

Timber Legality Risk Assessment Côte d'Ivoire

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COUNTRY RISK
ASSESSMENTS



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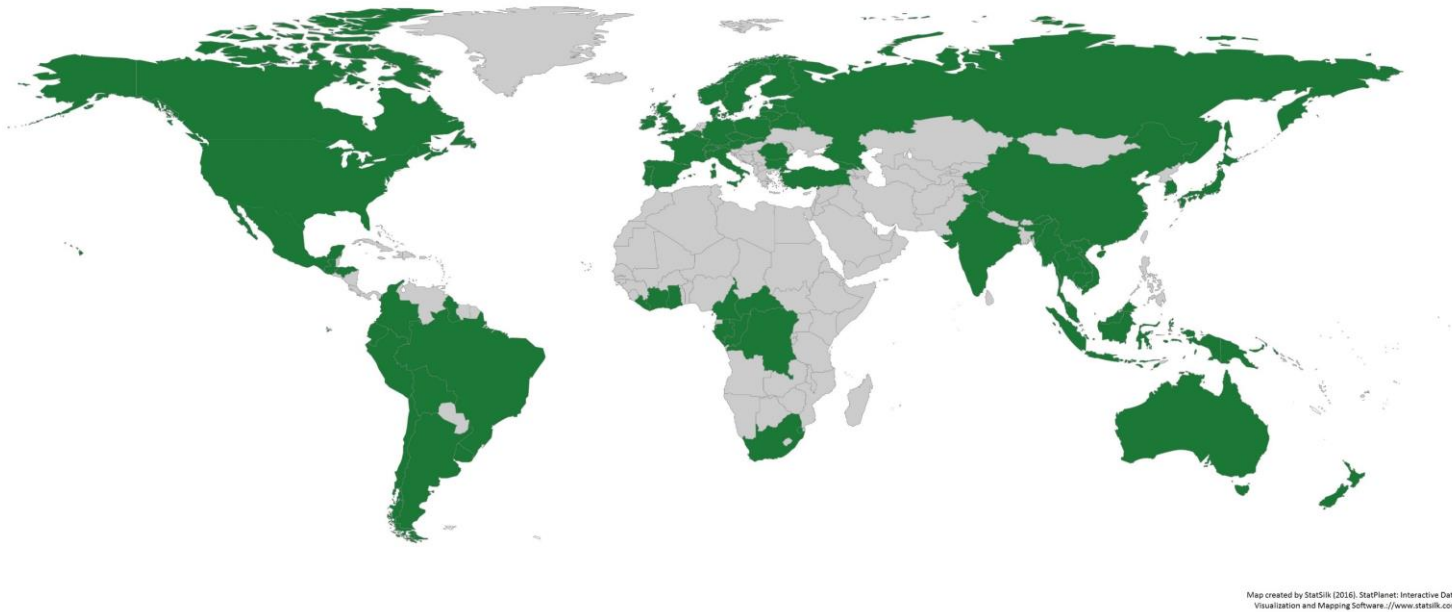
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A. Introduction

This Timber Legality Risk Assessment for Côte d'Ivoire 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.



Map created by StatSoft (2016). StatPlanet: Interactive Data Visualization and Mapping Software. //www.statsoft.com

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: 9 / 100 in 2017

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

- **Specified risk for 16 sub-categories.**
- **Low risk for 1 sub-categories.**
- **No legal requirements for 4 sub-categories.**

The Timber Risk Score for Côte d'Ivoire is 9 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:

- lack of land registration leads to risk of conflicting land use claims (1.1)
- rural forest areas (*Périmètre d'exploitation forestière - PEF*) are allocated through personal agreements (1.1)
- partnership agreements and harvesting contracts are allocated through personal agreements and not by following the required transparent tendering rules (1.2)
- forest operators do not respect forest management and harvest planning obligations (1.3)
- simplified management plans do not meet requirements (1.3)
- allocated quotas are exceeded (1.3)
- areas outside the boundaries of the authorised areas are harvested (1.3)
- unmarked trees are harvested (1.3, 1.4)
- harvesting takes place without a harvesting permit, or with a harvesting permit that has been issued illegally through personal agreements (1.4)

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

- species are concealed/classified incorrectly to reduce payment of cutting taxes to the forest administration (1.5)
- the contribution to Rural Development is not paid (CRD) (1.5)
- volumes and species harvested are wrongfully declared, leading to reduced payment of sales taxes (1.6)

For **Timber harvesting activities**, there is a risk that:

- trees below minimum harvesting diameter are harvested (1.8)
- logs are classified incorrectly in the forest (1.8)
- forest logging regulations are not respected (1.8, 1.9)
- operators do not respect the existing logging ban for protected species (1.9)
- forest beyond the 8th parallel (*8eme parallèle*) (a prohibited logging area) is harvested (1.9)
- harvesting takes place inside riparian buffer zones, on slopes of watersheds, and on hillsides (1.10)
- waste oil is left on logging sites, polluting the environment and threatening biodiversity (1.10)
- employees are not covered by social insurance, including occupational risks insurance (1.11)

- workers do not have access to Personal Protection Equipment (PPE) (1.11)
- health facilities are not always available for the employees (1.11)
- workers have not undergone professional training (1.12)
- workers are not covered by social security services (1.12)

For **Third parties' rights**, there is risk that:

- Payments of the Contribution to Rural Development (CDR) are not made (1.5, 1.13)

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

- species, quantities and qualities are falsely classified (1.16, 1.19)
- operators do not respect rules that cover the transport of logs (1.17)
- timber is transported after the permitted time, without the required documents (1.17)
- protected species are concealed in log yards and amongst legal wood piles (1.17)
- protected species are circulated due to fraud. These practices concern the species *Afromosia (Pericopsis elata)* in Appendix II of the CITES list (1.20)
- CITES species are traded without required permits (1.20)

Overall there are high levels of corruption in Côte d'Ivoire, which contributes to the bulk of the risks described above.

Timber source types and risks

There are two timber source types found in Côte d'Ivoire. 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 both source types and found a slight difference in risks areas present.

State production forest (Classified forest)	Timber from State production forests (permanent forest area of the State) accompanied Partnership Agreement or Harvesting Contract(s) between SODEFOR and forest industrials
Rural forest areas (Périmètre d'exploitation forestière - PEF)	Timber from the Rural forest areas (non-permanent forest area), accompanied by Allocation Decree and Annual authorisation to renew activity of the scope(s) signed by the Ministry of Water and Forests

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

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

C. Overview of the forest sector in Côte d'Ivoire

In Côte d'Ivoire, the permanent forest area of the State (State production forests, national parks and nature reserves) covers 19% of the territory, while the rural areas cover more than 78%. Although Law 98/750 dated 23 December 1998 on rural land tenure, granted ownership of the land to the people, the fact remains that much of the rural land has not yet been subject to registration under the land tenure plan (Alden Wily, 2015). So for now, the State holds, via the Forest Code of 1965, a management control over all forest lands and resources of the country including those located in the rural areas.

Timber harvesting in Côte d'Ivoire is the responsibility of the Ministry of Water and Forests (MINEF). The MINEF has given management responsibility of State production forests to the Forest Development Corporation (SODEFOR), a structure under both the MINEF and the Ministry of Economy. Rural forest areas are under direct management of MINEF.

SODEFOR officers are responsible for the monitoring of harvesting on state production forests, and for monitoring of activities in rural forest areas, supported by the forest police. SODEFOR can also ask the forest police to investigate cases in state production forests as required. Other ministries are involved in the forest sector, such as the Ministry of Agriculture through the Department of Rural Land Tenure, the Ministry of Interior, the Ministry of Environment and Sustainable Development, the Ministry of Employment and Social Affairs, etc.

Since decree No.94-368 of 1 July 1994 amending Decree No.66-421 of 15 September 1966, which regulates the exploitation of timber, firewood and charcoal, logging takes place either in permanent forest areas of the State (State production forests) or in rural forest areas (PEF). In state production forests, SODEFOR holds the management and harvesting rights but may (and often does) contract with private operators who will manage the forest through a partnership agreement. In the ru

ral forest areas, timber harvesting is governed by Decree No. 054/MINAGRA/DGEF/DPIF of 02 March 1995, laying down detailed rules for implementing Decree No.94-368 of 1 July 1994. This decree announced the creation of 170 logging areas (PEF) of at least 25,000 ha in the rural forest area of Côte d'Ivoire. These rural forests are granted, by order of the Minister in charge of forestry on the advice of a consultative commission (which, as we will see below, is not functional), to forest industrials or loggers.

Since Decision No 00471 / MINEF of 10 September 2003, the management of State production forests is opened to private companies. Through a partnership agreement with SODEFOR, private industrials can conduct forest management operations following a management plan and a *cahier de charges* (socio-economic commitments from companies towards the affected communities) prepared by SODEFOR.

The forest products are essentially export-oriented at the expense of the local market for reasons ranging from taxation to market realities (there are no markets for products of second and third transformation in Côte d'Ivoire). This, coupled with poor forest governance in Côte d'Ivoire, has encouraged the emergence of a clandestine sector of artisanal loggers to supply the local market (CIFOR June 2015) (Louppe & Ouattara, 2013).

The forest sector in Côte d'Ivoire is the subject of a new Forest Act (Law 2014/427 dated 14 July 2014 covering the Forest Code) bringing major reforms in the sector including granting ownership of trees to landowners, creating the concept of community forests, etc. But in the absence of application of that law decrees, the former law still regulates the forestry practice.

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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

Forest Code of 1965 (*Code forestier de 1965*), Chapter 2, determining the forest use rights. Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]:

- Decree 66/428 dated 15 September 1966 establishing the classification and declassification procedures of state forests
- Decree 71/74 dated 16 February 1971 on state and land procedures
- Decree 78/231 dated 15 March 1978 laying down the modalities of management of the forest area of the State
- Decree 94/368 dated 1 July 1994 amending Decree 66/421 dated 15 September 1966 regulating the harvesting of timber and woodworking, service, fires and coal
- Decree 055 MINAGRA/NT dated 29 March 1995 establishing the creation of the Advisory Commission assigning the perimeters of logging areas
- Decree 2001/381 dated 27 June 2001 establishing the creation of the Inter-ministerial Committee for coordination and steering of forest policy

Law 98/750 dated 23 September 1998 relating to rural land area and Law 2013/655 on rural land relating to the extension of the time limit of the establishment of Land Certificates (*La Loi 98-750 du 23 décembre 1998 relative au domaine foncier rural et la Loi 2013- 655 sur le foncier rural relative à la Prorogation du délai d'établissement des Certificats Fonciers*). Available at: <http://www.droit-afrique.com/upload/doc/cote-divoire/RCI-Loi-1998-750-domaine-foncier-rural-MAJ-2004.pdf> [Accessed 30 May 2016]:

- Decree 99/595 dated 13 October 1999 fixing the procedure of consolidation of rights of provisional concessionaires of rural land area
- Decree 99/594 dated 13 October 1999 laying down the modalities of application of customary rural land area of Law 98/750 dated 23 December 1998
- Decree 2013/296 dated 2 May 2013 defining the procedure of demarcation of villages territories

OHADA Uniform Act:

Relating to the General Commercial Law dated 15 December 2010 (*OHADA Acte uniforme portant sur le droit commercial général du 15 décembre 2010*). Available at: <http://www.droit-afrique.com/upload/doc/ohada/Ohada-Acte-Uniforme-2010-droit-commercial.pdf> [Accessed 30 May 2016]

Uniform Act– Articles 44, 46, 97 and 98 :

Relating to Commercial Companies Rights dated 17 April 1997 (*Articles 44, 46, 97 et 98 Acte uniforme relatif au droit des sociétés commerciales du 17 avril 1997*)

Ordinance 2011/480 dated 28 December 2011– Article 27 (fiscal regularity) (*art. 27 de l'Ordonnance N°2011-480 du 28 décembre 2011 (régularité fiscale)*). Available at:

<http://www.droit-afrique.com/upload/doc/cote-divoire/RCI-Annexe-fiscale-2012.pdf>

[Accessed 30 May 2016]

Law # 2015 737 of 20 June 2015 concerning agricultural orientation law (*Loi # 2015 737 du 20 juin 2015 portant Loi d'orientation agricole*)

1.1.2. Legal authority

- Ministry of Water and Forests (MINEF)
- Ministry of Interior and Security
- Directorate General of Taxes (DGI)
- Ministry of Agriculture and Rural Development

1.1.3. Legally required documents or records

Timber from State production forests:

- Registre du commerce et de déclaration fiscale d'existence (Trading register and declaration of existing taxes)
- Permis d'exploitant forestier (Logging permit)
- Convention de partenariat (Partnership agreement)
- Autorisation d'exploiter (démarrage des activités) (Logging authorisation (beginning of operations))
- Plan d'aménagement ou convention de partenariat ou contrat(s) de coupe (Management plan or partnership agreement or harvesting contract(s))
- Cahier de charges (Specification sheet)
- Agrément d'exportation annuel (*une liste est publiée par le Ministère des Eaux et Forêts*) (Annual export approval (a list is published by the Ministry of Water and Forests))
- Attestation annuelle de non-redevance de la SODEFOR (Société de Développement des Forêts) (Annual statement of non-fees from the SODEFOR)
- Reçus de paiement de taxes d'abattage de l'année en cours, mensuels (émis par le service des impôts, Ministère de l'Économie et des Finances) (Receipts of monthly payment of logging taxes for the current year (issued by the tax service, Ministry of Economy and Finances))

- Quitus fiscal annuel (émis par le Ministère de l'Economie et des Finances) (Annual tax clearances (issued by the Ministry of Economy and Finances)).

Timber originating from PEFs:

- Registre du commerce et de déclaration fiscale d'existence (Trading register and declaration of existing taxes)
- Permis d'exploitant forestier (Logging permit)
- Décision portant autorisation provisoire d'exploiter (Decision of provisional authorisation to start logging)
- Déclarations des recettes et les reçus de paiement des différentes taxes (taxe d'abattage, taxe d'attribution et de superficie, Taxe d'intérêt général) (Revenues and payment receipts from the different taxes (felling tax, attribution and area tax, public interest tax))
- Attestation de reboisement (Attestation of Reforestation)
- Attestation de non redevance (Attestation of non-fee)
- Cartographie du périmètre (Map of the perimeter)
- PV enquête de commodo et incommodo (Minutes of preliminary investigation before taking certain decisions)
- Rapport de réunion d'information et de sensibilisation pour l'attribution du PEF (Report of meeting on information and awareness of the allocation of PEF)
- Autorisation annuelle de reprise d'activité du(des) périmètre(s) (signée par le Ministre des Eaux et Forêts) - (Annual authorisation for the resumption of activities of the scope(s) (signed by the Ministry of Water and Forests))
- Reçus de paiement de taxes d'abattage de l'année en cours, mensuels (émis par le Ministère de l'Economie et des Finances) (Receipts of monthly payment of logging taxes for the current year (issued by the tax service, Ministry of Economy and Finances))
- Annual tax clearances (issued by the Ministry of Economy and Finances) (Quitus fiscal annuel (émis par le Ministère de l'Economie et des Finances)).

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1.1.5. Risk determination

Overview of legal requirements

Land management represents a major issue of irregularity in terms of the Forest Law of 1965. This law granted the ownership of the forest area throughout the country to the State. Thus, it is up to the State to allocate logging areas, supervised within the rural areas by the Advisory Committee for the Allocation of Logging Areas. In State Production Forest Areas, the Société de développement des forêts (SODEFOR) has management responsibilities. In rural forest areas, the allocation of parcels of land is preceded by a preliminary investigation carried out by the operator in order to gather, among other things, the opinions and wishes of the local communities on the intended activity, and the current or planned development projects in the concerned villages etc. This information is compiled in a technical dossier that must be provided to the Advisory Committee for the Allocation of Logging Areas. Regarding the rural communities/customary owners of the farmed plots, the forestry operators must comply with the requirements (cahiers des charges) in their favour (e.g. payment of the rural development contribution (contribution au développement rural (CDR), for the construction of socio-economical infrastructure, etc.)

The Forest Code 2014 has challenged the States' ownership of the forest areas, and things are changing as the code is being applied incrementally as the first application decrees are being adopted. As application decrees are still in their infancy, the Code is

not yet being fully applied. Therefore, this risk analysis is based on the Law of 1965, which is still in effect.

Description of risk

The main risks linked to land ownership and management of ownership rights include:

- The lack of comprehensive regulatory texts for the new Forest Code of 2014: Despite its enactment in 2014, only a few implementing regulations (decrees) of the Forestry Code have been signed; this causes a transition period whereby the players in the sector do not know which text to rely on for the regulation of logging (FERN, 2015);
- Land insecurity: Despite the Law of 1998, the registration of land in rural zones has not been successful; such that two systems of land ownership coexist (customary and modern) which risks the people being dispossessed from their land when the Forest Law 2014 is applied (Wily, 2015);
- In the rural forest area, the Advisory Committee for the Allocation of Logging Areas has not met for several years. Perimetre d'exploitation (PEF – rural areas) are attributed through personal agreements, which is in violation of legal requirements. There is a lack of a national zoning plan and up to date inventory on the forest resources. There is also a lack of reliable statistical data on the availability of resources and an unreasonable expansion of agricultural activities at the expense of other activity sector (CIFOR, 2015).

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

For a company to obtain an agreement to operate in the forest, it must be legally constituted as a forestry company. To be legally established and be legally constituted as a forestry company, the company must:

- 1) Be registered with the Trade and Credit Registry and have a tax declaration of existence, be registered with the CNPS and the criminal record of the company's executives must be in order;
- 2) The tax authorities should confirm the company awarded the concession is registered with the tax registration;

The operator shall make available the minutes of the briefings of rural communities with the signing of the participants, and the report of the social impacts investigation performed in the area where the operation is projected.

Stakeholder consultation shall confirm that registration of FMEs has been granted following legally prescribed processes.

Stakeholder consultation shall confirm that legal status of the operation or rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operation.

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

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- Decree 94/368 dated 1 July 1994 amending Decree 66/421 dated 15 September 1966 regulating the harvesting of timber and woodworking, service, fires and charcoal (*Le décret n°94-368 du 1er juillet 1994 modifiant le décret 66-421 du 15 septembre 1966 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feux et à charbon*).
- Order 055 MINAGRA/NT dated 29 March 1995 establishing the creation of the Advisory Commission assigning the perimeters of logging areas (*Arrêté n°055 MINAGRA/NT du 29 mars 1995 portant création de la commission consultative d'attribution des périmètres*)
- Law 98/750 dated 23 September 1998 relating to rural land area and Law 2013/655 on rural land relating to the extension of the time limit of the establishment of Land Certificates (*La Loi 98-750 du 23 décembre 1998 relative au domaine foncier rural et la Loi 2013- 655 sur le foncier rural relative à la Prorogation du délai d'établissement des Certificats Fonciers*)
- Decree 99/595 dated 13 October 1999 fixing the procedure of consolidation of rights of provisional concessionaires of rural land area (*Décret n°99-595 du 13 octobre 1999 fixant la procédure de consolidation des droits des concessionnaires provisoires de terres du Domaine foncier rural.*)

1.2.2. Legal authority

- Ministry of Water and Forests – DPIEF management (Direction of Forest Production, Industry and Economy)
- SODEFOR (*Société de Développement des Forêts*)
- Ministry of Interior
- Ministry of Agriculture and Rural Development

1.2.3. Legally required documents or records

Timber from state production forests

- Décision d'attribution (Decision of allocation)
- Management plan or partnership convention or harvesting contract(s) (Plan d'aménagement ou convention de partenariat ou contrat(s) de coupe)
- Convention de partenariat (Partnership convention)
- Autorisation d'exploiter (démarrage des activités) (Authorisation to work (start logging))
- Plan d'aménagement (Management plan)
- Cahier de charges (Specification sheet)
- Convention villageoise (Villagers Convention)

Timber from PEFs

- Permis d'exploitant forestier (Logging permit)
- Autorisation annuelle de reprise d'activité du (des) périmètre(s) (Annual authorisation to resume perimeter activity(ies))
- Arrêté d'attribution (Allocation Order)
- Décision portant autorisation provisoire d'exploiter (Decision of provisional authorisation to start logging)
- Déclarations des recettes et les reçus de paiement des différentes taxes (taxe d'abattage, taxe d'attribution et de superficie, Taxe d'intérêt général) (Revenues and payment receipts from the different taxes (felling tax, attribution and area tax, public interest tax))
- Attestation de reboisement (Attestation of Reforestation)
- Attestation of non-fee (Attestation de non redevance)
- PV enquête de commodo et incommodo (Minutes of preliminary investigation before taking certain decisions)
- Rapport de réunion d'information et de sensibilisation pour l'attribution du PEF (Report of meeting on information and awareness of the allocation of PEF)
- PV d'enquête technique forestière de commodo et d'incommodo (Minutes of preliminary technical forestry investigation before taking certain decisions)
- Rapport de la commission consultative d'attribution (Report from the Advisory Committee of Allocation)

1.2.4. Sources of information

Government sources

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gestion durable dans les secteurs de la forêt, de la faune et des ressources en eau). Ministère des Eaux et Forêts de la Côte d'Ivoire. Available at: <http://www.eauxetforets.gouv.ci/index.php/rapports-detudes/file/12-cadre-institutionnel-legislatif-reglementatiore-de-la-bonne-gouvernance-pour-la-gestion-durable-dans-les-secteurs-de-la-foret-de-la-faune-et-des-ressources-en-eau>. [Accessed 30 May 2016]

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- Ernst & Young. (2015). Audit of partnership Agreements (*Audit des conventions de partenariat*). The French Development Agency (*Agence française de développement*). Not available online.

1.2.5. Risk determination

Overview of Legal Requirements

In the Rural forest areas (PEF), attribution of a PEF is through a ministerial decision based on recommendation by an Attribution Commission, which also identifies the harvestable quota. The operator must fulfil certain conditions in order to qualify for a concession in the rural forest area. They must prepare:

1. An Administrative File, that includes:

- A written request, filled out by the applicant, to obtain a single or multiple areas (perimeters). In case of multiple areas they must be identified in order of preference.
- Formal proof (agrément) that the operator is a forestry operation;
- A list of forest management equipment and proof they are owned by the applicant;
- Proof of payment of taxes related to forestry activities for the previous year;
- A guarantee deposit of 100 000 000 FCFA per area applied for;
- A statement of conformity with forest regulations delivered by the Direction de la Production et des Industries Forestières;
- Detailed legal identity of the company (name, type of legal entity, jurisdiction, address, etc.)

2. A Technical File, that includes:

- The concession field identification report with geographic coordinates;
- The inventory report presenting commercial tree species (number of trees, dimensions, location);
- Minutes of information sessions with the local population;
- Minutes of information meetings with local territorial administrations;
- Demonstrate possession of a forester's hammer;
- The technical report presenting the allowable harvest, identifying plantations and agriculture, sacred forests, inaccessible areas, demands and concerns of the population, on-going or planned development projects in the affected villages, presence of other similar activities on the concession (mining, exploitation of secondary products, etc.) and pre-identification of areas to be re-planted.

In State forest areas, the law requires SODEFOR partnership agreements and harvesting contracts to forest industrials through a transparent process involving a call for proposals.

Description of risk

The allocation of PEF in rural forest areas is under the responsibility of the Advisory Committee. However, this committee has not met to review applications and take decisions in many years (Louppe & Ouattara, 2013). It is therefore the minister himself who currently allocates PEFs, which is not explicitly authorised by the law and opens the door to corruption.

In the State production forests, the partnership agreements and harvesting contracts are meant to be allocated, as part of a transparent competitive procedure (call for tender). The reality is, however, often different from SODEFOR practices (Louppe & Ouattara, 2013). Logging rights in State production forests are therefore attributed through personal agreements (Ernst & Young, 2015). Thus, there is a presumption that the current partnership agreements and harvesting contracts were allocated without following the transparent tendering rules prescribed by law.

There are high levels of corruption in Côte d'Ivoire. In 2015, Transparency International's Corruption Perception Index ranked Côte d'Ivoire 107th out of 168

countries, and gave a score of 32 out of 100, with 100 being the least corrupt. The World Bank's Worldwide Governance Indicators scored DRC as 4 out of 10 for Control of Corruption, 3.1 for Rule of Law and 2.9 for Regulatory Quality. Based on the available information, there is a risk that the PEFs were allocated through corruption.

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

Timber from state production forests:

- The buyer of wood from state production forests, where SODEFOR has delegated management to a forest industrial, shall ensure that the tendering process for obtaining the concession was respected. Supporting documents include:
 - Newspaper ads announcing the tender;
 - Receipts for the deposit and for the payment of the supplier's application fee. The date on the agreement must show the concession granted by SODEFOR to the operator is still valid.
- Buyers shall check that there is a management plan and a cahier de charges, and that the terms of both have been, or are being met by the operator. A field visit by the buyer may be necessary.

Timber from rural forest areas harvested with PEFs:

The purchaser should verify that his supplier has the following documents:

- Autorisation provisoire d'exploiter (provisional authorization for harvest);
- Annual harvesting authorization;
- Rapport de la commission consultative d'attribution (Report from the Advisory Committee of Allocation) issuing a PEF to the supplier is unlikely to be available, since this committee has not met in many years. It is likely that the PEF would not have been issued to the supplier following a review and decision by this committee, and the law does not have provisions for any other mean to issue PEFs. Therefore, it becomes very difficult for a supplier operating under a PEF to demonstrate legality with regards to concession license.
- In cases where the supplier claims the PEF was issued according to the law, but for some reason the advisory committee's report is not available, the purchaser may decide to verify with independent stakeholders that legal steps and procedures for obtaining a PEF have been followed.

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

- Forest Code of 1965 (*Code Forestier de 1965*). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf>
- Decree 94/368 dated 1 July 1994 - Article 15, Article 5
- Order 01072/MINEF dated 13 July 2009 clarifying the logging, circulation and log transfer modalities in Côte d'Ivoire (*Arreté n°01072/MINEF du 13 juillet 2009 portant clarification des modalités d'exploitation, de circulation et de transfert de bois en grume en Côte d'Ivoire*)
- Order 00521/MINEF/CAB dated 24 May 2012 on the organisation of logging species from small diameter natural forests (*Arreté n°00521/MINEF/CAB du 24 mai 2012 portant organisation de l'exploitation des essences de forêts naturelles de petit diamètre*)
- Decision 065 dated 29 March 1995 relative to the tracking committee for the management of logging perimeters - Article 2 (*la décision n°065 du 29 mars 1995 relatif au comité de suivi de la gestion des périmètres d'exploitation forestière*). Available at: <http://faolex.fao.org/docs/pdf/ivc154694.pdf>

1.3.2. Legal authority

- Ministry of Water and Forests – DPIEF management (Direction of Forest Production, Industry and Economy)
- SODEFOR (Société de Développement des Forêts)

1.3.3. Legally required documents or records

Timber from state production forests:

- Convention de partenariat (Partnership convention)
- Autorisation d'exploiter (démarrage des activités) (Authorisation to work (start logging))
- Plan d'aménagement (Management plan)
- Cahier de charges (Specification sheet)
- Décision portant autorisation provisoire d'exploiter (Decision of provisional authorisation to start logging)
- Plan annuel d'activités (Annual activity plan)
- Liste des essences à exploiter et le résumé de l'inventaire d'exploitation (List of species to harvest and a summary of the logging inventory)

- Rapport de mission de suivi de reboisement (Mission report of the reforestation tracking)

Timber from PEFs:

- Permis d'exploitant forestier (Logging permit)
- Arrêté d'attribution de PEF (Decree on PEF allocation)
- Décision ministérielle portant autorisation de reprise d'activité (Ministerial Decision to authorise the resuming of logging)
- Bilan annuel d'activité (Annual activity report)
- Attestation de reboisement (Reforestation attestation)
- Cartographie du périmètre (Map of the perimeter)
- Rapport de prospection des essences à exploiter (Prospection report on species to be harvested)
- PV d'enquête technique forestière de commodo et d'incommodo (Minutes of preliminary technical forestry investigation before taking certain decisions)
- Rapport de remise de la parcelle de reboisement (Transmittal report for the reforestation plot)

1.3.4. Sources of information

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1.3.5. Risk determination

Overview of Legal Requirements

With PEFs on Rural forest areas, there needs to be a management plan, forest operators are required to implement a cahier de charges and to replant. In State forest areas there also needs to be a management plan prepared either by the manager (SODEFOR) or by the private operator working under an agreement with SODEFOR.

The legislation also prescribes the creation of a PEF Monitoring Committee in each administrative district. The committee is charged with ensuring the organisation of logging programs and rural forest area development programs. It is made up of representatives of the administration, of local communities and of the concessionaire.

Description of Risk

In State Forest areas, there is a risk that forest operators do not always respect their obligations with regards to forest management and harvest planning (Louppe & Ouattara, 2013; WCF, 2015b).

In rural forest areas, decree 94-368 from July 1st 1994 requires operators to have a full management plan but often operators only prepare simplified plans.

There are reports that certain operators harvest beyond the boundaries of the authorised areas (in both rural forest areas and state production forests) and sometimes exceed their quotas prescribed in the cahiers de charges (Louppe & Ouattara, 2013; WCF, 2015b). The Monitoring Committees established to ensure the commitments made by the operators are met are not operational due to a lack of financial means, or simply are non-existent in certain areas (Louppe & Ouattara, 2013).

In the rural forest areas, the operators are required to do compensatory reforestation. The third year after planting, the reforestation becomes the responsibility of the forest administration. In reality, this reforestation is not always monitored by the administration, making it likely that the long-term sustainability of the forest resource is compromised (Louppe & Ouattara, 2013).

There are significant issues with the capacity of the forestry administration. Staffing levels and equipment of the forestry administration falls short of the needs on the ground. The administration does not have the capacity to monitor compliance with management plans and cahier de charges by operators, for example the state production forest of Cavally, covering an area of 67,596 ha, is managed by only three SODEFOR officers (CIFOR, 2015; WCF, 2014; WCF, 2015). For transport and other aspects of their work, field agents are highly dependent on the companies they are supposed to control. This dependence leads to an increased risk of corruption.

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

Timber from state production forests:

- The management plan of the operator with a *convention de partenariat* (Partnership convention) with SODEFOR shall be available;
- The supplier shall be able to provide the "Décision portant autorisation provisoire d'exploiter" (Decision of provisional authorization to start logging) delivered by the Directeur général SODEFOR (Société de Développement des Forêts)
- Liste des essences à exploiter et le résumé de l'inventaire d'exploitation (List of species to harvest and a summary of the logging inventory shall be available)

- Rapport de mission de suivi de reboisement (Mission report of the reforestation monitoring) shall be available
- Approved forest management plans shall exist for the state production forests where the harvesting is taking place.
- Forest management plans shall contain all legally required information and procedures.
- Annual operating or harvesting plans shall be in place and approved by legally competent authorities.
- Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.
- The contents of the operating and harvesting plans shall be consistent with forest management plans.

Timber from PEFs:

- The purchaser shall verify that his supplier has the following documents:
- Autorisation provisoire d'exploiter (provisional authorization for harvest);
- Annual harvesting authorization;
- Rapport de prospection des essences à exploiter (Prospection report on species to be harvested shall be available)
- Rapport de remise de la parcelle de reboisement (Transmittal report for the reforestation plot shall be available)

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

- Forest Code of 1965 - Article 24 (*Code Forestier de 1965*). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf>
- First title of Decree 94/368 dated 1st July 1994 amending Decree 66/421 dated 15 September 1966 regulating the harvesting of timber and woodworking, service, fires and charcoal (*Titre premier du décret n°94-368 du 1^{er} juillet 1994 modifiant le décret*

66-421 du 15 septembre 1966 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feux et à charbon)

- Decree 055 MINAGRA/NT dated 29 March 1995 establishing the creation of the Advisory Commission assigning the perimeters of logging areas (*Arrêté n°055 MINAGRA/NT du 29 mars 1995 portant création de la commission consultative d'attribution des périmètres d'exploitation forestière*)
- (Arrêté n° 1399 AGRL CAB., article 23)

1.4.2. Legal authority

- Ministry of Water and Forests – DPIEF management (Direction of Forest Production, Industry and Economy)
- SODEFOR (Société de Développement des Forêts)
- Ministry of Agriculture
- Ministry of Interior

1.4.3. Legally required documents or records

Timber from state production forests:

- Permis d'exploitation (Logging permit)
- Convention de partenariat (Partnership convention)
- Décision d'attribution de concession (Decision of concession allocation)
- Autorisation d'exploiter (démarrage des activités) (Authorisation to work (start logging))
- Plan d'aménagement ou convention de partenariat ou contrat(s) de coupe (Management plan or partnership convention or harvesting contract(s))
- Cahier de charges (Specification brief)
- Plan annuel d'activités (Annual activity plan)
- Liste des essences à exploiter et le résumé de l'inventaire d'exploitation (List of species to harvest and a summary of the logging inventory)
- Rapport de mission de suivi des reboisements (Mission report of the reforestation tracking)

Timber from PEFs:

- Permis d'exploitant forestier (Logging permit)
- Arrêté d'attribution de PEF (Decree on PEF allocation)
- Déacision portant autorisation de reprise d'activité (Decision to authorise the resuming of logging)
- Autorisation annuelle de reprise d'activité du (des) périmètre(s) (Annual authorisation to resume perimeter activity(ies))
- Bilan annuel d'activité (Annual activity report)

- Déclarations des recettes et les reçus de paiement des différentes taxes (taxe d'abattage, taxe d'attribution et de superficie, Taxe d'intérêt général) (Revenues and payment receipts from the different taxes (felling tax, attribution and area tax, public interest tax))
- Attestation de reboisement (Reforestation attestation)
- Attestation de non redevance (Attestation of non-fee)
- Cartographie du périmètre (Map of the perimeter)
- Rapport de prospection des essences à exploiter (Prospection report on species to be harvested)
- PV enquête de commodo et incommodo (Minutes of preliminary investigation before taking certain decisions)
- Rapport de réunion d'information et de sensibilisation pour l'attribution du PEF (Report of meeting on information and awareness of the allocation of PEF)
- PV d'enquête technique forestière de commodo et d'incommodo (Minutes of preliminary technical forestry investigation before taking certain decisions)
- Rapport de mission de suivi des reboisements (Mission report of the reforestation tracking)
- Rapport de remise de la parcelle de reboisement (Transmittal report of the reforestation plot)

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1.4.5. Risk determination

Overview of Legal Requirements

- The law requires demands for cutting permits in state production forests to be addressed to the Minister in charge of Forests. The demand must include:
 - The names, first names, nationality, profession and address of applicant;
 - The number and species of trees to be harvested;
 - The location of the land on which operations will take place with a sketch indicating the exact boundaries;
- The applicant must be an accredited forest industrial and must have paid the license fee for wood working;
- The issuance of these cutting permits by SODEFOR on state production forests follows a tender process similar to the one for partnership agreements with SODEFOR. The applicant must be an accredited forest industrial. The applicant must also be in conformance with Ivorian forest administration and free of debt with SODEFOR and fiscal authorities.
- In rural forest areas, PEFs must be issued by the ministry in charge of forests following recommendation of the Advisory Committee for the Allocation of Logging Areas.

Description of Risk

The risk of illegality related to obtaining harvesting permits are:

- Loggers sometimes will not bother obtaining harvesting permits before operating. This happens both in the rural forest area (PEF) and in the state production forests (Louppe & Ouattara, 2013);
- Illegal harvesting of trees in prohibited areas (Protection zones, areas outside of the authorized but block, etc.) (WCF, 2015b);
- Harvesting of unmarked trees in operating blocks after tree-marking (WCF, 2015b);

- The allocation of harvesting permits does not follow in practice the competitive tender process required by law. This is in violation of legal requirements and opens the door to corruption;

There are high levels of corruption in Côte d'Ivoire. In 2015, Transparency International's Corruption Perception Index ranked Côte d'Ivoire 107th out of 168 countries, and gave a score of 32 out of 100, with 100 being the least corrupt. The World Bank's Worldwide Governance Indicators scored DRC as 4 out of 10 for Control of Corruption, 3.1 for Rule of Law and 2.9 for Regulatory Quality.

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

Timber from state production forests:

It is likely that the harvesting permit may not have been issued to the supplier following the legally prescribed competitive tender process. Therefore, it becomes very difficult for a supplier to demonstrate legality with regards to obtaining harvesting permits on state production forests.

Nevertheless, the purchaser of wood from Côte d'Ivoire should make sure his supplier can provide the following documents:

- Permis d'exploitation (Logging permit)
- Convention de partenariat (Partnership convention)
- Décision d'attribution de concession (Decision of concession allocation)
- Autorisation d'exploiter (démarrage des activités) (Authorisation to work (start logging))
- Plan d'aménagement ou convention de partenariat ou contrat(s) de coupe (Management plan or partnership convention or harvesting contract(s))
- Cahier de charges
- Plan annuel d'activités (Annual activity plan)
- Liste des essences à exploiter et le résumé de l'inventaire d'exploitation (List of species to harvest and a summary of the logging inventory)
- Rapport de mission de suivi des reboisements (Mission report of the reforestation tracking)

Timber from PEFs:

- Authorities shall confirm the validity of the forest industrials' accreditation;

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- Authorities shall confirm the validity of decree of PEF allocation;
 - In cases where the supplier claims the harvesting permit was issued according to the law, he shall be able to provide his application for the tender and other process related documents. The purchaser may decide to verify with independent stakeholders that legal steps and procedures (a decision by the Advisory Committee for the Allocation of Logging Areas) for obtaining the harvesting permit have been followed;
 - The minutes of the meeting of the commission PEF award must be available;
 - Autorisation annuelle de reprise d'activité du (des) périmètre(s) (Authorities shall confirm the validity of Annual authorisation to resume perimeter activity(ies));
 - Harvesting limits shall be clearly defined based on maps and quantities; and
 - Field inspections shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

General Code of Taxes (CGI) (*Code général des impôts*). Available at :

<http://www.dgi.cgici.com/indexs.htm>

- Note 0031/MPMEF/DGI/DDCFET/SDD dated 28 February 2013 on pricing applicable to forest tax (*note de service n°0031/MPMEF/DGI/DDCFET/SDD du 28 février 2013 portant tarification applicable en matière de taxe forestière*)

Forest Code 1965 (*Code Forestier de 1965*). Available at :

<http://faolex.fao.org/docs/pdf/ivc2229.pdf>

- Article 10, 14 and 17, Decree 1399AGRI.CAB dated 4 November 1966 laying down the procedures for the implementation of Decree 66/421 dated 15 September 1966 (*article 10 et 14 et 17 Arrêté n°1399AGRI. CAB du 4 novembre 1966 fixant les modalités d'application du décret n°66-421 du 15 septembre 1966*)
- Title IV of the Annex of Decision 65 dated 29 March 1995 (*titre IV de l'annexe de la décision n°65 du 29 mars 1995*)
- Decision 5323/MINEF/DGEF/DPIF dated 24 December 2013 establishing the list of documents required for the authorization of plantation timber harvesting (*décision n°5323/MINEF/DGEF/DPIF du 24 décembre 2013 fixant la liste des pièces à fournir pour l'autorisation de coupe de bois de plantation*)

1.5.2. Legal authority

- Ministry of Water and Forests (MINEF), Department of Production, Industries and Forest Economy
- Directorate General of Taxes

1.5.3. Legally required documents or records

- Registre de commerce et de crédit mobilier (Register of Trade and Personal Property Credit)
- Déclaration fiscale d'existence (Declaration of tax existence)
- Compte contribuable (Taxpayer account)
- Permis d'exploitant forestier (Harvesting permit)
- Bilan annuel d'activité (Balance sheet of annual activity)
- Carnet de chantier (Field document)
- Reçu de paiement des impôts (Receipt of payment of taxes)

- Reçus de paiement de taxes d'abattage de l'année en cours, mensuels (Monthly receipt of payment of logging taxes for the current year)
- Attestation annuelle de non-redevance (forêts classées) (Annual certificate of non-tax fee (State production forests))

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1.5.5. Risk determination

Overview of Legal Requirements

The law prescribes the royalties and forest taxes due in respect of the forest estate, classing them as: allocation taxes (300 fr CFA/hectare), renewal taxes (200 fr CFA/hectare), surface area taxes (100 fr CFA/hectare), and public interest tax (80 fr CFA/hectare). Furthermore, the law prescribes a cutting tax fixed per cubic meter of timber depending on the category (from 1 to 3):

- Category 1: 2500 fr CFA
- Category 2: 1700 fr CFA
- Category 3: 400 fr CFA

Décision n°65 of 29 March 1995 prescribes the payment of the CDR (Contribution to Rural Development) by operators. This tax is of 1,000 CFA/m³ and is split as follows:

- 10% for the PEF management committee;
- 20% for the forest service;
- 70% for the village.

Description of Risk

The preparation of a forest species inventory for state production forests and prospection for rural forest areas is the responsibility of the loggers and is used for the calculation of the royalties and forest taxes. The practice of concealing/miss-classifying species in order to reduce cutting taxes owed to the forest administration is common (CIFOR, 2015; Jonas & Kessé, 1998). The Forest Administration does not have sufficient staff to control species classification during inventory and prospection (WCF, 2015a). In rural forest areas, the payment of the Contribution to Rural Development (CDR) is not controlled by the State, and therefore is often not respected by loggers who complain about the high fiscal pressure in the sector (Louppe & Ouattara, 2013).

Area-based taxes are calculated by the State directly therefore the risk of miss-classification is greatly reduced.

Risk Conclusion

This indicator has been evaluated as specified risk with regards to cutting tax and the CDR. 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

- Attestation annuelle de non-redevance (forêts classées) (Annual certificate confirming full payment of all taxes (State production forests) shall be available).

1.6. Value added taxes and other sales taxes

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

1.6.1. Applicable laws and regulations

General Code of Taxes (CGI) (*Code général des impôts (CGI)*). Available at: <http://www.dgi.cgici.com/indexs.htm>.

- Article 1097 on taxes regarding harvesting income on the forest areas (*article 1097 fixe les taxes dues au titre du revenu d'exploitation du domaine forestier*)
- Article 1134 determining the special tax on forest conservation and development *article 1134 (détermine la taxe spéciale pour la préservation et le développement forestier.)*
- Article 1100 fixing rates of this tax (variable rate of 200 to 500 francs per cubic meter, depending on which category is classified as petrol) (*article 1100 fixe les 36etre3636 de cette taxe*)

Loi No 81-127 du 31 décembre 1981 du budget général de fonctionnement pour l'exercice 1982. Article 8 modifiant droit unique de sortie sur les bois transformés et modifiant la taxe d'abattage. Available at:

<https://books.google.lk/books?id=p8sm5DhtSwMC&pg=PA212&dq=cote+d'ivoire+droit+unique+de+sortie+bois&hl=en&sa=X&ved=0ahUKewj-lsD7j67NAhWMQY8KHTnIDqcQ6AEIJjAA#v=onepage&q=cote%20d'ivoire%20droit%20unique%20de%20sortie%20bois&f=false>. [Accessed 17 June 2016]

Decree 1399 AGRI.CAB dated 4 November 1966 laying down the procedures for the implementation of Decree 66/421 dated 15 September 1966 - Article 10 and 14, *article 10 et 14 (Arrêté n°1399 AGRI. CAB du 4 novembre 1966 fixant les modalités d'application du décret n°66-421 du 15 septembre 1966)*

Décret n° 90-444 du 29 mai 1990, Décret n° 94-377 du 1er juillet 1994, Circulaire n° 749 du 2 août 1994 sur les bois en grumes et certains produits ligneux à l'exportation

1.6.2. Legal authority

- Ministry of Water and Forests (MINEF), Department of Production, Industries and Forest Economy
- Directorate General of Taxes
- Ministère du Commerce

1.6.3. Legally required documents or records

- Registre de commerce et de crédit mobilier (Register of Trade and Personal Property Credit)
- Déclaration fiscale d'existence (Declaration of tax existence)
- Quitus fiscal annuel (Annual tax clearance)
- Compte contribuable (Taxpayer account)
- Bilan d'activité annuelle (Balance sheet of annual activity)
- Reçu de paiement des impôts (Receipt of payment of taxes)
- Reçu de paiement du DUS (Receipt of payment of the DUS)

1.6.4. Sources of information

Government sources

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- Ministère des Eaux et Forêts. (2015). Institutional, legislative, regulatory and good governance for sustainable management of forest, wildlife and water resources (*Carte institutionnel, législatif, réglementaire, de la bonne gouvernance pour la gestion durable dans les secteurs de la forêt, de la faune et des ressources en eau*). Ministère des Eaux et Forêts de la Côte d'Ivoire. Available at: <http://www.eauxetforets.gouv.ci/index.php/rapports-detudes/file/12-cadre-institutionnel-legislatif-reglementaire-de-la-bonne-gouvernance-pour-la-gestion-durable-dans-les-secteurs-de-la-foret-de-la-faune-et-des-ressources-en-eau>. [Accessed 30 May 2016]

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1.6.5. Risk determination

Overview of Legal Requirements

Forestry operators, like any other income generating business, has to pay the valued added tax (VAT), which is of 18% for wood sold inside the country. Wood destined to be sold abroad is subject to the DUS (Droit Unique de Sortie – single exit tax), which is paid by the seller and varies from 1 to 44% according to the species.

Description of Risk

Collection of value added tax in Côte d'Ivoire is done, unhindered, by the tax administration services.

There is a risk however with regards to collection of sales taxes because those are based on the operator's own declaration of volumes and species harvested (WCF, 2015b). This, in the context of a lack of capacity by the state to control and enforce laws in general, coupled with a high corruption index in Côte d'Ivoire, results in a specified risk with regards to the payment of the DUS by the seller for exported wood.

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

- The purchaser should request the receipt of payment of the DUS and compare it with the rates listed for the species purchased in Loi No 81-127 du 31 décembre 1981 du budget général de fonctionnement pour l'exercice 1982. Article 8 modifiant droit unique de sortie sur les bois transformés et modifiant la taxe d'abattage. Available at: <https://books.google.lk/books?id=p8sm5DhtSwMC&pg=PA212&dq=cote+d'ivoire+d>

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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

- General Code of Taxes (CGI) (*Code général des impôts (CGI)*). Available at : <http://www.dgi.cgici.com/indexs.htm>. Article 1097 on taxes regarding harvesting income on the forest areas.
- Decree 1399 AGRI.CAB dated 4 November 1966 laying down the procedures for the implementation of Decree 66/421 dated 15 September 1966 (*Arrêté n°1399 AGRI. CAB du 4 novembre 1966 fixant les modalités d'application du décret n°66-421 du 15 septembre 1966*) - Article 10 and 14
- Decision 65 dated 29 March 1995 - Title IV of the Annex
- Decree n° 90-444 of 29 May 1990
- Decree 94-377 of July 1994
- Circular n° 749 of 2 August 1994 on certain logs and timber products for export

1.7.2. Legal authority

- Ministry of Water and Forests (MINEF), Department of Production, Industries and Forest Economy
- Directorate General of Taxes
- Directorate General of Customs

1.7.3. Legally required documents or records

- Registre de commerce et de crédit mobilier (Register of Trade and Personal Property Credit)
- Déclaration fiscale d'existence (Declaration of tax existence)
- Compte contribuable (Annual tax clearance)
- Etat récapitulatif des entrées en usine (Summary statement of company inflows)
- Déclaration mensuelle de production (DMP) (Monthly Production Declaration)
- Déclaration mensuelle de vente de Débité à l'export (DMV) (Monthly declaration of debited sales for export)
- Reçu de paiement des impôts (Bénéfice industriel et commercial (BIC) (Receipt of payment of taxes (industrial and commercial profit))

1.7.4. Sources of information

Government sources

- Direction Générale des Impôts. (2016). Fiscal Annex of the 2016 tax year (*Annexe Fiscale a la loi no. 2015-840 du 18 Decembre 2015 portant budget d'Etat pour l'annee 2016*). Direction Générale des Impôts. Available at: http://www.dgi.gouv.ci/site/ressources/pdf/annexe_fiscale_2016.pdf [Accessed 20 May 2016].
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1.7.5. Risk determination

Overview of Legal Requirements

The Ivorian law requires all economic operators pay income tax as part of their business dealings. This obligation applies to forestry operators in the form of the BIC tax (Industrial and Commercial Benefit tax).

As forestry is classified under the agriculture activities category, forest companies also have to pay the *Taxe sur le Bénéfice Agricole* (tax on agriculture revenues).

A 5% instalment tax is withheld at the source (called the *Accompte sur Divers Impôts - ASDI*) by SODEFOR for sales of standing timber.

Description of Risk

The paying of taxes is done regularly by the operators because it is part of the requirements to be able to resume work (Jonas, Kessé, 1998). Sales of standing timber by SODEFOR is subject to a 5% tax withheld at the source.

Risk Conclusion

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

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

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

- Law 65/245 dated 20 December on the Forest Code (*Loi n°65-425 du 20 décembre portant code forestier*). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]
- Decree 66 dated 31 March 1966 determining the so-called protected forests species (*Décret n°66 du 31 mars 1966 déterminant les essences forestières dites protégées*)
- Decree 94/369 dated 1 July 1994 modifying the Decree 66/421 dated 15 September 1966 regulating the harvesting of timber, service wood, fire wood and charcoal and Annex (*Décret n°94-368 du 1^{er} juillet 1994 modifiant le décret 66-421 du 15 septembre 1966 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feux et à charbon et annexe*)
- Order 01072/MINEF dated 13 July 2009 giving a clarification regarding logging modalities, timber circulation and transfer in Côte d'Ivoire (*Arrêté n°01072/MINEF du 13 juillet 2009 portant clarification des modalités d'exploitation, de circulation et de transfert de bois en grume en Côte d'Ivoire*)
- Order 00521/MINEF/CAB dated 24 May 2012 regarding the organisation of logging of natural forests species of small diameter (*Arrêté n°00521/MINEF/CAB du 24 mai 2012 portant organisation de l'exploitation des essences de forêts naturelles de petit diamètre*)
- Order 00480/MINEF/DPIF dated 16 March 2007 modifying Decree 0055/MINEF/DGEF/DPIF dated 20 December 2001, regarding the organisation of logging of teak and other exotic planted forest species in rural areas (*Arrêté n°00480/MINEF/DPIF du 16 mars 2007 portant modification de l'arrêté n°0055/MINEF/DGEF/DPIF du 20 décembre 2001, portant organisation de l'exploitation de teck et autres essences forestières exotiques plantées dans le Domaine Rural*)

1.8.2. Legal authority

- Ministry of Water and Forests (MINEF) (Forest Police)
- SODEFOR (Société de Développement des Forêts)

1.8.3. Legally required documents or records

- Bordereau Homologué de route et de circulation (BHRC) (Approved road and circulation slip)
- Carnet de chantier (Working site records)
- Agrément d'exportateur de produits forestier (Forest product export approval)
- Fiche d'itinéraire du produit (Product itinerary form)
- Rapport de remise de la parcelle de debasement (Reforestation plot report)
- Rapport des missions de suivi de reboisement (Reforestation follow-up missions' report)
- Rapport de suivi de chantier d'exploitation forestière (Forest logging working site follow-up report)

1.8.4. Sources of Information

Government sources

- Ministère des Eaux et Forêts. (N.Y.). Supporting documents required for obtaining export certification of forest products (*Dossier à fournir pour l'obtention de l'agrément d'exportation des produits forestiers*). [online]. Ministry of Water and Forest. Available at: <http://www.eauxetforets.gouv.ci/index.php/le-minef/bon-a-savoir/291-dossier-a-fournir-pour-lobtention-de-lagrement-dexportation-des-produits-forestiers-> [Accessed 7 June 2016]

Non-Government sources

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Septembre-Octobre 1969. Available at: http://bft.cirad.fr/cd/BFT_127_45-59.pdf. [Accessed 6 June 2016]

1.8.5. Risk determination

Overview of Legal Requirements

Timber harvesting is regulated through several legal texts, which give the logging conditions for timber species, and species for which logging is forbidden. However, the law being relatively old, it is not very prescriptive with regards to harvesting regulations.

Article 2 from Decree Annex 94/368 dated 1 July 1994 modifying the Decree 66/421 dated 15 September 1966 regulating timber, firewood and charcoal dictates the minimum harvesting diameter (DME) for all commercial species.

The law also requires forest managers to conduct a forest inventory in state production forests, and a prospection of available timber in rural forest areas. Trees for which felling is prohibited must be listed in operational plans and marked in the field.

Law 65/245 dated 20 December on the Forest Code prohibits harvesting in the heads of watersheds and other areas prone to erosion.

The law also requires forest managers to replant according to the following requirements:

- Replant one hectare of forest for every 150 m³ of timber logged in the pre-forest area;
- Replant one hectare of forest for every 250 m³ of timber exploited dense rainforest area;
- Maintain these plantations for three years.

After 3 years, the reforested areas are handed over to the local farmer who becomes the owner pending management decisions for these replanted forests by the forestry administration.

In rural forest areas, the law requires sizing and storage of harvested logs to be done in the log yards within the concession areas, in factory yards or in the two national export yards.

In state production forests, harvesting of timber is prohibited above the 8th parallel (Order No. 00402 / MINEF / DGEF / DPIF / of March 26, 2013).

Other harvesting rules can be laid out in the partnership convention the operator signs with SODEFOR, in the cahier de charges signed with the communities, in the management plan or dictated through the annual harvesting authorisation.

Description of Risk

Timber harvesting is regulated through several texts which are not always respected by the administration and the operators (Louppe & Ouattara, 2013; WCF, 2014). The following represent legality risks for this indicator:

- Not respecting the DME. Because of the scarcity of some species, operators may not respect the DME dictated by the law (Louppe & Ouattara, 2013; WCF, 2014).
- When forest inventories are conducted by the operators, there is a risk of misclassification of logged species, usually to reduce tax liability. This is exacerbated by the limited resources of the forest administration, which results in forest officers not being as present as would be needed in the field to control this activity. The forest administration must rely on the self-declarations of the operators. (WCF, 2014; Jonas, Kessé, 1998). An example of this is the State production forest of Cavally, which covers an area of 67,596 ha but is managed by only three SODEFOR (Société de Développement des Forêts) agents (CIFOR, 2015) (WCF, 2014, 2015). The agents in the field depend heavily on the people and businesses that they are meant to control in order to move around and do their work. Such dependence opens the door to corruption.
- Weak enforcement of timber harvesting regulations contained in the partnership convention with SODEFOR, in the cahier de charges, the management plan, the annual harvesting authorization, etc.), which often results in infractions going unpunished, or punished through bribery rather than through official fines or penal sanctions (Louppe & Ouattara, 2013) (Durrieu de Madron et al., 2015) (Jonas, Kessé, 1998).

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

- The purchaser of wood from Côte d'Ivoire should request the partnership convention with SODEFOR, the cahier de charges, the management plan, the annual harvesting authorization and identify the harvesting rules prescribed in these documents, and request proof (or conduct field verification) that they have been implemented.
- Request the "Rapport de suivi de chantier d'exploitation forestière" (Forest logging working site monitoring report) which shall be available and demonstrate that the harvesting activities are subject to some control by the forest administration, and that the forest manager is not the object of sanctions due to fraud or other illegal practices;
- Request proof that harvesting is conducted within the authorized boundaries of the FMU. This might require a field visit;
- Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans and marked in the field (this could require a site visit);

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

- Law 65/425 dated 20 December 1965 on the Forest Code (Loi n°65 425 du 20 décembre 1965 portant code forestier). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]
- Decree 66/428 dated 15 September 1966 giving the State forests classification procedures (Décret n° 66-428 du 15 septembre 1966 fixant les procédures de classement et de déclasserment des forêts domaniales)
- Law 94/442 dated 16 August 1994 modifying Law 65/255 dated 4 August 1965 related to wildlife protection and hunting practices (Loi n°94-442 du 16 août 1994 modifiant la loi n°65-255 du 04 août 1965 relative à la protection *de la faune et à l'exercice de la chasse*). Available at: <http://faolex.fao.org/docs/pdf/ivc89114.pdf>
- Law 96/766 dated 3 October 1996 on the Environment Code (*Loi n° 96-766 du 3 octobre 1996 portant Code de l'Environnement*). Available at: <http://www.droit-afrique.com/upload/doc/cote-divoire/RCI-Code-1996-environnement.pdf>
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- Law on the Water Code (*Loi portant code de l'eau*) Available at : <http://www.gouv.ci/doc/accords/1449056551code de eau.pdf>
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- United Nations Framework Convention on Climate Change, 1992. Available at: <https://unfccc.int/resource/docs/convkp/conveng.pdf>
- Kyoto protocol
- Decree 66 dated 31 March 1966. Determining so-called protected forest species (*Décret n°66 du 31 mars 1966 déterminant les essences forestières dites protégées*)
- Decree 2013/508 dated 25 July 2013 banning logging, harvesting, transport, trading and export of pterocarpus spp. commonly called 'bois de vène' in Côte d'Ivoire (*Décret n°2013-508 du 25 juillet 2013 portant interdiction de l'exploitation, de la coupe, du transport, de la commercialisation et de l'exportation du ptérocarpusspp communément appelé bois de vène en Côte d'Ivoire*)
- Order 00480/MINEF/DPIF dated 16 March 2007 modifying Decree 0055/MINEF/DGEF/ regulating logging of teak and other exotic planted forest species in rural areas (*Arrêté n° 00480/MINEF/DPIF du 16 mars 2007 portant modification de l'arrêté n° 0055/MINEF/DGEF/DPIF du 20 décembre 2001, portant organisation de l'exploitation de teck et autres essences forestières exotiques plantées dans le Domaine Rural*)
- Order 00402/MINEF/DGEF/DPIF dated 26 March 2013 reinforcing the banning measures of timber and logging of furniture-wood beyond the 8th parallel (*Arrêté n°00402 /MINEF/DGEF/DPIF du 26 mars 2013 portant renforcement des mesures d'interdiction d'exploitation de bois d'œuvre et d'ébénisterie au dessus du 8eme parallèle*)
- Order 00038 MINEF dated 31 January 2012 banning logging and export of pterocarpus spp. commonly called 'bois de vène' in Côte d'Ivoire (*Arrêté n°00038 MINEF du 31 janvier 2012 portant interdiction de l'exploitation et de l'exportation du ptérocarpusspp communément appelé bois de vène en Côte d'Ivoire*)
- Order 00628 MINE/DGEF/DPIF dated 28 June 2013 banning the export of pterocarpus spp. commonly called 'bois de vène', small diameter natural forest species (*Arrêté n°00628 MINE/DGEF/DPIF du 28 juin 2013 portant interdiction d'exportation de ptérocarpusspp communément appelé bois de vène, essence de forêt naturelle de petit diamètre*)

1.9.2. Legal authority

- MINEF (Ministère des Eaux et Forêts)
- OIPR (Ivorian Office for Parks and Reserves)
- SODEFOR (Société de Développement des Forêts)
- MINEDD (Ministry of Environment and Sustainable Development)
- Ministry of Industry and Mining
- Ministry of Energy and Petroleum

1.9.3. Legally required documents or records

- Carnet de chantier (Working site records)

- Cartographie du périmètre d'exploitation (Harvesting perimeter mapping)
- Arrêté de classement des forêts domaniales (State forests classification Ordere)
- Rapport de prospection d'essences à exploiter (Prospecting report of species to be logged)
- Arrêté ministériel d'exploitation (PEF) (Ministerial Order on Logging (PEF))
- Autorisation d'exploitation (forêts classées) (Logging authorisation (state production forests))
- Cahier des charges (Specification sheet)
- Liste des essences protégées en Côte d'Ivoire (List of protected species in Côte d'Ivoire)

1.9.4. Sources of Information

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- Wild Chimpanzee Foundation (WCF). (2014). *RAPPORT DE MISSION D'OBSERVATION INDEPENDANTE MANDATEE*. Rapport 1: Bloc 21 – Avril

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1.9.5. Risk determination

Overview of Legal Requirements

The Côte d'Ivoire has several conventions and agreements protecting forests and their biodiversity. Most of these international instruments are transposed into national texts regulating environmental protection, including the *2000 Constitution* which gives the

right to a healthy environment at Article 19. Protection of sites and species remains a priority in Côte d'Ivoire, demonstrated by the focus given to these topics in the Codes regulating the different industrial sectors (mining, petroleum, water, forests, development projects, etc.) and the National Development Plan (PND) 2016-2020. The law defines the permanent State areas as composed of national parks, natural reserves and production forests. In these parks and reserves any forest logging activity is forbidden, whereas in production forests, forest logging and some neighbouring population usage rights are regulated. Finally, the forest regulation gives a list of protected species for which logging is forbidden no matter the place in which they are inventoried.

Description of Risk

Despite a ban by the State, forest logging is being carried out beyond the 8th parallel (8eme parallèle) (a prohibited logging area).

In rural areas, forest logging regulations are not always respected (Durrieu de Madron et al., 2015). For example, because of the scarcity of the timber resource, some operators do not respect the existing logging ban for protected species and the minimum harvesting diameters (DME) (WCF, 2015a). On the basis of false statements, these protected species are often disguised as species which can be subject to logging. This 'timber-laundering' happens complicitly with some forest administration officers because, as the World Bank and Transparency International's reports pointed it out, the corruption indicator is high in Côte d'Ivoire.

In addition, the limited resources of the forest administration hampers their ability to fulfil its control mission efficiently regarding the respect of protected sites and species (Louppe & Ouattara, 2013). Most of the production forests are infiltrated by farmers (30 to 40% of the country's cocoa production comes from these sites supposed to be protected) (Louppe & Ouattara, 2013; Durrieu de Madron et al., 2015). The forest administration's work force and equipment are insufficient to meet the needs of the fieldwork, and it is not able to oversee the management plans and specification sheets produced by the operators. For example, the production forest of Cavally covers an area of 67,596 ha but is managed only by three SODEFOR (Société de Développement des Forêts) officers.

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

- Liste des essences protégées en Côte d'Ivoire (List of protected species in Côte d'Ivoire)

- All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.
- Legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.
- Nature protection regulations such as protected areas, set-aside areas, protected species and hunting.
- Proof that harvesting does not take place in areas where harvesting is legally prohibited. A map of the location of the operations would quickly help determine the prohibition on harvesting beyond the 8th parallel has been 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

- Law 65/425 dated 20 December 1965 on the Forest Code (Loi n°65 425 du 20 décembre 1965 portant code forestier). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf>
 - Decree 66/428 dated 15 September 1966 on the state forests classification procedures (*Décret n° 66-428 du 15 septembre 1966 fixant les procédures de classement et de déclassement des forêts domaniales*)
- Law 94/442 dated 16 August 1994 modifying Law 65/255 dated 4 August 1965 related to wildlife protection and hunting practices (*Loi n°94-442 du 16 aout 1994 modifiant la loi n°65-255 du 04 aout 1965 relative à la protection de la faune et à l'exercice de la chasse*). Available at : <http://faolex.fao.org/docs/pdf/ivc89114.pdf>
- Law 96/766 dated 3 October 1996 on the Environment Code and its related texts regulating the environmental impact assessments (*Loi n° 96-766 du 3 octobre 1996 portant Code de l'Environnement et textes subséquents encadrant les études d'impacts environnementales*). Available at : <http://www.droit-afrique.com/upload/doc/cote-divoire/RCI-Code-1996-environnement.pdf>
- Law on the Water Code (*Loi portant code de l'eau*). Available at : <http://www.gouv.ci/doc/accords/1449056551code de eau.pdf>
- Law on the Mining Code (*Loi portant code minier*). Available at: <http://www.gouv.ci/doc/accords/1449057553code-minier-2014.pdf>

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- Ramsar Convention on Internationally Important Wetlands. Available at: http://www.ramsar.org/sites/default/files/documents/library/current_convention_text_f.pdf
- Convention on Biological Diversity. Available at: <https://www.cbd.int/doc/legal/cbd-fr.pdf>
- African Convention on Nature Protection. Available at: <http://www.gouv.bj/sites/default/files/Convention-Africaine-sur-Conservation-de-la-nature-et-des-ressources-naturelles.pdf>

1.10.2. Legal authority

- MINEF (Ministry of Water and Forest/Ministère des Eaux et Forêts)
- OIPR (Office for Ivorian Parks and Reserves)
- SODEFOR (Société de Développement des Forêts)
- MINEDD (Environment and Sustainable Development Ministry)

1.10.3. Legally required documents or records

- Carnet de chantier (Working site records)
- Cartographie du périmètre d'exploitation (Harvesting perimeter mapping)
- State forests classification Decree
- Rapport de prospection d'essences à exploiter (Prospecting report of species to be logged)
- Arrêté ministériel d'exploitation (PEF) (Ministerial Order on logging (PEF))
- Autorisation d'exploitation (forêts classées) (Logging authorisation (state production forest))
- Cahier des charges (Specification sheet)
- Rapport de suivi de chantier d'exploitation forestière (Forest logging working site follow-up report)

1.10.4. Sources of information

Government sources

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1.10.5. Risk determination

Overview of Legal Requirements

Forest operations regulations prohibit spilling waste oil on logging sites, logging on the slopes of watersheds and on mountainsides, require the protection of riparian areas (buffer zones along water bodies) as well as mining operations in State production forests. Cahiers de charge have provision for minimizing damage to soil, for protection of buffer zones, for the retention of trees on the harvest site and include seasonal harvesting restrictions. However, the law doesn't require environmental impact assessment in the context of logging activities.

Description of Risk

Despite the legal protections in place, logging in some FMUs is done inside riparian buffer zones, on slopes of watersheds and on hillsides. Moreover, waste oil is sometimes left on logging sites, polluting the environment and threatening biodiversity (PNUE, 2015).

The administration doesn't have the capacity to control compliance with environmental requirements during forest operations. The officers operating in the field are heavily dependent on the people and companies they are supposed to control for travel and other aspects of their work. Such a dependency increases the risk of corruption (WCF, 2014; GIZ 2013; Jonas, Kessé, 1998).

Several gold mining sites have appeared in production forests in the North and West of the country, threatening the local biodiversity (PNUE, 2015).

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

- Compliance with the environmental requirements stipulated in his cahier de charges (such as prevention of spills, provisions for minimizing damage to soil, protection of

buffer zones, retention of trees and seasonal harvesting restrictions, etc.) shall be verified. While control and monitoring reports by the forest administration, as well as reports from NGOs, which would have assessed the suppliers' practices would certainly help mitigate risks, in their absence the purchaser may have to perform a site visit on his supplier's forest management and harvesting operations. Requirements for environmental monitoring shall be observed.

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

- Title IV from Law 2015/532 on the Work Code (*Titre IV de la Loi n°2015-532 portant code du travail*)
- Decree 96/206 dated 7 March 1996 on the committee on hygiene, security and working conditions (*Décret n°96-206 du 7 mars 1996 portant sur le Comité d'hygiène, de sécurité et des conditions de travail*)
- Title VI of the Inter-professional Collective Convention of Côte d'Ivoire dated July 1977 (*Titre VI de la Convention collective interprofessionnelle de Côte d'Ivoire de juillet 1977*)

1.11.2. Legal authority

- Ministry of Employment and Social Affairs

1.11.3. Legally required documents or records

- Attestation de formation en matière d'hygiène et de sécurité au profit des nouveaux salariés (New employees' hygiene and security education certificate)
- PV de réunion créant le comité de santé et sécurité au travail pour les entreprises de plus de 50 salariés (Minutes of the meeting creating the committee on health and security at work for companies having more than 50 employees)
- Rapport du comité de santé et de sécurité au travail (Committee on health and security at work report)
- Rapport d'inspection (Inspection report)
- Disponibilité de service de santé au sein du service (Health service availability within the service)
- Attestation de recrutement d'un medecin du travail (Recruitment attestation of a labour doctor)

- Registre d'employeur (Employer's register)
- Rapport de l'inspection de la santé et sécurité au travail de la juridiction de l'entreprise (Health and security at work inspection's report on the company's jurisdiction)

1.11.4. Sources of information

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1.11.5. Risk determination

Overview of Legal Requirements

The law requires that employees receive personal protective equipment (PPE) specific to the nature of the activities they perform, from the employer. The law also requires, that companies with more than fifty employees have a hygiene and security committee and companies with more than 500 employees have a social service. In addition, every employer must ensure occupational health services are available, including: medical examinations for new employees prior to hiring or at the latest before the end of their trial period; and periodic medical examinations for employees to ensure they are fit for the workplace and preventing occupational diseases. The employer must also report any workplace accident or any professional illness witnessed in the company or the institution to the social security institution, the inspector of Labor and Social Laws of the jurisdiction and Police, as appropriate within 48 hours.

Description of Risk

Despite the legal requirements, many employees of logging companies are not declared to social security and generally are not covered by insurance for their dangerous work (Expert consultation conducted by NEPCon, 2016). The situation in mills is somewhat better than in the forest, with industrials making efforts to comply with H&S regulations. However, on forest operation sites, employees commonly do not have access to Personal Protection Equipment (PPE) and access to health services remains rare for most of the forest sector workers (Expert consultation conducted by NEPCon, 2016)

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

- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organisation.
- Attestation de formation en matière d'hygiène et de sécurité au profit des nouveaux salariés (proof that new employees' shall have received hygiene and security training)
- PV de réunion créant le comité de santé et sécurité au travail pour les entreprises de plus de 50 salariés (Minutes of the meeting creating the committee on health and security at work for companies having more than 50 employees shall be available)
- Rapport du comité de santé et de sécurité au travail (Committee on health and security at work report shall be available)
- Evidence of health service availability for the employees)

- While it is not required by law to hire a doctor, some companies do it and therefore proof of hire of a doctor by the company, or a contract showing a doctor is available for the workers, constitutes evidence of the efforts made by the suppliers to comply with H&S requirements.
- Rapport de l'inspection de la santé et sécurité au travail de la juridiction de l'entreprise (Health and safety inspection report performed by the local authorities)

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 withheld 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

- Law 2015/532 on the Work Code (*Loi n°2015-532 portant code du travail*)
- 1977 Côte d'Ivoire Inter-Professional Collective Convention (*Convention collective interprofessionnelle de Côte d'Ivoire de 1977*)
- Law 99/477 dated 2 August 1999 modification on the Social Prevention Code (*Loi n° 99-477 du 2 août 1999 portant modification du Code de prévoyance sociale*)

1.12.2. Legal authority

- Ministry of Employment, Social Affairs and Vocational Training (*Ministère de l'Emploi, des Affaires Sociales et de la Formation Professionnelle*)

1.12.3. Legally required documents or records

- Livre de paie (Payroll)
- Livret de cotisation CNPS (Caisse Nationale de Prévoyance Sociale) (CNPS (National Social Insurance Fund) contribution records)
- Attestation de formation des salariés (Employees' education certificate)
- Contrat d'assurance des travailleurs (Workers' insurance contract)
- Registre d'employeur (Employer's register)
- PV de réunion du syndicat des employés (Minutes of the Employees' Union meetings)

1.12.4. Sources of information

Government sources

- Ministry of Employment, Social Affairs and Vocational Training (*Ministère de l'Emploi, des Affaires Sociales et de la Formation Professionnelle*). Available at: <http://www.gouv.ci/actualite-article.php?recordID=3955#>

Non-Government sources

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1.12.5. Risk determination

Overview of Legal Requirements

The law requires that employees be registered with social prevention institutions within a prescribed timeframe, and that they receive professional development and training appropriate to their work, at the employer's expense. The working time limit in the agricultural sector to which forest activities belong, is of 2400 hours per year (approx. 46 hours per week). The LabourCode gives freedom to the parties to conclude the employment contract in the manner of their choosing. Persons involved in harvesting activities must hold required certificates of competence for the function they carry out.

The law forbids employing anyone under 16, and ensures that all workers are free to participate in union activities. To that end, workers may be members of the company or corporation level trade unions and the law prohibits employers from using pressure tactics against or in favour of a trade union organization any worker. The law also allows the employer to make deductions from the worker's income within the tax burden and consignments under collective agreements. Lastly, the law requires employers pay all their workers the equivalent of the Guaranteed Minimum Agricultural Wage (SMAG), which must be negotiated every three years within the Consultative Labour Commission.

Description of Risk

Forest workers rarely benefit from professional training and development opportunities, and are often not registered with the social security services by their employer (Expert consultation conducted by NEPCon, 2016).

The other legal requirements (maximum number of hours worked/week, minimal employment age, the ability to join a union, tax deductions at the source and payment of SMAG) are generally respected in Côte d'Ivoire (based on extensive field experience by the author (Tolla Kouassi Ismael), 13 June 2016).

Risk Conclusion

This indicator has been evaluated as specified risk, with regards to registration with social security services. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. For the rest, the risk of illegal activity is low.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- The organisation shall request the see contracts its supplier has with its employees;
- Persons involved in harvesting activities shall be covered by National Social Insurance Fund;
- Supplier shall be able to demonstrate that the persons involved in harvesting activities hold required certificates of competence for the function they carry out;
- Attestation de formation des salariés (Employees' education certificate) ;

- The purchaser should request contact information of workers and conduct short interviews with a sample of them to verify if they benefit from professional training and development opportunities.

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

Forest Code of 1965 – Chapter 2, determining the forest use rights (*Chapitre II du Code forestier de 1965 portant sur les droits d'usage forestier*). Available at:

<http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]

- Decree 66/428 dated 15 September 1966 establishing the classification and declassification procedures of state forests (*Décret n° 66-428 du 15 septembre 1966 fixant les procédures de classement et de déclassement des forêts domaniales*)
- Decree 71/74 dated 16 February 1971 on state and land procedures (*Décret n°71-74 du 16 février 1971 relatif aux procédures domaniales et foncières*)
- Decree 78/231 dated 15 March 1978 laying down the modalities of management of the forest area of the State (*Décret n°78-231 du 15 mars 1978 fixant les modalités de gestion du domaine forestier de l'État*)
- Decree 94/368 dated 1 July 1994 amending Decree 66/421 dated 15 September 1966 regulating the harvesting of timber and woodworking, service, fires and charcoal (*Décret n°94-368 du 1er juillet 1994 modifiant le décret 66-421 du 15 septembre 1966 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feux et à charbon*)

Decision 065 dated 29 March 1995 - Section IV-2 of the Annex, on the monitoring committee of PEF management (*Section IV-2 de l'annexe à la décision n°065 du 29 mars 1995 relative au comité de suivi de la gestion des PEF*). Available at :

<http://faolex.fao.org/docs/pdf/ivc154694.pdf>

Law 98/750 dated 23 September 1998 relating to rural land area and Law 2013/655 on rural land relating to the Extension of the time limit of the establishment of Land Certificates (*La Loi 98-750 du 23 décembre 1998 relative au domaine foncier rural et la Loi 2013- 655 sur le foncier rural relative à la Prorogation du délai d'établissement des Certificats Fonciers*)

- Decree 99/595 dated 13 October 1999 fixing the procedure of consolidation of rights of provisional concessionaires of rural land area (*Décret n°99-595 du 13 octobre 1999 fixant la procédure de consolidation des droits des concessionnaires provisoires de terres du Domaine foncier rural*).
- Decree 99/594 dated 13 October 1999 laying down the modalities of application of customary rural land area of Law 98/750 dated 23 December 1998 (*Décret n°99-594 du 13 octobre 1999 fixant les modalités d'application au domaine foncier rural coutumier de la loi n°98-750 du 23 décembre 1998*).

- Decree 2013/296 dated 2 May 2013 defining the procedure of demarcation of village territories (*Décret 2013-296 du 02 mai 2013 définissant la procédure de délimitation des territoires de villages*)

1.13.2. Legal authority

- Ministry of Water and Forests (MINEF)
- Directorate General of Taxes
- Ministry of Interior and Territorial Administration
- Ministry of Agriculture (Rural Land Department)

1.13.3. Legally required documents or records

- Quittance de paiement de la Contribution au Développement Rural (CDR) (Receipt of payment of the Contribution to Rural Development (CDR))
- Quittance de paiement de la taxe d'intérêt général (TIG) (Receipt of payment of general interest tax (TIG))
- PV enquête de commodo et incommodo (Minutes of preliminary investigation before taking certain decisions)
- Rapport de réunion d'information et de sensibilisation pour l'attribution du PEF (Report of information meetings and awareness about the allocation of PEF)
- Rapport de réception des équipements et matériels au profit des communautés riveraines (Report of receipt of equipment and materials for the benefit of local communities)

1.13.4. Sources of information

Non-Government sources

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- Lanly, J. P. (1969). Regression of the dense forest in Côte d'Ivoire (*Régression de la forêt dense en Côte-d'Ivoire*). Revue Bois et forêts des tropiques, No 127, Septembre-Octobre 1969. Available at: http://bft.cirad.fr/cd/BFT_127_45-59.pdf. [Accessed 6 June 2016]
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- Euredd.efi.int. (2014). How to reconcile agricultural and forestry development in Côte d'Ivoire, and at what cost - Information note based on the study "Cost-benefits of REDD + in Côte d'Ivoire", conducted in 2014 by Salvaterra (*Comment concilier développement agricole et forestier en Côte d'Ivoire, et à quel coût? - Note d'information basée sur l'étude «Coûts-bénéfices de la REDD+ en Côte d'Ivoire», menée en 2014 par SalvaTerra*). Available at: <http://www.euredd.efi.int/documents/15552/170081/Brief+Cote+Ivoire/f3a1c0c8-a426-4763-8c0e-449a76c4aa40> [Accessed 6 June 2016]
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- Louppe, D. & Ouattara, N. (2013). Study on logging and constraints for sustainable forest management in the rural area in Côte d'Ivoire. Agricultural Commodities Promotion Program and Biodiversity (*Etude sur l'exploitation forestière et les contraintes d'une gestion durable des forêts dans le domaine rural en Côte d'Ivoire. Programme Promotion des Filières Agricoles et de la Biodiversité*). PROFIAB/GIZ. Not available online.

1.13.5. Risk determination

Overview of Legal Requirements

In Rural forest areas, even though the trees are legally the property of the state according to the 1965 law (the new 2014 law changes this), it is a requirement for Rural Forest Areas (PEF) that a social and environmental impact study be carried out at the Operators' expense prior to a decision about forest allocation be made, in order to collect and record the observations, concerns and objections of the local community. This requires the logger to organise information and awareness meetings for the locals to collect their concerns.

In the State production forests, the logger is released from these formalities. However, the law:

- recognizes the need for set asides in provision for future needs for land for the expansion of agriculture in relation to population growth;
- gives *priority to nationals residing in the vicinity of the State production forest for the allocation of harvesting permits for the commercial sale of fruits and products from the state production forest;*
- *and the regulated practice of certain user rights in the state production forest areas. Those rights are limited to:*
 1. Collecting dead wood
 2. Picking fruit and edible or medicinal plants
 3. Harvesting of industrial timber and services aimed at the construction of traditional houses and softwood timber to carve canoes
 4. Trails of certain animals that can be prohibited because they present a danger for the people

Finally, the commercial harvesting by users of products derived from palm, shea, kola, kapok and rattan trees and other plants that grow naturally, can be carried out freely in the rural areas provided that the harvesters do not destroy the producing vegetation (leave the producing plants alive). In the state production forests, commercial harvesting is conditioned on the issuance of a special harvesting permit showing the place and methods for harvesting.

Description of Risk

On land with no title of ownership, the ownership of the trees is held by the State, and benefits of harvesting are redistributed to the rural populations via the general interest tax (TIG) and the Rural Development Contribution (CDR) paid by loggers operating on those lands. However, while the payment of the TIG is carried out unhindered, the CDR payment that is meant to flow back to the local communities who are directly affected by the logging, is not always made by the loggers (Louppe & Ouattara, 2013).

In rural forest areas, the local population are exercising their customary rights unhindered by the loggers (Louppe & Ouattara, 2013). However, in State production areas, restrictions to use rights are imposed under this type of forest classification often create tensions with the populations who believe they are the victims of the monopolisation of their land by the forest managers (Alden Wily, 2015). This often leads to cases of invasions and deforestation of parcels inside the State production forests by locals in order to grow cash crops (coffee, cocoa, palm oil etc.) and subsistence crops

(corn, rice, etc.), to hunt, etc. In most cases the forest manager is not guilty of illegal practices, but is perceived as such by the local population, whose expectations with regards to their use rights on state production forests may be legitimate, but not recognised by law.

Risk Conclusion

This indicator has been evaluated as specified risk with regards to the sharing of benefits. 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

- The FME should be able to present the quittance de paiement de la Contribution au Développement Rural (CDR) (Receipt of payment of the Contribution to Rural Development (CDR))
- The FME should be able to present the quittance de paiement de la taxe d'intérêt général (TIG) (Receipt of payment of general interest tax (TIG))
- Rapport de réunion d'information et de sensibilisation pour l'attribution du PEF (Report of information meetings and awareness about the allocation of PEF with the local communities shall be available)
- Rapport de réception des équipements et matériels au profit des communautés riveraines (logging operator shall give evidence of receipt of equipment and materials for the benefit of local communities)
- Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.

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

There is no legislation on the FPIC in Côte d'Ivoire

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

Indigenous peoples are not recognized in law in Côte d'Ivoire.

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

Law 65/425 dated 20 December 1965 on the Forest Code (*Loi n°65-425 du 20 décembre 1965 portant code forestier*). Available at:

<http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]

- Decree 94/368 dated 1 July 1994 regulating the harvesting of softwood, fine wood, service wood, fire wood and charcoal (*Décret n°94-368 du 1er juillet 1994 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feu et à charbon*)
 - Order 01072/MINEF dated 13 July 2009 on the clarification of harvesting, circulation and timber transferal modalities of logs in Côte d'Ivoire (*Arrêté n°01072/MINEF du 13 juillet 2009 portant clarification des modalités d'exploitation, de circulation et de transfert de bois en grume en Côte d'Ivoire*)
 - Order 00521/MINEF/CAB dated 24 May 2012 on the organisation of the harvesting of small diameter natural forest species (*Arrêté n°00521/MINEF/CAB du 24 mai 2012 portant organisation de l'exploitation des essences de forêts naturelles de petit diamètre*)

Act No. 81-127 of 31 December 1981 of general operating budget for the year 1982. Article 8 modifying single right output on processed wood and amending the slaughter tax. (Loi No 81-127 du 31 décembre 1981 du budget général de fonctionnement pour l'exercice 1982. Article 8 modifiant droit unique de sortie sur les bois transformés et modifiant la taxe d'abattage.) Available at:

<https://books.google.lk/books?id=p8sm5DhtSwMC&pg=PA212&dq=cote+d'ivoire+droit+unique+de+sortie+bois&hl=en&sa=X&ved=0ahUKEwj-lsD7j67NAhWMQY8KHTnlDgcQ6AEIJjAA#v=onepage&q=cote%20d'ivoire%20droit%20unique%20de%20sortie%20bois&f=false>. [Accessed 17 June 2016]

1.16.2. Legal authority

- Ministry of Water and Forests (MINEF). Available at: <http://www.eauxetforets.gouv.ci/index.php/le-minef>
- Directorate General of Customs. Available at: <http://www.douanes.ci/>

- Directorate General of Taxes. Available at: <http://www.dgi.gouv.ci/site/>

1.16.3. Legally required documents or records

- Carnet de chantier (Field document)
- Bordereau de route homologué (BRH) (Approved road slip (BRH))
- Liste des essences protégées (List of protected species)
- Agrément d'exportation annuel (Yearly export approval)
- État récapitulatif des carnets de périmètres (Summary of the perimeter journals)
- Bordereau de transfert homologué (BTH) (Approved transfer slip (BTH))
- Bordereau de circulation de bois de plantation (BCBP) (Plantation timber circulation slip)
- Bordereau de circulation de bois en circulation pour les forêts classées (BCBG) (Circulation slip for timber in circulation for State production forests)
- Bordereau de transfert de grumes entre usines (BTGU) (Slip for transferring logs between factories)
- Quittance de paiement du Droit unique de sortie (DUS) (Payment receipt of the Single Exit Tax)
- Fiche de spécification délivrée par la Direction Générale des Eaux et Forêts (Specification form delivered by the Directorate General of Water and Forests)
- Code exportateur (the Export Code)
- Livre journal des entrées (Journal entry book)
- État récapitulatif mensuel des transferts de grumes entre usines (Summary of monthly log transfers between factories)

1.16.4. Sources of information

Government sources

- Wild Chimpanzee Foundation (WCF) (2015a). *RAPPORT DE MISSION D'OBSERVATION INDEPENDANTE MANDATEE*. Rapport 2 : Blocs 18 et 6 – Novembre 2014/Juillet 2015. Forêt Classée du Cavally. Available at: http://www.wildchimps.org/fileadmin/content_files/pdfs/reports/2016-Rapport-dOIM-2.pdf [Accessed 6 June 2016]
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1.16.5. Risk determination

Overview of Legal Requirements

The legal framework for Logging includes transport conditions for harvested wood products. These regulations identify protected tree species for which logging and therefore transport is prohibited. For wood destined to be exported the DUS (Droit Unique de Sortie – single exit tax) is paid by the seller and varies from 1 to 44% according to the species.

Description of Risk

Certain operators carry out logging beyond their concessions and/or harvest species which are banned from harvesting and introduce the wood into the timber batches with authorized species from legally acquired concessions. The declarations for quality, quantity and species harvested do not always correspond to reality (PNUE, 2015) (Louppe & Ouattara, 2013). Such practices follow a logic of fraud in order to harvest prohibited species and to avoid taxes and royalties linked to the volume, quality and species harvested. Since the corruption index is high in Côte d'Ivoire, there is a risk that these fraudulent practices are carried out with the participation of different administrations involved in the sector (PNUE, 2015) (Louppe & Ouattara, 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.

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents;
- It should be verified that the material being prepared for delivery equals what has been invoiced;
- The purchaser should request the receipt of payment of the DUS and compare it with the rates listed for the species purchased in "Loi No 81-127 du 31 décembre 1981 du budget général de fonctionnement pour l'exercice 1982. Article 8 modifiant droit unique de sortie sur les bois transformés et modifiant la taxe d'abattage », Available at :
<https://books.google.lk/books?id=p8sm5DhtSwMC&pg=PA212&dq=cote+d'ivoire+droit+unique+de+sortie+bois&hl=en&sa=X&ved=0ahUKEwj-lsD7j67NAhWMQY8KHTnlDgcQ6AEIJjAA#v=onepage&q=cote%20d'ivoire%20droit%20unique%20de%20sortie%20bois&f=false> [Accessed 17 June 2016]

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

Law 65/425 dated 20 December 1965 on the Forest Code (*Loi n°65-425 du 20 décembre 1965 portant code forestier*)

- Decree 94/368 dated 1 July 1994 regulating the harvesting of softwood, fine wood, service wood, fire wood and charcoal (*Décret n°94-368 du 1er juillet 1994 réglementant l'exploitation des bois d'œuvre et d'ébénisterie, de service, de feu et à charbon*)
- Order 010 dated 26 January 1996 fixing the transitional method for implementing Decree 95/682 dated 6 September 1995 prohibiting the export of raw timber, squared timber and posts (*Arrêté n°010 du 26 janvier 1996 fixant les modalités transitoires d'application du décret 95-682 du 06 septembre 1995 portant interdiction de l'exportation des bois bruts, équarris et en plots.*)
- Order 01072/MINEF dated 13 July 2009 on the clarification of harvesting, circulation and timber transferal modalities of logs in Côte d'Ivoire (*Arrêté n°01072/MINEF du 13 juillet 2009 portant clarification des modalités d'exploitation, de circulation et de transfert de bois en grume en Côte d'Ivoire*)
- Order 00623 dated 24 November 2011 completing Decree 00478 dated 7 September 2011 on the institution of a road slip for the export of forest products by land (BREPF) (*Arrêté n°00623 du 24 novembre 2011 complétant l'arrêté n°00478 du 07 septembre 2011 portant institution d'un Bordereau de Route pour l'Exportation des produits forestiers par voie terrestre (BREPF)*)

1.17.2. Legal authority

- Ministry of Water and Forests (MINEF)
- Directorate General of Customs

1.17.3. Legally required documents or records

- État récapitulatif des carnets de périmètres (Summary of the perimeter journals)
- Bordereau de route homologué (BRH) (Approved road slip)
- Bordereau de transfert homologué (BTH) (Approved transfer slip)
- Bordereau de circulation de bois de plantation (BCBP) (Plantation timber circulation slip)
- Bordereau de circulation de bois en circulation pour les forêts classées (BCBG) (Circulation slip for timber in circulation for State production forests)
- Bordereau de transfert de grumes entre usines (BTGU) (Slip for transferring logs between factories)

- quittance de paiement du Droit unique de sortie (DUS) (Payment receipt of the Single Exit Tax)
- Fiche de spécification délivrée par la Direction Générale des Eaux et Forêts (Specification form delivered by the Directorate General of Water and Forests)
- Code exportateur (The Export Code)
- Agrément d'exportation annuel (annual export approval)
- Carnet de chantier État (Worksite book)
- Livre journal des entrées (Journal entries)
- Liste des essences protégées en Côte d'Ivoire (List of protected species in Côte d'Ivoire)
- Bordereau de Route pour l'Exportation des produits forestiers par voie terrestre (BREPF) (Road Slip for the Export of forest products by land)

1.17.4. Sources of information

Government sources

- MINEF (Ministry of Water and Forest). Available at: <http://www.eauxetforets.gouv.ci/index.php/le-minef>
- Directorate General of Customs. Available at: <http://www.douanes.ci/>

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1.17.5. Risk determination

Overview of Legal Requirements

Legal requirements with regards to transportation of timber products cover: transport scheduling (time of day when transport is allowed); quantity allowed to be transported; and marks required to identify the transported logs. The law also prohibits the sale of quotas of timber from rural forest areas. The SODEFOR however is not bound by this obligation. The forest legislation (Decree No. 66-122 of 31 March 1966 laying down the forest species, called protected - Décret N° 66-122 du 31 mars 1966, déterminant les essences forestières, dites protégées) prohibits the logging and transport of protected species.

Description of Risk

The operators do not always respect the rules concerning the transport of logs (Loupe & Ouattara, 2013). Many log transporters circulate after the allowed times without all of the necessary documents (based on extensive field experience by the author, Tolla Kouassi Ismael, 13 June 2016). Consequently, they are led to bribe the traffic control agents in order to transport their loads to the factories. Because of the scarcity of the forest resource, certain operators circumvent the logging prohibition on protected species by concealing them in the log yards and amongst legal wood piles. In view of the high corruption index level in Côte d'Ivoire, as the World Bank and International Transparency have pointed out, there are real risks that even where forest agents detect these infringements (unlikely in itself because of under resourcing of the forest administration), there is a significant risk that the agents would accept bribes to let them go unpunished.

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

- Required trade permits shall exist and be documented;
- Legally required markings should be clearly visible on transported logs;
- All required transport documents shall exist and be documented;
- Volume, species and qualities shall be classified according to legal requirements;
- Evidence of tax payment shall be available;
- Interviews with stakeholder and local villagers by the purchaser could provide evidence on the supplier's respect for allowed transport times.

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

There are no specific transfer pricing rules in the Côte d'Ivoire, but there is an anti-avoidance notion based on the principle of abuse of law (abus de droit). Article 38 CGI (General Tax code) and the Finance Act of 2006 include provisions covering tax evasion.

1.18.2. Legal authority

N/A

1.18.3. Legally required documents or records

N/A

1.18.4. Sources of information

N/A

1.18.5. Risk determination

N/A

1.18.6. Risk designation and specification

N/A

1.18.7. Control measures and verifiers

N/A

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

General Customs Code (*Code générale des douanes*)

- Memorandum 1431 dated 27 July 2009 fixing the Codes (ADT) of ECOWAS countries not members of the West African Economic and Monetary Union (UEMOA) (*Circulaire n°1431 du 27 juillet 2009 fixant les codes (ATD) des pays CEDEAO non membre de l'UEMOA*)
- Memorandum ref. 9971098
- Customs Code (*Code des douanes*)

1.19.2. Legal authority

- Directorate General of Customs
- Ministère du Commerce
- Ministère des Eaux et Forêts

1.19.3. Legally required documents or records

- Quittance de paiement Droit Unique de Sortie (DUS) (Single Exit Tax)
- Agrément d'exportation annuel (Yearly export approval)
- Code exportateur (export code)

1.19.4. Sources of information

Government sources

- Directorate General of Customs. Available at: <http://www.douanes.ci/>

Non-Government sources

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1.19.5. Risk determination

Overview of Legal Requirements

The Law of the Single Exit Tax (DUS) prescribes the collection of taxes for the export of raw or processed products. The exporter must also hold an export permit issued by the Ministère des Eaux et Forêts and an exporter code issued by the Ministry of Commerce.

Description of Risk

There is a specified risk of illegality with regards to customs regulations through the export of wood under fraudulent statements about the quantities and species of wood (WCF, 2015b) in order to avoid paying full export tax amounts.

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

- Proof of payment of the DUS tax;
- Copy of the annual export permit;
- Copy of the export code.

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

- CITES Convention dated 3 March 1973. Available at: <https://www.cites.org/eng/disc/text.php>
- Law 65 425 dated 20 December 1965 on the Forest Code (Loi n°65 425 du 20 décembre 1965 portant code forestier). Available at: <http://faolex.fao.org/docs/pdf/ivc2229.pdf> [Accessed 30 May 2016]

- Decree 66 dated 31 March 1966 determining the protected forest species (*Décret n°66 du 31 mars 1966 déterminant les essences forestières dites protégées*)

1.20.2. Legal authority

- Ministry of Water and Forests (MINEF) - *Ministère des Eaux et Forêts*
- Ministry of the Environment and Sustainable Development - *Ministère de l'Environnement et du Développement Durable* (MINEDD)

1.20.3. Legally required documents or records

- Carnet de chantier (Field document)
- Permis et certificats d'exportation (Export permits and certificates)
- Liste des espèces CITES (List of CITES species)

1.20.4. Sources of information

Non-Government sources

- Mission report: development of a participative situational analysis and identification of the needs in terms of legality, verification of legality and traceability of timber products in Côte d'Ivoire, FAO 2013
- PNUE. (2015). Post-conflict environmental assessment (*Évaluation environnementale post-conflit*). Côte d'Ivoire. ISBN: 978-92-807-3477-5. Available at: http://apps.unep.org/publications/index.php?option=com_pub&task=download&file=011813_fr. [Accessed 7 June 2016]
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Biodiversite). Available at:

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1.20.5. Risk determination

Overview of Legal Requirements

The CITES Convention, ratified in Côte d'Ivoire on 3 February 1993, prohibits the export of species inscribed in Appendix I of the CITES for commercial goals. Concerning the species in Appendix II, the Convention requires the issuance of permits and certificates prior to their trading. For species in Appendix III, the Convention requires a prior check and the issuance of an export permit for their trading. In Côte d'Ivoire, it is the MINEF, through the Direction of Wildlife and Hunting Resources (DFRC) provide the different specific permits to species inscribed on the CITES list.

Description of Risk

Forest agents have deficiencies in the recognition of species protected by the CITES or by the Ivorian regulations (Louppe & Ouattara, 2013). This promotes fraud, which consists of the introduction of these protected species in circulation by changing their names in the work document (field document, Approved Road Slip, Road Slip for the Export of forest products by land (BREPF) etc.). These practices concern certain species such as *Afrormosia (Pericopsis elata)* inscribed in Appendix II of the CITES. (Louppe & Ouattara, 2013) (PNUE, 2015)

Risk Conclusion

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

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

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

No legislation with regards to due diligence in Côte d'Ivoire.

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

Non-Government sources

- FAO. (2013). Participatory identification of legality needs, verification of legality and traceability of wood products in Côte d'Ivoire. (*Rapport de mission : réalisation d'un état des lieux participatif et identification des besoins en matière de légalité, de vérification de légalité et de traçabilité des produits bois en Côte d'Ivoire*). Not available online.
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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 Côte d'Ivoire** identifies the different types of sources of timber it is possible to find in the country of origin.

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

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

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

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

TIMBER SOURCE TYPES IN CÔTE D'IVOIRE

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Forest area of the State	N/A	State production forests	State	The Society of Forest Development (SODEFOR) has management responsibilities but delegates those through Partnership Agreements with private industrials.	Partnership Agreement or Harvesting Contract(s) between SODEFOR and forest industrials Main licence requirements: <ul style="list-style-type: none"> • Forest Management Plan • Cahier de charges • Villagers' Convention Clarification: The management rights in State Production Forests in theory follow a tendering procedure. In reality, rights are attributed through private agreements.	Timber from State production forests (permanent forest area of the State) accompanied by the appropriate permits and documentation.
		Rural Forest Areas (PEF)		MINEF grants management rights on rural forest areas to accredited forest industrials.	<ul style="list-style-type: none"> • Périmètre d'exploitation forestière (PEF) – <i>forest harvesting perimeter</i> • Allocation Decree • Annual authorisation to renew activity of the scope(s) signed by the Ministry of Water and Forests Main licence requirements: <ul style="list-style-type: none"> • Cahier de charges • Area attribution decree • Annual harvesting permits signed by MINEF • It should be noted that while full forest management plans are required since decree 94-368 of July 1st 1994 for PEFs, in practice only simplified plans are prepared. Clarification: PEFs are given for 20 years, with the requirement to get annual harvesting permits under condition of respect of forest legislation.	Timber from the Rural forest areas (PEF) (also called non-permanent forest areas), managed by forest industrials, accompanied by the appropriate permits and documentation.



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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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