

The Criteria and Indicators for Legality of Timber in Myanmar (2009)

Note: The Criteria and Indicators for Legality of Timber in Myanmar is part of the Phased-approach to Forest Certification Programme, targeting at the step-wise implementation of sustainable forest management at the forest management unit level in Myanmar.

Criteria 1: The Forest Management Enterprise holds the legal right to operate and to harvest timber at the designated forest area.

The Forest Management Enterprise (FME) shall prove that it is formally registered with relevant government authorities and has validly obtained the legal right to operate within the Forest Management Unit (FMU) under verification. The legal status of the FMU shall be clearly defined and boundaries delineated.

Indicators	Activities	Standard of Performance
<p>1.1 The FME has legal authorization to conduct forest-related business in accordance with the law and regulations of Myanmar.</p> <p>1.2 The FME has legal authorization to harvest in the FMU under verification, as proven by a valid permit or license issued pursuant to the laws and regulations governing the management of forest resources, including customary laws where legally recognized.</p>	<ul style="list-style-type: none"> • Provide the legal authorization of Forest Department (FD) to conduct forest-related business in accordance with the laws and regulations of Myanmar. • Provide the legal authorization of Myanmar Timber Enterprise (MTE) to harvest in the FMU by the Forest Management authorities. 	<ul style="list-style-type: none"> ○ Forest Law entrusted the Forest Department to manage the forest lands. ○ The State Timber Board Act, 1950 ○ Organization of State Timber Board by order No 134 in 1948 of Ministry of Agriculture and Forests.

Indicators	Activities	Standard of Performance
<p>1.3 The FMU is unambiguously delineated and dedicated to forest utilization.</p>	<ul style="list-style-type: none"> • Describe the delineation of the boundaries of FMU by the Management Plan. 	<ul style="list-style-type: none"> ▪ Management Plan of FMU. Part I. 2. Base-line Information 2.1.1 Location, Area and legal right.

Criterion 2 : The Forest Management Enterprise holds approved authorization for its harvesting operations, based on an approved cut

The FME shall have received the necessary approvals for its utilization activities based on the relevant planning requirements legislated by the relevant authorities.

Indicators	Activities	Standard of Performance
2.1. The FME can demonstrate that it has received a valid approval by the relevant authorities for its current harvesting operations and other related activities, based on a proper planning process.	<ul style="list-style-type: none">• Describe the procedure to receive the valid approval from the Forest Department for its current harvesting operations.	<ul style="list-style-type: none">▪ Departmental Instructions for Forest Officers in Myanmar (DI).▪ MTE Extraction Manual .

Criterion 3 : The Forest Management Enterprise fulfils CITES compliance and the requirements of relevant environmental laws and regulations.

The FME shall demonstrate compliance with the applicable provisions of CITES and the relevant laws and regulations relating to environmental obligation of a forest management operation.

Indicators	Activities	Standard of Performance
<p>3.1 The FME conducts environmental impact assessments where and when appropriate.</p> <p>3.2 The FME implements mitigation measures to minimize negative environmental impacts in accordance with its own assessments and relevant laws and regulations.</p> <p>3.3 The FME complies with the applicable provision and requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).</p>	<ul style="list-style-type: none"> • Describe the implementation of the Environmental Impact Assessment. • Provide the mitigation measures to minimize negative environmental impacts due to harvesting of timber. • Describe the protection of wild species of both flora and fauna and respective ecosystems in accordance with CITES. 	<ul style="list-style-type: none"> ▪ Forest Management Plan Section 9.10.15 ▪ National code of Forest Harvesting ▪ Reduced Impact Logging. ▪ The protection of wildlife, wild plants and Protected Areas Law and Rule. ▪ List of reserved trees declared by Forest Department. ▪ Forest Department Notification No.583/94 " Wildlife species which are to be protected from extinction"

Indicators	Activities	Standard of Performance
<p>3.4 The FME fulfils required procedures for protected tree species within the FMU in accordance with the relevant laws and regulations.</p>	<ul style="list-style-type: none"> • Describe the protection of teak and other tree species declared as reserved tree. • List the reserved tree species which can be found in this FMU 	<ul style="list-style-type: none"> ▪ Forest Law, Section 9(d) ▪ Forest Rule, Section 27
<p>3.5 The FME cooperates with relevant agencies in implementing adequate measures to prevent any unauthorized activities by third parties within the FMU.</p>	<ul style="list-style-type: none"> • Describe the implementation of adequate measures carried out by FD in cooperation of Myanmar Police Forces and MTE. 	<ul style="list-style-type: none"> ▪ Forest Law ▪ Departmental Instructions of FD and MTE.

Criterion 4 : The Forests Management Enterprise fulfils the requirements of relevant social laws and regulations.

The FME shall demonstrate compliance within relevant laws and regulations relating to the social obligations of a forest management operation.

Indicators	Activities	Standard of Performance
<p>4.1 The FME fully observes the use rights of local communities in accordance with relevant laws and regulations.</p> <p>4.2 The FME complies with the relevant laws and regulations on employees' and workers' occupational health and safety requirements.</p>	<ul style="list-style-type: none"> ▪ Describe the extraction of forest produce for domestic, agricultural or piscatorial purposes without obtaining a permit. ▪ Provide the establishment of local supply and village firewood plantations in the forest areas. • Describe the mechanisms to ensure the health and safety of forest workers. 	<ul style="list-style-type: none"> ▪ Forest Law, Section 17. ▪ Forest Law, Section 13. ▪ Workman's Compensation Act (1923) ▪ FD and MTE Reports on the measures under-taken the health and safety of forest workers.

Criterion 5 : The Forest Management Enterprise has paid all statutory charges directly related to timber harvesting and timber trade.

The FME consistently settles all due payments of obligatory taxes, fees and/or royalties associated with maintaining the legal right to harvest and permitted harvesting volumes to the appropriate authority in a timely manner.

Indicators	Activities	Standard of Performance
<p>5.1 The FME has paid all applicable and legally prescribed fees, royalties, taxes and other charges to the appropriate authority in a timely manner, as documented through clear evidence.</p>	<ul style="list-style-type: none"> ▪ Describe the procedure of marking of timber for royalty assessment and Payment made by MTE to FD. ▪ Describe the procedure of the collection of royalty for <ul style="list-style-type: none"> • timber and other forest produces extracted by individuals other than MTE. 	<ul style="list-style-type: none"> ▪ Departmental Instructions, annual reports and returns of FD and MTE. ▪ Departmental Instruction of FD.

Criterion 6 : The Forest Management Enterprise implements a traceability system that allows for the tracking of all logs from the forest gate to the relevant harvesting sites.

Chain -of-custody provides a link between verified/certified material in a product or product line and the forest source of origin. Documented control of this chain is a fundamental requirement to ensure that separation is maintained between verified (legal) and non-verified products. Criterion 6 describes the requirements from the forest gate back to the point of harvest (log tracking requirements). Chain-of-custody or timber tracking of all later steps in the supply chain (manufacturing and trading steps) are specified in the ASEAN Chain of Custody Guideline.

Indicators	Activities	Standard of Performance
6.1 The FME applies a traceability system which properly controls and documents all timber flows from the harvesting area to the forest gate.	<ul style="list-style-type: none"> • Describe the timber tracking system from the forest gate to the harvesting area. 	<ul style="list-style-type: none"> ▪ Departmental Instructions of FD and MTE.
6.2 The traceability system effectively controls the risk of mixing verified legal and non-verified forest products within the remit of the FME.	<ul style="list-style-type: none"> • Describe the checking of forest products at the critical control points. 	<ul style="list-style-type: none"> ▪ Departmental Instructions of FD and MTE.
6.3 Forest products verified as legal can be properly identified at the forest gate through a clear system of documentation and marking.	<ul style="list-style-type: none"> • Describe the system of marking on the logs and related documents to control the risk of mixing verified and non-verified forest products. 	<ul style="list-style-type: none"> ▪ Departmental Instructions of FD and MTE.