



Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade Annex

CENTRAL AFRICAN REPUBLIC

October 2009



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Acknowledgements

The Global Forest & Trade Network and TRAFFIC gratefully acknowledge the financial support of the European Commission Programme on Environment in Developing Countries and Programme on Tropical Forests and other Forests in Developing Countries, in developing this report.

This document was a collective effort by a number of individuals from TRAFFIC and WWF, and consultants. In particular, WWF/TRAFFIC would like to thank consultant Richard Eba'a Atyi for his work on the framework in the Central African Republic. Members of the TRAFFIC staff that actively worked on the development of this report are: Nouhou Ndam (TRAFFIC Central Africa), supported by Stéphane Ringuet, Germain Ngandjui, Louisa Richmond-Coggan (TRAFFIC Central Africa); Alexandre Affre (TRAFFIC Europe) who coordinated the work in Africa; Julie Gray, Richard Thomas, Sabri Zain, Roland Melisch, Teresa Mulliken and Steve Broad (TRAFFIC International). Members of the WWF staff that actively worked this report include: Elie Hakizumwami, and Abraham Baffoe (WWF Cameroon); George White, Darius Sarshar, Ian Gray, Hisayo Fujikawa and Deidre Zoll (WWF/GFTN) and Rod Taylor (WWF International). WWF/TRAFFIC would also like to thank the contribution of consultant Hugh Blackett for reviewing the report for harmonisation and potential ease of conducting field audits.

The overall co-ordination of the study was provided by Chen Hin Keong.

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Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Central African Republic

<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	
Indicator 1.1.1: Registration with the economic, social and forest authorities	<p>Verify that documentation held by the company includes:</p> <ul style="list-style-type: none"> • An official agreement to exercise commercial activities in CAR issued by the Ministry of Trade and the Registry of the Commercial Court • Certificates, licences and written evidence of tax payment issued by the General Directorate for Taxes • Documentary evidence of contributions to the Social Security Agency. <p>Legal references:</p> <ul style="list-style-type: none"> • Ruling No. 83.083 of 31.12.83 • Decree No. 83.550 of 31.12.83 • Decree No. 86.328 • Labour Law, Articles 145 to 151 • Collective agreement, Article 28

Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations	
Indicator 1.2.1: All steps required to obtain a licence to operate have been respected within the set time limits provided for in the laws and regulations of the country	Confirm, where appropriate, existence of the following documents covering the licence issuing process: <ul style="list-style-type: none"> • Prospection report • Forest inventory report • Annual harvesting plan • Provisional agreement • Allocation decree • The Bureau Veritas (BIVAC) independent inspection and audit report.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Articles 27 to 33 • National Forest Management Standards
Indicator 1.2.2: The company has paid all the costs pertaining to each step of the licensing process	Confirm existence of the following documents as proof of payment: <ul style="list-style-type: none"> • Prospection tax • Financial deposit for the permit applications.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Articles 78 to 83
Indicator 1.2.3: The Company has informed all parties involved in the management of forest resources about the allocation of forestry titles in the concerned area	Confirm that the prospection report includes minutes of consultative meetings with stakeholders and confirm contents by interviewing local communities and private companies.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Article 65

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 an annual harvesting licence from the forestry administration	Verify that the company holds: <ul style="list-style-type: none"> • Valid Harvesting Licence authorising the annual activity • Evidence of payment of annual obligations • An Annual Operation Plan approved by the forest administration.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Article 65
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	Confirm existence of the validated study reports by the forest administration: <ul style="list-style-type: none"> • Prospection report • Forest inventories studies • Maps • Socio-economic studies • Post-completion studies.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Article 29

<p>Indicator 2.1.2: The annual and five-year management plans comply with the rules and regulations of the forestry administration</p>	<p>Verify that the forestry administration’s official guidelines for the development of forest management documents, including long term strategic management plans and five-year management plans, have been followed and confirm the evidence of approval by the forestry administration:</p> <ul style="list-style-type: none"> • Minutes of the validation or approval process of the management plans • Management plan evaluation reports • Operational records. <p>Legal references:</p> <ul style="list-style-type: none"> • National guidelines for development of management plans produced by the forestry administration
<p>Criterion 2.2: Harvesting/timber licence with stated conditions is in accordance with the government policies, guidelines and regulatory requirements, approved by the relevant authority</p>	
<p>Indicator 2.2.1: Forest maps have been drawn up according to required standards</p>	<p>Ensure that mapping complies with the provisions of the National Planning Standards.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • National guidelines for development of management plans
<p>Indicator 2.2.2: Boundaries demarcated on maps are clearly marked on the ground in compliance with the regulations in force</p>	<p>Through field visits, verify that boundaries are marked in compliance with legislation.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Forest Code, Articles 51 to 52
<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: Access roads and tracks in forest areas are built in compliance with operating standards (planning of road network and observation of standards relating to road width, drainage, slopes etc.)</p>	<p>Verify compliance of roads with official regulations through ground visits and from reports by government agencies involved in supervising road construction (Ministry of Transport, Ministry of Civil Engineering and Land Use Planning). For example, forest roads must include appropriate road signs and parking areas for log lorries.</p> <p>Legal references:</p>

	<ul style="list-style-type: none"> • Terms & conditions concerning operating and management permits, Article 11 • Forest Code, Article 49
<p>Indicator 2.3.2: Minimum harvestable diameters are respected during harvesting operations</p>	<p>Verify from documents and confirm by field inspection compliance with diameter limits.</p> <p>Note: The terms and conditions of operation include a minimum diameter limit prior to the development of the management plan, but during the management plan development process minimum harvestable diameters (DME) may be modified to a larger minimum management diameter (DMA) and the correct diameter limit must be confirmed from one of these two documents.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Terms & conditions concerning the operation & management permits, Article 11 • Forest Code, Article 6

Indicator 2.3.3: Timber species harvested are authorized by the forestry administration plans	Verify that harvest tree selection complies with the list of protected timber species i.e. the list of trees species mentioned in the validated Management plan not be cut and to be conserved due to their rarity or to their roles as seed sources for forest regeneration purposes.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Terms & conditions concerning the operation & management permits, Article 11 • Forest Code, Article 44
Indicator 2.3.4: The company respects all provisions of the Forest Code, covering timber waste disposal in forestry operations	Verify by field visits the existence of any felled or abandoned timber of economic value (with the exception of rotten timber or timber broken during harvesting). The prescribed time is 61 days for stumps accidentally felled during transport and 181 days for stumps stored outside the permit framework. Beyond these time limit the company is not held responsible
	<p>Legal references:</p> <ul style="list-style-type: none"> • Terms & conditions concerning the operation & management permits, Article 11 • Forest Code, Articles 1 & 12
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 vehicles transporting forest products have a valid registration licence and number	Verify with the Ministry of Transport the legality of registration numbers, transport licences and payment of annual taxes relating to transportation activities.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Regulation of the Ministry of Transport & Tax Law, Forest Code, Article 9

<p>Indicator 3.1.2: Company vehicles are not involved in the transportation of natural products prohibited nationally or internationally</p>	<p>Verify with forest rangers that no evidence or allegations exist that companies are allowing transport of bushmeat or hunting without licence by their workers. Note: regulations in force list fully protected animal species.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Fauna Code Article 31, Annex II
<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: Stumps of harvested trees are hammer marked or painted according to regulations</p>	<p>Verify by ground visits that stumps and timber are correctly marked and that working site books and the work planning sheets are maintained according to legal provisions.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Terms & conditions related to the operation & management permits, Articles 9 to 14
<p>Indicator 3.2.2: Billets of timber in forest yards are marked according to regulations to enable tracing</p>	
<p>Indicator 3.2.3: Log transportation documents are completed prior to departure from harvesting sites and are retained throughout transportation</p>	
<p>PRINCIPLE 4: PROCESSING REGULATIONS</p>	
<p>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</p>	
<p>Indicator 4.1.1: Licences related to timber processing plants should be available for inspection from the company</p>	<p>Verify the existence of an operation and management permit (PEA) delivered by the forest administration, which generally constitutes a licence for timber processing</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Forest Code, Articles 32 to 33

Criterion 4.2: Timber processing companies are subject to stated conditions within the laws and regulations	
Indicator 4.2.1: The company maintains records to demonstrate that processing quotas have been respected	Verify by review of documents that the company complies with minimum processing quotas, which for companies in possession of a PEA is set at 60%.
	Legal references: • Forest Code, Article 36
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: The company holds an export/import licence	Verify that every company importing or exporting timber has a valid licence from the Ministry in charge of commerce.
	Legal references: • Ruling No. 83.083 of 31.12.83
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: The company possess all required documents for the export or import of timber products according to official regulations	Verify that companies complete a specification sheets such export/import form, certificate of origin detailing all timber products to be exported or imported by species, quality and quantity and submit monthly reports to the Ministry in Charge of forestry
	Legal references: • Terms & conditions related to the operation & management permits, Articles 9 to 14 cahier de charge (RCA)
Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations	
Indicator 5.3.1: All species exported /imported are authorised by the appropriate agency under existing regulations	Verify that species exported (or imported) comply with the requirements of: • CITES declaration of which CAR is a signatory • Authorised species listed in the forest management plan
	Legal references: • Approved forest management plan

	<ul style="list-style-type: none"> • 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: Environmental impact assessments must be conducted according to regulations and approved by the relevant authorities	Note: new legislation is currently being developed and auditors will therefore have to determine the requirements of the new legislation in order to verify compliance.
	Legal references: <ul style="list-style-type: none"> • Legislation in preparation
PRINCIPLE 7: CONSERVATION REGULATIONS	
Criterion 7.1: State/company conducts conservation assessment/evaluation within the laws and regulations	
Indicator 7.1.1: Fragile sites are identified during the forestry inventory according to regulations and guidelines of the forest authorities and other relevant agencies	Review forest inventory reports to verify that they contain all relevant information. Note: the forest management plan should be based on a multi-resource forest inventory taking into account flora, fauna and fragile sites.
	Legal references: <ul style="list-style-type: none"> • Official forest management guidelines published by the forestry administration
Indicator 7.1.2: Nationally protected species of flora and fauna must be identified in the forest management plan	
Criterion 7.2: State/company takes mitigation measures on negative conservation values in accordance with the laws and regulations	
Indicator 7.2.1: A company must adhere to any corporate social responsibilities or contractual obligations to contribute towards prevention of poaching	Verify adherence to any commitments made in forestry development plans, to take measures to conserve biodiversity and to fight against illegal practices.
	Legal references: <ul style="list-style-type: none"> • Approved forest management plan
Indicator 7.2.2: The company should contribute to preventing illegal forest exploitation in its forest concession	
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: If local community property or possessions are destroyed by the company, compensation must be provided according to legislative requirements	Verify by review of documents and meetings with relevant parties and compare any evidence of payments in compliance with the official scale.
	Legal references: <ul style="list-style-type: none"> • Official scale provided by the Ministry of Agriculture for fixing prices of regular crops damaged by forestry operations
Indicator 8.1.2: When workers are hire from local communities/indigenous people they are paid in accordance with legal provisions	Review payslips and discuss with relevant parties to ensure payments are in compliance with the official salary scale.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations and their additional activities, Article 21
Indicator 8.1.3: The company must make financial contributions in a timely manner to local development organisations as may be required under the terms and conditions of contracts	Verify whether management plans include any commitments and review, as appropriate, documentary evidence of payment.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 21
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	Review documents and written complaints and meet with relevant parties to determine adherence to the Forest Code, which recognises a number of local community rights related to: <ul style="list-style-type: none"> • Forest land use • Collection of fruits and other forest products • Trade in some fruits and forest products.
	Legal references: <ul style="list-style-type: none"> • Forest Code, Articles 18 to 22
Criterion 8.3: Company complies with the laws and regulations on its employees' and workers' rights	

Indicator 8.3.1: The company respects the freedom of its workers to participate in labour union activities	Review documents and meet with employees to check if the election of staff representative was transparent and according to the labour law on the issue
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Articles 8 to 9
Indicator 8.3.2: The workers' representatives have been appropriately trained to carry out their duties	Meet with staff representatives and employees, and review documents in order to verify whether staff representatives received required authorization to participate in training sessions and whether there is any evidence authorization being refused or complaints from staff representatives.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations and their additional activities, Article 10
Indicator 8.3.3: The employees of the company have access to relevant information contained in the Labour Law	Verify the existence of notice boards and availability of documentation with staff representatives.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations and their additional activities, Articles 8 to 9
Indicator 8.3.4: Relations between the company and its employees have been formalised with respect to legal provisions	Verify the existence of workers' contracts and payslips.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 9
Criterion 8.4: Company complies with the laws and regulations of its employees' and workers' welfare	
Indicator 8.4.1: The company workers are paid in compliance with the regulations applicable to their sector of activity	Review payslips and salary scales and discuss with relevant parties.
	Legal references: <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 21 & Annexe II
Indicator 8.4.2: The company complies with all the legal provisions pertaining to the transfer of workers	Review documents and discuss with relevant parties i.e. employer and employees.

	<p>Legal references:</p> <ul style="list-style-type: none"> • contract agreement elated to paid package following staff transfer from his original place of living to the new location for work
<p>Indicator 8.4.3: Sanitary and safety conditions for workers comply with the legislation in force</p>	<p>Conduct site inspections and hold meetings with relevant parties in order to ensure that the planned facilities exist.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 26
<p>Indicator 8.4.4: Working hours applied by the company comply with legal provisions</p>	<p>Hold meetings with relevant parties to verify whether working hours are respected and, where appropriate, extra hours are reasonably paid and review documents including:</p> <ul style="list-style-type: none"> • Internal regulations on working hours • Statements of payment of extra hours.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 19
<p>Indicator 8.4.5: Recruitment of workers respects age criteria set by national legislation and the International Labour Organisation (ILO)</p>	<p>Review documents and hold meetings with employees and managers to verify whether recruitment conditions are fulfilled (trial period, final recruitment, and training sessions, etc.).</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> • Collective agreement of forest operations & their additional activities, Article 9

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	Verify that records of volumes harvested comply with the legal provisions and are submitted within stipulated time limits. Note: forestry companies must provide details to the forest administration on the volumes of timber harvested every month for each species. These records, which have to be submitted on the 20th of the next month at the latest, are the basis for calculation of felling taxes.
	Legal references: • Forest Code, Article 79
Indicator 9.1.2: Tax returns on timber processing comply with rules and regulations	Verify that entry and exit volumes have been correctly declared to the relevant authorities in compliance with the regulations in force by reviewing: • Statement of entry and exit to and from the processing factories • BIVAC reports. Note: log processing companies are required to register log volumes entering processing units, as well as the volume of processed timber. The data has to be submitted to the forest administration and to BIVAC, (the private company commissioned by the Government of CAR to ensure payment of forestry revenues).
	Legal references: • Forest Code, Article 79
Indicator 9.1.3: Tax returns on trade in timber are done in compliance with rules and regulations	Review BIVAC reports and declarations to the income tax department, Customs, and other relevant agencies.
	Legal references: • Tax Law, Article 47
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	Verify evidence of payment and BIVAC reports.

time	<p>Note: the main taxes to be paid are: Surface tax, Felling tax, Reforestation tax and Customs duties for logs and processed timber products.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Forest Code, Articles 79 to 84 • Tax Law, Articles 46 to 49
Indicator 9.2.2: All taxes linked to timber processing operations are paid on time	
Indicator 9.2.3: All taxes linked to export and import of forest products are paid on time	
PRINCIPLE 10: SUBCONTRACTORS AND PARTNERS	
Criterion 10.1: The company respects the contracts made with subcontractors and partners	
Indicator 10.1.1: Relations between the company and subcontractors are formalized by a contract certified and/or authorized by the competent administration i.e. the Ministry of Interior	<p>Verify the existence of legal registered contracts between a company, its subcontractors and/or partners.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • General law of the CAR
	<p>Indicator 10.1.2: The company satisfies all its contractual obligations with respect to subcontractors</p> <p>Review contracts to ensure that stipulated provisions are met in accordance with legal requirements.</p> <p>Legal references:</p> <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	<p>Verify that there are no allegations of illegal operations by a company or its subcontractors and partners.</p> <p>Notes:</p> <p>1) Forest companies are often obliged to subcontract some of their activities (e.g. security, forest operations and transport). They may also operate in partnership with other companies in the forest sector, which supply timber products that are subsequently exported.</p> <p>2) Where appropriate, the companies concerned have to ensure that their partners/subcontractors are operating within the law and are not involved in handling illegal timber and/or acting as “receivers” of illegal products.</p> <p>3) If transportation is subcontracted, regulations stipulate that the road haulier must make sure that the client is in possession of a valid harvesting title, otherwise he could be declared jointly responsible in the event of illegal cutting.</p> <p>Note: in CAR, forest companies are often obliged to subcontract some of their activities (security, forest operations, transport, etc.). Similarly, they can operate partnerships with other companies in the forest sector from whom they obtain supplies of timber products, which may subsequently be exported.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> • Forest Code, Articles 50 to 51

Legal references:

1. Direction Générale du Travail, de l’Emploi et de la Formation Professionnelle. 1994. Convention collective des exploitations forestières et de leurs activités complémentaires RCA
2. Ministère des Eaux, Forêts, Chasses, Pêches chargé de l’Environnement. 2001. Code forestier et textes modificatifs
3. Ministère des Eaux et Forêts. 2003. Arrêté Portant création d’une commission d’attribution de permis forestiers
4. Ministère des Eaux et Forêts. 2005. Arrêté Portant application du décret 91.018 du 02 février 1991, fixant les modalités d’octroi des PEA en matière forestière

5. Ministère du Plan et Ministère des Eaux et Forêts. 2004. Arrêté interministériels No. 022/04 portant sécurisation des recettes d'exportation de bois
6. Ministère du Plan et Ministère des Eaux et Forêts. 2005. Arrêté interministériel No. 10 fixant les valeurs mercuriales et FOT des essences forestières pour le premier semestre de l'année 2005
7. Ministère des Eaux et Forêts. 2006. Normes nationales d'élaboration des plans d'aménagement
8. Ministère des finances et du Budget. 2006. Décret No. 06.013 Portant création du comité de coordination du projet de suivi et de contrôle informatisés des opérations import/export et de sécurisation des recettes y afférentes
9. Ministère des Eaux et Forêts. 2004. Informations à porter dans le registre de suivi des exportations du bois à chaque poste de contrôle des Eaux et Forêts de frontière
10. Ministère du Commerce. 1983. Ordonnance No. 83.083 portant réglementation des activités de commerce et de prestations de services en RCA
11. Présidence de la République. 1998. Décret No. 98-070 modifiant et complétant les décrets No. 88.078 du 04 mars 1988 portant création de la commission nationale des appels d'offres No. 88.079 du 04 mars 1988, instituant une commission nationale des marchés et définissant la procédure de passation des marchés de l'Etat
12. Présidence de la République. 2004. Loi No. 02 – 004 Régissant les ONG en RCA

Additional documents:

Ministère du Commerce. (?) Conditions d'exercice des activités commerciales en RCA

Ministère des Eaux et Forêts. 1998. Exemple de Cahier des charges concernant le Permis d'Exploitation et d'Aménagement (PEA)

Ministère des Eaux et Forêts. 2006. Exemple de convention définitive d'Aménagement exploitation

Ministère des Eaux et Forêts. 2006. Exemple de convention provisoire d'aménagement-exploitation