

Timber Legality Risk Assessment Nigeria

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Context:

The Government of Vietnam has signed a Voluntary Partnership Agreement (VPA) with the European Union on Forest Law Enforcement Governance and Trade (FLEGT) in 2018. In this context the Government of Vietnam is supporting legal timber supply chains (import and export). Nigeria is an important timber supplying country for Vietnam. To support legal timber supply chains between these two countries, stakeholders in Vietnam importing from Nigeria need access to information on legality requirements for timber and wood products from Nigeria.

The government, private sector and civil society partners in Vietnam are supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) through the Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH during implementation of their FLEGT VPA. BMZ's support in Vietnam is provided through the GIZ programme on conservation and sustainable use of forest biodiversity and ecosystem services (Forest-Biodiversity Project).

In the specific context of Vietnam, the development of a timber legality assurance system (VNTLAS) needs to pay special attention to the high south-south timber trade and supply chains. This aspect is supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) in cooperation with the **UK Department for International Development (DFID)**. Through its Forest Governance Markets and Climate Programme (FGMC) DFID has co-commissioned the **project "Support to VPA processes in Vietnam, Laos and Cameroon – towards legal timber supply chains between VPA countries"** to the **GIZ Sector Project International Forest Policy (SV IWP)**.

In the context of this project GIZ has commissioned NEPCo to provide a background analyses of timber trade with Vietnam including timber risk assessments and document guides for the ten main supplier countries to Vietnam.

This risk assessment of timber from Nigeria has been developed as input to the above project commissioned to NEPCo by GIZ.

DISCLAIMER:

The analysis, results and recommendations in this paper represent the opinion of the author(s) and are not necessarily representative of the position of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

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A. Introduction

This Timber Legality Risk Assessment for Nigeria provides an analysis of the legal framework related to timber harvesting, trade and export. We also provide information on the responsible authorities, as well as relevant documents needed in the supply chain for each legal category. Finally, we provide analysis of the level of compliance with relevant legislation.

Please see the NEPCon Sourcing Hub for information on the risk assessment methodology:

<https://www.nepcon.org/sourcinghub/info/about-nepcon-sourcing-hub>.

B. Overview of legality risks

For Legal Rights to Harvest, there is a risk that:

- Poor sense of ownership by the communities closest to the Forest Reserves. They perceive forest reserves as government properties and therefore are nonchalant to whatever destruction therein (1.1). The poor sense of ownership by communities is mostly due to the fact that the Reserves are owned by the State yet the communities are closest to them and ought to derive their subsistence from the Forest Reserves but are constrained by the rules and regulations put in place by the State Governments.
- The process of obtaining a Certificate of Occupancy is very tedious and time consuming especially at the rural levels. This implies that ownership of forest resources in Free Areas is fluid and feeble (1.1)
- Diverse forest ownership patterns, inhibiting Federal intervention for sustainability (1.1)
- The standards stipulated in the allocation procedures may frequently be infringed for some pecuniary reasons (1.2)
- Concessions are usually short term and granted mostly on the basis of administrative/ political rather than technical and/ or professional advice (1.2)
- Forest estates have disappeared across the country due to haphazard harvesting plans and lack of functional forest management plans (1.3)
- In several instances, the forestry officials are not conversant with their forest reserves but depend on the information provided by loggers (1.3)
- Forestry officials sometimes have to wait at road junctions to intercept and pass hammer harvested logs (1.4)
- Many saplings are also destroyed because of the extensive nature of harvesting (1.4)

For Taxes and Fees:

- There is a general lack of forestry personnel to enforce adherence to specification in the tariff tables (1.5)
- There could be the tendency to switch prices of woods along grades and species; with higher quality attracting lower prices (1.5)
- Some timber contractors may not transact their business through the regular banking system leading to under-payment of taxes to government (1.7)

For Timber Harvesting Activities, there is a risk that:

- Adherence to the tenets specified for logging are difficult arising from the constraints faced by forestry officials in terms of their inability to effectively supervise and monitor forestry operations (1.8)
- The process of EIA is somewhat tedious and expensive thus leading to circumvention by loggers (1.10)
- Enforcement of EIA by Regulatory and Enforcement Agencies could be very weak for lack of personnel and material support (1.10)

- The employees in the forestry sector are generally with little or no formal education and are not conversant with the health and safety requirements to undertake their assignments (1.11)
- These industries do not have health service centres to provide medical examinations before employment, periodic medical examinations to ensure they are fit for work and also void of illnesses (1.11)
- The workforce engaged in forestry operations does not conform with the minimum number of staff required to participate in PenCom Scheme and Government Minimum Wage Regime (1.12)
- Furthermore, they are hardly exposed to training in basic skills to effectively perform their duties (1.12)

For Third parties' right, there is a risk that:

- The Land Use Act has never been fully operational as most people especially the rural dwellers are unaware of the Act with very few applying for Certificate of Occupancy (1.13)
- The few individuals that are willing to apply for Certificate of Occupancy are discouraged by the tedious and long process of application (1.13)

For Trade and transport, there is a risk that:

- Forestry officials are not among the government agencies mandated to control export of goods through the Nigerian ports (1.16)
- *The agencies with the statutory responsibilities to monitor and control export of goods from the Nigerian ports do not have the requisite skills to ascertain forest related products (1.16)*
- *Consequently, there exists a strong lacuna in the classification of species with regards to trade and transport in Nigeria until Forest officials are properly mandated to handle that task (1.16)*
- There may be cases of hammers falling into the wrong hands and some officials pass hammering logs without following due process (1.17)
- Some unregistered vehicles may also be engaged in movement of logs which have been illegally harvested or fall short of control measures (1.17)
- *The Customs and Excise department that oversees the final exit of logs out of Nigeria do not have the professional competence to ascertain the quality, species, etc. of the wood being exported (1.19)*
- *Vital information and details on the content of wood export are rarely included in the Bill of Lading. Re-export of wood is a rarity in Nigeria (1.19)*
- The Agency of the government (i.e. NESREA) responsible for enforcing CITES regulations are not present at the points of wood export in Nigeria (1.20)
- The Customs officials are not adequately trained to identify infractions on CITES classified items (1.20)

For Processing, there is a risk that:

- A company is expected to file in tax return at the end of every year which many companies run foul. In that respect, it implies the company is not legally endowed to operate in Nigeria in the year of non-compliance (1.22)
- The process of EIA is somewhat tedious and expensive thus leading to circumvention by industries (1.23)
- Most industries do not comply with regulations pertaining to the effects of their forest activities on air, soils and water (1.23)
- The supervisory capacity of forestry departments on forest industries especially sawmills is very weak due to lack of personnel and mobility (1.24)
- The role of forest officials is more of 'master- servant' relationship with saw millers treating visiting forestry officials as kings blinded with perks (1.24)

- Some timber processing industries do not have health service centres to provide medical examinations before employment, periodic medical examinations to ensure they are fit for work and also void of illnesses (1.25)
- There are no emergency treatment plans in place and also, health and safety measures are not usually followed during factory operations (1.25)
- Workers are hardly exposed to training in basic skills to effectively perform their duties (1.26)

Overall there are high levels of corruption in Nigeria, which contributes to the bulk of the risks described above.

Timber source types and risks

There are two main timber source types found in Nigeria. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all of these source types and found that the risk differs slightly for timber from private forests.

Source Type 1: Forest Reserve	It is estimated that the total area of these forest reserves is 10,138,841.5 ha which is about 10.9% of the total land area of Nigeria. It should be noted that forest within the forest reserves vary according to ecological classification. Hence, forest reserves in the Savanna and Sahel regions may not necessarily have adequate timber resources like those in the lowland rain forest areas of southern Nigeria. These forest reserves are owned by the State Governments and managed the State Forestry Departments (SFDs) who have professional and technical staff. The reservation of land for forestry purposes was at its peak during colonial times. Efforts to increase the size of the reserves (forestry estate) since then have not been successful. Currently, only about 10.9% of the land area of the country is currently under forest reserves. It should be noted that the bulk of the forestry products and services are obtained from the management of the forest reserves. Some of the major products include poles, sawnwood, veneer and fuelwood. However, these products are also obtainable from "free areas " of the country.
Source Type 2: Free Areas	Free areas are forested areas that are not under strict management by the SFDs. However, permission to exploit trees from free areas still have to be obtained from SDFs. The total area in free forest areas in the study area is 12,141,517 ha . They provide additional sources of forest products and services. In fact, they are considered to be very important for private forestry development. Some of the areas have been targeted as Potential Plantation Areas (PPAs).
Source Type 3: Plantation in Forest Reserve	Area of Forest Reserves reforested with plantation species
Source Type 4: Private Plantation	This is owned by non-government individuals, groups or corporate organizations usually established on private lands.

This table summarises the findings of the timber legality risk assessment by source type.

Legal Category	Sub-Category	Source Type	
		Forest Reserve	Free Areas
Legal rights to harvest	1.1 Land tenure and management rights	Specified Risk	Specified Risk
	1.2 Concession licenses	Specified Risk	Specified Risk
	1.3 Management and harvesting planning	Specified Risk	Specified Risk
	1.4 Harvesting permits	Specified Risk	Specified Risk
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified Risk	Specified Risk
	1.6 Value added taxes and other sales taxes	Specified Risk	Specified Risk
	1.7 Income and profit taxes	Specified risk	Specified risk
Timber harvesting activities	1.8 Timber harvesting regulations	Specified Risk	Specified Risk
	1.9 Protected sites and species	Specified Risk	Specified Risk
	1.10 Environmental requirements	Specified Risk	Specified Risk
	1.11 Health and safety	Specified Risk	Specified Risk
	1.12 Legal employment	Specified Risk	Specified Risk
Third parties' rights	1.13 Customary rights	Specified Risk	Specified Risk
	1.14 Free prior and informed consent	N/A	N/A
	1.15 Indigenous/traditional people's rights	Low risk	Low risk
Trade and transport	1.16 Classification of species, quantities, qualities	Specified Risk	Specified Risk
	1.17 Trade and transport	Specified Risk	Specified Risk
	1.18 Offshore trading and transfer pricing	N/A	N/A
	1.19 Custom regulations	Specified Risk	Specified Risk
	1.20 CITES	Specified Risk	Specified Risk
	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A
Processing	1.22 Legal Registration of business	Specified Risk	Specified Risk
	1.23 Environmental requirements for processing	Specified Risk	Specified Risk

	1.24 Processing requirements	Specified Risk	Specified Risk
	1.25 Health and Safety in the timber processing sector	Specified Risk	Specified Risk
	1.26 Legal employment in the timber processing sector	Specified Risk	Specified Risk

C. Overview of the forest sector in Nigeria

Nigeria was once well-endowed with forest resources, but they have been highly depleted by excessive exploitation (Aigbe, 2012). The forest cover estimates for 2015 was just under 7 million hectares, equal to 7.7% of Nigeria's land area (FAO FRA, 2015). This figure is far below the 1990 area of 17 million hectares (approx. 19% land area). It means that an average annual deforestation rate of 3.5% occurred during that time – one of the highest rates of loss in the world. Only 0.3% of the current forest extent is primary forest. There are approximately 420 000 ha of planted forest.

Forest ownership is split between two broad categories; public and private forests. Public forests are those owned by public organizations and include forest reserves and national parks. Forest reserves are mainly established by Nigeria's states. While state forestry laws also allow the establishment of local government reserves to be owned by local governments and community reserves to be owned by communities, the general practice has been to establish forest reserves owned by states. In designating forest reserves, the state governments have recognised the roles of local governments and communities in forestry management, although these are subjected to the guidance and control of the State governments (Federal Ministry of Environment, 2018). Nigeria's 13 national parks are managed by the Nigeria National Park Service (NNPS). Private forest owners include individuals, families, communities, private co-operatives, corporations and other business entities, private religious and educational institutions, pension or investment funds, NGOs, nature conservation associations and other private institutions.

It is estimated that the total area of Forest reserves is **10,138,841 ha** which is about 10.9% of the total land area of Nigeria (Federal Department of Forestry, 2019).

It should be noted that forest within the forest reserves vary according to ecological classification. Hence, forest reserves in the Savanna and Sahel regions may not necessarily have adequate timber resources like those in the lowland rain forest areas of southern Nigeria. These forest reserves are owned by the State Governments and managed the State Forestry Departments (SFDs) who have professional and technical staff. The reservation of land for forestry purposes was at its peak during colonial times. Efforts to increase the size of the reserves (forestry estate) since then have not been successful.

The bulk of the forestry products and services are obtained from the management of the forest reserves. Some of the major products include poles, sawn wood, veneer and fuelwood. However, these products are also obtainable from "free areas" of the country. Free areas are forested areas that are not under strict management by the SFDs. However, permission to exploit trees from free areas still have to be obtained from SDFs. The total area in free forest areas in Nigeria is **12,14 million ha**. Free areas provide additional sources of forest products and services and are considered to be very important for private forestry development. Some of the areas have been targeted as Potential Plantation Areas (PPAs) (Forest Inventory Officer, 2019).

Nigerian forests support a wide range of forest industries, including both the formal and informal sub-sectors. A vast majority of the Nigerian populace depend on these industries thus placing a lot of pressure on the forest resources of the nation (FAO, 2018). The formal sector is fairly well-developed. It comprises mechanical wood industries, including sawmills, veneer and plywood manufactures, and particle board, paper, and paper board manufacturers (FAO, 2018). The informal forest sector is the country's largest user of wood (most of which is burnt as fuel) and non-wood forest products. Forest industry is essentially controlled by the private sector in Nigeria (Aruofor, 2001).

Most of the sawmills have been fully depreciated and are suffering from obsolescence. The estimated total output of sawn wood by 1997 was 2,000,000 m³ (Aruofor, 2000). Most of the production occurs in the coastal states and Cross River state. The major challenge facing the industry is that it lacks the capacity to process small diameter logs from forest plantations. Plantation wood will become more important as the large diameter trees become increasingly scarce. At present, the recovery rate of the sawmills is less than 53%.

Forest Management in Nigeria

Until recently, the Federal Ministry of Agriculture and Natural Resources (FMA & NR) played a very important role in land use planning and forestry development through the Federal Department of Forestry. The Federal Department of Forestry is now a department of the Federal Ministry of Environment (FME) and under this arrangement, the FME operates through several Departments whose activities are coordinated at the National Council on Environment (NCE). The NCE is the highest environmental policy-formulating organ in the country and is chaired by the Honourable Minister of Environment. At Forestry level however, the National Forestry Development Committee (NFDC) is the highest organ and is responsible for policy initiation and co-ordination in the forestry sector of Nigeria. (FOSA Country Report, 2001)

The Federal Constitution of 1954 gave forest management roles to the constituent regional governments; subsequently transferred to state governments upon their creation in 1967. A broader National Forest Policy was adopted in 1988, and encouraged states and local governments to develop their own forest laws and policies in the context. However, it was observed that most states and local government authorities (LGAs) failed to designate reserves (Gregersen, *et al.*, 2004).

In 1899 the British colonial administration established the first Federal Department of Forest (FDF) to be in charge of forestry administration. However, the enactment of the Forestry Ordinance of 1938 led to the establishment of forest reserves by State governments, local governments and communities and provided the basis for sharing the management of existing forest reserves. The Federal Department of Forestry (FDF) was created in 1970 and co-ordinates forestry activities throughout the country. Its functions are to initiate and to formulate national forest policy and land use planning, foster forestry and environmental development, promote and fund projects of national interest, co-ordinate and monitor State Forestry activities of Federal – foreign-funded projects and institutional development. In order to facilitate field operations under forest projects either by the Department or in collaboration with the State Forestry Services, a field office exists in all the 36 States.

The 1999 Constitution defines the roles of the three-tiers of government in the country but failed to assign forestry management to any tier of government. As forestry management is neither in the exclusive legislative list nor in the concurrent legislative list, the States have assumed the overriding power to legislate on forestry management as a residual matter. As a rule, the laws made by sub-regional governments must not conflict with Federal laws. (Section 20 CFRN, 1999)

In 1999, FDF was transferred from the Federal Ministry of Agriculture and Natural Resources (FMANR) to the Federal Ministry of Environment (FMoE) when it was created as a new Ministry. Today, although the Federal Government may not have forestry reserves, the roles for forestry management in the country are shared by the three-tier governments. These roles are examined briefly below.

Roles of Government and communities in Forestry Management

Federal Government: The Department of Forestry in the Federal Ministry of Environment has the mandate to formulate national policies on forestry, execute advice on State Forestry Departments (SFDs) on forestry management and is responsible for maintaining relationship with international development agencies. Its other functions include land-use planning; forestry development and environmental management; the formulation and funding of projects of national interest; the co-ordination and monitoring of forest activities arising from internationally funded projects; research, training and education; trade and industrial development; and institutional development. The Federal Government has no forest reserve but facilitates the administration of forest revenue in the eight (8) National Parks in the country.

State Governments: Since 1999, SFDs/ State Forestry Commissions became domiciled in the States' Ministry of Environment but some are still under the State's Ministry of Agriculture and Natural Resources (MANR) in States that are yet to establish their own Ministries of Environment as prescribed by the Federal Government. Regardless of their location, the roles of the SFDs include the enactment and

implementation of forestry legislation, managing timber and wildlife resources and revenue collection from the forestry sector in their states. SFDs are faced with crippling financial resources to perform their functions. The challenge of funding and shortage of manpower prevents application of modern forestry management techniques. While southern states, emphasize log harvesting; states in the north, the focus on establishment of tree plantation for firewood collection, environmental protection and livestock production.

Local Governments (LGAs): The National Forest Policy provides that LGAs shall establish woodlots to protect watersheds and river courses; protect forests and farm trees in arable land against fire and illegal felling of trees; and protect wildlife against poaching. In the north and south regions, managing forest resources includes receipt of the revenues generated from forest produce. In the north, forest reserves are confined to free areas subject to supervision and control by the SFD and at times under the guidance and directives of the Chief Conservator of Forests for the state, who then takes responsibility for its proper protection, control and management.

Communities: The forestry laws also provide for the establishment of forests reserves for the communities, which must be held in trust for them by the state governments. The roles of communities in forestry management haven been seriously limited and existing laws will be reviewed to ensure active participation of the local people in forestry management.

Nigeria is at present a **wood deficit nation**. In order to ameliorate the situation, the policy on forest resources management and sustainable use is aimed at achieving self-sufficiency in all aspects of forest production through the use of sound forest management techniques as well as the mobilization of human and material resources. The overall objectives of forest policy are to prevent further deforestation and to recreate forest cover, either for productive or for protective purposes, on already deforested fragile land. These policy objectives have been well enunciated and appear well meant and the means for achieving them have been well articulated. Indeed, one of the strategies for achieving the consolidation and expansion of the forest estate was the expansion of the forest estate from 10% to 20%. This so far has remained elusive. For the above policy or objectives to be achieved, significant legal and policy changes are needed.

According to the National Strategy for Nigeria's REDD+ Programme commissioned by the Federal Ministry of Environment in 2018, the changes in Forest cover have been alarming. Tables 1 and 2 provide a summary of the forest cover change in aggregate and their distribution in the ecological zones of the country. The total area deforested was 684,631.1 ha followed by lowland rain forest with a figure of 231,862.80ha. Similarly, forest degradation is highest for guinea savana with a figure of 125,765.81ha. followed by Low land rain forest with 110,704.34 ha.

Table 1: Percentage of Forest Cover change in Nigeria

Forest cover change	Area in Hectares	% Forest cover change
Stable Non-forest	64,541,698.44	71.12
Stable forest	24,928,432.06	27.47
Deforestation	684,631.05	0.75
Forest Degradation	323,541.51	0.36
Tree outside forest	266,489.04	0.29
Total	90,744,792.09	100.00

Source: Nigeria REDD+ Programme (2019)

Table 2: Forest cover change in Nigeria by ecological zones in Hectares

Ecological zone	Stable non-forest	Stable forest	Deforestation	Degradation	Trees outside forest	Total
Mangrove	625,560	3,421,325	39,774	24,247	6,227	4,117,136
Lowland Rain forest	504,226	7,865,636	231,862	110,704	15,706	8,728,135
Derived Savanna	4,308,962	5,991,877	64,509	48,961	51,274	10,465,585
Sudan Sahel	40,543,598	691,100	16,332	13,195	35,209	41,299,436
Guinea savanna	18,512,191	6,754,278	331,743	125,765	157,362	25,881,342
Total	64,494,539	24,724,219	684,222	322,874	265,780	90,491,637

Source: Nigeria REDD+ Programme (2019)

Legislative Changes: Among some of the legislative changes that have so far occurred but do not seem to have a profound effect of enhancing forestry development in Nigeria are:

The Land Use Decree No. 6 of 1978 which vests all land in each state of Nigeria in the Governor of the State. The impact is mixed and there have been abuses.

The Nigeria Forestry Act, 1937: Most land use, forestry and natural resources conservation laws were established early in this century. The act gave each Governor or Local Government Authority, the authority to constitute its own forest reserves. Some states have enacted specific regulations to monitor and control the reserves, but overall control is not effective. De-reservation instead is frequent and penalties under most laws are uniformly low and seldomly enforced.

National Park Decree: This has led to the creation of the National Parks Governing Board and the creation of the Department of National Parks. Other laws which have provision for affecting nature conservation include: The Wild **Animals Preservation Act of 1916**; the Endangered Species Decree of 1985; the Public Lands Act of 1970 and the various National parks Decree, for example Kanji Lake National Park Decree, 1979.

A variety of deficiencies exists in the existing State laws and legislation. There are the growing economic, social and legal complexities of the contemporary setting on the one hand and the increasing demand for diverse forestry goods and services on the other. It will appear that there is need to review and modify existing forest laws as well as evolve new legislation to harmonise the overlapping responsibilities of the Federal and State Government, Local Councils and the various multi-purpose parastatals for forest resources.

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

Land Use Act, 1978- <http://www.nigeria-law.org/Land%20Use%20Act.html> [Accessed May 24, 2019]

- Section 1; Vesting of Land in the State
Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.
- Part II; Principles of Land tenure, Powers of Governor and Local Governments, and Rights of Occupiers
This establishes the principles of Land tenure in respect of land, whether or not in an urban area, it also stipulates the power of the Governor and Local Governments as well as the rights of occupiers or holders of statutory rights of occupancy.

Kogi State Laws, 2018 (Hardcopy only)

- Section 5 (a) (i); Function of the Commission for the formulation of both short- term policies on planned forestry protection, control and management including the whole range of forestry activities such as the areas to be exploited or regenerated from time to time in the manner of such exploitation or regeneration.
- Section 7(1) provides that; before constituting any land as a Government Forest Reserve or a Local Government Forest Reserve, a notice shall be published by the Governor in the State Gazette; Specifying as nearly as may be the situation and the limits of the Lands. Also, the declaration that the lands form a protected forest, the lands are at the disposal of the Government or that it is intended to constitute such land as Government Forest Reserve or a Local Government Forest Reserve either for general purposes or a particular use and benefit of any class of persons for the benefit of any community. It also provides for the appointment of Reserve settlement officer.

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 7 (1) states that; the Minister may constitute forest reserves and declare protected forests. The Minister may constitute any of the following lands as forest reserves; lands at the disposal of the government, any lands in respect of which it appears to the Minister that the forest growth on such lands should be protected or reserved.
- Section 8; Preliminary notification of intention to create a reserve and appointment of reserve settlement officer: Before constituting any land as a forest reserve, the Minister shall publish in the Gazette a preliminary notification of intention to create a reserve and appointment of reserve settlement officer.

- Section 18; Revision or modification of orders constituting a forest reserve: This provides for the Minister to revise or modify orders constituting a forest reserve.
- Section 24; Lands and rights may be granted absolutely to Government: Notwithstanding any customary law to the contrary, any person, chief or head of a community on behalf of the community shall be entitled to enter any agreement to grant or convey land absolutely to the government.
- Section 25; Marking of boundaries: The Minister may require any person with any necessary workmen to enter upon any land for the purpose of marking boundaries.
- Section 26; Power to de- reserve: The Minister may by notice in a Gazette exercise his power to de-reserve.
- Section 27; Control of forest reserves and protected forests: The Minister has the power to protect, control and manage forest reserve.
- Section 30; Control of local forest plantations and forest reserves: At the request of a council, a forest plantation or forest reserve constituted under and in accordance with the provisions of the Local Government Law on notification published by the Minister in the Gazette be placed temporarily under the protection, control and management of the Minister.
- Section 31; Grant of licenses by Minister: The Minister has the power to grant licenses relating to forest produce in forest reserves.

Companies and Allied Matters Act (CAMA), 2004- <https://www.placng.org/laws/nigeria/laws/C20.pdf>

- Section 1; Establishment of the Corporate Affairs Commission: This commission shall be a body corporate with perpetual succession and a common seal, legal capacity of suing and being sued. It is also capable of acquiring, holding or disposing of any property.
- Section 18; Right to form a company: Any two or more persons may form and incorporate a company by complying with the requirements of this Act in respect to registration of such company.
- Section 36; Registration of companies: The commission shall register the memorandum and articles of the company if it complies with the provision of this Act.

1.1.2. Legal Authority

- Federal Ministry of Lands, Housing and Urban Development
- Federal Ministry of Environment
- Federal Ministry of Industry, Trade and Investment
- Federal Ministry of Agriculture and Rural Developments
- Federal Ministry of Finance (Federal Inland Revenue Services)
- States Boards of Internal Revenue (SBIRs)

1.1.3. Legally required documents or record

For Forest Reserves;

- Harvesting/Block Permit
- Management Plan
- Harvest Permit Payment Invoice

For Free Areas

- Certificate of Occupancy (C of O)
- Harvesting/Block Permit
- Right of occupancy
- Harvest Permit Payment Invoice

1.1.4. Sources of information

Government sources

- Land Use Decree No. 6 of 1978

<https://www.propertypro.ng/blog/land-use-act-in-nigeria-explained/>

- Land Use Act; Chapter 202, Laws of the Federation of Nigeria 1990. Available at: <http://www.nigeria-law.org/Land%20Use%20Act.html> (Accessed May 24, 2019).
- The Land Use Act: Ownership and Use of Land in Nigeria <https://www.modishproject.com/the-land-use-act-ownership-and-use-of-land-in-nigeria/> (Accessed May 24, 2019).

Non-Government sources

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- Mabogunje, L. Land Reform in Nigeria: Progress, Problems & Prospects. Available at: <http://siteresources.worldbank.org/EXTARD/Resources/336681-1236436879081/5893311-1271205116054/mabogunje.pdf> (Accessed May 24, 2019).
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- Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations. Available at: https://www.researchgate.net/publication/312303294_Land_Ownership_in_Nigeria_Historical_Development_Current_Issues_and_Future_Expectations (Accessed May 24, 2019).
- Nwocha, M. (2016) Impact of the Nigerian Land Use Act on Economic Development in the Country. Available at: <http://journals.univdanubius.ro/index.php/administratio/article/view/3976/3876> (Accessed June 5, 2019)

1.1.5. Risk determination

Overview of legal requirements

The ownership of Forests is either by the government (i.e. Forest Reserves) or by Private citizens by virtue of inheritance, rights of occupancy or Certificate of Occupancy (i.e. Free Areas).

Based on the Land Use Act of 1978, lands in Nigeria belong to the State Governments, implying that they have the primary responsibility for managing Forest Reserves. National parks are an exception and are controlled by the Federal Government. In Nigeria, lands are invariably held in trust by the State governments for the citizens. In effect, the government leases lands to private individuals while communal lands are held in trust for the people by the head of the community. For a piece of land to be held in perpetuity by an individual, a Certificate of Occupancy (C of O), usually lasting for 99 years, must be obtained from the state government. The above notwithstanding, the Federal Government,

through the Federal Department of Forestry, provides the policy direction for Sustainable Forest Management in the country.

The early approach to Forestry Management in Nigeria provided a uniform scenario in the management of forest areas. As it stands today, there are 36 states in the Country and a Federal Capital Territory, all of which have autonomy to manage their forests based on their aspirations and peculiarity. However, there is similarity in context as the States were derived from Regional Governments and inherited the same basic forestry principles and practices. By implication, all states in the country follow similar land tenure and management regulations in respect to Forest Management.

Description of risk

The major risks associated with Land tenure and Management regulations are;

- The process of obtaining a Certificate of Occupancy is very tedious and time consuming, especially at the rural levels. This implies that ownership of forest resources in Free areas is fluid and feeble which poses a risk of people being dispossessed from their lands when there are conflicting interests.
- Unlimited powers of the State Chief Executives to 'de-reserve' or exploit forests without recourse to predefine management objectives.
- Insecurity of tenure rights, especially for non-indigenes whose land could be easily usurped, especially without a Certificate of Occupancy. The non- indigenes more often than not have access to the land on a temporary basis within which time might fall short of the gestation period of the trees on their land.
- An obsolete Land Use Act, which constricts usufructuary rights with distinction between land and tree rights.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.1.6. Risk designation and specification

Specified risk

1.1.7. Control measures and verifiers

- Government consent that the area is within the forest reserve
- For free areas, signed agreement by all stakeholders entitled to the land.
- Stakeholder consultation shall confirm that legal status of the operation or rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operations.
- The management contract or other agreements with the owner shall indicate clear management rights.
- Valid business registration documents shall exist.
- Inspections of harvesting site shall confirm that harvesting takes place within property limits

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

.2.1. Applicable laws and regulations

- Present Status of Forestry Sector of Nigeria. Available at: <http://www.fao.org/3/ab592e/ab592e03.htm>
- Forest Laws in Cross River State. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/>

Kogi State Laws, 2018.

- Section 17 of the Miscellaneous: Powers of natives to grant land absolutely to Government and to grant licenses and permits.

The Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 33; Power of Minister to make and prescribe penalties for contravention thereof: The Ministry is embedded with the power to make regulations and prescribe penalties for contravention thereof.
- Section 35; Prevention of offences: This states that any forest officer, administrative officer or Police officer may prevent the commission of any offence under the law.
- Section 36; Inspection of Forest Produce: A forest officer, administrative officer or Police officer is given the authority to stop any vehicle, vessel or raft engaged in transporting or moving any forest produce on any road or inland waterway for inspection of the forest produce.
- Section 37; Seizure of Forest Produce: This establishes that any administrative officer, forest officer or Police officer not below the rank of Assistant Superintendent of Police may himself or by any person acting under his directions seize any forest produce reasonably suspected of having unlawfully obtained
- Section 38; Arrest of suspected persons: Any forest officer, administrative officer or Police officer has the right to arrest suspected persons without a warrant
- Section 39; Onus of proof: The Onus of proof that any forest produce that has not been taken in contravention of this Law shall lie upon the person in whose possession the forest produce is found.
- Section 40; Admission, in evidence of maps of forest officer: Notwithstanding anything contained in the Survey Law, all maps, plans or diagrams made by a forest officer and approved by the Chief Conservator shall be admissible in evidence in any proceedings in court
- Section 42; Offences in forest reserve: This stipulates acts that may constitute offences in forest reserve
- Section 44; Offences in protected forest: This stipulates additional penalties for offences in protected areas.
- Section 48; Defence in proceedings: It establishes defence in any civil or criminal proceedings
- Section 49; Legal proceedings: This establishes that in any legal proceeding for an offence against any provision of this law, the state may be represented by any forest officer not below the rank of assistant conservatory or by any other authorized forest officer.

1.2.2. Legal authority

- Federal Ministry of Lands, Housing and Urban Development
- Federal Ministry of Environment (Departments of Forestry)
- State Ministry in Charge of Forestry

1.2.3. Legally required documents or record

- Management plan
- Harvest permit
- Revenues and payment receipts (Allocation fees, Vehicle Registration, etc.)
- Log Evacuation Schedule

1.2.4. Sources of information

Government sources

- Present Status of Forestry Sector of Nigeria. Available at: <http://www.fao.org/3/ab592e/ab592e03.htm> (consulted May 24, 2019)
- Forest Laws in Cross River State. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/> (consulted May 24, 2019)
- Proposed guidelines on Legal Logging Activities. Available at: www.nfis.gov.ng
<http://www.fao.org/forestry/450240c63724580ace381a8f8104cf24a3cff3.pdf>
<http://blackcamelenergy.com.ng/wp-content/uploads/2018/11/NG-STANDARD-LEGALITY-..pdf>
<http://documents.worldbank.org/curated/en/276821468767653710/pdf/multi0page.pdf>
<https://www.undp.org/content/dam/nigeria/docs/gef-sgp/Community%20based%20REDD+%20Country%20Plan%20for%20Nigeria.pdf>
https://gcf-taskforce-database.org/en/StateOverview/nigeria.cross_river_state (consulted May 24, 2019)
- Ondo Timber Concessionaires Apprehend 5 Trucks Use in Illegal Deals. Available at: <https://westernpostnigeria.com/ondo-timber-concessionaires-apprehend-5-trucks-use-in-illegal-deals/>
- Effect to regulate the sale of timber concessions. Available at: <http://www.fao.org/forestry/1487408118091c023b0a81a44be60222cad520.pdf> (consulted June 1, 2019)

1.2.5. Risk determination

Overview of Legal Requirements

For Forest Reserves: The States Departments of Forestry approve concessions through allocation of specified hectares forest compartment to concessionaires while the survey unit ascertains the coordinates of the compartments when visited. The compartment is then related with the existing map (if any) to determine the location and whether it falls under Forest Reserve or Free Area before a final approval can be given. Usually, allocation of a concession has a validity of one year with the option of renewal based on good performance. Furthermore, the concession only guarantees the removal of specific trees as approved by government and does not confer the burden of sustainable use on the concessionaire for that year. (PC 2)

As regards Free Areas, allocation is based on 'per tree basis' to serve as permit to harvest trees identified by the timber contractors on confirmation by the Forestry officials.

In order to be allocated a concession, the concessionaire must meet the following requirements:

- Must be a registered company with the relevant Ministry as Timber Contractor
- Must have experience or technical expertise in timber harvesting or engage an expert
- Must pay a fee on every economic tree felled as permittees contribute to the regeneration programme of the State Government.
- Must pay a non-refundable application fee in respect of Forest Reserve allocation or revalidation of forest allocation
- Must pay a non-refundable application fee for allocation of different tree species

Description of risk

The corruption rating in Nigeria is not encouraging, with a score of 27 out 100 and ranking number 144 out of 180 countries as at 2018 (Corruption Perception Index, 2018). The forestry sector is not particularly shielded from this corruption matrix. Consequently, the standards stipulated in the allocation procedures may frequently be infringed for some pecuniary reasons.

Discrepancies in the allocation of forest concessions do occur due to lack of proper demarcation. In most states, there are no properly trained survey personnel to carry out forest mapping and inventory, giving rise to haphazard concession allocation (PC 1). Similarly, concessions are usually short-term and granted mostly on the basis of administrative/political reasons rather than technical and/or professional advice (PC 2).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.2.6. Risk designation and specification

Specified risk

1.2.7. Control measures and verifiers

- Proper legal procedures for obtaining concession licenses shall be followed. which could be ascertained through the documents indicating official approval.
- Valid concession license agreements shall exist.
- The process of obtaining concession shall follow an open and transparent process based on clear criteria and be confined to eligible organizations.
- Independent stakeholder consultation shall confirm that legal procedures for obtaining concession licenses have been followed.
- The timber contractors shall ensure that the tendering process for obtaining the concession was respected.

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

Land Use Act 1978. Available at: <http://www.lawnigeria.com/LFN/L/LAND-Use-Act.php>

Kogi State Laws, 2018.

- Section 6; Special provisions relating to Forestry Reserves and protected areas: This stipulates special provisions relating to forestry reserves and protected area and also the power to constitute reserve and protect forests.
 - Section 7; Preliminary Procedure for constituting Forest Reserve: This provides for the preliminary procedure for constituting forest reserve.
- Ondo (Recall that Ondo state was one of the states that was sampled)
- Ondo State Forest Law (known as the Principal Law), Cap 40, 1978, Movement and Sawing of Logs Edict, No.3, 1986)
 - Forestry Tariff, revision of the Principal Law, 2004
 - Amendment of the Principal Law, 2008

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 27; Control of forest reserves and protected forests: The protection, control and management of forest reserves and protected forest shall be exercised and directed by the Minister.
- Section 28; Entails the stipulation of working plans: This states that when there is a working plan, the Minister shall publish a notice in the Gazette setting out the name and the nature of the working plan, a general description of the area covered by the working plan and the place or places at which a copy of the plan may be inspected by any interested person.
- Section 30; Control of local government forest plantations and forest reserves: The Minister has the power to control the Local government Forest plantations and forest reserves.
- Section 44: Working plans: This states that where the Director of forestry has decided on a working plan for any area he shall publish a notice in the state gazette setting out the name of the working plan, a general description of the area covered by the working plan, the place or places at which a copy of the plan may be inspected by any interested person.

LAGOS STATE

- Lagos State Forestry Law, Cap F6, 2003

OSUN STATE

Osun State Forestry Law (known as the Principal Law), Cap 46, Amendment of the Principal Law, 2008

EDO STATE

- Cap 59, Volume III, Laws of Bendel State, 1976 (applicable to Edo State)
- Forestry Amendment Regulations, 1992
- Forest utilization and Development Edict, 1994

1.3.2. Legal Authority

- Ministry of Agriculture and Rural Development (Forestry Department)
- Ministry of Environment (Departments of Forestry)

1.3.3. Legally required documents or records

- Harvest permit
- Status of Forest
- Forest Management plan
- Species composition
- Availability of merchantable timber

1.3.4. Sources of information

- Forestry Outlook Studies in Africa (Forest Management). Available at: <http://www.fao.org/tempref/docrep/fao/004/ab592e/ab592e00.pdf> (consulted June 3, 2019)
- Micro-Environmental Forces of Forest Management. Available at: <http://www.fao.org/3/ab592e/AB592E01.htm> (consulted June 5, 2019)

1.3.5. Risk determination

Overview of Legal Requirements

According to the National Forest Policy (2006), a management plan should be developed for every Forest Reserve in Nigeria and reviewed every five years. The 2006 Forest Policy is a policy guide for State Forestry Departments, but they are not strictly mandated to comply since they enjoy independence in the way they manage their forest resources. Since the Forest Reserves are managed by the state governments, the responsibility of developing forest inventory and management plans rests on the State' Forestry departments.

Description of Risk

No state currently has a reasonable management plan to govern their forestry operations. For instance, what exists as management plan in Oyo State is the one produced in 1914 by the colonial masters. Expectedly, the plan is out of tune with the current realities in the state. (PC)

Forest estates have disappeared across the country due to haphazard harvesting plans and lack of functional forest management plans. Also, there are several cases of conversions to other land use types especially Agriculture through illegal encroachment. (PC)

Other areas of conversion include clearing areas bordering highways by Government- for security, as a number of these forest areas are being used by criminal elements, especially kidnappers- construction of estate housing, etc. (PC)

In several instances, the forestry officials are not even conversant with their forest reserves but depend on the information provided by loggers. (PC)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.3.6. Risk designation and specification

Specified risk

1.3.7. Control measures and verifiers

- Approved forest management plans shall exist for the Forests where the harvesting is taking place.
- Forest management plans shall contain all legally required information and procedures.
- Annual operating or harvesting plans shall be in place and approved by legally competent authorities.
- Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.
- Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.
- Harvesting restrictions shall be identified in management plan and maps if legally required.
- Harvesting inventories shall be conducted according to legal requirements.
- Field verifications shall indicate that the contents of the harvesting plans are adhered to in the field.
- Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process.

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

Kogi State Laws, 2018.

- Section 17; Miscellaneous: Powers of natives to grant land absolutely to Government and to grant licenses and permits
- Section 33; Prevention of Offences: It shall be lawful for any forest officer, administrative officer or police officer to prevent the commission of any forestry offence.
- Section 41; Penalty for illegal felling of timber, illegal installation or operation of sawmills etc.: It establishes penalty for illegal felling of timber, illegal installation or operation of sawmills.
- Section 43; Offences in protected forests: This establishes acts constituting offences in protected forests.
- Section 44; Offences: Investigation of suspected persons
- Section 45; Arrest of suspected persons
- Section 47; Persons charged with breach of any regulation: This establishes the conviction of persons charged with the breach of any regulation
- Section 50; General Penalty: This establishes the general penalty for the breach of any regulation.
- Section 51; Additional Penalty: This establishes additional penalty for the breach of any regulation.

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 31; Grant of licenses by Minister: The Minister may grant licenses, in such form and terms as he may decide, for the taking of forest produce in forest reserves. Except with the approval of the Minister, no license shall be transferred
- Section 33; Power of Minister to make and prescribe penalties for contravention thereof: The Ministry is embedded with the power to make regulations and prescribe penalties for contravention thereof.
- Section 34; Power to exclude area from regulations: The Minister may, by notice in the Gazette, exclude any area from the operation of any regulations made under this Law.

The Forest Law of Eastern Nigeria, 1956, PART IX: OFFENCES AND LEGAL PROCEDURE:

- Section 35; Prevention of offences: Any forest officer, administrative officer or police officer may prevent the commission of any offence under this Law.
- Section 36; Inspection of forest produce: A forest officer, administrative officer or Police officer is given the authority to stop any vehicle, vessel or raft engaged in transporting or moving any forest produce on any road or inland waterway for inspection of the forest produce.
- Section 37; Seizure of Forest Produce: This establishes that any administrative officer, forest officer or Police officer not below the rank of Assistant Superintendent of Police may himself or by any person acting under his directions seize any forest produce reasonably suspected of having unlawfully obtained

- Section 38; Arrest of suspected persons: Any forest officer, administrative officer or Police officer has the right to arrest suspected persons without a warrant
- Section 39; Onus of proof: The Onus of proof that any forest produce that has not been taken in contravention of this Law shall lie upon the person in whose possession the forest produce is found.
- Section 40; Admission, in evidence of maps of forest officer: Notwithstanding anything contained in the Survey Law, all maps, plans or diagrams made by a forest officer and approved by the Chief Conservator shall be admissible in evidence in any proceedings in court
- Section 41; This establishes offices in respect of property and boundary marks.
- Section 42; Offences in forest reserve: This stipulates acts that may constitute offences in forest reserve
- Section 43: Saving in respect of section 41: This states that nothing in the preceding section 41 shall prohibit the exercise by any person or community of any right in a forest reserve except which right be restricted in accordance with other provisions of this law.
- Section 44; Offences in protected forest: This stipulates additional penalties for offences in protected areas.
- Section 45; Additional penalties
- Section 46; Forest officer may compound offences: This establishes the penalty of offence not stated under Section 41 of this Act.
- Section 47; Presumption as to ownership of forest produce
- Section 48; Defence in proceedings: It establishes defence in any civil or criminal proceedings
- Section 49; Legal proceedings: This establishes that in any legal proceeding for an offence against any provision of this law, the state may be represented by any forest officer not below the rank of assistant conservatory or by any other authorized forest officer.

1.4.2. Legal authority

- Federal Ministry of Environment (Departments of Forestry)
- Federal Ministry of Agriculture and Rural Development (Forestry Department)
- Federal Ministry of Lands, Housing and Urban Development

1.4.3. Legally required documents or records

- Management plan
- List of species to harvest and a summary of the logging inventory
- Harvest Permit/Block Permit
- Log Evacuation Schedule
- Reforestation attestation

1.4.4. Sources of information

Government sources

- Forest Finance: The forest revenue system and government. Available at: <http://www.fao.org/3/X6818E/X6818E06.htm> (consulted May 29, 2019)
- Structure of the Nigerian Forest Revenue System. Available at: <http://www.fao.org/3/X6818E/X6818E05.htm> (consulted May 29, 2019)
- Fees and royalties payable in respect of a permit. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/> (consulted May 30, 2019)

1.4.5. Risk determination

Overview of Legal Requirements

Forest Reserves:

For any concessionaire to commence harvesting, a valid harvest permit is required. Also, the harvested logs are supposed to be pass hammered by forestry officials as a seal of authority of Government. (PC 3)

In some cases, allocation is based on Out Turn Volume (OTV). This system is used for concessionaires to fell trees from concession areas without the use of the permit system. OTV requires the measurement and estimation of the actual volume of wood removed from the forest and, as such, is more precise than a per-tree fee, which does not consider differences in height and girth. The fee is based on the estimated volume of each log (calculated using approved tariff tables) in states like Ogun, Ondo, Oyo and Osun. The OTV method is also operated as a pre-paid system in some states, where the total amount of fees has to be paid before wood is removed from the forest. This is done to prevent fraud and loss of revenue by the government.

Free Areas:

The Timber contractor intending to harvest wood in free areas is expected to submit a request for Harvest Permit to the government before exploitation takes place.

In order to obtain a Harvest Permit, the concessionaire must meet the following requirements:

- Must be a registered company with the relevant Ministry as Timber Contractor
- Must have experience or technical expertise in timber harvesting or engage an expert
- Must pay a fee on every economic tree felled as permittees contribute to the regeneration programme of the State Government.
- Must pay a non-refundable application fee in respect of Forest Reserve allocation or revalidation of forest allocation
- Must pay a non-refundable application fee for allocation of different tree species

Description of Risk

The Forestry officials encounter serious challenges in undertaking their lawful assignments including monitoring and operation of Harvest Permit due to lack of logistical and material support. In some states, Forestry officials wait at road junctions to intercept and pass hammer harvested logs. (PC 1)

Furthermore, the disadvantage of OTV is that it is labour intensive and time consuming. For example, it requires a team of thirteen people and several person-days to conduct a proper OTV sale (Wamugimda, 1971). The system also encourages the over-exploitation of high value tree species and under-exploitation of lesser-known species, so it does little to encourage efficient forest management and utilisation.

Producers harvesting wood under the OTV system are very selective in what they take in terms of species, size and the shape of trees, leading to under-utilisation of the forest. In addition, the bills for total fees (based on the measurement and estimation of volumes) are sent to the office, where the supervising officer is handicapped by lack of transportation to cross-check field information. This creates room for collaboration between field officers and contractors to defraud government through overharvesting and under- declaration of actual volume of logs harvested. Many saplings are also destroyed under this system because of the extensive nature of harvesting that also often occurs under this system.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

- Harvest permits (license or similar legal document governing the harvesting of forest resources) shall exist.
- Harvesting limits shall be clearly defined based on maps and quantities.
- Authorities shall confirm the validity of harvest permit.
- Stakeholder consultation shall confirm that harvest permit has been issued according to the relevant laws and regulations by the legally designated competent authority.
- Field inspection shall confirm that harvesting takes place within limits given in the harvest permit.
- Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvest permit are correct and within limits prescribed in the legislation

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume-based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

Kogi State Laws, 2018.

- Section 36 of the Disposal of fees, royalties, etc.

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 32; Disposal of fees and royalties: This stipulates the procedure for the disposal of fees and royalties.

Forestry (Fees for Mining) Regulations (Hardcopy only)

- Section 40; Grant of Licenses: This stipulates the procedures for the grant of licenses
- Section 41: Procedure for fixing and royalties and other matters: This establishes the procedure for fixing fees and royalties and other matters
- Section 44: Working plans: This states that where the Director of forestry has decided on a working plan for any area he shall publish a notice in the state gazette setting out the name of the working plan, a general description of the area covered by the working plan, the place or places at which a copy of the plan may be inspected by any interested person.

1.5.2. Legal authority

- Ministry of Finance (Federal Inland Revenue Services)
- State Boards of Inland Revenue (SBIRs)
- Federal Ministry of Environment
- Federal Ministry of Agriculture and Rural Development (Forestry Department)

1.5.3. Legally required documents or records

- Company registration with the Ministry as Timber Contractor
- Technical expertise certificate in timber harvesting or Timber Expert engagement.
- Markers/ Evidence of identified areas to be harvested

1.5.4. Sources of information

Government sources

- Total collection and distribution of forest taxes. Available at: <http://www.fao.org/3/X6818E/X6818E11.htm#TopOfPage>
<http://www.fao.org/3/X6818E/X6818E13.htm#TopOfPage>
- Disposal of fee and royalties. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/> (consulted May 30, 2019)
<http://www.fao.org/3/x6818e/x6818e04.htm> (consulted May 24, 2019)
- Payment of registration, permit and fine to government. Available at: <http://www.fao.org/3/X6818E/X6818E08.htm> (consulted May 30, 2019)

1.5.5. Risk determination

Overview of Legal Requirements

Each state has in place the tariff table for logging and other related matters. There are various charges which could be region specific (i.e. North or South). These include stumpage fees; Out-Turn Volume charges, Registration/renewal of Concessions fees. Others include Registration of sawmills and property hammers and Vehicle registration fee.

Furthermore, the stipulated OTV charges vary among the species, the charges also depend on the grade of wood. The first-class woods, such as *Azelaia spp.*, Teak (*Tectona grandis*) and Cordia, attract high charges, while Triplochiton, Gmelina and Diospyros are sold for lower prices in all states. There are also variations in charges from state to state for a given species. For example, the charge for Teak is as high as ₦ 70 per cubic foot in Ekiti and Taraba states and as low as ₦ 1.50 per cubic foot in Kogi State. The charge for Triplochiton is as high as ₦ 56 per cubic foot in Taraba State and as low as ₦ 3.50 per cubic foot in Kogi State. Even within any particular state, charges vary from one species to another with, for example, Ondo State levying a different charge for each of the main species groups, from ₦ 19 per cubic foot for Diospyros to ₦ 68 per cubic foot for teak.

Description of risks

There is a general lack of forestry personnel to enforce adherence to specification in the tariff tables (PC 1). There could be the tendency to switch prices of woods along grades and species; with higher quality attracting lower prices. The absence of an acceptable baseline for forest revenue further complicates this situation, with states charging different and arbitrarily low fees in some instances.

Government property hammers may occasionally fall into wrong hands leading to poor control of log movement.

Furthermore, forestry departments lack the requisite facilities to carry out their work effectively.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.5.6. Risk designation and specification

Specified risk

1.5.7. Control measures and verifiers

- Receipts shall exist for payments of harvesting related royalties, taxes, harvesting fees and other charges.

- Volumes, species and qualities given in sales and transport documents shall match the paid fees.
- Classification of species, volumes and qualities shall match the royalties and fees paid.
- Annual certificate confirming full payment of all taxes shall be available.

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

Value Added Tax Act, 1993- <https://lawsofnigeria.placng.org/laws/V1.pdf>

- Section 1; Imposition, etc., of Value Added Tax: Establishment of the Imposition and charge of Value Added Tax.
- Section 2; Taxable goods and services: Establishes taxable goods and services which are listed in the First Schedule to this Act.
- Section 3; Exemption of certain Goods and services: Provides for the exemption of certain goods and services.
- Section 4; Rate of tax: Establishes taxable goods and services
- Section 5; Value of taxable goods and services: This establishes the criteria for determining the value of taxable goods and services
- Section 6; Value of imported goods: This establishes the value of imported taxable goods
- Section 7; Administration of the tax: Provides for the establishment of the value of imported taxable goods
- Section 8; Registration: This provides for the registration of tax within six months of the commencement of the Act or within six months of the commencement of business, whichever is earlier, with the Board for the purpose of the tax.
- Section 9; Registration by Government Ministries, etc., as agents of the Board: Provides for Registration by Government Ministries, statutory bodies and other agency of Government as agency of the Board
- Section 11; Records and accounts: provides for a person who is registered under Section 8 of this Act shall keep such records and books of all transaction, operations, imports and other activities relating to taxable goods and services as are sufficient to determine the correct amount of tax due under this Act
- Part V; Offences and Penalties: Stipulation of offences and penalties such as furnishing of false documents, evasion of tax, failure to make attribution, failure to notify change of address, failure to issue tax invoice, resisting an authorized officer, issuing of tax invoice by or unauthorized person, failure to register, etc.

1.6.2. Legal authority

- Federal Ministry of Industry, Trade and Investment
- Ministry of Finance (Federal Inland Revenue Services)
- State Boards of Inland Revenue (SBIRs)
- Federal Ministry of Environment

1.6.3. Legally required documents or records

- Harvest Permit
- Tax Clearance Certificate from the Federal Inland Revenue Services (FIRS)
- Property Hammer fee

1.6.4. Sources of information

Government sources

- Fees for the production of non-wood and minor forest products and services. Available at: <http://www.fao.org/3/X6818E/X6818E08.htm> (consulted May 30, 2019)
- State Forest Policies <http://www.fao.org/3/X6818E/X6818E11.htm>

1.6.5. Risk determination

Overview of Legal Requirements

The Value Added Tax (VAT) system in Nigeria is administered by the Federal Inland Revenue Service (FIRS) and the taxes are collected by the FIRS Integrated Tax Offices (ITO) located throughout the country.

Although VAT is administered centrally by the Federal Government by using the existing tax machinery of the FIRS in close co-operation with the Nigeria Customs Service (NCS) and the State Board of Internal Revenue Services (SBIRS), the net proceeds from the new tax accrue solely to the State Governments after making an allowance of 20% to cover the cost of administration. In effect, the State governments will benefit to the tune of 80% of the entire VAT collection. (FIRS Information Circular 9304)

The VAT carries a single rate of 5% on all 'VATable' goods and services. Goods for export are not charged and there are goods and service that are exempted from the tax. (Value Added Tax Act, 1993)

Agricultural products are exempted from the Tax and Logs are essentially fall under this category.

Description of Risk

Processed wood is expected to attract VAT but there is tendency to circumvent payment based on the broad classification as Agricultural products.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.6.6. Risk designation and specification

Specified risk

1.6.7. Control measures and verifiers

Generic

- Sales documents shall include applicable sales taxes.
- Receipts for payment sales taxes shall exist.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.
- Sales prices shall be in line with market prices.
- Harvested species, volume and qualities shall match the sales documents.
- Authorities shall confirm that operation is up to date in payment of applicable sales taxes.
- Consultation with financial authority to verify that all required income and profit taxes have been paid

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

Companies Income Tax Act 2004- <http://lawsfnigeria.placng.org/laws/C21.pdf>

- Section 9; This provides for the rate of the charge of tax upon the profits of any company accruing in, derived from, brought into or received in Nigeria.
- Section 11; This establishes charge of tax on interest relating to foreign and agricultural loans and certain reliefs.

1.7.2. Legal authority

- Federal Ministry of Environment
- Federal Ministry of Industry, Trade and Investment
- Federal Ministry of Finance (Federal Inland Revenue Services)
- State Boards of Internal Revenue (SBIRs)

1.7.3. Legally required documents or records

- Declaration of Tax Registration
- Annual Tax Clearance Certificate
- Registration fees for property hammers
- Timber contractors' registration fee

1.7.4. Sources of information

Government sources

- <http://www.fao.org/3/x6818e/X6818E05.htm>

Non-Government sources

- L. N. Sambe, N. T. Tee and B. I. Dagba, (2016). Analysis of Timber Market Structure and Efficiency in Benue State, Nigeria. British Journal of Economics, Management & Trade 15(1): 1-9pp. Available at: https://www.academia.edu/29157147/Analysis_of_Timber_Market_Structure_and_Efficiency_in_Benue_State_Nigeria

1.7.5. Risk determination

Overview of Legal Requirements

Charges on domestic trade in wood products

Companies in Nigeria are required to pay 5 percent on their income as reflected in their statement of bank account.

Furthermore, Inter-State wood movement also attracts charges. In a number of states, fees are paid on wood transported to other states and the details of these fees are given below;

In Ondo State, for lorries up to 10 tonnes in weight, a fee of ₦ 50 per log is paid on any legally removed log crossing the border to another state. For a vehicle over 10 tonnes in weight, N 100 is charged for each plank and saw log.

In Oyo State, a fee of ₦ 50 per log is charged on logs going out of the state. Charges on planks vary from ₦ 25 to ₦ 50 per piece, depending on the capacity of the vehicle.

In Osun State, transportation of logs out of the state is prohibited. A fee of between ₦ 25 and ₦ 50 per piece is collected on sawn wood transported out of the state.

In Ogun State, charges on transportation to other states include: ₦ 100 per pole; ₦ 1,500 per trailer of planks; ₦ 500 per lorry-load of planks; and ₦ 150 per 10-tonne lorry-load of planks.

In Lagos State, charges on transportation to other states are: ₦ 1,000 for a lorry-load of sawn planks; ₦ 2,500 for a trailer-load of sawn planks; ₦ 500 for lorry-load of billets; and ₦ 1,000 for a trailer-load of billets. Charges on firewood are ₦ 250 per lorry-load and ₦ 500 per trailer-load.

In Ekiti State, the charge for transporting a log below 12 feet in length to other states is ₦ 1,000, while the charge for logs above 12 feet length is ₦ 2,000. A 10-tonne lorry-load of planks is charged ₦ 1,000, while a trailer-load is charged ₦ 3,000.

Description of Risk

Some timber contractors may not transact their business through the regular banking system leading to under-payment of taxes to government. In the case of inter-state movement charges which in most cases are paid along the road, remittances of the sum collected may be compromised by corrupt government revenue collectors. (PC)

Risk Conclusion

This indicator has been evaluated as Specified risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.7.6. Risk designation and specification

Specified risk

1.7.7. Control measures and verifiers

- Pre-payment of taxes before harvest or movement

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 31, Grant of licenses by Minister: The Minister has the power to grant licenses for the taking of forest produce in forest reserves
- Section 33; Power of Minister to make regulations and prescribe penalties for contravention thereof: The Minister is embedded with the power to make regulations and prescribe penalties for contravention thereof.

- Section 34; Power to exclude area from regulations: The Minister may by notice in the Gazette, exclude any area from the operation of any regulations made under this law.
- Forestry Regulations for Bendel State, 1976-
<http://www.fao.org/3/X6818E/X6818E10.htm#TopOfPage>
- Section 53; Process of setting Forest charges. Regulations. Available at :
<https://laws.lawnigeria.com/2018/04/13/forest-law/>
- Forest Regulations. Available at : <https://www.ecolex.org/details/legislation/forest-regulations-lex-faoc003331/>

1.8.2. Legal authority

- Federal Ministry of Environment (Departments of Forestry)
- Federal Ministry of Agriculture and Rural Development (Forestry Department)

1.8.3. Legally required documents or records

- Harvest permit
- Vehicle Registration certificate
- Working site records

1.8.4. Sources of Information

Government sources

- Process of setting Forest charges. Section 53 of the Forestry Regulations for Bendel State (1976). Available at: <http://www.fao.org/3/X6818E/X6818E10.htm#TopOfPage>
- Regulations. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/> (consulted May 30, 2019)
- Forest Regulations. Available at : <https://www.ecolex.org/details/legislation/forest-regulations-lex-faoc003331/> (consulted May 30, 2019)
- www.fao.org/forestry/151480c4acebeb8e7e45af360ec63fcc4c1678.pdf (consulted May 24, 2019)

Non-Government sources

- Eric, S. (2013). Illegal Logging and Encroachment, Which way Nigeria? Available at: <https://beahrselp.berkeley.edu/uncategorized/illegal-logging-and-encroachment-which-way-nigeria/#more-11535> (consulted May 27, 2019)

1.8.5. Risk determination

Overview of Legal Requirements

The terms and conditions for logging are stipulated in the forest laws and include efficient logging practices and list of species to be harvested. The harvest permits should also contain specifications on minimum girth and species. Furthermore, provisions are made to restrain logging in riparian areas to prevent erosion and siltation. Forestry officials are also mandated to undertake monitoring of forestry operations.

Description of Risk

Adherence to the tenets specified for logging is difficult, arising from the constraints faced by forestry officials in terms of their inability to effectively supervise and monitor forestry operations. Coupled with this, harvesters are not well-trained and lack the requisite knowledge of the legislative provisions on Timber Harvesting. (PC)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

- Harvesting shall be conducted within the authorized Forest Management Plans
- Harvesting shall not take place in areas where harvesting is legally prohibited.
- Tree species or selected trees found in the Forest Management Plan for which felling is prohibited shall be listed in operational plans.
- Harvesting restrictions shall be observed in the field.
- Tree species or selected trees found within the management plan for which felling is prohibited shall be marked in the field

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2016
- Forest Policy 2006
- Forest Policy 2018 (Awaiting Final Approval)
- The Wild Animals Preservation Act of 1916. <http://extwprlegs1.fao.org/docs/pdf/gam95067.pdf>
- The Endangered Species Decree of 1985;
- The Public Lands Act of 1970
- Various National parks Decree, for example Kainji Lake National Park Decree, 1979

1.9.2. Legal authority

- Federal Ministry of Environment (Departments: Forestry, Environmental Assessment and NESREA)
- State Ministry of Agriculture and Rural Development (Forestry Department)
- National Parks Services
- Federal Ministry of Foreign Affairs

1.9.3. Legally required documents or records

- List of protected species contained in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2016

1.9.4. Sources of Information

Government sources

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act, 2016

Non-Government sources

- Environmental Investigation Agency, 2017. The Rosewood Racket: China's billion dollar illegal timber trade and the devastation of Nigeria's forests. Available at: [https://content.eia-global.org/assets/2017/rosewood-racket/PDF/Rosewood+Racket+Report+\(High+Res\).pdf](https://content.eia-global.org/assets/2017/rosewood-racket/PDF/Rosewood+Racket+Report+(High+Res).pdf)

1.9.5. Risk determination

Overview of Legal Requirements

No logging is permitted in all the National parks and Strict Nature Reserves in Nigeria (PC 5). There are also cultural rules that prohibit the felling of trees in groves and shrines that belong to local communities. Also, species listed as threatened under CITES shall not be harvested. Harvesting of protected species that fall under Category 2 of CITES must carry Government approval.

Description of Risk

There are some intrusions by loggers into protected areas which are difficult to control by government officials for lack of human and material capacity to monitor the protected areas. Gashaka Gumti National park was recently decimated by a logging merchant before the Park officials could know and prosecute.

Furthermore, there are some illegal loggers that engage force (including firearms and dangerous chemicals) at field level which are beyond the means of the Park officials to resist. The boundaries of some National Parks are also not clearly demarcated making them vulnerable to intrusion by illegal timber loggers.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- It must be ensured that for all protected sites and species, legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be have been followed.
- All operators in the Timber supply chain must be aware and conversant with the official documented List of protected species in Nigeria.
- Business entities must have evidence of legal access rights to relevant areas outside concession areas.
- All legally protected areas (including species habitats) shall be included in the management plan or related documentation if-as required by the legislation.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- Federal Environmental Protection Agency Act, 1988
- National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007
- Environmental Impact Act, 1992- <http://extwprlegs1.fao.org/docs/pdf/nig18378.pdf>

1.10.2. Legal authority

- Federal Ministry of Environment (Departments of Forestry and Department of Environmental Assessment)
- Federal Ministry of Agriculture and Rural Development
- National Environmental Standards and Regulations Enforcement Agency (NESREA)

1.10.3. Legally required documents or records

- NESREA Regulatory documents
- EIA Certificate

1.10.4. Sources of information

Government sources

- Environmental Impact Act, 1992- <http://extwprlegs1.fao.org/docs/pdf/nig18378.pdf>
- Environmental Guidelines of the Federal Ministry of Environment- <https://ead.gov.ng/environment-guidelines-revision/>

Non-Government sources

- Friday Akputa Obasi, Festus Ugwuoke Agbo and Chinasa Sylvia Onyenekwe, (2015). Environmental and socio-economic effects of timber harvesting in Ebonyi State, Nigeria. African Journal of Agricultural Research, Vol 10(11):1233-1238pp. Available at: http://www.academicjournals.org/app/webroot/article/article1429010605_Obasi%20et%20al.pdf (consulted May 31, 2019)
- Emeodilichi H. Mba. (2018). Assessment of Environmental Impact of Deforestation in Enugu, Nigeria. Resources and Environment, 8(4): 207-215pp. Available at: <http://article.sapub.org/10.5923.j.re.20180804.03.html> (consulted May 31, 2019)
- V.A.J. Adekunle and Adewole Olagoke, (2010). The impacts of timber harvesting on residual trees and seedlings in a tropical rain forest ecosystem, southwestern Nigeria. International Journal of Biodiversity Science, Ecosystem Services & Management Ecosystem Services & Management (3):131-138pp. Available at: https://www.researchgate.net/publication/233289255_The_impacts_of_timber_harvesting_on_residual_trees_and_seedlings_in_a_tropical_rain_forest_ecosystem_southwestern_Nigeria (consulted May 31, 2019)

1.10.5. Risk determination

Overview of Legal Requirements

Any project or developmental activity involving clearing of forest area of more than 50 hectares is required to undertake an Environment Impact Assessment (EIA) (EIA Act, 1992). The EIA is expected to be conducted by the project proponent (government or private) and approved by the EIA department of the Federal Ministry of Environment.

Most states also have enshrined in their environmental laws the need to carry out Environmental Impact Statement that would protect the forests and other fragile Eco-systems.

Description of Risk

The process of EIA is somewhat tedious and expensive thus leading to circumvention by loggers. Enforcement of EIA by Regulatory and Enforcement Agencies could be very weak for lack of personnel and material support. (Adekunle, 2010)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- Environmental Impact Assessments shall be in place and approved by the legally competent authority.
- Requirements for environmental monitoring shall be observed.
- Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc. These standards are clearly defined in the Environmental Guidelines put in place by the Federal Ministry of Environment.

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

Forest Policy 2006:

- Section 1.10; Employment Nigerian Labour Act, 1971- www.nigeria-law.org/LabourAct.htm
- Section 28; Stipulates that every recruited worker shall be medically examined by a registered medical practitioner at the expense of the employer, also all necessary measures must be taken for the acclimatization and adaptation of recruited workers and for immunization against diseases.
- Section 33(1); establishes that no citizen recruited for employment in Nigeria shall be employed until he has been medically examined by a registered medical practitioner at the expense of the employer and has been passed fit to perform the work to which he has been recruited.

National Policy on Occupational Safety and Health-

https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf

Factories Act, CAP. F1, LFN, 2004- <http://lawsofnigeria.placng.org/laws/F1.pdf>

1.11.2. Legal authority

- Federal Ministry of Labour and Employment
- Federal Ministry of Health
- National Information Management System (NIMS)

1.11.3. Legally required documents or records

- Medical Certification
- Safety kits
- First aids kits
- Certified conditions of working tools

1.11.4. Sources of information

Government sources

- Severe accidents according to activity in wood harvesting in Nigeria, 1978-1986. Available at: <http://www.fao.org/3/u8520e/u8520e03.htm>

Non-Government sources

- Ofonime Effiong Johnson and Queen Malachy Umoren, (2018). Occupational hazards and health problems reported by workers in a Sawmill in Uyo, Nigeria. Journal of Environmental and Occupational Science, (7):2, 17–24p. Available at: <https://www.ejmanager.com/mnstemps/62/621529075615.pdf?t=1559559643>
- <http://www.fao.org/3/x6818e/x6818e04.htm> (consulted May 24, 2019)
- Adediran, D. (2016). Criminality: Illegal Logging of Woods in Nigeria's South-West Forest Belt. African Journal of Criminology and Justice Studies: AJCJS, Vol.9, Issue 1, May 2016. Available at: <https://www.umes.edu/uploadedFiles/WEBSITES/AJCJS/Content/VOL9.%20IKUOMOLA%20%20FINAL.pdf>
- Training Needs of Wood Processors in Ondo State. Available at: https://www.academia.edu/8357058/Assessment_of_the_Training_Needs_of_Wood_Processors_in_Ondo_State_Lesson_for_Agricultural_Extension_Administration_in_Nigeria

1.11.5. Risk determination

Overview of Legal Requirements

- The National Forest Policy of 2006 stipulates that the safety, health and security of forestry personnel as well as the sustainable management of the plants and animals' habitats shall be of paramount consideration.
- The National Policy on Occupational Safety and Health, also stipulates that the Ministry of Health collaborates with Federal Ministry of Labour and the National Information Management System (NIMS) on occupational accidents, injuries and diseases by providing relevant information on all such cases in medical facilities nationwide and also Regulate, monitor and evaluate medical practice in the area of occupational health.
- There are legal requirements in place for each industry concerning specific job requirements which include maximum number of hours worked every week, the employment age, working conditions, etc.
- The Nigerian Labour law requires that workers are trained in appropriate techniques to minimize the occurrence of job-related accidents. Also, they must be provided with the appropriate tools, outfits and kits for their activities. It also prohibits employment of underage persons (i.e. persons below the age of 16).

Description of Risk

The forestry sector employs about 2 million people in Nigeria. Most are employed part-time, to supply fuelwood and poles. Around 75,000 people are employed in the industrial sector processing logs. This represents over one quarter of the labour force in the manufacturing industry. At present, the wood

industries still rank very high, employing about 44.3% of the manufacturing labour force both skilled and semi-skilled. (Ofonime and Queen, 2018)

Within forest harvesting, felling and cross-cutting are the jobs most prone to serious accidents. Despite the legal requirements, most employees still go about their activities without the requisite protective equipment in place. The employees in the forestry sector generally have little or no formal education and are not conversant with the health and safety requirements to undertake their assignments. The chainsaw is clearly the single most dangerous tool and the chainsaw operator the most exposed worker in forestry operations in Nigeria.

These industries do not have health service centres to provide medical examinations before employment, periodic medical examinations to ensure they are fit for work and also void of illnesses. There are no emergency treatment plans in place and also, health and safety measures are not usually followed during harvesting. (By virtue of Section 67 (paragraphs e, f, g, i, l) of the Nigerian Labour Act 1971.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- All safety and health regulations shall be followed, and all required safety equipment shall be used.
- Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities.
- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organization.
- All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable)
- Proof that new employees receive hygiene and security training
- Committee on health and security at work report shall be available
- Evidence of health service availability for the employees

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large-scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

Nigerian Labour Act, 1971- www.nigeria-law.org/LabourAct.htm

Factories Act, CAP. F1, LFN, 2004- <http://lawsofnigeria.placng.org/laws/F1.pdf>

Forest Policy 2006-

- Section 1.10; Employment National Policy on Occupational Health and Safety- https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf
- Pension Reform Act, 2004- <https://www.pencom.gov.ng>

1.12.2. Legal authority

- Federal Ministry of Labour and Employment
- Federal Ministry of Industry, Trade and Investment
- Federal Ministry of Finance
- Nigerian Labour Congress

1.12.3. Legally required documents or records

- Employer's register
- Company's Identification Card
- Employment Contracts
- Employment Terms and Conditions
- Appropriate Job Descriptions
- Insurance Plans
- Pension Schemes

1.12.4. Sources of information

Government sources

Non-Government sources

- <https://www.umes.edu/uploadedFiles/WEBSITES/AJCJS/Content/VOL9.%20IKUOMOLA%20%20FINAL.pdf> (consulted 16th July, 2019)
- <http://iosrjournals.org/iosr-javs/papers/vol8-issue10/Version-1/J081016062.pdf> (consulted 16th July, 2019)

1.12.5. Risk determination

Overview of Legal Requirements

There are legal requirements in place for each industry concerning specific job requirements which include maximum number of hours worked every week, the employment age, working conditions, etc. The Nigerian Labour law requires that workers must be trained in appropriate techniques to minimize the occurrence of job-related accidents. It also prohibits employment of underage persons (i.e. persons below the age of 16). There is a National Policy on Work Insurance under the PenCom Act, 2004 which guarantees payment to workers when out of employment.

Description of Risk

The workforce engaged in forestry operations does not conform with the minimum number of staff required to participate in PenCom Scheme and Government Minimum Wage Regime. Invariably most workers in forestry operations are on casual employment and operate on daily pay or 'pay-as-you-go' basis which makes it difficult for them to enjoy the stipulated work insurance. Furthermore, they are hardly exposed to training in basic skills to effectively perform their duties.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- All workers are employed according to the regulation and required contracts are in place
- Persons involved in harvesting activities shall be covered by obligatory insurances.
- Persons involved in harvesting activities shall hold required certificates of competence for the function they carry out.
- At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
- Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in hazardous work.
- Stakeholders shall confirm that forced or compulsory labor is not involved in harvesting activities.

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

Kogi Laws, 2018

- Section 8(6)(b); publication of determination and declaration of a person's customary right in the State Gazette
- Section 17; Powers of natives to grant land absolutely to government and to grant licenses and permits.
- Part 7 (Section 26): Power to declare lands as communal forestry areas.
- Part 7 (Section 28, 29): Management and control of Communal Forestry areas.

National Forest Policy, 2006

National Forest Policy, 2018

1.13.2. Legal authority

- Federal Ministry of Agriculture and Rural Development (Forestry Department)
- Federal Ministry of Environment
- Federal Ministry of Labour
- Federal Ministry of Interior

1.13.3. Legally required documents or records

- Memorandum of Understanding
- Minutes of preliminary investigation before taking certain decisions
- Report of information meetings and awareness about the allocation of Forests
- Report of receipt of equipment and materials for the benefit of local communities
- Family inheritance

1.13.4. Sources of information

Government sources

Non-Government sources

- Rights of communities to land and forest resources. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf> (consulted June 1, 2019)
- Customary right of occupancy. Available at: <https://www.land-links.org/country-profile/nigeria/> (consulted June 3, 2019)

1.13.5. Risk determination

Overview of Legal Requirements

Under the Land Use Act, all land in Nigeria is vested in the government. The Land Use Act recognizes two types of occupancy rights:

Statutory right of occupancy. Under the Land Use Act, individuals and entities can obtain a statutory right of occupancy for urban and non-urban land. Statutory occupancy rights are granted for a definite term, which is set forth in the certificate. Recipients of certificates of occupancy are obligated to pay the state for any unexhausted improvements (i.e., improvements with continuing value such as a building or irrigation system) on the land at the time the recipient takes possession and must pay rent fixed by the state. Rights are transferable with the authorization of the state governor (Land Use Act 1978).

Customary right of occupancy. Local governments may grant customary rights of occupancy to land in any non-urban area to any person or organization for agricultural, residential, and other purposes, including grazing and other customary purposes ancillary to agricultural use. The term for customary rights (which is contained in the application form and not the legislation) is 50 years and may be renewed for a second 50-year term. Recipients of customary rights of occupancy must pay annual tax on the land and cannot transfer any portion of the rights absent approval of the governor (for sales of rights) or the local government (other transfers) (Land Use Act 1978; Kuruk n.d.).

In contrast to the occupancy system in the Land Use Act, Nigeria's customary land tenure system allows for flexible leases, rentals, pledges, and borrowing arrangements that adapt to the needs and circumstances of different communities, such as new or temporary populations in a remote community (e.g., migrant laborers), or relocated populations of professionals residing in urban areas and seeking land to farm on the outskirts of cities. All community lands are vested in the heads and leaders of the communities.

Under customary law that governs much of the country, all members of a rural community are entitled to have use of a portion of land, which they receive through inheritance, allocation by the chief, leasing, borrowing, pledge, or gift. Almost all urban landholders obtain their land-rights by purchase or inheritance. Separate members of a household or community may have separate rights to the same plot of land and the crops, trees, and improvements on that plot. The multiple rights may have a range of durations, e.g., one-time use, license to take production from fruit trees, access for a cropping season, and perpetual rights of access to the land and its production. The state government allocates a certain proportion of proceeds from wood harvested in communal lands to the local communities as part of their benefit sharing opportunity. (Stability in land occupation through Customary land rights for forestry activities presupposes the legality of timber therefrom. Wood for export have nothing to do with the land from which they are harvested i.e. there is no discrimination against the source of wood for export purposes)

Description of Risk

The Land Use Act has never been fully operational as most people, especially rural dwellers, are unaware of the Act and have not applied for Certificate of Occupancy. Even in some urban areas, customary and Sharia law still governs the rights and obligations relating to land (Williams 1992; Kuruk; Olayiwola and Adeleye 2006). The few individuals that are willing to apply for Certificate of Occupancy are discouraged by the tedious and long process of application. By implication, it means the trees on lands without the necessary Certificate of Occupancy are not secured.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.
- Logging operator shall give evidence of receipt of equipment and materials for the benefit of local communities

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

Not applicable. There is no legislation on FPIC in Nigeria.

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

Kogi Laws, 2018

- Section 8(6)(b); publication of determination and declaration of a person's customary right in the State Gazette
- Section 17; Powers of natives to grant land absolutely to government and to grant licenses and permits.
- Part 7 (Section 26): Power to declare lands as communal forestry areas.
- Part 7 (Section 28, 29): Management and control of Communal Forestry areas.

National Forestry Policy, 2006

National Forestry Policy, 2018

1.15.2. Legal authority

- Federal Ministry of Environment
- Federal Ministry of Agriculture and Rural Development

1.15.3. Legally required documents or records

- Family Inheritance
- Certificate of Occupancy (C of O)

1.15.4. Sources of information

Government sources

Non-Government sources

- Adeniyi, G., Felix, O. (2011). Socio-Economic Aspects of Fuel Wood Business in the Forest and Savanna Zones of Nigeria: Implications for Forest Sustainability and Adaptation to Climate Change. Global Journal of Human Social Science Volume 11 Issue 1. Type: Double Blind Peer Reviewed International Research Journal. Publisher: Global Journals Inc. (USA). Available at: https://globaljournals.org/GJHSS_Volume11/5_Socio_Economic_Aspects_of_Fuel_Wood_Business_in_the_Forest.pdf (consulted May 24, 2019)

1.15.5. Risk determination

Overview of Legal Requirements

All members of a rural community are entitled to have use of a portion of land, which they receive through inheritance, allocation by the chief, leasing, borrowing, pledge, or gift. Separate members of a household or community may have separate rights to the same plot of land and the crops, trees, and improvements on that plot. The individual is responsible for clearing and cultivating the land and may be expected to make a tribute or gift to the chief in exchange. The lands can be used for whatever purpose the individual deems fit including Forestry activities.

Communities are also provided some privileges of harvesting Non-Timber Forest Products (NTFPs) in Government Forest Reserves.

Description of Risk

The benefit-sharing structure is lopsided with the indigenes having full rights to all the advantages inherent in the forest system whereas the few non-indigenes and women are confined to very limited segments of the opportunities which may encourage them to engage in illegal access to forest benefits to meet their needs and subsistence.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.15.6. Risk designation and specification

Low risk

1.15.7. Control measures and verifiers

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Nigeria Forest Policy 2006
- Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016
- Customs and Excise Management Act, 1959

1.16.2. Legal authority

- Federal Ministry of Environment (Department of Forestry)
- Federal Ministry of Finance (Federal Inland Revenue Services)
- Nigeria Customs Services (NCS)
- National Environmental Standards and Regulations Enforcement Agency (NESREA)

1.16.3. Legally required documents or records

- List of protected species
- Harvest Permit
- CITES Permit
- Evidence of engagement in wood export business for the past three (3) years.
- Evidence of membership of an umbrella Wood Exporting Organization.
- Duly filled form containing details on ownership of processing factory, buyers and exporters of wood.
- Nigeria Export Promotion Council Certificate.
- Evidence of Foreign Exchange/Repatriation of previous approval of CITES Permit issued.
- Payment receipts for export charges to the Ministry:
 - #100,000 - Indigenous Exporters,
 - #250,000 - Foreign Exporters.
- A recommendation/Introduction letter from the Association of Wood Exporters of Nigeria.

1.16.4. Sources of information

Government sources

- Fixing Tariff Rates on Classified species. Available at:
<http://www.fao.org/3/X6818E/X6818E07.htm#TopOfPage> (consulted May 24, 2019)

Non-Government sources

- Abubakar I. and Nabade A. M., (2013) Development of EN338 (2009) Strength Classes for Some Common Nigerian Timber Species Using Three Point Bending Test. International Journal of Civil and Environmental Engineering, Vol 7:5, 338-342pp. Available at:
<https://waset.org/publications/16249/development-of-en338-2009-strength-classes-for-some-common-nigerian-timber-species-using-three-point-bending-test> (consulted June 4, 2019)

1.16.5. Risk determination

Overview of Legal Requirements

The Forestry Inventory Unit of the States' Department of Forestry specifies the guidelines for classifying timber in terms of species, volume and qualification prior its sale and movement. However, for timber species that have been classified as protected or endangered, their requirements are stipulated in the CITES List according to the Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016.

Each State's Forestry Department is expected to have a team of specialists with the responsibility of classifying Timber prior to Harvesting while the Federal Department of Forestry officials at the Pre-shipment unit are to be charged with the responsibility of determining the content of the final log export at the exit points.

Description of Risk

Forestry officials are not among the government agencies mandated to control export of goods through the Nigerian ports. The agencies with the statutory responsibilities to monitor and control export of goods from the Nigerian ports do not have the requisite skills to ascertain forest related products. Consequently, there exists a strong gap in outright poor classification of species with regards to trade and transport in Nigeria until Forest officials are properly mandated to handle that task.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents
- Evidence shall be provided upon request (photographs of labelling)
- Physical control where it should be verified that the present material equals what has been invoices and marked
- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents;

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

Kogi State Laws, 2018.

- Section 35; Forestry produce required for public purposes
- Section 38 (1); Prohibition or Regulation of Forest produce or of any specified kind of forest produce on lands at the disposal of government of communal lands

- Section 38 (2); Prohibition of the sale and purchase of Forest produce or of any specified type of forest produce by any person other than holders of licenses and permits granted under this Law
- Section 38(3); Prohibition of the sale, purchase, and possession of forest produce taken, collected or prepared in contravention of this Law.
- Section 38(4); Prohibition of the destruction of or any act which may tend to destroy or cause injury to, any forest produces or forest growth or forestry property in any forest reserve or on lands at the disposal of the Government or on communal lands.
- Section 38(5); Regulation of the grant and prescription of the form of any license or permits to take forest produce or on lands at the disposal of the Government or on communal lands and to sell and purchase forest produce.
- Section 38 (10); Regulation of the marking of timber and the manufacture, use, and possession of marking instruments.
- Section 38 (11); Regulation of the taking, collection and preparation of forest produce
- Section 38 (12); Providing for the seizure, detention and disposal of timber or forest produce, taken, collected, prepared, sold, purchased, possessed or not marked, in contravention of this law or in respect of which any offence against the law has been committed.
- Section 38 (13); Requiring the holders of licenses and permits to render returns and accounts and submit their books for inspection.
- Section 38 (14); Provision for the termination, revocation of licenses and permits.
- Section 38 (15); Regulation of the transit of forest produce by land and water and by different means and classes of transport
- Section 38 (18); Providing for the establishment and maintenance of nurseries and for the afforestation of lands, the preservation and production of forest produce and the introduction of new species of trees.
- Section 57; Establishes the prohibition of commercial production of charcoal and stipulation of fine for the contravention of the provision of this Section.
- Section 58; Establishes the prohibition of exploitation of bamboo for commercial purpose.
- Forest Law of Eastern Nigeria, 1956. Available at:
<http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>
- Section 29; This establishes that Forest produce required for public purposes may be taken upon payment of a fair and reasonable price.
- National Forestry Policy, 2006
- National Forestry Policy, 2018
- Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016

1.17.2. Legal authority

- Federal Ministry of Agriculture and Rural Development
- Federal Ministry of Environment
- Federal Ministry of Finance (Federal Inland Revenue Services)
- Federal Ministry of Industry, Trade and Investment

1.17.3. Legally required documents or records

- Vehicle Registration Certificate
- List of protected species in Nigeria
- Tariff Table (Movement of round log)
- Permit to move log across the state
- CITES List of Species

1.17.4. Sources of information

Government sources

- Charges Levied on trade in Forest products. Available at: <http://www.fao.org/3/X6818E/X6818E09.htm#TopOfPage>
- Timber Transport. Available at: <http://iloencyclopaedia.org/component/k2/item/584-timber-transport>

Non-Government sources

- LUMBERING IN NIGERIA – PROBLEMS & SOLUTIONS. Available at: <http://www.schoolmattazz.com/2016/10/lumbering-in-nigeria/>

1.17.5. Risk determination

Overview of Legal Requirements

Most states have requirements in place that guide all aspects of trade and transportation of timber within and outside the country. These include the transport documents which should accompany wood from the point of harvesting to sale. Each log is also expected to carry official hammer marks.

Description of Risk

There may be cases of hammers falling into the wrong hands and some officials pass hammering logs without following due process. Some unregistered vehicles may also be engaged in movement of logs which have been illegally harvested or fall short of control measures.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.17.6. Risk designation and specification

Specified risk

1.17.7. Control measures and verifiers

- Species and product types shall be traded legally.
- All required transport documents shall exist and be documented.
- Volume, species and qualities shall be classified according to legal requirements.
- Documents related to transportation, trade or export shall be clearly linked to the specific material in question

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

Not applicable. There is no legislation on Offshore trading and transfer pricing in Nigeria.

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

Customs and Excise Management Act, 1959- www.placng.org/new/laws/C45.pdf

Section 51; Stipulates special provisions relating to export of certain goods

Section 52; Stipulates the exemption from customs duties of goods temporarily exported

Section 57; Embeds the Minister with the power to make regulations as to exportation

Section 58; The Board has the power to require the list of cargo exported

Section 59; Establishes the imposition of duty on exported goods

Section 60; The Board may, subject to such conditions and restrictions as it may see fit to impose, allow transit goods to be exported without payment of any export duty chargeable on such goods.

Section 63; Lays down offences in relation to exportation

Section 64; Stipulates penalties for improper exportation of goods.

- Nigeria Customs Regulation. Available at: <https://www.export.gov/article?id=Nigeria-Customs-Regulations> (consulted May 24, 2019)
- NIGERIAN CUSTOMS SERVICE BOARD ACT. Available at: <http://lawnigeria.com/LawsoftheFederation/NIGERIAN-CUSTOMS-SERVICE-BOARD-ACT.html> (consulted June 2, 2019)
- National Forest Policy, 2006. Available at: <http://www.fao.org/forestry/151480c4acebeb8e7e45af360ec63fcc4c1678.pdf> (consulted May 24, 2019)

1.19.2. Legal authority

- Nigeria Customs Services (NCS)
- Federal Ministry of Environment
- Federal Ministry of Finance (Federal Inland Revenue Services)

1.19.3. Legally required documents or records

- Export registration certificate
- Bill of Lading
- Pre-shipment Certificate

1.19.4. Sources of information

Government sources

- Customs and Excise Management Act, 1959- www.placng.org/new/laws/C45.pdf
- Nigeria Customs Regulation. Available at: <https://www.export.gov/article?id=Nigeria-Customs-Regulations> (consulted May 24, 2019)
- NIGERIAN CUSTOMS SERVICE BOARD ACT. Available at: <http://lawnigeria.com/LawsoftheFederation/NIGERIAN-CUSTOMS-SERVICE-BOARD-ACT.html> (consulted June 2, 2019)
- National Forest Policy, 2006. Available at: <http://www.fao.org/forestry/151480c4acebeb8e7e45af360ec63fcc4c1678.pdf> (consulted May 24, 2019)

Non-Government sources

- Import and Export Guide for Nigeria. Available at: <http://www.iadc.org/wp-content/uploads/2016/10/IADC-Import-Export-Guidance-for-Nigeria-1-Nov-2016.pdf> (consulted May 24, 2019)
- <https://www.thisdaylive.com/index.php/2016/04/22/customs-educates-wood-exporters-on-govts-policy/> (consulted May 24, 2019)

1.19.5. Risk determination

Overview of Legal Requirements

The Customs and Excise Act stipulates specific provisions relating to the export of certain goods. This legislation also provides guidelines on the collection of taxes or duties for the export of products. The Nigerian Customs and Excise Tariff is based on the Customs Cooperation Council Nomenclature (CCCN). Duties are either specific or ad valorem, depending on the commodity. Prior to export, the following authorities may perform due inspection:

- Nigerian Customs
- Port Authorities
- Nigerian Immigration

A major prerequisite for export of log is the issuance of a pre-shipment certificate from The Federal Ministry of Environment located at the Exit points. Further to that, the Customs and Excise department issues a Bill of Lading.

Currently, there is a subsisting ban on export of *Pterocarpus erinaceus* while Export Permits are required for all products to be exported. The Federal Government charges on wood export are based on the size of container and not on type of products.

Description of Risk

The Customs and Excise department that oversees the final exit of logs out of Nigeria do not have the professional competence to ascertain the quality, species, etc. of the wood being exported. Consequently, vital information and details on the content of wood export are rarely included in the Bill of Lading. Re-export of wood is a rarity in Nigeria.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.19.6. Risk designation and specification

Specified risk

1.19.7. Control measures and verifiers

- Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.)
- All required Export permits shall be in place.

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

- Nigeria Forest Policy 2006

- Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016
- Customs and Excise Management Act, 1959

1.20.2. Legal authority

- Federal Ministry of Finance (Federal Inland Revenue Services)
- Nigeria Customs Services (NCS)
- Federal Ministry of Environment (Department of Forestry)
- National Environmental Standards and Regulations Enforcement Agency (NESREA)

1.20.3. Legally required documents or records

List of protected species should be known to both Harvesters and Exporters

CITES Permit

Tax Clearance Certificate (TCC) from FIRS.

Nigeria Export Promotion Council' Export Registration Certificate.

1.20.4. Sources of information

Government sources

Non-Government sources

- Financial Nigeria. November 2018. Multilateral treaty bans illegal timber export from Nigeria. (Online). Available at: <http://www.financialnigeria.com/multilateral-treaty-bans-illegal-timber-export-from-nigeria-sustainable-1034.html> (consulted May 27, 2019)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora. Available at: <https://www.cites.org/eng/cms/index.php/component/cp/country/NG> (consulted June 3, 2019)
- CITES lifts suspension on Nigeria as the country intensifies law enforcement efforts. Available at: https://www.cites.org/eng/news/pr/2011/20110826_nigeria.php (consulted June 3, 2019)
- Review of compliance to cites in Nigeria. Available at: https://www.researchgate.net/publication/318792697_REVIEW_OF_COMPLIANCE_TO_CITES_IN_NIGERIA_MASTERS_RESEARCH_THESIS_Felix_Olusola_ABAYOMI_NIGERIA (consulted June 3, 2019)

1.20.5. Risk determination

Overview of Legal Requirements

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Act was put in place to provide for the conservation and management of Nigeria's wildlife and the protection of some of the species in danger of extinction as a result of overexploitation or habitat change (CITES ACT, 2016)

According to an official publication released by the Federal Department of Forestry (2019), the guidelines for CITES related issues include:

- Application for Letter of Support for Export of processed, semi processed and other allied wood products (Non – CITES Listed Wood Species) Indicating plant species, wood products and their various dimensions/sizes should be addressed to: The Honorable Minister of the Federal Ministry of Environment (Attention: Director of Forestry)
- Exporters' Certificate must be re-validated on yearly basis.
- The application for a renewal should be on the Company's letter head paper addressed to Director of Forestry.
- There must be an Evidence of previous Letter of Support.
- There must be an Evidence of Federal Ministry of Finance Support Letter.
- Certificate from the Corporate Affairs Commission.
- Nigeria Export Promotion Council Certificate.

- Letter of request from prospective buyer
- Evidence of afforestation plan by the company.
- Evidence of revenue receipt from the State where the wood originated.
- Evidence of wood export value repatriated by the Exporter (copies of NXP from the Bank).
- Evidence of contribution to National Forestry Trust Fund.
- Evidence of Conversion Evaluation Report (C.E.R)
- Designated Loading point.
- A recommendation/Introduction letter from the Association of Wood Exporters of Nigeria.
- Export Charges - #100,000 (payable to the Ministry)

The Enforcement Authority of CITES in Nigeria is the National Environmental Standards and Regulations Enforcement Agency (NESREA). The Enforcement Authority is authorised under this Act to carry out, in addition to

the provisions of the NESREA Act and related Regulations, the following functions:

- general enforcement of the provisions of the present Convention and this Act within Nigeria;
- interrogate suspects and examine consignments, and documents in the course of enforcement duties;
- investigate and prosecute cases of illegal trade in specimens of wild fauna and flora species in Nigeria;
- search persons, baggages, containers, vehicles, vessels and premises suspected to possess or contain illegally acquired or traded specimens of wild fauna and flora, without warrant;
- confiscate illegally traded specimens, and dispose of them in line with the extant policy of the Federal Government of Nigeria or as decided by Management Authority of Nigeria;
- Keep confiscated and seized specimens in a safe store or facility constructed by NESREA in consultation with Management Authority and other enforcement Agencies, while live specimens are kept in approved Rescue Centres or other approved locations;
- liaise, co-operate and collaborate with the Nigeria Customs Service, Nigeria Police Force, Interpol, other law enforcement and regulatory agencies on enforcement matters; and
- maintain an office/presence at the air and sea ports, and land borders in Nigeria.

Description of Risk

The Agency of the government (i.e. NESREA) responsible for enforcing CITES regulations are not present at the points of wood export in Nigeria. Furthermore, the Customs officials are not adequately trained to identify infractions on CITES classified items especially *Pterocarpus erinaceus*. The tendency for CITES species slipping out of the country is therefore imminent.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- All cross border-trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

Not applicable. There is no legislation with regards to due diligence in Nigeria.

PROCESSING

1.22. Legal Registration of business

Legislation regulating the registration of business and approval of scope of business and processing.

1.22.1. Applicable laws and regulations

- Companies and Allied Matters Act, 2004

1.22.2. Legal authority

- Federal Ministry of Finance (Federal Inland Revenue Services)
- Federal Ministry of Industry, Trade and Investment
- Corporate Affairs Commission (CAC)

1.22.3. Legally required documents or records

- Business Registration Certificate
- Business/ Company Profile
- Availability Printout
- Application Form for Registration (CAC1.1)
- Statement of Shares (CAC2)
- Notice of Change of Registered Address (CAC3)
- Declaration of Compliance (CAC4)
- Particulars of Directors (CAC7)
- Means of Identification
- Payment Receipt (RRR)
- Stamp Duty Receipt
- Approval in Principle
- Memorandum and Article of Association
- Certificate of Incorporation (corporate Partner)

1.22.4. Sources of information

Government sources

- Registration steps of business in Nigeria. Available at:
<http://new.cac.gov.ng/home/registration-steps/> (consulted June 1, 2019)

Non-Government sources

- Business Organisation and Regulation. Available at:
<https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/investment-in-nigeria-2016.pdf>
(consulted June 2, 2019)

1.22.5. Risk determination

Overview of Legal Requirements

It is required by the Corporate Affairs Commission that all companies irrespective of their activities must be duly registered according to the guidelines stipulated in the Company and Allied Matters Act, 2004. The company must have a Memorandum and Article of Association which must clearly indicate interest in forestry related activities.

The companies must also have been appended a valid Business Registration Certificate, a Business/ Company Profile stating all the activities within jurisdiction to which the company is permitted to operate, a declaration of Compliance, the profile and particulars of members of the board of directors, a valid means of Identification, and a Certificate of Incorporation (Corporate Partner).

Description of Risk

A company is expected to file in tax return at the end of every year and many companies do not do this. In that respect, it implies the company is not legally endowed to operate in Nigeria in the year of non-compliance.

Some logging operators in the Timber supply chain do not register legally before going into operations yet their harvested logs find their way into the market. Furthermore, the capacity of State Forestry Departments to fish out non-registered loggers and entities whose operations contravene the permitted scope is highly limited.

Risk Conclusion

This indicator has been evaluated as Specified risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.22.6. Risk designation and specification

Specified risk

1.22.7. Control measures and verifiers

- Regulation of business activities within the scope to which they are permitted.
- Ensuring due diligence about the registration status of loggers.

1.23. Environmental requirements for processing

Legislation regulation environmental requirements for the timber processing industry, such as air quality, water and waste-water management, use of chemicals, and other requirements relevant for the environment.

1.23.1. Applicable laws and regulations

- Section 20 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)
- Federal Environmental Protection Agency Act, 1988
- National Environmental Protection (Effluent Limitation) Regulations
- National Environmental Protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulations
- National Environmental Protection (Management of Solid and Hazardous Wastes) Regulations
- Environmental Impact Assessment Act 1992
- Harmful Wastes (Special Criminal Provisions etc.) Act 1988

1.23.3. Legally required documents or records

- Environmental Impact Assessment (EIA) Approval Certificate

1.23.4. Sources of information

Government sources

Non-Government sources

- Minimizing environmental impacts of timber products through the production process "From Sawmill to Final Products". Available at: <https://link.springer.com/article/10.1186/s40068-018-0109-x> (consulted May 30, 2019)
- Abdulsalam, I. (2014). Environmental effects on timber manufacturing on rainforest in Nigeria. Institute of graduate studies. Department of architecture. Available at: https://www.academia.edu/10624682/Paper_on_environmental_effects_caused_by_timber_manufacturing_industries_in_Nigeria (consulted June 2, 2019)

1.23.5. Risk determination

Overview of Legal Requirements

The EIA Act and other regulations make it mandatory for all industries to provide Environmental Impact Assessment which is expected to profile all issues around air quality, water and waste-water management, etc. and provide remediation plans.

Any project or developmental activity involving clearing of forest area of more than 50 hectares is required to undertake Environment Impact Assessment. (EIA Act, 1992) The EIA is expected to be conducted by the project proponent (government or private) and approved by the EIA department of the Federal Ministry of Environment.

The National benchmark in respect of all industries (including wood-related) for air quality, waste and water management, use of chemicals and other environmental requirements are clearly stipulated in the Environmental guidelines of the Federal Ministry of Environment.

Description of Risk

The process of EIA is somewhat tedious and expensive thus leading to circumvention by industries. Enforcement of EIA by Regulatory and Enforcement Agencies could be very weak for lack of personnel and material support.

Most wood processing industries, especially sawmills, do not comply with regulations pertaining to the effects of their processing activities on air, soils and water. They also do not follow the proper wood

waste management systems or consider the safety risks posed by their activities to the public and the environment. (PC)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.23.6. Risk designation and specification

Specified risk

1.23.7. Control measures and verifiers

- Environmental Impact Assessments shall be in place and approved by the legally competent authority if legally required.
- Requirements for environmental monitoring shall be observed.
- Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.

1.24. Processing requirements

Legislation regulating the timber processing industry, such as transformation process thresholds, location of processing, conformance of processing equipment, processing quota, etc).

1.24.1. Applicable laws and regulations

Forest Law of Eastern Nigeria, 1956- <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

- Section 31, Grant of licenses by Minister: The Minister has the power to grant licenses for the taking of forest produce in forest reserves
- Section 33; Power of Minister to make regulations and prescribe penalties for contravention thereof: The Minister is embedded with the power to make regulations and prescribe penalties for contravention thereof.
- Section 34; Power to exclude area from regulations: The Minister may by notice in the Gazette, exclude any area from the operation of any regulations made under this law.
- Forestry Regulations for Bendel State, 1976-
<http://www.fao.org/3/X6818E/X6818E10.htm#TopOfPage>
Section 53; Process of setting Forest charges.Regulations. Available at :
<https://laws.lawnigeria.com/2018/04/13/forest-law/> (consulted May 30, 2019)
- Forest Regulations. Available at : <https://www.ecolex.org/details/legislation/forest-regulations-lex-faoc003331/> (consulted May 30, 2019)

1.24.2. Legal authority

- Federal Ministry of Agriculture and Rural Development (Forestry Department)
- Federal Ministry of Environment
- Federal Ministry of Industry, Trade and Investment

1.24.3. Legally required documents or records

- License to operate sawmill

1.24.4. Sources of information

Non-Government sources

- Timber Processing fees in Nigeria. Available at:
<http://www.fao.org/3/X6818E/X6818E05.htm#1398>

- <http://www.fao.org/3/X6818E/X6818E07.htm#TopOfPage> (consulted May 24, 2019)
- Fees for non-wood products and services. Available at: <http://www.fao.org/3/X6818E/X6818E08.htm#TopOfPage> (consulted May 24, 2019)
- Legal Penalties. Available at: <http://www.fao.org/3/X6818E/X6818E08.htm#TopOfPage> (consulted May 24, 2019)
- Wood industry of Nigeria: A Situation Report. Available at: <http://www.fao.org/3/X6762E/X6762E04.htm> (consulted June 4, 2019)
- Solomon, L. (2010). SECONDARY WOOD PROCESSING AND THE NIGERIA SAWMILL
- INDUSTRY: ISSUES, CHALLENGES AND OPPORTUNITIES. Available at: https://www.researchgate.net/publication/303363175_Secondary_Wood_Processing_and_the_Nigeria_Sawmill_Industry_Issues_Challenges_and_Opportunities_In_Readings_in_Sustainable_Tropical_Forest_Management (consulted June 4, 2019)
- Status of wood processing and storage in Nigeria by C.J. Ohagwua and B.O. Ugwuishiwu. Available at: <https://www.ajol.info/index.php/njt/article/download/123530/113062> (consulted June 4, 2019)

1.24.5. Risk determination

Overview of Legal Requirements

The Forestry Policy and Forest Laws mandate Forest industries to conform with basic standards applicable to other industries in Nigeria which include safety and good labour practices. To that effect, Forestry departments issue relevant certificates to sawmillers to guide their operations.

Description of Risk

The supervisory capacity of forestry departments on Forest industries especially sawmills is very weak due to lack of personnel and mobility. In most cases, the role of forest officials is more of 'master-servant' relationship with sawmillers treating visiting forestry officials as kings blinded with perks. (PC)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.24.6. Risk designation and specification

Specified risk

1.24.7. Control measures and verifiers

- Compliance with the safety, labour and environmental guidelines.

1.25. Health and Safety in the timber processing sector

Legally required personnel protection equipment for persons involved in the timber processing sector. The health and safety requirements that shall be considered relating to the processing/factory (not office work, or other activities less related to the actual processing). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of workers at significant risk throughout the primary and secondary processing.

1.25.1. Applicable laws and regulations

Forest Policy 2006

- Section 1.10; Employment Nigerian Labour Act, 1971- www.nigeria-law.org/LabourAct.htm
- Section 28; Stipulates that every recruited worker shall be medically examined by a registered medical practitioner at the expense of the employer, also all necessary measures must be taken

for the acclimatization and adaptation of recruited workers and for immunization against diseases.

- Section 33(1); establishes that no citizen recruited for employment in Nigeria shall be employed until he has been medically examined by a registered medical practitioner at the expense of the employer and has been passed fit to perform the work to which he has been recruited.

National Policy on Occupational Safety and Health-

https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf

Factories Act, CAP. F1, LFN, 2004- <http://lawsofnigeria.placng.org/laws/F1.pdf>

1.25.2. Legal authority

- Federal Ministry of Labour and Employment
- Federal Ministry of Health
- National Information Management System (NIMS)

1.25.3. Legally required documents or records

- Medical Certification
- Safety kits
- First aids kits
- Certified conditions of working tools

1.25.4. Sources of information

Government sources

- Severe accidents according to activity in wood harvesting in Nigeria, 1978-1986. Available at: <http://www.fao.org/3/u8520e/u8520e03.htm> (consulted May 31, 2019)

Non-Government sources

- Ofonime Effiong Johnson and Queen Malachy Umoren, (2018). Occupational hazards and health problems reported by workers in a Sawmill in Uyo, Nigeria. Journal of Environmental and Occupational Science, (7):2, 17-24p. Available at: <https://www.ejmanager.com/mnstemps/62/621529075615.pdf?t=1559559643> (consulted June 3, 2019).
- <http://www.fao.org/3/x6818e/x6818e04.htm>(consulted May 24, 2019)
- Adediran, D. (2016). Criminality: Illegal Logging of Woods in Nigeria's South-West Forest Belt. African Journal of Criminology and Justice Studies: AJCJS, Vol.9, Issue 1, May 2016. Available at: <https://www.umes.edu/uploadedFiles/WEBSITES/AJCJS/Content/VOL9.%20IKUOMOLA%20%20FINAL.pdf> (consulted May 24, 2019).
- Training Needs of Wood Processors in Ondo State. Available at: https://www.academia.edu/8357058/Assessment_of_the_Training_Needs_of_Wood_Processors_in_Ondo_State_Lesson_for_Agricultural_Extension_Administration_in_Nigeria
- Knowledge of Workplace Hazards, Safety Practices and Prevalence of Workplace-related Health Problems among sawmill Workers in Sokoto, Nigeria. Available at: <https://www.researchgate.net/publication/328980620> (consulted May 30, 2019)
- Awareness of Occupational Hazards, Health Problems and Safety Measures among Sawmill Workers in North Central Nigeria. Available at: <https://www.researchgate.net/publication/47630987>(consulted May 30, 2019)

1.25.5. Risk determination

Overview of Legal Requirements

- The National Policy on Occupational Safety and Health stipulates that the safety, health and security of workers in wood processing industries shall be of paramount consideration.
- The National Policy on Occupational Safety and Health, also stipulates that the Ministry of Health collaborates with Federal Ministry of Labour and the National Information Management System (NIMS) on occupational accidents, injuries and diseases by providing relevant information on all such cases in medical facilities nationwide and also Regulate, monitor and evaluate medical practice in the area of occupational health.
- The Nigerian Labour law requires that workers must be trained in appropriate techniques to minimize the occurrence of job-related accidents. Also, they must be provided with the appropriate tools, outfits and kits for their activities. It also prohibits employment of underage persons (i.e. persons below the age of 16). By virtue of Section 67 (paragraphs e, f, g, i, l) of the Nigerian Labour Act 1971).

Description of Risk

Some timber processing industries do not have health service centres to provide medical examinations before employment, periodic medical examinations to ensure they are fit for work and also void of illnesses. There are no emergency treatment plans in place and also, health and safety measures are not usually followed during factory operations. (PC)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.25.6. Risk designation and specification

Specified risk

1.25.7. Control measures and verifiers

- Trainings to improve the knowledge of workers on workplace Hazards, Safety Practices and Prevalence of Workplace-related Health problems
- Ensuring awareness of occupational Hazards, Health Problems and Safety Measures among workers at all times.
- Caution/ Safety instructions on machineries and appliances in forms of banners, stickers to prevent accidents.

1.26. Legal employment in the timber processing sector

Legal requirements for employment of personnel involved in the timber processing sector including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large-scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.26.1. Applicable laws and regulations

- Nigerian Labour Act, 1971- www.nigeria-law.org/LabourAct.htm
- Factories Act, CAP. F1, LFN, 2004- <http://lawsofnigeria.placng.org/laws/F1.pdf>
- Forest Policy 2006-

- National Policy on Occupational Health and Safety- https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf
- Pension Reform Act, 2004- <https://www.pencom.gov.ng>

1.26.2. Legal authority

- Federal Ministry of Labour and Employment
- Federal Ministry of Industry, Trade and Investment
- Federal Ministry of Finance
- Nigerian Labour Congress

1.26.3. Legally required documents or records

- Employment Contracts
- Employment Terms and Conditions
- Appropriate Job Descriptions
- Insurance Plans
- Pension Schemes
- Employer's register
- Company's Identification Card

1.26.4. Sources of information

Government sources

Non-Government sources

- COST AND RETURN STRUCTURE IN SAWMILL INDUSTRY IN IJEBU ODE, OGUN STATE, NIGERIA. Available at: <https://www.ajol.info/index.php/jrfwe/article/viewFile/162173/151686> (consulted June 1, 2019)
- Assessment of Timber Industry as a means of Livelihood for the Timber workers and Source of Revenue Generation for the Government in Ondo State, Nigeria. Available at: <https://iosrjournals.org/iosr-javs/papers/vol8-issue10/Version-1/J081016062.pdf> (consulted June 1, 2019)

1.26.5. Risk determination

Overview of Legal Requirements

There are legal requirements in place for each industry concerning specific job requirements which include maximum number of hours worked every week, the employment age, working conditions, etc. The Nigerian Labour law requires that workers must be trained in appropriate techniques to minimize the occurrence of job-related accidents. It also prohibits employment of underage persons (i.e. persons below the age of 16). There is a National Policy on Work Insurance under the PenCom Act, 2004 which guarantees payment to workers when out of employment.

Description of Risk

The workforce engaged in forestry operations does not conform with the minimum number of staffs required to participate in PenCom Scheme and Government Minimum Wage Regime. Invariably most workers in forestry operations are on casual employment and operate on daily pay or 'pay-as-you-go' basis therefore making it difficult to enjoy work insurance benefits. Furthermore, they are hardly exposed to training in basic skills to effectively perform their duties.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.26.6. Risk designation and specification

Specified risk

1.26.7. Control measures and verifiers

- All workers are employed according to the regulation and required contracts are in place
- Persons involved in harvesting activities shall be covered by obligatory insurances.
- Persons involved in harvesting activities shall hold required certificates of competence for the function they carry out.
- At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
- Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in hazardous work.
- Stakeholders shall confirm that forced or compulsory labor is not involved in harvesting activities.

Annex I. Timber source types in Nigeria

The table **Timber Source Types in Nigeria** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farmland, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN NIGERIA

Forest type (type of forest found in the country. E.g. natural forest, Semi-natural forest, plantations etc)	Region/Area (potential geographical subdivision where major differences are relevant)	Legal Land Classification (the classification of the land such as permanent forest reserve, farmland, protected area classes etc)	Ownership (legal ownership of the land)	Management regime (indication of different types of forest or tree management rights such as, private, communal, state, provincial government etc)	Description of source type (based on an evaluation of the different attributes evaluated assign a suitable name for different types of timber sources with similar risks)
Natural Forests	There are Six (6) Ecological zones supporting productive Forests in Nigeria namely; i. Mangrove swamp ii. Freshwater swamp iii. High Forests iv. Guinea Savannah v. Sudan Savannah vi. Montane Forest	Forest Reserves: Natural Forest	Government	State Departments of Forestry is in charge of management responsibilities.	Timber from Forest Reserves (i.e. Natural Forests and Plantations) usually harvested and transported with the required Permits and Hammer marks.
		Conservation Areas			
		Forest Reserve: Plantation			
Plantations		Free Areas	Private	The State Departments of Forestry generate revenue from Free Areas and Plantations.	Timber from Free Areas usually harvested and transported with the required Permits and Hammer marks.
		Private Plantation			Timber from Private Plantations usually harvested and transported with the required Permits and Hammer marks.

Annex II. List of stakeholders

Adejo Andrew, Government authority, Federal Department of Forestry (FDF)

Adeshola Adepoju, Research organisation, Forestry Research Institute of Nigeria

Association of Charcoal Exporters

Association of Timber Exporters

Department of Forestry

Dr. M. Aminu-Kano, NGO, Nigerian Conservation Foundation

Mohammed Rakiya, Government authority, National Bureau of Statistics (NBS)

Mr. Joseph Odiase, Trader, Tropical Wood Exporters Association

National Export Promotion Council

Nigeria Customs Services (NCS)

Processed Wood Producers and Marketers Association of Nigeria

Secondary Processing, LP Consults Ltd.

Wood export section, Funders, Manufacturers Association of Nigeria



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