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LEGALITY
FRAMEWORK

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FRAMEWORK FOR THE EVALUATION OF THE LEGALITY OF FORESTRY OPERATIONS AND THE PROCESSING AND MARKETING OF TIMBER:

Principles, Criteria and Indicators for Madagascar

Julien Noël Rakotoarisoa, Cynthia Ratsimbazafy, David J. Newton and
Stéphane Ringuet



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the wildlife trade monitoring network



TRAFFIC FRAMEWORK

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FRAMEWORK FOR THE EVALUATION OF THE LEGALITY OF FORESTRY OPERATIONS AND THE PROCESSING AND MARKETING OF TIMBER:

Principles, Criteria and Indicators for Madagascar

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Precious wood stockpile at the forest administration office in Antalaha

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ABBREVIATIONS AND ACRONYMS

AVG	Alliance Voahary Gasy
CI	Conservation International
COBA	Grassroots communities to which management is transferred
EIA	Environmental Impact Assessment
FAO	Food and Agricultural Organization of the United Nations
GFTN	Global Forest & Trade Network
MECIE	National Decree on Environmental Compliance of Investment Projects
ONE	National Office for the Environment
NGO	Non-Governmental Organization
PGE	General State Policy
PPP	Public Private Partnership
PV	Minutes
SCAPES	Sustainable Conservation Approaches in Priority Ecosystems
UICN	International Union for the Conservation of Nature
USAID	United States Agency for International Development
WCS	World Conservation Society
WWF	World Wide Fund For Nature

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EXECUTIVE SUMMARY

This document provides an overview of the existing regulations pertaining to forest operations and timber industry in Madagascar. This is a first step towards defining the legal framework for the resource, processing and timber trade and constitutes a milestone in national efforts to curb illegal logging through the application of trade controls. The ultimate goal is to ensure that the harvest and trade in timber complies with all legal requirements covering the entire supply chain. The timber legality framework guidelines developed by WWF's Global Forest Trade Network and TRAFFIC were used to assess the relevant aspects of laws, regulations, administrative circulars and contractual obligations that affect forestry operations, timber processing and trade, including legislation safeguarding agreed standards in relation to environmental, conservation and social issues. A participatory approach was used to collect all information included in this document; all stakeholders involved in forest conservation and management as well as the timber industry were consulted after the completion of the legislation compilation to check for accuracy.

From the assessment of the existing regulations on the timber sector, the following issues emerged:

- Generally, the components of the existing legal framework do not ensure the sustainable management of the forest resources. For instance, the system for harvesting permit issuance does not promote the implementation of forest management plans and thus undermines sustainable timber harvesting and sustainable forest management.
- The gaps between the development legislation and its practical implementation lead to illegality in the logging industry. Furthermore, the vagueness of the definition of responsibility of each institution encourages the various authorities to be inconsistent in enforcement and the private sector to circumvent the legislation.
- The confusion and inconsistencies in the regulations and the lack of coordination between the various institutions involved in timber legality control continue to be a major obstacle to legality compliance and enforcement; the Government officials involved in control do not all have the same reference instruments to ascertain which are the competent authorities that can issue authorizations for timber removal.
- The minimum means to verify legality exists (laissez-passer, transport permit and timber marks) although the system can be further strengthened; however, the parties involved in control do not all have the same level of information about the documents or means of verification of legality. In addition, the disorganization of the control system is causing it to tip over into a situation in which illegality predominates through widespread corruption.
- There is still a low level of social responsibility on the part of the timber operators and the initiatives in this regard are completely dependent on the operators' goodwill.
- The texts referring to royalties and tax are characterized by considerable gaps in terms of both contents and means of verification, thus rendering revenue generation, audit, and legality control problematic.

INTRODUCTION

1. Background

Illegal logging poses a major threat to the majority of the large tropical forests (Larrubia *et al*, 2013) and is extensive enough to represent 50% to 90% of all forestry activity in the main tropical producer countries and 15% to 30% at the world level (Nellemann, 2012). It was estimated that between 8% and 10% of world timber production is conducted illegally, although it is acknowledged that there is some uncertainty about these estimates (Seneca, 2004) and much would have changed in recent years.

Illegal logging and the non-sustainable use of the forest resources is not only undermining efforts to put in place an approach for the sustainable use of forests, but also threatens the means of subsistence of the local communities. To reverse this trend, the main steps to curb the illegal logging of forests are being implemented as well as those aimed to ensure that wood and other forestry products are duly certified as having been legally purchased and sustainably produced while meeting the needs of the local peoples and environmental and conservation considerations. Examples include trade regulations such as the 2008 amendment to the United States Lacey Act, the European Timber Regulations and the Australian Illegal Logging Prohibition Act, all of which are designed to prohibit import of illegal timber and to combat illegal logging.

In addition to these initiatives, the WWF Global Forest & Trade Network (GFTN) is one of the flagship initiatives of WWF to promote good forest management and responsible trade. WWF GFTN and TRAFFIC, developed a Framework for Assessing Legality of Forestry Operations, Processing using a set of Principles, Criteria and Indicators grid (PCI) to verify the legality throughout the supply chain.

This initiative was designed to support the implementation of national and international policies on sustainable forest use, eradication of illegal logging and improved forest management, while ensuring the legal requirements of social, environmental and conservation are observed.

The WWF GFTN-TRAFFIC legality framework will allow private sector and any operators to evaluate the legality of the forestry operations and timber trade. This can include checklists that enable the personnel of the various government agencies and entrepreneurs to have access to and understand the relevant aspects of the laws, rules, administrative circulars and contractual obligations that relate to logging operations and timber processing and trade. These lists cover the entire supply chain, from logging operations to the marketing of the finished products both nationally and internationally.

2. Justification

As in the case of all other tropical countries, Madagascar has not been exempt from illegal logging of wood and particularly of precious timber species, which has constituted a major problem since the beginning of 2009, when the country was in the grip of a political crisis. Between 2009 and 2014, at least 88,212 rosewood trees were illegally cut down and 270,000 logs from these trees were illegally exported from Madagascar (Anon., 2009, Randrianatoro, Vohemar port manager, pers. comm. to TRAFFIC, February 2015). The illegal logging of timber in general and of precious woods in particular is now beyond the control of the forestry authorities, handicapped as they are by a number of problems, including the regulatory framework which are inconsistent in defining actions related to prohibition and authorization of harvesting and trade.

At a time when the certification of timber is still in its infancy in Madagascar, the preparation of a document compiling and analysing the current status of the regulatory framework for timber legality constitutes a first step towards better forestry management. It would also enable all the stakeholders involved in the management and conservation of forest resources to be on the same footing of equality of knowledge about the existing regulatory framework on forestry operations in Madagascar.

This document will therefore serve as a reference tool, and benchmark for existing and future national and

international investors in the timber sector, as well as for persons involved in monitoring the legality of timber

in Madagascar. It has been compiled on the basis of all the available documents that constitute the legal framework of the forestry sector in Madagascar including in particular the laws, decrees, orders, notes and circulars relating thereto. Aside from the regulatory logging framework, this document incorporates the recommendations and amendments proposed by the participants in the evaluation workshop of the regulatory logging framework, held on 25 and 26 September 2014 by TRAFFIC. These recommendations and proposed amendments are intended to develop a robust framework of legality to ensure the legality of logging operations in Madagascar.

3. Objectives

The main objective of the present document is to make a general presentation of the regulatory framework for logging operations in Madagascar, using the WWF GFTN-TRAFFIC's principles, and criteria (P&C), in which the indicators are specific to Madagascar's regulatory framework. In fact, the objective of the WWF GFTN-TRAFFIC's legality framework is to support countries in their efforts to improve the governance of their forest resources and to prevent illegal logging and the related trade in timber by encouraging respect for forestry sector legislation at the national level.

The legality framework can be used as a reference and to train all stakeholders along the entire supply chain, including government agencies, private sector, auditors, certifiers and civil society observers and monitors. This framework document is therefore a work in progress, which will be revised on the basis of major legislative changes.

4. Definitions

Logging operations: all activities undertaken to harvest forest timbers in a specific forest concession.

Forestry entity: designates either the forestry company, or the timber transporter, or the timber processing company, or the timber merchant.

National Group of Timber Operators: group of all those operators involved in the various activities of the timber sector – i.e. loggers, transporters and sellers of raw timber, processing companies and sellers of finished timber products.

Timber processing: work on timber resulting in the production of a finished or semi-finished product.

Regulatory framework: all the legal elements governing the forest sector in Madagascar.

Timber operations: all activities relating to logging, transport of forest timber or specific timber products, processing of raw timber, sale and export of timber and its derivatives.

Principles: describes the principles applicable throughout the world and relevant to the forest regions and different ecosystems, as well as the cultural, political and legal systems. This means that they are not specific to a country or a particular region.

Criteria: describes the management rules to be followed at the national level so that the forests meet the social, economic, ecological, cultural and spiritual needs of current and future generations. They include management, compliance, enforcement and social, conservation and environmental requirements.

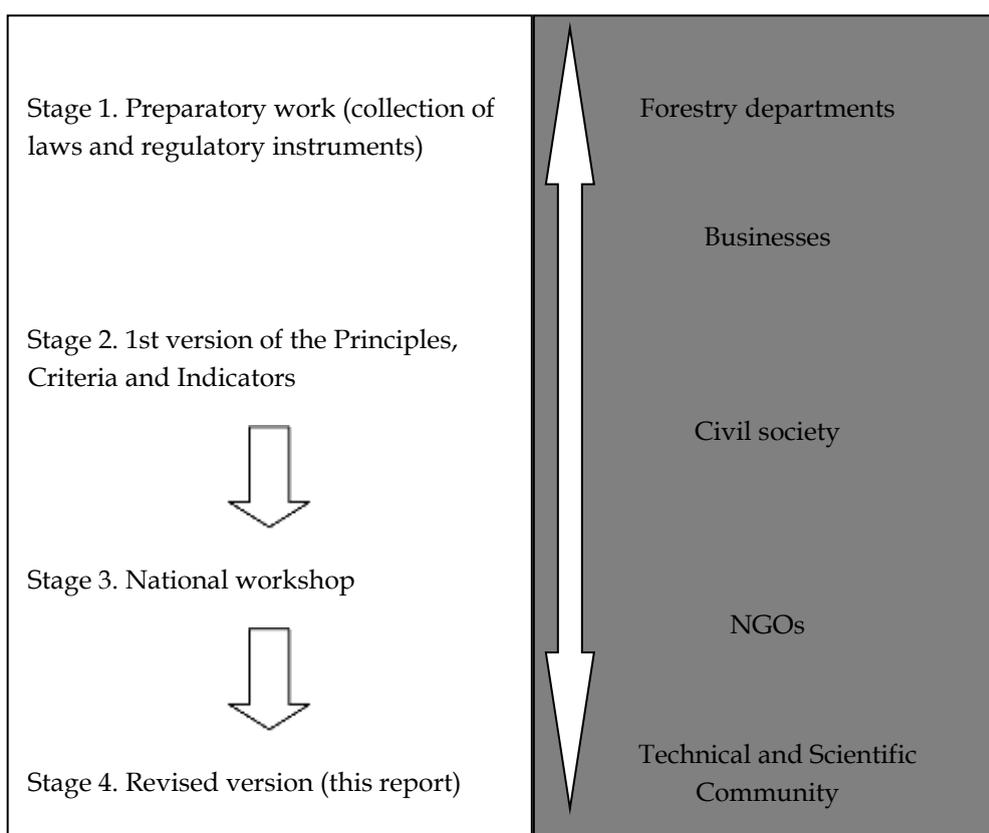
Timber legality: all economic, environmental, social and legal provisions of the producer country that must be respected.

METHODS

The approach adopted in the context of this work can be summarized in four stages (cf. Figure 1), i.e

- i) Preparatory process of collecting available regulatory texts,
- ii) Drafting of a first version of the legality verification framework,
- iii) Organization of a national consultation workshop of the various categories of stakeholders concerned to consider the current status of the existing regulatory mechanisms and
- iv) Preparation of this report, which corresponds to the revised version of the legality verification framework of the timber operations and incorporates the comments and remarks that emerged from the consultation process (stage iii).

Fig. 1: A consultative approach, conducted in stages for Madagascar



1. Stage 1: Preparatory work

TRAFFIC conducted a census of all the existing Malagasy laws governing timber operations, from the logging site to export via transport and processing of the timber. This looked at all national legislation governing forest activities, environmental protection, land ownership and logging rights, workers' rights, health and safety and trade. The work was done between mid-June and mid-September 2014 by Cynthia Ratsimbazafy of TRAFFIC in consultation with Fidy José Andriamanoro and Eric Rabenasolo of the Directorate General of Forests, Rose Raisanarisoa and Claudie Razafintsalama, respectively national chairperson and national coordinator of the National Group of Timber Operators, Andry Andriamanga and Georg Jaster from the civil society platform Alliance Voahary Gasy and Aro Vonjy Ramarosandratana of the Department of Biology and Plant Ecology of the University of Antananarivo.

At this point, it should be mentioned that the work of collecting the forestry laws was complicated by problems inherent in their quality. In fact, confusion in legal provisions has been observed which exposes the users to uncertainty in the implementation of the laws. For example, decree 98-781 of 16 September 1998 determining the general conditions of law 97-017 revising the forest legislation was repealed on 13 December 2005 (art. 40). However, this repealed decree 98-781 still appears as an existing instrument and is maintained in practice (Anon., 2013^a).

Still on the subject of the quality of forest-related laws, on the issue of subcontracting of logging activities, an inconsistency can be seen between the implementation texts of law 97-017. In fact, decree 98-782 of 18 September 1998 stipulates in its article 3 that no subcontracting is admissible in operations in State forests whereas article 18 of decree 2001-22 of 17 February 2001 authorizes the grassroots communities managing the State forests to subcontract operations to approved operators one year after the contract to transfer management comes into force.

2. Stage 2: First version of the legality verification framework

An analysis of all the texts consulted in the context of this work was then conducted by TRAFFIC, thereby enabling the identification of existing and relevant legal references to complement the WWF GFTN-TRAFFIC legality framework which is organized according to Principles, Criteria and Indicators in the legality framework and which provides means of verification, for each indicator, together with legal references.

Like every other country in the world, Madagascar has its own national regulatory system for the management of its timber resources. TRAFFIC consequently adapted the elements of the common legality verification frameworks to the national context of Madagascar. As a result, indicators which have nothing to do with the regulatory system of Madagascar were removed or changed, as in the case of Indicator 1.2.1: *The forestry entity is the owner of a forest concession and holder of a logging agreement concluded with the department responsible for forests*, because the majority of the natural forests in Madagascar are State-owned. Other indicators or even criteria have been modified and adapted to the context of the country, such as Criterion 2.1: *the forest development plan complies with the sectoral policies concerned and respects the prepared framework and also complies with the regulatory stipulations imposed by the department responsible for forests*, whereas the initial criterion referred to general government policy.

3. Stage 3: Activation of a national participatory process to assess the status of the existing regulatory mechanisms

In the course of this work, TRAFFIC adopted a participatory approach enabling all the stakeholders involved in the management and protection of Madagascar's forest resources to be consulted.

As part of this participatory process, TRAFFIC and WWF organized a national workshop. This workshop was held in Antananarivo Madagascar from 22 to 26 September 2014 in the framework of the "*programme for the protection of Madagascar's natural resources*" designed to "*build the capacities of the populations and organizations of Madagascar's civil society to combat the illegal exploitation of Madagascar's natural resources*" financed by USAID. On this occasion, all the parties involved in timber harvesting and management were invited to engage in joint discussion on Madagascar's timber industry and trade, notably about the process needed to ensure that the timber harvested was being taken legally and sustainably.

The participants present at this workshop included:

- representatives from the timber extraction industry,
- the Malagasy Scientific and Management Authorities of CITES,
- the Focal Point of the Convention for Biological Diversity
- Malagasy Customs officials,
- Malagasy tax and trade departments,
- the anti-corruption bureau
- NGO partners (WWF, WCS, CI, Missouri Botanical Garden, the Royal Botanic Gardens - Kew),
- USAID,
- the World Bank,
- representatives of the government of Madagascar from the Ministry of the Environment, Ecology and Forests at both the central and regional levels,
- the scientific world represented by the team from the Department of Biology and Ecology of the University of Antananarivo,
- members of the National Group of Timber Operators and
- TRAFFIC

In relation to the particular goal of strengthening transparency in the timber trade in Madagascar, the workshop enabled the collection of legal references which are used in practice by the professionals in the private sector and forest administration. This process enabled TRAFFIC and the participants to gain a better appreciation of the gap between these references and those constituting the first version of the legality framework as prepared by TRAFFIC in Stage 2.

The workshop also offered an opportunity for the various stakeholders to share information on the existing legal instruments and to provide indications of the appropriateness of the indicators and of the level of details which should be included in the legality framework. The workshop also allowed TRAFFIC to collect evaluations as well as suggestions on the form and content of the proposed legality framework. These discussions between the parties involved thus enabled an evaluation to be made of the laws and policies applicable to the management of forest resources and the timber industry and in particular the shortcomings and additional management measures to be identified that are needed to set the country's timber trade on a viable path. Significantly, the WWF GFTN and TRAFFIC's common timber legality framework was used to guide the discussions.

4. Stage 4: Production of a reference document on the legality verification framework for Madagascar

On the basis of the texts and information collected during the preceding stages, including the inputs of the parties taking part in the workshop (cf. Stage 3), TRAFFIC produced a consolidated document (the present report), notably including the updating of the legal instruments used in the first version of the legality framework (cf. Stage 2). This document was subsequently reviewed and approved by the national authorities before final publication.

RESULTS

1. General description of the principles and criteria

The framework is composed of nine principles, each of which is supported by one or more criteria. Subsequently, the criteria are deployed as indicators adapted to the contexts of Madagascar and verification references based on the existing legislation and regulatory measures. It is to be noted that this presentation format could be used in the approach to forest certification.

Following the presentations of the principles or criteria, personal comments by the author have been added to clarify some of the problems in implementing the regulatory instruments in Madagascar (cf. text in italics).

In the case of a combination of indicators (i.e. that several measurements are needed before a given situation can be evaluated) the concept of a “resulting indicator” constitutes a practical alternative.

The goal is to prevent the absence of one of the chosen indicators, resulting in rendering the application of the corresponding criterion ineffective or void. In this situation, the exercise consists of ensuring that the gap created by non-applicability of the invalid indicator is identified and explained.

PRINCIPLE 1: ACCESS, RIGHTS OF USE AND OWNERSHIP

Apart from its intrinsic shortcomings as a frame of reference, Madagascar's forest law does not include a general framework designed to manage the legal implications with other ministerial departments. Nor, furthermore, does it have any consultative mechanism relating to the professional organizations in the sector, which may have focuses of legitimate interests in connection with any proposed forest business.

This situation is at the root of many claims of an administrative nature (issues of conflict of competence with the other ministerial departments or of vested rights not respected with the private sectors), whose regulation unduly hinders the development economics of those relations known as Public Private Partnerships, indicated by the acronym 3P.

The existence of opposition on the part of the other public or private partners with right of use or land ownership and therefore concerned by the establishment of activity by the forest entity may lead to complicated legal and administrative problems if the decision-making process of the forest administration fails to take such opposition into account.

Criterion 1.1: The logging/processing forest entity has legal entitlement

- This criterion consists of authenticating the legal existence of the forest entity through verification documents whose purpose is to delegate competence or entitlement to conduct its business which is the subject of control analysis.
- This criterion also ensures the registration references of the forest entity by category (logger, transporter, processor, trader, or mixed) by verifying the history of its relationships with the supervisory administrative institutions.
- Fulfilling this criterion thus establishes the legal basis for the existence of the forest entity.

Criterion 1.2: Legal rights of access to the forest resources in the operation area

- Holding legal title to right of access to the forest resources fulfils not only a requirement of administrative management of forest capital and a concern with information when it comes to establishing transparency between the administration and the administered, but it also gives concrete form to the partnership relationship created around the operation through the granting of public title.
- Thus the obligation imposed on the operator to have a forest management plan forces it to subscribe to the objectives of sustainable management of the forest resources by respecting the operating provisions as defined by the forestry experts of the Forestry

Department.

- Consequently, transparency in granting legal title to access to the forest resources constitutes an elementary rule of administrative legality and expresses a desire for good governance.

Criterion 1.3: Proof of the right of exercise and use of land ownership must be provided by the forest entity in accordance with the current regulations

- If respect for the geographical boundaries of the forest concession constitutes a legal reference point in relation to the area of responsibility of the operator, documentation of the annual logging programme constitutes a factor in the ethics of the business by facilitating the follow-up and monitoring of how the situation of the resources is developing and respect for the specifications and cooperation with the forestry officials.

As was proposed in the third paragraph of the introductory section of Principle 1, the affirmation of “non-opposition” expressed by the local residents or anyone else with a right of use or land ownership constitutes the safest way to anticipate the potential obstacles to the smooth functioning of the businesses’ operations.

PRINCIPLE 2: OPERATING REGULATIONS

Criterion 2.1: The forest management programme complies with the sectoral policies concerned and respects the prepared framework and also complies with the regulatory requirements laid down by the department responsible for forests.

- The concessionary has a professional obligation to respect logging standards. This is also regarded as an ecological obligation, enabling long term support for the regeneration of forest resources to be maintained to its conclusion.
- Next, a management plan compliant with forest regulations is the proof of good technical management of the concessions but, it could also serve as a means of prevention against fraud and the use of fraud in the sector.
- To ensure an essentially satisfactory performance level, the forest administration must work with genuine professionals in timber logging. In regard to the logging licence or agreement this constitutes a guarantee that the activities will be correctly conducted.

Here, an indicator needs to be adopted which will show that the policy of the other sectors connected with the forest production in question has been taken into account.

Criterion 2.2: The logging licences or operating agreements are in compliance with the sectoral policies concerned and respect the set standards as well as the regulatory requirements of the department in charge of forests.

- The various quantifications specified concerning operations determine the extent of the possibility of action in which the operator is allowed to engage. This still entails a legal obligation at the technical, fiscal and professional levels.
- Secondly, the forest inventory and the prior marking of trees to be felled (or to be left, as appropriate) make it possible to monitor the regularity of the progress of felling in time and space.

The same as for criterion 2.1.

Criterion 2.3: The logger conducts logging operations on the basis of the forestry requirements and the current regulations

- By adopting a responsible work methodology in relation to the technical requirements of the trade, the logger demonstrates ecological integrity and concern for the concept of the sustainable management of forest resources.

PRINCIPLE 3: TRANSPORT OF RAW TIMBER AND TIMBER FOREST PRODUCTS

Criterion 3.1: The transporters will need to be able to provide the documents and/or transport authorizations depending on the current regulations

- To be lawful, all operations for moving forest products from the felling location via the various storage points to the final point of sale must ensure that these products are accompanied by regulatory approvals issued by the department responsible for forests, enabling the traceability of the origin of the products to be verified.

At the present time, there is no standardization of these types of transport approvals, or any specific designation of the relevant authorities for the issuance of these approvals depending on the categories of movement of the products. This lack of organization in terms of harmonization only helps to facilitate a slide into alleged corruption of the monitoring of the circulation of forest products, conducted by the different Judicial Police Officers (forestry agents, gendarmerie and police).

Criterion 3.2: The transporters are able to provide documents proving the correspondence of the markings of the products transported to ensure their traceability, in accordance with the current regulations.

- The transport of forest products constitutes a point at which traceability can be monitored in the process of establishing good governance of the management of forest resources. This can be achieved through the adoption of a monitoring system of the markings of the products in a broader standardized framework throughout the sector, i.e., from felling, during transport, via the various elements of processing, to marketing. It should be noted that each criterion should also be linked to other relevant criterion, such as proof of collection of taxes such as in Principle 9.

In the transport sector, verification consists of a comparison of the marking elements of the products transported with the markings of origin from the collection storage point.

PRINCIPLE 4: PROCESSING REGULATIONS

The processing sector in Madagascar is characterized by the non-existence of an organizational framework designed to encourage professionals to come together in a federation or any other kind of assembly intended to improve the protection of the interests of the trade.

Criterion 4.1: The processing entities are able to provide documents and/or approval for the conduct of their trade in accordance with the current regulations.

- The forest administration is engaged in continuous action against every form of clandestine processing leading to the laundering of products of illegal origin by making a significant effort to promote formal businesses in the processing sector of the timber sector.
- Similarly, the implementation of the rules of traceability of the provenance of the products, together with the establishment of transparency in dispatching the finished products after processing, combine to strengthen professionalism in the processing sector.

When it comes to the social responsibilities of the timber processing companies, consideration of the indicators on tax clearance, social security and the keeping of the other forest inventory documents showing the flows of products and forest inspections undergone are very important in adjudicating the legality of the processing entity in relation to its obligations. Health and safety issues should also be central to this social responsibility of the timber processing companies.

PRINCIPLE 5: IMPORTATION AND EXPORTATION REGULATIONS

The non-existence of an inter-sectoral regulatory framework operating between the forest administration and the other departments concerned with the activities of importation or exportation (customs, trade,

border police, etc.) is hindering the system of control or verification of the legality of the procedures and related documents. Consequently, it is still necessary to address the challenge of removing the de facto compartmentalization which has been established over time between these ministerial departments. The case of several hundreds of containers of precious woods which are still blocked at the port of Mahajanga by the Customs Department provides an illustration of this situation.

Criterion 5.1: The importing and/or exporting entities are able to provide the documents and/or the approval required for conducting their business

- The legality of the entity's existence helps to define the nature of the strategies to be implemented to combat illegal trade in forest products, given that the State has a duty to limit the tax fraud of the informal entities for the improved management of the national treasury.

Criterion 5.2: The importing and/or exporting entities are able to provide the necessary documents proving the legal origin of the forest products which are the subject of importation or exportation

- Apart from strengthening traceability control, this requirement also aims to ensure the effectiveness of the controls at the Customs borders and the fight against all forms of international timber trafficking.
- The criterion may also serve to check the visibility of the actions undertaken at national level on reinforcing the establishment of fair and inclusive trade.

Same comments as for Criterion 3.2.

PRINCIPLE 6: ENVIRONMENTAL REGULATIONS

Despite the crosscutting nature of the environmental dimension, the compartmentalization that has become established over time between the various ministerial departments is creating an obstacle to the actions to promote the protection of nature.

The recommended approach for business creation already initiated by some ministries (trade, strategic resources, stock farming, fisheries, finance and budget) deserves to be supported. For example, this means defining more precisely the public requirements in the responses that the promoters of public investment programmes must provide relating to:

- *MECIE (National Decree on Environmental Compliance of Investment Projects);*
- *fair and inclusive trade;*
- *social and civic accountability;*
- *transparency in the procedures for handling cases and control relating to the streamlining and simplification of the stages.*

Criterion 6.1: The forest entity conducts environmental impact assessments (EIA) or other studies required by the laws and regulations.

- Conducting of an EIA by the forest promoter is proof of his good faith concerning the ecology, and the approval of the ONE (National Office for the Environment) attests to the fact that he has observed the current environmental standards and respected the socio-economic status quo of the resident populations.

However, given that the majority of the forest entities in Madagascar are in general of average or small size, the procedure and costs entailed in conducting the EIA are at present beyond their means, leading to problems in implementing this criterion.

Criterion 6.2: The logging or processing entity puts in place measures to mitigate the negative impacts of its activities as laid down by the current regulations.

- The logging entity here demonstrates its commitment to respect the natural environment of the site where it is conducting its activity. It also demonstrates its willingness to respect the lives of the resident population and its submission to the legal obligations governing its existence.
- Similarly, by acting in this way, the logging entity demonstrates its willingness to assume

responsibility for its share of the work in restoring the site.

PRINCIPLE 7: CONSERVATION REGULATIONS

Same comments as for Principle 6.

Criterion 7.1: The forest logging entity is able to provide the documents attesting that the site, subject of its operations, is classified in the category of production forests.

- The possession of appraisal documents when applying for adjudication constitutes a serious and real guarantee that the logging entity is working in the proposed production area. Conditionalities related to high conservation value forests, and for species, ecosystem and habitat conservation are important considerations within the concessionaire's boundaries.
- In other words, respect for forest zoning enables the protection of the conservation sites outside of the concession for improved coordination of sustainable management of forest resources at the regional and even national levels.

Criterion 7.2: The logging entity guarantees the proper conduct of the activities in the concession.

- As the responsibility of the operator extends to liability for the activities of its employees in the concession, it is expected to ensure in a responsible way that its team respects the norms and regulations in the conduct of the activities to manage the forest resource allocated to it.

PRINCIPLE 8: SOCIAL REGULATIONS

Same comments as for Principle 6.

Criterion 8.1: The logging entity maintains the social well-being of the local communities/indigenous populations in compliance with the laws and current regulations.

- By respecting the rights of the grassroots communities (COBA), the logging entity works to support the hall-mark of good-neighbourliness and decency as proof of social morality.
- Similarly, the in kind contribution made by the logging entity to the community where it conducts its operations signifies an economic accountability to the latter.

Criterion 8.2: The logging entity acknowledges the legal and customary rights of the local/indigenous populations in accordance with the laws and current national regulations.

- The fulfilment by the operator of its social and professional responsibilities such as respecting of customary usage rights is an expression of its willingness to coexist peacefully with the local population.
- Furthermore, these social and professional responsibilities also demonstrate the acknowledgement by the logging entity of community accountability as well as its responsibility towards them.
- Very often, the logging entity tries to recruit local workers for its production activities to signify its social policy that encourages local development in the vicinity.

Criterion 8.3: The logging entity complies with the laws and regulations on the rights of its employees and workers.

- A logging entity whose existence is formally recorded offers its employees a legal guarantee of work, as in any modern civil society that is secure, honest and respectful of human dignity.

Criterion 8.4: The workers of the logging entity are sufficiently informed of their rights.

- Similarly, such a logging entity shows concern for the social and professional well-being of its employees.

PRINCIPLE 9: TAX LIABILITIES AND ROYALTIES

Same comments as for Principle 6

Criterion 9.1: The logging entity is up-to-date with its fiscal obligations.

The logging entity which honours its fiscal obligations regularly and in compliance with its category of business also subscribes to the principle of fair and inclusive trade.

Criterion 9.2: All taxes to which the logging entity is subject are paid on time.

- Demonstrable regularity shown by the logging entity in payment of taxes and duties levied throughout the sector from logging to export and including possible processing expresses its professional commitment and reflects the financial solvency of its business.
- Lastly, the payment of forest fees also constitutes a direct contribution by the logging entity to the restoration of the forest resources.

Principle 10, which deals with the issue of subcontracting activities by companies in the domains upstream of the timber sector, has not been considered in this document. The reason for this are related to the structure of the current timber market in Madagascar, which is characterized quite simply by a supply of the timber processing or marketing entities dictated by the price. Having permanent partners as legal suppliers is not one of the priorities of the timber operators in Madagascar because of the quest for the lowest price in a sector that is heavily dominated by illegality.

At a later stage, Principle 10 can be studied in the case of subcontracting of logging work between the local communities to which forest management has been delegated and the private operators.

2. Proposal for a legality verification framework of logging operations in Madagascar

2.1. Access, rights of use and ownership (Principle 1)

PRINCIPLE 1: ACCESS, RIGHTS OF USE AND OWNERSHIP	
Criterion 1.1: The logging/processing entity is legally entitled	
<p>Indicator 1.1.1: The logging entity has a legal existence and is licenced as a timber logger and/or registered as a timber processor.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Authenticated Articles of Association/incorporation deeds showing the following forms of identification: 1) fiscal 2) on the Commercial Register of the court 3) business card or affiliation with a group of professional forestry operators. • Ministerial approval. • Operating licence or agreement. • Community management contract. • Deed of ownership (in the case of private forests or businesses). <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 60 004 of 15 February 1960 on the national private sector. Chapter II. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading I. • Decree no. 2005/ 849 of 13 December 2005, reforming the general implementation conditions of Law 97 017. Heading III.
<p>Indicator 1.1.2: Registration with the forest administration</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Registered incorporation act. • Certificate of payment of royalties. • Licence, tax or royalty receipts. <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 97 017 of 8 August 1997 revising forest legislation. Articles 21 and 23. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 3, 4 and 5. • Order no. 5139/94 of 15 November 1994, supplementing the regulation in force on forest logging and regulating the marketing of the main forest products. Section II
<p>Indicator 1.1.3: The forest entity is not subject to a suspension measure or withdrawal of licence or of title by the forest administration and it does not have any disputes with the latter.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Operating title or renewed licence. • Report of the situation before logging. • Attestation of verification.

	<p>Legal references:</p> <ul style="list-style-type: none"> • Interministerial order no.17939/2004 of 30 December 2004 supplementing and amending certain provisions of Order no. 5139/94. Article 1. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the specifications of the general stipulations on awarding licences by a tendering procedure. Articles 10 and 12.
<p>Indicator 1.1.4: The logging entity is up-to-date with the tax and/or customs administration.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Statement or certificate of payment. • Receipt (e.g. from the tax department). • Deposit slip. <p>Legal references:</p> <ul style="list-style-type: none"> • Ordinance no. 74009 of 23 February 1974 establishing an export levy for forest products. Heading I. • Decree no.74 078 of 22 February 1974 regulating the export of forest products. Article 2. • Order no. 5139/94 of 15 November 1994 supplementing the current regulations on logging and regulating the marketing of the main forest products. Section III.
<p>Criterion 1.2: Legal rights of access to forest resources in the operation area</p>	
<p>Indicator 1.2.1: The logging entity holds or possesses a logging licence or a logging agreement with the department responsible for forests.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Logging licence. • Logging agreement. • Card or professional certificate for processors. <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 97 017 of 8 August 1997 revising forest legislation. Articles 21 and 23. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 2 and ff. • Order no. 5139/94 of 15 November 1994 supplementing the current regulations on forest logging and regulating the marketing of the main forest products. Articles 2 and 3.

<p>Indicator 1.2.2: A management plan has been drawn up for the area covered by the logging licence or the logging agreement.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Operating file, especially the development plan.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 97 1200 of 2 October 1997 adopting the forest policy of Madagascar. • Decree no. 98 781 of 16 September 1998 fixing the general conditions for the implementation of Law no. 97 017. Heading II. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading II.
<p>Indicator 1.2.3: The logging licence or logging agreement is awarded in a transparent manner.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Instructional material including a copy of the notice of the tender notice. • Minutes of the proceedings of the tender board (scrutiny, evaluation and award).
	<p>Legal references:</p> <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the specifications for the general requirements concerning the award of a licence by a tendering procedure. Article 4.
<p>Criterion 1.3: Proof of the right of exercise, use and land ownership must be provided by the forest entity in accordance with the current regulations</p>	
<p>Indicator 1.3.1: Forest logging respects the boundary of the allocated concession area.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Sketch or geo-referenced map of the section. • Certificate of legal status. • Control/inspection report of the forest administration (overview). • Annual notification of the commencement of activities.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2004-009 of 26 July 2004 establishing the public procurements code. Heading III. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Chapter III.
<p>Indicator 1.3.2: The operator has an annual logging programme approved by the forest administration.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Logging authorization for the current year.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782. Articles 27 and 38-§1.

2.2. Logging regulations (Principle 2)

PRINCIPLE 2: LOGGING REGULATIONS	
Criterion 2.1: The forest management plan complies with the sectoral policies concerned and respects the prepared framework and also acts in accordance with the regulatory requirements imposed by the department responsible for forests.	
Indicator 2.1.1: The logging entity respects the current logging norms in its forest section. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Site workbook. • Monitoring report by forestry agents.
	Legal references: <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782. Articles 29, 30-§3 and 38-§2.
Indicator 2.1.2: The management plan respects the requirements imposed by the forest regulations. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Logging licence. • Logging agreement whose issuance remains subject to respecting the legislation.
	Legal references: <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Article 9. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 approving the terms of reference for the award of licences through a tendering procedure. Article 30-§1.
Indicator 2.1.3: The logging entity has the necessary skills and professional resources or sufficient assistance for the performance of the construction work. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Official certificate of professional skill. • Company articles of association.
	Legal references: <ul style="list-style-type: none"> • Decree no. 98 781 of 16 September 1998 fixing the general conditions of implementation of Law no. 97 017. Articles 14 and 15. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Article 04. • Order no. 5139/94 of 15 November 1994 supplementing the current regulation on forest logging and regulating the marketing of the main forest products. Article 03.

Criterion 2.2: The logging permits or operating agreements comply with the sectoral policies concerned and respect the prepared framework and the regulatory requirements of the department responsible for the forests.	
Indicator 2.2.1: The forestry company respects the quantities of timber that can be logged under the conditions defined by the logging licence or the operating agreement. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Site workbook. • Journal or register kept by the operator.
	Legal reference: <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 approving the terms of reference for the award of licences through a tendering procedure. Article 30-§3.
Indicator 2.2.2: A forest inventory has been conducted before the operation and the trees to be felled are marked. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Logging licence. • Operating agreements whose issuance continues to be subject to control of respect for the legislation (investigation with all parties concerned).
	Legal references: <ul style="list-style-type: none"> • Decree no. 98 781 of 16 September 1998 fixing the general conditions of the implementation of Law no. 97 017. Article 18. • Order No. 13855/2001 of 13 November 2001 on the implementation of Decree No.98782 approving the terms of reference for the award of licences through a tendering procedure. Articles 28 and 37.
Criterion 2.3: The forestry company conducts its forest logging in accordance with normal forestry practices and the current regulations.	
Indicator 2.3.1: The minimum harvesting diameter is respected throughout the logging operation. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Site workbook. • Report of monitoring conducted by the officials of the department responsible for the forests.
	Legal reference: <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree No. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Article 30-§1.

<p>Indicator 2.3.2: Respecting of the stipulations in terms of quantity and species for logging described in the logging licence or the operating agreement.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Site workbook. • Report of forest monitoring conducted by the officials of the department responsible for the forests. <p>Legal reference:</p> <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Chapter V.
<p>Indicator 2.3.3: The forestry company duly and regularly pays timber royalties.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Tax and royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Certificate of payment • Receipt • Invoice <p>Legal reference:</p> <ul style="list-style-type: none"> • Decree no. 2000/355 of 24 May 2000 fixing the modalities of management of “Action on behalf of the tree” trade accounts at the central level. Article 4. • Decree no. 2001-1123 of 28 December 2001 on the modalities of forest funds management. Articles 2 and 10. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Art. 12.

2.3. Transport of logs and timber forest products (Principle 3)

PRINCIPLE 3: TRANSPORT OF LOGS AND TIMBER FOREST PRODUCTS	
Criterion 3.1: The transporters will be required to provide the documents and/or transport authorizations in accordance with the current regulations.	
<p>Indicator 3.1.1: The transporters of forest products possess the transport documents required by the current legislation.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • National Gendarmerie (national, regional roads) • National police (within the cities boundaries) 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Valid transport authorization. • Valid laissez-passer.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading III. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 30-§4 and 40.
<p>Indicator 3.1.2: The transport certificate is currently valid.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • National Gendarmerie (national, regional roads) • National police 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Valid transport authorization. • Valid laissez-passer.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading III. • Order no. 13855/2001 of 13 November 2001. Article 30-§5.
Criterion 3.2: The transporters are able to provide the documents showing the correspondence of the markings of the products transported to ensure their traceability in accordance with the current regulations.	
<p>Indicator 3.2.1: In accordance with the current norms, the stumps of the felled trees are marked.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Site workbook. • Report of forest monitoring conducted by the officials of the department responsible for the forests.
	<p>Legal reference:</p> <ul style="list-style-type: none"> • Order no.13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Article 37.
<p>Indicator 3.2.2: The logs either stored or at the felling locations are marked in order to facilitate traceability.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Site workbook. • Minutes of forest monitoring conducted by the officials of the department responsible for the forests at the felling locations and/or the warehouses. • Order of inspection mission and/or of unexpected or routine forest monitoring.

	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 37 and 39. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 34 and 37.
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2.4. Processing regulations (Principle 4)

PRINCIPLE 4: PROCESSING REGULATIONS	
Criterion 4.1: The processing entities are able to provide the documents and/or the approval for the conduct of their trade in accordance with the current regulations.	
<p>Indicator 4.1.1: The processing company is legally registered.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade Service • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Articles of association/acts of incorporation containing 1) tax identification number. 2) the trade register reference no. of the commercial court 3) the business card reference or that of affiliation with a group of professional forest loggers (e.g. GNEFM: <i>Groupement National des Exploitants Forestiers de Madagascar</i>). • Ministerial approval.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading I. • Law no. 2007-036 of 14 January 2008 on investments in Madagascar. Articles 12 and 13. • Finance Law 2015, General Tax Code. Articles 1.01.01 and 01.01.02.
<p>Indicator 4.1.2: The logging entity ensures that the timber products are accompanied by the documents proving the legality of their origins.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade service • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Authenticated certificate of origin. • Valid transport document and any other official document facilitating the traceability of the origin of the products.
	<p>Legal reference:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading III.

2.5. Regulations on importation and exportation (Principle 5)

PRINCIPLE 5: IMPORTATION AND EXPORTATION REGULATIONS	
Criterion 5.1: The importing and/or exporting entities are able to provide documents and/or approval required for the performance of their trade.	
<p>Indicator 5.1.1: The company has approval from the relevant department, generally from the Ministry of Commerce.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Trade service • Customs Service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Approval or authorization of exportation/importation following a favourable recommendation from the forestry department. • Declaration of undertaking to repatriate foreign currency. • Valid interministerial exportation certificate (Directorate General of Forests, Directorate General of Commerce, Directorate General of the Economy; Directorate General of Finance; and Directorate General of Rural Development).
	<p>Legal references:</p> <ul style="list-style-type: none"> • Ordinance no. 74009 of 23 February 1974 establishing an export duty on forest products. Articles the first, 2 and 3. • Decree no. 74 078 of 22 February 1974 regulating the exportation of forest products. Articles the first and 2. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 41 and 42.
Criterion 5.2: The importing and/or exporting entities are able to provide documents needed to prove the legal origin of the forest products that are the subject of importation or exportation.	
<p>Indicator 5.2.1: The documents accompanying the transported timber are reliable and well-maintained.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Customs service • National Gendarmerie 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Authorization and/or certificate of exportation/importation, bill of lading.
	<p>Legal references</p> <ul style="list-style-type: none"> • Law no. 2005-018 of 17 October 2005 on the international trade in species of wild flora and fauna. • Decree no. 92-424 of 3 April 1992 regulating the importations of goods from abroad and the exportation of goods abroad. Articles 2, 3, 4, 7 and 8. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading IV. • Order no. 5139/94 of 15 November 1994 supplementing first the current regulation on forest logging and second the marketing of the main forest products. Articles 12 and 13.

<p>Indicator 5.2.2: The efforts made to bring prosecutions and the crackdown on fraudulent acts relating to timber exports are highly visible.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • National Gendarmerie • Custom service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Referral to the criminal police force (complaints or denunciations received). • Action of the government ministry. • Judicial settlement.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Ordinance no. 60 128 of 3 October 1960 fixing the procedures applicable to the crackdown on infringement of forest legislation, hunting, fishing and the protection of nature. Articles 08, 10 and 11. • Law no. 2005-018 of 17 October 2005 on the international trade in species of wild flora and fauna. Articles 10, 11, 15, 16 and 20. • Decree no. 2006-097 of 31 January 2006 fixing the modalities of implementation of Law no. 2005-018 on the international trade in species of wild flora and fauna.

2.6. Environmental Regulations (Principle 6)

<p>PRINCIPLE 6: ENVIRONMENTAL REGULATIONS</p>	
<p>Criterion 6.1: The forest entity conducts environmental impact assessments or other studies required by the Laws and regulations.</p>	
<p>Indicator 6.1.1: The conduct of an Environmental Impact Assessment for those sections of land/concessions exceeding or at least equal to 500 ha.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Outcome of the environmental impact assessment conducted by the promoter-operator.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 90 033 of 21 December 1990 on the Madagascar Environment Charter supplemented by Law no. 2004-015 of 19 August 2004. Article 10. • Decree no. 99 954 of 15 December 1999 on the rendering of investments compatible with the environment and its modifying factors. Article 3.
<p>Indicator 6.1.2: The competent department of the <i>National Environment Office</i> (ONE) approves the impact assessment conducted by the promoter-operator.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Certificate of compliance or Environmental Approval issued by ONE.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 2004-167 of 3 February 2004 amending some provisions of Decree no. 99 954 of 15 December 1999 on rendering investments compatible with the environment and its modifying factors. Article 6.

<p>Indicator 6.1.3: In the event that an impact assessment is not mandatory, the authority issuing approval allows the creation of the proposed enterprise.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Certificate of classification or “Screening”. <p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 2004-167 of 3 February 2004 amending some provisions of Decree no. 99 954 of 15 December 1999 on rendering investments compatible with the environment and its modifying factors. Article 2.
<p>Criterion 6.2: The logging or processing entity puts in place measures to mitigate the negative impacts of its activities stipulated by the current regulations.</p>	
<p>Indicator 6.2.1: The proposed and ratified mitigation measures are implemented.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Environmental Management Plan (EMP). • Environmental Commitment Programme (ECP). <p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 99 954 of 15 December 1999 on rendering investments compatible with the environment and its modifying factors. Articles 4 and 5.
<p>Indicator 6.2.2: The proposals for environmental management stipulated in the operating clause are implemented.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Site workbook. • Verification report. • Community follow-up. • Report of inspection and/or forest control mission or of follow-up of civil society in the sector. <p>Legal references:</p> <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Heading III.

2.7. Regulations on conservation (Principle 7)

PRINCIPLE 7: REGULATIONS ON CONSERVATION	
Criterion 7.1: The forest logging entity is able to provide documents proving that the site that is the subject of the operation is classified in the category of production forests.	
Indicator 7.1.1: Possession of report/ecological inventory document when the submission to tender is examined. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • The tender submission file.
	Legal reference: <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Article 10. • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 27 and 28.
Criterion 7.2 The logging entity guarantees the legality of its activities in the concession.	
Indicator 7.2.1: The entity ensures that its employees are not involved in illegal practices such as poaching, panning for gold, logging outside the allocated section. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Register of presence or deployment of personnel. • Internal regulations of the logging entity.
	Legal references: <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 47, 48.
Indicator 7.2.2: The entity contributes to the prevention of all forms of illegal logging in its concession. Verifier: <ul style="list-style-type: none"> • Forest administration 	Methods or documents of verification: <ul style="list-style-type: none"> • Site workbook. • Report of monitoring by forestry officials.
	Legal references: <ul style="list-style-type: none"> • Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 45 and 46.

2.8. Social regulations (Principle 8)

PRINCIPLE 8: SOCIAL REGULATIONS	
Criterion 8.1: The company maintains or improves the socioeconomic well-being of the local communities/indigenous populations in accordance with the Laws and regulations in force.	
<p>Indicator 8.1.1: The forest entity respects the provisions of the terms of reference favouring the local communities of its area(s) of intervention.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Currently inexistent 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Counterfoils/stubs of files/registers of the incidents held at the operation’s supervisory base. • Copy of the grievances or complaints relating to customary or usage rights submitted to the local authorities against the logging entity.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Constitution of the Republic of Madagascar. • Law no. 96 025 of 30 September 1996 on secure local management of renewable natural resources (GELOSE). Articles 1 and 2.
<p>Indicator 8.1.2: The company/operators make a timely financial contribution to the community.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Currently inexistent 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Community plan document initiated by the operator for the benefit of the resident community-communities. PGEP; PRE.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 96 025 of 30 September 1996 on secure local management of renewable natural resources. Articles 54 and 55. • Decree no. 99 954 of 15 December 1999 on rendering investments compatible with the environment and its modifying elements. Articles 4 and 5. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 5, 6 and 11. • Order no. 5139/94 of 15 November 1994 firstly, supplementing the current regulations on forest logging and secondly regulating marketing of the main forest products. Article 5.
Criterion 8.2: The company recognizes the legal and customary rights of the local/indigenous populations in compliance with the national Laws and regulations in force.	
<p>Indicator 8.2.1: Usage rights of the local Communities in the forest concessions are recognized and respected.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Currently inexistent 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Terms of reference for the logging operations, copies of which are kept at the operation’s supervisory base, on the exercising of customary or usage rights.

	<p>Legal references:</p> <ul style="list-style-type: none"> Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 5, 6 and 11.
<p>Indicator 8.2.2: In the event of the destruction by the company of property belonging to the local populations, the company compensates the local population in accordance with the current rules.</p> <p>Verifier:</p> <ul style="list-style-type: none"> Forest administration 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> Minutes of conflict settlement. Compensation ruling.
	<p>Legal references:</p> <ul style="list-style-type: none"> Order no. 13855/2001 of 13 November 2001 on the implementation of Decree no. 98782 and approving the terms of reference for the award of licences through a tendering procedure. Articles 31 and 32.
<p>Indicator 8. 2.3: The timber company recruits locally from among the resident community.</p> <p>Verifier:</p> <ul style="list-style-type: none"> Currently inexistent 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> Employment contracts. Memorandum of understanding with the local authorities of the logging location.
	<p>Legal references:</p> <ul style="list-style-type: none"> Constitution of the Republic of Madagascar. Law no.96 025 of 30 September 1996 on the secure local management of renewable natural resources. Articles 1, 2 and 4.
<p>Criterion 8.3: The forest entity complies with the Laws and regulations of the rights of its employees and workers</p>	
<p>Indicator 8.3.1: The relations between the forest entity and the personnel have been formalized in accordance with the provisions of the law.</p> <p>Verifier:</p> <ul style="list-style-type: none"> Should be the labour and social regulation service but not yet operating in timber sector 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> Registration with the labour and employment department for the region of operations. Affiliation with a social security scheme. Internal regulations of the company.
	<p>Legal references:</p> <ul style="list-style-type: none"> Order no. 13855/2001 of 13 November 2001. Articles 45, 46, 47 and 48. Law no. 2003-044 of 28 July 2004 creating the Madagascar Labour Code.
<p>Indicator 8.3.2: The workers of the timber company are paid in accordance with the regulations of the professional division of their activity.</p> <p>Verifier:</p> <ul style="list-style-type: none"> Should be the labour and social regulation service but not yet operating in timber sector 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> Pay slip.
	<p>Legal references:</p> <ul style="list-style-type: none"> Law no. 2003-044 of 28 July 2004 on the Madagascar Labour Code and its implementing texts. Articles 53 and ff. Heading III, Chapter I, Section I. Decree no. 2006-096 of 31 January 2006 fixing the index point value for the calculation of the minimum recruitment and seniority wages by professional category. Article the first.

<p>Indicator 8.3.3: The health and safety conditions for the workers satisfy the current norms.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Should be the labour and social regulation service but not yet operating in timber 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Internal regulations
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2003-044 of 28 July 2004 creating the Madagascar Labour Code and its implementing texts. Articles 110, 111 and 112.
<p>Indicator 8.3.4: The working hours implemented by the company comply with the legal provisions (40h).</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Should be the labour and social regulation service but not yet operating in timber 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Internal regulations.
	<p>Legal reference:</p> <ul style="list-style-type: none"> • Law no. 2003-044 of 28 July 2004 creating the Madagascar Labour Code and its implementing texts. Articles 75, 76 and 77.
<p>Criterion 8.4: The workers of the forest entity are sufficiently informed of their rights.</p>	
<p>Indicator 8.4.1: The employee representatives receive various trainings useful in the fulfilling their remit.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Should be the labour and social regulation service but not yet operating in timber sector 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Retraining programme for the company's employee representatives. • Internal regulations.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2003-044 of 28 July 2004 creating the Madagascar Labour Code and its implementing texts. Article 5.
<p>Indicator 8.4.2: The company's employees have access to the various documents on labour rights.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Should be the labour and social regulation service but not yet operating in timber sector 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Company documentation unit. • Table or chart displayed in the workplace. • Internal regulations.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2003-044 of 28 July 2004 creating the Madagascar Labour Code and its implementing texts. Articles 120, 121 and 122.

2.9. Tax liabilities and royalties (Principle 9)

<p>PRINCIPLE 9: TAX LIABILITIES AND ROYALTIES</p>	
<p>Criterion 9.1: The forest entity is up-to-date with its tax liabilities.</p>	
<p>Indicator 9.1.1: The forest entity is up-to-date with its tax liabilities and timber royalties</p>	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Payment document or stub. • Receipt.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Articles 48 and 49.

<p>Indicator 9.1.2: Declarations of earnings on the timber trade are made in compliance with the Laws.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade service • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Company balance sheet and profit and loss account. • Tax certificate. <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2003-036 of 30 January 2004 on commercial companies. Articles 10 and 17. • Decree no. 2004-453 implementing Law no. 2003-036 on commercial companies.
<p>Criterion 9.2: All taxes to which the forest entity is subject are paid by the due date.</p>	
<p>Indicator 9.2.1: All taxes and forest royalties are paid on time.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade service • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Payment stub. • Receipt. <p>Legal references:</p> <ul style="list-style-type: none"> • Ordinance no. 74 009 of 23 February 1974 establishing an export duty on timber products. Articles 2 and 3. • Decree no. 74 078 of 22 February 1974 regulating the exportation of timber products. Article 02. • Order no. 5139/94 of 15 November 1994 firstly supplementing the current regulations in forest logging and secondly regulating marketing of the main forest products. Section III.
<p>Indicator 9.2.2: All taxes related to timber processing activities are paid on time.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade service • Tax and Royalties service 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • General ledger. • Journal. • Certificate/deed of payment. <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2003-036 of 30 January 2004 on commercial companies. Articles 10 and 17. • Decree no. 2004-453 implementing Law no. 2003-036 on commercial companies.
<p>Indicator 9.2.3: All taxes related to the exportation of the products are paid on time.</p> <p>Verifier:</p> <ul style="list-style-type: none"> • Forest administration • Trade service • Tax and Royalties service • Customs Services 	<p>Methods or documents of verification:</p> <ul style="list-style-type: none"> • Export certificate. • Certificate/deed of payment. <p>Legal references:</p> <ul style="list-style-type: none"> • Law no. 2005-018 of 17 October 2005 on international trade in species of wild flora and fauna. • Decree no. 98 782 of 16 September 1998 on the forest logging regime. Heading IV.

DISCUSSION

In relation to the problems of governance of forest resources in Madagascar, the participatory process involving all the stakeholders in the Madagascar forest sector for the drafting of the legality verification framework for forest operations – from logging to transport and processing to marketing – has enabled TRAFFIC to identify certain shortcomings and/or weaknesses in the Malagasy regulatory framework currently in force. These can be summarized by Principle, as follows:

Principle 1: In Madagascar, access, rights of use and ownership in relation to the forest resources are generally linked to harvesting permits and not to the concessions. Given that the majority of the natural production forests belong to the State, the only possibility of gaining access to them is to obtain a logging licence following a sale by tender of the lot (the already inventoried standing trees); (Ref. Decree no. 98-782, art. 22). However, logging of private woodlots, which are generally plantations, is dependent upon the prior acquisition of a permit to fell trees on private land.

In addition, the limited duration of right of access in the case of a logging licence not exceeding three years (Ref. Decree no. 98-782, art. 23), can present serious risks to the sustainable management of forest resources. In fact, this short duration, which does not even represent one rotation in forestry terms, will not make it possible to implement a management plan for the purposes of restoration. In this instance, the legal framework is not in step with the concern to ensure the good management of forest resources.

Principle 2: This Principle refers to the logging regulations which also reveal gaps favouring the informal sector. In fact, in order to get around the existing regulations, circular notes or memos have been misused by the Forestry Department at different levels for special harvesting permits, including the notorious post-cyclone collection permits of precious woods.

After various changes in the organizational structure of the ministry responsible for forests, leading to new names for the different job hierarchies, Madagascar's forest administration agents are no longer included in the reference instruments for empowerment to issue the harvesting permits. Once again, the issuance of various memos and circulars on the powers of signature relating to the logging licences only serves to complicate the verification of the permits concerned.

Principle 3: The Judiciary Police Officers of the other sectors (*gendarmerie*, police, Customs) also participate in monitoring the movement of forest products. However, due to a lack of coordination in interventions (Anon., 2013a) and also of an exchange of information on documents or proof of legality (*laissez-passer*, transport permits and timber marks), the assistance of these other monitoring entities remains insignificant in terms of impact. In addition, the disorganization of the monitoring system is creating a reversal of the situation towards the predominance of illegal activity through the dramatic rise in corruption. The assessment of the status of the forest governance in Madagascar in 2012 noted in its Pillar III.2 that: *law enforcement and the fight against corruption is well below the average.* (Anon., 2012).

Principle 4: According to this principle, the timber processing entities must usually get their timber from legal suppliers. However, there can be no guarantee of this in relation to the timber supplies of these processors in Madagascar. In fact, the absence of (special) approvals issued to timber processors by the Malagasy Forest Administration and the absence of their official registration at the Ministry responsible for Forests makes it impossible to facilitate checks on the legality of these supplies.

Principle 5: Madagascar is chiefly a forest product exporting country. Despite the existence of control documents in the Forestry Department, the compartmentalization of the forest sector in relation to the others (such as Customs) in terms of co-operation and ensuring the consistency of procedures and taxation systems, makes the procedures for the export of timber products somewhat vague, to the benefit of the informal regulation systems.

Principle 6: Among the various causes of forest degradation, logging is characterized as non-sustainable for Madagascar (Anon., 2013^a). Environmental requirements concern logging activities, but their effective implementation levels are still low. The obligation to engage in forest restoration activities, in the form of a reforestation clause included in the management plan is an example of these environmental requirements. However, the continual reduction of Madagascar's forest surface area in the order of between 0.5% and 2% per annum (Anon, 2013^a) or several hundreds of hectares, almost half of that of 1950 (Anon., 2012), is an indication that this requirement is not really being implemented despite the fact that forests are a renewable resource.

The procedure used in Madagascar for granting licences by mutual agreement has previously led to detrimental practices when it comes to respecting the terms of reference. This in turn has consistently led to informal compromises to get around the environmental obligations, including the restoration of the harvested resource. Reinforcement of forest monitoring and control as well as the implementation of the law are among the four strategic options proposed by REDD+ of Madagascar (Anon., 2013^a). Thus, the establishment of a systematic check of legality throughout the forest operations could significantly amend and rectify forest resources management methods in Madagascar.

It is important to note though that access to resources based on the empowerment to harvest and not ownership is handicapping the good management of forest resources.

There are however, intermediate forms of access to resources in Madagascar that are quite positive. Thus, management under lease like that in the reforestation area of Mandaratsy in the Matsiatra Upper Region, managed for about 30 years, provides a good example of a mode of access to the resource whose management facilitates controls and checks on the logging activities and forest restoration (a pilot case study put in place by the primary author).

Principle 7: (Nature conservation regulation) Forest zoning in Madagascar has already previously identified the production areas, as well as the conservation zones. Almost half of the natural forests, i.e. about 5 270 000 ha, are situated in the existing protected areas and the priority zones for the New Protected Areas, while the remaining 4 455 000 ha are in principle allocated to sustainable production (Anon, 2013^a).

Such pre-defined zoning enables the operators not to be concerned with the areas of potential conservation interest in their activity zones, since they are deemed to be in the production zones.

Principle 8: The majority of the social obligations to be fulfilled by the forest entities in Madagascar are currently carried out by them on behalf of the resident community in their logging site and ensure the integration of these entities at the local level. In fact, the logging permits issued to the forest operators contain only a figure suggesting in-kind royalties for the forest administration in the form of a contribution to providing work and equipment supplies for the service. Currently, logging licences issued after calls to tender or the tendering process and excluding the value of the lot contain no figures in terms of social obligations. In practice this generally takes the form of a contract after negotiation between the forest operator and the representative of the local council where the lot is situated. Consequently the forestry department remains a mere arbiter in this kind of contract to ensure that the amount negotiated is reasonable in relation to the value of the lot so as not to drive the forest operator to engage in illegal logging off the lot in order to make up its higher expenses. It is assumed that such contractual relationship means the aggrieved can take the offender to court for justice if the conditions in the contract are voided or contravened.

Would fixing the rate and legal requirements in the logging authorizations or licences improve forest management? At the very least, this option can provide references to facilitate verification of legality in relation to respect for the various obligations, including social obligations.

Principle 9: In its preliminary conclusion, the prospective study conducted by AVG in 2014 (Anon.,2014) on forest taxation in Madagascar found that there is a considerable gap between the tax liabilities required in the regulatory texts and those implemented at the level of the operational structures of the Forestry Department. In addition, the level of implementation of the texts dealing with the tax

sector suffers from a major failing which makes verification of legality on this topic difficult. One of the causes of this failure is the non-existence of an implementation text for the provisions stipulated by law no. 97-017 revising forest legislation, on the definition of the modalities of the national forest fund management (Anon., 2013^b).

Secondly, the forest entities can easily abandon the current relatively complex, and to some extent inconsistent, regulation system to move towards an informal system of regulation in the form of systematic corruption at various levels, from villages up to the various hierarchies of the administration and in the different sectors participating in the control activities, especially the *gendarmerie*, the police and the Customs Department. Furthermore, this situation is making it more difficult for the Forestry Department to collect royalties and is also limiting its working resources. Consequently, the forest entities are slipping easily into the system of informal regulation in the form of systematic corruption at different levels and in different sectors. Furthermore, the investigations of the institutions working on corruption are very selective and are far from systematic and fair, thereby destabilizing the effective implementation of the regulatory mechanisms (Anon, 2012).

Verification of legality is unevenly implemented and the situation is only serving to worsen the recovery rate of the Forestry Department.

CONCLUSION

This work constitutes a solid basis for the legality verification framework of logging, processing and trading in timber for Madagascar. It has principally dealt with the establishment of the PCIs by TRAFFIC, which have subsequently been revised and consolidated at the national level through limited consultations and/or bilateral contacts with certain key persons and organizations.

Coordinated by TRAFFIC, this work has provided an opportunity for all the stakeholders involved in timber logging, processing and trading in Madagascar to draft the outlines and content of a Common Legality Verification Framework for Madagascar. This legality verification guide is constructed around 9 Principles, 21 Criteria and 50 Indicators, each of the latter having specific legal references as well as methods and/or documents of verification.

However, in the light of the work of drafting the guide to legality verification of timber logging, processing and trading, the analysis of the legal reference framework in Madagascar of these operating compartments has revealed gaps and/or weaknesses as presented and discussed above. However, Madagascar's Forest code is currently being drafted thanks to financing from FAO. It must also be emphasized that the support of FAO in enhancing forest regulations with a report entitled "Analysis of the texts – Legal analysis" in 2013 also helped to reveal gaps, contradictions or inconsistencies in forest legislation, including the section on increasing forest value.

RECOMMENDATIONS

These recommendations focus particularly on the various principles selected by TRAFFIC for the preparation of a legality verification framework for timber logging, processing and trading in Madagascar. These recommendations are notably those adopted by the representatives of the stakeholders invited to participate in a workshop organized by TRAFFIC in September 2014 in Antananarivo.

For the attention of the Malagasy authorities

In the context of the current preparation of the Malagasy forest code, the national authorities should rectify the weaknesses and gaps in the forest legislation identified in this report in order to strengthen the body of legislation (and regulation) on timber logging, processing and transporting in Madagascar. In particular:

- The Malagasy authorities should ensure that rights and access to natural resources are based on contracts of reasonable duration with a view to ensuring that logging companies take greater responsibility, notably by promoting the regeneration of forest resources and their sustainable management.
- The Forestry Department should establish a standard format for transport permits and logging licences including the duration of validity and cancellation of the permits to promote the legal sector and facilitate control throughout the sector.
- The Forestry Department should establish an application procedure for approvals for the processors and their official registration at the ministry responsible for forests in order to facilitate controls of the legality of timber supplies and at the same time improve the traceability of the forest products.
- For the processors, the Forestry Department should also ensure there is a consistent methodology, for example input-output method or some other methods, to monitor the flow of logs into the mills and the outputs are in balance to prevent laundering of illegal timber through the processors.
- The Malagasy authorities should ensure that the environmental and conservation requirements included in the terms of reference for timber operators are respected, whether they are technical or social obligations. The ministry responsible for forests should also determine the legal references in regard to environmental obligations in order to facilitate control thereof.
- In co-operation with the various sectors concerned, particularly the Customs Department, the Forestry Department should set up a joint and harmonized tax and control system to prevent any corruption in the timber operations chain (logging, transport, processing, export, etc.).
- The institutions working on corruption should organize their investigations in a non-selective, systematic and fair manner, putting in place mechanisms to monitor the progress of their interventions with up-to-date databases for registration of acts of corruption, prosecution, convictions and penalties. A whistle blower legislation may be helpful to allow for informers to come forth with information on illegality and corrupt practices for investigation.
- With the support of TRAFFIC, the Malagasy authorities should update the framework of verification of legality in the light of the provisions made in Madagascar's new Forest Code, once it has been prepared.
- In co-operation with the Malagasy stakeholders, and with the support of TRAFFIC, the

Malagasy authorities should further develop this work through a process of international consultation (NGOs, private sector, institutions, etc.), this process being particularly important as this work is set against a background in which Madagascar is working notably to strengthen its implementation of CITES, especially concerning precious timbers.

- On the basis of tests and observations which may be reported by the stakeholders in the timber supply chain of Madagascar, the Malagasy authorities should update the national legality verification framework.
- After consolidation of the PCIs, the Malagasy authorities should ensure, with the support of the other stakeholders, the distribution and communication of the Malagasy framework of verification of legality to all the Malagasy stakeholders involved in the forestry sector so that the latter adopt the PCIs.
- With the support of donors and TRAFFIC, a series of capacity building training aids and notes should be developed and funding raised to ensure the relevant government agencies are properly trained on the regulatory frameworks they are supposed to be administering and enforcing in a consistent manner.

For the attention of the timber loggers, processors and transporters

- The main actors involved in the timber supply chain in Madagascar (loggers, transporters, etc.) should be fully aware of the legality verification framework (in this report) tested on the ground, and then inform the Malagasy Forest Administration and TRAFFIC of their observations by the end of 2016.
- With the support of donors and TRAFFIC, a series of capacity building training aids and notes should be developed and funding raised to ensure the industry operators are properly trained on the regulatory frameworks they are supposed to be adhering in a consistent manner.

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ANNEX: List of Legal References

Laws

- Law 90-0031 of December 1990 on the environment charter
- Law 96-025 of September 1996 on the local management of natural resources
- Law 97-017 of August 1997 on forest legislation
- Law 2001-005 of February 2003 on the protected areas code
- Law 94-027 on the health and safety code in the workplace
- Law 96-025 on secured local management of natural resources
- Law 2001-005 protected areas code
- Law 2005-018 on the implementation of CITES
- Law 70-001 international treaty on the rights of civilian
- Law 2001-004 on the local natural resources treaty management or Dina
- Law 2003-044 on the labour code
- Law 2004-009 on public procurement contracts
- Law 2004-030 on the adoption of the anti-corruption bureau
- Law 2005-018 on the international trade in wild flora and fauna
- Law 60 004 of 15 February 1960 on the national private sector
- Law 2004-015 of 19 August 2004
- Law 2003-036 of 30 January 2004 on commercial companies

Ordinances

- Ordinance 60-126 on the control of hunting, fishing and protection of animals
- Ordinance 60-128 on the sanctions on infractions related to forest exploitation, hunting and fishing
- Ordinance 62-125 on the classification of forest areas
- Ordinance 82-029 on the protection of the natural heritage
- Ordinance 2011-011 on the sanctions on logging, transport and export of precious woods
- Ordinance 74 009 of 23 February 1974 instituting an export tax on forest products

Decrees

- Decree 62-253 concerning the African phytosanitary convention
- Decree 80-338 on fines and penalties on forest operations
- Decree 87-110 on logging operations
- Decree 97-1200 adopting the forest policy of Madagascar

Decree 74-078 on the exportation of forest products

Decree 98-610 on land security

Decree 98-782 on the modalities of logging operations

Decree 99-954 *Mise en Compatibilité des Investissements avec l'Environnement* or MECIE (National Decree on Environmental Compliance of Investment Projects)

Decree 2000-027 Implementation of *Communauté de Base* (Grassroots community): COBA

Decree 2002-793 on the establishment of the forest fund

Decree 2004-167 amending the modalities of environmental impact assessments

Decree 2005- 013 implementing the protected areas code

Decree 2005-848 on the management of protected areas

Decree 2005-849 on the general conditions of forest legislation

Decree 2006-097 fixes the modalities of implementation of legislation on international trade in wild fauna and flora

Decree 2006-098 on the publication of the CITES annexes

Decree 2010-141 banning logging, transporting and trading of precious timbers

Decree 2011-590 on the transporting of seized timber

Decree 98 781 of 16 September 1998 fixing the general conditions of implementation of Law 97 017

Decree 2000/355 of 24 May 2000 fixing the modalities for the management of trade accounts: “Action on behalf of the tree” at the central level

Decree 92-424 of 3 April 1992 regulating the importation of goods from abroad and the exportation of goods abroad

Decree 98 782 of 16 September 1998 on the forest logging regime

Decree 2004-453 implementing Law 2003-036 on commercial companies

Orders

Order 2001-6830 on public participation in the environmental impact assessment

Order 2000-11 832 prohibits the exportation of precious timbers

Order 2000-12702 suspends the granting of logging permits

Order 2001-13855 granting of operating permits through a tendering process

Order 2004-19 560 suspension of logging permits for precious timbers

Order 2004-18177 definition and demarcation of forest sensitive zone boundaries

Order 2006-16030 on the extraction of ebony, palisander and rosewood

Order 2006-18392 on seized forest products

Order 2007-10855 suspension of exportation of all products from natural forests

Order 2009-003 authorising the exportation of precious timbers

Order 2009-38244 exceptional authorisations for selected operators

Order 2009-38244 suspending exportation of precious timbers

Order 2009-38409 suspending the exceptional export authorization for precious timber

Order 2010-52005 for the protection of sensitive sites

Order 2012-0741 classification, trade and export of forest products

Order 5139/94 of 15 November 1994 supplementing the current regulations on logging and regulating the marketing of the main forest products

Interministerial order 17939/2004 of 30 December 2004 supplementing and amending certain provisions of Order no.5139/94

TRAFFIC, the wildlife trade monitoring network, is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

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