

APPENDIX A5: TIMBER LEGALITY DEFINITION AND COMPLIANCE VERIFICATION – CONFISCATED TIMBER

| PRINCIPLE 5.1 DETERMINATION OF CONFISCATED TIMBER | | |
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| Criterion 5.1.1 Suspected illegal timber must be held and reported in compliance with legal procedures | | |
| Indicator | 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. |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: <ul style="list-style-type: none"> - Customs - Police - Military - Forestry - Anti-corruption - other authorities. | Verified by: <ul style="list-style-type: none"> - DOFI - POFI | |
| | Verification means: <ul style="list-style-type: none"> - document review and consultation with investigation-interrogation authorities - field observations/measurements at a sample of sites with hold timber (for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: <ul style="list-style-type: none"> - investigation-interrogation authorities - DOFI | Verification frequency, timing and intensity: <ul style="list-style-type: none"> - biannually (POFI), once per year (other investigation-interrogation authorities) - open / not relevant - comprehensive (all investigation-interrogation authorities) | |
| Criterion 5.1.2 Investigation and interrogation shall be in compliance with legal procedures | | |
| Indicator | 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: <ul style="list-style-type: none"> - investigation-interrogation authorities | Verified by: <ul style="list-style-type: none"> - DOFI | |
| | Verification means: <ul style="list-style-type: none"> - document review and consultation with investigation-interrogation authorities | |

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| | - field observations/measurements at LL2 (DOFI storage) (for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: - investigation-interrogation authorities | Verification frequency, timing and intensity: - biannually (POFI), once per year (other investigation-interrogation authorities) - open / not relevant - comprehensive (all investigation-interrogation authorities) | |
| Criterion 5.1.3 Prosecution of the cases by People Prosecution Organisation shall comply with legal procedures | | |
| Indicator | 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - People Prosecution organization | Verified by: - POFI Verification means: - document review and consultation with People's Prosecution Office - field observations/measurements at LL2 (POFI storage) (for verification of supply chain control, see Appendix B5) | |
| Information stored by: - POFI - People Prosecution organization | Verification frequency, timing and intensity: - biannually (POFI), once per year (People's Prosecution Office) - open / not relevant - comprehensive (all POFIs and People's Prosecution Office) | |
| Indicator | Verifiers | Legal references |
| 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 | • Law 37 (2017), Article 56 (13), 154 and 156 |
| | 5.1.3.2.2 Minutes of meeting of the court | • Law 37 (2017), Article 56 (14-15), 57 (7), 62 (5-6), 184, 257 and 258 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - People's Prosecution Office and court | Verified by: - DOFI Verification means: - document review and consultation with People's Prosecution Office | |
| Information stored by: - People's Prosecution Office | Verification frequency, timing and intensity: - once per year - open / not relevant - comprehensive (all People's Prosecution Offices) | |
| Criterion 5.1.4 Prosecution by the court shall comply with legal procedures | | |

Commented [PSW1]: Seems not to be in force anymore. Replaced by Law 21/NA (2017)?

| Indicator | Verifiers | Legal references |
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| 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - Court | Verified by: - DOFI | |
| | Verification means: - document review and consultation with court | |
| Information stored by: - Court | Verification frequency, timing and intensity: - once per year - open / not relevant - comprehensive (all courts) | |
| Indicator | Verifiers | Legal references |
| 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) |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - Court - POF | Verified by: - DOFI | |
| | Verification means: - document review and consultation with court and POF (for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: - Court - POF | Verification frequency, timing and intensity: - once per year - open / not relevant - comprehensive (all courts and POF) | |
| 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. | | |
| Indicator | 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 Registration of timber list regist ration 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - SA Section | Verified by: - POFI | |

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| - PFS | Verification means: - document review and consultation with SA and PFS (simultaneously with verification of all indicators of 5.2.1, for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: - SA Section - PFS | Verification frequency, timing and intensity: - case-by-case basis - after auctioned timber before timber movement - comprehensive (each auction) | |
| Indicator | Verifiers | Legal references |
| 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - POIC | Verified by: - DOFI | |
| | Verification means: - document review and consultation with POIC (simultaneously with verification of all indicators of 5.2.1) | |
| Information stored by: - POIC | Verification frequency, timing and intensity: - case-by-case basis - after auctioned timber has been cancelled from state assets registry and before timber is moved to LL3 - comprehensive (each auction) | |
| Indicator | Verifiers | Legal references |
| 5.2.1.3 The bidding committee has calculated the price and conducted sales of confiscated timber through auction according to legal procedure 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 |

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

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| | 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - POIC | Verified by: - DOFI | |
| | Verification means: - document review and consultation with POIC (simultaneously with verification of all indicators of 5.2.1, for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: - POIC | Verification frequency, timing and intensity: - case-by-case basis - after auctioned timber has been cancelled from state assets registry and before timber is moved to LL3 - comprehensive (each auction) | |
| Indicator | Verifiers | Legal references |
| 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: - SA Section - POF | Verified by: - DOFI | |
| | Verification means: - document review and consultation with POIC (simultaneously with verification of all indicators of 5.2.1, for verification of supply chain control from holding to auction, see Appendix B5) | |
| Information stored by: - SA Section - POIC | Verification frequency, timing and intensity: - case-by-case basis - after auctioned timber has been cancelled from state assets registry and before timber is moved to LL3 - comprehensive (each auction) | |
| Indicator | Verifiers | Legal references |

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| 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 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: <ul style="list-style-type: none"> - PAFO - POF | Verified by: <ul style="list-style-type: none"> - POFI | |
| | Verification means: <ul style="list-style-type: none"> - document review at LL3 - field observations/measurements at LL3 (sampling) interviews with timber buyer (for verification of supply chain control at LL3, see Appendix B8) | |
| Information stored by: <ul style="list-style-type: none"> - PAFO - POF - POIC/DOIC - Operator (at LL3) | Verification Frequency and Timing: <ul style="list-style-type: none"> - TBD in coordination with inspection 0777 - during site visit LL3 - comprehensive (all wood processors and furniture factories) | |
| Indicator | Verifiers | Legal references |
| 5.2.1.6 The bidder has in place all transport documents for timber movement. | 5.2.1.6.1 Transport permit from PAFO | Decree 32/PM (2012), Article 5 (7) Guideline 0962/DOF (2010), Section 5.2 |
| Regulatory Inspection | Verification | |
| Inspected and endorsed by: <ul style="list-style-type: none"> - PAFO - POF | Verified by: <ul style="list-style-type: none"> - POFI | |
| | Verification means: <ul style="list-style-type: none"> - document review at LL3 - field observations/measurements at LL3 (sampling) interviews with timber buyer (for verification of supply chain control at LL3, see Appendix B8) | |
| Information stored by: <ul style="list-style-type: none"> - PAFO - POF - POIC/DOIC - Operator (at LL3) | Verification Frequency and Timing: <ul style="list-style-type: none"> - TBD in coordination with inspection 0777 - during site visit LL3 - comprehensive (all wood processors and furniture factories) | |

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.