



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

MYANMAR

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Australian Government

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Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade - Principles, Criteria and Indicators for Myanmar

<i>Indicator</i>	<i>Guidance note/verifier</i>
PRINCIPLE 1: ACCESS, USE RIGHTS AND TENURE	
Criterion 1.1: The company is legally registered with the relevant administrative authorities	
<p>Indicator 1.1.1: Registration with the economic, social and forest authorities.</p>	<p>To verify that the Company is registered as a legitimate enterprise with the relevant ministry/department, check the following documents:</p> <p>A. MTE</p> <ol style="list-style-type: none"> 1. Formation of State Timber Board to do timber business in Myanmar. 2. Long-term timber harvesting permit granted to MTE by FD <p>B. Private Timber Companies (PTC)</p> <ol style="list-style-type: none"> 1. Company registration at the Ministry of National Planning and Economics Development (MNPED). 2. Approval of MIC and registration at MNPED 3. Approval of MIC according to Foreign Investment Law and Registered. 4. Home Industry License issued by the Department of Cottage Industry, Ministry of Cooperatives. 5. Saw mill and wood processing licenses issued by FD. 6. Registration at the Department of Industry Inspection, Ministry of Industry 7. Registration at the relevant Township Development Committee for mill, storage and service. 8. Permission for establishing forest plantations granted by the Government and MOECAF. 9. Contract with MTE for timber harvesting. <p>C. Community Forest Users' Group (CFUG)</p> <ol style="list-style-type: none"> 1. Community Forestry Certificate issued by FD. <p><i>Note: CFUG can harvest both timber and NTF.</i></p>

	<p>Legal references:</p> <ul style="list-style-type: none"> • MOAF’s notification No.185, dated 5 April 1948; Government constitutes STB (now Myanmar Timber Enterprise) • Agreement between the President of Burma and State Timber Board on the working of teak in designated areas, July 15, 1959 • CFI, 1995 • Contract between investor and FD for investing in forest plantation • Control of Import Exports Act • Forest Department letter no. Planning / Tha-12(10418-36/2011) dt (7/10/11). • Forest Law, • Myanmar Company Act, 1914 • Myanmar Investment Law • The State Timber Board Act, 1950 • The State-owned Economic Enterprises Law, 1989 • The Union of Myanmar Foreign Investment Law, 2012
<p>Criterion 1.2: Use, access and tenure rights applications are subject to stated pre-conditions within the laws and regulations</p>	
<p>Indicator 1.2.1: All steps required to obtain a license to operate have been respected within the set time limits provided for in the laws and regulations of the country</p>	<p>MTE subcontracts extraction to private company by choosing its reliability and capability and contract is granted for the selected private timber company.</p> <p><i>Note: MTE possesses long lease of extracting teak and other hardwoods in all the forests of the country. It subcontracts to private companies to harvest. The extent of the sub-contracts has been estimated to account for about 75% of the total harvest. The Forest Law 1992 Section 18 stipulates to use competitive bidding system.</i></p> <p>Private company must verify the followings:</p> <ol style="list-style-type: none"> 1. The long lease for entrance and operating in the forest is granted by the State 2. Annual plan of operations agreed between FD and MTE 3. Permits granted by FD to harvest designated areas 4. Possess girdling notebooks and SF marking notebooks¹

¹ These notebooks are given to MTE by FD and MTE will give these notebooks to its sub-contractors.

	<p>5. MTE Extraction Manual and Standing Orders 6. Permission to entry forest from the concerned District Forest Officer²</p> <p><i>Note: 30-year Master Plan is FD's long-term plan. The Forest District Management Plans are medium-term plans which are revised every 10 years. Annual plans are based on the latter and for timber extraction they are usually drawn in consultation with the Extraction Department of MTE. MTE formulates its annual harvest plans in compliance with FD's annual extraction targets. MTE's subcontractors must follow MTE's annual harvest plans.</i></p>
	<p>Legal references</p> <ul style="list-style-type: none"> • Agreement between the President of the Union of Burma and the State Timber Board on felling, logging, transportation and taxation of teak in permitted areas, July 15, 1959 • Forest Law, 1992 • Forest Policy, 1995 • Forest Rules, 1995 • State Timber Board Order, 1948 (in “the Ministry of Forestry, Myanma Timber Enterprise, Golden Jubilee Commemorative Issue, 1998) • 30-year Forest Master Plan • Forest District Management Plan • MTE's annual harvest plan
<p>Indicator 1.2.2: Area covered by the forest title have approved 10 years, 5 years and annual management plans</p>	<p>MTE to prepare and verify the existence of harvest plans and criteria/compliances of a harvest plan are as follows:</p> <ol style="list-style-type: none"> 1. FD's 30 years Master Plan 2. FD's District Forest Management Plan 3. The agreed annual extraction plan 4. Approved 10 years, 5 years and annual management plans by FD

² MTE selects the subcontractor based on its assessment of the capacity of the latter and the two officially make the contract. The subcontractor must apply to the DFO concerned for permission to enter the forest. MTE is responsible for proper operations of the sub-contractors under requirement 1,2,3 and 5 too.

	<p>5. Compliance of extraction with the standing orders, RIL and NCFHP</p> <p>Permits for Modified Procedure (MP) is required for sub-contractors.</p> <p><i>Note: For conflict forest areas where the government staff members cannot work, MTE allows sub-contractors to apply Modified Procedure (MP). The procedure permits the sub-contractors to fell trees above prescribed girth limit in the allotted forest area, log and transport them to a secure point (location) where measurement for revenue (akauk marking) is done. Under MP FD does not select trees for harvest, and field inspection is conducted by the sub-contractor.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Annual harvest plan • Departmental Instructions for Forest Officers in Burma, 1944 • District Forest Management Plan • Forest Law, 1992 (Sections 10 and 11) • Forest Rules, 1995 <p><i>Note: According to Section 10 of the Forest Law 1992, the DG of FD shall draw up plans relating to forest administration, and according to Section 11 of the same, report the progress of the work annually to the Minister, review from time to time and if requirements warrant alteration submit a proposal to the Minister, and collect and collate necessary forest resources data in the prescribed manner every ten years.</i></p>
<p>Criterion 1.3: Clear evidence of forest and/or land use, access and tenure rights shall be demonstrated in accordance with laws and regulations</p>	
	<p>Verify that the areas allotted for extraction fall in the RF (Reserved Forest), PPF (Protected Public Forest) or PF (Public Forest).</p> <ol style="list-style-type: none"> 1. FD DFO's permit to harvest 2. Topographic map showing harvest area 3. FD's forest management map of concerned Forest District <p>Approval from SLRD and the Department of General Administration in usage of a forest area for development.</p>

	<p><i>Note: Land at the disposal of the State is not administered by the MOECAAF, but the trees growing there are not permitted to be cut without the permission of MOECAAF. Therefore, FD can allow MTE to harvest; so, MTE can subcontract to private timber companies to extract trees. However, a private company desirous of developing that land needs to lease it or get approval from SLRD and the Department of General Administration.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Agreement between the FD and the MTE/Contractor • Annual harvest plan of the contractor approved by FD • Departmental Instructions for Forest Officers in Burma, 1944 • Forest Law, 1992 <p><i>Note: Section 12 of the Forest Law 1992 requires that whoever , within a forest land and forest covered land at the disposal of the Government is desirous of carrying out any development work or economic scheme shall obtain the prior approval of the Forestry Ministry.</i></p>
<p>Indicator 1.3.2: The company holds an annual harvesting license from the forestry administration</p>	<p>Verify that MTE or its sub-contractor has acquired FD’s permission for extraction in a designated area in compliance with the District Forest Management plan target.</p> <ol style="list-style-type: none"> 1. FD DFO’s permission to harvest 2. FD’s District Forest Management Plan 3. The agreed annual extraction plan of FD and MTE/Contractor <p><i>Note: MTE is a main contractor of FD. MTE has been granted by the Government long lease to harvest both teak and other hardwoods in all forests of Myanmar. However, due to limited capacities MTE subcontracts up to about 75% of extraction to local timber companies. The selection of harvesting companies is not</i></p>

	<p><i>transparent. FD is not involved in the selection of the sub-contractors and does not check their harvesting operations³. However, FD has the authority and the responsibility to check all forest operations of any organization including MTE and individual.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Agreement/Contract made between FD and the Contractor. • Forest Law, 1992 • Forest Rules, 1995 <p>Instruction no. 12 of The Extraction Department for MTE</p>
<p>Indicator 1.3.3: The company holds a valid permit for land clearing.</p>	<p>Land clearing/Clear felling is not allowed in natural forests in the practice of Myanmar Selection System (MSS). The contractors or private entrepreneurs may clear the land for plantation establishment and for construction of extraction roads complying with the terms of the Agreement made with FD.</p> <p>Verify the existence of :</p> <ol style="list-style-type: none"> 1. Valid MTE contract 2. FD DFO's permission to harvest or to establish forest plantation 3. FD's District Forest Management Plan 4. The agreed annual extraction plan of FD and MTE <p><i>Note: Starting from year 2005, MOECAAF has been granting long-term leases (from 25 to 40 years) to private entrepreneurs to establish teak and hardwood plantations in the reserved and protected public forests. These contracts are issued by FD and, therefore, the companies' compliance with the terms of the contract is monitored by FD. The private companies are allowed to clear land if it is necessary to raise plantations. MOECAAF has requested and instructed the sub-contractors to establish teak plantations to compensate for their action. The forest plantations are established usually after clearing and burning the debris are cleared. Sub-contractors of MTE submit extraction reports to MTE which will be later reported to FD. District forest officers are responsible to check whether the companies comply with the agreement terms and the existing Forest Law.</i></p>

³ Sub-contractors harvest timber on behalf of MTE in accordance with the agreement made between them. They must conduct harvesting operations in compliance with RIL and NCFHP. RIL and NCFHP prescribe guidelines and procedures to be followed in timber extraction.

	<i>There are no specific reporting formats.</i>
<p>Indicator 1.3.4: The gazetted boundaries of a license area shall not conflict with any other land use classification.</p>	<p>Legal references:</p> <ul style="list-style-type: none"> • Agreement made between FD and Contractor • Contractor’s harvest plan • FD’s annual plan of operation • Forest Law, 1992 • Myanmar Selection System <p>Check all related maps:</p> <ol style="list-style-type: none"> 1. FD’s forest location and management maps 2. Extraction maps 3. Annual plan of operation <p>Legal references:</p> <ul style="list-style-type: none"> • CFC (permission by FD to establish CF) • District Forest Management Plan • Fallow Land, Vacant Land and Wild Land Law, 2012 • Forest Law, 1992 • Forest policy, 1995 • MTE extraction manual and standing orders • SLRD records (maps)

PRINCIPLE 2: HARVESTING REGULATIONS	
Criterion 2.1: Forest Management Plan in accordance with the government policies, guidelines and regulatory requirements, approved by relevant authority	
Indicator 2.1.1: Preliminary studies have been conducted according to the rules and standards prescribed by the forest administration (FD)	<ol style="list-style-type: none"> 1. National Forest Inventory has been carried out at (10) yr- intervals since 1981. 2. Management inventory is conducted for DFMP revision. 3. Revision of annual allowable cuts (AAC) is done yearly based on the District Forest Management Plan (DFMP). 4. Verify the presence of the following <ul style="list-style-type: none"> • Harvest plan • Pre-harvest exploration report • Girdling notebook • SF marking notebook 5. Check whether the harvest plan is correctly implemented.
	Legal references: <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Environmental Law, 2012 • Forest Law, 1992 • MTE Extraction manual and standing orders • National Code of Forest Harvesting Practices in Myanmar, 2000 • Timber extraction contract between MTE and sub-contractors
Indicator 2.1.2: The ten year management plans comply with the rules and regulations of the forestry administration.	<p>Verify that the 10-yr management plan complies with the 30-yr master plan of FD, and ensure⁴ that the prescribed yields for the particular operation are within allowable cuts.</p> <p><i>Note: The certifier⁵ must check that the ten-year management plan prepared by FD has followed its 30-year master plan developed for the period from 2001-</i></p>

⁴ All forests in the country are state-owned. They are managed by FD under MOECAAF on a sustainable basis. FD has developed a 30-year Master Plan for the period from 2001 to 2031, 10-year forest district management plans and annual operational plans. MTE needs its timber to be certified by an organization that is recognized by the potential market so that it can be exported. Therefore, neither FD nor MTE will check the compliance but the Certifying Body/Organization (e.g. FSC) will be responsible for the checking.

	<p>2031. The Master Plan has made targets for all forestry operations and prescribed related regulations and procedures.</p>
	<p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • District Forest Management Plan • FD's 30-yr Master Plan • FD's annual work plan • Forest Law, 1992 • SFM C & I
<p>Criterion 2.2: Harvesting/Timber license with stated conditions is in accordance with the government policies, guidelines and regulatory requirements, approved by the relevant authority</p>	
<p>Indicator 2.2.1: Company has acquired license to deploy heavy equipment, chain saw elephants & workers</p>	<p>Verify that all heavy equipments have been registered and have licenses granted by appropriate Ministry of Transport under existing laws and regulations.</p> <ol style="list-style-type: none"> 1. Vehicle and equipment licenses and documents provided by concerned authorities 2. Registration of heavy equipment, chainsaw, elephants and workers at FD <p><i>Note: Asian elephants (Elephas maximus) are widely used for carrying loads, stumping and skidding. The use of elephants is less destructive to the environment and more economical compared to mechanized extraction, especially due to the practice of selective cutting and very low per unit outturn.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000 • Ministry of Transport regulations • Transport permits

⁵ No forest has been certified as yet but Myanmar Forest Certification Committee (MFCC) is now formed and formulating Myanmar Forest Certification Scheme which will include independent Timber Certification Bodies or Auditors.

	<ul style="list-style-type: none"> • NCFHP under Section 10.4, 10.5.1 and 10.5.2 • Departmental Instructions no. 106
<p>Indicator 2.2.2: Forest maps have been drawn up according to required standards</p>	<p>Usually 4"= 1 mile scale maps are prepared for work areas. Check whether the required maps are prepared properly. Forest management maps showing management zones, annual coupe boundaries, existing road systems and other relevant information concerning forest harvesting are prepared at usually 1:125000 – 1:50000 scales (NCFHP 2000).</p> <p>Maps drawn up according to required standards by FD <i>Note: MTE's field inspection is also to be accompanied by an area map which shows positions of the trees to be felled, road alignment, potential sites for log measurement and acceptance. The map is drawn by compartment at 4" = 1 mile scale.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000 • District Forest Management Plan • MTE Extraction Manual • MTE's extraction plan
<p>Indicator 2.2.3: Annual working area is delineated on the maps and in the field</p>	<p>Check demarcation of working area on the map and on the ground. Maps will include:</p> <ol style="list-style-type: none"> 1. Area map 2. Stock map 3. Extraction Plan (Form A, C, MTE) <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma,1944 • Departmental Instructions for MTE Extraction Department, 2000 • MTE Extraction Manual • National Code of Forest Harvesting Practices in Myanmar, 2000 • Standing orders

<p>Indicator 2.2.4: 100% inventory has been carried out and all trees marked according to MoF regulation</p>	<p>100% enumeration of teak trees above 4 feet gbh (girth at breast height) is conducted⁶ during girdling operation;</p> <p>100% enumeration of all hardwood trees in the 1-foot girth class below girth limit (also known as exploitable girth) is carried⁷ out during selection of hardwood trees for extraction.</p> <p>1. Verify the availability of:</p> <ul style="list-style-type: none"> • Inventory report • Inspection report • Girdling notebook • SF notebook <p>2. And conduct field inspection</p> <p><i>Note: Teak trees enumerated and measured are recorded in the girdling note book. Hardwood trees enumerated and measured are recorded in the SF marking note book. One foot girth class below girth limit means, for example, 6'0" - 6'11" class if the girth limit is 7 feet.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • FD- Girdling instructions • FD-SF marking instructions • MTE extraction manual and standing orders • MTE's contract with sub-contractors
<p>Indicator 2.2.5: Cruising report has been prepared.</p>	<p>In compliance with the departmental instructions, MTE/Contractor⁸ submits the post-operation report (completion report) to FD (Form AJ), and FD carries out post-harvest assessment⁹ of the area after the extraction is accomplished.</p>

⁶ Girdling and marking of teak trees for felling are done by the girdling team. They prepare reports and submit to the District Forest Office (DFO).

⁷ Trees other than teak are not girdled. Marking of these trees, which is known as Selection Felling Marking or SF marking in short is done by SF marking teams that comprise officers and foresters of FD. The related reports are prepared by the SF marking teams and submitted to the DFO.

⁸ MTE is the sole contractor of FD for timber extraction. Therefore, MTE submits harvest completion report to FD.

	<p>Check:</p> <ul style="list-style-type: none"> • Completion report of the MTE/Contractor • Post-harvest assessment/inventory report of FD <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • District Forest Management Plan • MTE Extraction contract with sub-contractors • MTE extraction manual and standing orders • NCFHP - Section 7.8 & 7.9
<p>Criterion 2.3: The company implements harvest operations in accordance with the legally prescribed silvicultural system and relevant regulations</p>	
<p>Indicator 2.3.1: Access roads and tracks in forest areas are built in compliance with operating standards (planning of road network and observation of standards relating to road and right-of-way width, drainage, slopes etc.)</p>	<p>Verify compliance with RIL and National Code of Forest Harvesting Practices in Myanmar, 2000, through ground checks while travelling through the concession area</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Environmental Conservation Law, 2012 • MTE Extraction Manual • National Code of Forest Harvesting Practices in Myanmar, 2000 • Reduced Impact Logging Guidelines, 2008 • Standing Orders • National Code of Forest Harvesting Practices in Myanmar, 2000
<p>Indicator 2.3.2: Minimum harvestable diameters are respected during harvesting operations</p>	<p>FD practices MSS which prescribes girth limits for the tree species to be extracted. The girth limits could vary with localities, species and growth. The girth limits (or the minimum harvestable diameters) are mentioned in the girdling and the SF marking instructions. Prescribed hammer marks are put on the trees selected for girdling or for SF. Only those trees are permitted to be cut.</p> <p>Check:</p> <ol style="list-style-type: none"> 1. Girdling instructions

⁹ Harvest completion report of MTE marks the closure of the coupe. No separate report is made by FD.

2. SF marking instructions
 3. Girdling and SF marking notebooks
 4. Completion reports
 5. Inspection reports
- And do field visit and inspect harvesting.

Note: On every tree selected for girdling or green felling a large blaze is cut as close to the ground as possible in order that the blaze remains on the stump when the tree is felled. A serial number of the tree and two impressions of the girdling hammer are put on it. A blaze also is cut as high as possible above the girdle. On this upper blaze are impressed back hammer and the serial number of the tree.

MTE has the following hammers:

1. Personal
2. Agency
3. Area
4. Reject
5. Green (to mark felling of green teak)
6. Star classification
7. AY (to indicate admiral quality)
8. Year.

Note:

- *Hammer marks for teak and other hardwoods are different*
- *Sub-contractors have personal hammers only.*

Legal references:

- Departmental Instructions for Forest Officers in Burma, 1944
- Environmental Conservation Law , 2012
- Girdling and SF notebooks
- National Code of Forest Harvesting Practices in Myanmar, 2000
- Reduced Impact Logging Guidelines, 2008

<p>Indicator 2.3.3: Timber species harvested are authorized by the forestry administration plans</p>	<p>Under MSS only selected timber species are harvested. The locality and the number or volume of trees to be extracted is prescribed in the District Forest Management Plan (DFMP). DFMPs are revised every 10 years and approved by the Minister, Ministry of Environmental Conservation and Forestry (MOECAF). Annual operational plans are prepared based on DFMP for each forest district and for the country as a whole.</p> <p>Verify the compliance with:</p> <ol style="list-style-type: none"> 1. District Forest Management Plan 2. Annual extraction plan of FD and MTE <p>Legal references:</p> <ul style="list-style-type: none"> • Annual extraction plan • District Forest Management Plan • National Code of Forest Harvesting Practices in Myanmar, 2000
<p>PRINCIPLE 3: TRANSPORTATION OF LOGS AND WOOD PRODUCTS</p>	
<p>Criterion 3.1: Clear evidence of documents and licenses for companies and carriers involved in timber products transportation shall be demonstrated in accordance with the laws and regulations</p>	
<p>Indicator 3.1.1: Trucks and other vehicles transporting forest products have a valid registration license and number</p>	<p>According to the Road Transport Department’s regulations, every vehicle in the country must be registered at the said department and have a license and a number. And the Department of Construction allows only the registered vehicles to travel on the public roads carrying not more than the loads prescribed based on the conditions of the road.</p> <p>The vehicles used for the transport of forest products must also be registered at the FD and at the Company.</p> <p>Verifiers include:</p> <ol style="list-style-type: none"> 1. Registered vehicle number 2. Vehicle license 3. Annual license and tax receipts <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000

	<ul style="list-style-type: none"> • Highway Act and Highway related Acts ,2002 • National Code of Forest Harvesting Practices in Myanmar, 2000
<p>Indicator 3.1.2: Companies transporting wood between islands must have valid license.</p>	<p>Verify that:</p> <ol style="list-style-type: none"> 1. Barges and towing boats transporting forest products have valid license permit from FD and the authorized company, and 2. Trucks and other heavy equipment have valid license and registration at the FD and the authorized company. <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000 • FD and Company contract terms • Highway Act • Transport regulations
<p>Criterion 3.2: Clear evidence of documents and corresponding markings of timber products for transport shall be demonstrated by companies and carriers in accordance with the laws and regulations</p>	
<p>Indicator 3.2.1: Stumps and logs of harvested trees are hammer marked or painted according to regulations.</p>	<p>Verify that:</p> <ol style="list-style-type: none"> 1. Hammers to be used in harvesting operations are registered at District FD offices. 2. MTE/Company hammer marks are put on stumps and logs. 3. <i>Akawk</i> (or royalty) marks and personal hammer marks of MTE and FD measuring officers on the measured logs. <p>Hammers include:</p> <ol style="list-style-type: none"> 1. <i>Akawk</i> (revenue-FD) hammer 2. Area hammer 3. A-Y hammer 4. Company hammer 5. Green timber hammer 6. Numbering star hammer 7. Personal hammer 8. Refuse hammer 9. Star hammer 10. Year hammer

	<p>MTE departmental instruction (Extraction Dept) no. 11 dated 3-3-58 instructs the responsible staff member how and where to put these hammer marks.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000 • Forest Law, 1992 • MTE Extraction Manual • National Code of Forest Harvesting Practices in Myanmar, 2000
<p>Indicator 3.2.2: Logs and billets of timber in forest yards or depots are marked according to regulations to enable tracing</p>	<p>Verify that the hammer marks are placed as follows:</p> <p>On the stump:</p> <ol style="list-style-type: none"> 1. Area hammer mark (hm) 2. Company's property hm 3. Personal hm, 4. Number showing the no. of logs obtained from that tree and 5. Girdled tree serial number <p>On the log:</p> <ol style="list-style-type: none"> 1. Area hm 2. Log number 3. Company's property hm 4. Personal hm 5. Girdled tree serial number <p>Formerly, the Royalty hm was placed at the stump. But the current practice has been to put it at measuring point or depot where royalty measurements take place.</p> <p><i>Note: The process enables the traceability of the origin of the timber.</i></p> <p>Verify that the logs and the billets at the depot bear the necessary hammer marks.</p>

	<p>Legal references:</p> <ul style="list-style-type: none"> • Departmental Instructions for Forest Officers in Burma, 1944 • Departmental Instructions for MTE Extraction Department, 2000 • MTE Extraction Manual • National Code of Forest Harvesting Practices in Myanmar, 2000 • Standing Orders of FD and MTE
<p>Indicator 3.2.3: Production reports completed according to regulations.</p>	<p>According to departmental instructions of both FD and MTE for extraction staff</p> <ol style="list-style-type: none"> 1. Deputy Manager of Extraction Dept of MTE inspects the area after the completion of extraction. If he is satisfied that the extraction has been successfully finished he prepares the Completion report of harvesting. Then, MTE duly submits this report to FD. The compartment or area where extraction has taken place is given back to FD within 8 months, and 2. Later, FD conducts post- harvest assessment of the area. <p>Verify that the appropriate reports have been submitted.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • DI of the MTE Extraction Dept., Instruction no. 19, dated 10-12-57 • MTE Extraction Manual • National Code of Forest Harvesting Practices in Myanmar, 2000 • Standing Orders (FD & MTE)
<p>Indicator 3.2.4: Log transportation documents are completed prior to departure from harvesting sites and are retained throughout transportation</p>	<p>Check the following documents:</p> <ol style="list-style-type: none"> 1. Contract terms 2. Harvesting permit 3. Transport permit 4. Removal pass <p><i>Notes: Transport permit is issued by MTE to subcontractors to transport logs from the forest to logyards. Removal pass is the permit issued by a township forest officer or any authorized forest officer to the lawful owner of the timber to transport beyond his township.</i></p>

	<p>Legal references:</p> <ul style="list-style-type: none"> • MTE Extraction Manual • Standing Orders of FD & MTE • National Code of Forest Harvesting Practices in Myanmar, 2000 • DI of the MTE Extraction Dept., Instruction no. 19, dated 10-12-57
<p>PRINCIPLE 4: PROCESSING REGULATIONS</p>	
<p>Criterion 4.1: Clear evidence of documents and licenses for companies involved in timber processing shall be demonstrated in accordance with the laws and regulations</p>	
<p>Indicator 4.1.1: Licenses related to timber processing plants should be available for inspection from the company</p>	<p>Verify that the Company has the following updated documents:</p> <ol style="list-style-type: none"> 1. Company registration license 2. Logging permits 3. Log removal passes/trucking slips 4. Transport permits 5. Sawmill license 6. Mill and depot log book 7. Export license 8. Export quota awards <p>Legal references:</p> <ul style="list-style-type: none"> • Commercial Tax Law • Foreign Investment Law, 2012 • Forest Law, 1992 • Myanmar Citizens Investment Law, 1994 • Myanmar Companies Act, 1914 <p><i>Note: Section 30 of the Forest Law 1992 states that a private entrepreneur who is desirous of establishing a sawpit, sawmill, tongue-and-groove mill, plywood mill, veneer mill or a wood-based industry with the exception of wood-based cottage industries and furniture industries has the right to establish the same only after obtaining a permit from the Forest Officer empowered for this purpose.</i></p>

Criterion 4.2: Timber processing companies are subject to stated conditions within the laws and regulations	
<p>Indicator 4.2.1: The timber processing and trading facility has wood log books</p>	<p>Verify that:</p> <ol style="list-style-type: none"> 1. Wood log books are maintained and up to date <p><i>Note: Data on timber entering and exiting the facility must be recorded within one day of the transaction and log books are provided and guided by the township forest department</i></p> <ol style="list-style-type: none"> 2. The following records and reports are in place: <ul style="list-style-type: none"> • Records of inputs and outturn are in place • Inspection and monitoring reports by FD • Inspection and monitoring of the operations report by different levels of MTE staff <p><i>Note: Output (Value-added products) from a wood processing plant</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Forest Law, 1992 • Inspection records of FD and MTE officials • National Code of Forest Harvesting Practices in Myanmar, 2000 • Sawmill license terms
<p>Indicator 4.2.2: All raw material received by the wood processing facility must be accompanied by sale contracts and official sales invoice</p>	<p>Verify that the enterprise has sales contracts for each transaction in the supply chain to the processing facility.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Export quota awards • Forest Law, 1992 • Official receipts from auctions • Tax/revenue invoices and receipts
PRINCIPLE 5: IMPORT AND EXPORT REGULATIONS	
Criterion 5.1: Clear evidence of license/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 holds an export/import license</p>	<p>The export/import companies must be members of Timber Merchant Association and Union of Myanmar Federation of Commerce and Industry (UMFCCI)</p>

	<p>Verify the existence of :</p> <ul style="list-style-type: none"> • Export/Import license by the Directorate of Trade, Ministry of Commerce <p>Legal references:</p> <ul style="list-style-type: none"> • Control of Imports and Exports Act • Foreign Investment Law, 2012 • Foreign Investment Rules, 2013 • Myanmar Citizens Investment Law, 1994
<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</p>	<p>Verify the existence of the following:</p> <ol style="list-style-type: none"> 1. Certificate recommending the legality of the products, provided by FD 2. Certificate of Country of Origin (COC) provided by UMFCCI and MTMA 3. Export license 4. Customs' export declaration form and supporting documents 5. Invoices 6. Bills of lading <p>Legal references:</p> <ul style="list-style-type: none"> • Control of Imports and Exports Act • Forest Law, 1992 • Myanmar Custom Act • Plant Quarantine Law
<p>Criterion 5.3: Timber products import and export companies are subject to stated conditions within the laws and regulations</p>	
<p>Indicator 5.3.1: All species exported /imported are authorized by the appropriate agency under existing regulations</p>	<ol style="list-style-type: none"> 1. Both logs and value-added forest products can be exported from Myanmar from 1 April 2013 until 31 March 2014. The export of logs will be banned starting from 1 April 2014 until 31 March 2015. The forests in the country are managed under MSS which allows the extraction of mature trees of all commercial species. No restriction is made in the choice of species for export. 2. Imported species¹⁰ need to undergo quarantine by the Ministry of Agriculture and Irrigation.

¹⁰ The ministries involved are Ministry of Agriculture and Irrigation (MOAI) and MOECAI. The export of a CITES species needs permission of the Director-General of FD.

	<p><i>Note:</i></p> <ul style="list-style-type: none"> • Myanmar government fiscal year starts on 1st April of the current year and ends on 31st March of the next year. • Import and export of an exotic species need permission from Plant Quarantine Department under MOAI. • If it is a CITES species it needs permission from the DG of FD. <p>Legal references:</p> <ul style="list-style-type: none"> • Certificate of FD recommending the legality of the products • Control of Imports / Exports Act • Myanmar Custom Act • Plant Quarantine Law
PRINCIPLE 6: ENVIRONMENTAL REGULATIONS	
Criterion 6.1: State/Company conducts environmental impact assessments or other required assessments within the laws and regulations	
<p>Indicator 6.1.1: Environmental impact assessments must be conducted according to regulations and approved by the relevant authorities</p>	<p>The Environmental Conservation Law was enacted on 30 March 2012 and the formulation of Rules followed immediately in the same year. Until then, EIA was compulsory for all development projects and actions. The EIA procedure has now been formulated by MOECAAF and adopted. The EIA procedure has identified the environmental standards and the projects that must submit EIA reports.</p> <p><i>Note: MTE and its sub-contractors have not been required to have EIA so far. But now with the promulgation of the concerned legal framework and the adoption of the EIA procedure, they will need to submit EIA reports in the near future.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Environmental Conservation Law, 2012 • Environmental Conservation Rules, 2013 • Environmental Impact Assessment (EIA) procedure, 2013 • Forest Law 1992

PRINCIPLE 7: CONSERVATION REGULATIONS	
Criterion 7.1: State/company conducts conservation assessment/evaluation within the laws and regulations	
Indicator 7.1.1: Fragile sites are identified during the forestry inventory according to regulations and guidelines of the forest authorities and other relevant agencies	<p>The forests in Myanmar are classified into Reserved Forests (RF), Protected Public Forests (PPF), Protected Areas System (PAS) and Public Forests (PF). RF, PPF and PAS together constitute Permanent Forest Estate (PFE). No activity is allowed on PFE without the permission of MOECAAF.</p> <p>PAS includes parks, national parks and wildlife sanctuaries. These together with their buffer zones are protected in compliance with the “Protection of Wildlife and Conservation of Natural Areas Law, 1994”. This Law empowers the Director-General of FD, with the approval of the Minister, to determine and declare endangered species of wild animals and plants which are to be protected 1/completely 2/ normally and 3/ seasonally.</p> <p>FD initiated national forest inventory (NFI) in 1980-81. The NFI and management inventories done as required assess not only forest resources but accessibility, topography and forest ecosystems.</p> <p>Check:</p> <ol style="list-style-type: none"> 1. NFI records 2. Forest and wildlife management plans 3. FD’s declaration of list of endangered wildlife species
Indicator 7.1.2: Nationally protected species of flora and fauna must be identified in the forest management plan	<p>Legal references:</p> <ul style="list-style-type: none"> • District Forest Management Plan • Environmental Conservation Law, 2012 • Forest Law, 1992 • Protection of Wildlife and Conservation of Natural Areas Law, 1994
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 laws and regulations	

<p>Indicator 8.1.1: The forest company must respect the property of local communities</p>	<p>Customary rights are provided to some indigenous people residing in the forests, but they are not legally supported. They are respected by the FD and forest workers.</p> <p>The 2008 National Constitution stipulates that the properties of the citizens must be protected by the State legally.</p> <p>Undertake:</p> <ol style="list-style-type: none"> 1. Site visits and interviews with stakeholders <p>Legal references:</p> <ul style="list-style-type: none"> • Forest Law, 1992 • The Constitution of the Union of Myanmar 2008, Section 356 and 357
<p>Indicator 8.1.2: When workers are hired from local communities/indigenous people they are paid in accordance with legal provisions</p>	<p>The State has prescribed minimum wages for workers and their legitimate rights.</p> <p>Check:</p> <ol style="list-style-type: none"> 1. Meet with workers 2. Interview workers 3. Check workers' pay slips/receipts <p>Legal references:</p> <ul style="list-style-type: none"> • CFI, 1995 • Employment and Training Act, 1950 • Employment Restriction Law, 1959 • Factories Act, 1951 • Forest Law, 1992 • Leave and Holiday Act, 1951 • Minimum Wages Act, 1949 • Payment of Wages, 1936 • Social Security Act, 1954 • Workman's Compensation Act, 1923
<p>Indicator 8.1.3: The company must make financial contributions in a timely manner to community</p>	<p>Financial contributions for community development to be made by company or an individual are not compulsory by Law in Myanmar. The term may be</p>

<p>development program.</p>	<p>included in the contract.</p> <p>The Environmental Conservation Law 2012 considers the use of PES (Payment for environmental Service).</p> <p>Donations are usually made and made out of one's own will for the welfare of the community and for religious affairs.</p> <p>Conduct:</p> <ol style="list-style-type: none"> 1. Interview with community 2. Field check and inspection <p>Legal references:</p> <ul style="list-style-type: none"> • EIA procedure, 2013 • National Code of Forest Harvesting Practices in Myanmar, 2000 • The Environmental Conservation Law 2012 • The Environmental Conservation Rules 2013
<p>Criterion 8.2: Company recognizes legal or customary rights of indigenous/local people in accordance with the laws and regulations</p>	
<p>Indicator 8.2.1: User rights of local communities in the forestry concessions are recognized and respected</p>	<p>Section 17 of the Forest Law (1992) permits the extraction of forest produce in an amount not exceeding the stipulated quantity if it is for domestic or agricultural or piscatorial use not on a commercial scale. Section 18 permits the extraction of forest produce 1/ for research and education work and 2/ work beneficial to the public or religious work.</p> <p>The CFI 1995 grants the concerned community the right to use the forest land¹¹ and the forest for 30 years initially which is extendable and inheritable.</p> <p>Check:</p> <ol style="list-style-type: none"> 1. Meet with the community and verify that their rights are being respected. <p><i>Note: Forest Users' Groups are allowed to use the land, the forest and both the timber and NTFPs they produce on this land.</i></p>

¹¹ Also includes timber harvesting.

	<p>Legal references:</p> <ul style="list-style-type: none"> • CFI, 1995 • Forest Law, 1992 • National Code of Forest Harvesting Practices in Myanmar, 2000
Criterion 8.3: Company complies with the laws and regulations on its employees' and workers' rights	
Indicator 8.3.1: The company respects the freedom of its workers to participate in labour union activities	There were no labor unions under the previous governments. The current government will allow establishing them, but still none exists as yet.
	<p>Legal references:</p> <ul style="list-style-type: none"> • Constitution of the Republic of the Union of Myanmar (2008), Chapter 8, Section 354 (c).
Indicator 8.3.2: Relations between the company and its employees have been formalized with respect to legal provisions	<p>The NCFHP has recommended social welfare facilities that MTE/contractor should provide to its employees (Section 7.10).</p> <p>Visit site, meet workers and inspect/inquire:</p> <ol style="list-style-type: none"> 1. Worker contract between the company and the workers 2. School for children 3. Dispensary 4. Yearly/monthly medical-check up for malaria infection 5. Provision of dispensary, vaccine and first-aid medical care sets 6. Readjustment for low-salary forest workers according to local tariffs/standards 7. Increased incentives/rewards 8. Improvement of health conditions of seasonal and permanent forest worker
	<p>Legal references:</p> <ul style="list-style-type: none"> • National Code of Forest Harvesting Practices in Myanmar, 2000 • Worker contract between the company and the workers • Workman's Compensation Act, 1923 • Departmental instruction no.111 dt 18-3-69; Compensation for workers (MTE)
Criterion 8.4: Company complies with the laws and regulations of its employees' and workers' welfare	

<p>Indicator 8.4.1: The company workers are paid in compliance with the regulations applicable to their sector of activity</p>	<p>Verify that the company pays workers minimum wages in compliance with the Government regulations and the contract terms.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Minimum Wages Act, 1949 • Worker contract between the company and the workers • Workman’s Compensation Act,1923
<p>Indicator 8.4.2: Sanitary and safety conditions for workers comply with the legislation in force</p>	<p>Visit site and verify:</p> <ol style="list-style-type: none"> 1. Whether safety measures have been or are being undertaken, and 2. General hygiene standards of working environment being satisfied as recommended in Section 10 and 9 respectively of NCFHP. <p>Legal references:</p> <ul style="list-style-type: none"> • National Code of Forest Harvesting Practices in Myanmar, 2000.
<p>Indicator 8.4.3: Working hours applied by the company comply with legal provisions</p>	<p>Investigate at meetings with workers to realize whether working hours prescribed by Government regulations are being respected.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Employment and Training Act (1950) • Factories Act, 1951 • Government regulations regarding working hours
<p>Indicator 8.4.4: Recruitment of workers respects age criteria set by national legislation and the International Labour Organization (ILO)</p>	<p>Meet with workers and verify that their selection has complied with the age criteria set by national legislation and the ILO.</p> <p>Legal references:</p> <ul style="list-style-type: none"> • Employment and Training Act, 1950 • Labor Law
<p>PRINCIPLE 9: TAXES, FEES AND ROYALTIES</p>	
<p>Criterion 9.1: The company fills in its tax returns in accordance with its effective professional activity</p>	
<p>Indicator 9.1.1: Royalty payments are paid according to regulation</p>	<p>Section 21(c) of the Forest Law 1992 stipulates that a person who has obtained permission for extraction of forest produce shall pay the royalties, security deposits and advances due.</p> <p>The most effective method of control of extraction is measurement at stump. However, ordinarily, measurement for royalty is made at a convenient spot on</p>

	<p>a main extraction track inside the felling area, and logs are <i>akauk</i>-marked (duty-paid hammer mark). No logs without <i>akauk</i>-marks are allowed to be removed from the marking place. Royalty rates vary with tree species or species groups.</p> <p>Verify:</p> <ol style="list-style-type: none"> 1. <i>Akauk</i>-marks on extracted logs 2. Tax invoices and receipts <p>Legal references:</p> <ul style="list-style-type: none"> • Accepted statement prepared by FD and MTE for settlement of royalty by MTE • Departmental Instructions for Forest Officers in Burma, 1944 • Forest Law, 1992
<p>Indicator 9.1.2: Tax returns on timber processing comply with rules and regulations</p>	<p>Value added tax does not exist in Myanmar.</p> <p>However, MTE to confirm the existence of the following documents:</p> <ol style="list-style-type: none"> 1. Royalty payment to FD 2. Form B for felling 3. Form C for logging 4. Form D for stumping 5. Trucking Voucher 6. Depot register 7. Accepted Statement (AS) 8. Trucking Slip/removal pass and revenue hammer on logs <p>Private company to confirm existence of the following documents as proof of payment:</p> <ol style="list-style-type: none"> 1. Tax receipts 2. Invoices <p><i>Note:</i></p> <ol style="list-style-type: none"> 1. For MTE, AS and invoice or voucher of royalty payment to FD can be sufficient to prove that MTE has made payment to FD. Other documents will show that MTE has extracted timber in compliance with the standing

	<p><i>departmental instructions and the set procedure. They can be excluded if considered not essential.</i></p> <p><i>2. For the sub-contractors, tax payments are made to MTE. Tax receipts and invoices are from MTE.</i></p> <p>Legal references:</p> <ul style="list-style-type: none"> • Annual harvest plan • Departmental Instructions for Forest Officers in Burma,1944 • District Forest Management Plan • Forest Law, 1992 (Sections 10 and 11) • Forest Rules, 1995 • Commercial Tax Law • Forest Law 1992 • Income Tax law • Myanmar Companies Act, 1914 • Myanmar Customs Act
<p>Indicator 9.1.3: Tax returns on trade in timber are done in compliance with rules and regulations</p>	<p>MTE to confirm the existence of the following documents:</p> <ol style="list-style-type: none"> 1. Royalty payment to FD 2. Form B for felling 3. Form C for logging 4. Form D for stumping 5. Trucking Voucher 6. Depot register 7. Accepted Statement (AS) 8. Trucking Slip/removal pass and revenue hammer on logs <p>Private company to confirm existence of the following documents as proof of payment:</p> <ol style="list-style-type: none"> 1. Tax receipts 2. Invoices <p>Legal references:</p> <ul style="list-style-type: none"> • Annual harvest plan • Departmental Instructions for Forest Officers in Burma,1944

	<ul style="list-style-type: none"> • District Forest Management Plan • Forest Law, 1992 (Sections 10 and 11) • Forest Rules, 1995 • Commercial Tax Law • Forest Law 1992 • Income Tax law • Myanmar Companies Act, 1914 • Myanmar Customs Act
<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>Section 21(c) of the Forest Law 1992 stipulates that a person who has obtained permission for extraction of forest produce shall pay the royalties, security deposits and advances due.</p> <p>Log measurement for royalty is made by FD Revenue Assistant or Revenue Marker (usually Deputy Ranger) and Company representative, and logs are <i>akauk (royalty)</i>-marked (duty-paid hammer mark) either at stump or at log yard. No logs without <i>akauk</i>-marks are allowed to be removed from the marking place. Base on the log measurements FD and MTE prepare AS and the royalty due by MTE to FD is calculated. Royalty rates vary with tree species or species groups.</p> <p>Check:</p> <ol style="list-style-type: none"> 1. <i>Akauk</i>-marks on extracted logs 2. Tax invoices and receipts <p>Legal references:</p> <ul style="list-style-type: none"> • Accepted statement prepared by FD and MTE for settlement of royalty by MTE • Departmental Instructions for Forest Officers in Burma, 1944 • Forest Law 1992 • MTE extraction manual and standing orders

<p>Indicator 9.2.2: All taxes linked to timber processing operations are paid on time¹²</p>	<p>Verify that all related taxes have been paid:</p> <ul style="list-style-type: none"> • Commercial tax • Income tax • Export/Import tax, etc.
<p>Indicator 9.2.3: All taxes linked to export and import of forest products are paid on time</p>	
<p>Legal references:</p> <ul style="list-style-type: none"> • Commercial Tax Law • Control of Imports and Exports Act • Forest Law 1992 • Income Tax Law • Myanmar Companies Act, 1914 • Myanmar Customs Act 	
<p>PRINCIPLE 10: SUBCONTRACTORS AND PARTNERS</p>	
<p>To date MTE has been granted by the Government the sole right to extract teak and other hardwoods in the country. It has been sub-contracting about 75% of the extraction to local timber companies. However, this policy could change, may be in the near future, with increasing democratization and privatization strategies of the current democratic government. If this happens, FD shall use the competitive bidding system in permitting the extraction of forest produce, if it is on a commercial scale, according to Section 18 of the Forest Law 1992.</p>	

¹² Myanmar export has not included timber of tree species that are listed as endangered in CITES' appendices.

Acronyms

AAC	<i>Annual Allowable Cuts</i>
AS	<i>Acceptance Statement</i>
C & I	<i>Criteria and Indicators</i>
CFC	<i>Community Forestry Certificate</i>
CFI	<i>Community Forestry Instructions</i>
CFMG	<i>Community Forest Users' Group</i>
CoC	<i>Certificate of Country of Origin</i>
DFMP	<i>District Forest Management Plan</i>
DG	<i>Director General</i>
DI	<i>Departmental Instructions</i>
DFO	<i>District Forest Officer</i>
DI FD	<i>Departmental Instructions for Forest Officers in Burma, 1944</i>
DI MTE	<i>Departmental Instructions for MTE Extraction Department, 2000</i>
ECCDI	<i>Ecosystem Conservation and Community Development</i>
EIA	<i>Environmental Impact Assessment</i>
FD	<i>Forest Department</i>
FMP	<i>Forest Management Plan</i>
GBH	<i>Girth at breast height</i>
ILO	<i>International Labour Organization</i>
MIC	<i>Myanmar Investment Commission</i>
MNPED	<i>Ministry of National Planning and Economic Development</i>
MOAF	<i>Ministry of Agriculture and Forestry</i>
MOAI	<i>Ministry of Agriculture and Irrigation</i>
MOECAF	<i>Ministry of Environmental Conservation and Forestry</i>
MP	<i>Master Plan</i>
MSS	<i>Myanmar Selection System</i>
MTE	<i>Myanmar Timber Enterprise</i>
MTMA	<i>Myanmar Timber Merchants Association</i>
NCFHP	<i>National Code of Forest Harvesting Practices in Myanmar, 2000</i>
NFI	<i>National Forest Inventory</i>
NWFP	<i>Non-wood Forest Product</i>

<i>NTFP</i>	<i>Non-timber Forest Product</i>
<i>PAS</i>	<i>Protected Areas System</i>
<i>PF</i>	<i>Public Forest</i>
<i>PFE</i>	<i>Permanent Forest Estate</i>
<i>PPF</i>	<i>Protected Public Forest</i>
<i>PTC</i>	<i>Private Timber Companies</i>
<i>RIL</i>	<i>Reduced Impact Logging Guidelines, 2008</i>
<i>SF</i>	<i>Selection Felling</i>
<i>SFM</i>	<i>Sustainable Forest Management</i>
<i>SLRD</i>	<i>Settlement and Land Records Department</i>
<i>TOR</i>	<i>Terms of Reference</i>
<i>UMFCCI</i>	<i>The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry</i>

List of Documents, Laws and Regulations

1. Accepted statement prepared by FD and MTE for settlement of royalty by MTE
2. Agreement between President of Union of Burma and State Timber Board (MTE) on felling, logging, transportation and taxation of teak in permitted areas, July 15, 1959.
3. Agreement between the FD and the MTE/Contractor
4. Annual harvest plan of the contractor approved by FD
5. Certificate of FD recommending the legality of the products
6. Commercial Tax Law
7. Community Forestry Certificate- CFC (permission by FD to establish CF)
8. Community Forestry Instructions, 1995
9. Contract between investor and FD for investing in forest plantation
10. Control of Imports and Exports Act
11. Departmental instruction no.111 dt 18-3-69 Compensation for workers, MTE
12. Departmental Instructions for Forest Officers in Burma, 1944
13. Departmental Instructions for MTE Extraction Department, 2000
14. District Forest Management Plan
15. Employment and Training Act ,1950
16. Employment Restrict Act, 1959
17. Environmental Conservation Law, 2012

18. Environmental Conservation Rules, 2013
19. Environmental Impact Assessment (EIA) procedure, 2013
20. Export quota awards
21. Extraction contract of MTE with its sub-contractors
22. Extraction Manual (MTE)
23. Factories Act, 1951
24. Fallow Land, Vacant Land and Wild Land Law, 2012
25. FD and Company contract terms
26. FD- Girdling instructions
27. FD's 30-yr Master Plan
28. FD's annual plan of operation
29. FD-SF marking instructions
30. Foreign Investment Law, 2012
31. Foreign Investment Rules, 2013
32. Forest Department letter no. Planning / Tha-12(10418-36/2011) dt (7/10/11)
33. Forest Law 1992
34. Forest Rules, 1995
35. Girdling and SF notebooks
36. Government regulations regarding working hours
37. Highway Act and Highway Related Acts, 2002
38. Income Tax Law, 1999
39. Inspection records of FD and MTE officials
40. Labor Law
41. Leave and Holiday Act, 1951
42. Minimum Wages Act, 1949
43. Ministry of Transport regulations
44. MTE extraction manual and standing orders
45. Myanmar Citizens Investment Law, 1994
46. Myanmar Companies Act, 1914
47. Myanmar Companies Rules, 1940
48. Myanmar Custom Act
49. Myanmar Selection System
50. National Code of Forest Harvesting Practices in Myanmar, 2000
51. Official audit reports

52. Official receipts from auctions
53. Payment of Wages, 1936
54. Plant Quarantine Law
55. Procedures Relating to Myanmar Citizens Investment Law, 1994
56. Protection of Wildlife and Conservation of Natural Areas Law, 1994
57. Reduced Impact Logging Guidelines, 2008
58. Sawmill license terms
59. SLRD records (maps)
60. Social Security Act, 1954
61. State Timber Board Order, 1948 (in “the Ministry of Forestry, Myanma Timber Enterprise, Golden Jubilee Commemorative Issue, 1998
62. Sustainable Forest Management Criteria and Indicators
63. Tax/revenue invoices and receipts
64. The Constitution of the Union of Myanmar, 2008
65. The State Timber Board Act, 1950
66. The State-owned Economic Enterprises Law, 1989
67. Transport permits
68. Transport regulations
69. Worker contract between the company and the workers
70. Workman’s Compensation Act, 1923

Laws and Regulations Related to the Principles:

Principle 1: Access, Use Rights and Tenure

1. Agreement between President of Union of Burma and State Timber Board (MTE) on felling, logging, transportation and taxation of teak in permitted areas, July 15, 1959.
2. Agreement between the FD and the MTE/Contractor
3. Annual harvest plan of the contractor approved by FD
4. Community Forestry Certificate- CFC (permission by FD to establish CF)
5. Community Forestry Instructions, 1995
6. Contract between investor and FD for investing in forest plantation
7. Contractor’s harvest plan
8. Control of Import Export Act

9. Departmental Instructions for Forest Officers in Burma, 1944
10. Departmental Instructions for MTE Extraction Department, 2000
11. District Forest Management Plan
12. Extraction Manual (MTE)
13. Fallow Land, Vacant Land and Wild Land Law, 2012
14. FD's annual plan of operation
15. Foreign Investment Law, 2012
16. Forest Department letter no. Planning / Tha-12(10418-36/2011) dt (7/10/11)
17. Forest Law, 1992
18. Forest Policy, 1995
19. Forest Rules, 1995
20. Myanmar Companies Rules, 1940
21. Myanmar Company Act, 1914
22. Myanmar Selection System
23. Official audit reports
24. SLRD records (maps)
25. State Timber Board Order, 1948 (in "the Ministry of Forestry, Myanmar Timber Enterprise, Golden Jubilee Commemorative Issue, 1998
26. The Commercial Tax Law, 1990
27. The State Timber Board Act, 1950
28. The State-owned Economic Enterprises Law, 1989 Section 3 a & b)
29. The Union of Myanmar Foreign Investment Law, 2012

Principle 2: Harvesting Regulations

1. Annual extraction plan
2. Departmental Instructions for Forest Officers in Burma, 1944
3. Departmental Instructions for MTE Extraction Department, 2000
4. District Forest Management Plan
5. Environmental Conservation Law, 2012
6. Extraction contract of MTE with its sub-contractors
7. FD- Girdling instructions
8. FD's 30-yr Master Plan
9. FD's annual work plan
10. FD-SF marking instructions
11. Forest Law 1992

12. Girdling and SF notebooks
13. Ministry of Transport regulations
14. MTE extraction manual and standing orders
15. MTE's extraction plan
16. National Code of Forest Harvesting Practices in Myanmar, 2000
17. Reduced Impact Logging Guidelines (2008),
18. Sustainable Forest Management Criteria and Indicators
19. Transport permits

Principle 3: Transportation of Logs and Wood Products

1. FD and Company contract terms
2. Departmental Instructions for Forest Officers in Burma, 1944
3. Departmental Instructions for MTE Extraction Department, 2000 (Instruction no. 19, dated 10-12-57)
4. Forest Law, 1992
5. Highway Act and Highway Related Acts, 2002
6. MTE extraction manual and standing orders
7. National Code of Forest Harvesting Practices in Myanmar, 2000
8. Transport regulations

Principle 4: Processing Regulations

1. Commercial Tax Law
2. Export quota awards
3. Foreign Investment Law, 2012
4. Forest Law, 1992
5. Inspection records of FD and MTE officials
6. Myanmar Citizens Investment Law, 1994
7. Myanmar Companies Act, 1914
8. National Code of Forest Harvesting Practices in Myanmar, 2000
9. Official receipts from auctions
10. Procedures Relating to Myanmar Citizens Investment Law, 1994
11. Sawmill license terms
12. Tax/revenue invoices and receipts

Principle 5: Import and Export Regulations

1. Certificate of FD recommending the legality of the products
2. Control of Imports and Exports Act
3. Foreign Investment Law, 2012
4. Foreign Investment Rules, 2013
5. Forest Law, 1992
6. Myanmar Citizens Investment Law, 1994
7. Myanmar Custom Act
8. Plant Quarantine Law

Principle 6: Environmental Regulations

1. Environmental Conservation Law, 2012
2. Environmental Conservation Rules, 2013
3. Environmental Impact Assessment (EIA) procedure, 2013
4. Forest Law, 1992

Principle 7: Conservation Regulations

1. District Forest Management Plan
2. Environmental Conservation Law, 2012
3. Environmental Conservation Rules, 2013
4. Forest Law, 1992
5. Protection of Wildlife and Conservation of Natural Areas Law, 1994

Principle 8: Social Regulations

1. Community Forestry Instructions, 1995
2. Departmental instruction no.111 dt 18-3-69 Compensation for workers, MTE
3. EIA procedure, 2013
4. Employment and Training Act ,1950
5. Employment Restrict Act, 1959
6. Factories Act, 1951
7. Forest Law, 1992

8. Government regulations regarding working hours
9. Labor Law
10. Leave and Holiday Act, 1951
11. Minimum Wages Act, 1949
12. National Code of Forest Harvesting Practices in Myanmar, 2000
13. Payment of Wages, 1936
14. Social Security Act, 1954
15. The Constitution of the Union of Myanmar, 2008 (Section 356 and 357)
16. The Environmental Conservation Law, 2012
17. The Environmental Conservation Rules, 2012
18. Worker contract between the company and the workers
19. Workman's Compensation Act, 1923

Principle 9: Taxes, Fees and Royalties

1. Accepted statement prepared by FD and MTE for settlement of royalty by MTE
2. Commercial Tax Law
3. Control of Imports and Exports Act
4. Departmental Instructions for Forest Officers in Burma, 1944
5. Forest Law 1992
6. Income Tax Law, 1999
7. MTE extraction manual and standing orders
8. Myanmar Companies Act, 1914
9. Myanmar Customs Act

PRINCIPLE 10: Subcontractors and Partners

LIST OF KEY STAKEHOLDERS

SN	Name	Contact
1	Ministry of Environmental Conservation and Forestry (MOECAF)	Head of Office, MOECAF, Nay Pyi Taw, Union of Myanmar. Phone: 067 405 004, 405 072, 405 084
2	Planning and Statistics Department, MOECAF	Office No.(28),Nay Pyi Taw Phone: 95-067 405392, 405 374, 405 083
3	Forest Department, MOECAF	Office No.(39),Nay Pyi Taw Phone: 95-067 405019, 405 397, 405 136
4	Department of Environmental Conservation, MOECAF	Office No.(53),Nay Pyi Taw Phone: 95-067 431 329
5	Dry Zone Greening Department, MOECAF	Nay Pyi Taw Phone: 95-067 405 387, 405 010
6	Myanma Timber Enterprise,MOECAF	Nay Pyi Taw Phone: 95-067 405086, 405 089, 405 078
7	Chairman, Myanmar Forest Certification Committee (MFCC), MOECAF	Forest Dept., Gyogon, Yangon Phone: 95-1-
8	UMFCCI	29, 2 nd Floor, Min Ye KyawSwar Rd., Ward 8, Lanmadaw. Phone: 95-1-214344, 214345,214346, 214347-9
9	MTMA	No. 29, Min Ye KyawSwa Street, Lanmadaw Township, Yangon. Tel: 95-1-214839;95-1-214840
10	MOAI	Office No.(15),Nay Pyi Taw Phone: 95-067 410004, 410010
10	Department of Agricultural Planning, MOAI	Office No.(15),Nay Pyi Taw Phone: 95-067 410 110
11	Department of Agriculture, MOAI	Office No.(15),Nay Pyi Taw Phone: 95-067 410382
12	SLRD, MOAI	Office No.(15),Nay Pyi Taw Phone: 95-067 410014
13	Department of Irrigation, MOAI	Office No.(43),Nay Pyi Taw Phone: 95-067 410 315
14	General Administration Department, Ministry of Home Affairs	Office No.(10),Nay Pyi Taw Phone: 95-067 412074, 412 075, 412 417
15	CSOs, NGOs	

1. INTRODUCTION

Myanmar has practiced systematic forest management since 1856. At its initiation natural forests covered over 70% of the total land area of the country. But, both the extent and the quality of this invaluable natural national asset have dwindled over the decades so much so that the country is now left only with less than 40% of its area covered with quality forests. The causes have included illegal and unsystematic over logging. Subcontracting timber extraction to unskillful and irresponsible private companies has contributed a lot to forest destruction and degradation. A proper legal framework, the process of RIL and the national code of forest harvesting practices are in place; nevertheless they have not been respected enough. The framework for assessing the legality of forest operations, timber processing and trade developed as under, if effectively followed, will not only constitute an essential element of timber certification process but also contribute to restoration and sustainability of the forests in the country.

The Consultant completed this timber legality framework for Myanmar using the framework developed by GFTN-TRAFFIC.

2. BACKGROUND INFORMATION

2.1 Location and extent

Myanmar is situated between latitudes 9' 53" to 28' 25" North and longitudes 92'10" to 101' 10" East. With a total area of 676,577 km², it stretches for 2,090 km from north to south and 805 km from east to west, bordering Bangladesh in the west, India in the northwest, and People's Republic of China in the northeast, Laos PDR in the east and Thailand in the southeast. The Bay of Bengal and the Andaman Sea lie in the south and southwest of the country.

2.2 Topography

Topographically the country can be divided into four regions: the Shan plateau, the Central Region, the Western Mountain Ranges and the Ayeyawady delta and Coastal areas. The Shan plateau region may be taken as to include the extensive Shan plateau and the mountain ranges in the Kayah, the Kayin and the Mon States and the Tanintharyi Division, rising to about 1,000 m in elevation.

The Central Region includes the valleys of the Ayeyawady, Chindwin and Sittang rivers. The topography is flat to undulating except the hills of the Bago Yoma which, bearing the finest teak forests of the country, rise to about 1,000 m.

The Western Mountain Ranges comprise the Rakhine, the Chin and the Kachin hills in the west and the north of the country. The elevation in the Rakhine State varies from 1,300 m to 1,500 m and in the Chin hills between 1,500 m to 2,000 m. Mountains bordering China in the north reach an elevation of about 6,000 m.

The Ayeyawady delta and the Coastal areas region include the Ayeyawady delta and the coastal areas in the Rakhine State, the Mon State, and the Tanintharyi Division. They are alluvial plains.

2.3 Climate

Myanmar's climate is greatly influenced by the monsoon circulating system and its topography. There are three distinct seasons, i.e. hot, rainy and cool. The hot season runs from mid-February to mid-May, the rainy season from mid-May to mid-October and the cool season from mid-October to mid-February

The Rakhine mountains obstruct the south-west monsoon coming to the central Myanmar. This has led to the development of semi-arid conditions there with summer temperatures rising to more than 40° C. The rainfall is at its minimum gauging only about 500 mm annually. On the contrary, the coastal regions get as much as 5,000 mm of precipitation during the monsoon season.

The range of temperatures over the whole country is very wide. It varies from less than 0° C in the northern highlands to over 40° C in the central dry zone.

2.4 Population

The country's population was 58.38 million in 2008-09 with a growth rate of 1.52%. Over 70% of them are rural population who more or less depend on forest resources for their living.

2.5 Forest resources

The natural forests covered about 47% of the country's land area or about 31.8 million hectares in 2011 which include about 1 million ha of forest plantations. They covered approximately 66% in 1925, but have gradually depleted and degraded over the past decades. The change of forest cover during the period is illustrated in Fig 1.

2.6 Forest Management System

Myanmar Selection System (MSS) has been the main silvicultural system practiced in the management of practically all the natural forests in the country. Clear felling, simple coppice and coppice with standard systems are applied in local supply forests and fuelwood plantations.

2.7 Annual Allowable Cut (AAC)

SS prescribes the extraction of only mature trees which are identified by girth limits. That is why some forest scientists call it the girth-limit system. The annual harvest or annual allowable cut (AAC) is fixed by the number of trees above the prescribed girth limit. The AAC is regulated within net annual stand growth.

The current AACs are 147,300 trees (or 424,790 m³) for teak and 1,131,461 trees (or 1,602,034 m³) for other hardwoods.

The teak AAC was 873,500 m³ during the period from 1946-1970. Teak AAC has thus fallen by more than 50% since 1970.

MTE had extracted a total of 11.75 million m³ of teak logs and 20.1 million m³ of other hardwood logs during 20 years from 1980-81 to 1999-2000 (Kyaw Tint 2002).

2.8 Timber harvesting, milling and marketing

By MOAF's notification No.185, dated 5 April, 1948 the Burma Government constituted State Timber Board (now Myanmar Timber Enterprise-MTE), and according to the Agreement between the President of the Union of Burma and the Chairman of MTE made on July 15, 1959, MTE was granted the right of access to the forests and the extraction of teak in the designated areas across the country.

The hardwood industry was nationalized on 1 October, 1963. At present, MTE has the exclusive right for the extraction of both teak and other hardwoods. MTE extensively uses elephants (about 3,000) and buffaloes (about 1,200) for stumping and skidding of logs (r. Kyaw Tint, 2002). Mechanized logging is minimal because of difficult terrain and low per unit area yield under the selection system.

However, the capacities of MTE do not permit to fully realize the annual extraction targets. It is estimated that MTE subcontracts about 75% of its extraction target to selected local timber companies. But the selection process has not been transparent and not been done using competitive bidding system in compliance with the Forest Law 1992¹³.

Marketing and milling of forest produce for local consumption is handled by the Domestic Marketing and Milling Department, while export of logs, sawn timber and value-added forest products is done by the Export Marketing and Milling Department, both departments belonging to MTE. The MTE has 12 teak and 83 hardwood sawmills with a total sawmilling capacity of 327,600 m³ of teak and 684,900 m³ of other hardwoods. In addition, MTE owns 5 plywood mills, 5 furniture factories, 1 cane factory, 1 molding timber factory, 1 parquet and molding factory and 1 glue factory (Kyaw Tint, 2002). The total sanctioned staff of the MTE numbered 47,989.

¹³ MTE has the right to extract timber and it has not been prohibited by law to subcontract extraction. Therefore, it does not make the local timber companies illegal.

With the introduction of democracy, transparency, accountability, rule of law, predictability and stakeholder participation under good forest governance which the Myanmar Government and Ministry of Environmental Conservation and Forestry (MOECAF) have been enforcing, the monopoly in forest harvesting, processing and trade may change in the near future to fair and equitable allocation of rights and resources. This change is expected to result in effective and efficient management of the country's forests and bring about sustainable national economic development in an ecologically and socially acceptable manner.

3. REFERENCES

- Anon: Annex II of this report (List of documents, laws and regulations).
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- Kyaw Tint, Dr., 2002: Review of forestry and related legislation, policies and practices and their impacts/implications on sustainable forest management (SFM) and on the model forest approach to SFM in Myanmar (FAO Consultancy Report).
- Kyaw Tint, Dr., 2004: Natural teak forests of Myanmar: management, production and trade.

4. MAPS

LANDUSE & FOREST COVER CONDITION MAP OF MYANMAR (2010)

