



Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade Annex

INDIA

December 2012

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Acknowledgements

The Global Forest & Trade Network and TRAFFIC gratefully acknowledge the financial support of IKEA in developing this report.

WWF/TRAFFIC would like to thank the following for their support: the State Forest Departments of Uttar Pradesh, Rajasthan and Kerala, and Mr A.M. Singh, IG Forests at Ministry of Environment and Forests, Govt. of India. We also appreciate the review work carried out by Mr Shawahiq and the IELO team.

This document was a collective effort by a number of individuals from TRAFFIC and WWF, and consultants. The overall co-ordination of the study was provided by Chen Hin Keong.

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Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for India

DISCLAIMER ON LIMITATIONS OF THE LEGALITY FRAMEWORK FOR INDIA

The context of Indian legal system and constitutional arrangements on legislative powers with the central and state government is very significant for understanding and developing the Legality Framework for forestry operations, timber processing and trade in India. Indian Legal System is largely based on English common law. The primary source of Law is in the enactments passed by the Parliament or the State Legislatures. The secondary source of law is the judgments of the Supreme Court, High Courts and some of the specialised Tribunals, customs and traditions. The Constitution of India is the bedrock of Indian legal system that provides for a Parliamentary form of government which is federal in structure with certain unitary features. It also provides that the law declared by the Supreme Court is binding on all courts within India. The Constitution confers legislative powers upon the Central Government and the state government over subjects that are contained in Schedule VII. There is a Central List containing subjects over which the Central Government can legislate. State List contains subjects over which the state government is empowered to legislate and under List – III i.e. concurrent list forms the joint domain of both the State Governments and the Union territories of India as well as the Central Government of India can legislate.

By virtue of 42nd amendment to the Constitution, the subject matter of ‘forest’ was brought from the state list to the concurrent list in 1976 empowering the Central Government to legislate on this subject. In India various state governments have enacted their own Forest Acts or made amendments to the Indian Forest Act, 1927¹ as ‘forest’ was a state subject prior to 1976. Further, **the Indian Forest Act, 1927 empowers the state government to enact rules to regulate various aspects of forest management such as prescribing procedure for issuance of transit pass, setting up of saw mills, saw pits etc.**

Owing the powers provided to states under the Indian Forest Act, 1927 and by virtue of Constitutional scheme, there is multiplicity of Rules on forest management which differs from state to state. The inherent limitation of the framework developed below is its limitation to analyze all the rules and state variations on forestry operations in an in-depth manner as this required an in-depth analysis of all the rules and state forest acts which is an extensive exercise and was not possible due to time constraints. The formulation of uniform input on each Principle and Criteria becomes a difficult task due to wide variation of rules and regulations in each state, which need to be looked at in detail for providing an in-depth and comprehensive understanding of rules and procedures on forestry operations in the country. The complexity of state variation in Rules on Forestry operations gets

¹ Indian Forest Act, 1927 is the key legislation concerning forestry operations in India

more complicated in the light of the judicial directions and Orders of the Supreme Court of India and various High Courts. The Supreme Court (the Apex court in the country), in the ongoing *T.N Godavarman Vs Union of India W.P. (C) 202/1995* also known as *forest case*, over a period of 17 years, has passed orders and directions on various aspects of forest management including grant of licenses to saw mills, ban on movement of timber, use of forest land for non forestry purposes and so forth. The orders passed by the Supreme Court on forest related issues are state specific and any analysis and development of legality framework on forestry operations would be incomplete without the incorporation of the state specific directions under the Supreme Court Orders, which again is a mammoth task and requires a separate exercise.

WWF Global Forest Trade Network: Common Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for India

<i>Indicator</i>	<i>Guidance note/Verifier</i>
PRINCIPLE 1: ACCESS, USE RIGHTS AND TENURE	
Criterion 1.1: Use, access and tenure rights application are subject to stated conditions within the laws and regulations	
Indicator 1.1.1: The “working plan/scheme” ² for the forest is to be prepared by the State Forest Department and approved by the Ministry of Environment and Forest ³ .	<p>Verify that the approved working plan/scheme is provided for the forest⁴ except private plantations from where the timber/wood/forest produce is being sourced.</p> <p>Note: There are different sources of timber in India and they are classified as under</p> <ul style="list-style-type: none"> • Government owned forests and plantations (reserved, protected and village forests etc) • Farm forestry⁵/agro forestry • Private estates/plantations
	Legal references:

² All forests are managed under the prescriptions of a working plan/scheme prepared on the basis of principles of sustainable forest management and recognized and innovative silvicultural practices. Presently, no timber harvesting or green felling can be done in any forest area without an approved working plan/scheme. This has further been reiterated by the Supreme Court in its order in *T.N Godavarman vs. Union of India and ors* (W.P (C) No. 202/1995) that felling in all forests would be permitted as per the prescriptions of the working plan/scheme except private plantations.

³ Ministry of Environment and Forest is under the Central Government

⁴ Definition of Forest is not provided in any Central legislation but was defined by the Supreme Court in its order dated 12.12.1996 (W.P (C) No. 202/1995) to mean “*The word ‘forest’ must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term ‘forest land’, occurring in section 2, will not only include ‘forest’ as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act.*”

⁵ Farm forestry can be defined as the practice of growing trees on privately owned agricultural land and waste land, including degraded forests.

	<ul style="list-style-type: none"> National Working Plan Code issued by Ministry of Environment and Forest Order dated 12.12.1996 passed by Supreme Court in <i>T.N Godavarman vs. Union of India and ors</i> (W.P (C) No. 202/1995)
Indicator 1.1.2: Company should use ‘forest land’ for ‘non-forest purpose’ as per forest clearance granted by Ministry of Environment and Forest.	Verify that if the company is using any forest land whether on lease or otherwise for raising plantations such as rubber etc which is ‘non-forest’ activity it has obtained forest clearance from the Ministry of Environment and Forest.
	Legal references: <ul style="list-style-type: none"> Section 2 of the Forest Conservation Act, 1980 Order dated 12.12.1996 passed by Supreme Court in <i>T.N Godavarman vs. Union of India and ors</i> (W.P (C) No. 202/1995)
Criterion 1.2: Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations	
Indicator 1.2.1: Company/ Farmer must hold a valid title to the land used for raising plantations or for undertaking farm forestry.	Verify that the company/farmer ⁶ is the owner of the agricultural land or the land is on lease for raising plantations or for farm forestry. The documents such as title deed for the land, entry in the concerned state revenue records or lease deed for the land is to be verified.
	Legal references: <ul style="list-style-type: none"> State Land Revenue Codes/Acts⁷ State Tenancy Act

⁶ Most of the land where farm forestry is undertaken are mostly under ownership of individual (s) as purchase of agricultural land by company involves seeking permission under the State Land Revenue Codes/Acts

⁷ All the states have their own Land Revenue Code specifying the document highlighting the title to the land. For e.g. in Gujarat as per the Bombay Land Revenue Code the document specifying the ownership to the land is referred to as ‘Atbara’ (Form7/12).

	<ul style="list-style-type: none"> • State Consolidation and Fragmentation Act • State land Ceiling Act
<p>Indicator 1.2.2: The state forest department to provide relevant documents for the forests managed by it.</p>	<ul style="list-style-type: none"> • Verify the notification issued by the state forest department constituting reserved, protected, village, undemarcated forests etc. • Verify from the notifications the rights and concessions permitted to the dependent communities as far as collection of minor forest produce, fuel wood and timber is concerned • Verify the working scheme/plan of the forest division/compartments from where the timber/wood is sourced <p>Legal references:</p> <ul style="list-style-type: none"> • Section 3,4,20,28, 29 Indian Forest Act, 1927 • National Working Plan Code issued by Ministry of Environment and Forest

PRINCIPLE 2: TIMBER HARVESTING	
Criterion 2.1: Harvesting/timber licence with stated conditions in accordance with government policies, guidelines and regulatory requirements, approved by the relevant authority	
Indicator 2.1.1: The timber harvesting company/farmer should have permission for harvesting timber/wood raised on private land	Note: Different states in the country have different restrictions on felling of wood/timber based upon area, intended use and species and is regulated as per laws, rules and regulations prevalent in that state. ⁸

⁸ E.g. of the variations on felling regulations is highlighted from some key provisions prevalent in some states

- State of Andhra Pradesh-** Position regarding Tree Felling Regulations:-There are no restrictions on felling of trees standing on private lands. The owners can fell trees at will. However, in the case of "*Tree Patta*" felling can be done only at the end of rotation period and when the Divisional Forest Officer authorizes it.
- State of Bihar-** Position regarding Tree Felling Regulations:-A matured tree can be cut and taken away with the prior permission of the Zonal Officer of that area. The *Patta* holder will have full rights over the cut tree. However, he will have to plant a tree for a tree. A matured tree can be felled by obtaining permission of the Zonal Officer through an application giving the details of the *Patta*.
- State of Gujarat-** . Position regarding Tree Felling Regulations:-In the State, there are restrictions on felling of twenty six tree species. These are divided into two categories, reserved and unreserved. The reserved species are teak, Sandal, Blackwood, Mahua and Khair. For felling a reserved tree, prior permission of the Deputy Conservator of Forest, in writing, is mandatory. A royalty is charged for felling a reserved tree. For felling a reserved tree, the owner has to pay Rs. 2 to the Government if the felling is for domestic use. However, if it is being felled for sale, the owner has to pay half of the sale value of the Government. The other tree species whose felling is restricted are grouped as unreserved trees. The unreserved trees are: limru, Semat, Sadar, Karanj, Kanji, Shivan, Biod, Rohan, Ebony, Haldu, Lakam, Hadoin, Hirda, Tauras, Ambo, Tar, Khajuri, Jambu, Desi awal, limbro and khijre. For felling these trees, written permission of the Deputy Conservator of Forest/Mamlatdar is mandatory. Similarly, if any tree is felled from Wasteland vested in Panchayat, half of the sale value has to be paid to the State. Permission for felling a restricted tree is not denied for the following purposes:- 1.to make or repair agricultural implements; 2. To utilize the timber of construction of a well: 3. to remove obstruction to existing cultivation; and 4. to remove tree which has dried up due to natural causes. Permission is generally not given for fruit bearing trees while for non-fruit bearing trees, it is given only if the tree measures more than 60 Cms. in girth. In some Districts, the girth specification is more than 60 Cms.
- State of Uttar Pradesh-** Position regarding Tree Felling Regulations:- Felling of Trees:- Felling of trees in Uttar Pradesh is regulated by the Uttar Pradesh Protection of trees in Rural and Hill areas Act. 1979. However, the Act does not apply to trees in reserved forest; protected forest; trees on Government land; and trees in urban areas. The restrictions in the Act and rules framed under it are mentioned below:- No Restriction Category- There are no restrictions on felling certain specified species of trees growing on individual cultivated or uncultivated holdings measuring up to two hectares. The specified tree species are:- August, Aru, Utis, Casuarina, Jangal Jalebi, Poplar, Parash, Bakain, Babul (*Acacia nilotica*), Villayati Babul (*Prosopis Juliflora*), Eucalyptus, Robinia, Wattle, Willow, Siris, Subabul, Avar, Kathber, Kharik, Jamun, Dhak, Palash, Paper Mulbery, Ber, Bhekula, Mehal, Sainjana and Shahtut. Reserved Category- Trees of certain specified species are not to be felled till 31.12.91 unless the tree is dead or dying or its felling is necessary for development work approved by the Government or in the case of Aam, its fruit bearing capacity has substantially declined and permission to fell such trees has been obtained from the competent authority. The specified tree species are: Abhrot, Angoo, Aam, Chamkharik, Jammaoi, Neem, Banj, Kharsoo, Maroo, Mahua, Sai, Pipal and Bargad. Felling of Trees of Domestic Use- The felling of trees for domestic use is a concession to given to the people. Otherwise, there is prohibition on felling any tree. In the Districts of Almora, Pithoragarh, Chamoli, Tehri Garhwal, Uttarkashi Pahari Patti of Nainital, Chakrata Tehsil and Mussoorie

	<p>Legal references:</p> <ul style="list-style-type: none"> • State Land Revenue Codes/Acts⁹ • State Tenancy Act • State Consolidation and Fragmentation Act • State Transit Rules issued under Indian Forest Act, 1927 or State Forest Act
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Nagar Palika of Dehradun, a family can cut one tree a year for domestic use from its own land without seeking permission from any authority. However he needs to inform the competent authority, in writing, 15 days before felling the tree. In rest of the areas of Uttar Pradesh, a family can cut a tree for domestic purpose without any permission. Felling of Trees. The Uttar Pradesh Protection of Trees in Rural and Hill Areas Act. 1979 and the rules describe the competent authority who has to authorize felling of trees, where ever permission for felling is necessary. The Competent authority and the officer who can revise the authority of competent authority are mentioned below :- Non-Reserved Trees on Private Holdings, and for Districts Mirzapur, Banda, Jhansi, Lalitpur, Gorakhpur, Gonda, Bahraich, Lakhimpur, Keri, Pilibhit and Chakia Tehsil of District Varanasi in the plains.

⁹ All the states have their own Land Revenue Code specifying the document highlighting the title to the land. For e.g. in Gujarat as per the Bombay Land Revenue Code the document specifying the ownership to the land is referred to as '*Satbara*' (Form7/12).

Criterion 2.2: The state forest department implements harvest operations in accordance with the legally prescribed silvicultural system and relevant regulations	
Indicator 2.2.1: The harvesting of timber should be as per approved working plan/scheme ¹⁰ for the forest.	<ul style="list-style-type: none"> • Verify that the working plan/scheme is approved by Central Government • Verify timber/wood harvesting corresponds to the plantation working circle of the Working Plan • Verify timber/wood harvesting corresponds to the particular felling series for a particular year dedicated for felling within the working circle. Felling is tabulated year wise by ranges, blocks compartments, and sub-compartments for each Felling Series.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Orders in <i>T.N Godavarman vs. Union of India and ors</i> (W.P (C) No. 202/1995) passed by Supreme Court of India • National Working Plan Code issued by Ministry of Environment and Forest • State Forest Manual/Codes

¹⁰ Working Plan is mandatory document which prescribes the management of Forest at Division level as a unit for a period of 10 years. This Working Plan approach in modern times is based on Ecological, Silvicultural, Social, Biodiversity Economic, Cultural and institution of dimensions. The Working Plan of a Forest Division is a Policy Implementation Document, where the Vision of the Forest Department for next ten years is reflected in clear Statement of Objectives with several mandatory Actions and the measurable Indicators for gauging the progress towards achieving the Objectives

PRINCIPLE 3: TRANSPORTATION OF LOGS AND WOOD PRODUCTS	
Criterion 3.1: Clear evidence of documents and licences for companies and carriers involved in timber product transportation shall be demonstrated in accordance with the laws and regulations	
Indicator 3.1.1: Timber transporters/carriers must have a valid Transit Pass	<ul style="list-style-type: none"> • Verify with the relevant state forest authorities on the validity and approval of the Transit Pass. <p>Note: The States are empowered to enact Transit rules regulating the movement of forest produce including Timber within the state. Accordingly, states have prescribed their own transit rules regulating movement of timber and it varies state to state.¹¹</p>

¹¹ E.g. Variations in Transit rules is highlighted from some key provisions prevalent in some states of the country

1. **State of Andhra Pradesh:** The Andhra Pradesh Forest Act, 1967 and the Andhra Pradesh Forest Product Transit Rules, 1970 regulate the transit of forest produce into or from or within any area in the State of Andhra Pradesh. According to the Andhra Pradesh Forest Produce Transit Rules, 1970, no forest produce can be moved into or from or within any area in the State of Andhra Pradesh without a pass issued by the Divisional Forest Officer of that area or any person duly authorized by him. Generally, these powers are delegated to the Range Forest Officer. However, no transit pass is required for the removal of: 1. firewood i.e. all timber below 25 cms in girth at its thickest end and one meter in length, and 2. such classes of timber as specified for each District. The list of exempted species, District-wise, is a long one. The species which are exempted all over the State are:-Mango, Ravi, Orange, Saru, Babul, Jamun, Guava, Seemathumma, Neem, Sapota, Coconut, Cashew, Eucalyptus and Subabul. The Andhra Pradesh Forest Produce Transit Rule, 1970 provides separate passes for forest produce from different sources:
 1. Transit Pass for transportation of forest produce extracted from forest belonging to Government is in Form-I. This Pass is issued by the Divisional Forest Office of the area or any Forest Officer authorized by him, generally a Range Officer.
 2. Transit Pass for forest produce extracted from other sources is in Form-II. This pass is issued by the Divisional Forest Officer of the area or a Forest Officer authorized by him, generally the Range Officer of the area.
2. **State of Bihar-**In Bihar, no forest produce can be moved into or from or within any area in the State without a pass issued by a forest officer or person duly authorized by the State Government. However, no transit pass is required for the removal of any forest produce which has been extracted from the forest for consumption in exercise of any right or concession made by the State Government, within the limits of the village in which it is produced. A transit pass is issued by the forest officials in an around forest area while in other areas, revenue officials are competent to issue transit passes. Deputy Conservator of Forests is the competent authority for his area. Though, often these powers are delegated to the lower officials of the Forest Department and Revenue Department
3. **State of Gujarat-**The forest laws of the State regulate the transit of forest produce into or form or within any area in the State of Gujarat. Forest produce includes timber, charcoal, resin, lac, Mahua flower and Mahua seed whether found in or brought from a forest or not. In the State, no forest produce can be moved into or form or within any area in the State without a pass issued by a Forest Officer or person duly authorized by the State Government. However, no transit pass is required for the removal of any forest produce which has been extracted from the forest for consumption in exercise of any right or any right or concession made by the State Government. Further, exemption has been made for the transit of timber of three species Subabul, Eucalyptus and Saru. A transit pass is not required for transporting the produce of these species but for transporting other forest produce, even if it has been produced on private holding, a transit pass would be required.

	<p>Legal references:</p> <ul style="list-style-type: none"> • Section 41 Indian Forest Act, 1927 • State Forest Acts • State Transit and Transportation Rules
<p>Indicator 3.1.2: Timber consignment documents i.e. Transit Pass during transportation is complete and correct</p>	<p>Check the following conditions are complied with :</p> <ul style="list-style-type: none"> • Transit pass is issued by the competent authority • Transit Pass contains the description of forest produce being transported including the volume and quantity in the prescribed form/ format • Transit Pass to mention place of origin of the forest produce including Timber • Transit Pass to mention the final destination of the timber including the route for its transportation

State of Uttar Pradesh-The forest laws of the State regulate the transit of forest produce into or from or within any area in the State. Forest produce includes timber, charcoal, resin, lac, Mahua flower or not. In the State, no forest produce can be moved into or from or within any area in the State without a pass issued by a Forest Officer or person duly authorized by the State Government.

However, no transit pass is required for the following:-

1. Forest produce extracted for bonafide domestic consumption by any person in exercise of a privilege granted in this behalf by the State Government, or of a right recognized under the Forest Act, within the limits of a village in which it is produced.
2. Forest produce covered by the Kadari licence, and
3. Forest produce covered by the forest produce passes and tree and paid nistar passes.

Individuals eligible for allotment under the Scheme, these applications are put before the Village Level Committee. This Committee selects beneficiaries and an appropriate land plots for them. The list of selected beneficiaries and details of land plots after ratification by the Naib-Tahsildar and Sub-Divisional Officer, are sent to the Block Development Officer. The Block development Officer gives permission to the beneficiaries to plant trees on the allotted land.

Transit of Forest Produce

A transit pass to move forest produce into or from on within the State of Uttar Pradesh can be obtained by applying to the following authorities.

1. For areas within 80 kms from a reserved forest - Divisional Forest Officer.
2. Other areas-Divisional Forest Officer/Block development Officer. A transit pass contains the name of the owner; description of the produce; origin and destination of the produce; and the route for transit.

	<ul style="list-style-type: none"> • Modes of conveyance for transporting the forest produce to be mentioned in the transit pass. <p>Legal references:</p> <ul style="list-style-type: none"> • State Transit Rules
<p>Indicator 3.1.3: Transportation of Timber from government forests to Forest Department/Corporation Depot and its auction</p>	<ul style="list-style-type: none"> • Verify the documents available with the purchaser of auctioned timber/wood/log • Check the following conditions are complied with at the time of transporting auctioned timber from forest corporation depot to the processing unit <ul style="list-style-type: none"> ➤ Release order issued by depot officer ➤ Timber is marked with export sale hammer ➤ Timber is accompanied by a challan ➤ Gate pass issued as per rules and regulations of the forest corporations <p>Note: State Forest Corporation have been set up by the state forest department to undertaken forestry operations such as felling, marketing of felled timber, auctioning of timber or forest produce. The mandate of State forest Corporation is not uniform in all the states and differs state to state.</p>
<p>PRINCIPLE 4: PROCESSING REGULATIONS</p>	
<p>Criterion 4.1: Clear evidence of documents and licences for companies involved in timber processing shall be demonstrated in accordance with the laws and regulations.</p>	
<p>Indicator 4.1.1: The timber processing Company i.e saw mill unit is legally registered in accordance with the laws</p>	<ul style="list-style-type: none"> • Verify that the. saw mill unit holds a Factories Licence to operate the business of processing timber/wood • Verify if the saw mill is registered as a Small Scale Industry (SSI) unit with the District Industries Centre (DIC) • Verify if the saw mill unit is registered with the Regional Provident Fund Commissioner

	<ul style="list-style-type: none"> • Verify if the saw mill units is registered with the sales tax authorities • Verify if the saw mill units has obtained a consent to establish and consent to operate from the state pollution control board • Verify if the unit has obtained permission from the district commissioner to use agricultural land for non-agricultural/industrial purposes • Verify if permission has been obtained from the Town and Country Planning Department for land use change if the area falls within the development plan of the department
	<p>Legal references:</p> <ul style="list-style-type: none"> • Industries (Development and Regulation) Act, 1951 • Factories Act, 1948 and Rules enacted by the different states • Payment of Gratuity Act, 1972 • Payment of Bonus Act, 1965 • Employees Provident funds and Miscellaneous Provisions Act, 1952 • Air (Prevention and Control of Pollution) Act, 1981 • Water (Prevention and Control of Pollution) Act, 1974 • State Land Revenue Act • State Tenancy Act • Town and Country Planning Act

<p>Indicator 4.1.2: The timber processing Company i.e. Saw mill or other based unit must hold a valid license</p>	<ul style="list-style-type: none"> • Verify if the saw mill unit and other wood based units (plywood, veneer, pasting) have valid license¹² issued by the State Forest Department to undertake the operations
	<p>Legal references:</p> <ul style="list-style-type: none"> • Section 41 of the Indian Forest Act or State Forest Act and Saw Mill Establishment Rules

¹² Pursuant to orders of the Supreme Court in T.N Godavarman vs. Union of India all state forest departments had to enact rules for grant of license to saw mills and other wood based units whether involved in sawing or conversion of wood/logs. The states have enacted saw mill rules pursuant to carrying out a wood balance study of the state prescribing the number of units that could be sustainably established in the state.

PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS^{13,14}

Criterion 5.1: Clear evidence of licence/permit of company involved in import and export shall be demonstrated in accordance with the laws and regulations

<p>Indicator 5.1.1: The company/partnership firm/association of people is duly constituted under relevant applicable law.</p>	<ul style="list-style-type: none"> • Verify that the person concerned is not engaged in Unauthorized export (export which is not as per the norms and conditions laid out in the license) or export of felled wood (export of wood products in the form of logs, timber, stumps etc. are prohibited) other than what is permitted as per EXIM policy (wood products that are permitted to be exported have to be legally sourced so the papers showing its sourcing has to be in place. Forest legislations of different states have different
<p>Indicator 5.1.2 The legal entity has valid license/permit as per the relevant EXIM Policy or in other words have a valid registration certificate issued by an export promotion council, commodity board or other registered authority designated by the Government for purposes of export-</p>	

¹³ Forest being a concurrent subject there are different state laws in states regulating timber trade and transit of timber and forest produce both intra state, interstate. International timber trade is regulated by the EXIM policy as transit across customs frontier is governed by the Export Import Policy, which is a five-year Policy Directive under the Foreign Trade Act, which is a Central Government Act, and the Nodal Authority is the Director General of Foreign Trade under the Ministry of Commerce. Here specific products including the products from the forest are classified under various chapters depending on their physical status, their availability and also depending on whether they are restricted, regulated or prohibited

¹⁴ Wood and wood products in the form of logs, timber, stumps, roots, bark, chips, powder, flakes, dust, and charcoal other than saion timber made exclusively out of imported logs/timber
 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; Wood in chips or particles; Sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
 Wood charcoal , whether or not agglomerated
 Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end jointed, or a thickness exceeding 6 mm other than sawn timber made exclusively out of imported logs/timber
 Sandalwood in any form, but excluding finished handicraft products of sandalwood, machine finished sandalwood products, sandalwood oil:
 Red Sanders wood in any form, whether raw, processed or unprocessed , except at (b) below
 (b) Value added products of Red Sanders wood such as Extracts, Dyes, Musical Instruments and parts of Musical Instruments, made from Redsanders wood, procured from legal sources

<p>promotion¹⁵. Importer has obtained IEC Number¹⁶ from issuing authority. In India, IEC number or Importers Exporters Code is issued by the DGFT.</p>	<p>provisions regarding legality of felled timber and to enumerate specific provisions all such relevant legislations would have to be studied in detail and are likely to be different for different states.) or exporting in defiance of trade ban or quota or doing misdeclaration of shipments to reduce taxes, e.g. under-grading of timber; under-declaration of volume/quantity; under-valuing price of timber; or engaged in export of CITES Appendix 1 species or not doing misclassification of species (to avoid higher taxes etc., to circumvent species specific harvest, to gain market access for lesser-known species.</p> <ul style="list-style-type: none"> • Verify that every company/legal entity importing or exporting¹⁷ timber has a valid license from the relevant authority and the import export is taking place strictly as per the norms or conditions stipulated in such license. • Verify that the person is not engaged in importing illegally exported timber. (if the timber being imported was first exported, it is required to see that the export permissions regarding that timber are in place
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¹⁵ As per the Exim policy applications for export licenses are required to be accompanied by attested copies of certificate of origin issued by the Principal Chief Conservator of Forests of the State from where the stocks were procured, giving details of the date of procurement from legal sources and quantities procured. A Certificate of the current position of stocks so procured and available with the applicant given after physical verification of the stocks, by the authority nominated for the purpose by the Principal Chief Conservator of Forests, should also accompany application for export license. The applications shall be considered on merits for issue of Export License, which shall be subject to any other conditions such as MEP, quantity ceilings requirements under CITES, etc. as may be prescribed from time to time.

¹⁶ Application for IEC Number: An application for grant of IEC Code Number should be made in the prescribed Performa given at Appendix 3.I. The application duly signed by the applicant should be supported by the following documents:

1. Bank Receipt (in duplicate) / Indian demand draft for payment of the fee of Rs.1000/- Certificate from the Banker of the applicant firm as per Annexure 1 to the form.
2. Two copies of passport size photographs of the applicant duly attested by the banker of the applicant.
3. A copy of Permanent Account Number issued by Income Tax Authorities, if PAN has not been allotted, a copy of the letter of legal authority may be furnished.
4. Declaration by the applicant that the proprietors/partners/directors of the applicant firm/company, as the case may be, are not associated as proprietor/partners/directors with any other firm/company the IEC No. is allotted with a condition that it can export only with the prior approval of the RBI India.

¹⁷ For details see Export Schedule-2, Table-B, Chapter-44, Wood and Articles of Wood Charcoal of current Exim Policy

	<p>and is as per the conditions laid out for import if any)</p> <ul style="list-style-type: none"> • Verify if the imported wood has obtained certificate of compliance certifying that wood is free from destructive insects and pests.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Foreign Trade (Development Regulation) Act 1992 (FTRD), • Foreign Trade Policy (FTP) of Government of India made in pursuance of Foreign Trade (Development Regulation) Act 1992 and is enforced through the Customs Act, 1962. Currently FTP (2009-2014) is in operation. • DGFT, under the Ministry Commerce and Industries, Department of Commerce, Government of India is responsible for regulating all import and export in India. All the procedure and policies in matter related to the import is announced by the DGFT through its notification, appendices and forms. • The Destructive Insects and Pests Act, 1914 and The Plant Quarantine Order 2003
<p>Criterion 5.2: Clear evidence of official documents of timber products for import and export shall be demonstrated by companies and carriers in accordance with the laws and regulations</p>	
<p>Indicator 5.2.1: The company possesses all required documents for the export or import of timber products according to official regulations from Director General Foreign Trade (DGFT) and shall follow all transit rules for timber at international borders as enacted by the central government from time to time.</p>	<ul style="list-style-type: none"> • Verify that companies complete all documentation regarding export/import form, certificate of origin detailing all timber products to be exported or imported by species, quality and quantity and submit monthly reports to MOEF. <p>Legal references:</p> <ul style="list-style-type: none"> • EXIM Policy read with transit rules made by the central government under section 41A of Indian Forest Act 1927 and Timber and Forest

	produce transit Rules which are different in different states.
Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations	
Indicator 5.3.1: All species exported /imported are authorized by the DGFT as per the EXIM policy and are also CITES compliant.	<p>Verify that species exported (or imported) comply with the requirements of:</p> <ul style="list-style-type: none"> • CITES declaration of which India is a signatory • Authorized species listed in the forest management plan for export • Authorized species as mentioned in the import permit and allowed by EXIM policy. • Approved forest management plan of the relevant division of the forest from where timber is originating in case of export. • Sanction for harvesting of timber as per the stated forest management plan in case of export
	<p>Legal references:</p> <ul style="list-style-type: none"> • Relevant provisions of IFA 1927 and state forest Acts. • CITES convention

PRINCIPLE 6: ENVIRONMENTAL REGULATIONS	
Criterion 6.1: State/Company conducts environmental impact assessments or other required assessments within the laws and regulations	
Indicator 6.1.1: The state forest department must have approval from the Ministry of environment and Forest confirming harvest activities are not impacting the environment and wildlife.	<ul style="list-style-type: none"> • Verify from the approved working plan/scheme of the forest the impacts estimated due to felling operations and the measures to mitigate those impacts • Verify the conservation measures stipulated for wildlife as approved by the Chief Wildlife Warden in the working plan/scheme • Verify that the Wildlife clearance from National Board for Wildlife has been obtained if the harvesting area falls within protected areas¹⁸ And is as per the management plan. • Verify clearance has been obtained from the Supreme Court of India in the National Parks and sanctuary case.¹⁹
	<p>Legal references:</p> <ul style="list-style-type: none"> • National Working Plan Code • Wildlife (Protection) Act, 1972 • Indian Forest Act, 1927 • State Forest Acts as applicable • Order dated 4.12.2006 by the Supreme Court of India in Goa Foundation Vs Union of India W.P (C) 460/2004
Indicator 6.1.2: The company must have approval from the relevant authorities for use of ‘forest land’ for ‘non-forest ‘activity	<ul style="list-style-type: none"> • Verify that forest clearance has been obtained for the non forest use of forest land
	<p>Legal references:</p>

¹⁸ Protected Areas covers National Park, Sanctuary as per Wildlife Protection Act, 1972

¹⁹ Centre for Environmental Law, WWF versus Union of India and ors (WP (C) No. 337/95)

	<ul style="list-style-type: none"> • Section 2 of the Forest (Conservation) Act, 1980
Criterion 6.2: State/Company takes mitigation measures on negative conservation value in accordance with the laws and regulations	
Indicator 6.2.1: Hunting or collecting wild animals and plants protected by the State require approval from the relevant Forestry Administration.	<ul style="list-style-type: none"> • Verify the list of protected wild animals and specified plants in the area • Verify if any permission has been given by the Chief Wildlife Warden for hunting of wild animal due to prohibition on hunting of scheduled wild animals • Verify from Management Plan of the protected areas mitigation measures being adopted for protection of wildlife
	<p>Legal references:</p> <ul style="list-style-type: none"> • Section 11 and 12 Wildlife Protection Act, 1972
PRINCIPLE 7: CONSERVATION PRINCIPLES	
Criterion 7.1: State/company conducts conservation assessment/evaluation within the laws and regulations	
Indicator 7.1.1 Approval is required for conservation assessment under taken by the company	<ul style="list-style-type: none"> • Verify if Biodiversity and Wildlife conservation Plan has been approved by the state forest department while according forest clearance Forest Conservation Act, 1980
	<p>Legal References: State forest Acts and Rules. For example conservation plan to be implemented under the section 28, 80 and 81 of the Rajasthan Forest Act, 1953 and guidelines circulated, vide government of India's letter no. 6-2-89/FD, dated 1.6.1990</p>
Criterion 7.2: State/company takes mitigation measures on negative conservation values in accordance with the laws and regulations	
Indicator 7.2.1: The company to implement the Biodiversity and Wildlife conservation Plan and State Forest Department	<ul style="list-style-type: none"> • Verify if conservation measures are being implemented as per

to implement the Management Plan for Protected areas and working plan/scheme for forests	Biodiversity and Wildlife conservation Plan, Management Plan and working plan/scheme for forests
	Legal references: <ul style="list-style-type: none"> • Forest Conservation Act, 1980 • Wildlife Protection Act, 1972 • National Working Plan Code
PRINCIPLE 8: SOCIAL REGULATIONS	
Criterion 8.1: Company maintains or strengthens socio-economic welfare of local communities/indigenous people in accordance with the laws and regulations	
Indicator 8.1.1: The company should protect the existing rights and concessions of the forest dependent communities Indicator 8.1.2: The company should give equal opportunity of employment to labourers including non-discrimination to the employment of people from special groups	<ul style="list-style-type: none"> • Verify the community claims of forest dependent communities and the company has taken steps to protect those forest rights • Verify the rights and concessions accorded to the communities living within the forest from the notification issued for reservation process • Verify the muster rolls of the workers at site Legal references: <ul style="list-style-type: none"> • Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)Act, 2006 • Section 4 to 20 Indian Forest Act, 1927 or relevant State forest Acts
Criterion 8.2: Company complies with the laws and regulations on its employees' and workers' rights and welfare	
Indicator 8.2.1: The company must ensure work time, rest and holiday for the employee	<ul style="list-style-type: none"> • Verify that weekly off is being provided to the workers Note: States have enacted their rules specifying the forms/formats that are required to be maintained in compliance of the Act and that can vary from state to state
	Legal references: <ul style="list-style-type: none"> • Factories Act, 1948

Indicator 8.2.2: Remuneration for working hours on statutory holidays	<ul style="list-style-type: none"> • Verify from the payment register the payment of wages
	Legal references: <ul style="list-style-type: none"> • Factories Act, 1948 • Payment of Wages Act, 1936
Indicator 8.2.3: The company pays its employee’s salary and benefits commensurate to hours worked and related performance	<ul style="list-style-type: none"> • Verify the from the register that minimum wages are being to the workers on the stipulated date
	Legal references: <ul style="list-style-type: none"> • Minimum Wages Act, 1948
Indicator 8.2.4: The company should implement clearly defined safety procedures, and ensure labour sanitation as prescribed by regulations	<ul style="list-style-type: none"> • Verify the safety procedures at the industrial establishment
	Legal references: <ul style="list-style-type: none"> • Factories Act, 1948
Indicator 8.2.5: The company should offer special protection for women and minor employees	<ul style="list-style-type: none"> • Verify that women employees are not working beyond 7 PM • Verify that no child below the age of 14 years is employed at the establishment • Verify that minor above the age of 14 years have certificate of fitness of employment issued by manager of the establishment • Verify that no minor employees is employed for period more than 4.5 hours in a day
	Legal references: <ul style="list-style-type: none"> • Section 66 of the Factories Act, 1948 • Section 67 of the Factories Act, 1948 • Section 68,69, 70 of the Factories Act, 1948
PRINCIPLE 9: TAXES, FEES AND ROYALTIES	
Criterion 9.1: The company fills in its tax returns in accordance with its effective professional activity	
Indicator 9.1.1: Tax returns on timber production are done in	<ul style="list-style-type: none"> • Verify that records of volumes harvested, collected, imported or

<p>compliance with applicable rules and regulations in this regard</p>	<p>exported are the same as has been duly sanctioned or allowed and comply with the legal provisions and stipulations mentioned in permits and licenses issued in this behalf by relevant authorities which could be DGFT for export/import and state forest departments for others.</p>
<p>Indicator 9.1.2: Tax returns on timber processing comply with rules and regulations</p>	<p>Legal references:</p> <ul style="list-style-type: none"> • Indian Forest Act 1927 and relevant State Forest Laws <p>• Verify that all dues, fees royalties and cess are paid as per the applicable rules in this regard as per the relevant state laws and also under IFA levied by the central government.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • There are rules made by states in this regard which have been approved by the centrally empowered committee in the wake of decision of supreme court of India in Civil writ petition no 202/1995 (T.N Godavarman vs. Union of India and ors.).....
<p>Indicator 9.1.3: Tax returns on trade in timber are done in compliance with rules and regulations</p>	<ul style="list-style-type: none"> • Verify that all dues, fees royalties and cess are paid as per the applicable rules in this regard as per the relevant state laws and also under IFA levied by the central government. <p>Legal references:</p> <ul style="list-style-type: none"> • Indian Forest Act 1927 and relevant state Forest Laws
<p>Criterion 9.2: Clear evidence of current paid taxes, fees and royalties in a timely manner shall be demonstrated by the company in accordance with the laws and regulations</p>	
<p>Indicator 9.2.1: All forestry related taxes and fees are paid on time</p>	<p>Verify that all receipts in this regard are in the possession of the said company.</p>
<p>Indicator 9.2.2: All taxes linked to timber processing operations are</p>	<p>Legal references:</p>

paid on time	<ul style="list-style-type: none"> • IFA 1927 and applicable tax laws.
Indicator 9.2.3: All taxes linked to export and import of forest products are paid on time	<ul style="list-style-type: none"> • Indian Customs Act (1962 • Indian Customs Tariff Act, 1975²⁰.

²⁰ The Central Board of Excises Customs (CBEC) under Ministry of Finance is the controlling authority to handle custom duty related matters. CBEC regularly publishes the "Indian Customs Tariff Guide that provides all types of information on custom duty rules and regulation in India.

Legal references:

1. Indian Forest Act, 1927
2. Forest Conservation Act, 1980
3. Industries (Development and Regulation) Act, 1951
4. Factories Act, 1948 and Rules enacted by the different states
5. Payment of Gratuity Act, 1972
6. Payment of Bonus Act, 1965
7. Employees Provident funds and Miscellaneous Provisions Act, 1952
8. Air (Prevention and Control of Pollution) Act, 1981
9. Water (Prevention and Control of Pollution) Act, 1974
10. Foreign Trade (Development Regulation) Act 1992 (FTRD),
11. Foreign Trade (Development Regulation) Act 1992
12. Customs Act, 1962.
13. Payment of Wages Act, 1936
14. Indian Customs Tariff Act, 1975
15. Wildlife (Protection) Act, 1972
16. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)Act, 2006
17. Destructive Insects and Pests Act, 1914 and The Plant Quarantine Order 2003

General Legal References:

1. State Land Revenue Codes/Acts
2. State Tenancy Acts
3. State Consolidation and Fragmentation Acts
4. State Transit Rules issued under Indian Forest Act, 1927
5. National Working Plan Code
6. State Transit and Transportation Rules
7. Town and Country Planning Acts (general reference)

8. Saw Mill Establishment
9. Rules National Working Plan Code issued by Ministry of Environment and Forest
10. State Forest Manual/Codes

Orders and Judgements:

1. Order dated 12.12.1996 passed by Supreme Court in *T.N Godavarman vs. Union of India and ors* (W.P (C) No. 202/1995)
2. Order dated 4.12.2006 by the Supreme Court of India in *Goa Foundation Vs Union of India* W.P (C) 460/2004

International Instruments

1. Convention on International Trade in Endangered Species (CITES)

Abbreviations:

IFA: Indian Forest Act
FCA: Forest Conservation Act
WLPA: Wildlife Protection Act
FRA: Forest Rights Act
FTRD: Foreign Trade (Development Regulation) Act
FTP: Foreign Trade Policy
DGFT: Director General of Foreign Trade
CBEC: Central Board of Excise and Customs
EXIM: Export and Import Policy
MOEF: Ministry of Environment and Forest
CITES: Convention on International Trade in Endangered Species