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Sustainable Management of Biodiversity, South Caucasus

Remarks and Recommendations on the Forest Code of Georgia

საქართველოს ტყის კოდექსი შენიშვნები და რეკომენდაციები

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1. Introduction

The present compilation of remarks and recommendations is based upon the current Forest Code of Georgia (1999). It draws on the findings and observation from a short-term consultant's mission[1] to Georgia, and serves as an input for discussion in support to the ongoing forest sector reform process (and, more specifically, to the review and amendment of the Forest Code).

As such, the compilation of remarks and recommendations reflects the independent professional judgement of the reporting consultant[2]. Nothing stated herein should be understood as reflecting or anticipating the views of either the Georgian Ministry of Environmental Protection and Natural Resources (hereafter MoEPNR), or German Technical Cooperation (GTZ).

The MoEPNR in the recent past established an internal working group, charged with the drafting of a Forest Bill. The present compilation of remarks and recommendations addresses specifically this working work (as well as other stakeholders and involved third parties, subject to the discretionary dissemination by either the MoEPNR, or GTZ).

2. Initial situation

The Georgian forest sector is in the midst of a far-reaching reform process, aiming to create a comprehensive legal framework for forest governance and sustainable forest management in the Republic of Georgia. Focal issues include, inter alia, the forest sector's adaptation to a market-economic system, improvement of sustainable management standards in line with state-of-the-art & internationally recognized concepts and principles, diversification of the current forest ownership structure and tenure arrangements, encouragement and promotion of civil-society participation in forest governance.

It must be noted that the current forest sector reform process is by no means sector driven, but closely embedded within a wider context of political, economic and social reforms. It is further predetermined to a considerable extent by statutory enactments from the recent past (most notably the cross-sectoral Law on Licenses and Permits, 2005) and accessory legislation ("normative acts") issued in respect thereof by executive bodies subject to a statutory empowerment.

A Forest Policy document, outlining the Georgian Government's reform agenda in a sector perspective, has been drafted and (as of July / August 2007) awaits its official approval. The draft Forest Policy identifies three paramount objectives[3], in respect of which five priority-tasks[4] are prescribed. Together, they stake out the direction and scope of forest sector reform, which need to be reflected within a revised Forest Code.

3. General observations

Several observations apply to the current Forest Code in a general perspective.

- The Georgian Forest Code provides a comprehensive legal framework for forest governance and forest management, which – already in its current form – accommodates / addresses several of the policy objectives / priority tasks mentioned above.

[1] Conducted from July 25th to August 10th, 2007, on behalf of German Technical Cooperation (GTZ)

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[3] (i) protection of the forests' ecological values and their maximal conservation; (ii) effective use of the forests' economical potential in a long-term perspective; (iii) implementation of social forest functions

[4] (a) improvement of legal base; (b) establishment of sustainable forest management standards; (c) delineation of forests of local significance and their transfer to self-governing units; (d) further development of mechanisms of institutional management of the sector; (e) development of effective systems for forest monitoring and control

- For this reason, it would seem inexpedient to simply repeal the existent Forest Code and develop a new legal framework virtually "from scratch". In the reporting consultant's judgement, the current Forest Code provides a useful basis to build on.
- Compared to various other specimen of forest laws, it seems unusually spacious and detailed – to the point of prescribing procedural as well as technical / silvicultural rules.
- The Forest Code's internal structure of Titles, Chapters and Articles is rather complex, in that contextually related provisions (e.g. regarding management standards, or the – functional – classification of forests) are dispersed across different chapters and even titles. It is consequently difficult to quickly grasp the framework of norms applicable to a single thematic complex such as – by example - sustainable forest management (SFM), or public forest governance.
- Owing to the above-described structural characteristics, the Forest Code's norms tend to be repetitive (and redundant to some degree).
- In consequence, the Forest Code's overall accessibility and user-friendliness leave room for improvement, particularly in consideration of the fact that the Forest Code is to be understood, applied and adhered to by a comparatively wide and diverse scope of forest stakeholders (including staff of the competent authorities on various levels, forest practitioners, non-state forest owners and forest users, civil society and individual citizens).
- Furthermore, the overall structural / contextual complexity of the Forest Code apparently gave rise to a few, however significant, inconsistencies and inner contradictions which impair the code's transparency and – consequently - diminish the legal security it's application is supposed to produce.
- Owing to more recent statutory enactments with cross-sectoral implications (most notably the Law on Licenses and Permits, 2005 and the Organ Law of Georgia on Municipal Self-Governance, 2005), certain parts of the Forest Code have been rendered obsolete and in urgent need of review. To some extent, normative acts – giving effect to the said statutes – have meanwhile be issued by the executive, which likewise pre-determine the scope and direction of necessary amendments to the Forest Code.

4. General recommendations regarding the drafting of a revised Forest Code

The following general recommendations draw on findings and observations from a systematic comparison of the legal frameworks for forest sector governance and forest management from 13 countries[5] [6]. During discussions with MoEPNR / State Forestry Dept. staff in the course of the reporting consultant's visit to Georgia, the Georgian partners' desire for a transfer of concepts and experience from third countries was repeatedly highlighted by Georgian discussion partners. The following presentation of basic observations / recommendations follows the comparative study's contextual structure.

4.1 General aspects, purview, and references to other (sectoral) legislation

- Forest laws are highly specific to a given political, economic and social setting. They are also determined to a large extent by a given country's historical development. Consequently, there is no blueprint approach to forest legislation – examples from abroad must be

[5] MANN, S. (2006): Promoting Reform of the Chinese Forest Law – Results from the Analysis and Comparison of a Sample of Forest Laws. Unpublished mission report on behalf of German Technical Cooperation (GTZ). Also: STATE FORESTRY ADMINISTRATION OF THE P.R. CHINA / CHINESE ACADEMY OF FORESTRY (2006): Comparative Study for Chinese and Foreign Forest Acts. Workshop Proceedings of Nov. 30th, 2006; Beijing.

[6] (i) Australia, (ii) Brazil, (iii) Canada, (iv) Finland, (v) France, (vi) Germany, (vii) India, (viii) Japan, (ix) Malaysia, (x) New Zealand, (xi) the Russian Federation, (xii) Sweden, (xiii) the United States of America

assessed in respect of clear-cut & consistent policy goals & after careful consideration of their transferability.

- Above all, forest laws must be easily accessible, and as workable as possible. For this reason they should preferably focus on rules for (i) maintaining a permanent forest estate (PFE), (ii) planning, (iii) management & utilisation, and (iv) forest protection.
- The normative hierarchy of forest laws relative to other sectoral laws (esp. environmental protection and nature conservation) must be clarified. A legal privilege for close-to-nature, multi-purpose sustainable forest management in accordance with applicable forest laws and subject to an approved management plan could be considered.
- These rules must be uniformly applicable & binding, irrespective of the type of forest ownership or resource tenure. Forest laws should aim to provide a framework of easily understandable, unequivocal general principles and norms – instead of detailed specific prescriptions tailored to specific circumstances. Legal prohibitions and restrictions should be limited to the necessary minimum, they need to suppress activities which adversely affect the integrity of the PFE, and the vitality, stability & resilience of forest eco-systems.

4.2 Legal definition of forests, classification, (quantitative) protection of the PFE

- A simple, area-based definition of forests must be combined with ecological parameters, so as to underscore the focus on forest-ecosystems (instead of various kinds of other woody vegetation).
- Permanent conversion of forest cover should generally restricted. It should be permissible only in the public interest, only with the forest authorities' prior consent, and (beyond a certain area-threshold) only after preparation of an Environmental Impact Assessment. Since forest conversion involves land-use / spatial planning decisions rather than forest management decisions, forest authorities must ensure adequate inter-agency consultation and participation with public authorities in charge of land-use planning, environmental governance, nature conservation etc. With a view to preventing / mitigating conflicts, civil-society participation appears highly advisable.
- Forest classification may involve functional parameters and/or types of tenure.

4.3 Provisions regarding planning, and management operations

- Forest laws need to prescribe an interlocking, multi-level planning framework (long-term, regionalized silvicultural strategies; medium-term management planning on the scale of individual forest enterprises; short-term operational planning on the level of FMUs / compartments).
- Inventory-based management planning should be a general requirement, irrespective of the type of forest or the category of forest tenure. To give effect to this requirement, simplified / modified procedures should be applied to forest holdings below a certain area-threshold, and / or the provision of forest management planning either free-of-charge or at subsidised rates should be considered.
- Forest laws should provide for sector-wide, periodical monitoring of the entire PFE, irrespective of the type of ownership or forest tenure.
- Forest laws need to apply a basic, common definition of forest management, preferably in the form of a commitment to close-to-nature, multi-purpose SFM. Multi-purpose forest management suggests that various forest functions (production, protection, ecological and socio-economic values) are to be realised simultaneously, i.e. *at one time and in one place*. Wherever functional surveys or "forest zonation" are conducted (usually in the course of

forest management planning), forest functions *are not to be separated spatially*. Instead of prescribing single, clear-cut functions or management goals, functional surveys and management planning need to *adjust the balance between different functions*, and to provide *alternative sets of objectives and optional management scenarios*. Forest functions are not to be regarded as mutually exclusive - and *restricting forest management to a single purpose may only be considered a last resort*. *Even then, forest production may not simple be precluded*, but management planning needs to aim for locally adapted compromises (e.g. area-limits for clear-felling, reduced impact logging – RIL and / selective cutting systems, prohibition of the use of pesticides in certain forest areas such as forest watersheds or vulnerable habitats, maximum thresholds for the use of certain tree-species, restrictions on the use of heavy machinery on erosion-prone soils etc.). *The challenge is to achieve a near-optimal balance of forest functions with the least possible degree of restrictions for forest management*.

- Targeted state support may be required to enable non-state forest owners to meet their legal obligations (advisory support, training / capacity building, technical assistance, incentive schemes).
- Forest (management) certification according to internationally or regionally recognized certification schemes should be pro-actively encouraged, and forest owners / forest users voluntarily opting for certification should be eligible for specific incentives / preferential treatment. In recognition of the specific nature and underlying rationale of forest certification (a market-based, voluntary instrument aiming for qualitative improvements of forest management above and beyond the legally-prescribed minimum), forest laws should nevertheless abstain from making certification obligatory, and should not prescribe a single certification system.

4.4 Forest authorities and the forest sector's institutional set-up, forest governance & law enforcement, non-governmental participation

- Public forest administrations are key-stakeholders of forest sector development – this necessitates a cautious, evolutionary approach to institutional reform.
- Forest protection (esp. quantitative protection of the PFE) often requires land-use decisions, rather than forest management decisions in the narrower sense. They depend on adequate inter-agency consultation & cooperation regarding integrated land-use / spatial planning.
- Organisational matters & the administrative set-up need not necessarily be dealt with in forest laws. They may be addressed through accessory legislation.
- SFM by non-public forest owners / users depends on support & empowerment. Laws regarding the institutional set-up of public forest authorities need to reflect this service-function (advice, training, management support, administration of incentive schemes).
- To ensure transparent, efficient, and uniform governance & law enforcement, executive powers and commercial / service functions should be clearly separated.
- To achieve meaningful results, civil-society participation depends on conducive institutional and procedural framework conditions, and – with a view to ensuring maximum impact - should be focused on the right intervention levels. Forest policy formulation, forest legislation, strategic forest planning, land-use decisions involving forests provide cases in point. One could, for instance, imagine board structures or consultative fora providing advice to public forest administrations. Certification likewise provides various entry-points for stakeholder participation. National Forest Programmes (nfp) provide an excellent example of a consultative framework (instrumental as well as procedural) in this regard.

4.5 Forest ownership and public support to non-state forest management

- Sustainable forest management by non-state forest owners / users, above all, depends upon legal security (protection of forest ownership rights and long-term, secure forest tenure).
- Forest laws or accessory legislation need to hold provisions for capacity building / training, advisory / management support, incentive schemes, and promotion of joint management of forest holdings below a certain area-threshold.
- A mandate for providing public support to non-state forest users needs to clearly determined in forest sector legislation.
- Rules for the promotion of joint-management associations should favour simple, voluntary arrangements.
- Legal provisions for incentive schemes (e.g. funding support, tax exemptions, provision of equipment etc.) could create a legal privilege for management associations.

The above basic observations and recommendations are generic and in themselves unspecific to the Georgian Forest Code. They reflect common features of the 13 legal frameworks assessed, and provide only general orientation. For the avoidance of doubt, “examples” from other countries should be considered (i) only with due caution, (ii) only in respect of clear-cut & consistent Georgian forest policy objectives, and (iii) only after in-depth research of their applicability and transferability in the Georgian political, socio-cultural and historical context. There exists no blueprint approach to forest sector legislation.

With this remark, the stage is set for the presentation & discussion of remarks and recommendations of the current Forest Code of Georgia (1999).

5. Specific remarks and recommendations on the effective Forest Code of Georgia

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
TITLE 1. GENERAL PROVISIONS		
CHAPTER 1. GENERAL PROVISIONS		
ARTICLE 1. LEGAL GROUNDS ESTABLISHED BY THE FOREST CODE The Forest Code of Georgia establishes legal grounds for conducting tending, protection, restoration, and use of the Georgian Forest Fund and its resources.	Here, the Forest Code's principal function as a single, consolidated and unified legal basis for public forest governance, forest sector development & SFM is stated. This requires, however, adequate clarification of the Forest Code's linkages with other relevant sectoral legislation (esp. vis-à-vis environmental legislation, nature conservation rules, and land laws).	These Articles could be merged, simplified, and streamlined. It might be sufficient to state that (i) the Forest Code provides a consolidated legal basis for the protection and sustainable management of the Permanent Forest Estate (hereafter: PFE); (ii) the Forest Code creates a framework for public forest governance; (iii) other statutes are applicable / take precedence over the Forest Code to the extent specified in the respective Articles of the Forest Code.
ARTICLE 2. GEORGIAN LEGISLATION REGULATING TENDING, PROTECTION, RESTORATION, AND USE OF THE GEORGIAN FOREST FUND Georgian legislation regulating tending, protection, restoration and use of the Georgian Forest Fund is comprised of the Constitution of Georgia, international agreements and treaties ratified by Georgia, as well as the laws of Georgia *"On Environmental Protection"*, *"On the System of Protected Areas"*, *"On Animal Wildlife"*, and *"On Water"*, as well as land legislation, this Code, and other normative acts.	See previous remark. Nowhere is the Forest Code's position in within the legal hierarchy clarified, which makes it difficult to determine how other laws impact on the implementation and enforcement of the Forest Code. If the Forest Code is to serve as a "code" in the term's actual meaning, it should provide a single, consolidated basis for forest sector governance and forest protection / forest management.	
ARTICLE 3. GOALS OF THE FOREST CODE OF GEORGIA Following are the goals of the Forest Code of Georgia: a) protecting human rights and law enforcement in the field of forest relations; b) conducting forest tending, protection, and restoration with the purpose of conserving and improving climate-regulating, recreational, and other useful natural properties of forests; c) conserving and protecting unique natural and cultural environment and its specific components - flora and fauna inclusive, biodiversity, landscape, cultural and natural monuments located in forests, and the endangered plant species; regulating harmonized inter-	This enumeration of goals appears somewhat redundant and unnecessarily detailed, because as several clauses refer in a similar manner to the forests' environmental/ecological properties and socio-economic functions.. It adds to the complexity of the Article and tends to inflate it. It also appears to overlap considerably with the subsequent Article 4.	The Article should be shortened & streamlined. What should be reflected more clearly and pronouncedly in the Article is a clear commitment to **forest resource protection *through* close-to-nature, multi-purpose Sustainable Forest Management**.

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relations between these components; d) setting rights and obligations of forest users; e) meeting environmental, economic, social, and cultural needs of population through providing access to the forest resources in the scope compatible with scientifically defined allowable norms; f) defining main principles of forest management.		
ARTICLE 4. PRINCIPLES OF PROTECTION, SUSTAINABLE DEVELOPMENT, AND MANAGEMENT OF THE FORESTS OF GEORGIA Principles of protection, sustainable development, and management of the forests of Georgia are based on the Georgian Constitution, the *Declaration on Forest Principles of Sustainable Development* adopted at the United Nations Environmental Summit in Rio de Janeiro, 1992, and Article 5 of the Georgian law *"On Environmental Protection"*.	Instead of stating / explaining the principles of forest protection and SFM, the Article merely alludes to the relevant sources whence the principles are derived.	See previous recommendation - wouldn't a simple, unequivocal commitment to close-to-nature, multi-purpose SFM suffice? With regard to forest protection, a clear distinction should be made between **quantitative protection** (i.e. maintenance of the PFE through restrictions on forest conversion, and deliberate integration of forest development with spatial / land-use planning) and **qualitative protection** (health, vitality & resilience of forest ecosystems). Furthermore, maintenance of the PFE (and, possibly, its expansion) requires integration with paramount rural development strategies. To this end, forest sector administrations need to be consulted in the course of general spatial / land-use planning, as well as in specific cases where forest areas are required for (socio-) economic development.
ARTICLE 5. DEFINITION OF TERMS USED IN THIS CODE Terms used in this Code have the following meaning: *a)* ***Forest*** - a part of geographical landscape, comprising trees attributed to forest by Georgian legislation, land under these trees, as well as shrubs, grass, animals, and other components biologically linked in the process of their development, affecting each other and the environment. *b)* ***State Forest*** - forest owned by the State; *c)* ***Georgian Forest Fund*** - integrity of forests and their resources owned by the State Forest Fund and forests under different types of ownership; *d)* ***State Forest Fund -*** integrity of State Forests of Georgia, as well as lands and resources attributed to these forests;	The selection of terms requiring a specific legal definition appears somewhat arbitrary and haphazard. In any case, it could be shortened considerably, and streamlined besides. Various Articles are introduced by a definition of the main terms and concepts, anyway. The definition of "Forest" remains narrowly focused on biophysical parameters. On the other hand, the various definitions of classes of forest land ("Forest Fund") seem unnecessarily complex and puzzling. The legal definition of forest and forest land is extremely important, as it determines the purview and applicability of the	The enumeration of legal definitions **should be (i) more focused, (ii) kept to the necessary minimum, and (iii) simplified in its wording**. Required key-elements would include (with references to subsequent Articles, as appropriate): • an **area-based** definition of "forest", outlining the purview of the Forest Code and extending to the entire PFE (excluding, as appropriate, urban parks, agricultural plantations of woody perennials etc.) • a basic definition of "sustainable forest management" (in accordance with / in reference to basic minimum standards of close-to-nature, multi-purpose SFM to be out-

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e) ***Usable State Forest Fund*** **-** the State Forest Fund excluding protected areas of the State Forest Fund;
 	
f) ***Local Forest Fund*** - a part of the Usable State Forest Fund legally regulated by the local governing and self governing bodies in accordance with this Code and Georgian legislation;
 	
g) ***Secondary Wood Products*** - roots, bark, branches, brushwood, stumps, and seeds of wood species;
 	
h) ***Forest Relations*** - relations emerging during forest management and forest use;
 	
i) ***Forest User*** - a person authorized for forest use by Georgian legislation;
 	
j) ***Forest Inventory*** - an integral part of the State Forest Fund registry system;
 	
k) ***Cutting Area*** - a particular area of the Georgian Forest Fund with the quantity of trees allocated for felling defined and trees designated for felling marked;
 	
k) ***Thinning*** - forest management activity carried out for improving species composition, structure, and sanitary condition of forest;
 	
l) ***Illegal Felling*** - cutting trees without permission;
 	
m) ***Stand*** - a forest area distinctly differing from the adjacent territories with its composition and structure;
 	
n) ***Forest Plantation*** - stand of seeded or planted wood species;
 	
o) ***Open Stand*** - stand of forest plantations created for afforestation purposes with branches not grown together yet;
 	
p) ***Protective Forest Zone*** - stand of forest plantations planted for the purpose of soil protection;
 	
q) ***Forest District*** - territory of the State Forest Fund separated out for the purposes of better management;
 	
r) ***Timber Production*** - felling, primary transportation to an automobile road, and grading of trees;
 	
s) ***State Commission on Land Use and Protection*** - State Commission on Land Use and Protection created according the Presidential order #160 of February 6, 1996 on The State Commission on Land Use And Protection;
 	
t) ***Sub-alpine Stripe of Forest*** - forested area of 300 meters in
	Forest Code. To protect the integrity of the PFE, the legal definition of forest must, above all, be **area-based**.
	
	Why should individual silvicultural operations ("Thinning") be specifically defined, when a summary definition of forest management is missing?
	
	The definition of the term "Forest User" is less specific than Art. 53 (2) and prone to misinterpretations.
	
	The term "Forest Inventory" is not explained at all, instead, reference is made to another term ("State Forest Fund Registry System") which in itself is in need of definition.
	
	The definition of "Local Forest Fund" as being a part of the State Forest Fund has been rendered obsolete by the enactment of Government Regulation 96/2007 and 105/2007.
	
	The term "Protective Forest Zone", while listed among the legal definitions, is apparently missing in the subsequent Articles of the Forest Code. The same applies to "Forest District".
	
	Why is the definition of "Protective Forest Zones" restricted to artificially established forest areas? Why "planted", when naturally occurring forests – even shrubs – may serve soil protection purposes just as well? What other categories of protection forest does the Georgian Forest Code recognise?
	
	The term "Forest District" supposedly refers to "Forest Management Unit", as indicated by the reference to its being "separated for the purpose of better management".
	
	"Timber production" actually seems to mean
		lined in subsequent Articles of the Forest Code)
		
		• a basic definition / distinction of / between "forest owner" and "holder of forest use rights"
		
		• a distinction of forest categories by type of ownership, to the effect that
		  o State Forest means forest areas owned by the Republic of Georgia
		  o Local Forest means forest areas owned by local self-governing bodies (Municipalities)
		  o Church Forest means forest areas owned by the Patriarchy of Georgia, subject to an agreement between the Republic of Georgia and the Patriarchy
		  o Private Forest means forest areas that are owned neither by the Republic of Georgia, nor by local self-governing bodies (Municipalities), nor the Patriarchy
		
		• A distinction of forest categories by their functional priorities
		  o Protection forests (not to be confused with protected areas), including soil protection, water protection, protection against noise or airborne pollutants etc.
		  o Recreation forests, e.g. in the vicinity of urban agglomerations etc.
		  o High Conservation Value Forests (HCVF – see recommendations on chapters 6 & 7)

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width adjacent to the sub-alpine forest zone; *u)* ***Floodplain Forest*** - forest located on the river floodplains; *v)* ***Underbrush*** - integrity of wood and shrub species not in the position to form the canopy of a stand; *w)* ***Certification verification*** - conformance of ecological condition of the forest, its resources, and forest management with the international standards by a competent physical or legal body.	"timber harvesting", or "timber logging". The term as such is misleading. The definition of "Certification" appears incomplete and somewhat misleading – no distinction is made between certification of forest management, and chain-of-custody certification; certification is not portrayed as a **voluntary, independent and market-based instrument**. The reference to international standards only does obscure the fact that internationally accepted sets of standards usually are to be nationally/regionally adapted, and applied.	
CHAPTER 2. OBJECTS AND SUBJECTS OF FOREST RELATIONS	The entire chapter appears somewhat redundant and adds to the complexity of the Forest Code.	The chapter may be integrated into either (i) the legal definitions part, (ii) provisions on forest ownership and forest resource tenure, and (iii) forest classification.
ARTICLE 6. OBJECTS OF FOREST RELATIONS The Georgian Forest Fund and its resources are objects of forest relations.	This article merely recounts the purview of the Forest Code.	These Articles appear dispensable.
ARTICLE 7. THE STATE AS A SUBJECT OF FOREST RELATIONS 1. In all legal affairs concerning the Georgian Forest Fund, the State of Georgia is represented by the Ministry of Environment, the State Department of Forestry, the State Department of Protected Areas, Natural Reserves and Hunting Ranges, and their regional offices as well as local governing and self governing bodies. 2. Rights of the entities representing the State of Georgia in the legal affairs concerning the State Forest Fund are defined by this Code and other Georgian legislation.	This article simply enumerates the public bodies involved in forest governance, however in a generalised fashion. It logically overlaps with various other Articles (e.g. Art. 11, 12, 15, 16, 17), yet falls short in terms of their respective depth and detail.	
ARTICLE 8. OTHER SUBJECTS OF FOREST RELATIONS Other subjects of forest relations are owners of the Georgian Forest Fund, the Patriarchy of Georgia as well as physical and legal bodies using the Georgian Forest Fund and its resources or carrying out forest management.	This article largely overlaps with the subsequent Article 10.	
CHAPTER 3. PROPERTY RIGHTS TO THE FORESTS OF		This chapter is of crucial importance for forest governance

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GEORGIA		and clearly deserves to feature prominently in a new / revised Forest Code.
ARTICLE 9. PROPERTY RIGHTS TO THE FORESTS OF GEORGIA 1. Property rights to the Georgian Forest Fund may be held by the State, by the Patriarchy of Georgia, by a physical or legal body of the private law. 2. The Georgian State Forest Fund is the State property and its privatization is regulated by the law of Georgia *"On the Privatization of Georgian Forests"*. 3. The State Forest Fund and its resources (excluding forests privatized in accordance with Georgian legislation) are allocated for ownership and use in accordance with Georgian legislation.	Article 9 reflects **focal objectives of economic & forest sector reform** in Georgia, in that it provides for the establishment of a diverse forest ownership structure. "Forest ownership", in this respect means ownership of forest land, i.e. parts of the PFE (the "Georgian Forest Fund"). Article 9 (2) explicitly provides for the privatisation of parts of the State Forest Fund. It is, however, not directly applicable, as its practical implementation hinges on the enactment of a **Law on the Privatisation of Georgian Forests**, cf. Article 120 (2). Contrary to an explicit obligation defined in Articles 116 (a) and 117 (1), this law has not been passed to date. The **Law on Ownership** (Art. 2, 1st paragraph) nevertheless stipulates that "*In the Republic of Georgia the objects of ownership are: land …, flora and fauna, …, means of production…*". By contrast, the **Law on State Property Privatisation** (1997) declares in Art. 4 (a) that "*The following state property is not liable to privatisation: … forest reserve, … , protected or specially used natural territories…*". However, this provision may be understood as referring only to reserved, or protected forest areas. Likewise, the **Law on Privatisation of Agricultural Land in State Ownership** (2005) in Art. 2 (3, d) precludes the privatisation of "…*Lands of forest funds, which are used for agricultural purposes*…", which, however, represents but one class of areas within the State Forest Fund. The third paragraph is misleading in that it provides for the allocation of State Forest Fund lands for "ownership and use". The auctioning of	It would appear that the existent Laws (i) on Ownership, (ii) on State Property Privatisation and (iii) on Privatisation of Agricultural Land in State Ownership already provide a legal basis for the privatisation of state-owned forest areas that are neither protected areas/special use areas or agricultural areas within the State Forest Fund. In this regard it seems debateable whether an additional, separate "Law on the Privatisation of Georgian Forests" would still be needed. Statements by MoEPNR staff indicate that forest privatisation no longer constitutes a priority goal of Georgian forest policy. For lack of final clarification of this matter (which, above all, requires a political decision by the Georgian government), it appears inexpedient to speculate about the conditions and procedural requirements of a future privatisation at this point. It nevertheless seems advisable to retain in the new Forest Code a reference to private forest ownership by natural or legal persons, with a view to retaining sufficient flexibility under the highly dynamic reform process. Procedural details of a future transfer of forest areas need not be dealt with in the Forest Code. In any case, it should be generally stipulated that **all ownership categories are uniformly and equally subject to the legal minimum standards of SFM** set out in the Forest Code. A reference to **forest ownership by local self-governing bodies (Municipalities)** should be added. To this end, reference should be made specifically to the following legal sources: The **Organ Law of Georgia on Municipal Self-Governance** (passed Dec. 16th, 2005; entered into force Jan. 9th, 2006) • Art. 46 (1): Municipal property consists of State-property transferred into the ownership of Municipalities, or property created or acquired according to law.

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	(long-term) use rights and the award of licenses according to the Law on Licenses and Permits (2005) and subsidiary legislation does not establish forest ownership, but a lesser category of forest resource tenure. The third paragraph should best be excluded from rules on forest ownership to avoid confusion.	• Art 46 (2): Municipalities enjoy property rights independently. No outside interference with the administration and management of property or the disposal thereof is permissible, unless stipulated by the Georgian legislation. • Art. 47 Municipal property includes o (c) agricultural areas on the Municipal territory, except … ▪ (cc) protected areas; ▪ (ce) areas of the State Forest Fund; o (d) Municipal forests and water-resources within the Municipal territory **Government Regulation No. 105 of May 23rd, 2007** • Art. 3: Forest Fund of Local Significance is the Forest Fund that is transmitted to the self-governing bodies and may be used by the local communities to meet their needs according to law. • Art. 4 (1): Formation of the forest fund of the local significance takes place/ occurs: … o (a) on the territories of the former Kolkhoz forests and forest lands owned by Soviet Farming Administrations o (b) on the lands located next to the territories of the former Kolkhoz forests and forest lands owned by Soviet Farming Administrations and falls into the area of the relevant self-governmental unit • Art. 3 (3): If the subparagraph b of the paragraph 1 of this article is considered, forests of local significance are composed from the State Forest Fund only after these forests are excluded from the State Forest Fund **Government Regulation No. 96 of May 10th, 2007**

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		• Inclusion or exclusion of areas in / from the State Forest Fund to be decided by the Government of Georgia after application by MoEPNR and on the recommendation of the State Committee on Land Use and Land Protection (Art. 2) • Eligible applicants to the MoEPNR: local self-governing bodies – Art. 3 (1 b) • Forest areas to be excluded from the State Forest Fund "… shall be transferred to the custody and the management by the entitled organ determined by law, subject to a transfer protocol – Art. 5 (5)
ARTICLE 10. GENERAL RIGHTS AND OBLIGATIONS OF FOREST-OWNING PHYSICAL BODIES AND LEGAL BODIES OF THE PRIVATE LAW 1. Following are the general rights and obligations of the forest-owning physical bodies and legal bodies of the private law: a) using the owned forest in accordance with Georgian legislation; b) terminating illegal use or ownership of the forest or areas of the forest owned by these bodies in accordance with Georgian legislation and demanding reimbursement of costs for damage if done through these illegal actions; c) hiring professionals, consultants and other personnel, guards inclusive, for managing the owned forest in the minimal quantity defined by Georgian legislation; d) conducting forest protection measures against pests, diseases, fire, and all other adverse effects for terminating and liquidating these factors; e) disposing of the owned forest in accordance with this Code and Georgian legislation; f) submitting information on the condition of the owned forest and other required statistical information to the authorized State entities; g) rationally manage the owned forest; h) creating favorable working conditions for the State officials, submitting them all requested documents on forest manage-	This Article basically enumerates incidents of ownership, and defines complementary responsibilities of non-state forest owners. It backs the previous interpretation that Art. 9 (2) actually refers to full private ownership of forest areas as one lawful option besides the allocation of long-term resource tenure in the State Forest Fund. Art. 10 (1 a) will be difficult to monitor and enforce in practice, for lack of a more clear-cut reference to the applicable legal norms. It further overlaps with various of the subsequent items. Art. 10 (1 b) appears problematic in that it seems to authorise or oblige a private forest owner to actively intervene in cases of illegal forest use or occupation. Law enforcement is a prime responsibility of public executive bodies. The forest owners' obligation should be limited to exercising due diligence in the prevention of illegal logging or encroachment, and to inform the competent law enforcement agencies of any suspected or confirmed illegal activities without delay. Art. 10 (1 c) There is no indication in the Forest Code as to what the "minimal quantity defined	It would seem expedient to streamline, and simplify this Article somewhat, so as to emphasize the **general obligation of all forest owners to abide by the Forest Code; more specifically, to meet legally prescribed minimum standards / requirements of close-to-nature, multi-purpose SFM**. See also the previous recommendation. A more detailed enumeration of basic ownership rights appears unnecessary, as these should be conveniently covered in the relevant legal sources (esp. the Law on Ownership).

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ment, conforming to all lawful directions and requests of these officials. 2. The rights of the Patriarchy of Georgia to the forests owned by the Patriarchy are defined in an agreement signed between the State of Georgia and the Patriarchy in conformance with this Code and Georgian legislation.	by Georgian legislation" might be, or in which legal source this area-threshold would be defined. Art. 10 (1 f) and 10 (1 h) overlap considerably, and require streamlining. Art. 10 (2) provides no references to "Georgian legislation" - without further identification or guidance it will probably create legal insecurity in the application of the Forest Code.	
TITLE 2. MANAGEMENT OF THE STATE FOREST FUND		For the avoidance of possible confusion between State Forests and Local Forests, this Title should perhaps be re-captioned "Public Forest Governance".
CHAPTER 4. GENERAL PROVISIONS FOR MANAGEMENT OF THE STATE FOREST FUND		
ARTICLE 11. COMPETENCE OF THE EXECUTIVE BODIES OF GEORGIA IN THE MANAGEMENT OF THE STATE FOREST FUND Competence of the executive bodies of Georgia in the management of the State Forest Fund covers the following: a) making and implementing policy for management of the State Forest Fund; b) coordinating management of the State Forest Fund; c) organizing and regulating forest tending, protection, restoration, and use; providing State control and authorizing entities for carrying it out; setting rules for issuing documents authorizing forest use; d) setting rules for carrying out forest tending, protection and restoration as well as for importing and exporting forest resources; e) implementing standardized scientific and technical policy for managing the State Forest Fund; elaborating and approving normative and methodological documents; organizing and financing fundamental scientific research work; f) restoring forests damaged by environmental disasters, epidemics, and other causes;	Interestingly enough, aspects of forest sector reform which are currently the subject of intense debate, have been reflected in the Forest Code already since 1999 – one wonders why the discussion seems to have gained momentum only recently. Article 11 largely anticipates the reorientation of state forest management by means of **separating executive from management functions**. The enumeration of competencies is clearly focused on the forest sector administration's policy making, regulatory, supervisory and coordinating role. Art. 11 (g) Maintenance of an official list of endangered species (Red List) is not incidental to the management of State Forests by a public forest sector administration, and should be the task of public bodies charged with nature conservation. Art. 11 (h) refers to forest monitoring – a key	Clarification of the role & mandate of the state forest sector administration will be a crucial cornerstone in the new / revised Forest Code. The respective provisions should, however, be streamlined and simplified. The state forest sector administration's mandate would typically include • An advisory role vis-à-vis the MoEPNR and the national government on forest policy formulation • The right to issue normative acts within the framework of (and subject to specific empowerments in) the Forest Code • A supervisory and forest law enforcement role vis-à-vis (i) non-state forest owners, (ii) holders of forest use rights, (iii) the general public; including national forest monitoring based on a national forest inventory • A general responsibility for close-to-nature, multiple purpose SFM within the State Forest Fund (specifically in respect of areas not allocated to licensed forest users) – either directly, or through management contracts with

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
g) maintaining list of endangered species (Red Book); h) organizing the State Forest Fund registry system, setting rules for forest monitoring and for maintaining the State Forest Cadastre; i) signing international agreements and treaties on forest tending, restoration, and the use of forest resources; j) keeping control for use of the biological and chemical means of forest protection; k) setting rules for forest use; l) financing forest tending, protection, and restoration as well as monitoring expenditures on these activities; m) setting rules for restricting, suspending, and terminating rights for forest use.	responsibility of state forest authorities. One wonders, however, why this responsibility seems to be restricted to the State Forest Fund, instead of applying to the entire Georgian Forest Fund (the PFE). Art. 11 (i) appears to overtax the capacity of a state forest sector administration. International Agreements and Treaties should be entered into by a deed of the national government, to be followed by ratification by the legislature, as required. Art. 11 (l) The general obligation to finance forest management and monitoring requires modification. Management operations on forest lands allocated under a license are to be funded by the license holder, including operational monitoring and reporting. Forest monitoring on a national scale, however, should remain a prime responsibility of the public forest sector administration (maintenance of the national Class A forest inventory). Art. 11 (m) appears obsolete insofar as the Law on Licenses and Permits (2005) in its fifth chapter (Articles 21-23) stipulates detailed procedural rules for the enforcement on license conditions and the restriction, suspension and termination of use licenses.	third parties • Rights of consultation and participation in forest-related aspects of cross-sectoral spatial / land-use planning • Official support to other sector administrations (on request). It should be noted that forest law enforcement by means of executive control represents but one possible instrument to ensure compliance with the Forest Code. Experience shows that **incentive schemes, planning instruments and information & knowledge management (IKM) and support (advisory, technical, financial)** are more efficient and less conflict-prone in most circumstances. The new / revised Forest Code should reflect this notion more clearly than the present one – especially in respect of the relation / interaction between the state forest sector administration, and non-state forest owners / holders of forest use rights. In this regard, advisory and management support vis-à-vis forest owning local governments (Municipalities) should be provided for in the Forest Code.
ARTICLE 12. COMPETENCE OF THE EXECUTIVE BODIES OF THE AUTONOMOUS REPUBLICS OF ABKHAZETI AND ACHARA IN THE MANAGEMENT OF THE STATE FOREST FUND Competence of the executive bodies of the Autonomous Republics of Abkhazeti and Achara in managing the State Forest Fund covers the following: a) participating in elaboration of State programs for forest tending, protection, restoration and use;	The apparent separation of the rights to issue licenses (letter d), and to restrict or revoke them (letter e), between the bodies of the Autonomous Republics and the National Government, seems to be at odds with the effective Law on Licenses and Permits. The right to issue licenses is conferred upon the autonomous republics according to Art. 5 (2) of the Law on Licenses and Permits (2005). Con-	This Article should be shortened and simplified as far as possible, as well as streamlined with the applicable provisions of the Law on Licenses and Permits (2005).

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
b) planning and implementing forest tending, protection, restoration and use on the local level; c) participating in financing of forest tending, protection and restoration, as well as monitoring expenditures for these activities; d) issuing licenses and signing contracts in accordance with this Code; e) submitting requests for restricting, suspending, or terminating rights for forest use to the relevant executive bodies of Georgia; f) participating in emergency response measures against the natural disasters; g) submitting request for changing boundaries of the State Forest Fund to the relevant authorized State entities.	trol over the implementation of licensable conditions rests with the license issuer - Art. 21 (1) of the Law on Licenses and Permits. According to Art. 22, the license issuer is also entitled to sanction violations of the licensable conditions, up to the point of revocation.	
ARTICLE 13. COMPETENCE OF THE LOCAL GOVERNING AND SELF GOVERNING BODIES IN THE MANAGEMENT OF THE LOCAL FOREST FUND Competence of the local governing and self governing bodies in managing the Local Forest Fund covers the following: a) supporting forest tending, protection, restoration, and forest fire fighting activities; b) developing programs for conducting forest tending, protection, and restoration in agreement with the authorized State entities and providing support in implementation of these programs; c) participating in financing of programs for conducting forest tending, protection, and restoration, as well as monitoring expenditures for these activities; d) issuing permit for the local forest use e) submitting requests for restricting, suspending, or terminating rights for forest use to the authorized State entities; f) participating in emergency response measures against the natural disasters; g) ensuring public environmental education; h) submitting requests for changing boundaries of the State Forest Fund to the relevant authorized State entities; i) using other rights granted by Georgian legislation.	For the avoidance of doubt, the relevant local government structures should be clearly identified, namely the municipalities (69) and city governments (5). Except for their lack of authority in regard to policy formulation, regulatory enactments, and law enforcement, the local governments' competencies closely resemble those of the public forest sector administration. The enumeration of tasks – mostly coordinating, supportive, and regulatory by nature – holds no indication as to how local government bodies should be prepared and enabled for their role. In Article 13, reference is made to the local governments' supporting role regarding forest maintenance/protection, rehabilitation and fire control – however, the kind of support (advice, technical assistance, funding) is not specified. Likewise, there is no indication from which resources (human, material, financial) the local government bodies were to effect the support, even though Art. 13 (c) confers on them an obligation to contribute to funding programmes for	To engage meaningfully in forest governance and forest management, local governments require – above all - an **appropriate administrative set-up**. In this regard, applicable laws and normative acts regulating the organisation & operation of the local governments need to be identified and observed. However, the Forest Code needs to provide **minimum guidance** in terms of the expertise required, and – preferably – standard values for the required staff by forest area unit. As yet, Municipalities remain dependent on monetary transfers from the general budget (contribution margins for energy & water consumption; compensation payments to structurally disadvantaged Municipalities; remuneration for services rendered on behalf of the national government). To fully assume their management responsibilities for local forest areas, Municipalities will – in the foreseeable future – depend on financial support, for lack of substantial sources of revenue. The Forest Code cannot (and should not) stipulate detailed procedural provisions to this end. Instead, it should state a **general responsibility of the Georgian State to support and promote adequate protection and sustainable management of local forests** by means of, e.g.: • Advisory support and technical assistance (to be pro-

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	the promotion of forest management. Article 13 (a, b) are redundant to a considerable degree. Art. 13 (d, e) regulate the authorization of local forest use by local governments. In this respect it appears inexpedient that local governments should have to apply to "authorized State entities" for the restriction or termination of such authorizations issued on the local level (even more so, as local forests are to be removed from the State Forest Fund – cf. Government Regulations 96/2005 and 105/2005). It appears debatable whether local forest use would be subject to the Law on Licenses and Permits (2005) and the relevant normative acts. Art. 2 (3, 4) of Government Resolution 132/2005 exempts the provision of firewood "by the administrative body for personal use by the local population" from any licensing requirements, which may serve as an indication that local forest use in general were not to be regarded as forest use subject to licensing.	vided by regional / local branches of the state forest sector administration – either free of charge, or for subsidised rates), • Capacity building, training and knowledge transfer; e.g. by means of a temporary secondment of staff on the concerned Municipalities' request. Environmental education in a general sense, as referred to in Art. 13 (g) is unspecific to forest governance and forest management of the local forest areas, and should not be a responsibility of the local governments under the Forest Code.
CHAPTER 5. INSTITUTIONAL GOVERNANCE OF THE STATE FOREST FUND		
ARTICLE 14. CATEGORIZATION OF THE STATE FOREST FUND BY THE TYPES OF INSTITUTIONAL GOVERNANCE Following are the categories of the State Forest Fund according to the types of institutional governance: a) the protected areas of the State Forest Fund, comprising areas of the State Forest Fund allocated for protection in accordance with the law of Georgia *"On the System of Protected Areas"*; b) the Usable State Forest Fund, including the Local Forest Fund.	The protected areas currently included in the State Forest Fund are subject to a specific legal framework (i.e. nature conservation legislation), and governed by a separate public body (the MoEPNR Department of Protected Areas). According to the Law on the System of Protected Areas they are further subject to a separate classification system, in accordance with the internationally acknowledged IUCN classification. All this raises doubts about the feasibility of including protected areas (such as State Reserves, National Parks, Natural Monuments,	Protected areas currently addressed in the Georgian Forest Code serve for the most part highly specific in-situ conservation purposes, which preclude / significantly restrict ordinary multi-purpose forest management routines. Considering that the Forest Code's principal purpose should be to provide an enabling framework for the protection and sustainable management of the PFE, it appears advisable to henceforth **exclude protected areas listed in Articles 4, 5, 6, 7, 11 of the Law on the System of Protected Areas (1996) from the purview of a new / revised Forest Code**. The categorisation "Usable Forest Fund" should be critically reviewed, and probably be abandoned for a simplified categorisation / defi-

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	Prohibited Areas, World Heritage Sites – cf. Articles 4, 5, 6, 7, 11 of the Law on the System of Protected Areas; 1996) in the State Forest Fund. Inasmuch as Article 14 treats Local Forests as part of the State Forest Fund, it appears to have been superseded by the more recent **Organ Law of Georgia on Municipal Self-Governance** (2005) and subsidiary normative acts (cf. recommendation on Article 9).	nition of State-owned Forests. With a view to accommodating more recent statutory legislation (and subsidiary normative acts issued thereunder), it is recommended to **exclude Local Forests from the State Forest Fund**, subject to the application of local self-governing bodies, and a subsequent transfer of ownership.
ARTICLE 15. GOVERNANCE OF THE PROTECTED AREAS OF THE STATE FOREST FUND The State Department of Protected Areas, Natural Reserves and Hunting Ranges manages the protected areas of the State Forest Fund in accordance with the law of Georgia *"On the System of Protected Areas"*, this Code, and other normative acts of Georgia.	Inasmuch as the law "On the System of Protected Areas" provides the principal legal basis for the management of protected forest areas, and a public body other than the Forest Department is entrusted with their management and protection, it would appear sensible to exclude such areas from the purview of the Forest Code altogether.	See previous recommendation. It should be clarified that State Forests located within Protected Landscapes, Multi-Purpose Use Territories, the traditional/cultural zone of a Biosphere Reserve (cf. Articles 8, 9, 10.3 of the Law on the System of Protected Areas, 1996) are to be managed sustainably in accordance with the Forest Code, subject to forest governance by the MoEPNR State Forestry Dept.
ARTICLE 16. GOVERNANCE OF THE USABLE STATE FOREST FUND 1. The State Department of Forestry manages the Usable State Forest Fund, excluding the Local Forest Fund, in accordance with this Code and other normative acts of Georgia. 2. The State Department of Forestry is authorized to establish a legal body of public law in accordance with Georgian legislation with the purpose of carrying out responsibilities set for the Department by this Code and other normative acts of Georgia. 3. Local governing and self governing bodies manage Local Forest Fund through the appropriate services as authorized by Georgian legislation and in accordance with this Code. 4. The rights of local governing and self governing bodies for managing the Local Forest Fund as well as rules for separating the Local Forest Fund out from the State Forest Fund are defined in the Presidential decree *"On the Rights of Local Governing and Self Governing Bodies for Managing the Local Forest Fund and the Rules for Separating the Local Forest Fund from the State Forest Fund".*	The Article, however appropriate, appears to merge two separate aspects: (i) the general authorisation of a public body for the management of state-owned forests, and (ii) structural / organisational specifics of that same body. The mentioning of local forests under the caption "governance of the usable state forest fund" appears questionable and probably obsolete in light of more recent legislation (cf. remarks / recommendations on Article 9). Art. 16 (3) refers to the local self-governing bodies' "appropriate services" – their organisational set-up, staffing requirements and material / financial resources have yet to be identified / provided for (cf. remarks / recommendations on Article 13). Art. 16 (4) refers to a Presidential Decree which	The Article could be shortened, and simplified considerably and / or possibly merged with the statement of the state forest sector administration's mandate (cf. recommendation on Article 11). Basically the same applies to those parts of Article 16 as deal with local forest governance, which in any case should be treated separately from state forest governance (so as to avoid confusion and more visibly recognize the local forests' different ownership category and special status). Article 16 (2) should be relegated to a separate chapter / article dealing with the structural set-up / organisational characteristics of the state forest sector administration.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	could neither be identified, nor obtained in an authorised English version during the consultant's mission. It would also appear likely that the said decree has been superseded by the recent (i) **Organ Law of Georgia on Municipal Self-Governance (2005)**; (ii) **Government Regulation No. 105 of May 23rd, 2007**; (iii) **Government Regulation No. 96 of May 10th, 2007**.	
ARTICLE 17. GOVERNANCE OF THE DESIGNATED AREAS OF THE STATE FOREST FUND 1. Designated areas of the State Forest Fund allocated for a particular need of the State are managed by the Patriarchy of Georgia or a State institution jointly with a relevant authorized entity defined in Articles 15 or 16 of this Code in accordance with Georgian legislation. 2. Based on the justified proposal of a State institution and/or authorized entities defined in Articles 15 or 16 of this Code, the President of Georgia sets a designated area of the State Forest Fund and grants the right to this designated area to the Patriarchy of Georgia or a State institution. 3. Forest use and public access may be prohibited in a designated area of the State Forest Fund if it is incompatible with the purpose of setting this designated area. 4. Forestry activities in a designated area are managed by a relevant authorized entity defined in Articles 15 or 16 of this Code in accordance with Georgian legislation and Paragraph 5 of this Article. 5. Using a designated area of the State Forest Fund by a body holding the right to this area is allowed only for carrying out activities compatible with the purpose of setting this designated area or aimed at restoring and protecting the State Forest Fund. 6. "Regulations for Setting Designated Areas of the State Forest Fund and Allowing, Restricting, Suspending and Terminating Rights for Forest Use in These Areas" are prepared by a relevant authorized entity defined in Articles 15 or 16 of this Code in agreement with the Ministry of Environment and the State Department of Forestry and are submitted for Presidential approval by this entity.	Art. 17 addresses an important aspect (use of forest areas for purposes other than SFM, in the public interest), however, it warrants critical reflection in several respects. Art. 17 essentially establishes temporary use rights of state bodies or the Patriarchy of Georgia on certain areas of the State Forest Fund, subject to (i) co-management by either the State Forestry Dept. or the Protected Area Dept. of the MoEPNR and the respective beneficiary, and (ii) subject to restriction, suspension or termination. By contrast, Art. 9 (1) and Art. 10 (2) clearly indicate that forests allocated to the Patriarchy of Georgia would be transferred into the latter's *ownership*, and thus cease to form part of the State Forest Fund. Pursuant to Art. 10 (2) and Art. 51 (3), the modalities of use and the extent of ownership rights enjoyed by the Patriarchy are subject to an agreement between the Georgian government and the Patriarchy of Georgia. Art. 17 further applies to the State Forest Fund in general (including protected areas), as indicated also by the reference to the relevant sector administrations mentioned in Articles 15 and 16. For lack of further specifications about the "particular needs of the State" in Art. 17 (1) – pre-	To enhance the Forest Code's consistency, forests owned by the Patriarchy should be excluded from the purview of Art. 17 (cf. remarks and recommendations on Articles 9 and 10). Following up on previous recommendations regarding the exclusion of strictly protected areas from the Forest Code's purview (cf. Article 14, 15), references to the MoEPNR Dept. of Protected Areas (Art. 15) appear dispensable. Insofar as a "particular need of the State" as mentioned in Art. 17 (1) involves activities subject to Art. 3 (1) of **Government Regulation 154 of Sept. 1st, 2005 On Procedures and Conditions concerning giving out a License on Influence over the Environment**, a reference to the compulsory **EIA** requirement should be added, as well as to **public participation** (Articles 3.1 and 3.2 of Government Regulation 154).

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	sumably establishment / maintenance of public infrastructure (power-lines, pipelines, national defence etc.) – one can only speculate at this point whether such uses would entail permanent or temporary conversion of forests, and / or significant adverse impacts on the ecological quality / integrity of protected areas. Article 17 provides no guidance on how such environmental impacts would be assessed, mitigated or compensated for in practice.	
CHAPTER 6. ESTABLISHING BOUNDARIES AND CATEGORIES OF THE STATE FOREST FUND	Chapters 6 and 7 as well as various of their individual articles overlap considerably, and it seems inexpedient to separate them within the Forest Code.	Chapters 6 and 7 should be thoroughly streamlined, and simplified. Areas dedicated to purposes other than forest protection and SFM should be excluded as far as possible from the purview of the Forest Code. The classification of forest areas should be focused on forest functions, and generally effected in the course of forest management planning (on the basis of evidence gathered during forest inventories).
ARTICLE 18. ESTABLISHING BOUNDARIES OF THE STATE FOREST FUND 1. The State Commission on Land Use and Protection establishes boundaries of the Usable State Forest Fund and the Local Forest Fund in accordance with Georgian legislation. 2. relevant authorized entity defined in Article 16 of this Code submits justified proposal and relevant project for establishing boundaries for the Usable State Forest Fund and the Local Forest Fund to the State Commission on Land Use and Protection after agreeing them with the Ministry of Environment and the State Department of Land Management. 3. Boundaries of the protected areas of the State Forest Fund are established by Georgian legislation. 4. Boundaries for the Usable State Forest Fund are established and territories of the Usable State Forest Fund are separated out from the protected areas in accordance with the *"Regulations for Establishing Boundaries of the Usable State Forest Fund"*. These regulations are prepared by the State Department of Land Management in agreement with the Ministry of Environment and the authorized entities defined in Articles 15 and 16 of this Code and are submitted for Presidential approval.	Charging a land-use related public agency with the establishment and demarcation of the Forest Fund's boundaries makes sense as long as the **outer boundaries** of the PFE are concerned. Determination of the internal boundaries (FMUs, compartments etc.) as well as the functional classification / categorisation should best be left to the state forest administration, because it requires specific professional expertise. One wonders, however, why there exist two different procedures for determining the (outer) boundaries of (i) the Usable State Forest Fund / the Local Forest Fund and (ii) protected areas within the State Forest Fund. The third clause warrants critical reflection in that any determination of boundaries must be founded on empiric evidence from the field level – legal norms can only define the procedure to be followed.	Determination of the outer boundaries of the PFE (the Georgian Forest Fund, irrespective of its ownership categories) should be entrusted to the State Commission on Land Use and Protection. Determination of both the internal boundaries and the functional properties (functional classification of the PFE) should be entrusted to the State Forestry Dept., based on empiric evidence gathered on the basis of (i) a national forest inventory and (ii) forest management planning. References to the determination of protected areas subject to the Law on the System of Protected Areas appear dispensable within the Forest Code (cf. remarks / recommendations on Articles 14, 15, 17). It seems hard to justify why the determination of outer boundaries and inner boundaries should be handled differently within and outside the State Forest Fund. Provisions for the determination of boundaries and functional classification should preferably apply evenly to the entire PFE.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	Furthermore, one wonders why the respective provisions are applicable to the State Forest Fund only – there is a general requirement for establishment of boundaries and functional classification for the entire PFE, i.e. the Georgian Forest Fund.	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 19. CATEGORIZATION OF THE STATE FOREST FUND 1. The State Forest Fund comprises the State forests and the State Forest Fund. 2. Following are the categories established for the State Forest Fund: a) forest lands under open plantations and nurseries, clear-cut areas, fire damaged and dead stands, 0.1 ha and larger fields and forest farm yards; b) agricultural lands, e.g. arable lands, meadows, pastures, orchards, wine yards, etc.; c) other non-forestry lands and lands of special use with hard surface roads and passage ways of various purpose, power and communication lines, oil and gas pipelines, allocated areas for mining, ponds, farm yards and gardens; d) idle lands of the State Forest Fund, e.g. swamps, sands, glaciers, rocks, etc. 3. Establishing and changing boundaries of the State forest and the State Forest Fund is done in accordance with the *"Regulations for Establishing Boundaries of the State Forest and the State Forest Fund"*. These regulations are prepared by the authorized entities defined in Articles 15 and 16 of this Code in agreement with the Ministry of Environment and the State Department of Land Management and are submitted for Presidential approval by these entities.	Art. 19 (1) One wonders why there is no functional classification of "State Forests", when there is a surprisingly detailed classification of un-forested lands within the State Forest Fund? Art. 19 (2 a) Here, the term "State Forest Fund" apparently denotes un-forested areas within the state-owned PFE. This is, of course, misleading – and probably due to deficiencies in translation. Art. 19 (2 b) Inclusion of agricultural lands within the purview of the forest code should be critically reviewed. Art. 19 (2 c) does not distinguish with sufficient clarity between "special use" areas and "dedicated forest areas" according to Art. 17. Insofar as it enumerates various "special uses" of forests, it appears to have been superseded by the more recent **Art. 2 (3.1 a) of Government Regulation 132 of Aug. 11th, 2005 On Rules and Terms of issuing Forest Licenses**, as well as by **Art. 3 (1) of Government Regulation 154 of Sept. 1st, 2005 On Procedures and Conditions concerning giving out a License on Influence over the Environment**. Accordingly, for special uses as listed in Art. 19 (2 c) of the current Forest Code, an environmental license (pursuant to Government Regulation 154) would be required, instead of a forest use license (according to Government Regulation 132). Art. 19 (3) does not distinguish clearly between the determination of outer boundaries of the (State) Forest Fund, and inner boundaries of FMUs or compartments, to be established in the course of forest inventories and forest management planning. Whereas the determination of outer boundaries of the (State) Forest Fund (including the boundaries between forest areas of different ownership categories) involves basic land-use / cadastral decisions by the State Commission on Land Use and Protection (cf. Art. 18), the determination of inner boundaries	Art. 19 (2 a) might best be integrated into the legal definition of "forest" – underlining that (with the exception of forest roads, and buildings and installations serving forestry purposes) all areas within the PFE should, in principle, be dedicated to forest protection and sustainable management in accordance with the Forest Code. This is a key-requirement both for the prevention of unregulated forest conversion, as well as for the enforcement of reforestation rules after logging or the accidental loss of forest cover. In other words: changes affecting the extent of the PFE are the result of deliberate land-use decisions. Following this basic rationale, agricultural areas (or any other areas, for that matter) which are, by definition, dedicated to purposes other than close-to-nature, multi-purpose SFM (cf. the recommendation on Art. 3), should consequently be excluded from both the PFE, and the purview of the Forest Code (areas dedicated to mining provide another case in point). Once again, this requires deliberate land-use decisions before issues of forest protection and sustainable management can be sensibly addressed. **A crucial element of all forest classification rules should be a provision for the functional classification of forests, including forest function mapping as part of forest inventories and forest management planning**. **Art. 20 (3) provides a useful basis to this end.** Unfortunately, the provision in Art. 21 (4) largely invalidates the soil & water protection category. Whereas all forests, in principle, provide basic environmental benefits arising from their ecological and protective value, the categorisation as "soil protection forests" or "water protection" forests makes sense only as long as it entails site-specific restrictions on forest management (e.g. restrictions on the use of heavy machinery, biocides, non-biodegradable fuels / lubricants / hydraulic oils, abstention from clear-felling etc.) or special requirements / obligations (e.g. application of Reduced Impact Logging techniques – RIL). Such restrictions / obligations should preferably be outlined in a separate chapter on forest management. Art. 20 (2, 4), in conjunction with Art. 21 (1) - Protected areas subject to the Law on the System of Protected Areas (1996) should preferably be excluded from the purview of the Forest Code (cf. remarks and recommendations on Art. 14, 15).

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CHAPTER 7. CATEGORIES OF THE STATE FOREST FUND	See previous remark on chapter 6.	
ARTICLE 20. CATEGORIES OF THE STATE FOREST FUND 1. Categories of the protected areas or the usable State forest areas are established for the territories of the State Forest Fund according to environmental, social, and economic importance of these territories. 2. Following are the categories of the protected areas: a) State natural reserve; b) National park; c) natural monument; d) sanctuary; e) protected landscape f) multiple use area. 3. Following are the categories of the usable State forest areas: a) resort forest; b) green zone (hereafter green zone forests); c) forest with soil protection and water regulation functions. 4. The following categories of protected areas may be established in accordance with the law of Georgia *"On the System of Protected Areas"*: a) biosphere reserve; b) World Heritage site; c) internationally protected wetland. 5. Areas with special function and landscape areas may be established in the territories of the State Forest Fund under the categories defined in Paragraph 3 of this Article.	Art. 20 (1) provides a basic justification for the categorization of forest areas according to their ecological and socio-economic properties, and thus appears to overlap with the subsequent Article 21. Art. 20 (2, 4) recount categories of protected areas pursuant to the Law on the System of Protected Areas (1996). The inclusion of such areas within the Forest Code warrants critical reflection (see previous remarks on Art. 14, 15). Art. 20 (3) for the first time introduces functional forest categories, including sanitary (forest protection), recreational and protective purposes. Art. 20 (5) refers to conditions and procedural aspects of functional forest categorization, and thus intersects with the subsequent Article 22.	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 21. RATIONALE FOR ESTABLISHING CATEGORIES OF THE STATE FOREST FUND 1. The law of Georgia *"On the System of Protected Areas"* provides the basis for establishing categories defined in Paragraphs 2 and 4, Article 20, of this Code. 2. The category of *resort forests* is assigned to the areas of the State Forest Fund falling in the primary and secondary sanitary protection zones, where forest management mainly implies increasing of health improving capacity, sanitary and hygienic condition of forests. 3. The category of *green zone forests* is assigned to the forested areas adjacent to cities and other settlements, recreational areas of the Usable State Forest Fund, where forest management mainly implies improvement of recreational, sanitary, hygienic, and aesthetic properties of forests. 4. The category of *forests with soil protection and water regulation functions* is assigned to all other areas of the State Forest Fund, where all types of forest use are allowed in accordance with Georgian legislation. 5. The category of areas with special functions is assigned to the areas of the State Forest Fund with special properties and to the forest edges that are not clustered under a separate category. 6. The category of landscape areas is assigned to the forests with outstanding aesthetic and decorative properties. 7. The "Regulations for Allocating Territories and Assigning Them Categories of Areas with Special Functions and Landscape Areas" are prepared by the State Department of Forestry in agreement with the Ministry of Environment and approved by the State Department of Forestry.	Firstly, this Article provides no "rationale" in the narrower sense (that should be part of the forest policy document, anyway), but rather (i) legal definitions, as it were, for the categories mentioned in Art. 20 (3), as well as (ii) several additional categories. Secondly, the wording seems to imply that management of the different categories would be fundamentally different – this might contradict to the principle of multi-purpose SFM. For example, the categorisation, as is, apparently underrates the economic potential of protection / recreation forests. In principle, all forests are to be managed for the full scope of benefits – ecological, social, economic; different categorisations only tip the scales in favour of one or more functions. Art. 21 (4) If all forests that are neither "resort forests", nor "green zone forests" are to be categorized as "soil and water regulation forests", this category will be of little practical value. Art. 21 (5) does not specify the "special properties" it refers to, and thus remains to vague to be of much practical value. Art. 21 (6) fails to clarify which aesthetic properties may be rated as "outstanding", and similar to Art. 21 (5) lacks practical value. Art. 21 (7) empowers the State Forestry Dept. to issue a regulation on the criteria and procedural issues for the classification of forests with special functions or landscape areas, and thus intersects with Art. 22 (3).	

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ARTICLE 22. RULES FOR ASSIGNING CATEGORIES TO THE AREAS OF THE USABLE STATE FOREST FUND 1. The President of Georgia assigns categories defined in Paragraph 3, Article 20 to the areas of the Usable State Forest Fund. 2. Requests and projections for assigning categories to the areas of the Usable State Forest Fund are prepared by the State Department of Forestry in agreement with the Ministry of Environment and the State Department of Land Management and are submitted for Presidential approval by the State Department of Forestry. 3. The State Department of Forestry assigns categories of areas with special functions and landscape areas to the areas of the Usable State Forest Fund and establishes a forest management regime for these areas.	This entire process of assigning functional categories (other than strictly protected areas) appears unnecessarily complicated and top-heavy, due to the requirement for Presidential approval. This, of course, is a direct consequence of mixing up (i) determination of outer and inner boundaries, (ii) declaration of protected areas subject to the Law on the System of Protected Areas, and (iii) various functional categories. It does not grant sufficient leeway for changing classifications flexibly, according to the prevailing conditions on site. Functional categories are, above all, management tools.	
CHAPTER 8. THE STATE FOREST FUND REGISTRY SYSTEM		Re-captioning & simplification of Chapter 8 is strongly recommended. See subsequent individual remarks and recommendations. It would seem particularly important to extend the chapter's scope to the entire PFE.
ARTICLE 23. THE STATE FOREST FUND REGISTRY SYSTEM The State Forest Fund registry system is comprised of the State Forest Fund monitoring, cadastre, and forest inventory.	The (State) Forest Fund Registry System in its current form appears unnecessarily complex. Distinctions between the terms used in Art. 23 are not sufficiently explained / justified in the subsequent Articles.	It would seem advisable to simplify / streamline the various categories used in Articles 23 – 30.
ARTICLE 24. MONITORING OF THE STATE FOREST FUND 1. Monitoring of the State Forest Fund is a system of assessment and observation, analysis, and forecast of the condition of the State Forest Fund with the purpose of providing this information to the State entities and the public and improving their capacity for carrying out forest tending, protection, restoration, use, and improvement of ecological condition of the State Forest Fund. 2. Monitoring of the State Forest Fund is carried out by the authorized entities defined in Articles 15 and 16 of this Code, their regional offices as well as other State entities authorized by Georgian legislation, and forest users.		Articles 24 – 26 should be thoroughly simplified / streamlined, and focused on (i) the establishment & periodical operation / maintenance of a national forest inventory (class A inventory) by the State Forestry Dept., as well as (ii) long-term monitoring of the status, health & vitality of forest ecosystems within the Georgian Forest Fund. A clear distinction should be made between forest land registers (i.e. the forest cadastre in its literal meaning) and the national forest inventory. Establishment and maintenance of the forest cadastre should preferably rest with other public bodies (most likely the State Commission on Land Use and

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ARTICLE 25. STATE FOREST FUND CADASTRE 1. The State Forest Fund Cadastre is a document evaluating ecological, economic, and other values of the State Forest Fund for providing the State entities and the public the information required for carrying out tending, protection, restoration, rational use of forests, keeping track of qualitative and quantitative changes of forest resources, and for developing forest management plans. 2. The State Forest Fund Cadastre economically evaluates forest resources according to parameters set in accordance with this Code and annually updates these data. 3. Outputs of the monitoring of the State Forest Fund are entered into the State Forest Fund Cadastre. 4. Data entered into the State Forest Fund Cadastre are used for managing lands under the State forest and the State Forest Fund, for preparing and implementing forest management plans, for evaluating activities of forest users, for defining and updating forest use fees, for calculating taxes, penalties and other charges, etc. 5. Data entered into the State Forest Fund Cadastre may be used as the rationale for changing boundaries of the State Forest Fund, forests of the State Forest Fund or lands under the State Forest Fund. 6. Based on the agreement between the authorized entities defined in Articles 15 or 16 of this Code and a physical or legal body, the cadastre of the State Forest Fund or a plot of this Fund may be maintained at the expense of this body.	A "cadastre", by definition, is a public land register. As such, it would typically record (i) the outer boundaries of the PFE, as well as (ii) boundaries of the different ownership types within the PFE. In this sense, the definition provided in Art. 25 (1) appears misleading, and in need of a clearer distinction between a forest land cadastre, and a national forest inventory (which typically is the main source of information about the PFE's status, structural characteristics & composition, and health and vitality of forest ecosystems). Art. 25 (1, 2) both provide basic definitions, albeit with different scopes / degrees of resolution. Art. 25 (1) reaches way beyond the (comparatively narrow) scope of information typically recorded in a land register ("cadastre"). Instead, it refers to a (national) forest inventory, which interpretation is further backed by Art. 25 (3, 4) and Art. 26 (2). The State Forestry Dept. is charged with the preparation and maintenance of the (State) Forest Fund Cadastre, which likewise underscores the interpretation that Art. 25	Protection) than the State Forestry Dept. On the other hand, forest monitoring, maintenance of a national forest inventory, forest categorisation / classification and long-term strategic planning should remain the principal responsibility of the State Forestry Dept. (notwithstanding, of course, inter-agency consultation and civil society participation). The distinction between (i) land-use related decisions / integrated spatial planning and (ii) strategic planning / management decisions regarding the protection and sustainable management of the PFE should be clearly reflected in a new / revised Forest Code. Methodological / technical details should best be left to regulations / technical guidelines (to be issued by the State Forestry Dept.). To ensure maximum flexibility in the application of the Forest Code, such normative acts and guidelines need not be individually identified within a new / revised Forest Code – a comprehensive, statutory empowerment of the State Forestry Dept. in this regard would probably be sufficient. The basic difference (in terms of purpose, methodology / approach, recording & use of data) between (i) a (permanent) national forest inventory (class A inventory) and (ii) detailed forest inventories on the scale of individual forest enterprises / license areas in the course of forest management planning

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ARTICLE 26. MAINTENANCE OF THE STATE FOREST FUND CADASTRE 1. The cadastres of the protected areas and of the Usable State Forest Fund are kept by the authorized entities defined in Articles 15 and 16 in the areas under their jurisdiction as well as authorized legal bodies in agreement with these entities. 2. The State Forest Fund Cadastre is the source of information about condition of the State Forest Fund, about tending, protection, restoration, and rational use of the State Forest Fund intended for the State entities and the public. 3. The State Forest Fund Cadastre is maintained by the State Department of Forestry.	& 26 actually refer to a (national) forest inventory (cadastral information would be more appropriately recorded, and the respective databases maintained, by the State Commission on Land Use and Protection). A basic problem with the – otherwise crucially relevant – Articles 25 & 26 is that they are narrowly focused on the State Forest Fund. Clearly, there is a need for monitoring the status, health & vitality of the entire PFE (the Georgian Forest Fund). This, however, presupposes centralised database management and evaluation, as well as periodical revision & updating of a national forest inventory. Art. 25 (4, 5) outline the intended use of the (State) Forest Fund Cadastre / national forest inventory. While it certainly provides baseline date to be used in the course of forest management planning, its primary use would be trend analyses and **long-term (strategic) silvicultural / forest ecological planning** (e.g. for the purpose of developing silvicultural recommendations such as model forest types). In this respect, a clearer distinction between (i) a national forest inventory and (ii) forest inventories prepared on the basis of individual forest enterprises / license areas would seem advisable.	should be more strongly reflected and clarified. If other public bodies / stakeholders than the State Forestry Dept. are to be actively involved in the establishment, operation / maintenance and analysis of the national forest inventory (including forest monitoring), their respective management and financial capacities should be taken into consideration. Local self-governing bodies (Municipalities), in particular, suffer from a significant lack of revenue and forest-related expertise, and might not be able to adequately tackle inventory / monitoring duties conferred on them.
ARTICLE 27. FOREST MANAGEMENT PLANNING 1. Forest management planning is done once in every 10 years (10 year cycle). The goals of forest management planning are to design and increase effectiveness of tending, protection, restoration, and rational use of forest resources, and to implement standardized scientific-technical policy of forest management. 2. Forest management implies: b) establishing boundaries of the State Forest Fund as well as of territories under jurisdiction of regional	The specific scale and purpose of forest management planning might be more clearly reflected. Forest management planning takes place at the level of individual enterprises or license areas, for the purpose of determining sustainable harvesting volumes and required forest management/maintenance operations in a functionally integrated fashion. Art. 27 (2 b) Establishment of the (outer)	The basic requirement for **compulsory, inventory-based forest management planning** reflected in Art. 27 (3, 4) is very important, and should be retained in a new / revised Forest Code. It should be clearly stipulated that forest management plans prepared by (or on behalf of) holder of forest use licenses require official approval / endorsement by the State Forestry Dept. The Article should be simplified / shortened considerably, with a reference added to the applicable regulations / techni-

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offices of the State Department of Forestry, and the State Department of Protected Areas, Natural Reserves and Hunting Ranges; c) internal organization of the territories under jurisdiction of regional offices of the State Department of Forestry and the State Department of Protected Areas, Natural Reserves and Hunting Ranges as well as carrying out topographic, geodetic, and special cartographic work for these territories; d) carrying out inventory of the State Forest Fund, defining forest condition, obtaining species and age composition of forest, conducting quantitative and qualitative evaluation of the State Forest Fund resources; e) identifying habitats of endangered, relic, indigenous and other valuable plant species and identifying forest areas of special function; f) designating areas allowed for final cuts, special cuts and thinning, areas requiring tending, amelioration, and other silvicultural activities, defining annual allowable cut, types, scope, and methodology for other measures; g) evaluating rational for establishing categories and protection regime for the areas of the State Forest Fund, for setting and changing boundaries for the State forest and the State Forest Fund; h) allocating areas for forest use and carrying out quantitative and qualitative evaluation of resources intended for extraction; i) carrying out biological, pathological and other special research of the State Forest Fund; j) providing oversight of implementation of the forest management plans; k) preparing tender documentation for forest use; l) establishing special requirements for forest use between slope gradient 30° and 35°; m) other measures. 3. Forest inventory data are used for preparing forest management plans which are obligatory documents and provide basis for forest management, including perspective planning, and for	boundaries of the (State) Forest Fund would probably precede forest management planning. See also Art. 27 (2 g), 2nd half-sentence. Art. 27 (2 f, h) appear to overlap considerably. Art. 27 (2 i) Forest research is not necessarily part of forest management planning. Art. 27 (2 k) apparently contradicts to the preferred tendering approach of the State Forestry Dept. (whereby forest management planning would be the responsibility of the forest use license holder *after* the conclusion of the tender process. See also Art. 27 (5). Art. 27 (2 l) Special requirements for forest use on sloped areas between 30° and 35° inclination are already prescribed in Art. 68. An important aspect of SFM that seems to be underrepresented in Art. 27 is forest road construction (permanent forest roads and the layout and spacing of skidding trails) as well as other measures to (i) improve the forest areas' accessibility and (ii) limit / prevent adverse impacts on forest soils and young-growth. Art. 27 (6) appears to be no longer applicable, as the Law on the Environmental Permit (1996) has been superseded by the Law on Licenses and Permits (2005) and Government Regulation 154/2005.	cal guidelines (to be issued by the State Forestry Dept.). To highlight the methodological distinction between forest monitoring / national forest inventories and forest management planning, rules for forest management planning should be relocated to a different chapter (preferably a consolidated chapter on the close-to-nature, multi-purpose sustainable management of the entire PFE. No individual approach or method of forest management planning, including inventories on the level of individual forest enterprises or concessions, should be prescribed in the Forest Code. Rather, reference to the regulations to be drafted and technical manuals applied should ensure maximum flexibility to meet the needs of different categories & size classes of forest owners and forest users. The respective capacities and needs of different types of forest ownership and different size-classes of forest enterprises must be considered. A simplified procedure for local forests and forest areas below a certain area-threshold seems advisable, as well as public support / incentive schemes to this end. Currently, the State Forestry Dept. envisages a procedure whereby a detailed forest inventory and a forest management plan in respect thereof would be prepared by a winning bidder after the conclusion of the tender procedure and the award of the license. Such an arrangement should be critically reviewed for various reasons (foremost with regard to the overall transparency and economic viability of the licensing procedure, as well as a potential conflict of interest regarding the forests' ecological and social functions). **It should be noted that in Art. 4 (5) of Government Resolution 132 of Aug. 11th, 2005, an alternative procedure is envisaged (whereby the MoEPNR / State Forestry Dept. would provide at least detailed inventory data *prior* to holding an auction in respect of a given forest area)**.

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financing forest management works. 4. Forest use and forest management works not reflected in the forest management plans are prohibited except under the state of emergency. 5. Forest management is planned by authorized entities defined in Articles 15 and 16 of this Code in the areas under their jurisdiction as well as by physical or legal bodies in agreement with these entities. 6. Forest management planning is undertaken in accordance with the requirements established by the law of Georgia *"On the Environmental Permit"*.		
ARTICLE 28. REGISTRY OF THE STATE FOREST FUND 1. The *"Regulations for the System of State Forest Fund Registry"* are prepared by the authorized entities defined in articles 15 and 16 of this Code in agreement with the Ministry of Environment, the Ministry of Economy, the Ministry of Finance, the State Department of Land Management, and the State Department of Statistics and are submitted for Presidential approval by these entities. 2. The *"Regulations for Establishing Rules for Maintenance of the State Forest Fund Registry"* are prepared by the State Department of Forestry in agreement with the Ministry of Environment, the State Departments of Statistics and Land Management and is approved by the State Department of Forestry. 3. The *"Regulations for Establishing Special Requirements for the System of Registry for the Protected Areas of the State Forest Fund"* are prepared by the Ministry of Environment in agreement with the State Department of Protected Areas, Natural Reserves and Hunting Ranges and are submitted for Presidential approval by the Ministry of Environment.	Art. 28 neither defines the State Forest Fund Registry, nor does it provide guidance about its establishment, operation / maintenance, and use. In what respects would the "State Forest Fund Registry" be different from the "State Forest Fund Cadastre" (cf. Art. 25, 26)?	See previous recommendations on Articles 24 – 26.
ARTICLE 29. FINANCING OF THE SYSTEM OF THE STATE FOREST FUND REGISTRY The State Forest Fund registry is financed from the State and local budgets. Other sources of funding may be used for this purpose in accordance with Georgian legislation.	It does not become sufficiently clear what is meant by "local budgets" – budgets of the local self-governing bodies (Municipalities)? This interpretation would, in any case, underscore that the Forest Fund Cadastre / Registry / Inventory were not to be narrowly focused on State Forests, but should encompass the entire PFE.	See previous recommendations on Articles 24 – 26.
ARTICLE 30. INFORMATION ON THE CONDITION OF THE GEORGIAN FOREST FUND	Here, for the first time the chapter's scope is extended to the entire PFE (i.e. the Georgian Forest Fund).	See previous recommendations on Articles 24 – 26.

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Information on the condition of the Georgian Forest Fund comprises data obtained through maintenance of the registry of the State Forest Fund in accordance with the law of Georgia *"On Statistics"* and through carrying out forest management planning. These data shall be provided to the State Department of Statistics.	Art. 30 appears to overlap considerably with the previous Art. 24.	
CHAPTER 9. MANAGEMENT OF LANDS UNDER THE STATE FOREST FUND		Re-captioning & simplification of Chapter 9 is strongly recommended. See subsequent individual remarks and recommendations. **It would seem particularly important to extend the chapter's scope to the entire PFE**. It is further recommended to reconsider and – preferably – abandon the current distinction between forest management and forest use (see subsequent remarks and recommendations).
ARTICLE 31. SPECIAL REQUIREMENTS FOR THE MANAGEMENT OF LANDS UNDER THE STATE FOREST FUND 1. State Commission on the Land Use and Protection in Georgia establishes categories defined in Article 19 for the land under the State Forest Fund based on suggestions made by the authorized bodies defined in Articles 15 or 16 of this Code; 2. Any changes leading to the reduction of lands under the State forests and the State Forest Fund shall be well justified and may be made only in agreement with the Ministry of Environment. 3. The Ministry of Environment, authorized bodies defined in articles 15 and 16 of this Code, or their subordinate entities prepare regulations for the use, protection, and rehabilitation of lands under the State Forest Fund and lands adjacent to the State Forest Fund by local governing and self governing bodies based on the categories and biodiversity of the State Forest Fund.	Forest categories / classifications mentioned in Articles 19 – 21 are, above all, management tools (notwithstanding the basic recommendation to exclude some of the categories listed in Art. 19 and 20 from the purview of the Forest Code; cf. the respective remarks / recommendations). This raises questions as to whether the State Commission of Land Use and Protection should be charged with the definition of such management-related categories. Art. 31 (2) does not refer to forest protection and sustainable management, but rather to the transfer of State Forests to another type of ownership. The exclusion / inclusion of forest areas from / in the State Forest Fund is governed by **Government Resolution 96 of May 10th, 2007**.	The definition of functional categories and their assignation to individual parts of the PFE (forest function mapping in the course of detailed forest inventories / forest management planning) should be a primary responsibility of the State Forestry Department. Technical details should best be covered in the respective regulations and technical guidelines / manuals, to be issued by the State Forestry Dept. under a respective statutory empowerment in the Forest Code. As regards the transfer of areas within the State Forest Fund, a reference to the pertinent Government Resolution 96 of May 10th, 2007 should suffice. **General principles of close-to-nature, multi-purpose SFM** (a national standard of SFM, as it is also called) should be defined by the State Forestry Dept. in consultation with other relevant departments of the MoEPNR, other relevant public stakeholders, and civil society. They might include, inter alia,

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ARTICLE 32. MANAGING FORESTRY, AGRICULTURAL, AND IDLE LANDS UNDER THE STATE FOREST FUND 1. Forestry and idle land under the State Forest Fund are managed by authorized bodies defined in Articles 15 and 16 of this Code or their regional offices as well as by forest users as allowed by documents authorizing forest use. 2. Agricultural lands under the State Forest Fund are managed by local governing and self governing bodies in agreement with authorized bodies defined in Articles 15 or 16 of this Code as well as by forest users in accordance with this Code and the Georgian legislation.	"Idle lands" and "agricultural lands" within the State Forest Fund are hardly comparable in this context. Idle lands, as initially defined in Art. 19 (2 d) may occur naturally within the Georgian Forest Fund. In fact, they may even be ecologically valuable as rare / isolated habitats, and do not restrict regularly forest management operations. Agricultural areas currently included in the Georgian Forest Fund are areas deliberately dedicated to a land use other than sustainable forest management. They are very important elements of rural livelihoods and production systems, and no indication has been found to the effect that agricultural areas should be reforested in the foreseeable future. **Following up on previous remarks / recommendations in respect of agricultural lands currently included in the (State) Forest Fund, the exclusion of such areas from the purview of the Forest Code should be considered.**	• Compulsory forest management planning as a precondition for SFM and forest use (cf. recommendation on Art. 27) • Tight restrictions on the temporary / permanent conversion of forests to a different land-use type (e.g. only in the public interest, subject to the provisions of Government Regulation 154/2005 "On Procedures and Conditions concerning giving out a License on Influence over the Environment" etc.). A general obligation for reforestation following a temporary conversion of forests as well as for replacement-planting / compensation in case of permanent conversion should be considered. Owing to the fact that temporary / permanent forest conversion involves a land-use change and – probably – a transfer of ownership, the institutional responsibility for the approval of respective applications should be shared between the MoEPNR / State Forestry Dept., and the State Commission on Land Use and Protection. • Identification and protection of High Conservation Value Forests and vulnerable biotopes / habitats

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ARTICLE 33. MANAGEMENT OF THE LANDS OF SPECIAL USE 1. If necessary or with the purpose of extracting significant economic benefit, the State Forest Fund may be allocated for special use in accordance with environmental legislation of Georgia. 2. The State Commission on Land Use and Protection in Georgia in agreement with the stakeholders and the entities defined in Articles 15 or 16 of this Code allocates lands under the State forests and the State Forest Fund for special use in accordance with Georgian legislation and Paragraph 2, Article 31 of this Code. 3. Authorized bodies defined in Articles 15 or 16 of this Code allocate for special use those areas of the State Forest Fund, which are least likely to be damaged with the special use. 4. Relevant authorized bodies defined in Articles 15 or 16 of this Code manage forests on the lands of special use under the State Forest Fund. Special purpose management is carried out by a forest user in accordance with Georgian legislation.	Special use as defined in Art. 33 (1) likely involves the temporary / permanent conversion of forests to a different type of land-use, consequently requiring the transient / permanent exclusion of the respective areas from the (State) Forest Fund. This interpretation is further backed by the Definition provided in Art. 3.1 (a) of Government Resolution 132 of August 11th, 2005 (notwithstanding special forest management operations mentioned in Art 3.1 b & c). It should be noted that, in accordance with Art. 2 (3) of Government Resolution 132 (2005) the special use of forest areas is not subject to licensing in accordance with Government Resolution 132 (2005). It may nevertheless require an environmental license and compulsory EIA pursuant to Art. 3 (1) of Government Regulation 154 of Sept. 1st, 2005.	• Restrictions on commercial clear-felling above a certain area threshold, and a general preference for closed-canopy management • A general preference for natural regeneration and / or the use of site-adapted / endemic / publicly approved seeds & seedling material • A general requirement to protect forests against biotic and abiotic hazards and damage, and to rehabilitate affected forest areas without delay. • Restrictions on logging below a certain age-class / dbh, as well as a **general obligation for reforestation** in case of (i) the incidental loss of forest cover, (ii) failing natural regeneration after logging, etc. • Protection of forest soils and the forests protective functions / ecological properties through e.g. Reduced Impact Logging (RIL), abstention from the use of persistent pesticides, use of bio-degradable fuels / lubricants / hydraulic

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ARTICLE 34. ALLOCATING LANDS UNDER THE STATE FORESTS AND THE STATE FOREST FUND FOR FOREST MANAGEMENT 1. An authorized entity defined in Articles 15 or 16 of this Code allocates land under the State forests and the State Forest Fund for establishing nurseries, parks, plantations, constructing forest roads, and other activities. 2. Allocation of lands under the State forests and the State Forest Fund for forest management to a forest user is done in accordance with the *"Regulations for Allocation of Lands under the State Forests and the State Forest Fund for Forest Management"* prepared by the State Department of Forestry in agreement with the State Department of Protected Areas, Natural Reserves and Hunting Ranges and is approved by the State Department of Forestry.	Art. 34 (1) apparently applies a noticeably narrow definition of "forest management", which seems to make a clear distinction between forest management and forest utilisation. This interpretation receives further backing from the subsequent provisions for "forest use" (Title 4). This interpretation appears problematic, because timber-harvesting (by far the most significant type of forest use) should be considered a (production-oriented) incident of sustainable forest management, rather than a demand-driven (commercial) exercise. Applying the notion of close-to-nature, multi-purpose SFM, **it seems virtually impossible to draw a clear line between forest management and forest use – even more so, as forest licenses increasingly tend to confer long-term management responsibilities on the license holder**. Furthermore, rules for the allocation of forest areas as presented in Art. 34 (2) appear to have been superseded by the Law on Licenses and Permits (2005) and Government Resolution 132 (2005).	oils (at least in water protection zones), retention / protection of natural forest areas as undisturbed reference areas, retention of a certain percentage of dead-wood etc. General principles of forest management should be kept as simple as possible, and technical details should best be referred to regulations / technical guidelines to be issued by the State Forestry Dept. Adequate inter-agency consultation and civil society participation must be ensured. No specific requirements for non-state forests should be defined, instead, all types of ownership should be uniformly subject to the general principles of SFM defined in the Forest Code.
CHAPTER 10. PARTICIPATION OF PUBLIC ORGANISATIONS IN THE GOVERNANCE OF THE STATE FOREST FUND	Chapter 10 appears slightly out of context in this part of the Forest Code – forest governance being already covered in detail in chapter 5.	Chapter 10 should preferably integrated in a consolidated chapter on forest governance. In this respect, it should be considered to merge chapters 5 and 10.

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ARTICLE 35. PARTICIPATION OF PUBLIC ORGANIZATIONS IN THE GOVERNANCE OF THE STATE FOREST FUND 1. Citizens and the representatives of public organizations are authorized to: a) receive full, reliable and timely information on current condition of the State Forest Fund; b) fully participate in the planning of forest management of the State Forest Fund. 2. Participation of citizens and representatives of public organizations in decision-making process for managing the State Forest Fund as stated in the law of Georgia "On the Environmental Permit" is regulated by this same law. 3. Before a decision on forest use in a particular area is made by the entities authorized for managing the State Forest Fund, the following information for this area shall be published: a) forest management plan; b) categories established for the State Forest Fund; c) protection regime established for the State Forest Fund; d) allocation of areas of the State Forest Fund for forest use for a period of five years or longer.	Art. 35 (1 b) Inasmuch as this provision refers to forest management planning in the sense of medium-term operational planning on the scale of individual enterprises or license areas, it appears problematic and difficult to implement in practice. Forest management planning, above all, is an exercise that requires high-level technical expertise and must conform to regulations / technical guidelines. Concrete silvicultural / management decisions reflected in a forest management plan are typically taken by a forest owner or duly licensed holder of forest use rights, subject to the approval by public forest authorities and the requirements of the Forest Code. In this respect they seem less appropriate and accessible for civil-society participation, than other levels of forest planning and forest governance. Art 35 (3 a) seems at odds with the State Forestry Department's basic intention to have license holders prepare a detailed forest inventory as well as a forest management plan after the conclusion of the tender procedure. Art. 35 (3 d) would make sense only as long as it refers to the general intent of the State Forestry Dept. to put up a certain forest area to tender. But again, in this case no management plan would be available, and only basic inventory data would be available, derived from the national forest inventory.	Information of the public and civil-society / multi-stakeholder participations are indispensable preconditions for the promotion of SFM. However, to achieve meaningful results public participation (especially in terms of institutionalised consultation and decision making) needs to be focused on the right intervention levels and modes of operation. Civil society can & should be involved more visibly in • general land use decisions involving forests; esp. forest conversion (including public participation in the context of awarding an environmental license pursuant to Government Regulation 154 (2005)), • forest policy formulation and strategic / long-term forest planning, including the development of silvicultural strategies as well as the development of basic principles of SFM (a "national standard" for SFM), • decisions about putting up State Forest areas for tender with the aim of awarding forest use licenses pursuant to the Law on Licenses and Permits (2005) and Government Resolution 132 (2005). In this regard, the establishment of a national consultative forum on forest issues could be considered, either in the sense of a "forest council" or board structure with a defined membership and an advisory mandate to the MoEPNR / State Forestry Dept. With a view to avoiding "stand-alone" solutions or narrowly sector-specific arrangements, the respective additions to a new / revised Forest Code should be carefully synchronized and streamlined with Georgia's obligations and commitments as a signatory party to the Aarhus Convention.

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ARTICLE 36. RESPONSIBILITIES OF THE BODIES AUTHORIZED FOR MANAGING THE STATE FOREST FUND 1. Under conditions specified in Article 35, bodies authorized for managing the State Forest Fund shall consider comments and suggestions made by citizens and representatives of public organizations prior to making decisions. 2. Besides publishing information listed in Paragraph 3, Article 35 of this Code, the State Department of Forestry and the State Department of Protected Areas, Natural Reserves and Hunting Ranges as well as other entities authorized by Georgian legislation shall also insure: a) availability of information on the condition of the State Forest Fund, excluding pieces of information disallowed for disclosure by Georgian legislation; b) promulgation of forest protection and forest resource protection measures; elaboration of training programs for raising of public awareness. c) provision of moral and material incentives for conserving biodiversity.	Art. 36 (1) The basic requirement for the State Forestry Dept. and other relevant public bodies to "consider" comments and suggestions made by civil-society stakeholders needs to be accommodated procedurally, e.g. by a adding a clause that some decisions cannot be validly taken without an institutionalised participatory process.	
TITLE 3. FOREST PROTECTION		
CHAPTER 11. GENERAL PROVISIONS FOR THE PROTECTION OF THE GEORGIAN FOREST FUND		In principle, a Forest Code should present little else than "general provisions" (in the sense of a legal framework), to be elaborated in more specific regulations / technical guidelines (see also remarks / recommendations on Chapter 12).
ARTICLE 37. GOALS OF PROTECTION OF THE GEORGIAN FOREST FUND 1. Following are the goals of protection of the Georgian Forest Fund: a) keeping natural balance of forest ecosystems, improving age structure, species composition, and condition of forests, establishing sustainable and highly productive forest stands; b) increasing soil productivity, preventing soil erosion, swamping, salinization, landslides, avalanches and other processes worsening condition of soil; c) conserving virgin forests, protecting relict, indige-	Art. 37 (1) overlaps with Art. 3 in that it recounts general goals of sustainable forest management and forest development. Art 37 (2) appears redundant to some extent (clauses b & c, d & e) and unspecific regarding "other negative impacts" – clause f. There is a noticeable difference in the scope of Art. 37 (1) and 37 (2), in that the former refers to the Georgian Forest Fund whereas the latter remains narrowly focused on the State Forest Fund.	Art. 37 should be shortened considerably, and simplified besides. A comprehensive definition of forest protection might best be added to Art. 5, to the effect that forest protection in a general perspective would imply maintaining the quantitative (PFE), qualitative (health & vitality), and functional (environmental, socio-economic) integrity of the Georgian Forest Fund. Forest protection against abiotic and biotic hazards and damage (forest protection in a narrower perspective) should be clearly distinguished from special management regimes

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
nous, and other valuable species. 2. The State Forest Fund shall be protected from: a) fires; b) illegal felling; c) violation of regulations for forest use and other forest management measures; d) pests and diseases; e) decline of sanitary condition; f) other negative impacts. 3. Animal wildlife of Georgian forests shall be protected under the law of Georgia "On Animal Wildlife". 4. Goals of protection of ecosystems within the protected areas are defined by Georgian legislation.	Art. 37 (3, 4) appear dispensable within the Forest Code (see also the previous remarks / recommendations regarding the possible exclusion of protected areas from the purview of the Forest Code).	and restrictions arising from the functional classification of forest areas. Forest protection, in this context, denotes concrete measures carried out in response to acute / localised threats to the forests' health and vitality.
ARTICLE 38. PROTECTION REGIMES FOR THE STATE FOREST FUND 1. With the purpose of protecting forest condition, maintaining its biodiversity, conserving virgin forests, relic, indigenous and other valuable plant species and according to priority functions, historic, cultural and other values, general or special protection regimes are established for the Usable State Forest Fund. 2. Protection regimes for the protected areas are established in accordance with the law of Georgia *"On the System of Protected Areas".*	See also the previous remark on Art. 37 (2) – why should the protection regimes mentioned in Art. 38 be restricted to State Forest only? This distinction seems unnecessarily complicated – what else does it imply that whenever certain circumstances dictate that management options be restricted, the relevant public authorities may establish & enforce such restrictions?	Wherever management restrictions or special obligations arise from the functional classification of forests, there is an inherent potential for conflict with non-state forest owners and – particularly - licensed holders of forest use rights. In this regard it would be prudent to determine whatever restrictions may seem necessary prior to the establishment of use-rights under a forest license. This, however, would mean that a detailed forest inventory, forest function mapping and should preferably take place before the tender procedure, rather than afterwards.
ARTICLE 39. SPECIAL PROTECTION REGIME 1. The following activities are prohibited in the usable State forests and lands under the special protection regime: a) carrying out final cuts; b) activities of Categories 1 and 2 as defined in the law of Georgia *"On the Environmental Permit"*. 2. Special regulations for restricting forest management and forest use in the territories of the usable State forests and lands under special protection regime are set by the State Department of Forestry as well as local governing and self governing bodies.	See also the previous remark regarding the focus on State Forests. Art. 39 (1 a) This should be regarded as a management restriction arising from the functional classification of certain forest areas (cf. Art. 41, 1), rather than as a provision for forest protection. Art. 39 (1 b) appears obsolete, because the Law on the Environmental Permit has been superseded by the Law on Licences and Permits (2005) and the Government Regulation 154	A general prohibition of commercial logging (final cuts) in forest areas subject to a special protection regime had best been included among the basic forest management principles.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
	(2005).	
ARTICLE 40. GENERAL PROTECTION REGIME Regulations set by this Code and by Georgian legislation are applicable to the usable State forests and lands under the general protection regime.	See also the previous remark regarding the focus on State Forests. Art. 40 appears unnecessarily complex and redundant in view of the more concrete provision in Art. 41 (2).	Such complex / indeterminate / redundant rules should best be abandoned – the impair the accessibility and user-friendliness of the Forest Code, and unnecessarily inflate the document.
ARTICLE 41. ESTABLISHING PROTECTION REGIMES FOR THE DIFFERENT CATEGORIES OF THE USABLE STATE FOREST FUND 1. A special protection regime is established for resort and green zone forests as well as for floodplain forests, and subalpine stripes of forests. 2. A general protection regime is established following regulations set in Article 42 of this Code for the forests of special soil protection and water regulation functions.	See also the previous remark regarding the focus on State Forests. Art. 41 (2) applies the general protection regime to soil protection and water protection forests. Once again, this relates more to the functional classification of forest areas and the required management modalities, than to forest protection measures pursuant to Art. 37 (2). Moreover, the classification “soil / water protection forest”, according to Art. 21 (4) is to be assigned to “all other areas of the State Forest Fund were all types of forest use are allowed”. This largely invalidates the practical usefulness of both this functional classification, as well as of the general protection regime.	Articles 41 and 42 should be thoroughly harmonised, simplified and shortened. Functional classifications should be assigned on the basis of a detailed forest inventory, in the course of forest management planning on the scale of individual forest enterprises or license areas. They should be kept as flexible and workable as possible, therefore, the presidential prerogative to assign such classifications upon the recommendation of either the State Forestry Dept. or a forest owning Municipality should be abandoned.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 42. ESTABLISHING SPECIAL PROTECTION REGIMES FOR FOREST AREAS WITH SPECIAL SOIL PROTECTION AND WATER REGULATION FUNCTIONS 1. Decision on establishing special protection regime for forest areas with special soil protection and water regulation functions is made by the President of Georgia. 2. Based on the State Forest Fund Cadastre, registry, and other research data, the relevant authorized entity defined in Article 16 of this Code or the Ministry of Environment submits request to the President of Georgia for establishing a special protection regime for forest areas with special soil protection and water regulation functions. 3. For each particular case the regime of forest management and forest use to be established for forest areas with special soil protection and water regulation functions by the Presidential decision is proposed by the State Department of Forestry in agreement with the Ministry of Environment. For the Local Forest Fund, a proposal is made by the local governing and self governing bodies in agreement with the State Department of Forestry and the Ministry of Environment. 4. Special protection regime is established for the plant species entered into the Red Book of Georgia, relic, indigenous, and other valuable plant species as well as forest areas of special functions by the State Department of Forestry in accordance with Article 21 of this Code and the Georgian legislation.	Art. 42 (1) apparently contradicts to Art. 41 (2) – are "soil / water protection forests" to be subjected to a "general" protection regime (as in Art. 41, 2) or to a "special" protection regime (as in Art. 42 (1)? Art. 42 (1) applies the provision in Art. 22 (1) whereby the President of Georgia is authorised to assign the classification mentioned in Art 20 (3) to the Usable State Forest Fund. This appears a rather cumbersome and inflexible arrangement, considering that functional classifications mentioned in Art. 20 are, above all, management tools (see the respective previous remarks and recommendations). Art. 42 (3) appears of little practical value – since practical all parts of the Usable State Forest Fund which bear no other specific classification are to be categorised as "soil / water protection forests – see previous remark on Art. 41, 2), it would appear inexpedient to run the complex approval procedure for "each particular case". Art. 42 (4) appears problematic in several respects. How may a special protection regime (in the sense of management restrictions arising from a functional classification of forest areas – cf. remark on Art. 39 and subsequent Articles) be practically applied to certain endangered plant species?	
ARTICLE 43. REGULATIONS FOR ESTABLISHING SPECIAL PROTECTION REGIME FOR THE USABLE STATE FOREST FUND AND CARRYING OUT FOREST MANAGEMENT IN THE AREAS UNDER THIS REGIME The "Regulations for Establishing Special Protection Regimes for the Usable State Forest Fund and Carrying Out Forest Management in the Areas under This Regime" are prepared by the State Department of Forestry in agreement with the Ministry	Why is Art. 43 restricted to "special protection regimes" only?	

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of Environment and the State Department of Protected Areas, Natural Reserves and Hunting Ranges and are approved by the State Department of Forestry.		
CHAPTER 12. FOREST PROTECTION		The current separation of chapters 11 and 12 is difficult to justify, and should preferably be abandoned for a more streamlined, consolidated presentation of basic forest protection rules and principles (cf. recommendation on Chapter 11).
ARTICLE 44. FOREST PROTECTION MEASURES 1. Forest protection is carried out based on the biodiversity and other properties of the State Forest Fund. It implies use of forest management, biological, genetic, physical, and mechanic methods for sustaining the State Forest Fund as well as organizational, legal and other measures for protecting it from devastation, damage, pollution and other negative effects. 2. Following are the forest protection measures: a) protecting forest with biological, chemical, and genetic selection measures; b) protecting forest from pests and diseases identified thought phyto-pathological research as agents affecting balance of a forest ecosystem; c) banning grazing of animals on forest species and in the stands where grazing is harmful for forest; d) protecting forest from fire; e) improving sanitary condition of forest though carrying out sanitary cuts and other measures; f) protecting forest from unlawful use, pouching of forest resources, littering, mechanic damage to soil and trees, and other similar threats (physical protection); g) carrying out preventive measures against natural disasters; h) carrying out measures preventing forest transformation through intense exploitation; i) banning import of timber and wood products without quarantine inspection to avoid emerging of new breeding grounds for pests and diseases; j) providing material and moral incentives for carrying out forest protection measures;	Art. 44 (1) provides yet another basic definition of forest protection, and in this regard overlaps somewhat with Art. 37 (cf. previous remarks and recommendations). Art. 44 (2) provides technical detail with a high degree of resolution, and merges (i) preventive measures (to be achieved mostly in the course of regular forest management operations) with (ii) more specific forest protection measures, and (iii) aspects related to forest law enforcement.	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
k) carrying out other measures if required in the state of emergency.		
ARTICLE 45. PLANNING AND IMPLEMENTATION OF FOREST PROTECTION MEASURES 1. Forest protection measures are planned based on the State Forest Fund Cadastre, forest management plans, and annual results of phyto-pathological research. 2. Protection measures for State forests are planned and carried out by the authorized entities defined in Articles 15 and 16 of this Code, as well as by their branch offices, or bodies defined in Article 9 of this Code, under supervision of these regional offices.	Art. 45 once more elaborates on the roles / mandates of public bodies entrusted with forest governance. See also remarks on Art. 48 (4, 5, 6).	Such provisions should best be integrated in a consolidated chapter on the respective mandates of public bodies – e.g. a general chapter on public forest governance. However appropriate provisions like those presented in Art. 45 may seem, it would enhance the Forest Code's overall accessibility / user-friendliness to present them within a single, consolidated chapter.
ARTICLE 46. PROTECTION OF FOREST BIODIVERSITY Protection of forest biodiversity is based on the Georgian Constitution, the international Convention on Biological Diversity, and Georgian environmental legislation. The goal of protecting forest biodiversity is to conserve and improve vitally important properties of the biosphere.	This Article does clarify neither the meaning of forest biodiversity protection, nor does it identify mandates / responsibilities in respect thereof, or required actions and omissions. In its present wording, it is of little practical value.	Biodiversity conservation appears to be a long-term management function closely associated with SFM, rather than some kind of "emergency response" to acute threats. For the sake of clarity and overall consistency, it should probably be dealt with in a consolidated title / chapter on forest management (see also remarks / recommendations on Art. 37).
ARTICLE 47. RIGHT TO CARRY OUT BIOLOGICAL AND CHEMICAL MEASURES OF FOREST PROTECTION AND MONITORING THESE MEASURES 1. The Ministry of Environment authorizes bodies defined in Article 9 of this Code for using biological and chemical means of forest protection. 2. Monitoring and control of the use of biological and chemical means of forest protection is are carried out by the Ministry of Environment as well as the State Department of Forestry, the State Department of Protected Areas, Natural Reserves and Hunting Ranges, and their branch offices respectively on the territories under their jurisdiction.	Article 47 (1) authorizes forest owners (cf. Art. 9) to use bio-chemical means of forest protection. This would, however, exempt the holders of forest use licenses – even though they are generally entrusted with SFM.	Since forest owners do not necessarily conduct forest management by themselves, the Article should be redrafted so as to authorize also licensed forest users.
ARTICLE 48. FIRE PROTECTION OF FORESTS 1. Fire protection of forest implies: a) conducting preventive fire protection measures, chopping lower branches in coniferous stands, carrying out artificial afforestation with the mixed broadleaf and coniferous species for creating fire protection stands, expanding network of fire protection roads and tracks, setting fire protection zones, hiring fire	Art. 48 (1) is too detailed by far – such minute provisions unnecessarily inflate the Forest Code. It also overlaps contextually with Art. 44 (which likewise prescribes certain protection measures with a high degree of resolution. Art. 48 (2) appears problematic, because it provides no guidance on how local fire-fighting or-	If Art. 48 was to be retained in its current form, it should at least be integrated / streamlined with Art. 44. However, it would seem advisable to simplify and shorten it, and to relegate all technical / operational provisions to regulations / technical guidelines (to be issued by the State Forestry Dept. upon a respective statutory empowerment – see also remark on Art. 49).

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
guards and increasing monitoring in the fire-prone seasons, aerial patrolling of forests, etc.; b) banning any construction in fire-prone areas and within 30 meters from forest edges; c) restricting or banning forest use, entrance of motor vehicles, civil works implying explosions, and building fire in especially fire-prone areas in the fire-prone seasons; d) putting up posters promoting fire protection in forests, raising public awareness of forest fires; e) cleaning forest floor; f) carrying out other measures. 2. Local governing and self governing bodies may mobilize population for fire fighting if required. 3. Authorized entities defined in Articles 15 and 16 of this Code as well as their regional offices in agreement with local governing and self governing bodies may ban forest use, access to forest for people and/or vehicles in the fire-prone seasons for fire protecting of forests in the territories under their jurisdiction. 4. Authorized entities defined in Articles 15 and 16 of this Code as well as their regional offices or bodies defined in Article 9 of this Code under supervision of these bodies plan and implement measures for fire protection of forests in the territories under their jurisdiction. 5. Bodies defined in Articles 15 or 16 of this Code in agreement with the Ministry of Interior of Georgia are authorized to assign status of fire-prone zone to certain areas of forest based on the forest management plans and proposals of their subordinate entities. 6. Fire fighting in the territory of the State Forest Fund is a responsibility of the Ministry of Interior shared with entities authorized for managing particular forest areas and with forest users.	ganisations would be set up, trained, and equipped for their – potentially – very dangerous task. While it appears a good idea to rely on decentralised structures as a first response to acute fire situations, the (compulsory?) deployment of ordinary citizens seems to entail high and incalculable risks. Art. 48 (3) appears appropriate, and could even be applied to other high-risk situations. Art. 48 (4), however appropriate, merely adds to the mandate of public bodies involved in forest governance. Similar observations apply to Art. 48 (5, 6). Cf. remarks on Art. 45.	If local fire-fighting with the participation of ordinary citizens is to be effective, it requires the establishment of an organisational structure on the municipal level, as well as appropriate capacity-building and material supplies. In any case, the risk to human health & safety should be addressed. It seems advisable to integrate the respective provisions with the general forest governance mandate of local self-governing bodies – technical issues should be left to regulations / technical guidelines. To ensure safety standards and an appropriate degree of effectiveness / efficiency, a state support (advisory / capacity-building support, material support, financial contributions) should be considered, preferably by way of a joint responsibility / co-management arrangement between the regional chapters of the State Forestry Dept., and the concerned Municipalities.
ARTICLE 49. RULES OF FIRE PROTECTION OF FORESTS 1. The *"Regulations for Fire Protection of Forests"* are prepared by the State Department of Forestry in agreement with Ministry of Environment, the State Department of Protected Areas, Natural Reserves and Hunting Ranges, and other stakeholders and are approved by the State Department of Forestry.	Why so many different regulations, which also overlap (1 & 3, 2 & 4)? Why are individual regulations listed by title, instead of simply empowering the MoE/SFD to issue "normative acts" on the respective issues?	Instead of listing individual regulations, there should be added a comprehensive statutory empowerment of the State Forestry Dept. to issue regulations / technical guidelines on forest protection issues. This would ensure more flexibility in the promulgation / amendment of such normative acts.

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2. The *"Regulations for Authorizing Physical and Legal Bodies for Using Biological and Chemical Measures of Fire Protection of Forests"* are prepared and approved by the Ministry of Environment. 3. The *"Regulations for Planning and Implementing Measures for Fire Protection of Forests"* are prepared by the State Department of Forestry in agreement with the Ministry of Environment, the Ministry of Interior, the State Department Protected Areas, Natural Reserves and Hunting Ranges and is approved by the State Department of Forestry. 4. The *"Regulations for Compiling a List of Biological, Chemical, and Genetic Selection Measures Allowed for Forest Protection"* are prepared by the Ministry of Environment in agreement with entities defined in the Articles 15 and 16 of this Code and are approved by the Ministry of Environment.		
TITLE 4. FOREST USE		
CHAPTER 13. SYSTEM OF FOREST USE		
ARTICLE 50. FOREST USE AND ITS OBJECTIVES Forest use implies utilization of the useful properties of the State Forest Fund and extraction of resources of the economic and other value from this territory for meeting environmental, economic, and social needs of the State and its citizens.		This is a legal definition which should consequently be relocated to the respective part of a revised / new Forest Code (currently Art. 5).
ARTICLE 51. TYPES OF FOREST USE 1. The following types of forest use are allowed within the territory of the Georgian Forest Fund: a) extracting timber (forest use for timber production); b) managing forest plantations; c) producing wood-products and secondary materials (seeds, fruits, stumps, brushwood, etc.); d) using non-wood forest resources (mushrooms, medical plants, specialty plants, shrubs and their products, etc.); e) carrying out agricultural use of forest;	Art. 51 (1) appears unnecessarily detailed, and in some respects flawed. It basically details the general definition of forest use given in Art. 50. The items listed under letters a) and c) could be summarised as "timber and non-timber forest products (NTFP)", the items listed under letter d) and e) as "non-wood forest products (NWFP)". The inclusion of "seeds and fruit" under NTFP appears questionable, though. Art. 51 (1, e) "Agricultural uses" (most probably grazing and harvesting of litter / fodder appear problematic, in that they potentially endanger	Art. 51 should be generally streamlined and simplified. Following up on the proposed exclusion of agricultural areas from the PFE (cf. remarks & recommendations on Articles 19 and 32), and given the relatively large share of un-forested pastures and agricultural areas presently included in the Georgian Forest Fund, the use of forest areas for agricultural purposes should be restricted and / or subjected to tight controls. See also remarks & recommendations on Art. 81. There is a need to harmonize the enumeration of licensable forest uses within the Forest Code with the Law on Licenses and Permits (2005) and Government Resolution 132 (2005) issued thereunder.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
f) carrying out special use of forests and allocating forest areas for special purposes (using forest lands of special function, extracting minerals, etc.); g) using forest for scientific research and education; h) using forest for resort, recreation, sport, and other health improving purposes; i) establishing hunting ranges. 2. Diversified use of the Georgian Forest Fund and carrying out several types of forest use simultaneously are lawful. 3. Based on Article 17 of this Code the Patriarchy of Georgia is authorized to use the territory of the Forest Fund for spiritual, ritual, and other purposes as specified in an agreement between the Patriarchy of Georgia and the State of Georgia.	natural regeneration and the ecological processes in forest soils. Art. 51 (1, f) appears to have been superseded by Government Resolution 132/2005 "Bylaw on rules and terms of issuing forest using licenses" which in Art. 2 (3.1) provides a narrower definition of "special forest use" (according to which mining activities – "extracting minerals" - no longer constitute "special forest use"). According to this bylaw – Art 2 (3), provision of firewood to the local population for domestic consumption as well as the exercise of "special forest use" are **not subject to licensing**. Mining – which regularly involves conversion of forests – **should not be regarded as a category of forest use** covered by the Forest Code, but as an activity requiring an environmental license and compulsory EIA in accordance with Art. 3 (1, a, b) of Government Regulation 154/2005 "On Procedures and Conditions concerning giving out a License on Influence over the Environment". Art. 51 (2) Close-to-nature, multiple-purpose sustainable forest management ought to be made the underlying principle of the entire forest code, and as such not merely ought to be lawful, but rather mandatory and paradigmatic. See Art. 54 below, as well as remarks / recommendations on chapter 9. Art. 51 (3) overlaps with rules on forest ownership and the classification of the Georgian Forest Fund. It should be either streamlined, or removed altogether.	
ARTICLE 52. TERM OF FOREST USE Territories of the Georgian Forest Fund may be allocated for short-term (up to one year, or seasonal) or long-term (up to 20	Art. 8 (1 aa) of Government Regulation 132/2005 only mentions long-term use of up to 20 years for general licenses and special li-	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
years) forest use.	censes for timber harvesting. Short-term licensing of forest use is no longer mentioned, and would run contrary to the stated intentions of the MoEPNR State Forestry Department. Insofar as Art. 52 makes reference to short-term licenses, it has become obsolete.	
ARTICLE 53. RIGHT FOR FOREST USE AND ITS IMPLEMENTATION 1. Using forest without obtaining license, contract or permit for forest use is illegal excluding cases defined in Article 78, and Paragraph 1, Article 106, of this Code. 2. A physical or a legal body may become a forest user. 3. Regional offices of the State Department of Forestry or the State Department of Protected Areas, Natural Reserves and Hunting Ranges carry out tending, protection, restoration, and afforestation of the State Forest Fund on a non-profit principle.	Art. 53 (1) The exemption of certain uses (agricultural use & thinning) appears to have been superseded by the more recent Art. 2 (3) of Government Resolution 132 of Aug. 11th, 2005 (which exempts the provision of firewood for local consumption & special uses from the licensing requirement). Art. 53 (2) Unless provisions are included so as to enable private individuals or rural communities to meet the quality requirements and standards of SFM, there will result a de-facto bias in favour of larger, well-established commercial forest management/logging companies. Art. 53 (3) warrants critical reflection – why should the State Forest Fund be managed on a not-for-profit basis? Should not the State Forest Fund rather be managed in the public interest – which would not automatically preclude profitability? Does not Art. 53 (3) contradict to the underlying rationale of entire forest licensing system – which clearly is intended to generate revenue through sustainable management and use of – at least part of - the State Forest Fund.	
ARTICLE 54. BASIC REQUIREMENTS FOR PLANNING AND CARRYING OUT FOREST USE 1. Forest use is planned. 2. Forest use is planned based on the forest management plans. 3. Forest use planning prioritizes long term forest use and the types of forest use with the least scope of resource extraction,	Art. 54 (1, 2) compulsory forest management planning – what appears to be lacking is a reference to forest inventories as a key-source of information for the preparation of forest management plans. Also, different levels and scopes of forest planning (creating an interlocking planning-framework) should be more clearly men-	Article 54 is highly significant in that it stipulates **basic principles of SFM**. It should therefore be retained in a revised / new Forest Code - however, it had best been re-captioned, so as to highlight that the Forest Code's focus is on SFM, and that forest use – in whatever form – is but an incident of SFM, and serves long-term production-oriented goals of forest development, rather than demand-driven exploitation of

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
also diversified forest use and simultaneous application of several types of forest use. 4. The main requirements for forest use planning are based on the principles defined in this Code. 5. Forest use shall be carried out the ways not harmful for human health, the environment, biodiversity, animal wildlife, historic, cultural, and natural monuments. 6. Following goals shall be considered in planning forest use: a) conserving and improving of water preserving, water regulating, soil protecting, recreational, and other useful functions of forests; b) diversifying and sustaining use of the Georgian Forest Fund; c) conserving, restoring, and improving natural forest composition; d) using land under the Forest Fund in a rational manner; e) increasing effectiveness of forest use through improvement of technologies based on scientific research and experience sharing.	tioned. Art. 54 (3) underscores the long-term perspective of forest use, linking it more closely to silvicultural production, than to short-term, demand-driven timber harvesting. It likewise stipulates multi-purpose forest management. Art. 54 (5, 6) stipulate **basic goals of forest management**, and should be retained in a more prominent position within a revised / new Forest Code. Summarising the above, Art. 54 could be regarded as a generalised "national standard of forest management", or at least as its logical foundation. Several issues could be added, though: • a preference for natural regeneration • generalised restrictions on clear-felling, except under certain circumstances • a general requirement for close-to-nature forest management which closely mimics natural dynamics of forest ecosystems (use of indigenous / endemic tree species, site adapted stand composition & structure	forest resources. **See also previous recommendation on Chapter 9, Art. 31 – 34**.
CHAPTER 14. OBTAINING THE RIGHT FOR FOREST USE		There is little need for detailed procedural provisions for the issuing of forest use licenses within the Forest Code. The Law on Licenses and Permits (2005) provides a comprehensive, cross-sectoral framework for the issuing of licenses – and, consequently, only needs to be referenced in the Forest Code, with the addition of a statutory empowerment of the MoEPNR / State Forestry Dept. to issue regulations, license conditions and further rules.
ARTICLE 55. DOCUMENTS AUTHORIZING FOREST USE 1. Forest use license, contract, and ticket are the documents	Article 55 has been mostly rendered obsolete by the enactment of the Law on Licenses and Per-	Cf. general recommendation on Chapter 14.

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authorizing forest use (hereafter forest use documents). 2. Forest use license and ticket are issued and contract is signed based on the State Forest Fund Cadastre and forest management plans and in accordance with this Code. 3. Forest use license, contract and ticket enter the force upon issuance to the forest user. 4. Forest use license, contract and ticket are issued to a specific forest user. Transferring these documents to other users is unlawful. 5. Forest use license, contract and ticket define the following: a) location of authorized forest use; b) type of the authorized forest use; c) period of the authorized forest use; d) types and amounts of the resource to be extracted; e) allowed types and methods of resource extraction; f) resource rent and other fees charged on resource extraction; g) other rights and liabilities of the forest user; h) other conditions.	mits (2005) and the subsidiary rules issued thereupon. It appears also unnecessarily detailed (for a Forest Code), and to some degree redundant with the subsequent Article 56. Art. 4 of the Law on Licenses and Permits (2005) explicitly prohibits the award of any licenses or permits than those mentioned in the Law on Licenses and Permits. Art. 55 (1, 2, 3) Pursuant to the Law on Licenses and Permits (2005), documents authorising forest use include (i) General License, (ii) Special License for Timber Harvesting, (iii) Special License for Commercial Hunting Operations. No other licenses may be introduced. Art. 55 (4) Superseded by Article 20 (1) of the Law on Licenses and Permits (2005) – use licences are fully transferable, either whole or in part (cf. Art. 20 of the Law on Licenses and Permits, 2005).	
ARTICLE 56. SYSTEM OF FOREST USE DOCUMENTS The following documents are authorizing various types of forest use within territory of the State Forest Fund: a) license or ticket for timber extraction (forest use for timber production); b) contract for managing a forest plantation; c) license or ticket for producing wood products and secondary materials; d) contract or ticket for using non-wood resources; e) contract or ticket for agricultural use of forest areas within the State Forest Fund that are not allocated for agricultural use; f) contract for special forest use; g) contract for forest use for scientific research and education; h) contract for forest use for recreational, sport, and other cul-	This Article has been rendered obsolete by the coming into force of the Law on Licenses and Permits (2005) and the respective subsidiary legislation, esp. Resolution 132 "On Approval of the bylaw regarding rules and terms of issuing forest usage licenses" (August 11, 2005).	Cf. general recommendation on Chapter 14.

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tural purposes; i) contract for setting up a hunting range.		
ARTICLE 57. ISSUING A LICENSE FOR FOREST USE 1. License for forest use is issued to the winners of tender or auction for: a) short-term or long-term forest use for timber extraction; b) long-term forest use for producing wood products and secondary materials. 2. Of all types of cuts defined in this Code, final cuts and passage cuts are subject to licensing, excluding cases defined in Paragraph 7 of this Article. 3. Forest use license for more than five years is issued to the legal bodies on conditions requiring to conduct forest tending, protection, and forest restoration as included in forest management plans simultaneously with forest resource extraction. 4. Issuing more than one license for carrying out the same type of forest use in the same area of the State Forest Fund is unlawful. 5. License is processed through the State Registry and is issued to the tender or auction winner within two weeks from bid evaluation or auction date. 6. License for forest use within the territory of the State Forest Fund is issued by the State Department of Forestry, and license for forest use within the territory of an Autonomous Republic is issued by the Department of Forestry of this Autonomous Republic. 7. With the purpose of meeting social needs of local communities and upon decision of the State Department of Forestry final cuts may be allowed to holders of forest use permits.	Art. 57 (1 a) appears obsolete insofar as it refers to short-term forest use rights (see previous remarks). Art. 57 (2) appears obsolete insofar as it exempts various types of logging from the licensing requirement (cf. previous remark on Art. 53, 1 in reference to Art. 2, 3 of Government Resolution 132 of Aug. 11th, 2005). Art. 57 (3) This seems an appropriate provision in that it expands the scope of a long-term forest use right beyond mere timber harvesting, so as to confer a comprehensive management responsibility on the license holder (cf. Art. 8, 1 aa, ab of Government Resolution 132 of Aug. 11th, 2005). Art. 57 (5, 6, 7) have been superseded upon the coming into force of the Law on Licenses and Permits (2005) and the subsequent enactment of Government Resolution 132 (2005).	Cf. general recommendation on Chapter 14.
ARTICLE 58. CONTRACT FOR FOREST USE 1. Contract for long-term forest use is signed with a tender or auction winner by the State Department of Forestry. In the territory of an Autonomous Republic contract is signed with a tender of auction winner by the Department of Forestry of the Autonomous Republic in compliance with regulations set by the State Department of Forestry. 2. If activities defined in Sub-Paragraphs d), f), h), and i), Article 56, of this Code to be carried out within the territory of the State Forest Fund are subject to licensing according to Georgian	Art. 58 has been superseded upon the coming into force of the Law on Licenses and Permits (2005) and the subsequent enactment of Government Resolution 132 (2005). Art. 4 of the Law on Licenses and Permits (2005) explicitly prohibits the award of any licenses or permits than those mentioned in the Law on Licenses and Permits.	Cf. general recommendation on Chapter 14.

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legislation, contract for forest use is signed without conducting competitive bidding, based on the relevant license and in accordance with this Code. 3. Contract for forest use with the purposes defined in Sub-Paragraph i), Article 56, of this Code is signed for the period of license effectiveness. 4. Signing more than one contract for the same type of forest use within the same area of the State Forest Fund is unlawful. 5. Contract for forest use within protected areas is signed with a tender or auction winner by the State Department of Protected Areas, Natural Reserves and Hunting Ranges in accordance with the law of Georgia *"On the System of Protected Areas"*.		
ARTICLE 59. RULES FOR CONDUCTING COMPETITIVE BIDDING AND HOLDING AUCTIONS 1. Rules for conducting competitive bidding and holding auctions with the purpose of identifying prospective license holders and contractors are set by the President of Georgia. 2. A tender-winning candidate is identified on the basis of his/her bid's concurrence of with specifications included in the tender upon presentation of an environmentally sound, economically and technically most attractive project. If a single application for participation in bidding is received, a license is issued or a contract is signed in compliance with specifications included in tender. 3. Competition fails if no bidder complies with specifications included in tender. 4. Costs of participation in the competitive bidding are not reimbursed to the participants. 5. Priority is given to the bidder that had been carrying out forest use before tender was announced, had been complying with environmental regulations, and meeting responsibilities defined in forest use license. 6. An auction is held if the submitted bids are equally well complying with specifications included in tender and the winner cannot be identified. 7. The auction is won by the participant that conforms to conditions suggested by auction and is willing to pay highest amount for acquiring right for forest use. 8. Competitive bidding and auctions are prepared and held by the entities authorized for issuing forest use license. These	Art. 59 has been superseded upon the coming into force of the Law on Licenses and Permits (2005) and the subsequent enactment of Government Resolution 132 (2005).	Cf. general recommendation on Chapter 14.

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entities are responsible for transparency of competitive bidding and auctioning. 9. The "Regulations for Conducting Competitive Bidding and Holding Auctions with the Purpose of Identifying Prospective License Holders and Contractors" are prepared by the State Department of Forestry in agreement with the Ministry of Economy and submitted for Presidential approval by the State Department of Forestry.		
ARTICLE 60. FOREST USE BY A FOREST USE LICENSE HOLDER OR A CONTRACTOR A forest use license holder or a contractor is authorized to use forest after presenting the license or the contract document to the relevant regional offices of the forestry entities or the State Department of Protected Areas, Natural Reserves and Hunting Ranges.		Art. 60 should be retained within a new / revised Forest Code, however, it could be merged / integrated with a more streamlined presentation of the license holders' rights and obligations.
ARTICLE 61. FOREST USE TICKET 1. Forest use ticket is issued by the regional offices of the State Department of Forestry or the State Department of Protected Areas, Natural Reserves and Hunting Ranges respectively, or by local self-governing and governing bodies (for the Local Forest Fund) for carrying out activities specified in sub-paragraphs a), c), d), and e), Article 56, and Paragraph 7, Article 57 of this Code. 2. Forest use ticket authorizes forest user to extract timber through cleaning, thinning, sanitary, passage, reconstruction, and special cuts, as well as final cuts. 3. Forest use ticket is issued for one year and is in force till the end of the calendar year of its issuance. 4. Local population, physical and legal bodies are given priority for receiving forest use tickets.	Art. 61 has been superseded with the coming into force of the Law on Licenses and Permits (2005) and the subsequent enactment of Government Resolution 132 (2005). Art. 4 of the Law on Licenses and Permits (2005) explicitly prohibits the award of any licenses or permits than those mentioned in the Law on Licenses and Permits.	Cf. general recommendation on Chapter 14.
ARTICLE 62. RIGHTS AND LIABILITIES OF A FOREST USER 1. Forest user has the right to: a) use forest resources as specified in the document for forest use; b) demand conformance with conditions specified in the forest use contract; c) construct temporary premises of special use required	Art. 62 (1 e) and Art. 62 (2 a) would seem redundant, and rather self-evident besides. The underlying basic notion that all forest owners and licensed forest users should be uniformly obliged to abide by the Forest Code in all their forestry operations nevertheless seems very appropriate. Art. 62 (2 i) details the role license holders would have to play in forest law enforcement	Art. 62 provides a detailed clarification of a license holder's rights and obligations. In such it is very relevant to ensure transparency and facilitate both observance of the Forest Code, and its application and enforcement. It might nevertheless be streamlined and shortened. Except for a general explanation of the rights and obligations, a reference might be added to Art. 8 of Government Resolution 132 of Aug. 11th, 2005, as well as a more general reference to the applicable rules stipulated in the Law on Licenses and Permits (2005).

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for the allowed forest use in agreement with the entity authorized for forest management; d) use forest roads and other infrastructure for the allowed forest use; e) participate in forest tending, protection, restoration and afforestation, as well as in development of forest management plans and their implementation; f) get acquainted with the laws for forest use g) hold, use, and dispose of resources extracted through the allowed forest use. 2. Forest user is responsible for: a) getting acquainted with laws for forest use and conforming to them; b) carrying out forest use strictly in the manner, in the areas, in the scope, and in time specified in the forest use document; c) not impeding forest protection and preservation measures with his/her activities; d) conforming to fire safety rules, eliminating fire threat, and notifying relevant services on existing fire threat; e) using forest use methods and technologies not causing soil erosion, minimizing or not causing adverse effect on the environment, on the forest condition, and its regenerating capacity; f) caring for forest, protecting its resources and natural characteristics; g) conforming to the safety laws of forest use; h) conforming to the laws of forest tending; i) restricting unlawful forest use to the possible extent and notifying entities authorized for managing the State Forest Fund and/or law enforcement entities on the unlawful forest use; j) fully completing all works specified in the license for forest use.	and the suppression of the illegal use of forest resources. In such, it appears far more commensurate with the rights and capacities of non-state forest users (natural and legal persons under private law) than what is prescribed in Art. 10 (1 b) of the current Forest Code.	The Article could further be relocated to the part of the Forest Code dealing with forest governance, or – alternatively – to a consolidated chapter addressing forest ownership and resource tenure.
ARTICLE 63. GUARANTEES FOR PROTECTING THE RIGHT FOR FOREST USE	It would seem that the Law on Licenses and Permits does not provide for the termination of a license in the public interest. Surely, such option	Art. 63 (1, 2) should be retained within a new / revised Forest Code, however, it could be merged / integrated with a more streamlined presentation of the license holders' rights and

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1. Unlawful violation of the right for forest use given to the document holder is strictly forbidden. 2. If the right for forest use is unlawfully restricted, suspended and/or terminated, it shall be restored and losses incurred by the forest user shall be reimbursed. 3. If the right for forest use is terminated for meeting State or public needs, losses incurred by the forest user shall be reimbursed from the relevant budget allocation. 4. Restriction, suspension or termination of the right for forest use is allowed only in cases specified by Georgian legislation.	should exist, however, no respective clause was discovered in the course of the consultant's mission. Further investigation of this issue is required. The general protection of a license holder's rights under the Forest Code seems very relevant for ensuring legal security and avoiding conflicts / litigation over the exercise of a forest use license. However, all references in the current Forest Code to the restriction, suspension or termination of valid forest use rights exercised under a license need to be critically reviewed against the uniform / cross-sectoral and more recent provisions provided in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005).	obligations.
ARTICLE 64. RESTRICTION OR SUSPENSION OF THE RIGHT FOR FOREST USE The right for forest use may be restricted or suspended if: a) a forest user violates environmental legislation and/or conditions specified in the document for forest use; b) forest use related activities endanger health of population working or residing in the area of forest use; c) forest user violates safety rules established for forest use related activities; d) forest user does not pay taxes and fees for forest use on time; e) state of emergency is declared.	Art. 64 has been superseded by the more recent provisions in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005) – see previous remark on Art. 63.	Cf. general recommendation on Chapter 14.
ARTICLE 65. RULES FOR RESTRICTION OR SUSPENSION OF THE RIGHT FOR FOREST USE 1. Issuer of the forest use document is authorized to make decision on restricting and suspending as well as restoring the right for forest use. Issuer of the license shall notify a forest user on his/her decision in writing. 2. If the reason(s) causing restriction or suspension of right for forest use are eliminated within a period set by regional offices	Art. 65 has been superseded by the more recent provisions in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005) – see previous remark on Art. 63.	Cf. general recommendation on Chapter 14.

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of the State Department of Forestry or the State Department of Protected Areas, Natural Reserves, and Hunting Ranges (not exceeding 3 months), the right for forest use shall be fully restored. 3. If the right for forest use is not restored within three months, termination of the right for forest use is considered. 4. Disputes on restriction or suspension of the right for forest use are settled by a court decision.		
ARTICLE 66. TERMINATION OF THE RIGHT FOR FOREST USE The right for forest use is terminated if: a) conditions stated in the forest use document are violated or the document is expired; b) a document holder decides so; c) a license holder or a contractor holds right for carrying out economic activities in the forest for a long period of time (a year or more) and such activities turn out damaging to the State Forest Fund; d) environmental legislation is violated or circumstances change to become incompatible with the type of forest use defined and authorized by the forest use license; e) conditions for conducting competitive bidding or holding auction are harshly violated, conditions specified in the forest use license are unlawfully liberalized, or illegal deals for decreasing official payment are revealed; f) an enterprise holding forest use document is liquidated; g) a court acknowledges incapability or death of a document holder; h) a forest user evades or refuses to pay taxes and fees specified in the forest use document	Art. 66 has been superseded by the more recent provisions in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005) – see previous remark on Art. 63. Art. 66 (c) – notwithstanding the above remark – raises some critical questions: If a license holder does not violate the terms of his contract, and still there is undue damage to the forest – how would his rights be protected, and how would he be compensated for possible restrictions or the termination proper of his use right? As long as there are no clear definitions of what kind of damage may justify the termination of a contract, this provision might pave the way for misuse and coercion.	Cf. general recommendation on Chapter 14.
ARTICLE 67. RULES FOR TERMINATION OF THE RIGHT FOR FOREST USE 1. Issuer of the forest use document or its superior body are authorized to make decision on terminating the right for forest use based on solid arguments and a rational judgment in cases	Art. 66 has been superseded by the more recent provisions in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005) – see previous remark on Art. 63.	Cf. general recommendation on Chapter 14.

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specified in Article 66 of this code. 2. Issuer of the forest use document notifies a forest user upon the decision of terminating his/her right for forest use in writing and establishes a deadline until which a forest user can defend his/her interests. 3. The right for forest use is terminated upon deciding so by the issuer of the forest use document and notification of a forest user in writing. 4. If a forest user is requesting termination of his/her right, it is terminated within one month from receiving the forest user's written notification by the document issuer. 5. Disputes on the termination of the right for forest use are settled by a court decision.		

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CHAPTER 15. TIMBER PRODUCTION	Chapter 15 in a general perspective suffers from various drawbacks. To begin with, the caption timber "production" may be regarded as misleading, in that timber is actually *produced* through SFM in pursuit of long-term predetermined management objectives. "Timber harvesting" would therefore appear more appropriate and to the point. Semantics aside, the apparent separation of forest management and forest use / timber harvesting in the current Forest Code warrants critical reflection. If forest production / sustainable forest management is separated from forest use / timber harvesting, their functional interdependency is obscured / called into question. Applying the underlying rationale of close-to-nature, multi-purpose SFM, it seems virtually impossible to draw a clear line between forest management and forest use. Much the same applies to the separate presentation of highly detailed provisions on thinning (Chapter 30, Articles 99 – 106) which – although clearly related to "forest restoration and tending" (Title 5) nevertheless prescribe logging regimes and little else (see respective remarks below). This creates various overlaps and unnecessarily inflates the Forest Code. The dispersed presentation of contextually related aspects in the Forest Code also detracts from the Forest Code's overall accessibility and user-friendliness – unlike other pieces of legislation, the Forest Code is to be understood and applied by forest practitioners all the way down to the local / field level! Furthermore, the chapter suffers from a too high degree of resolution. A fair share of its provisions would seem more appropriate within a forest management regulation, technical guideline or silvicultural manual issued by the State Forestry Dept.	Chapter 15 appears inseparably linked with forest management, and should consequently be integrated in a consolidated title / chapter on SFM – if nothing else, to underscore the notion of multi-purpose management. The chapter should further be simplified, and cleared of all detailed silvicultural / technical provisions which would be more appropriately accommodated within an integrated, consolidated regulation / technical guideline / best-practices manual on SFM.

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ARTICLE 68. TIMBER PRODUCTION 1. In the territory of the Georgian Forest Fund timber production is carried out through final cuts and passage cuts in a sustainable manner and without damaging natural balance of forest ecosystem. 2. Timber may also be produced through cleaning, thinning, reconstruction, sanitary, and special cuts. 3. Final cuts are carried out in the stands of maturity age or over maturity age. 4. Cleaning, thinning, reconstruction, sanitary, and passage cuts are carried out in the stands specified in Articles 101 through 105 of this Code. 5. Special cuts are carried out if required for the purposes of allocating designated area or an area for special forest use as well as for providing population with fuelwood. 6. Slope limit for timber extraction from forests in Georgia is 35°. 7. The *"Regulations for Special Cuts and Establishing Rules for Carrying Out Special Cuts"* are prepared by the State Department of Forestry in agreement with the Ministry of Environment and are approved by the State Department of Forestry.	Art. 68 basically provides a (highly detailed) definition of timber harvesting, with various, mutually non-exclusive modes / types of harvesting prescribed. Art. 68 (4) is elaborated on in further detail in the subsequent fifth title, chapter 30, Articles 99 – 106. Art. 68 (6) appears redundant in view of the directly subsequent (and more specific) Art. 69.	
ARTICLE 69. SPECIAL REQUIREMENTS FOR FOREST USE BETWEEN SLOPE GRADIENTS 30° AND 35° 1. Forest use is allowed between slope gradient 30° and 35° only: a) after special study of possible effects; b) using cable roads, or in case of thinnings using animal power for transportation; c) with guaranteed forest restoration immediately following forest use. 2. Other regulations for forest use between slope gradient 30° and 35° are established based on the forest management plans and are mandatory for forest users.	Art. 69 prescribes management / logging restrictions applicable to sloped forest areas. Insofar as it refers to the prevention / mitigation of site-specific erosion hazards, it would seem more convenient to relegate Art. 69 to a consolidated title or chapter on basic (precautionary) rules for forest management.	
ARTICLE 70. FINAL CUTS 1. Final cuts for timber extraction are carried out only in forests fulfilling soil protection and water regulation functions, excluding floodplain forests.	Art. 70 implicitly restricts harvesting for other purposes than those outlined in Art. 68 (2) in forest areas defined in Art. 20 (3 a, b) and Art. 21 (2, 3) – notwithstanding the fact that timber	While there is no point in prohibiting clear-felling outright, clear-cuts above a certain area threshold should be made conditional on the prior approval of the competent forest authorities.

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2. Following are the categories of final cuts: a) clear cuts; b) gradual cuts; c) group-selective cuts; d) voluntary-selective cuts. 3. Clear cuts are carried out within the allocated forest area in the plain terrain with the slope gradient under 5° and imply concurrent felling of softwood species in those areas, excluding only young growing trees under age 20. 4. Gradual cuts are carried out within the allocated forest area with the slope gradient under 20° within a long period of time (30-40 years) and imply gradual thinning of forest cover evenly timed for the period of forest use. 5. Group-selective cuts imply clear cutting in small parts of the allocated forest area for a long period of time (20-40 years). 6. Guiding principles for designating and extending parts of allocating forest area for group-selection cuts are: even distribution of these parts over the entire allocated area, and maximized support to the natural regeneration of forest. Group-selective cuts are carried out within the areas with the slope gradient under 20°. 7. Voluntary-selective cuts imply gradual and evenly distributed felling of mature and over mature trees as well as trees with potential agricultural use within the allocated area.	obtained through measures listed in Art. 68 (2) may nevertheless be sold and processed for commercial purposes. The question remains why finals cuts (with the obvious exception of clear cuts) should be summarily prohibited e.g. in green zone forests? Art. 70 (3) restricts clear cuts to plain forest areas, however, it prescribes no further limitations e.g. regarding the maximum permissible size of the logging area. Clear-cuts – esp. on a larger scale - are controversial for the ecological problems they create, and tend to forestall long-term development of structurally diverse mixed forest stands. In various paragraphs of Art. 70, references to minimum tree-age classes are to be found. While the protection of immature timber seems wholly justified and appropriate, the use of tree age as a parameter in management-related decision making appears problematic in uneven-aged, structurally diverse and naturally regenerate forest stands.	
ARTICLE 71. IDENTIFICATION OF MATURITY AND OPTIMAL CUTTING AGES OF FORESTS Biological, quantitative, technical and other types of maturity and optimal age for final cutting for trees of the main forest species are approved by the State Department of Forestry in Agreement with the Ministry of Environment.	Cf. remark on Art. 70.	Why not stipulate minimum ages / dbh for each of the main species, or, to make it even simpler, for coniferous and broadleaved trees?
ARTICLE 72. ANNUAL ALLOWABLE CUT 1. The State Department of Forestry annually defines optimal amount of timber allowed for extraction through final cuts per year (hereafter annual allowable cut) within territories under jurisdiction of the Department's each regional office. Annual allowable cut is defined for the long term forest use and is based on the forest management plans. 2. Annual allowable cut is defined by the State Department of	Art. 72 (1) This seems rather inexpedient. Why should the AAC be determined annually? The AAC should be easy enough to determine on the basis of the 10 years' forest management plan, by firstly dividing the total cut for the planning period by the number of years, and by secondly making allowance for whatever deviations	Determination of the AAC is one of the focal elements of forest management planning. Such decisions ought to be taken as close to the resource base as possible, and communicated for official endorsement in a bottom-up fashion. It would seem advisable to integrate the provisions in Art. 72 with other provisions regarding forest management planning (cf. remarks and recommendations on Art. 27).

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Forestry in agreement with the Ministry of Environment and is approved by the State Department of Forestry. 3. Increasing or decreasing annual allowable cut may be done in agreement with the Ministry of Environment based on changes in the forest management plans, forest protection regime, forest categories, or other circumstances affecting forest condition and therefore forest management plans.	from the planned AAC may have occurred over the preceding years. Art. 72 (2) Since the AAC per FMU commonly is to be determined in the course of forest management planning (to be endorsed together with the plan), this provision effectively makes forest management planning an official duty of the State Dept. of Forestry. Art. 72 (3) Instead of such an indeterminate rule which seems open to the widest possible interpretation (and thus highly prone to producing conflicts), there should be a simple statement of those circumstances as necessitate an official revision of the forest management plan (e.g. damage caused by storms, pests or fire which exceeds a certain percentage threshold of the total allowable cut for the plan's period).	
ARTICLE 73. CUTTING AREA AND ALLOCATING CUTTING AREA FOR A FOREST USER 1. Cutting area is allocated for one year and a forest user receives authorization for extracting cutting volume for the same period of time. 2. Overexploiting cutting area is allowed only if it has been under-exploited in the previous year. 3. The regional offices of the entities defined in Article 15 and 16 of this Code allocate a cutting area to a forest user in accordance with the *"Regulations on Allocation of Standing Timber"* upon his/her presenting document for forest use. 4. Based on the agreement with the physical and/or legal bodies, entities defined in Articles 15 and 16 of this Code can use financial resources offered by these bodies for allocating cutting area within territories under their jurisdiction. 5. An investor (candidate) is given priority in receiving license for forest use if his/her financial resources have been used for allocating cutting area. 6. If an investor fails to receive license for forest use, his/her expenses for allocating cutting area are reimbursed by the winner.	Art. 73 suggests that the exercise of use rights by a licensed forest user would be conditional upon the annual allocation of cutting areas – apparently in addition to the management schedule prescribed in the (officially endorsed) management plan. In this respect, Art. 73 (4) adds a restriction to the more general rule stipulated in Art. 60. There is no indication that Art. 73 would apply to final cuts only, therefore it must be assumed that all management measures involving the removal of trees would be subject to the stated requirement. Art. 73 (5, 6) appear somewhat out of context, as they refer to the licensing procedure itself, rather than to the allocation of cutting areas to an already licensed forest user. In this regard, they are most likely superseded by the Law on Licenses and Permits and the respective Government Resolution 132 (2005).	Art. 73 should be reconsidered and preferably replaced with a more flexible arrangement, to the effect that for management operations (including timber harvesting) pursuant to an approved forest management plan no separate authorisations or permissions would be required. In this respect, Art. 9 (4) of Government Resolution 132 (2005) should be critically reviewed, and amended.

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ARTICLE 74. RULES OF FOREST USE FOR TIMBER PRODUCTION To provide for forest use for timber production, the State Department of Forestry: a) in agreement with the Ministry of Environment prepares and submits for Presidential approval the *"Regulations for the Final Cuts"*; b) prepares in agreement with the Ministry of Environment and approves the *"Regulations for Defining Annual Allowable Cut"*; c) prepares and approves in agreement with the Ministry of Environment the *"Regulations for Restricting, Banning, and Restoring the Right for Forest Use"*; d) prepares and submits for Presidential approval the *"Regulations on Allocation of Standing Timber"*; e) prepares and approves the "Regulations for Allocation of Cutting Areas".	Art. 74 (a) See also the general remark on chapter 15. Art. 74 (b) Why should a separate regulation on the determination of the AAC be required? Should not this aspect be covered as part of a more comprehensive regulation / technical guideline on forest inventory & management planning, as is currently under preparation by the State Forestry Dept.? Art. 74 (c) has been superseded by the detailed provisions of Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005). Art. 74 (d) In what ways would the "allocation of cutting areas" (as referred to in Art. 73 and Art. 74, e) be different from the "allocation of standing timber"? Are these two clauses redundant, or does Art. 74 (d) refer to a different kind of use right, short of a forest use license? In this latter case, the clause would be obsolete pursuant to Art. 4 of the Law on Licenses and Permits (2005).	See recommendation on Art. 49.
CHAPTER 16. FOREST PLANTATIONS		Chapter 16 should preferably be integrated in a consolidated title / chapter outlining the basic principles / standards of close-to-nature, multi-purpose SFM. See also previous recommendation on Chapter 15.

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ARTICLE 75. FOREST PLANTATIONS 1. Forest plantations are designated for long-term forest use and imply producing optimal amounts of wood products and other plant resources in the territory of the State Forest Fund. 2. Selection of plant species for starting a forest plantation is carried out based on the contract for forest use and in accordance with Georgian legislation. 3. Use of resources extracted from the forest plantation is based on the contract for forest use. ARTICLE 76. RULES OF FOREST USE FOR MANAGEMENT OF FOREST PLANTATIONS The rules of for management of forest plantations are set by the *"Regulations for Managing Forest Plantations"* prepared by the State Department of Forestry.	Art. 75 implicitly operates on a distinction between artificial and (semi-) natural forests, assigning the former a narrowly defined economic function and submitting plantation forests to a specific management regime (Art. 76). Articles 75 and 76 raise several questions. Why should planted forests be managed differently from (semi-)natural forests? Does not Art. 75 underrate the environmental and socio-economic functions of planted forests? There is also a certain risk that, instead of investing into the long-term rehabilitation of degraded secondary forests or the gradual improvement of the functional properties of existing forest stands, investors could tend to replace existing forest cover with more schematic / efficiently manageable and faster-growing forest plantations.	Basic rules and standards of close-to-nature, multi-purpose SFM should be uniformly and evenly applied to all types of forests, including artificially established plantations. While there is little need for restrictive and highly specific regulations on "plantation management", simple & flexibly enforceable safeguards should be applied in the Forest Code, including • a general preference for natural regeneration • use of site-adapted, preferably endemic tree species • use of approved seeds / seedling material • an area-threshold for forest plantations, above which prior authorisation by the competent forest authorities should be required • due caution in the replacement of existing forest vegetation with planted forests (including improvement planting) – see also Art. 105.
CHAPTER 17. PRODUCING WOOD PRODUCTS AND SECONDARY WOOD MATERIALS		See previous recommendation on Chapter 16.
ARTICLE 77. PRODUCING WOOD PRODUCTS AND SECONDARY WOOD MATERIALS 1. Technology of producing wood products and secondary wood materials shall conform to the Georgian legislation on the Georgian Forest Fund and biodiversity conservation. 2. Forest use for producing wood products and secondary wood materials is carried out based on the forest management plans and the resource inventory. 3. Wood products and secondary wood materials are intended for further processing, for sale to individual citizens, or other commercial purposes and shall be produced in accordance with this Code and the Georgian legislation. 4. Producing wood products and secondary wood materials is carried following the *"Regulations for Producing Wood Products and Secondary Wood Materials"*. These regulations are prepared and approved by the State Department of Forestry in agreement with the Ministry of Environment.	Art. 77 basically refers to non-timber forest products (NTFP). The rules stipulated in Art. 77 closely reflect those presented in Art. 68. The added value of Art. 77 does not become sufficiently clear.	While appropriate in itself, general rules presented in Art. 77 should be streamlined / simplified and integrated in a new / revised Forest Code – preferably in a consolidated title / chapter on forest management including various types of forest use.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 78. AGRICULTURAL USE OF WOOD PRODUCTS Agricultural use of wood products by regional offices of the State Department of Forestry or the State Department of Protected Areas, Natural Reserves and Hunting Ranges does not require a forest use document.	Art. 78 seems of little practical value, because it remains to unspecific as to what NTFP would be used for agricultural purposes. As far as the supply of fire-wood to the forest dependent local population is concerned, a general exemption from the licensing requirement is already reflected in the more recent Art. 2 (3) of Government Resolution 132 of Aug. 11th, 2005.	Given the strong dependency of the local population on a wide variety of forest products in rural Georgia, a predictable, sustainable supply of NTFP for the preservation / improvement of rural livelihoods. This would also be a priority function of local forests (see respective previous remarks and recommendations). In any case, the Forest Code should enable / encourage simplified silvicultural regimes adapted to the needs of the local population (esp. in local forests) such as coppice-type management or coppice with standards besides the usual high-forest system more commonly associated with "regular" or "modern" forest management. Such management regimes may still be conducted in a sustainable fashion, and – depending on the prevailing site conditions and the users' needs – may still yield a wide range of environmental (including ecological) and socio-economic benefits.
CHAPTER 18. USE OF NON-WOOD RESOURCES OF THE STATE FOREST FUND	Why should the provisions of Chapter 18 be applicable to the State Forest Fund only, instead of to the entire PFE?	Basic management rules as presented in a new / revised Forest Code should be uniformly applicable to the Georgian Forest Fund.
ARTICLE 79. USE OF NON-WOOD RESOURCES OF THE STATE FOREST FUND 1. Use of non-wood resources of the State Forest Fund is carried out based on the forest management plans and scientific research data on these resources. 2. Techniques of using non-wood resources of the State Forest Fund shall conform to the Georgian legislation on the State Forest Fund and biodiversity conservation. 3. Use of non-wood forest resources of the State Forest Fund is carried out following the *"Regulations for Use of Non-Wood Resources of the State Forest Fund"*. These regulations are prepared and approved by the Ministry of Environment in agreement with the State Department of Forestry.	Cf. remark on Art. 77.	Cf. recommendation on Art. 77.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
CHAPTER 19. AGRICULTURAL USE OF THE STATE FOREST FUND	See previous remark on Chapter 18. Given the substantial share of agricultural areas currently included in the State Forest Fund, additional agricultural uses of forest areas should be critically reviewed. They may carry significant risks for the vitality and health of forest stands, as well as for the functional integrity of forest ecosystems. Grazing, extracting fodder and litter and the upper soil layers can add up to a negative impact on natural regeneration, species composition and structural characteristics, and soil fertility (particularly when grazing involves sheep and goats).	See previous recommendation on Chapter 18. See also previous remarks & recommendations, esp. on Art. 19, 32, 51.
ARTICLE 80. USE OF AGRICULTURAL LAND PARCELS BELONGING TO THE STATE FOREST FUND An order of issuing permits for using agricultural land parcels of the State Forest Fund is defined by this Code, the law of Georgia *"On the Ownership of Agricultural Land Parcels"*, and the Presidential Decree #446 of August 2, 1998 *"On Transferring State-Owned Agricultural Land Parcels to a Lease"*.	The inclusion of areas dedicated to land-uses other than forestry / SFM in the State Forest Fund / the PFE should be critically reviewed. See also previous remarks & recommendations on Articles 19 and 32.	
ARTICLE 81. AGRICULTURAL USE OF THE STATE FOREST AND LANDS OF THE STATE FOREST FUND DESIGNATED FOR FORESTRY, FOR SPECIFIC USE, OR STAYING IDLE 1. Agricultural use of the State forests and lands of the State Forest Fund designated for forestry, for the specific use, or staying idle implies their use as meadows, pastures, arable land, for planting perennial orchards, for constructing temporary cattle cribs and other premises. 2. Permit for agricultural use of State forest and lands of the State Forest Fund designated for forestry, for the specific use, or staying idle is issued based on the forest management plans and in accordance with Subparagraph e), Article 56, of this Code by the authorized entities specified in Articles 15 and 16 of this Code or by their subordinate bodies. 3. Local population is given priority in receiving a ticket for agricultural use of State forests and lands of the State Forest Fund designated for forestry, for the specific use, or staying	See general remark on Chapter 19. The permit / ticket requirement mentioned in Art. 81 (2, 3) seems difficult to reconcile with the Law on Licenses and Permits (2005) and the subsequent Government Resolution 132 (2005).	Procedural requirements regarding the allocation of agricultural use rights in respect of State Forests / the State Forest Fund / the PFE need to be brought in line with the more recent cross-cutting enactments on licenses and permits. Nobody but the local population should at all be allowed to enjoy rights of this kind (specifically farming & grazing rights) within the PFE. While it may not be a realistic proposition to summarily restrict agricultural use of the PFE in the foreseeable future, the Forest Code should at least prevent the establishment of new agricultural use-rights, and a buy-out scheme aiming to compensate users willing to give up their agricultural use-rights should be considered with a view to phasing out potentially destructive practices such as grazing in the long run.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
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CHAPTER 20. SPECIAL USE OF THE STATE FOREST FUND	See previous remark on Chapter 18.	See previous recommendation on Chapter 18.
Article 82. Issuing Permit for Special Use of the State Forest Fund 1. Forest user carries out special use of the State Forest Fund based on the contract for forest use in the manner least harmful for the State Forest Fund. 2. Contractor carrying out special use of the State Forest Fund covers the cost of utilized resources as well as the cost of damage made to the forest resources. 3. State Department of Forestry develops regulations for special use of the State Forest Fund on case-by-case basis in accordance with this Code and considering interests of the forest user.	According to Art. 2 (3) of Government Resolution 132 (2005), the exercise of special uses within the State Forest Fund is not require a forest use license. According to Art. 2 (4.1, 4.2) of Government Resolution 132 (2005), the allocation of special use rights requires a "simple administrative procedure" by the MoEPNR following a respective recommendation by the State Commission on Land Use and Protection. This supports the previous interpretation that any decision on special forest uses would essentially be a **land-use decision**, rather than one about forest management – at least in those cases where the exercise of a given type of special use presupposes the temporary / permanent conversion of forest areas. The types of special use specified in Art. 2 (3.1 a) of Government Resolution 132 (2005) may nevertheless be subject to other licensing requirements arising from the Law on Licenses and Permits (2005), as well as to the requirements stipulated in Government Regulation 154 (2005).	Art. 82 (as well as previous provisions regarding the allocation / exercise of special use rights) needs to be harmonized with relevant enactments from the recent past, specifically the Law on Licenses and Permits (2005), Government Resolution 132 (2005) and Government Regulation 154 (2005). Within the Forest Code, provisions for the allocation / exercise of special use rights should at least be integrated and streamlined – preferably, they should be made part of a chapter / article prescribing (tight) restrictions on the conversion of forest areas.
CHAPTER 21. FOREST USE FOR SCIENTIFIC RESEARCH AND EDUCATION		It may be assumed that forest-related research (both basic, and applied) as well as forest / environmental education are

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 83. FOREST USE FOR SCIENTIFIC RESEARCH AND EDUCATION 1. The Georgian Forest Fund may be used for scientific research and education. 2. Scientific research and education institutions contracted by the State are granted the right for forest use without inviting bids. 3. When issuing documents for forest use for scientific research and education, priority among the institutions defined in paragraph 2 of this Article is given to those intending to study and research resources of the State Forest Fund.	Art. 83 (3) Why should there be a legal preference for forestry research / education in the State Forest Fund?	essential instruments in achieving the Forest Code's stated goals (Art. 3). Close-to-nature, multi-purpose SFM by definition means forest management on a scientific basis. Rather than being regulated or restricted, forest research and education should be encouraged and promoted, and the expansion / dissemination / application of forest-related knowledge in various forms (including basic standards, best-practices etc.) should consequently be principal responsibility of State bodies charged with forest governance. Chapter 21 should reflect this notion more clearly (although in a less detailed fashion), and elaborate rather on **creating conducive framework conditions and incentives for forest research and education** (public as well as private, or by civil society stakeholders).
ARTICLE 84. CARRYING OUT FOREST USE FOR SCIENTIFIC RESEARCH AND EDUCATION 1. A forest user with a status of a State institution that carries out forest research is authorized to use information held by the State bodies managing the State Forest Fund without charge if not otherwise specified by the Georgian legislation. 2. A forest user with a status of a State institution that carries out forest research is obligated to disclose information on the State Forest Fund and its condition owned by this institution to the State Forestry Department without charge in accordance with Chapter 8 of this Code. 3. State scientific research institutions and schools using the State Forest Fund and its resources with the purpose of research are eligible for the preferences defined by the Georgian legislation. 4. Carrying out scientific research and observations in the territory of the State Forest Fund that do not affect the State Forest Fund and its resources are free of charge and do not require a special permit. 5. Information generated by a physical body or by a legal body of the private law, which is specified in Paragraph 2 of this Article, is a property of this body and may be published only in agreement with the owner. 6. General framework for carrying out scientific research and education in the territory of the State Forest Fund is outlined in	Art. 84 (1) would appear redundant, given the more general rules in Art. 35 on the public disclosure of information regarding the Georgian Forest Fund. Art. 84 (2, 5) do not concern the exercise of forest-research or education, rather they refer to matters of copyright and intellectual property rights. Why should such issues be addressed within a Forest Code? Art. 84 (4) what are the preferences mentioned, and which legal sources would be applicable? Art. 84 (4) seems too indeterminate to be of much practical use.	Art. 84 should be simplified, streamlined, and preferably replaced with basic rules regarding the promotion of forest research and education. There might be one exception, though, regarding applied research for the purpose of utilising / exploiting genetic resources for chemical or pharmaceutical (or similarly commercial) purposes unrelated to forest governance and forest management in a narrower sense (bio-prospecting). It may be assumed, however, that such issues are dealt with in other legal sources, and – except for a basic reference to the applicable statutory laws – there would be little need to elaborate on the use of genetic resources within a Forest Code.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
the *"Regulations for General Framework for Carrying Out Scientific Research and Education in the Territory of the State Forest Fund",* which is prepared and approved by the State Department of Forestry.		
CHAPTER 22. FOREST USE FOR RESORT, RECREATION, SPORT, AND OTHER CULTURAL AND HEALTH IMPROVING ACTIVITIES		The Forest should more clearly distinguish between private / non-commercial recreational / sport / cultural health uses, and organised activities with a commercial focus. Paramount principles would include the avoidance of forest damage and undue obstruction of regular SFM operations, as well as protection of the forest owners' property rights.
ARTICLE 85. FOREST USE FOR RESORT, RECREATION, SPORT, AND OTHER CULTURAL AND HEALTH IMPROVING PURPOSES 1. The State Forest Fund may be used for recreation, sport, and other cultural purposes as well as for raising environmental awareness and for generating significant economic benefits. **2.** Construction of buildings and supporting facilities, installing equipment, and carrying out other civil works for recreational, sport and other cultural purposes are done on the contractual basis.	Inasmuch as Art. 85 (1) applies to the (non-commercial) recreational use of forest areas by private citizens, it seems to overlap contextually with the subsequent Chapter 24 / Art. 88. Once again, the narrow application to State forests appears questionable. However, commercial or otherwise organised recreational activities raise several – potentially critical – issues, e.g. liability in case of accidents and damage to forest areas or installations, disposal of waste, restrictions on regular forest operations, disturbance of wildlife and vulnerable habitats, benefit sharing with forest owners or licensed forest users etc. In this regard, Chapter 22 / Art. 85 (1) intersect with the subsequent Chapter 23. Art. 85 (2) raises concerns insofar as the construction of buildings and other recreational facilities may involve the conversion of forest areas. In this regard, construction works within forest areas may be subject to environmental licensing pursuant to Art. 1 of Government Regulation 154 of Sept. 1st, 2005.	Non-commercial recreational use of forest areas by individual citizens: Art. 85 should be streamlined / integrated with the subsequent Art. 88 (see subsequent remarks & recommendations on Art. 88). Commercial recreational use: Rules on forest conversion apply to the construction of building and establishment of installation. Supplementary provisions should be added to a new / revised Forest Code regarding at least: • A restriction of liability for forest owners regarding accidents, or damages suffered by third parties • A general liability of the commercial operator / investor for damage to forests or forest-related installations resulting from recreational or similar uses (including the obligation to provide securities) • The investor's / operator's obligation to dispose of waste, oversee / ensure their clients' compliance with forest protection rules • A benefit sharing ratio ensuring adequate benefits for forest owners The respective rules should be applicable on the entire Georgian Forest Fund.
CHAPTER 23. ALLOCATION OF HUNTING RANGES		Wildlife management and hunting are closely and obviously

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 86. ALLOCATION OF HUNTING RANGES WITHIN THE STATE FOREST FUND 1. Besides the Ministry of Environment of Georgia, entities defined in Articles 15 and 16 of this Code as well as legal bodies are authorized to carry out inventory of animal wildlife within the territories under their jurisdiction or within specific areas of these territories with the purpose of allocating a hunting range if such inventory has not been carried out in accordance with Paragraph 2, Article 29 of the Georgian law *"On Animal Wildlife"*. 2. Use of the State or local budget resources or private funding is eligible for the purpose specified in Paragraph 1 of this Article. 3. If private funding is used for inventory of animal wildlife: a) an investor (candidate) is given preference in receiving a license defined in Articles 29 and 46 of the law *"On Animal Wildlife"*; b) if investor fails to receive a license, his/her expenses for inventory of animal wildlife are reimbursed by a license holder. 4. Data obtained from the inventory of animal wildlife in accordance with Paragraph 1 of this Code are regarded to as a basis for issuing license defined in Articles 29 and 46 of the law "On Animal Wildlife" and for statutes and order defined in Paragraph 3, Article 28 of the same law. 5. The "Regulations and Methodology for Inventory of Animal Wildlife in the Territory of the State Forest Fund" are prepared and approved by the Ministry of Environment in agreement with the State Department of Protected Areas, Natural Reserves and Hunting Ranges.	Procedural aspects of licensing aside (see various previous remarks and references to the Law on Licenses and Permits, 2005 and Government Resolution 132, 2005), the allocation of (commercial) hunting rights on parts of the State Forest Fund (or any forest area, for that matter) raise concerns in regard to the health and vitality of forests and the functional integrity of forest ecosystems. The award of a special license for hunting (or the exercise of hunting rights on part of an area subject to a general license) implies that commercial hunting as a priority function takes precedence over sustainable, multi-purpose forest management. If hunting rights are to be exercised in a commercially viable fashion, certain game species will inevitably be in the focus of the license holder's management, including the need for (probably) supplementary feeding, and (potentially) veterinary care for game populations. Population size of commercially relevant game species is likely to be pushed beyond a forest area's ecological carrying-capacity, with related problems of forest damage caused by cloven-hoofed ruminants. Such a scenario holds serious implications for natural forest regeneration and the preservation of accessory vegetation – even beyond the immediate license area, unless hunting areas can be sealed off from the surrounding forest areas. Where hunting license areas happen to border on farmland, crop-damage may become a serious issue. A critical issue in this regard is the general prohibition of hunting outside specially designated hunting areas (e.g. so-called "hunting economies"; cf. Art. 28, 4 of the Law on Wildlife, 1996).	related to SFM and the purposes of the Forest Code. For one, forest-borne animal wildlife forms an inseparable part of the forest ecosystems' biodiversity, to the protection of which the Forest Code is explicitly committed. On the other hand, cloven-hoofed ruminants – especially when managed as game species for commercial purposes – may cause significant damage to the vitality and health of forest stands, and my – depending on the circumstances – obstruct the achievement of basic goals of close-to-nature forest management (esp. with regard to possible adverse impacts on the natural regeneration, species composition, timber quality and accessory vegetation of forests). To prevent such – potential – problems from turning manifest and developing into management / land-use conflicts, adequate safeguards and targeted measures should be added to a new / revised Forest Code (notwithstanding the fact that wildlife management and hunting are themselves governed by other statutory laws and normative acts). It would seem that the Law on Wildlife (1996) and the accessory rules and regulations issued thereunder are themselves in need of revision / amendment and streamlining with more recent legislation (at least in regard to the licensing procedures stipulated therein). This, however, goes beyond the consultant's mandate to comment on the current Forest Code and develop recommendations in respect thereof. For this reason, the discussion of remarks and recommendations on hunting rules as part of a new / revised Forest Code must stop at highlighting potential problems, recommending basic safeguards and provisions in support of close-to-nature, multi-purpose SFM, and underscoring the need for an integrated, cross-sectoral review of the relevant wildlife legislation.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 87. CONTRACTING FOREST USER FOR ARRANGING AND MANAGING A HUNTING RANGE Contract on forest use for arranging and managing a hunting range is signed between an entity specified in Articles 15 or 16 of this Code and a holder of a license defined in Articles 29 and 46 of the Georgian law on *Animal Wildlife* for the term of license effectiveness. This contract obligates: a) compliance of hunting range management with a license and preventing damage to the State forest; b) protecting animal wildlife on the territory of a hunting range on the expenses of a license holder.	Insofar as Art. 87 prescribes rules and procedures for the award of (commercial) hunting rights within the State Forest Fund, it has been superseded by the more recent Law on Licenses and Permits (2005) and Government Resolution 132 (2005). The same would apply to the referenced Articles 29 & 46 of the Georgian Law on Wildlife (1996).	
CHAPTER 24. PRESENCE OF CITIZENS IN THE FOREST		Chapter 24 should preferably be integrated with Chapter 22.
ARTICLE 88. PRESENCE OF CITIZENS IN THE FOREST 1. Presence of citizens in the forest is not regarded as forest use. 2. Any citizen has a right to enjoy the natural environment of the forest. 3. Citizens have a right to: a) enter and freely move around the forest if not otherwise stated by the Georgian legislation; b) collect non-wood resources and secondary products for the personal use; c) use forest environment for recreation, tourism and aesthetic enjoyment. 4. Citizens are required to: a) care for forest and protect its assets; b) comply with fire safety rules; not break or cut trees and shrubs, not affect forest flora, not litter or otherwise damage the natural environment. 5. Presence of citizens in the forest, collecting non-wood resources and other rights of citizens to the State Forest Fund may be restricted by entities or regional offices of the entities defined in Articles 15 and 16 of this Code in cases specified in this Code and by the Georgian legislation.	If, according to Art. 88 (1), the presence of citizens in forest areas is not be regarded as "forest use", why is Chapter 24 subsumed under the Forest Code's fourth title? Art. 88 (3 a) The reference to "Georgian legislation" appears too unspecific and indeterminate to be of much practical value. Would it not seem more appropriate (with a view to creating legal security) to specify in general terms those circumstances as would justify the closing of forest areas to public access? Art. 88 (3 b) – however appropriate in itself – may require a clearer distinction from the rules stipulated in Chapter 18, as well as a more operational phrasing to prevent possible conflicts with Art. 88 (4 b). Art. 88 (5) – see previous remark on Art. 88 (3 a).	Art. 88 in its current form appears adequate to protect and encourage the general public's rights of access and forest recreation. As a general rule of thumb, precautionary restrictions / prohibition should be limited to a necessary minimum, specifically to those recreational uses, as can be expected to conflict with basic objectives of forest protection and sustainable management (details to be addressed in accessory regulations & guidelines), e.g. • The use of motor-vehicles • Horse-riding (with a view to preventing damage to forest roads) • Camping • Access to vulnerable habitats or rare biotopes in need of protection, or forest young-growth / regeneration areas (which in this case would have to be properly designated & marked); restrictions could be seasonally limited • Access to logging areas or forest areas damaged by storms / snow (to prevent safety hazards and accidents)
CHAPTER 25. SPECIAL FEATURES OF FOREST USE		Chapter 25 should best be integrated within a consolidated title / chapter setting basic standards of SFM.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 89. SPECIAL FEATURES OF FOREST USE IN THE STATE BORDER AREA Forest use in the State Border area is carried out in accordance with this Code and with a law of Georgia *"On the State Border of Georgia"*.		
ARTICLE 90. FOREST USE IN A WATER PROTECTION AREA Forest use in water protection areas is carried out in accordance with the Georgian law *"On Water"* and the Georgian marine legislation.		Precautionary provisions on forest management could include, inter alia: (i) prohibition of clear-felling, (ii) prohibition of the use of pesticides and herbicides, (iii) mandatory use of bio-degradable fuels, lubricants and hydraulic oils, (iv) restrictions on the use of heavy machinery (esp. skidders), and the need to use low pressure tyres or animal force for the extraction of timber. See also previous remarks & recommendations regarding basic principles and standards of close-to-nature, multi-purpose SFM.
CHAPTER 26. TAXATION AND CHARGES FOR FOREST USE		

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 91. TAXATION AND CHARGES FOR FOREST USE 1. Forest use is chargeable. 2. Forest use charges comprise the following: a) stumpage fee; b) service fee for preparing documents authorizing forest use, including expenses on allocation of cutting area; c) payment for covering organizational arrangements that are imposed on any participant of a competitive bidding or an auction held with the purpose of identifying prospective license holders or contractors; d) other expenses defined in the Georgian legislation. 3. The "Regulations for Preparing Documents Permitting Forest Use, Expenses for Allocating Cutting Areas and Charging Payment for Recovering Costs for Allocation of Cutting Areas" are prepared by the State Department of Forestry in agreement with the Ministry of Finance and the Ministry of Economy and is approved by the State Department of Forestry.	Contrary to what its caption suggests, Art. 91 does not address taxes levied on forest use. The captioning, in this respect, appears confusing. Art. 91 (2) refers to forest revenue payable by a duly licensed holder of forest use rights in addition to fees and charges (including the auction price, cf. Art. 7 of Government Resolution 132, 2005) levied for the award of a forest use license. Art. 8 (1 ac) of Government Resolution 132 (2003) refers to a "natural resource usage fee", although in passing and without any further specific reference to applicable rules and regulations. According to information obtained from MoEPNR staff during the consultant's mission, a regulation listing stumpage fees and other charges by timber species is currently in force – however, this regulation could not be unambiguously identified during discussions, and no authoritative English translation could be obtained. It must remain open whether the citation in Art. 91 (3) refers to the said regulation on forest revenues, or to a more general regulation regarding fees for the use of natural resources. Further investigation of this matter is clearly required.	Articles 91 and 92 should be simplified and streamlined with other provisions regarding the granting / exercise and use rights free of charge. They should preferably be integrated with a single, consolidated chapter / article outlining basic principles and requirements of forest use.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 92. EXEMPTION FROM TAXES AND CHARGES FOR FOREST USE AND UTILIZATION OF FOREST RESOURCES Forest use is free of charge for: a) carrying out measures specified in Articles 78 and 106 of this Code by the entities and regional offices of the entities defined in Articles 15 and 16 of this Code. b) State-ordered scientific research and educational activities; c) collecting brushwood, wild fruits, berries, nuts, mushrooms, and medical plants by citizens for their personal (non-commercial) use; d) utilizing forest resources by forest protection personnel for their personal (non-commercial) use.	As regards the reference to taxation, see previous remark on Art. 91. Art. 92 (b, c) overlap with / recount similar provisions in Art. 84 (4) and Art. 88 (1) of the current Forest Code, and thus appear redundant.	
CHAPTER 27. TIMBER HARVESTING CERTIFICATE		
ARTICLE 93. TIMBER HARVESTING CERTIFICATE 1. Timber harvesting certificate is issued to all vehicles carrying out primary transportation of timber extracted from the State Forest Fund in agreement of this Code. 2. Timber harvesting certificate is issued by the authorized forest protection personnel of the regional offices of the State Department of Forestry and the State Department of Protected Areas, Natural Reserves and Hunting Ranges, or of the local governing and self governing bodies (if timber is produced in the Local Forest Fund). Timber harvesting certificate is a single mandatory and sufficient document certifying legal ownership of the extracted timber. 3. Primary timber processing as well as transporting and selling products of primary timber processing is illegal without a timber harvesting certificate. Timber harvesting certificate shall be presented to the body authorized by the Georgian legislation upon his/her request. 4. Format and procedures for issuing a timber harvesting certificate are defined in the *"Regulations on the Timber Harvesting Certificate and Procedures for Issuing This Certificate"*. These regulations are prepared by the State Department of Forestry in agreement with the Ministry of Interior and are approved by the State Department of Forestry.	The timber harvesting certificate as a basic proof of legal ownership / possession and an authorisation for timber transport and downstream processing must not be confused with the voluntary certification of SFM mentioned in Art. 94.	The timber harvesting certificate referred to in Art. 93 provides an important instrument in the fight against illegal logging and timber trafficking, and seems indispensable for forest governance and law enforcement (FLEG). Given the strong export orientation of Georgia's timber industry, it seems relevant also to Georgia's participation in international timber markets, as well as for meeting obligations arising from international instruments and multi-lateral processes and regimes such as, for example, the EU-FLEGT Action Plan or the Europe-North Asia FLEG (ENA-FLEG). With a view to enhancing the overall accessibility and user-friendliness of the Forest Code, Art. 93 should either be relocated to a consolidated title / chapter on forest governance and forest law enforcement.
ARTICLE 94. VOLUNTARY CERTIFICATION OF FORESTS	Forest certification in the sense of an independ-	Forest (management) certification is a widely accepted in-

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
1. Voluntary certification of forests, forest resources and management techniques for the Georgian Forest Fund is allowed for the physical bodies and legal bodies of private law. 2. Regulations for the voluntary certification of forests are developed by public organizations in accordance with the Georgian legislation.	ent, third-party verification of the compliance with SFM standards applicable under various international / regional forest certification schemes (e.g. FSC, PEFC etc.) by definition is a voluntary, market-based instrument. In such, it is set apart from (i) public forest governance, and (ii) general principles, rules and standards of SFM defined within the Forest Code (i.e. the "legal minimum" any forest owner or licensed forest user would have to meet, regardless of whether or not he/she voluntarily undergoes forest certification). Due to the specific nature and underlying rationale of forest certification, there are obvious limitations for legal provisions on Forest Certification within a Forest Code. Specifically, it cannot be reasonably made obligatory, and the Forest Code should abstain from prescribing or recommending individual certification schemes.	strument to improve forest management standards and practices beyond the legally prescribed minimum, and enables the pursuit of certified forest products through various stages of processing and market transactions to retailers and end-users (chain-of-custody certification, CoC). Forest certification complements public forest governance in the narrower sense, and appears fully in line with the goals of Forest Code (cf. Art. 3). Within a new / revised Forest Code, forest certification should not merely be allowed (as stated currently in Art. 94, 1), but pro-actively promoted and encouraged! Even though no forest owner can be legally obliged to undergo certification, there should be an incentive scheme (e.g. to the effect that forest owners or license holders who opt for voluntary certification would be entitled to preferential treatment). Incentives could include, inter alia, tax reductions or other kinds of financial support, acceptance on an internationally accepted certificate as summary proof of a forest owner's / forest user's compliance with legal SFM requirements (because certification standards usually exceed the legally prescribed minimum), etc. Public procurement policies in favour or timber products originating from certified sources would be another example, although one not necessarily to be covered within the Forest Code. MoEPNR should be empowered to officially recognize certification systems, as a basis for granting the incentives mentioned above.
TITLE 5. FOREST RESTORATION AND TENDING		Title V should be simplified, shortened & cleared of all technical detail, and integrated within a consolidated title / chapter on principles, basic standards and best-practices of close-to-nature, multi-purpose SFM.
CHAPTER 28. FOREST RESTORATION		

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 95. RESTORATION OF THE GEORGIAN FOREST FUND AND ITS OBJECTIVES 1. Restoration of the Georgian Forest Fund is a multi-year cycle of activities, carried out with the purpose of restoration and afforestation of the bare land plots under the Forest Fund or the open stands of the Forest Fund. 2. Restoration of the State Forest Fund is planned annually based on the availability of resources, existing forest management plans, and research data by the entities defined in Articles 15 and 16 of this Code upon request of the local authorities. 3. Restoration of the Georgian Forest Fund shall not cause any damage to the environment. 4. Forest restoration implies the following: a) thinning or removing underbrush with the purpose of stimulating natural regeneration of forests, also carrying out tending, protecting, cleaning, planting, and sowing in the managed forests, forest edges, and subalpine open woodlands; b) improving species composition, age structure, quality, productivity, protecting capacity and other values of the forests.	Art. 95 provides a (highly detailed) definition of forest rehabilitation / reforestation. Both tasks are incidents of forest management, and could be more appropriately addressed as part of a respective consolidated title / chapter. Art. 95 overlaps considerably with previous similar provisions - cf. Art. 27 (2). Similar to other articles, the scope and applicability of Art. 95 does not become sufficiently clear, because it alternately refers to the Georgian Forest Fund (the PFE) and the State Forest Fund. If Art. 95 (2) applies to the State Forest Fund only, then how / on which basis / by whom would “forest restoration” be handled outside State Forests? The provisions in Art. 95 (4) overlap with or relate to definitions and stated purposes in subsequent articles and chapters on forest tending and thinning. Art. 95 (4 b) could itself be regarded as a legal definition of forest tending. Such repetitive statements add to the Forest Code’s overall complexity, but are of little use in its practical application.	The MoEPNR/State Forestry Dept. should be summarily empowered to issue Regulations and technical standards, manuals and guidelines to this end, subject to the obligatory involvement of (i) relevant scientific bodies within the Republic of Georgia, so as to ensure a high level of professional expertise, and (ii) concerned civil society bodies.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 96. PLANNING AND CARRYING OUT FOREST RESTORATION AND AFFORESTATION 1. Forest restoration and afforestation are designed and methods of their implementation are elaborated based on the forest management plans and the research data, and in accordance with environmental considerations. 2. Special State programs may be designed for forest restoration and afforestation. 3. Forest restoration and afforestation are carried out by the entities and the regional offices of the entities defined in Articles 15 and 16 of this Code. Physical and legal bodies may also carry out forest restoration and afforestation in agreement with these entities and in concurrence with the Georgian legislation. 4. Forest restoration plan is approved and its implementation is monitored respectively by the State Department of Forestry or the State Department of Protected Areas, Natural Reserves and Hunting Ranges. 5. The *"Regulations for Restoration and Afforestation of the State Forest Fund"* are prepared by the State Department of Forestry in agreement with the State Department of Protected Areas, Natural Reserves and Hunting Ranges and approved by the State Department of Forestry. 6. The "Regulations for Selection and Use of Plant Species for Restoration and Afforestation of the State Forest Fund" are prepared and approved by the Ministry of Environment.	In principle, all forest management needs to be conducted in a planned, systematic, science based fashion, subject to approved management plans. However, Art. 96 (4) creates the impression that a forest restoration plan would be drawn up separately, and require specific approval by the competent authorities (who likewise are charged with the approval and application / supervision / monitoring of a forest management plan). Art. 96 (5, 6) once more raise the issue of scope & applicability (see previous remark on Art. 95). Inasmuch as normative acts regulate procedural and technical issues of reforestation, species selection, the use of seeds / seedling material – why should such rules be applicable to the State Forest Fund only? Why would several, separate regulations be required to give effect to Articles 95 and 96, instead of one consolidated regulation / technical guideline / manual on SFM?	
CHAPTER 29. FOREST TENDING	What is the rationale behind presenting rules on forest tending within a separate chapter, given the close contextual relation with the rules stipulated in Art. 95 (4)?	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 97. FOREST TENDING AND ITS OBJECTIVES 1. Forest tending is a system of activities aimed at creating sustainable, highly productive stands, improving their natural values and sanitary condition, preparing stands for timber extraction, decreasing age of technical maturity, etc. 2. Forest tending is designed on the basis of forest management plans and the special research data. 3. The State Department of Forestry or State Department of Protected Areas, Natural Reserves and Hunting Ranges are respectively responsible for planning and implementing forest tending in the State Forest Fund. 4. Entities or the regional offices of the entities defined in Articles 15 and 16 of this Code are authorized to carry out forest tending. Physical and legal bodies may also carry out forest tending in agreement with these entities and in concurrence with the Georgian legislation.	See previous remarks on Articles 95 & 96, also Art. 27 (2).	
ARTICLE 98. CARRYING OUT FOREST TENDING AND PROTECTION OF THE SUBALPINE STRIPES OF FORESTS 1. Enforcement of Article 39 of this Code as well as banning any type of forest use are mandatory in the subalpine stripes of forests. 2. Tending and protection of the subalpine stripe of forests imply: a) felling and removing pest-invaded dry trees; b) carrying out preventive measures for landslides and land erosion; c) implementing other restoration and protection measures if principally required.	See also remarks on Articles 41 (1), 68 (6) and 69, which closely relate to the issues addressed in Art. 98. The dispersed presentation of otherwise contextually related rules within the current Forest Code makes it more difficult for forest practitioners to fully understand what their legal obligations are and how they are to be met.	
CHAPTER 30. THINNINGS		

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 99. TYPES OF THINNINGS The following types of thinnings are established based on the age and functional profile of stands: a) lighting cuts; b) cleaning cuts; c) thinning cuts; d) passage cuts; e) sanitary cuts; f) reconstruction cuts.		
ARTICLE 100. LIGHTING CUTS Lighting cuts are carried out in stands of up to 10 years of age and no less than 0.7 density. Lighting cuts imply removing of herbal cover and underbrush with the purpose of providing better growing conditions for trees.	Article 100 relates to the suppression of undesirable accessory vegetation, rather than to the removal of trees – why was it included in a chapter on thinning? Following the current separation of chapters within the fifth Title, it would seem more appropriate in Chapter 29. The density limit of 0.7 appears somewhat impractical, since it may be assumed that in dense young-growth stands herbs and brushwood will not pose much of a problem, anyway.	
ARTICLE 101. CLEANING CUTS Cleaning cuts are carried out in the mixed stands of up to 20 years of age and no less than 0.7 density. Cleaning cuts imply felling and removing trees of particular species which have little value in a given area with the purpose of improving growing conditions for the tree species that are valuable and typical for the given area.	What does “valuable” mean in this context – economic / commercial value? The practice of removing pioneer-trees and deciduous softwoods (which are quickly overgrown in most cases, anyway – especially in dense stands) is viewed askance by many proponents of close-to-nature forest management, and – given the high costs involved - may be economically unsound, besides.	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 102. THINNING CUTS Thinning cuts are carried out in the stands of up to 60 years of age (depending on a species) and no less than 0.7 density. Thinning cuts imply felling trees with retarded growth, deformed stem, and/or other damages with the purpose of providing conditions favorable for developing properly shaped stem and canopy by other trees.		
ARTICLE 103. PASSAGE CUTS 1. Passage cuts are carried out in stands of over 60 years of age and no less than 0.7 density. Passage cuts imply felling of trees that are over-aged, have deformed stem and/or other damages or characteristics justifying their removal with the purpose of providing conditions favorable for gaining timber volume by other trees. 2. Passage cuts shall be carried out only if selling products obtained through passage cuts is guaranteed.	Art. 103 (2) appears to conflict with the stated purpose of a passage cut.	
ARTICLE 104. SANITARY CUTS 1. Sanitary cuts are carried out in stands with more than 0.4 density if improving the sanitary condition of these stands is required. Sanitary cuts imply felling and removing dry, drying, hollow, and pest invaded trees, as well as removing trees up-rooted or broken by natural disasters. 2. Sanitary cuts are allowed in stands with less than 0.4 density only if there is a fully justified principal need for such measures.	Art. 104 (1) Sanitary cuts, including salvage cuts, should be carried out according to the prevailing circumstances regarding forest protection, but irrespective of a given stand's density. Art. 104 (2) appears to be intended as a safeguard against clear-felling under the guise of a sanitary cut, but it is difficult to enforce due to the indeterminate provision "fully justified principal need" – such wording should best be avoided. If the vitality and health of a forest stand is threatened by pest infections, or a forest stand is damaged by fire or other natural disasters, sanitary cuts for the purpose of promoting regeneration (natural, if possible – artificial, if necessary) should be done.	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 105. RECONSTRUCTION CUTS Reconstruction cuts are carried out in the stands where present species produce cheap timber or are less valuable for the given area. The purpose of reconstruction cuts is to improve species profile and structure of the stand and to increase productivity. Reconstruction cuts are allowed only in the areas where consequent forest restoration is guaranteed.	Art. 105 apparently relates to the transformation of unsatisfactory forest stands to a different species composition and stand structure. In such, it would appear more closely related to forest rehabilitation / regeneration, than to thinning in the narrower sense. Art. 105 (3rd sentence) Forest regeneration after logging should be a universally enforceable responsibility of the forest manager.	
ARTICLE 106. CARRYING OUT THINNINGS 1. Lighting cuts are carried out without forest use document by the regional offices of the State Department of Forestry and the State Department of Protected Areas, Natural Reserves and Hunting Ranges or by the local governing and self governing bodies in the areas under their jurisdiction. 2. Cleaning, thinning, and reconstruction cuts are carried out by the forest users holding a proper document, or in case of their absence by the regional offices of the State Department of Forestry and the State Department of Protected Areas, Natural Reserves and Hunting Ranges in accordance with Paragraph 4 of this Article. 3. Passage and sanitary cuts are carried out by the licensed forest users holding a proper document. 4. Based on the Georgian law *"On the System of Protected Areas",* only sanitary cuts are allowed in the territories of protected areas. Lighting, cleaning, and thinning cuts are allowed in special cases when they are required for sustaining biodiversity of a protected ecosystem. 5. The *"Regulations on Carrying Out Thinnings"* are prepared by the State Department of Forestry in agreement with the State Department of Protected Areas, Natural Reserves and Hunting Ranges and are approved by the State Department of Forestry.	The separation of responsibilities in Art. 106 (1, 2, 3) appears questionable and rather inexpedient, because forest use licenses confer a comprehensive, long-term management responsibility upon a license holder. The exercise of forest use licenses aside, forest management in a more general sense – irrespective of the type of measures involved – should be a principal responsibility of the forest owner – be it the Georgian State, Municipalities, the Patriarchy, or private natural / legal persons. Depending on the circumstances, it should be conducted either by the owners, or by hired contractors on their behalf , or by a duly licensed forest user.	
CHAPTER 31. FUNDING FOR FOREST TENDING, PROTECTION AND RESTORATION		The provisions in Chapter 31 / Art. 107 should be simplified to the effect that forest owners or duly licensed forest users

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
Article 107. Funding of Forest Tending, Protection, and Restoration 1. Tending, protection, and restoration of the State forests (Local Forest Funds) are funded by State (local) budgets. Other sources of funding may also be used for this purpose in accordance with the Georgian legislation. 2. Following sources of funding may be used for providing technical assistance to the bodies entitled to carry out tending, protection, and restoration of the State forest or authorized to manage the State Forest Fund: a) amounts recovered through penalty payments for losses caused to the State Forest Fund; b) proceeds from sale of expropriated products.	Art. 107 (1) assigns a basic responsibility for funding forest management to the State and local self-governing bodies. While this may account for the majority of forests within the Georgian Forest Fund, forests owned by the Patriarchy and private forests are not mentioned. Likewise, the obligation of a duly licensed forest user to bear the costs of forest management operations on his/her license area is not addressed. Art. 107 also fails to address the financial capacity of forest-owning Municipalities ("local budgets"), which appears to be very limited and a serious bottleneck for SFM even under the best of circumstances (see previous remarks & recommendations on Articles 11, 13, 23). . Art. 107, while referring to two possible sources of funding in Art. 107 (2), remains noticeably silent on forest revenue. Art. 107 (2 a) contrasts with statements received during the consultant's mission. According to the Head of the MoEPNR Environmental Inspectorate, penalty payments are to be discharged into the general budget.	bear the costs associated with SFM according to the Forest Code. Chapter 31 / Art. 107 should nevertheless be expanded with a view to creating a **framework for state support (advisory, technical, financial) to non-state forest owners**, specifically forest-owning Municipalities. This does not contradict to the basic notion that sustainable forest management should, in principle, be an economically viable, self-financing exercise. However: Investments required for the rehabilitation of degraded /damaged forest areas (esp. local forests), for meeting social needs or public interests, or for achieving qualitative standards of forest management above the legally prescribed minimum may overtax the financial and management capacity of non-state forest owners, and consequently justify state support.
TITLE 6. STATE MONITORING AND SUPERVISION OF FOREST PROTECTION AND ENFORCEMENT OF THE FOREST LEGISLATION		Provisions contained in Title 6 should be simplified and streamlined with the Forest Code's parts dealing with (i) public forest governance & law enforcement and (ii) forest monitoring. Technical as well as procedural details should be relegated to subsidiary normative acts (e.g. regulations on forest moni-
Chapter 32. State Monitoring and Supervision of Forest Protection and Enforcement of the Forest Legislation		

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 108. STATE MONITORING AND SUPERVISION OF FOREST PROTECTION AND ENFORCEMENT OF THE FOREST LEGISLATION State monitoring and supervision of forest tending, sanitary condition, protection, restoration and afforestation of the State Forest Fund are carried out by the Ministry of Environment of Georgia, State Department of Forestry, and State Department of Protected Areas, Natural Reserves and Hunting Ranges.	Insofar as Art. 108 refers to forest monitoring, it relates contextually to Chapter 8 (esp. Art. 24). Competence for law enforcement, specifically for the investigation & prosecution of infringements and breaches of the applicable laws, has been passed to a considerable extent to the MoEPNR Environmental Inspectorate. Conse-	toring / the national forest inventory, the State Forest Dept. Charter etc.).

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
ARTICLE 109. STATUS OF FOREST PROTECTION PERSONNEL 1. Forest protection personnel wears uniforms with rank-indicating badges defined by Georgian legislation. 2. Forest protection personnel are entitled to: a) prevent and/or eliminate infringements of this Code; b) check documents certifying rights for forest use granted to the physical and legal bodies; c) properly document any violations of the forest legislation; d) stop and inspect vehicles transporting wood products with the purpose of checking legitimacy of obtaining these products; e) expropriate illegally obtained and undocumented wood and non-wood products on the spot of transportation, storage, or primary processing according to procedures defined by the Georgian legislation; f) suspend, terminate, or restrict economic and other activities carried out by a forest user if certificate held by the user does not allow for this kind of activity; g) carry registered weapons; h) collect on-site penalty payment from an individual infringing forest legislation if no dispute arises on the amount of penalty fee and the penalized individual is willing to pay the fee right away. 3. Within the scope of its competence and according to Georgian legislation the forest protection personnel is held responsible for: a) carrying out forest tending and controlling illegal forest use; b) controlling infringements of the Georgian forest legislation.	quently, staff of the State Forestry Dept. and the Protected Area Dept. may primarily advise on the application of the Forest Code, supervise and monitor application of the Forest Code and of the respective Regulations and technical guidelines, inform the Environmental Inspectorate of detected or suspected violations of the Forest Code. As regards the monitoring and enforcement of licensable conditions, the competent authorities are bound to observe the procedural rules stated in Chapter 5, Articles 21 – 23 of the Law on Licenses and Permits (2005). Art. 109 (3 a) partly overlaps with previous rules and provisions outlining the State Forestry Dept. mandate for public forest governance and forest management.	
ARTICLE 110. INCENTIVES FOR THE FOREST PROTECTION PERSONNEL 1. Incentives for the forest protection personnel are the following:	The issues raised in Art. 110 need not be addressed within the Forest Code.	Respective provisions within the State Forestry Dept. Charter would seem more appropriate.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
a) awarding title of the Honorable Forester of Georgia as defined in Georgian legislation; b) granting special medal for successful work in the field of forest protection for no less than ten years. 2. The *"Regulations for Awarding Title of the Honorable Forester of Georgia and Granting Special Medal"* are prepared by the State Department of Forestry and approved by the President of Georgia.		
TITLE 7. SETTLEMENT OF DISPUTES ON TENDING, PROTECTION, RESTORATION, AFFORESTATION AND FOREST USE AND LIABILITY FOR INFRINGEMENT OF THE FOREST LEGISLATION		
CHAPTER 34. SETTLEMENT OF DISPUTES ON FOREST TENDING, PROTECTION, RESTORATION, AFFORESTATION AND FOREST USE		
ARTICLE 111. SETTLEMENT OF DISPUTES ON FOREST TENDING, PROTECTION, RESTORATION, AFFORESTATION, AND FOREST USE Disputes on forest tending, protection, restoration, afforestation, and forest use are settled in accordance with the Georgian legislation.	This provision is too vague to be of any practical value.	The Article should be replaced either with more specific rules regarding an aggrieved party's rights of appeal and legal redress (specifically in regard to decisions taken by public authorities), or references to the applicable laws and regulations.
CHAPTER 35. LIABILITY FOR INFRINGEMENT OF FOREST LEGISLATION		
ARTICLE 112. LIABILITY FOR INFRINGEMENT OF THE FOREST CODE OF GEORGIA Liability for infringement of the Forest Code of Georgia is defined in accordance with the Georgian legislation.	This provision is too vague to be of any practical value.	The Article in its current form should be replaced by a more specific reference to the effective penal code and / or laws regulating the prosecution of administrative offences.
Article 113. Liability for Losses Incurred as a Result of Infringement of the Forest Legislation 1. Physical and legal bodies are obligated to fully recover the losses born by the State Forest Fund as a result of infringement of the forest legislation, or to restore damages whenever possible. Moreover, Article 114 of this Code is also applicable to the forest legislation violators. 2. Losses caused to the State Forest Fund by infringement of this Code and the Georgian legislation are calculated in accor-	Art. 113 (1) is complexly phrased and difficult to comprehend. Firstly, why is it limited to the State Forest Fund, and how would damages to local forests, forests of the Patriarchy or private forests be handled in practice? Secondly, does it apply to an offender's liability,	See general recommendations on Title 6. In principle, any compensation for damages / losses caused by a breach of forest laws should be used exclusively for forest rehabilitation.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
dance with the *"Regulations for Calculating and Recovering Losses Caused to the State Forest Fund as a Result of Illegal Forest Use"*, which are prepared and approved by the Ministry of Environment in agreement with the Ministry of Finance, the Ministry of Economy and the State Department of Forestry.	or does it create an obligation to recover damages caused by a third party on the State's behalf? Who is meant by "physical and legal bodies" – forest owners / licensed forest users? As long as Art. 113 applies to the State Forest Fund only – would it not be logical to make the recovery of damages caused by a breach of the Forest Code a responsibility of the competent authorities (State Forestry Dept. and / or Environmental Inspectorate – who are in any case responsible for law enforcement and the prosecution of breaches of the Forest Code)?	
Article 114. Expropriation of Timber and Other Forest Resources Obtained through Infringement of the Forest Legislation Timber and other forest resources obtained through infringement of the forest legislation are subject to expropriation or cost recovery in favor of the affected party.	Art. 114 overlaps with Art. 109 (2 e).	
TITLE 8. TRANSIENT AND FINAL PROVISIONS		
CHAPTER XXV. TRANSIENT PROVISIONS	The consecutive numbering of chapters appears to have been corrupted, presumably in the process of translation.	
ARTICLE 115. TRANSIENT PROVISIONS SUPPLEMENTARY TO THIS CODE 1. Should this Code and other laws regulating forest relations collide, this Code has a superior power over the other. 2. Until the State Forest Fund Cadastre is completed and forest management practices are brought in full agreement with the requirements of this Code, use of the State Forest Fund is allowed in agreement with the regional and local offices of the Ministry of Environment of Georgia, and following a mandatory procedure of regular updating of forest management plans based on the research data. 3. .Use of the former collective farm forests and state farm owned forests that should have been transferred to the State forestry entities based on March 7, 1995 resolution of the Parliament of Georgia *"On Inter-Collective-Farm and Municipal Forests of the Republic of Georgia"* but never were actually	Art. 115 (1) This provision suggests that the Forest Code would automatically take precedence over other, forest-related pieces of legislation. It has been proven obsolete in practice, by the recent changes effected in accordance with the revised Law on Licenses and Permits. Art. 115 (2) This might be understood as conferring on the decentralised structures of the State Forestry Dept. a responsibility for forest management planning, and – especially in view of a reliable and valid forest inventory – should prevent arrangements that outsource forest inventories and forest management planning to private investors.	The underlying basic intention of Art. 115 (1) warrants further consideration, especially in view of an exemption clause which would exempt close-to-nature SFM (i) within the Forest Fund, (ii) in accordance with the provisions of the Forest Code, and (iii) subject to an officially endorsed, inventory-based management plan from any further legal requirement, e.g. arising from the environmental/nature conservation laws and regulations, such as a compulsory requirement for a full-fledged EIA or the like. Art. 115 (3, 4) To give effect to the transfer of "forests of local significance" to the local self-governing bodies (Municipalities), Government Regulations 96 and 105 of May 2007 should be applied.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
transferred, shall be carried out in accordance with the Georgian legislation. 4. Regulations and timeframe for transferring forest fund, previously owned by the collective farms and state farms and recorded in land registration documents and forest management plans in accordance with the Georgian legislation, to the State forestry entities are defined by the *"Regulations and Timeframe for Transferring Forest Fund Previously Owned by Collective Farms and State Farms to the State Forestry Entities"*, which are prepared by the State Department of Land Management and approved by the President of Georgia. 5. Issuing any documents certifying private ownership on the forest fund owned by the former collective farms and state farms is restricted. 6. Organizations currently managing the forest fund owned by the former collective farms and state farms are responsible for carrying out tending and protection measures in these forests.	Art. 115 (6) may be understood as holding decentralised branches of the MoE/SFD responsible for the management of local forests, inasmuch as these are to be composed of the forests of former collective farms. Considering the general lack of management capacity, staff and financial resources at the disposal of local self-governing bodies, it may be advisable to oblige state forest authorities to manage such forests on the Municipalities' behalf, at least in a medium-term perspective.	
ARTICLE 116. SUPPLEMENTARY NORMATIVE ACTS TO BE PASSED AND ISSUED AFTER ENACTMENT OF THIS CODE After enactment of this Code: a) A law on *State Forest Privatization in Georgia* shall be passed. b) The following Presidential orders shall be issued: b.a) On authorization of local governing and self governing bodies for managing the Local Forest Fund and procedures for separating the Local Forest Fund from the State Forest Fund; b.b) On procedures for allocating designated area of the State Forest Fund and regulations for permitting forest use, permitting restricted forest use, and banning forest use in this area; b.c) On setting boundaries of the Usable State Forest Fund; b.d) On setting and re-setting boundaries of land plots under the State forests and the State Forest Fund; b.e) On the system of registry of the State	In a general perspective, Art. 116 appears overly detailed and consequently inflexible, as well as partly obsolete in view of the recent legislative history. The number of envisaged normative acts is surprisingly large, despite the fact that many of the issues listed are contextually related and might be more conveniently accommodated in a lesser number of comprehensive, integrated regulations. The higher the number of accessory regulations, the more difficult will their practical application and enforcement become in practice, and the greater will the need be for periodical reviews and harmonisation. Art. 116 (a) No Law on State Forest Privatisation in Georgia has thus far been passed, and information obtained during the consultant's mission indicates that it would no longer rank among the policy priorities of the MoEPNR. Art. 116 (b.a) appears to have been settled through the enactment of Government Regula-	Art. 116 should be thoroughly simplified, resulting in a lesser number of more integrated normative acts. While in some respects the need for regulations seems obvious and easy to anticipate (e.g. regulations on forest inventories, forest valuation and forest management planning; regulations / silvicultural- technical guidelines on forest management; regulations governing the use of approved seeds and seedling material as well as on the use of chemical agents; regulations detailing the organisational structure & mandate of public sector administrations etc.), other needs for regulations and by-laws may be more difficult to predict. Therefore, a more generic empowerment of the competent authorities (chiefly the MoEPNR, State Forestry Dept. and Environmental Inspectorate) should be added to the Forest Code, so as to ensure more flexibility in forest governance. However, to promote transparency & accountability of public forest governance, and to safeguard legal security of non-state stakeholders in the forest sector, the empowerment to issue subsidiary rules and regulations needs to be carefully tied to the main goals, principles and norms / standards stipulated within the Forest Code.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
Forest Fund; b.f) On regulations for conducting final cuts; b.g) On regulations for allocation of standing timber; b.h) On regulations for licensing forest use, on announcing tender and holding auction for selection of contractors; b.i) On awarding title of the Honorable Forester of Georgia and granting special medal; b.j) On regulations and timeframe for transferring land plots under the forest fund owned by the former collective farms and state farms to the State forestry entities; b.k) On special requirements for registering protected areas of the State Forest Fund. c) The following orders of the Ministry of Environment shall be issued: c.a) On authorized issuance of biological and chemical preparations to the physical and legal bodies with the purpose of forest protection; c.b) On regulations and methods of inventory of animal wildlife in the specific areas of the State Forest Fund; c.c) On the listing of biological, chemical and genetic interventions permitted for the purposes of forest protection; c.d) On selection and use of plant species for restoring and expanding the State Forest Fund; c.e) On calculating and recovering losses born by the State Forest Fund due to illegal forest use; c.f) On regulations for using non-wood resources of the State Forest Fund. d) The following orders of the Chairman of the State Department of Forestry shall be issued: d.a) On allocating of and attaching corre-	tions 96 and 105 of May 2007. Art. 116 (b.h) seems to have been taken care of by means of the Law on Licenses and Permits (2005) and Government Regulation 132 of August 11th, 2005 “Bylaw on rules and terms of issuing forest use licences”. Art. 116 (d.r) Why should a head of a state forest sector administration regulate, by *order* a process which, by definition, is voluntary, independent, and market-based?	

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
sponding status to the functional and landscape forests; d.b) On regulations for accounting for the State Forest Fund; d.c) On information on the State Forest Fund and its disclosure to the State Department of Forestry; d.d) On applying special protection regime to an area of the Usable State Forest Fund and regulations for carrying out economic activities under such regime; d.e) On regulations for forest protection; d.f) On planning and implementing regulations for fire protection of forests; d.g) On regulations for carrying out thinnings; d.h) On regulations for defining the annual allowable cut; d.i) On regulations for restricting, banning, and restoring rights for forest use; d.j) On regulations for allocating cutting areas; d.k) On regulations for managing forest plantations; d.l) On regulations for producing timber and the secondary wood products; d.m) On general regulations for carrying out scientific research and educational activities in the territory of the State Forest Fund; d.n) On restoring and expanding the State Forest Fund; d.o) On special cuts and regulations for carrying them out; d.p) On allocating land plots under the State forests and the State Forest Fund for economic use and transferring them to the forest users; d.q) On preparing documentation for issuing		

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
forest use tickets, including calculation of costs required for allocating cutting areas and setting regulations for recovery of these costs; d.r) On legal certification of timber harvesting and regulations for issuing certificates to producers.		
ARTICLE 117. TIMETABLE FOR PASSING NORMATIVE ACTS SUPPLEMENTARY TO THIS CODE 1. The normative act defined in paragraph a), Article 116, shall be issued by January 1, 2002. 2. Normative acts defined in paragraphs b), c), and d), Article 116, excluding those defined in subparagraphs b.h) and c.b.) shall be issued by July 1, 2000. 3. The normative act defined in sub-paragraph b.h.), paragraph b), Article 116, shall be issued within one month after enactment of this Code. 4. The normative act defined in subparagraph c.b.), Paragraph c), Article 166, shall be issued within three months after enactment of this Code.		The Article has been rendered obsolete and should be removed from the Forest Code.
ARTICLE 118. ADJUSTING A NORMATIVE ACT TO THIS CODE AFTER ITS ENACTMENT Presidential decree #64 of January 28, 1997 "On Establishing an Inter-Agency Expert Council for Licensing Use of Plant Resources (Forest Resources Inclusive) in Georgia" shall be adjusted to this Code within a month from its enactment.		Art. 118 should be modified to the effect that, upon the coming into force of a new / revised Forest Code, all existing normative acts should be harmonised with the Forest Code within a prescribed time frame, and that all provisions contradicting to the Forest Code would be automatically rendered void.
CHAPTER 36. FINAL PROVISIONS		
ARTICLE 119. NORMATIVE ACTS BECOMING VOID UPON ENACTMENT OF THIS CODE Upon enactment of this code following normative acts become void: a) Forest Code enacted on December 21, 1978; b) Law "On Arranging Forest Use on the Territory of Georgia" passed on June 25, 1998.		
ARTICLE 120. ENACTMENT OF THE FOREST CODE 1. The Forest Code of Georgia, excluding Section 1, Article 9,		The Article has been rendered obsolete and should be removed from the Forest Code.

Provisions of the currently effective Forest Code of Georgia	Remarks	Recommendations for the contextual & structural review of the Forest Code of Georgia
enters into force upon publication. *2.* Section 1, Article 9, of this Forest Code enters into force upon passing a law *"On State Forest Privatization in Georgia".*		

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