

ANNEXES - CHAPTER 4

Annexe 4-1 Details on the Legal Framework

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4.1 Details on the legal framework

4.1.1 Guinean legal framework

4.1.1.1 Introduction

According to the Report of the Supreme Court of Guinea on Environmental Criminal Law (*Rapport de la Cour suprême de Guinée sur le droit pénal de l'environnement - 2008*), Guinean legal authorities are invested with broad powers to protect the environment:

[TRANSLATION]

Article 94 of the Environment Code grants the Judicial Police a broad power to access locations where evidence may be found. It authorizes any Judicial Police officer or agent to enter, at any time, a property, vehicle, facility, platform, vessel or building other than a dwelling house, for the purpose of gathering facts, and particularly to collect samples and install measurement or analytical devices or to visit a given site when it is presumed that a person is engaging or has engaged in an activity that may constitute a violation of the Environment Code and the regulations thereunder. The said officer or agent may seize, confiscate or impound those objects that constitute evidence. The Maritime Administration may inspect any vessel caught in the act of discharging contaminants.

The violations referred to include:

[TRANSLATION]

- Harm caused to animal or plant species or to their natural environments.
- The operation, on the national territory without authorization, of establishments engaging in the raising, sale, leasing or transportation of non-domestic species of animals as well as the operation of establishments

for the purpose of selling live specimens of national or foreign wildlife to the public.

- The immersion or disposal by any means whatsoever of waste materials in continental and maritime waters under Guinean jurisdiction.
- The possession and use of harmful or hazardous chemical substances.
- The violation of restrictions on noises and odors.
- The falsification of the findings of an impact assessment or the deliberate alteration of the parameters used to conduct the impact assessment.
- The destruction of sites and monuments of scientific, cultural, touristic or historical interest.

The main elements of the legal framework that apply to the Project and are of biological significance are the following:

- The Code for the Protection and Enhancement of the Environment (*Code de la Protection et de la Mise en Valeur de l'Environnement*), or Environment Code (*Code de l'environnement*), establishes the national framework for natural resource management and prescribes mechanisms, such as ESIA's, for minimizing negative environmental impacts.
- Law L/96/010/An (*Loi L/96/010/An du 22 juillet 1996 portant sur la réglementation des taxes à la pollution applicables aux établissements classés*) governs the application of pollution taxes to classified establishments.
- The Presidential Decree on Environmental Impact Assessments (*Décret présidentiel N° 199/PRG/SGG/89 codifiant les Études d'Impact sur l'Environnement* (November 1989) – establishes requirements for the conduct of ESIA's for certain types of project, including ports, power stations, mines, etc.
- Decree 201/PRG/SGG/89 (*Décret 201/PRG/SGG/89 du 8 novembre 1989 portant sur la préservation du milieu marin*) on the conservation of the marine environment.
- Decision 990/MRNE/SGG/90 (*Arrêté N° 990/MRNE/SGG/90*) establishes the procedures and methodology for conducting an ESIA.

- Decision A/2013/474/MEEF/CAB on the adoption of the General Environmental Assessment Guide (*Arrêté N° A/2013/474/MEEF/CAB portant sur l'adoption du Guide général d'évaluation environnementale*) establishes the structure, content requirements and implementation stages for ESIA's.
- Law L/95/036/CTRN on the Mining Code of the Republic of Guinea (*Loi L/95/036/CTRN du 30 juin 1995, portant sur le Code minier de la République de Guinée*) governs mining exploration, operations, commerce and processing in the mining industry, with reference to the Environment Code.
- The Water Code (*Code de l'eau*), enacted under Loi L/94/005/CTRN CTRN du 15 février 1994), establishes the framework for the management of the country's water resources.
- The Forest Code (*Code forestier – Loi L/99/013/AN, 1999*) establishes the framework for the management of forest resources.
- The Wildlife Protection Code and hunting regulations (*Loi L/99/038/AN adoptant et promulguant le Code de protection de la faune sauvage et réglementation de la chasse*).
- The Mining Code (*Loi L/2011/006/CNT*).
- The Framework Law on Freshwater Fishing [*Loi-cadre sur les activités de la pêche en eau douce (L/96/067/AN du 22 juillet 1996)*].
- The Pastoral Code (*Code pastoral*) establishes the conditions for using lands and resources to pasture livestock.

In view of the particular importance of the Wildlife Protection Code for the assessment of biological impacts, it is described in more detail in the following section.

4.1.1.2 *Wildlife Protection Code*

The law adopting and enacting the Wildlife Protection Code and hunting regulations (*Loi L/99/038/AN*) has been in effect since 1998.

The principles of particular interest in the Code are the following:

[TRANSLATION]

Wildlife is an endowment of general interest. Accordingly, it is recognized for its economic and social interest and its importance as a source of food as well as for its scientific, aesthetic, recreational and educational value.

It is the duty of all to contribute to its maintenance or development.

Wildlife conservation is ensured by all appropriate means, including the protection of vital environments and plant species. It is also ensured through education of the entire population, through teaching in schools and by all audiovisual means available, in order to foster a national awareness that wildlife conservation is a necessity.

Wildlife is a renewable resource that must be preserved through favorable habit and management conditions.

All animal species are an integral part of the national endowment and must be protected as such.

...

The conservation, maintenance or restoration of a sufficient diversity of environments and habitats needed for wildlife is also a national obligation. The environments in which wild fauna live are normally used for agricultural, grazing, forestry, aquatic or marine activities.

Special measures to protect biotopes may be instituted on part of the national territory, whenever the status of certain animal species so warrants.

A major part of the law is devoted to the protection of species:

[TRANSLATION]

Article 42: All animal species must be protected. Those whose populations are in a sufficient state to allow them to be hunted may be hunted in accordance with management practices that ensure that their numbers are maintained or increased.

Article 47: All particularly rare or endangered animals, the list of which is set by a decree implementing this Code, are fully protected throughout the entire national territory. This list may be amended by decree, based on a joint proposal by the departmental authorities responsible for hunting and scientific research.

The hunting and capture of animals of fully protected species, including juveniles, and the harvesting of eggs, are strictly prohibited. An exception may be granted to holders of scientific permits to hunt and capture.

Article 56: For all animals of partially protected species, the list of which is set by a decree implementing this Code, authorization shall be required before any hunting activity. The said authorization shall be stated on the hunting permit.

Some of the species found in the ESIA study areas are fully protected (e.g., golden cats and chimpanzees) or partially protected (e.g., servals, porcupines and hippopotamuses).

[TRANSLATION]

Guinea has adopted legislative texts establishing guidelines for the protection of plant life and the management of wildlife and wildlife habitats. These texts include:

- *Loi L/97/038/AN du 9 décembre 1997* adopting and enacting the Wildlife Protection Code and hunting regulations; and
- *Loi L/99/013/AN du 22 juin 1999* adopting and enacting the Forest Code (*Code forestier*).

These various legislative texts provide for:

- the total protection of wildlife in wetlands;
- the terms of coordination meetings with all types of users;
- the introduction of environmental education at Ramsar sites;
- the establishment of a national waterbird population tracking network;
- the management of wetlands by the Ramsar national committee;
- the regulation of hunting for feathered game;
- fines for poaching waterbirds or breaking the law in wetlands and on protected sites; and
- the prohibition of firearms and the use of lead shot in wetlands.

(Kourouma Christine Sagno, National Director for Waters and Forests – AEWA Focal Point – Guinea. 2006. Guinean National Report 2004-2005. The Agreement on the Conservation of African-Eurasian Migratory Waterbirds)

4.1.2 Strategic action plans developed by the Guinean government

Several strategic action plans developed by the Government of Guinea must also be taken into consideration in the deployment of the Project. These plans form the primary administrative framework under which the priority environmental issues on the territory are to be considered. The plans whose strategic directions and objectives are relevant to the ESIA and the implementation of the Project include the following.

4.1.2.1 *National Action Plan for the Environment (Plan d'action nationale pour l'Environnement – PNAE)*

[TRANSLATION]

The National Plan of Action for the Environment (PNAE) was adopted by the Council of Ministers on September 24, 1994. It constitutes the national Agenda 21 and the basis of the environmental policy. It occupies a pivotal position with respect to the sectoral strategies that have an impact on the management of natural resources and is based on all the previous sectoral strategies, particularly the National Forestry Action Plan (PAFN), the Master Plan for the Development of Mangroves (SDAM) and the Agricultural Development Policy Letter [*Lettre de Politique de Développement Agricole de 1991 (LPDA-1)*].

The PNAE rests on the fundamental principle of integrating the environment into Guinea's economic and social development policies with two main objectives, namely the rational and sustainable management of natural resources and the definition or strengthening of sectoral policies.

(2011, Development of the policy on the environment)

The National Policy on the Environment (PNE) was published in 2011.

[TRANSLATION]

Since 1986, the Guinean authorities have been aware of the need to plan and implement a strategy to make rational use of the country's natural resources and to protect its environment with a view to sustainable development. To that end, the Government of the Second Republic adopted an Environment Code, a National Action Plan for the Environment (PNAE) and several other legislative and regulatory texts, policies, strategies and action plans. Even so, the importance of the environment is such that it is now necessary to develop a comprehensive environmental policy to harmonize the various documents relating to natural resource management and environmental protection.

This policy is an expression of the political will to establish a frame of reference for the integration of environmental matters into the decision-making process for Guinea's development policies and strategies.

4.1.2.2 National Forestry Action Plan [Plan d'action forestier national (PAFN)]

The National Forestry Action Plan (PAFN-Guinea) was drafted in 1988, and the Guinean forestry policy was adopted by Decree No. 056 /PRG/SGG/90 of February 5, 1990, which defined the forestry sector development strategy for 25 years.

The plan refers, among other things, to the need:

[TRANSLATION]

- to safeguard the biological diversity of wildlife, in particular through a system of national parks and reserves;
- to combat the enemies of the vegetation cover, particularly illegal clearing operations and brush fires; and
- to protect water and soils.

4.1.2.3 Mangrove Management Master Plan [(Plan directeur d'aménagement forestier des mangroves -SDAM)]

The master plan dates from 1990.

[TRANSLATION]

This master plan for the development of mangroves in Guinea applies to almost 350,000 hectares of land and affects nearly 2,000,000 people (one-third of the population): peasants, fishers, foresters, everyone involved in rice growing, fishing and forestry, as well as consumers of all kinds in rural and urban areas; given the fragility of the mangrove environment, development actions need to be based on solid scientific knowledge of its specific sedimentary hydro-mechanisms (the dangers of unplanned actions having been demonstrated by previous instances of overuse of the resource).

The plan was updated in the Charter and Action Plan for Sustainable Mangrove management in the PRCM region (Mauritania, Senegal, Gambia, Guinea-Conakry, Guinea-Bissau and Sierra Leone (2009) proposed by the West Africa Mangrove Initiative (IMAO):

[TRANSLATION]

The mangrove ecosystem is characterized by high biological productivity resulting in significant biodiversity, which benefits many animal and plant species. It therefore offers an abundance of wood and fish products as well as lands that are suitable for various activities, including agriculture and aquaculture. In addition, it serves as a refuge for many endangered species, is an essential part of the route of migratory birds and helps protect shorelines.

...

In Guinea, abundant rainfall along the coast favors the proliferation of mangroves on the banks of many estuaries, the most important being the Kogon, Nuñez, Kapatchez, Fatala, Konkouré, Soumbouya, Forécariah and Bramayah. Drought impacts are low in comparison with the Sahelian zone. Primary productivity is high and natural regeneration is active. Ecosystem degradation results primarily from economic activities, including agriculture and logging for firewood and construction.

A detailed plan has been proposed.

4.1.2.4 *National Action Plan for Climate Change Adaptation [Plan d'action national d'adaptation aux changements climatiques (PANA-CC)]*

The National Action Plan for Climate Change Adaptation, adopted in 2007, includes specific projects related to climate change.

4.1.2.5 *National Action Plan on Biological Diversity (Plan d'action national sur la diversité biologique)*

This plan is set out in two documents: Volumes 1 and 2 of the National Strategy for the Conservation of Biological Diversity and the Sustainable Use of Biological Resources (*Stratégie nationale de conservation de la diversité biologique et l'utilisation durable de ses ressources* – MMGE/PNUD/FEM, 2001 and 2002 respectively).

The plan states:

[TRANSLATION]

The following Strategy makes conservation of biological diversity and sustainable biological resource use a priority for economic and social development. This will require greater cooperation and coordination at the technical level, but also incentives and disincentives and laws and regulations to ensure that the protection and reasonable use of biological resources are successfully integrated into the broader social, cultural and economic context.

The Strategy explains the importance of UNBio:

[TRANSLATION]

In developing the Strategy and action plans, the Ministère de l'Environnement is supported by an advisory body called National Unity for Biological Diversity [Unité Nationale pour la diversité biologique (UNBio)], a national multisectoral and multidisciplinary commission bringing together representatives of public and private parties, NGOs and funding organizations involved in conservation and biological diversity.

The Strategy sets four main objectives:

[TRANSLATION]

- conservation of biodiversity: detailed in five subobjectives and 35 priorities;
- sustainable use of biodiversity resources: detailed in five subobjectives and 28 priorities;
- general measures for the conservation and sustainable use of biodiversity resources: detailed in 11 subobjectives and 54 priorities; and
- international cooperation: detailed in one subobjective and eight priorities.

Among other things, the Strategy calls for:

[TRANSLATION]

- the creation and development of a network of protected areas that are representative of the diversity of terrestrial and aquatic ecosystems and the biological diversity they contain; and
- steps to encourage stakeholders to take an active part in the conservation and sustainable use of biological diversity outside the protected areas.

The Action Plan identifies a series of projects for implementation, notably:

Project No. 2: Creation of listed forests in the prefectures of Boké, Boffa, Kérouané, Mandiana, Fria and Siguiiri.

[TRANSLATION]

Boffa, Boké, Fria, Kérouané, Mandiana and Siguiiri are the only prefectures where there are no listed forests.

It should be noted that in most of these prefectures, uncontrolled open-pit mining operations are threatening the biodiversity of ecosystems already weakened by intense and frequent wildfires and excessive poaching. Listed forests are unquestionably an important means of complementing and supporting the other types of protected area, and their creation in these prefectures will complement the national network of protected areas.

Society would benefit from granting protected area status to a part of the ecosystems in these prefectures to save a large number of animal and plant species that are endangered even though these habitats are very rich in biodiversity.

Project No. 3: National Wildlife Inventory

[TRANSLATION]

With a few exceptions, planners and managers do not have access to reliable information on the distribution and population numbers of the species of wild animals in Guinea. The pressures exerted by demographic growth, the influx of refugees and intensified infrastructure development, especially in rural areas, have no doubt led to the taking of excessive numbers of wild animals, the types and quantities of which are unknown. This lack of information limits the effectiveness of any attempt to protect or sustainably manage this resource.

Project No. 4: Survey on bushmeat consumption and determination of the basis for setting annual wildlife harvesting quotas

[TRANSLATION]

Natural wildlife resources play a significant role in the Guinean economy and Guineans' quality of life, and contribute to food security. Although Guinea's fauna is relatively rich, it has not been monitored, at least not since the country became independent; thus any determination of its potential is impossible.

Many Guineans rely on hunting as their main source of protein. Since wildlife is being harvested at levels that far exceed its natural growth in some parts of the country, it is likely that a considerable number of species will disappear. Guinea is severely threatened by the rise of commercial hunting driven by national demand for bushmeat and international demand for live animals, skins and trophies. Many Guineans have become professional bird-catchers and hunters who camp for weeks and even months in the bush to kill animals and smoke their meat for the local, regional and national markets, or to capture birds, snakes and the young of

certain animals for sale to expatriates or buyers abroad. Because these poachers do not spare gestating females or juveniles, their activity is leading to the disappearance of target species throughout most of the national territory. This phenomenon is worsened by human population growth and the influx of refugees fleeing civil conflicts in neighboring countries.

Project No. 14: Restoration of degraded habitats

[TRANSLATION]

The generalized degradation of the natural environment, particularly woodlands, is obvious to any observer. Even permanent forest lands are being affected by uncontrolled brushfires, agricultural encroachments and unauthorized settlements.

The agro-silvo-pastoral landscape is itself being degraded by soil erosion, overgrazing, uncontrolled forestry and mining activity, shifting agriculture, shortened fallow times, planting in fragile erosion-prone soils and declining soil fertility.

The restoration of natural environments is still a long and costly process. To achieve satisfactory, long-lasting results, it is essential that the people, especially those who live in the vicinity of the degraded areas, support the restoration objectives.

In light of these special conditions, comprehensive responses are required, such as a strong land-use policy that includes the restoration of degraded land so as to ensure food security, and to conserve soil, water and animal and plant resources through grazing deferrals, protection, reforestation, rational resources management and rehabilitation of agriculture and livestock raising. Even so, complete restoration requires large-scale reforestation under realistic and ongoing programs.

Project No. 42: Restoration of degraded freshwater ecosystems

[TRANSLATION]

Freshwater ecosystems fulfil key ecological functions. The all-out rush to satisfy needs has degraded them, and disturbances of all types have resulted from a wide range of insults, particularly in watershed areas.

Shifting agriculture, based on clearing, slashing-and-burning and slope cultivation carried out with no precautions and in very short cycles, has changed the plant cover in the water catchment areas. Also of note are mining operations, which attack the soil, subsoil and plant cover, damage done to headwaters and river banks, the production of baked bricks, deforestation, runoff, etc.

The combination of this range of attacks disturbs waterflow patterns and changes the course and configuration of streams, rivers and bodies of water.

Erosion-induced sedimentation and accelerated silting change the physical-chemical characteristics of water before altering the biological equilibriums of aquatic environments and ultimately leading to the filling of many springs, lakes, ponds, pools and streams. Species dominances are shifting so significantly and flow patterns are changing to the point where steps to restore these ecosystems have become urgent. The population's support and participation are key to the success of this project.

Project No. 44: Biodiversity conservation and sustainable development in Guinea's southern mangroves

[TRANSLATION]

As a transition zone where inland and ocean waters mix, mangrove forests play a very important role in the bioproductivity of estuaries. Mangroves are generally rich in organic matter and they protect shores and banks. They are a migration corridor for many species of birds, reptiles and primates.

Five forest zones, of which three are north of Conakry (Soumba-Konkouré, Matéba-Rio Pongo and Rio Nuñez) and two are in the south (Tabounssou and Forécariah), account for 30% of the area occupied by mangroves in Guinea. These zones are rich in animal and plant species, provide food and

shelter for many migrating birds and serve as breeding grounds for many species.

These important areas support a wide range of economic activities, including those of many people involved in harvesting wood used to smoke fish, prepare salt and provide a variety of services and firewood for households.

Project No. 45: Protection of Guinea's marine turtles

[TRANSLATION]

Marine turtles occupy a very important place in the food chain. Their absence from the coastal ecosystem has resulted in the proliferation of jellyfish, which are a threat to fish. Protecting turtles and allowing them to multiply could help restore balance between the three following groups of organisms: turtles, jellyfish and fish. Turtles feed on jellyfish, and by doing so reduce the number of jellyfish, which prey on fish. Given the turtles' regulatory role in the biotic community, their populations need to be developed and increased through protective measures and the search for other possible reproduction sites along the entire Guinean coast.

As yet, no data are available on the population dynamics of Guinea's marine turtles. It must be noted that turtles and their eggs are eaten by people. Their shells are sold to tourists and also used as ashtrays or household decorations. Turtle blood is used in traditional medicine. For these reasons turtles continue to be hunted despite being protected by law.

Project No. 47: Organization of the mangrove wood industry

[TRANSLATION]

Along 300 km of coastline, mangroves occupy the entire coastal fringe and support a large number of diversified economic activities. Mangrove forests cover 250,000 hectares, with mud flats dewatered at low tide that are very important for shorebirds and migratory birds. Mangroves are useful and valuable in many ways. They are a habitat and a spawning ground. They stabilize shores and banks, retain sediment and break the wind. Mangrove

trees are a source of wood used in rural and urban areas, including Conakry, as construction materials, charcoal and firewood for cooking.

Huge swaths of mangrove are directly or indirectly destroyed by human activities aimed at securing immediate benefits to the detriment of sustainable benefits that draw upon both the economic and natural values of the resource.

...

Mangroves represent a land reserve that is not only home to an exceptional wealth of wildlife, but is also the very basis of the marine food chain for shoreface aquatic species.

Project No. 48: Management of Ramsar sites

[TRANSLATION]

Guinea's wetlands are particularly productive environments that abound in biological resources. Paradoxically, they are exploited in ways that do not always consider the balance between short-term efficiency, on the one hand, and on the other, the sustainability of production and the maintenance of the many functions and services the wetlands provide for.

The coastal wetland ornithological inventories carried out by Guinean technical services (*Direction Nationale de l'Environnement, Direction nationale des Eaux et Forêts*) in cooperation with WIWO/CIPO have shown that the following five sites are of international importance as habitats for migratory birds, and Guinea has had them added to the Ramsar Convention list: the Tristao Islands, the Alkatraz Islands, Kapatcheze Island, the Rio Pongo and the Konkouré River delta.

No work has been done to classify or develop these sites, which cover 225,011 hectares. Even so, to limit encroachment and the loss of their fundamental ecological, economic and scientific functions, efforts must be made to ensure that they are sustainably managed through greater efforts to take biodiversity conservation and the sustainable use of biological resources into consideration, to see that all economic and community

shareholder groups work together and to establish mechanisms for active community participation and international cooperation.

4.1.2.6 National Action Plan to Combat Desertification [(Plan d'action nationale de lutte contre la désertification (PANL-LCD))]

The National Action Plan to Combat Desertification was adopted in 2006, after Guinea signed the United Nations Convention to Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa (UNCCD).

One of the priorities identified in the Plan is to involve mine operators in the restoration of abandoned pits.

Subprogram 5 concerns the rebuilding of degraded ecosystems and the improvement of production systems:

[TRANSLATION]

The degradation of natural resources, particularly forest resources, is a matter of serious concern for decision-makers. The root causes of this degradation lie at several levels, the main ones being mining operations and the clearing of land for cultivation.

In the areas where mining has taken place, the consequences of a systematic change in the structure of the soils and the vegetation are perceptible. The plant cover has disappeared from mine pits, which have been completely stripped of soil and in places where traditional artisanal mine shafts have been dug. This distressing situation has led to a shortage of potable water because of high levels of pollution in rivers and streams, flooding that is detrimental to crops planted downstream and a tendency for springs to dry up early.

The solution is clearly to rehabilitate the disused pits, so as to restore the vegetation and to help reestablish waterflow patterns in the rivers and streams. Rehabilitation will also improve living conditions in the affected areas by initiating agroforestry planting and thus help reduce poverty.

4.1.3 National Monograph on the Biodiversity of Guinea

The National Monograph on the Biodiversity of Guinea (*Monographie nationale sur la biodiversité de Guinée* – 1997) is an important document in several respects. The monograph is an outcome of the UN Conference on Environment and Development held in Rio de Janeiro in June 1992 and obligations under the UN Convention on Biological Diversity. It represents the first draft of a national plan of action for biodiversity, which was subsequently developed in the Strategy and the 2001-2002 action plan described above. It is also a useful compendium of the information available at the time on the status of species in Guinea. Although the lists in the monograph need updating given how quickly changes of information and status can occur in biodiversity, it remains a useful reference on the species considered in this study and their status in Guinea.

4.1.4 International conventions ratified by Guinea

According to the 2008 Report of the Supreme Court of Guinea on Environmental Criminal Law:

[TRANSLATION]

The fundamental law of the Republic of Guinea recognizes the principle of the primacy of international law over domestic law.

Article 79 provides in this regard that duly approved or notified treaties or agreements shall, upon their publication, override laws, subject to reciprocity.

To ensure the implementation of this principle by State actors, in particular legislators and judges, the Republic of Guinea has adopted monism, i.e., the principle of unity between the domestic and international legal system, the effect of which is to seek compliance between domestic law and international law through amendments or changes to legislative and regulatory texts. In other words, ratified international conventions concerning the environment and containing criminal provisions take precedence over Guinean criminal legislation and are integrated into our texts.

The international conventions ratified by Guinea that have possible implications on the biological aspects of the Extension Project ESIA are described in the following subsections.

4.1.4.1 International Convention for the Prevention of Pollution of the Sea (IMO - London, 1954)

Signed by Guinea on April 19, 1981. Implementing institution: Ministère de l'Environnement.

One of the first conventions to protect the oceans from contamination.

4.1.4.2 International Convention for the Prevention of Pollution of the Sea by Oil (IMO - London, 1967)

Signed by Guinea on April 19, 1981. Implementing institution: Direction nationale de la Marine Marchande.

4.1.4.3 Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO - Paris, 1972)

Signed by Guinea on June 18, 1979. Implementing institution: Ministère de l'Enseignement Supérieur.

The goal of the Convention is to identify cultural and natural sites of international significance and assist in their protection.

There is only one international heritage site in Guinea, the Mount Nimba Strict Nature Reserve, listed in 1981 and now considered endangered. There are also three sites on the indicative list, but none in the vicinity of the ESIA study areas.

4.1.4.4 Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 1973 – amended Bonn, 1979)

Signed by Guinea on December 20, 1981. Implementing institution: Ministère de l'Environnement.

This convention on trade in endangered species includes lists of species (Appendices I, II and III) and establishes restrictions on their commerce.

Several species on these lists are present in the ESIA study areas:

Appendix I (endangered species that are or could be affected by trade): e.g., chimpanzees, manatees, crocodiles and marine turtles.

Appendix II (all species that, although not necessarily endangered at present, could become endangered if trade in specimens of these species was not strictly regulated): e.g., hippopotamuses, golden cats, African clawless otters, humpback dolphins and other primates.

Appendix III (all species that a Party declares to be subject, within the limits of its jurisdiction, to some form of regulation aimed at preventing or limiting their trade): none in the case of Guinea.

4.1.4.5 *Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979)*

The *Convention on the Conservation of Migratory Species of Wild Animals* (CMS), or Bonn Convention, was ratified by Guinea on May 21, 1993, and came into effect on August 1, 1993. Implementing institution: Direction nationale des Eaux et Forêts.

Appendix I of this convention to protect migratory species lists the migratory species that are endangered. Appendix II lists “migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international co-operation that could be achieved by an international agreement”.

Several species present in the environmental study areas for this ESIA are on these lists (including marine turtles, the humpback dolphin and many species of birds).

The UNEP/CM Memorandum of Understanding on the Conservation of Migratory Birds of Prey in Africa and Eurasia (Prey MOU), of which Guinea is a signatory, came into effect on November 1, 2008.

Furthermore, in 2014, an African-Eurasian Migratory Waterbird Action Plan (AEMLAP) was adopted (UNEP/CMS Secretariat, 2014), completing the work begun under the AEWA.

Guinea has transposed this convention into its legislation through its Wildlife Protection Code and hunting regulations.

4.1.4.6 Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) (The Hague, 1995)

This agreement is an independent international treaty that was developed under the aegis of the United Nations Environment Programme (UNEP) and the Bonn Convention and was concluded on June 16, 1995, in The Hague. It came into effect on November 1, 1999. Guinea signed the AEWA agreement in 1995 and ratified it on July 26, 1996.

The agreement states the following: “1. Parties shall take co-ordinated measures to maintain migratory waterbird species in a favourable conservation status or to restore them to such a status. To this end, they shall apply within the limits of their national jurisdiction the measures prescribed...” and “2. In implementing the measures prescribed in paragraph 1 above, Parties should take into account the precautionary principle.”

The agreement identifies the status of the species to which it applies.

4.1.4.7 Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan, 1981)

Signed by Guinea on March 23, 1981. Implementing institution: Ministère de l’Environnement.

In 1981, the Abidjan Conference adopted the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region and a Protocol concerning Co-operation in Combating Pollution in Cases of Emergency.

Pursuant to the Abidjan Convention, Guinea produced a National Report on the Marine and Coastal Environment (2006).

4.1.4.8 *African Convention on the Conservation of Nature and Natural Resources (Algiers, 1968 revised in 2003)*

Signed by Guinea on December 12, 1989, and officially ratified on May 7, 2012.
Implementing institution: Ministère de l'Environnement.

The fundamental principle of this convention is the following:

The Contracting States shall undertake to adopt the necessary measures to ensure conservation, utilization and development of soil, water, flora and faunal resources in accordance with scientific principles and with due regard to the best interests of the people.

The Convention deals specifically with protected species and states:

The Contracting States recognize that it is important and urgent to accord a special protection to those animal and plant species that are threatened with extinction, or which may become so, and to the habitat necessary to their survival. Where such a species is represented only in the territory of one Contracting State, that State has a particular responsibility for its protection.

These species which are, or may be, listed according to the degree of protection that shall be given to them are placed in Class A or B of the Annex to this Convention, and shall be protected by Contracting States as follows:

- a) species in Class A shall be totally protected throughout the entire territory of the Contracting States; the hunting, killing, capture or collection of specimens shall be permitted only on the authorization in each case of the highest competent authority; and
- b) species in Class B shall be totally protected, but may be hunted, killed, captured or collected under special authorization granted by the competent authority.

2. The competent authority of each Contracting State shall examine the necessity of applying the provisions of this article to species not listed in the annex, in order to conserve the indigenous flora and fauna of their

respective countries. Such additional species shall be placed in Class A or B by the State concerned, according to its specific requirements.

Several species present in the environmental study areas for this ESIA are named in the annex (including chimpanzees, the golden cat, manatees, marine turtles and many birds in Class A).

4.1.4.9 United Nations Convention on the Law of the Sea (Montego Bay, 1982)

Signed by Guinea on December 10, 1982, ratified in September 1985 and took effect in November 1994. Implementing institution: Direction nationale de la Marine Marchande.

4.1.4.10 Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 1971)

Also known as the Ramsar Convention. Signed by Guinea on September 24, 1992. Implementing institution: Direction nationale des Eaux et Forêts.

The following description is taken from The Ramsar Convention Manual: A Guide to the Convention on Wetlands (Ramsar, Iran, 1971), 4th edition. Ramsar Convention Secretariat, Gland, Switzerland, 2006.

The mission of the Ramsar Convention ... is the conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world.

Though the central Ramsar message is the need for the sustainable use of all wetlands, the “flagship” of the Convention is the List of Wetlands of International Importance (the “Ramsar List”) – presently, the Parties have designated for this List more than 1,634 wetlands for special protection as “Ramsar Sites”, covering 145 million hectares (1.45 million square kilometres).

Under the Convention there is a general obligation for the Contracting Parties to include wetland conservation considerations in their national land-use planning. They have committed themselves to formulate and

implement this planning so as to promote, as far as possible, “the wise use of wetlands in their territory” (Article 3.1 of the treaty).

In Guinea, there are 16 recognized Ramsar Wetlands covering a total of 6,422,361 hectares. Two of these are close to the Kamsar Study Area, i.e., the Tristao Islands to the northwest and the Rio Kapatchez at the southern border.

4.1.4.11 UN Convention to Combat Desertification (Paris, 1994)

Signed by Guinea on April 19, 1997. Implementing institution: Direction nationale des Eaux et Forêts.

The full title of the Convention is the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

The Convention states that “... achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.”

4.1.4.12 International Union for Conservation of Nature and Natural Resources (Fontainebleau, 1948)

Generally referred to by its acronym, IUCN.

On August 27, 2012, the International Union declared: “IUCN extends a warm welcome to the Government of the Republic of Guinea, which has officially announced its decision to become a Member of IUCN by endorsing the IUCN Statutes. The Ministry of Environment, Water and Forests has been designated by the Government of the Republic of Guinea as its liaison with the IUCN Secretariat.”

http://www.iucn.org/news_homepage/news_by_date/?10764/IUCN-welcomes-the-Republic-of-Guinea-as-a-new-State-Member

The International Union for the Conservation of Nature is the largest and oldest global environmental organization in the world. It is best known for its Red List of Endangered Species and for establishing a rigorous system of species conservation

status evaluations upon which certain key IFC Performance Standard 6 decisions are based.

IUCN is also involved in a variety of programs in Africa:

[TRANSLATION]

IUCN's Central and West Africa Program (*Programme Afrique Centrale et Occidentale – PACO*) is based on a variety of country and thematic programs. The Water and Wetlands Program (*Programme Ressources en Eau and Zones Humides – PREZOH*) is a PACO Regional Thematic Programme (*PTR*). The Partnership for Environmental Guidance in West Africa (*Partenariat pour la Gouvernance Environnementale en Afrique de l'Ouest – PAGE*) is a five-year PACO regional program to improve living conditions in West Africa by developing policies and strengthening environmental institutions. The Poverty Reduction and Environmental Management Initiative (*PREMI*) seeks to promote integrated management of natural resources in order to reduce poverty and adapt to climate change in West Africa. The Marine and Coastal Management Program (*Programme Marin et Côtier – MACO*) covers a range of issues including biodiversity conservation, protected marine areas management, fisheries development, integrated management, governance and adaptation to climate change impacts. It builds on IUCN's experience in West Africa, drawing in particular on its Regional Program for Conservation of the Coastal and Marine Zone of West Africa (*PRCM*) (*Programme régional de conservation de la zone côtière and marine*). The coordinating body of the MACO program is contributing to the implementation of the second phase of the PRCM, and to the development of the portfolio of projects of IUCN's offices in West Africa, in addition to developing a marine and coastal program for Central Africa. It coordinates several regional projects in cooperation with major partners such as the Sub-Regional Fisheries Commission (*SRFC*), the West African Economic and Monetary Union (*WAEMU*), the Regional Network of Protected Marine Areas in West African (*Réseau régional des AMP en Afrique de l'Ouest – RAMP AO*), and it promotes the involvement of IUCN commissions and expert groups such as the World Commission on Protected Areas (*WCPA*), the Commission on

Environmental, Economic and Social Policy (CEESP) and the Commission on Education and Communication (CEC).

(https://www.iucn.org/fr/propos/union/secretariat/bureaux/paco/programmes/programme_marin_er_cotier_maco/ce_que_nous_faisons/missions_et_objectifs and other pages from the same site)

4.1.4.13 UN Convention on Biological Diversity (Nairobi, 1991)

Abbreviation: CBD. Guinean accession / ratification on May 7, 1993. Implementing institution: Ministère de l'Environnement.

The website of the French Ministry of Ecology, Sustainable Development and Energy describes the CBD in the following terms: [TRANSLATION] "The Convention on Biological Diversity (CBD) represents a true turning point in international law. For the first time, the Convention recognizes the conservation of biodiversity as a 'common concern of mankind' and an integral part of the development process."

(<http://www.developpement-durable.gouv.fr/La-Convention-sur-la-diversite,12582.html>)

The Convention's goals are three-fold:

1. the conservation of biodiversity;
2. the sustainable use of its components; and
3. the fair and equitable sharing of the benefits arising out of the use of genetic resources.

The National Monograph was prepared in fulfilment of Guinea's obligations under the CBD. Guinea has transposed the Convention into its legislation through the Wildlife Protection Code and hunting regulations.

4.1.4.14 Extractive Industries Transparency Initiative (EITI)

Guinea was recognized as compliant in July 2014.

4.1.5 Other international agreements or programs

4.1.5.1 *Environment Initiative of the New Partnership for the Development of Africa (NEPAD)*

A new initiative called New Partnership for the Development of Africa (NEPAD) was put forward by African leaders on October 23, 2001, in Abuja, Nigeria.

4.1.5.2 *Environmental policy of the ECOWAS Commission*

A draft ECOWAS environmental policy action plan was developed by the Commission and reviewed from November 11 to 13, 2008, by experts in Abuja, Nigeria. The action plan has been submitted for adoption to the heads of state of the member countries.

4.1.5.3 *Performance Standards of the International Finance Corporation (IFC)*

Compliance with the IFC Performance Standards on Environmental and Social Sustainability (January 1, 2012) will be the cornerstone of the ESIA report, along with the Equator Principles for the management of the environmental and social impacts of international investment projects.

The IFC Performance Standards establish essential criteria, in terms of social and environmental sustainability, for accessing international capital. The set of eight operational standards requires that environmental and social management systems be developed, implemented and followed in order to ensure that risks and impacts related to the basic themes of sustainable development are effectively and systematically managed throughout the life of a project.

For each theme, specific methodological criteria, essential subjects and support principles are established to guide the process. The themes applicable to biological impact assessments are as follows:

- Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
- Performance Standard 2: Labor and Working Conditions Performance
- Standard 3: Resource Efficiency and Pollution Prevention; and

- Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources.

Performance Standards 1 and 3 cover general principles with applications for biology, whereas Standard 6 deals specifically with matters of biology.

4.1.5.4 Equator Principles

The Project will also be developed in compliance with the Equator Principles III (2011), a financial industry benchmark for taking social responsibilities and environmental management into account.

The 10 basic principles are:

- Principle 1: Review and Categorization: The Equator Principles Financial Institution (EPFI) must categorize the project according to the magnitude of its potential environmental and social risks and impacts. Such screening is based on the environmental and social criteria of the International Finance Corporation (IFC).
- Principle 2: Environmental and Social Assessment: The EPFI must require the client to conduct an assessment of the environmental and social risks and impacts and to propose relevant management and mitigation measures for reducing the impacts to an acceptable level;
- Principle 3: Applicable Environmental and Social Standards: Social and environmental performance must be evaluated according to the IFC Performance Standards and the World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines), as well as the host country law;
- Principle 4 – Environmental and Social Management System and Equator Principles Action Plan: The client must develop a plan for implementing the mitigation, remedial and follow-up measures needed to address the impacts and risks identified in the assessment process;
- Principle 5 – Stakeholder Engagement: For projects with potentially significant adverse impacts on host communities, the client must conduct an informed consultation and participation process beforehand, facilitate the communities' informed participation and make the assessment documents and action plan publicly available in a culturally appropriate manner;

- Principle 6 – Grievance mechanism: As part of the ESMS, the client must establish a grievance mechanism and inform the affected communities about it;
- Principle 7 – Independent review: An independent environmental and social consultant must carry out a review of the assessment, action plan and stakeholder engagement process in order to assess Equator Principles compliance;
- Principle 8 – Covenants: The client must covenant, in the financing documentation, to comply with the host country requirements, to implement the action plan, to provide periodic reports on the project’s social and environmental performance, and to decommission and dismantle the facilities where applicable;
- Principle 9 – Independent monitoring and reporting: Reports and monitoring information must be checked by an independent environmental and social consultant; and
- Principle 10 – Reporting and transparency: EPFIs must report annually on their Equator Principles implementation processes and experience.