

PROPOSED Nigeria's Timber Legality Standard

This publication will provide an agreed definition of what will constitute legal timber in Nigeria.

FOREWORD

Nigeria is committed to sustainable forest management. Its forest policies, laws and regulations are guided by the national goals and directive principles of the *Federal Republic of Nigeria Constitution*.

This proposed Nigeria's *Timber Legality Standard* will provide an agreed definition of what will constitute legal timber sourced from Nigeria. This *National Monitoring Form* provides the means to measure forest industry participant compliance with the national standard. These two(2)publications stand side-by-side and will apply to all commercial timber operations in Nigeria; from small scale sawmills to large scale logging and milling operations. They are aligned with the EU-FLEGT Action Plan's social, environmental and economic "principles" and complement the voluntary legality standards that have been developed by the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC).

This proposed Nigeria's *Timber Legality Standard* and *Monitoring Forms* have been prepared in collaboration with forestry stakeholders.

BLACKCAMEL will continue to review and update NIGERIA'S *Timber Legality Standard* in consultation with forestry stakeholders in order to strengthen the current monitoring capacity within its system. Steps will also be undertaken-where required-for a possible review of the existing legislation to align and strengthen forestry laws and procedures, as well as assist in dependent licensed auditors to prove the legality of timber sourced from Nigeria. The *National Monitoring Form* will continue to be updated and applied from the field level to the elite technical level ensuring that the forest is used wisely-without compromise-for the benefit of all.

Managing Director

BLACKCAMEL

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ABBREVIATIONS AND ACRONYMS

EU	European Union
FLEGT	Forest Law Enforcement Governance and Trade
FSC	Forest Stewardship Council
ITTO	International Tropical Timber Organisation
IUCN	International Union for Conservation of Nature
NG	Nigeria
CITIES	Convention on International Trade in Endangered Species of Wild Fauna&Flora
PEFC	Programme for the Endorsement of Forest Certification

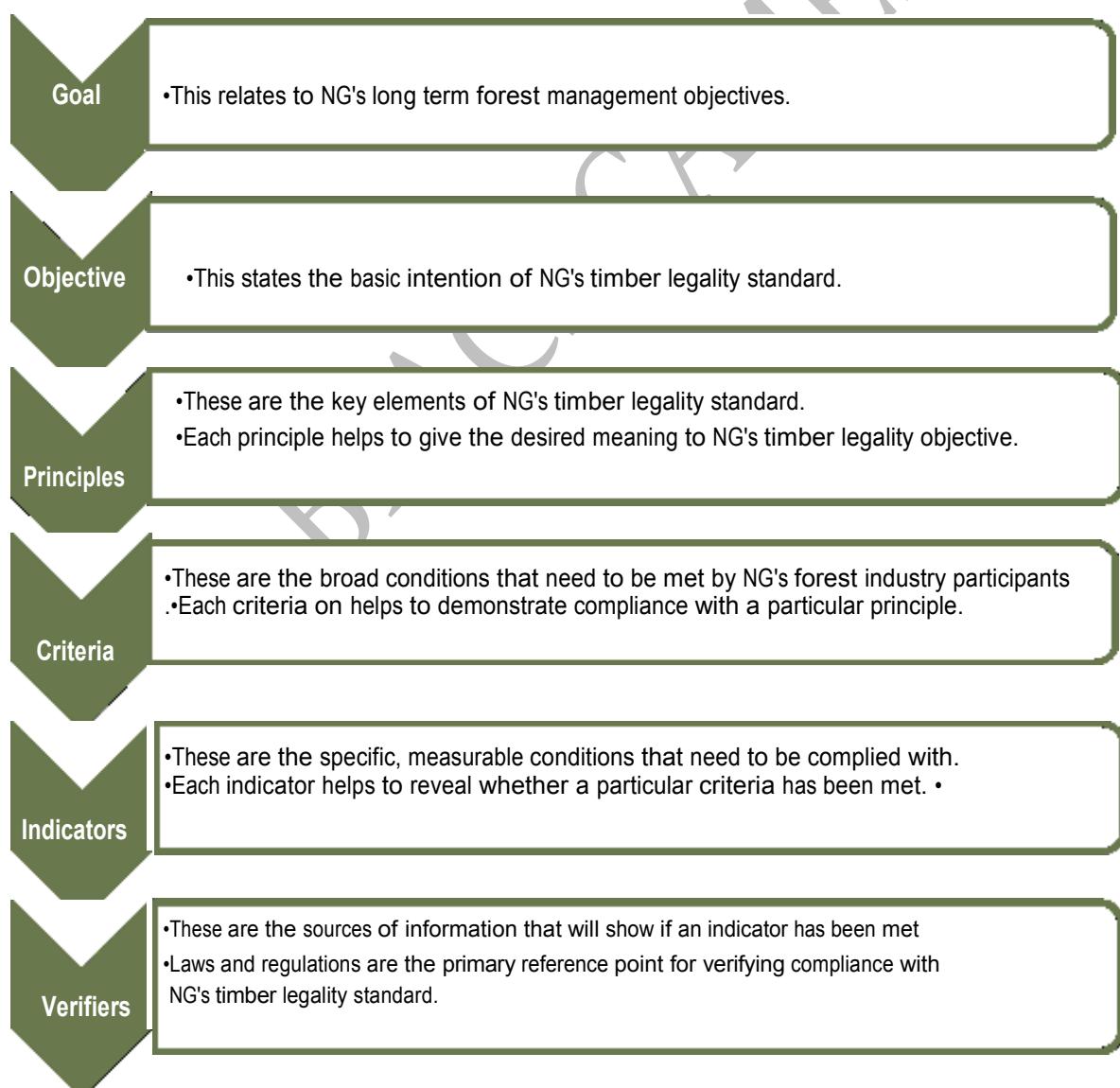
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A.PURPOSE

Nigeria's Timber Legality Standard provides an agreed definition of what constitutes legal timber sourced from NG. It stands along side the Monitoring Forms which provide the means to measure forest industry participant compliance with national laws and regulations, as well as international conventions.

B. LEVELS OF APPRAISAL

- NG's Timber Legality Standard comprises six levels of appraisal (refer diagram below). Timber legality objectives, principles and criteria set the desired bench marks for forest management in NG.
- Timber legality indicators and verifiers provide the means to assess and monitor forest industry participant performance.



C. LEGALITY STANDARD

NG's timber legality goal, objectives, principles, criteria and indicators are defined in the four sections below. The verifiers for assessing forest industry participant compliance with each indicator are contained in the National Monitoring Form (stand-alone document).

Goal

NG's **forestry sector** is making an effective contribution towards legal and sustainable forest management.

Objective

NG's **forestry sector** is complying with all relevant social, environmental and economic laws and regulations.

Principles

1. Compliance with rights to harvest timber within forest areas that are legally acquired.
2. Compliance with requirements regarding forest management, including compliance with relevant environmental, labour and community welfare legislation.
3. Compliance with requirements concerning business operations, taxes, import and export duties, royalties and fees directly relating to timber harvesting and trade.
4. Compliance with requirements concerning tenure or use rights to land and resources that may be affected by timber harvest rights, where such rights exist.
5. Compliance with requirements for processing, transport, trade and export procedures.
6. Maintenance of the necessary registers.

Criteria and indicators

PRINCIPLE 1: THE BUSINESS COMPLIES WITH RIGHTS TO HARVEST TIMBER WITHIN FOREST AREAS THAT ARE LEGALLY ACQUIRED.

1.1 The Business has legal access and harvesting rights to the forest land on which it operates.

- 1.1.1 The Business has legal access to the land on which it operates and rights to the forest resource.
- 1.1.2 The Business holds the necessary access rights to relevant areas outside the concession area

1.2 The Business has obtained the necessary approvals for its forest and related operations.

- 1.2.1 Where obligatory, the Business has developed forest management plans (including the required forest inventories) and received official approval.
- 1.2.2 The Business has the necessary environmental authorizations in place. Such authorizations are issued by the appropriate environmental authorities and are valid.
- 1.2.3 The Business has the necessary approvals for ancillary and associated activities at the locations where it operates.

1.3 The Business can demonstrate that its approval(s) for forest and other related operations was (were) properly obtained.

- 1.3.1 In obtaining such approvals, the Business correctly followed the appropriate procedures.
- 1.3.2 In obtaining such approvals, the relevant Authorities correctly followed the appropriate procedures².

PRINCIPLE 2: THE BUSINESS COMPLIES WITH REQUIREMENTS REGARDING FOREST MANAGEMENT, INCLUDING COMPLIANCE WITH RELEVANT ENVIRONMENTAL, LABOUR AND COMMUNITY WELFARE LEGISLATION.

2.1 The Business has clearly identified authorized harvesting areas and positioned planned forest activities in accordance with approved plans or regulations.

- 2.1.1 The Business can show appropriate positioning and accurate mapping of designated areas and proposed forest management activities in these areas.
- 2.1.2 The Business can show that the positioning and mapping of cultural sites has been clearly identified in cooperation with land owners.

2.2 The Business's operations and activities are geographically implemented in accordance with approved plans.

2.2.1 Pre-harvest planning documents and maps accurately reflect the Business's operations.

2.3 Felling strictly complies with species and trees as authorized, restricted or imposed by applicable international conventions, national or local regulations, and the management plan.

2.3.1 The Business only harvests species and trees as authorized by law under the timber concession and prescribed by the management plan or timber permit.

2.3.2 The Business only harvests trees above the minimum allowable diameter for each species as prescribed by the management plan or timber permit.

2.4 The Business marks and records trees and logs in accordance with relevant regulations.

2.4.1 The Business applies a pre-harvest identification or numbering system consistent with applicable regulatory and/or traceability requirements.

2.4.2 The Business applies a post-harvest log identification system consistent with applicable regulatory and/or traceability requirements.

2.5 The Business can prove that the quantity or volume of harvest is compliant with the authorized amounts.

2.5.1 The number and volume of trees felled is compliant with the authorized amounts, for the time period, are as and species under consideration.

2.6 The Business can prove that harvesting waste and downgrading of logs is consistent with applicable regulatory requirements.

2.6.1 The Business can provide justification for any wood waste from harvesting.

2.6.2 The downgrading of logs as waste is compliant with applicable regulatory requirements.

2.7 The Business respects areas where logging is prohibited or restricted.

2.7.1 The Business respects the integrity of protected areas where forest activities are prohibited or restricted on the basis of official land use planning and classification.

2.7.2 The Business respects zones or buffers within the logging area where logging is prohibited or restricted on the basis of applicable regulatory or agreed forest management requirements or plans.

2.8 The Business preserves biodiversity.

2.8.1 The Business protects endangered species as provided for under the Convention on Biological Diversity, the Convention on International Trade in Endangered Species of Wild Fauna & Flora (CITES) and other instruments.

2.8.2 The Business protects biodiversity as provided for by national legislation.

2.9 The Business minimizes negative environmental impacts.

- 2.9.1** The Business complies with regulations referring to air.
- 2.9.2** The Business complies with regulations referring to soils.
- 2.9.3** The Business complies with regulations referring to water.
- 2.9.4** The Business complies with regulations referring to the storage and use of chemicals.
- 2.9.5** The Business complies with regulations referring to energy.
- 2.9.6** The Business complies with regulations referring to waste management.
- 2.9.7** The Business complies with regulations referring to other safety risks to the public and the environment.

2.10 The Business takes adequate measures to prevent any unauthorized activities by third parties within or around the forest areas under its control.

- 2.10.1** The Business observes, identifies and reports any illegal logging or conversion to other land uses by third parties and any illegal processing of logs in the forest areas under its control.

2.11 The Business knows and respects the legal and customary rights of local communities within the allocated areas.

- 2.11.1** The Business respects its obligations towards the local communities.

2.12 The Business respects the rights of workers as derived from relevant national or international regulations.

- 2.12.1** The relationship between the Business and its workers has been formalized In accordance with applicable regulatory requirements.
- 2.12.2** The Business respects basic working conditions as prescribed by law and the Regulatory requirements relating to health and safety.
- 2.12.3** The Business remunerates its workers in accordance with applicable legal requirements.
- 2.12.4** The Business does not partake in unacceptable labour practices.

2.13 The Business protects the rights of its contractors' or subcontractors' workers to the best of its ability.

- 2.13.1** The Business ensures that the rights of its contractors' or subcontractors' workers are respected.

PRINCIPLE 3: THE BUSINESS COMPLIES WITH REQUIREMENTS CONCERNING BUSINESS OPERATIONS, TAXES, IMPORT AND EXPORT DUTIES, ROYAL TIES AND FEES DIRECTLY RELATING TO TIMBER HARVESTING AND TIMBER TRADE.

3.1 The Business is formally registered with relevant government authorities and requires that contractors and subcontractors used in its operations are legally constituted.

- 3.1.1 The Business is formally registered as a business or corporate enterprise with vested rights and obligations in respect of conducting business.
- 3.1.2 The Business formally requires that contractors and subcontractors used in its operations are legally constituted and recruited.

3.2 The Business is a legitimate operator in the forestry or timber business.

- 3.2.1 The Business's activities have not been suspended as a result of administrative or judiciary action initiated by either the government or a third party.

3.3 The Business consistently submits its official declarations to the appropriate authorities in a timely manner.

- 3.3.1 Where applicable, the Business has submitted its production registers, declarations and statistics within the prescribed time period.

3.4 The Business consistently settles due payments to the appropriate authorities in a timely manner.

- 3.4.1 The Business has paid applicable royalties, fees, project development benefits, levies and taxes relating to forestry and timber processing activities within the prescribed time period.
- 3.4.2 The Business has paid the applicable import and export duties within the Prescribed time period.

PRINCIPLE 4: THE BUSINESS COMPLIES WITH REQUIREMENTS CONCERNING TENURE OR USE RIGHTS TO LAND AND RESOURCES THAT MAY BE AFFECTED BY TIMBER HARVEST RIGHTS, WHERE SUCH RIGHTS EXIST.

4.1 Local communities with legal or customary tenure or use rights maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free, prior and informed consent to other agencies.

4.1.1 All the legal and / or customary tenure or use rights to the forest resource of all local communities shall be clearly documented, recognized, respected and mapped by the forest managers and/ or land administration authorities as required.

4.1.2 Local communities are able to exercise their tenure and use rights.

4.2 Appropriate mechanisms are employed to resolve disputes over tenure claims and use rights.

4.2.1 Genuine disputes over customary land tenure, customary rights to use the forests, and customary rights to use forest resources are to be settled according to the relevant law.

PRINCIPLE 5: THE BUSINESS COMPLIES WITH REQUIREMENTS FOR PROCESSING, TRANSPORT, TRADE AND EXPORT PROCEDURES.

5.1 The Business ensures that the processing, transport, and delivery of products to customers comply with relevant legal requirements.

- 5.1.1 All the Business's activities are within the permitted scope of activity.
- 5.1.2 The Business (where required) obtains due authorizations prior to removal and transportation of forest products.
- 5.1.3 The Business adheres to obligations or restrictions relating to the industrial processing of timber.
- 5.1.4 The Business follows export procedures and adheres to export obligations or restrictions.

PRINCIPLE 6: THE BUSINESS MAINTAINS THE NECESSARY REGISTERS.

6.1 The Business maintains a current register of relevant acts, regulations and codes of practice and communicates such registers within the business.

- 6.1.1** The Business maintains a register of applicable acts, regulations and code of practice that is complete and up to-date.
- 6.1.2** The Business distributes the register to relevant Business management staff and facilitates access to the corresponding acts, regulations and codes of practices.

6.2 The Business maintains up to date dispute registers.

- 6.2.1** The Business maintains an up to date register for internal and external disputes and administrative rulings.

D.ANNEX

Relevant laws, regulations and conventions

The table below contains the primary sources of information for verifying forest industry compliance with NGR's Timber Legality Standard.

NGR Principles	NGR laws, regulations and international conventions
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Annex: *Relevant Laws, Regulations and Conventions*

Glossary of terms

Term	Definition
CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)	An international agreement, signed in 1973, that aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The Convention is implemented by governments, which control or ban the international trade in any species listed on the CITES annexes. There are currently around twenty five timber species and groups listed on CITES annexes (Chatham House, 2012).
Convention on Biological Diversity (CBD)	A convention negotiated under the auspices of the UN Environment Programme which came into force in 1993. The three goals of the Convention are to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources (Chatham House, 2012).
Customary rights	Rights which result from a long series of habitual or customary actions, constantly repeated, which have by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit (Forest Stewardship Council, 2004)
EUFLEG Action Plan (European Union Forest Law, Enforcement, Governance and Trade)	Adopted in 2003, the action plan is a document setting out the European Commissions range of efforts to stem illegal logging and the entry of illegally-logged timber into EU markets. The core components of the Action Plan are support for improved governance in wood-producing countries, and a licensing scheme to ensure only legal timber enters the EU. This licensing scheme will initially be implemented on a voluntary (but binding) basis, through a series of partnerships with wood-producing countries. Other elements of the Action Plan include co-operation with other major consumer markets, such as the US and Japan, to stop the trade illegally-harvested timber; and efforts to ensure only legally harvested timber is sourced through public procurement contracts in the EU (Chatham House, 2012).
Free, Prior and Informed Consent	A process whereby consensus is reached in accordance with the respective customary laws and practices, free from any external manipulation, interference and coercion. That consent should be obtained after fully disclosing the intent and scope of the subject needing approval in a language and manner clearly understood by all parties involved (National Commission of Indigenous Peoples, 1998).

Term	Definition
Import and export duties	Charges payable on shipments of timber or timber products when they are moved from one country to another. Different products have different levels of duty levied on them by exporting or importing governments, to create an incentive for a particular industry or sector. For example, if a country has a wood processing industry but no forests of its own, it may choose to encourage establishment of domestic processing with a relatively low duty rate on imported round logs, but high rate on imported plywood. Similarly countries may impose export duties on logs or partially-processed wood products to encourage establishment of downstream processing (Chatham House, 2012).
ITTO (International Tropical Timber Organisation)	An organisation established in 1986, under the auspices of the United Nations, amidst increasing worldwide concern over tropical deforestation. While many were alarmed at the rate of destruction of tropical forests, there was also a consensus view that the international timber trade was one of the keys to economic development in those same tropical countries. The ITTO works to reconcile the protection of forests with their economic exploitation, promoting the principles of sustainable forest management and assisting tropical member countries to implement them through projects. In addition, ITTO collects, analyses and disseminates data on the production and trade of tropical timber (Chatham House, 2012).
Land tenure	The right to exclusively occupy and use a specified area of land. Tenure may also be limited to certain resources ("resource tenure") such as timber but not to all resources in a given area. Tenure may be held by individuals, communities, government, or corporations. Land tenure may be a sensitive issue for governments where customary rights claimed by indigenous forest people are in conflict with the allocation of commercial rights such as logging concessions or utilisation of other natural resources. Some believe that ensuring secure land tenure for rural communities will result in sustainable forest management, reduced illegal logging and alleviation of poverty (Chatham House, 2012).
Sustainable forest management	A process which allows the utilisation of the forests for multiple purposes (e.g. biodiversity preservation, timber harvesting, non-wood products, soil and water conservation, tourism and recreation) without undermining their availability and quality for present and future generations. The stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems [MCPFE definition since adopted FAO] (Chatham House, 2012).
Use-rights:	Rights for the use of forest resources that can be defined by local custom, mutual agreements, or prescribed by other entities holding access rights. These rights may restrict the use of particular resources to specific levels of consumption or particular harvesting techniques (Forest Stewardship Council, 2004)

Reference materials

Chatham House.2012.*Illegal Logging Info - Glossary of Terms*. Sourced from http://www.illegal-logging.info/approach.php?a_id=200(28August,2012).

European Commission.2007.*FLEGT Briefing Note No. 2: What is Legal Timber?* Sourced from http://www.euflegt.efi.int/files/attachments/euflegt/efi_briefing_note_02_eng_221010.pdf(28August,2012).

Forest Stewardship Council.2012.*FSC Glossary of Terms*. Sourced from http://www.scscertified.com/docs/FSC-STD-01-002_Draft_Glossary_of_Terms.pdf(28August,2012).

Papua New Guinea Timber Standard