

## 6.5 FMC P – Atlantic Resources

### 6.5.1 Principle 1: Legal existence/recognition and eligibility to operate in forestry sector

<i>Key Document &amp; Responsible Party</i>	<i>Supporting Documents and Other Requirements</i>		<i>Document assessment</i>
Company	1.1.1	Business Registration Certificate	A
	1.1.2	Articles of incorporation	A
	1.1.3	Declaration of ownership	A
	1.2.3	List of shareholders and beneficiaries	C
	1.3.1	Notarized affidavit executed by its CEO declaring that company's owners do not include prohibited person	C

The company's registration is up to date and its articles of incorporation meet legal and regulatory standards. The declaration of ownership and notarized affidavit declaring that company's owners do not include prohibited persons were unavailable for review.

Therefore, **FMC P is partially compliant with Principle 1.**

### 6.5.2 Principle 2: Forest allocation

<i>Key Document &amp; Responsible Party</i>	<i>Supporting Documents and Other Requirements</i>		<i>Document assessment</i>
FDA	2.1.1	Socio economic survey report	A
	2.1.3	Proof of community consultation	C
	2.2.2	Approved concession certificate	A
	2.4.1	Public tender notice	C
	2.4.3	Due Diligence Report	C
	2.4.4	Final report of bid evaluation panel to the Inter-Ministerial Concessions Committee (IMCC)	C
	2.4.5	IMCC recommendation to President	C
Company/ FDA	2.3.1	Pre-qualification report	A
	2.3.2	Pre-qualification certificate	A
	2.3.4	Liquidity guarantee	C
	2.7.1	Bidder's bond receipt	C
	2.8.1	Performance bonds	A

All other documents created prior to the allocation of the forestry contract, and held by the FDA, have been lost and were not available for review.

Therefore, **FMC P is not compliant with Principle 2**

### 6.5.3 Principle 3: Social obligations and benefit sharing

<i>Key Document &amp; Responsible Party</i>	<i>FMC P, Atlantic Resources Supporting Documents and Other Requirements</i>		<i>Document assessment</i>
<b>Social Agreement (for FMC, TSC, CFMA)</b>			
Community/ Company	3.1.3	Evidence that no complaint filed to FDA by an affected community alleging exclusion from negotiation or failure of contract holder to negotiate	A
	3.2.1	Executed Social Agreement signed by contract holder and CDFC	A
	3.2.3	List of CFDC identified or registered with FDA	A
	3.3.2	Description of the minimum cubic meter fee that the contract/ permit holder will pay on a quarterly basis to the affected communities	A
	3.3.1	Code of conduct that determines rights and responsibilities of communities and contract holders	B
	3.3.3	Bank book or other records of the required interest-bearing escrow account opened by the contract/ permit holder in trust for the affected communities	C
	3.3.4	Social Agreement to include a dispute resolution mechanism	A
<b>Quarterly Bank Statement of Escrow Account</b>			
Company	3.5.1	Receipt of payments to escrow account	B
<b>Compliance Audit Report (Post Harvest Report)</b>			
FDA	3.5.2	FDA verification of payment to communities	C

This company meets generally its obligations regarding the supply of documents in LiberTrace. There is no evidence that the holder fulfills his payment obligations towards the communities.

V. 3.2.3: the list of CFDC identified or registered with FDA is found at the end of the Social Agreement and has not been extracted from this report to be included in verifier V.3.2.3 in LiberTrace.

V. 3.3.1: Obligations of the holder are missing. However, they can be found in the previous SA's paragraphs.

V. 3.3.3: No evidence that a specific bank account has been opened by the holder for the payment of the concerned communities.

V. 3.5.1: A receipt shows that a payment by check was made to the community concerned, but it is not possible to relate the payment to any specific fee.

V. 3.5.2: The FDA probably verifies the payments made to the communities by the holder but does not record it in LiberTrace.

Regarding the Social Agreement (SA) and per the other FMCs, the content complies with the regulation, at the exception of the escrow account setting up.

**As a result, FMC P is not compliant with Principle 3.**

**Table 51 - Assessment of the Social Agreement**

<i>Criteria</i>	<i>Comments</i>	<i>Validity</i>
Code of conduct	The rights and responsibilities are missing	B
Financial benefit		A
Payment by the Holder	Payments terms are different from the requirements	B
Funds released by the Holder	-	C
Practical settlement dispute mechanism		A

#### 6.5.4 Principle 4: Forest management operations and harvesting

<i>Key Document &amp; Responsible Party</i>	<i>Supporting Documents and Other Requirements</i>		<i>Document assessment</i>
Company	4.1.3	25 Year Forest Management Plan (SFMP)	B
	4.1.1	Annual Harvesting Certificate	A
	4.1.2	5 Year Forest Management Plan (5YFMP)	B
	4.1.2	Annual Operational Plan (AOP)	B
	4.1.4	Written permission from land owner	C
		Approved annual blocks	A
FDA	4.2.4	Annual Compliance Audit Report (Post Harvest Audit)	C
Company / FDA	4.2.3	Tally sheets / Felled trees data verification	A
Company	4.2.3	TDF records on LiberTrace	A

Neither the SFMP, the 5YFMP nor the AOP are compliant (see tables below).

The company was granted a harvesting certificate despite its weaknesses on the management documents.

The company labels trees and logs and these are recorded on LiberTrace enumeration and TDF databases.

**Therefore, FMC P is not compliant with Principle 4.**

**Table 52 - Assessment of the SFMP – FMC P**

<i>Criteria</i>	<i>Comments</i>	<i>Validity criteria</i>
<b>SFMP is existing</b>		A
Ratification of the SFMP	No evidence of ratification	B
Stratification and mapping		C
Multi-resources inventory	An inventory was conducted in 2007. It can't be assimilated to a multi-resources inventory (wrong methodology, low sampling rate, no map)	C
Definition of protected and managed tree species		C
Definition of the rotation	No inventory made; no justification of the rotation chosen	C
Partitioning of the FMC into management units	-	C
Design of management procedures for the management units	No management units	C
Definition of DBH cutting limits	-	C
Stock calculation of the commercial species	-	C
Partition of the timber Production Unit into 5 years Compartments	No stock calculation. Compartments not based on an inventory,	C
Industrial planning	-	C
Implementation, monitoring and evaluation of the FMP	-	C
Economic and financial assessment	-	C
<b>Overall compliance of the document</b>	Most of the requirements of the guidelines are inexistent. The basics of a management plan are not met (no inventory, no stock calculation, no DBH calculation, etc.)	C

**Table 53 - Assessment of the AOP - FMC P**

<i>Criteria</i>		<i>Validity criteria</i>
<b>AOP is existing</b>		A
Ratification of the AOP	-	A
Location of the Annual Coupe (AC) on the FMC area (FMCs and CFMAs only)	No compartments are made in the SFMP. Therefore, the AC is not located into a specific compartment	C
AC Area	The area of the compartment is not presented	C
Annual audit report	The report is not detailed. The harvested volumes are not presented.	C
Pre-harvest enumeration (stock survey)	The presented enumeration is the one for the blocks of the previous exercise. There was no enumeration for the current one.	C
Harvesting forecasts	No enumeration	C
Annual Coupe Map	-	C
Stock map	-	C
Planning of harvesting operations	No map presented, no enumeration	C
Planning of other activities	A table is provided	A
<b>Overall compliance of the document</b>	Most of the requirements of the guidelines are inexistent. The basics of an AOP are not met (no enumeration, no stock calculation, maps, compartment not in line with SFMP)	C

**Table 54 - Assessment of the 5YFMP – FMC P**

<i>Criteria</i>	<i>Comments</i>	<i>Validity criteria</i>
<b>5YFMP is existing</b>		A
General framework		A
Assessment of the previous 5YMP	-	C
Description and location of the forest compartment		A
Results of the multi-resources inventory	No multi-resources inventory conducted	C
Planning of logging activities on the Forest Compartment	-	C
Activity forecast / implementation chart	No implementation chart	C
<b>Overall compliance of the document</b>	Not in line with official guidelines. Besides, as no multiresources inventory was conducted, this document has no background.	C

### 6.5.5 Principle 5: Environmental obligations

<i>Key Document &amp; Responsible Party</i>	<i>FMC P, Atlantic Resources Supporting Documents and Other Requirements</i>		<i>Document assessment</i>
<b>Environmental Impact Permit (for FMC, TSC, CFMA)</b>			
Company	5.1.1	Environmental Impact Assessment Report prepared and approved	B
EPA	5.1.3	Environmental Impact Permit	A
	5.3.2	Annual Environmental Audit	C
FDA	5.4.2	Annual Compliance Audit (Post Harvest Audit) Report	C

This company meets most of its obligations regarding the supply of documents in LiberTrace. On the other hand, the EPA and the FDA do not provide tangible evidence on their inspections and audit.

The general comments are the same as per Section 0.

**Table 55 - Assessment of the Environmental Impact Assessment**

Criteria	Comments	Validity
Executive summary	Many important elements are missing	B
Introduction-overview of the project	Not clearly detailed	B
Policy, legal and administrative framework	OK	A
Detailed project description	No detailed statement of activities. Some confusion with environmental chapters to go in other sections. Construction phase and operation phase missing.	B
Description of the Environment	Not clearly detailed	B
Impact prediction and Evaluation	Different impacts were not rated.	B
Socio-economic analysis of project impacts	Not clearly detailed	B
Environmental Management Plan (EMP) and Mitigation Measures	Most of the items are missing	C
Identification of Alternatives	Missing.	C
Monitoring Program	Cf. table at the end of the document. Some topics are missing.	B
Public Participation	No methodology and results.	C
Description of the best available Technology	Missing.	C
Conclusion and Recommendations	OK.	A

As per the other EIA approved by the EPA, the document doesn't match the official requirements and the background to issue the Environmental Permit could not be assessed.

**As a result, FMC P is not compliant with Principle 5.**

### 6.5.6 Principle 6: Timber transportation and traceability

Key Document & Responsible Party	Supporting Documents and Other Requirements		Document assessment
Company / FDA		Barcode records in LiberTrace	A
Company / FDA	6.1.1	Waybills	A
	6.2.1	Tally sheets.	A
	6.2.1	LDF records in LiberTrace	A
	6.3.1	Cross cutting data in LiberTrace	A
	6.3.3	Annual Compliance Audit (Post Harvest Audit) Report	C

There is no specific observation for this company on Principle 6. The analysis made at Section 4.2.2.4 remains valid.

The annual compliance audit report was not sighted by the review team.

**FMC P is partially compliant with Principle 6.**

### 6.5.7 Principle 7: Transformation and timber processing

This Principle is not applicable as the company has no transformation and timber processing plant.

### 6.5.8 Principle 8: Workers rights, health safety and welfare

Key Document & Responsible Party	Supporting Documents and Other Requirements		Document assessment
Ministry of Labor	8.5.2	Ministry of Labor Audit Report	C
NASCORP	8.5.3	Attestation from National Social Security & Welfare Corporation (NASCORP)	C
FDA	8.6.1	Annual Compliance Audit (Post Harvest Audit) Report	C
Company	8.2.2	Payroll	C

The review team couldn't find enough objective evidence that the Workers Rights, Health Safety and Welfare requirements are being met either by the companies or the regulatory authorities.

Besides, the reports supposed to be produced by the Ministry of Labor, NASCORP and FDA were not sighted.

**As a result, FMC P is not compliant with Principle 8.**

### 6.5.9 Principle 9: Taxes, fees and other payments

Key Document & Responsible Party	Supporting Documents and Other Requirements		Document assessment
Company Atlantic Resources	9.1.1	Tax clearance certificate	A
	9.4.1	Tax return	A (income tax return)
FDA LVD / Company	9.2.1	Invoices and receipts for Annual Area Fees (including Previous Bid Premium) in Libertrace.	C, 298360 USD overdue plus 48360 USD undue
	9.2.2	Invoices and receipts for Bid Premium Fee Payment in Libertrace.	A, not due
	9.2.3	Invoices and receipts for Annual Registration Fees in Libertrace (Timber Processor).	NA
	9.3.2	Invoices and receipts for Stumpage Fees in Libertrace.	C, 38422 USD overdue
	9.3.3	Invoices and receipts for Contract Administration Fee in Libertrace.	C, 1000 USD overdue
	9.3.4	Invoices and receipts for Annual Coupe Inspection Fees in Libertrace.	C, 5900 USD overdue
	9.3.5	Invoices and receipts for Waybill Sticker Fees in Libertrace.	None issued
		Invoices and receipts for Barcode Tag Fee in Libertrace.	None issued
	9.3.6	Invoices and receipts for Chain of Custody Fees in Libertrace.	None issued
	Invoices and receipts for Exports Fees in Libertrace.	C, 46937 USD overdue	

The company has carried out only very few recorded logging operations. The export value of its production (according to the stumpage fee invoiced) is much lower than the area fees invoiced during the reference period.

According to the figures the company must be in serious financial problems which may have led to the incompliance with principle 9.

Bid premium arrears are considered as not due yet, while these payments are pending since 2013.

No records were sighted regarding the community payments.

**As a result, FMC P is not compliant with Principle 9.**

**Table 56 - State of concession fee payments (in USD - 1/2017-7/2019) – FMC P**

Area Fee	Export fee	Stumpage fee	arrears	other fees	Bid Premium	sum	status
48 360	0	0		0	610 784	659 144	undue
298 360	46 937	38 422	15 786	6 900	0	406404	overdue
298 360	0	0	0	11 300	0	309 660	Paid
645 080	46 937	38 422	15 786	18 200	610 784	968 804	total

### 6.5.10 Principle 10: Export, processing and trade requirements

Key Document & Responsible Party	Supporting Documents and Other Requirements		Document assessment
Company	10.2.1	Export Permit report from LiberTrace	A
	10.2.2	Export shipment specification log (SOP 20) in LiberTrace	A
	10.2.3	Export specification-sawn timber (SOP 21) in LiberTrace	NA
	10.2.4	Log export volume report	A
LVD	10.2.5	Proof of payment of export fees (SOP 26) in LiberTrace	A
		Reference price as found in market intelligence data base (MIDB)	C

There is no specific observation for this company on Principle 10. The analysis made at Section 4.2.2.8 remains valid.

The MIDB report was not sighted by the review team. Besides, the official FOB prices have not been reviewed for at least the last four years.

**FMC A is partially compliant with Principle 10.**