

Timber Legality Risk Assessment Ukraine

Version 1.0 | 27 December 2021



COUNTRY RISK
ASSESSMENTS



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A. Introduction

This Timber Legality Risk Assessment for Ukraine provides an analysis of the risk of sourcing timber from illegal harvesting and transport areas. Preferred by Nature has been working on risk assessments for timber legality, in partnership with several organizations, since 2007.

The version history of Risk Assessment for Ukraine

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Overview of methodology

Preferred by Nature would like to recognize the huge contribution our consultants working in Ukraine have performed in connection with this report. Their involvement has been invaluable in obtaining the latest information across the broad range of timber legality issues presented in this report. Preferred by Nature's country risks assessments are always evolving, and by retaining local experts, are we confident the advice expressed in this report is truthful and reliable.

The risk assessments are developed with local forest legality experts and use an assessment methodology jointly developed by FSC and Preferred by Nature. A detailed description of the methodology can be found on the [Preferred by Nature Sourcing Hub](#).

Interviews with experts

The list of experts is not included in the risk assessment. However, all experts are known to Preferred by Nature.

Discussions with various experts were conducted within the period of 1 December 2020 – 30 September 2021. The output from these discussions has contributed to the development of the Timber Legality Risk Assessment for Ukraine.

Public consultation

Online public consultation on the Sourcing Hub: 10 November – 10 December 2021

B. Overview of legality risks

Timber Risk Score: 12 / 100 in 2021

This report contains an evaluation of the risk of illegality in Ukraine for a total of six categories and 26 sub-categories of law.

Relevant for the legality of harvesting, and related trade and transport of timber in Ukraine we evaluated 5 categories and 21 indicators. We found:

- Specified risk for 15 sub-categories.
- Low risk for 2 sub-categories.
- No legal requirements for 3 sub-categories.

For wood processing we evaluated 1 category and 5 indicators. We found:

- Specified risk for 4 sub-categories.
- No legal requirements for 1 sub-categories.

The key legality risks identified in this report are mainly related to timber harvesting activities and Legal Rights to Harvest, Taxes and fees, trade and transport, and timber processing. In almost all cases, the risk exists in both source types (A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities), but the level of risk is higher in B. Forest managed by other entities.

The following risks were identified:

For **Legal Rights to Harvest**, there is a risk of/that:

- occupation of forest land for other activities (1.1);
- forest management without having land right documents in place (1.1);
- conversion of forest land to agricultural land (1.1);
- planning and conducting unjustified sanitary cutting in the healthy forest (1.3);
- lack of approval of continuous forest management planning at the FME level (1.3);
- logging in areas not covered by Forest Management Plan (1.3);
- incorrect allotment and mensuration of harvest areas (1.3);
- preparing technological (logging) maps without considering field practices (1.3);
- incorrect assessment of volumes, species composition, and size-quality characteristics of wood during the planning (1.3);
- harvest without the necessary permits (Logging ticket) (1.4);
- harvesting permits (Logging Tickets) contains wrong information:
 - species are not correctly identified (high-value species classified as low-value species) (1.4);
 - harvesting permits (Logging Tickets) are based on wrong inventory data (1.4);
-
- selling Roundwood through direct agreement, without auction (1.4);
- selling Roundwood through auction without competition (1.4);

For **Taxes and Fees**, there is a risk of/that:

- underestimation of the tax “special use of forest resources” as the tax is based on incorrect classification of wood (1.5);
- underestimation of VAT, income, and profit taxes as the taxes are based on incorrect classification of wood (1.6, 1.7);

For **Timber Harvesting Activities**, there is a risk of/that:

- violation of technical and silvicultural requirements. Examples of violations: skidding trails that are not followed; damage of trees; damage of soil, etc. (1.8);
- habitats of Red Book species are destroyed (1.9);
- identified Nature Reserve Funds are not registered correctly in the State Land Cadastre (1.9);
- illegal logging in protected areas (Nature Reserve Funds) (1.9);
- harvesting activities affect the conservation status of protected areas (e.g., landscapes, monumental trees, etc.) (1.9);
- prohibited sanitary cutting in the Carpathians is conducted through another cutting type name, but in practice is still to be considered sanitary cutting (e.g., restoration cuttings) (1.10);
- trees performing “important environmental functions” (as defined by the Law) are removed (1.10);
- the requirements for the development of Environmental Impact Assessments (EIA) are not followed (1.10);
- the logging maps, chapter 8 on Nature Protection requirements do not contain environmental details (1.10);
- health and safety equipment are not provided by the employer or used by staff (1.11);
- forests workers are not following the safety measures defined in logging maps (1.11);
- periodical medical checks are not conducted (1.11);
- not all forest workers are employed through formal agreements (1.12);
- forests workers do not receive benefits guaranteed by the Law (1.12);

For **Trade and transport**, there is a risk of:

- incorrect classification of species, qualities, and quantities in waybills (1.16);
- transport of wood without waybills (1.17);
- multiple transports with the same waybill (1.17);
- transport with fraudulent waybill (1.17);
- illegal transfer pricing occurring at a different level of the supply chain (1.18);
- wood or wood products banned from export are exported (1.19);
- understating classification and volumes of timber for exports (1.19);

For **Timber processing**, there is a risk of/that:

- small sawmills are not legally registered (1.22);
- activities are conducted without minimisation of pollution (1.23);
- activities are conducted without considering health and safety requirements (1.25);
- technical specification of technological equipment is inaccurate (1.25);
- workers are not employed through a formal agreement (1.26);

The following areas were not assessed:

- The Autonomous Republic of Crimea, temporarily occupied by the Russian Federation, which is temporarily out of the jurisdiction of Ukraine;
- Zone of “taking measures to ensure national security and defense and repulsing and deterring the armed aggression of the Russian Federation in Donetsk and Luhansk oblasts,” which is identified as a zone of armed conflict, where norms of Ukrainian legislation, including forestry-related legislation, are temporarily not enforceable.
- The zone of exclusion and unconditional (mandatory) resettlement that has undergone radioactive contamination due to the catastrophe at Chernobyl NPP, where a high risk of formation of radioactively contaminated wood persists;
- Forest areas, not allotted to permanent forest users. This source includes about 800 thousand hectares of forest lands of state ownership where forest management is not allowed (reserve lands).

Timber source types and risks

There are two main timber source types found in Ukraine. Knowing the “source type” that timber originates from is helpful because different source types can be subject to specific legislation and have attributes that affect the risk of non-compliance with the legislation. The main timber source types are:

A. Forest owned by the state and managed by SFRA State-owned subordinated to and managed by the State Agency of Forest Resources of Ukraine (SFRA) under the Ministry of Environmental Protection and Natural Resources.

These areas include production forests, protected forests (nature conservation forest and forest delivering other ecosystem services) and cover 73% of all forests in Ukraine. Legislation is defined at the national level through Law and Orders and Internal Orders of State Agencies. Some Orders and all Internal Orders of State Agencies are specific just for forest managed by SFRA.

B. Forest managed by other entities Forest areas of communal and private ownership and state ownership, subordinated to entities other than SFRA:

- Communal property - about 13% of forest lands (1.3 million hectares)
- Private property - less than 0.1 % of forest lands
- State property managed by other agencies –about 14 % of forest lands

Legislation is defined at the national level through Law and Orders. Some FMEs could have specific guidelines to follow, defined by the forest owner. However, there is no unified regulation, like in the case of forest owned by the state and managed by SFRA (Source type A).

This table summarises the findings of the timber legality risk assessment by source type.

Legal Category	Sub-Category	Risk conclusion	
		A. Forest owned by the state and managed by SFRA	B. Forest managed by other entities
Legal rights to harvest	1.1 Land tenure and management rights	Specified	Specified
	1.2 Concession licenses	N/A	N/A
	1.3 Management and harvesting planning	Specified	Specified
	1.4 Harvesting permits	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified	Specified
	1.6 Value-added taxes and other sales taxes	Specified	Specified
	1.7 Income and profit taxes	Specified	Specified
Timber harvesting activities	1.8 Timber harvesting regulations	Specified	Specified
	1.9 Protected sites and species	Specified	Specified
	1.10 Environmental requirements	Specified	Specified
	1.11 Health and safety	Specified	Specified
	1.12 Legal employment	Specified	Specified
Third parties' rights	1.13 Customary rights	Low	Low
	1.14 Free prior and informed consent	N/A	N/A
	1.15 Indigenous/traditional peoples' rights	N/A	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Specified	Specified
	1.17 Trade and transport	Specified	Specified
	1.18 Offshore trading and transfer pricing	Specified	Specified
	1.19 Custom regulations	Specified	Specified
	1.20 CITES	Low	Low
	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A
Timber processing	1.22. Legal Registration of business	Specified	Specified
	1.23. Environmental requirements for processing	Specified	Specified
	1.24. Processing requirements	N/A	N/A
	1.25. Health and Safety in the timber processing sector	Specified	Specified
	1.26. Legal employment in the timber processing sector	Specified	Specified

C. Overview of the forest sector in Ukraine

Ukraine has around 9.7 million hectares of forest land (FAO, 2020), representing 16.7% of the total land area. Only 60 thousand hectares (0.6%) are primary forests, 4.7 (49%) million hectares of otherwise naturally regenerated forest, and over 50%, 4.9 million hectares are planted forest. The Nature Reserve Fund (NRF) area covers 16.6% of the forests managed by SFRA. For forests managed by other entities, there are no summarized data at the national level. The protected forests of the SFRA (NRF objects) occupy one-third (33%) of the whole state Nature Reserve Fund (including other types of land, e.g., pasture).

Most forests (nearly 87 %) are state-owned, while 13% of forestry land plots are attributed to communal and private property. State Forest Resources Agency of Ukraine (SFRA) and other central government bodies manage the state-owned forest.

Part of the wood (not less than 25% of the monthly planned volumes of harvested wood) must be displayed on the electronic trading system Prozorro. The pilot project provides an opportunity for FME to choose some from more than 40 electronic platforms to sell wood. A draft Resolution of the Cabinet of Ministers was developed, which continued the experimental project but extended to 100% of the planned timber harvest. The decision has already been approved. There is no procedure for implementing the law, and it is not enforced yet.

State-owned and managed by SFRA

SFRA has 272 Forest Management Enterprises (FMEs) and manages 73% of Ukrainian forest. FMEs belonging to SFRA are responsible for the most significant part of the wood sold at the market (80-90%). FMEs from this category are under coordination of Regional Directorates for Forestry and Game Management which serve as the Agency's regional bodies.

The main tasks of the State Forest Resource Agency are in coordination and support of the FMEs in:

- ensuring the implementation of state forest and hunting policy, as well as protection, conservation, rational use and reproduction of forest resources, hunting fauna, improving the efficiency of forestry and hunting;
- carries out public administration in the field of forestry and hunting, as well as state control over compliance with regulations on forestry;
- development and organization of national, interstate and regional programs in the field of protection, increasing productivity, management and reproduction of forests

State-owned and managed by other entities

State forest managed by other central government bodies includes forest belonging to the Ministry of Defence (12 FMEs) – the biggest group in this category, and forest belonging to several other agencies. The number of FMEs belonging to other agencies cannot be estimated, as there is no official statistic.

Auction system

From February 1, 2020, forests that are state-owned and managed by SFRA, as well as the FMEs which belongs to different ministries, are obliged to sell raw wood through electronic auctions, as well as to use an electronic timber accounting system, which will allow tracking the movement of available resources, i.e., purchase and sale. The pilot project provides an opportunity for all state-owned FMEs to choose electronic sites to sell wood. Part of the timber must be displayed on the Prozorro electronic trading system (no less than 25% of the

monthly planned volumes of raw timber harvesting). Thus, a woodlot must be formed of wood of one assortment, in volume not less than 150 cubic meters or at the starting price of a lot no less than 200 thousand hryvnias. The FMEs can display all other volumes of wood on any other e-sites. Electronic auctions do not apply to the sale of wood in the following cases: for the population for heating; for the needs of individual construction and repair of buildings (for individuals); to meet the needs of budgetary institutions to meet the needs of national security and defence, overcoming the consequences of emergencies, natural disasters, following the Law of Ukraine "On Public Procurement," the use of which is provided by collective agreements of permanent forest users.

Communal forests

The actual owners of communal forests in Ukraine are local communities. In some provinces (oblasts), the management was united at the highest level - in communal enterprises, the founders of district and oblast councils. The number of FMEs belonging to local communities cannot be estimated, as there is no official statistic.

The existing communal forestry enterprises were established during 2000-2001, implementing the land reform (revised Land Code), legislation allowing local authorities to take in property forest areas from their territory that does not belong to other agencies.

The fragmentation of communal forests and the low economic value of many of them remain negative factors for managing these forests. Compared to state forest enterprises, forest use and protection efficiency is much lower, caused by several legal, managerial, and economic problems. Most utilities and manage forests inefficiently and with numerous violations of the law, resulting in deterioration of the ecological functions of communal forests and a lack of income for local communities (EPL 2020).

Communal FMEs are also obliged to sell raw wood through electronic auctions and implement an electronic timber accounting system, which will allow tracking the movement of available resources, i.e., purchase and sale.

Private forest

The share of forests in private property is less than 0.1% of the total forest area.

Typically, small-scaled private forests are not managed for commercial harvesting but used for recreational purposes. As exclusion, just the only FME could be mentioned - Kovel Specialized Forestry Private Joint-Stock Company "Tour" with the forest fund area 32.4 thousand hectares and 198 full-time employees. It has developed FMP and provides all forestry, hunting, and wood-processing activities according to the same rules as communal FMEs.

Agricultural land

Agricultural lands that have not been used for their intended purpose due to unattractive investment, lack of funds or other reasons are undergoing a process of self-afforestation. In Ukraine, there is no inventory of self-afforested areas on agricultural land. Still, according to the Land Directory of Ukraine, out of 41.4 million hectares of agricultural land, 2.9 million hectares are not cultivated (7%) (Land directory, 2020). Also, the self-afforestation of agricultural lands of state, communal and private property can be traced on orthophotos of the Public Cadastral Map of Ukraine.

There is a contradictory situation: according to Article 211 of the Land Code of Ukraine - non-use of land for its intended purpose is a violation of current land legislation, and according to the Forest Code of Ukraine, "all forests in Ukraine, regardless of which categories of land regardless of ownership, they constitute the forest fund of Ukraine and are under state protection." Although legally, "self-seeding forest" does not correspond to the concept of "forest."

In Ukraine, work has begun to establish a legal foundation for regulating trees growing outside forest land. In particular, the Draft State Forest Management Strategy of Ukraine until 2035 states the following: "new private forests can be created only by granting the status of forest lands to existing self-seeding forests" (Ministry of Environment, 2021). Also, from July 24, 2021, in Ukraine, the type of purpose of the land use will be determined within the territory's relevant type of functional purpose, provided by a comprehensive plan of the spatial development of the territorial community or the master plan of the settlement. Thus, forests that grow on agricultural land can become forests in the legal sense.

Control agencies

The enforcement of legislation, regardless of the ownership at the level of forest management enterprise, is checked by the State Environmental Agency and State Service of Ukraine on the Work Issues.

State Environmental Agency

The Ministry of Environment Protection and Natural Resources of Ukraine is responsible for conducting Environmental Impact Assessment (EIA) and providing a conclusion (decision). Also, the Ministry of Environment Protection considers the establishment of new Nature Reserve funds (NRFs) objects in forests in case of its national importance, and Regional Departments on Environmental Protection - in case of the NRF objects of local importance.

Ecological Inspectorate periodically controls the fulfillment of the environmental requirements by the FMEs, including harvesting areas. Also, Ecological Inspectorate checks the availability of the EIA during the state control and if information from EIA complies with field observation.

State Service of Ukraine on Work Issues

State Service of Ukraine on the Work Issues regional departments take responsibility for controlling occupational safety and health regulations and legal employment.

The training on health and safety responsibilities for FMEs as well as for any other business entities is carried out by the State Enterprise "Main Training and Methodological Center of the State Service on Work Issues" as well as more than 40 other specialized organizations listed here: <http://reg.asgop.com.ua>

Critics of forest legislation

At this point, the forest legislation in Ukraine is quite complex. There are cases when legislation is unclear or in contradiction with other legislation. As it was agreed by the participants of the round table organized by the FSC on the problems of crisis in the forest sector (Note 2020), "*bureaucratized, formalized and lengthy process and style of environmental impact assessment following the current legislation of Ukraine increases enterprise production costs, encourages loopholes in legislation and increases corruption risks. There is an urgent need to resolve this issue.*"

Corruption in Ukraine

According to numerous sources (EUACI, 2018, NAPC, 2021), the risk of corruption is mentioned at different levels. The corruption perception index scores Ukraine with 33 out of 100, representing 117 out of 180 countries (CPI, 2020). This score increased by 3 points from 2019-2020 and 7 points since 2012. The CPI can show the actual changes across the country rather slowly — sometimes, it takes several years. The score of 2020 indicates the positive development that has occurred in Ukraine in the last years, especially until the spring of 2020. It does not consider the events that have finally “completed the chain” of creating the anti-corruption infrastructure in Ukraine, namely launching the High Anti-Corruption Court with the appropriate jurisdiction and restart of the National Agency on Corruption Prevention.

Simultaneously, numerous publications ([Earthsight 2018](#), [Earthsight 2020](#), [WWF 2020](#)) provide countless detailed allegations of grand and petty corruption throughout all supply chain stages and affect various state institutions and private financial institutions. Numerous cases have been through the courts or are pending. There have also been numerous criminal prosecutions. The report concludes that corruption can happen at all levels of the supply chain and in all possible modes.

It is well known that grand corruption and corruption, in general, is quite impossible to identify if it is happening in a specific supply chain. Despite that, in case of clear evidence that corruption practices are linked with one company, it is recommended to take adequate measures. For instances where corruption practices cannot relate to a specific company, the mitigation options shall ensure that activities align with legislation requirements instead of proving that corruption is not happening.

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D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary land rights and management rights that include the use of legal methods to obtain tenure rights and management rights. Management rights related to other rights than land and land management is covered under 1.13 (Customary rights) and 1.15 (Indigenous/traditional people's rights)

This indicator also covers legal forest management business registration and tax registration, including relevant legal required licenses (Industrial business and tax registration are covered under 1.22). Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. This indicator intends to ensure that any land tenure and management rights have been issued according to the legislation. The level of corruption in the country or sub-national region is considered to play an important role, and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.1.1. Applicable laws and regulations

- Land Code of Ukraine Law from 25.10.2001 № 2768-III. Available at: <http://zakon2.rada.gov.ua/laws/show/2768-14>
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1.1.2. Legal authority

- Department of Notaries and State Registration, Ministry of Justice of Ukraine (Regional Organs);

- Ukrainian State Forest Project Management Production Association (Abbreviated Name "Ukrderzhlisproekt")

1.1.3. Legally required documents or records

- State act for right of permanent use of land plots (it was issued until 2016);
- Certificate of ownership rights in the State Cadastre (2013-2015);
- Registration from State Register for Real Estate (since 2016);
- Plan and cartographic materials for forest inventory.

1.1.4. Sources of information

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1.1.5. Risk determination

Overview of legal requirements

The Constitution of Ukraine states that land and other natural resources are objects of property rights of the Ukrainian nation. According to the Law, any citizen of Ukraine can use the natural objects of property rights. The Land Code (No. 2768-III of 2001) sets the framework conditions on land classification; acquisition and exercise of land rights and guarantees of ownership; governance of land use and protection; determines state, communal and private ownership for forest land, etc. Ownership of the land plot and the right of permanent use and the right to lease the land plot arise from the moment of state registration of these rights. Following Art. 126 of the Land Code of Ukraine, the right of ownership and use of the land plot is issued according to the Law of Ukraine "On state registration of property rights to immovable property and their encumbrances".

The Forest Code and Land code regulate ownership rights and land tenure rights. According to the Forest Code, a «permanent forest user» is a permanent land user, which is confirmed by a state act or certificate on the right of permanent land use. The Land Code (Art. 125) explains that before starting using the land (before establishing boundaries on the ground), the user shall obtain a document certifying the right to do it. The land of Ukraine is classified into nine categories, based on the use (e.g.: agricultural, residential, forest). Land plots of each category of land that are not allotted to the property or tenure of citizens or legal entities may be kept in reserve and classified as reserve land.

The State Land Cadastre is a unified state geo-information system of data related to land, specifying target use, use restrictions, and data on qualitative and quantitative characteristics of lands that belong to owners and tenants. The Cadastre is an instrument to support state bodies, local authorities, natural and legal persons in the process of (a) regulation of land relations; (b) management of land resources; (c) organization of rational management and protection of land; (d) land survey; (e) land assessment; and (f) application and collection of land charges.

A. Forest owned by the state and managed by SFRA

There are multiple legislations related to the management rights for FMEs, and the right could be proved by a State act (previous legislation) or Certificate of ownership and Registration from State Register for Real Estate (current legislation). Suppose acts on the right of permanent land plots cannot be presented. In that case, provisional legislation

explains that the permanent use of land plots for state forestry enterprises could be confirmed by plan and cartographic materials for forest inventory.

B. Forest managed by other entities

Land ownership right is guaranteed according to the Constitution of Ukraine (art14). This right is acquired and exercised by citizens, legal entities, and the State exclusively following the Law. The Land Code (No. 2768-III) determines state, communal and private ownership for forest land and ways of acquiring it. Citizens and legal entities may acquire, for free of charge or a fee, ownership of detached plots of forest land with a total area of up to 5 hectares and acquire land plots of agriculture, degraded and unproductive lands for afforestation. Another option to gain the ownership right is through inheritance.

For state FME which are not subordinated to SFRA there are no uniform legal requirements on setting land tenure and management rights. The legal procedure of acquiring land tenure and ownership rights for forestry lands for communal FME is more complicated than for state FME.

Plan and cartographic materials for forest inventory are not a confirmation of the right of permanent use. The proof of permanent use is a Certificate of ownership rights in the State Cadastre and Registration from State Register for Real Estate. The legislation requires that the boundaries of land plots be agreed upon with the adjacent ones.

Description of risk

Typically, FMEs have a substantial number of adjacent landowners. And not all of them are interested in agreeing on borders. There are cases of "self-seizure" of forest lands. A certain number of plots are state-owned only in documents, and in fact, have long been used by private entities for different purposes (houses, gardens etc.) (G4). For example, the Prosecutor's Office of the Kharkiv Region established, based on orders of the Head of the Vovchansk District State Administration, 88 plots of land, with a total area of 7.8570 ha, was transferred to 88 citizens individual country house construction. According to the forest management materials, the disputed land plots belong to the State Enterprise "Vovchanske Forestry" lands." This was reported to the Kharkiv Anti-Corruption Center by the regional prosecutor's office(N6). To conclude, there are cases of occupation of forest land for other activities.

According to research conducted in the FLEG II program (N4) framework, the necessary documents are absent or cover only part of forest areas granted for permanent use. There is a shortage of documentary evidence of land tenure and management rights for communal, private, and state FME beyond SFRA jurisdiction due to complicated legislative procedures (N4).

The National Agency for the Prevention of Corruption (NAPC) has identified the most common corruption risks in land relations. According to experts from the Department of Strategic Analysis of Corruption Risks, this area is one of the most corrupt and causes significant negative consequences (N7). There are cases when the conversion of forest to agricultural land is possible through the corrupted decision of the State Land Committee from the District level. For example, an individual addressed the head of the State Land Committee in Irshava district of Zakarpattia region with a request to prepare a state act on the right of ownership of a land plot with a total area of 0.2074 hectares, located on forest lands, to allocate land as pasture in private ownership. Subsequently, the official, acting intentionally, certified technical documentation on land management with the right of land ownership as pasture and issued a corresponding state act on the right of ownership of this land plot for personal farming (G4). As a result, in such cases, the state and the community lose valuable forest

lands and the participants in the corruption scheme profit from deforestation. Such cases happened in other regions as well (N8, N9).

A. Forest owned by the state and managed by SFRA

Even though there is a risk of occupation of forest land for other activities (as described above), the management rights are clearly documented on paper. Inventory of state forest is conducted in all forests. An essential aspect of the effective work of state forestry enterprises is the openness of their data. From the beginning of 2018, most of the forest areas plans (maps) of state forest enterprises are freely available on the website of the Ukrainian State Forest Project Management Production Association (Abbreviated Name "Ukrderzhlisproekt") at the link: <https://www.lisproekt.gov.ua/plani-lisonasadzhen>.

B. Forest managed by other entities

Maps of communal forestry enterprises are not available on the website of Ukrderzhlisproekt, and for most of them, they are not available at all (N5). A positive example is in the case of the Chernihiv Region. Forestry Directorate posted forest maps of Chernihivoblagrois (Regional body for communal forests enterprises) because environmental NGO EPL experts created these plans based on maps received from FME units (N5).

Future more, due to financial issues, sometimes Ukrainian State Forest Management Project Production Association - Ukrderzhlisproekt carried out forest management planning to all those who pay, including FME that do not have the rights of a permanent land user and, accordingly, the rights of a permanent forest user (N5). This violation led to the adoption of illegal decisions by regional councils on the distribution of forests by categories and issuing an order of the Ministry of Environment on estimated logging areas. Based on the above documents, Regional Directorates for Forestry and Hunting Management, in violation of Article 70, paragraph 8, issues to these economic entities logging tickets for the special use of forest resources without considering the rights of a permanent forest user. All responsibility for violating the Law falls on the FME. FME understands what they are going for (N5).

At the same time, there is a positive example; according to the available reliable information, Planning Agency "Ukrderzhlisproekt" currently refuses to conclude agreements on forest management works with FMEs, which do not have title documents for the right to land use (N5).

Risk Conclusion

Specified risk for A - Forest owned and managed by the state. Management rights are documented, but there are cases of occupation of forest land for other activities (residential, recreation, agriculture, etc.).

The specific risk for B - Forest owned and managed by other entities. According to the information sources, there is a shortage of documentary evidence of land tenure and management rights for communal, private, and state enterprises beyond SFRA authority because of complicated legislative procedures. Simultaneously, there are cases of occupation of forest land for other activities (residential, recreation, agriculture, etc.).

1.1.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA

Specified Risk for the following specific case:

1. Risk of occupation of forest land for other activities

Specified risk

B. Forest managed by other entities

Specified Risk for the following two specific cases:

1. Risk of occupation of forest land for other activities
2. Risk of forest management without having land right documents in place
3. Risk of conversion of forest land to agriculture

1.1.7. Control measures and verifier

Mitigating the risk of occupation of forest land for other activities

Review information from online databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of occupation of forest land for other activities.

Review documents and verify:

- Request and check the latest report of the State Environmental Inspectorate to verify that no risks related to the occupation of the forest have been identified.

Onsite verification

- Field observations from forest visits shall verify the absence of other activities on forest land where timber is originating from.

Consult:

- Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm that there is no occupation of forest land for other activities.
- Interviews with relevant staff/workers of the FME shall show that they are aware of legislative requirements to not allow other activities in forest land.

Mitigating the risk of forest management without having land right documents in place

Review documents and information from online databases:

- Request and check the certificate of ownership rights. This can be checked online in the State Cadastre Database (<https://map.land.gov.ua/>)
- Request and check registration from State Register for Real Estate. See "How to check the land plot ownership" -(instruction in Ukrainian): [Як перевірити інформацію про земельну ділянку – Головне управління Держгеокадастру у Херсонській області \(land.gov.ua\)](#)

Mitigating the risk of conversion of forest land to agriculture

Review documents and verify documents:

- Request and check registration form in the State Register for Real Estate

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

- Law of Ukraine on concessions from 16.07.1999 № 997-XIV; Available at: <http://zakon2.rada.gov.ua/laws/show/997-14>

1.2.2. Legal authority

- Not applicable

1.2.3. Legally required documents or records

- Not applicable

1.2.4. Sources of information

Government sources

- G1) Dkkg.kmu.gov.ua (2019). Parliament protected Ukrainian forests from concessions. Press-release of the SFRA. Available at: <https://www.krollmg.org.ua/parlament-zahystyv-ukrayinski-lisy-vid-kontsesiyi/> Non-Government sources
- N1) Syniakevych I., Golovko A. How to reform the forestry sector of Ukraine? Available at: <https://scholar.google.com.ua/citations?user=kNcKNpwAAAAJ&hl=ru>
- N2) Marchuk Yu (2015). What threats are brought up by privatization of forests? Available at: <https://ukurier.gov.ua/uk/articles/yurij-marchuk-tilki-derzhava-mozhe-buti-vlasnikom-/> N3) Ukrproflis.org.ua (2017). On the Government's decision on the transfer forestry to the concession. Letters of the Central Board of the Forestry Trade-Union to the Prime-Minister of Ukraine. Available at: http://ukrproflis.org.ua/uploads/media/%D0%9B%D0%B8%D1%81%D1%82_%D0%9F%D1%80%D0%B5%D0%BC%E2%80%99%D1%94%D1%80-%D0%9C%D1%96%D0%BD%D1%96%D1%81%D1%82%D1%80%D1%83_%D0%A3%D0%BA%D1%80%D0%B0%D1%97%D0%BD%D0%B8.PDF

1.2.5. Risk determination

Overview of Legal Requirements

No publicly owned land covered by forest vegetation can be subject to concession: concession of forest resources is not a practice in Ukraine (N1,2,3).

Description of risk

Not applicable

Risk conclusion

Not applicable

1.2.6. Risk designation and specification

- Not applicable

1.2.7. Control measures and verifiers

- Not applicable

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, and approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- Forest Code of Ukraine - Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>
- Law of Ukraine on Environmental Impact Assessment from 23.05.2017 № 2059-VIII. Available at: <http://zakon3.rada.gov.ua/laws/show/2059-19>
- Law of Ukraine on Environmental Protection from 25.06.1991 № 1264-XII. Available at: <http://zakon5.rada.gov.ua/laws/show/1264-12>
- Law of Ukraine on the Nature Reserve Fund of Ukraine from 12.06.1992 № 2456-XII. Available at: <http://zakon5.rada.gov.ua/laws/show/2456-12>
- The Law of Ukraine on Amending Certain Legislative Acts of Ukraine Concerning Protection of Biodiversity from 09.04.2015 № 323-VIII. Available at: <http://zakon5.rada.gov.ua/laws/show/323-19>
- Resolution of the Cabinet of Ministers of Ukraine on procedure for issuing permits for special use of natural resources and setting limits on use of resources of national importance from 10.08.1992 № 459. Available at: <http://zakon5.rada.gov.ua/laws/show/459-92-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine on procedure for issuing permits for special use of natural resources and setting limits on use of resources of national importance from 10.08.1992 № 459. Available at: <http://zakon5.rada.gov.ua/laws/show/459-92-%D0%BF>

- Order of the Ministry of Natural Resources of Ukraine on Approval of the Instruction on the Procedure for Approval and Passing of Rated Harvest Area from 05.02.2007 № 38. Available at: <http://zakon2.rada.gov.ua/laws/show/z0160-07>
- Resolution of the Cabinet of Ministers of Ukraine «On Procedure for Special Use of Forest Resources» from 23.05.2007 №761. Available at: <http://zakon5.rada.gov.ua/laws/show/761-2007-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine on Approval of Sanitary Rules in Forests of Ukraine N 555. Available at: <http://zakon2.rada.gov.ua/laws/show/555-95-n>
- Resolution of the Cabinet of Ministers of Ukraine on approval of the Procedure for the Division of Forests into Categories and Allocation of Specially Protected Forest Areas N 733. Available at: <https://zakon.rada.gov.ua/laws/show/733-2007-%D0%BF#Text>
- Instruction on Forest Fund Arrangement, 2014. Available at: https://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=119314

1.3.2. Legal authority

- Regional Administrations of the State Agency of Forest Resources
- Ukrainian State Forest Management Project Production Association "Ukrderzhlisproect" (including Forest management planning - "expeditions" in its structure).
- Ministry of Environment Protection and Natural Resources

1.3.3. Legally required documents or records

Regardless of the ownership, all forestry measures are carried out in Ukraine based on Forest Management Plan.

Forest Management Plan contains:

- Planning and cartographic materials
- Project for the Forestry Organization and Development

Project for the Forestry Organization and Development is a document that defines the work of FME for the next ten years. Along with other cartographic documents, it is called "Forest Management Planning Materials". Forest management planning materials thoroughly characterize the state of the forest fund, the results of forestry in the previous period, prospects for the future. These documents also provide where and how most of the felling will take place, which areas need protection and how much protection should occur.

1.3.4. Sources of information

Government sources

- G1) Storozhuk V.F. (2014). Improving the regulatory base of forests and lands accounting: proposals on improvement of the state forest cadastre management. Available at: https://www.enpi-fleg.org/site/assets/files/2124/report_storozhuk_improvement_state_forest_cadaster.pdf
- G2) Uriffm.org.ua (2013). The concept of development of national forest inventory and forest monitoring in Ukraine (draft). Available at: https://uriffm.org.ua/static/main/files/project_concept20131009.pdf

- G3) Dkfg.kmu.gov.ua (2021). Forest monitoring in Ukraine. Available at: <https://forest.gov.ua/monitoring-lisiv-ukrayini>
- G4) Oleg Kulinich (2018). Registration of land rights by state forestry enterprises: main problems. Available at: <https://blog.liga.net/user/okulinich/article/31252>
- G5) National Academies of Sciences of Ukraine and Belarus (2019). International scientific-practical conference "Pine forests: current status, existing problems and ways to solve them". Available at: <https://tlu.kiev.ua/pro-nas/novini-zakhodi/novina/article/mizhnarodna-konferencija-shchodo-vsikhannja-sosnovikh-lisiv-zakonodavchi-obmezhenja-v-ukrajini-blokujut-borot.html>

Non-Government sources

- N1) Boreyko V.E. (2015). Massive violations of the law while organization the sanitary felling in the objects of NRF. Available at: <http://ecoethics.ru/massovyie-narusheniya-zakona-pri-organizatsii-sanitarnyih-rubok-v-obektah-pzf/>
- N2) World Wildlife Fund (2014). Short Reference of supplies of forest products to ensure compliance with the new European Legislation on wood / Shmatkov (drafting, comments). 154 p. Available at: http://dkfg.kmu.gov.ua/forest/control/uk/publish/article?art_id=121225&cat_id=32888
- N3) Kurinsky A. (2017). During I quarter in Zhytomyr region over 15 thousand ha of diseased forest were identified. Available at: <https://www.facebook.com/ztlis/posts/1109421449186681/>
- N4) Earthsight (2018). Complicit in Corruption - How billion-dollar firms and EU governments are failing Ukraine's forests. Available at: <https://www.earthsight.org.uk/investigations/complicit-in-corruption>
- N5) Asi-Assurance (2018). ASI assesses State Forest Enterprises in the Ukraine. Available at: <http://www.asi-assurance.org/s/post/a1J1H000001maBLUAY/p0679>
- N6) EPL (2018). Why do some FMEs don't want to approve continuous management materials by the Ministry of Environment? Available at: <http://epl.org.ua/announces/chomu-okremi-lisgospny-ne-hochut-pogodzhuvaty-materialy-bezperernogo-lisovporyadkuvannya-z-minpryrody/>
- N7) WWF (2020). Obstacles to the cessation of illegal sanitary felling, and why the eco-inspection can do nothing. Available at: <https://wwf.ua/?1180366/illegal-sanitary-logging>
- N8) Texty.org.ua (2020). "Sanitary" disease of the Ukrainian forest. Available at: https://texty.org.ua/d/2020/open_forestry/
- N9) Karabchuk D.Yu., Vicega R. R, Pavelko A. V, Golub M. G, Popovych V.D. (2018). Methodology of public control of forestry Version 1.5. Manual. Lviv. Available at: [8 _____ .pdf \(panda.org\)](#)

1.3.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to management and harvesting planning is the same.

According to Forest Code (No.3852-XII), the right to forest management shall be exercised on permanent and temporary forest management conditions. Simultaneously, Forest Code lays down framework conditions on the ages of stand maturation and norms of forest resource use. Resolution № 761 determines the use of forest resources within the final harvesting. It prioritizes harvesting allocation, limits the total volume within the Annual Available Cut, provides the harvesting plot allocation procedures, deadlines for the resources use, provisions for inspecting the harvesting plots. Instruction on the Procedure for Endorsement and Approval of Allowed Cuts No 38 establishes the procedure for endorsement and approval of Allowed Cuts and their updating and defines responsible bodies, their functions and cooperation mechanisms. Methodological Guidelines for Allotment and Mensuration of Logging Plots, Issuance of Forest Logging Tickets and Inspection of Timber Harvesting Areas in Forests of the State Agency of Forest Resources of Ukraine No 9 establish relevant technical requirements. The Rules for Restoration of Forests, among others, require reforestation of harvested areas within one to two years.

According to Forest Code, forest inventory is conducted in all forests of Ukraine. There are three types of forest inventory and monitoring activities:

At the national level in Ukraine, the last full forest survey was conducted in 1996. Experimental and production work on the preparation of the national forest inventory began in 2006. During 2008-2015, the Center of National Forest Inventory of Ukrderzhlisproekt conducted a sample-statistical inventory of forests of Sumy region and Ivano-Frankivsk region on a total area of about 1 million hectares;

At FME level – Continuous Forest Management Planning;

At FME level – Basic Forest Management Planning used to develop FMP.

A forest management plan provides a legal framework and comprehensive information on the current state of forests, forest resources, qualitative and quantitative changes in the forest fund. The content of the document support foresters in decision making and defines a set of measures for the reforestation, protection, and conservation of forest.

At the FME level, all activities developed in a specific area are based on Forest Management Plan, a mandatory technical document. According to law, forest area is divided into four types (1- forests with conservation, scientific, historical and cultural functions; 2 - forests for recreation and health; 3 - protection forests; 4 - production forests), based on different aspects, such as, e.g.: function, environmental importance, the main purpose.

During the development of basic forest management plan specialists from one of the Forest Management Expeditions (belongs to the Ukrderzhlisproekt), study the forests and develop all the necessary forest management materials for the next ten years. According to the procedure, basic forest management can be divided into the following stages:

At the first stage, the "first forest management meeting" takes place. As part of this event, appraisers, forest user representatives, and other stakeholders (including representatives of local communities or environmental organizations) discuss future forest management work and all aspects that need to be considered. In the second stage, field and in-house works take place. During this stage, surveyors conduct field surveys of forest user forests and

develop a forest management materials draft project. In the third stage, the draft forest management materials are discussed at the "second forest management meeting" and the involvement of stakeholders. If the meeting results approve the forest management materials, they are sent for approval to the governing state bodies, including the Ministry of Environmental Protection. In general, the basic forest management procedure can take more than a year.

However, many events may require changes in forest management plans (forest fires, finding rare species or habitats, establishing nature reserve fund (NRF) objects, etc.). According to the Forest Code of Ukraine, forest management plan changes should be approved by the State Agency of Forest Resources of Ukraine (SFRA) in agreement with the Ministry of Ecology and Natural Resources of Ukraine. SFRA delegated the functions of approving continuous forest management plans to its Regional Forestry and Hunting Departments.

As a result, FMEs themselves propose updates to FMP in a "continuous forest management" procedure." Most FMEs propose updates every year. Continuous Forest Management Planning is the process conducted each year to assess data on the distribution of forest plots and update information related to harvesting activities (forest type, species, age).

Forest Management Plans are developed by one of the Forest Management Planning Department (expeditions) of the Ukrderzhlisproect, with support from FME. The FME has the right to choose compartments that will be harvested during the next decade. In this process, they need to consider technical setup defined by the legislation: The bodies of the State Forestry Agency have the right to replace, with the consent of the permanent forest user, the loggers transferred for logging use of the main use, including those started by felling, taken in healthy stands, to loggers in stands damaged by elements, diseases, and forest pests. The term of connection of felling's (excluding the year of felling) for coniferous forests - 4 years, oak and beech -3, other hardwood and deciduous - 2 years. In one-quarter, several notches are allowed at the same time. The distance between one-year-old loggers in one or adjacent quarters must be at least twice their width. If, due to the peculiarities of the terrain, it is not possible to divert the rectangular loggers, their boundaries are set along clearly defined demarcation lines on the ground. Loggers with viable undergrowth that provide reforestation and loggers designed for sprouting are developed mainly from 1 October to 1 April.

The Instruction on the Procedure for Endorsement and Approval of Annual Allowable Cuts (No 38) specifies the key role (approve right) of the Ministry of Environment Protection and Natural resources in the process.

The forest management plan shall include planned sanitary cuttings, which can be allowed under special circumstances. This cutting aims to maintain forest health and prevent the spreading of outbreaks of forest pests and diseases. Still, they also generate an amount of timber of economic value. Sanitary cuts are not included in the Annual Allowable Cut calculation.

According to the Forest Code of Ukraine, the allowable cut is "an annual scientific volume of commercial harvesting, which is approved for each owner, by groups of species (e.g., broadleaf; coniferous), based on the principles of continuity of forest cover and standing stock volume." This felling is determined by appraisers (forest biometry experts of the "Ukrderzhlisproekt") based on "Instructions on the procedure for approval and approval of estimated felling" (N6)) and approved by the Ministry of Environment and Natural Resources of Ukraine. This is the maximum annual amount of wood that the FME can fall. The felling is calculated based on many indicators, mainly the stock of mature wood available for felling within the FME. Maturity age is determined separately for each plot following the "Procedure for dividing forests into categories and allocating specially protected forest plots" and forest

management instructions" (G7). The intermediate and sanitary cutting are estimated annually by the FME based on basic and continuous forest management planning materials.

According to the Forest Code of Ukraine, forest management planning materials are approved by the State Agency of Forest Resources of Ukraine (SFRA) in agreement with the Ministry of Environment Protection and Natural Resources of Ukraine (Ministry of Environment). SFRA delegated the functions of approving the materials of continuous forest management planning to its Regional Administration on Forestry and Hunting.

The forest management plan is valid for ten years, and the Forest management Enterprise shall ensure continuity of management (no activities can be conducted without FMP).

From January 1, 2019, the allowable cut of standing stock is restricted to 25 million cubic meters a year.

Description of Risk

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Incorrect assessment of volume and species

There are cases of incorrect allotment and mensuration of harvest areas or incorrect assessment of volumes, species composition and size-quality characteristics of wood during allotment and measurement, which in practice leads to higher quantity or quality of wood being harvested compared to what would be allowed if the classification had been correctly carried out .

Technological (logging) maps are often prepared without considering specific field conditions and without prescribed most effective options to minimize environmental and other requirements (ID 38).

A. Forest owned by the state and managed by SFRA

The information sources prove that, in general, the legislation about conducting forest inventory and approval of annual allowable cut is followed. However, as the NGO EPL analysis shows, some FMEs are avoiding approving the forest management plan by the Ministry of Environment. The vast majority of FMEs of Cherkasy, Ivano-Frankivsk, Volyn, Lviv and Kyiv regions ignore this legislation requirement. Moreover, some FMEs believe that updates of the forest management plan could be done without the approval of the Ministry of Environment, which is not true (N6). The cuttings are also planned during continuous forest management, including reconstruction cuttings, cuttings of single trees. Therefore, the approval of the materials of continuous forest management planning by the Ministry of Environment is not a formality, but the actual implementation of its responsibilities in forestry and the opportunity to stop some "schemes" of legal logging (N6).

The representatives of non-governmental nature conservation organizations provide documentary confirmation that during the planning of harvests, namely, selective sanitary cuts, economic motives take precedence over proper silvicultural practices laid out in the legislation (N1, N4). Several articles are pointing out unjustified and illegal sanitary harvesting: "A study commissioned by Earthsight (2018) conducted visit of 1 out of 18 logging sites across four of the largest timber provinces in 2017 found that between 67 and 78 percent of this harvesting is unjustified and therefore illegal. Extrapolated to a national level, this suggests illegal sanitary felling currently represents 38-44 per cent of total production and exports" (N4). At the same time, forestry specialists explain the increasing

volume of sanitary cuts by large areas of forest stands that suffer from diseases and infestations (N14). As of January 1, 2019, the total area of damaged drying forests was more than 413 thousand hectares, of which Scots pine - 222 thousand ha, European spruce - 27 thousand ha, oak - 100 thousand ha, and other forest stands - 64 thousand ha. (G5). On the other side, ASI investigated Sanitary Cutting issues in FSC certified FMUs in October 2018 and found no evidence of abuse of sanitary cutting laws (N5). However, planning sanitary cutting may be associated with corruption practice. In some cases, multiple cuttings are planned in the same area, creating areas higher than one hectare without trees and afforestation (N4, N7).

At the same time, FME shall renew the forest inventory and FMP every 10 years. There are cases when this timeframe is not followed according to the State Ecological Inspectorate's opinion (G 6). In some cases, there are different interpretations of the "Instruction of Forest Fund Arrangement, 2014" by the State Ecological Inspectorate and FME concerning the transition (so-called "revision") period. In this period, in some cases, State Ecological Inspectorate and FME are following the previous FMP and others are following the transition FMP (G6).

An essential aspect of the effective work of state forestry enterprises is the openness of their data. All activities developed by State FMEs are publicly available in compliance with the Law of Ukraine "On Access to Public Information," the Decree of the President of Ukraine "Issues of providing executive authorities with access to public information" from 05.05.2011 №574 / 2011, the order of the State Agency of Forest Resources of Ukraine from 23.05.2011. The information is available on the FMEs website. If additional information is needed, there is a template for such requests at the FMEs websites (G7).

B. Forest managed by other entities

The risk for source type A. also applies to this category. However, for the risk of missing approval of continuous forest management planning, there is no evidence that this is happening in the forest owned and managed by other entities. Therefore, based on a precautionary approach it is raised as a specified risk as there is no evidence of low risk.

According to sources, there is a higher share of sanitary cuttings in communal forests, related to inefficient management or corruption risks (N 9).

Information about activities developed by these FMEs is not available on the internet. A positive example was in the case of Chernihiv Region when Forestry Directorate posted on its website forest maps of the Regional body for communal forests enterprises "Chernihivoblagroli" (N5).

Risk Conclusion

The risk under this indicator is assessed as Specified for both types (A and B). According to the information sources, some sanitary cuttings are planned to violate legislation and/or silvicultural requirements. Simultaneously, the timeframe for renewing the FMP is not followed in all cases.

1.3.6. Risk designation and specification

Forest owned by the state and managed by SFRA, and B. Forest managed by other entities

Specified Risk for the following specific cases:

1. Risk of planning of unjustified sanitary cutting in a healthy forest

2. Risk of lack of approval of continuous forest management planning at the FME level
3. Risk of logging in areas not covered by a Forest Management Plan
4. Risk of incorrect allotment and mensuration of harvest areas
5. Risk of preparing technological (logging) maps without considering field practices
6. Risk of incorrect assessment of volumes, species composition, and size-quality characteristics of wood during planning

1.3.7. Control measures and verifiers

Mitigating the risk of planning of sanitary cutting in healthy forest

It is recommended not to purchase wood from sanitary cuttings, if possible. Measures that could be applied in case of purchase of wood from sanitary cutting are:

Review information from the internet and online databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for.
 - the absence of planning of sanitary cutting in a healthy forest.
 - the absence of risks related to the illegal obtaining of harvesting permits for sanitary cuttings

Note: Harvesting permits for sanitary logging includes Logging Tickets, Phytosanitary Assessment (performed by the specialized expert organization), as well as permission of the Regional Department of the State Forest Resource Agency (for sanitary clear cuttings), or permission from the Ministry of Environment (for sanitary cutting in Nature Reserve Fund (protected areas)).
- Review satellite data: In some cases, it is possible to check the health of the forest stand through satellite data when the effects are visible (windstorm, drying).

In case risks are identified, online, onsite audits for each logging site (not just sampling) are recommended.

Review documents and verify:

- Request and check that reports (acts in Ukrainian) of State Environmental Inspectorate confirm that.
 - the environmental legislation has been followed and that there are no violations identified during harvest planning.
 - No violations related to issuing of permits.

Onsite verification

- Before sanitary cutting, the logging site preparation by the forest organisation representatives (FME/Forest managers) or by independent experts should be checked to verify the necessity of carrying out sanitary cutting.
- Interviews with staff/workers shall confirm legislative requirements on when sanitary cutting can be planned.

Consult:

- Consult local environmental NGOs to obtain objectivity in planning and issuing harvesting permits for sanitary cuts.

Mitigating the risk of lack of approval by the Ministry of Environment of continuous forest management planning at the FME level

Review document and verify:

- Review the Forest Management Plan to verify the validity and approval by the Ministry of Environment

Review information from online databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to not renewed of FMP in time; In case there are risks, request additional information from FMP.

Mitigating the risk of logging in areas not covered by a Forest Management Plan

Waybills will only be issued if a Forest Management Plan is in place for the area of harvest. Therefore, the risk will be mitigated by collecting waybills and ensuring that there has been no fraudulent use of these waybills.

Apply the mitigation measures from Trade and transport section (1.16 and 1.17) to ensure waybills are in place and not used in a fraudulent way.

- Request and check waybills for all transport of wood from the forest.
- In the case of wood obtained from source type A. Forest owned and managed by the state, check the waybill in the state database (<https://open.ukrforest.com/>) to ensure that the waybill is genuine.
- Ensure that quantity of raw material from waybills is enough to cover production.
- Ensure that yield is in limits known for transformation of raw material to a specific product.

Onsite verification:

- Control of truck transport at forest and sawmill (point of departure and destination) shall verify that.
 - a waybill accompanies transport of wood
 - species, qualities, and quantities of wood transported on trucks compared with the information contained in the waybills
 - transport time is reasonable

Mitigating the risk of incorrect allotment and mensuration of harvest areas

Onsite verification

- Confirm the absence of abnormalities in allotment and mensuration of harvest areas. The person/team conducting the onsite audit shall have the necessary language skills and knowledge.

Review documents and information from online databases:

- Check the *Inspection Portal website* (<https://inspections.gov.ua>) for the absence of risks related to the incorrect allotment and mensuration of harvest areas;

Review Documents and verify

- State forestry bodies have records of inspection and inventory of allotment and mensuration of harvest areas. The FME can provide the document
- Report (Acts in Ukrainian) of state control bodies on verifying compliance with environmental legislation confirm the legality of obtaining harvest permits (Logging Tickets). The FME can provide the document.
- Reporting documentation of forest users to confirm observance of limits on forest resources use within the boundaries of territories and objects of the Nature Reserve Fund (NRF) of national and local significance.
- *GPS-monitoring of forest machines in state forest enterprises, if possible. The practice is voluntary and not widely used. The main purpose of the software product is to create a database on the movement of forest machines in the forests and roads of Ukraine. Each user of this System will be able to track and view the transport of wood from the felling site to the consumer online; view the enclosed documents (waybills TTN-forest), the starting points of the vehicle, its stops on the route, and the points of unloading wood in real-time on the map of Ukraine*

Mitigating the risk of preparing technological (logging) maps without considering field practices

Review documents and verify:

- Verify that the technological (logging) maps are in line with the situation on the ground and the onsite operation.
- Request and Check reports (acts in Ukrainian) of State Environmental Inspectorate (Державна екологічна інспекція України) confirming the absence of violations related to the logging maps.

Review information from online databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to technological (logging) maps

Onsite verification

- Field check to confirm that the technological (logging) maps are completed and in compliance with the situation in the field.

Mitigating the risk of incorrect assessment of volumes, species composition and size-quality characteristics of wood during the planning

Review documents and verify:

- Check the record of species and volumes
- Check reports (acts) of state control bodies on verification of compliance with environmental legislation confirm legality of obtaining harvest permits.
- Check volumes and species on invoices/waybills between Forest Management Enterprise and the next tier of the supply chain.

Review information on the internet and databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the incorrect assessment of volumes, species composition and size-quality characteristics of wood;
- Search for information in the public domain (e.g., internet search via google.com or other search engines) for information and news related to the specific FME where timber is harvested;

Onsite verification

- Confirm the absence of incorrect assessment of volumes, species composition and size-quality characteristics of wood. Field observations shall be in alignment with documentation and information from internet/databases listed above. The person/team conducting the onsite audit shall have the necessary language skills and knowledge.

Consult:

- Consult local environmental organisations for objectivity of correct assessment of volumes, species composition and size-quality characteristics of wood during planning

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

- Forest Code of Ukraine in the wording of the Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>
- Resolution of the Cabinet of Ministers of Ukraine «On Procedure for Special Use of Forest Resources» from 23.05.2007 №761. Available at: <http://zakon5.rada.gov.ua/laws/show/761-2007-%D0%BF>
- Order of the State Agency of Forest Resources of Ukraine «On Approval of Methodological Instructions for Allotment and Mensuration of Harvest Areas, Issuance of Harvest Tickets and Inspection of Timber Harvest Locations in Forests of the State Forest Resources Agency of Ukraine» from 21.01.2013 №9. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=105079&cat_id=104385
- Order of the State Forestry Committee of the Council of Ministers of the USSR «Manual on allotment and mensuration of cutting areas in forests of the USSR» [Text]: [Appr. 27/XII 1968] / St. Com. Forestry Council of Ministers of the USSR. CBNTI forestry. – Moscow: [w/o publ.], 1972. – 63 p. (for other permanent forest users)
- Order No. 364 of the State Forestry Committee of Ukraine “On approval of the Rules of final harvesting fellings”. Available at: <https://zakon.rada.gov.ua/laws/show/z0085-10#Text>
- Order of the State Agency of Forest Resources of Ukraine «On Approval of Methodological Instructions for Allotment and Mensuration of Harvest Areas, Issuance of Harvest Tickets

and Inspection of Timber Harvest Locations in Forests of the State Forest Resources Agency of Ukraine» from 21.01.2013 №9. Available at

:http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=105079&cat_id=104385

- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Sanitary Rules in Forests of Ukraine» from 27.07.1995 № 555. Available at:
<http://zakon2.rada.gov.ua/laws/show/748-2013-%D0%BF>
- Order of the State Forestry Committee of the Council of Ministers of the USSR «Manual on allotment and mensuration of cutting areas in forests of the USSR» [Text]: [Appr. 27/XII 1968] / St. Com. Forestry Council of Ministers of the USSR. CBNTI forestry. – Moscow: [w/o publ.], 1972. – 63 p. (for other permanent forest users).

1.4.2. Legal authority

- Ministry of Environment Protection and Natural Resources
- Regional Administrations of the State Agency of Forest Resources
- State Environmental Inspectorate of Ukraine

1.4.3. Legally required documents or records

- Logging Ticket (Permit)
- Technological Maps
- Volume Estimation Document

1.4.4. Sources of information

Government sources

- G1) Zt-lis.gov.ua (2021) . Informational card for getting harvesting permit Available at:
[Щодо видачі спеціального дозволу на спеціальне використання лісових ресурсів.pdf \(zt-lis.gov.ua\)](http://zt-lis.gov.ua/Щодо_видачі_спеціального_дозволу_на_спеціальне_використання_лісових_ресурсів.pdf)
- G2) Dklg.kmu.gov.ua (2020). The board of the State Forestry Agency discussed the results of the forest industry in the first half of 2020. Available at;
http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=210056&cat_id=32888
- G3) Zt-lis.gov.ua. Special allowance for special use of forest resources (forest harvest ticket) for final harvest; Available at:
[Щодо видачі спеціального дозволу на спеціальне використання лісових ресурсів.pdf \(zt-lis.gov.ua\)](http://zt-lis.gov.ua/Щодо_видачі_спеціального_дозволу_на_спеціальне_використання_лісових_ресурсів.pdf)
- G4) Galinfo (2019). The Security Service of Ukraine has exposed large-scale illegal tree felling in Zakarpattia. Available at:
https://galinfo.com.ua/news/sbu_vykryla_na_zakarpatti_masshtabni_nezakonni_vyrubky_derev_323125.html
- G5) Borlis (2021). Inter-agency meeting on the protection of forests: illegal logging in Lviv region decreased by half. Available at: <https://borlis.com.ua/novini-43/mizhvidomcha-narada-z-oxoroni-lisiv-nezakonni-rubki-na-lvivschini-zmenshilis-vdvichi.html>
- G6) Sumylis.gov.ua. Foresters of Svesky Forestry commented on the accusations of the State Ecological Inspectorate (Official website of the Sumy Regional Administration on

Forestry and Hunting) Management. Available at: <https://sumylis.gov.ua/pres-sluzhba/novini-lisgospiv/1269-sveski-lisivniki-prokomentuvali-zvinuvachennya-derzhkoinspektsiji.html>

- G7) Lviv Regional Department of Forestry and Hunting (2011). Information request (template). Available at: https://www.lvivlis.gov.ua/pub_info
- G8) Ukrforest (2021). Pilot project of an electronic register of logging tickets for timber harvesting. Available at: <https://lk.ukrforest.com>
- G9) Dkkg.kmu.gov. E-register of logging tickets for timber harvesting, 2016-2020. Available at: https://dkkg.kmu.gov.ua/forest/control/uk/publish/article?art_id=189040
- G10) Resolution № 76599257, 13.09.2018, Zhytomyr Administrative Court of Appeal. Available at: <https://youcontrol.com.ua/catalog/court-document/76599257>

Non-Government sources

- N1) Unian (2015). Problems of forest resources. Available at: <http://ecology.unian.ua/1194415-problemi-lisovih-resursiv-ukrajini.html>
- N2) Greenworld (2021). Legislative regulation in field of illegal timber logging. Available at: <http://greenworld.in.ua/abbout/publication/1325152034>
- N3) Dkkg.kmu.gov.ua. Protection of forest from illegal logging. Available at: http://dkkg.kmu.gov.ua/forest/control/uk/publish/article?art_id=118945
- N4) Lesovod. With care for forest creators. Available at: <http://www.lesovod.org.ua/node/21292>
- N5) Racurs (2015). Volumes of illegal logging have stayed the same as during Yanukovych era. Available at: <http://ua.racurs.ua/792-nezakonna-vyrubka-lisu-jak-za-yanukovycha>
- N6) Volyn OULMG (2015). Answers to topical questions that were raised during roundtable "Let us protect forests together". Available at: <http://lis.volyn.ua/?p=6139>
- N7) Zaxid (2020). Forestry officials in Prykarpattia were exposed for stealing timber worth UAH 1.9 million. Available at: <https://zaxid.net/posadovtsiv-lisgospu-na-prikarpatti-vikrili-na-rozikrali-derevini-na-1-9-mln-grn-n1504301>
- N8) Uncg (2020). Forestry enterprises of Kyiv region carry out mass illegal logging. Available at: <https://uncg.org.ua/masovi-nezakonni-rubky/>
- N9) Pershij (2020). Illegal logging in Synevyr National Nature Park (VIDEO). Available at: <https://pershij.com.ua/nezakonna-vyrubka-v-natsionalno-pryrodnomu-parku-synevyr-video/>
- N10) Misyura, Alexander (2020). Trade trick with the forest: for friends - everything, and for society - nothing? Why trade in raw wood takes place in closed "auctions" and without competition. Pravda. Available at: <https://www.epravda.com.ua/columns/2021/01/13/669939/>

- N11) EPL. The reform of environmental control will reduce illegal logging. Available at: <https://epl.org.ua/announces/yak-reforma-ekologichnogo-kontrolyu-spryyatyme-skorochennyu-nezakonnyh-rubok/>
- N12) Texty (2020). "Sanitary" disease of the Ukrainian forest. Available at: https://texty.org.ua/d/2020/open_forestry/
- N13) WWF (2020). Obstacles to the cessation of illegal sanitary felling, and why the eco-inspection can do nothing Available at: <https://wwf.ua/?1180366/illegal-sanitary-logging>
- N14) Resource (2018). Sanitary felling: why forests are not treated? Available at: <https://resource.com.ua/sanitarni-rubky-chomu-lisy-ne-dayut-likuvaty/>

1.4.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to harvesting permits is the same.

The Forest Code (No.3852-XII) lays down framework conditions on the ages of stand maturation and norms of forest resource use. Resolution N^o 761 determines the use of forest resources within the final harvesting and defines the template and procedure of issuing a Logging Ticket (Permit). The procedure for issuing a Logging Ticket (Permit) and setting relevant use limits on the Protected Area territories are regulated by the Resolution of the Cabinet of Ministers N^o 459.

The logging activity is called a "special use of forest resource." Logging Ticket (Permit) guarantees the right to harvest the timber in a specific area, and to obtain a logging ticket, the FME submits the following documents to a licensing authority: application for the use of forest resources; list of approved felling plots; field measurement data; volume calculation and evaluation data; scheme of the technological process of logging area development; logging area plan. Logging Ticket (Permit) contains information related to species and area that will be harvested, together with information about the type of felling.

Logging Tickets (Permit) are issued by the Local Centre of Permission, which provides administrative services of local government authorities. A logging ticket (Permit) may be revoked by a decision of the State Forestry Resource Agency or FME.

The SFRA launched a pilot project (G8) of an [online register of logging tickets](#) for timber harvesting. This is a register of permits that give the right to carry out economic activities related to timber harvesting. The register of logging tickets covers the entire territory of Ukraine. This register collects all data on logging tickets to make this information available to the public (G9).

At the Ministry for Environment Protection and Natural Resources initiative, a pilot project on conducting electronic auctions for the sale of raw wood was launched on February 1, 2020, which was approved by the Government Resolution of December 4, 2019, N^o 1178. Now, Roundwood is sold by FMEs only through transparent electronic (online) auctions. The pilot project applies to permanent forest users whose net income in 2018 amounted to at least UAH 10 million. The project participants shall sell at least 25 percent of the monthly planned timber harvesting volumes and by lots not less than 150 cubic meters or at the starting price of the lot less than UAH 200 thousand each. This resolution approved the Procedure for

implementing a pilot project for electronic auctions for the sale of individual lots of unprocessed wood, which provides that the sale of wood will take place in the electronic trading system Prozorro. Sales and other electronic auctions. Both citizens of Ukraine and resident legal entities, as well as foreign legal entities, can take part in the auctions. The major features of the auctions are also regulated: they will increase the price, and in the absence of the winner will be a mandatory re-auction with a reduction of the starting price, which cannot be less than the cost of the wood. In addition, the winner of the auction undertakes to make a 10% prepayment under the concluded contract of sale.

In 2020, in addition to auctions, a system of reductions for the sale of Roundwood on its own electronic platforms, "APS Forest," was introduced at the forestry enterprises coordinated by the State Forestry Agency to create a transparent mechanism for the sale of Roundwood.

Unprocessed timber for the needs of national security, defence, emergencies, public procurement, for heating of budgetary institutions and the local population, etc., is sold on other electronic auctions.

Description of Risk

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Harvest without the necessary permits

A scenario that could happen is wood harvested without the Forest Management Representative's authorization and, therefore, without harvesting permits. (Cutting more trees in each area than permitted in the forest management plan or cutting in the area not planned for harvest).

Issue of harvest permits

According to governmental sources, tampering of Logging Tickets (Permits) is rare and related to human error (G10). However, according to non-governmental information, the process of obtaining permit documents for cuts, especially sanitary cuts, is often accompanied by law violations and corruption (N12, N13). This is a consequence of the risk identified in section 1.3 – planning of sanitary cutting in a healthy forest.

There are substantial discrepancies between the official statistics and other information sources concerning illegal (particularly unauthorized) cuts. In 2019, the official volume of illegal logging in Ukraine amounted to 118 thousand m³, (about 0.5% of the total logging). However, the figure should be many times higher by the opinion of some environmental NGOs, given that FMEs themselves carry out illegal logging. These are felling without approved FMP, sanitary felling during the "silence season" (the period of mass reproduction of several fauna species, lasts from April 1 to June 15), sanitary felling of a healthy forest, continuous felling without environmental impact assessment (EIA), etc. However, the SFRA does not record these felling as illegal, arguing that they have all the necessary permits (for example, logging tickets issued by the territorial bodies SFRA). Therefore, the volume of these categories of illegal logging is not recorded anywhere (N11).

Issuance of harvest permits with incorrect data

There are indications of the cases of abuses by the Regional Administrations of the State Agency of Forest Resources at the issuance of harvest permits and harvest limits for objects of the Nature Reserve Fund, resulting in exceeding the limits of authorized harvest or harvest without the necessary permits. Because of the risk identified in 1.3 (Incorrect assessment of

harvested volume and species), there is a risk that a harvest permit is issued based on wrong data.

At the same time, there are cases when the species are not correctly identified in the harvesting permit (high-value species classified as low-value species) [9].

Auction

Another type of violations done by FME is related to the sale of wood under direct contracts when it is indeed required to sell all wood through auctions. This may carry risks of corruption, including understating grades and volumes of timber.

In 2020, in addition to the electronic auctions system, a new electronic system was developed – so-called “reductions” (APS Forest). The intend of this project is to create a transparent mechanism for the sale of raw wood.

In the opinion of some representatives of the wood business, there were cases when the forestry enterprises of one of the regions sold large volumes of the forest through the newly created commodity exchange in December 2020 at starting prices. Although such bidding is also called auction there was no competitive bidding; buyers bought the product at the original prices without bids and healthy competition. Moreover, the same companies are suspiciously often given unimpeded access to forest resources. Exchanges provide these legal entities with a comfortable pricing policy, lack of competition due to concealment of the place and time of trading, and lots exhibited from bona fide participants in the timber market. In the opinion of those representatives of the wood business, because of all these "tricks" of foresters and unscrupulous wood processors, society loses revenues to the budgets at different levels. The prices on timber products for the 1st quarter of 2021 on "closed" auctions and accessible, open to all exchanges sometimes differ from 500-1000 hryvnias per cubic meter (N10).

Additional findings for Auction - A. Forest owned by the state and managed by SFRA

Logging Tickets (Permits) issued for A. Forest owned and managed by the state are available in the Open Register of Permits for Logging on the website of SE "LIAC" (The register is available at: <https://lk.ukrforest.com/forest-tickets/>). There are risks that harvesting takes place without a permit. Still, the Register of Permits for Logging makes it easy to check permits' availability and confirm that carbon copies are genuine.

Additional findings for Auction - B. Forest managed by other entities

Related to the auction system, usually FMEs of different agencies subordination and communal enterprises often sell wood without a contract for sale or with the understatement of grades and volumes.

Logging Tickets (Permits) issued for many communal FME are not in the Open Register of Permits for Logging on the website of SE "LIAC" (The register is available at: <https://lk.ukrforest.com/forest-tickets/>). And in the forest cutting tickets for communal FME, which are available in the Open Register, sometimes there is no information about the allotments or even the quarters where felling is planned. The lack of maps and registers of Logging Tickets (Permits) for several communal FME significantly weakens the possibilities of public control over their activities. Consequently, the risk of abuse by officials of these FMEs, including illegal logging, is increasing (EPL 2020).

Unauthorized logging activities

A. Forest owned by the state and managed by SFRA

There is a risk of unauthorized logging activities conducted in the forest without rights (N8) or in national parks and protected areas (G4, N9). SFRA controls these illegal activities in the FMEs, with the support of the State Forest Guard, State Ecological Inspectorate, and National Police. To ensure the prevention of illegal timber trafficking and combating illegal logging, the Lviv Regional Department of Forestry and Hunting and the Main Directorate of the National Police in the Lviv region signed "Joint measures to prevent and combat illegal logging, prevent theft of forest products and other violations in the field of forest resources protection, which provide for joint raid work, streamlining of sawmills and systematic work in the media to cover compliance with forest legislation (G5).

B. Forest managed by other entities

In addition, unauthorized logging activities are more likely to happen in forests managed by other entities than SFRA because of risks identified in 1.1.5. These risks relate to a lack of evidence of land tenure and management rights, and there are cases of occupation of forest land for other activities. Unclear management rights increase the risk of cases when management for communal entities is done without rights/permits.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, issuance of Logging Tickets (Permits) may be accompanied by corrupt practice and violation of Law in the following for both sources (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities). At the same time, there are cases of incorrect assessment of volumes/size/quality characteristics of wood during allotment, incorrect mensuration of standing stock, and issues related to the use of the auction system.

1.4.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Harvest without the necessary permits (Logging ticket)
2. Harvesting permits (Logging Tickets) contains wrong information:
 - species are not correctly identified (high-value species classified as low-value species)
 - harvesting permits (Logging Tickets) are based on wrong inventory data
3. Selling of Roundwood through direct agreement, without auction
4. Selling of Roundwood through auction without competition

1.4.7. Control measures and verifiers

Mitigating the risk of harvest without the necessary permits (Logging ticket)

Review information from online databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to unauthorized logging activities

For wood sourced from Category A. Forest owned and managed by the state

Check the waybill in the state database to ensure that waybill is genuine.

Review documents and verify

Logging Tickets are valid for a year, and harvesting could be conducted several times within that period on the same plot (in contradiction with legislation). Waybills will contain additional information to the Logging Ticket and be issued only if a harvest permit (Logging Ticket) is in place. Therefore, the risk identified can be mitigated by requesting and checking the presence of waybills for all transports from the forest.

- Request and check waybills for all transport of wood from the forest.
- In the case of wood obtained from source type A. Forest owned and managed by the state, check the waybill in the state database (<https://open.ukrforest.com/>) to ensure that the waybill is genuine.
- Ensure that quantity of raw material from waybills is enough to cover production.
- Ensure that yield is in limits known for transformation of raw material to a specific product.

Onsite verification:

Control of truck transport at forest and sawmill (point of departure and destination) shall verify that.

- a waybill accompanies transport of wood
- species, qualities, and quantities of wood transported on trucks compared with the information contained in the waybills
- transport time is reasonable

For wood sourced from Category B. Forest managed by other entities

Ensure that mitigation measures are defined in 1.1 (Mitigating the risk of Management without having the right land documents requested by the Law).

Review documents and information from online databases:

- Request and check the certificate of ownership rights. This can be checked online in the State Cadastre Database (<https://map.land.gov.ua/>)
- Request and check registration from State Register for Real Estate. See "How to check the land plot ownership" -(instruction in Ukrainian): [Як перевірити інформацію про земельну ділянку – Головне управління Держгеокадастру у Херсонській області \(land.gov.ua\)](#)

The risk that harvesting permits (Logging Tickets) contains wrong information

Onsite verification:

- The issuance of harvest permits (Logging Tickets) based on in-correct inventory data could be checked through onsite verification conducted by implementing mitigation measures from 1.3 - Mitigating the risk of incorrect assessment of harvested volume and species.

Review documents and verify:

Document review to support onsite verification.

- Check the Forest Management plan and verify that data in the harvesting permit (Logging Ticket) matches the inventory data. Indicated species on the harvesting permit (Logging Ticket) shall be available in the inventory.
- Check invoice/waybill and verify that species and quality match the received material, as well as the information provided in the harvesting permit.

Mitigation the risk of selling Roundwood through direct agreement, without auction and the risk of selling Roundwood through auction without competition

The selling of roundwood through auction could be checked through document review.

Review documents and verify:

- Check contract of sale of wood (forest products), including invoices and specifications
- Check auction certificate. Verify that wood is sold at average prices.

Review information from online databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the selling wood methods.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covers payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume-based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

- Forest Code of Ukraine - Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>
- Order of the State Agency of Forest Resources of Ukraine «On Approval of Methodological Instructions for Allotment and Mensuration of Harvest Areas, Issuance of Harvest Tickets and Inspection of Timber Harvest Locations in Forests of the State Forest Resources Agency of Ukraine» from 21.01.2013 №9. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=105079&cat_id=104385
- Tax Code of Ukraine from 02.12.2010 № 2755-VI. Available at: <http://zakon5.rada.gov.ua/laws/show/2755-17>

1.5.2. Legal authority

- State Tax Service of Ukraine

1.5.3. Legally required documents or records

- Information on taxes paid and other mandatory payments (voluntarily published every three months by many FMEs at their websites as a report to the public - only this information separately or as a chapter of the Analysis of the economic and financial activity of the FME);
- Report on the results of the state financial audit (for the estimated period).

1.5.4. Sources of information

Government sources

- G1) Sfs.gov.ua. Information of capitation to the Budget of Ukraine by payers - subjects of natural monopolies and entities that pay the rent for use the resources as of 01.11.2015; Available at: <http://sfs.gov.ua/diyalnist-/informatsiya-pro-splatu-podatkov/223430.html>
- G2) Dklg.kmu.gov.ua. Protection of forest from illegal logging. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=118945
- G3) Dklg.kmu.gov.ua (2020). The board of the State Forestry Agency discussed the results of the forest industry in the first half of. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=210056&cat_id=32888
- G4) State Ecological Inspectorate of the Carpathian District (2021). Results of the state review (control) in the field of environmental protection from February 18 to February 25, 2021. Available at: <https://karpatireg.dei.gov.ua/posts/256>

Non-Government sources

- N1) Greenworld (2021). Legislative regulation in the field of illegal timber logging. Available at. <http://greenworld.in.ua/about/publication/1325152034>
- N2) Deyneka A. (2020). Forestry taxation: a reform whose time has come. Available at: <https://www.openforest.org.ua/138971/>
- N3) Zhezhkun, I. N. (2019). Double taxation of forest lands in Ukraine and its consequences for forestry and woodworking industry. Scientific Bulletin of UNFU, vol. 29, no 8. Available at: https://nv.nltu.edu.ua/Archive/2019/29_8/19.pdf
- N4) Ecopolitic (2021). In Bukovyna the forestry illegally harvested trees for UAH 3.6 million. Available at: <https://ecopolitic.com.ua/ua/news/na-bukovini-lisgosp-nezakonno-zrubav-derev-na-3-6-mln-grn/>
- N5) Zaxid Lviv (2018). Auditors found losses of 1.5 million UAH in the activities of the Obroshyne research farm. Available at: <https://zaxid.net/lvivski-auditori-viyavili-u-diyalnosti-doslidnogo-gospodarstva-obroshi-ne-vtrati-na-15-mln-n1450126>

1.5.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to royalties and harvesting fees is the same.

The forestry taxation system (The Tax Code of Ukraine -Law No. 2755-VI) includes two types of taxes:

- Rent for "special use of forest resources" (Article 256);
- Tax on forest lands (Article 277).

The rent for the "special use of forest resources" is a fee for timber harvested which serves as the stumpage fee. The tax on forest lands was introduced on August 15, 2018 (Law of

Ukraine from July 10, 2018, № 2497-VIII "On Amendments to the Tax Code of Ukraine and Certain Laws of Ukraine on Stimulating the Formation and Activity of Family Farms.").

According to the updated version (paragraph 277.1 of the Tax Code of Ukraine), land tax rates for land plots are set for forest lands at a percent not higher than 0.1% of the normative monetary valuation of arable land.

FMEs independently assess the amount of rent for special use of forest resources based on allotment of cutting areas and monetary assessment. In this process, the total volume of wood is divided into industrial timber and firewood. The amount of rent is specified in logging tickets based on estimated volume and shall be recalculated based on the result of the actual harvest. In case of continued harvesting or tree hauling after the expiry of forest felling tickets, surcharges are imposed.

Description of risks

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

One disadvantage of the fee for special use of forest resources is the type of payment. Currently, it's charged per cubic meter of harvested wood and increases from year to year without considering the market value of the wood itself. The last increase has led to the fact that for some species and categories, the tax value of commercial timber is close to the market price of wood (beech and some other species). This situation encourages FMEs to underestimate the yield of commercial timber. It does not promote high-yielding and high-quality forests because higher wood quality equals a higher amount of taxes.

Another disadvantage of the tax on forest lands introduced in 2018 is double taxation of forestry, and its calculation is based on the monetary assessment of arable land. This method to calculate the taxes is not appropriate for forest land, and in practice, these taxes could create financial issues on the FME budget (N3). According to the amendments to the Tax Code from 2019, local councils independently decide on introducing a land tax for forest lands, as the land tax for such lands is not mandatory for the introduction. The following tax rates have been set for forest lands: for land plots, the normative monetary valuation of which has been carried out - not more than 0.1 percent of their normative monetary valuation; for plots, the normative monetary valuation of which has not been carried out - not more than 0.1 percent of the normative monetary valuation of arable land in the region. Because of the changes in the law since 2019, the tax level decreased and today is not a financial burden for FMEs. At this point, there is low risk identified for this process.

According to official sources, the rent determined by FMEs in tax declarations is paid regularly. However, unofficial sources show that its amount is often understated due to abuses during allotment and mensuration of harvest areas and illegal logging (G4, N4). Sometimes the requirements of the Tax Code regarding the necessary recalculations of rent are not fulfilled (N5).

There are rare cases of delays of payment of rent for special use forest resources, but the State Tax Service always follows such cases.

As explained in Sub-categories 1.3 and 1.8., there are cases of incorrect assessment of volumes, species composition and size-quality characteristics of wood during allotment and mensuration of harvest areas, and illegal logging. Consequently, the tax amount is not paid based on the real classification of quantities and qualities of wood.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, there are cases when taxes are not paid based on the correct classification of wood.

1.5.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of underestimation of the tax "special use of forest resources" as the tax is based on in-correct classification of wood

1.5.7. Control measures and verifiers

Mitigating the risk of underestimation of the tax "special use of forest resources" as the tax is based on in-correct classification of wood

The issue of incorrect classification of wood should be addressed by applying mitigation measures related to:

- Sub-category 1.3 "Risk of incorrect assessment of volumes, species composition and size-quality characteristics of wood";
- Duc-category 1.8 "Mitigating the risk of poor quality of harvesting activities and violation of technical and silvicultural requirements."

In addition, the following mitigation measures should be applied.

Review documents and verify:

- Acts of inspection by the state fiscal authorities to confirm the accuracy of assessment of rent for special use of forest resources.
- Check financial audit and ensure that there are no financial risks.
- Check the recalculations of taxes and ensure that the data is correct (Information can be found at the Main Departments of the State Tax Service in the regions.

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

- Tax Code of Ukraine from 02.12.2010 № 2755-VI. Available at: <http://zakon5.rada.gov.ua/laws/show/2755-17>

1.6.2. Legal authority

- State Tax Service of Ukraine
- State Fiscal Service

1.6.3. Legally required documents or records

- Receipts for payment of VAT
- Receipts for payment of income tax

- Presence and correct processing of shipping documents.

1.6.4. Sources of information

Government sources

- G1) Sfs.gov.ua (2015). Information of gathering to the Budget of Ukraine by payers - subjects of natural monopolies and entities that pay the rent for use the resources. Available at: <http://sfs.gov.ua/diyalnist-/informatsiya-pro-splatu-podatkiv/223430.html>
- G2) Dklg.kmu.gov.ua. Protection of forest from illegal logging. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=118945
- G3) Atamanchuk V. (2014). Results of economic and financial activity of enterprises of the branch after 9 months of 2014. Available at; http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=130524&cat_id=81209
- G4) Sfs.gov.ua (2015). Information of gathering to the Budget of Ukraine by payers - subjects of natural monopolies and entities that pay the rent for use the resources as of 01.11.2015. Available at: <http://sfs.gov.ua/diyalnist-/informatsiya-pro-splatu-podatkiv/223430.html>
- G5) Derevoobrobnyk. What is the future for our forests? Answer of State Forest Resources Agency. Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv-vidpovid-derzhlisagentstva/>

Non-Government sources

- N1) Lesovod. Forest and prosecutors: downside "uniforms". Available at: <http://www.lesovod.org.ua/node/26665>
- N2) Derevoobrobnyk. What is the future for our forests? Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv/>
- N3) Victor Allerciani (2015). Environmental Inspectorate: almost every day we find a car with a timber without documents. Zt.20minut.ua. 26 May 2015. Available at: <http://zt.20minut.ua/Groshi/ekologhichna-inspekciya-majzhe-shodnya-mi-viyavlyayemo-avtomobil-z-lis-10448240.html>
- N4) P-p.com.ua (2015). A ZIL car, loaded with stolen wood was detained in Volyn Region. Available at: <http://p-p.com.ua/articles/65403/>
- N5) Zik.ua (2014). In Lviv region high quality wood sell under the guise of cheap Technical raw stock, - investigation; Available at: http://zik.ua/news/2014/09/04/na_lvivshchyni_yakisnu_derevynu_sproduyut_pid_vyglya_dom_deshevoi_tehsyrovyny
- N6) Vitatv (2021). In Vinnytsia region, a large scheme of theft of forest products was exposed. Available at: <https://vitatv.com.ua/kriminal/na-vinnichchini-vikrili-veliku-skhemu-rozkradannya-lisoprodukcii>
- N7) Ukrainian Crisis Media Center (2020). It is impossible to solve the problems in the forest sector without systemic reform – experts. Available at: <https://uacrisis.org/uk/75047-how-to-reform-forest-management>

1.6.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to value-added taxes and other sales taxes is the same.

For timber sale, the VAT is applied under general conditions of commercial trade, established under the Tax Code of Ukraine. The legislation provides electronic administration of VAT. The procedure requires enterprises to provide accurate values to the Treasury Department before filling out the tax form. The assessed amount of VAT depends on the quantity and price of goods subject to sales.

Description of Risk

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

According to official sources, it is impossible not to pay the assessed tax. However, the introduction of electronic timber accounting to forestry enterprises of the State Agency of forest resources of Ukraine does not fully protect from abuses. There are cases of understatement of tax due to illegal sale of wood or sale with misstating of wood category, grade, and volume as described in 1.4.

Quite often, abuses are highlighted by different sources (N6, N7), which are associated with understating grade and volume of wood during sales by forestry enterprises and illegal sales of timber.

Risk Conclusion

This indicator has been evaluated as a specified risk. According to the information sources, there are cases when taxes are not paid based on the correct classification of wood.

1.6.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of underestimation of VAT, income, and profit taxes as the taxes are based on incorrect classification of wood

1.6.7. Control measures and verifiers

Mitigating the risk of underestimation of VAT, income, and profit taxes as the taxes are based on in-correct classification of wood

When classification is accurately conducted, taxes will be paid appropriately. The risk identified is related to the incorrect classification of the products.

The issue of incorrect classification of wood should be addressed by applying mitigation measures related to:

- Sub-category 1.3 "Risk of incorrect assessment of volumes, species composition and size-quality characteristics of wood".
- Duc-category 1.8 "Mitigating the risk of poor quality of harvesting activities and violation of technical and silvicultural requirements."

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

- Tax Code of Ukraine from 02.12.2010 № 2755-VI. Available at: <http://zakon5.rada.gov.ua/laws/show/2755-17>
- Methodical recommendations on costing of production (works, services) for enterprises belonging to the sphere of management of the State Agency of Forest Resources of Ukraine (approved by order of the State Agency of Forest Resources of Ukraine from 14.05.2013 № 124). Available at: http://lespravo.com.ua/art/407Metodrekomendacii_z_formuvannya_sobivartosti_produkci_i_na_pidpri%D1%94mstvah_DALRU/

1.7.2. Legal authority

- State Tax Service of Ukraine

1.7.3. Legally required documents or records

- Receipts for payment of income tax

1.7.4. Sources of information

Government sources

- G1) DkIlg.kmu.gov.ua. Protection of forest from illegal logging. Available at: http://dkIlg.kmu.gov.ua/forest/control/uk/publish/article?art_id=118945
- G2) Atamanchuk V. (2014). Results of economic and financial activity of enterprises of the branch after 9 months of 2014. Available at: http://dkIlg.kmu.gov.ua/forest/control/uk/publish/article?art_id=130524&cat_id=81209

Non-Government sources

- N1) Greenworld (2021). Legislative regulation in field of illegal timber logging. Available at: <http://greenworld.in.ua/about/publication/1325152034>
- N2) Lesovod. Forest and prosecutors: downside "uniforms"; Available at: <http://www.lesovod.org.ua/node/26665>
- N3) Derevoobrobnyk. What is the future for our forests? Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv/>
- N4) Victor Allerciani (2015). Environmental Inspectorate: almost every day we find a car with a timber without documents; Available at: <http://zt.20minut.ua/Groshi/ekologhichna-inspekciya-majzhe-shodnya-mi-viyavlyayemo-avtomobil-z-lis-10448240.html>

- N5) P-p.com.ua (2015). A ZIL was detained in Volyn Region, loaded with stolen wood; Available at: <http://p-p.com.ua/articles/65403/>
- N6) Zik.ua (2014). In Lviv region high quality wood sell under the guise of cheap Technical raw stock, - investigation; Available at: http://zik.ua/news/2014/09/04/na_lvivshchyni_yakisnu_derevynu_sproduyut_pid_vyglya_dom_deshevoi_tehsyrovyny

1.7.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Income and profit taxes are not related to timber harvesting, but it is linked to the general financial results of each entity.

According to the tax code, all entities shall pay income taxes. Entities working under the simplified taxation system pay a single tax (a percentage of revenue). A legal entity or a natural person-entrepreneur may independently choose a simplified taxation system if such a person meets the requirements established by the Tax Code and is registered as a single tax payer in the manner prescribed by Section XIV of the TCU (<http://sfs.gov.ua/nk/rozdil-xiv-spetsialni-podat-edynyi-podatok/>).

Description of Risk

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Revenues of forestry enterprise are primarily generated from wood sales, so understating grade and volume or illegal sales (which are often seen) affect the amount of profit (see. 1.3). The profit is affected as the understating of grades and volumes allows a company to only declare the income that would have been generated from the sale of lower grade/lower volumes, and thus not declaring the actual income to the authorities.

As explained in 1.3, there is a risk of incorrectly assessing volumes, species composition and size-quality characteristics of wood during allotment and mensuration of harvest areas, and illegal logging. Consequently, income and profit taxes are not paid based on the actual quantities and qualities of wood. Abuses also happen at the stages of recalculation according to results of actual harvest and surcharges in prolongation of harvest or tree hauling after the expiry of the forest felling ticket.

Risk Conclusion

According to sources, there is an understatement of tax rate due to illegal wood sales or legal sales of wood with a misstatement of category, grade, and volume.

1.7.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of underestimation of VAT, income, and profit taxes as the taxes are based on incorrect classification of wood.

1.7.7. Control measures and verifiers

Mitigating the risk of underestimation of VAT, income, and profit taxes as the taxes are based on in-correct classification of wood,

When classification is accurately conducted, taxes will be paid appropriately. The risk identified is related to the incorrect classification of the products.

The issue of incorrect classification of wood should be addressed by applying mitigation measures related to:

- Sub-category 1.3 "Risk of incorrect assessment of volumes, species composition and size-quality characteristics of wood".
- Sub-category 1.8 "Mitigating the risk of poor quality of harvesting activities and violation of technical and silvicultural requirements."

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

- Order of State Forestry Committee of Ukraine «On approval of Rules of main harvest» from 23.12.2009 № 384. Available at: <http://zakon4.rada.gov.ua/laws/show/z0085-10>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Rules for Main Harvest Cutting in the Carpathian Mountains Forests» from 22.10.2008 № 929. Available at: <http://zakon2.rada.gov.ua/laws/show/929-2008-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Improving Quality Composition of Forests» from 12.05.2007 № 724. Available at: <http://zakon5.rada.gov.ua/laws/show/724-2007-%D0%BF>
- Forest Code of Ukraine in the wording of the Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>

1.8.2. Legal authority

- Ministry of Environment Protection and Natural Resources
- Regional Administrations of the State Agency of Forest Resources
- State Environmental Inspectorate of Ukraine

1.8.3. Legally required documents or records

- Logging Tickets (Permits) (issued by Regional Directorate of SFRA),

- Technological (logging) maps
- Volume Estimation Document

1.8.4. Sources of Information

Government sources

- G1) World Wildlife Fund (2014). Short Reference of supplies of forest products to ensure compliance with the new European legislation on wood / Shmatkov (drafting, comments). 154 p. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=121225&cat_id=32888
- G2) Dei.zt.ua. Inspection counts losses and fines for tree damage. Available at: <http://dei.zt.ua/novyny/181-za-poshkodzhennia-derev-inspektsiia-narakhovuie-zbytky>
- G3) Svoboda. Losses from illegal logging will be charged from state forestry enterprises again; Available at: <http://svoboda.fm/economic/region/248691.html>
- G4) Dei.in.ua. State control of protection, guard and use of plant resources including forest; Available at: <http://dei.in.ua/web/index.php/news/view?id=188>

Non-Government sources

- N1) George Vite, Chung Hyun Kyung (2013). Exports of forest products in changing laws (Compliance Lacey Act - USA) (ЭКСПОРТ ЛЕСОПРОДУКЦИИ В УСЛОВИЯХ МЕНЯЮЩЕГОСЯ ЗАКОНОДАТЕЛЬСТВА). - WWF / TRAFFIC. 2013 60 p.. Available at: <https://wwf.ru/resources/publications/booklets/eksport-lesoproduktsii-v-usloviyakh-menyayushchegosya-zakonodatelstva/>
- N2) Bondaruk G.V. Kahalo O.O, Protsenko L.D, Artov A. M, Prots B.G. Regulatory support of biodiversity conservation in the forest sector of Ukraine: Analysis and prospects. – Lviv, 2013. – 266 p.
- N3) Check of “Chernivtsi forestry enterprise» revealed violations listed on 11 pages” public activist Zhyzhyan. Available at: <http://bukinfo.com.ua/show/news?lid=65394>
- N4) Proternopil.te.ua (2020). Die SBU in Transkarpatien deckte großflächigen Walddiebstahl auf 29. April 2020. Available at: http://proternopil.te.ua/index.php%3Foption%3Dcom_content%26view%3Darticle%26id%3D56793
- N5) Hromadske.ua (2018). "Black loggers": who and how saws the Carpathian Forest. Available at: <https://hromadske.ua/posts/chorni-lisoruby>
- N6) Earthsight (2018). COMPLICIT IN CORRUPTION - How billion-dollar firms and EU governments are failing Ukraine’s forests. Available at: <https://www.earthsight.org.uk/investigations/complicit-in-corruption>
- N7) Addendum (2019). Styrian Oaks from Ukrainian Forests. Available at: <https://www.addendum.org/holzmafia/parquet-ukraine/>
- N8) Earthsight (2021). IKEA’s illegal timber problem and the flawed green label behind it. Available at: <https://www.earthsight.org.uk/flatpackedforests-en>

1.8.5. Risk determination

Overview of Legal Requirements

Legal rights to harvest in both source types (A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities) are based on forest inventory with the plan and cartographic materials, approval of annual allowable cut, Logging Tickets (Permits) (issued by Regional Directorate of SFRA), logging technological maps of cutting areas which reflect nature conservation requirements, as described in section 1.3.

General rules for cuttings are based on the Order of State Forestry Committee of Ukraine (On approval of Rules of the main harvesting - 2009), which establish norms and requirements for timber harvesting during the main felling (technological scheme, preparatory measures, hauling way details, logging season, undergrowth protection, soil conservation, cleaning of logging sites and measures related to reforestation, etc.). The Resolutions of the Cabinet of Ministers of Ukraine (On Approval of Rules for Main Harvest Cutting in the Carpathian Mountain Forests -2008; On Approval of Improving Quality Composition of Forests - 2007) define the rules for sensitive mountain forest conditions and intermediate harvesting.

Resolution N° 303 of the Cabinet of Ministers, among others, regards promoting natural regeneration by aiming logging technology at its preservation and requires removing wood and logging residues and afforest harvesting areas within one to two years.

A. Forest owned by the state and managed by SFRA

Forest management in category A. Forest owned by the state and managed by SFRA, is determined by internal orders and instructions of the State Forest Resource Agency, the effect of which does not apply to enterprises that are not part of the structure of SFRA. For example, these are documents such as "Guidelines for the allocation and assessment of logging, issuance of logging tickets and inspection of logging sites in the forests of the State Forestry Committee," approved by order of this body in 2010.

B. Forest is managed by other entities.

Forest management in category B. Forest managed by other entities shall follow the national legislation. Still, there is not mandatory to follow guidance defined for category A or to define specific guidance.

Description of Risk

A. Forest owned by the state and managed by SFRA

Legislative regulations related to harvesting practices are often violated, confirmed in official inspection documents (acts) performed by ecological and nature protective authorities (G5). There are violations of organizational and technical elements of logging (minimum period and distance between logging sites, maximum area of harvest, calculation method of adjacency of harvest areas, orientation of harvesting site shape, season of harvest) and poor quality of planning and organization of technological processes of logging operations (preparatory activities, cutting area preparation process, methods of logging, order of felling, and determination of environmental requirements, damage of standing stock, excessive soil damage) (G6, G7, G8, G9). Despite this, violations are not always identified (intentionally or not intentionally) by the State Ecological Inspectorate inspections (N4, N5). Abuses also happen at the stage after harvesting, such as prolonging harvest or tree hauling after the expiry of the forest felling ticket.

B. Forest managed by other entities

The risk profile for this category is like A. Forest, owned by the state and managed by SFRA. However, the risk is increased for source type B, as State FMEs develop no applied procedures, and each FME may choose how to follow the legal requirements, as there is no guidance.

Risk Conclusion

This indicator has been evaluated as a specified risk. According to the information sources, harvesting practices are often violated in both source types (A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities). At the same time, logging maps are not prepared in the field, and therefore proposed measures are not used in practice.

1.8.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of violation of technical and silvicultural requirements. Examples of violations; skidding trails that are not followed; damage of trees; damage of soil, etc.

1.8.7. Control measures and verifiers

Mitigating the risk of violation of technical and silvicultural requirements

Onsite verification

- Field check of logging site to confirm good quality harvesting practices and that technical and silvicultural requirement are being followed.

Review documents and verify:

- Check the requirements from the technological (logging) map to support onsite verification
- Request and Check acts of State Environmental Inspectorate confirming the absence of violations related to the quality of harvesting activities and following the technical and silvicultural requirements.

Review databases:

- Check Inspection Portal website for the absence of risks related to the quality of harvesting activities and following the technical and silvicultural requirements; In case there are risks, check the occurrence in an onsite visit.

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- Law of Ukraine «On Environmental Protection» from 25.06.1991 № 1264-XII. Available at: <http://zakon5.rada.gov.ua/laws/show/1264-12>

- Law of Ukraine «On the Nature Reserve Fund of Ukraine» from 12.06.1992 № 2456-XII. Available at: <http://zakon5.rada.gov.ua/laws/show/2456-12>
- The Law of Ukraine «On Amending Certain Legislative Acts of Ukraine Concerning Protection of Biodiversity» from 09.04.2015 № 323-VIII. Available at: <http://zakon5.rada.gov.ua/laws/show/323-19>
- Law of Ukraine «On Animal World» from 13.12.2001 № 2894-III. Available at: <http://zakon5.rada.gov.ua/laws/show/2894-14>
- Law of Ukraine «On Plant World» from 9.04.1999 № 591-XIV. Available at: <http://zakon5.rada.gov.ua/laws/show/591-14>
- Law of Ukraine «On Red Book of Ukraine» from 07.02.2002 № 3055-III. Available at: <http://zakon4.rada.gov.ua/laws/show/3055-14>
- Law of Ukraine «On ecological network of Ukraine» from 24.06.2004 № 1864. Available at: <http://zakon4.rada.gov.ua/laws/show/1864-15>
- Law of Ukraine «On Ratification of Convention on Protection of Biological Diversity» from 29.11.1994 № 257/94. Available at: http://zakon5.rada.gov.ua/laws/show/995_030
- Law of Ukraine «On Ukraine's Accession to Convention on Protection of Wild Flora and Fauna and Environment of Europe in 1979» from 29.10.1996 № 436/96. Available at: <http://zakon5.rada.gov.ua/laws/show/436/96-%D0%B2%D1%80>
- Law of Ukraine «On Ukraine's Participation in Convention on Wetlands of International Importance, Mainly as Waterfowl Habitat» from 29.10.1996 № 437/96. Available at: http://zakon5.rada.gov.ua/laws/show/995_031
- The Law of Ukraine «On Amending Certain Legislative Acts of Ukraine Concerning Protection of Biodiversity» from 09.04.2015 № 323-VIII. Available at: <http://zakon5.rada.gov.ua/laws/show/323-19>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Regulation on Green Book of Ukraine» from 29.08.2002 № 1286. Available at: <http://zakon5.rada.gov.ua/laws/show/748-2013-%D0%BF>
- Order of the Ministry of Natural Resources of Ukraine «On approval of List of rare and endangered species and typical natural plant communities that are subject to protection and included in the Green Book of Ukraine» from 16.10.2009 № 545. Available at: <http://zakon5.rada.gov.ua/laws/show/z1024-09>
- Order of Ministry of Natural Resources of Ukraine «On Approval of Instructions for Design of Security Obligations on Territory of Nature Reserve Fund» from 25.02.2013 № 65. Available at: <http://zakon4.rada.gov.ua/laws/show/z0404-13>
- On amendments to some resolutions of the Cabinet of Ministers of Ukraine. Adoption on December 9, 2020. Available at: <https://zakon.rada.gov.ua/laws/show/1224-2020-n?lang=en#Text>

1.9.2. Legal authority

- Ministry of Environment Protection and Natural Resources

- State Environmental Inspectorate of Ukraine
- Regional department of Environmental Protection
- President of Ukraine

1.9.3. Legally required documents or records

- List of Nature Reserve Funds (NRF) objects
- Passports of the nature reserve fund object and protection regime description
- Record from the State Register of Real Property Rights

1.9.4. Sources of Information

Government sources

- G1) Red Book of Ukraine: Flora / ed. Y.P. Didukh. - K.: Hlobalkonsal'tynh, 2009. – 900 p.
- G2) Red Book of Ukraine: Wildlife / ed. I.A. Akimov - K.: Hlobalkonsal'tynh, 2009. – 600p.
- G3) Bryhynets O. (2014). Land inventory condemn the protected areas for destruction. Available at: http://bryhynets.com/index.php?nma=news&fla=stat&cat_id=1&nums=5744
- G4) Convention on Biological Diversity. Fourth national report of Ukraine to the Convention on Biological Diversity. Available at: <https://www.cbd.int/doc/world/ua/ua-nr-04-ru.pdf>
- G5) Convention on Biological Diversity. Fifth national report of Ukraine to the Convention on Biological Diversity. Available at: <https://www.cbd.int/doc/world/ua/ua-nr-05-en.pdf>
- G6) Vin.dei.gov (2021). Forestry - it's not just logging! Available at: <https://vin.dei.gov.ua/posts/391>
- G7) Centrreg (2020). Forestry will have to pay damages for violating environmental legislation!!! Available at: <https://centrreg.dei.gov.ua/posts/249>
- G8) Dei.gov.ua (2020). Prohibition on clear-cutting felling of trees in the Carpathians: State Eco-inspection calculates losses for violations in forests. Available at: <https://www.dei.gov.ua/posts/1265>
- G9) Dei.gov.ua (2021). State Eco-inspection strengthens control in forests and nature protected areas during "silence season". Available at: <https://dei.gov.ua/posts/1493>
- G10) Leshchenko, Roman (2020). About change of purpose land plots. Geocadastre letter, 07.12.20. Available at: <https://land.gov.ua/wp-content/uploads/2020/12/%D0%BB%D0%B8%D1%81%D1%82-1.pdf>
- G11) Itd.rada.gov.ua (2021). EXPLANATORY NOTE to the draft Law of Ukraine "On Amendments to Certain Laws of Ukraine (Concerning Protection from Deforestation of Rare and Endangered Species of Flora Listed in the Red Book of Ukraine)", Office of the Verkhovna Rada of Ukraine № 299d9 / 1-2021 / 203640 dated 22.06.2021. Available at: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/790162>

Non-Government sources

- N1) Boreyko V.E. (2015). Massive violations of the law while organization the sanitary felling in the objects of NRF. Available at: <http://ecoethics.ru/massovyie-narusheniya-zakona-pri-organizatsii-sanitarnyih-rubok-v-obektah-pzf/>
- N2) Vasylyuk O., Kostyushyn V., Norenko K., Plyha A., Prekrasna Ye., Kolomytsev G., Fatikova M. (2012). Nature Reserve Fund of Kyiv region. – K.: NECU, – 338 p., w. appendixes.
- N3) Protsenko L. (2014). Analytical report «Conservation of biodiversity in forests. Harmonization of legislation of Ukraine and European Union on protected areas». – Lviv: WWF, April – June, 2014. Available at: http://www.sfm.org.ua/files/Ukraine_Biodiversity_Final%20report_2014_Protsenko.doc
- N4) EPL. How the environmental inspection checks forestry: from millions of fines to complete blindness! Available at: <https://epl.org.ua/about-us-posts/yak-ekologichna-inspektsiya-pereviryaye-lisgospy-vid-miljonnyh-shtrafiv-do-povnoyi-slipoty>
- N5) Uncg.org.ua. How the environmental inspection covers illegal cutting: the example of Transcarpathia. Available at: <https://uncg.org.ua/ekolohichna-inspektsiia-pokryvaie-nezakonni-rubky/>
- N6) Ecoclubrivne.org (2020). "Black" wood, the season of silence and FSC-certification - how in Ukraine forests are illegally harvested. Available at: https://ecoclubrivne.org/fsc_nezakonni_rubky/
- N7) Hrynyk, Yegor (2020). What do sanitary felling in the Carpathians really look like? Available at: <https://life.pravda.com.ua/columns/2020/01/16/239580/>
- N8) Bogomaz, Mikhaylo (2021). New rules of felling in the Carpathians and protected forests. What has changed and how will it work? Posted on March 28, 2021. Available at: <https://wwf.ua/?2347916/new-logging-rules>
- N9) Tyestov, Petro (2018). Who justifies the need for cutting in preserved forests? October 30, 2018. Available at: <http://epl.org.ua/about-us-posts/hto-obgruntovuye-neobhidnist-rubok-u-zapovidnyh-lisah>
- N10) Tyestov, Petro (2018). Kamyansky Forestry in Cherkasy destroy the habitat of plants from the Red Book UKRAINE. Available at: <http://epl.org.ua/announces/kamyanskyj-lisgosp-na-cherkashhyni-znyshhuye-mistsezrostannya-roslyn-z-chervonoyi-knygy-ukrayiny/>
- N11) UNGG (2020). Land Cadaster will take account protected areas - <https://uncg.org.ua/zemelnyj-kadastr/>
- N12) EPL (2018). The regions to start preparing management plans for NRF territories on August 22, 2018. Available at: <https://epl.org.ua/announces/oblasti-rozpochnut-gotuvaty-menedzhment-plany-dlya-terytorij-pzf/>
- N13) Texty.org.ua (2020). "Sanitary" disease of the Ukrainian forest. Available at: https://texty.org.ua/d/2020/open_forestry/

1.9.5. Risk determination

Overview of Legal Requirements

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to protected sites and species is the same.

Law No. 1264-XII "On Environment Protection" sets the general framework for the protection, use and enhancement of natural resources, ensuring environmental safety, prevention of the negative environmental impact of economic and other activities and liquidation of its consequences, conservation of natural resources, landscapes and ecosystems, unique areas and natural objects related to cultural heritage. The Law No 591-XIV "On Plant World" (Flora) determines the legal framework for flora protection. It indicates that special measures should be implemented for conserving population and cogenetic diversity and integrity of flora, protection of their habitat, protection from destruction, damage, fire protection, pests and diseases control, and its sustainable use. The Law of Ukraine No 2894-III "On Animal World" (Wildlife), among others, define rules for protection of wildlife, monitoring, state registration and state cadastre of wildlife species.

Forest Code (No.3852-XII of 1994) provides that, during logging, it is not allowed to cut or damage valuable and rare trees and shrubs listed in the Red Book of Ukraine as well as seed and trees with nests of rare species of birds listed in the Red Book of Ukraine. Law No. 3055-III of 2002 on Red Book establishes measures to ensure the protection and conservation of rare and endangered animals and plant species listed in the red Book of Ukraine. The Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulation on the Green Book of Ukraine" No 1286 regards the protection of natural plant communities listed in the Green Book by, among others: considering special requirements during land allocation and introducing special types of conservation regime. The Green Book of Ukraine is a document that, in contrast to the Red Book of Ukraine, pays attention to the protection of individual species and integral groups. According to the degree of threat, plant communities are divided into rare, endangered, and typical ones that need protection. In addition, there is data on their habitat. In total, the Green Book of Ukraine contains information on the state of 800 plant groups.

Analysis of the Red Book of Ukraine shows that wood harvesting could harm 148 Red Book species of flora or almost 20% of all plants and fungi listed in it (2.25). Article 70 of the Forest Code of Ukraine prohibits only the felling of "trees and shrubs listed in the Red Book of Ukraine," bypassing flowering plants, ferns, plantains, mosses. Article 11 of the Law of Ukraine "On the Red Book of Ukraine" states that the presence of species listed in the Red Book of Ukraine "is the basis for declaring it an object of nature reserve fund of Ukraine of national importance."

The Law No.1864-IV "On Environmental network" determines that the Environmental network includes the land of the Forest areas. The ecological network is established to create and renewal the environment-protected area. Simultaneously the ecological network raises the environmental potential of Ukraine: conservation of landscape and biological diversity, natural habitats of animals and plants, genetic resources, migration routes of wildlife species by the unification of protected areas.

The Law No. 2456-XII on Nature Reserve Fund sets framework limitations for logging on the territories of Protected Areas. The Resolution of the Cabinet of Ministers of Ukraine No 541-2013 "On Approval of Charges to Calculate the Amount of Damage Caused by Violation of the Law on Nature Reserve Fund" establishes the system of penalties for damage caused by violation of the legislation on Protected Areas territories and objects. The rules prohibit

sanitary felling in national parks and protected areas and state that sanitary felling in other types of forests should only be carried out in moments of extreme necessity. The rules also require SFEs to publicly declare the justification for planned sanitary felling and call for the expansion of special committees to oversee sanitary felling processes.”

According to legislation, all nature conservation requirements shall be integrated into the logging map and harvesting permits.

The procedure to establish a new Nature Reserve Fund (NRF) is defined by the Law of Ukraine "On the nature reserve fund of Ukraine". According to the regulation, organizations that identify an area potentially classified as a protected (site or species) shall submit an application form to issue a new NRF. This application shall be submitted for:

- the creation of objects of national importance - to the central executive body in the field of the environment - Ministry for Environmental Protection;
- for objects of local importance - Regional department of Environmental Protection.

According to the law, the application shall be reviewed by State Agency within one month. State Agency shall answer the organization that identifies the area. In case of approval, the organization that identifies the area shall start the discussion with the landowner (for communal or private forest) or land user (for state forest) related to the boundaries; restrictions; and other technical considerations. The technical aspects of the protected area, restriction, and technical details shall be taken by consent between the organization that identifies the area and the landowner or land user. After the technical aspects are agreed upon, establishing a new area of national importance is made by the President of Ukraine. The decision of the regional council establishes the objects of local significance.

The final step is to change the land status. This step means that State Land Cadaster will be informed, and the status of the land will be updated in the official documents.

To ensure a unified approach to the development and approval of projects for the creation of natural areas and objects of nature reserves, the Ministry of Environmental Protection and Natural Resources of Ukraine approved (order of August 21, 2018 № 306) the Guidelines for the development of projects for natural areas and objects nature reserve fund of Ukraine (G3).

According to the legislation, commercial harvesting (main felling) and sanitary felling of all kinds (including felling of the cavity, dry trees, trees with damaged and defective trunks of various origins and elimination of clutter) are completely prohibited in protected forests. Conservation forests include national parks (national natural and regional landscape parks), biosphere reserves, reserves and other categories of nature reserves (natural monuments, virgin natural monuments, including in protection zones at least twice the height of the virgin forest stand, established around virgin monuments nature, in virgin, quasi-virgin, natural forests, protected tracts).

There is a conflict between legislation requesting to protect all species identified in the Red Book of Ukraine and issuing the NRF. The owner or manager shall permit the establishment of a new NRF in owned or managed area. Simultaneously restrictions shall be agreed upon by the owner, which means that the protection of red-listed species can be delayed, or the owner can object to protection measures.

Description of Risk

For both sources described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

For areas without NRFs:

In most cases, the requirement to "not cut and damage trees and shrubs, listed in the Red Book of Ukraine or other biodiversity trees" is met. However, consultation with experts shows cases when the habitats of "Red Book species" are destroyed. In some cases, the reason is that the staff is not aware of "Red Book species" identified in the FME area or how to identify species (N10).

The logging cases in areas where the Red Book species grow have been identified by public organizations and in FSC-certified forestry. According to the public organizations, the identification of such sites with the subsequent introduction of the appropriate management regime, with the rejection of continuous felling in areas of habitat of Red Book species and selective felling in the off-season, will allow the forestry, on the one hand, to properly protect rare plant species, on the other hand, continue forest management (N10).

For establishing NRF:

The cases of absence or improper development of passports and protection obligations are rare and not systematic. FMEs are not bound to identify or establish protection zones in the managed area.

For species listed in the Red Book, nature reserve fund objects at the national level are created very slowly, only 1-3 per year, their organization's process lasts for decades, and to preserve rare species at such a slow pace is almost impossible. Therefore, many scientists and experts of nature conservation have long expressed the idea of including Red Book species identified in the field to nature reserve fund at the regional level in a simple way. At this point, the process takes more than 2 years (G11).

Related to the last step of the process – Register in the State Land Cadaster, there are different approaches of changing the purpose of the land with the entry into the State Land Cadaster: even before the approval of the land management project for the allocation of land, or after approval. State Geo-cadaster publication (official letter) indicates that registration is not possible until the land-use plan is developed and approved (G10).

In two years, the regional council has declared 34 virgin forest monuments as objects of the nature reserve fund in the Transcarpathia region. This is more than 5.4 thousand hectares of valuable, almost untouched forests in different parts of the region. Despite this, deputies (from Regional Council) refuse to approve part of the virgin forests for the third session in a row, including near Borzhava. More than 3.9 thousand hectares are currently waiting for the final decision and remain without official protection status. Although the law already prohibits activities that could harm nature (N9).

For established NRFs:

There are multiple protected areas established in the forest land. The network of protected areas is more developed and better coordinated for the first source type (A. Forest owned by the state and managed by SFRA), as for the second source type (B. Forest managed by other entities), the area is more fragmented.

Violations are related to insufficient efforts to enforce the protection regime (lack of signage, cases of illegal (including unauthorized) logging (1.4 - Risk of harvest without the necessary permits). The use and purpose of sanitary felling in protected and protective forests are significantly limited, which has often caused concern among conservationists and the public (N8, N9). In some cases, the allowed logging (selective, pre-commercial [intermediate] cutting) leads to the transformation of forest ecosystems and consequently affects the condition of protected species of plants and animals. Deforestation and unsustainable forest management are among the main threats to biodiversity (N8). A particular concern is sanitary felling, which in theory is designed to rehabilitate the forest and protect it from pests. Sanitary felling is often used in practice as a replacement for planned felling of the commercial (main) use in those forests where they are prohibited and a way to increase felling beyond scientific grounds. From an environmental point of view, such abuses lead to the destruction of protected forest ecosystems (N12).

Often information on restrictions (encumbrances) of land use rights on NRF lands is not correctly described in the State Land Cadastre (N11).

A group of NGOs explains that the NRF objects should have a management plan to reflect the zoning, restrictions, and other technical requirements for the protection to be effective. However, it is not mandatory to establish a management plan at this point (N12).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the sources, the network of protected areas is more developed and better coordinated in the forests of state property. However, insufficient efforts to enforce the protection regime are identified for both types of sources.

1.9.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that habitats of Red Book species are destroyed
2. Risk that identified Nature Reserve Funds are not registered correctly in the State Land Cadastre
3. Risk of illegal logging in protected areas (Nature Reserve Funds)
4. Risk that harvesting activities affect the conservation status of protected areas (e.g., landscapes, monumental trees, etc.)

1.9.7. Control measures and verifiers

Mitigating the risk that habitats of Red Book species are destroyed

Onsite verification

- Field check of harvesting area to confirm that harvesting is not destroying species listed in Red Book.
- Interviews with FME Staff to ensure they are aware of Red Book species identified in the area they managed.

Review documents and information from online databases:

- Request the technological (logging) maps and check the environmental requirements.

Verify that the technological maps comply with the protected sites/species in FME unit maps.

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to species listed in Red Book
- Request and check the last report of the State Environmental Inspectorate.

Consult:

- Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm the absence of risks related to destroying habitats of Red Book Species.

Mitigating the risk that identified NRFs are not registered correctly in the State Land Cadastre

Review documents and verify:

- Check the list of Nature Reserve Fund objects
- Check the correct registration for NRFs in the State Land Cadastre – request record from the State Register of Real Property Rights and confirm the Nature Reserve status.

Mitigating of the risk of illegal logging in protected areas (Nature Reserve Funds)

Wood from Nature Reserve Funds shall be avoided.

To ensure the wood does not originate from protected Nature Reserve Funds, ensure that timber sourced originates from a legal timber source.

This shall be done through supply chain mapping, collection of supply chain documentation, and ensuring that the material sourced is not mixed with illegally logged timber.

The risk of illegal logging could be verified by implementing mitigation measures from the trade and transport section (1.16+1.17) with an additional check of whether the waybills specify that wood originates directly or close to protected sites/compartments have a considerable impact on these sites.

Review documents and verify:

- Request and check waybills for all transport of wood from the forest.
 - In the case of wood obtained from source type A. Forest owned and managed by the state, check the waybill in the state database (<https://open.ukrforest.com/>) to ensure that the waybill is genuine.
 - Ensure that quantity of raw material from waybills is enough to cover production.
 - Ensure that yield is in limits known for transformation of raw material to a specific product.
 - Check if the waybills specify that wood originates directly or close to protected sites/compartments and could considerably impact these sites.

Onsite verification:

Control of truck transport at forest and sawmill (point of departure and destination) shall verify that.

- a waybill accompanies transport of wood
- species, qualities, and quantities of wood transported on trucks compared with the information contained in the waybills
- transport time is reasonable

Mitigating the risk that harvesting activities affect the conservation status of protected areas (e.g., landscapes, monumental trees, etc.)

Review documents and verify:

- Check the list of NRF objects
- Request the technological (logging) maps and check the environmental requirements.
- Acts of State Forest Resource Agency inspection to confirm compliance with nature conservation requirements during logging

Review information from online databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to logging activities affecting the NRFs
- Request and check the last report (acts in Ukrainian) of the State Environmental Inspectorate.

Onsite verification

- Field check of harvesting area confirms the necessity of harvesting activity, and that harvesting is not affecting the conservation status.

Consult:

- Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm the absence of risks related to harvesting activities developed in NRFs

1.19. Custom regulations

Custom legislation covers areas such as export/import licenses, export bans, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

- Law of Ukraine «On Peculiarities of State Regulation of Activity of Business Entities Related to Trade and Export of Timber» from 08.09.2005 № 2860-IV; Available at: <http://zakon3.rada.gov.ua/laws/show/2860-15>
- Law of Ukraine «On Foreign Economic Activity» from 16.04.1991 № 959-XII; Available at: <http://zakon3.rada.gov.ua/laws/show/959-12>
- Law of Ukraine «On Amendments to Law of Ukraine «On Peculiarities of State Regulation of Activity of Business Entities Related to Trade and Export of Timber» concerning the Temporary Ban on Export of Timber Products in Crude form» from 09.04.2015 № 325-VIII; Available at: <http://zakon5.rada.gov.ua/laws/show/325-19>
- Customs Code of Ukraine from 13.03.2012 № 4495-VI; Available at: <http://zakon5.rada.gov.ua/laws/show/4495-17>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Temporary Procedure for Issuance of a Certificate of Origin of Timber and Lumber Made Thereof for Export Operations» from 21.12.2005 № 1260 Available at: <http://zakon5.rada.gov.ua/laws/show/1260-2005-%D0%BF>

- Resolution of the Cabinet of Ministers of Ukraine «Some Issues of State Control of Goods Transferred Through the Customs Border of Ukraine» from 5.10.2011 № 103; Available at: <http://zakon3.rada.gov.ua/laws/show/1031-2011-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of List of Goods for which Restrictions are Set for Transfer Through the Customs Border of Ukraine» from 21.05.2012 №436; Available at: <http://zakon3.rada.gov.ua/laws/show/436-2012-%D0%BF>
- Order of State Forestry Committee of Ukraine «On Approval of Form of Certificate of Origin of Timber and Lumber Made Thereof for Export Operations and Instructions for Filling In the Form of Certificate of Origin of Timber and Lumber Made Thereof for Export Materials» from 07.09.2007 №528; Available at: <http://zakon3.rada.gov.ua/laws/show/z1111-07>
- Order of the Ministry of Agrarian Policy of Ukraine «On Amendments to Instructions for Filling In the Certificate Form on Origin of Timber and Lumber Made Thereof for Export Operations» from 20.08.2012 № 513; Available at: <http://zakon5.rada.gov.ua/laws/show/z1559-12>
- State Hygienic Standard «Hygienic norm of specific activity of radionuclides 137 Cs and 90 Sr in wood and wood products» approved by Order of Ministry of Health Care of Ukraine from 31.10.2005 № 573; Available at: <http://zakon5.rada.gov.ua/laws/show/z1384-05>
- The Incoterms® rules; Available at: <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>

1.19.2. Legal authority

- State customs service

1.19.3. Legally required documents or records

- Foreign economic contract;
- Customs declaration;
- International commodity transportation documents;
- Phytosanitary quarantine certificate;
- Environmental declaration;
- Certificate on content of radioactive substances;
- Certificate of origin of timber and timber products made of it.

1.19.4. Sources of information

Government sources

- G1) Gov.lica.com.ua (2011) Introduction of guidelines for the classification of certain goods in accordance with the requirements of UKTZED. Available at: http://www.gov.lica.com.ua/b_text.php?type=3&id=695669&base=1
- G2) Government Portal (2017). Association Agreement between the European Union and Ukraine. Available at: <https://www.kmu.gov.ua/en/yevropejska-integraciya/ugoda-pro-asociacyu>

Non-Government sources

- N1) Zhytomyr (2016) customs officers stop 10 million Hryvnia illegal export of industrial wood; Available at: http://www.zhitomir.info/news_158886.html
- N2) Lesovod. In Lviv region officials who established a 30 million illegal timber exports were arrested; Available at: <http://www.lesovod.org.ua/node/30030>
- N3) Pravda. In Ivano-Frankivsk region SSU has unmasked an illegal export of timber; Available at: <http://pravda.if.ua/news-99167.html>
- N4) Transkarpatia (2016). Moskal has stopped the train loaded with several millions of contraband forest; Available at: <http://transkarpatia.net/transcarpathia/crime/67470-moskal-zupiniv-potyag-z-klkamlyonnoyu-kontrabandoyu-lsu.html>
- N5) Timber Trade Portal (2020). Ukraine. Legality Profile. Available at: <https://www.timbertradeportal.com/countries/ukraine/#legality-profile>
- N6) Angel, Eugeni, Andriy Butin (2019). A little about the moratorium on forest exports: what the population should know and politics. Available at: www.ier.com.ua/ua/publications/regular_products?pid=6179

1.19.5. Risk determination

Overview of Legal Requirements

Ukraine has a system issuing a mandatory certificate of timber origin, preventing illegal export of timber.

Restrictions

Parliament of Ukraine and the European Parliament ratified the Association Agreement between Ukraine and the EU (<https://www.kmu.gov.ua/en/yevropejska-integraciya/ugoda-pro-asociacyu>) simultaneously on September 16, 2014. It defines a new format of Ukraine and the EU relations based on "political association and economic integration". It serves as a strategic guideline for systematic socio-economic reforms in Ukraine. The Association Agreement determines that the Parties work together to improve forest law enforcement and governance and promote trade in legal and sustainable forest products (G2). The Law of Ukraine "On Foreign Economic Activity" introduces legal regulation of all types of foreign economic activity.

In contrast, the Law "On particulars of state regulation of business entities related to trade and export of timber" establishes a temporary 10-years ban on the export of raw timber from the customs territory of Ukraine: On April 13, 2015, the Parliament of Ukraine banned unprocessed timber export for ten years. The legislative draft stipulates a temporary ban on unprocessed timber exports: all species except for pine - effective January 1, 2016 and included pine timber in the export ban - effective from January 1, 2017. However, fuelwood can be exported.

The export of timber of valuable and rare tree species from the customs territory of Ukraine is prohibited (Article 2 of the Law of Ukraine "On the specifics of state regulation of business entities' activities which are related to the sales and export of timber). The same law defines those valuable and rare trees (Ukrainian names in bracket): Асация (акація), Sorbus torminalis (берека), cherry tree (вишня), pear (груша), walnut (горіх), chestnut (каштан), yew (тис ягідний), bird-cherry (черешня), sycamore (явір) and juniper (ялівець).

Custom procedures

Provisions for monitoring supply chains are established by regulatory acts, both for domestic transport and trade and export operations. For international trade documents that are requested (the form of Certificate of origin of timber and sawn timber, Instruction for filling in the form, and the Procedures of issuing of timber and saw-timber certificate for export operations). Infringement of the rules is prosecuted according to the Code on Administrative Offenses. Details of reports on administrative offenses in forests are determined by order of the State Committee of Forest Resources.

The Resolution of the Cabinet of Ministers № 960 sets the list of goods subject to phytosanitary control, including wood and wooden product categories.

Order No. 528 of the State Forestry Committee validates the template of certificate of origin - timber and sawn timber and Instruction for filling in the certificate of origin template. The certificate shall be issued by the provincial bodies of forest and hunting management. The procedures for issuing timber and saw-timber certificates for export operations are regulated by Decree No. 1260 of the Cabinet of Ministers.

Customs clearance of timber cargo requires several documents, such as foreign economic contract, customs declaration, international commodity transportation documents, phytosanitary quarantine certificate, environmental declaration, certificate on the content of radioactive substances, certificate of origin of timber, and timber products made of it. The certificate of origin allows for retrieval of information on wood origin (forestry enterprise where the wood was harvested), and it is requesting confirmation of fulfillment of applicable legislation. An online list of issued certificates of origin is available at the State Forest Resources Agency's official website - <https://crt.ukrforest.com/?page=5&per-page=100>.

Description of Risk

Law enforcement bodies detect frequent illegal export of wood, including facilitation by corrupt forestry officials and customs officers.

A significant number of violations are associated with understating grades and volumes of timber at the time of sale. After the official ban on the export of round wood, such high-value wood grades are massively exported under the guise of fuelwood or timber for technological needs (e.g., particleboard production). Numerous publications call this a major corruption scheme of wood sales. In 2017, almost 0.5 million tons of Ukrainian timber left Ukraine as firewood and arrived in the EU as Roundwood timber. And the scheme continued to operate in 2018. Forestry specialists point out that a similar difference in statistics could exist due to different wood classifications in Ukraine and the EU. In particular, the old Soviet standard on wood quality was in force in Ukraine (N6). However, it is hard to believe that such a shortcoming could not be used for abuse. From January 1, 2019, new national wood quality standards have been introduced in Ukraine, which will help reduce the opportunities for such illegal schemes.

Ukrainian Classification of goods in foreign trade distinguishes two codes for untreated wood: 4401 – fuelwood and 4403 – untreated timber (untreated industrial wood or timber). At the same time, the standards for quality assessment provide fuelwood, fuelwood for technological purposes, and round wood. Untreated timber (code 4403) is temporarily prohibited for export. In the guise of wood allowed for export (fuelwood), banned round timber is exported through corrupt means. It occurs that low-grade merchantable wood is exported as fuelwood, which is not subject to the export ban (Ukraine. Legality Profile, 2020).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources (N1, N2, N3, N4, N5), there are many official investigations by police and the security service of illegal export schemes, including custom violations.

1.19.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that wood or wood products banned from export are exported
2. Risk of understating classification and volumes of timber for exports

1.19.7. Control measures and verifiers

Mitigating the risk that wood or wood products banned from export are exported

The following are banned for export:

- Roundwood timber (code 4403) (fuelwood is exempt).
- The following valuable and rare tree species; Acacia (акація), Sorbus torminalis (берека), cherry tree (вишня), pear (груша), walnut (горіх), chestnut (каштан), yew (тис ягідний), bird-cherry (черешня), yucca (явір) and juniper (ялівець).

Onsite verification

Check the final product and ensure that the final product and species used are not banned for export.

Mitigating the risk of understating classification and volumes of timber for exports

Onsite verification

Inspect the final product to ensure the correct classification and volume.

Review documents and verify:

Ensure that correct classification and volume is written on invoice and product specification.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- Law of Ukraine «On Environmental Impact Assessment» from 2017, № 29, p.315) - Available at: <https://zakon.rada.gov.ua/laws/show/2059-19#Text>
- Forest Code of Ukraine in the wording of the Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>
- Law of Ukraine «On Environmental Impact Assessment» from 23.05.2017 № 2059-VIII. Available at: <http://zakon3.rada.gov.ua/laws/show/2059-19>
- Order of the State Agency of Forest Resources of Ukraine «On Approval of Methodological Instructions for Allotment and Mensuration of Harvest Areas, Issuance of Harvest Tickets and Inspection of Timber Harvest Locations in Forests of the State Forest Resources Agency of Ukraine» from 21.01.2013 №9. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=105079&cat_id=104385
- Order of State Forestry Committee of Ukraine «On approval of Rules of main harvest» from 23.12.2009 № 384; <http://zakon4.rada.gov.ua/laws/show/z0085-10>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Rules for Main Harvest Cutting in the Carpathian Mountain Forests» from 22.10.2008 № 929. Available at: <http://zakon2.rada.gov.ua/laws/show/929-2008-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Improving Quality Composition of Forests» from 12.05.2007 № 724. Available at: <http://zakon5.rada.gov.ua/laws/show/724-2007-%D0%BF>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Sanitary Rules in Forests of Ukraine» from 27.07.1995 № 555. Available at: <http://zakon2.rada.gov.ua/laws/show/748-2013-%D0%BF>
- Order of the State Forestry Committee of the Council of Ministers of the USSR «Manual on allotment and mensuration of cutting areas in forests of the USSR» [Text]: [Appr. 27/XII 1968] / St. Com. Forestry Council of Ministers of the USSR. CBNTI forestry. – Moscow: [w/o publ.], 1972. – 63 p. (for other permanent forest users).

1.10.2. Legal authority

- Ministry of Environment Protection and Natural Resources
- State Environmental Inspection of Ukraine

1.10.3. Legally required documents or records

- Environmental Impact Assessment

1.10.4. Sources of information

Government sources

- G1) CBD. Fourth national report of Ukraine to the Convention on Biological Diversity; Available at: <https://www.cbd.int/doc/world/ua/ua-nr-04-ru.pdf>
- G2) CBD. Fifth national report of Ukraine to the Convention on Biological Diversity; Available at: <https://www.cbd.int/doc/world/ua/ua-nr-05-en.pdf>

- G3) zakon.rada.gov.ua (2018). Methodical recommendations on the development of projects for the creation of natural territories and objects of the nature reserve fund of Ukraine. Available at: <https://zakon.rada.gov.ua/rada/show/v0306737-18#n9>
- G4) Order of the Ministry of Energy and Environmental Protection of Ukraine On approval of the Methodological recommendations for the development of the report on environmental impact assessment in the field of forestry. March 2, 2020, № 136. Available at: <https://mepr.gov.Ua/documents/2749.html>
- G5) zakon.rada.gov.ua (2020). On amendments to some resolutions of the Cabinet of Ministers of Ukraine. Document 1224-2020-п, valid, current version — Adoption on December 9, 2020. Available at: <https://zakon.rada.gov.ua/laws/show/1224-2020-n?lang=en#Text>

Non-Government sources

- N1) Notes From the Round Table “Forest Sector of Ukraine: Priorities and Tools for Overcoming the Crisis” On September 29, 2020.
- N2) Bondaruk G.V. Kahalo O.O, Protsenko L.D, Artov A. M, Prots B.G. (2013). Regulatory support of biodiversity conservation in the forest sector of Ukraine: Analysis and prospects. – Lviv, 2013. – 266 p.
- N3) Vasylyuk O., Kostyushyn V., Norenko K., Plyha A., Prekrasna Ye., Kolomytsev G., Fatikova (2012), M. Nature Reserve Fund of Kyiv region. – K.: NECU. – 338 p., w. appendixes.
- N4) Bryhynets O. (2014). Land inventory condemn the protected areas for destruction; Available at: http://bryhynets.com/index.php?nma=news&fla=stat&cat_id=1&nums=5744
- N5) Protsenko L. (2014) Analytical report «Conservation of biodiversity in forests. Harmonization of legislation of Ukraine and European Union on protected areas». – Lviv: WWF, April – June 2014; Available at: http://www.sfm.org.ua/files/Ukraine_Biodiversity_Final%20report_2014_Protsenko.doc
- N6) Earthsight (2021). COMPLICIT IN CORRUPTION - How billion-dollar firms and EU governments are failing Ukraine’s forests –Available at: <https://www.earthsight.org.uk/investigations/complicit-in-corruption>
- N7) Asi-assurance (2021). ASI assesses State Forest Enterprises in Ukraine. Available at: <http://www.asi-assurance.org/s/post/a1J1H000001maBLUAY/p0679>
- N8) WWF (2020). Sanitary felling and elimination of clutter. WWF experts on the contradictions in forest management of the Nature Reserve Fund. Available at: <https://wwf.ua/?362870/sanitary-felling-protected-forest>
- N9) Semenyuk, Anya (2021) Virgin forests in Transcarpathia: why regional council deputies are in no hurry to protect forests? 24/06/2021. Available at: https://zaholovok.com.ua/pralisi-na-zakarpatti-chomu-deputati-oblradi-ne-spishat-zakhischatilisi?fbclid=IwAR2I9et7Vd4M88am08STBKhDjF0Y8YydabY5Zb9zgdI29CipXhEJ94_tB_Q

- N10) Znaj.ua (2017). Minister Semerak destroys the Carpathians. Illegal logging of trees continues in the Hutsulshchyna National Nature Park in the Carpathians. March 22, 2017. Available at: <https://znaj.ua/content/ministr-semerak-znyshchuye-karpaty>
- N11) EPL (2020). Clear-cutting in the Carpathians, would Problem solved at the state level? Available at: <http://epl.org.ua/announces/sutsilni-rubky-v-karpatah-chy-bude-problema-vyrishuvatys-na-derzhavnomu-rivni/>
- N12) EPL (2020). Influence (in) admissible: how to improve the environmental impact assessment of logging? Analytical Note. Available at: https://epl.org.ua/wp-content/uploads/2020/06/OVD_rubok_lisu_versiya_OK_clean_posylannya_1.pdf

1.10.5. Risk determination

Overview of Legal Requirements

For both Source Types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to environmental requirements is the same. According to Forest Code (Art 1), all forests from Ukraine, regardless of the right of ownership over them, constitute the forest fund of Ukraine and are under state protection.

The forests that do not yet have conservation status, primarily in the Carpathians, shall follow the same harvesting rules. Forest restoration the same as sanitary felling in the Carpathians were carried out in the past and now is completely forbidden. Sanitary felling has also been applied to old-growth high-altitude natural forests, essential for biodiversity conservation and water regulation. Continuous sanitary felling is prohibited in forests above 1,100 meters above sea level, in the avalanche and selenium-dangerous basins, in forest areas (forest strips) along river banks, lakes, reservoirs, and other water bodies, and in coastal forest areas (N8).

“Trees that perform important environmental functions” are left in the areas of selective sanitary felling. Example of trees that shall be left in the forest: old cavity, with exfoliated bark; the oldest; (inverted); with birds' nests; bat shelters). These trees shall be mentioned in the logging ticket (G5).

Environmental Impact Assessment (EIA)

Law No. 2059-VIII “On environmental impact assessment” determines that all clear-cut and shelterwood felling of the main harvesting and sanitary clear-cuts on the area over 1 hectare as well as all sanitary clear-cuts on the territories and objects of the Nature Reserve Fund (NRF) are subject to Environmental Impact Assessment. However, the EIA is not requested for sanitary-selective cuts even if the harvesting is done in the NRF area.

The Ministry of Environmental Protection of Ukraine approved in 2020 the normative-methodical document “Guidelines for the development of an environmental impact assessment report in the field of forestry” to set a quality standard in the EIA procedure and improve its quality efficiency (G4).

In recent years, were developed two important environmental laws of Ukraine [“On Amendments to Certain Laws of Ukraine on Prohibition of Continuous Logging on Mountain Slopes in Fir-Beech Forests of the Carpathian Region” (2019) and “On Amendments to Certain Legislative Acts of Ukraine Concerning Virgin Forest Protection under with the Framework Convention on the Protection and Sustainable Development of the Carpathians

“(2017)]. They were concerned (related to the Law “On the Nature Reserve Fund of Ukraine” and the Forest Code of Ukraine). However, at the end of 2020, amendments to the Cabinet of Ministers of Ukraine resolutions were adopted, explaining in detail the new rules for implementing these Laws.

The process to obtain Environmental Impact Assessment (EIA)

The Environmental Impact Assessment (EIA) procedure can be divided into several stages:

- Stage one: the forest user starts the procedure by publishing the "Notice of planned activities." Since the official publication of the Notice, the public has 20 working days during which to submit proposals on aspects to be considered in the evaluation.
 - Stage two (stage of public discussion): After completing the first stage, the forest user begins to assess the impact on the environment. The forest user, either manually or involving relevant experts, assesses the impact of logging on various aspects of the environment according to scientific methods. The results of the assessment are provided in a document entitled "Environmental Impact Assessment Report." This document also includes a section with public comments received and forest user responses. The Report may be published at different intervals, for example, several months or even years, depending on when the forest user conducts all the necessary research. At this stage, public participation is impossible.
 - Stage three (public discussion): After the EIA Report's publication, the public debate begins. This stage lasts from 25 to 35 working days. It is mandatory to organize at least one meeting with stakeholders to collect feedback related to the environmental impact of activities.
 - As a result, the Ministry of Environmental Protection evaluated the assessment, and all received proposals from the public. Based on these documents, the Ministry of Environment may allow, prohibit, or restrict planned logging.
- Stage four: within 25 working days after the end of public discussions, the Ministry of Energy issues a final document - "Conclusion from the EIA."

EIA, shall be approved before the harvesting operation starts. Recommendation from EIA shall be added to logging (ticket) maps.

Description of Risk

For both source types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar. Environmental requirements are better enforced for the first type (A. Forest owned by the state and managed by SFRA), as for the second type (B. Forest managed by other entities) the area is more fragmented, which makes work a bit more difficult.

Prohibition of some types of felling in Carpathian's region (G5) forests above 1,100 meters above sea level) is followed in many cases, but at the same time, there are cases when FMEs are using different names of felling. Sometimes the name is "gradual forest restoration cutting" instead of prohibited "forest restoration clear-cutting" or allowed "cutting for the cleaning of continuous windbreaks, as well as stand completely affected by pests and diseases" to avoid the prohibition of sanitary felling. In fact, in practice, it is sanitary clear-cutting (N11).

Related to the "trees that perform important environmental functions", in general, they are protected and shown on the logging maps. However, a case reported in mass media shows that during sanitary cuttings in the National Park Cavity "Hutsulshchyna," the cavity trees were harvested (N10).

Environmental Impact Assessment (EIA)

The potential of the EIA procedure is not fully achieved. It is carried out in many cases on paper by the developers of the EIA reports and potential negative impacts are ignored in the field. Experts including scientists, NGOs, local communities, and other related stakeholders are not involved in the procedure. The issuance of conclusions on EIA is carried out by the Ministry formally and, for the most part, does not consider the quality of the conducted research or public comments. The established environmental conditions generally do not help to minimize, eliminate or compensate for the negative impact of logging on the environment (N12).

Often, logging area maps do not contain environmental requirements or are not met in practice. According to information, there are cases of neglect and/or systematic violation of nature conservation requirements during logging. These activities could endanger environmental values (G2, N4, N5).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, logging maps often do not include environmental requirements, and there are cases of harvesting activities developed sites with environmental value.

1.10.6. Risk designation and specification

A. Forest owned by state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that prohibited sanitary cutting in the Carpathians are conducted through another cutting types name, but in practice is still to be considered sanitary cutting
2. Risk that trees performing "important environmental functions" (as defined by the Law) are removed
3. Risk that the requirements for the development of Environmental Impact Assessments (EIA) are not followed
4. Risk that the logging maps, chapter 8 on Nature Protection requirements do not contain environmental details

1.10.7. Control measures and verifiers

Mitigating the risk that prohibited sanitary cutting in the Carpathians are conducted through another cutting type name, but in practice is still to be considered sanitary cutting

Onsite verification

- Check if the harvest area is in the Carpathian region at an altitude higher than 1100 m
- check if cutting could be classified as sanitary cutting.

Review documents and verify

- Request and review harvesting permits (logging Ticket) and check the type of cutting.
- Request and check the last report of the State Environmental Inspectorate to check if there are issues related to harvesting.

Review information from databases:

- Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to prohibited sanitary cutting conducted in the Carpathian region; In case there are risks, check the occurrence in an onsite visit.

Consultation:

- Conduct a stakeholder consultation process with governmental authorities and representatives of civil society to confirm the prohibition related to sanitary felling is respected in the FME.

Risk that trees performing "important environmental functions" (as defined by the Law) are removed

Onsite verification

Onsite forest visits to verify.

- If trees that perform "important environmental functions" (as defined by Law) are present in the forest/forest plot, *and*.
- in case that these species are present, the protection status shall be verified

Review documents and verify:

- Request and review harvesting permits (Logging Ticket) for information about trees that perform "important environmental functions." Information from the document shall be in line with findings from the field.

Review information from databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to harvesting of trees that perform "important environmental functions"; In case there are risks, check the occurrence in an onsite visit.

Consult:

Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm that nature conservation requirements during logging activities are followed.

Mitigating the risk that the requirements for the development of Environmental Impact Assessments (EIA) are not followed

It is recommended to implement onsite observation, document review, and consultation with governmental authorities and representatives of civil society. This measure will not fully verify that legislation is followed; however, if experts are used in this process, they shall verify if the harvesting area needs additional measures that are not considered in the EIA, and it will minimise the risk of the legislation having been violated.

Review documents and verify:

- Review the Environmental Impact Assessment is in place.
- Harvesting permits (Logging Tickets) to verify the area of harvesting require an EIA.
- Request and check the last report of the State Environmental Inspectorate.

Review information from databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to environmental impact assessment.

Onsite verification

Forest visits shall verify:

- if the Environmental Impact Assessment correspond to the actual situation in the field
- if there is a negative environmental impact of harvesting activities in violation of the Law.

Consult:

Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm that environmental impact is considered in harvesting activities.

Mitigating the risk that the logging maps, chapter 8 on Nature Protection requirements do not contain environmental details

Onsite verification

- Forest visits shall verify that logging maps correspond with field observations and contain relevant environmental details.

Review documents and verify:

- Check Technological (logging) maps, both under development and completed.
 - Environmental details are added to the logging maps.
 - Nature conservation requirements are incorporated.
- Request and check the last report of the State Environmental Inspectorate to confirm compliance with nature conservation requirements.
- Reports (acts in Ukrainian) of State Forest Resource Agency inspection to confirm compliance with nature conservation requirements during logging

Information from databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the inclusion of environmental details on the logging maps.

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

- Forest Code of Ukraine in the wording of the Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>

- Law of Ukraine «On Status and Social Protection of Citizens Affected by the Chornobyl Catastrophe» from 28.02.1991 №796-XII. Available at: <http://zakon.rada.gov.ua/go/796-12>
- Law of Ukraine «On Legal Regime of Territory Contaminated by radionuclides due to the Chornobyl Catastrophe» from 27.02.1991 №792a-XII. Available at: <http://zakon.rada.gov.ua/go/796-12>
- Law of Ukraine «On Use of Nuclear Energy and Radiation Safety» from 08.02.1995 №39/35-BP. Available at: <http://zakon.rada.gov.ua/go/39/95-bp>
- Law of Ukraine «On Protection of Humans from Influence of Ionizing Radiation» from 14.01.1998 №15/98-BP. Available at: <http://zakon.rada.gov.ua/go/15/98-bp>
- The Law of Ukraine «On Labor Protection» from 14.10.1992 № 2694-XII. Available at: <http://zakon4.rada.gov.ua/laws/show/2694-12>
- Resolution of the Cabinet of Ministers of Ukraine «On Approval of Procedure for Granting Permits for Hazardous Works and for Operation (Use) of Hazardous Machinery, Mechanisms and Equipment» from 26.10.2011 №1107. Available at: <http://zakon5.rada.gov.ua/laws/show/1107-2011-%D0%BF>
- Recommendations on use of the Typical Provision on Procedure of Training and Verifying Knowledge on Occupational Safety (NPAOP 0.00-4-12-05) at enterprises of State Forestry Committee of Ukraine. Available at: <http://zakon5.rada.gov.ua/laws/show/z0231-05>
- Order of State Forestry Committee of Ukraine «Typical Regulations on Basic Obligations, Rights and Responsibilities of Heads and Specialists of Ukrainian Forestry Enterprises and Organizations in the Field of Occupational Safety, Fire and Radiation Safety, Road Safety» from 02.09.2003 № 156. Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/category?cat_id=65319
- Order of State Forestry Committee of Ukraine «Instruction on labor protection during development harvest areas using gasoline chain saws» from 27.11.2001 № 120. Available at: <http://document.ua/instrukcija-z-ohoroni-praci-pid-chas-rozrobki-lisosik-z-viko-nor4976.html>
- Order of the State Committee for Observation and Protection of Labor of Ukraine «On Approval of Labor Protection Rules for Forestry and Forestry Workers» from 13.07.2005 № 119. Available at: <http://zakon5.rada.gov.ua/laws/show/z1084-05>
- Order of the State Committee for Observation and Protection of Labor of Ukraine «On Approval of Norms for Gratuitous Issuance of Overalls, Special Shoes and Other Personal Protective Equipment for Forestry Workers» from 25.04.2005 № 65. Available at: <http://zakon5.rada.gov.ua/laws/show/z0539-05>
- Law of Ukraine «On ensuring sanitary and epidemiological well-being of the population» from 24.02.1994 № 4004-XII. Available at: <http://zakon3.rada.gov.ua/laws/show/4004-12>

- Order of Ministry of Healthcare of Ukraine «On approval of state sanitary rules «Basic sanitary rules of radiation safety for Ukraine» from 02.02.2005 № 54. Available at: <http://zakon3.rada.gov.ua/laws/show/z0552-05>
- The Civil Code of Ukraine, in the wording of the Law from 16.01.2003 № 435-IV. Available at: <http://zakon5.rada.gov.ua/laws/show/435-15>
- About the statement of Standard position about service of labor protection. Revision on April 14, 2017. Available at: <https://zakon.rada.gov.ua/laws/show/z1526-04?lang=en#Text>.

1.11.2. Legal authority

- State Service of Ukraine on the Work Issues

1.11.3. Legally required documents or records

- Permits for employees to carry out high-risk tasks
- Card or a general journal for forestry unit employees on the working hours and doses of external radiation received during the performance of tasks.
- Personal accounting cards of workers for clothing, footwear, and safety equipment.
- Logging (technological) maps points: a) personal protective equipment for workers in the felling area; b) description of safe ways of work on operations of technological process
- Health and Safety procedures
- Records on labour safety training
- Qualification diploma for conducting H&S
- Medical checks records (journal of registration of personal medical books)
- Radiation safety instructions (protocols) - where it's applicable

1.11.4. Sources of information

Government sources

- G1) Atamanchuk V. (2014) Results of economic and financial activity of enterprises of the branch after 9 months of 2014; Available at: http://dklq.kmu.gov.ua/forest/control/uk/publish/article?art_id=130524&cat_id=81209
- G2) Zak.dei.gov.ua (2020). The State Ecological Inspectorate in the Zakarpattia region recorded numerous violations in the Berehivske FME. Available at: <https://zak.dei.gov.ua/posts/98>
- G3) Storozhynets FME Pres-service (2021). Carrying out of periodic medical inspection in SE "Khotyn forestry" with departure of medical institution to the enterprise. 15.06.2021. Available at: <https://storozhinets-forest.com/novini/novina/article/prokhozhenja-periodichnogo-medichnogo-ogljadu-v-dp-khotinskii-lisgosp-z-vijzdom-likuvalnogo-zakladu-n.html>
- G4) Lviv.dsp.gov.ua (2019). Occupational safety in the forest industry: the inspector of the State Labor Inspectorate pointed out the risks to the workers and outlined measures for injury prevention. Available at: <https://lviv.dsp.gov.ua/z-pytan-okhorony-pratsi/okhorony-pratsi-v-lisovii-haluzi-inspek/>

- G5) Inspection Portal (2021). General data from the plan of inspections. State enterprise "Pryluky forestry". Available at: <https://inspections.gov.ua/inspection/view?id=1162457>

Non-Government sources

- N1) Lesovod. With care for forest creators; Available at: <http://www.lesovod.org.ua/node/21292>
- N2) Racurs (2015). Volumes of illegal logging have stayed the same as during Yanukovych era; Available at: <http://ua.racurs.ua/792-nezakonna-vyrubka-lisu-jak-za-yanukovycha>
- N3) Volyn (2015). Answers to topical questions that were raised during roundtable "Let us protect forests together"; Available at: <http://lis.volyn.ua/?p=6139>
- N4) EPL. What's wrong with the reforming cuttings in Striy FME?. Available at: <https://epl.org.ua/about-us-posts/shho-ne-tak-iz-rubkamy-pereformuvannya-v-stryjskomu-lisgospji/>
- N5) WWF (2020). Sanitary felling and elimination of clutter. WWF experts on the contradictions in forest management of the Nature Reserve Fund. Available at: <https://wwf.ua/?362870/sanitary-felling-protected-forest>

1.11.5. Risk determination

Overview of Legal Requirements

For both Sources, Types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to health and safety is the same.

Ukraine has ratified the 8 ILO fundamental conventions C029 - Forced Labour Convention, 1930 (No. 29), C100 - Equal Remuneration Convention, 1951 (No. 100), C105 - Abolition of Forced Labour Convention, 1957 (No. 105), C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111), C138 - Minimum Age Convention, 1973 (No. 138), C182 - Worst Forms of Child Labour Convention, 1999 (No. 182), C087- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the C087- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), as well as the C 129-Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)).

The basic provisions for implementing employees' constitutional right for the protection of their life and health in the process of work, appropriate, safe, and healthy working conditions are defined by the Law "On Occupational Safety" (Nº 2694-XII). The Law regulates the relationship between employer and employee on safety, occupational health, and production environment and establishes a unified procedure for the organization of labor protection in Ukraine. The State Hygienic Standard «Hygienic Standard of Specific Activity of Radionuclides (137) Cs and (90) Sr in Timber and Timber Products» is approved by order of the Ministry of Health Protection Nº 573-2005. The Order of the State Committee for Observation and Protection of Labor of Ukraine Nº 119 approves the Occupational Safety Rules for Forestry and Forest industry Workers with relevant, comprehensive technical requirements.

The Order of the Ministry of Social Policy of Ukraine "On Approval of the Norms for the Gratuitous Provision of Special Clothing, Special Footwear and Other Personal Protective Equipment for Forestry Employees" Nº 293 determines the norms of free provision of special

clothes, special footwear, and other means of individual protection for forestry workers. The Order of the State Committee for Observation and Protection of Labor of Ukraine "On Approval of the Typical Regulation on the Procedure for the Training and Testing of Knowledge on Occupational Safety and the List of Works of Increased Danger" № 15 determines the procedure for training and testing of knowledge on occupational safety, as well as the list of works with increased danger.

Requirements of occupational safety are for all operations (planting, treatments, harvesting, loading). According to the Law, a permit is required for employees to carry out high-risk tasks. The person should be trained with occupational safety requirements.

The owner or owner's authorized body shall organize at his own expense preliminary (upon employment) and periodic (during employment) medical examinations of employees engaged in heavy work, work with harmful or dangerous working conditions, or those where there is a need for professional selection. Simultaneously it is mandatory to implement annual medical examinations of persons under 21 (Article 169 of the Labor Code of Ukraine). Also, Article 17 of the Law of Ukraine "On labor protection" provides that the employer shall provide at its own expense an extraordinary medical examination of employees:

- at the employee's request if he believes that the deterioration of his health is related to working conditions.
- Owner initiative if the employee's state of health does not allow him to perform his duties.

Based on the results of periodic medical examinations, the employer must ensure appropriate health measures if necessary.

In forestry enterprises, assigned to groups 3 (zone of guaranteed voluntary resettlement of the population) and 4 (zone of enhanced radioecological control), external exposure of all workers should be monitored with a periodicity of 3 months. Each employee must always wear an individual dosimeter. If such a possibility is not available, then individual dosimeters are issued not less than a third of the workers working together on one site. A quarterly dose on employees not covered by dosimetry control is calculated as the average of the data obtained. The results of dosimetry control are materials of strict reporting and are stored for 50 years (G4).

The forests of Kyiv, Zhytomyr, Chernihiv, Rivne, and Volyn oblasts suffered the most from radioactive contamination because of the 1986 Chernobyl disaster. Radiation control at forest enterprises is carried out to establish radiation safety of foresters and all consumers of forestry products both in Ukraine and abroad. In the process of radiation decay of dangerous radioisotopes, the radiation situation in contaminated forests gradually changes. Radiological laboratories carry out radiological control of these products. In pursuance of the Aarhus Conference, the administration of each FME in radioactive contamination must ensure publicity and availability of information about the radiation situation in the managed area (based on the results of spectrometric studies of samples for normalized radionuclides) (G4). For workers, where the density of soil contamination by Cesium-137 of forest plots is over 1 Ci/km² (37 GBq), workers risk health problems due to non-compliance with radiation measurement requirements.

Description of Risk

For both Source Types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Usually, all appropriate documents are prepared and processed following the applicable law, except for permits for high-risk tasks.

Missing health and safety equipment occurs due to low production standards, corporate culture, and labor organization. They cannot be considered isolated. Workers are not always provided with clothing, footwear; in practice, they neglect using helmets and reflective vests and do not follow logging area harvest plans. The periodical cases of injury that occur when performing logging operations include fatalities.

The presence of many hazardous production factors in the forest industry leads to occupational risks that must be considered when employing various occupations (forest technicians, loggers, foresters, slingers, drivers). There are risks that safety measures are not followed and cause injuries. Most accidents in forestry occur because of falling trees, branches, logs on workers during harvesting, sorting, or loading of timber. Additionally, there are cases of a worker falling from a dangerous height, such as from the car body, while measuring loaded timber (G4).

We have no evidence of risk raised related to radioactive contamination; however, there could be cases when the harvesting team works without a dosimeter or in the forest with a high level of soil contamination with Cesium-137.

The information on medical checks on the FMEs websites is placed quite rarely (G3). According to the sources, conducting preliminary medical checks (during the hiring employee) and periodic medical checks is not always provided by the FMEs, which is a violation of Annex 5 paragraph 3 of the Procedure for medical examinations of employees of specific categories, Law of Ukraine "On Labor Protection," 2694-XII, 1992-10-14, Art.5 (G5).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, multiple rules related to health and safety are not followed during the multiple activities done in the forest. Violations of occupational safety requirements by workers are frequent, which threatens the lives and health of workers during logging operations.

1.11.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that health and safety equipment is not provided by the employer or used by the staff
2. Risk that forest workers are not following the safety measures defined in logging maps
3. Risk that periodical medical checks are not conducted
4. Risk that not all forest workers are employed through formal agreements
5. Risk that forests workers do not receive benefits guaranteed by Law

1.11.7. Control measures and verifiers

Mitigating the risk that health and safety equipment is not provided by the employer or used by the staff

Onsite verification:

- Forest visits shall verify that forestry staff has/and use health and safety equipment.
- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them.
 - ensure that health and safety equipment is provided.
 - ensure that they are wearing health and safety equipment daily.

Review documents and verify:

- Request and review the last invoice of purchasing health and safety equipment.
- Check if documents that H&S equipment has been supplied to forest workers
- Request and review the internal periodic check of H&S performance of the staff of the FME
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to providing health and safety equipment

Mitigating the risk that forest workers are not following the safety measures defined in logging maps

Onsite verification

- Field observations shall verify that safety measures defined in logging maps are followed.
- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them.
 - ensure that they are aware of health and safety measures defined in logging maps

Review documents and verify:

- Request and review the content of logging maps in terms of health and safety rules.
- Check if there are documents showing safety measures defined in logging maps are followed.
- Request and check the latest report of the State Service of Ukraine on the Work Issues.

Review information from the database:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to wearing health and safety equipment

Mitigating the risk that periodical medical checks are not conducted

Onsite verification

- Interviews with the harvesting team shall verify periodic medical checks are conducted.

Document review and verify

- Check medical check sheets issued by a medical unit specialising in working conditions.

Mitigating the risk not all forest workers are employed through formal agreements

Onsite verification

- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them.
 - ensure that the forest workers have an agreement with the organisation.

Review documents and verify

- Request and review the contracts (or orders) with forest workers and ensure that the number of forest workers is appropriate to the scale of activities.
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the employment of forest workers.

Mitigating the risk that forests workers do not receive benefits guaranteed by Law

Review documents and verify:

- Evidence that salary payments are up to date and records showing that the salaries are paid on time and are not lower than state guarantees.
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to not giving benefits to forest workers

Onsite verification

- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them.
 - ensure that forest worker has received benefits guaranteed by the Law.

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

- Constitution of Ukraine, in the wording of the Law from 28.06.1996 p. № 254к/96-BP. Available at: <http://zakon3.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
- Labor Code of Ukraine from 10.12.1971 № 322-VIII; Available at: <http://zakon3.rada.gov.ua/laws/show/322-08>
- Law of Ukraine «On Public Associations» from 16.06.1992 № 2461-XII; Available at: <http://zakon3.rada.gov.ua/laws/show/4572-17>

- Law of Ukraine «On trade unions, their rights and guarantees of activity» from 15.09.1999 № 1045-XIV; Available at: <http://zakon5.rada.gov.ua/laws/show/1045-14>
- ILO Conventions ratified by Ukraine: Convention on forced or compulsory labor from 28.06.1930 №29 (ratification on 10.08.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_136
- Convention on the Freedom of Association and Protection of the Right to Organize from 09.07.1948 №87 (ratification on 14.09.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_125
- Convention on Application of Principles of Right to Organize and Collective Bargaining from 01.07.1949 №98 (ratification on 14.09.1956); Available at: http://zakon2.rada.gov.ua/laws/show/ru/993_004
- Convention on Equal Remuneration for Men and Women for Work of Equal Value from 29.06.1951 №100 (ratification on 10.08.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_002
- Convention on Abolition of Forced Labor from 25.06.1957 №105 (ratification on 05.10.2000); Available at: http://zakon5.rada.gov.ua/laws/show/993_013
- Convention on Discrimination in Respect of Employment and Occupation from 25.06.1958 №111 (ratification on 04.08.1961); Available at: http://zakon5.rada.gov.ua/laws/show/993_161
- Convention on establishment of minimum wages, with particular regard to developing countries from 22.06.1970 № 131 (ratification on 19.10.2005); Available at: http://zakon3.rada.gov.ua/laws/show/993_149
- Convention on Minimum Age for Recruitment from 26.06.1973 №138 (ratification on 03.05.1979); Available at: http://zakon5.rada.gov.ua/laws/show/993_054
- Convention of 1981 on Occupational Safety and Health, and Working Environment from 22.06.1981 № 155 (ratification on 02.11.2011); Available at: http://zakon1.rada.gov.ua/laws/show/993_050
- Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor from 17.06.1999 №182 (ratification on 05.10.2000); Available at: http://zakon3.rada.gov.ua/laws/show/993_166
- Convention of 2001 on Occupational Safety and Health in Agriculture from 21.06.2001 № 184 (ratification on 01.04.2009); Available at: http://zakon2.rada.gov.ua/laws/show/993_504

1.12.2. Legal authority

- State Service of Ukraine on the Work Issues

1.12.3. Legally required documents or records

- Employment contracts
- The protocols of the trade union workers (if applicable)

- Qualification diploma for special workers (sawn; tractor operator etc)

1.12.4. Sources of information

Government sources

- G1) Atamanchuk V. (2014). Results of economic and financial activity of enterprises of the branch after 9 months of 2014; Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/article?art_id=130524&cat_id=81209
- G2) Answer on the request of the Central Committee of Trade Union of Forestry Employees of Ukraine from 30.08.2016, outg. № 02/81
- G3) Answer on the request of the State Agency of Forest Resources of Ukraine from 12.09.2016, outg. № 05-32/5172-16
- G4) Dklg.kmu.gov.ua. Radiological control of forest products: transparent, competent. Available at: https://dklg.kmu.gov.ua/forest/control/uk/publish/article;jsessionid=A9AF96F553B58B915E770DD82805FE22.app1?art_id=139177&cat_id=32888
- G5) Handbook of qualification characteristics of employees' professions: list of issues. Available at: <https://www.kadrovik01.com.ua/article/3641-dovdnik-kvalifikatsynih-harakteristik-profesy-pratsvnikv-perelk-vipusky>
- G6) Dklg.kmu.gov.ua. Sectoral agreement between the State Agency of Forest Resources of Ukraine and the Trade Union of Forestry Workers of Ukraine. Available at: https://dklg.kmu.gov.ua/forest/control/uk/publish/article;jsessionid=3627D7C7801CA5354A1E8198D98D07D9.app1?art_id=174824&cat_id=32888
- G7) Ck.dsp.gov.ua. Measures for labour protection during logging in the wintertime. Available at: <https://ck.dsp.gov.ua/?q=article/zahody-z-ohorony-praci-pid-chas-provedennya-lisosichnyh-robit-u-zymovyy-period>

Non-Government sources

- N1) Racurs (2015). Volumes of illegal logging have stayed the same as during Yanukovych era. Available at: <http://ua.racurs.ua/792-nezakonna-vyrubka-lisu-jak-za-yanukovycha>
- N2) Volyn (2015). Answers to topical questions that were raised during roundtable "Let us protect forests together". Available at: <http://lis.volyn.ua/?p=6139>
- N3) Golobbukh (2021). Forestry will pay more than UAH 12 million fine for 101 undocumented workers. Available at: <https://www.golobbukh.ua/news/25044-za-101-neofornlenogo-pratsvnika-lsove-gospodarstvo-splatit-blshe-12-mln-grn-shtrafu>

1.12.5. Risk determination

Overview of Legal Requirements

For both Source Types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the regulation related to legal employment is the same.

It's required that the rights guaranteed by fundamental ILO conventions are followed. Ukraine has ratified the 2 ILO fundamental conventions regarding worker's freedom of association; C087- Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO No. 87), and the C087- Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO No. 87).

The Labor Code of Ukraine defines the legal principles and guarantees for the exercise by citizens of Ukraine of the right for productive and creative work and regulates labor relations of all employees and establishes a high level of working conditions, comprehensive protection of labor rights of employees including freedom of association and collective bargaining rights, social security, etc. The Law № 3356-XII provides detailed requirements on collective bargaining and the conclusion and implementation of collective contracts regardless of the employer's ownership. It includes employment contracts, working hours, holidays and rest time, Occupational Health and safety, women, and Youth work, etc. According to the Law "On Holidays" (№ 504/96-BP), the state guarantees the right to have holidays and defines the technical details (determines the conditions, duration, rules for the improvement of health or to raise children).

According to the legislation, it is requested to have forest workers employed by the organization conducting the harvesting operation. At the same time, the Handbook of Qualification Characteristics of Workers' Professions is a collection of professions descriptions in Ukraine, systematized by types of economic activity, which are given in the Classifier of Professions, created to bring the qualification characteristics of workers' professions. It is a normative document required for personnel management in enterprises, institutions, and organizations of all forms of ownership and types of economic activity. It consists of Issues and Sections of issues, grouped by main types of economic activity, production, and work (Issue 3. Forestry and related services, Issue 16. Woodworking and manufacture of wood products) (G5). The professions and working conditions list are also described in the Sectoral agreement between the State Agency of Forest Resources of Ukraine and the Trade Union of Forestry Workers of Ukraine (G6).

According to Art. 187 of the Labor Code of Ukraine, minors are persons under the age of eighteen. Age from which employment is allowed - 16 years. 15 years old can get a job only as an exception, with the consent of one of the parents or a person who replaces him. The work should be performed only in free time. Working hours for minors are reduced. For employees aged 16 to 18 - 36 hours per week, for persons aged 15 to 16 (students aged 14 to 15 who work during the holidays) - 24 hours per week. The working time of students who work during the school year in their free time may not exceed half of the maximum working time provided for the above age. The use of child labor in heavy work, work with harmful or dangerous working conditions, and involvement in night, overtime, and weekend work - is prohibited by the legislation of Ukraine.

Description of Risk

For both source types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

There are cases of violation of labor legislation due to a lack of state funding for forest management operations. Workers who perform logging are sometimes not officially employed and/or do not receive salaries timely or at rates lower than state guarantees. Consequently, there is a risk that Health and Safety practices are not followed; workers are without social security; not all salaries are paid officially, leading to underpayment of the unified social tax.

During the inspection of the FME in the Kharkiv region, labor inspectors found 101 people who worked without an employment contract. They performed various silvicultural works (soil preparation, sowing and planting of forests, tending of forest crops, work in nurseries; forest protection and fire-fighting works - control of pests and diseases of the forest, laying of mineralized strips, duty on fire towers). Some of this work relates to the increased risk for health and specific qualification is requested. In court, the FME stated that civil law contracts had been entered into with those individuals. But according to the results of the state control measure, a decision was made to impose a fine for UAH 12,644,190.00. Due to lack of budget funding, wage arrears have occurred in some enterprises in the southern region and payment of wages below the state-guaranteed minimum and unpaid leave in violation of legislation (N3).

Employees are free to join trade unions and to conclude collective agreements. Cases of violation of regulations are rare and immediately dealt with.

Qualification for forest workers is in place for employees. According to government sources (G7) and interviews, the qualification is in place for employees. However, qualifications could miss in case that forest workers are not formally employed.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, there are cases when workers are not formally employed and therefore rules defined by law may be not followed.

1.12.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that not all forest workers are employed through formal agreements
2. Risk that forest workers do not receive benefits guaranteed by the law

1.12.7. Control measures and verifiers

Mitigating the risk that not all forest workers are employed through formal agreements

Onsite verification

- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them.
 - ensure that the forest workers have an agreement with the organisation.

Review documents and verify

- Request and review the contracts (or orders) with forest workers and ensure that the number of forest workers is appropriate to the scale of activities.
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the employment of forest workers.

Mitigating the risk that forest workers do not receive benefits guaranteed by the law

Review documents and verify:

- Evidence that salary payments are up to date and records showing that the salaries are paid on time and are not lower than state guarantees.
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to not giving benefits to forest workers

Onsite verification

- Interview with forest workers: During the onsite visit, ensure to talk privately with forest workers. Based on discussion with them
 - ensure that forest worker has received benefits guaranteed by the Law.

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights. The indicator is relevant to customary rights other than land and land management rights. Customary land and land management rights are covered under 1.1.

1.13.1. Applicable laws and regulations

- Forest Code of Ukraine in the wording of the Law No. 3404-IV from 08.02.2006. Available at: <http://zakon4.rada.gov.ua/laws/show/3852-12>

1.13.2. Legal authority

- Forest Management Enterprise (for commercial propose)

1.13.3. Legally required documents or records

- Forest ticket (for commercial propose)

1.13.4. Sources of information

Government sources

- G1) What is meant by the term «indigenous peoples»? Political science in questions and answers; Available at: <http://subject.com.ua/political/zapit/20.html>

Non-Government sources

- N1) Ethnography of Ukraine (2004)
- N2) Grymych M. (2002). Customary Law of Ukrainians in studies by Ivan Franko. Available at: http://nbuv.gov.ua/UJRN/eine_2002_12_3
- N3) Hutsulschyna. Customary law; Available at: <http://hutsulschyna.com/hutsulshchyna/204-zvychaieve-pravo.html>

- N4) Usenko I.B. (2005) Customary right. Encyclopedia of History of Ukraine. Available at: http://www.history.org.ua/?termin=Zvychaeve_pravo
- N5) Protsiv O.R. (2013). Hunting and fishing in Gutsulschina: socio-economic dimension / Oleg Protsiv // Materials from round table «Rural Development of the Carpathian region: Status and Prospects» [12 december 2012]: abstracts / compil. O.Ya. Hrymak, L.P. Kushnir. – Lviv: SPOLOM, 2013. – C. 179 – 183.
- N6) Zavalnyuk V.V. (2014) Official and unofficial right: anthropological study. Available at: http://nbuv.gov.ua/UJRN/appol_2014_51_4
- N7) Sfm.org.ua .Standard for company evaluation of FSC controlled wood FSC-STD-40-005 (Version 2-1); Available at: <http://sfmu.org.ua/en/news/832-opryliudнено-novu-versiiu-standartu-fsc-std-40-005-v3-1-vymohy-do-postachannia-fsc-kontrolovanoi-derevyny>

1.13.5. Risk determination

Overview of Legal Requirements

A part of the population of the territory of Ukraine under assessment, especially in mountainous regions of the Carpathians, has some traditional rights. Traditional rights mainly coincide with the right to the common use of forest resources. Special legislation for securing compliance with traditional rights is absent.

The Forestry legislation mentions free access to the forest land for recreation proposes and for collecting non-wood timber products for personal use (for commercial, a license is needed, and a specific procedure shall be followed).

Description of Risk

The risk of customary rights is negligible for both sources (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities). There is no information about risks related to this category.

Risk Conclusion

The risk under this indicator is assessed as Negligible.

1.13.6. Risk designation and specification

- N/A

1.13.7. Control measures and verifiers

- N/A

1.14. Free prior and informed consent

Legislation covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

- N/A

1.14.2. Legal authority

- N/A

1.14.3. Legally required documents or records

- N/A

1.14.4. Sources of information

Government sources

- N/A

Non-Government sources

- N/A

1.14.5. Risk determination

Overview of Legal Requirements

There are no customary or indigenous/traditional peoples' rights recognized on the Ukrainian territory. Therefore, there is no legislation related to free prior and informed consent.

Description of Risk

The risk related to "free prior and informed consent" is assessed as not applicable for both sources (A. Forest owned by state and managed by SFRA; B. Forest managed by other entities) because there is no legislation.

Risk Conclusion

N/A

1.14.6. Risk designation and specification

- N/A

1.14.7. Control measures and verifiers

- N/A

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are right to use certain forest-related resources or practice traditional activities and benefit sharing, which may involve forest lands. Land and land management rights related to indigenous/traditional peoples' rights are covered under 1.1.

1.15.1. Applicable laws and regulations

- N/A

1.15.2. Legal authority

- N/A

1.15.3. Legally required documents or records

- N/A

1.15.4. Sources of information

Government sources

- G1) What is meant by the term «indigenous peoples»? Political science in questions and answers; Available at: <http://subject.com.ua/political/zapit/20.html>

Non-Government sources

- N1) Ethnography of Ukraine: Teach. guid. for stud. high. edu. inst. / editor: S. A. Makarchuk. – 2-nd ed., revis. and upd. – Lviv: Svit, 2004. – 520 p. – Ukr.
- N2) Grymych M. (2002). Customary Law of Ukrainians in studies by Ivan Franko. Available at: http://nbuv.gov.ua/UJRN/eine_2002_12_3
- N3) Hutsulschyna. Customary law; Available at: <http://hutsulschyna.com/hutsulshchyna/204-zvychaieve-pravo.html>
- N4) Usenko I.B. (2005) Customary right. Available at: http://www.history.org.ua/?termin=Zvychaeve_pravo
- N5) Protsiv O.R. (2013). Hunting and fishing in Gutsulschina: socio-economic dimension / Oleg Protsiv // Materials from round table «Rural Development of the Carpathian region: Status and Prospects» [12 december 2012]: abstracts / compil. O.Ya. Hrymak, L.P. Kushnir. – Lviv: SPOLOM, 2013. – C. 179 – 183.
- N6) Zavalnyuk V.V. (2014). Official and unofficial right: anthropological study. Available at: http://nbuv.gov.ua/UJRN/appol_2014_51_4
- N7) Sfmua.org.ua. Standard for company evaluation of FSC controlled wood FSC-STD-40-005 (Version 2-1); Available at: <http://sfmu.org.ua/en/news/832-opryliudneno-novu-versiiu-standartu-fsc-std-40-005-v3-1-vymohy-do-postachannia-fsc-kontrolovanoi-derevyny>

1.15.5. Risk determination

Overview of Legal Requirements

On the assessed territory of Ukraine, there are no officially recognized indigenous peoples.

Description of Risk

The risk related to indigenous/traditional peoples' rights is assessed as not applicable for both source types (A. Forest owned by state and managed by SFRA; B. Forest managed by other entities).

Risk Conclusion

N/A

1.15.6. Risk designation and specification

- N/A

1.15.7. Control measures and verifiers

- N/A

1.16. Classification of species, quantities, qualities

Legislation regulates how harvested material is classified in terms of species, volumes, and qualities in trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Tax Code of Ukraine from 02.12.2010 № 2755-VI; Available at: <http://zakon5.rada.gov.ua/laws/show/2755-17>
- Roundwood and sawn timber. Methods of measurement and determination of volumes. Part 2. Roundwood: DSTU 4020-2-2001 (prEN1309-2:1998). - [Effective from 05.04.2001]. K.: State Standard of Ukraine, 2001. – 70 p.
- GOST 2292-88 Round Timber. Marking, sorting, transportation, measurement methods and acceptance; Available at: <http://vsegost.com/Catalog/19/19561.shtml>
- GOST 9463-88. Round timber of coniferous species. Specifications; Available at: <http://vsegost.com/Catalog/28/28786.shtml>
- GOST 9462-88. Round timber of broadleaved species. Specifications; Available at: <http://www.derevo.info/content/detail/20>
- GOST 2140-81. Defects of wood. Classification, terms and definitions, methods of measurement; Available at: <http://www.derevo.info/content/detail/20>
- GOST 3243-88. Fuelwood. Specifications; Available at: <http://vsegost.com/Catalog/19/19610.shtml>
- Order of the State Agency of Forest Resources of Ukraine «On Approval of Temporary Instruction on Electronic Registration of Products of Logging, Lumbering and Wood Working at Enterprises of State Agency of Forest Resources of Ukraine» from 27.06.2012 № 202; Available at: http://dklg.kmu.gov.ua/forest/control/uk/publish/category?cat_id=65319
- Fuelwood for technological needs. Specifications: TUU 56.196-95 - [Effective from 26.01.1995 without limitation of validity]. - K .: State Committee of Ukraine for Standardization, Metrology and Certification, 1995. – 6 p.

1.16.2. Legal authority

- State Enterprise "All-Ukrainian State Research and Production Center of Standardization, Metrology, Certification and Protection of Consumer Rights " (SE "Ukrmetrteststandart")
- State Forest Resource Agency

1.16.3. Legally required documents or records

- Waybills

1.16.4. Sources of information

Government sources

- G1) Derevoobrobnyk. What is the future for our forests? Answer of State Forest Resources Agency; Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv-vidpovid-derzhlisagentstva/>
- G2) Andriy Titok (2020). How much did the communal floristries of Chernihiv region spend on the introduction of electronic timber accounting? Suspilne.media, 13 February 2020. Available at: <https://suspilne.media/14327-skilki-komunalni-lisgospi-cernigivsini-vitratili-na-vprovadzenna-elektronnogo-obliku-derevini/>
- G3) SFRA (2018). In Ukraine, there is effective control over the procurement, transportation and sale of timber. Available at: <https://www.facebook.com/ckoulmg/posts/3845331888838612/>

Non-Government sources

- N1) Lesovod. Forest and prosecutors: downside "uniforms"; Available at: http://www.lesovod.org.ua/nod_e/26665
- N2) Derevoobrobnyk. What is the future for our forests? Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv/>
- N3) Victor Allerciani (2015). Environmental Inspectorate: almost every day we find a car with a timber without documents; zt.20minut, 26 May 2015. Available at: <http://zt.20minut.ua/Groshi/ekologhichna-inspekciya-majzhe-shodnya-mi-viyavlyayemo-avtomobil-z-lis-10448240.html>
- N4) P-p.com.ua (2015). A ZIL was detained in Volyn Region, loaded with stolen wood; Available at: <http://p-p.com.ua/articles/65403/>
- N5) Kordon.in.ua (2016). Roundwood with Volyn tags was revealed near the Romanian border. 12 June 2016. Available at: <http://kordon.in.ua/news/kruhlyak-z-volynskymy-chipamy-vyyavyly-poblyzu-rumunskoho-kordonu-foto-34747/>
- N6) Boryslav-online (2016). The police «covers» timber thefts in Boryslav; Available at: <http://boryslav-online.com.ua/archives/8408>
- N7) Daily.rbc.ua (2016). The moratorium does not work: how timber is exported from Ukraine bypassing the prohibition. 5 December 2016. Available at: <https://daily.rbc.ua/ukr/show/moratoriy-idet-lesom-ukrainy-vyvozyat-drevesinu-1480944265.html>

1.16.5. Risk determination

Overview of Legal Requirements

For both source types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

Since 2019, the European Standards EN 1316:1-2012, IDT; EN 1316:2-2012; EN 1927:1-2008, IDT; EN 1927-2:2008; AC:2009, IDT; EN 1927:3-2008, etc., are applied in Ukraine for wood classification (Order № 500 of the Ukrainian Research and Training Center on Problems of Standardization, Certification, and Quality).

Four quality classes (A, B, C, D) are applied for conifers and hardwood broadleaves, and three quality classes (A, B, C) are applied for softwood broadleaves as defined in Ukrainian classification (alder, birch, aspen). The classification is done by the FMEs when they sell the wood to sawmills and factories and is visible in the waybill.

Description of Risk

For both source types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

The risk of significant corruption-related violations at the assessment of quantitative and qualitative parameters of wood exists because of incorrect assessment of quantities and qualities of wood before the harvesting activities are started (risks also identified in sub-category 1.3). Because there are cases of incorrect assessment of volumes and size-quality characteristics of standing stock, there are also risks of incorrect classification of Roundwood sold to sawmills and factories. Abuses also happen at the stages of recalculation of the results of actual harvest and surcharges in prolongation of harvest or tree hauling after the expiry of the forest felling ticket.

The State Agency of Forest Resources of Ukraine and the State Enterprise "Forestry Innovation and Analytical Center" continue to inform the public and the press about introducing innovations in monitoring and controlling the wood volumes in harvesting, transport, and trade. Thus, in implementing the E-accounting system of harvested timber, the authorities and the public can obtain information on the balance of harvested and sold timber for all FMEs. In 2019 alone, 159 FMEs out of 553 existing (all forms of ownership) were connected to the E-accounting system - <https://www.ukrforest.com/eod>. Currently, the E-accounting system is also under the implementation stage at the communal FMEs (G2). This, in turn, made it possible to increase the transparency of the timber supply chain. Because of applying this mechanism, according to experts (G3), it is possible to remove more than 12% of harvested wood from the shade market every year.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, often Roundwood sold to sawmills and factories is incorrectly classified.

1.16.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of incorrect classification of species, qualities and quantities in waybills.

1.16.7. Control measures and verifiers

Mitigating the risk of incorrect classification of species, qualities and quantities in the waybills

Review documents and verify:

- Request and check waybills for all transport of wood from the forest.

- In the case of wood obtained from source type A. Forest owned and managed by the state, check the waybill in the state database (<https://open.ukrforest.com/>) to ensure that the waybill is genuine.
- Ensure that quantity of raw material from waybills is enough to cover production.
- Ensure that yield is in limits known for transformation of raw material to a specific product.

Onsite verification:

Control of truck transport at forest and sawmill (point of departure and destination) shall verify that.

- a waybill accompanies transport of wood
- species, qualities, and quantities of wood transported on trucks compared with the information contained in the waybills
- transport time is reasonable

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- The Civil Code of Ukraine, in the wording of the Law from 16.01.2003 № 435-IV; Available at: <http://zakon5.rada.gov.ua/laws/show/435-15>
- Law of Ukraine «On Enterprise» from 07.02.1991 № 698-XII; Available at: <http://zakon4.rada.gov.ua/laws/show/435-15>
- Law of Ukraine «On Prices and Pricing» from 21.06.2012 № 5007-VI; Available at: <http://zakon4.rada.gov.ua/laws/show/5007-17>
- Order of State Forestry Committee of Ukraine «On improving mechanisms of sales of raw wood» from 19.02.2007 № 42; Available at: <http://zakon5.rada.gov.ua/laws/show/z0164-07>
- Order of Ministry of Transport of Ukraine and Ministry of Statistics of Ukraine «On Approval of Typical Forms of Primary Accounting of Truck Operation» from 29.12.1995 № 488/346; Available at: <http://zakon5.rada.gov.ua/laws/show/z0149-98>
- Order of Ministry of Infrastructure and Ministry of Agrarian Policy «On approval of a specialized form of a waybill for timber transport by road (TTN-lis)» from 29.11.2013 № 961/707; Available at: <http://zakon3.rada.gov.ua/laws/show/z2070-13>
- Ministry of Energy and Environment: Sale of raw wood exclusively at electronic auctions will bring the market out of the shadows. - published February 3, 2020 at 4:58 p.m.

Available at: <https://www.kmu.gov.ua/news/minekoenergo-prodazh-neobroblenoyi-derevini-viklyuchno-na-elektronnih-aukcionah-vivede-rinok-iz-tini>

1.17.2. Legal authority

- State Forest Resource Agency

1.17.3. Legally required documents or records

- Waybills
- Agreement with FME or action documents
- Timber logistics documents

1.17.4. Sources of information

Government sources

- G1) Derevoobrobnyk. What is the future for our forests? Answer of State Forest Resources Agency; Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv-vidpovid-derzhlisagentstva/>
- G2) Dkkg.kmu.gov (2020). In Ukraine, there is effective control over the procurement, transportation and sale of timber. Available at: http://dkkg.kmu.gov.ua/forest/control/uk/publish/article?art_id=212785&cat_id=32888&fbclid=IwAR01zp7LfpSs_ZBy1SQkVBnx1aSLaIAhF0KnoZ3EAKzSjIkRKJVhkIm6CCo

Non-Government sources

- N1) Alexander Misyura (2021). Trade trick with the forest: for friends - everything, and for society - nothing? Why trade in raw wood takes place in closed "auctions" and without competition. 13 January 2021. Available at <https://www.epravda.com.ua/columns/2021/01/13/669939/>
- N2) Lesovod. Forest and prosecutors: downside "uniforms"; Available at: <http://www.lesovod.org.ua/node/26665>
- N3) Derevoobrobnyk. What is the future for our forests? Available at: <http://derevoobrobnyk.com/yake-majbutnye-nashix-lisiv/>
- N4) Victor Allerciani (2015). Environmental Inspectorate: almost every day we find a car with a timber without documents; Available at: <http://zt.20minut.ua/Groshi/ekologhichna-inspekciya-majzhe-shodnya-mi-viyavlyayemo-avtomobil-z-lis-10448240.html>
- N5) P-p.com.ua (2015). A ZIL was detained in Volyn Region, loaded with stolen wood; Available at: <http://p-p.com.ua/articles/65403/>
- N6) Enpi-Fleg (2016). Improvement of timber flow control system in Ukraine and preparations of proposals for changes in the national legislation. Available at: <http://www.enpi-fleg.org/docs/improvement-of-timber-flow-control-system-in-ukraine-and-preparations-of-proposals-for-changes-in-the-national-legislation/>
- N7) Preferred by Nature (2019). FSC™ no Silver Bullet against Illegal Timber Trade in Ukraine - Available at: <https://preferredbynature.org/newsroom/fsctm-no-silver-bullet-against-illegal-timber-trade-ukraine>

- N8) Karabchuk D.Yu., Vycega R.R, Pavelko A.V, Golub M.G, Popovich V.D. (2018). Methods of public control over logging. Version 1.5. The manual was prepared by experts of the Working Group of the project "Reducing the level of corruption in the forest sector of Lviv region". Available at: [8pdf \(panda.org\)](#)

1.17.5. Risk determination

Overview of Legal Requirements

For both source types described in this report (A. Forest owned by the state and managed by SFRA; B. Forest managed by other entities), the risk profile is similar.

An electronic system is implemented through the marking of logs while providing identification of timber (origin) and the transmission and control of information on various characteristics of the wood until this is transferred to the buyer. The Unified State System of Electronic Accounting of Wood (USSEAW) is used to this end. It provides for individual marking and keeping electronic records about the logs at all stages of processing and logistics (ENPI East-FLEG II, 2015).

FMEs, sawmills, and traders can export the processed wood.

Domestic trade

The joint Order of the Ministry of Infrastructure and the Ministry of Agrarian Policy of Ukraine "On Approval of the Special Form of Product Delivery Note for Transportation of Timber on Roads (TTN - Forest)" № 961 approves a specialized form of product delivery note (waybill) for wood transportation by road transport as well as the instruction on filling it in. The waybill for timber transportation by road transport (TTN - wood) is mandatory for State Forestry Enterprises in their accounting, primary sales, and transportation of timber by road transport. Resolution of the Cabinet of Ministers of Ukraine № 207 defines the documents required to transport goods by road transport in internal traffic.

Regulation on the submittal of information on timber extraction in forests (No. 91) establishes the procedure for collection and submittal to the Ministry of Ecology and Natural Resources of relevant data and information related to timber extraction in forests. The State Forest Agency submits cartographic information on forests and taxonomic descriptions of forest areas to the Ministry of Ecology and Natural Resources in electronic form.

Regulation № 1142 determines mechanisms of monitoring domestic unprocessed timber and control over the volume of domestic unprocessed timber consumption based on systematization and generalization of information on the origin, harvesting and trade of timber by forest owners and permanent loggers (forest managers). In case of preconditions for exceeding the established volume of domestic consumption of unprocessed domestic timber, the State Forest Resource Agency shall decide to terminate the issuance by its territorial bodies of special permits to use forest resources. Monitoring is based on the timeliness and reliability of providing information by loggers (forest managers). The State Forest Agency shall monitor based on systematic and generalized information on the origin, harvesting, and trade of timber inserted in the timber accounting system. Entry into the timber accounting system is mandatory for loggers (forest managers) when harvesting and marketing timber. Forest managers submit information to the timber accounting system about: (a) special permits for the use of forest resources; (b) timber species, quantitative and qualitative characteristics of timber; (c) contracts for the implementation of timber business operations; (d) loading and unloading points of timber; and (e) vehicles used to transport timber. The system of electronic accounting of timber and control of timber flow is

established by order of the State Agency of Forest Resources of Ukraine "On Approval of the Temporary Instruction on Electronic Account of Products of Logging, Lumbering and Wood Processing at the Enterprises of the State Agency of Forest Resources of Ukraine" № 202-2012.

To avoid underestimation of the data entered into the electronic accounting system, the information system in the central office automatically compares the entered data with the data of the corresponding logging ticket. If discrepancies, the system warns the central office and FME. The FME should find out the reasons for the discrepancy.

According to the law, FMEs could establish a storage location. If harvesting activities are done by FME or outsourced, the wood could be transported from the forest to the storage facility.

A. Forest owned by the state and managed by SFRA

The State Forestry Enterprises (SFE's) are the executive bodies of the Agency and manage the forest and organize timber production. They are obliged to offer the logs within the region on timber auctions, where only Ukrainian companies can buy. The State Forestry Enterprises could sell the unsold remains directly (this regulation was valid until the new regulation in force since Feb 1, 2020).

Description of Risk

According to sources, timber trade by all forest users is often accompanied by corruption abuses. Numerous violations were recorded related to timber transport by road without any logistics documents or using the same documents several times:

1. Entries in the documents are made correctly, but after unloading the wood transport, invoices and invoices are returned with the driver to the warehouse and used for the next batch of timber. There may be several such trips a day. This is a method of legalization of illegally harvested forest products.
2. Entries in the documents are made correctly, but after unloading, the wood transport invoices and invoices are destroyed, and new ones are issued following documents coming from logging. The numbering is then corrected.
3. Delivery of illegally harvested timber products for processing by short-distance transport without truck registration numbers and documents.
4. Mixing/Replacing legal wood with illegally harvested wood (illegal wood with better quality) (N8, page 42-43).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the sources, numerous violations are related to trade and transport (without documents or multiple transports with the same document).

1.17.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of transport of wood without waybills
2. Risk of multiple transports with the same waybills

3. Risk of transport with fraudulent waybill

1.17.7. Control measures and verifiers

Mitigating the risks related to transport and fraudulent waybills

Review documents and verify:

- Request and check waybills for all transport of wood from the forest.
- In the case of wood obtained from source type A. Forest owned and managed by the state, check the waybill in the state database (<https://open.ukrforest.com/>) to ensure that the waybill is genuine.
- Ensure that quantity of raw material from waybills is enough to cover production.
- Ensure that yield is in limits known for transformation of raw material to a specific product.

Onsite verification:

Control of truck transport at forest and sawmill (point of departure and destination) shall verify that.

- a waybill accompanies transport of wood
- species, qualities, and quantities of wood transported on trucks compared with the information contained in the waybills
- transport time is reasonable

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

- Law of Ukraine «On Peculiarities of State Regulation of Activity of Business Entities Related to Trade and Export of Timber» from 08.09.2005 № 2860-IV; Available at: <http://zakon3.rada.gov.ua/laws/show/2860-15>
- Law of Ukraine «On Amendments to Tax Code of Ukraine on Transfer Pricing» from 15.07.2015 № 609-VIII; Available at: <http://zakon3.rada.gov.ua/laws/show/609-19>
- Tax Code of Ukraine from 02.12.2010 № 2755-VI; Available at: <http://zakon5.rada.gov.ua/laws/show/2755-17>

- Law of Ukraine «On Peculiarities of State Regulation of Activity of Business Entities Related to Trade and Export of Timber» from 08.09.2005 № 2860-IV; Available at: <http://zakon3.rada.gov.ua/laws/show/2860-15>
- Law of Ukraine «On Foreign Economic Activity» from 16.04.1991 № 959-XII; Available at: <http://zakon3.rada.gov.ua/laws/show/959-12>
- Law of Ukraine «On Amendments to Law of Ukraine «On Peculiarities of State Regulation of Activity of Business Entities Related to Trade and Export of Timber» concerning the Temporary Ban on Export of Timber Products in Crude form» from 09.04.2015 № 325-VIII; Available at: <http://zakon5.rada.gov.ua/laws/show/325-19>
- Law of Ukraine «On Amendments to Tax Code of Ukraine on Transfer Pricing» from 15.07.2015 № 609-VIII; Available at: <http://zakon3.rada.gov.ua/laws/show/609-19>

1.18.2. Legal authority

- State tax service of Ukraine

1.18.3. Legally required documents or records

Transfer pricing documentation can be prepared in any format, but should include the following:

- information about related parties;
- information about the group, including the legal structure, description of the activities, as well as the group's transfer pricing policy;
- description of management structure and its organizational chart;
- description of activities performed by the taxpayer, particularly, economic conditions of the activity, analysis of relevant markets of goods/services where the taxpayer performs its activities, major competitors;
- information on participation in business restructurings or transfer of intangible assets in the reporting or the previous year with explanation of how they affect taxpayer's activity;
- description and conditions of the controlled transaction, with copies of the respective agreements (contracts);
- description of the goods (works, services) including physical characteristics, quality and market reputation, country of origin and producer, trademark, other information on quality characteristics of goods;
- information on payments made (amount, currency, date, payment documents);
- factors that influenced the price determination, including business strategies that impact the price of goods (works, services);
- information about functions performed, assets used and economic risks assumed by the parties to the controlled transaction;
- economic and comparability analysis including a benchmarking study, justification of the appropriateness of the transfer pricing method(s), amount of income (profit) and/or expenses related to the controlled transaction, its profitability, source of information used;
- information about the year-end adjustment(s) performed by the taxpayer (if any) (N4).

1.18.4. Sources of information

Government sources

- N/A

Non-Government sources

- N1) Grymych M. (2002). Customary Law of Ukrainians in studies by Ivan Franko. Ethnic history of peoples of Europe. – 2002. – Vol. 12. – P. 4–8; Available at: http://nbuv.gov.ua/UJRN/eine_2002_12_3
- N2) Earthsight (2018). Complicit in Corruption How billion-dollar firms and EU governments are failing Ukraine’s forests. Available at: https://fe8a03e2-1131-44e7-a06a-fb468c2a30d4.filesusr.com/ugd/624187_673e3aa69ed84129bdfef91b6aa9ec17.pdf
- N3) PWC (2021). Ukraine. Corporate – group taxation. Worldwide Tax Summaries. [Online]. Last reviewed – 30 June 2021. PwC. Available at: <https://taxsummaries.pwc.com/ukraine/corporate/group-taxation>
- N4) CMS (2021). Transfer pricing documentation in Ukraine. Available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-to-transfer-pricing-documentation/ukraine>
- N5) The Power of Truth (2020). Kings of the Ukrainian forest: a film about the illegal export of timber to Europe has appeared. Available at: <https://sylappravdy.com/koroli-ukrayinskogo-lisu-zyavyvsya-film-pro-nezakonnyi-eksport-derevyny/>

1.18.5. Risk determination

Overview of Legal Requirements

The following description of the rules on transfer pricing is based on PwCs Worldwide Tax Summaries country page for Ukraine (Non-government Source 3).

The transfer pricing rules apply for CIT (Corporate Income Tax) purposes only. The list of controlled transactions for transfer pricing purposes includes business transactions that may have an impact on taxable profits and that are:

- Business transactions with related parties that are non-residents of Ukraine.
- Cross-border business transactions on sale and/or purchase of goods and/or services through non-resident commissionaires.
- Business transactions with non-residents that are registered in or are residents of jurisdictions determined by the Cabinet of Ministers of Ukraine that meet the following criteria:
 - States (territories) where the CIT rate is lower than Ukraine’s CIT rate by 5 and more percentage points or some tax benefits on CIT are available.
 - Countries with no Double Tax Treaties (DTT) with Ukraine containing provisions on the exchange of information.
 - States the competent authorities of which do not accomplish timely and full exchange of tax and financial information upon request of the Ukrainian tax authorities.
- Transactions with non-residents that do not pay CIT, including on revenues received outside of the state of registration of such non-residents, and/or that are not tax residents of the country where they are registered as legal entities. The list of organizational and legal forms of such non-residents in terms of states (territories) is established by the Cabinet of Ministers of Ukraine. Suppose such non-residents pay CIT in

the reporting year. In that case, the transactions with such non-residents are not considered controlled if other criteria for recognizing controlled transactions are not met.

- Transactions (including intra-organizational settlements) were performed between a non-resident and its permanent establishment (PE) in Ukraine.
- If within a chain of business transactions between Ukrainian taxpayer and non-resident, regarding whom the above criteria are met, the ownership of the subject matter of the transaction (or its result) before being transferred from one of the counterparties to another was transferred to one or more intermediaries. Transactions between the taxpayer and such non-resident are not considered as controlled (the above criteria are not met), these cross-border transactions between them are controlled if the intermediary performs no significant functions, employs no significant assets, and/or bears no significant risks in respect of the transactions.
- The transfer (full or partial) of functions from one counterparty to another that leads to a decrease in the income/financial result of a Ukrainian taxpayer (in cases wherein a relationship between unrelated parties, such transfer would not have taken place without compensation) is also subject to transfer pricing rules.

Arm's-length principle

The value criteria for recognizing transactions as controlled should be calculated at prices in line with the arm's length principle.

Some transactions are considered to be at arm's-length (i.e., transactions in which prices are subject to state regulation, transactions subject to mandatory valuation, transactions in which prices are determined by mandatory auction, transactions on the forced sale of collateral) if the conditions of transactions meet the respective legislation requirements.

The Tax Code of Ukraine provides five methods for determining the arm's length nature of controlled transactions (Comparable uncontrolled price (CUP) method; Resale price method; Cost plus method; Net profit method; Profit split method).

The taxpayer may not use more than one method to determine whether the nature of a controlled transaction is at arm's length.

The special methodology is prescribed for controlled transactions on the transfer of functions from one counterparty to another where it is impossible to apply one of the methods prescribed above. However, the Comparable Uncontrolled Price (CUP) method is a priority for controlled commodity transactions. The list of commodities is defined and published by the Cabinet of Ministers of Ukraine. When applying the CUP method for these transactions, the taxpayer may compare the prices within the controlled transactions with the prices of comparable uncontrolled transactions (performed by the taxpayer or other unrelated parties) and/or with commodity quotations. The State Tax Service of Ukraine publishes a recommended (non-exclusive) list of data sources for obtaining commodity quotations on its official web portal before the beginning of the reporting year.

If the taxpayer decides to apply methods other than CUP for commodities transactions, the taxpayer should include in its transfer pricing documentation (Local File):

- the profitability of all related parties (and certain other types of non-residents) involved in the chain of such business transactions and
- The justification is that the CUP method cannot be applied or that the CUP method is not the most appropriate method considering the facts and circumstances of the controlled transactions.

The Tax Code also allows the use of several transfer pricing methods (or a combination thereof) to substantiate the arm's length nature of controlled transactions. The application of methods that the Tax Code does not prescribe is prohibited.

To apply transfer pricing methods, the following information may be used:

- Information on comparable transactions of the taxpayer and its counterparty with non-related parties (internal comparable).
- Any publicly available sources that provide information on comparable transactions and parties.
- Other sources from which information was received by the taxpayer in compliance with the law if such information was provided to the tax authorities.
- Information received by the tax authorities under the international agreements in effect concluded by the Parliament of Ukraine.
- All taxpayers performing controlled transactions should file a report on controlled transactions (transfer pricing notification) and notification on participation in an international group of companies by 1 October following the reporting year.

A three-tier transfer pricing documentation was introduced in Ukraine from 23 May 2020, which includes the following:

- Country-by-country report (CbCR) (submitted for the first time for the financial year ending in 2021): The CbCR is mandatory if the taxpayer belongs to the international group of companies and the total consolidated income of such group for the financial year preceding the reporting year exceeds 750 million euros (EUR), and if one of the other additional circumstances, prescribed by the Tax Code, is satisfied. The taxpayer submits the CbCR to the tax authorities within 12 months after the end of the financial year, which is defined by the parent company of an international group of companies.
- Global transfer pricing documentation (Master File) (submitted for the first time for the financial year ending in 2021): Master File is mandatory if the taxpayer belongs to the international group of companies and the total consolidated income of such group for the financial year preceding the reporting year exceeds EUR 50 million. The taxpayer submits the Master File only upon request of the tax authorities within 90 calendar days upon its receipt. Such request should be sent not earlier than 12 months and not later than 36 months from the date of the end of the financial year established by the international group of companies to which the taxpayer belongs.
- Transfer pricing documentation (Local File) is mandatory if the taxpayer performed controlled transactions in the reporting year. It should be submitted only upon request of the tax authorities within 30 calendar days upon its receipt. The request on the provision of transfer pricing documentation can be sent to the taxpayer not earlier than 1 October of the year following the calendar year in which the controlled transaction was performed.
- Transfer pricing and global transfer pricing documentation (Master File) should be prepared in Ukrainian only in any format (either a single document or a set of documents).

The taxpayer should include in the Local File a description of the supply chain (value chain) of goods (works, services) within the controlled transactions and justification of the business purpose (economic benefits) for controlled transactions on the purchase (sale) of goods, works (services), intangible assets (including licenses), and items of business transactions other than goods.

Transfer pricing adjustment and tax payment

If the prices/profitability of the controlled transaction does not correspond with the arm's length principle, the taxpayer should perform the respective transfer pricing adjustment and pay additional tax. The parties to the controlled transaction are entitled to perform a proportional transfer pricing adjustment. The proportional adjustment for Ukrainian taxpayers is allowed if the counterparty is a related party to the taxpayer and has made an actual adjustment of its tax liabilities. In addition, there should be an effective Double Tax treaty (DTT) between Ukraine and the jurisdiction of the non-resident related party.

The interquartile range of benchmark prices/price level index (PLI) is considered a yardstick used to substantiate the arm's length nature of the transactions. The taxpayers should adjust the financial result/prices of the transactions to the levels corresponding with the lower/higher quartiles, while the adjustments assessed by the tax authorities are made to the median of the interquartile range. The adjustments are made based on the results of the reporting (tax) year.

Control by authority

The Tax Code also provides for a specialized transfer pricing audit as the tax authorities are not allowed to examine pricing in controlled transactions during normal full-scope tax audits. The audit duration cannot exceed 18 months, although the extension is possible for another 12 months. Such a period is also suspended until the taxpayer's court proceedings on claims regarding issues related to the assignment, conduct, or subject of such audit.

The tax authorities cannot conduct more than one transfer pricing audit within one calendar year, although other (non-transfer pricing) tax audits can be conducted during this period. The statutory limitation period for transfer pricing assessments is seven years.

Large taxpayers have the right to enter into Advance Pricing Agreements (APAs) with the tax authorities to agree on certain terms of controlled transactions in advance. For a large taxpayer, it is also possible to pre-align pricing in controlled transactions that are or will be carried out by those large taxpayers.

Description of Risk

The Earthsight Report "Complicit in Corruption" presents cases when the letterbox firms among the largest traders of Ukrainian timber to the EU were named in the Ukrainian criminal corruption investigations.

The Bureau of Investigative Journalism "Detectives" from Lviv made the film "Kings of Forest" about the illegal export of timber and control of the timber market in the EU by Ukrainian organized criminal groups. Well-known Volynians are involved in the investigation. In particular, the former head of the Volyn police, and later the prosecutor's office and the former head of the State Forest Agency, a deputy of the Volyn regional council. The investigation describes illegal logging in Ukraine, bypassing not only national legislation but also EU regulations. Fictitious letter-box firms buy timber from state-owned forestry enterprises at discounted prices and resell it in Europe at market prices. The difference is used to bribe officials and law enforcement (N5).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the sources, there are risks related to transfer pricing.

1.18.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk of illegal transfer pricing occurring at a different level of the supply chain

1.18.7. Control measures and verifiers

Mitigating the risk of illegal transfer pricing occurring at a different level of the supply chain

Review documents and verify:

- Check invoices and verify prices are aligned with sales prices and are not suspicious.
- Ensure that there are no letterbox companies involved in the supply chain.

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

- Law of Ukraine "On Ukraine's accession to the Convention on International Trade in Endangered Species of Wild Fauna and Flora" № 662-XIV Resolution of the Cabinet of Ministers of Ukraine "On measures to ensure the fulfilment of Ukraine's international obligations in connection with its accession to the Convention on International Trade in Endangered Species of Wild Fauna and Flora" № 1822
- Order No. 107 of the Ministry of Ecology and Natural Resources "On approval of permit templates for import and export of specimens of species of wild fauna and flora, certificate for traveling exhibitions, re-export and introduction from the sea of these specimens, which are subject to regulation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and a template of application for their receipt."

1.20.2. Legal authority

- Ministry of Environmental Protection and Natural Resources of Ukraine (Department of Biodiversity Protection and Land Resources)

1.20.3. Legally required documents or records

- CITES Permit

1.20.4. Sources of information

Government sources

- G1) Lisproekt (2015). Measures to preserve biodiversity; Available at: <http://www.lisproekt.gov.ua/post/1395>

Non-Government sources

- N1) FSC (2019). FSC-NRA-UA V1-1 National Risk Assessment for Ukraine 2019. Available at: <https://ua.fsc.org/preview.fsc-nra-ua-v1-1-en.a-593.p>

1.20.5. Risk determination

Overview of Legal Requirements

Ukraine has ratified the Convention on International Trade in Endangered Species of Wild Fauna and Flora CITES (Law № 662-XIV). Procedures and measures to ensure Ukraine's international obligations in connection with its accession to the CITES are specified in the Resolutions of the Cabinet of Ministers № 1822 and Order No. 107 of the Ministry of Ecology and Natural Resources.

Description of Risk

On the territory of Ukraine, there are no tree species listed in the CITES Appendixes. This is confirmed by the "Classifier of tree species" used during forest measurement, inventory, and monitoring. This classifier provides a comprehensive list of all species of trees that grow in Ukraine, and among them, there are no CITES species. A full version of the classifier is included in a forest inventory database, which is not publicly available (N1).

As there are no tree species in Ukraine listed in the CITES appendix, the risk of violating CITES legislation through harvesting, trade, and transport of wood and wooden products is low.

Risk Conclusion

Low risk

1.20.6. Risk designation and specification

- Not applicable

1.20.7. Control measures and verifiers

- Not applicable

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

- N/A

1.21.2. Legal authority

- Not applicable

1.21.3. Legally required documents or records

- Not applicable

1.21.4. Sources of information

Government sources

- No sources

Non-Government sources

- N1) Ekosphaera (2014). Assessment of the influence of the EU legislation on trade and forest certification upon forestry in Ukraine; Available at: http://www.ekosphaera.org/images/dmdocuments/Raport_ForestCertification_FLEG-II_2014.pdf

1.21.5. Risk determination

Overview of Legal Requirements

Ukraine has no legislation requiring procedures of due diligence system linked with wood products trade. Operators within the framework of Regulation (EU) No 995/2010 or other due diligence regulations may implement such a system voluntarily.

However, the Code of Ukraine on Administrative Offenses (No. 8073-X) determines liability for illegal use of forest land, illegal felling, damage and destruction of forests and undergrowth, etc.

Description of Risk

Not applicable, as there is no legislation related to due diligence/due care procedures.

Risk Conclusion

Not applicable

1.21.6. Risk designation and specification

- Not applicable

1.21.7. Control measures and verifiers

- Not applicable

PROCESSING

1.22. Legal Registration of business

Legislation regulating the registration of business and approval of scope of business and processing. The risk is that companies are operating without being in conformance with legal requirements with regards to legal obligations on business registration (business/sawmill license, operation visas, tax payment cards, approvals, etc.).

1.22.1. Applicable laws and regulations

- Law of Ukraine On state registration of legal entities and natural persons – entrepreneurs. (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 2003, № 31-32, p.263). Available at: <https://zakon.rada.gov.ua/laws/show/755-15#Text>

- Some issues of deregulation of economic activity. The Resolution of the Cabinet of Ministers of Ukraine. March 27, 2019. № 367. Available at: <https://zakon.rada.gov.ua/laws/show/367-2019-%D0%BF#Text>

1.22.2. Legal authority

- Ministry of Justice of Ukraine

1.22.3. Legally required documents or records

- Business license

1.22.4. Sources of information

Government sources

- G1) Government Portal (2021). Registration of natural person–entrepreneur. Available at: <https://www.kmu.gov.ua/service/reestratsiya-fizosobi-pidpriemtsem>

Non-Government sources

- N1) Turii (2019). Registration of small business companies. Available at: <https://turii.com.ua/reiestratsiia-pidpriemstva-maloho-biznesu/#anchor1>
- N2) Prostir (2020). Online business registration: what will change in 2020. Available at: <https://www.prostir.ua/?library=rejestratsiya-biznesu-onlajn-scho-zminytsya-v-2020-rotsi>
- N3) Podrobnosti. Illegal sawmills were exposed in Lviv region. Available at: <https://podrobnosti.ua/podrobnosti>
- N4) Romanenko Anna (2013). In Volyn, illegal sawmills "cut" in the amount of UAH 1.3 million. Available at: <https://www.0332.ua/news/323066/na-volini-nezakonni-lisopilni-napilali-na-13-mln-grn>
- N5) Uzhgorod.net.ua (2008). The problems of deforestation are gradually solved - 52 illegal sawmills have already been closed. Available at: <https://uzhgorod.net.ua/news/31135>
- N6) Forester (2021). Illegal sawmills continue to be detected in Zhytomyr Region 06/19/2021. Available at: <https://www.forester.org.ua/na-zhytomyrshhyni-prodovzhuyut-vyyavlyaty-nelegalni-lisopylni/>

1.22.5. Risk determination

Overview of Legal Requirements

Registration of a new legal entity in the Unified State Register (USR).

The new enterprise must be registered in the Unified State Register. Documents for registration are drawn up in the Ukrainian language. If the documents are not submitted in person, there is an option to send them by email (documents must be certified by a notary). If the future enterprise is a business company, then the basis for its registration and operation is standardized.

There are several details that the future company must provide, in particular, the name, legal address, capital (statutory), shares of participants, if any, activities. All documents must be in writing, signed by all participants.

Similarly, you can register a small business electronically. The "State Registrar" accepts such documents, checks them, and responds in electronic form, which confirms the receipt of documents. To register electronically, you must have an EDS (electronic digital signature).

Several years ago, the registration of a company in Ukraine was accompanied by bureaucratic problems. Future entrepreneurs had to collect certificates, documentation, design; all this was delayed for a long time. The procedure for registering a business in Ukraine was simplified during the last few years. What reduces registration time and costs. To summarize, here are the following changes in the registration of enterprises in Ukraine in a recent year:

- The use of the seal was abolished during the registration of the company in Ukraine;
- No requirement for mandatory payment of the initial capital upon registration of the LLC;
- All documents of the company are in the state register only. And this provides that the owner will not have the hands of the originals, which he may suddenly lose, he can make copies of documents from the register at any time;
- It is not necessary to use the services of a notary. Bank cards with sample signatures are assured by a bank employee, who will obtain the required information about the company from the register when opening an account. These actions will no longer require the presentation of notarized copies, extracts;
- It is possible to conduct online registration without the participation of a notary. This requires a personal electronic digital signature (EDS); signing registration forms and certifying the constituent documentation is necessary.

Social fund and tax service

Information about a new business/enterprise is transferred through the state registrar to the Pension Fund, the Tax Service, the Statistics Service, the Social Insurance Fund, etc. An application for selecting a specific system of tax payment (including VAT) by a new legal entity is also submitted to the tax service. The legal entity issued an electronic extract from the state register.

Bank account of a small business enterprise

To work legally, a new company needs to open a bank account. This account is used for crediting the funds of participants of the legal entity and for settlements (both credits and payments). The tax service receives information on the movement of funds on the account. The amount of authorized capital on the enterprise accounts is not limited by law (including the minimum).

There is no specific regulation on the registration or licensing of timber processing businesses. The timber processing business is licensed and registered under the general entrepreneurship legislation, including installing timber processing facilities and processing requirements and specifications on value-added. The general environmental legislation regulates environmental requirements for the timber processing industry.

Description of Risk

Consulting companies have appeared in the country, which can register companies in just 2 hours. The registration period does not depend on the form of business. As the process is easier quicker, the incentive to operate illegally has been reduced.

There are small sawmills that are not registered and typically source wood of illegal origin (N3, N4, N5, N6).

Risk Conclusion

This indicator has been evaluated as a specified risk. According to the information sources, there is a risk that small sawmills are not legally registered.

1.22.6. Risk designation and specification

Specified Risk for the following specific case:

1. Risk that small sawmills are not legally registered

1.22.7. Control measures and verifiers

Mitigating the risk that small sawmills are not legally registered

Review documents and verify:

The legal registration of the sawmill could be checked through

- the existence of a business license
- to ensure that waybills accompany all wood transports, as only legally registered companies can issue waybills.

Ensure that mitigation measures from chapters 1.16 - Risk of incorrect classification of species, qualities, and quantities in waybills are in place.

1.23. Environmental requirements for processing

Legislation regulates environmental requirements for the timber processing industry, such as air quality, water, waste-water management, use of chemicals, and other requirements relevant to the environment and ecosystem services.

1.23.1. Applicable laws and regulations

- Law of Ukraine *On Environmental Impact Assessment* (Vidomosti Verkhovnoi Rady (VVR), 2017, № 29, p.315) {With changes made following the Law № 733-IX dated 18.06.2020}
- Law of Ukraine *"About Protection of Atmospheric Air"*. of October 16, 1992 No. 2707-XII – (as amended on 23-05-2017). Available at: <https://cis-legislation.com/document.fwx?rgn=11119>
- Resolution Of The Cabinet Of Ministers Of Ukraine of March 13, 2002 N 302 About the statement of the Order of carrying out and payment of the works connected with issue of permissions for emissions of polluting substances in atmospheric air by stationary sources, the account of the enterprises, establishments, the organizations and citizens - entrepreneurs who have received such permits. Available at: http://www.mlp.net.ua/index.php?option=com_content&task=view&id=23&Itemid=30

- On approval of the Instruction on the content and procedure for compiling the report of the inventory of pollutant emissions at the enterprise {With changes made in accordance with the Orders of the Ministry of Ecology and Natural Resources N 97 (z0394-17) from 01.03.2017, N 108 (z0480-18) from 04.04 .2018}. Available at: <https://zakon.rada.gov.ua/laws/show/z0061-95#Text>
- Tax Code Of Ukraine of December 2, 2010 No. 2755-VI (as amended on 21-07-2020). Available at: <https://cis-legislation.com/document.fwx?rgn=32564#:~:text=The%20tax%20code%20of%20Ukraine%20governs%20the%20relations,also%20responsibility%20for%20violation%20of%20the%20tax%20legislation>
- Law Of Ukraine "On Waste" (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 1998, № 36-37, p.242). Available at: <https://zakon.rada.gov.ua/laws/show/187/98-%D0%B2%D1%80#Text>
- The Resolution of the Cabinet of Ministers of Ukraine dated 18.02.2016 №118 "On approval of the Procedure for submitting the declaration on waste and its forms". Available at: <https://zakon.rada.gov.ua/laws/show/118-2016-%D0%BF#Text>
- Water Code Of Ukraine of June 6, 1995 No. 213/95-BP (as amended on 13-04-2020). Available at: <https://cis-legislation.com/document.fwx?rgn=8684>
- Law Of Ukraine On the Permit System in the Field of Economic Activity. (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 2005, № 48, p.483). Available at: <https://zakon.rada.gov.ua/laws/show/2806-15?lang=en#Text>

1.23.2. Legal authori

- Relevant subdivision on Ministry of Environment Protection and Natural Resources
- State Water Agency of Ukraine

1.23.3. Legally required documents or records

- Permit on pollution
- Tax fee for emissions of pollutants
- Annual declaration of waste
- Permission for special water use
- Environmental Impact Assessment

1.23.4. Sources of information

Government sources

- G1) Brody-rda.gov.ua (2012). For the information of business entities in the woodworking industry. Official site of Brody district administration. Available at: <http://www.brody-rda.gov.ua/2012-05-05-09-14-09>
- G2) Ministry of Environment Protection (2018). Frequently Asked Questions. How to go through a new environmental impact assessment procedure. Available at: <https://mepr.gov.ua/news/33086.html>

Non-Government sources

- N1) T.P. Goncharenko, O.G. Goncharenko. Environmental Impact Assessment of Woodworking Enterprises (The case of LLC "Cherkasy Dock"). Proceedings (VISNYK) of Zhytomyr State Technical University, № 3 (46). Available at: x`
- N2) Varianty (2019). A company from Drohobych was fined 600 hryvnias for environmental pollution. Available at: <https://varianty.lviv.ua/59975-firmu-z-drohobycha-oshtrafuvaly-na-600-hryven-za-zabrudnennia-dovkillia>
- N3) Radiosvoboda (2020). Rivne residents protested against the construction of a woodworking enterprise. Available at: <https://www.radiosvoboda.org/a/news-rivne-kronospan/30425345.html>
- N4) Rivnepost (2021). Kronospan in Rivne region: "We invest in Ukraine the best available environmental technologies". Available at: <https://rivnepost.rv.ua/news/kronospan-na-rivnenshchini-mi-investuemo-v-ukrainu-naykrashchi-dostupni-ekolohichni-tekhnohii>

1.23.5. Risk determination

Overview of Legal Requirements

The activities of sawmills and other wood-processing enterprises can lead to emissions of pollutants into the atmosphere from stationary sources, waste generation and, as a rule, involve water use. According to Art. 11 of the Law of Ukraine "On Protection of Atmospheric Air," emissions of pollutants into the atmosphere by stationary sources may be carried out after obtaining a permit.

According to paragraph 2 of the "Procedure for conducting and paying for work related to the issuance of permits for emissions of pollutants into the atmosphere by stationary sources, accounting of enterprises, institutions, organizations and citizens-entrepreneurs who have received such permits", approved by the Cabinet of Ministers of Ukraine from 13.03.2002 №302, permit for emissions of pollutants into the atmosphere by stationary sources is an official document that enterprises, institutions, organizations and citizens-entrepreneurs shall have to operate facilities from which pollutants or their mixtures enter the atmosphere. The legislation established relevant standards of maximum allowable emissions and requirements for technological processes to limit emissions of pollutants within the period specified in the permit.

Suppose the business entity uses an autonomous heating system (boilers, convectors, etc.) and carries out production activities because of which pollutants enter the air in accordance with the technical regulations. In that case, it is necessary to obtain a permit for emissions of pollutants into the air.

Following Section VIII of the Tax Code of Ukraine, Art. 243 Tax rates for emissions of pollutants into the atmosphere by stationary sources of pollution of enterprises are obliged to pay a tax fee for emissions of pollutants into the atmosphere. An environmental tax is a nationwide mandatory payment that is based on the actual amount of air emissions. In the absence of a permit for emissions, payment cannot be made due to the uncertainty of mass consumption indicators and volumes of emissions of pollutants emitted into the atmosphere, which is a gross violation of current environmental legislation. Information on obtaining permits can be found on the Departments of Ecology and Natural Resources of the regions

(eg. <https://deplv.gov.ua/perelik-vydanyh-dozvoliv-na-vykydy-v-atmosferne-povitrya-staczionarnymy-dzherelam/>). in the section "Permitting activities".

Following the provisions of Art. 17 of the Law of Ukraine "On Waste" economic entities in the field of waste management, whose activities lead exclusively to the generation of waste, for which from 50 to 1000 Points (the points of total waste generation is the sum of the amount of waste divided by hazard class, to each of which a separate coefficient is applied), are required to submit an annual declaration of waste in the form and the manner prescribed by the Cabinet Ministers of Ukraine. The declaration template on waste generation is given in the appendix to the Resolution of the Cabinet of Ministers of Ukraine (Dated 18.02.2016 №118 "On approval of the Procedure for submitting the declaration on waste and its forms"). Waste owners submit declarations through permitting centers, administrative service centers. The essence of the declaration is the submission of a business entity to the relevant state body document indicating the information based on which it performs certain actions to carry out economic activities. Given the above, the declaration of waste is in its legal load close to the declaration of compliance of material and technical base with the requirements of the legislation.

According to the Law of Ukraine on Environmental Impact Assessment p. 3. The second category of planned activities and facilities that may have a significant impact on the environment is subject to an environmental impact assessment includes: "... 9) .. woodworking and paper industries with a capacity of more than 1 ton per day: ... on wood processing (chemical processing of wood, production of wood-fiber boards, woodworking production with use of synthetic pitches, preservation of wood by impregnation) ...". Procedure of the *Environmental impact assessment* involves:

- 1) Preparation by the business entity of an environmental impact assessment report following Articles 5, 6 and 14 of the Law of Ukraine *On Environmental Impact Assessment*.
- 2) conducting a public discussion following Articles 7, 8 and 14 of this Law;
- 3) analysis by the authorized body following Article 9 of this Law of the information provided in the environmental impact assessment report, any additional information provided by the business entity, as well as the information received from the public during the public discussion, during the implementation procedures for assessing transboundary impact, other information;
- 4) submission by the authorized body of a reasoned opinion on the environmental impact assessment, taking into account the results of the analysis provided for in paragraph 3 of this part;
- 5) Considering the conclusion on the environmental impact assessment in the decision to carry out the planned activity following Article 11 of this Law.

Description of Risk

The Ministry of Environment Protection and Natural Resources of Ukraine is responsible for conducting Environmental Impact Assessment (EIA) and providing a conclusion (decision). Ecological Inspectorate is checking the existence of EIA during the state control and if information from EIA complies with field observation.

The environmental impact assessments indicate that the pollution of the environment woodworking enterprises is a problem, and only the implementation of qualified, environmental, sanitary and hygienic and legislative measures can reduce the impact of their harmful effects on the environment. According to the source, there are cases when EIA is not supported by stakeholders (local population, environmental NGOs) (N3). One example of EIA

that the stakeholders do not support is when the activists of the public organization "Ecoclub" consider the conclusions about the safety of the concentration of future emissions of the processing facility is untrue. They submitted their calculations to the Department of Ecology. According to the protesters, the calculation methods were violated during the environmental impact assessment (N3). All comments received from the public (both those provided in writing and during the consultation) are considered by the Ministry of Environment. The Ministry has the power to accept or reject comments received from stakeholders. Therefore, the risk of not following the legislation related to this process is low.

The list of economic activities required to conduct an EIA and obtain an opinion and the whole process of preparing a report on the EIA are described on the Ministry of Environment and Natural Resources (G2) website.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, there are multiple violations of environmental impact assessments.

1.23.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that activities are conducted without minimization of pollution

1.23.7. Control measures and verifiers

Mitigating the risk that activities are conducted without minimization of pollution

Onsite verification:

- Visit production facility to verify the pollution facilities and ensure that facilities are in line with documents.

Review documents and verify:

- Request and check acts of State Environmental Inspectorate (Державна екологічна інспекція України) confirming that the level of pollution and the presence of permits for emission.

Consult:

Implement a stakeholder consultation process with governmental authorities and representatives of civil society to confirm the minimization of pollution.

1.24. Processing requirements

Legislation regulation processing of the timber processing industry, such as transformation process thresholds, processing location, conformance of processing equipment, processing quota, etc).

1.24.1. Applicable laws and regulations

- Not sources

1.24.2. Legal authority

- Not sources

1.24.3. Legally required documents or records

- No legally documents or records

1.24.4. Sources of information

Government sources

- No sources

Non-Government sources

- No sources

1.24.5. Risk determination

Overview of Legal Requirements

There are no special requirements for the processing of wood. However, environmental requirements and health and safety requirements are explained respectively, in sections 1.23 and 1.25.

Description of Risk

Not applicable

Risk Conclusion

Not applicable

1.24.6. Risk designation and specification

- Not applicable

1.24.7. Control measures and verifiers

- Not applicable

1.25. Health and Safety in the timber processing sector

Legally required personnel protection equipment for persons involved in the timber processing sector. The health and safety requirements that shall be considered relating to the processing/factory (not office work, or other activities less related to the actual processing). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of workers at significant risk at any step of the primary and secondary processing.

1.25.1. Applicable laws and regulations

- The law of Ukraine "On Labor Protection". Document 2694-XII, valid, current version — Revision on October 16, 2020, on the basis - 124-IX. Available at: <https://zakon.rada.gov.ua/laws/show/2694-12?lang=en#Text>
- About the statement of Rules of labor protection in the woodworking industry {With the changes brought according to the Order of the Ministry of Emergency Situations N 1424

{z0072-13} from 14.12.2012}. Available at:

<https://zakon.rada.gov.ua/laws/show/z0306-05#Text>

- Convention of 1981 on Occupational Safety and Health, and Working Environment from 22.06.1981 № 155 (ratification on 02.11.2011); Available at: http://zakon1.rada.gov.ua/laws/show/993_050
- Convention of 2001 on Occupational Safety and Health in Agriculture from 21.06.2001 № 184 (ratification on 01.04.2009); Available at: http://zakon2.rada.gov.ua/laws/show/993_504
- Law of Ukraine "On the permit system in the field of economic activity", paragraph 17 of the Procedure for issuing permits for high-risk work and operation (use) of machinery, mechanisms, high-risk equipment, approved by the Cabinet of Ministers of Ukraine from 26.10.2011 № 1107. Available at: <https://zakon.rada.gov.ua/laws/show/2806-15#Text>

1.25.2. Legal authority

- State Service of Ukraine on the Works Issues

1.25.3. Legally required documents or records

- Procedure on occupational safety management system at the enterprise
- Permits issued by the territorial bodies of the State Service on Work Issues
- Records on special training and testing of knowledge

1.25.4. Sources of information

Government sources

- G1) Lviv.dsp.gov.ua (2019). Dear business entities of the woodworking industry! (Appeal of the Lviv Regional Administration, State Service of Ukraine on the Works Issues). Available at: <https://lviv.dsp.gov.ua/z-pytan-okhorony-pratsi/shanovni-subiekty-hospodariuvannia-der/>
- G2) Rivnenews (2019). In Rivne region, a woodworking enterprise's license was revoked due to inaccurate information and violations. Available at: <https://www.rivnenews.com.ua/2019/09/24/na-rivnenshchyni-derevoobrobnomu-pidpryemstvu-cherez-nedostovirni-vidomosti-ta-porushennia-anulovano-dozvil/>
- G3) Oppb.com.ua (2019). Officials of the State Service on Work Issues found more than 40 violations at Grifskand-Svalyava LLC. Available at: <https://oppb.com.ua/news/106-porushen-zakonodavstva-z-ohorony-praci-vyyavleno-na-pidpryemstvi-ferplast-ukrayina>
- G4) Oppb.com.ua (2017). 106 violations of health and safety legislation were detected at the enterprise "Ferplast-Ukraine." Available at: <https://oppb.com.ua/news/106-porushen-zakonodavstva-z-ohorony-praci-vyyavleno-na-pidpryemstvi-ferplast-ukrayina>

Non-Government sources

- No sources

1.25.5. Risk determination

Overview of Legal Requirements

Provisions related to working conditions and Occupational H&S requirements are mentioned in the Order of the State Committee for Observation and Protection of Labor of Ukraine N° 119, which approves the Occupational Safety Rules for Forestry and Forest industry Workers with relevant, comprehensive technical requirements. The Resolution of the Cabinet of Ministers of Ukraine 1107 approves the Procedure for Granting Permissions for Execution of Hazardous Works and the Operation (Application) of Machinery, Devices, Equipment of Increased Danger. The State Hygienic Standard «Hygienic Standard of Specific Activity of Radionuclides (137) Cs and (90) Sr in Timber and Timber Products» is approved by order of the Ministry of Health Protection N° 573-2005. The Order of the State Committee for Observation and Protection of Labor of Ukraine "On Approval of the Typical Regulation on the Procedure for the Training and Testing of Knowledge on Occupational Safety and the List of Works of Increased Danger" N° 15 determines the procedure for training and testing of knowledge on occupational safety, as well as the list of works with increased danger.

The employer is obliged to create safe and harmless working conditions in each structural unit following the requirements of occupational safety legislation. Production buildings, structures, machines, mechanisms, equipment, technological processes must meet regulations on occupational safety.

At works with harmful and dangerous working conditions and works related to pollution or adverse weather conditions, workers in the woodworking industry shall have special clothing, special footwear, and other personal protective equipment provided by the employer.

For employees engaged in high-risk work or where there is a need for professional selection, the employer must annually at his expense conduct special training and testing of knowledge of relevant regulations on labor protection. Officials whose activities are related to the organization of safe work during employment and periodically undergo training and testing of knowledge on occupational safety once every three years.

The enterprise is obliged to obtain permits issued by the territorial bodies of the State Service based on the conclusion of the examination of the state of labor protection and safety of industrial production of the business entity performed by an expert organization.

The owner or owner's authorized body shall organize at his own expense preliminary (upon employment) and periodic (during employment) medical examinations of employees engaged in heavy work, work with harmful or dangerous working conditions, or those where there is a need for professional selection. Simultaneously it is mandatory to implement annual medical examinations of persons under 21 years (Article 169 of the Labor Code of Ukraine). Also, Article 17 of the Law of Ukraine "On labor protection" provides that the employer shall provide at its own expense an extraordinary medical examination of employees:

- at the request of the employee, if he believes that the deterioration of his health is related to working conditions;
- owner initiative if the employee's state of health does not allow him to perform his duties.

Based on the results of periodic medical examinations, the employer must ensure appropriate health measures if necessary.

It's required that the rights guaranteed by fundamental ILO conventions are followed. All employees who have reached a certain age and are qualified to work on vehicles and machinery are formally employed, wages paid on time, in an amount not lower than state

guarantees, and proper payment by enterprises guarantee social security. Employees are free to join trade unions and to conclude collective agreements.

"Rules on labor protection in the woodworking industry" (as amended by Order of the Ministry of Emergencies N 1424 (z0072-13) from 14.12.2012 cover a wide range of issues, including requirements for the territory of the enterprise, industrial buildings and structures, lighting, ventilation and heating, water supply and sewerage, electrical installations and power equipment, fire safety, environmental protection, hazardous and harmful production factors, safety requirements for machines, equipment, tools, devices and fences, safety requirements for in-plant and shop transport, safety requirements during repair and maintenance of means of production, safety requirements for technological processes during wood processing and production of wood products and requirements for the organization of labor protection.

The basic normative legal acts that determine occupational safety on woodworking machines are the Rules of labor protection in the woodworking industry (NPAOP 20.0-1.02-05) and the state standard DSTU 2807-94" Metal and woodworking equipment. General safety requirements and test methods. "Treatment of wood and other substances with antiseptic and fire-retardant mixtures and substances" and "maintenance of wood and metal processing machines" are high-hazard works (items 42, 115 of the List of high-hazard works approved by order of the State Labor Inspectorate of Ukraine of January 26, 2005. № 15, NPAOP 0.00-8.24-05). High-risk work includes only maintenance of the woodworking machine, and direct operation of the machine (without its maintenance) does not apply to high-risk work. It should be noted that employees of specialized organizations may be involved in the maintenance of machines on a contractual basis. Norms and rules of labor protection do not allow the operation of machines without their maintenance. Following paragraph 12 of Annex 3 to the Procedure for issuing permits for high-risk work and operation (use) of machines, mechanisms, high-risk equipment, approved by the Cabinet of Ministers of October 26, 2011, № 1107, technological equipment of the woodworking industry is included in the List of machines, mechanisms, high-risk equipment, and for its operation it is necessary to obtain a permit from the territorial bodies of the State Service on the Work Issues.

Description of Risk

As confirmed by the reports of the Inspections of the State Service of Ukraine on the Works Issues (the results published online), there are cases when the occupational safety and health requirements on wood-processing enterprises are violated (G4, G5).

There are also known facts when the Office of the State Service specialists on the Work Issues find inaccurate technical specifications about the operation of technological equipment of the woodworking enterprises for which the permit was issued (G3).

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, there are cases when the enterprises violate health and safety rules.

1.25.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. Risk that activities are conducting without considering health and safety requirements
2. Risk that technical specification of technological equipment is inaccurate

1.25.7. Control measures and verifiers

Mitigating the risk activities are conducted without considering health and safety requirements

Onsite verification

- Visits to production facility shall verify that health and safety requirements are followed.
- Interview workers to verify that health and safety requirements are followed.

Review documents and information from online databases:

- Request and check reports (acts) of State Environmental Inspectorate (Державна екологічна інспекція України) confirming that the following of health and safety requirements
- Request and check internal procedures.

Mitigating the risk that technical specification of technological equipment is inaccurate

Onsite verification

- Visits to production facilities shall verify that the technical specification of technological equipment is accurate.

Review documents and information from online databases:

- Request and check reports (acts) of State Environmental Inspectorate (Державна екологічна інспекція України) confirming that the accurate technical specification of technological equipment.
- Request and check the technical specification.

1.26. Legal employment in the timber processing sector

Legal requirements for employment of personnel involved in the timber processing sector including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale non-compliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.26.1. Applicable laws and regulations

- Constitution of Ukraine, in the wording of the Law from 28.06.1996 p. № 254к/96-BP; Available at: <http://zakon3.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
- Labor Code of Ukraine from 10.12.1971 № 322-VIII; Available at: <http://zakon3.rada.gov.ua/laws/show/322-08>
- Law of Ukraine «On Public Associations» from 16.06.1992 № 2461-XII; Available at: <http://zakon3.rada.gov.ua/laws/show/4572-17>
- Law of Ukraine «On trade unions, their rights and guarantees of activity» from 15.09.1999 № 1045-XIV; Available at: <http://zakon5.rada.gov.ua/laws/show/1045-14>

- ILO Conventions ratified by Ukraine:
- Convention on forced or compulsory labour from 28.06.1930 №29 (ratification on 10.08.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_136
- Convention on the Freedom of Association and Protection of the Right to Organize from 09.07.1948 №87 (ratification on 14.09.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_125
- Convention on Application of Principles of Right to Organize and Collective Bargaining from 01.07.1949 №98 (ratification on 14.09.1956); Available at: http://zakon2.rada.gov.ua/laws/show/ru/993_004
- Convention on Equal Remuneration for Men and Women for Work of Equal Value from 29.06.1951 №100 (ratification on 10.08.1956); Available at: http://zakon5.rada.gov.ua/laws/show/993_002
- Convention on Abolition of Forced Labour from 25.06.1957 №105 (ratification on 05.10.2000); Available at: http://zakon5.rada.gov.ua/laws/show/993_013
- Convention on Discrimination in Respect of Employment and Occupation from 25.06.1958 №111 (ratification on 04.08.1961); Available at: http://zakon5.rada.gov.ua/laws/show/993_161
- Convention on establishment of minimum wages, with particular regard to developing countries from 22.06.1970 № 131 (ratification on 19.10.2005); Available at: http://zakon3.rada.gov.ua/laws/show/993_149
- Convention on Minimum Age for Recruitment from 26.06.1973 №138 (ratification on 03.05.1979); Available at: http://zakon5.rada.gov.ua/laws/show/993_054
- Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour from 17.06.1999 №182 (ratification on 05.10.2000); Available at: http://zakon3.rada.gov.ua/laws/show/993_166
- On Collective Agreements and Contracts. Document 3356-XII, valid, current version — Revision on December 27, 2019, on the basis - 341-IX. Available at: <https://zakon.rada.gov.ua/laws/show/3356-12?lang=en#Text>

1.26.2. Legal authority

- State Service of Ukraine on the Work Issues

1.26.3. Legally required documents or records

- Employment contracts
- Salary payments evidence
- The protocols of the trade union workers
- The orders of official employment

1.26.4. Sources of information

Government sources

- G1) Visnuk (2020). Preliminary results of the inspection campaign to identify undeclared workers. Available at: <http://www.visnuk.com.ua/uk/news/100020373-viyavlennya-neoformlenikh-pratsivnikiv-derzhpratsi-pro-poperedni-rezultati-inspektsiynoyi-kampaniyi>
- G2) Kamadm (2020). Sawmills must operate legally - comprehensive inspections are conducted in the area. Available at: <http://kamadm.gov.ua/press-tsentr/item/7033-pyloramy-maiut-pratsiuvaty-lehalno-u-raioni-provodiad-kompleksni-perevirky>
- G3) Lviv.dsp.gov.ua (2019). Dear business entities of the woodworking industry! (Appeal of the Lviv Regional Administration, State Service of Ukraine on the Works Issues). Available at: <https://lviv.dsp.gov.ua/z-pytan-okhorony-pratsi/shanovni-subiekty-hospodariuvannia-der/>

Non-Government sources

- N1) Zaxid (2018). A woodworking enterprise in the Lviv region was fined for undocumented workers. Available at: https://zaxid.net/derevoobrobne_pidpriyemstvo_na_lvivshhini_oshtrafuvali_za_neoformlenih_pratsivnikiv_n1458352
- N2) Glavcom (2019). Chinese worked at an illegal woodworking enterprise near Kyiv. Available at: <https://glavcom.ua/kyiv/news/pid-kijevom-na-nelegalnomu-derevoobrobnomu-pidpriyemstvi-pracyuvali-kitayci-foto-video-640587.html>
- N3) Polissya (2020). They want to put the woodworking business in the legal field. Available at: <http://polissia.net/?p=10625>

1.26.5. Risk determination

Overview of Legal Requirements

The employer is obliged to:

- properly formalize labor relations with employees and notify the bodies of the State Fiscal Service of acceptance
- to ensure reliable accounting of work performed by the employee and accounting for labor costs.

– to provide compulsory state social insurance for persons working in it. This guarantees him compensation for lost earnings in the event of an accident at work, unemployment benefits in the event of such an accident, temporary disability benefits in the event of illness, and so on.

The Civil Code provides legal provisions for the employment of personnel involved in timber processing activities.

A **collective contract** is a legal act that regulates social and labor relations at the enterprise (organization) between employees and the employer to reconcile their interests. A collective contract is concluded based on current legislation at enterprises, institutions, organizations, regardless of ownership and management, which use hired labor and have the rights of a legal entity. A collective contract can be concluded in structural divisions of the enterprise within the competence of these divisions.

A **collective agreement** is a legal act concluded to regulate social and labor relations at the level of industry (sectoral agreement), region (regional agreement), or country (general agreement) between the authorized representatives of employees and employers.

Description of Risk

There is a risk that the employer has not properly formalized its employment relationship with certain employees and has not notified the State Fiscal Service. A financial liability is provided for the use of undeclared work, for the registration of part-time employees in the case of actual full-time work, and for the payment of wages from outside of the company (payment in "an envelope," without declaring the transaction in the company accounting system).

To facilitate the transition to declared work from September 1, 2020, inspectors of the State Service on Work Issues conducted an inspection campaign to identify undeclared workers, with the participation and assistance of other bodies (State Tax Service, Pension Fund, employment centers, local authority's self-government, the National Police, etc.). During 534 visits, inspectors found 2,202 undeclared employees, and more than half (1,130 employees) were employed (by the visited organization) during the inspection (G1). In total, 92% of the total number of completed visits ended with detecting undeclared work. The average number of undeclared people who were found during the inspection visit is about 4 employees.

During a search by the investigators of the Obukhiv Police Department together with the Security Service of Ukraine, a wood without relevant documents on its origin and Chinese citizens with temporary residence permits in Ukraine were found at one of the woodworking enterprises. Investigative actions are underway to establish the origin of the specified wood and the legality of employment of these citizens is being checked (N2). This is still under investigation as of October of 2021.

Risk Conclusion

The risk under this indicator is assessed as Specified. According to the information sources, there is a risk that workers are not legally employed.

1.26.6. Risk designation and specification

A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities

Specified Risk for the following specific case:

1. The risk that workers are not employed through formal agreements

1.26.7. Control measures and verifiers

Mitigating the risk that workers are not employed through formal agreements

Onsite audits

- Interview with staff: During the onsite visit, ensure to talk privately with staff. Based on discussion with them ensure that the staff has an agreement with the organisation.

Review documents and verify

- Request and review the contracts (or orders) with staff and ensure that the number of staff is appropriate to the scale of activities.
- Request and check the last report of the State Service of Ukraine on the Work Issues.

Review information from databases:

- Check the Inspection Portal website (<https://inspections.gov.ua>) for the absence of risks related to the employment of forest workers.

Annex I. Timber source types

The table **Timber Source Types in Ukraine** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types of timber can be sourced from legally.
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g., plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g., a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g., public forest, private forest, industrial forest), between different type of forest (e.g., natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g., permanent production forest, farmland, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN UKRAINE

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Semi-natural temperate forests	MS Reference Sans Serif	Nature Conservation forests	State ownership subordinated to the State Agency of Forest Resources of Ukraine (SFRA)	Managed mainly for nature conservation purposes	<p>1. Special permits and limits on the use of forest resources issued by the Ministry of Ecology and Natural Resources of Ukraine to forest users.</p> <p>2. Special permissions (so-called forest cutting tickets) issued to forest users by licensing authorities.</p>	<p>State owned subordinated to the State Agency of Forest Resources of Ukraine (SFRA) forest areas mainly of Nature Reserve Fund (Ukrainian analogue of protected areas) as well as genetic reserves and other forest tree breeding areas.</p> <p>Very limited source of timber from thinning and sanitary cutting.</p>
		Recreation and health forests		Managed mainly for recreation purposes	Special permissions (so-called forest cutting tickets) issued to forest users by licensing authorities.	State owned subordinated to the State Agency of Forest Resources of Ukraine (SFRA) forest areas which are designated mainly for recreation and forest ecosystem services. Rather limited source of timber as harvesting (final cutting) is prohibited in most of these forests.
		Protective forests		Managed mainly for forest ecosystem services		

		Exploitative forests		Managed mainly for timber harvesting		State owned subordinated to the State Agency of Forest Resources of Ukraine (SFRA) forest areas which are designated mainly for timber harvesting. The main source of timber from harvesting (final cutting), thinning and sanitary cutting.
		Nature Conservation forests	Forests of communal and private ownership and of state ownership, subordinated to other entities	Managed mainly for nature conservation purposes	<p>1. Special permits and limits on the use of forest resources issued by the Ministry of Ecology and Natural Resources of Ukraine to forest users/owners.</p> <p>2. Special permissions (so-called forest cutting tickets) issued to forest users/owners by licensing authorities.</p>	<p>Protected forest areas of communal and private ownership and of state ownership, subordinated to entities other than SFRA distinguished to the Nature Reserve Fund.</p> <p>Very limited source of timber from thinning and sanitary cutting.</p>
		Recreation and health forests		Managed mainly for recreation purposes	Special permissions (so-called forest cutting tickets) issued to forest users by licensing authorities.	Forest areas of communal and private ownership and of state ownership, subordinated to entities other than SFRA which are designated mainly for recreation and forest ecosystem services. Rather limited source of timber as harvesting (final cutting) is
		Protective forests	Managed mainly for forest ecosystem services			

						prohibited in most of these forests.
		Exploitative forests		Managed mainly for timber harvesting		Forest areas of communal and private ownership and of state ownership, subordinated to entities other than SFRA which are designated mainly for timber harvesting. The main source of timber from harvesting (final cutting), thinning and sanitary cutting.

About LIFE Legal Wood

[LIFE Legal Wood](#) is an initiative that aims at supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The initiative is funded by the LIFE Programme of the European Union.



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