

Timber Legality Risk Assessment Gabon

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FSC™ A000535

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A. Introduction

This Timber Legality Risk Assessment for Gabon provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport. NEPCon has been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007. In that time, NEPCon has developed timber risk assessments for more than 60 countries, illustrated in Figure 1.

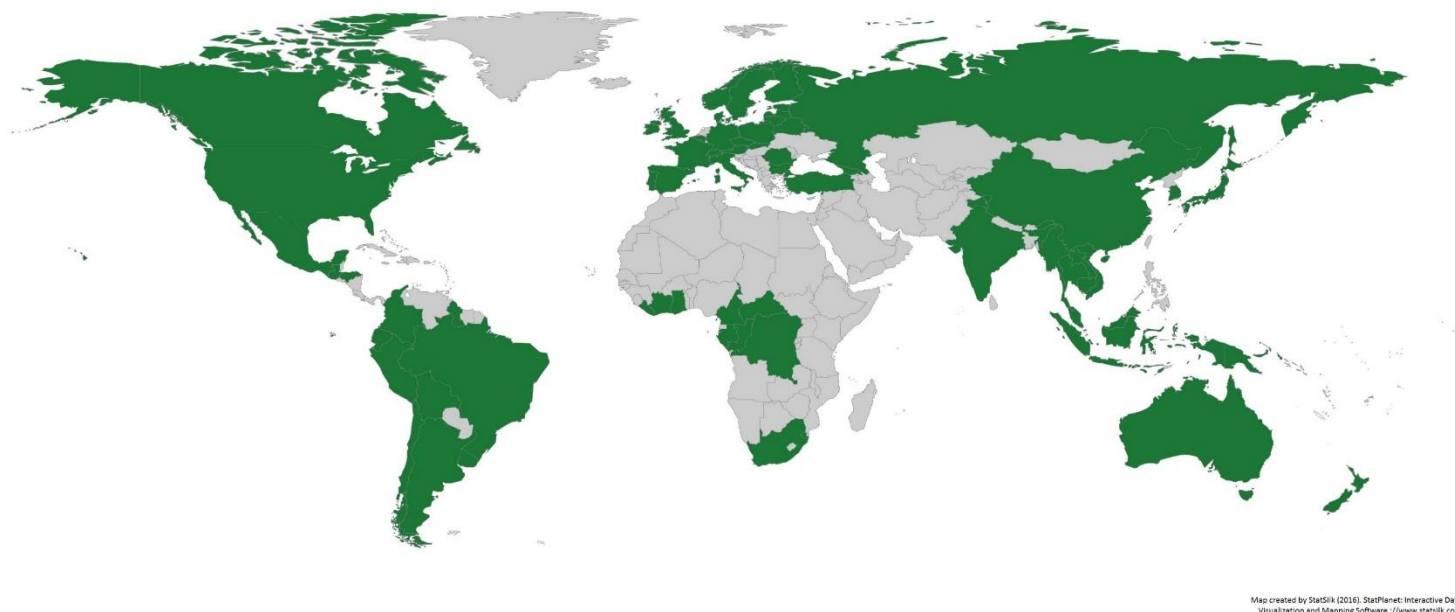


Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on NEPCon's website.

B. Overview of legality risks

Timber Risk Score: 0 / 100 in 2017

This report contains an evaluation of the risk of illegality in Gabon for five categories and 21 sub-categories of law. We found:

- **Specified risk for 18 sub-categories.**
- **Low risk for 0 sub-categories.**
- **No legal requirements for 3 sub-categories.**

The Timber Risk Score for Gabon is 0 out of 100. 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, and transport and trade.

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

- there are conflicting land use claims (1.1)
- the process of registering companies does not follow the legal requirements (1.1)
- Concession boundaries are unclear (1.2)
- harvesting out of bounds takes place (1.2)
- Concession licenses for rural domain and permanent forestry domain are issued through corrupt practices (1.2)
- approved forest management plan are lacking (1.3)
- harvesting is carried out without a valid permit or the permit is obtained through corruption (1.4)
- permits are issued in areas not allowed for harvesting
- permits are issued for species that cannot legally be logged or are below minimum diameter (1.4)
- forestry permits for sites other than the actual harvesting site could be used as a false proof of legality of harvested material (1.4)
- the operation of titles (PGG and ACBSL) are used beyond recognised legal timeframes, (1 year for the PGG and one-time use for the ACBSL) (1.4)

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

- Non-payment of forestry fees takes place (1.5),
- falsification of logging information (1.5)
- non-payment of fiscal charges and fees due to rural communities takes place (1.5)
- Non-payment for VAT takes place (1.6) by:
 - Sale of timber harvested "outside areas" with falsified documents
 - organisation of illegal channels of logging and sale of high commercial value forestry species
- information is hidden to evade various fiscal or social security obligations (1.7)

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

- forestry management rules, rules protecting the environment, or other rules applicable for the forest area are not respected, e.g.: (1.8)
 - felling of trees without applying the low-impact logging rules
 - overharvesting (harvesting of a greater number of trees than that which is permitted by quotas per hectare)
 - felling outside authorised boundaries
- harvesting inside protected areas takes place (1.9)
- harvesting of non-authorised trees takes place (too small, outside the boundaries, etc.) (1.9)
- harvesting of protected trees takes place (1.9)
- legal requirements for environmental safety and reduction of impacts are not being put into practice by operators (1.10)
- rules about health and safety requirements are not respected (1.11)
- there is a lack of use of personal protective equipment (1.11)
- there is an absence of formal contracts (1.12)
- there is a lack of obligatory insurances (1.12)
 - Guaranteed Minimum Salary are not respected (1.12)
 - non-payment and declaration of salaries to the National Social Security Fund (CNSS) takes place (1.12)
 - the freedom of union is not respected and no staff representatives have been designated (1.12)

For **Third Parties' Rights**, there is a risk that:

- expansion of forest activities into land of rural communities takes place (1.13)
- non-payment of forest licence fee is not paid to local communities as required (1.13)

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

- there are fraudulent declarations at the level of shipments transported (1.16)
 - harvested products are classified and transported in violation of the rules (1.16, 1.17)
 - bills of lading may be falsified to accommodate the transportation of species which would otherwise be protected (1.17)
 - fraudulent tax practices and declarations of revenue are below the real figures (1.18)
- Payments of excessive royalties or royalties without compensation (1.18)
- sale prices are underestimated (1.18)
 - advantages or allowances are granted to third parties without any equivalent compensation for the company (1.18).

- customs frauds take place. This related to false declarations on production, quantities, and qualities of products, to corruption among customs employees (1.19)
- CITES species are illegally introduced on the market by changing their names in the related documentation.

Timber source types and risks

There are five timber source types found in Gabon. Knowing the "source type" that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all five of these source types and found that if legislation is in place for the specific source type, the risk is specified.

Associated Forestry Permits (PFA)	PFA is a concession permit and can cover an area up to 50.000 ha. Only applicable in Permanent Forest Estate. in Gabon PFA is referred to as an "surface area permits" and are subject to strict attribution procedures (attribution by a tendering process, obtaining a professional certification in the conditions set via regulations, possessing a decree in the case of a PFA) and to restrictive management obligations and forestry taxation.
Forestry Concessions under Sustainable Management (CFAD)	CFAD is a Concession permit and can cover a surface area between 50,000-200,000 ha. One logging company can have multiple CFADs, but can hold no more than a total of 600,000 ha. Only applicable in Permanent Forest Estate. in Gabon CFAD is referred to as an "surface area permit" and are subject to strict attribution procedures (attribution by a tendering process, obtaining a professional certification in the conditions set via regulations, possessing an attribution decree in the case of a CFAD) and to restrictive management obligations and forestry taxation.
Permit by Private Agreement (PGG)	The Permit by Private Agreement (PGG): grants the right to 150 trees and is valid for one year. Only applicable in Rural forest domain.
Logging Authorisations for Pit sawing (ACBSL)	This is a permit to log a maximum of 6 trees for pit sawing destined for personal use or to be sold on the domestic timber market. Only applicable in Rural forest domain.
Community forests	Regulations on community forests are still being drawn up, why it has not been possible to identify the legality risks in relation to community forests.

The current attributions of community forests are serving as experiments to help the creation of a final regulatory corpus.
Only applicable in Rural forest domain

This matrix summarises the findings of the timber legality risk assessment set out in this report.

Legal Category	Sub-Category	Source types			
		Permanent Forest Estate (PFE)		Rural forest domain	
		Associated Forestry Permit (PFA)	Forestry concession under sustainable management (CFAD)	Permit by private agreement (PGG)	Logging authorisations for pit sawing
Legal rights to harvest	1.1 Land tenure and management rights	Specified	Specified	Specified	Specified
	1.2 Concession licenses	Specified	Specified	N/A	N/A
	1.3 Management and harvesting planning	Specified	Specified	N/A	N/A
	1.4 Harvesting permits	Specified	Specified	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified	Specified	Specified	Specified
	1.6 Value added taxes and other sales taxes	Specified	Specified	Specified	N/A
	1.7 Income and profit taxes	Specified	Specified	Specified	Specified
Timber harvesting activities	1.8 Timber harvesting regulations	Specified	Specified	Specified	Specified
	1.9 Protected sites and species	Specified	Specified	Specified	Specified
	1.10 Environmental requirements	Specified	Specified	N/A	N/A
	1.11 Health and safety	Specified	Specified	N/A	N/A
	1.12 Legal employment	Specified	Specified	N/A	N/A
Third parties' rights	1.13 Customary rights	Specified	Specified	Specified	Specified
	1.14 Free prior and informed consent	N/A	N/A	N/A	N/A
	1.15 Indigenous/traditional peoples rights	N/A	N/A	N/A	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Specified	Specified	Specified	Specified
	1.17 Trade and transport	Specified	Specified	Specified	Specified
	1.18 Offshore trading and transfer pricing	Specified	Specified	Specified	Specified

	1.19 Custom regulations	Specified	Specified	Specified	Specified
	1.20 CITES	Specified	Specified	Specified	Specified
	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A	N/A	N/A

C. Overview of the forest sector in Gabon

Natural forest covers roughly 85% of the territory of Gabon. The Forest Code (Law 16/01 dated 31 December 2001) is the basis of the legal framework for forestry in Gabon. All Gabonese forests fall under the national forest estate. In this regard, they are the exclusive property of the State (public property - Article 13 Law 16/01 of 31 December 2001). Forests figure prominently within the numerous natural resources that the country abounds with.

The Forest code divides the Gabonese forest into two main categories (Forest Legality, 2014):

- Permanent Forest Estate (PFE). The PFE consists of both concessions contracted out by the State but used and managed by individuals or businesses, and protection forests preserved for national parks, etc. In the Permanent Forest Estate (PFE) of the State, two types of permits are granted:
 - o Associated Forestry Permits (PFA);
 - o Forestry Concessions under Sustainable Management (CFAD).
- Rural Forest Domain. It consists of open-access forests for local communities (Article 12 law 16/01). Three types of permits can be given on the rural forests:
 - o Permits by Private Agreement (PGG);
 - o Logging Authorisations for Pitsawing (ACBSL);
 - o Community forests.

In 2011, Gabon had a total of 26 official FMUs within Gabon's national PFE. There were another 31 assigned concessions covering about 5.5 million ha of the PFE that did not yet have plans, and 26 concessions that were yet to be attributed. There are also 25,000-30,000 hectares of planted forest in the country (Forest Legality, 2014).

Forestry activities take place under the authority of the Ministry of Water and Forests (*Ministère des Eaux et Forêts*). This primarily concerns:

- activities linked to the application for and granting of operating titles (the different permits);
- activities relating to supervising the conformity of forestry operations along the whole supply chain (from logging sites right through to the point of export);
- and finally activities linked to supervising compliance regarding the rights of rural communities.

The Ministry of Water and Forests' Responsibilities (Forest Code, Law No 16/01, Article 15) are to ensure general information, awareness raising, education, extension, control, combat crime and policing. These provisions are complemented by Article 25, which mandates the Ministry of Water and Forests to:

- issue the various harvesting permits;
- monitor and inspect forest management operations all along the supply chain (from forest to export landing);

- monitor implementation of industrialization plans;
- monitor conformance with permit holders' obligations with regards to communities.

The other related supervision activities, linked to the administration of the work, of commerce, of taxes etc. are overseen by other ministries.

Regarding the application for and granting of operating titles (permits), Articles 102 to 105 of Law 16/01 concern the general conditions required for the purpose of granting forestry permits. Articles 106 to 111 state the stages and the procedures to be carried out for the granting of a CFAD, whilst Articles 112 and 113 concern the stages to follow for obtaining a PFA. As for PGGs, Article 114 indicates the process to follow.

Regarding community forests, work is underway to provide this type of permit with a complete regulatory framework. The community forests that exist at present are pilot schemes.

ACBSLs constitute the last legal source of timber established by Decree n° 278/PR/MEF of 4 February 2011. They are granted by the Forestry Department (*Direction Générale des Forêts*); the Timber Industry and Trade Department (*Direction Générale des Industries et du Commerce du bois*).

Additional sources:

Gabon | Forest Legality. 2014. *Gabon / Forest Legality*. [ONLINE] Available at: <http://www.forestlegality.org/risk-tool/country/gabon#tab-management>. [Accessed 03 January 2017].

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

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

1.1.1. Applicable laws and regulations

It is necessary to separate land rights and management laws: Land rights are enshrined in the so-called "fundamental" texts whilst management rights are established by sector-specific laws (forests, mines, etc.) Sector-specific laws are based on these fundamental texts to govern their respective sectors.

I - Legislation relevant to licences in the rural forest domain:

- Customary use regulations: Law 16/01 of 31/12/2001, chapter 4, Articles 252 to 261
- Rural forest domain and land rights: Law 16/01 of 31/12/2001 first title, Article 12

Legislation relevant to Logging Authorisations for Pitsawing (ACBSL):

- Logging Authorisation for Pitsawing (ACBSL): Decree n° 278/PR/MEF of 4 February 2011;
- Payment of taxes for ACBSLs: Law 16/01 idem (Article 244) and Article 11 of Decree 104/MFEPRN/SG/DGF/DEPRC/SR

Legislation relevant to Permits by Private Agreement (PGG):

- Attribution decision for a PGG: decree n°0725/PR/MEFEPA setting the attribution conditions for Permits by Private Agreement. Decree n°136/MEF of 10 October 2011 setting the terms and conditions for the attribution and management of Permits by Private Agreement.
- Payment of taxes for PGGs: Law 16/01, idem (Article 244)

Legislation relevant to Community Forests:

- At the time of writing this risk analysis, regulations were in the process of being developed.

II - Legislation relevant to logging permits in the permanent forest domain of the State:

Legislation relevant to Associated Forestry Permits (PFA):

- Professional certification (PFA): Law 16/01, Chapter 2 sub-section 2, Article 102. in the case of a PFA (Decree n° 00640.08/ MEFEPA setting the terms and conditions for attribution of forestry concessions by tendering; Decree 0641.08/MEFEPA of 8 October

2008 setting the selection criteria for tenderers and the ways in which offers will be executed and classified)

Legislation relevant to CFAD:

- Professional certification (CFAD): Law 16/01, Chapter 2 sub-section 2, Article 102.
- CFAD attribution text: an attribution decree (Decree n° 689 /PR/MEFEPEPN that defines the technical rules for the administration and sustainable management of registered productive state-owned forests (Article 28)

III - Legislation regarding the registration of companies:

In order to obtain a CFAD, PFA, PGG or ACBSL:

- Investments charter of 23/07/1998 (Articles 7, 8, 9 and 10)
- Statute N° 10/89 of 28 September 1989 outlining the regulations regarding the activities of merchants, manufacturing or cottage industries in the Republic of Gabon (Articles 6, 7 and 12)
- Uniform Act of Business Law (*Actes Uniformes du Droit des Affaires* (OHADA)) (Articles 25 to 32)

NOTE: In addition to registration with the forest administration, the following legislation is relevant for holders of CFAD and PFA permits:

- registration with the labour administration (Labour Code Article 256);
- registration with the economic and tax administrations (Investments Charter of 23/07/1998 (Articles 7, 8, 9 and 10); Statute N° 10/89 of 28 September 1989 regulating the activities of merchants, manufacturing or cottage industries in the Republic of Gabon (Articles 6, 7 and 12); Uniform Acts of Business Law (*Actes Uniformes du Droit des Affaires*) (OHADA) (Articles 25 to 32)
- registration with the National Social Security Fund (*Caisse Nationale de Sécurité Sociale*) (CNSS): Social security code (Article 3)

1.1.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of Finance (Tax Department) (Ministère des Finances [Direction Générale des Impôts])
- Ministry of Labour (*Ministère du Travail*)

1.1.3. Legally required documents or records

I – For the rural domain:

ACBSLs: The documents required are the following.

- Logging Authorisation for Pitsawing (ACBSL);
- Payment receipt for the felling tax

PGGs: The documents required are the following.

- Attribution decision for PGG;

- Ad hoc register of PGGs
- Payment receipts for forestry charges

Community forests: The documents required are the following:

At the time of writing this risk analysis, regulations were in the process of being drawn up.

II- For the permanent forest domain of the State:

Associated Forestry Permits (PFA): The documents required are the following:

- Professional certification (PFA)
- Attribution decree (PFA)

CFADs: The documents required are the following:

- Professional certification (CFAD)
- Attribution decree (CFAD)

Documents regarding public information (PFAs and CFADs): The documents or requirements are as follows:

- Publication of the attribution title in the official journal
- Text displayed at the company or holder's site that includes a map
- Report of information meeting to all stakeholders

Tax documents: The documents required are the following:

- Payment receipts for felling taxes
- Payment receipts for surface area taxes
- Settlement moratorium for surface area taxes

III – Concerning company registrations:

- Form distributed by companies (CFAD, PFA) created after the adoption and implementation of the investments charter of 23 July 1998;
- Logging authorisation for companies created before the adoption or implementation of the 23 July 1998 charter
- Membership number for the National Social Security Fund (CNSS).

1.1.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Finance (*Ministère des Finances*) [online]. Available at: <http://www.budget.gouv.ga/>

Non-Government sources

- ONG Brainforest (2013). *Rapport du séminaire sur la problématique foncière en République Gabonaise*. [online]. Available at: <http://gabonreview.com/blog/des-propositions-pour-la-reforme-fonciere-au-gabon/>
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- Association Gabonaise pour les Nations Unies (AGNU) (2012). *Mission report d'Observation Indépendante and externe des activités d'exploitation forestières dans la province de l'Estuaire*. Gabon, Avril 2012.

1.1.5. Risk determination

Overview of Legal Requirements

Forests are either (a) permanent forest domains (PFE or (b) non-permanent forest domains (DFNP). DFPs include land that has been formally allocated for forestry exploitation or land that is protected due to wildlife habitats. DFNP are forested lands that are dedicated to other usages. Classification aims to assign an area of forest for a particular use, which cannot be changed unless it is later declassified.

Law 16/01 of 31 December 2001 identifies two large forest domains in the Republic of Gabon. Domains with which are associated land rights, rules concerning access to resources, advantages, and different procedures. These domains are: the permanent forest domain of the State and the rural forest domain (Article 5).

The permanent forest domain of the State is constituted according to the conditions set by regulatory channels of classified forest domains and of registered productive state-owned forests. These forests are earmarked for production, for protection, and they are the habitat of wild fauna. On the contrary, the rural forest domain is made up of land and forests whose use is reserved for village communities, according to the ways and means determined by regulatory channels (Article 12).

In the case of the rural forest domain for example, the Forest Code acknowledges the unique right of village populations to use the forest resources that are located within it. It does not, however, allocate them the land ownership of the rural domain. Land ownership falls within the jurisdiction of the Land Code.

In order to operate, forest industry companies who carry out processing must have submitted their industrialisation plan and obtained their processing licence.

Description of Risk

The current zoning map is inexact due to out-of-date information, poor mapping, and a lack of consultation with local populations and communities. A committee was established in the 2000s to put forward a plan for the allocation of land. This committee's conclusions are still awaited and the problem of land allocation between the different players continues to be a source of tensions (Brainforest, 2013).

The main risks linked to land ownership and management of rights are as follows:

Classification of areas with overlapping lands means that the regulatory classification of the type of land and the legal use of land is in conflict (for example mining, laying down infrastructure, the creation of plantations, the establishment of pipelines, conversion for agriculture, etc.) (Chatham House 2015, USAID, Fern 2013).

Non-official claims on land and the nomadic culture. Nowadays forested areas are subject to conversion to agriculture, in the absence of a regulatory framework that organises land distribution/zoning. Timber coming from these areas arrives on the market to supply factories with trunks.

With regard to industrial processing, the risk lies in the fact that numerous operators do not completely develop the industrialisation plans that they file with the administrative authorities for validation, with the aim of obtaining a processing license.

In terms of the registration of companies, those that operate in the Gabonese forestry sector generally have a legal existence (AGNU, 2012). They easily claim registration with the relevant authorities and furthermore have documents that prove it. It is therefore not with the registration of companies that the greatest risk factors arise. It is, on the contrary, during the activities phase. The risk here lies with the genuineness and transparency of operations that have led to obtaining titles, and other administrative documents presented at the time of inspections being carried out. The FMU has to prove that the company's registration has been granted following the processes outlined by the law.

There is significant corruption and poor administrative practices in Gabon. There are numerous reports on corruption specifically linked to land matters (Transparency International Rapport 2013).

Risk Conclusion

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

1.1.6. Risk designation and specification

Specified risk

1.1.7. Control measures and verifiers

In areas where there are land ownership conflicts, consultation with neighbours, local communities and others should facilitate confirmation that the land rights are clear.

It should also be verified that:

- The taxes laid down by law have been paid.
- The EGF shows that it has taken the necessary measures so that land rights are clear.
- The EGF shows the legal status of the forestry operation and that the rights to carry out forestry activities are not subject to court orders or other legal decisions established in order to bring operations to an end.
- The industrial companies who supply them have their processing licence, and that this has been obtained after submitting a complete industrialisation plan. The public and other interested parties must have been made aware in the correct manner, in accordance with legal requirements.
- The register of companies must confirm valid commercial licences in order to operate within the parameters of the law.
- Valid company registration documents must exist.
- The issue of legal rights and registration should be the subject of a public disclosure before commencement of any activity within the UFA.
- Consultation with interested parties must confirm that the legal status of the forestry operation or the right to carry out activities is not subject to court orders or other legal decisions established in order to bring operations to an end.

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

It is necessary to separate land rights and management laws: Land rights are enshrined in the so-called "fundamental" texts whilst management rights are established by sector-specific laws (forests, mines, etc.) Sector-specific laws are based on these fundamental texts to govern their respective sectors.

I - Legal procedure for obtaining forestry licences in the permanent forest domain of the State:

Forestry Concession under Sustainable Management (CFAD):

- Submitting a request in accordance with the stages outlined in chapter 2, paragraph 1 (Articles 106 to 111) of the Forest Code;
- Respecting the provisions of Decree 064 1.08/MEFEPA of 8 October 2008 setting the selection criteria for tenderers and the ways in which offers are executed and classified;

- Obtaining a professional certification (CFAD) Forest Code (Article 102).
- Decree n° 00640.08/ MEFEPA setting the terms and conditions for attribution of forestry concessions by a tendering procedure.
- Respecting the provisions of Decree 064 1.08/MEFEPA of 8 October 2008 setting the selection criteria for tenderers and the ways in which offers are executed and classified;
- Signing a Provisional Agreement for Logging and Processing (*Convention Provisoire d'Aménagement Exploitation and Transformation*) (CPAAND) in accordance with Decree n° 689 /PR/MEFEPEPN, which defines the technical rules regarding the administration and sustainable management of registered productive state-owned forests (Article 28);
- Obtaining a decree of attribution in accordance with Decree n° 00640.08/ MEFEPA setting the terms and conditions for attribution of forestry concessions by a tendering procedure.
- Opening the boundaries for CPAANDs that will become CFADs.
- Decree n° 00640.08/ MEFEPA setting the terms and conditions for attribution of forestry concessions by a tendering procedure;
- National Technical Guide (GNT): Procedural rules in a forestry setting, Relations with local populations.

Associated Forestry Permit (PFA):

- Submitting a request in accordance with the stages outlined in chapter 2, paragraph 2, (Articles 112 and 113)
- Respecting the provisions of Decree 064 1.08/MEFEPA of 8 October 2008 setting the selection criteria for tenderers and the ways in which offers are executed and classified
- Obtaining a professional certification (PFA) Forest Code (Article 102)
- Obtaining an attribution decree in accordance with Decree n° 00640.08/ MEFEPA setting the terms and conditions for attribution of forestry concessions by a tendering procedure.
- Signing a Provisional Agreement for Logging and Processing (CPAAND) in accordance with Decree n° 689 /PR/MEFEPEPN which outlines the technical rules for the administration and sustainable management of registered productive state-owned forests (Article 28)
- Opening the boundaries for CPAANDs that will become CFADs;
- Implementation authorisation for CPAANDs
- Management Plan approved by a letter of approval.

II - Logging permits of the rural domain are not concessions per se. They are treated under Criteria 1.4 below.

III - Procedures for licences for the industrial processing of timber:

For CFADs and PFAs:

- Forest Code (Articles 226 and 236)

- Decree N° 15 /MEF/SG/DGICBVPF that sets out the rules and classifications of processed products authorised for export
- Decree 132/MFEPRN/SG/DGICBVPF that amends and completes certain provisions of decree N°15 /MEF/SG/DGICBVPF
- Forest Code (Article 228).

1.2.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of the Environment (*Ministère de l'Environnement*)

1.2.3. Legally required documents or records

For logging permits for the permanent forest domain of the State:

For CFADs:

- Professional certification
- Attribution decree (in the case of a CFAD)
- Report of the tendering committee;
- Report on the opening of boundaries for CPAANDs that will become CFADs
- Implementation authorisation for CPAANDs
- Management Plan approved by a letter of approval
- Attribution application
- Report of the tendering committee
- Attribution texts: decree (PFA) or decree (CFAD)
- Publication of the attribution of the title in the official journal.
- Text displayed at the company's or holder's site including a map
- Report of the information meeting to all stakeholders

For PFAs:

- Professional certification
- Attribution decree (in the case of a PFA);
- Report of the tendering committee;
- Report on the opening of boundaries for CPAANDs that will become CFADs
- Implementation authorisation for CPAANDs
- Management Plan approved by a letter of approval

1.2.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of the Environment (*Ministère de l'Environnement*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

Non-Government sources

- WWF-Gabon (2009). *Mission report de terrain*. [online]. Available at: [http://www.wwf-congobasin.org/where we work/gabon/](http://www.wwf-congobasin.org/where_we_work/gabon/)
- Brainforest (2013). *Mission reports d'Observation Indépendante des Forêts (Mars –Avril 2013)* [online]. Available at: <http://www.brainforest-gabon.org/>
- transparency.org (2016). Gabon. Available at: <http://www.transparency.org/country/GAB>
- Gabon | Forest Legality. 2014. *Gabon / Forest Legality*. [ONLINE] Available at: <http://www.forestlegality.org/risk-tool/country/gabon#tab-management>. [Accessed 03 January 2017].

1.2.5. Risk determination

Overview of Legal Requirements

This whole paragraph is according to Forest Legality (2014): The Ministry of Water and Forests can issue various kinds of permits, one of which is the Sustainable Forest Management Concession (CFAD). CFAD permits can cover a surface area between 50,000-200,000 ha. One logging company can have multiple CFADs, but can hold no more than a total of 600,000 ha. The Ministry of Water and Forests processes all CFAD applications. Before the Ministry awards the concession permit, the company will be issued a temporary license to survey and inventory the landscape, and prepare: 1) An analysis of the environment (i.e. mapping, management inventory, ecology diagnostics, socio-economic surveys, etc.); 2) Land use planning decisions (i.e. separation of permits for areas of management, production, ecological interest, scientific interest, etc.); 3) Plan for production (i.e. pace of logging, amount of logging of each tree species, harvesting methods, finalized management parameters, etc.), including plans for sustainable development.

Law 16/01 defines five types of logging permits, two of which can be designated as concessions (CFAD and PFA), and three others are just licenses. There are specific procedures for the issuing of each of the two types of concessions. These distinctive stages are as follows for each kind of concession:

Procedures for logging permits of the permanent forest domain of the State:

A. Forestry Concession under Sustainable Management (CFAD):

- Submitting a request in accordance with the stages outlined in chapter 2, paragraph 1 (Articles 106 to 111)
- Respecting the provisions of Decree 064 1.08/MEFEPA of 8 October 2008 setting the selection criteria for tenderers and the ways in which offers are executed and classified

- Obtaining a professional certification (CFAD) Forest Code (Article 102)
- Signing a Provisional Agreement for Logging and Processing (CPAAND) in accordance with Decree n° 689 /PR/MEFEPEPN which defines the technical rules for the administration and sustainable management of registered productive state-owned forests (Article 28)
- Obtaining an attribution decree in accordance with Decree n° 00640.08/ MEFEPa that sets out the ways in which forestry concessions are allocated by a tendering process.

B. Associated Forestry Permit (PFA):

- Submitting a request in accordance with the stages outlined in chapter 2, paragraph 2, (Articles 112 and 113)
- Respecting the provisions of Decree 064 1.08/MEFEPA of 8 October 2008 setting the selection criteria for tenderers and the ways in which offers are executed and classified
- Obtaining a professional certification (PFA) Forest Code (Article 102)
- Obtaining an attribution decree in accordance with Decree n° 00640.08/ MEFEPa that sets out the ways in which forestry concessions are allocated by a tendering process.
- Signing a Provisional Agreement for Logging and Processing (CPAAND) in accordance with Decree n° 689 /PR/MEFEPEPN that defines the technical rules concerning the administration and sustainable management of registered productive state-owned forests (Article 28).

Description of Risk

The corrupt relationships that exist between economic players and some of the people responsible for the administration of obtaining logging titles pose a risk for the legality of concessions. These corrupt relationships have an impact at a later stage on the supply chain, from the forest to the various export ports. There is a specified risk that the legal documents that the forestry operators obtain and present to demonstrate the legality of their concession may have in fact been obtained by corrupt means. According to the Corruption Perception Index 2016 from Transparency International, Gabon is ranked 101 out of 177 countries assessed. It scored a corruption index rating of 35, meaning it is perceived as a corrupt country.

Risk Conclusion

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

1.2.6. Risk designation and specification

Specified risk

1.2.7. Control measures and verifiers

- The legal procedures to obtain concession licences should have been followed in an open and transparent way. It is essentially a case of verifying that the documents

presented are not the result of a corrupt process. Put another way, that the documents have not been exchanged for bribes, which is unfortunately often the case;

- The awarding of legal rights and registrations such as a concession must have been the subject of a public disclosure.

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

I- Procedures for licences for the permanent forest domain of the State:

CFAD and PFA

- Decree n°000689/ PR which specifies the technical rules of management
- Technical rules (Articles 22-25-26)
- Forest Code (Articles 119 and 120)
- Technical Rules of management (Articles 9-14) and (Articles 22-25-26).

In the case of logging in a buffer zone with a protected area.

- Decree N°118/PR/MEFEPEPN of 1 March 2004 containing the regulation of activities in a buffer zone
- Law 3/2007 regarding national parks (Article 14)
- Law 007/2014 regarding environmental conservation in the Republic of Gabon (Article 81)
- Forest Code (Article 78)
- Decree N°0539/ PR/ MEFEPEPN that regulates environmental impact studies

Species of trees identified in the UFA, for which felling is forbidden

- Forest Code (Articles 22 and 46)
- Decree n° 00119/ PR/ MEFEPEPN that sets the composition of exploitable groups of species
- Decree 640.08

II- Logging restrictions which must be respected in the field:

- Forest Code (Article 22)
- Decree n° 000689/ PR/ MEFEPEPN defining the technical rules regarding the administration and sustainable management of registered productive state-owned forests

- Forest Code, chapter 1, section 1, (Articles 28-30 and 45-52)
- Decree n° 689 /PR/MEFEPEPN defining the technical rules regarding the administration and sustainable management of registered productive state-owned forests (Article 28)
- Forest Code, chapter 2, paragraph 3, sub-section 3 (Articles 119 and 120)
- Forest Code, chapter 1, section 1, (Article 37)
- Decree 00117/PR/ MEFEPEPN that sets the minimum exploitable diameters;
- Forest Code, chapter 1, section, (Article 22)
- Forest Code, chapter 2, Sub-section 3 (Article 121)

III- Respecting the theoretical possibility detailed in the PAO (theoretical volume to harvest from the AAC)

- Forest Code (Article 51)
- National Technical Guide on Forest Management (*Guide Technique Nationale d'Aménagement Forestier*) (GTN)

IV - Existence of a management plan approved by the forest administration.

- Forest Code (Articles 21 to 67; 110)
- GTN : Chapter 1, General provisions, Stages of development
- National Technical Guide Appendix 10 regarding "outline of the forest management plans (typical model)"

IV - Procedures for rural domain licences:

For PGGs

- Decree n° 136/MEF of 10 October 2011 setting the terms and conditions for the attribution and management of Permits by Private Agreement
- Decree 0725/PR/MEFEPA regarding PGGs

For ACBSLs

- Decree 104/MFEPRN/SG/DGF/DPRC/SR that states the conditions of issuing Logging Authorisations for Pitsawing (ACBSL)
- Decision of the ACBSL

For community forests:

- Law 16/01, Chapter 2, paragraph 3, sub-section 5 (Article 156) simplified management plan.

NOTE: Legislation regarding community forests is still in the process of being tested. The few instances of community forests that exist today (03) are pilot schemes.

1.3.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.3.3. Legally required documents or records

I - For licences for the permanent forest domain of the State:

- Management plan forestry maps in accordance with standards: (CFAD and PFA).
- General map of the concession showing the different development blocks
- Maps showing the proposed subdivision of the permit
- Geo-referenced numerical data
- Report on the opening of boundaries
- Signposts of the borders • In the case of logging in a buffer zone with a protected area.
- Approved environmental impact study
- Compliance notice from the Minister responsible for the Environment
- Report on the opening of boundaries
- Mission report
- Approved Social and Environmental Management Plan (*Plan de Gestion Sociale and Environnementale*) (PGSE)

The species of trees identified in the UFA, for which felling is forbidden

- Management plan
- Site log book
- Monitoring function report.

II- Logging restrictions which must be respected in the field:

- Triage map
- The annual operating plan
- General map of the concession showing the different development blocks
- Maps showing the proposed subdivision of the permit
- Report on the logging inventory
- Geo-referenced numerical data
- Triage map
- Cumulative state of the volumes logged in the AAC
- Site log books
- Letter approving the annual operating plan
- Letter approving the five-year management plan
- Report on the opening of boundaries of the annual operation areas

III- Respecting the theoretical possibility detailed in the PAO (theoretical volume to harvest from the AAC)

- Cumulative state of the volumes logged in the AAC

IV- Existence of a management plan approved by the forest administration:

- Approved inventory protocol
- Approved management inventory report
- Temporary Management-Logging-Processing Agreement (*Convention Provisoire Aménagement-Exploitation-Transformation*) (CPAAND) with date of signature;
- Management plan
- Letter approving the management plan;
- Attribution decree of the CFAD;
- Letter approving the five-year management plan
- Letter approving the annual operating plan;
- Report on the logging inventory;
- Monitoring function report;
- Low impact logging procedure;
- Forestry maps available in the cantonments and the regional directorates of water and forests.

IV - For rural domain licences:

For PGGs:

- Site log books;
- Map showing the positioning of trees;
- Geo-referenced numerical data;
- Blazing report

For ACBSLs:

- Map showing the positioning of trees;
- Geo-referenced numerical data;
- Blazing report

For community forests

NOTE: Legislation regarding community forests is in the process of being drawn up

1.3.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of the Environment (*Ministère de l'Environnement*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

Non-Government sources

- Forest Legality (2014). *Gabon - Forest Legality*. [Online]. Available at: <http://www.forestlegality.org/risk-tool/country/gabon#tab-management> [Accessed 03 January 2017]
- Brainforest, 2016. *Compte rendu de mission d'Observation Indépendant des Forêts (OIF)*.

1.3.5. Risk determination

Overview of Legal Requirements

This paragraph is taken from Forest Legality (2014): The Forest Code sets out a contractual framework, which has been applicable to operators since 2005. In short, all forest concession holders must prepare a forest management plan spanning 30 years, which divides and subdivides the concession into smaller annual harvesting lots. The law also requires these small annual plots to have operational plans before logging will be authorized. This rotation system ensures that trees are regenerated during the 25-year fallow period. The implementation and management of the Forest Code and its regulations is conducted predominantly by the Ministry of Water and Forests.

This paragraph is taken from Forest Legality (2014): To operate on the Permanent Forest Estate (PFE), a Forest Management Plan is always required. The plan must contain: (1) socio-economic and biophysical data of the forest area; (2) management objectives; (3) proposed development area; (4) costs of development, and (5) implementation plans for monitoring, evaluation and revision of the development plan. Similarly, the plan must define: (1) forest boundaries; (2) composition of the area, namely "objective species"; (3) plot rotation scheme, and (4) minimum exploitable diameter for the objective species. This plan must be based on a forest inventory and submitted within three years of obtaining a licence for interim management. The Development plan is also reviewed every 5 years. There is no forest management plan required for forest operations in the rural domain.

Description of Risk

The number of concession holders who have an approved management plan, which is strictly implemented, is low compared to the very large number of operators that are officially registered (Brainforest, 2016). Nevertheless, forestry logging continues in spite of the lack of approved management plan, which is a legal requirement and a key facet of government policy regarding the sustainable management of timber resources.

Risk Conclusion

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

1.3.6. Risk designation and specification

Specified risk

1.3.7. Control measures and verifiers

- The company has all the routine regulatory authorisations concerning the carrying out of their activities;
- Harvesting inventories must be completed in accordance with legal requirements;
- Checks in the field show that the content of logging plans is respected on the ground;
- The management and annual logging plans contain information and procedures, according to all legal requirements and have been approved by the relevant authorities;
- The forestry management plan has been approved following the procedure required by law.

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

I – For the permits of the permanent forest domain of the State (CFAD and PFA)

- Technical Requirements of management (Articles 9-14) and (Articles 22-25-26)
- Decree 640.08
- National Technical Guide Appendix 10 regarding the “outline of forest management plans (typical model)”
- Law 16/01, chapter 1, section 1, Forest Code (Article 23)
- Forest Code, chapter 1, section 1, (Articles 28-30 and 45-52)
- Decree n° 689 /PR/MEFEPEPN stating the technical rules regarding the administration and sustainable management of registered productive state-owned forests (Article 28)
- Forest Code, chapter 2, paragraph 3, sub-section 3 (Articles 119 and 120)
- Forest Code, chapter 1, section 1, (Article 37)
- Decree 00117/PR/ MEFEPEPN setting the minimum exploitable diameters
- Forest Code, chapter 1, section, (Article 22)
- Forest Code, chapter 2, Sub-section 3 (Article 121)
- Forest Code (Article 43)

• National Technical Guide on management • Decrees containing the attribution of the relevant CFADs; • Attribution decrees for the relevant PFAs II - Procedures for rural domain licences: For PGGs • Decree n° 136/MEF of 10 October 2011 setting the terms and conditions for the attribution and management of Permits by Private Agreement • Decree 0725/PR/MEFEPA regarding PGGs For ACBSLs • Decree 104/MFEPRN/SG/DGF/DPRC/SR setting the conditions for issuing Logging Authorisations for Pitsawing (ACBSL) • Decision on the ACBSL For community forests: • Law 16/01, Chapter 2, paragraph 3, sub-section 5 (Article 156) simplified management plan. NOTE: Legislation regarding community forests is still in the process of being tested. The few instances of community forests that exist today (03) are pilot schemes. 1.4.2. Legal authority • Ministry of Water and Forests (<i>Ministère des Eaux et Forêts</i>)+ 1.4.3. Legally required documents or records I - For permanent domain licences: CFAD and PFA. • Report on the opening of the concession's boundaries • Letter approving the Annual Operations Plan (<i>Plan Annuel d'Opérations</i>) (PAO) • Approved inventory protocol • Letter approving the management plan • Maps proposing the subdivision of the permit; • Geo-referenced numerical data; • Forestry inventory report; • Site log books; • Monitoring function report; • Triage map; • Cumulative state of volumes exploited in the annual operation area (AAC) II - For rural domain licences:	
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For PGGs

- Site log books;
- Map showing the positioning of trees;
- Geo-referenced numerical data;
- Tree-marking report

For ACBSLs

- Map showing the positioning of trees;
Geo-referenced numerical data;
- Tree-marking report

1.4.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

Non-Government sources

- Forest Legality (2014). *Gabon - Forest Legality*. [Online]. Available at: <http://www.forestlegality.org/risk-tool/country/gabon#tab-management> [Accessed 03 January 2017]
- Brainforest, 2016. Compte rendu de mission d'Observation Indépendant des Forêts (OIF).
- Transparency.org (N.Y) Gabon [Online]. Available at: <http://www.transparency.org/country/GAB>

1.4.5. Risk determination

Overview of Legal Requirements

I – The different permits that can be granted in the rural domain:

Unlike the permits for the permanent domain, permits for the rural domain are easily accessible, and can only be granted to Gabonese people, following simplified procedures. It is a question of tree permits.

The Permit by Private Agreement (PGG): grants the right to 150 trees and is valid for one year (Decree n°0725/PR/MEFEPA setting the terms and conditions for the attribution of Permits by Private Agreement; and Decree n°136/MEF of 10/October/2011 stating the ways in which Permits by Private Agreement are granted and managed);

- Attribution request in accordance with Decree 0725/PR/ MEFEPa relating to PGGs
- Report of the tendering committee
- Attribution decision in accordance with Decree n° 0136/MEF of 10 October 2011 setting the ways in which Permits by Private Agreement will be managed and administered

The community forest: their development requires a simple management plan (Article 156) and they can be managed directly or by tenants (Article 160).

The Logging Authorisation for Pitsawing (ACBSL) : grants the right to harvest 06 trees of marketable species, for a period of less than 1 year;

- Attribution request
- Attribution decision from the ACBSL in accordance with Decree 104/MFEPRN/SG/DGF/DPRC/SR setting the conditions for issuing Logging Authorisations for Pitsawing (ACBSL)

II - The different permits that can be granted for the permanent forest domain of the State:

The Associated Forestry Permit (PFA);

The Forestry Concession under Sustainable Management (CFAD);

Permits for the permanent forest domain are "surface area permits" because they result in putting several thousand of hectares of the surface area of national territory forests under concession for the benefit of an operator (Article 96 and 97 Law 16/01). "Surface area" permits are subject to strict attribution procedures (attribution by a tendering process, obtaining a professional certification in the conditions set via regulations, possessing an attribution decree in the case of a CFAD or a decree in the case of a PFA) and to restrictive management obligations (having a validated management plan and implementing it). Forestry taxation, all the obligations linked to labour rights, social security, the commerce code, investment codes constitute the other requirements that permanent domain permits are subject to.

Description of Risk

Harvesting permit violations are a very significant problem in the Gabonese forestry sector. The risk is at two levels:

Administrative violations:

The risk lies in situations where harvesting is carried out without a valid permit or when permits are obtained by illegal means (corruption). In Gabon, corruption is frequently used to obtain forestry permits in areas and for species that cannot legally be logged (for example, protected areas, areas that do not fulfil the minimum age or diameter requirements, species of trees that cannot be logged, etc.). The corrupt relationships that exist between economic players and some of the people responsible for the administration of obtaining logging titles poses a risk for the legality of concession licences. These corrupt relationships have an impact at a later stage on the supply chain, from the forest to the various export ports. There is a specific risk that the legal documents that the forestry operators have to prove the legality of their concession have in fact been obtained by corrupt means. According to the Corruption Perception Index 2016 from Transparency International, Gabon is ranked 101 out of 177 countries assessed. It scored a corruption index rating of 35, meaning it is perceived as a corrupt country.

Since logging permits are used to estimate the costs based on species and qualities, there is a risk that corrupt means will be used to declassify products, which will translate into lower costs than what they should legally be (see also 1.5, 1.16 and 1.19 further down).

In the case of illegal forestry activity, forestry permits for sites other than the actual harvesting site could be provided as a false proof of the legality of harvested material.

Physical violations (those committed in the field at a forestry site level) represent a huge burden on the supply chain. The fight against illegal practices on forestry sites requires significant human, material and financial resources, which the administration does not have (Brainforest, 2016).

More specifically, the physical risks are:

The lack of precision regarding the boundaries of the rural forest domain. The Forest Code (Law 16/01 of 31/12/2001) is limited to indicating (Articles 12 and 16) that the rural domain is reserved for the use of village communities without formally specifying its boundaries with the permanent domain, a production area for industrial use. The selling-off by rural populations of the resource available in "their areas", means that a dishonest "category of operators" is generated, who specialise in the collection of timber outside the regulated areas and norms;

"The establishment" of a lawless area. The lack of precision regarding the boundaries of the rural domain poses a problem. It establishes a lawless area within which operators engage in numerous illegal practices, in terms of logging (ONG Brainforest, 2013).

The operation of titles (PGG and ACBSL) beyond recognised legal timeframes, (1 year for the PGG and One-time use for the ACBSL) is becoming a scourge.

Risk Conclusion

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

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

Buyers need to ensure that their supplier has a procedure and follows the implementation of management documents:

- The documents indicated in 1.4.3 are the supporting documents that the supplier of timber in Gabon should present to demonstrate their legality in connection with their harvesting permit;
- An inspection in the field shows that the maps correspond with reality;
- Harvesting boundaries must be clearly marked on the basis of maps and quantities;
- The authorities confirm the validity of the logging permit(s) and confirm that the attribution of the logging title has been published;
- An inspection in the field shows that the information regarding the area, the species, the volumes and other information contained in the harvesting permit are correct and within the limits prescribed by the law.

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

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Forest Code, chapter 2, Sub-section 3 (Articles 130-133 and 136-137)
- Forest Code, chapter 3, (Article 228)
- Forest Code (Articles 138-140 and 234)
- Forest Code (Articles 140, 244 and 246)
- Labour Code (Article 116).

II - Procedures for rural domain licences:

For Logging Authorisation for Pitsawing (ACBSL)

- Article 11 of Decree 104/MFEPRN/SG/DGF/DEPRC/SR
- Forest Code, chapter 2, Sub-section3 (Articles 130-133)

For PGGs:

- Forest Code, chapter 5 (Article 244)
- Forest Code, chapter 2, Sub-section3 (Article 130-133 and 136-137)

1.5.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of Finance (*Ministère des Finances*)

1.5.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Site log book
- Fleet log book
- Specifications signed by the forest administration
- Monitoring function reports

- Forestry accounting movement record of logs arriving and processed products leaving each plant
- Declaration form for production of timber produced and acknowledgement of receipt;
- Breakdown sheet for processed products
- Specification of products that have been sold stamped by customs and water and forests;
- Payment receipts for felling taxes;
- Payment receipts for surface area taxes;
- Settlement moratorium of surface area taxes;
- Receipts for payment of taxes and fees.

II - Procedures for rural domain licences:

For PGGs:

- Tree-marking report of trees;
- Payment receipts for forestry charges;

For ACBSLs:

- Payment receipt for the felling tax;
- Monthly payment receipt for the sawing tax

NOTE: community forests are currently being trialled. There are therefore no texts right now.

1.5.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Finance (*Ministère des Finances*) [online]. Available at: <http://www.budget.gouv.ga/>

Non-Government sources

- Brainforest (2011). Étude sur la prévalence de la corruption dans le secteur forestier, mai 2011. Available at: <http://www.brainforest-gabon.org/publications/>
- Conservation Justice (2014). Rapport d'étude sur les fraudes du secteur forestier.
- Conservation Justice (2013). Rapport sur les filières illégales d'exploitation du Kévazingo dans le Woleu-Ntem.
- Environnement Sans Frontière (ESF-Gabon) (2016). Compte rendu d'Entretien.
- Brainforest (2015). Mission report de terrain, Nyanga

1.5.5. Risk determination

Overview of Legal Requirements

Legislation covering the payment of forestry logging costs outlines the different types of payments such as: licence fees, stumpage fees, and other fees according to volume, for example. This also covers payment of fees based on the correct classification of quantities, qualities and species. The requirement here is the conformity of payments, for each corresponding type of fees.

Description of Risk

The clearly identified risk here is the regular non-payment of forestry costs by the people liable for them. This risk is even more the case, because the majority of economic players do not bother with complying with legal requirements where payment of costs is concerned (based on the field experience of the author, Richelieu Zue Obame).

Close observation of forestry activities enables us to note that there are occasions when information on the available resource, the species harvested, and even harvesting statistics are dissimulated (Conservation Justice, 2013).

The risks here lie in the falsification of logging information (statistics from forestry sites) for the majority of permits granted to economic operators, across all types. This risk relies on the effectiveness of inspection reports by agents of the Water and Forests administration who, once in a while, denounce and prosecute cases of fraud.

ESF-Gabon for example, reports "that we observe quite frequently the non-payment of fiscal charges and fees due to rural communities, fees which are outlined in Article 251 of the Forest Code". (*Rapport de mission d'OIF dans le sud Gabon*, Nyanga 2016).

According to the Corruption Perception Index 2016 from Transparency International, Gabon is ranked 101 out of 177 countries assessed. It scored a corruption index rating of 35, meaning it is perceived as a corrupt country.

Risk Conclusion

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

1.5.6. Risk designation and specification

Specified risk

1.5.7. Control measures and verifiers

- There should be receipts for payments of fees related to harvesting, taxes, logging costs and other fees.
- The volumes, species and qualities indicated on the sales and transport documents must correspond with the fees and costs paid.
- The authorities confirm that the operation is up-to-date with payment of all applicable costs.

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

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Forest Code, chapter 2, Sub-section 3 (Articles 130-133 and 136-137)
- Forest Code, chapter 2, Sub-section 3 (Article 140)
- Forest Code, chapter 5 (Article 244) and (Articles 246 to 249)

II - Procedures for rural domain licences:

For PGGs:

- Forest Code, chapter 5 (Article 244)
- Forest Code, chapter 2, Sub-section 3 (Articles 130-133 and 136-137)

For ACBSLs:

- Decree 104/MFEPRN/SG/DGF/DEPRC/SR regarding ACBSLs

For community forests:

- No legislation available. This type of permit is still being piloted

1.6.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of the Economy (*Ministère de l'économie*) (General Directorate of Lands (*Direction Générale des domaines*), Business Development Centre (*Centre de Développement des Entreprises CDE*))

1.6.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Payment receipts for felling taxes
- Payment receipts for surface area taxes;
- Settlement moratorium for surface area taxes;

II - Procedures for rural domain licences

For PGGs:

- Payment receipts for forestry fees;

For ACBSLs:

- Payment receipt for the felling tax;

- Monthly payment receipt for the sawing tax

1.6.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Finance (*Ministère des Finances*) [online]. Available at: <http://www.budget.gouv.ga/>

Non-Government sources

- Brainforest (2015). Mission report de terrain, Nyanga.
- Conservation Justice (2013). Rapport sur les filières illégales d'exploitation du Kévazingo dans le Woleu-Ntem.

1.6.5. Risk determination

Overview of Legal Requirements

Like all economic actors on Gabonese soil, forestry operators must pay Value Added Tax (*Taxe sur la Valeur Ajoutée (TVA)*), which is 18% for timber sold within the country. Timber due to be sold overseas, however, is subject to an exit fee payable by the seller, at a minimum rate of 1.5% depending on species.

Description of Risk

Tax evasion practices are simultaneously numerous, varied, and sophisticated in the heart of the Gabonese forest sector:

- The extraction of trees (marketable species) outside authorised areas. This practice enables the perpetrator to increase production whilst avoiding payment of taxes. Timber harvested "outside areas" is often sold without being declared, or with falsified documents.
- The organisation of illegal channels of logging and sale of high commercial value forestry species (the case of Kévazingo in the provinces of Woleu-Ntem, and of Ogooué Ivindo, as reported by Conservation Justice, 2013).

Risk Conclusion

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

1.6.6. Risk designation and specification

Specified risk

1.6.7. Control measures and verifiers

- Commercial documents include the applicable sales taxes.
- Receipts for the payment of sales taxes must exist.

- Sales prices should be in line with market prices.
- Harvested species, volumes and qualities must correspond with the sales documents.

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

I- Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Social Security Code;
- Tax Code;
- Commerce Code;

II - Procedures for rural domain licences:

For PGGs:

- Tax Code

For ACBSLs:

- Not applicable

For community forests:

- No legislation available. This kind of permit is still being piloted

1.7.2. Legal authority

- Ministry of Water and Forests
- Ministry of the Economy (*Ministère de l'économie*) (General Directorate of Lands (*Direction Générale des domaines*), Business Development Centre (*Centre de Développement des Entreprises CDE*))
- Ministry of Labour (*Ministère de Travail*)
- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of the Economy (*Ministère de l'économie*) (General Directorate of Lands (*Direction Générale des domaines*), Business Development Centre (*Centre de Développement des Entreprises CDE*))

1.7.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Duty issued by the Tax Ministry (*Ministère des Impôts*)
- Receipt for payment of the quarterly contribution to the CNSS

- Receipt for quarterly payment of the Personal Income Tax (*Impôt sur le Revenu des Personnes Physiques*)
- Receipt for annual payment of the tax on businesses

II - Procedures for rural domain licences:

For PGGs:

- Payment of forestry fees

For ACBSLs:

- Not applicable

For community forests:

- Legislation is being drawn up

1.7.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Finance (*Ministère des Finances*) [online]. Available at: <http://www.budget.gouv.ga/>

Non-Government sources

- Brainforest (2011). Étude sur la prévalence de la corruption dans le secteur forestier, mai 2011.
- Conservation Justice (2014). Rapport d'étude sur les fraudes du secteur forestier.

1.7.5. Risk determination

Overview of Legal Requirements

The law obliges economic operators to pay taxes in the framework of the carrying out of their activities. This obligation also weighs on forestry operators who must pay the tax.

Description of Risk

The risk here, is similar in nature to the previous criteria. For this indicator, we note that private operators have a strong tendency to conceal information on their revenues and other income linked to the sale of forestry products (Brainforest, 2011). The risk here is the hiding of information. It is even more established that inspections of the work regularly unveil fraudulent practices linked to the non-declaration of workers, at the administrative level. This enables them to evade various fiscal or social security obligations.

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.

1.7.6. Risk designation and specification

Specified risk

1.7.7. Control measures and verifiers

Commercial documents must be compliant to guarantee regular payment of taxes. Here this means:

- Tax declaration
- Taxpayer account
- Monthly production declaration
- Receipt for payment of 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

I - Procedures for licences for the permanent forest domain of the State (CFAD and PFA):

- Forest Code (Articles 37 and 38)
- Decree 00117/PR/ MEFEPEN setting the minimum exploitable diameters
- Forest Code (Articles 22 and 46)
- Decree n° 00119/ PR/ MEFEPEN setting the composition of groups of exploitable species
- Forest Code (Article 42) and (Article 51)
- Law 007/2014 regarding conservation of the environment in the Gabonese republic
- Decree n° 000689/ PR/ MEFEPEN outlining the technical rules for the administration and sustainable management of registered productive state-owned forests
- National Technical Guide: Chapter 4, Technical rules of logging, Rules of intervention in the forest milieu, Infrastructures (Articles 22-25-26)
- *Cahiers de charges;*
- Forest Code, chapter 2, sub-section 3 (Articles 119 and 120)
- Forest Code (Articles 21 to 67; 110)

NB: Articles (21 to 67) of section 1 of chapter 1 of the Forest Code, as well as Article 110 of paragraph 1 of chapter 2, regulate the management of forests. Full name of the law, and a reference to the relevant chapter, section or clause, if appropriate

II - Procedures for rural domain licences:

For PGGs:

- Decree 00117/PR/ MEFEPEN setting the minimum exploitable diameters
- Decree n° 00119/ PR/ MEFEPEN setting the composition of groups of exploitable species

For ACBSLs:

- Decree 00117/PR/ MEFEPEN setting the minimum exploitable diameters

- Decree n° 00119/ PR/ MEFEPEPN setting the composition of groups of exploitable species

For community forests:

- Simple management plan (Forest Code Article 156)
- Decree 00117/PR/ MEFEPEPN setting the minimum exploitable diameters
- Decree n° 00119/ PR/ MEFEPEPN setting the composition of groups of exploitable species

1.8.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.8.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State (CFAD and PFA):

- Forestry inventory report
- Site log books
- Monitoring function report
- Management plan
- Annual operation plan (PAO)
- Fleet log book
- Audit mission report
- Cumulative state of volumes exploited in the Annual Operation Area (AAC)
- Geo-referenced numerical data
- Planning map of the road network
- General concession map showing the various management areas
- Maps proposing the subdivision of the permit
- Report on the opening of borders
- Signposts of the boundaries
- Audit mission report on the ground.

II - Procedures for rural domain licences:

For PGGs:

- Site log book
- Map showing the positioning of trees
- Geo-referenced numerical data
- Tree-marking report of trees

For ACBSLs:

- Tree-marking report of trees

1.8.4. Sources of Information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

Non-Government sources

- Zue Obame, Richelieu (2014). Rapport du premier test de grille de l'égalité FLEGT gabonaise; Woleu-Ntem.
- AGNU (2015). Entretien d'enquête, mission Ogooué-Ivindo.
- Environnement Sans Frontière (ESF) (2015). Mission report d'OIF dans la province de l'Estuaire.
- Conservation Justice (2013). Projet de lutte contre l'exploitation illégales des forêts, Mission report Aout 2013.

1.8.5. Risk determination

Overview of Legal Requirements

This concerns all the legal requirements regarding harvesting techniques and technology. It concerns making sure that harvesting operations are being undertaken in accordance with the technical rules defined by the forest administration. In addition, requirements such as selective cutting, low-impact logging, preserving seed-bearers, clear cutting, transporting timber from the felling site and seasonal limitations, etc. must be respected. These requirements also include regulations regarding the maximum size of logging areas, the age and the minimum diameter for felling, elements that must be preserved during felling, etc.

Description of Risk

Forestry management rules, rules protecting the environment, or other rules that intervene in the forest area are not respected by many permit holders (Richelieu ZUE OBAME, 2014). The risks here stretch from the felling of trees without applying the low-impact logging rules, to overexploitation (harvesting of a greater number of trees than that which is permitted by quotas per hectare), passing by felling outside authorised boundaries, etc. These infractions are constantly reported by local NGOs such as Conservation Justice or even Brainforest (ESF, 2015).

The risk of fraud where respect of rules on the harvesting of timber is concerned is very widespread (AGNU, field mission report 2015).

Due to a lack of human and material resources, inspections on the ground by agents of the Forest administration are inadequate. This situation constitutes a significant risk factor.

In practice, forestry operators do not respect the operating documents that they file with the forest administration.

Operators tend to cut more timber than the theoretical possibilities approved by the administration (based on the author's experience in the field, Richelieu Zue Obame).

Forestry operators generally carry out logging activities for longer than the legal periods of time granted by their permits. Furthermore, in the majority of cases, production from rural domain permits often goes well beyond the authorised threshold. This situation is linked to the phenomena of tenant farming. Operators in the rural domain pass their title on to medium and large operators, who exploit permits in place of rural people and in this way harvest non-authorised qualities of timber, and do so in the absence of any supervision (Conservation Justice, 2013).

The risk identified here, is the increase / generalisation of fraudulent practices with regard to respecting the rules on harvesting timber. Many operators do not comply with regulations and guidance governing the management of forests. This indicator has therefore been evaluated as specific risk of illegality.

Risk Conclusion

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

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

Buyers of timber from Gabon should check that their supplier:

- has properly defined the boundaries of the various subdivisions of their permit and respects these boundaries when carrying out harvesting operations;
- does not harvest timber in areas where harvesting is forbidden;
- only harvests permitted forest species;
- respects in the field the restrictions on harvesting;
- has maps showing the areas of logging, which are in line with the management plan;
- by checks in the field, that the content of the management plan is respected on the ground;
- has identified harvesting restrictions in the management plan and maps;

The buyer should also consider:

- Checking that the forest management plan has been validated and approved by the administration, as well as that an approved annual work plan exists. Beyond checking the existence of these documents, the problem in Gabon is above all in the effective application of the guidance contained within these documents. Almost all operators can easily show the required documents, but very few of them apply the requirements of these documents in the field;

- Questioning rural populations on the forestry “practices” of local operators in the areas where they live;
- Checking, in the case of permits in the rural domain, the validity of the permit;
- Making sure that the permit is actually being applied in the geographical area for which it was granted;
- Inspecting on the ground that harvests comply with the information contained in the site log book.
- Checking that the extraction of timber is verified by the forest administration;
- Inspecting the harvesting site to confirm that harvesting is taking place within the boundaries of the property.

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

Procedures for licences for the permanent forest domain of the State (CFAD and PFA):

- GTN : Chapter 4, Technical rules of logging, rules of intervention in the forest arena, Conservation of the environment, Protection of fauna,
- Law 007/2014 regarding the protection of the environment in the republic of Gabon (Article 75) and (Article 81)
- Labour Code (Article 163 and 164)
- Law n° 003-2007 of 27 August 07 concerning National Parks.

1.9.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.9.3. Legally required documents or records

Procedures for licences for the permanent forest domain of the State (CFAD and PFA):

- Regulation of access to the concession
- Outreach work with workers regarding the provisions relating to fauna and hunting
- Barriers placed on closed forestry roads
- The existence of an anti-poaching system (specifically relative and internal regulations and the intended punishments)
- Provision of a company store approved by the Labour administration
- Mission report

- Assent of the Minister responsible for the Environment

1.9.4. Sources of Information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of the Environment (*Ministère de l'Environnement*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Labour (*Ministère du Travail*) [online]. Available at: <http://www.travail.gouv.ga/>

Non-Government sources

- Brainforest (2013). Enquête sur les activités d'exploitation illégale du Kévazingo and le braconnage d'espèces protégées dans le Woleu-Ntem.
- Conservation Justice (2013). Enquête sur les activités de braconnage dans le Woleu-Ntem.

1.9.5. Risk determination

Overview of Legal Requirements

In terms of protected areas, protected species, as well as those that are rare or at risk, the texts that regulate their management are quite definitive. They recommend the priority conservation of these sites and yet provide for modalities to be implemented when it is necessary to conduct harvesting operations inside protected sites.

It is worth noting that these texts apply in the case of CFADs and PFAs because they are surface area permits whose boundaries sometimes adjoin protected areas. Permits in the rural domain are left for the sole use of village communities for their subsistence activities and contain no protected areas.

Description of Risk

The risks are the harvesting inside protected areas, and harvesting of non-authorized trees (too small, outside the boundaries, etc.) and of those whose exploitation is forbidden (example of Kévazingo as reported by the NGOs Conservation Justice and Brainforest (Brainforest, 2013; Conservation Justice, 2013)).

In terms of wildlife, the overriding problem is that of uncontrolled hunting and hunting for commercial ends that constitutes the risk factor (Conservation Justice, 2013).

Risk Conclusion

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

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- All legally protected areas (including the habitats of species) must be included in the management plan or in the relevant documentation.
- The legal procedures established to manage and protect endangered species or those that are under threat in the forestry unit must be respected.
- Regulations concerning the protection of nature such as protected areas, fallow lands, protected species and rules regarding hunting must be respected.

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

I - Procedures for licences for the permanent forest domain of the State:

CFAD and PFA:

- GTN : Chapter 4, Technical rules of logging, Rules of intervention in the forest milieu, Protection of the environment;
- Decree N°0539/ PR/ MEFEPEPN regulating environmental impact studies (Articles 3 and 5)
- Law 007/2014 regarding the protection of the environment in the republic of Gabon (Article 30); (Article 42); (Article 75); (Article 81);
- Forest Code (Article 226)

NOTE: The environmental impact study is included in the management plan. It is one of the complementary studies to carry out during a management process for a CFAD or PFA. Forestry legislation does not consider it to be a separate study but more of a subsectin of the management plan.

- Decree N°118/PR/MEFEPEPN of 1st March 2004 regulating activities in a buffer zone
- Law 3/2007 relating to national parks (Article 14)

II - Procedures for rural domain licences:

For PGGs and ACBSLs:

NOTE: PGGs are granted in the rural domain. There are no regulatory indicators provided for in the case of this criteria because they are not surface area permits.

For community forests:

- Even though they translate as the granting of an area of forest to an applicant in the heart of the rural domain, legislation only requires recipients to provide a "simple management plan" (Law 16/01 of 31/12/2001 Chapter 2, paragraph 3, Sub-section 5, Article 156).

In the case of activities in a buffer zone.

- Law 3/2007 relating to national parks (Article 14)

1.10.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Ministry of the Environment (*Ministère de l'Environnement*)

1.10.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

CFAD and PFA:

- Report on approved environmental impact analysis
- Plan to manage environmental and social risks (PGES)
- Authorisation from the minister responsible for the environment or receipt of declaration
- Reports on audit tasks
- For the installation of processing units, the company or the holder should have an environmental impact study (EIE) approved by the environment administration
- For the installation of processing units, the company should have drawn up a carbon analysis in order to assess the volumes and quantities of greenhouse gases to ensure their reduction

II - Procedures for rural domain licences:

For PGGs and ACBSLs:

No regulatory indications because PGGs and ACBSLs are not surface area permits

For community forests:

- Approved simple management plan

1.10.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of the Environment (*Ministère de l'Environnement*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

- Ministry of Labour (*Ministère du Travail*) [online]. Available at: <http://www.travail.gouv.ga/>

Non-Government sources

- Brainforest (2012). *Rapport de suivi de mise en œuvre des PGES dans le secteur forestier, Mai-Juin 2012*

1.10.5. Risk determination

Overview of Legal Requirements

The General Environmental Law of Gabon (Law No 16/93) was designed to provide basic national principles that should guide national policy in the protection and improvement of the environment. The law addresses: the conservation and sustainable use of Gabon's natural resources; the fight against pollution and nuisance; the improvement and protection of the living environment; the promotion of new values and income generating activities using the natural environment, and finally, harmonization of development with environmental conservation. More specifically with regards to forestry, Gabonese law covers logging techniques including retention of trees below the minimum diameter, erosion control and conservation of water quality (buffer zones).

Tree permits in the rural domain (PGG, ACBSL) are not the subject of clear legislation on environmental requirements.

Description of Risk

The risk with regards to environmental requirements is that the operators are often not putting them in practice. This risk is supported by the recurring reports by agents of the general directorate of the environment, conservation NGOs, the office for studies and other experts in sustainable management, that some operators do not put into practice all the legal requirements with regard to environmental safety and reduction of impacts (Brainforest, 2012).

Risk Conclusion

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

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- Environmental and/or social impact analysis must be in place and approved by the legally competent authority.
- Environmental constraints must be respected in the field, such as the requirements linked to soil damage, buffer zones, retention trees, seasonal restrictions, etc.
- The management of chemical products and of non-organic waste must respect legislative requirements.

- In the case of logging in a buffer zone
- Approved environmental impact study
- Compliance notice from the Minister responsible for the Environment, available from the operator.

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

I - Procedures for licences for the permanent forest domain of the State:

CFAD and PFA:

- Labour Code : Articles 198 to 219;
- Collective Convention 21.3
- Decree n° 001863/PR/MTE of 16/12/86 regarding the accommodation conditions for workers
- Decree 1494 of 29/12/11 (Article 117)

II - Procedures for rural domain licences:

For PGGs:

No legal provisions available in relation to this criteria

For ACBSLs:

No legal provisions available in relation to this criteria

For community forests:

NOTE: Legislation on community forests is currently being drawn up.

1.11.2. Legal authority

- Ministry of Labour (*Ministère du Travail*)
- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.11.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State.

CFAD and PFA:

- Internal rules, approved and on display
- Report on the election of health and safety at work Committees

- Safety procedures by workstation, on display
- First aid training programme
- Sheet showing discharge of equipment by workers
- Healthcare service (local and agent, agreement)
- Rules of conduct and awareness of hygiene conditions

II - Procedures for rural domain licences:

For PGGs and ACBSLs:

NOTE: PGGs and ACBSLs are only granted to village populations at the heart of the rural domain, in order to encourage their involvement in the forestry sector, the authorities have alleviated the legal requirements for this kind of permit. In addition, there are no legal requirements linked to the Labour Code.

For community forests:

NOTE: Legislation regarding community forests is in the process of being drawn up

1.11.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Labour (*Ministère du Travail*) [online]. Available at: <http://www.travail.gouv.ga/>

Non-Government sources

- Brainforest, 2013. Étude sur l'impact des activités d'Olam Gabon.
- ZUE OBAME, Richelieu, 2012. Mission report d'Observation Indépendante des Forêts dans la Nyanga.

1.11.5. Risk determination

Overview of Legal Requirements

For PFAs and CFADs, concerning health and safety at work, the law demands that individuals wear personal protective equipment, that there is a health committee, a first aid unit and the services of qualified medical personnel must be available, in this case a doctor.

In the case of permits in the rural domain, no legislation has been brought about on the subject of health and safety at work.

Description of Risk

For this criteria, the risk lies with the limited respect accorded to the rules about health and safety at work by private operators (in the case of CFADs and PFAs).

The numerous cases of work-based accidents attest to the seriousness of the risk for this indicator (Brainforest, OIF Mission report, 2013).

During their interviews with workers on forestry sites, the author of this analysis (Richelieu Zue Obame) observed that more than 60% of accidents are due to not wearing personal protective equipment (*Équipements de Protection Individuelle*). Workers stated that in the majority of cases they had never been provided with EPI. Others revealed that they were not wearing their personal protective equipment at the time of the accident (Based on the author's experience in the field, Richelieu Zue Obame).

Risk Conclusion

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

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- Health and safety at work requirements must be respected by all staff involved in harvesting activities.
- Health and safety at work requirements must be observed in the field during logging activities.
- Interviews with staff and contractors should confirm that the protective equipment required by law is provided by the organisation.

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

I - Procedures for licences for the permanent forest domain of the State:
CFAD and PFA:

- Labour Code (Articles 19 to 34) regarding the formalisation of the relationship between a company and its workers
- Labour Code (Articles 140 to 162) regarding the remuneration of workers according to current legislation;
- Collective Convention (Article 53) and Labour Code (Articles 141, 142, 144, 163 and 189) regarding obligations towards transferred workers
- Collective Convention (Article 11); (Article 53)

- Decree n°127/PR/MTEPS of 23 April 2010 on the minimum monthly wage
- Decree n°0016/PR/MTE of 26 February 2007 approving the results of the joint salary committees
- Collective Convention (Articles 45 to 54)
- Labour Code (Articles 51, 64, 70, 71, 189) regarding procedures for termination of agents
- Labour Code (Articles 2, 99, 101 and 103) regarding workers' professional development
- Labour Code (Articles 14, 269 and 270) and Decree 147/MANDEP of 26/04/2011 concerning respecting the freedom of union activity within the company
- Labour Code, and Decree n° 00147/MTEFP of 26/04/2001 (Articles 291 to 299) concerning compliance with the conditions of eligibility and election of staff representatives according to legal provisions
- Social security code

II - Procedures for rural domain licences:

For PGGs and ACBSLs:

- There is no legal provision provided for on the legality of work. As with the previous criteria, the legislator has not specified any clear requirements regarding employment for this kind of permit.

For community forests:

- Legislation regarding community forests is in the process of being drawn up

1.12.2. Legal authority

- Ministry of Labour (*Ministère du Travail*);
- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.12.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

CFAD and PFA:

- Employment contracts and/or recruitment letter
- Pay slips complying with the salary grid and with the collective convention
- Making available accommodation for the employee and their family
- Supporting documents on the transport of the employee and their family
- Provision of a company store
- Summons
- Report of interview
- Termination letter

- Salary slip for final settlement
- Work certificate
- Transport title/transport compensation
- Employer's register
- Training programme
- Record of training sessions for workers
- Lack of complaints upon inspection of the workplace regarding the practice of union activity
- Grievance record
- Document defining eligibility conditions
- Approved report on the election of the staff representative signed by the work inspectorate
- Quarterly salaries declaration

II - Procedures for rural domain licences:

For PGGs:

- No applicable legal provision

For ACBSLs:

- No legal provision is provided for this criteria

For community forests:

- Legislation regarding community forests is in the process of being drawn up

1.12.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Labour (*Ministère du Travail*) [online]. Available at: <http://www.travail.gouv.ga/>

Non-Government sources

- Brainforest (2010). Rapport de mission sur les conditions de vie and de travail des ouvriers dans les bases vies.
- Richelieu Zue Obame, données issues d'enquêtes de terrain 2016.

1.12.5. Risk determination

Overview of Legal Requirements

The texts concerning the legality of employment aim to guarantee workers stable and meaningful working conditions for themselves and their families. The law requires:

- that contracts and work permits have been drawn up in due form;
- that the requirements about obligatory insurances are respected;
- that the requirements concerning competency certificates and other training needs, the payment of work subscriptions and the retention of income taxes are effective.

Furthermore, it is also necessary to ensure that the requirements regarding the minimum working age are observed by employers.

Description of Risk

Based on the author's experience in the field, Richelieu Zue Obame: Apart from some forestry companies (generally subsidiaries of large European international groups), the majority of holders of CFAD or PFA permits do not respect the legal provisions of the Labour Code. Workplace inspections regularly register complaints by workers in the forestry sector, regarding:

- not respecting the provisions of the Labour Code where signing formal contracts is concerned;
- not being covered by obligatory insurances;
- not respecting the Guaranteed Minimum Salary;
- non payment and declaration of salaries to the National Social Security Fund (CNSS);
- not respecting the freedom of union activity and not designating staff representatives.

Risk Conclusion

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

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

Buyers of timber from Gabon should ensure that:

- Staff representatives are named and the freedom of union activity is guaranteed;
- People involved in harvesting activities must be employed under a formal contract;
- People involved in harvesting activities must be covered by the obligatory insurances;
- People involved in harvesting activities must possess the necessary competency certificates required for the role that they carry out.
- As a minimum, the legally established basic salaries are paid to staff involved in harvesting activities.
- Salaries must be paid officially and declared by the employer where needed for staff involved in harvesting activities.

- The minimum age must be observed for all staff involved in harvesting activities and in dangerous jobs.

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

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Forest Code, chapter 1, section 1 (Articles 39 and 40)
- Forest Code, chapter 5 conveying the economic, financial and social provisions (Article 251)
- Decree 105/MFEPRN/SG/DGF/DDF/SACF establishing the model for the contractual *cahier de charge*
- Forest Code, chapter 6, (Article 257) regarding the respect of rights of customary usages

II – The company or the holder shall inform stakeholders of the attribution of a forestry title:

For CFADs and PFAs: (This provision particularly applies to CFADs and PFAs)

- Forest Code (Article 15)
- Decree, order and attribution decision
- GNT : Rules of intervention in the forest milieu, Relations with local populations
- Forest Code (Article 107)
- Forest Code (Article 43)
- National Technical Guide on management
- Decrees concerning the attribution of the relevant CFADs
- Attribution decrees for the relevant PFAs
- Decree n° 00640.08/ MEFEPa setting the terms and conditions for the granting of forestry concessions by a tendering process
- Decree ongoing for CFAD
- Decree n° 136/MEF of 10 October 2011 setting the terms and conditions for the granting and management of Permits by Private Agreement
- Decree 0725/PR/MEFEPA regarding PGGs

1.13.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.13.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State.

For CFADs and PFAs:

- Audit mission report
- Booklet of contractual clauses attached to the Management plan
- Company contributions management committee
- Receipt for payments
- Achievements
- Audit mission report
- Socioeconomic study report
- Management plan
- Map of the “agricultural ranges” in the management plans

II - The company or the holder shall inform stakeholders of the attribution of a forestry title:

For CFAD and PFA:

- Forestry maps available in the lodgings and the regional offices of the water and forests administration;
- The existence of a collection of up-to-date texts available in the regional offices and the lodgings of the water and forests administration (impacted by the allotted concession)
- A text displayed on the site of the company or the holder that includes the Map (for CFAD and PFA)
- Report on the information meeting to all stakeholders (CFAD, PFA, PGG, ACBSL)
- Report and record of training seminars and workshops and awareness-raising carried out by the Ministry of Water and Forests (*Ministère des Eaux et Forêts*)
- Report on the lack of objection from elected local representatives and/or if necessary from village committees.
- For CFAD and PFA publication in the official Journal

For PGG and ACBSL:

- Map showing the positioning of trees
- For PGGs a notice of posting or notice of publication (attribution text is consultable in the lodgings or DPEF)

1.13.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

- Ministry of Labour (*Ministère du Travail*) [online]. Available at: <http://www.travail.gouv.ga/>
- Ministry of the Environment (*Ministère de l'Environnement*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>

Non-Government sources

- Brainforest (2016). *Enquêtes sur la conformité réglementaire des activités forestières par rapport aux droits des communautés rurales, 2016.*
- Zue Obame, Richelieu (2011). *Rapport d'enquête sur les conflits liés au foncier rurale, Juin 2011.*

1.13.5. Risk determination

Overview of Legal Requirements

The legal requirements regarding covering customary rights encompass the following:

- securing the right to customary usages (agriculture, hunting, fishing, harvesting, collection of medicinal plants etc.) of the populations around the rural forest domain;
- guaranteeing to local populations, that they will benefit from the return of forest activities that are undertaken in their region (Article 251) in the permanent forest domain.

The exercising of customary usage rights is open and free in the rural forest domain (Article 253). As a result, for PGGs and ACBSLs, there are no rules relating to respecting customary usage rights. Furthermore, PGGs and ACBSLs being tree permits, that is to say giving the right to harvest some specimens, their development does not prevent communities from exercising their customary usage rights (hunting, gathering, agriculture, religious/cultural activities).

In the permanent forest domain in contrast, usage rights are regulated in the framework of the management plan.

Description of Risk

The risks are the non-respect of legislative provisions which make the rural domain an area that is exclusively for the use of villagers, and the payment of the forest licence fee to locals (Article 251) for the exploited forests in the permanent forest domain.

Almost all forestry companies that operate in Gabon have had several ongoing procedures in court for various reasons linked to the non-respect of rights of usage. It must however be noted that despite these procedures, some of which are still underway, operators continue their activities (Brainforest, 2016).

With regard to the rights of communities, it is easy to note that the lands of rural communities are not spared from the expansion of forestry activities. Essentially, we quite frequently observe that areas conceded to CFADs or PFAs, often extend onto the rural domain claimed by populations. Forestry operators log outside the areas that have been allocated to them, which is an offence.

The other aspect of risk here is that the forest licence fee prescribed in article 251 of the Forest Code, which acts as a way of sharing the profits from forestry activities, is too often not paid to local communities (Richelieu, ZUE OBAME. 2011), which is a crime.

Risk Conclusion

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

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Stakeholders (rural communities, Water and Forests Administrations, Land Administrations, private operators) confirm that the customary rights are respected during harvesting activities being carried out.

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.

1.14.1. Applicable laws and regulations

N/A.

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

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

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Forest Code, chapter 2, paragraph 3, sub-section 3 (Article 135 that establishes the bill of lading)
- Forest Code, chapter 2, paragraph 3 sub-section 3 (Article 122) and (Articles 127 and 128) regarding the blazing and marking of timber according to regulations.
- Decree n° 00119/ PR/ MEFPEPN setting the composition of exploitable groups of species
- Decree N° 132 /MEPRN/SG/GGICBVPF of 11 June 2014 that amends and completes certain provisions of Decree N°015/MEF/SG/DGICBVPF of 22 February 2012 regarding the rules and classification of forestry products that are allowed to be exported.

II - Procedures for rural domain licences:

For PGGs:

- Decree n° 00119/ PR/ MEFPEPN setting the composition of exploitable groups of species
- Forest Code, chapter 2, paragraph 3, Sub-section 3 (Article 122) and (Articles 127 and 128) regarding the blazing and marking of timber according to regulations.

For ACBSLs:

- Decree n° 00119/ PR/ MEFPEPN setting the composition of exploitable groups of species
- Forest Code, chapter 2, paragraph 3, Sub-section 3 (Article 122) and (Articles 127 and 128) regarding the blazing and marking of timber according to regulations.

For community forests:

NOTE: Legislation on community forests is currently being drawn up

1.16.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.16.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

For CFADs and PFAs:

- Bill of lading of the shipment issued by the company and approved by the Water and Forests administration
- The forestry hammer of the holder registered with the registry of the commercial court
- Registration certificate for the grafting hammer

II - Procedures for rural domain licences:

For PGGs:

- The forestry hammer of the holder registered with the registry of the commercial court
- Registration certificate for the grafting hammer

For ACBSLs:

- The forestry hammer of the holder registered with the registry of the commercial court
- Registration certificate for the grafting hammer.

For community forests:

Note*: Legislation on community forests is currently being drawn up

1.16.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Transport Ministry (*Ministère du transport*) [online]. Available at: <http://www.transports.gouv.ga/>
- Registry of the commercial court

Non-Government sources

- Brainforest, CIFOR, 2010. *Rapport d'étude sur les circuits de transport frauduleux de bois récoltés*

1.16.5. Risk determination

Overview of Legal Requirements

Harvested timber must be classified in terms of species, volume and quality for sales and transport. This information serves to calculate the fees and taxes, and to check that commercialised timber does not come from forbidden species at the national or international level.

Description of Risk

The risk lies with fraudulent declarations at the level of shipments being transported. It is very often the case that harvested products are classified and transported in violation of the rules. A study carried out by CIFOR showed that fraudulent transport circuits of harvested timber are extremely active in Gabon, specifically in the handcrafted sector (Brainforest, CIFOR 2010).

According to the Corruption Perception Index 2016 from Transparency International, Gabon is ranked 101 out of 177 countries assessed. It scored a corruption index rating of 35, meaning it is perceived as a corrupt country.

Risk Conclusion

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

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Evidence shall be provided upon request (photographs of labelling)
- Physical control where it should be verified that the present material equals what has been invoiced and marked
- Products must be correctly classified (species, quantities, qualities, etc.) on sales documents, customs declarations and other documents required by law.
- The material identified on invoices corresponds to the material delivered.
- The tracability of logs, from the stump to the first processing factory, is carried out in accordance with legal requirements.
- At the time of transporting, the volume, the species and the qualities must be classified in accordance with legal requirements.

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

NOTE: There are no trade permits in Gabon, which must accompany the shipment of harvested products. The procedures that lead to the legal registration of companies and to the granting of logging permits of whichever type, grant de facto the right to market goods. This indicator is only relevant in the case of Gabon insofar as it leads to examining

the question of rules of transport and circulation of products. It is understood that the issue of classification is already taken into account by the previous criteria.

I - Transport procedures for permits of the permanent forest domain of the State:

CFAD and PFA:

- Revised Community Code from CEMAC's Route of States of 3 August 2001 (Article 85)
- Law 3/71/PR/MTACT of 5 June 1971 regulating the public road transport of merchandise and travellers containing the public road transport code Articles 4 and 5.
- Decree 00837/PR-MTPT of 10 October 1969 containing regulations on road traffic in Gabon and applying ruling 30/69 of 11 April 1969 Articles R 50 and R 51
- Decree 000111/MTMM/SG/DGTT/DTR of 28 November 2000 regulating Exceptional transport provided for by Article R 50 of the road code Articles 2 and 4
- Decree 00002/MTMM/SG/DGTT of 14 January 2002 containing amendments of Articles 2 and 5 of Decree 0007/MTMM/DGTT of 14 January 2000 setting the conditions for the granting of the public road transport licence for merchandise and passengers Article 2
- Investments charter of 23/07/1998 (Articles 7, 8, 9 and 10)
- Ruling N° 10/89 of 28 September 1989 containing regulations on the activities of merchants, industrial companies or handicrafts in the republic of Gabon (Articles 6, 7 and 12)
- Uniform Acts of Corporate Law (*Actes Uniformes du Droit des Affaires*) (OHADA) (Articles 25 to 32)
- Uniform Acts of Corporate Law (OHADA) (Articles 25 to 32)

II - Procedures for rural domain licences:

For PGGs:

- Revised Community Code from CEMAC's Route of States of 3 August 2001 (Article 85)
- Law 3/71/PR/MTACT of 5 June 1971 regulating the public road transport of merchandise and travellers containing the public road transport code Articles 4 and 5.
- Decree 00837/PR-MTPT of 10 October 1969 containing regulations on road traffic in Gabon and applying ruling 30/69 of 11 April 1969 Articles R 50 and R 51
- Decree 000111/MTMM/SG/DGTT/DTR of 28 November 2000 regulating Exceptional transport provided for by Article R 50 of the road code Articles 2 and 4
- Decree 00002/MTMM/SG/DGTT of 14 January 2002 containing amendments of Articles 2 and 5 of Decree 0007/MTMM/DGTT of 14 January 2000 setting the conditions for the granting of the public road transport licence for merchandise and passengers Article 2
- Ruling N° 10/89 of 28 September 1989 containing regulations on the activities of merchants, industrial companies or handicrafts in the republic of Gabon (Articles 6, 7 and 12).

1.17.2. Legal authority

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

- Department of Commerce (*Ministère du Commerce*)
- Transport Ministry (*Ministère du Transport*)

1.17.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State:

CFAD and PFA:

- Valid insurance contract
- Vehicle registration document
- Compliance with registration
- Technical visit, still valid
- Valid category C (cant), E (heavy loads) and G (machines) driving licence
- Circuit sheet for companies formed after the adoption and implementation of the investments charter of 23 July 1998 Or Logging authorisation for companies formed before the adoption and implementation of the investments charter of 23 July 1998

II - Procedures for rural domain licences:

For PGGs:

- The forestry hammer of the holder registered with the registry of the commercial court
- Registration certificate for the grafting hammer.

For ACBSLs:

- The forestry hammer of the holder registered with the registry of the commercial court
- Registration certificate for the grafting hammer.

For community forests:

NOTE: Legislation on community forests is currently being drawn up

1.17.4. Sources of information

Non-Government sources

- Forest Legality Alliance, 2014. Gabon. Available at <http://www.forestlegality.org/risk-tool/country/gabon>. Consulted June 5, 2017.
- Brainforest, CIFOR, 2010. Rapport d'étude sur les circuits de transport frauduleux de bois récoltés

1.17.5. Risk determination

Overview of Legal Requirements

Stumps of harvested trees must be hammer marked, and the stumps should bear the same marks as the logs derived from the harvested tree. The hammer for marking trees is specific to each company, and is registered by the forestry administration and the judicial authorities. Billets of timber in forest yards must be marked with the same mark used on the trees (i.e. by the registered hammer). Each billet should be marked the same as the

tree from which it came so as to facilitate identification during transportation (Forest Legality Alliance, 2014).

I - Shipments of timber from the Permanent forest domain (CFAD and PFA) must be accompanied by:)

- Bill of lading of the shipment issued by the company and approved by the Water and Forests administration
- The forestry hammer of the holder registered with the registry of the commercial court
- Court-issued registration certificate for the forestry hammer

II - For rural domain licences (PGG and ACBSL):

For PGGs:

- The forestry hammer of the holder registered with the registry of the commercial court
- Court-issued registration certificate for the forestry hammer.

Description of Risk

As for the criteria above, the risk lies with fraudulent declarations at the level of shipments being transported. It is very often the case that harvested products are classified and transported in violation of the rules. A study carried out by CIFOR showed that fraudulent transport circuits of harvested timber are extremely active in Gabon, specifically in the handcrafted sector (Brainforest, CIFOR 2010). Therefore, bills of lading may be falsified to accommodate the transportation of species which would otherwise be protected.

Risk Conclusion

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

1.17.6. Risk designation and specification

Specified risk

1.17.7. Control measures and verifiers

- Requirements related to transport means (e.g. trucks) shall always be followed
- Species and product types shall be traded legally.
- Required trade permits shall exist and be documented.
- All required transport documents shall exist and be documented.
- Volume, species and qualities shall be classified according to legal requirements.
- Documents related to transportation, trade or export shall be clearly linked to the specific material in question

1.18. Offshore trading and transfer pricing

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

1.18.1. Applicable laws and regulations

- Articles 12 and 13 of the Gabonese Tax Law.

1.18.2. Legal authority

- Department of Commerce (*Ministère du Commerce*);
- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.18.3. Legally required documents or records

- Master file containing information about the group structure;
- Local file in relation to the structure, transfer pricing policy, and group transactions of the local entity;
- Annual Tax Return (DSF);
- A Country-by-Country (CbC) report must be filed by the ultimate parent company of the group before the tax administration of which it depends.

1.18.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Commerce (*Ministère du Commerce*) [online]. Available at: <http://www.pme.gouv.ga/>

Non-Government sources

- Gabon Corporate Group Taxation. Price Waterhouse Coopers (PWC). January 6, 2017. Available at <http://taxsummaries.pwc.com/ID/Gabon-Corporate-Group-taxation>. Consulted on June 6, 2017.
- Brainforest (2014). *Rapport sur les pratiques de fraudes au sein du secteur forestier gabonais*.

1.18.5. Risk determination

Overview of Legal Requirements

The Gabonese Tax Code provides rules regarding transfer pricing issues (this and below taken from PWC, 2017).

According to these rules, any payment considered to be a result of mismanagement will be subject to the Corporate Income Tax (CIT) rate at 30% (35% for companies operating in the oil and mining sectors) plus penalties.

Indeed, Article 12 of the Code provides that "By virtue of law or in fact, for companies which are dependent of companies or groups of companies located outside the CEMAC area, or for those which possess the control of companies located outside the CEMAC area, payments or expenses realised by any mean whatsoever or any kind of advantages or help granted to third parties without equivalent counterpart for the company, comparable to abnormal act of management, constitute transfer of profits subject to corporate income tax".

Article 13 of the Gabonese Tax Code provides that "The advantages or assistance granted by companies belonging to the same group can only be considered as resulting from a normal management if the company which grants these advantages or assistance demonstrates the existence of its own interest in acting as such. The general interest of the group is not sufficient to justify such practices".

Further to the Financial Act for 2017 implementing the OECD regulation, a Master file containing information about the group structure and a Local file in relation to the structure, transfer pricing policy, and group transactions of the local entity must be provided to the tax authorities on a yearly basis, at the same time as the Annual Tax Return (DSF).

The Financial Act for 2017 has also introduced penalties, in case of failure to provide the Master and Local files, corresponding to 5% of the transactions realised with companies of the group with a minimum of XAF 65 million per year.

In addition, a Country-by-Country (CbC) report must be filed by the ultimate parent company of the group before the tax administration of which it depends.

Description of Risk

The risk here lies with fraudulent tax practices and declarations of revenue below the real figures. This practice is particularly notable with the large groups and constitutes a hindrance to the development of the national and even local economy (Brainforest, 2014).

Examples of risks include (PWC, 2017):

Payments constituting an increase or decrease of purchases or sales.

Payments of excessive royalties or royalties without compensation.

Relinquishment of revenues (underestimated sale price, free of charge service provision, granting of a free loan or a loan with low interests).

The abnormal act of management is not limited to expenses; it also includes any form of advantages or allowances granted to third parties without any equivalent compensation for the company.

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.

1.18.6. Risk designation and specification

Specified risk

1.18.7. Control measures and verifiers

- If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as “tax havens”.
- There shall be no illegal manipulation in relation to the transfer pricing

The purchaser of wood from multi-national companies with operations in Gabon should require their suppliers to present proof that the following documents have been presented to the tax administration:

- Master file containing information about the group structure;
- Local file in relation to the structure, transfer pricing policy, and group transactions of the local entity;
- Annual Tax Return (DSF)
- A Country-by-Country (CbC) report must be filed by the ultimate parent company of the group before the tax administration of which it depends.

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

I - Procedures for licences for the permanent forest domain of the State

CFAD and PFA:

- Customs Code (Title III Article 88);
- Article 7 section 4 of decision N° 23 of 13 April 1966 setting the nature of customs declarations, the pronouncements that they must contain, the documents that must be attached.
- Decree N° 54/MEF-DDI of 5 April 1973 designating the people who are qualified to certify the origin of merchandise
- Decree N° 0137 PR- MEFEPa of 4/02/2009 concerning the storing of certain forest plant species for multiple uses
- Decree N°055/MEP/MFEPRN of 22 May 2014 setting the market values of processed timber products subject to the felling tax on export

- Decree N° 132 /MFEPRN/SG/GGCICBVPF of 11 June 2014 amending and completing certain provisions of Decree N°015/MEF/SG/DGICBVPF of 22 February 2012 stating the rules and classifications of forest products that are allowed to be exported
- Decree N° 133 /MFEPRN/CAB of 11 June 2014 containing special authorisation for the export of processed products from Kévazingo
- Article 127 of the CEMAC Customs Code, N° 132 of CEMAC's Customs Regulations
- Article 76 - g, Article 107 of the CEMAC Customs Code.
- Labour Code (Article 116).

1.19.2. Legal authority

- Ministry of the Economy (*Ministère de l'économie*) General Directorate of Customs (*Direction Générale des douanes*)
- Ministry of Water and Forests (*Ministère des Eaux et Forêts*)

1.19.3. Legally required documents or records

I - Procedures for licences for the permanent forest domain of the State

CFAD and PFA:

- Bill of lading stamped by the forest administration presented to the customs service
- Commercial invoice
- Certificate of origin
- Phytosanitary certificate
- Visit report / visit certificate issued by the customs service
- Ledgers held in the customs stores
- Delivery Order (*Bon A Enlever*) (BAE) released by the customs inspector

1.19.4. Sources of information

Government sources

- Ministry of Water and Forests (*Ministère des Eaux et Forêts*) [online]. Available at: <http://www.eaux-forets.gouv.ga/>
- Ministry of Economie (*Ministère de l'économie*) General Directorate of Customs (*Direction Générale des douanes*) [online]. Available at: <http://www.economie.gouv.ga/2-ministere/36-nos-directions/804-directions-generales/810-direction-generale-des-douanes-et-droits-indirects/>
- Ministère des Eaux et Forêt (MEF), 2014. Code Forestier de la République Gabonaise. Available at <https://www.clientearth.org/reports/20140424-gabon-forest-code.pdf>. Consulted on June 6 2017.

Non-Government sources

- Brainforest (2012). *Entretien d'enquête sur les fraudes au sein du secteur forestier*.

1.19.5. Risk determination

Overview of Legal Requirements

The law prescribes the collection of taxes that are collected at the time of export of raw or processed products Export Taxes (*Droits Uniques de Sortie*) (DUS) at the rate of at least 1.5%. The law also prescribes a 30% export tax (MEF, 2014) which is the same for all species (see <http://www.fao.org/docrep/015/an795f/an795f00.pdf>). The exporter must also have an export permit provided by the Ministry of Water and Forests and an exporter code provided by the Department of Commerce.

Description of Risk

The risk lies in various customs frauds that range from false declarations on production, quantities, and qualities of products, to corruption among customs employees in order to obtain facilities (Brainforest, 2012). The risk of customs fraud is real and constitutes an area of concern. Evidence of fraud is in the gap between the level and intensity of the national forestry production, and the contribution in terms of value of the forestry sector to Gabon's GDP (5.6% in 2014).

Risk Conclusion

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

1.19.6. Risk designation and specification

Specified risk

1.19.7. Control measures and verifiers

- All required import and export permits shall be in place.
- Products must be correctly classified (type, customs code, species, quantities, qualities, etc.).
- The operator must be up-to-date with the payment of all the legally required taxes and fees, which they are legally obliged to pay on a regular basis. The purchaser of wood from Gabon should require his supplier to show government issued receipt of payment of all taxes.
- All exported merchandise should be declared and comply with legal requirements.

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, 3. March 1979. Available at: <https://cites.org/eng/disc/text.php>

While Gabon is a signatory country to the CITES convention, the national legislation has not been identified.

1.20.2. Legal authority

- Ministère de la Forêt, de l'Environnement et de la Protection des Ressources Naturelles, Directeur Général de la Faune et des Aires Protégées

1.20.3. Legally required documents or records

N/A

1.20.4. Sources of information

Non-Government sources

- CITES registry of signatory countries. Available at: <https://cites.org/eng/cms/index.php/component/cp/country/GA>. Consulted on June 6 2017.

1.20.5. Risk determination

Overview of Legal Requirements

Gabon ratified the Convention in 1989. All exported timber species must be authorized by the appropriate agency under existing regulations. These include CITES regulations and national requirements. In 2015, *Dalbergia* spp. and *Guibourtia* spp. were introduced in the CITES list of timber species in Gabon's forest, making their harvest and trade conditional to the issuance of a CITES permit.

Description of Risk

Forest agents are often unaware of the recently listed CITES species, or unable to recognize them. This facilitates fraud through the introduction of these protected species on the market by changing their names in the work document (field documents, transport slips, etc.).

Risk Conclusion

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

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- Purchasers of *Dalbergia*, *Guibourtia* and any other CITES-listed species shall make sure those species are documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).
 - Field document
 - Export permits and certificates

- List of CITES species

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

N/A

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

N/A

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Gabon** 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:

- a) **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.
- b) **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.
- c) **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, farm land, protected areas, etc.
- d) **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.
- e) **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.
- f) **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 GABON

Forest type	Region / Area	Legal Land Classification	Ownership	Management regime	License / Permit Type		Description of source type
Natural forests	Whole country	Permanent Forest Estate – PFE	State		Associated Forestry Permits (PFA)	Surface area permit. Note*: CFADs and PFAs are administratively classed as surface area permits. The risks are therefore similar.	Article 113.- When the requested PFA is located within the perimeters of reforestation, in sensitive productive forests or those which adjoin the rural forest domain, the attribution decree concerning Article 113 is taken after tendering. In all cases, logging a PFA is conditional on a logging authorisation issued by the regional Head of Inspections for the Water and Forests administration, in accordance with general clauses concerning the exploitation of lumber.
					Forestry Concessions under Sustainable Management (CFAD)		Article 111.- In cases where the requested CFAD is located within the perimeters of reforestation, in sensitive productive forests or those which adjoin the rural forest domain, the attribution decree concerning Article 110 is taken after tendering, according to the ways and means fixed through regulation.
		Rural forest domain	State Private /Industrial Operator		Permit by Private Agreement (PGG)	Tree permit. Note*: All timber sources of the rural domain are administratively	This is a permit to log a maximum of 6 trees for the purpose of doing some pitsawing destined for personal use or to be sold on the domestic timber market.
					Logging Authorisations		In practice, PGGs are tree permits granted solely in the rural domain. The

					for Pitsawing (ACBSL)	classed as tree permits because they are granted for a limited number of trees to fell. Note* communities that will receive a community forest will not have any title to the property, because all forests remain the property of the State For ACBSLs: 3 trees	demarcation of rural forest domain is not very effective in the field because of: 1) the absence of stipulations in the law regarding the real geographical boundaries of the rural forest domain; 2) the lack of a real plan for assigning land in Gabon, which applies to all activity sectors. Attributions of community forests and especially PGGs can sometimes be found on claimed spaces like those coming from the permanent domain of Andat. Conversely, it can be the case that PFAs or CFADs straddle spaces claimed by village communities, as coming from their rural domain. These situations are often sources of conflicts or of risk of "illegal" practices in relation to the legal provisions.
					Community forests	For PGGs: 50 trees For Community forests: Regulations in progress.	Regulations on community forests are still being drawn up. This means that the current attributions of community forests are serving as experiments to help the creation of a final regulatory corpus. Two initiatives are ready to get started on this dossier: one with the support of the ACP-FLEGT project of the FAO, being implemented by DACEFI and WWF-Gabon), and the other with the support of the International Organisation of Tropical Timber (<i>Organisation Internationale des Bois Tropicaux</i>) (OIBT) is being developed by the

							General Directorate of Forests of the Ministry of Water and Forests.
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Annex II. Expert consultation

	Name	Email	Address	Job title	Organisation	Area of expertise (category/sub-category)	Contact made	Meeting time/date
1.	Hubert Aimé KOUMBA	hubertaime@yahoo.fr	Libreville	Chairman of the NGO AGNU / FLEGT Focal point civil society	NGO AGNU	civil society	yes	Provided input to the draft on April 5 th 2017
2.	Françoise Van de VEN	francoise_vandeven@hotmail.com	Libreville	General Secretary UFIGA	UFIGA	Private sector	yes	Provided input to the draft on March 28 2017
3.	Nathalie NYARRE	nnyare@gmail.com	Libreville	Adviser of the Ministry of Water and Forests	Ministry of Water and Forests	Administration	yes	Provided input to the draft on April 5 th 2017



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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon 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.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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