

LEGALITY STANDARD 5: CONFISCATED TIMBER

PRINCIPLE 5.1 DETERMINATION OF CONFISCATED TIMBER		
Criterion 5.1.1 Suspected illegal timber must be held and reported in compliance with legal procedures		
Indicators	Verifiers	Legal references
5.1.1.1 The investigation-interrogation authority has received the information on hold suspected illegal timber.	5.1.1.1.1 Report on suspected illegal timber	<ul style="list-style-type: none"> • Law 64/NA (2019) Article 146 • • Law 37/NA (2017), Article 41, 43, 44, 46 and 47/1.
Criterion 5.1.2. Investigation and interrogation shall be in compliance with legal procedures		
Indicators	Verifiers	Legal references
5.1.2.1 Investigation - interrogation comply with legal procedures.	5.1.2.1.1 Order to open the case for investigation-interrogation by head of interrogation-investigation authority	<ul style="list-style-type: none"> • Law 37/NA (2017), Article 47/3, 79, 84 and 91 • Law 64/NA (2019), Article 137, 138, 139
	5.1.2.1.2 Case summary report of Investigation-interrogation of Forestry Authority submitted to Prosecution organisation	<ul style="list-style-type: none"> • Law 37/NA (2017), Article 47/3, 47/4 and 47/5, 100 and 126 • Law 64/NA (2019), Article 140, 141, 145, 146 and 147
Criterion 5.1.3. Prosecution of the cases by People Prosecution Organisation shall comply with legal procedures		
Indicators	Verifiers	Legal references
5.1.3.1 People Prosecution Organisation has inspected the investigation-interrogation proceeding of Forestry Authority	5.1.3.1.1 Prosecution case file	<ul style="list-style-type: none"> • Law 37/NA (2017), Article 45 (2), 48, 49, , 151. • Law 10 (2009), Article 10, 11
5.1.3.2 People Prosecution Organisation has declared the case to the court and monitored the case proceeding	5.1.3.2.1 Letter of appeal and declaration	<ul style="list-style-type: none"> • Law 37 (2017), Article 56 (13), 154 and 156
	5.1.3.2.2 Minutes of meeting of the court	<ul style="list-style-type: none"> • Law 37 (2017), Article 56 (14-15), 57 (7), 62 (5-6), 184, 257 and 258
Criterion 5.1.4 Prosecution by the court shall comply with legal procedures		
Indicators	Verifiers	Legal references
5.1.4.1 Court has made decision in compliance with legal procedures.	5.1.4.1.1 Court decision	<ul style="list-style-type: none"> • Law 37/NA (2017), Articles , 205, Law 26/NA (2017), Article 3

5.1.4.2 Notary of the court (justice sector) has sent the list of confiscated timber to the finance sector	5.1.4.2.1 List of confiscated timber (based on court decision)	<ul style="list-style-type: none"> • Law 37/NA (2017), Article 237(4)
PRINCIPLE 5.2 REGISTRATION AND SALES OF CONFISCATED TIMBER AS STATE ASSETS		
Criterion 5.2.1 Confiscated timber must be registered as a State asset and auction committee is established according to regulations.		
Indicators	Verifiers	Legal references
5.2.1.1 Confiscated timber is registered as a state asset at the Provincial Office of Finance (State Asset Management).	5.2.1.1.1 A record of the timber list registration as state asset	<ul style="list-style-type: none"> • Law 14/NA (2012), Article 15 • Order 57/PM 2014, Article 1.1 • Instruction 3211/MOF, 2015, Article 2 • Instruction 0336/MOIC, (2017), Article 8 • Notice 1699/MOF (2016), Article 2
5.2.1.2 Confiscated timber auction committee has been established at provincial level from three concerned sectors Agriculture and Forestry, Industrial and Commerce and Finance	5.2.1.2.1 Letter of appointment of bidding committee for confiscated timber	<ul style="list-style-type: none"> • Notification 324/GO.DS (2017), • Instruction 0336/MOIC (2017), Article 1 • Regulation 1726/MOIC (2012), Article 4
5.2.1.3 The bidding committee has calculated the price and conducted sales of confiscated timber through transparent auction and according to legal procedures	5.2.1.3.1 Confiscated timber list that has been registered as State assets	<ul style="list-style-type: none"> • Instruction 3211/MOF (2015), Article 2
	5.2.1.3.2 List of Individual batches with prices for auction	<ul style="list-style-type: none"> • Regulation 1726/MOIC (2012), Section II
	5.2.1.3.3 Public announcement of Auction (15 days prior)	<ul style="list-style-type: none"> • Instruction 0336/MOIC, (2017), Article 2
	5.2.1.3.4 Approved minutes of timber auction by Provincial Governor of results of auction including list of timber sold	<ul style="list-style-type: none"> • Instruction 0336/MOIC, (2017), Article 11¹
	5.2.1.3.5 Sale-purchase agreement between POIC and buyer that has been submitted to Provincial Office of Finance (State assets)	<ul style="list-style-type: none"> • Instruction 0336/MOIC, (2017), Article 11 • Regulation 1726/MOIC (2012), Section III
	5.2.1.3.6 Report with of results of auctions with timber lists auctioned from provincial committee to central committee (each month)	<ul style="list-style-type: none"> • Instruction 0336/MOIC (2017), Article 11

¹ 0336/MOIC (2017) to be amended; approval of minutes of auction committee not to be approved by provincial governor

5.2.1.4 Confiscated timber sold according to the regulations is removed from State asset register.	5.2.1.4.1 Certificate of removal from State assets register	<ul style="list-style-type: none"> • Law 14/NA (2012), Article 16 • Instruction 3211/ MOF (2015), Article 6
5.2.1.5 Timber is stamped and released to successful bidder.	5.2.1.5.1 Payment invoice from Provincial Office of Finance (State Assets) to the bidder	<ul style="list-style-type: none"> • Law 02/NA 2006, Article 16.7 • Order 57/ (2014), Article 1.3.c • Instruction 3211/MOF (2015), Article 6
	5.2.1.5.2 Minutes of log stamping	<ul style="list-style-type: none"> • Decision 0141/MAF (2010), Article 11 and 12.6
5.2.1.6 The bidder has in place all transport documents for timber movement.	5.2.1.6.1 Transport permit from PAFO	<ul style="list-style-type: none"> • Decree 32/PM (2012), Article 5 (7) • Guideline 0962/DOF (2010), Section 5.2

Glossary

Hold timber (*Mai kak*): timber held in place. This can be done by any organizations that first detects the suspected illegal timber.

Seized timber allowed to move (*Mai jeutt*): timber that has been officially seized and can/has been moved (for example to an office to be impounded) and the case is still open.

Seized timber not allowed to move (*Mai ayatt*): timber that has been officially seized and cannot be moved and the case is still open

Confiscated timber (*May Hip*): timber that has become a State asset, or returned to the original owner, after a case has been closed.