

THEME A : LEGALITY AND LAND TENURE

This theme deals with the legality of operations and the legal existence of the Forest Management Enterprise (FME) along with the participating Forest Management Units (FMUs). Major issues proposed to be dealt with in this theme include compliance to National, State and local laws, payments of duties and levies, compliance to national and international agreements to which India is a signatory (e.g., CITES, ITTO etc.), clear and documented ownership of forest lands along with documented use rights etc. This theme also deals with responsibilities for ensuring legal compliance as well as resolution of issues related to disputes of ownership, use rights etc. This theme would also look into the nature, frequency and severity of any regulatory violations or non compliances and the manner in which they have been addressed. Another issue that may be addressed here would be the availability of resources – physical, financial and human, to ensure compliance to relevant laws and statutes.

Suggested Principles and Criteria to be included:

Principle 1: Compliance to National and International Laws and Regulations

- Criterion 1.1: The Forest management Enterprise (FME) shall identify and record all national, state and local laws and administrative/regulatory requirements applicable to it and respect and comply with the provisions in it, in letter and spirit.
- Criterion 1.2: The FME shall ensure that all applicable and legally prescribed fees, royalties, taxes and other charges have been paid as required in a regular and timely manner.
- Criterion 1.3: The FME, its managers and all participating FMUs (Forest Management Units) shall respect and implement the applicable provisions of all binding international agreements and conventions such as CITES, ILO Conventions, ITTA, Convention on Biological Diversity etc.
- Criterion 1.4: The FME shall ensure that Forest management areas shall be protected from illegal harvesting, hunting, settlement and other unauthorized activities and shall make efforts to ensure that sufficient resources are budgeted for this purpose.
- Criterion 1.5: The forest managers shall have a written long-term commitment to adherence to the Themes, Principles and Criteria presented in this standard, and function in a manner that demonstrates compliance to the spirit of NCCF.

Principle 2: Land Tenure, Use Rights and Responsibilities

- Criterion 2.1: The FME managers shall demonstrate availability of clear and legally secure demonstrable evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements).
- Criterion 2.2: Local communities with legal or customary tenure or use rights shall maintain control over forest operations and resources (to the extent necessary to protect said rights or resources), unless they delegate control with free and informed consent to the state or other agencies. In case of state owned forest lands, use rights of all

concerned stakeholders would be identified and recorded in writing. In cases where the rights have been settled, notifications to the effect of rights settlement shall be made available.

Criterion 2.3: Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. The circumstances and status of any outstanding disputes will be explicitly considered in the certification evaluation.

REFERENCES:

- i. PEFC International Standard PEFC ST 1003:2010 –Sustainable Forest Management-Requirements: Section 5.6.3
- ii. PEFC International Standard PEFC ST 1003:2010 –Sustainable Forest Management-Requirements: Criterion 5.7, Sections 5.7.1 and 5.7.2
- iii. FSC-STD-01-001 (Version 4-0) EN – FSC Principles and Criteria for Forest Stewardship: Principle 1 : Compliance to laws and FSC Principles; Criteria 1.1 – 1.6
- iv. FSC-STD-01-001 (Version 4-0) EN – FSC Principles and Criteria for Forest Stewardship: Principle 2 : Tenure and Use rights and Responsibilities; Criteria 2.1 – 2.3
- v. SFI 2015-2019 Forest Management Standard Objectives: Objective 9 – Legal and Regulatory Compliance; Performance Measure 9.1 and 9.2
- vi. China Forest Certification Council Forest Management Standard: Principle 3.1 – National Laws and Regulations as well as International Conventions; Criteria 3.1.1, 3.1.2, 3.1.3 and 3.1.4
- vii. China Forest Certification Council Forest Management Standard: Principle 3.2 – Forest Tenure; Criteria 3.2.1 and 3.2.2
- viii. Australian Forestry Standard for Sustainable Forest Management AS4708-2013: Criterion 1 – Systematic Management; Indicators 1.1, 1.2 and 1.3
- ix. Bhopal –India Process: Criterion 8 – Adequacy of Policy, Legal and Institutional Framework; Indicators 8.1 and 8.2
- x. Canadian Standards Association (CSA) Sustainable Forest Management Standard CAN/CSA-Z809-08: Section 7.3.3 -Rights and Regulations; Subsections 7.3.3.1, 7.3.3.1 and 7.3.3.3