



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

## DEMOCRATIC REPUBLIC OF CONGO

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## Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Democratic Republic of Congo

<i>Indicator</i>	<i>Guidance note/verifier</i>
<b>PRINCIPLE 1: ACCESS, USE RIGHTS AND TENURE</b>	
<b>Criterion 1.1: The company is legally registered with the relevant administrative authorities</b>	
<b>Indicator 1.1.1:</b> Registration with the economic, social and forest authorities	Verify that the company possesses: <ul style="list-style-type: none"> <li>• A registration certificate and form delivered by Judiciary authorities</li> <li>• Registration with RNC &amp; publication in the Official Journal</li> <li>• Registration number with DGI or DGEN</li> <li>• INSS affiliation certificate</li> <li>• Registration document for workers with INSS and INPP</li> <li>• A licence to operate in the logging sector.</li> </ul>
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Decree No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 related to forestry operations,</li> <li>• Forest Code, Articles 82 to 85</li> </ul>
<b>Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations</b>	
<b>Indicator 1.2.1:</b> All the steps required to obtain a licence to operate have been respected by the company within the set time limits required by legislation	Verify that the company has followed the required legal steps to obtain the licence to operate. The main steps include a public inquiry and the auction results.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code: Articles 83 to 85</li> <li>• Decree 05/116 of 24 October 2005</li> </ul>

<p><b>Indicator 1.2.2:</b> The company has made all payments pertaining to each step of the licensing process</p>	<p>Verify payment of a deposit into a financial institution established in DRC and designated by the forestry administration.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code: Articles 82 &amp; 93</li> </ul>
<p><b>Indicator 1.2.3:</b> The company has informed relevant parties involved in the management of forest resources on the allocation of their forestry titles in the concerned area</p>	<p>Verify that a public enquiry was held and that there was no opposition to allocation of harvesting rights, and that allocation correctly observed the required bidding procedures.</p> <p>Note: in DRC, allocation of logging rights is subject to a public inquiry where information is provided by relevant parties. As a general rule, the allocation in itself should be done through a bidding process. Allocation by mutual agreement is exceptional.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Articles 84 &amp; 85</li> </ul>
<p><b>Criterion 1.3: Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations</b></p>	
<p><b>Indicator 1.3.1:</b> The company holds a licence for annual harvesting issued by the forestry administration and other permits from the local economic authorities</p>	<p>The legislation on the allocation of forest concessions is changing rapidly. Auditors are advised to enquire about the latest legal documents in force and verify that the company has the correct approvals.</p> <p>Note: at this stage, the following documents are required:</p> <ul style="list-style-type: none"> <li>• Logging permit</li> <li>• Specific logging permit</li> <li>• Simple logging permit</li> <li>• Special logging permit.</li> </ul> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Ministerial order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 related to forestry exploitation, forestry exploitation guide</li> </ul>
<p><b>PRINCIPLE 2: HARVESTING REGULATIONS</b></p>	
<p><b>Criterion 2.1: Forest Management Plan in accordance with the government policies, guidelines and regulatory requirements,</b></p>	

<b>approved by relevant authority</b>	
<b>Indicator 2.1.1:</b> Preliminary studies have been conducted according to the rules and standards prescribed by the forest administration	<p>Verify, in the development of the management plan for forestry concessions, that the following documents exist and have been approved by the forestry administration:</p> <ul style="list-style-type: none"> <li>• Forestry inventory reports</li> <li>• Socio-economic study reports</li> <li>• Report on the validation or approval process of the forestry development plan.</li> </ul>
	<p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Articles 72 to 74 &amp; 99 to 100;</li> <li>• Ministerial Order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 related to forestry operations, chapter III, sections 1 &amp; 2,</li> <li>• Ministerial Order. 036/CAB/MIN/ECN-EF/2006 of 5th October 2006 setting rules for the developments, approval and implementation of forest management plans</li> </ul>
<b>Indicator 2.1.2:</b> The forest management plan has been prepared in accordance with the rules and standards prescribed by the forest administration	<p>Review the report on the validation or approval process of the forest management plan.</p>
	<p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Articles 72 to 74 &amp; 99 to 100</li> <li>• Ministerial Order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 related to forestry operations, chapter III, sections 1 &amp; 2</li> <li>• Ministerial Order No. 036/CAB/MIN/ECN-EF/2006 of 5th October 2006</li> </ul>

<b>Indicator 2.1.3:</b> The five-year and annual management plans comply with the rules and regulations of the forestry administration	Review the following documents: <ul style="list-style-type: none"> <li>• The minutes of the validation or approval process of the management plans</li> <li>• The management plan evaluation reports</li> <li>• The operation records.</li> </ul>
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Articles 72 to 74 &amp; 99 to 100</li> <li>• Ministerial order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 related to forestry operations, chapter III, sections 1 &amp; 2</li> <li>• Ministerial order No. 036/CAB/MIN/ECN-EF/2006 of 5th October 2006</li> </ul>
<b>Criterion 2.2: Harvesting/timber licence with stated conditions in accordance with the government policies, guidelines and regulatory requirements</b>	
<b>Indicator 2.2.1:</b> Forest maps have been prepared according to the required standards	Check availability of minutes of the validation and approval process of maps by the Ministry of Forests.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Articles 72 to 74 &amp; 99 to 100</li> </ul>
<b>Indicator 2.2.2:</b> Boundaries demarcated on maps are clearly marked on the ground in compliance with the regulations in force	Verify by field inspection the existence of marked boundaries.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Articles 72 to 74 &amp; 99 to 100</li> </ul>
<b>Criterion 2.3: The company implements harvest operations in accordance with the legally prescribed silvicultural system and relevant regulations</b>	
<b>Indicator 2.3.1:</b> The company builds access road and tracks in forest areas in compliance with operating standards defining planning of access road networks, widths of road and tracks, protection for water courses and slope restrictions	Verify by site visits whether these forestry administration rules pertaining to access roads are effectively respected and review the minutes of the validation and approval process of the access road network.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Ministerial order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006, Section 3, Articles 35 to 39</li> </ul>
<b>Indicator 2.3.2:</b> Minimum harvestable diameters are	Verify that the minimum dimension of trees to be harvested as defined in the

respected during harvesting operations	forest management is respected. <b>Legal reference</b> • Approved forest management plan.
<b>Indicator 2.3.3:</b> Harvested timber species are authorized by the Forestry management plan	Verify that only permitted species are harvested and that no protected species are harvested. <b>Legal references:</b> • Approved forest management plan, • Ministerial order No. CAB/MIN/AF.F.E.T/276/2002 of 5th November 2002 establishing the list of protected timber species
<b>Indicator 2.3.4:</b> The company respects all the provisions of the Forest Code, on timber waste disposal in forestry operations	Verify during harvesting site visits that there is no abandoned raw or worked timber product with an economic value, which is prohibited by DRC regulations. <b>Legal references:</b> • Ministerial order No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006, Section 6, Articles 48
<b>PRINCIPLE 3: TRANSPORTATION OF LOGS AND WOOD PRODUCTS</b>	
<b>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</b>	
<b>Indicator 3.1.1:</b> Lorries and other transport vehicles for forest products have valid registration licence and number	Verify that driving licences, number plates and technical data sheets conform to requirements and that valid insurance is held. <b>Legal references:</b> • Regulations from the Ministry of transport
<b>Indicator 3.1.2:</b> Transport licences for forest products are valid and up to date	Verify that documentation accompanying logs in transit to processing or exportation facilities include: • Circulation permit • Log deposit slip <b>Legal references:</b>

	<ul style="list-style-type: none"> <li>Ministerial order No. 035/CAB/MIN/ECN-EF/2006, Section 8, Articles 54 to 55</li> </ul>
<b>Indicator 3.1.3:</b> Company vehicles are not involved in the transport of nationally or internationally prohibited natural products	Verify with forest rangers that no evidence or allegations exist that companies are allowing transport of bushmeat or hunting without licence by their workers.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>Ministerial order No. 035/CAB/MIN/ECN-EF/2006</li> </ul>
<b>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</b>	
<b>Indicator 3.2.1:</b> Stumps of harvested trees are hammer marked or painted according to regulatory requirements	Verify by random site inspection the existence of correct markings on harvested tree stumps. Markings required on stumps are: <ul style="list-style-type: none"> <li>The tree number</li> <li>The company stamp or hammer</li> <li>The number of the felling permit</li> <li>Record of the harvesting site of the tree.</li> </ul>
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>Ministerial Order No. 035/CAB/MIN/ECN-EF/2006, Section 6, Article 48</li> </ul>
<b>Indicator 3.2.2:</b> Billets of timber in forest yards are marked according to the rules in force so that they can be easily traced	Verify by random site inspection the existence of correct markings on harvested trees and transported logs. Markings required on logs and billets of timber are: <ul style="list-style-type: none"> <li>The tree number</li> <li>The log or billet number</li> <li>The company stamp or hammer</li> <li>The number of the felling permit</li> <li>Record of the harvesting site of the tree.</li> </ul>
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>Ministerial order No. 035/CAB/MIN/ECN-EF/2006, Section 6, Article 48</li> </ul>



<p><b>Indicator 3.2.3:</b> Log transportation documents are completed prior to removal from the harvesting site and are retained by carriers during transportation</p>	<p>Verify that the following documents are available:</p> <ul style="list-style-type: none"> <li>• Circulation permits from harvesting sites to sales destinations;</li> <li>• Deposit slips for timber to be stored</li> <li>• Documentation for river, road or rail transport</li> <li>• Marine bill of lading.</li> </ul>
	<p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Ministerial order No. 035/CAB/MIN/ECN-EF/2006</li> </ul>
<p><b>PRINCIPLE 4: PROCESSING REGULATIONS</b></p>	
<p><b>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</b></p>	
<p><b>Indicator 4.1.1:</b> Licences related to timber processing plants should be available for inspection from the company</p>	<p>Verify the existence of operating and establishment permits for processing units and determine further requirements of any updated legislation.</p> <p>Note: in DRC, the legislation in force regarding timber processing is very limited. Detailed draft decrees exist but remain to be ratified by the political authorities. Auditors will have to establish whether these decrees have been signed.</p>
	<p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Article 39; draft decree establishing the formats of concession contracts and the technical specifications, draft decree on the exportation of forest products</li> </ul>

<b>PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS</b>	
<b>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</b>	
<b>Indicator 5.1.1:</b> The company holds an export/import licence	Verify that a valid import/export licence is held by the company Note: any company involved in the export of timber products should hold an export licence, renewable annually, from the Ministry in Charge of Commerce.
	<b>Legal references:</b> • Yearly finance law
<b>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</b>	
<b>Indicator 5.2.1:</b> The company possesses all the required documents for the export/import of timber products are according to official regulations	Verify that regulations are respected by review of an approved forest products export specification sheet. Note: timber product exporting companies should complete a specification sheet detailing all timber products to be exported by species, quality and quantity. The specification sheet should be submitted to the appropriate forestry authority for approval. The approval of a submitted specification sheet is conditional on the presentation of proof of payment of all taxes.
	<b>Legal references:</b> • Ministerial order No. 035/CAB/MIN/ECN-EF/2006

<b>Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations</b>	
<b>Indicator 5.3.1:</b> All exported timber species are authorised by the appropriate agency and existing regulations	Verify that exported species comply with the requirements of: <ul style="list-style-type: none"> <li>• The CITES declaration</li> <li>• The list of authorised species in the forest management plan.</li> </ul> Note: there seems to be no special list of protected timber species at the national level apart from those listed by the CITES convention (DRC is a signatory country) and limitations given within each specific forest management plan.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• CITES Convention</li> </ul>
<b>PRINCIPLE 6: ENVIRONMENTAL REGULATIONS</b>	
<b>Criterion 6.1: State/Company conducts environmental impact assessments or other required assessments within the laws and regulations</b>	
<b>Indicator 6.1.1:</b> When required, environmental impact assessments have been conducted according to regulations and approved by the competent authorities	While no current legislation requires environmental impact assessment based on a draft framework for environmental legislation potential documents to be verified in future are: <ul style="list-style-type: none"> <li>• Reports on environmental impact assessments</li> <li>• Environment management plan</li> <li>• Approval proceedings for the report on the impact assessments.</li> </ul> Note: in DRC, legislation on this matter is in preparation and its adoption is expected by the end of 2008..
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Not yet adopted</li> </ul>
<b>PRINCIPLE 7: CONSERVATION REGULATIONS</b>	
<b>Criterion 7.1: State/Company conducts conservation assessment/evaluation within the laws and regulations</b>	
<b>Indicator 7.1.1:</b> Fragile sites are identified during the forestry inventory according to official regulations and guidelines of forestry and	Verify that relevant regulations have been respected by review of the approved forest inventory report. Note: according to the technical norms for the management of production

<p>other relevant agencies</p>	<p>forests published by the Ministry in charge of forestry, the forest inventory conducted prior to development of a management plan should include information on ecologically fragile sites and areas with high biological values.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Official technical norms on forest inventories published by the Ministry of Forestry</li> </ul>
<p><b>Indicator 7.1.2:</b> Flora and fauna species protected by legislation are identified in the forest management plan</p>	<p>Verify that protected species listed by the Ministry in charge of forestry have been identified in development of the forest management plan.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Ministerial No. CAB/MIN/AF.F.E.T/276/2002 of 5th November 2002 establishing the list of protected timber species</li> <li>• Technical norms on forest inventories</li> </ul>
<p><b>Criterion 7.2: State/Company takes mitigation measures on negative conservation values in accordance with the laws and regulations</b></p>	
<p><b>Indicator 7.2.1:</b> The company's commitment to contribute to the fight against poaching in its area of activities is adhered to if stated in the contractual obligations with the State</p>	<p>Review the management plan and contractual obligations to verify that any agreed commitments are taken into account.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Articles 88 &amp; 89</li> <li>• Decree No. 36/CAB/MIN/ECN-EF/2006</li> </ul>
<p><b>Indicator 7.2.2:</b> The company contributes to the fight against illegal forest exploitation in its forest concession</p>	<p>Review management plan to verify the inclusion of any commitments required under the terms and conditions of contract.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forest Code, Articles 88 &amp; 89</li> <li>• Decree No. 36/CAB/MIN/ECN-EF/2006</li> </ul>
<p><b>PRINCIPLE 8: SOCIAL REGULATIONS</b></p>	
<p><b>Criterion 8.1: Company maintains or strengthens socio-economic welfare of local communities/indigenous people in accordance with the laws and regulations</b></p>	

<b>Indicator 8.1.1:</b> In the event that local community property and possessions are destroyed by the company, compensation is granted according to the regulations in force	In cases where compensation is payable, review the evaluation report of the damages and verify that compensation has been correctly disbursed.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Regulations from the Ministry of Agriculture</li> </ul>
<b>Indicator 8.1.2:</b> When workers are hired from local communities/indigenous people, they are paid according to legal provisions	Verify companies obligations are met by examining payslips of locally hired workers.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Labour Law (Article 252) and implementing measures and “SMIG” (minimum salary guaranteed)</li> </ul>
<b>Indicator 8.1.3:</b> The company’s financial contributions to the functioning of local development organisations as provided for in the terms and conditions of contract are paid on time	The different indicators listed here are more relevant to the future situation where forestry operations will be carried out in the framework of the management plans as stipulated by the Law, but remaining to be implemented. In annex to these management plans will be these additional commitments. During the audit process, auditors will have to verify whether the management plan is already effective, to analyse it and to analyse the terms and conditions in annex.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Articles 71,88, 89 &amp; 99</li> <li>• Ministerial order No. 36/CAB/MIN/ECN-EF/2006</li> </ul>
<b>Criterion 8.2: Company recognizes legal or customary rights of indigenous/local people in accordance with the laws and regulations</b>	
<b>Indicator 8.2.1:</b> User rights of local communities in the forestry concessions are recognized and respected	Verify by discussion with local people, the forestry administration and the managers of the company whether local people continue to exercise their user rights inside the concession.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Articles 36, 37, 44, 102 &amp; 106</li> <li>• Decree No. 036/CAB/MIN/ECN-EF/2006</li> </ul>
<b>Criterion 8.3: Company complies with the laws and regulations on its employees’ and workers’ rights</b>	

<p><b>Indicator 8.3.1:</b> The company guarantees the freedom of workers to organize labour unions</p>	<p>Verify what concrete measures have been taken by the company to make sure that the freedom to form labour unions is fully respected.</p> <p>Note: according to current legislation, the company is obliged to provide office space for meetings of the workers’ representatives and to provide at least one copy of the Labour Law.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Labour Law and implementing measures,</li> <li>• collective labour agreement;</li> <li>• Ministerial order No. 12/CAB.MIN/TPS/AR/NK054 of 12th October 2004</li> </ul>
<p><b>Indicator 8.3.2:</b> The workers’ representatives have been appropriately trained to carry out their duties</p>	<p>Verify through meetings with worker’s representatives that the company fulfils its obligations in this respect or if any evidence exists that demonstrates failure.</p> <p>Note: the worker’s representatives should be allowed to participate in training sessions organised by the labour unions and the labour administration and must be granted 15 hours per month off to attend training sessions and meetings outside the company.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Ministerial order No. 12/CAB.MIN/TPS/AR/NK054 of 12th October 2004 (Article 35)</li> </ul>
<p><b>Indicator 8.3.3:</b> The employees of the company have access to relevant documents on the Labour Law</p>	<p>Verify that the right to hold meetings has been granted to the workers’ representatives and that they have the right to display and distribute documents on the Labour Law. If the company has impeded the execution of these rights, the workers’ representatives should provide evidence.</p> <p>Note: the employees of the company have to be informed of their rights by their representatives during meetings, and by the distribution and display of information documents.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Labour Law and implementing measures, Ministerial order No. 12/CAB.MIN/TPS/AR/NK054 of 12th October 2004 (Article 3)</li> </ul>
<p><b>Indicator 8.3.4:</b> Relations between the company and its</p>	<p>Verify, as stipulated by the Labour Law, that all the labour contracts are</p>

employees have been formalised with respect to legal provisions	written documents.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Labour Law: Article 212</li> <li>• Implementing measures of related decrees and ministerial orders</li> </ul>
<b>Criterion 8.4: Company complies with the laws and regulations on its employees' and workers' welfare</b>	
<b>Indicator 8.4.1:</b> The company workers are paid in compliance with the regulations applicable to their employment	Verify from payslips that minimum guaranteed salaries are paid.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Labour Law: Article 252</li> <li>• Implementing measures and “SMIG” (minimum salary guaranteed)</li> </ul>
<b>Indicator 8.4.2:</b> Sanitary and safety conditions for workers comply with the legislation in force	Inspect workers' camps to ensure that they are built in conformity with legal requirements, and verify by inspection of working sites whether safety equipment (helmets, appropriate shoes, gloves, and masks) are provided to employees. If workers do not wear safety equipment, the company will have to provide evidence that such equipment has been effectively distributed.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Labour Law and implementing measures</li> <li>• ILO convention (Article 80 to 85)</li> </ul>
<b>Indicator 8.4.3:</b> Company working hours comply with legal norms	Verify by discussions with workers and managers whether the company observes regulations on working hours. Note: the company should make its rules of procedure and internal notes on working hours available and if employees believe that working hours are not respected despite the internal notes, they should provide evidence to the auditor.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Labour Law: Article 253</li> <li>• Implementing measures</li> </ul>
<b>Indicator 8.4.4:</b> The recruitment of workers is done with	Special attention should be paid to the recruitment of women and children.

<p>respect to the age and conditions set by national legislation and the International Labour Organisation (ILO)</p>	<p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Labour Law: Article 212</li> <li>• Implementing measures</li> </ul>
<p><b>PRINCIPLE 9: TAXES, FEES AND ROYALTIES</b></p>	
<p><b>Criterion 9.1: The company fills in its tax returns in accordance with its effective professional activity</b></p>	
<p><b>Indicator 9.1.1:</b> Tax returns on timber production are in compliance with rules and regulations</p>	<p>Verify that tax returns are accurate and submitted as required by legislation.  Note: timber harvesting companies are required to declare, every quarter, to the forestry administration the harvested timber volume of the previous quarter. The tax return includes data on the production and processing of forest products and is the basis on which fees payable by a logging company are calculated.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forestry Code, Articles 90 to 109, Decree No. 035/CAB/MIN/ECN-EF/2006 of 5th October 2006 on forestry operations, Articles 60 to 62</li> </ul>
<p><b>Indicator 9.1.2:</b> Tax returns on trade in timber and product importation are done in compliance with rules and regulations</p>	<p>Verify that the company correctly declares timber exports to the Customs as required and that prior to import or export, the company holds a valid licence.</p> <p><b>Legal references:</b></p> <ul style="list-style-type: none"> <li>• Forestry Code, Article 109, draft decree on the exportation of forest products</li> </ul>



<b>Criterion 9.2: Clear evidence of current paid taxes, fees and royalties in a timely manner shall be demonstrated by company in accordance with the laws and regulations</b>	
<b>Indicator 9.2.1:</b> All forestry related taxes and fees are paid on time	Verify that the main forest taxes that have to be paid by a company managing a concession in DRC are paid. These are: <ul style="list-style-type: none"> <li>• Concession surface tax</li> <li>• Felling tax</li> <li>• Reforestation tax</li> <li>• Deforestation tax</li> <li>• Tax on operating licence.</li> </ul>
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Article 120</li> <li>• Decree No. 009/CAB/MIN/ENV/2006 and 105/CAB/MIN/FINANCES/2006</li> </ul>
<b>Indicator 9.2.2:</b> All taxes linked to timber processing operations are paid on time	Verify that the establishment tax for the processing facilities has been paid.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Article 120</li> <li>• Decree No. 009/CAB/MIN/ENV/2006 and 105/CAB/MIN/FINANCES/2006</li> </ul>
<b>Indicator 9.2.3:</b> All taxes linked to export and import of forest products are paid on time	Verify that exporting companies pay required export taxes.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Forest Code, Article 120</li> <li>• Decree No. 009/CAB/MIN/ENV/2006 and 105/CAB/MIN/FINANCES/2006</li> </ul>

<b>PRINCIPLE 10: SUBCONTRACTORS AND PARTNERS</b>	
<b>Criterion 10.1: The company respects the contracts made with subcontractors and partners</b>	
<b>Indicator 10.1.1:</b> Relations between the company and subcontractors are formalized by a contract certified and/or authorized by the competent administration	Verify that companies working with subcontractors and/or partners have formal written contracts, which are prepared according to legal requirements.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Regulations from the Ministries of Justice and Interior</li> </ul>
<b>Indicator 10.1.2:</b> The company satisfies all its contractual obligations with respect to subcontractors	Verify that all provisions stipulated in contracts between a company and its subcontractors are complied with.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• The legalised contract</li> </ul>
<b>Criterion 10.2: The company ensures that all subcontractors and partners are operating within the law</b>	
<b>Indicator 10.2.1:</b> 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	Verify that there are no allegations of illegal operations by a company or its subcontractors and partners. Notes: 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. 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. 3) If transportation is subcontracted, regulations stipulate that the road haulers must make sure that his client is in possession of a valid harvesting title, otherwise he could be declared jointly responsible in the event of illegal cutting.
	<b>Legal references:</b> <ul style="list-style-type: none"> <li>• Regulations from the Ministries of Justice and Interior</li> </ul>

## Legal references:

1. Constitution de la République Démocratique du Congo du 18 février 2006.
2. Loi No. 011-2002 du 29 août 2002 portant Code forestier – J.O. 31 août 2002.
3. Arrêté ministériel No. 035/CAB/MIN/ECN-EF/2006 du 05 octobre 2006 relatif à l'exploitation forestière.
4. Arrêté ministériel No. 036/CAB/MIN/ECN-EF/2006 du 05 Octobre 2006 fixant la procédure d'élaboration, d'approbation et de mise en œuvre des plans d'aménagement des concessions forestières de production des bois d'œuvre.
5. Arrêté No. CAB/MIN/AFF.ET/260/2002 du 03 octobre 2002 fixant la procédure des transactions en matières forestières.
6. Arrêté ministériel No. 034/CAB/MIN/E.C.N-E.F/2006 de 05 octobre 2006 portant composition, organisation et fonctionnement des conseils consultatifs provinciaux des forêts.
7. Arrêté ministériel No. 0033 du 02 octobre 2006 portant organisation et fonctionnement du cadastre forestier.
8. Arrêté ministériel No. CAB/MIN/AF.F.E.T/276/2002 du 05 novembre 2002 fixant la liste des essences forestières protégées.
9. Arrêté ministériel No. CAB/MIN/AF.F.E.T/270/2002 du 05 novembre 2002 réglementant le port de l'uniforme et des insignes de grades des Inspecteurs, fonctionnaires et agents forestiers.
10. Arrêté ministériel No. CAB/MIN/AF.F.E.T/262/2002 du 03 octobre 2002 fixant la procédure d'établissement d'un plan d'aménagement forestier ; signé le 03 octobre 2004, par le Ministre de l'environnement.
11. Décret No. 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière des titres d'exploitation forestière.
12. Arrêtés interministériels No. 005/CAB/MIN/ENV/2005 et No. 107/CAB/MIN/FINANCES/2005 du 25 juillet 2005 fixant les taux des droits, taxes et redevances à percevoir à l'initiative du Ministère de l'Environnement, Conservation de la Nature, Eaux et Forêts.
13. Arrêté interministériel No. 006/CAB/MIN/ENV/2005 et No. 108/CAB/MIN/FINANCES/2005 du 25 juillet 2005 portant fixation des taux des droits et taxes sur les établissements classés dangereux, insalubres ou incommodes à percevoir à l'initiative du Ministère de l'Environnement, Conservation de la Nature, Eaux et Forêts.
14. Décret du 02 août 1913 concernant les commerçants et la preuve des engagements commerciaux, in Bulletin officiel 1913, p.775.
15. Ordonne 73-236 du 13 août 1973 portant création d'un numéro d'identification nationale, in Législation et réglementation économiques et sociales-1998.p.51 ;
16. Décret du 6 mars 1951 sur l'institution du registre de commerce in Bulletin officiel, 1951, p.291.
17. Ordonnance No. 70/126 du 30 avril 1970 portant organisation d'un recensement des entreprises, in Moniteur congolais, 15 octobre 1970, p.665.

18. Ordonnance No. 11/14 du 20 janvier 1951 relative à la publication des actes des sociétés au Bulletin administratif, in Bulletin administratif 1951, p.272.
19. Ordonnance No. 85/214 du 03 septembre 1985 relative aux frais de dépôts des actes des sociétés commerciales, in Journal officiel du Zaïre, 15 septembre 1985, p.24.
20. Arrêté départemental No. 140/0033 du 09 janvier 1987 fixant les conditions d'octroi du numéro import-export –in Journal officiel du Zaïre, 15 janvier 1987, p.27.
21. Loi No. 015/2002-du 16 octobre 2002 portant code du travail.
22. Ordonnance No. 84/186 du 15 octobre 1984 fixant les modalités de paiement de la cotisation due par les employeurs à l'Institut National de Préparation Professionnelle, in Journal officiel du Zaïre No. 21 du 1<sup>ère</sup> novembre 1984, p.7.
23. Arrêté départemental No. 27/75 du 30 octobre 1975 fixant les modalités des déclarations annuelles de la situation de la main - d'œuvre, in Journal officiel du Zaïre, 15 février 1976, p.166.
24. Arrêté interdépartemental No. 001 du 20 novembre 1984 fixant le taux de la cotisation due par les employeurs à l'INPP.
25. Arrêté départemental No. 0021 du 10 avril 1978 relatif à l'affiliation des employeurs, à l'immatriculation du travailleur ainsi qu'aux modalités et conditions de versement des cotisations de la sécurité sociale J.O.Z ; No. 8, 15 avril 1978, p.34.

Additional documents:

1. Avocats verts: Définition des normes (Principes, critères et indicateurs) et lignes de conduites pour la vérification du bois en République Démocratique du Congo - Rapport final-2007, p.60.
2. Service permanent d'inventaire et d'aménagement forestiers.
3. Guide opérationnel - 12 fascicules juillet 2007.
4. Kalambay Lumpungu: Révision des critères et lignes de conduites de la légalité du bois en République Démocratique du Congo.