

# Timber Legality Risk Assessment

## Nigeria

Version 1.0 | 7 December 2021



COUNTRY RISK  
ASSESSMENTS



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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.

### Version history

Version 1.0: published 7 December 2021

### Overview of methodology

Preferred by Nature would like to recognise the huge contribution our consultants working in DRC have performed in connection with this report. Their involvement has been invaluable to obtain the latest information available across the broad range of timber legality issues presented in this report. Preferred by Nature's country risks assessments are by definition always evolving, and by retaining local experts are we confident the advice expressed in this report are truthful and reliable.

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and Preferred by Nature. A detailed description of the methodology can be found on the [Preferred by Nature Sourcing Hub](#).

### Interviews with experts and stakeholders

The list of experts and stakeholders is not included in the risk assessment. However, all experts and stakeholders are known to Preferred by Nature.

Version 1.0: Discussions with different experts and stakeholders were conducted during November 2019. The output of these discussions has contributed to the development of the Timber Legality Risk Assessment for Nigeria.

### Public Consultation

Online public consultation on the Sourcing Hub: 23 September – 23 November 2021

## Geographical scope of the Risk Assessment

The study covers timber legality risk assessment at the national level. Nigeria has 36 states with independent Forest management and control but due to limited resources this Risk Assessment does not cover sub-national State legislation in greater depth. Examples of Endo and Cross River state legislations are provided in some indicators. Applicable legislation analysed for each indicator may be regulated at the Federal or State level, or both. For an overview of governance level at each indicator please refer to the table below:

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

## Overview of legality risks

This report contains an evaluation of the risk of illegality in Nigeria for a total of six categories and 26 sub-categories of law.

Relevant for the legality of harvesting, and related trade and transport of timber in Nigeria we evaluated 6 categories and 26 indicators. We found:

- **Specified risk for 18 sub-categories.**
- **No legal requirements for 3 sub-categories.**

For wood processing we evaluated 1 category and 5 indicators. We found:

- **Specified risk for 5 sub-categories.**

The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, third parties' rights, trade and transport and wood processing.

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

- Land tenure conflicts occur (1.1)
- Individuals living on the land do not hold Certificate of Occupancy (1.1)
- The standards stipulated in the allocation procedures are infringed (1.2)
- There is a lack of forest management plans (1.3)
- Logging is done without harvesting/block permit (1.4)
- Harvesting/block permits are issued without following legal requirements (1.4)

For **Taxes and Fees**, there is a risk that:

- Fees and royalties are not paid (1.5)
- VAT is not paid (1.6)
- Income and profit taxes are not paid (1.7)

For **Timber Harvesting Activities**, there is a risk that:

- Harvesting regulation are violated (e.g., soil, young standing trees and seedlings are damaged during harvesting; vegetation is destroyed during road construction for transportation of logs) (1.8)
- Logging is performed in the National Parks and protected areas (1.9)
- Illegal logging of protected species occur without a permit (1.9)
- Harvesting is performed without Environmental Impact Assessment (1.10)
- Waste is left by logging operators (1.10)
- Obligations relating to the safety of the workers are not respected (no personal protective equipment; no health service centers to provide medical examinations before employment; no periodic medical examinations) (1.11)
- Foreign workers work without required permission (1.12)
- Forest companies hire workers illegally (1.12)
- The workforce engaged in forestry operations does not conform with the minimum number of staff required to participate in PenCom (1.12)

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

- Individuals living on the land do not hold Certificate of Occupancy (1.13)

For **Trade and transport**, there is a risk that:

- False declarations are made regarding species and their volume on transport permits (1.16)
- Hammer marks are misused (1.17)

- Some unregistered vehicles may be engaged in movement of logs which have been illegally harvested (1.17)
- Transfer pricing laws are not followed (1.18)
- Bill of Lading does not contain required information (1.19)
- Export of non-processed logs and sawn wood occur(1.19)
- Illegal timber is exported (1.19)
- Transport document do not contain required information (1.19)
- CITES species are exported without required permit (1.20)
- CITES permits are illegally issued (1.20)
- Illegal export of suspended CITES species - Rosewood (*Pterocarpus erinaceus*) occur (1.20)

For **Processing**, there is a risk that:

- Companies operate without legal registration of business (1.22)
- Processing is performed without Environmental Impact Assessment (1.23)
- Obligations relating to the safety of the workers are not respected (no personal protective equipment; no health service centers to provide medical examinations before employment; no periodic medical examinations) (1.25)
- Foreign workers work without required permission (1.26)
- Forest companies hire workers illegally (1.26)
- 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 (1.26)

## Timber source types and risks

There are four 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.

<b>Forest Reserve</b>	<p><b>Main source of timber.</b> Forest types 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 similar to those in the lowland rain forest areas of southern Nigeria. All forest reserves are owned by the State Governments<sup>1</sup> and managed the State Forestry Departments (SFDs).</p> <p><i>Permit type: Permit approved by the State Forestry Department</i></p>
<b>Free Areas</b>	<p>Areas outside the gazetted Forest Reserves boundaries. Free Areas are forested areas that are not under strict management by the State Forestry Departments (SFDs), but permission to exploit trees from Free Areas have to be obtained from SDFs. The areas are important for private forestry development, and some of the areas have been targeted as Potential Plantation Areas (PPAs).</p> <p><i>Permit type: Permit approved by the State Forestry Department</i></p>
<b>Plantation in Forest Reserve</b>	<p>Area of Forest Reserves reforested with plantation species</p> <p><i>Permit type: Permit approved by the State Forestry Department</i></p>
<b>Private Plantation</b>	<p>Plantations owned by non-government individuals, groups or corporate organizations usually established on private lands.</p> <p><i>Permit type: Permit approved by the State Forestry Department</i></p>

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<sup>1</sup> FAO, 1992. Administration of forest revenue system. Available at: <http://www.fao.org/3/x6818e/x6818e10.htm>

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

Legal Category	Sub-Category	Forest Reserves and plantations	Free Areas
Legal rights to harvest	1.1 Land tenure and management rights	Specified Risk	Specified Risk
	1.2 Concession licenses	Specified Risk	N/A
	1.3 Management and harvesting planning	Specified Risk	N/A
	1.4 Harvesting/block 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	N/A	N/A
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	Specified Risk	Specified Risk
	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

### General Risk Level and mitigation needs

There is a general high level of risks in Nigeria. Due to a high level of perceived corruption (CPI 25/100 in 2020)<sup>2</sup> we generally advice for a full evaluation of legal compliance at forest as well as processing factories level or all aspects of law within Nigeria.

For mitigating risks in Nigeria, the following types of risk mitigation measures are recommended :

- Supply chain mapping back to forest level
- Onsite verification
- Document Review
- Consultation
- Timber testing

We stress the need for thorough onsite verification to be able to effectively mitigate risks in Nigeria. It is recommended to seek professional advice and support from EU Monitoring Organisations and/or organisations such as Certification.

## B. Overview of the forest sector in Nigeria

Nigeria is well endowed with forest resources but the excessive exploitation of these forest resources is a source of concern and threat to the economic, social and environmental importance.<sup>3</sup> From 2002 to 2020, Nigeria lost 141kha of humid primary forest, making up 14% of its total tree cover loss in the same time period<sup>4</sup>. Total area of humid primary forest in Nigeria decreased by 7.4% in this time period. An average annual deforestation rate of 3.5% occurred during that time – one of the highest rates of loss in the world. Table 1 shows how primary forest lost increased between 2002-2020. According to FAO<sup>5</sup> (2020), 99% of Nigeria’s forest cover is naturally regenerating forests, while plantations being only a small share of forest cover.

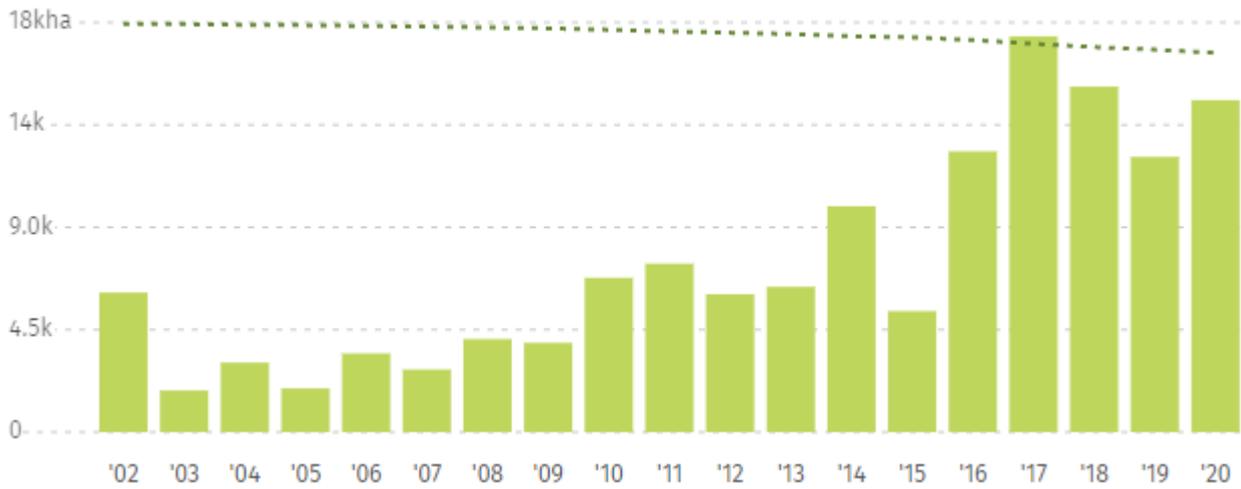
Table 1. Primary forest loss in Nigeria 2002-2020.

<sup>2</sup> Transparency International, CPI Index Nigeria (2020). Available at: <https://www.transparency.org/en/countries/nigeria>

<sup>3</sup> Hi Aigbe, So Oluku. 2015. Journal of Agriculture and Social Research (JASR). Available at: <https://www.ajol.info/index.php/jasr/article/view/112511>

<sup>4</sup> Global Forest Watch – Nigeria. Available at: <https://www.globalforestwatch.org/dashboards/country/NGA/>

<sup>5</sup> FAO (2015). Global Forest Resource Assessment, 2020, Main Report. Available at: <http://www.fao.org/3/ca9825en/ca9825en.pdf>



Source: Global Forest Watch-Nigeria, 2020.

The following states are in the tropical rainforest area and are the most affected by deforestation between 2001-2020. All together these states are responsible for more than 74% of Nigerian forest cover loss (Edo, Ondo and Cross River being the top 3 of the list).<sup>6</sup>

Picture 1. Map of Nigeria



<sup>6</sup> Global Forest Watch – Nigeria, 2020. Available at: <https://www.globalforestwatch.org/dashboards/country/NGA>

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<sup>7</sup>. 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 forest area is **21 627 000 ha<sup>8</sup>**, while Forest reserves are **10,138,841 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, and forest reserves in the Savanna and Sahel regions have less timber resources than those in the lowland rain forest areas of southern Nigeria. 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 SFDs. 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 considered to be very important for private forestry development. Some of the areas have been targeted as Potential Plantation Areas (PPAs).

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 pressure on the forest resources of the nation. The formal sector is well-developed. It comprises mechanical wood industries, including sawmills, veneer and plywood manufactures, and particle board, paper, and paper board manufacturers. 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.<sup>9</sup>

Most of the sawmills have been fully depreciated, 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%.<sup>10</sup>

### **Forest Management in Nigeria**

Until recently, the Federal Ministry of Agriculture and Natural Resources (FMANR) played an 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

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<sup>7</sup> Nigeria Federal Ministry of Environment, 2018. Available at: <https://ead.gov.ng/>

<sup>8</sup> FAO. Global Forest Resource Assessment, 2020, Main Report. Available at: <http://www.fao.org/3/ca9825en/ca9825en.pdf>

<sup>9</sup> FAO Nigeria profile, 2018. Available at: <http://www.fao.org/countryprofiles/index/en/?iso3=NGA>

<sup>10</sup> Aruofor, R. O (2001): Forestry Outlook Paper, Nigeria. FOSA Working Paper, Ministry of Natural Resources and Tourism 31p.

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<sup>11</sup>

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<sup>12</sup>

In 1899 the British colonial administration established the first Federal Department of Forest (FDF) to oversee 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. 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<sup>13</sup>

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

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<sup>11</sup> Nigeria - FOSA Country Report, 2001. FAO. Available at: <http://www.fao.org/3/ab592e/AB592E00.htm>

<sup>12</sup> Gregersen, Finn & Gregersen, Håkon. (2009). Ongoing population decline and range-contraction in Norwegian forest grouse. Available at: [https://www.researchgate.net/publication/258208622\\_Ongoing\\_population\\_decline\\_and\\_range-contraction\\_in\\_Norwegian\\_forest\\_grouse](https://www.researchgate.net/publication/258208622_Ongoing_population_decline_and_range-contraction_in_Norwegian_forest_grouse)

<sup>13</sup> Constitution of the Federal Republic of Nigeria. Section 20, 1999. Available at: [https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Nigeria\\_Constitution\\_1999\\_en.pdf](https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Nigeria_Constitution_1999_en.pdf)

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 focus on establishment of tree plantation for firewood collection, environmental protection and livestock production.

**Local Governments (LGAs):** The National Forest Policy provides that Local Governments 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.

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.

## Gaps and limitations in existing legal framework

Both federal and state laws have become outdated and cannot adequately address the development pressures such as alternative land uses, social change and increasing demand for forest products, including wood fuel. Even though the National Forest Policy is updated, the revised National Forest Act has not been developed yet.<sup>14</sup>

A variety of deficiencies exists in the existing State laws and legislation. 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.

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<sup>14</sup> UN Global Forests Goals – Nigeria report, 2019. Available at: <https://www.un.org/esa/forests/wp-content/uploads/2019/12/Nigeria.pdf>

## C. 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 – industrial business and tax registration are covered under 1.22. 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. Art. 1. Available: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC067625>

- Forest Law, 1956. Nr 240 of 1956. Arts 7-, 8, 18, 24-31. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

##### 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)
- Land Use and Allocation Committee of State Governments
- States Boards of Internal Revenue (SBIRs)

##### 1.1.3. Legally required documents or record

For Forest Reserves:

- Concession license agreement

For Free Areas:

- Certificate of Occupancy

##### 1.1.4. Sources of information

###### *Non-Government sources*

- Shittu, A. (2006). Land Use Decree, Forest Administration and Governance Crises in Nigeria. Available at: [https://www.fig.net/resources/proceedings/fig\\_proceedings/accra/papers/ts01/ts01\\_04\\_akinola.pdf](https://www.fig.net/resources/proceedings/fig_proceedings/accra/papers/ts01/ts01_04_akinola.pdf) (Accessed May 23, 2019)
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- Norwegian Refugee Council (2019). Effects of displacement on land tenure systems in Northeast Nigeria. Available at: [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/nigeria\\_land\\_tenure\\_report\\_final\\_print.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/nigeria_land_tenure_report_final_print.pdf)
- Isaac B. Oluwatayo, Omowunmi Timothy and Ayodeji O. Ojo (2019). Land Acquisition and Use in Nigeria: Implications for Sustainable Food and Livelihood Security. Available at: <https://www.intechopen.com/chapters/63289>

#### 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 each State a Land Use and Allocation Committee shall be established. In effect, the State government leases lands to private individuals while communal lands are held in trust for the people by the head of the community.

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.

**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. The Governor may, in respect of land, whether or not in an urban area, grant statutory rights of occupancy to any person for all purposes and grant easements appurtenant to statutory rights occupancy. The Governor may waive all or any of the covenant or conditions applying to a right of occupancy. Statutory occupancy rights are granted for a definite term, which is set forth in the Certificate of Occupancy. 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 establishing 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.** State 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.).

### *Description of risk*

According to a study in the Northern Nigeria (Norwegian Refugee Council, 2019) that people, especially in rural areas have developed practices and markets by which to gain access to and transfer claims to land, regardless of legal requirements. After the violence in Northern Nigeria (2010-2017), which displaced over two million people, land tenure conflicts have increased.

Procedures to obtain land tenure rights are complicated, Nigeria ranks 179<sup>th</sup> world country in the ease of registering land. This depicts low level of innovation and inefficiency in the land registration process in Nigeria (Isaac et al., 2019).

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.

Illegal land grabbing by foreign investors were documented in Nigeria (Isaac et al., 2019). Most lands grabbed in West Africa were profit driven (by biofuel investors) and were made under the guise of using the lands acquired for agricultural investments.

### *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

All source types: Specified risk:

1. Individuals living on the land do not hold Certificate of Occupancy
2. Land tenure conflicts and land grabbing

#### 1.1.7. Control measures and verifiers

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Land Tenure and management rights.

#### Review and verify documents:

- Valid business registration documents shall exist

#### *For Forest Reserves:*

- Concession license agreement

#### *For Free Areas:*

- Certificate of Occupancy

#### Consult:

- Consult with relevant Land Use and Allocation Committee to 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.

Onsite verification:

- 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.*

### 1.2.1. Applicable laws and regulations

- Forest Law, 1956. Nr 240 of 1956. Arts. 33, 35-49. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

### 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

- Concession license agreement
- Forest Management plan
- Harvesting/ Block permit
- Harvest Permit Payment (Stumpage) Invoice
- Revenues and payment receipts (Allocation fees, Vehicle Registration, etc.)
- Log Evacuation Schedule

### 1.2.4. Sources of information

*Non- Government sources*

- Stakeholder workshop, 20 November 2019, Nigeria.
- Present Status of Forestry Sector of Nigeria. Art. 17. Available at: <http://www.fao.org/3/ab592e/ab592e03.htm>

### 1.2.5. Risk determination

*Overview of Legal Requirements*

**For Forest Reserves:** State Forestry Department approves 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 (Stakeholder workshop, November 2019).

#### *Description of risk*

The corruption rating in Nigeria is not encouraging, with a score of 25 out 100 in 2020 (Corruption Perception Index, 2020). 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. Similarly, concessions are usually short-term and granted mostly based on administrative/political reasons rather than technical and/or professional advice (Stakeholder workshop, November 2019).

#### *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**

For Forest Reserves: Specified risk:

1. The standards stipulated in the concession allocation procedures are infringed

### **1.2.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Concession licenses

Review and verify documents: Proper legal procedures for obtaining concession licenses shall be followed, which could be ascertained through the documents indicating official approval:

*For Forest Reserves:*

- Harvesting/block permit
- Concession license agreement
- Revenues and payment receipts (Allocation fees, Vehicle Registration, etc.)
- Log Evacuation Schedule

Consult:

- Consultation with the State Ministry in Charge of Forestry 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. It should also confirm the legal procedures for obtaining concession licenses have been followed.
- Consult timber contractors about legal requirements to obtain concession licenses to ensure they understand and follow them

Onsite verification:

- Verify and cross-check that information in the abovementioned documents correspond to the facts in the field

## **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**

- National Forestry Policy, 2006. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig144367.pdf>
- Forest Law, 1956. Nr 240 of 1956. Arts 27, 28, 30. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>
- Forest Law (Enugu), 1991. Arts. 27, 28, 30. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig192923.pdf>
- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Arts. 42, 51, 57. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>

#### **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**

##### *Non-Government sources*

- Micro-Environmental Forces of Forest Management. Available at: <http://www.fao.org/3/ab592e/AB592E01.htm>
- Ahmed, Y.M (2017). International Journal of Geography and Geology. Available at: [http://www.conscientiabeam.com/pdf-files/ene/10/IJGG-2017-6\(3\)-48-57.pdf](http://www.conscientiabeam.com/pdf-files/ene/10/IJGG-2017-6(3)-48-57.pdf)

#### **1.3.5. Risk determination**

##### *Overview of Legal Requirements*

**For Forest Reserves:** 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.

According to the National Forest Law, the Minister shall publish a notice in the Gazette setting out a working plan which is to include 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. 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 may, on notification to the effect being published by the Minister in the Gazette, be placed, temporarily, under the protection, control and management of the Minister.

##### **Examples of state legislation:**

In **Enugu State**, the Commissioner tasked with agriculture shall publish a notice in the gazette, which sets out the working plan which is to include the name and nature of the working plan, general

description and places of possible inspection where the plan may be accessible to the public. At the request of a local government council, a forest plantation or forest reserve constituted under and in accordance with the provisions of the Local Government Law may on notification to the effect being published by the Commissioner in the State Gazette, be placed, temporarily, under the protection, control and management of the Commissioner.

In **Cross River State**, a forest sector strategy for the conservation and sustainable management of forest resources is envisioned. This strategy should lay out the objectives of the forestry in the state and provide guidance for forest management in all forest areas (state, community and private forest). This strategy is reviewed by the Forestry Commission, in collaboration with stakeholders, every five years. The protection, control and management of forest reserves and protected forest should be exercised and directed by the Forestry Commission in collaboration with key stakeholders from communities, civil society, private sector and any Community Based Forest Management Association or other relevant Government Agencies.

#### *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 (Stakeholder workshop, November 2019).

Forest reserves have been significantly reduced across the country due to haphazard harvesting plans and lack of functional forest management plans (Ahmed, Y.M, 2017).

In several instances, the forestry officials are not conversant with their forest reserves but depend on the information provided by loggers (Stakeholder workshop, November 2019).

#### *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**

For Natural Forest and plantations in Forest Reserves: Specified risk:

1. Lack of forest management plans

#### **1.3.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Management and harvesting planning.

#### Review and verify documents:

For Forest Reserves:

- Forest Management Plan shall contain all legally required information.
- Annual operating or harvesting plans shall be in place and approved by legally competent authorities.
- Harvesting restrictions shall be identified in management plan and maps if legally required
- Harvesting inventories shall be conducted according to legal requirements.

#### Consult:

- Relevant State Forestry department about existence and implementation of relevant Forest Management Plan for a harvesting site and if the Plan was prepared following legal requirements.

#### Onsite verification:

- Visit harvesting site to indicate that the contents of the harvesting plans are adhered to in the field

## 1.4. Harvesting permits

*Legislation regulating the issuing of harvesting/block 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/block 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/block 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/block 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/block 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

- Forest Law, 1956. Nr 240 of 1956. Arts. 2, 31. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>
- Forest Regulations, 1956. Arts. 3, 9, 10-21, 31. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3331.pdf>
- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Arts, 43-44, 50, 53, 55, 56. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>
- Forest Law (Enugu), 1991. Arts. 31, 33. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig192923.pdf>

### 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
- State Forestry Departments

### 1.4.3. Legally required documents or records

- Forest Management plan
- List of species to harvest and a summary of the logging inventory
- Forest Compartment Allocation Fee Invoice
- Harvest Permit Payment (Stumpage) Invoice
- Harvesting/Block Permit - a Block Permit (A Block Permit is essentially the same as a Harvesting Permit, but different terminologies are used in different states)
- Log Evacuation Schedule
- Reforestation attestation

### 1.4.4. Sources of information

#### *Non- Government sources*

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

- Business day (2020). Still on Nigeria's troubled timber. Available at: <https://businessday.ng/opinion/article/still-on-nigerias-troubled-timber/>
- 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* (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](https://www.researchgate.net/publication/233289255_The_impacts_of_timber_harvesting_on_residual_trees_and_seedlings_in_a_tropical_rain_forest_ecosystem_southwestern_Nigeria)

#### 1.4.5. Risk determination

##### *Overview of Legal Requirements*

Under the Forest Law, timber is included in the definition of forest produce. Licences are issued by the minister in charge of agriculture. Licences are not transferable unless approval of the minister is obtained. The destruction of a protected tree is never authorized.

Each State's Government has a power to implement laws related to harvesting/block permits. Relevant state law should thus be analysed for this indicator.

##### **Forest Reserves:**

For any concessionaire to commence harvesting, a valid harvesting/block permit is required. To apply for the permit, it is required to have A Forest Compartment Allocation Fee Invoice as the evidence of payment for the right to harvest in allocated forest compartments. Without a Harvest Permit Payment Invoice the harvesting permit cannot be issued and Concession would not be granted. The two documents are complementary and essential.

Also, the harvested logs are supposed to be hammer marked by forestry officials as a seal of authority of Government (Stakeholder workshop, November 2019).

In accordance with the Forest Regulations, the Chief Conservator may, by notice in the Gazette, order that free permits shall be given for the exercise of a right in a forest reserve. It is meant to serve for domestic purposes only. The granting of this special permit may not infringe upon already existing rights. The permit may be valid for a period of 6 months with the possibility of extension (FAO,2021).

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 State 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

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.

#### **Examples from states:**

In **Enugu state**, the Commissioner tasked with agriculture may grant licences in forest reserves in the form and on terms as he or she may decide. The Chief Conservator may by notice in the State Gazette order that free permits should be given for the exercise of rights in a forest reserve. These permits may be obtained from an Assistant Conservator. A permit is valid for six (6) months.

In **Cross River State**, the Forestry Commission is responsible for issuing harvesting licences. Accordingly, the Commission may, on the satisfaction of certain conditions, grant permits to interested persons to harvest or trade in timber. Generally, it is forbidden to harvest forest produce in state forest reserves, the Commission may however, allow forest produce to be taken from a reserve or protected forest for required public purposes upon payment of a fee (FAO, 2021).

#### *Description of Risk*

Illegal harvested without any harvesting/block permit was documented in various states (Business Day, 2020).

State Government control on logging in the Free Areas is limited to the issuance of permits or licenses to loggers after payment of all necessary fees (V.A.J. Adekunle, 2010).

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. (Stakeholder workshop, November 2019)

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**

All source types: Specified risk:

1. Logging without harvesting/block permit
2. Harvesting/block permits are issued without following legal requirements.

#### **1.4.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Harvesting/block permits.

Review and verify documents:

- Forest Compartment Allocation Fee Invoice
- Harvesting/block permit
- Out Turn Volume system documentation if this method was used

Consult:

- State Forestry Departments to confirm the validity of harvest permit or Out Turn Volume system used for harvesting. It should also confirm that relevant documents have been issued according to the laws and regulations by the legally designated competent authority.

Onsite verification:

- Visit harvesting site to 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

- Forest Law, 1956. Nr 240 of 1956. Arts 32-33. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>
- Forest Regulations, 1956. Art, 17, 28-29. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3331.pdf>
- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Arts 19, 20. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>
- Forest Law (Enugu), 1991. Arts, 10, 17, 28, 32. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig192923.pdf>

#### 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

- FAO (2001a). Forest Finance: The forest revenue system and government expenditure on forestry in Nigeria. Total collection and distribution of forest taxes. Available at: <http://www.fao.org/3/X6818E/X6818E11.htm#TopOfPage>  
Disposal of fee and royalties. Available at: <https://laws.lawnigeria.com/2018/04/13/forest-law/>

#### 1.5.5. Risk determination

### *Overview of Legal Requirements*

The Forestry Law (1956) prescribes the disposal of fees and royalties into the treasury, which are paid out in royalties to the applicable individual ownership of lands from which the forest produce has been taken. Alternatively, they are paid into a trust on behalf of a village, community or group of persons specified by the minister.

Where fees and royalties are both payable (tariff rate), the fees form 80 percent of the sum payable and royalties form 20 percent, except in the case of mangrove forests where 100 per cent of the tariff rate is payable as royalties. All fees and royalties should be paid prior to the issuing of the permit.

#### **Examples from states:**

In **Enugu State** all fees received, and royalties received in respect of forest produce shall be paid to the individual owner, provided that individual ownership of the lands from which the forest produce has been taken can be proved. In all other cases the royalties should be deposited in the Treasury of a district council in the name of the local council or councils having jurisdiction in the area in trust for and on behalf of a village, community or group of persons. The regulations further provide establishment of the 'tariff'. Consisting of the fees and royalties payable in respect of protected trees.

In **Cross River State**, there is a fund established called the Forestry Reserve Fund in which all excess monies of budgetary allocation or other sources as well as for instance percentages from licences and concessions, and regeneration fees. Another fund, the Forest Trust Fund, is established to fund regeneration in depleted areas and general sustenance of the forest. Income sources are subventions from government grants and other sources.

The stipulated OTV charges vary among the species, the charges also depend on the grade of wood. The first-class woods, such as *Azalia 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. To illustrate this, examples from 2001 has been provided in the following paragraph. Note that the current charges will have to be identified for the applicable species and states.

In 2001 the charge for Teak was 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 was 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 (FAO, 2001 b).

### *Description of risks*

The forest revenue system in Nigeria is weak and inefficient and is not designed to maximise the diverse range of benefits that could be produced from Nigeria's forests. Poaching and illegal harvesting are rampant, causing the Government to lose huge amounts of potential revenue (Imaobong Ufot Nelson et al, 2020).

There is a general lack of forestry personnel to enforce adherence to specification of the tariff tables. There could be the tendency to cheat in tariff tables to pay less fees and royalties. The absence of an acceptable baseline for forest revenue further complicates this situation, with states charging different and arbitrarily low fees in some instances. Furthermore, forestry departments lack the requisite facilities to carry out their work effectively (Stakeholder workshop, November 2019).

### *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

All source types: Specified risk:

1. Non-payment of fees and royalties
2. Cheating in tariff tables to pay less fees and royalties

### 1.5.7. Control measures and verifiers

*General mitigation action:* define which state you are sourcing timber from; check sub-national laws in that state related to Payment of Royalties and Harvesting fees

*Review and verify documents:*

- 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.

*Consult:*

- State Forestry Departments to confirm that the validity of documents provided above.

## 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. Available at: <https://lawsfnigeria.placng.org/laws/V1.pdf>
- Finance Act, 2019. Federal Republic of Nigeria. Available at: <https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/ng-finance-act-2019.pdf>

### 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*

- FAO (2001). Forest Finance: The forest revenue system and government expenditure on forestry in Nigeria. 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>
- BDO (2020). Finance Act 2019 changes. Available at: <https://www.bdo.global/en-gb/microsites/tax-newsletters/corporate-tax-news/issue-54-march-2020/nigeria-finance-act-2019-changes>

*Non-Government sources*

- Vanguard, 2021. FIRS vs Rivers State VAT: ICAN calls for review of VAT law, others. Available at: <https://www.vanguardngr.com/2021/08/firs-vs-rivers-state-vat-ican-calls-for-review-of-vat-law-others/>
- Global VAT compliance, 2021. Nigeria: The tax dispute between the federal and state governments is causing confusion to the tax-payers. Available at: <https://www.globalvatcompliance.com/nigeria-the-rivers-state-government-implementsthe-state-vat-law/>

**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.

According to the Financial Act (2019) VAT tax rate was increased from 5% to 7.5% to all goods and services (starting from 1 February 2020), exempt for those listed separately (such as all exports or agricultural medicine). Companies with turnover of less than NGN 25 million are exempt from charging VAT on their goods and services and filing VAT returns. To serve as a deterrent for non-compliant by taxpayers, penalty and interest for various offences committed, the following rates apply:

Offence	1 <sup>st</sup> month	Every subsequent month
Failure to Register for VAT return	NGN 50,000	NGN 25,000
Failure to notify the FIRS of change of address, or cessation of trade or business	NGN 50,000	NGN 25,000
Failure to submit VAT returns	NGN 50,000	NGN 25,000

Source: BDO (2020)

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 from approximately 80% of the entire VAT collection. (FIRS Information Circular 9304).

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, ₦ 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*

Processed wood is expected to attract VAT but there is tendency to not pay VAT (Stakeholder workshop, November 2019). **On the institutional level, there are current disputes between the Federal Inland Revenue Services and various State governments. Despite the Federal High Court (FHC) having issued an order restraining the FIRS from collecting VAT, FIRS insists it will collect taxes in anticipation of obtaining a stay of execution. The conflicting position of the federal and state governments is causing much confusion to the taxpayers who are expected to file VAT claims (Global VAT compliance, 2021).**

#### *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**

All source types: Specified risk:

1. VAT is not paid

#### **1.6.7. Control measures and verifiers**

*General mitigation action:* define which state are you sourcing timber from; check sub-national laws in that state related to Value added taxes and other sales taxes

#### *Review and verify documents:*

- Check if company is obliged to pay VAT by verifying if a company's turnover is higher than 25 million naira
- Review the VAT summary declarations, and proof of VAT payment and verify that the declared VAT amount (7.5%) corresponds to the production data (sales) made by the company.
- Receipts for payment sales taxes shall exist.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.

#### *Consult:*

- Federal Inland Revenue Service to verify that payment of the VAT has occurred as established by the tax law.

## **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. Arts. 9,11,40. Available at: <http://lawsofnigeria.placng.org/laws/C21.pdf>
- Finance Act, 2019. Federal Republic of Nigeria. Available at: <https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/ng-finance-act-2019.pdf>

### 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

- Tax declaration form
- Annual Tax Clearance Certificate

### 1.7.4. Sources of information

#### *Government sources*

#### *Non-Government sources*

- FAO (N.Y): Structure of the Nigerian Forest Revenue System. Available at: <http://www.fao.org/3/x6818e/X6818E05.htm>
- 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](https://www.academia.edu/29157147/Analysis_of_Timber_Market_Structure_and_Efficiency_in_Benue_State_Nigeria)
- BDO (2020). Finance Act 2019 changes. Available at: <https://www.bdo.global/en-gb/microsites/tax-newsletters/corporate-tax-news/issue-54-march-2020/nigeria-finance-act-2019-changes>
- EY (2020). Nigeria: Highlights of Finance Act 2020. Available at: <https://globaltaxnews.ey.com/news/2021-5139-nigeria-highlights-of-finance-act-2020>

### 1.7.5. Risk determination

#### *Overview of Legal Requirements*

#### **Charges on domestic trade in wood products**

According to Financial Act (2019), Corporate Income Tax rates (CIT) starting from 1 February 2020, are the following:

Category	Annual Turnover (NGN)	Tax Rate
Small Company	25m or less	0%
Medium-sized company	More than 25m but less than 100m	20%
Large Company	100m and above	30%

*Source: BDO (2020)*

#### **Exemptions from companies' income tax**

Agricultural businesses - Companies engaged in *primary agricultural production* will enjoy a five-year tax holiday and, upon satisfactory performance of agricultural production, the holiday will be renewed for an additional maximum period of 3 years.

“Primary agricultural production” defines what constitutes primary agricultural production as being production of crops, livestock, forestry, and fishing, and excludes production at the intermediate/by-products or derivatives levels (EY, 2020).

Financial Act (2020) created incentives on which banks can benefit from granting loans to the agricultural industry (primary agricultural production defined as primary crop production, primary livestock production, primary forestry production and primary fishing production). Furthermore, the Financial Act reduces the moratorium period from 18 months to 12 months to encourage banks to provide these loans.

#### 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 (Stakeholder workshop, November 2019).

#### *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**

All source types: Specified risk:

1. Nonpayment of income and profit taxes (1.7)

#### **1.7.7. Control measures and verifiers**

##### Review and verify documents:

- Tax declaration form and Annual Tax Clearance Certificate to verify that correct taxes were indicated

##### Consult:

- Federal Inland Revenue Service to verify that the company has correctly paid income and profit taxes

## 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, 1956. Nr 240 of 1956. Arts 31, 33-34. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3330.pdf>

#### **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
- Working site records

### 1.8.4. Sources of Information

#### *Government sources*

- Process of setting Forest charges. Art. 53 of the Forestry Regulations for Bendel State (1976). Available at: <http://www.fao.org/3/X6818E/X6818E10.htm#TopOfPage>

#### *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>
- 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.tandfonline.com/doi/pdf/10.1080/21513732.2010.534976>
- Adejumo Kabir (2020). Premium Times Nigeria. Available at: <https://www.premiumtimesng.com/news/headlines/428027-special-report-inside-illicit-timber-trade-in-osun-causing-deforestation.html>
- Orji Sunday (2020). Mongabay Series: Forest Trackers, Great Apes. Takeover of Nigerian reserve highlights uphill battle to save forests. Available at: <https://news.mongabay.com/2020/05/takeover-of-nigerian-reserve-highlights-uphill-battle-to-save-forests/>

### 1.8.5. Risk determination

#### *Overview of Legal Requirements*

The terms and conditions for logging are stipulated in the forest laws of each state 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 mandated to undertake monitoring of forestry operations (Forest Law, 1956).

#### *Description of Risk*

Timber harvesting with insufficient planning, improper operational techniques, and lack of control of operations results in severe damage to forest soil, forest trees and seedlings. The only available felling tool in Nigeria is the motorised or power chainsaw, but dragging of felled trees, packing and loading into lorries are generally done manually with chains and winches. These processes are primitive and tedious and have the potential to disrupt the ecosystem. In addition, there is usually vegetation destruction during road construction for transportation of logs and construction of gantries. As a result, many standing young trees, saplings and wildlings of economic value are destroyed. It was found that about 17.74% of residual trees suffer logging damage and about 8% of virgin ground is left bare and damaged after felling operations. These forest operations neglect the principle of sustainable forest management (V.A.J. Adekunle, 2010; Adejumo Kabir, 2020; Orji Sunday, 2020).

#### *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

All source types: Specified risk:

1. Harvesting regulation being violated (e.g., soil, young standing trees and seedlings are damaged during harvesting; vegetation is destroyed during road construction for transportation of logs)

### 1.8.7. Control measures and verifiers

*General mitigation action:* define which state are you sourcing timber from; check sub-national laws in that state related to Timber harvesting regulations and ensure all legal requirements are in place.

*Review and verify documents:*

- Harvesting/block permit and Forest Management Plan to verify if it contains sustainable forest management practices
- Working site records to verify if it contains any violations made by specific harvesting company

*Consult:*

- **State forest department about** how effective forest operations monitoring has been in the relevant harvesting area how a relevant harvesting company complies with harvesting regulations

*Onsite verification:*

- **Visit the harvesting area and observe that the soil was not damaged during harvesting, that young trees and seedlings are not damaged, that vegetation is not destroyed during road construction for transport of logs.**

## 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

- Forest Regulations, 1956. Art.6. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3331.pdf>
- National Environmental (Control of Alien and Invasive Species) Regulations, 2013 (S I No. 32 of 2013). Art. 2-4, 17. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig195010.pdf>
- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Art. 45. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>
- The Nigeria Endangered Species (Control of International Trade and Traffic) Act Decree No. 11 Of 1985. Available at: <https://www.animallaw.info/statute/nigeria-endangered-species-endangered-species-act-english>
- Forest Law (Enugu), 1991. Art. 6. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig192923.pdf>
- National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011 (S.I. No. 16 of 2011). Available at: <http://extwprlegs1.fao.org/docs/pdf/nig195239.pdf>
- National Park Service Act, 1999. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig34266.pdf>
- The Wild Animals Preservation Act of 1916. <http://extwprlegs1.fao.org/docs/pdf/gam95067.pdf>

### 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
- Harvesting Permit to take Protected species

### 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)
- Vanguard. Illegal loggers kill 9 Gashaka Gumti National Park workers in Taraba (2019). Available at: <https://www.vanguardngr.com/2019/07/illegal-loggers-kill-9-gashaka-gumti-national-park-workers-in-taraba/>
- CITES (2018) NOTIFICATION TO THE PARTIES, Recommendation to suspend commercial trade in West African rosewood (*Pterocarpus erinaceus*) and other recommendations. Available at: <https://cites.org/sites/default/files/notif/E-Notif-2018-084.pdf>
- UNODC (2021), World Wildlife Day 2021: The Exploitation of Rosewood in Nigeria - Acting to Save Nigeria's Forests. Available at: [https://www.unodc.org/nigeria/en/world-wildlife-day-2021\\_-the-exploitation-of-rosewood-in-nigeria---acting-to-save-nigerias-forests.html](https://www.unodc.org/nigeria/en/world-wildlife-day-2021_-the-exploitation-of-rosewood-in-nigeria---acting-to-save-nigerias-forests.html)

### 1.9.5. Risk determination

#### *Overview of Legal Requirements*

No logging is permitted in the National parks and Strict Nature Reserves in Nigeria (National Park Service Act, 1999). National Parks are controlled and managed by the Federal Government.

According to the Forest Regulations (1956) it is forbidden to take any timber or protected tree or any protected minor forest produce; or to uproots, destroys, or injures any protected tree or protected minor forest produce from the Forest Reserve.

According to the Endangered Species (Control of International Trade and Traffic) (Amendment) Act (2016) it is forbidden to trade plant species listed in the Schedule 1 without a special harvesting/block permit.

The National Environmental Regulations on Control of Alien and Invasive Species (2013) provides a list of alien species requiring a permit. Accordingly, no person may undertake a restricted activity (trade in species) under List of Alien and Invasive species requiring permit (Schedule V) without a permit. It is prohibited to undertake any restricted activity involving a specimen of the prohibited Species listed in the List of Prohibited Invasive Species (Schedule VI) of these Regulations. Import and trade in these species is likewise forbidden.

#### **Examples of state legislation:**

In the **Cross River State**, The Commission may declare a plant or animal species, as well as its habitat, as protected, this declaration prohibits the harvesting of such plant or animal species.

In **Enugu State**, it is forbidden to take any timber or protected tree or any protected minor forest produce; or to uproots, destroys or injures any protected tree or protected minor forest produce.

### *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.

Evidence shows that illegal logging has been increasing in Nigerian national parks such as Gashaka Gumti National Park, which destroys local habitat for many protected wildlife animals (Vanguard, 2019). 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.

Regarding protected species, CITES issued a Recommendation to suspend commercial trade in West African rosewood (*Pterocarpus erinaceus*) – *Kosso* in 2018. Nigeria's rosewood grows predominantly in arid areas with sparse forest cover. It fixes nitrogen levels in the soil, is resistant to fire, and provides protection and sustenance to a wide range of wild. In short, *Kosso's* value to the ecosystem far outweighs its export value. In 2018, the International Union for the Conservation of Nature (IUCN) classified *Kosso* as "endangered" with a "decreasing population trend" (UNODC, 2021).

CITES trade suspension means this species has been traded illegally and possibly without a required permit or from protected areas such as National parks and Strict Nature Reserves. Based on concerns raised on illegal logging of the protected species of rosewood (The list of protected species equals the list of CITES species), the risk is considered specified related to illegal harvesting of protected species in Nigeria. The concern of CITES relate to West African rosewood (*Pterocarpus erinaceus*) specifically, however, we raise a risk for protected species in general based on a precautionary approach. See also sub-category 1.20 on CITES.

### *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**

All source types: Specified risk:

1. Logging in the National Parks and Protected Areas
2. Illegal logging of protected species without a permit

#### **1.9.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Protected sites and species

#### Review and verify documents:

- Check Harvesting Permit to take Protected species
- CITES Permit if importing from Nigeria – all protected species should be listed. Check that rosewood (*Pterocarpus erinaceus*) is not listed in the CITES permit (CITES recommends suspending commercial trade for this species)
- All legally protected areas (including species habitats) shall be included in the management plan and/or in related documentation as required by the legislation

#### Consult:

- Interview forest agents, military control points, hunters, transporters, and sellers regarding their perception of illegal activities by a specific company relating to prohibited species or in protected areas.

Onsite verification:

- Visits to the forest area to verify that protected species were not harvested

Conduct targeted timber testing: (on samples of purchased material to verify the species or origin of timber). See Preferred by Natures [Thematic article No 1 on Timber Testing Techniques](#)

## 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

- Environmental Impact Act, 1992. Art. 2-4, Section 5. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig18378.pdf>
- National Environmental (Protection of Watershed, Mountainous, Hilly and Catchment Areas) Regulations, 2009 (S.I. No. 27 of 2011). Art. 8. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig195075.pdf>
- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Art. 46. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>
- National Environmental (Control of Bush, Forest Fire and Open Burning) Regulations, 2011 Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC195011>
- National Environmental (Desertification Control and Drought Mitigation) Regulations, 2011 (S.I. No. 13 of 2011). Available at: <http://extwprlegs1.fao.org/docs/pdf/nig195013.pdf>
- National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 (No. 25 of 2007). Available at: <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC120569>

### 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)
- Corporate Affairs Commission (CAC)
- Federal Inland Revenue Service (FIRS)

### 1.10.3. Legally required documents or records

- NESREA Regulatory documents
- Environmental Impact Assessment (EIA)
- Environmental Impact Assessment (EIA) Approval

Documents needed for accredited NESREA consultants :

- Certificate of Incorporation with Corporate Affairs Commission;
- Memorandum and Article of Association
- Particulars of Directors of the Company;
- Tax Clearance Certificates of the Company;
- Evidence of competence in environmental consultancy;

- Evidence of previous environmental jobs successfully completed;
- Evidence of registration with other relevant regulatory bodies.

#### 1.10.4. Sources of information

##### *Government sources*

- NESREA, 2021. Accreditation And Registration Of Environmental Consultants. Available at: <https://www.nesrea.gov.ng/2021-accreditation-and-registration-of-environmental-consultants/>

##### *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](http://www.academicjournals.org/app/webroot/article/article1429010605_Obasi%20et%20al.pdf)
- 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>
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- Peter, D. D (2020). Harvesting, Trade and Impact of Logging Pterocarpus Erinaceous in Bali LGA of Taraba State, Nigeria Available at: [http://jaesnet.com/journals/jaes/Vol\\_9\\_No\\_2\\_December\\_2020/10.pdf](http://jaesnet.com/journals/jaes/Vol_9_No_2_December_2020/10.pdf)
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- John Ishaku Mantu, 2019. NESREA and the Challenge of Enforcing the Provisions of Environmental Impact Assessment Act in Nigeria. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3410104](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3410104)

#### 1.10.5. Risk determination

##### *Overview of Legal Requirements*

Under the Environmental Impact Assessment Act of 1992, application in writing to the Environmental Agency is necessary prior to undertaking of a project. In accordance with the National Environmental Regulations (Protection of Watershed, Mountainous, Hilly and Catchment Areas), where a watershed, mountainous, hilly or catchment area is at risk of environmental degradation, the Environmental Agency in collaboration with State, Local Government Council and other stakeholders may issue an order to the persons holding interest in the land to plant trees and other vegetation as well as take appropriate measures to protect the area.

The Environmental Impact Assessment Act of 1992 provides that an Environmental Impact Assessment shall include at least the following minimum matters, that is:

- a) a description of the proposed activities;
- b) a description of the potential affected environment including specific information necessary to identify and assess the environmental effects of the proposed activities;
- c) a description of the practical activities, as appropriate;
- d) an assessment of the likely or potential environmental impacts on the proposed activity and the alternatives, including the direct or indirect cumulative, short-term and long-term effects;
- e) an identification and description of measures available to mitigate adverse environmental impacts of proposed activity and assessment of those measures;

- f) an indication of gaps in knowledge and uncertainty which may be encountered in computing the required information;
- g) an indication of whether the environment of any other State, Local Government Area or areas outside Nigeria is likely to be affected by the proposed activity or its alternatives;
- h) a brief and non-technical summary of the information provided under paragraph (a) to (g) of this section.

National Environmental Standards and Regulations Enforcement Agency (NESREA) was established in 2007 (Act No. 25 of 2007), which replaces Federal Environmental Protection Agency (FEPA). The agency functions as a parastatal of the Federal Ministry of Environment.

The Act provides for the objectives of the NESREA to have responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant standards, regulations, rules, laws, policies, and guidelines. NESREA under the Federal Ministry of Environment carries out Environmental Impact Assessments (EIAs) and only the Minister is empowered to issue an Environmental Impact Statement (EIS). Though Nigeria runs a federal system of government, the sub-national regions (known as States) are not empowered to issue EIAs.

NESREA issues tenders for consultancy companies to conduct EIA. They shall be accredited and meet the requirements listed below.

These entities shall be duly registered with the Corporate Affairs Commission (CAC) and Federal Inland Revenue Service (FIRS), have relevant expertise and proven competence in a broad spectrum of environmental issues. If all of the above conditions are met, Environmental Consultancy companies/organizations shall register at register with NESREA as accredited NESREA consultants (NESREA, 2021).

Interested applicants for accredited NESREA consultants are to proceed to the [Application Portal](#) to complete the application form. Each application shall be accompanied by a non-refundable application fee of Twenty-Five Thousand Naira only (N25, 000.00). Documents to be uploaded and submitted along with the form are as follows:

- Certificate of Incorporation with Corporate Affairs Commission;
- Memorandum and Article of Association
- Particulars of Directors of the Company;
- Tax Clearance Certificates of the Company;
- Evidence of competence in environmental consultancy;
- Evidence of previous environmental jobs successfully completed;
- Evidence of registration with other relevant regulatory bodies.

It is forbidden to burn any bush/forest or engage in any activity that may cause bush/forest fire (National Environmental (Control of Bush, Forest Fire and Open Burning) Regulations) without a permit issued by NESREA.

To prevent desertification, the following actions are encouraged:

- More sustainable use of fuelwood using more efficient and energy saving devices
- Reforestation, reseeding and conservation of areas under desertification
- Attaining the 25% national forest cover

NESREA in collaboration with relevant Ministries, Departments and Agencies, State and Local Governments, shall compile an inventory of all already degraded lands and desertification prone areas to determine their status and possible amelioration measures.

Any person desiring to carry out any of the regulated activities listed in National Environmental (Control of Bush, Forest Fire and Open Burning) Regulations, Schedule IV (land clearing, earth disturbing activities, extraction of specific resources for export or commercial uses, bush burning, grazing,

cultivation of marginal land, agriculture without permit) or extract any resource from a degraded area shall obtain permit from the relevant Ministry Department, States or Local Governments.

It is also forbidden to fell trees in a farm or range land except done for agricultural production in which case logging will be permitted.

For plantations: In view of the limiting water resources inherent in the semi-arid and arid lands, adequate irrigational systems shall be provided for all plantations established to control desertification.

Lands and water, including the inherent forest or vegetational resources shall be utilised in a sustainable manner (National Environmental (Desertification Control and Drought Mitigation) Regulations, 2011).

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

#### **Examples of state legislation:**

In **Cross River state** no permits, licences or concessions may be granted where the purpose impacts water quality, water supply, watershed, and fisheries.

#### *Description of Risk*

Legal enforcement of EIA in Nigeria is challenging. One of the reasons often cited is the overarching corruption of public officials charged with enforcing the laws. In addition, the process of EIA is somewhat tedious and expensive thus leading to circumvention by loggers. Enforcement of EIA by NESREA could be weak due to the lack of competent personnel and material support (Adekunle, 2010; John Ishaku Mantu, 2019).

Public participation is instrumental to ensuring compliance with Environmental Assessment. NESREA has a mandate to make available its report on environmental assessment to the public for further scrutiny and comments of experts and interested public individuals and groups. NESREA ought to be involved in massive education and awareness of the public on their roles regarding EIA. Many of the EIA reports are not made available to the public for comments (John Ishaku Mantu, 2019).

High scale illegal logging has been identified as the main driver of degradation and loss of forests in various states. Residual waste left by loggers served as ready fuel for the wildfires during the dry season (Peter, D.D, 2020).

#### *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**

All source types: Specified risk:

1. Harvesting is performed without Environmental Impact Assessment
2. Waste left by logging operators

#### **1.10.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Environmental Requirements.

1. Harvesting is performed without Environmental Impact Assessment

#### Review and verify documents:

- Verify that Environmental Impact Assessments is in place. Check that it has an approval from National Environmental Standards and Regulations Enforcement Agency (NESREA)
- Check who assessed EIA and verify he/she is registered with NESREA, Corporate Affairs Commission and Federal Inland Revenue Service (FIRS). Check that consultant provided the following documents for accreditation with NESREA:
  - Certificate of Incorporation with Corporate Affairs Commission;
  - Memorandum and Article of Association
  - Particulars of Directors of the Company;
  - Tax Clearance Certificates of the Company;
  - Evidence of competence in environmental consultancy;
  - Evidence of previous environmental jobs successfully completed;
  - Evidence of registration with other relevant regulatory bodies.

Consult:

- Consult with NESREA to verify that Environmental Impact Assessment was conducted following legal requirements
- Consult relevant stakeholders (state administration for example) to confirm that NESREA followed legal requirements in conducting EIA

Onsite verification:

- Verify at the logging site that Environmental Impact Assessments provisions have been followed

**2. Waste left by logging operators**

Onsite verification:

- Verify onsite if waste was left by loggers at the logging site

## 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

- Nigeria Labour Act, 1999. Available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/--protrav/---ilo\\_aids/documents/legaldocument/wcms\\_127565.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/--protrav/---ilo_aids/documents/legaldocument/wcms_127565.pdf)
- National Forest Policy, 2006. Art. 1-28, 33. Available at: <https://preferredbynature.org/sites/default/files/SourcingHubDownload/Nigeria/nigeria-approved-national-forest-policy-june.pdf>
- National Policy on Occupational Safety and Health. Available at: [https://www.labour.gov.ng/Doc/NATIONAL\\_POLICY\\_ON\\_OCCUPATIONAL\\_SAFETY\\_AND\\_HEALTH.pdf](https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf)
- Factories Act, CAP. F1, LFN, 2004. Available at: <http://lawsfnigeria.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>
- Okon, Kufre. (2019). Occupational Hazards and Work Safety Among Chainsaw Operators in Nigeria. Available at: [https://www.researchgate.net/publication/342693570\\_Occupational\\_Hazards\\_and\\_Work\\_Safety\\_Among\\_Chainsaw\\_Operators\\_in\\_Nigeria](https://www.researchgate.net/publication/342693570_Occupational_Hazards_and_Work_Safety_Among_Chainsaw_Operators_in_Nigeria)
- 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](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](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*

Nigeria's Labour Act (1999) 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).

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.

#### *Description of Risk*

Within forest harvesting, felling and crosscutting 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. Available statistics indicate that accident rate in forestry operation is

significantly higher per employee compared to other high risk economic sectors in different countries (Okon, Kufre, 2019).

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 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 Art. 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**

All source types: Specified risk:

1. Obligations relating to the safety of the workers are not respected (no personal protective Equipment; no health service centres to provide medical examinations before employment; no periodic medical examinations)

#### **1.11.7. Control measures and verifiers**

##### Review and verify documents:

- Health safety reports of the company
- Proof that new employees receive hygiene and security training

##### Consult:

- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organization.

##### Onsite verification:

- Evidence of health service availability for the employees
- Verify onsite that all safety and health regulations are followed, and all required safety equipment is be used.

## **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**

- Constitution of Nigeria, 1999. Art.17. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig164561.pdf>.
- Labour Act, 1971. Arts.1; 16-18; 59-60. Available at: [www.nigeria-law.org/LabourAct.htm](http://www.nigeria-law.org/LabourAct.htm)
- PenCom – Pension reform Act, 2014. Available at: [https://www.pencom.gov.ng/wp-content/uploads/2017/04/1448643400\\_PRA\\_2014.pdf](https://www.pencom.gov.ng/wp-content/uploads/2017/04/1448643400_PRA_2014.pdf)
- National Industrial Court Act, 2006. Available at: <https://nicn.gov.ng/officialGazette/act.pdf>

- Forest Policy 2006. Art. 1.10; Employment National Policy on Occupational Health and Safety- [https://www.labour.gov.ng/Doc/NATIONAL\\_POLICY\\_ON\\_OCCUPATIONAL\\_SAFETY\\_AND\\_HEALTH.pdf](https://www.labour.gov.ng/Doc/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf)
- Pension Reform Act, 2004. Available at: <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
- National Industrial Court of Nigeria

#### 1.12.3. Legally required documents or records

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

#### 1.12.4. Sources of information

##### *Non-Government sources*

- F. Kuti and C. Obiokoye, 2021. The Employment Law Review: Nigeria. Available at: <https://thelawreviews.co.uk/title/the-employment-law-review/nigeria#footnote-053>
- FirstNews, 2021. Illegal Chinese immigrants depleting Nigeria's forest, exporting donkey meat, NEAN alleges. Available at: <https://firstnewsonline.ng/illegal-chinese-immigrants-depleting-nigerias-forest-exporting-donkey-meat-nean-alleges>
- A. D. Ikuomola, R.A. Okunola and A. F. Akindutire, 2016. Criminality: Illegal Logging of Woods in Nigeria's South-West Forest Belt. Available at: [https://www.umes.edu/uploadedFiles/\\_WEBSITES/AJCJS/Content/VOL9.%20IKUOMOLA%20%20FIONAL.pdf](https://www.umes.edu/uploadedFiles/_WEBSITES/AJCJS/Content/VOL9.%20IKUOMOLA%20%20FIONAL.pdf)

#### 1.12.5. Risk determination

##### *Overview of Legal Requirements*

The Constitution of Nigeria includes stipulations on directing its policy to ensure that all citizens have the opportunity to secure adequate means of livelihood, humane and just work conditions, safeguard of personal health, safety and welfare, adequate medical protection, equal pay, and protection of children and young persons against exploitation.

Under the Labour Act, wages are protected in that the wages of a worker must in all contracts be made payable in legal tender and not otherwise at the agreed upon time. Provided that, where the period is more than one month, the wages shall become due and payable at intervals not exceeding one month. Subject to the Workmen's Compensation Act, a worker is entitled to be paid wages up to twelve working days per year during absence from work caused by temporary illness certified by a registered medical practitioner. Every worker shall be entitled after twelve months continuous service to a holiday with full pay of at least six working days or in the case of persons under the age of sixteen years at least twelve working days.

Nigeria's Labour Act (1999) states that an employer is required to provide an employee with a written employment contract within three months of the employee commencing work. The contract must contain:

- the name of the employer, or group of employers.

- the worker's name, address, position, and date of engagement.
- the nature of the employment.
- the date of expiry if a fixed term contract.
- the notice period for termination.
- wages, frequency of payment and method of calculation.
- hours of work, holiday pay and conditions for incapacity owing to sickness and injury; and
- any special conditions of the contract.

The contract must be signed to make it legally binding, as the employee's signature conveys acceptance of terms. The NICN may ignore express contractual terms if they are inconsistent with the reality of the relationship between the parties. The Labour Act allows parties to change or amend terms after execution, requiring the employer to inform the worker of the nature of the change by a written statement not more than one month after it is made. If a copy of the statement is not left in the worker's possession, he or she must be given reasonable access to it during his or her employment.

Pursuant to the Labour Act, normal working hours under any employment contract shall be fixed by agreement, by any collective bargaining process within the organisation or industry, or by an industrial wages board (where there is no mechanism for collective bargaining). The Act is silent on the duration of the working day, which in practice is regulated by company policy (Kuti and Obiokoye, 2021).

An employer may provide food, a dwelling place or any other allowance or privilege as a part of a worker's remuneration. No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in any one day.

There is a National Policy on Work Insurance under the PenCom (National Pension Commission under the National Pension Commission Act) 2004 which guarantees payment to workers when out of employment. According to this Act, each employer and employee is required to pay minimum 7.5% contribution to the Pension Scheme. The employer must also maintain a group life insurance policy for each employee for a minimum of three times the total annual salary of the employee and the premium must be paid not later than the date of commencement of the cover.

Child labour is prohibited. No child is lawfully to be employed or work in any capacity except where employed by a family member on light work of an agricultural, horticultural or domestic character approved by the Federal Minister for Employment Labour and Productivity. No young person is allowed to be employed during the night (FAO, 2021).

In terms of labor disputes, Art. 1 of the National Industrial Court Act (2006) establishes a specialist court, the NICN, with exclusive responsibility for handling employment-related disputes.

### **Foreign workers**

The Immigration Act (2015) prohibits companies from employing a foreign national without the permission of the Director General of Immigration, unless the Minister of the Interior grants a waiver or exemption by notice.<sup>33</sup> Persons entering Nigeria for business purposes must obtain the Minister's consent (Kuti and Obiokoye, 2021).

### *Description of Risk*

Nigerian people are prone to work for companies harvesting illegally, due to unemployment, poverty and the need for survival. Youths have come to realize that they can make quick money from the forest (Ikuomola et al, 2016).

Foreign forest companies, mostly Chinese, send their workers to Nigeria's forest without officially registering them and obtaining required permission (First News, 2021).

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 (Stakeholder workshop, November 2019).

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 (Stakeholder workshop, November 2019).

### *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**

All source types: Specified risk:

1. Foreign forest workers work without required permission
2. Forest companies hire workers illegally
3. The workforce engaged in forestry operations does not conform with the minimum number of staff required to participate in PenCom Scheme

#### **1.12.7. Control measures and verifiers**

##### Review and verify documents:

- Employment contracts – verify that they include required information
- Foreign workers work permit
- Salary slips - shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities

##### Consult:

- With workers:
  - 1) to verify that they are legally employed. Ask if they are covered by the obligatory insurances from the company.
  - 2) to verify that at least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
  - 3) to verify the minimum age of employees
  - 4) to verify that forced or compulsory labor is not involved in harvesting activities.

##### Onsite verification:

- Visit the site and observe employees – if no children are employed.

## **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**

- Cross River State Forestry Commission Law 2010 (No. 3 of 2010). Art. 46. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC151694>

#### **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

- Certificate of Occupancy
- 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 of Occupancy. 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 establishing 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.** State 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.

#### **Examples of state legislation:**

In **Cross River State**, a community forest reserve may be constituted by the Forestry Commission for overriding public interest. Furthermore, every community or village has the right to establish Community Based Forest Management Associations, which are tasked with the management of the forest area together with the Commission and other forest stakeholders.

#### *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 – communities can not document their rights to the land and at the same time for the benefits from timber harvested in communal lands.

#### *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**

All source types: Specified risk:

1. Individuals living on the land do not hold Certificate of Occupancy

#### **1.13.7. Control measures and verifiers**

##### *Review documents and verify:*

- Review the Certificate of Occupancy of communities
- Ask for evidence from logging operators proving that benefits were transferred to local communities

##### *Consult:*

- Local communities where harvesting was taken place to ensure that they received benefits from harvesting operations

### **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 Free, Prior and informed consent 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.*

Not applicable.

Indigenous peoples' rights to use the forest resources and participate in forest management are therefore identical to the general rights of the local communities and are subject to the same procedures (see section 1.13).

*Non-Government sources*

- Sylvanus B., (2019). The Role of International Law in Protecting Land Rights of Indigenous Peoples in Nigeria and Kenya: A Comparative Perspective. InterchOpen. Available at: <https://www.intechopen.com/chapters/67491>

**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**

- National Forestry Policy, 2006. Available at: <https://pdf4pro.com/download/nigeria-approved-national-forest-policy-june-1fb18e.html>
- Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016. Available at: <https://cites.org/eng/disc/text.php>
- 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.
- 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> .

### *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.

CITES species are covered under indicator 1.20 CITES.

##### *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. Based on low CPI, and lack of enforcement there is found to be a risk of wrongful classification (Stakeholder workshop, November 2019).

##### *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**

All source types: Specified risk:

1. False declarations are made regarding species and their volume on transport permits

#### **1.16.7. Control measures and verifiers**

##### *Review documents and verify:*

- Import/export Customs Declaration - Is the information of product description, species, quantity/volume, quality, price the same as on the commercial invoice and packing list?
- Is there anything suspicious on the departure country, loading port, destination port?
- Evidence shall be provided upon request (photographs of labelling)

##### *Onsite verification:*

- Physical control where it should be verified that the present material equals what has been invoices and marked

## 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

- Letter of Support for export of processed and semi-processed wood products, Nr. 94 of 15<sup>th</sup> August 2016. Federal Ministry of Environment. Available at: <https://preferredbynature.org/sites/default/files/SourcingHubDownload/Nigeria/Processed%20wood%20law%2C%202015.PNG>
- Forest Law of Eastern Nigeria, 1998. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC203191>
- Forest Regulations, 1956. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig3331.pdf>

### 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 for Timber Transportation Registration Invoice
- 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/>
- EIA, 2017. The Rosewood racket. Available at: <http://rosewoodracket.eia-global.org/#part1clicked>
- Vanguard, 2018. Edo govt orders arrest of two illegal wood loggers, goes after syndicate. Available at: <https://www.vanguardngr.com/2018/09/edo-govt-orders-arrest-of-two-illegal-wood-loggers-goes-after-syndicate/>
- Life360. CHINA IN NIGERIA: timber exploration, a ticking time bomb? Available at: <https://jomec.co.uk/life360-2019/uncategorised/china-in-nigeria-timber-exploration-a-ticking-time-bomb>

### 1.17.5. Risk determination

### *Overview of Legal Requirements*

Under the Forest Regulations, an Assistant Conservator may require an applicant for a permit to mark every tree that they wish to have included in their permit. An Assistant Conservator may register any Marking hammer or marking instrument presented to him for registration and may issue a certificate of registration therefore upon the payment to him of a fee. The Assistant Conservator may refuse to register any marking hammer or marking instrument which gives an impression which they deem unsuitable.

In accordance with the Forest Law, a forest officer, administrative officer or police officer may stop any vehicle, vessel or raft which is transporting or moving forest produce on any road or inland waterway for the purpose of inspection. Where there is suspicion of an offense, 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 their directions, seize any suspected forest produce. After obtaining an order of a magistrate, the officer may sell the produce, allocate to government use or destroy the forest produce.

#### **Examples from state legislation:**

In **Enugu state**, Forest Division pass hammer marks are mandatory and removing any timber prior to its marking constitutes an offense.

In **Cross River State**, with regard to evacuation of timber from an extraction site, no vehicle is allowed evacuate sawn timber from any extraction site in Cross River state, unless cleared by the forest officer having jurisdiction over the area where the timber is exploited within 7.30am and 6pm.

#### *Description of Risk*

Illegal transport of wood in breach of applicable legislation is evidenced in various states of Nigeria. According to Life360 (2019) local communities are being hired by Chinese companies in Central Nigeria to transport illegally logged timber from forest to the ports for shipment. No hammer marks and transport documents are mentioned to be used in the transportation process.

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**

All source types: Specified risk:

1. Hammer marks are misused
2. Some unregistered vehicles may be engaged in movement of logs which have been illegally harvested

#### **1.17.7. Control measures and verifiers**

General mitigation action: define which state are you sourcing timber from; check sub-national laws in that state related to Trade and transport.

#### Review documents and verify:

- All required transport documents shall exist
- 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.*

#### **1.18.1. Applicable laws and regulations**

- Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS). Available at: <https://www.oecd.org/tax/beps/>
- OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, 2017. Available at: <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>
- UN's Practical Manual on Transfer Pricing for Developing Countries ,2017. Available at: <https://www.un.org/development/desa/financing/sites/www.un.org.development.desa.financing/files/2020-03/Manual-TP-2017.pdf>

#### **1.18.2. Legal authority**

- Federal Inland Revenue Service (FIRS)
- Nigeria's Tax Appeal Tribunal (TAT)

#### **1.18.3. Legally required documents or records**

- Transfer pricing declaration
- Transfer pricing disclosure
- A master file
- A local file
- Country-by-country report (CbCR)

#### **1.18.4. Sources of information**

##### *Government sources*

##### *Non-Government sources*

- Udo Udoma & Belo-Osagie, 2020. The Transfer Pricing Law Review: Nigeria. Law Reviews. Available at: <https://thelawreviews.co.uk/title/the-transfer-pricing-law-review/nigeria>
- EY, 2019. Nigeria releases new transfer pricing regulations. Available at: [https://www.ey.com/en\\_tw/tax/tax-alert/nigeria-releases-new-transfer-pricing-regulations](https://www.ey.com/en_tw/tax/tax-alert/nigeria-releases-new-transfer-pricing-regulations)
- KPMG, 2020. Nigeria: Transfer pricing e-filing portal. Available at: <https://home.kpmg/us/en/home/insights/2020/03/tnf-nigeria-transfer-pricing-e-filing-portal.html>
- PVW, 2021. Nigeria. Corporate - Significant developments. Available at: <https://taxsummaries.pwc.com/nigeria/corporate/significant-developments>

#### **1.18.5. Risk determination**

##### *Overview of Legal Requirements*

In 2016, Nigeria joined the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and committed to the implementation

of the four minimum standards, which included the re-examination of transfer pricing documentation (Action 13).

In 2018, Income Tax (Transfer Pricing) Regulations was adopted. It is to be applied in a manner that is consistent with the OECD Transfer Pricing Guidelines (OECD TPG) for Multinational Enterprises and Tax Administrations 2017 and the UN's Practical Manual on Transfer Pricing (UN TP Manual) for Developing Countries 2017, as may be supplemented and updated from time to time.

The scope of the 2018 Regulations includes all transactions that influence the taxable profit of connected entities, including distributions of dividend and capital contributions between connected persons (persons considered to be related, associated or connected under the Capital Gains Tax Act; the UN and OECD Model Tax Conventions; the OECD TPG, UN TP Manual and the Avoidance of Double Taxation Agreements between Nigeria and other countries).

### **Filing requirements**

The filing requirements for a Nigerian company include making a transfer pricing declaration and filing a transfer pricing disclosure. The taxpayer has the ultimate responsibility to prepare its transfer pricing documentation and any liability arising from non-compliance, inadequacies, defects or misstatements is for the account of the taxpayer.

### **Declaration**

A Nigerian entity is required to declare its relationship with all connected persons resident in Nigeria or elsewhere by filing a declaration in the prescribed form within 18 months of its incorporation or within six months of the end of its accounting year, whichever is earlier. A Nigerian entity that fails to make or submit a declaration within the prescribed period shall pay an administrative penalty in the sum of 10 million naira and 10,000 naira for every day the failure continues. The Nigerian entity is required to file an updated declaration upon the occurrence of any changes in the organisation within six months of the end of the accounting year in which the change occurred.<sup>6</sup> Failure to submit a declaration or notification in respect of such changes will attract a penalty of 25,000 naira for each day in which the failure continues.

### **Disclosure**

It is mandatory for a Nigerian entity to annually disclose all eligible transactions with connected persons without notice or demand from the FIRS in the prescribed form within 18 months of its incorporation or within six months of the end of its accounting year, whichever is earlier. Failure to file a disclosure in the relevant year of assessment will attract an administrative penalty of 10 million naira or 1 per cent of the value of the controlled transaction not disclosed, whichever is higher; and 10,000 naira for every day the Nigerian entity remains in default.<sup>7</sup> Where the Nigerian entity files an incorrect disclosure, the higher of an administrative penalty of 10 million naira or 1 per cent of the value of the controlled transaction not disclosed, will apply. The Nigerian entity can apply to the FIRS for an extension of time to make the relevant disclosure. Approval is subject to the discretion of the FIRS.

### **Documentation**

A Nigerian entity has an obligation to keep in electronic format, sufficient data or information, along with an analysis of the information, to verify that the pricing of controlled transactions is consistent with the arm's-length principle and shall make the documentation available to the FIRS upon written request. The documentation shall be available prior to the due date for filing the income tax return for the year in which the documented transaction occurred. The documentation comprises a master file, a local file (contemporaneous documentation) and a country-by-country report (CbCR), where required.

**The master file** should include:

- detailed description of the group's legal and ownership structure
- geographical location of operating entities
- service arrangements between members
- sources of business profit
- turnover

- intangibles owned
- all policies from the development to transfer of research within the group
- financing arrangements
- tax positions
- annual consolidated financial statements
- tax rulings on income allocation by jurisdiction.

**The local file** should provide detailed information relating to specific inter-company transactions between the Nigerian entity and connected enterprise, including:

- functional analysis
- value-chain analysis
- comparability analysis of the transactions.

The **country-by-country report (CbCR)**:

- In addition to maintaining contemporaneous documentation, a company that is a member of an MNE15 group with a total group revenue of 160 billion naira and above during the accounting year immediately preceding the year of assessment is required to file a CbCR.

A Nigerian entity with controlled transactions of a total value less than 300 million naira is not obliged to maintain contemporaneous documentation unless a notice is received from the FIRS demanding it.

In the event that the FIRS makes such a demand, the contemporaneous documentation must be submitted not later than 90 days from the date the FIRS notice was received. A company with controlled transactions of a total value that exceeds 300 million naira is required to submit contemporaneous documentation to the FIRS within 21 days of receiving a written request. Failure to meet the prescribed deadline will attract an administrative penalty of the sum of 10 million naira or 1 per cent of the total value of the controlled transactions, whichever is higher; and 10,000 naira for every day that the failure continues (Udo Udoma & Belo-Osagie, 2020).

In 2020 FIRS launched electronic filing solution for transfer pricing, called E-TP PLAT 2.0 (<https://transferpricing.firs.gov.ng/login.php>) electronic filing solution will allow taxpayers with transfer pricing and country-by-country reporting (CbCR) obligations to file their annual transfer pricing and CbCR returns electronically (PWC, 2021).

#### *Description of Risk*

In 2020, Nigeria's Tax Appeal Tribunal (TAT) ruled in favour of FIRS in a landmark transfer pricing case for the plastic manufacturing company – it was the first major transfer pricing ruling since the introduction of Nigeria's transfer pricing rules (PWC, 2021).

There is not yet any evidence presenting transfer pricing compliance among timber harvesting companies. Thus, it is not possible to evaluate the risk for this sector at this point in time.

#### *Risk Conclusion*

There is currently no substantiated documentation on the risk of transfer price manipulation. Considering the prevalence of corruption and the high interest of foreign companies in the companies harvesting and exporting the wood, this indicator is evaluated as specified risk.

#### **1.18.6. Risk designation and specification**

All source types: Specified:

1. Transfer pricing laws are not followed

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<sup>15</sup> MNE Group means any Group that includes two or more enterprises for which the tax residence is in different jurisdictions or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction

### 1.18.7. Control measures and verifiers

#### *Review and verify documents:*

Verify that the following documents contain required information:

- Transfer pricing declaration
- Transfer pricing disclosure
- A master file
- A local file
- Country-by-country report (CbCR)

Ask company to verify that they submit the documents to electronically via

<https://transferpricing.firs.gov.ng/login.php>

#### *Consult:*

- Federal Inland Revenue Service (FIRS) about company's compliance with transfer pricing regulation

## 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

- Letter of Support for export of processed and semi-processed wood products, Nr. 94 of 15th August 2016. Federal Ministry of Environment. Available at: <https://preferredbynature.org/sites/default/files/SourcingHubDownload/Nigeria/Processed%20wood%20law%2C%202015.PNG>
- Nigerian Produce Act
- Customs and Excise Management Act (CEMA) 1959 Arts 51-61. Available at: [https://web2.customs.gov.ng/?page\\_id=3107](https://web2.customs.gov.ng/?page_id=3107)
- Nigeria Customs Regulation. Available at: <https://www.export.gov/article?id=Nigeria-Customs-Regulations>.
- National Forestry Policy, 2006. Available at: <https://pdf4pro.com/download/nigeria-approved-national-forest-policy-june-1fb18e.html>

### 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

- Letter of Support for Export
- Export registration certificate
- Bill of Lading
- Pre-shipment Certificate
- Export permit

### 1.19.4. Sources of information

#### *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>
- <https://www.thisdaylive.com/index.php/2016/04/22/customs-educates-wood-exporters-on-govts-policy/>
- EIA, 2017. The Rosewood racket. Available at: <http://rosewoodracket.eia-global.org/>

- The Guardian, 2021. Group seeks sanction for foreigners engaged in illegal wood export. Available at: <https://guardian.ng/property/group-seeks-sanction-for-foreigners-engaged-in-illegal-wood-export/>

#### 1.19.5. Risk determination

##### *Overview of Legal Requirements*

There is a regulation on export of only processed and semi processed wood (**no logs or sawn timber are allowed**) (Letter of Support for export of processed and semi-processed wood products, 2016). Export permit is issued for exportation of maximum 15,000 CBM of processed wood

The specification of a processed wood include maximum allowable dimensions:

1. Length 280mm – 3600mm
2. Width 35mm – 350mm
3. Thickness 6mm-150mm

The Export Produce (Federal Powers) Act stipulates that the Minister charged with responsibility for external trade may, from time to time, make regulations prescribing grades and standards of quality for any produce intended for export, not being produce for export purchased by the relevant Commodity Board.

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

##### *Description of Risk*

Evidence suggests that the 10,000+ containers, equivalent to at least 1.4 million logs and over US\$300 million, were exported in violation of Nigeria's federal log export ban, which only allows "processed products" of a certain dimension to lawfully leave the country (EIA, 2017).

According to the Guardian (2021), most the main targets to be illegally exported are Rosewood (*Pterocarpus Erinaceus*), Araria, Mahogany (*Khaya ivorensis*) and Iroko (*Milicia excelsa*) species.

The World Wildlife Crime Report (WWCR) 2020 indicates that from around 2011 onwards growing volumes of rosewood were exported from West African, with a very sharp rise in 2017, when 825,000 cubic meters of Kosso (*Pterocarpus Erinaceus*) logs or the equivalent of about 4 million trees were exported from the region, predominantly from Nigeria (754,234 cubic metres). Indications are that most of the rosewood from West Africa has been sourced illegally. In October 2018, the CITES Standing Committee recommended that Parties suspend trade in rosewood from Nigeria until the country carries out a non-detriment findings assessment for trade in the species (see Sub-category 1.20 CITES).

The Customs and Excise department that oversees the final exit of wood 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

All source types: Specified risk:

1. Bill of Lading does not contain required information
2. Export of logs and sawn wood
3. Illegal timber export (including protected species- see Sub-category 1.20 CITES)

### 1.19.7. Control measures and verifiers

**Do not import logs from Nigeria** (only processed or semi-processed material can be exported).

#### Review and verify documents:

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

Verify that above mentioned documents only include processed or semi-processed wood. It should be verified that the documents are fully filled out and there is consistency between the information in the documents and this information should be verified, and reflect the material imported from Nigeria.

#### Consult:

- Federal Inland Revenue Services about company's compliance with customs regulations requirements

#### Onsite verification:

- Visit export site to check if export procedures are followed; check if exported wood dimensions are according to legal requirements

Conduct targeted timber testing: (on samples of purchased material to verify the species or origin of timber). See Preferred by Natures [Thematic article No 1 on Timber Testing Techniques](#)

## 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

- Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES Act, 2016. Available at: <https://cites.org/eng/disc/text.php>
- Customs and Excise Management Act, 1959
- National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011 (S.I. No. 16 of 2011). Part II, 3. Available at: <http://extwprlegs1.fao.org/docs/pdf/nig195239.pdf>
- Endangered Species (Control of International Trade and Traffic) (Amendment) Act, 2016. First Schedule listing protected species. Available at: <https://www.ecolex.org/details/legislation/endangered-species-control-of-international-trade-and-trafficamendment-act-2016-lex-faoc177674/>

### 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

- CITES Permit
- Nigeria Export Promotion Council' Export Registration Certificate.

#### 1.20.4. Sources of information

##### *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](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](https://www.researchgate.net/publication/318792697_REVIEW_OF_COMPLIANCE_TO_CITES_IN_NIGERIA_MASTERS_RESEARCH_THESIS_Felix_Olusola_ABAYOMI_NIGERIA) (consulted June 3, 2019)
- InfoCongo, 2016. How China Fuels Deforestation In Nigeria, West Africa. Available at: <https://infocongo.org/en/how-china-fuels-deforestation-in-nigeria-west-africa/>
- Peter, D. D (2020). Harvesting, Trade and Impact of Logging Pterocarpus Erinaceous in Bali LGA of Taraba State, Nigeria Available at: [http://jaesnet.com/journals/jaes/Vol\\_9\\_No\\_2\\_December\\_2020/10.pdf](http://jaesnet.com/journals/jaes/Vol_9_No_2_December_2020/10.pdf)
- CITES, 2018. Notification to the parties. Available at: <https://cites.org/sites/default/files/notif/E-Notif-2018-084.pdf>
- EIA, 2017. The Rosewood racket. Available at: <http://rosewoodracket.eia-global.org/#part1clicked>
- Financial Nigeria, 2018. Multilateral treaty bans illegal timber export from Nigeria. Available at: <http://www.financialnigeria.com/multilateral-treaty-bans-illegal-timber-export-from-nigeria-news-1623.html>
- EIA, 2018. The Racket Continues. Available at: <https://eia-global.org/reports/20180927-the-racket-continues>

#### 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).

The National Environmental (Protection of Endangered Species in International Trade) Regulations regulates stipulate the Federal Ministry of Environment is designated as the CITES Management Authority for Nigeria.

National Environmental (Protection of Endangered Species in International Trade) Regulations state that in order to export or re-export from Nigeria species listed in CITES Appendix I, II, III – an export permit or re-export certificate must be obtained prior to exportation or re-exportation of CITES species. This however does not apply to rosewood (*Pterocarpus erinaceus*) - in October 2018, the CITES Standing Committee recommended that Parties suspend trade in rosewood from Nigeria until the country carries out a non-detriment findings assessment for trade in the species.

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)

According to the Endangered Species (Control of International Trade and Traffic) (Amendment) Act (2016) it is forbidden to trade plant species listed in the Schedule 1.

#### *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.

In 2015, Nigeria had become the single largest exporter of the rosewood logs to China, accounting for 45 % of total imports to the country. By the end of 2015, 30 containers (20 ft) of rosewood were leaving Nigerian ports for China every day (InfoCongo, 2016). According to the Financial Nigeria (2018), the illegal export of precious rosewood has depleted the country's forests; accelerated desertification in rural areas; and contributed to a staggering deforestation rate of four percent annually in Nigeria, the fourth highest in the world.

EIA's (2017) investigation has revealed that thousands of documents from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) have been used in contravention of the core objectives of the Convention. The retrospective issuance of thousands of CITES permits is reportedly the result of a grand corruption scheme that involves over a million dollars paid by influential Chinese and Nigerian businessmen to senior Nigerian officials, some of the transaction facilitated by Chinese diplomats.

EIA's (2018) new research indicates that well-organized traffickers are taking from the wild and exporting in violation of the CITES Convention as many specimens of *Pterocarpus Erinaceus* as materially possible, without any consideration for the impacts of the uncontrolled and massive harvest on the standing populations. Nigeria exported over one million cubic meters Round Wood Equivalent (RWE) of the African rosewood – approximately four million trees – from 2 January 2017 until 31 March 2018. This likely represents the largest violation of the Convention in history. EIA's investigation shows that the first signs of commercial extinction of *Pterocarpus Erinaceus* have emerged, while pressure on the last stands of wild populations located in areas under protection is accelerating.

#### *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

All source types: Specified risk:

1. Illegal export of suspended CITES species - Rosewood (*Pterocarpus erinaceus*)
2. CITES species are exported without required permit
3. CITES permits are illegally issued

### 1.20.7. Control measures and verifiers

Due to high level of corruption and fraud related to issuing CITES certificates, control measures are not developed for this indicator – recommendation is to not to buy protected/CITES species form Nigeria.

## 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.

## 1.22. Legal Registration of business

### PROCESSING

*Legislation regulating the registration of business and approval of scope of business and processing. The risk is that companies are operating without being in conformance with legal requirements with regards to legal obligations on business registration (business/sawmill license, operation visas, tax payment cards, approvals, etc.).*

### 1.22.1. Applicable laws and regulations

- Companies and Allied Matters Act, 2020. Available at: <https://thenigerialawyer.com/download-companies-allied-matters-act-2020/>
- Companies and Allied Matters Act, 2004. Available at: <https://www.doccity.com/en/companies-and-allied-matters-2004/629710/>

### 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
- The Company's Memorandum and Article of Association (MEMART)
- Particulars of the company's secretary
- The particulars of Directors
- Particulars of shareholder(s)
- The Statement of issued share capital
- Particulars of Persons with Significant Control (PSC)
- Company Resolution & Certificate of Incorporation

- Identification of the director/shareholder & Witness

#### 1.22.4. Sources of information

##### *Non-Government sources*

- Mondaq, 2021. Nigeria: Procedure For Business Registration In Nigeria. Available at: <https://www.mondaq.com/nigeria/corporate-and-company-law/1075064/procedure-for-business-registration-in-nigeria-2021>

#### 1.22.5. Risk determination

##### *Overview of Legal Requirements*

With the amendment of the Companies and Allied Matters Act in 2020, which is the principal legislation that regulates business registration in Nigeria, there is a new and more simplified procedure for business registration in Nigeria. This new law took effect on January 1, 2021. The government agency in charge company registration is the Corporate Affairs Commission (CAC).

##### **Procedure for business registration in Nigeria**

The procedure involved in registering a business whether it is a private company limited by shares or a public company limited by shares, or an unlimited company will be summarized into different steps below.

- **Step 1. Conduct Name Availability Check** – the applicant is required to choose two unique proposed names for the company, after which he has to check for availability of the proposed names, to find out if one of the names is available and it is not already in use by another company, where it is available, it will be reserved for the applicant by the CAC.
- **Step 2. Complete the Pre-registration Forms** – the applicant can then proceed by himself or through an accredited agent to fill pre-incorporation forms where he will be required to provide certain important information such as:
  - 1) The approved name and the proposed type of company (is the company a private company, is it limited by shares, unlimited or public company, etc.)
  - 2) Description of principal business activity.
  - 3) The registered office address and head office address, where it is different from the registered office address, the company's email address, and the phone number.
  - 4) The applicant also has to prepare the Company's Memorandum and Article of Association (MEMART), it is advisable, that this be drafted professionally by a Legal Practitioner, However, the Corporate Affairs Commission has provided a generic MEMART, which can be adopted by a new company during registration.
  - 5) Particulars of the company's secretary. For small private companies, appointment of a secretary is optional, however, if the applicant decides to appoint a company secretary, he must provide the relevant details. Private companies (other than small companies) and public companies are required to appoint at least one secretary which could either be an individual a corporate secretary.
  - 6) The particulars of Directors such as their name, service, usual address, gender, nationality, date of birth, occupation, identity type, and phone number. It is however worthy to note that a small private company can now appoint only 1 director.
  - 7) Particulars of shareholder(s), which shall include the name, address, phone number and email address. A single person can be shareholder of a company, but where a company is to have more than one shareholder, the shareholding ratio (percentage of shares to be held by each shareholder).
  - 8) The Statement of issued share capital, the class and numbers of issued shares, and the rights attached to them such as voting rights, dividend distribution, capital distribution in the event of winding up, and whether the shares are liable to be redeemed or are liable to be redeemed at the option of the company or the shareholder, particulars of shareholders/subscribers and shareholding formula.

9) Particulars of Persons with Significant Control (PSC), this could either be a Natural Person or a Legal Entity. A person with significant control means any person who directly or indirectly holds at least 5% of the shares/interest or voting rights in a company, has the right to appoint or remove a majority of the directors or partners, or can actually exercise significant influence or control over the company.

- **Step 3. Pay filing fee and Stamp duties** – the applicant has to pay the prescribed official filing fee and stamp duties online or in bank through remita (Electronic Payment platform for businesses <https://www.remita.net/>) Upon payment, an electronic stamp will be affixed to the Memorandum and Articles of Association with some of the incorporation forms.
- **Step 4. Prepare and upload documents** – the applicant has to scan and upload the necessary requirements, which include the valid identification of the director/shareholder & Witness; their signatures on plain sheet of papers; and any other relevant documents such as Company Resolution & Certificate of Incorporation where another company will be among the shareholders of the new company to be registered.
- **Step 5. Submission for registration** - the step is to submit the application for approval, where it will be reviewed by the CAC and subsequently approved if it is in order.

In conclusion, it is now easier to register a business as applicants can now complete the entire process of registering their companies online using the new company registration online portal launched by the CAC in 2021. However, a person not familiar or understand rules and regulation guiding company registration in Nigeria is advised to contact any CAC accredited agent for registration to avoid unnecessary delays (Mondaq, 2021).

#### *Description of Risk*

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 (Stakeholder consultation, 2019).

#### *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**

All source types: Specified risk:

1. Companies operate without legal registration of business

#### **1.22.7. Control measures and verifiers**

Review and verify documents that they include all the required information:

- Business Registration Certificate
- Business/ Company Profile
- The Company's Memorandum and Article of Association (MEMART)
- Particulars of the company's secretary
- The particulars of Directors
- Particulars of shareholder(s)
- The Statement of issued share capital
- Particulars of Persons with Significant Control (PSC)
- Company Resolution & Certificate of Incorporation
- Identification of the director/shareholder & Witness

- Invoices about business registration fees paid

*Consult:*

- Consult [Federal Inland Revenue Services](#) and [Corporate Affairs Commission \(CAC\)](#) about companies' compliance with business registration requirements

### 1.23. Environmental requirements

*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.*

Please see indicator 1.10 Environmental requirements. Legislation and risks related to the processing sector are similar to what has been identified for the forest level in indicator 1.10.

### 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).*

Not applicable. There are no legal requirements identified specifically for timber processing.

### 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.*

Please see indicator 1.11 Health and Safety. Legislation and risks related to the processing sector are similar to what has been identified for the forest level in indicator 1.11.

### 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.*

Please see indicator 1.12 Legal employment. Legislation and risks related to the processing sector are similar to what has been identified for the forest level in indicator 1.12.

## 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	Region/Area (potential geographical subdivision where major differences are relevant)	Legal Land Classification	Ownership	Management regime	Licence/Permit type	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: <ul style="list-style-type: none"> <li>i. Mangrove swamp</li> <li>ii. Freshwater swamp</li> <li>iii. High Forests</li> <li>iv. Guinea Savannah</li> <li>v. Sudan Savannah</li> <li>vi. Montane Forest</li> </ul>	Forest Reserves: Natural Forest	State	State Departments of Forestry is in charge of management responsibilities.	Permits and Hammer marks.	Timber from Forest Reserves (i.e. Natural Forests and Plantations) usually harvested and transported with the required permit.
		Conservation Areas				
Plantations		Free Areas	Private	The State Departments of Forestry generate revenue from Free	Permits and Hammer marks.	Timber from Free Areas usually harvested and transported with the required permit

	Private Plantation	Areas and Plantations.	Permits and Hammer marks.	Timber from Private Plantations usually harvested and transported with the required permit
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## About

### Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by Preferred by Nature with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



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