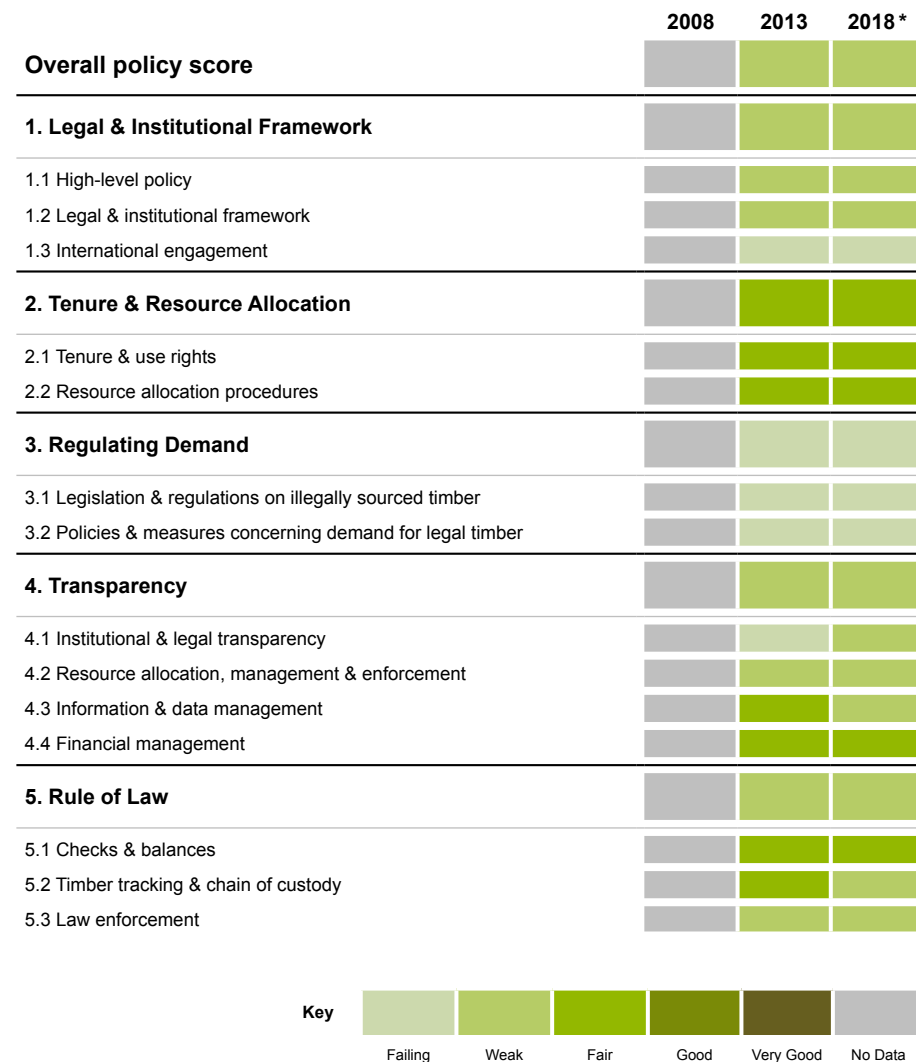


### Summary

The government's response to illegal logging and related trade has remained poor overall since the 2013 assessment. Promising opportunities for improved forest governance are yet to be fully launched – such as the various initiatives under the REDD+ process and the Central African Forest Initiative (CAFI) – or to be resumed as in the case of the Voluntary Partnership Agreement (VPA) negotiations between the DRC and the EU. Steps were made towards clarifying the legal status of artisanal loggers but these do not alleviate the severe challenges that still face the country's forest sector, the reputation of which has deteriorated further in recent years as the extent of illegal practices has continued to be documented by international non-governmental organizations (NGOs). In addition, the government's decision in 2018 to allocate new forest concessions, in breach of its own moratorium, is sending a damaging message to consumer countries especially in the European Union (EU).

The systems in place to monitor the sector are only partly operational and resources allocated to law enforcement are still insufficient. There have been noteworthy efforts in terms of civil society led independent forest monitoring but their impact is limited given the sheer size of the country. Multi-stakeholder engagement in forestry decision-making is also fairly good through the VPA process and efforts to implement community forestry. The REDD+/CAFI scheme has the potential to increase momentum behind efforts to tackle illegal logging.

Figure 1: Summary of Democratic Republic of Congo's forest policy assessment



### Key Forest Policies and Resources

Forest Code (Law No. 011/2002 of 29 August 2002), [http://www.leganet.cd/Legislation/Droit\\_economique/Code\\_Forestier/rdc-loiforets.pdf](http://www.leganet.cd/Legislation/Droit_economique/Code_Forestier/rdc-loiforets.pdf)

Ministerial Order No. 084/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 specifying the conditions and rules for timber logging, <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC174125>

Ministerial Order No. 85/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 relating to the Artisanal Forest Permit, [https://www.droitcongolais.info/files/721.10.16-Arrete-du-29-octobre-2016\\_Unite-forestiere-artisanale.pdf](https://www.droitcongolais.info/files/721.10.16-Arrete-du-29-octobre-2016_Unite-forestiere-artisanale.pdf)

Decree No. 14/018 of 02 August 2014 on the allocation of forest concessions to local communities, <http://extwprlegs1.fao.org/docs/pdf/cng140362.pdf>

Ministerial Order No. 025/CAB/MINECN-DD/CJ/00/RBM/2016 of 9 February 2016 on the management of community forest concessions, <https://www.documents.clientearth.org/wp-content/uploads/library/2016-02-09-arrete-n%C2%B0025-cab-min-ecn-dd-cj-00-rbm-2016-du-9-fevrier-2016-portant-dispositions-specifiques-forets-communautaires-republique-democratique-du-congo-ext-fr.pdf>

\* A number of questions were added to the assessment in 2018 (noted in the list of questions below). Consequently, the overall scores for 2018 are not directly comparable with those of the previous assessments.

## About

Chatham House is monitoring forest governance and legality to assess the effectiveness of government and private sector efforts to tackle illegal logging and trade. An assessment was undertaken of the Democratic Republic of Congo's forest policy framework to evaluate the government's response to illegal logging and the related trade. A standard list of questions was used in the policy assessment and answers were scored against three criteria: if the policy exists (0-2), how well designed it is (0-5) and how well implemented it is (0-5) (see tables below).

## Timeframe for the research

This assessment is based on the situation at the end of 2018 and the scores refer to this date. However, where there have been significant developments in 2019, these have been noted in the text. The research was undertaken in 2018-19 and finalized in June 2019.

## Acknowledgements

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### Acronyms and Abbreviations

AGEDUFOR programme	Project to support sustainable forest management, financed by the French Development Agency (AFD)
AFD	French Development Agency
CAFI	Central African Forest Initiative
CBD	Convention on Biological Diversity
CIFOR	Center for International Forestry Research
CNCEIB	National Coalition against Illegal Logging
CSO	Civil Society Organization
DCVI	Monitoring and Verification Committee within Ministry of Forestry
DGRAD	Ministry of Finance
EITI	Extractive Industries Transparency Initiative
ESIA	Environmental and social impact assessments
FLEGT	EU Forest Law Enforcement, Governance and Trade
FONAREDD	National REDD+ Fund
FPIC	Free, prior and informed consent
FTA	Free Trade Agreement

IFM	Independent Forest Monitor
LMC	Local Management Committee
MEDD	Ministry of the Environment and Sustainable Development
MGFC	Ministry for Gender, Family and Children
NGO	Non-governmental organization
OFAC	Central African Forest Observatory
OFIDA	The Customs and Excise Office
OGF	Forest Governance Observatory
PCPCB	Timber Production and Commercialization Control Programme
RFUK	Rainforest Foundation UK
SIGEF	Information System on Forest Governance
TC	Technical Commission
VPA	Voluntary Partnership Agreement
WRI	World Resources Institute

## Table 1: Democratic Republic of Congo's Forest Policy Assessment

### Legal and Institutional Framework

High-level policy	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>1. Does the country have high-level political and governmental mechanisms in place to tackle illegal logging?</b>				
<i>a. Has a review of the causes and severity of illegal logging been conducted by the government?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>No official review has been carried out or endorsed by the government although under the Central African Forest Initiative (CAFI) the main causes of illegal logging in the country have been reviewed with the participation of many civil servants.</p> <p>The drafting of a National Forest Policy has been underway since 2016. Although the exercise is likely to have involved a review of the causes of illegal logging and existing legal provisions for tackling it there is little information available on the successive steps and outputs of this process. Its finalization is subject to the approval of a proposal by the French Development Agency (AFD) which has been submitted to the National REDD+ Fund (FONAREDD) – the proposal has been challenged by civil society organizations (CSOs) who have raised concerns about its implications for the management of forests.</p> <p>Another opportunity to undertake a review could emerge under the FONAREDD Sustainable Forest Management &amp; Fight against Illegal Logging plan which includes provisions for the conduct of a baseline study on illegal logging. The plan is still to be approved and implemented.<sup>1</sup></p> <p>The mission reports produced by the mandated Independent Forest Monitor (IFM) since 2013 do provide indications on the nature of breaches in various locations across the country. The IFM reports are endorsed by the government through a reading committee. Furthermore, monitoring missions are jointly conducted with government forest officers who produce separate reports (not publicly available).</p> <p>International and national NGOs have conducted a number of studies and investigations into forest law enforcement and logging operations in various provinces.<sup>2</sup> Perhaps the most comprehensive account is the report produced by Global Witness in 2018: the extent of the breaches documented tends to point at countrywide systemic failures.<sup>3</sup> It should however be noted that such NGO reports are regularly contested by the government and forest companies.</p>
<i>b. Is there a national action plan in place for tackling illegal logging?</i>	2013: 1 2018: 1	2013: 2 2018: 3	2013: 2 2018: 2	<p>Tackling illegal logging is an integral part of the National REDD+ Strategy and the 2015-20 REDD Investment Plan (see 1(f) below). In the Letter of Intent signed in 2016 between DRC and the Central African Forest Initiative (CAFI) (prior to the disbursement of USD 200m to fund REDD-related activities), the government committed to stabilizing illegal logging by 2020 by elaborating and implementing a plan to fight illegal logging.<sup>4</sup></p> <p>As a result, in 2017, the National REDD+ Fund (FONAREDD) developed a draft Sustainable Forest Management &amp; Fight against Illegal Logging Plan,<sup>5</sup> the implementation of which is to be overseen by the Ministry of the Environment and Sustainable Development (MEDD, formerly the Ministry of the Environment, Nature Conservation and Tourism, MECNT). The plan provides for the establishment of a broad multi-stakeholder platform to be tasked with coordinating, monitoring and evaluating the plan. Actions set out pertain to four main areas: (i) Reinforcing the capacities of services in charge of enforcement and monitoring (ii) Creating conditions that are conducive to legal compliance in forest operations (iii) Establishing a baseline for illegal logging for future monitoring and (iv) Encouraging broad communication on legal and illegal logging. This notwithstanding, the plan itself is still to be validated and implemented and the Platform is yet to be established.</p>

<sup>1</sup> FONAREDD (2017), Plan Gestion Durable et de lutte contre l'exploitation illégale des Forêts de la RDC, <http://www.fonaredd-rdc.org/wp-content/uploads/2017/06/Plan-Gestion-Durable-des-Forêts-version-finale.pdf>

<sup>2</sup> Reports by national NGO Forest Governance Observatory (OGF) from 2013-2017, except Report No. 4, are available at <http://ogfrdc.cd/rapports/#1508504528032-41530273-833f>

<sup>3</sup> Global Witness (2018), Total Systems Failure: Exposing the Global Secrecy Destroying Forests in the Democratic Republic of Congo, <https://www.globalwitness.org/en-cb/campaigns/forests/total-systems-failure/>

<sup>4</sup> The Government of the Democratic Republic of the Congo & CAFI (undated), Letter of Intent for the Establishment of a Partnership, <https://www.cafi.org/content/dam/cafi/docs/drc-documents/LOI%20V7%20Final%2018%20April%202016%20-ENG%20-%20with%20logos.pdf>

<sup>5</sup> FONAREDD (2017), Plan Gestion Durable et de lutte contre l'exploitation illégale des Forêts de la RDC.f

High-level policy	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
				<p>A number of other programmes and initiatives in DRC also aim to tackle illegal logging. These include:</p> <ul style="list-style-type: none"> <li>The FLEGT VPA process which regained some momentum in 2016 and saw the updating of two legality matrices (artisanal logging and industrial concessions). However the formal negotiation process is currently on hold.</li> <li>The AGEDUFOR (Project to Support Sustainable Forest Management) programme (2011-19), supervised by the MEDD and funded by the AFD, which aims to strengthen the capacity of the government and logging companies to implement sustainable forest management including through operationalizing the management plans provided for in the Forest Code.</li> <li>The work being carried out on community forestry (see 1 (d) below), an objective of which, is the formalization of logging operations by communities.</li> <li>Two reform initiatives – the further progress of which is now subject to the execution by AFD of the Sustainable Forest Management Programme: <ul style="list-style-type: none"> <li>(i) Drafting of the Forest Policy and (ii) the Timber Production and Commercialization Control Programme initially launched in 2010 and revived in 2016.</li> </ul> </li> </ul> <p><b>Design:</b> Efforts are underway to achieve stronger coordination across the various ongoing initiatives but this remains a weakness.</p> <p><b>Implementation:</b> The level of implementation of the different initiatives to address illegal logging is still too low given that most production takes place in the informal sector.</p>
<i>c. Does a formal process exist for high-level coordination of action on illegal logging across departments and sectors e.g. a parliamentary committee or inter-ministerial task force</i>	2013: 0 2018: 1	2013: n/a 2018: 1	2013: n/a 2018: 1	<p>Some coordination efforts are to be noted with the creation of the General Directorate of Forests within the ministry in charge of forests in 2017.</p> <p>The role of the multi-stakeholder platform, as foreseen under the Plan for 'Sustainable Forest Management &amp; Fight against Illegal Logging' but which has not yet been established, may be given to the National Forest Advisory Council whose mandate is currently being revised by DG Forest (MEDD) and its partners.</p> <p>At a different level, the National Coalition against Illegal Logging is an informal platform comprising CSOs and</p>
<i>d. Are there formal consultation processes in place for multi-stakeholder involvement in developing policy and legislation to tackle illegal logging? These processes should ensure that viewpoints of stakeholders affected by legislation are taken into consideration. (Such processes should take place at central and regional levels of policy development and implementation.)</i>	2013: 2 2018: 2	2013: 3 2018: 4	2013: 3 2018: 3	<p>Several such processes are currently ongoing in DRC including:</p> <ul style="list-style-type: none"> <li>FLEGT VPA: The FLEGT VPA Technical Commission (TC) was established in 2010 with the launch of negotiations. The process came to a standstill in 2013. The work of the TC resumed in 2016 although the bilateral negotiations are yet to be relaunched. The TC comprises representatives from the various ministries (forestry, transport, finance, industry, justice, and national economy) as well as civil society and the private sector. An amendment to the 2010 Ministerial Order establishing the TC has been drafted to include other relevant bodies including those responsible for land-use planning, agriculture, rural development and land affairs but it has yet to be approved. Discussions linked to the REDD Investment Plan are ongoing to push this forward.</li> <li>Community forestry: The Multi-Stakeholder Roundtable on Community Forestry was launched in 2015 bringing together CSOs, government, private sector, scientists and community representatives. Seven meetings (five at national level and two at provincial level) have been held so far, the latest in June 2018, to develop then operationalize the National Strategy on Community Forestry (see 7 (b/c) below). The strategy aims at formalizing logging operations within community forest concessions and improving traceability.</li> </ul> <p>In practice, there is still room for improvement, as shown by a process to revise the Forest Code. This has been criticized for its lack of transparency as a result of which CSOs are disputing the validity of the draft law.</p>

High-level policy	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>e. Are there formal processes or policies in place aimed at ensuring a balanced participation of men and women in the development and implementation of forest policies? (Question added in 2018)</i>	2013: - 2018: 1	2013: - 2018: 2	2013: - 2018: 2	<p>Law No. 15/013 of 01 August 2015 (laying down implementing rules on women's right and equality) promotes equality and fair representation in national, provincial and local institutions. Art. 7 stipulates that equality should be taken into account in the elaboration and implementation of development policies and programmes. As per the law, an inter-ministerial committee and a National Council on Gender and Parity are to be established but these provisions have yet to be implemented.</p> <p>However, Law No. 15/013 has had an impact in the sector through Circular Note No. 006/CAB/MIN/ECN-DD/05/00/RBM/2016 of 20 July 2016 on taking into account gender in community forestry. This sets out that women must be fairly represented in the Local Management Committee (LMC), Council of Elders and Local Monitoring Committee of each community forest concession. However, RRI (2018) notes that in practice the representation of women within LMCs remains below target and that for lack of adequate support their voices are almost never heard.<sup>6</sup></p>
<i>f. Is illegal logging considered in the country's climate change strategy e.g. INDC, REDD strategy or other climate change national policy? (Question added in 2018)</i>	2013: - 2018: 2	2013: - 2018: 3	2013: - 2018: 1	<ul style="list-style-type: none"> <li>• NDC: The country's Nationally Determined Contribution (NDC) notes that addressing illegal logging has the potential to account for 5 per cent of the country's emissions reductions.<sup>7</sup></li> <li>• REDD: While the National REDD+ Strategy is being developed, REDD activities are being piloted in DRC.<sup>8</sup> The REDD+ strategic framework (2012) does mention a series of activities to be implemented to enhance law enforcement and to tackle illegal logging. Artisanal logging and illegal industrial logging are both targeted as drivers of deforestation and forest degradation in the REDD Investment Plan 2015-20. The CAFI Letter of Intent (see 1 (b) above) states that: 'An ambitious plan to fight illegal logging is elaborated, validated in a participatory way and progressively implemented notably on the basis of the consideration of a Voluntary Partnership Agreement between the DRC and FLEGT to be promoted'.<sup>9</sup></li> </ul> <p><b>Implementation:</b> At this stage, FONAREDD initiatives have yet to be launched. The REDD Investment Plan is being implemented in the former Orientale province (Ituri, Tshopo, Bas-Uele), the Mai-Ndombe province and the Sud-Ubangui province. In Mai-Ndombe, a legality definition has been developed to assist the selection of eligible concessionaires, together with a legality matrix that covers social issues and sustainable forest management. These pilot programmes will enable the development of a strategy that takes into account the particularities of each region (i.e. business climate, levels of migration, road infrastructure etc.).<sup>10</sup></p>

<sup>6</sup> Rights and Resources Initiative (2018), Mai-Ndombe: Will the REDD+ Laboratory Benefit Indigenous Peoples and Local Communities?, [https://rightsandresources.org/wp-content/uploads/2018/03/EN\\_Mai-Ndombe-Report\\_RRI\\_Mar-2018.pdf](https://rightsandresources.org/wp-content/uploads/2018/03/EN_Mai-Ndombe-Report_RRI_Mar-2018.pdf)

<sup>7</sup> Democratic Republic of Congo (2000) Soumission de la Contribution Nationale Prévue Déterminée au Niveau National au Titre de la Convention des Nations Unies sur les Changements Climatiques, <https://www4.unfccc.int/sites/submissions/INDC/Published%20Documents/Democratic%20Republic%20of%20the%20Congo/1/CPDN%20-%20R%C3%A9p%20D%C3%A9m%20du%20Congo.pdf>

<sup>8</sup> Democratic Republic of Congo (2012), Stratégie-Cadre Nationale REDD+ de la République Démocratique du Congo, <https://www.forestcarbonpartnership.org/sites/fcp/files/2015/March/Strategie-cadre%20nationale%20REDD%20de%20la%20RDC.pdf>

<sup>9</sup> The Government of the Democratic Republic of the Congo & CAFI, Letter of Intent for the Establishment of a Partnership

<sup>10</sup> Democratic Republic of Congo (2015), Plan d'investissement REDD+ (2015-2020), <https://www.unredd.net/documents/un-redd-partner-countries-181/africa-335/democratic-republic-of-the-congo-189/15895-drc-national-redd-investment-plan-2015-2020.html>

Legal and Institutional Framework	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<p><b>2. Is forest legislation and regulation coherent and unambiguous?</b> <i>(Question added in 2018)</i></p>		<p>2013: 3 2018: 3</p>		<p>Forest regulation and legislation has some incoherence and ambiguity. A revision of the Forest Code has been underway but little is known about the proposed revisions as the process has been predominantly owned by the General Directorate of Forests with almost no stakeholder consultation so far.</p> <p>Some recent improvements are to be noted with the adoption of several Ministerial Orders No 84/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 specifying the conditions and rules for timber logging and No 85/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 relating to the Artisanal Forest Permit that have enhanced the legislation's consistency.</p> <p>There have also been noted efforts to enable the establishment of community forests. The procedures for allocating forest concessions to local communities are set out in Decree No 14/018 of 02 August 2014, and Ministerial Order No 025/CAB/MINECN-DD/CJ/00/RBM/2016 of 9 February 2016 details requirements for the management and exploitation of community forest concessions. However, implementing these requirements has proved difficult in practice and a number of stakeholders are calling for new legal tools to better regulate the allocation and management of such forests (see 7 (c) below).</p> <p>Overall, the level of implementation of the forest legislation is still weak due to low capacity of the forestry administration and ownership by officers at provincial and local levels.</p>
<p><b>3. Is the legislation and regulation for artisanal and micro-scale enterprises coherent and unambiguous, or example, considering all relevant areas of law such as fiscal, rights of association, SMEs, forestry etc.</b> <i>(Question added in 2018)</i></p> <p><i>(Artisanal and micro-scale enterprises are defined respectively as those with 1-3 and 4-10 employees.)</i></p>		<p>2013: - 2018: 3</p>		<p>With Ministerial Orders No 084/CAB/MIN/ECN-DD/CJ/00/RBM/2016 and No 85/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016, the DRC set the ambitious goal to formalize its artisanal forest sector. As per Ministerial Order No. 084, two categories of artisanal enterprises are identified namely those that can operate in forest areas of less than 40ha (natural persons only) and those that may operate in formally established Artisanal Forest Permits. Furthermore, Art. 34-40 of Ministerial Order No 025/CAB/MINECN-DD/CJ/00/RBM/2016 of 9 February 2016 (management and exploitation of community forest concessions) makes it possible for communities to sign agreements with artisanal enterprises for the harvesting of timber resources. This latter provision is key to policy coherence as it provides artisanal operators with incentives to formalize their activities.</p> <p>In all cases, artisanal loggers are required by law to be duly registered (trade register), hold all necessary accreditations and show compliance with all fiscal obligations (Art.7; Art, 10-14). Likewise, all artisanal loggers are expected to arrange for benefit-sharing provisions with neighbouring communities (Art. 6). Logging permits are allocated by provincial administrations. The rights to operate in Artisanal Forest Permits come with the obligation for operations to comply with requirements for forest management.</p>

Legal and Institutional Framework	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>4. Is there legislative and/or institutional coherence across sectors?</b>				
<p><i>a. Are formalized forest laws and regulations consistent and harmonized with other laws and regulations affecting forests e.g. for land-use planning, agriculture, mining etc.</i> (Question added in 2018)</p> <p><i>(Formalized here is used to distinguish between laws designed and enacted by national government and customary practices/norms of indigenous peoples and local communities).</i></p>		<p>2013: 1 2018: 1</p>		<p>There is limited consistency and harmony between laws and regulations on forests with other laws and regulations affecting forests, namely, those on land-use, mining, agriculture and hydrocarbons.</p> <p>For instance, only a few mentions are made of forests in the Mining Code (Law No 007/2002 of 11 July 2002 &amp; Law No 18/001 of 09 March 2018). Conversely, mining is only mentioned once in the Forest Code under Art 53 which provides for the mandatory issuance of a permit prior to undertaking any clearing as part of activities related to mining, industry, town planning, tourism or agriculture.</p> <p>A couple of articles of the Forest Code provide for forest-agriculture coordination around specific uses and classifications: Art 23 (joint Ministerial Orders for the establishment of permanent timber production forests) and Art 42 (permission/ban on agricultural activities inside protected forests).</p> <p>Overall, the issue strongly relates to the absence of a functioning national land use plan (see 7 (b) below). Current efforts to clarify land use are expected to result in a broad reform of the legal framework but this is yet to be launched.</p>
<p><i>b. Is there a legal framework for selling or licensing of any timber resulting from forest clearance driven by activities in other sectors?</i> (Question added in 2018)</p>	<p>2013: - 2018: 0</p>	<p>2013: - 2018: n/a</p>	<p>2013: - 2018: n/a</p>	<p>As mentioned in 4(a) above, Art. 53 of the Forest Code provides for the mandatory issuance of a permit prior to undertaking any clearing as part of activities related to mining, industry, town planning, tourism or agriculture (on areas larger than 2ha). Art. 54 further stipulates that the said clearance permit, to be issued by the provincial governor (under 10ha) or by the minister (above 10ha), requires that an environmental impact assessment be conducted and that all fiscal obligations be met with respect to the clearance tax.<sup>11</sup></p> <p>The legislation does not seem to specify what should become of the timber resulting from forest clearance. It can only be inferred from the spirit of the law that nothing opposes the selling of the timber in question.</p>
<p><i>c. Is there a legal framework for selling or licensing of timber produced by informal enterprises?</i> (Question added in 2018)</p> <p><i>(Informal enterprises are defined as those that are owned and controlled by member(s) of a household(s), are unincorporated, are unregistered, their size falls below a certain threshold, do not have a complete set of accounts, produce goods that are meant for sale or barter etc.)</i></p>	<p>2013: - 2018: 0</p>	<p>2013: - 2018: n/a</p>	<p>2013: - 2018: n/a</p>	<p>There is no legal framework for activities carried out by informal enterprises since by law all operations related to timber harvesting and trade are to be duly registered and approved by the relevant authorities. In reality, in spite of the recent developments in the legislation that aim to formalize small enterprises, the informal sector is still rife and remains out of control.</p>

<sup>11</sup> Centre for Environment and Development (2017), Analyse des conversions des forêts par les grands investissements en Afrique centrale <http://www.cedcameroun.org/wp-content/uploads/2017/11/Analyse-des-conversions-des-Forêts.pdf>



Legal and Institutional Framework	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>d. Are there systems in place for cross-sectoral coordination between ministries and agencies responsible for planning and land-use allocation? (Question added in 2018)</i>	2013: - 2018: 0	2013: - 2018: n/a	2013: - 2018: n/a	<p>There is no such system for now. Efforts are increasingly being made as part of CAFI and REDD-related initiatives to develop or consolidate the legal framework for tenure, land use and land planning but cross-sectoral coordination mechanisms are still to be defined and put in place.</p> <p>As explained in 7(b) below, a formalized mechanism is in place in the form of Commissions on Resolution of Forest Disputes, established at the national and provincial levels. However, the Commissions are tasked with resolving disputes as they arise and the scope of their interventions do not extend to land use planning and allocation per se.</p>
<b>5. Is gender considered within policy-making and implementation?</b>				
<i>a. Is there a designated agency/focal point with the mandate to ensure gender perspectives are mainstreamed in forest policies? (Question added in 2018)</i>	2013: - 2018: 2	2013: - 2018: 3	2013: - 2018: 3	<p>The Ministry for Gender, Family and Children (MGFC) is the focal point for national and international actors (such as NGOs and donors) that work on gender-related issues. It has established a group on gender to coordinate donors' interventions.<sup>12</sup></p> <p>The MGFC has been influential in ensuring that a gender focal point was designated at the ministry in charge of forests. The focal point, who is a head of unit, has a clearly outlined mandate that includes chairing the multi-stakeholder group on Gender &amp; the Environment created in 2018 (Ministerial Order No. 059/CAB/EDD/AAN/TNT/02/2018 of 31 July 2018). The group's mandate involves: ensuring that gender perspectives are integrated in policy development, planning and monitoring, strengthening capacities on gender and mobilizing resources as well as monitoring gender mainstreaming in projects and programmes carried out by donors and NGOs.</p> <p>The advocacy carried out by the gender focal point was instrumental in the adoption of Circular Note No. 006/CAB/MIN/ECN-DD/05/00/RBM/2016 of 20 July 2016 on taking into account the notion of gender in Community Forestry. In addition, training has been held within the ministry in charge of forests to increase the awareness of officials as to how women's rights should be better taken into account. As the group on Gender &amp; the Environment was created in 2018, it remains to be seen what resources will be mobilized as well as how influential the group will be over the course of the coming years.</p>
<i>b. Are there processes or policies in place to assess gender impacts in the development and implementation of forest policies? (Question added in 2018)</i>	2013: - 2018: 1	2013: - 2018: n/a	2013: - 2018: n/a	<p>Overall, the extent to which formal, continuous processes exist to monitor gender impact is unclear. Training has been held within the ministry in charge of forests to increase the awareness of officials on gender mainstreaming in forest policies. The group on Gender &amp; the Environment (see 5a above) is tasked with organizing a yearly roundtable on 'the level of gender mainstreaming' within the ministry which indicates that some monitoring is to be undertaken. The mandate of the group makes specific mention of monitoring but this only applies to projects and programmes carried out by donors and NGOs and not to the administration itself.</p> <p>In conclusion, some processes seem to exist but it is too early to characterize their effectiveness.</p>

<sup>12</sup> Davis, L., Fabbri, P. and Alphonse, I. M. (2014), République Démocratique du Congo : Profil du pays en matière d'égalité de genre, <https://www.lauradavis.eu/wp-content/uploads/2014/07/Profil-genre-2014-RDC.pdf>

International engagement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>6. What level of international cooperation has been shown by the country?</b>				
<i>a. Does the country have formalized trade or customs arrangements with major trading partners e.g. FLEGT VPAs or free trade agreements which include specific provisions on illegal logging?</i>	2013: 1 2018: 1	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>Negotiations in process including a FLEGT VPA, an Economic Partnership Agreement with the EU in the framework of the Cotonou Agreements and FTAs in the sub-region for trade. Under the sub-regional FTAs, a timber traceability matrix has been drafted but it is yet to be validated.</p> <p>The FLEGT VPA process aims to establish a framework in terms of legislation, traceability and verification procedures to ensure that all Congolese timber is legally harvested, transported and exported to the EU. The negotiation process started in December 2010 but was came to a halt in 2013. Activities of the VPA Technical Commission resumed in 2016 leading to the updating of the legality matrices for both artisanal and industrial forest concessions. A document on transparency and access to information has also been developed. However, the bilateral dialogue with the EU is yet to be relaunched.</p> <p>In 2016, the Timber Production and Commercialization Control Programme, initially managed by the verification company SGS, was reallocated to another service provider, AUFS. It was announced in late 2017 that the software to be used for the wood tracking system had been successfully developed but it is still to be brought into operation.</p> <p>Implementation: In spite of the progress made over the past couple of years through the TC, the formal dialogue with the EU is still to resume. One cause for concern is the sustainability of the process as securing consistent engagement from the Congolese government has proved to be a challenge.</p>
<i>b. Does the country have a system in place for sending and receiving enforcement alerts regarding illegal shipments in transit to destination countries?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>No such system is in place.</p> <p>Greenpeace DRC has been sending alerts on illegal shipments in transit to destination countries but the system is not formalized.</p>

## Tenure and Resource Allocation

Tenure and use rights	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>7. Are property, use rights and tenure arrangements clearly defined, documented and secure including those of indigenous and local communities?</b>				
<i>a. Does the law require that property, use rights and tenure arrangements are set out on publicly accessible maps and/or Geographical Information Systems (GIS) and demarcated at ground-level?</i>	2013:2 2018:2	2013: 3 2018: 3	2013: 1 2018: 2	<p>Requirements in the legislation only relate to demarcation at ground level (see for instance Art 6 of Ministerial Order No 036/CAB/MIN/ECN-EF/2006 of 05 October 2006). Provisions regarding the publication of tenure maps are much less explicit with no explicit mention being made in the law.</p> <p>This point also applies to forest concession maps: requirements do exist regarding the publication of concession contracts but the extent to which concession maps are required by law to be made available to the populations concerned, and the general public at large, is unclear. Management plans usually include such maps but there is no legal provision for such documents to be publicly accessible (see 7 (b) below).</p> <p>Implementation: There still are weaknesses in the drafting and dissemination of concession maps even though such documents tend to be made available through various projects as well as billposting. The reports produced by the Independent Monitor indicate mixed performances as regards demarcation with possibly some slight progress in recent years which is to be linked to efforts made under the AGEDUFOR programme.</p> <p>The Interactive Timber Atlas (developed by World Resources Institute in collaboration with the Ministry in charge of Forests) provides maps with layers showing various land uses including forest concessions, community forests, oil and mining permits, REDD pilot projects and protected areas. Agro-industrial concessions do not show as of now. The existence of such a tool slightly increases the implementation score keeping in mind, however, that the Atlas is only accessible online which keeps it out of reach for most of the general public.</p>
<i>b. Are there formalized mechanisms in place for resolving conflicting or overlapping property rights?</i>	2013: 2 2018: 2	2013: 3 2018: 4	2013: 1 2018: 2	<p>A formalized mechanism is in place in the form of Commissions on Resolution of Forest Disputes – established at the national and provincial levels. These Commissions, the functioning and role of which are described in Ministerial Order No 103/CAB/MIN/ECN-T/15/JEB/09 of 16 June 2009, are tasked with handling disputes between a forest concession holder/public agency in charge of classified forests and: (i) other concession holders (ii) local communities as well as disputes that may arise between two or several local communities.</p> <p>In addition to the parties concerned in each specific case, representatives of the administrations in charge of land planning, tenure and agriculture, as well as representatives of local communities, are entitled to take part in the Commissions as observers.</p> <p>It should be noted that DRC still lacks a national land use plan and the laws applicable to land, forestry, mining etc., are not harmonized (see Question 3 above). A land planning reform process is underway as well as a forest zoning process. These efforts are being furthered by the Central African Forest Initiative as part of the National REDD+ Strategy under which a new land planning reform process was launched in 2017 with the aim to implement coherent land governance by 2020.</p> <p><b>Design:</b> With the formalization of artisanal logging permits in 2016, artisanal concessions are now covered by this mechanism.</p> <p><b>Implementation:</b> There has reportedly been some slight improvement in the use of the mechanism by local stakeholders but overall application has remained weak thereby resulting in recurring conflicts between local communities/indigenous peoples and concession holders. The resolution of these is facilitated mainly by local CSOs and supported by international NGOs.</p>

Tenure and use rights	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<p><i>c. Are there formalized mechanisms in place for accommodating customary rights in law and regulations?</i></p>	<p>2013: 2 2018: 2</p>	<p>2013: 3 2018: 3</p>	<p>2013: 1 2018: 1</p>	<p>Legal provisions do enshrine the recognition of customary rights (i) within and around classified forests, protected forests and timber production forests and (ii) under the community forestry regime:</p> <p>(i) Section III of the Forest Code defines the various uses and rights that can be exerted in classified forests, protected forests and forest concessions. Two Ministerial Orders (No 036/CAB/MIN/ECN-EF/2006 of 05 October 2006, and No 038/CAB/MIN/ECN-T/15 / JEB/2008 of 23 September 2008) specify the procedures for accommodating such rights in the management plans developed for timber production forests and classified forests respectively. A Ministerial Order (No 023/CAB/MIN/ECN-T/28/JEB/10 of 07 June 2010) also provides a template for the establishment of concessions' technical clauses between local populations and logging permit holders.</p> <p>(ii) The possibility for local communities to be allocated forest land is provided for in the Forest Code itself (including Section VII, Chap III). Importantly, a Decree (No 14/018 of 02 August 2014) was adopted in 2014 to establish the procedures for allocating forest concessions to local communities, followed by Ministerial Order No 025/CAB/MINECN-DD/CJ/00/RBM/2016 of 9 February 2016, governing the management and exploitation of forest concessions allocated to local communities.</p> <p>As noted in 1 (d) above, a Multi-Stakeholder Roundtable on Community Forestry was launched in 2015, bringing together representatives from CSOs, communities, government and the private sector. Five meetings have been held so far, the latest in June 2018, to develop and operationalize the National Strategy on Community Forestry. This is now being piloted between 2018-23).</p> <p><b>Design:</b> Provisions for accommodating customary rights in and around forest concessions seem to be reasonably well designed but the fundamental dichotomy between formalized law and customary rights remains and implementation (see below) is difficult. Regarding community forestry, the recent developments in the legislation have been welcomed as a breakthrough in terms of rights recognition. There have been a high number of applications for such concessions since 2016. But in a context marked by the weak capacities of the administration and communities, there is a risk of arbitrary allocations, rent-seeking strategies and abuse. As such, the mechanism is regarded as incomplete by some CSOs and NGOs which are calling for new legal tools to better regulate the allocation and management of these concessions – an objective of the strategy mentioned above.<sup>13</sup></p> <p><b>Implementation:</b> Implementation is weak in and around forest concessions (i) because too few management plans have been developed and implemented to date and (ii) because in many instances local communities are informed more than they are consulted. Regarding community forests, a few concessions have been awarded to date and are being piloted but it is still too early to assess the progress made. It is hoped that the land tenure reform process initiated under the REDD Investment Plan with CAFI support will result in a better relationship between formalized law and customary rights.</p>
<p><i>d. Does the legal and policy framework provide for gender-equal use rights and tenure?</i></p> <p><i>(Question added in 2018)</i></p>	<p>2013: - 2018: 1</p>	<p>2013: - 2018: 2</p>	<p>2013: - 2018: 1</p>	<p>Gender-based discrimination is prohibited by Law. Law No. 15/013 of 01 August 2015 (laying down implementing rules on women's rights and equality) further affirms equal rights for women and men to access, manage and fully benefit from property (Art. 9). These objectives must be qualified in that while equal inheritance of rights is recognized for widows and daughters, women in consensual unions<sup>14</sup> cannot claim such rights. Furthermore, no overarching procedures or guidelines have been defined to ensure proper implementation of the law.</p> <p>In practice, the allocation of use and tenure rights and the resolution of disputes within communities are dealt with under the customary regime. As such, a wide range of attitudes towards women's rights and leadership has been observed across the country.<sup>15</sup></p>

<sup>13</sup> Rainforest Foundation UK (2018), A National Strategy For Community Forestry in Democratic Republic of Congo, <https://www.rainforestfoundationuk.org/media/ashx/a-national-strategy-for-community-forestry-2018.pdf>

<sup>14</sup> Rights and Resources Initiative (2017), Power and Potential. A Comparative Analysis of National Laws and Regulations Concerning Women's Rights to Community Forests, [http://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests\\_May-2017\\_RRI-1.pdf](http://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests_May-2017_RRI-1.pdf)

<sup>15</sup> Davis, L. et al., République Démocratique du Congo - RDC. 2014. Profil du pays en matière d'égalité de genre. <https://www.lauradavis.eu/wp-content/uploads/2014/07/Profil-genre-2014-RDC.pdf>

Resource allocation procedures	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>8. Do resource allocation regulations and procedures include measures consistent with good forest governance?</b>				
<i>a. Is there a prequalification process which is designed to exclude inappropriate bidders from resource allocation awards?</i>	2013: 2 2018: 2	2013: 5 2018: 5	2013: n/a 2018: n/a	<p>The basic requirements for applying for industrial logging rights are set out in Art 82 of the Forest Code. Also, Ministerial Order No 084/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 laying out the conditions and rules for timber exploitation, details the different types of authorization needed for logging including artisanal permits.</p> <p>Albeit open to all tenderers, the public tendering procedure set out in Decree No 08/09 of 08 April 2008 does provide for exclusion of inappropriate bidders in the form of a two-step selection process (i.e. 1- technical; 2- financial) carried out by an Inter-Ministerial Commission (Art 17 and beyond). At the end of the first step, bids scoring low on the technical side are excluded from the process. Tenderers that are found to have engaged in certain activities are also disqualified at this stage. The list of reasons for such disqualification includes (Art 29): engaging in illegal logging and trade, failure to comply with management and tax obligations, corruption or attempted corruption, forgery etc. over the past three years.</p> <p><b>Design:</b> The criteria are reasonably clear regarding who is eligible and who is not and they are also meant to ensure that the true identity of the bidder can be ascertained.</p> <p><b>Implementation:</b> Assessment is not possible in the context of the moratorium on the allocation of forest concessions (see Q.21 below).</p>
<i>b. Is there a competitive award process which is designed to be open to all eligible bidders?</i>	2013: 2 2018: 2	2013: 4 2018: 4	2013: n/a 2018: n/a	<p>Decree No 08/09 of 08 April 2008 governing the concession allocation procedure, states that allocations are conducted through public calls for tenders and that the process is a competitive one.</p> <p><b>Design:</b> Technical and financial offers are examined by an Inter-Ministerial Commission. An independent observer attends the process.</p> <p><b>Implementation:</b> Assessment is not possible in the context of the moratorium on the allocation of forest concessions.</p>
<i>c. Does the law require prior informed consent procedures or stakeholder consultations for local communities with respect to logging interests and rights to be carried out?</i>	2013: 2 2018: 2	2013: 2 2018: 3	2013: 1 2018: 1	<p>Free, prior and informed consent (FPIC) is not mentioned as such in the current national legislation but DRC has signed the Convention on Biological Diversity and adopted the United Nations Declaration on the Rights of Indigenous Peoples, which both regard FPIC as being a critical element. The recognition of FPIC is embedded in the National REDD+ Strategy under development and national guidelines on FPIC as part of REDD+ were validated in November 2017. A Ministerial Order on FPIC has reportedly been adopted, the text of which, could not be accessed as part of this assessment.<sup>16</sup></p> <p>Several provisions do exist in the national legislation relating to consultation of local communities in a context where according to Art 7 of the Forest Code forests belong to the state. For instance, Art 15 of the Forest Code stipulates that the creation of classified forests is subject to prior consultation with local communities as these forests are placed under a restrictive regime in terms of uses and rights.</p> <p>Ministerial Order No 036/CAB/MIN/ECN-EF/2006 of 05 October 2006 and Ministerial Order No 038/CAB/MIN/ECN-T/15 / JEB/2008 of 23 September 2008, govern the development, validation and implementation of management plans in timber production forests and classified forests respectively. In each case, provisions are made for local communities to be consulted and kept informed during the development of the management plan. Agreements must be reached regarding: benefit-sharing arrangements, the extent of areas where customary rights can be maintained, as well as the delineation of such areas, the concession itself, and in the case of classified forests, the buffer zone encircling the forest where customary rights are maintained.</p>

<sup>16</sup> The validated national guidelines on FPIC could not be accessed during the assessment, but a previous version exists, which includes a draft Ministerial Order meant to enact the guidelines: MEDD (2015), Cadre de Directives Nationales sur le Consentement Libre, Préalable et Informé (CLIP) dans le cadre de la REDD+ en République Démocratique du Congo <https://www.forestcarbonpartnership.org/sites/fcp/files/2015/March/Directives%20nationales%20sur%20le%20CLIP%20dans%20le%20cadre%20la%20REDD%20RDC.pdf>

Resource allocation procedures	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>d. Are measures to protect and develop forest-based livelihood opportunities for local communities within concession areas built into concession contracts?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 2 2018: 2	<p><b>Implementation:</b> In the past, procedures have consisted simply of informing local communities and indigenous peoples during the public inquiry prior to land allocation. This involved providing local communities and indigenous peoples with information about how the forest would be used without really seeking free, prior and informed consent. Furthermore, the information provided tended to be partial and only a small number of people were targeted thereby undermining the legitimacy of the process.</p> <p>Art 44 the Forest Code provides that 'neighbouring populations surrounding a concession continue to exercise their rights of traditional use on the concession inasmuch as they are compatible with forestry exploitation with the exception of farming activities. The concessionaire cannot claim for compensation or damages because of this exercise.' It must be noted that in addition to the provision of Art 44 excluding farming activities within the concession, customary rights can be exerted within the boundaries set by the legislation applicable to wildlife but that the commercialization of forest products collected under such rights is generally banned except for some fruits and products, a list of which, is established at provincial level.</p> <p>Other measures can also be taken to develop livelihoods such as providing infrastructure for the benefit of local communities. The extent of these rights and benefits, including the demarcation of areas allocated to community development, is subject to consultations, then built into a contract (technical clauses) in accordance with the provisions of Ministerial Order No 036/CAB/MIN/ECN-EF/2006 of 05 October 2006 and Ministerial Order No 023/CAB/MIN/ECN-T/28/JEB/10 of 07 January 2010(see 21 (c) and 8 (c) above).</p> <p><b>Design:</b> Owing to the low level of application observed in practice, Ministerial Order No 023 (mentioned above) is currently being revised.</p> <p><b>Implementation:</b> A study conducted by the Center for International Forestry Research (CIFOR), a non-profit scientific research organization, over the period from 2011-15, indicates that an increasing number of companies have engaged with neighbouring communities in developing health and education facilities and transport infrastructure.<sup>17</sup> However, the study mentions the difficulties faced by operators in implementing such projects (with 40 per cent of the projects monitored being underway and another 40 per cent still to be executed). Overall, implementation has remained problematic in a context where monitoring by the administration is limited and the negotiating capacity of communities is often weak. Furthermore, the responsibility is mostly placed with the private sector. With only a few approved management plans across the country (there were eight in 2016 according to CIFOR), the implementation framework for such provisions in the field is still fragile.</p>

<sup>17</sup> Tsanga, R., Cerutti, P. O., Bolika, J.-M. and Tibaldeschi, P. (2017), Suivi non mandaté des clauses sociales en République Démocratique du Congo (2011-2015), CIFOR, [https://d2ouvy59p0dg6k.cloudfront.net/downloads/\\_a21\\_120\\_drc\\_report\\_fr\\_2\\_.pdf](https://d2ouvy59p0dg6k.cloudfront.net/downloads/_a21_120_drc_report_fr_2_.pdf)

## Regulating Demand

Legislation & regulations on illegally sourced timber	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>9. Does the country have adequate legislation and regulations in place to prevent illegally sourced timber from being imported or sold?</b>				
<i>a. Has the country analysed its existing legislation and regulations on preventing imports and sales of illegally sourced timber? (Question added in 2018)</i>	2013: - 2018: 0	2013: - 2018: n/a		No government-endorsed analysis seems to have been conducted. In 2016-17, the FLEGT Technical Commission revised the legality matrix for industrial and artisanal logging and the associated verification procedures. The documents are yet to be endorsed by the ministry in charge of forests.
<i>b. Has additional legislation been enacted and regulations put in place to prevent illegally sourced timber from being imported or sold?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	There are no specific laws to prevent illegally-sourced timber from being imported or sold.  On the operational side, SGS as a service provider ceased activities in the country in 2016, leaving a gap in the capacity to monitor timber trade which is also carried out by the Ministry's Monitoring and Verification Committee.
<i>c. If there is legislation in place to prevent the import of illegal timber, how broad is the product scope of this legislation? (Question added in 2018)</i>		2013: - 2018: n/a		No such legislation in place.
<i>d. If there is legislation in place to prevent the import of illegal timber, does it apply only to importers &amp; those that are first place on the market or to all those along the supply chain? (Question added in 2018)</i>		2013: - 2018: n/a		No such legislation in place.
<i>e. If there is legislation in place to prevent the import of illegal timber, does it include a requirement on businesses to implement due diligence? (Question added in 2018)</i>		2013: - 2018: n/a		No such legislation in place.
<i>f. Is implementation of the policy systematically monitored and assessed? (Question added in 2018)</i>		2013: - 2018: n/a		No such legislation in place.

Policies & measures to promote demand for legal timber	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>10. Is there a public procurement policy in place excluding illegal and/or unsustainable timber products from government purchasing?</b> <i>(Question added in 2018)</i>	2013: - 2018: 0		2013: - 2018: n/a	No such policy in place.
<i>a. What level of adherence does the policy require?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<i>b. Does the policy cover all timber products including paper?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<i>c. Does the policy rest on independent certification or verification schemes or equivalent for identifying legal products?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<i>d. Is assistance offered to government purchasers e.g. advice, guidance, training etc?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<i>e. Is implementation of the policy systematically monitored and assessed?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<i>f. Does the procurement policy apply to sub-national (provincial, regional, local) government?</i> <i>(Question added in 2018)</i>		2013: - 2018: n/a		No such policy in place.
<b>11. Do forest-related policies encourage legal timber production and discourage illegal timber production by ensuring that the level of demand does not exceed legal supply?</b>				
<i>a. Does the permitting system for primary wood processing facilities require evidence of sufficient legal sources of raw material?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	No requirement exists because wood processing is not regulated to date.



## Transparency

Institutional & legal transparency	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>12. Is there a unified document which describes the roles, responsibilities and controls for all agencies involved in regulating forest utilization and trade from harvest rights allocation to point of sale or export and is it accessible to the public?</b>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	No such document exists.
<b>13. Is there a legal requirement to make forest legislation and regulations readily accessible to the public?</b> <i>(Question added in 2018)</i>	2013: - 2018: 2	2013: - 2018: 3	2013: - 2018: 3	<p>The Constitution provides that laws and regulations enter into force only once they have been published in the Official Journal of the DRC thereby making all legal texts publicly available. However, this journal is distributed very narrowly and the publishing process is hampered by heavy bureaucracy. A website also exists but, being an online resource, it remains out of reach for a large number of citizens. Civil society actors have long advocated for the promulgation of a law on access to information and the publication of forestry laws and regulations in the various national languages but to no avail so far.</p> <p>In recent years, the attitude of the forest administration towards CSO-led independent forest monitoring (especially the mandated form carried out by national NGO Forest Governance Observatory (OGF) has improved and, generally speaking, CSOs have not encountered any major challenges in accessing the legislation. A series of 'Green Codes' has been published by a national CSO (Council for Environmental Defence through Legality and Traceability, CODELT) to collate all relevant texts.</p>

Transparency in resource allocation, management & enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>14. Do policies, laws or regulations contain provisions designed to ensure that resource allocation and management is carried out transparently?</b>				
<i>a. Do policies, laws or regulations stipulate that rules for resource allocation processes e.g. concession allocation and competitions are made publicly available?</i>	2013: 2 2018: 2			<p>Decree No 08/09 of 08 April 2008 (Art 4 &amp; 6) governing the concession allocation procedure, lists types of information to be made publicly available as part of the call for tenders for any concession allocation process. Art 5 also states that the call for tenders must be publicized as widely as possible including through the following: (i) billposting at the ministry in charge of forests and other offices of the central, provincial and local administration (ii) publishing in at least three national and international newspapers and (iii) posting online via the ministry's website.</p> <p>Specific rules applicable to each allocation process are enclosed in a 'tender dossier' which can be accessed at the ministry in charge of forests. Only candidates are able to access the dossier, but access is free. Furthermore, the criteria applied for the selection of tenderers are specified in Ministerial Order No 037/CAB/MIN/ECNTI151JEB/2008 of 18 September 2008. Thus, comprehensive information is available on the procedure for resource allocation.</p> <p><b>Implementation:</b> Assessment is not possible in the context of the moratorium on the allocation of forest concessions.</p>
<i>b. Do policies, laws or regulations stipulate that dates for when resource allocation processes are to be held are made publicly available?</i>	2013: 2 2018: 2	2013: 5 2018: 5		<p>Decree No 08/09 of 08 April 2008 (Art 4) governing the concession allocation procedure, states that such dates, among other mandatory information, are made publicly available through the channels detailed in 12 (a) above.</p> <p><b>Implementation:</b> Assessment is not possible in the context of the moratorium on the allocation of forest concessions.</p>
<i>c. Do policies, laws or regulations stipulate that the results of resource allocation processes are made publicly available e.g. bids and awards for concession allocation and competitions?</i>	2013: 2 2018: 2	2013: 5 2018: 5		<p>Art 30 of Decree No 08/09 of 08 April 2008 governing the concession allocation procedure, states that the record of the technical assessment (step 1 of the allocation process) are to be billposted at the ministry in charge of forests and published in newspapers. Art 34 stipulates that within seven days of the conclusion of the financial assessment (step 2), the final record of the award process is made publicly available in the same way as well as the report of the independent observer.</p> <p><b>Implementation:</b> Assessment is not possible in the context of the moratorium on the allocation of forest concessions.</p>
<i>d. Do policies, laws or regulations stipulate that up to date summary data is published on harvesting, processing and international trade?</i>	2013: 0 2018: 2	2013: n/a 2018: 3	2013: 1 2018: 2	<p>There are no provisions in the law for summary data on harvesting, processing and international trade to be published. Requirements exist for the posting of quarterly data on the ministry's website: each logging operator must provide the number and volume of trees felled over the quarter (Art 76 &amp; 78 of Ministerial Order No 084/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016 providing for conditions and rules of timber harvesting).</p> <p>Furthermore, under the Extractive Industries Transparency Initiative (EITI), since 2016, the DRC has committed to publishing forest-related data alongside data on other extractive sectors. The data in question include volume and value of timber harvested and exported.</p> <p><b>Design:</b> According to the terms of the EITI commitment, the data are expected to be published automatically.</p> <p><b>Implementation:</b> Data on timber production, and to some extent on forest revenue, are included in the reports written by the administrative services of the ministry in charge of forests. They are transmitted to the Ministry of Finance whose Technical Commission on Monitoring and Evaluation publishes communiqués. Access on request is sometimes possible but a major issue relates to the poor archiving of information even at the level of the central administration. Another challenge derives from the fact that the data in question are provided by the operators themselves and so there is a risk of under-reporting.</p>

Transparency in resource allocation, management & enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>15. Do policies, laws or regulations contain provisions designed to ensure transparency in concession use?</b>				
<i>a. Do policies, laws or regulations stipulate that information on location of concessions, ownership and contact details is publicly available?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 1 2018: 3	<p>Although no such requirement appears explicitly in the legislation, Decree No 011/26 of 20 May 2011 (see 13 (b) below) does provide that concession contracts must be made available to the public. By definition, such documents include information on ownership, location and some contact details.</p> <p><b>Implementation:</b> Information on specific forest concessionaires and their concessions can be accessed from the website of the ministry in charge of forests and is generally available on request. AGEDUFOR and OFAC (Central African Forest Observatory) are two other sources for such information. In addition, the Interactive Forest Atlas<sup>18</sup> and the Open Timber Portal,<sup>19</sup> both developed by World Resources Institute using a database managed by the MEDD<sup>20</sup>, include maps that provide information on the location of concessions as well as in some instances the name of the owner. Albeit quite comprehensive when it comes to location and ownership, the information available on the Forest Atlas and the Open Timber Portal is limited regarding contact details. All in all, while the efforts made in terms of transparency must be noted, information availability mostly relies on online resources and, as such, accessibility to the general public is difficult.</p>
<i>b. Do policies, laws or regulations stipulate that information on concession contracts, inventories and plans are publicly available i.e. long term and annual forest management and harvest plans?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 1 2018: 2	<p>Such provisions only apply to concession contracts.</p> <ul style="list-style-type: none"> <li>Concession contracts: Art 41 of Decree No 08/09 of 08 April 2008 governing the concession allocation procedure, states that concession contracts are made available to the public at the ministry in charge of forests as well as local administrations. Similar provisions exist in Decree No 011/26 of 20 May 2011 mandating the publication of all contracts related to natural resources (including forest concessions) via (i) the Official Journal; (ii) the website of the ministry in charge of forests and (iii) at least two widely read newspapers.</li> <li>Inventories and management plans: No specific mention is made in the legislation of publishing inventories and management plans. The information is provided to the ministry in charge of forests by the operators and tends not to be made public.</li> </ul>
<i>c. Do policies, laws or regulations stipulate that results of environmental and social impact assessments and mitigation measures are publicly available?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>There is no requirement for environmental and social impact assessments (ESIA) to be carried out before a concession is granted. The national social and environmental standards for forest-related projects and particularly for REDD+ projects, which were developed in 2015, have yet to be applied and they do not include any provisions for publishing ESIA findings.<sup>21</sup></p>

<sup>18</sup> MEDD & WRI, Forest Atlas of the Democratic Republic of Congo, <https://cod.forest-atlas.org/>

<sup>19</sup> Open Timber Portal, see: [www.opentimberportal.org/operators](http://www.opentimberportal.org/operators)

<sup>20</sup> Website of the Ministry of the Environment and Sustainable Development, see: <https://www.medd.gouv.cd/v2/index.php/textes-legaux/category/6-contrats>

<sup>21</sup> Democratic Republic of Congo (undated), Standards Nationaux Sociaux et Environnementaux REDD+ en RDC: Version Améliorée, [https://www.unredd.net/index.php?option=com\\_docman&view=download&alias=9740-standards-nationaux-sociaux-et-environnementaux-redd-de-la-rdc-25jan2013-9740&category\\_slug=studies-publications-and-other-resources-500&Itemid=134](https://www.unredd.net/index.php?option=com_docman&view=download&alias=9740-standards-nationaux-sociaux-et-environnementaux-redd-de-la-rdc-25jan2013-9740&category_slug=studies-publications-and-other-resources-500&Itemid=134)

<sup>22</sup> EITI RDC & Moore Stephens (2015), Rapport sur l'étude de cadrage du Secteur Forestier en RDC, <https://drive.google.com/file/d/0B1C1Aj5TgAgvakJ4aXpMUTBmSjQ/view>

Transparency in resource allocation, management & enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>16. Do policies, laws or regulations contain provisions designed to ensure that information on enforcement activities is publicly available?</b>				
<i>a. Do policies, laws or regulations stipulate that data is published on forest crimes including success rates on detection, interdiction, prosecution and conviction including fines levied and fines paid and volumes seized?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	Data is not published automatically and is difficult to obtain on request. The data collection carried out as part of this assessment had to rely on information gathered by CSOs engaged in independent monitoring – the scope of which encompasses only a fraction of all cases.  Economic operators and agents are used to negotiating with DVCI/Ministry inspectors about cases of fraud or other crime. The little information available on forest crimes is usually incomplete and is not made available even on the ministry's website. Civil society actors have long been advocating for the compulsory publication of these data but to no avail so far.
<i>b. Do policies, laws and regulations stipulate that information on disposals of confiscated wood or results of public auctions of confiscated wood or other kinds of public bidding are publicly available?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	There is no such requirement in the aw. Data is not published automatically and is difficult to obtain on request.  Cases of timber forfeiture are rare and any infringement found is often resolved through bribes.

Information & data management	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<p><b>17. Is there an up-to-date, accurate information management system in place through which relevant government agencies can access data related to forest enforcement and management?</b></p> <p><i>This information management system could include elements such as forest inventories, remote sensing imagery and harvest permits and licenses, forest management plans, centralized repository of maps, transportation documents and processing licenses and records.</i></p>	<p>2013: 1 2018: 1</p>	<p>2013: 2 2018: 2</p>	<p>2013: 3 2018: 3</p>	<p>Internally, the management of information is ensured by the Directorate for the Environment. Coordination across the various directorates of the ministry in charge of forests remains a challenge even though some progress is reportedly to be noted due to the engagement of the ministry in the Interactive Forest Atlas and the Open Timber Portal.</p> <p>The beta version of the Open Timber Portal was made available online in 2017. This initiative, launched by the World Resources Institute to promote the production and trade of legal timber, currently covers the Republic of Congo and the DRC. It has been designed in consultation with government officials as well as private sector and civil society actors and aims to support importers and purchasers in conducting due diligence as well as assist government officials in law enforcement. The portal compiles information from three different sources: (i) government (list of registered forest operators; concession boundaries) (ii) private sector (documents demonstrating compliance) and (iii) independent forest monitors (their observations). The performance of each operator in terms of transparency is given a score. The data, documents and scores can be accessed via a map showing all the concessions covered.</p>
<p><b>18. Is there an up-to-date, accurate information system in place to gather data on employment in the forest sector?</b> (Question added in 2018)</p>	<p>2013: - 2018: 0</p>	<p>2013: - 2018: n/a</p>	<p>2013: - 2018: n/a</p>	<p>No such system is known of. The 2015 Statistical Yearbook was published in 2017 by the National Statistics Institute but the document could not be accessed as part of the present research (dead URLs or documents missing on the institute's website). No information on employment in the forest sector seems to be readily available on the website of the ministry in charge of forests.</p>

Financial management	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>19. Is there an effective financial management system in place for the forest sector?</b>				
<i>a. Does the forest administration have a system for monitoring revenue collected from utilization of forest resources against revenue owed as well as a procedure for investigating discrepancies?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 2 2018: 2	<p>A system is in place and encompasses all forms of forest-related revenue. There is no system in place to properly investigate discrepancies.</p> <p><b>Implementation:</b> Information is gathered on both revenue owed and collected by the various services of the ministry in charge of forests, which sends out recovery orders, and DGRAD of the Ministry of Finance which collects revenue. Discrepancies are rarely addressed however. Under the EITI, the Technical Commission on Monitoring and Evaluation (Ministry of Finance) publishes official statements of the revenue generated in each extractive sector including the forestry sector.</p>
<i>b. Is there an audit of the forest administration whose findings are publicly available?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 1 2018: 1	<p>According to the law, audits should be carried out regularly by the National Audit Court and the results should be made available to the public. However, no audit has been conducted to date.</p>
<b>20. Does the country report on its forest sector to the EITI?</b> <i>(Question added in 2018)</i>	2013: - 2018: 1		2013: - 2018: 2	<p>The DRC joined the EITI in 2007 and, for several years now, has considered expanding the scope of its reporting to the forestry sector (both artisanal and industrial). A dedicated scoping report was published in 2015 making information available for three provinces (Bandundu, Orientale, Equateur). However, there has been no further reporting on the forestry sector since then.</p>

## Rule of Law

Checks and balances	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>21. Are mechanisms (checks and balances) in place to ensure government fully applies forest law and regulations?</b>				
<i>a. Does the law make provisions for protecting the rights of the public to mount legal challenges against forest management decisions/practices and failure by the government to apply forest law?</i>	2013: 2 2018: 2		2013: 2 2018: 2	<p>There are provisions in the Forest Code (especially Art 134) setting out the procedure to follow where decisions and forest management practices negatively affect local populations. The level of implementation of this provision is low because it lacks clarity. Disputes initiated by civil society are often not adequately addressed thereby exacerbating conflict with the private sector.</p> <p>As part of the REDD+ process in DRC, a mechanism has been established to allow complaints regarding its implementation with a guidebook validated by all stakeholders in 2016. The mechanism makes it possible to mount legal challenges but there is no record of it having been used so far.</p>
<i>b. Does the law stipulate penalties for staff for corruption?</i>	2013: 2 2018: 2	2013: 2 2018: 2	2013: 2 2018: 2	<p>The Forest Code and the Penal Code provide penalties for staff corruption. Criminal, civil and administrative penalties are provided but maximum penalties defined by the forest legislation are not sufficiently proportionate and dissuasive. Furthermore, penalties are weakly enforced.</p> <p>According to the Independent Monitor, the regime of sanctions (criminal, civil and administrative) for forest crimes should be revised as these are too low. Investigating officers and judges do not give out the maximum sentences either because of corruption or lack of awareness of the importance of the crime. In the case of corruption, Art 143 and 144 of the Forest Code, for example, provide for maximum fines of CF 100,000 and CF 500,000 respectively.</p> <p><b>Implementation:</b> Some penalties are applied but the maximum penalties are rarely used and so they are not dissuasive in practice.</p>
<i>c. Does the law include clear limits to the power of forest ministers or equivalent or other senior government officials to override forest-related laws, regulations and procedures e.g. concession allocation procedures? Does the law limit discretionary powers?</i>	2013: 2 2018: 2		2013: 1 2018: 1	<p>Overall, the law sets clear limits to discretionary powers. There are however some exceptions, for instance Chap IV of Decree No 08/09 of 08 April 2008 governing the concession allocation procedure, which makes it possible for the ministry, 'under exceptional circumstances', to award forest concessions by mutual agreement i.e. outside the regular public tendering process provided for in the decree.</p> <p><b>Implementation:</b> There is regular abuse of the system, the result of widespread corruption, exacerbated by a lack of resources. For example, some of the field missions of enforcement officials are financed by the private sector, providing opportunities for corruption.<sup>22</sup></p> <p>In the past, there have been numerous instances of rules and decisions being overridden by the minister in charge of forests, in spite of the clear limits set in the legislation, particularly in the case of artisanal logging permits. For example, Art 7 and 8 of Ministerial Order No 35/CAB/MIN/ECN-EF/2006 of 5 October 2006 relating to logging (now repealed and replaced by Ministerial Order No 084/CAB/MIN/ECN-DD/CJ/00/RBM/2016 of 29 October 2016) clearly stated that industrial logging permits and artisanal logging permits must be awarded by two separate authorities – the ministry for the former and the provincial authorities for the latter – but this provision has remained largely ignored in practice.</p> <p>A recent case indicates that this has also been the case for industrial concessions. In 2018, in spite of the moratorium on the allocation of new industrial forest concessions (in place since 2002), the then minister of the environment and sustainable development awarded three concessions that had previously been officially cancelled. Logging rights were granted by his successor in early 2016. The case was challenged by national and international NGOs and the allocation was eventually nullified. However, in February 2018, the same concessions were re-allocated by the new minister in spite of the moratorium (Ministerial Order No 009/CAB/MIN/EDD/AAN/VF/05/2018 of 01 February 2018).</p>

Checks and balances	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>d. Does a parliamentary committee, or equivalent, have formal oversight over the national government forest service and associated agencies?</i>	2013: 2 2018: 2	2013: 2 2018: 2	2013: 2 2018: 2	<p>Within the national and provincial assemblies there is an Environment Committee which is tasked with environmental and forestry issues. One of its roles is to monitor and question ministries on these issues. These committees are formed and renewed at each legislature which makes monitoring and continuity difficult.</p> <p>The Committee of the National Assembly has responsibility for controlling the executive. However, it does so irregularly, in part as it lacks sufficient authority and deputies often do not attend the Committee's working sessions. The same is true of the Committees of the Provincial Assemblies.</p>
<i>e. Is there a system in place through which relevant government departments and agencies carry out self-monitoring of their performance and internal corruption investigation. (This could be carried out by an internal or external inspectorate which includes making the findings public.)</i>	2013: 2 2018: 2	2013: 1 2018: 1	2013: 1 2018: 1	<p>Within the ministry in charge of forests, the Monitoring and Verification Committee (DCVI), is in charge of monitoring and investigation of internal corruption. In addition, the judicial institutions of the Ministry of Justice support this work.</p> <p><b>Design:</b> There is no requirement to make public the results of investigations into internal corruption cases. Very often, inspectors from the DCVI, who have limited authority, simply submit statements to their authorities or defer cases to the public prosecutor's offices (Ministry of Justice). The latter do have more authority to pursue cases.</p> <p><b>Implementation:</b> The level of implementation of the system is very low because of the widespread corruption in the Congolese administration.</p>
<i>f. Is there an independent national forest monitoring system in place?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 2 2018: 3	<p>Further to an initial independent monitoring (IM) phase (Dec. 2010-Apr. 2013) carried out by Resource Extraction Monitoring, Forest Governance Observatory, a national CSO, took over in 2013 through a new MoU with the government. Eight observation reports have been produced and published under the current agreement.</p> <p>Other CSOs have also been conducting IM missions. Such initiatives have recently gained official backing. For instance, Action Group to Save Humans and their Environment (GASHE) entered into an agreement with the provincial administrations in Equateur (2016) and Tshuapa (2017) thereby resulting in the conduct of joint monitoring and verification missions with provincial inspectors who have judicial powers including confiscation of illegal timber and submission of evidence to courts.</p> <p><b>Design:</b> The system covers all activities from the point of harvest to the point of sale or export. It is only being implemented in some provinces however. Those CSOs involved in IM activities are looking at options to update and harmonize their approach given the increasing number of initiatives and methodologies in place as well as recent developments in forest governance.</p> <p><b>Implementation:</b> Since the 2013 assessment, government support to the IM has improved, whose role now goes uncontested. Mission reports are examined by a Reading Committee which comprises the IM, government officials, CSOs and representatives of the forest concessions covered in the reports. However, a major challenge for fully effective implementation is securing long-term funding.</p>
<b>22. Is customs specifically mandated to check that timber consignments meet the country's forestry-specific legal export requirements?</b>	2013: 2 2018: 2		2013: 2 2018: 2	<p>Customs (Customs and Excise Office, OFIDA) do not systematically and thoroughly check timber being exported.</p> <p>The major reasons for this are: the lack of physical controls at the time of loading of goods, corruption and a lack of knowledge of the relevant legal requirements for timber exports among some customs officers.</p>



Timber tracking & chain of custody	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>23. Are there effective mechanisms in place to detect instances of illegal timber entering the supply chain?</b>				
<i>a. Is there a system in place designed to verify the origin of timber i.e. forest management unit in transport, transfer and delivery?</i>	2013: 2 2018: 2	2013: 2 2018: 2	2013: 2 2018: 2	<p>The Timber Production and Commercialization Control Programme (PCPCB) controls the production and sale of timber. It was first implemented by SGS, and since 2016, by AUFS.</p> <p><b>Design:</b> The PCPCB does not cover all provinces, excluding a number of provinces that are important producers of timber. Furthermore, some illegal practices are difficult to detect, for example, counterfeit marking of logs as well as the introduction of timber from artisanal logging in the industrial supply chain.</p> <p><b>Implementation:</b> The system is still vulnerable to illegal practices. With the relaunch of the PCPCB in 2016, there have been signs of greater ownership by the government but implementation still needs to be improved.</p>
<i>b. Does the system design include the following components?</i>				
<i>i. Independent monitoring procedures by independent government body or third party?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 2 2018: 2	<p>Independent monitoring activities are carried out by OGF (the mandated IM) as well as a number of non-mandated CSOs (such as Réseau Ressources Naturelles (RRN) and Congolese Organization of Ecologists and Friends of Nature (OCEAN) (see also 4 (f) above).</p> <p>It should be noted that international NGOs have also had a role in documenting cases of illegalities in the supply chain but their findings are not endorsed by the government. In 2017, Global Witness was banned from conducting any activity in DRC.</p> <p><b>Design:</b> Independent monitoring covers the whole production chain and in 2018 OGF extended its scope to the province of Kongo Central. However, not all provinces and concessions are covered by OGF.</p> <p><b>Implementation:</b> In practice, independent monitoring is absent from a number of important areas for timber production. Insufficient resources are an issue because of the size of the country. However, both the central and some provincial governments have been supportive of IM activities and have established MoUs to conduct joint missions (see 21 (f) above).</p>
<i>ii. Reconciliation systems</i>	2013: 2 2018: 0	2013: 2 2018: n/a	2013: 2 2018: n/a	<p>The reconciliation system put in place by SGS went down when they ceased activities in the country in 2016 and the ministry's DCVI has not had the capacity to keep it running.</p>
<i>iii. Tamper-resistant documentation procedures</i>	2013: 1 2018: 0	2013: 1 2018: n/a	2013: 1 2018: n/a	<p>Tamper-proof barcodes were in place as part of the chain of custody system implemented by SGS. The use of these is thought to have stopped when SGS ceased activities in 2016.</p>
<i>iv. Computerized systems</i>	2013: 2 2018: 2	2013: 4 2018: 3	2013: 1 2018: 2	<p>As noted in the 2013 assessment, a system had been developed and implemented by SGS – the Information System on Forest Governance (SIGEF). The data saved on this system allowed for the inspection of data at each critical point along the supply chain. Activity reports relating to forest inventories, to logging, to transport documents and to export documents, were entered into the SIGEF by operators. All the data were stored on a central server accessible via a webpage.</p> <p>Recent information indicates that the system is still partly operational and used by the central administration to monitor traceability, however, with limited efficiency as the barcode system (see 10 (b-iii) above) is no longer in place. It should also be noted that the system does not cover the whole country with large areas (corresponding to the former Bandundu and Equateur provinces) not being subject to monitoring activities for lack of financial resources.</p>
<i>c. Does the system also cover timber for the domestic market as compared to systems explicitly targeting exports? (Question added in 2018)</i>	2013: - 2018: 2	2013: - 2018: 2	2013: - 2018: 1	<p>Owing to the proposed architecture of the PCPBS, which is based on inspections being carried out all along the supply chain, any timber product in transit from harvest site to market or point of export is presumably covered by the system. This, notwithstanding, seems unlikely given the numerous challenges listed above that timber products sold on the domestic market are actually and consistently documented. The statistics on domestic timber consumption have for years relied on estimates (as have statistics on industrial and artisanal production).</p>

Law enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>24. Do policies, laws, regulations and procedures facilitate and promote effective law enforcement?</b>				
<i>a. Are penalties and sanctions against illegal logging and forest-related crime proportionate and dissuasive?</i>				
<i>i. For legislation on domestic production and trade</i>		2013: 2 2018: 2	2013: 2 2018: 2	Design: Fines for forest infractions are low and, according to the IM-FLEG, they should be reviewed. The maximum sanctions set out in Art 143 through to 154 of the Forest Code are: imprisonment up to five years and fines up to CF 2.5million.  Implementation: The maximum penalties are rarely imposed because of corruption and a lack of awareness within the judiciary of the importance of forestry offences. No prison sentence or suspension of logging rights has been reported for the period 2013-18.
<i>ii. For legislation to prevent the import of illegal timber if in place</i>		2013: - 2018: n/a	2013: - 2018: n/a	No such legislation in place.
<i>b. Are there systems in place to ensure coordination between relevant ministries and agencies on illegal logging cases?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	No coordination system for different ministries and agencies has been put in place. The proposed multi-stakeholder platform on forests (under the REDD+-related 'Fight against illegal logging' plan) could serve this purpose but it is yet to come into being.
<b>25. Do government institutions and agencies have sufficient capacity and resources to monitor forest areas and detect and suppress forest crime?</b>				
<i>a. Are forest officials/law enforcement staff sufficiently resourced for monitoring and enforcement? (Relevant resources include budgets, numbers of staff, communications, transport, equipment, salaries as well as training in understanding of regulatory framework and knowledge of techniques for monitoring and enforcement.)</i>		2013: 1 2018: 1	2013: 2 2018: 2	Resources for forest monitoring and enforcement are insufficient. The Independent Monitoring reports produced by OGF point at the lack of human and financial resources as being a decisive factor in the limited number of inspections carried out by enforcement officers. Besides, current efforts to fight illegal logging only target the formerly three biggest forest provinces – now split into 13 smaller provinces – whereas illegal logging is diffusing in the DRC and affects all provinces.  Furthermore, officers lack training regarding the procedures and monitoring tools developed by the IM. In-the-field training is now being provided through the various joint Independent Monitoring missions carried out (see 21 (f) above and 26 (b) below), but this being a nascent scheme, effects have remained limited.  An overarching issue is that political, administrative and military authorities are complicit in illegal logging activities. Often, missions of the DCVI's inspectors are funded by those forestry operators under inspection.
<i>b. Are the following non-forest sector officials who are involved in forest enforcement, trained and kept up to date in relevant forest sector issues?</i>				

Law enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>i. Judges and prosecutors</i>			2013: 1 2018: 2	<p>For the most part, judges and prosecutors have little knowledge of the laws regulating the forest sector, and little training has been provided for them. Furthermore, claims relating to the sector are rarely brought to court. Communication channels exist between the MEDD and the Ministry of Justice but they need to be activated.</p> <p>It should be noted that from 2013-18, with support from the Rainforest Foundation UK (RFUK), 33 judicial police inspectors in Equateur province received capacity-building training and became fully qualified judicial police officers. The training was provided by RFUK's national partner GASHE. Furthermore, national NGO CODELT implemented a project in 2017 through which prosecutors and judges in Equateur province received training in dispute settlement in the forest sector.</p>
<i>ii. Customs officials</i>			2013: 2 2018: 2	<p>The ministry in charge of forests provides information to customs officials relating to taxes and to controls but does not do so systematically.</p> <p>Contacts are often established with senior officials in charge of forestry issues at the Ministry of Finance (DGRAD, DGI (General Tax Directorate) and OFIDA) and initiatives related to the collection of taxes and fines are currently in place.</p>

**26. Do government agencies systematically use appropriate information gathering tools in order to identify illegal activities?**

<i>a. Are remote sensing systems used for this purpose such as satellite imagery and/or aerial surveillance?</i>			2013: 1 2018: 1	<p>Satellite imagery and aerial surveillance are not currently used to identify illegal activities. Enforcement bodies lack the means and capacity for this. The need for using such systems has been identified in the Fight against Illegal Logging Plan (2017).</p> <p>NGOs have been using GPS and GIS to gather information on illegal activities by operators on the ground. From 2016-17, GASHE implemented a real-time monitoring project in Equateur province with technical and financial support from RFUK. The project implemented a system for forest monitoring by local communities. It was endorsed by the provincial forest administration which made use of the information provided to conduct enforcement and tax recovery missions.</p>
<i>b. Are in-the-field investigatory tools used for this purpose such as confidential diagnostic surveys, informants and NGOs?</i>			2013: 1 2018: 1	<p>In 2017, work was carried out under the AGEDUFOR programme (Sustainable Forest Management, 2011-20) to review, jointly with OGF (Independent Monitor) and MEDD Directorate for Control and Internal Verification, the procedures for the control of logging activities. The procedures have been validated but implementation has remained very limited to date because of limited resources.</p> <p>The tools produced and implemented by the Independent Monitor and other NGOs are being increasingly shared with, and used by, forestry officials – particularly as they often lack the investigation tools needed to identify illegal activities. Alerts sent out by informants from communities (as part of the activities of GASHE) are also transmitted to the authorities. In addition, joint IM-MEDD monitoring missions are being carried out (see 21 (f) above).</p> <p>However, the IM reports indicate that the number of IM-documented cases being acted upon by the administration remains low. A major issue is that the various monitoring initiatives cover a limited geographic area and do not have secure long-term funding.</p>
<i>c. Are material flow analyses used for this purpose such as wood input/output estimates and comparison of import/export data?</i>			2013: 1 2018: 1	<p>The need for using material flow analyses has been identified in the Fight against Illegal Logging Plan (2017).</p> <p>Such analyses are not carried out because of a lack of statistical data on imports and exports. The few statistics on timber exports available from OFIDA (the Customs and Excise Office) cannot be easily accessed. The traceability and monitoring system previously developed by SGS is not in use anymore and the capacity to monitor timber flows seems to have deteriorated.</p>
<i>d. Are log tracking and check point systems used for this purpose?</i>			2013: 1 2018: 1	<p>There was an attempt to establish a system under the system developed by SGS but no progress has been made since it ceased activities. The need for establishing such systems has been identified in the Fight against Illegal Logging Plan (2017) in the form of checkpoints at city gateways to quantify flows and verify conformity but this is yet to be implemented.</p>