, Article 20 promulgating the regulation on forest management
<p>Indicator 2.2.2: All boundaries of licensed harvesting areas for natural forests are clearly demarcated on maps of an appropriate scale and on the ground</p>	<p>Verify that boundaries are clearly marked on maps and crosscheck on the ground that all boundaries conform to official regulations.</p> <p>Harvesting plans are at a scale of 1:5,000.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 40/2005/QD-BNN, 07 July 2005, Article 15, on issuing the regulations on harvesting timber and other forest products
<p>Indicator 2.2.3: Data for all trees harvested are checked and</p>	<p>Check that company records conform to official data.</p>

logs stamped by the Forest Protection Department	<p>Note: cross-checking of the logs against the tree marking sheets, and subsequent stamping by the Forest Protection Department, occurs at the log pond. Records of stamping are maintained by the Forest Protection Department for natural resource tax assessment and to provide proof of origin.</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 40/2005/QD-BNN, 07 July 2005, Articles 14, 15, 18 & 19 on issuing the regulations on harvesting timber and other forest products
<p>Indicator 2.2.4: The forest owner and Department of Agriculture and Rural Development conduct an evaluation to measure actual harvest vs. harvest design</p>	<p>Verify that for all areas harvested the company is in possession of an approved post harvest inspection report</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 40/2005/QD-BNN, 07 July 2005, Section 2E, Articles 13 and 19 on issuing the regulations on harvesting timber and other forest products
<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 by companies and carriers in accordance with the laws and regulations</p>	
<p>Indicator 3.1.1: Transportation companies and individuals are licensed to transport timber</p>	<p>Verify with the Company the existence of a valid license.</p> <p>Note: a copy of the license registration is housed at provincial Department of Transport.</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decree No. 110/2006/ND-CP, 28 September 2006, Article 11 on business conditions of road transport Decree No. 21/2005/ND-CP, 01 March 2005, Articles 7 and 10 on providing in detail to implement some Articles of Law on interior waterway transportation
<p>Indicator 3.1.2: Organizations, individuals operating vessels or</p>	<p>Verify possession of valid license documents, which are:</p>

<p>trucks for transporting forest products from the forest have relevant licenses</p>	<ul style="list-style-type: none"> ○ Vehicle registration year and vehicle type, ○ Vehicle load capacity ○ Documentation stating it is a company owned/contractor vessel or truck to be inspected. <p>Two licenses are required as issued by the Transportation Agency and the Public Security Agency for each vessel or truck the company or individual operates.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Circular No. 01/2007/TT-BCA (C11), 01 January 2007 on providing guidance on issuing registration number to the transportation vehicles.
<p>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</p>	
<p>Indicator 3.2.1: All logs transported from harvesting areas are marked with an official stamp</p>	<p>All logs have correct FPD stamp (paint) markings that are legible. Cross reference markings with official word records.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decision No. 40/2005/QD-BNN, 07 July 2005, Section 1E, Article 19 on issuing the regulations on harvesting timber and other forest products • Decision No. 44/2006/QD-BNN, 01 June 2006, Section 2A Article 7 on Forest Ranger Stamping and Stamp Control
<p>Indicator 3.2.2: The Company records the transport of logs to the processing facility using official documentation</p>	<p>Verify by sampling that transported logs are accompanied by the correction documentation:</p> <ul style="list-style-type: none"> • Timber records correct to the MARD format • Documents to certify the origin of the timber supplied by the FPD or District FPD certificate for timber not subject to stamping; or Commune PC certificate for timber from plantations and scattered trees. <p>Note: documentation is issued before logs leave the Forest Management Unit, or at the time of state auction.</p>

	<p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 59/2005/QD-BNN, 10 October 2005 promulgating the regulation of inspection and control of forest products
<p>Indicator 3.2.3: Timber consignment paperwork during transportation is complete and current</p>	<p>Check papers required for legal transportation (and storage and processing) of domestic timber:</p> <ul style="list-style-type: none"> Sales invoice according to the regulations of the Ministry of Finance (for timber harvested by companies only) Ex-warehousing-cum-internal transportation bills for internal transportation Timber records (log list) according to the MARD format Official FPD record of timber stamping compatible with the timber consignment. <p>Imported timber transportation papers consist of the following:</p> <ul style="list-style-type: none"> Import declaration or certification from customs Timber records/lists developed by the exporting country Forest ranger stamps or their equivalent from the exporting country or, if absent, from FPD office at point of import. <p>Note: where imported timber is resold, Ministry of Finance sales invoices and original timber lists are also required; or if the consignment is divided, FPD-certified timber lists must be provided.</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 59/2005/QD-BNN, 10 October 2005, Articles 7, 8, 9, 11 and 14 promulgating the regulation of inspection and control of forest products.
<p>Indicator 3.2.4: Organizations transporting timber must carry the required documents in the vehicle of transportation</p>	<p>Documents consist of:</p> <ul style="list-style-type: none"> - Sale invoice as stipulated by the Ministry of Finance or ex-warehousing-cum-internal transportation bills for internal transportation - Wood record and FPD stamp.

	<p>Legal references: - Decision No. 59/2005/QD-BNN, 10 October 2005, Provision 1, Article 7, Provision 1, Article 8 promulgating the regulation of inspection and control of forest products.</p>
	<p>Legal references: - Decision No. 59/2005/QD-BNN, 10 October 2005, Articles 7, 8, 9, 11 & 14 promulgating the regulation of inspection and control of forest products.</p>
<p>PRINCIPLE 4: PROCESSING REGULATIONS</p>	
<p>Criterion 4.1: Clear evidence of documents and licenses for companies involved in timber processing shall be demonstrated in accordance with the laws and regulations</p>	
<p>Indicator 4.1.1: The timber processing (and trading) facility has the requisite legal business registration certificate to operate, and license to process commodities for foreign merchants (if necessary)</p>	<p>Verify that the enterprise has the following documents:</p> <ul style="list-style-type: none"> • Business registration certificate • Operating license • Import license • License to process commodities for foreign merchants (issued by Ministry of Trade). <p>Note: business registration certificates are awarded by either the district People’s Committee (for household businesses) or the provincial Department of Planning and Investment (organizational businesses-enterprises).</p>

	<p>Legal references:</p> <ul style="list-style-type: none"> • Decision No. 59/2005/QD-BNN, 10 October 2005, Provision 1A, Article 15 promulgating the regulation of inspection and control of forest products • Decree No. 12/2006/ND-CP, 23 January 2006, Article 4, Clause 7, Article 10 and Article 29 detailing implementation of Trade Law regulations on international buying and selling of commodities and agent activities purchasing, selling, processing and transiting of commodities with foreign countries
<p>Criterion 4.2: Timber processing companies are subject to stated conditions within the laws and regulations</p>	
<p>Indicator 4.2.1: The timber processing and trading facility has wood log books to record all wood entering or exiting the facility</p>	<p>Verify that wood log books are maintained and up-to-date. Note: data on timber entering and exiting the facility must be recorded within one day of the transaction and the form of Log books are provided and guided by the district FPD.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decision No. 59/2005/QD-BNN, 10 October 2005, Provisions 1b, 2, Article 15 promulgating the regulation of inspection and control of forest products

<p>Indicator 4.2.2: All raw material received by the wood processing facility must be accompanied by sale contracts and official sales invoices</p>	<p>Verify that the enterprise has sales contracts for each transaction in the supply chain to the processing facility. Note: sales invoices must be as stipulated by the Ministry of Finance.</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 59/2005/QD-BNN, 10 October 2005, Articles 7, 8, 9, 11 promulgating the regulation of inspection and control of forest products
<p>PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS</p>	
<p>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</p>	
<p>Indicator 5.1.1: The company has the requisite legal business registration certificates and import and export license to operate</p>	<p>Verify that the enterprise holds the following:</p> <ul style="list-style-type: none"> Current business registration certificates Tax code Import or export license (issued by the Ministry of Trade). <p>Note: business registration certificates are awarded by either the district People’s Committee (for household businesses) or the provincial Department of Planning and Investment (organizational businesses-enterprises).</p> <p>Legal references:</p> <ul style="list-style-type: none"> Decision No. 59/2005/QD-BNN, 10 October 2005, Provision 1A, Article 15 promulgating the regulation of inspection and control of forest products Decree No. 12/2006/ND-CP, 23 January 2006, Articles 4, 10 and 29 detailing implementation of Trade Law regulations on international buying and selling of commodities and agent’s activities purchasing, selling, processing and transiting of commodities with foreign organizations.

<p>Indicator 5.1.2: Each shipping company and its vessels are registered with the Ministry of Transportation (MoT) (Vietnam Maritime Bureau or Maritime department)</p>	<p>Registration documents to be inspected for validity (signed by Ministry of Transport and current) plus that they relate to the actual company and vessel.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 49/2006/ND-CP, 18 May 2006, on ship registration, selling and buying • Decree No. 160/2003/ND-CP, 18 December 2003, Paragraph c, Provision 1, Article 19 and Annex 4 on management of marine activities at sea port and marine zone of Vietnam.
<p>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</p>	
<p>Indicator 5.2.1: Documents required for timber import are current and correct</p>	<p>For imported timber, verify that the enterprise possesses the following:</p> <ul style="list-style-type: none"> • All documents required for legal export from producer country • Customs declaration authorizing import • FPD documents approving wood transport from the port. <p>Legal export documents from producer country will vary following law of the country. Check with Customs office document requirements from export countries.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decision No. 59/2005/QD-BNN, 10 October 2005, Article 9, promulgating the regulation of inspection and control of forest products
<p>Indicator 5.2.2: Export documents are valid and up to date</p>	<p>Verify possession of valid documents as follows:</p> <ul style="list-style-type: none"> • Bill of lading • Packing lists for the sawn timber or wood products • Chain-of-custody records (which include transportation documents referenced in 6.3.2.) indicating origin of logs used to produce timber products. <p>Note: it is illegal to export round logs or sawn timber that derives from</p>

	<p>domestic natural forests.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 12/2006/ND-CP, 23 January 2006, Article 5 and Appendix 1 detailing implementation of Trade Law regulations on international buying and selling of commodities and agent activities purchasing, selling, processing and transiting of commodities with foreign countries • Decision No. 65/1998/QĐ-TTg, 24 March 1998, on wood and wood products export and import.
<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: Stated conditions on CITES-listed species, tariffs, phytosanitary and quarantine requirements, quotas, products and special requirements are adhered to</p>	<p>Verify or check the following documents as necessary:</p> <ul style="list-style-type: none"> • Appropriate tariffs are paid and receipted. • License/certification for CITES-listed species is accurate • Import/export certificate issued by MARD (the Vietnam CITES Management Authority) is valid • Quarantine certificate granted by plant quarantine agencies. • Limit of timbers from natural forest for produce export fine arts products delivered by the Chair of the provincial People’s Committee for enterprises, organizations. • List of timber products allowed for export • Guidelines of the Ministry of Trade for importing timber from common border countries.

	<p>Legal references:</p> <ul style="list-style-type: none"> • Decision No. 110/2003/QD-BTC, 25 July 2003, promulgating preferential import tariffs • Decision No. 54/2006/QD-BNN, 05 July 2006, publicizing a list of wild plant and animal species in Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora • Decree No 82/2006/ND-CP, 10 August 2006, Article 15 on management of the import, export, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora • Decree No 02/2007/ND-CP, 05 January 2007, Article 8, Chapter 2, Chapter 3 on plant quarantine • Decision 65/1998/QD-TTg, 25 March 1998, Articles 2 and 5 on export timber products and import timber materials • Decree No. 12/2006/ND-CP, 23 January 2006 Clause 7, Article 10 detailing implementation of Trade Law regulations on international buying and selling of commodities and agent’s activities purchasing, selling, processing and transiting of commodities with foreign.
<p>PRINCIPLE 6: ENVIRONMENTAL AND CONSERVATION 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: The company has a currently approved EIA where necessary</p>	<p>Verify that the official decision provided by the Ministry of Natural Resources and Environment (MoNRE) is signed and valid, and covers the entire area of licensed operation.</p> <p>Note: the company must carry out the EIA to submit to MoNRE for approval in the following cases:</p> <ul style="list-style-type: none"> • Harvesting of forest plantations with an area of 1,000 ha and over • Harvesting of watershed forests, coastal protection forests, and special use

	<p>forests with an area of 20 ha and over</p> <ul style="list-style-type: none"> • Harvesting of other natural forests with an area of 200 ha and over for approved land use conversion <p>Legal references:</p> <ul style="list-style-type: none"> • Law on Environmental Protection 2006, Articles 20 to 22 • Decree No. 80/2006/ND-CP, 09 August 2006, Provision 1, Article 8 on the implementation of the Law on Environmental Protection • Annex – List of projects must prepared Report of EIA (issued together with Decree 21/2008/ND-CP, 28 February 2008 on supplementation and amendment of some articles of Decree No. 80/2006/ND-CP, 09 August 2006 on the implementation of the Law on Environmental Protection)
<p>Indicator 6.1.2: The company must have official approval from the relevant government authorities confirming that all requirements set out in the EIA report (EIAR) were carried out</p>	<p>Verify that the company holds an official Decision (approval) with the relevant information, provided by MoNRE.</p> <p>Note: The standard application form for official appraisal of EIARs is enclosed with Circular No. 08/2006/TT-BTNMT and the statutory time-limit for appraisal of EIARs is set at 3 days (or 5 days in the case of a supplementary report).</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Law on Environment Protection 2006, Paragraph A, B, and C Provision 1, Article 23 • Decree No. 80/2006/ND-CP, 09 August 2006, Section 3, Article 16, on the implementation of the Law on Environment. • Circular No. 08/2006/TT-BTNMT, 08 September 2006, Sections 11, 12 and 13 on Guidelines on strategic environmental assessment, EIA and environmental protection engagement.
<p>Criterion 6.2: State/company takes mitigation measures on negative environmental (and conservation value) parameters in accordance with the laws and regulations</p>	
<p>Indicator 6.2.1: The company implements fire control</p>	<p>Evidence to support this</p>

<p>procedures following forest fire prevention and extinguishing regulations</p>	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 09/2006/ND-CP, 16 January 2006, Articles 4 and 5 on forest fire prevention and extinguishing.
<p>Indicator 6.2.2: The company implements mitigation measures to combat environmental pollution</p>	<p>Verify possession of a certificate on satisfactory environmental standards (for organization of business, production and services implementation and waste management) and check the working minutes of inspectors and supervisors regarding the company's implementation of the law on environmental protection.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law on Environmental Protection 2006, Clause 3, Article 66 • Law on Environmental Protection 2006, Clause 3, Article 126

Criterion 6.3: State/company takes mitigating measures on negative conservation values in accordance with the laws and regulations	
Indicator 6.3.1: The Company identifies endangered animal and plant species within the Forest Management Unit and complies with provisions for their exploitation or protection as appropriate	Verify that procedures for identification and protection, or exploitation, of endangered species are followed, where relevant. This will include identification and mapping in the EIAR of endangered timber species, according to current legislation.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 32/2006/ND-CP, 30 March 2006 Provision 1 and 2, Article 6; Provision 2 and 3, Article 5 on management of endangered and precious forest fauna and flora species • Decree No. 82/2006/ND-CP, 10 August 2006 on management of export, import, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora • Decision No. 54/2006/QD-BNN, 05 July 2006 publicizing a list of wild plant and animal species in Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora • Decision No. 40/2005/QD-BNN, 07 July 2005 on promulgating the regulation on harvesting of timber and other forest products.
PRINCIPLE 7: SOCIAL REGULATIONS	
Criterion 7.1: Company maintains or strengthens socio-economic welfare of local communities/indigenous people in accordance with the laws and regulations	
Indicator 7.1.1: The company must, where required by law, create jobs and/or income generation opportunities for local communities	<p>Verify evidence that local people, particularly ethnic minorities, have been offered employment and/or have received benefits from the company and cross-check with beneficiary communities. (this indicator is compulsory for cases involving State agricultural enterprises and State forest enterprises)</p> <p>Note: for other companies this indicator is not compulsory, except where local authorities have attached conditions to the allocation of forest land under its jurisdiction.</p>

	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree No. 200/2004/ND-CP, 03 December 2004, Clause 3, Article 2 on the arrangement, renovation and development of the state forest company • Decree No. 135/2005/ND-CP, 08 November 2005, Clauses 1 and 2, Article 2 on allocating and contracting agricultural land, forest land and watered land within the state forest company.
<p>Criterion 7.2: Company complies with the laws and regulations on its employees' and workers' rights and welfare</p>	
<p>Indicator 7.2.1: The company permits its employees to join recognized labour unions and can demonstrate that it does not discriminate against labor union members when making employment decisions</p>	<p>Verify with workers that they are not prevented from joining unions and union members are not discriminated against in employment decisions.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Articles 153 and 154 Chapter XIII
<p>Indicator 7.2.2: When requested by a recognized labour union that represents its employees, the Company willingly enters into negotiations with that union and honors all agreements reached as a result of those negotiations</p>	<p>Review formal agreements with unions, records of union meetings and management meetings.</p> <p>Verify that the collective labour bargain is signed by the company and the union representing its employees and is registered with Department of Labour, War Invalids and Social Affairs.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Chapter XIII • Labour Code 1994 (amended 02 April 2002), Chapter V • Decree 196-CP, 31 December 1994 stipulating detailed provisions and guidance for the implementation of a number of articles of the labor code on collective labor bargains, • Decree No. 93/2002/ND-CP, 11 November 2002 amending and supplementing Decree No. 196-CP.

<p>Indicator 7.2.3: The company pays its employees' salaries and provides them with benefits according to national regulations</p>	<p>Verify evidence that salaries have been paid on time and benefits actually provided.</p> <p>Note: all salaries must be equal to or higher than the minimum wage, or as stated in the employment contract and according to current legislation.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994, Articles 63, 64, 141, 148, 149 • Decree No. 93/2006/NĐ-CP, 06 January 2006 Article 1 on regulating the minimum salary rate of the Vietnamese laborer operating the most simple task and working in normal conditions to the foreign funded company • Decree No. 94/2006/NĐ-CP, 07 September 2006 Article 1 on adjusting the minimum salary rate • Law on Social Insurance 2006, Article 18 • Decree No. 152/2006/ND-CP, 22 December 2006, Article 43 on guiding some articles of the Law on Social Insurance
<p>Indicator 7.2.4: The Company implements clearly defined safety procedures, maintains regulations on the responsible use of working materials and ensures labor sanitation as prescribed in national regulations</p>	<p>Verify that the company has documented procedures on safety and that these are implemented. Procedures will include work instructions, information on proper use of safety equipment and staff training on safety and use of safety equipment.</p> <p>Note: feasibility reports on measures to ensure labor safety and sanitation are approved by the Agency of Labor Safety and copies sent to the local State Labor Inspectorate for monitoring.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Provision 1 Article 95, Articles 98 and 102, Chapter IX • Decree No. 06/CP, January 20 1995, Article 3 detailing a number of articles of the labor code on labor safety and sanitation • Decree No. 110/2002/ND-CP, 27 December 2002, Article 1 amending and supplementing Decree No. 06/CP.

<p>Indicator 7.2.5: The company ensures that all required safety and emergency first aid equipment is available and readily accessible for use at each work site</p>	<p>Verify that the company provides safety equipment for use by workers, that emergency first aid is available on site and that, where required by safety and sanitation regulations, equipment is registered.</p> <p>Note: machinery, equipment, supplies and substances covered by safety and sanitation regulations are prescribed by the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Articles 100 and 103, Chapter IX • Decree No. 110/2002/ND-CP, 27 December 2002, Article 1 amending and supplementing a numbers of Decree No. 06/CP
<p>Indicator 7.2.6: The Company ensures that all its employees are 15 years old or above</p>	<p>Verify that all employees are older than 15 years from company records that detail employee number and registration of date of birth by identity card or birth certificate.</p> <p>Note: workers below the age of 18 years must be given signed permission to work by their parents or guardians and details on workers below the age of 18 must be maintained in separate records.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Articles 6 and 119
<p>Indicator 7.2.7: The company must provide workers with social insurance to cover accidents and illness at work</p>	<p>Verify that workers have social insurance cards or that salary paid includes an amount for social insurance.</p> <p>Note: workers are entitled to social insurance to cover costs associated with injury or illness caused at work. Where the company has not yet purchased insurance, the company is liable to pay all costs associated with treatment. The company must also provide time off in cases of illness to workers or their family members and for women during and after pregnancy.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Article 107

	<ul style="list-style-type: none"> • Law on Social Insurance 2006, Chapter III • Decree No. 152/2006/ND-CP, 22 December 2006 on guiding some articles of the Law on Social Insurance 2006
Indicator 7.2.8: The company provides workers with a legal labour contract and complies with the provisions contained therein	Verify that workers should have a valid, signed labour contract appropriate to their job and format and contents of contracts complies with current regulations.
	Legal references: <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Articles 26 to 38 • Decree No. 44/2003/ND-CP, 09 May 2003 providing detailed regulation and guidance for implementation of a number of Articles of the labor code on labor contracts
Indicator 7.2.9: The company provides workers with a pension or lump sum allowance, or severance allowance upon termination of labor contracts as appropriate	Verify that company protocols on pensions and allowances entitle workers to pensions, allowances or severance payments appropriate to age and social insurance contributions.
	Legal references: <ul style="list-style-type: none"> • Labour Code, 1994 (amended 02 April 2002), Article 145 • Law on Social Insurance 2006, Section 4, Chapter III • Decree No. 152/2006/ND-CP, 22 December 2006, Section 4 on guiding some articles of the Law on Social Insurance 2006 • Decree No 44/2003/ND-CP, 09 May 2003, Article 14, providing detailed regulation and guidance for implementation of a number of Articles of the labor code on labor contracts
Indicator 7.2.10: The company does not require any of its employees to work more than 8 hours (or 6-7 in some cases) hours per day, pays employees correct overtime rates and allows each	Verify by interview with workers that the company does not require regular work in excess of 40 hours per week and that voluntary overtime is correctly paid and that each worker is given 12-16 days off per year in addition to national holidays.

<p>employee to take paid annual leave in addition to statutory holidays</p>	<p>Legal references:</p> <ul style="list-style-type: none"> • Labour Code 1994 (amended 02 April 2002), Articles 61, 68, 73, 74 and 78 • Decree No. 195/CP, 31 December 1994 detailing and guiding the implementation of a number of Articles of the labor code on working time and rest time • Decree 109/2002/ND-CP, 27 December 2002 amending and supplementing a number of Articles of the Decree 195/CP.
<p>Indicator 7.2.11: The company has internal regulations on labour practices</p>	<p>Check internal regulations on labor registered at the provincial Labor, War Invalids and Social Affairs Services</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Labor Code 1994 (amended 02 April 2002), Articles 12, 18, 84, 85, 86, 87 and 92 • Decree No. 41-CP, 06 July 1995 detailing and guiding the implementation of a number of articles of the labor code regarding labor disciplines and material responsibilities • Decree No. 33/2003/ND-CP, 02 April 2003 amending and supplementing a number of Articles of Decree 41-CP.

PRINCIPLE 8: TAXES, FEES AND ROYALTIES	
Criterion 8.1: 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 8.1.1: The company demonstrates that all payments of fees due (management plan, harvesting plan and EIA design) and taxes (land use tax and natural resource tax) are current	Verify from the company's payment receipts fees and timber extracted are up to date for the year and cross-check from a sample of harvesting records that value of payments reconcile with volume harvested.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law on Agricultural Land Use Tax 1993, Provision 4, Article 9 • Decree No. 129/2003/ND-CP, 03 November 2003, Provision 1 Article 2, Article 3 on exemption and reduction of agricultural land-use tax • Circular No. 89-TC/TCT, 09 November 1993 on providing guidance to practice the Decree no 74/CP, 25 October 1993 issued by the Government on specifying regulations on implementing the Tax law on agriculture land use • Ordinance No. 05/1998/PL-UBTVQH10, 16 April 1998, Article 3 on natural resources tax (revised) • Decree No. 68/1998/ND-CP, 03 September 1998 Provision 5, Article 2 and Article 9 detailing the implementation of the Ordinance on Natural Resource Tax. • Decree 147/2006/ND-CP, 01 December 2006, Article 7 amending and supplementing some Articles of the Decree 68/1998/ND-CP, 03 September 1998 • Circular No. 42/2007/TT-BTC, 27 April 2007, Provision 1, Part I and Provision 4, Part III on regulations on implementing Decree No. 68/1998/ND-CP.
Indicator 8.1.2: The Company demonstrates that payments of Value Added Tax (VAT), import/export tax	Verify from the company's payment receipts that all taxes due are paid to date and cross-check from a sample of harvesting or production records that value of payments reconcile with volumes harvested or volume of product

<p>(where appropriate) and income tax are current</p>	<p>manufactured. <u>Note:</u> exempt from VAT are plantation forest products that have not yet been processed to other products or have only had preliminary treatment and machinery, equipment and specialized vehicles that are not manufactured locally</p>
	<p>Legal references:</p> <p><u>VAT</u></p> <ul style="list-style-type: none"> • Decree No. 156/2005/ND-CP, 15 December 2005, Provision 1, Article 2 on amending and supplementing a number of Government Decrees on implementing of Law of special consumption and Law on VAT • Decree No. 158/2003/NĐ-CP, 10 December 2003, Provision 4, Article 4, Articles 11, 12 and 13 on detailed regulations on implementing Law on VAT and amending and supplementing a number of articles of Law on VAT • Circular No. 120/2003/TT-BTC, 12 December 2003, Part B, on guidelines on implementing Decree No. 158/2003/ND-CP, 10 December 2003. <p><u>Import/export tax</u></p> <ul style="list-style-type: none"> • Decree No. 149/2005/NĐ-CP, 14 December 2005, Provisions 1, 2, 3 of Article 2, Articles 7, 12 and 14 on detailed regulations on implementing Law on import and export. <p><u>Enterprises' Income tax</u></p> <ul style="list-style-type: none"> • Decree No. 24/2007/NĐ-CP, 14 February 2007, Articles 1 and 3; Provisions 1 and 2, Article 9 on detailed regulations on implementing the Law on Enterprises' Income tax.

Quick-check list of laws and legislation arranged according to Principle

Note: The titles of the following laws and legislation are generally unofficial translations of the Vietnamese titles and are not guaranteed to be accurate.

Principle 1: Land Use, Access and Tenure Rights

1. Land Law 2003.
2. Forest Protection and Development Law 2004.
3. Decree No. 181/2004/ND-CP dated 29 October 2004 issued by the Government on the enforcement of the Land Law 2003.
4. Decree No 84/NĐ-CP dated 25 May 2007 of the Government on supplementation of granting land use right certificates, land recovery, implementing land use right, procedure and orders of compensation, support, resettlement when the State recovers land and handling complains of land.
5. Decree No 23/2006/ND-CP dated 03 March 2006 issued by the Government on the enforcement of the Forest protection and Development Law 2004.
6. Decision No. 186/2006/QĐ-TTg dated 14 August 2006 issued by the Government on the Regulation of Forest Management.
7. Decision No. 40/2005/QĐ-BNN dated 07 July 2005 by the Ministry of Agriculture and Rural Development on the Regulations for Forest Harvesting.
8. Circular No. 38/2007/TT-BNN dated 25 April 2007 issued by Ministry of Agriculture and Rural Development on Guidelines for implementation, forest allocation, forest rent and forest return for organizations, households, individuals and communities.

Principle 2: Timber Harvesting

1. Decision No. 200/QĐ-KT dated 31 March 1993 issued by the former Ministry of Forestry (now Ministry of Agriculture and Rural Development) on the Silvicultural Technologies Applied for Wood and Bamboo Production Stands (aka QPN 14-92).
2. Decision No. 40/2005/QĐ-BNN dated 07 July 2005 by the Ministry of Agriculture and Rural Development on the Regulations for Harvesting timber and other forest products.
3. Decision No. 186/2006/QĐ-TTg dated 14 August 2006 issued by the Ministry of Agriculture and Rural Development on the Regulation of Forest Management.

Principle 3: Timber Products Transportation

1. Decision No. 40/2005/QĐ-BNN dated 07 July 2005 issued by the Ministry of Agriculture and Rural Development on the Regulations for Harvesting timber and other forest products.
2. Decision No. 44/2006/QĐ-BNN dated 01 June 2006 issued by the Ministry of Agriculture and Rural Development on Forest Ranger Stamping and Stamp Control.
3. Decision No. 59/2005/QĐ-BNN dated 10 October 2005 issued by the Ministry of Agriculture and Rural Development Promulgating the Regulation of Inspection and Control of Forest Products.
4. Circular No. 01/2002/TT-BCA (C11) dated 04 January 2002 issued by the Ministry of Transportation on Providing Guidance on Issuing Registration Numbers to Transportation Vehicles.
5. Decree No. 110/2006/ND-CP dated 28 September 2006 of the Government on business conditions of road transport.
6. Decree No. 21/2005/ND-CP dated 01 March 2005 of the Government on providing in detail to implement some Articles of Law on interior waterway transportation.

Principle 4: Timber Processing

1. Decree No. 12/2006/ND-CP dated 23 January 2006 of the Government detailing implementation of Trade Law regulations on international buying and selling of commodities and agent activities purchasing, selling, processing and transiting of commodities with foreign countries.
2. Decision No. 59/2005/QĐ-BNN dated 10 October 2005 issued by the Ministry of Agriculture and Rural Development Promulgating the Regulation of Inspection and Control of Forest Products.

Principle 5: Timber Products' Import/Export

1. Decree No. 12/2006/ND-CP dated 23 January 2006 of the Government detailing implementation of Trade Law regulations on international buying and selling of commodities and agent activities purchasing, selling, processing and transiting of commodities with foreign countries.
2. Decision No. 65/1998/QĐ-TTg dated 24 March 1998 issued by the Prime Minister on wood and wood products export and import.

3. Decision No. 59/2005/QD-BNN dated 10 October 2005 issued by the Ministry of Agriculture and Rural Development Promulgating the Regulation of Inspection and Control of Forest Products.
4. Decree No. 160/2003/ND-CP dated 18 December 2003 issued by the Government on management of marine activities at sea port and marine zone of Viet Nam.
5. Decision No. 110/2003/QD-BTC dated July 25, issued by the Ministry of Finance promulgating preferential import tariffs.
6. Decision No. 54/2006/QD-BNN of 05 July 2006 issued by MARD publicizing a list of wild plant and animal species in Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
7. Decree No. 49/2006/ND-CP of the Government dated 18 May 2006 on ship registration, selling and buying.
8. Decree No. 82/2006/ND-CP dated 10 August, 2006 on management of the import, export, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora.
9. Decree No. 02/2007/ND-CP of the Government dated 5 January 2007 on plant quarantine.

Principle 6: Environmental and Conservation Regulations

1. Law on Environmental Protection 2006.
2. Decree No. 80/2006/ND-CP dated 09 August 2006 issued by the Government on the Implementation of the Law on Environmental Protection 2006.
3. Decree 21/2008/ND-CP dated 28/02/2008 of the Government on supplementation and amendment of some articles of Decree No. 80/2006/ND-CP dated 09 August 2006 issued by Government on the implementation of the Law on Environmental Protection
4. Decree No. 32/2006/ND-CP dated 30 March 2006 issued by the Government on the Management of Endangered and Precious Forest Fauna and Flora Species.
5. Decree No. 9/2006/ND-CP dated 16 January 2006 issued by the Government on Forest Fire Prevention and Extinguishing.
6. Decree No. 82/2006/ND-CP dated 10 August 2006 issued by the Government on management of export, import, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora.
7. Decision No. 54/2006/QD-BNN dated 05 July 2006 issued by the Ministry of Agriculture and Rural Development publicizing a list of wild plant and animal species in Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
8. Decision 74/2008/QD-BNN dated 20/6/2008 of MARD issuing the List of wildlife and plant in annex of CITES convention

9. Decision No. 40/2005/QD-BNN dated 07 July 2005 by the Ministry of Agriculture and Rural Development on the Regulations for Harvesting timber and other forest products.
10. Circular No. 08/2006/TT-BTNMT dated 08 September 2006 issued by the Ministry of Natural Resources and Environment on the Guidelines for Strategic Environmental Assessment, Environmental Impact Assessment and Environmental Protection Engagement.

Principle 7: Social Regulations

1. Labour Code 1994 (amended 2002).
2. Law on Social Insurance dated 29 June 2006.
3. Decree No. 200/2004/ND-CP dated 03 December 2004 issued by the Government on the Arrangement, Renovation and Development of the State Forest Company.
4. Decree No. 135/2005/ND-CP dated 08 November 2005 issued by the Government on the Contracting of Agricultural Land and Production forest of State Agricultural Enterprises and State forest Enterprises.
5. Decree No. 93/2006/ND-CP dated 06 January 2006 issued by the Government on Regulating the Minimum Salary Rate of the Vietnamese Labourer Operating Unskilled Tasks and Working in Normal Conditions for Foreign-funded Companies.
6. Decree No. 94/2006/ND-CP dated 07 September 2006 issued by the Government on adjusting the Minimum Salary Rate.
7. Decree No. 196-CP dated 31 December 1994 of the Government stipulating detailed provisions and guidance for the implementation of a number of articles of the labour code on collective labour bargain, Decree 93/2002/ND-CP of the Government dated 11 November 2002 amending and supplementing Decree 196-CP.
8. Decree No. 06/CP of Government dated January 20,1995 which details a number of articles of the labour code on labour safety and sanitation and Article 1, Decree No 110/2002/ND-CP of 27 December 2002 amending and supplementing a numbers of Decree 06/CP
9. Decree No. 152/2006/ND-CP of the Government dated 22 December 2006 on guiding some articles of the Law on Social Insurance.
10. Decree No 44/2003/ND-CP dated 9 May 2003 of the Government providing detailed regulation and guidance for implementation of a number of Articles of the labour code on labour contracts.
11. Decree No 195/CP of 31 December 1994 which details and guides the implementation of a number of Articles of the labour code on working time and rest time.
12. Decree 109/2002/ND-CP/2002/ND-CP of 27 December amending and supplementing a number of Articles of the Decree 195/CP.
13. Decree No. 41-CP dated 6 July 1995 which details and guides the implementation of a number of articles of the labour code regarding labour disciplines and material responsibilities.

14. Decree No. 33/2003/ND-CP of 2 April 2003 amending and supplementing a number of Articles of Decree No. 41-CP

Principle 8: Taxes, fees and royalties

1. Law on Agricultural Land Use Tax 1993
2. Ordinance No. 05/1998/PL-UBTVQH10 dated 16 April 1998 on Natural Resources Tax (revised)
3. Decree No. 129/2003/ND-CP dated 03 November 2003 of the Government which details the implementation of the National Assembly's Resolution No. 15/2003/QH11 of June 17, 2003 on exemption and reduction of agricultural land-use tax.
4. Decree No. 156/2005/ND-CP dated 15 December 2005 issued by the Government on amending and supplementing a number of Government Decrees on implementing the Law of special consumption and Law on VAT.
5. Decree No. 158/2003/ND-CP dated 10 December 2003 issued by the Government on detailed regulations on implementing the Law on VAT and amending and supplementing a number of articles of the Law on VAT.
6. Decree No. 149/2005/ND-CP dated 18 December 2005 issued by the Government on detailed regulations on implementing Law on import and export.
7. Circular No. 120/2003/TT-BTC dated 12 December 2003 issued by the Ministry of Finance on guidance on the implementing of Decree 158/2003/ND-CP dated 10 December 2003.
8. Circular No. 89-TC/TCT dated 09 November 1993 issued by the Ministry of Finance on providing Guidance to the implementation of Decree No. 74/CP dated 25 October 1993 issued by the Government on Specifying Regulations on the Implementation of the Agriculture Land Use Tax 1993
9. Decree No. 68/1998/ND-CP dated 03 September 1998 issued by the Government, detailing the implementation of the Ordinance on Natural Resource Tax.
10. Decree No. 147/2006/ND-CP dated 01 December 2006 amending and supplementing some Articles of the Decree 68/1998/ND-CP dated 03 September 1998 issued by the Government.
11. Circular No. 42/2007/TT-BTC dated 27 April 2007 of Ministry of Finance on regulations on implementing Decree No. 68/1998/ND-CP dated 03 September 1998 issued by the Government, detailing the implementation of the Ordinance on Natural Resource Tax.
12. Decree No. 147/2006/ND-CP amending and supplementing some Articles of Decree 68/1998/ND-CP.
13. Decree No. 24/2007/NĐ-CP issued by the Government dated 14 February, 2007 on detailed regulations on implementing Law on Enterprises' Income Tax.

The Law in Viet Nam

Legal System

In order to contextualise the legal texts and what the different titles mean the following is provided for the reader¹.

The hierarchy of Vietnamese legal texts is as follows (according to Article 1 of the Law on the issuance of legal texts dated 12 November 1996, as amended on 16 December 2002):

Authority	Text
National Assembly	Constitution, Law, Resolution
Standing Committee of the National Assembly	Ordinance, Resolution
State President	Order, Decision
Government	Resolution, Decree
Prime Minister	Decision, Directive
Ministers and head of ministerial-level bodies	Decision, Directive, Circular, Joint Circular (issued collectively by different ministries or by a ministry and a political and social organization)
Justice Council of the Supreme People's Court	Resolution
Chief Justice of the Supreme People's Court/ Head of the Supreme People's Prosecutor	Decision, Directive
People's Council	Resolution
People's Committee	Decision, Directive

Summary explanation of the legal system in Viet Nam

1. For types of legal documents and their legal validity (referring to the above table).

¹ See http://www.nyulawglobal.org/globalex/Viet_Nam.htm for more details.

The following legal documents are divided into three groups: 1st group: legal documents promulgated by the National Assembly and Standing Committee of the National Assembly; 2nd group: legal documents promulgated by the remaining competent central State agencies; and 3rd: legal documents promulgated by competent local State agencies².

2. For contents of the legal documents:

- a. Constitution, Laws and Resolutions of the National Assembly provide for the fundamental and important matters pertaining to political, economic, social regimes, basic rights and responsibilities of the citizens, the organization and operation of State apparatus, social relations and the activities of citizens, financial and monetary policies, nation, religion, defence and security tasks, and for external and internal relations.
- b. Ordinances and Resolutions of the Standing Committee of the National Assembly provide for matters assigned by the National Assembly, provide explanation for constitution and law, and for supervising the implementation of constitution and law.
- c. Orders and Decisions of the State President are promulgated to implement the responsibilities and jurisdiction of the State President following the Constitution and Law provided.
- d. Decrees and Resolutions of the Government provide details to implement the above legal documents, provide responsibilities, jurisdiction and organization of the Government, and provide concrete methods to implement responsibilities and powers of the Government.
- e. Decisions and Directives of the Prime Minister are promulgated to decide the policy, method of leading, directing and managing operations of the Government, and coordination between the Government's members.
- f. The Decisions, Directives and Circulars provide measures of organization and operation of the establishments directly attached to them, measures to direct, urge, coordinate and supervise their activities, guidance to implement the above mentioned legal documents in the scope of management (if it is related to more than one Ministry, or ministerial agencies, it should be promulgated as Joint Circulars and Joint Resolutions).
- g. Resolutions of the Judges' Council of the Supreme People's Court and Decisions, Directives and Circulars of the Chief Judge of the Supreme People's Court serves to guide the Courts to apply laws in a uniform way and to sum up trial experiences; Decisions, Directives and Circulars of Chairmen of the Supreme People's Procuracy are issued to define the measures to ensure the implementation of the tasks and powers of the People's Procuracies at all levels.
- h. Resolutions of the People's Council regulate local important social relations, implement the central legal documents. Decisions and Directives of the People's Committee at all levels are issued to implement the resolutions of the People's Council and regulation of the central State agencies, and to direct the operation of lower State agencies.

² In aspect of theory, there is a categorization of legal system into 2 groups: 1st group includes constitution and laws (Code and Act); and 2nd group includes under-law documents (remaining legal document),

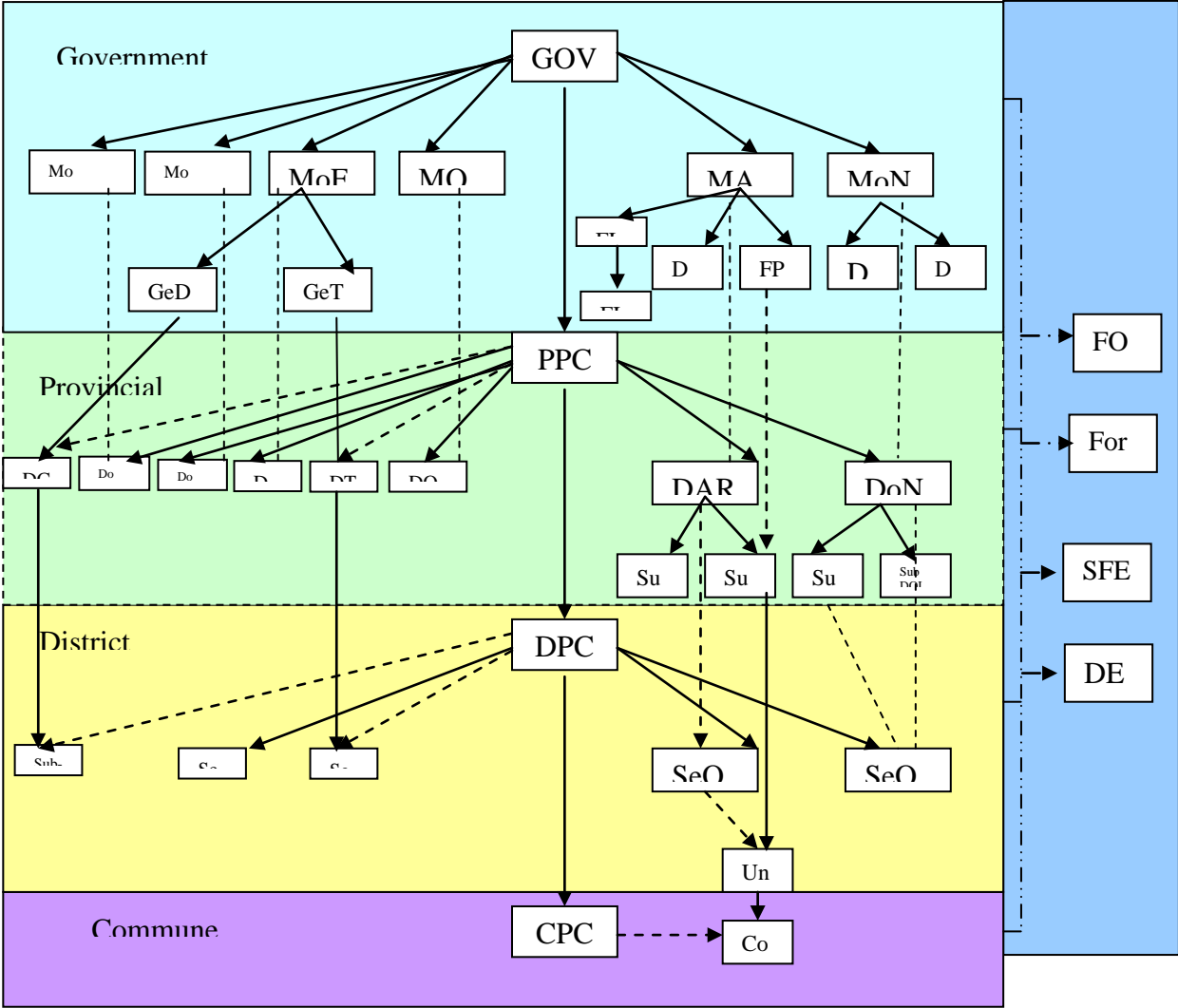
3. For Application of legal documents

Effect and priority of application orders for legal documents are stipulated following the principles: 1) based on the legal validity of the legal documents (priority of application for the higher valid documents); 2) based on the time of promulgation (priority of application for the latest promulgated documents); 3) based on the speciality of the legal documents (priority of application for the speciality legal document in comparison with the generic legal documents); 4) based on the specific nature of the social relations regulated by law (priority of application for the specific provisions).

4. Note:

For some documents, it should be noted to avoid confusion of name and jurisdiction of promulgation of legal documents between them such as: Decree of the Government and Decision of the Prime Minister (both are signed by the Prime Minister but are of different legal validity); Law approved by National Assembly and Ordinance approved by Standing Committee of National Assembly (both are signed by the chairman of National Assembly but are of different legal validity); Law and Code (both have the same validity but scope, size and contents of regulation are different). At present, Viet Nam has 6 codes: criminal code, civil code, labour code, civil procedures code, criminal procedures code and maritime code. Other remaining law documents are called the Laws or Acts.

Schematic representation of government agencies involved in wood and wood-product flow



Notes: Solid lines indicate direct management of agencies; dotted lines indicate technical or administrative support, long dash dot lines indicate the State management to related individuals and organizations

Notes: Solid lines indicate direct management of agencies; dotted lines indicate technical or administrative support, long dash dot lines indicate the State management to related individuals and organizations.

The FO, Forest Company, SFE and DE may be related to any level of government (national, provincial, district or commune) and may be managed at any of these levels depending on their legal status (i.e. either national, provincial, district or communal) and other factors.

In the definition of Forest Owners, the Forest Owners may include Forest Companies or State Forest Enterprises. In some cases Forest Companies are not Forest Owners but operate through transfer and purchase only.

Legend: Government Level

- *GoV: Government of Viet Nam (Prime Minister etc);*
- *MARD: Ministry of Agriculture and Rural Development;*
- *MoNRE: Ministry of Natural Resources and Environment*
- *MoTransport: Ministry of Transport*
- *MoPublic Police: Ministry of Public Police*
- *MoFI: Ministry of Finance;*
- *MoT: Ministry of Trade;*
- *DoF: Department of Forestry*
- *DOL: Department of Land*
- *DOL R&S: Department of Land Registration and Statistics*
- *FPD: Forest Protection Department;*
- *FIPI: Forest Inventory and Planning Institute;*
- *FIPB: Forest Inventory and Planning Brigade;*

- *GeDC: General Department of Customs;*
- *GeDTA: General Department of Taxation;*

Provincial level

- *DTA: Department of Taxation;*
- *DC: department of Customs;*
- *DT: Department of Trade;*
- *DoFI: Department of Finance;*
- *Sub-FPD: Sub--Department of Forest Protection;*
- *DARD: Department of Agriculture and Rural Development;*
- *DoNRE: Department of natural Resources and Environment*
- *DoTransport: Department of Transport*
- *DoPublic Police: Department of Public Police*
- *Sub-DoF: Sub-Department of Forestry;*
- *Sub DOL: Sub -Department of Land*
- *Sub-DOL R&S: Sub - Department of Land Registration and Statistics*

District level

- *Sub-DTA: Sub-Department of Taxation;*
- *Sub DoFI: Division of Finance;*
- *Sub-DC: Sub-department of Customs;*
- *SeoRAD: Section of rural and agricultural development;*
- *SeoNRE: Section of Natural Resources and Environment*
- *UFP: Forest Protection Unit;*

Communal level

- *ComFR: Commune-based forest ranger;*

Related individuals and organizations

- *SFE: State owned Forest Enterprise*

- *ForestCo.: Forest Company;*

- *DE: Designing Enterprise;*

- *FO: Forest owner*

Legal definition glossary

State and derived agencies:

Cadastral office (or office for land use right registration) – is public-service agencies, which belong directly to the local land management agencies, performs the function of managing the original cadastral dossiers, uniformly correcting and editing the cadastral dossiers, and serving the land users in exercising their rights and performing their obligations.

FC – Forestry College. Viet Nam Forestry University (VFU) was founded by the Council of the Government through Decision No. 127/CP dated August 19th, 1964. It is administered by both MARD for technical issues and by the Ministry of Education and Training regarding educational and professional quality. FCs are recognized as the leading University-level forestry educational institutions in Viet Nam. FCs have the following functions: training of undergraduate and postgraduate personnel in the areas of forestry and rural development; and undertaking research and technological transfer in forestry and rural development.

FIPI – the Forest Inventory and Planning Institute is an organization of MARD whose functions, amongst others, are to implement basic forestry research (forest resources, land, and fauna and flora), to develop investment projects through establishing protected areas, conserving plant and animal genetic resources, and planning the provision of raw material for mill and paper factories.

FMU – Forest Management Unit. The national forest management department is an entity directly under MARD, and which performs state management functions of forestry with forest management, development and use throughout whole country.

FPD – Forest Protection Department; national FPD is maintained under the MARD; at provincial level, FPD are maintained under their respective DARD, and at district level, FPD are maintained under their respective provincial FPD, at commune level, forest rangers are under the direct management of district FPD. Operation of FPD must comply under the lead and uniform management of MARD for forest protection activities in their respective field of action, namely, performing State management of forest protection and ensuring enforcement of legislation on forest protection and development, directing and guiding speciality and professional knowledge, organizing and directing to supervise and handle violation of forestry law.

Labour Union – (under which Ministry etc.) – Is a wide-range socio-political organization of workers class and Vietnamese employees and is a member of political system of Viet Nam society and voluntary under leading of the Vietnamese Communist Party. All Vietnamese people working in business and production units of all economic components have rights to establish and join labour union under Charter of Viet Nam labour union. The labour Union of each business and production unit operating in forestry sector is representative of all employees who are its members to protect their rights and benefit in relation with employers and the State.

MARD – Ministry of Agriculture and Rural Development: is a Government's organ, which perform State management of forestry in whole country, namely: forest planting, forest resources developing, exploiting and forest product's preserving; uniform management of forest product's processing; forestry variety and materials; forest resources protection.

DARD – Department of Agriculture and Rural Development; is a Provincial people committee's organ, which assists Provincial PC in performing State management of forestry in its respective localities.

Ministry of Labour, War Invalids and Social Affairs (and departments of State Labour Inspectorate) – is a Government's organ, which perform State management of labour, employment, labour safety in whole country, namely providing policy and regime of labour protection, labour conditions, equipments and means for labour protection, compensation for labour accidents, occupational diseases, regime of working, time of working and rest, process and regulation of labour safety, issuing list of exhausting and harmful jobs, list of machines and equipments, substances which require strictly labour safety, providing and guiding procedures for register and verify machines and equipments, substances which require strictly labour safety, managing investigating and statistics of labour accidents.

MoF – Ministry of Finance (inc. Customs) is a Government's organ which perform State management of tax, fee, customs in whole country. General agency of Custom is under directly Ministry of Finance, perform State management of customs and customs legislation' enforcement in whole country, namely: supervising and monitoring customs for import, export, transit commodities and means; preventing smuggling, illegal transboundary transport in its respective field of actions, organizing to implement tax laws and other receipts for import and export commodities, supervising after customs clearance.

MoH - Ministry of Health – is a Government’s organ, which perform State management to care and protect people health, namely providing the professional and technical standard of labour health and career’s diseases, firstly health care.

MoNRE – Ministry of Natural Resources and Environment – is a Government’s organ, which perform State management of land resources in whole country, namely: developing and proposing the Government land use plan and planning in whole country, verifying land plan and planning of provinces and cities directly under central, land allocation and recovery for cases under Government’s jurisdiction, investigating and surveying, classifying land and developing cadastral map, managing cadastral dossiers, uniform managing land allocation, hire contract, recover, land use purpose changes, land use transfer, registration and granting certificate of land use right.

DoNRE - a provincial people committee’s organ, which assists provincial PC in performing State management of land resources in their respective localities.

MoT – Ministry of Transport (inc. transport agency and Viet Nam Maritime Bureau or Maritime department)

Ministry of Transport is a Government’s organ, which perform State management of transportation by road, train, waterway, maritime and airway in the whole country, namely, for means of transport: providing kinds and models and scope of operation of mechanical means of transport, providing list of means of transport and their registration, granting their number, providing standard and supervising quality and technical safety of mechanical means of transport and verifying technical design and manufacture technology, announcing lines of transport and network of public transport, providing procedures and standard of operation of kinds of transport.

PC – People’s Committee; maintained at provincial, district and communal levels

is selected by the People Council. It is executive organ of the People Council and is the State administrative organ in locality, which is responsible to implement Constitution, laws and legal documents of the higher State’s agencies and resolutions of the same level People council, namely, performing State administrative management in their respective localities in land, forest management with assistance of their organs such as DARD, DoNRE etc.

Public Security Agency – (**Ministry for Public Security**) is a Government’s organ, which perform State management to ensure security and safety of transport in collaboration with MOT, preventing and combat forest crime in collaboration with FPD.

SFE – State Forest Enterprise (inc. State Agricultural Enterprise) – are the only State owned Corporations fully engaged in the forestry sector.

VINAFOR – Viet Nam Forest Corporation is the only State owned Corporation fully engaged in the forestry sector, which established by Decision No. 667/TCLD on October 4, 1995 through a merger of several corporations under the former Ministry of Forestry.

Other terms that may require explanation in the Viet Nam context:

Bill of lading is evidence of lading or constituting a load or cargo, freight or lading of a ship

Business registration Certificate and other licences (e.g. operating licence, processing licence etc) – Business registration Certificate is granted by the State competent agencies for enterprises, which are economic organizations, have their own name, properties, stable head office of transaction, are registered business following law's provisions in order to carry out business operation.

Operating licence is required for the enterprises operating in economic branches and sectors have special conditions that the State must have strict management to ensure social safety and security.

Certificate of origin (for timber) – or documents to determines legal origin of timber granted by FPD for procedures of export to apply for Customs in border's gate.

CITES – Convention on International Trade of Endangered Species of Wild Flora and Fauna adopted by participating nations at a meeting in Washington D.C, (US) in March 3rd 1973 and came into force in July 1st 1975, Contracting Parties, Viet Nam signed to access in January, 20th 1994 with it main contents of Prohibiting and controlling trade of endangered species.

Collective labour bargain (hereafter called collective bargain) is a written agreement between the labour collective and the employer on the conditions for labour and use of labour; and the rights, interests and obligations of both parties in their employment relations.

The collective accord is negotiated and signed by the representative of the labour collective and the employer on the principles of voluntarism, equality and openness.

The contents of the collective accord must not contravene the provisions of labour legislation as well as other legislation.

The State encourages the signing of collective bargain with terms more favourable to the employees than those prescribed by labour legislation.

Decision on forest allocation:

Forest allocation or hire decision is issued by the provincial People's Committee to a forest company with term of period is not excess of 50 years (in exceptional circumstances 70 years is the maximum).

- Forest allocation or hire decision is signed by the Chairman of the People Committee of Province where the company' land allocated in the province.

- After receiving Decision on Forest allocation/hire, the owner has the rights to harvesting and benefiting from forest, responsibilities to protect and develop, hiring right - to - use forest by a contract in compliance with regulations of Law on Forest Protection and Development and Civil Law.

EIA(R) – Environmental Impact Assessment (Report) *Environmental Impact Assessment* means the analysis and prediction of potential impacts of specific investment projects on the environment in order to propose measures to protect the environment when the implementation of projects takes place.

Endangered Timber species –

Endangered, precious and rare forest plants and animals mean plant and animal species of special economic, scientific or environmental value, surviving in small populations in nature or in danger of extinction, and on the list of endangered, precious and rare forest plants and animals promulgated by the Government (Decree 32/2006/ND-CP). Permits issued by CITES Management Authority of Viet Nam for export of specimens of endangered species of precious and rare fauna and flora as defined by Vietnamese law, not defined in Appendices to CITES.

Ethnic Minority – there are 54 different ethnic minority groups inhabiting Viet Nam. The Kinh people (or Viets) account for nearly 90 percent of Viet Nam's total; population. Major ethnic minority groups include the Tay, Thai, Muong, H'mong, Dao, Khmer ... in this document, ethnic minority implies the people, who are not Kinh people (or Viets), living in mountainous areas.

Forest Owner – means organizations, households or individuals that are assigned or leased forests or land for afforestation and have their forest use rights as well as the ownership right over planted production forests recognized by the State; or that are transferred forests from other forest owners.

Forest-regulating schemes: is to develop a concrete demonstrating plan, which shows clearly time and appropriate technical methods for each forest plots and sub-areas in one or more harvesting cycle to facilitate for management and production capacity in order to ensure the forest can produce in long term and continuously with high and sustainable quality and productivity.

Forest types –

Protection forests, which are used mainly to protect water sources and land, prevent erosion and desertification, restrict natural calamities and regulate climate, thus contributing to environmental protection

Special-use forests, which are used mainly for conservation of nature, specimens of the national forest ecosystems and forest biological gene sources; for scientific research; protection of historical and cultural relics as well as landscapes; in service of recreation and tourism in combination with protection, contributing to environmental protection

Production forests, which are used mainly for production and trading of timber and non-timber forest products in combination with protection, contributing to environmental protection

FPD stamp (for timber) –

is method of FPD use to manage and determine origin of timber. Subjects of FPD stamp include: all kinds of log with diameter from 25 cm to over with the length from 1 m to over (excepting log from natural forests of households and local communities to be used onsite with permission of local authority); strewn and cut timber with the length from 1 m and over and the thickness of 5 cm and over and the width over 20 cm. The FPD stamp is made of steel, its face of circle and diameter of 33 mm. with KL symbol and number of stamp on its face

Harvest plan – developed by forest owners after announcement of forest open of DARD, or developed by DARD to report and propose to National Forest Management Unit to approve or developed by FMU as annual harvest plan to report MARD to approve.

Import/export licence – it is granted to enterprises have import, export operation by the Ministry of Trade (for common goods) or other Ministries (for speciality goods under their field of action) to control and implement State management to import, export. For example: CITES permits, CITES certificates are papers issued by CITES management Authority of Viet Nam for export, import, re-export, introduction from the sea of specimens of fauna and/or flora species defined in Appendices to CITES .

Land Use right certificate (Red Book) – is legal certificate granted by competent State agencies to land users in order to protect their legitimate rights and interests.

Management plan – or plans of forest protection and development: are developed by each level, commune People committee establishes the plan their localities and propose district People committee for approve, the district People committee establishes and propose Provincial people committee approve, Provincial people committee establish and propose MARD to verify to propose Prime Minister approve the whole country. The plan also developed by forest owners for their allocated, contracted, hired planted forests to implement under the management of DARD or district people committee.

Sales contract and official sale invoice – Sales contract is evidence of agreement between the sellers and buyers of timber. Official sale invoice is evidence of payments of the buyers to sellers basing on the sales contract.

State auction of timber – timber from illegal logging and traffic, which seized by the competent State agencies (such as FPD, policemen...) after handling the violators, shall be auctioned to collect money for State budget, avoiding waste of timber.

Taxes

[Enterprise's] Income Tax – all organizations and individuals, who produce and business goods and services have income are subjects to tax, except households, individuals, co-operatives produces agriculture and have income from cultivated, breeding, aquaculture products.

Import/Export Tax – is Tax counted for imported, exported goods through Viet Nam border and border gate; goods purchased or sold by border inhabitant and other purchased and transfer goods.

Land Use Tax –

All organizations and individuals use land for agricultural production must pay agricultural land use tax. Agricultural land use subject to tax shall include: cultivated land, surface water for aquaculture and planted forest land.

However, households, individuals, who directly engaged in agricultural productions in communes, wards or district townships where exists the land, assigned, leased by the State without land use levy collection (Following Point e, Clause 4, Article 6 of Decree 181/2004/NDD-CP implementing Land Law 2003)

Natural Resource Tax –

All natural resources are under the public ownership and under the exclusive management of the State. All organisations and individuals, Vietnamese or foreign, involved in the exploitation of resources shall pay natural resources tax in accordance with the provisions of this Law. Natural resources subject to tax as specified in this Law shall include: 1. Minerals, metallic and non-metallic, including stone, sand, soil and gravel used as raw materials in industrial processes and small-scale handicrafts and industries; 2. Forest resources: timber firewood and others; 3. Fish and all other marine resources.

VAT – Value Added Tax: is Tax counted on increased value of goods and services arisen during process from production to circulation to consumption.

Red tax invoice – VAT invoice

Timber records (log list) – set up by the sellers under the forms and guides of the MARD after being harvested or being imported, they are one of required documents for procedures of transport, storing, export...

Wood log books (see 4.2.1) – set up in order to record all wood entering or exiting the facility, its form guided by FPD. Its aim is to control and manage log use of the production facilities.