

### Summary

There has been appreciable progress over the past five years in the Congolese government's response to illegal logging and related trade mostly under the Congo–EU Voluntary Partnership Agreement (VPA). The Timber Legality Assurance System (TLAS) software is now fully developed and the forest administration at local level is being gradually trained and equipped in preparation for the launch of the system. A revision of the legislative framework has also been underway involving broad stakeholder participation.

Nonetheless, these positive developments are only partially complete. The TLAS software must now be rolled out countrywide and the revised Forest Code is still pending government approval. Furthermore, Congo still has systemic governance weaknesses including limited capacity within the administration and high levels of corruption. Consequently, forest revenue collection and enforcement remain poor.

The recent strengthening of the government's ownership of the issue of illegal logging is an encouraging trend that can be seen in the nascent coordination between the ministry in charge of forests and the Ministry of Finance and Budget. A five-year VPA implementation strategy was adopted by Congo in late 2017 which set out the priority actions that need undertaking to address these weaknesses. Together with core elements of the VPA, the strategy aims to tackle corruption within the sector and foster high-level coordination

Figure 1: Summary table for the Republic of Congo's forest policy assessment

	2008	2013	2018*
<b>Overall policy score</b>			
<b>1. Legal &amp; Institutional Framework</b>			
1.1 High-level policy			
1.2 Legal & institutional framework			
1.3 International engagement			
<b>2. Tenure &amp; Resource Allocation</b>			
2.1 Tenure & use rights			
2.2 Resource allocation procedures			
<b>3. Regulating Demand</b>			
3.1 Legislation & regulations on illegally sourced timber			
3.2 Policies & measures concerning demand for legal timber			
<b>4. Transparency</b>			
4.1 Institutional & legal transparency			
4.2 Resource allocation, management & enforcement			
4.3 Information & data management			
4.4 Financial management			
<b>5. Rule of Law</b>			
5.1 Checks & balances			
5.2 Timber tracking & chain of custody			
5.3 Law enforcement			

  

<b>Key</b>						
	Failing	Weak	Fair	Good	Very Good	No Data

### Key Forest Policies and Resources

Forest Code (Law No. 94/01 of 20 January 1994), see: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC004845>

Decree No. 95/531/PM of 23 August 1995 on implementation of the 1994 Forest Code, see: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC004471>

2005 National Strategy for Forest & Fauna Law Enforcement, see: [http://minfof.cm/apvcameroun/attribution/strategie\\_nationale\\_de\\_controle.pdf](http://minfof.cm/apvcameroun/attribution/strategie_nationale_de_controle.pdf)

Voluntary Partnership Agreement between the European Union and Cameroon on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT), see: [https://eur-lex.europa.eu/legal-content/EN/TX-T/?qid=1450341651671&uri=CELEX:22011A0406\(02\)](https://eur-lex.europa.eu/legal-content/EN/TX/T/?qid=1450341651671&uri=CELEX:22011A0406(02))

\* 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 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

CIFOR	Center for International Forestry Research
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLFT	Forest Legality and Traceability Unit
CNCCF	National Commission for the Fight against Corruption, Bribery and Fraud
CSO	Civil Society Organization
DDEF	Departmental Directorates of the Forestry Economy
FLEGT	Forest Law Enforcement, Governance and Trade
IM	Independent Forest Monitor
JIC	Joint Implementation Committee
MFE	Ministry of Forest Economy
NDC	Nationally Determined Contribution
NEP	National Employment Policy
NGO	Non-governmental organization
NSI	National Statistical Institute
REDD+	Reducing emissions from deforestation and forest degradation

RoC	Republic of Congo
SCPFE	Forestry Products Export Control Unit
SME	Small and medium-sized enterprises
SP	Special permit
TLAS	Timber Legality Assurance System
ToC	Theory of Change
UFE	Forest Exploitation Unit
VPA	Voluntary Partnership Agreement
WRI	World Resources Institute
SIGIF	Forest Information Management System
SNOIE	Standardized External Independent Monitoring System
TLAS	Timber Legality Assurance System
VPA	Voluntary Partnership Agreement
WCO	World Customs Organization
WRI	World Resources Institute

**Table 1: The 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: 1	2013: n/a 2018: 3	2013: n/a 2018: 1	<p>While the issue has been discussed throughout the VPA process, September 2017 saw a particular effort in the form of a VPA strategic planning retreat which brought together a wide array of stakeholders to review the underlying causes of illegal logging and poor forest governance and then prepare a Theory of Change (ToC) to tackle those issues. The ToC forms the basis of the five-year VPA implementation strategy which was validated by the VPA Joint Implementation Committee in December 2017.</p> <p><b>Design:</b> The ToC is comprehensive in identifying the causes of illegal logging but has not focused on assessing the extent of the issue.</p> <p><b>Implementation:</b> Implementation of the five year strategy is just beginning.</p> <p>In parallel, mission reports produced by the Independent Forest Monitor since 2008, which are endorsed by the government through a 'reading committee', have provided the forestry administration with indications of the nature of breaches in the forest sector but they do not count as an extensive review of the issue.</p> <p>Finally, a legal review, undertaken since 2012 as part of a broader effort to revise the legislation, has to some extent informed stakeholder understanding of the causes of illegal logging but it has not resulted in any formal output besides the draft regulatory framework. Furthermore, it did not involve assessing the severity and extent of illegal logging in RoC.</p>
<i>b. Is there a national action plan in place for tackling illegal logging?</i>	2013: 2 2018: 2	2013: 3 2018: 4	2013: 2 2018: 3	<p>The EU-RoC FLEGT VPA, which is aimed at tackling illegal logging in the Republic of Congo (RoC) and ensuring the legality of trade to the EU, entered into force in March 2013 and is still being implemented (see Q 6(a) below for the progress made in this regard).</p> <p>The national REDD+ strategy and the REDD investment plan also include an element on improved forest governance.</p> <p>In December 2017, RoC adopted a five-year VPA implementation strategy and action plan – a specific objective of which is to combat the illegal harvesting and trading of Congolese timber. The plan explicitly acknowledges the need for greater resources to be allocated to law enforcement activities. The strategy, which also provides for the implementation of a Monitoring &amp; Evaluation framework, is to be noted for the unprecedented level of government coordination involved namely Ministries of Forest Economy, Planning and Finance &amp; Budget.</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: n/a	2013: n/a 2018: n/a	<p>Art 102 of the Constitution of 25 October 2015 provides for the existence of inter-ministerial committees to be chaired by the prime minister. While there is no illegal logging-specific committee in place for now, it was agreed at the seventh meeting of the VPA Joint Implementation Committee (December 2017) that an inter-ministerial committee would soon be set up to co-ordinate action around the Timber Legality Assurance System (TLAS) and TLAS software roll-out thereby bringing together three relevant ministries (i.e. Forest Economy, Finance &amp; Budget and Planning). The decree establishing this committee was still pending adoption at the time of completing the current assessment. (To note, the decree was subsequently adopted in November 2019). A VPA Focal Point has also been in place at the Ministry of Finance &amp; Budget since late 2017 to ensure coordination.</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>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: 4 2018: 4	2013: 3 2018: 3	<p>Several formal multi-stakeholder bodies have been established under the VPA:</p> <ul style="list-style-type: none"> <li>The Joint Implementation Committee (JIC), which oversees the implementation of the VPA, has convened twice a year since 2015 (the process having stalled between April 2013 and May 2015) to steer the process and facilitate information sharing between the two parties. The Congolese party is made up of government representatives as well as members from civil society and the private sector.</li> <li>The Joint Working Group (JWG), established to monitor the progress of technical activities related to VPA implementation, comprises members of the Ministry of Forest Economy (MFE) and Ministry of Planning, the EU Delegation, civil society and the private sector. 54 meetings had been held as of May 2018.</li> <li>The Technical Secretariat, which comprises members of the MEF and MP, civil society and the private sector usually convenes twice a year ahead of the JIC meetings to foster consensus among national stakeholders and develop a national position for discussions with the EU. Concerns were reported in the previous assessment (in 2013) regarding the low level of inclusiveness of the legal reform process. Some encouraging developments took place in 2017 with consultation meetings and validation workshops being held to take into account remarks from civil society and the private sector. In some instances, the MFE consulted with CSOs on specific legal issues thereby indicating that civil society's expertise is being valued by the current minister. However, little progress was made during the first half of 2018 and civil society addressed a letter to the minister in May 2018 to complain about the limited integration of stakeholders' comments and inputs into the draft implementing decrees. These concerns were also discussed at the eighth JIC meeting in June 2018.</li> </ul> <p>The Technical Secretariat's actual contribution to the VPA process has been weak so far but reform is underway to make the secretariat the true national decision-making body that it should be. A proposal has been made to secure funding for the secretariat, to enable it to operate regularly and to revise its composition (i.e. to ensure stronger links with high-level management within government and to strengthen the participation of the private sector and indigenous peoples which has remained of concern.)</p>
<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: 1	<p>Art. 17 of the current Constitution, which has been in force since November 2015, states that 'the law guarantees parity and ensures the promotion and representativeness of women in all political, elected and administrative functions'. A law on equality began to be drafted in 2012 to implement this guarantee but the process is still to be completed.</p> <p>A dedicated Ministry, namely the Ministry of Promotion of Women and Women's integration in Development, has been in place since the mid-2000s. Art. 232 of the Constitution also provides for the creation of an Advisory Council of Women tasked with formulating opinions and providing the government with recommendations regarding the integration of women in development. A law (No. 14-2018 of 15 March 2018) was passed in 2018 to establish the Council's composition, organization and functioning.</p> <p>However, there has been no tangible impact on the representation and participation of women in the development and implementation of forest policies as yet and no dedicated policy or process is in place. Mainstreaming gender in forest policies has remained an important objective for CSOs and a number of FLEGT-related projects. At the broader level, participation and representation are still far from balanced with currently eight female ministers out of 36, 13 female MPs out of 142 and 14 female senators out of 72.</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>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	<p><b>NDC:</b> The country's Nationally Determined Contribution (NDC) (2015) makes no mention of illegal logging per se.</p> <p><b>REDD:</b> Within the national REDD+ strategy (2016), reducing emissions resulting from unplanned or illegal deforestation and forest degradation is a specific objective of the REDD+ Principles, Criteria and Indicators (PCI). It includes provisions for reinforcing government capacity regarding control and forest law enforcement. The latest version of the REDD+ investment plan (June 2018) includes a measure (No 1.6) to operationalize the FLEGT mechanism and reinforce the enforcement capacity of the forest administration. Expected outcomes are a functioning Timber Legality Assurance System (TLAS) by 2022 and strengthened capacities at the level of both the Independent Forest Monitor and the central &amp; decentralized forest administration. The investment plan also refers to illegal artisanal timber production and includes a measure (No 1.7) to address this. Respect of legality is also mentioned in the context of agro-industrial development.</p> <p>Moreover, in 2017, a clear synergy with FLEGT was identified with the draft Emission Reductions Program Idea Note/ Reduced Impact Logging manual (concerning the Sangha and Likouala departments). The manual, which is being finalized with World Bank support, mentions compliance with the FLEGT legality matrix as a prerequisite for participating in reduced impact logging activities and accessing Forest Carbon Partnership Facility funding.</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
<p><b>2. Is forest legislation and regulation coherent and unambiguous?</b> (Question added in 2018)</p>		<p>2013: 3 2018: 3</p>		<p>The revision of the Forest Code has been underway since 2012. The draft revised text is now sitting with the Supreme Court pending approval. Inconsistencies and ambiguities in its draft implementing decrees were noted by the EU at the eighth VPA Joint Implementation Committee (JIC) meeting (June 2018) leading to a recommendation being made for the establishment of a dedicated working group. Further work will be required once the revised Forest Code and its implementing texts are enacted. Specifically, the reach and scope of the TLAS beyond the control and verification operations, will need to be defined. In addition, the modalities of the development of forest management plans will require further refining and the status of certain types of timber (such as conversion/plantation/imported/seized) will also have to be clarified.</p> <p>Laws affecting the use of forests in the RoC are reasonably coherent: (1) The Forest code (Law No 16-2000 of 20 November 2000) has listed as an objective of the law: to reconcile the exploitation of forest products with the need for conservation of the forest and biodiversity heritage in view of sustainable development (2) A decree (N°86/775 of 7/06/1986) makes it compulsory to carry out an environmental impact assessment on works which relate to: the clearing of forests and woodland areas, listed forests, productive and protective forests (3) Art 19 of Law 3-2007 of 24 Jan 2007 regulating imports, exports and re-exports states that: 'The export of all goods and services (...) has to undergo inspection (...) This inspection shall look at: the value, quality, quantity, labelling, packaging, origin, marking, the respect of rules and all other technical specifications namely those requested upon the purchase of the product'.</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> (Question added in 2018)</p> <p>(Artisanal and micro-scale enterprises are defined respectively as those with 1-3 and 4-10 employees.)</p>		<p>2013: - 2018: 2</p>		<p>The Legislation includes provisions that specifically cover the formalization (including fiscal obligations) of SMEs and artisanal enterprises in the forest sector. Obtaining a professional accreditation and professional card is required for such enterprises (Decree 2002-437 of 31 December 2002 governing the conditions for management and utilization of forests; Ministerial Order No. 2930 of 31 March 2004 establishing issuance fees for the professional accreditation and professional card for forest and timber artisans).</p> <p>This, notwithstanding, the scope of these legal provisions is limited by the structure of the forest sector which mostly consists of dividing the forest domain into large logging permits. Provisions for obtaining temporary, small-scale Special Permits (SPs) exist, but three major flaws make it difficult for artisans and SMEs to operate formally under this system:<sup>1</sup></p> <ul style="list-style-type: none"> <li>• The lengthy procedures and substantial costs for obtaining SPs have been found to discourage potential applicants from following the official route.</li> <li>• Given the constraints above, SPs (which are valid for up to one month) provide limited benefits.</li> <li>• Timber harvested under the SP regime must be sold within the department making it nearly impossible for formal artisanal timber products to be procured in urban market places such as Brazzaville or Pointe-Noire.</li> </ul> <p>For now, the bulk of artisanally harvested timber products remains informal. The 2015-25 forest policy document acknowledges and aims to address the issue but specific instruments are yet to be devised and put into force.<sup>2</sup></p>

<sup>1</sup> Lescuyer, G., Yembe-Yembe, R. I. and Cerutti, P. O. (2011), The domestic market for small-scale chainsaw milling in Republic of Congo: Present situation, opportunities and challenges. Occasional paper 74, Center for International Forestry Research (CIFOR), [http://www.cifor.org/publications/pdf\\_files/OccPapers/OP-74.pdf](http://www.cifor.org/publications/pdf_files/OccPapers/OP-74.pdf)

<sup>2</sup> UN Food and Agriculture Organization & Republic of Congo (2014), La Politique Forestière de la République du Congo (2015-2025), <http://extwprlegs1.fao.org/docs/pdf/con143403.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
<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: 2 2018: 2</p>		<p>There are very few cross-sectoral provisions or mentions of other sectors in legislation applicable to one sector. For instance, the Mining Code (Law No 4-2005 of 11 April 2005) includes just one provision on forests in Art 129. This states that 'rehabilitation of forest areas or other areas affected by mining activities is the responsibility of the holder of the mining permits within the conditions set by the law for the protection, management and preservation of nature'. The Mining Law is currently being revised but it is not known whether the draft text includes any further details.<sup>3</sup></p> <p>In recent years, concerns have been expressed by civil society regarding the legal provisions governing forest conversion (in the legislation applicable to forests as well as agriculture) which are deemed unclear and weak. The main issue resides in the absence of a formal land use plan (see Q.7(b)). Consequently, existing legal provisions provide limited opportunities to prevent overlapping land use allocations (e.g. for forestry, mining, agriculture and infrastructure).</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: 1</p>	<p>2013: - 2018: 2</p>	<p>2013: - 2018: 1</p>	<p>The forest legislation defines the procedure whereby a plot of forested land can be accessed and cleared by an agricultural or mining company. The process includes obtaining a deforestation permit, payment of the deforestation tax and undertaking an environmental impact assessment.<sup>4</sup></p> <p>As ClientEarth (2015) notes: 'In the case of natural forests, the Forest Code stipulates that products resulting from deforestation can be recovered by the company which has carried out this deforestation. In cases where the products are abandoned, they can be sold for the benefit of the state'. In the case of planted forests, 'the products resulting from this deforestation will be returned to the owner of the planted forest which can be a different entity from the company that carried out the deforestation'.<sup>5</sup></p> <p>The existing legislation makes no specific mention of the rights attached to the selling of timber products acquired through forest clearance – it can only be inferred from the general spirit of the Forest Code that nothing opposes the sale of such products. Likewise, no legal provision is in place to prohibit such products from being exported. It should, however, be noted that the draft revised Forest Code is expected to make it mandatory that timber products resulting from forest clearance comply with all legal requirements regarding traceability.</p> <p>It should also be noted that deforestation permits are not included in the VPA Legality Matrix. The issue has been brought forward by national and international CSOs as part of the implementation of the VPA but no further steps have been taken to date.</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>As explained in Q.3, any operation related to timber harvesting and trade must be duly registered and approved by the relevant authorities. There is therefore no room for informal enterprises in the spirit of the law although in reality the informal sector is rife.</p>

<sup>3</sup> ClientEarth (2015), The legal framework for forest conversion in the Republic of Congo <https://www.documents.clientearth.org/wp-content/uploads/library/2015-06-09-the-legal-framework-for-forest-conversion-in-the-republic-of-congo-ce-en.pdf>

<sup>4</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>

<sup>5</sup> ClientEarth (2015), The legal framework for forest conversion in the Republic of Congo <https://www.documents.clientearth.org/wp-content/uploads/library/2015-06-09-the-legal-framework-for-forest-conversion-in-the-republic-of-congo-ce-en.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
<p><i>d. Are there systems in place for cross-sectoral coordination between ministries and agencies responsible for planning and land-use allocation?</i> (Question added in 2018)</p>	<p>2013: - 2018: 1</p>	<p>2013: - 2018: 1</p>	<p>2013: - 2018: 1</p>	<p>See Q.7(b).</p> <p>A National Land Planning Scheme was developed in 2005 in addition to a law passed in 2014 (Law 43-2014 of 10 October 2014) to provide general guidelines for land planning and development. A national land-use plan has also been under development since 2015 as part of the National REDD+ Strategy.</p> <p>However, RoC still lacks a proper land use plan and, while the ministry in charge of land planning has been tasked with coordinating all sectoral policies, these remain siloed. As a result, the allocation of productive forests has remained the sole prerogative of the ministry in charge of forests, mining and prospection permits, the prerogative of the ministry in charge of mines etc. and cases of overlapping/conflicting uses do occur.</p>
<p><b>5. Is gender considered within policy-making and implementation?</b></p>				
<p><i>a. Is there a designated agency/ focal point with the mandate to ensure gender perspectives are mainstreamed in forest policies?</i> (Question added in 2018)</p>	<p>2013: - 2018: 2</p>	<p>2013: - 2018: 2</p>	<p>2013: - 2018: 1</p>	<p>A gender focal point is in place within the ministry in charge of forests and is tasked with ensuring that gender perspectives are being mainstreamed in forest policies. To this end, the focal point is supposed to be supported by a Gender Unit composed of representatives of all the ministry's departments. However, no roadmap has been developed to specify how the gender focal point is to ensure gender mainstreaming and coordinate with the Gender Unit. Furthermore, this set-up only applies to the central administration while gender mainstreaming at the level of the 'départements' has remained the sole responsibility of the Ministry of Promotion of Women and Women's integration in Development. As a result, implementation has been lagging.</p> <p>Mainstreaming gender in forest policies has remained an important objective for CSOs and a number of FLEGT-related projects. This has included gender-related training bringing together forest practitioners and government officers but the impact of such initiatives has been limited.</p> <p>As noted in Q.1(e), an Advisory Council of Women, tasked with formulating opinions and providing the government with suggestions regarding the promotion of women's integration in development, has been in place since 2018. However, the council's mandate does not focus specifically on forest policies and, so far, there has been no example of the council making suggestions about gender mainstreaming in the forest sector.</p>
<p><i>b. Are there processes or policies in place to assess gender impacts in the development and implementation of forest policies?</i> (Question added in 2018)</p>	<p>2013: - 2018: 0</p>	<p>2013: - 2018: n/a</p>	<p>2013: - 2018: n/a</p>	<p>While the Republic of Congo has reported on its gender policy at the level of the United Nations Human Rights Council, no such process or policy exists to assess gender impact in the forest sector.</p>

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: 2 2018: 2	2013: 4 2018: 4	2013: 2 2018: 3	<ul style="list-style-type: none"> <li>CITES: RoC is party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), under which, the export of three timber species (including Afrormosia) is subject to the issuance of CITES licenses and Non-Detriment Findings. Enforcing CITES requirements is thought to provide promising opportunities for collaboration between customs officials from timber exporting countries, such as RoC and China, which are important markets for a number of CITES timber species. With support from the NGO TRAFFIC, the World Customs Organization Timber Trade Guidelines were finalized in late 2017. Congolese customs officials were involved in this exercise (see Q.25 (b-ii)).</li> <li>FLEGT VPA: In May 2010, the EU signed a Voluntary Partnership Agreement (VPA) with the Republic of Congo, the objective of which, is 'to provide a legal framework aimed at ensuring that all timber and derived products covered by the agreement that are imported into the Union from Congo have been legally produced, and in doing so, to promote trade in this timber and these derived products' (Art 1 of the EU-RoC VPA). The agreement established: a FLEGT licensing scheme (Art. 3); legality matrices, (Art. 7), a system verifying the legality of timber (Art. 8) and an Independent Auditor tasked with verifying the performance and efficiency of the FLEGT licensing scheme (Art. 11). It specifies the need to set social safeguards (Art 17); stresses the importance of transparency with regards to forestry data (Art. 21) and spells out the need to a) increase the capacity of the General Forest Economy Inspectorate b) increase the capacity of civil society c) supplement legislation and regulations and d) implement a communication plan (Art 15). The VPA entered into force in March 2013 and has since been in the implementation phase.</li> </ul> <p><b>Implementation:</b> Significant progress with implementation has been made since the previous assessment in 2013: (i) The TLAS software, which was finalized in late 2016, was installed at the data-centre of the Ministry of Finance and Budget in late 2017 and is currently being tested in preparation for national roll-out (ii) all legality verification procedures, as well as a manual for the management of non-compliances, were validated in 2017 (iii) a first independent audit was carried out in 2017 leading to a number of methodological issues being addressed subsequently (iv) the civil society-led independent monitoring has been conducting field missions and producing reports regularly – all of which have been made publicly available and (v) overall coordination and stakeholder engagement has improved.</p> <p>However, the legal and policy reform triggered by the VPA is still ongoing and the TLAS, which will provide the basis for FLEGT licensing, remains to be fully rolled out and implemented by the administration.</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	There is no such system in place.

## 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: 1 2018: 1	2013: 1 2018: 2	<p>The legislation only requires demarcation at ground level and makes no reference to publishing maps.</p> <p>Art 80, 83 and 84 of Decree No 437-2002 state that the boundaries of the forest concession (as well as the inner limits between annual harvest areas and other management areas) are to be demarcated by a track as well as metal plates. There are however no indications in the law of where and how the maps are to be made known to the public even though decrees announcing the allocation of forestry concessions do carry a chapter detailing the limits of the concessions. These decrees are published in the Official Journal. In practice, the maps produced as part of management plans tend to be bill-posted in neighbouring villages.</p> <p>Other pieces of legislation covering land and tenure (i.e. Law No 9/2004 governing State property; Law No 10/2004 governing the principles applicable to the land and tenure regime and Law No 25/2008 governing the agricultural tenure regime) do not make mention of such maps either and the absence of a national land use plan (see 9 (b) below) is conducive to overlapping uses.</p> <p>The Interactive Forest Atlas<sup>6</sup> and the beta version (now online) of the Open Timber Portal,<sup>7</sup> both developed by the World Resources Institute (WRI), do provide dynamic maps that include forest concessions boundaries. The data underlying these tools have been provided by the ministry in charge of forests. Some other land uses and tenure rights appear in the Atlas as well such as agro-industrial and oil concessions. However, these tools can only be accessed online and, as such, remain 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: 3	2013: 1 2018: 1	<p>Conflicts do occur, not only between logging rights holders and neighbouring communities, but also between forest concessions and other prospection/exploitation rights such as oil and mining.</p> <p>A National Land Planning Scheme was developed in 2005, followed by a Law (Law 43-2014 of 10 October 2014) passed to provide general guidelines for land use planning and development, but RoC still lacks a proper land-use plan. Efforts have been underway since 2015 to develop a National Land-Use Plan, with World Bank funding and technical input by WRI as part of the National REDD+ Strategy. The plan is expected to clarify overlapping uses (logging, conservation, mining, agriculture as well as customary uses) thereby facilitating access to forest land for both investors and local communities.<sup>8</sup></p> <p>On paper, there is a formal mechanism in place in the form of an inter-ministerial committee that was established in 2009 (Decree No 2009-304) to address all cases of overlapping uses and rights. However, this committee has not been functioning to date.</p> <p><b>Implementation:</b> Most conflicts between communities and logging permit holders tend to be acted upon by the local administration only when the situation escalates after having failed to be settled amicably.</p>

<sup>6</sup> MFE & WRI, Interactive Forest Atlas, <http://cog.forest-atlas.org/map>

<sup>7</sup> Open Timber Portal, <http://www.opentimberportal.org/operators>

<sup>8</sup> Chavallard, E. (2017), Analyse de la politique d'aménagement et de développement du territoire au Congo-Brazzaville, <https://www.documents.clientearth.org/wp-content/uploads/library/2017-03-08-analyse-de-la-politique-d-amenagement-et-de-developpement-du-territoire-au-congo-brazzaville-ce-fr.pdf>

Tenure and use rights	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>c. Are there formalized mechanisms in place for accommodating customary rights in law and regulations?</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 1 2018: 1	<p>One forthcoming development which should be highlighted is the broader definition of customary rights in the revised Forest Code which is currently pending adoption. If enacted together with the corresponding implementing text, the new law will enable the local commercial sale of non-timber forest products (Art 75) as well as (Art 28) the creation of community forests within the Community Development areas inside forest concessions (see also Q.8 (d)). Customary rights may be further recognized with the introduction of new types of forest permit which include inter alia household logging permits.</p> <p>Until such provisions are in place, the analysis provided in the 2013 assessment holds true and is summarized below:</p> <ul style="list-style-type: none"> <li>The Forest Code recognizes customary user rights but users cannot exercise these rights for commercial purposes (as per Art 42).</li> <li>Customary ownership allows for legal exploitation of natural resources but only for personal use. Selling trees to sawyers who supply the domestic market is illegal but it is common practice and is accepted in Congo.<sup>9</sup></li> <li>Under Article 63 of the Forestry Code, forest products from the public estate intended for commercial purposes – including products that have been part of traditional activities long established by local communities – may be used only by a state-owned company or by the holder of a felling permit issued by the government forest services. The available felling permits are: (i) industrial processing agreements (ii) management and processing agreements (iii) plantation logging permits and (iv) special permits. However, due to complex administrative process, obtaining the special permit for small-scale operations is costly and time-consuming and the permit, once finally received, is valid for only a short period.</li> <li>Art 31 of the Law No 5-2011 on the promotion and protection of the rights of autochthonous populations states that 'the autochthonous populations have collective and individual rights to property, possession, access and use of land and natural resources which they occupy or use traditionally for their subsistence, medicine and work'. However, it was noted in 2013 that the implementation decree for this law was still to be adopted and, as of 2018, the situation remains the same.</li> </ul>
<i>d. Does the legal and policy framework provide for gender-equal use rights and tenure?</i> <i>(Question added in 2018)</i>	2013: - 2018: 1	2013: - 2018: 1	2013: - 2018: 1	<p>The Constitutional Law (2015) stipulates that women and men have equal rights – a principle that is also to be found in the Family Code (Law No. 073-1984 of 17 October 1984). By default, the husband is the head of family and, as such, is in charge of managing the household's common assets but enjoyment of pre-marriage individual assets is maintained for both women and men.</p> <p>This notwithstanding, no active policy is in place to ensure the constitutional principles are enforced. In practice, at the community level, access to land and resources remains governed by customary rules and the national legal framework provides few safeguards against arbitrary restrictions of rights and seizure of women's property. Rights and Resources Initiative (2017) also notes that equal inheritance of rights (in comparison with their male counterparts) is not recognized for widows, daughters or women in consensual unions.<sup>10</sup></p>

<sup>9</sup> Lescuyer, G., Yembe-Yembe, R. I. and Cerutti, P. O. (2011), The domestic market for small-scale chainsaw milling in Republic of Congo: Present situation, opportunities and challenges. Occasional paper 74, CIFOR, [http://www.cifor.org/publications/pdf\\_files/OccPapers/OP-74.pdf](http://www.cifor.org/publications/pdf_files/OccPapers/OP-74.pdf)

<sup>10</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)

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: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	There is no such provision in the current Forest Code. The tenders are open to all and the proposals are judged by a Forestry Commission (Art 73 of the Forest code).
<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: 2 2018: 2	<p>A clear process for the publication of calls for tenders does exist. It is provided for by Art 73 of the Forest Code as well as Decree No 2009/303 of 31 August 2009 establishing the method of selection of bids for forest concession allocation.</p> <p><b>Implementation:</b> In practice, it is usually known among foresters ahead of the bid evaluations that a certain company will get a certain concession. The allocation round of January 2016, the results of which were announced before the bid deadline, is a recent indication that the process is flawed.</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: 4 2018: 4	2013: 1 2018: 1	<p>Art 25 of Decree 2002-437 of 31 December 2002, governing the conditions for management and utilization of forests, provides for the conduct of consultations with representatives of neighbouring communities as part of the development of any concession's management plan.</p> <p>Art 3 of the Law No 5-2011 on the promotion and protection of rights of indigenous populations in Congo states that 'the state ensures that the indigenous populations are consulted in a convenient manner and puts in place culturally appropriate mechanisms for these consultations before any consideration, formulation or implementation of legislative or administrative measures and programmes and/or development projects likely to directly or indirectly affect them'. This article also specifies the modalities of these consultations, inter alia the need to use a language understood by the populations and the need for representation of the communities appointed by the local population itself with participation of women and men.</p> <p><b>Design:</b> Consent is clearly mentioned in the law but seems to be only applicable to indigenous peoples. Art 3.6 states that consultations with indigenous populations must be carried out 'in good faith, with no pressure or threat, so as to obtain the free, prior and informed consent'.</p> <p><b>Implementation:</b> The decree for the implementation of Law 5-2011 is still not in place making the provisions of the law inapplicable in practice. Furthermore, consultations (when they do take place) tend to be conducted with a 'sample' of the communities concerned which can be problematic in terms of legitimacy.</p> <p>While no mention is made of free, prior and informed consent in the current Forest Code, the revised Forest Code will introduce clear requirements on this.</p>

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>The extent of customary rights and corresponding livelihood opportunities that are formally recognized is expected to expand once the revised Forest Code and implementing texts have been enacted. The new regulatory framework will enable the local commercial sale of non-timber forest products (Art 75) as well as (Art 28) the creation of community forests within the community development areas inside forest concessions.</p> <p>For the time being, however, the 2013 assessment remains valid:</p> <ul style="list-style-type: none"> <li>• Art 54 of the Forest Code states that the Permanent Forest Domain is divided into Forest Exploitation Units (UFE). Each UFE has to have a management plan which specifies usage rights of the local population. User rights are meant only to satisfy the personal needs of the users, that is, users cannot exercise these rights for commercial purposes (Art 42). The management plans indicate (1) maintenance of the right to exercise some rights (2) regulation of some rights which are restricted or forbidden within the UFE and (3) measures to compensate local populations for the restriction of their traditional rights with the aim of supporting socio-economic development in the local area.</li> <li>• Decree No 5053/ MEF/CAB of 19 June 2007 establishing national directives for sustainable zoning in forestry concessions, states that UFEs must be divided into five land categories to establish a multi-purpose management plan: production, conservation, protection, community development and research. The authorization or control of user rights will depend upon which area these rights will be exercised in. The allocation of the community development area will depend on the outcome of a socio-economic study. According to the decree, the 'unit for community development is made up of village land and is created around trees, forests and other natural resources likely to contribute to the economic development of the rural communities and to the fight against poverty'. Resources to be considered include natural and plantation forests, agricultural land, uncultivated land and fishing and hunting areas. Its overall objective is to fulfil the needs of the local populations in terms of forest and agricultural products and to improve their livelihoods.</li> </ul> <p>Recent developments: In 2014, only a minority (10 out of 44) of logging concessions in RoC had approved management plans. A number of companies – mostly established in the North – with approved management plans and VLC/FSC certificates had started taking steps to improve their socio-economic studies and to include the results in management plans. In the past four years, the number and proportion of concessions with an approved management plan has increased (currently 18 out of 50) especially in the South (from 0 to 8). Consequently, on paper at least, livelihood opportunities are being better taken into account. However, all recent assessments carried out by Independent Monitors, Independent Audit and private sector compliance assessments indicate that the weaknesses identified in the previous assessment remain namely: 1) the lack of integration of rural development into concession management 2) continued agricultural activity and exploitation of non-timber forest products in the protection/production conservation units and 3) the limited engagement of local populations in forest management. The capacity of the administration to monitor compliance has also remained weak.</p>

## 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: 2	2013: - 2018: 3		<p>Art. 4(3) of the VPA specifies that no FLEGT licences will be issued 'for any timber and derived products that are composed of, or include, timber and derived products imported into Congo from a third country unless it has been proven that this timber and these derived products, imported in accordance with the terms specified in Annex III and have been produced and exported pursuant to the laws of the third country concerned. Annex III, Chap 4.4 of the VPA also states that 'the legality of imported timber is always verified at the Republic of Congo border'.</p> <p><b>Design:</b> The successive phases of the VPA process (negotiation and implementation) have led to the existing legislation being analysed and amendments or innovations being proposed (see Q.9 b &amp; c).</p> <p><b>Implementation:</b> Until such time as the TLAS has been fully implemented and the new Forest Code has been enacted, implementation is expected to remain rather weak.</p>
<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: 1	2013: n/a 2018: 3	2013: n/a 2018: n/a	<p>Legality requirements under the VPA also apply to all timber products transported and sold within the national territory. Annex III of the VPA (Chap. 4) stipulates that the transportation across Congolese territory of timber imported from other countries is to be controlled using the LAS and operational rules must be developed as to how checks marking and entry in the traceability system must be carried out.</p> <p><b>Recent developments:</b> The abovementioned requirements of the VPA are now reflected in Art 81 and 82 of the new draft Forest Code. Art 81 states that any timber product that has failed to be registered in the TLAS is deemed illegal. In 2017, the Forest Legality and Traceability Unit (CLFT) developed (i) a procedures manual for the verification of legality compliance which is expected to be implemented countrywide as soon as the corresponding ministerial order is enacted (imminent) and (ii) a manual for the management of non-compliances with the legality matrix indicators which is being implemented at the moment. Finally, the LAS software is being tested in preparation for national roll-out.</p>
<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: 4		<p>Annex I of the VPA lists the products that are subject to FLEGT licensing – the scope of which extends to products imported or sold domestically. Besides timber and a number of processed timber products, the list includes charcoal, sawdust, wood waste and furniture but paper is not included.</p> <p><b>Design:</b> The scope of products is quite comprehensive and the Timber Legality Assurance System will ultimately involve each product being registered.</p>
<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: 4		<p>All actors along the supply chain (importers, transporters, retailers) will have to show compliance with the TLAS and related legislation although there is seemingly no provision applicable to end-user customers.</p>

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
<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: 1		There is no such requirement in place.
<i>f. Is implementation of the policy systematically monitored and assessed? (Question added in 2018)</i>		2013: - 2018: 5		<p>As per the VPA, once the TLAS has been fully rolled out and made operational, independent audits are to be conducted on the entire system. Implementation will be monitored on a regular basis through the information collected by the Forest Legality and Traceability Unit (CLFT). Periodic verifications will also have to be carried out by the local forestry administration.</p> <p>The CLFT is already monitoring implementation of the policy but its capacity (staffing and budget) remains insufficient to ensure broad monitoring. Independent audits of the system have been conducted to assess the preparedness of the CLFT and that of local administrations at department level. Several independent monitoring missions take place each year but these have limited intensity and scope.</p>



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	Decree No 2009-156 of 20 May 2009 governing public procurement, subjects all government purchasing to calls for tenders. The Forest code (Art 73) in turn provides for the selection of tenders in the forest sector. However, no policy is in place at the moment to specifically ensure the legality of products that are subject to such calls for tenders.
<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? (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.

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>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: 2 2018: 2	2013: 3 2018: 3	2013: 1 2018: 1	<p>The Forest Code makes mention (Art 67) of 'respect of legality obligations' to which the holder of the processing permit is subject. More specific requirements on the legality of timber supplies do exist in Decree No 437-2002, Art 115 which states that the origin, nature and volume of the timber products expected to be used must be included in the information that is required for the issuance of a processing permit (in the case of a processing unit with no logging rights). Art 134 further states that 'all buyers must ensure, by checking with the departmental directorates, that their supplier is the holder of a valid logging permit or they could be held accountable for illegal logging'. Sanctions are applicable in accordance with the general framework of the Forest Code.</p> <p><b>Design:</b> The provisions are applicable to processing units of all sizes. However, there is a fundamental weakness in the legislation in RoC where practically all processing facilities are related to a forest concession: when the processing capacity is agreed upon by the administration and the operator, the availability of the resource is generally not known, since such discussions take place before the forest inventory is carried out.</p> <p><b>Implementation:</b> The research undertaken for the present assessment has identified no known case of processing permits being suspended on the grounds of failure to provide evidence of legal sources. The first independent audit carried out under the VPA shows that the forest administration's controls in processing units are weak in a context where use of poorly-documented timber is widespread. The upcoming roll-out of the TLAS is expected to see some improvement in the near future.</p>

## 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	<p>No such official document exists as of now. The various roles and responsibilities of different key actors are still scattered amongst different decrees. The VPA does include a description of roles and responsibilities but the focus is placed on verification and elements such as timber rights allocations are not yet covered.</p> <p>However, a comprehensive description has been developed and included in the revised Forest Policy which is yet to be enacted.</p>
<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><b>As a general note on transparency in the forest sector:</b> The current forest legislation provides for publishing certain types of information. This is mostly done through the Official Journal – access to which is available upon payment of a fee (FCFA 500-2,000). The media occasionally publish forest-related information.</p> <p>Annex X of the VPA<sup>11</sup> introduced a new set of requirements regarding disclosure of information including making available the Forest Code and all implementing regulations. However, implementation has been uneven so far. Besides the official channels, the VPA website and other online tools exist but these remain out of reach for a large number of people. Law No 10-2017, on transparency and responsibility in the management of public finance, introduced new provisions that are applicable to the forest sector among other sectors such as mining and hydrocarbons. In particular, Art 66 states that the government must publish information on concession contracts, statistics on production and exports, financial flows and technical and social clauses. There may be further change in the near future following approval of the revised Forest Code. Art 5 provides that anyone is entitled to access information relating to logging and forest management as long as this does not contravene national security, trade and industrial secrets or intellectual property.</p> <p>Design and implementation: Legal information is automatically published through the Official Journal and a number of relevant texts can be found on the VPA website although not yet all of these. However, availability of information remains limited both because a fee must be paid to access the Official Journal and due to the fact that a large part of the population cannot readily access online resources.</p> <p>The central government has been fairly supportive to the mandated independent monitoring missions by civil society but access to legal information has been a challenge for CSOs conducting non-mandated monitoring.</p>

<sup>11</sup> APV FLEGT Congo (undated), 'Annexe X', <http://www.apvflegtcongo.com/index.php/annexe-x>

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		2013: 2 2018: 2	<p>The general framework for public procurement in RoC is governed by Decree No 2009-156 of 20 May 2009, Art 31 of which stipulates that calls for tenders must be advertised via authorized publications (international or national), official websites or by way of billposting. However, such calls for tenders do not include the specific rules of the procurement in question. These are available via the 'tender dossier' which candidates can access upon payment of a defined fee.</p> <p>In the case of forest allocation bids, the broad rules for the selection of bids are set out in Decree No 2009/303 of 31 August 2009 and as such are publicly available. Besides, each tendering process is triggered by a ministerial order (also made public) which specifies inter alia the conditions for accessing the dossier that includes the specific rules i.e. payment of a fee (examples from 2014 and 2015 indicate that such fees amount to FCFA 2 million). It must be noted that this latter aspect is not deemed by stakeholders to be problematic regarding transparency as the information enclosed in the dossier mostly consists of technical specifications.</p> <p><b>Implementation:</b> The notices that detail the general rules are automatically made public via the Official Journal although this is essentially not accessible to most people.</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: 0 2018: 0	2013: n/a 2018: n/a	2013: 2 2018: 2	<p>There is no such provision. Art 31 of Decree No 2009-156 of 20 May 2009 governing public procurement procedures only states that calls for tenders must be advertised at least 30 days before the deadline set for submission. However, the dates are automatically specified in the ministerial order issued ahead of each tendering process (see Q.14 (a)) as well as in the calls for tender themselves.</p> <p><b>Implementation:</b> Given the provisions stated above, the dates are de facto made publicly available. However, this only concerns the deadline for bid submission. Other dates (such as the convening of the Forest Commission in charge of evaluating bids) are reportedly not publicly announced. Furthermore, the process is not always followed as exemplified by the round of allocation in January 2016 (see Q.21 (c)) when two of the concessions concerned were allegedly awarded ahead of the bid deadline.</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	2013: 1 2018: 3	<p>There is no such provision in the national legislation applicable to the forestry sector but the VPA (Annex X) does include such requirements. Allocations took place in 2015 and 2016, the minutes of which, have been made available on the VPA website.<sup>12</sup></p> <p><b>Implementation:</b> Scoring three as, even though the results of recent allocation processes have been made available, the limited number of allocations (only two instances so far) makes it difficult to assess the level of implementation and if this will be maintained. Furthermore, the extent to which such information is publicized beyond the VPA website is unclear.</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: 2 2018: 2	2013: 5 2018: 5	2013: 1 2018: 3	<p>Law No 10-2017 on transparency and responsibility in the management of public finance provides for the publication of statistics on harvests and exports at the level of each logging permit. Furthermore, the VPA (Annex X) includes clear requirements for publishing information on harvesting, processing, exports and trade with the EU.<sup>13</sup></p> <p><b>Implementation:</b> No such data have been made explicitly available on the VPA website but recent issues of the VPA annual reports (i.e. 2015 and 2016 as opposed to earlier issues) have included some of this information.<sup>14</sup> The reports are published online and distributed to key stakeholders. The latest report published is for 2016 (2017 pending publication). The data collection undertaken as part of this assessment indicates that such information can also be accessed on request at the forest administration but not automatically and with some difficulties.</p>

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Annual reports are available on the EU-RoC FLEGT website, <http://www.apviflegtcongo.com/index.php/telechargements>

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: 4 2018: 4	2013: 3 2018: 3	<p>Art 66 of Law No 10-2017 on transparency and responsibility in the management of public finance states that a list of concession holders must be made publicly available by the government. Regarding requirements to make available details of the location of concessions, only one such requirement seems to exist in the Forest Code: Art 15 which requires advertising through all possible means the limits of a forest that is to be classified. The VPA (Annex X) stipulates that a list and map of all forest concessions must be published. This information is yet to be made fully available on the VPA website. A 'list of consents granted to natural persons and legal entities that are currently valid' is also required but is not available yet. There is no specific provision regarding contact details.</p> <p><b>Implementation:</b> Scoring three as, even though the information can be accessed through various channels, including on request at the administration, overall the ease of access remains limited.</p> <p>Information on location and ownership can be found in the conventions established for the allocation of forest concessions which, being approved by ministerial orders, are published through official channels. They tend however to remain out of reach for indigenous peoples, rural communities and people who live outside Brazzaville.</p> <p>Two online resources can be used to access these different types of information:</p> <p>(i) The interactive Forest Atlas<sup>15</sup> developed by the World Resources Institute using a database run by the Ministry of Forest Economy. The Atlas provides information on the location and ownership of concessions. Contact details can be accessed via the various documents uploaded on the site (including the concession contracts)</p> <p>(ii) The Open Timber Portal, also developed by WRI (see Q.17 for more details), which provides information on location and ownership. Both tools are being updated on a regular basis.</p> <p>Albeit quite comprehensive, the information made available on the Forest Atlas and the Open Timber Portal<sup>16</sup> is poorly advertized (no mention made on the VPA website for instance). Furthermore, being online resources, these tools are not readily accessible to most people.</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: 0 2018: 2	2013: n/a 2018: 3	2013: 3 2018: 3	<p><b>Existing policy:</b> Only disclosure of contracts and limited information on management plans is required.</p> <ul style="list-style-type: none"> <li>Contracts: Law No 10-2017, on transparency and responsibility in the management of public finance, has introduced a requirement to publish concession contracts which is in line with existing practice whereby contracts are published in the Official Journal. The VPA (Annex X) also requires that 'signed agreements (CAT and CTI) that are currently valid including the terms and conditions' be made publicly available (CAT - Management and processing agreement; CTI – Industrial processing agreement). While no such information is yet available on the VPA website, most valid contracts can be found on the Interactive Forest Atlas (see Q.7(a)).</li> <li>Inventories and plans: There is no mention in the law but management plans are available upon request. The VPA (Annex X) only makes mention of the forestry potential of each Forestry Production Unit as having to be disclosed (still to be uploaded on the VPA website). Management plans (for those concessions with a valid plan) are accessible on the Interactive Forest Atlas.</li> </ul> <p><b>Implementation:</b> Scoring three as the information can be accessed on request at the forest administration. Albeit quite comprehensive, the information available on the Forest Atlas is poorly advertized (no mention made on the VPA website for instance). Furthermore, being an online resource, the tool is not readily accessible to most people. Publications in the Official Journal tend to remain out of reach for indigenous peoples, rural communities and people who live outside Brazzaville.</p>

<sup>15</sup> MFE & WRI, Interactive Forest Atlas, <http://cog.forest-atlas.org/map>

<sup>16</sup> Open Timber Portal, <http://www.opentimberportal.org/operators>

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
<i>c. Do policies, laws or regulations stipulate that results of environmental and social impact assessments and mitigation measures are publicly available?</i>	2013: 2 2018: 2	2013: 4 2018: 4	2013: 1 2018: 2	<p>The VPA (Annex X) does provide for the disclosure of approved environmental impact studies but none yet been uploaded on the VPA website. However, no mention is made in this Annex X of publishing the results of social impact studies. Requirements are stronger in the national legislation where the process governing the conduct of such studies is provided for by Decree No 2009/415 of 20 November 2009 determining the scope, content and procedures for environmental and social impact notices and studies. The decree clearly stipulates that both the conduct of the study and the validation of its report involve public participation.</p> <p><b>Design and implementation:</b> Beyond the de facto public availability at the validation meetings, Art 52 of Decree No 2009/415 states that the reports may be accessed by any natural person or legal entity on request (save for certain technical details which may remain undisclosed at the request of the project promoter).</p>
<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: 1 2018: 1	2013: 2 2018: 2	2013: 1 2018: 1	<p>With regards to seized volumes, the current law does not foresee the publication of such data. Art 7 of the proposed revised Forest Code does state that whomever is the recipient of a donation of illegal wood (i.e. a local community or public administration as stipulated in the same article) has to acknowledge receipt of such gifts (presumably stating quantities received). With regards to data related to forest crimes, success rate of detention, interdiction, prosecution and conviction, the law does not make specific provision for their publication. The central administration seems to rely heavily on data transmitted by the departmental directorates.</p> <p>However, Annex X of the VPA includes some relevant (albeit not very explicit) requirements. Information on disputes and the monitoring of disputes are to be published and so are annual reports from all the departments involved in monitoring including information on enforcement. Provisions also exist for such time when FLEGT licensing has begun whereby the JIC will have to publish information on 'cases of non-compliance with the FLEGT licensing scheme in Congo and action taken in such cases'.</p> <p><b>Implementation:</b> Data collected at the level of the departmental administration are transmitted to the central administration in the form of reports and records. However, for lack of equipment and financial resources, these operations do not take place on a regular basis. In addition, data are not automatically collated into a single document by the ministry. For these reasons, significant difficulties were faced as part of the data collection carried out for the present assessment in trying to access up-to-date information on seized volumes, prosecutions and transactions. Only piecemeal data were made available.</p>
<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: 1 2018: 1	<p>Art 122-126 of the Forestry Code sets out provisions for seized wood but no mention is made of requirements to publish the data. In practice, information on disposals tends to be circulated but the results are not easily accessible.</p>

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: 2 2018: 2</p>	<p>2013: 2 2018: 2</p>	<p>2013: 2 2018: 2</p>	<p>To date, other administrations besides the ministry in charge of forests have had no consistent access to such data which is a reason why the Ministry of Budget has keenly engaged in the TLAS software installation and hosting. Significant progress will only be made once the TLAS is in place. As of now, the 2013 assessment remains valid:</p> <ul style="list-style-type: none"> <li>Information collected on the exploitation of forests and the transformation of wood is collected by the companies present on the territory.</li> <li>In terms of export, the main sources of information are the Forest Brigades for Conditioning and Approval of Timber Brigades Forestières de Conditionnement et d'Agrément des Bois' in Pointe-Noire and the other checkpoints (Enyellé, Pokola, Tala-Tala, Brazzaville) situated mainly in the North of the country. These checkpoints became more numerous since the railway to the coast stopped functioning and alternative ways of exporting the wood were used (namely through DRC and Cameroon). The information collected concerns the volumes, varieties, products, Free on Board value and destination countries. Companies are required to keep a book where details of logging activity are recorded daily. These records are transmitted to the Directorate-General once a year (in January). The following month, companies are also required to transmit to the regional authorities the monthly, trimestral and annual reports. The regional authorities compile these reports integrating further data (financial and administrative management, exports, silvicultural production etc.) and produce a report for the central administration.</li> <li>The central administration also collects data from direct surveys with companies, agencies and projects. The Direction of Studies and Planning (particularly the statistics department) provides further updates which are compiled into an annual summary. NGOs lament the lack of means and/or capacity of the agents of the departments to do accurate estimates (lacking equipment such as computers and training) and mention delays in the submission of reports from the departments to the central administration.</li> <li>In terms of information covered, data on exports is provided by the Forest Products Export Control Unit (SCPFE). This makes it impossible to check whether the quantities of wood exported correspond to those declared as harvested.</li> </ul> <p>A recent development is the Open Timber Portal – the beta version of which 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. In the case of the RoC it has been designed in consultation with government officials as well as private sector and civil society actors. 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 (data collected and observations made). The transparency of each operator is given a score. The data, documents and scores can be accessed via a map showing all the concessions covered. The tool is designed to support importers and purchasers in conducting due diligence as well as assist government officials in law enforcement.</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> <i>(Question added in 2018)</i></p>	<p>2013: - 2018: 0</p>	<p>2013: - 2018: n/a</p>	<p>2013: - 2018: n/a</p>	<p>A National Employment Policy (NEP) is in place with a view to developing and implementing analytical and decision-making tools to support efforts to tackle unemployment and poverty. The National Statistical Institute (NSI) is tasked with publishing an Annual Statistical Summary.</p> <p>Overall, the information (when available) is patchy and up-to-date statistics are a rare commodity: the latest NEP report was published in 2012 and the latest figures from the Annual Statistical Summary (accessible on the NSI's website) date back to 2011 (fiscal year 2009).</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: 1 2018: 1	2013: 1 2018: 1	<p>In principle, revenues are collected by the Treasury Department (Ministry of Finance &amp; Budget). However, to facilitate the restitution of the revenue earmarked for the forest administration, a ministerial circular was issued by the ministry in charge of forests entitling the direct transfer of forest revenue collected by the Departmental Directorates of the Forestry Economy (DDEFs) to the Forest Funds.</p> <p>A ministerial circular (No 0104/MFBPP/CAB of 07 February 2017) was recently issued by the Ministry of Finance &amp; Budget to reaffirm the sole responsibility of the Public Treasury for recording, and as such, collecting and managing all revenues. It should be noted that the interest expressed by the Ministry of Finance &amp; Budget in the VPA process has increased significantly since 2011, as the implementation of the VPA is expected to improve revenue collection. A one-stop system for forest revenue collection is to be designed and rolled out in collaboration with the Ministry of Forest Economy with this feeding into the TLAS. This is yet to be implemented and revenue collection is still overseen by the forest administration for the time being.</p> <p><b>Design:</b> The system encompasses all types of forest revenue but management of discrepancies has remained weak.</p> <p><b>Implementation:</b> As noted in the 2013 assessment, a study was carried out by the IM in 2010 on the logging tax, from its calculation to its capture. The study found that the absence of computerized systems to establish the provisional logging tax led to calculation errors (although this was disputed by the administration). Other issues included: the lack of a clear procedure for the transmission of data, discrepancies between the amounts of logging declared in the monthly production reports and the data recorded in the company registers and a tendency to apply tax re-adjustment instead of legal procedures which was both a poor implementation of the law and resulted in financial losses to the government.</p> <p>Available evidence indicates that discrepancies and loss of revenues have remained a challenge. Under the current IM, the monitoring of forest revenue recovery has continued, and inspections and observations have provided the administration with valuable information on existing discrepancies between the various taxes and fines owed and the amounts actually collected. From 2014-15, the actions taken by the administration on the recommendations of the IM enabled the recovery of FCFA 2,1 billion out of an estimated FCFA 9.3 billion unpaid revenue and fines.</p>
<i>b. Is there an audit of the forest administration whose findings are publicly available?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>According to Art 48 of Law No 10-2017 on transparency and responsibility in the management of public finance, public institutions and enterprises must publish data on their financial management. In spite of this, no audit is carried out of the forest administration.</p>
<b>20. Does the country report on its forest sector to the EITI?</b> <i>(Question added in 2018)</i>	2013: - 2018: 2		2013: - 2018: 3	<p>The compliance of the Republic of Congo with the EITI was recognized in 2013 with a further validation in 2017. In 2016, reporting was expanded to the forest sector which was therefore included in the reports for 2015 and 2016 (published in 2017 and 2018 respectively).<sup>17</sup></p> <p>The reports have been submitted on time but the quality of the latest reporting has been questioned by civil society as only one out of the 20 companies expected to disclose revenue-related information did so therefore making it impossible for the sector's contribution to the national economy to be properly assessed. This was allegedly due to too little time being given to companies to provide the required information. The government, on the other hand, was able to meet the reporting requirements.</p>

<sup>17</sup> Finergies, 2017 [fr]. 2015 EITI report. [https://eiti.org/sites/default/files/documents/finergies\\_-\\_itie\\_congo\\_-\\_rapport\\_2015.pdf](https://eiti.org/sites/default/files/documents/finergies_-_itie_congo_-_rapport_2015.pdf) BDO, 2018 [fr]. EITI Congo Report 2016. <http://www.itie-congo.org/images/rapports/conciliation2016/Rapport-ITIE-Congo-2016-version-finale.pdf> Fern, ForestWatch news. <https://fern.org/node/1577>



## 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: 1 2018: 1	<p>The overarching framework for such actions is provided by the general administrative legislation which foresees the possibility to take the administration to court. In particular, Law No 51-83 of 21 April 1983 includes a provision (Art 405) enabling annulment of decisions made by the administration. Furthermore, the Supreme Court is entitled to rule against abuse of power in administrative decisions (Law No 025-92 of 20 August 1992 on the organization and functioning of the Supreme Court).</p> <p>Provisions that are more specific to environmental issues can be found in Law No. 003-91 of 23 April 1991 on the protection of the environment which provides for the right to mount legal challenges on the grounds of environmental degradation. This right is primarily applicable to officials in charge of the environment and police officers in collaboration with officials from other ministries (e.g. Forests, Health, Mines, Energy, Transport etc.). In other words, the right does exist for the general public but it is an indirect one as it involves at least two successive steps of notification and reporting. Two weaknesses can be identified: (i) the existence of this right is poorly advertised and (ii) the risk of a complaint being filtered out before reaching the competent authorities is not negligible.</p> <p>There is also one such provision (Art 163) in the current Forest Code but it is only applicable to breaches committed within privately-owned forest land – an almost non-existent feature in RoC which greatly limits its practical scope.</p> <p><b>Implementation:</b> The research undertaken as part of this assessment could not find any evidence of such action being taken against forest management decisions by the government. There are accounts of one company suing the forest administration over concession allocations in 2016 but these could not be confirmed. Another forest company also challenged the outcome of the same allocations using the complaint mechanism that is built into the Independent Audit of the TLAS. It is positive that this system is being taken up and used by stakeholders but it does not amount to a legal challenge.</p>
<i>b. Does the law stipulate penalties for staff for corruption?</i>	2013: 2 2018: 2	2013: 5 2018: 5	2013: 1 2018: 1	<p>The Forest Code itself does not mention corruption but the law on corruption, bribery, fraud and related offences (Law No 5-2009 of 22 September 2009: Loi sur la corruption, la concussion, la fraude et les infractions assimilées) does stipulate prison sentences and fines for various offences including for civil servants 'demanding or receiving donations to do or abstain from doing an act of his functions' (Art 3.1), public officials who receive or demand taxes contributions or salary not due to them or exceeding what was due to them (Art 9) and public servants who cannot justify any substantial increase of their wealth by proving its legal sources (Art 20). It also states that those involved in laundering of those products resulting from corruption will be punished according to the CEMAC (Central African Economic and Monetary Community) ruling of 4 April 2003 (Art.23).</p> <p><b>Design:</b> The sentences and fines are dissuasive and proportionate to the offence committed with the maximum prison sentence established at 10 years and the maximum fine at FCFA 20 million.</p> <p><b>Implementation:</b> In practice, such sentences and fines are almost unheard of. When applied, they are done with little consistency. For example, in 2017, two directors of departmental forest administration units were first jailed on the grounds of having encouraged illegal logging operations but then discharged without any prosecution although one of the two was removed from office.</p> <p>On a side note, the 2018-22 VPA implementation plan, validated in late 2017 by the JIC, includes provisions for the development and implementation of anti-corruption measures but these are yet to be defined.</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>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: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>The law currently in force makes it possible for the forest minister and senior officials to use discretionary powers without clear limits.</p> <p>For instance, Art 134 of the Forest Code stipulates that in the case of breaches of law settlements are possible. This article stipulates that 'fines under FCFA 10 million can be settled by the department directors, for amounts between FCFA 10 and 15m the settlement can be granted by the minister and for amounts above FCFA 15 million, the settlement can only be handled by the minister. The law does not limit the types of infractions for which settlements are possible, and as a result, ample discretionary powers have reportedly been used in the past. Another example is the Law 14-2009 modifying the forestry code, Art. 180 of which stipulates that 'superior quality wood destined to certain industries not yet settled in the country is exported upon authorization of the minister within a limit of 15 per cent'.</p> <p>Other examples can be found in Decree 2002-437 of 31 December 2002 governing the conditions for management and utilization of forests whereby Departmental Directorates of Forest Economy and/or the minister can grant clearing permits and special permits.</p> <p>As far as the allocation of resources is concerned applications are examined by a Commission and presided over by the minister. Stakeholders consulted for the previous assessment told of ministers and/or other senior government officials having granted ad hoc logging permissions. In April 2016 and January 2017, two and one forest concessions respectively, were reportedly allocated according to the Congolese press but there is no evidence of a public tender being conducted.</p> <p>A series of concession allocations in January 2016 faced heavy criticism from national CSOs and international NGOs as two of the concessions were allegedly awarded ahead of the bid deadline. The case was investigated by the IM and then by the FLEGT VPA Independent Auditor who concluded that, while three irregularities (out of four) were rightly documented as such by the IM, there was no legal basis to cancel the allocation procedure.</p>
<i>d. Does a parliamentary committee, or equivalent, have formal oversight over the national government forest service and associated agencies?</i>	2013: 0 2018: 0	2013: n/a 2018: n/a	2013: n/a 2018: n/a	<p>There is no such system in place. There are parliamentary commissions tasked with the revision of texts concerning forestry but these do not have a role of formal oversight.</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: 2 2018: 2	2013: 1 2018: 1	<p>Within the ministry in charge of forests, the Inspectorate-General of Forest Economy (IGEF) is supposed to monitor the application of policy and law as well as oversee technical, administrative, judicial/legal and financial controls of the ministry's services and dependent bodies. Implementation has been very poor. Control of corruption is not explicitly included in the responsibilities of the IGEF.</p> <p>At the broader level, two key organizations in RoC are to be mentioned, namely the Anti-Corruption Observatory (an independent body) and the National Commission for the Fight against Corruption, Bribery and Fraud (CNCCF) which is a government body. The Observatory had more of a consultative role and the CNCCF was tasked with investigating across the various ministries and agencies of the government. However, both were dissolved in late 2018.</p> <p>Design: Reports produced by the Commission were submitted to the parliament. The effectiveness of the Commission had been found to be limited: an official report noted in 2018 that the Commission has no power to subpoena and in effect has no power to collect evidence.<sup>18</sup></p> <p>Implementation: Reports have been produced on a very irregular basis and no monitoring activity is known that has specifically focused on the forest sector. As noted in the 2013 assessment, the Independent Forest Monitor has tried to involve both the Observatory and the CNCCF in its Reading Committee but this has yet to take place.</p> <p>The 2018-22 VPA implementation plan, validated in late 2017 by the JIC, includes provisions for monitoring corruption within the sector and so a forest-specific system is expected to be established in the near future.</p>

<sup>18</sup> Republic of Congo in consultation with the services of the International Monetary Fund, 2018. Report on governance and corruption [fr], <https://www.finances.gouv.cg/fr/download/file/fid/1623>

Checks and balances	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<i>f. Is there an independent national forest monitoring system in place?</i>	2013: 2 2018: 2	2013: 3 2018: 4	2013: 3 2018: 3	<p>Since 2006, the adherence to and enforcement of laws &amp; regulations in RoC have been subject to an independent, third-party oversight by an Independent Forest Monitor (IM). After initial phases carried out by the NGO Resource Extraction Monitoring (REM) from Dec 2007-Dec 2010, and by Forests Monitor in partnership with REM and CAGDF (Cercle d'Appui à la Gestion Durable des Forêts) from Dec 2010-June 2013, CAGDF took over in 2014 and has been acting as the mandated IM ever since.</p> <p>An MoU was signed between the Ministry and CADGF in January 2014, and a permanent mandate established in June the same year. Mission reports produced by the IM are reviewed by a 'reading committee' (Comité de lecture) which includes members of the ministry (and occasionally provincial forest officials), representatives of civil society and the EU delegation. Once endorsed by the administration, they are made publicly available.</p> <p><b>Design:</b> The IM is designed to cover the entire sector. Over 80 per cent per cent of the country's concessions were inspected by the IM from 2013-15 (IM 2013-16 summary report and the Export Verification Certificates produced by the SCPFE (Service de Contrôle des Produits Forestiers à l'Exportation) were also examined.</p> <p><b>Implementation:</b> Since 2014, 15 reports have been published. A positive trend to be noted is the overall response to the findings of the IM with the administration having acted on 50 per cent then 60 per cent of the recommendations in 2013-14 and 2015-16 respectively against 32 per cent in 2012-13. Nonetheless, some of the challenges identified in the 2013 assessment have still not been addressed. In particular:</p> <ul style="list-style-type: none"> <li>• The optimal functioning of the IM has remained undermined by the lack of systematic communication and information flow with the government. The 2013-16 IM summary report (Feb 2017) pointed at the poor availability of information at the level of the central forest administration although the Departmental Directorates of Forest Economy tend to be much more responsive.</li> <li>• Lengthy delays in the signing off/endorsing of reports still jeopardize the impact and relevance of the government's response to a number of breaches documented by the Independent Forest Monitor.</li> </ul> <p>Furthermore, due to budget limitations, the number of IM missions undertaken each year has decreased steadily since 2014: 22 UFAs were visited in 2014; 16 in 2015; eight in 2016; and five in 2017). Additional funding is expected which should inject new momentum.</p> <p>It should be noted that the IM's performance underwent an independent evaluation during spring 2018 but the findings have not yet been made available.</p>
<b>22. Is customs specifically mandated to check that timber consignments meet the country's forestry-specific legal export requirements?</b>	2013: 0 2018: 0		2013: n/a 2018: n/a	<p>Customs are not mandated to check the legality of timber which is being exported. However, the SCPFE is located in the ports and is tasked with this role.</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>				
<p>a. <i>Is there a system in place designed to verify the origin of timber i.e. forest management unit in transport, transfer and delivery?</i></p>				<p>As per Art. 8 of the VPA, ROC must implement a system designed to ensure that timber and derived products for export to the EU have been legally produced. The same applies to products traded domestically (Annex III, Chap. 2). A Timber Legality Assurance System has been developed and includes procedures to ensure that timber of illegal or unknown origin does not enter the supply chain. A review of the system in 2016 found that it was complete and the TLAS software was installed at the Ministry of Finance's data centre in November 2017. Its national roll-out is currently being prepared.</p> <p>Until the TLAS is fully rolled out and made operational, the existing regulatory framework prevails, and so the 2013 scores remain therefore unchanged. This is as follows:</p> <ul style="list-style-type: none"> <li>Chapter VII of Decree No 2002-437 of 31 Dec 2002 regulating the modalities of management and use of forests regulates the circulation of forestry products. Art. 121 states that whoever transports forest products carries a 'road book' which provides the references of the exploitation permits, the origin and destination of products, the date of expedition, the full name of the driver of the vehicle transporting the wood, the registration details of the vehicle, the nature, the number, the varieties and the volumes and quality of products. Art. 122 states that for transport via river or rail the three copies of the transport document need to be handed to the port of rail officials. Art. 126 states that if the person transporting the wood does not demand documents proving the legality of the wood they can be held responsible for illegal logging themselves.</li> <li>Controls can be carried out at road checkpoints (see Q.17 for more information) or more systematically at the ports (Pointe-Noire being the main port of export). The SCPFE is tasked with checking the legality of forestry products for export. The logs are identified at the site of logging by a bar code label showing the number of the log, the origin and the year of production. This label has to stay on the log throughout transport. As soon as the logs reach the port, they are identified using the label. Verification happens for all batches to be exported. The data collected is transferred twice daily to the central computerized system to be compared with the production data provided by the regional departments. In case of discrepancies the data is sent to the regional departments so that checks can be carried out.</li> </ul> <p><b>Design:</b> The checks carried out by SCPFE are considered more of a follow-up to enforcement further up the supply chain, for example, compliance with laws related to on-site transformation and export quotas and compliance with criteria such as authorized diameter, species and volume.</p> <p><b>Implementation:</b> The current system requires the transmission of data from forestry departments to the central administration. However, it has been shown through data collection efforts – in 2013 as well as 2018 – that this information is often delayed and at best partial. While a number of departments have been given equipment allowing them to enter data into a computerized system, training is still to be provided and, in the meantime, handwritten books are still being widely used.</p>
<p>b. <i>Does the system design include the following components?</i></p>				
<p>i. <i>Independent monitoring procedures by independent government body or third party?</i></p>	<p>2013: 2 2018: 2</p>	<p>2013: 4 2018: 5</p>	<p>2013: 4 2018: 4</p>	<p>There is an Independent Monitor (IM) which has a permanent mandate allowing it to carry out missions in the field from logging sites to export points. Under the VPA, an independent auditor has also been in place since 2016 to audit the TLAS.</p> <p><b>Design:</b> With the independent auditor now in place, the independent monitoring system is complete.</p> <p><b>Implementation:</b> For more information on the IM, its effectiveness and its modus operandi please see Q.21 (f). The first independent audit was carried out in 2017 followed by two further audits in April-May 2018. Slight amendments to the audit methodology were approved at the 8th VPA JIC meeting (June 2018).</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
<i>ii. Reconciliation systems</i>	2013: 2 2018: 2	2013: 4 2018: 5	2013: 2 2018: 2	<p>The VPA requires 'regular and timely reconciliation of data between each stage in the chain'. This functionality is now built into the TLAS software.</p> <p>The SCPFE is able to reconcile data as part of its role to verify exports this entailing checking the quantities (volume) and quality (the variety or the product) of timber exports. Reconciliation procedures also extend to the regional and international level – the SCPFE having established cooperation agreements with equivalent agencies abroad.</p> <p><b>Implementation:</b> The 2013 assessment noted that it was unclear to what extent the government followed up on discrepancies identified by the SCPFE. For the present assessment, no information was made available on the extent to which this currently takes place.</p>
<i>iii. Tamper-resistant documentation procedures</i>	2013: 2 2018: 2	2013: 4 2018: 4	2013: 3 2018: 3	<p>The VPA provides for the use of such procedures which are built into the TLAS software. The procedures used by SCPFE include the use of bar-codes to label logs and the use of anti-falsification stickers used on all original copies of Export Verification Certificates. However, the SCPFE does not cover the whole supply chain and the paper-based documentation used at the level of logging and transport may not be tamper-resistant.</p>
<i>iv. Computerized systems</i>	2013: 2 2018: 2	2013: 3 2018: 3	2013: 2 2018: 2	<p>Data related to exports are supposed to be transferred by the SCPFE to the Forest Legality and Traceability Unit (CLFT) on the same day they are collected and registered in a central database. These operations are based on a computerized system.</p> <p><b>Implementation:</b> As of now, computerized systems still co-exist with paper-based processes (see Q.23 (a)) and proper communication between SCPFE and CLFT is yet to be established. The use of computerized systems will become standard practice once the TLAS is fully operational.</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: 3	2013: - 2018: 2	<p>As mentioned in Q.9(c), the VPA stipulates that the Timber Legality Assurance System also applies to products traded domestically (Annex III, Chap. 2). However, given the gap between the legal provisions and the supply of timber for the domestic market in practice (as described in Q.3), some challenges remain. Furthermore, until such time as the TLAS has been fully rolled out and made operational, implementation is expected to remain weak.</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>				<p>Title 8, Chap II of the Forest Code relates to law enforcement, the nature of infractions and the penalty regime. Art 145 states that a penalty of FCFA 200,000-500,000 will be applied to all companies failing to label wood. Art 146 foresees imprisonment up to two years and a fine of FCFA 200,000 – 1 million for falsifying or counterfeiting marking hammers. Art 155 foresees penalties of up to FCFA 20m for the non-compliance with management plans and of FCFA 50m for the non-compliance with investment plans. Art 156 stipulates the withdrawal of logging permissions in cases of logging outside of limits, non-compliance with management plans etc.</p> <p>Art 134 of the current Forest Code stipulates that settlements are possible. The law does not limit the types of infraction for which settlements are possible. As was observed in the 2013 assessment, settlements are still used quite often, sometimes making it impossible to determine the extent of the illegality committed. The law does state that settlements are only possible for infractions not exceeding FCFA 15 million but this limit does not seem to be respected in practice.</p> <p><b>Design:</b> Fines in the revised Forest Code have been increased which tends to indicate that current penalties and sanctions are not dissuasive enough.</p> <p><b>Implementation:</b> The above penalties are not often applied. In its 2013-16 summary report, the IM noted failures in the enforcement activities carried out by the administration namely (i) insufficient collection of the fines levied (ii) incomplete recording of infractions and (iii) erroneous classification of infractions.</p>
<i>ii. For legislation to prevent the import of illegal timber if in place</i>		2013: - 2018: 3	2013: - 2018: 1	The penalty regime applicable to cases of non-compliance is no different from the general regime applicable to forest offences as described in Q.19(a). It should be noted that those logging companies that are found to have committed an offence tend to rely almost systematically (and lawfully according to Art. 134 of the Forest Code) on amicable settlements thereby making the penalty regime even less dissuasive.
<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	<p>Coordination does exist between the ministry in charge of forests and the various forest agencies on cases of illegal logging but there is no inter-ministerial system or task force in place to involve other relevant ministries, such as Ministry of Justice and the Ministry of Finance &amp; Budget, in the management of such cases.</p> <p>The reading committee tasked with approving the IM reports includes representatives from the Ministry of Forest Economy but no other ministries.</p>

Law enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>25. Do government institutions and agencies have sufficient capacity and resources to monitor forest areas and detect and suppress forest crime?</b>				
<p>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.)</p>	2013: 1	2013: 1	2013: 1	<p>The IM 2013-16 summary report (2017) notes that human resources and equipment allocated to local level enforcement improved from 2013-15. In recent years, this positive trend has been maintained through:</p> <ul style="list-style-type: none"> <li>The Forest and Economic Diversification programme under which 831 forestry officials (i.e. 68 per cent of the ministry's staff) were trained from 2015-17 in the use of field inspection equipment. In addition, the various departments of the Ministry of Forest Economy (DDEFs) were allocated vehicles, motorcycles and boats as well as computer hardware and technical equipment (e.g. GPS receivers, cameras, measuring instruments).</li> <li>The FLEGT VPA AFD/DFID support programme, under which, in 2017, 130 officials from the DDEFs and forest brigades benefited from training in undertaking legality inspections.</li> </ul> <p>However, the IM report also notes that the allocated budget is still insufficient to allow proper functioning of the DDEFs. Just 43 per cent of budgeted needs were disbursed on average from 2013-15. A decrease in resources was noted in 2015 and later accounts seem to indicate that this downward trend may have continued (a mere 7 per cent disbursement was reported by the IM in one specific DDEF in 2016). As a result, the number of inspections carried out remained below target during that period thereby impacting illegality detection and revenue/fines recovery.</p> <p><b>Design:</b> Scoring two as, in spite of the progress made with training and equipment, the shortfall in their yearly operational budgets prevents the proper functioning of the DDEFs.</p> <p><b>Implementation:</b> Scoring two to reflect recent efforts to provide equipment and training at the local level. However, these developments have taken place with donor funding and their sustainability cannot be guaranteed in a context where the availability of budget seems to be declining.</p>
	2018: 2	2018: 2	2018: 2	
<p>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?</p>				
i. Judges and prosecutors		2013: 1 2018: 1		No training provided.
ii. Customs officials		2013: 1 2018: 1		Training opportunities for customs officials have remained limited. A recent training session worth noting took place in November 2017 in Mbalmayo, Cameroon with a workshop convened to finalize the Timber Trade Guidelines of the World Customs Organization. The event was attended by customs officials from RoC, Cameroon and China as well as CITES authorities (see also Q.6(a)). However, the impact this training has had in practice is unknown as of now.

Law enforcement	Does policy exist? (0-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification or additional qualitative explanation
<b>26. Do government agencies systematically use appropriate information gathering tools in order to identify illegal activities?</b>				
<i>a. Are remote sensing systems used for this purpose such as satellite imagery and/or aerial surveillance?</i>			2013: 1 2018: 1	The Interactive Forest Atlas and the Open Timber Portal, developed by the World Resources Institute in collaboration with the ministry in charge of forests, provide information such as concession boundaries, forest cover change etc. that derives from such systems. However, there are no reports of satellite imagery being used by the government to identify illegal logging activities.
<i>b. Are in-the-field investigatory tools used for this purpose such as confidential diagnostic surveys, informants and NGOs?</i>			2013: 1 2018: 2	On-site inspections are carried out by enforcement officials. However, due to the limited resources available, only 25 per cent of the missions planned at the level of the DDEFs were actually conducted from 2013-15 (source: IM 2013-16 Summary report, 2017).  In a number of cases enforcement officials have used the observations made by the IM (including irregularities and illegalities) which are submitted to, and discussed with, the ministry in charge of forests (through the Reading Committee) as well as the DDEFs. The response to these observations has varied. (See details in Q.21(f)). The IM has striven, as much as possible, to increase understanding among government officials of the methodology used.
<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	The Unit for the Control of Forestry Products for Export is responsible for gathering and compiling such data, but in practice, analyses seem to be almost non-existent. A major drawback is that under this approach, which only focusses on wood exports, it is difficult to reconcile figures with the available (and partial) information on timber production. The administration has no way of monitoring harvesting and processing in real time.
<i>d. Are log tracking and check point systems used for this purpose?</i>			2013: 3 2018: 3	See Q. 23.