

Timber Legality Risk Assessment Denmark

Version 1.3 | November 2017



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Contents

A. Introduction	1
B. Overview of legality risks	3
Timber Risk Score:	3
C. Overview of the forest sector in Denmark	5
D. Legality Risk Assessment.....	6
LEGAL RIGHTS TO HARVEST	6
1.1. Land tenure and management rights	6
1.2. Concession licenses	8
1.3. Management and harvesting planning	8
1.4. Harvesting permits	11
TAXES AND FEES	13
1.5. Payment of royalties and harvesting fees	13
1.6. Value added taxes and other sales taxes	13
1.7. Income and profit taxes	15
TIMBER HARVESTING ACTIVITIES	18
1.8. Timber harvesting regulations.....	18
1.9. Protected sites and species.....	19
1.10. Environmental requirements	21
1.11. Health and safety.....	23
1.12. Legal employment	25
THIRD PARTIES' RIGHTS	28
1.13 Customary rights	28
1.14. Free prior and informed consent	29
1.15. Indigenous/traditional peoples' rights	30
TRADE AND TRANSPORT	31
1.16. Classification of species, quantities, qualities.....	31
1.17. Trade and transport.....	32
1.18. Offshore trading and transfer pricing.....	32
1.19. Custom regulations.....	34
1.20. CITES	36
1.21. Legislation requiring due diligence/duo care procedures.....	37
Annex I. Timber source types	39
TIMBER SOURCE TYPES IN DENMARK	40





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The original document of FSC can be accessed here <https://ic.fsc.org/en/document-center>.

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A. Introduction

This Timber Legality Risk Assessment for Denmark provides an analysis of the risk of sourcing timber from areas of illegal harvesting. NEPCon have been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007.

In that time, NEPCon have developed timber risk assessments for more than 60 countries, illustrated in Figure 1.

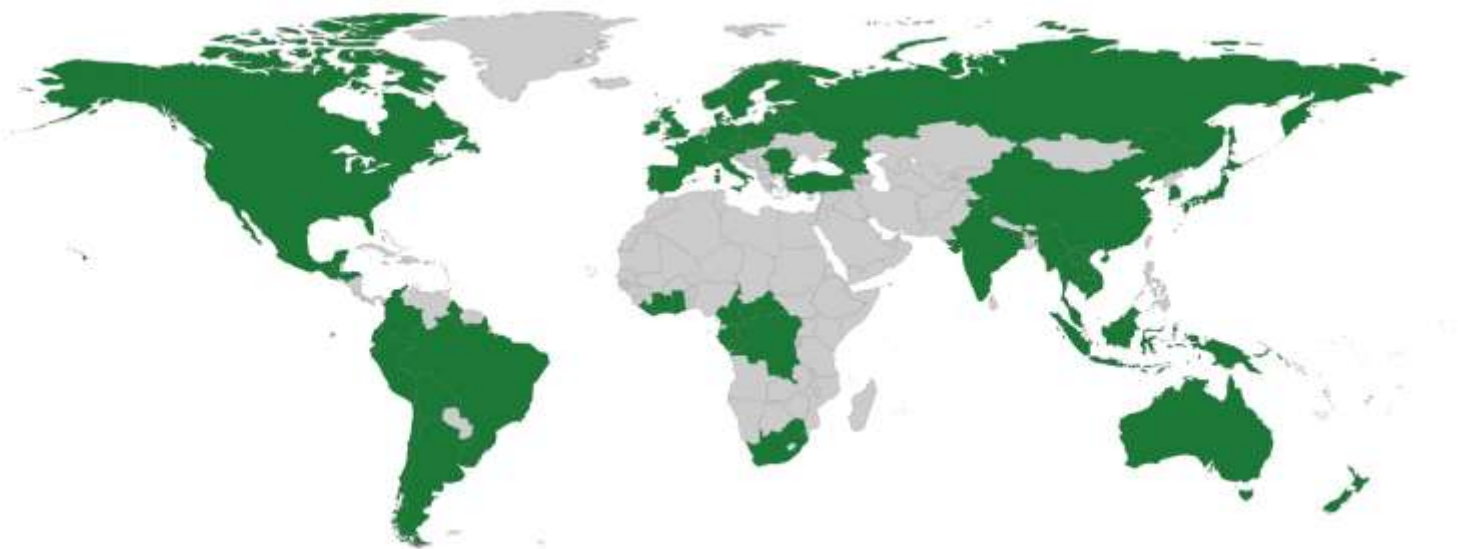


Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

The risk assessments are developed in collaboration with local forest legality experts and uses an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on the NEPCon Sourcing Hub.

For risk assessment conducted according to the FSC-STD-40-005, ONLY entries (or information) that have been formally reviewed and approved by FSC and are marked as such can be considered conclusive and may be used by FSC candidate or certified companies in risk assessments and will meet the FSC standards without further verification.

You can see the countries with approved risk assessment in the FSC document: FSC-PRO-60-002b V2-0 List of FSC approved Controlled Wood documents.

All FSC Risk Assessments can be downloaded in the FSC Document Centre.

This risk assessment was prepared by NEPCon between 2015 and 2018 as follows:

Draft prepared by NEPCon: 32 December 2015

FSC Stakeholder consultation: May 2016

FSC approval date: 18 May 2017

FSC CW effective date: 19 November 2017

B. Overview of legality risks

Timber Risk Score: 100 / 100 in 2017

This report contains an evaluation of the risk of illegality in Denmark for five categories and 21 sub-categories of law. We found:

- **Specified risk for 0 sub-categories.**
- **Low risk for 17 sub-categories.**
- **No legal requirements for 4 sub-categories.**

The Timber Risk Score for Denmark is 100 out of 100, and no legality risks have been identified in this report.

Timber source types and risks

There are 2 timber source types found in Denmark. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for both source types and found that the risk is the same.

Production forest in forest reserve	Timber from semi-natural forest within forest reserve. The forests can be owned and managed by both state and private. The area is covered by the Forestry Act and Environmental Act. A notification is required if harvest takes place in areas classified as Natura2000.
Production forest outside forest reserve	Timber from semi-natural forest outside forest reserve. The forests can be owned and managed by both state and private. Forest outside reserves are not covered by the forestry Act, but only by the Environmental Act. A notification is required if harvest takes place in areas classified as Natura2000.

This table summarises the findings of the timber legality risk assessment.

Legal Category	Sub-Category	Risk Conclusion
Legal rights to harvest	1.1 Land tenure and management rights	Low
	1.2 Concession licenses	N/A
	1.3 Management and harvesting planning	Low
	1.4 Harvesting permits	Low
Taxes and fees	1.5 Payment of royalties and harvesting fees	N/A
	1.6 Value added taxes and other sales taxes	Low
	1.7 Income and profit taxes	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Low
	1.9 Protected sites and species	Low
	1.10 Environmental requirements	Low
	1.11 Health and safety	Low
	1.12 Legal employment	Low
Third parties' rights	1.13 Customary rights	Low
	1.14 Free prior and informed consent	N/A
	1.15 Indigenous/traditional peoples rights	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Low
	1.17 Trade and transport	Low
	1.18 Offshore trading and transfer pricing	Low
	1.19 Custom regulations	Low
	1.20 CITES	Low
	1.21 Legislation requiring due diligence/due care procedures	Low

C. Overview of the forest sector in Denmark

Denmark has about 615,000 ha of forest (2013 data). This is equivalent to approximately 13% of the total area of Denmark. About 72% of the Danish forest area is forest reserves (fredskov). Forest reserves are covered by the Forest Act and shall be managed according to the law. Forest outside forest reserves can also be used for forest management, but are not covered by the Forest Act. All public forest is classified as forest reserve. A forest reserve can be removed from the forest reserve (rescinded) if this is requested by the relevant municipality. If a forest reserve is rescinded by the Minister of the Environment and Food, then another area of the same size shall be established as a forest reserve or planted. In some cases, new forest does not need to be planted; for example, when the rescinded forest reserve is in a municipal area. Forests are used for timber production, but nature and recreational values are also important.

Forests in Denmark are divided into private forests (70%), and State and Municipal owners, 24%, trust funds or foundations, 4%, and unknown owners, 2%. State-owned forests include municipal forests. With regards to ownership, some Danish forests are classified as 'majoratsskov', which means that the ownership shall be kept as one property. Christmas trees are treated under the agricultural legislation; however, tax on production of Christmas trees is regulated in the Forest Act, article 30-31.

Forests classified as Natura 2000 forests (13% of the Danish forest area) require a harvest permit. Application for permits is made to the Danish Nature Agency, who then decides whether permission can be granted; with the decision taken on the proviso that the natural condition of the forest will not deteriorate. For other types of forest harvest, permits are not required by law.

Danish forestry is primarily regulated through the Forest Act. The Forest Act does not include many measures relating to forest management techniques, e.g. harvesting, planting or thinning. The elements of the forest that are not forest reserve and thus not covered by the Forest Act are covered by the Nature Protection Act. Denmark has a total harvest of 4.3 million cubic metres per year (<http://naturstyrelsen.dk/naturbeskyttelse/skovbrug/>).

The Danish Nature Agency under the Ministry of the Environment and Food is responsible for monitoring of Danish forests. A forest inventory was carried out in 2013 and, prior to that, in 2000 and 1990. This inventory describes statistical data for forest resources, forest health, biodiversity, and demography of the forestry.

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. 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. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

- VAT Act (Momsloven) - LBK nr. 106 af 23/01/2013) - Article 1, 2, 3, 47. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=145054>
- Land Registration Law (Tinglysningsloven) - LBK nr. 1075 af 30/09/2014 - Article 1-42b and 49b -66. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=142900>
- Agreement Act (Aftaleloven) - LBK nr. 781 af 26/08/1996. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=82218>
- Business Tax Law (Virksomhedsskatteloven) - LBK nr. 1114 af 18/09/2013. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=158215>
- The Central Business Register (Det Centrale Virksomhedsregister). Available at: <https://datacvr.virk.dk/data/>

1.1.2. Legal authority

- Ministry of Taxation
- Ministry of Justice

1.1.3. Legally required documents or records

- Registry in the Land Book
- Contract of ownership
- Legal business agreement

1.1.4. Sources of information

Government sources

- retsinformation.dk [N. Y.]. *Retsinformation* [online]. Available at: [www.https://www.retsinformation.dk](https://www.retsinformation.dk)

- datacvr.virk.dk [N. Y.] *The Central Business Register (Det Centrale Virksomhedsregister)* [online]. Available at: <https://datacvr.virk.dk/data/?language=en-gb&>
- indberet.virk.dk (N.Y.) *Danish tax agency*. [online] Available at: <https://indberet.virk.dk/myndigheder/stat/SKAT>

Non-Government sources

- Transparency.org (2016): Corruption Perceptions Index 2015. Available at: <https://www.transparency.org/cpi2014/results>. [Accessed on 22 December 2016].
- Personal communication with Danish Forest Association

1.1.5. Risk determination

Overview of legal requirements

Land tenure rights are regulated by the Land Registration Law, with land ownership registered in the Land Book. According to the Land Registration Law, rights to real estate must be registered in the Land Book to ensure valid agreements on property and in cases of prosecution. When a document for land registration is to be registered, it shall include information on land registry number and address, personal identification number and company registration number. Apart from the registry in the Land Book, a legal contract of ownership shall also be signed.

Customary rights and legal methods to obtain rights are equally regulated by the Land Registration Law. The Land Book is an online registry that is publicly available:

<https://www.tinglysning.dk/tinglysning/welcome.xhtml>

All legally registered companies are registered in the CVR register from which information on type of business, size, address etc. is publicly available. The CVR number can be verified at Virk: <https://datacvr.virk.dk/data>. A legal business agreement is also a requirement.

Description of risk

Land rights are clearly established in Denmark and business and tax registration are clear and transparent through public databases. Furthermore, laws in Denmark are very well enforced. According to the Danish Forest Association, Denmark is one of the most highly organised countries in the context of spatial mapping, especially the forest area. Ownership is very clear. The Danish Forest Association does not know of any risks related to ownership. The State's right to obtain land tenure is regulated through the Expropriation Law.

In the Transparency International's Corruption Perceptions Index (Transparency.org 2016) Denmark was ranked first for the years 2015, 2014, 2013 and 2012; that is, for these years, Denmark was considered the least corrupt country in the world.

Within the Worldwide Governance Indicators index, Denmark scores close to 100% for Rule of Law and Control of Corruption. This indicates that there is very low risk that legislation on ownership and legal registration of businesses is not enforced.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

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

N/A. There is no legislation for concessions in Denmark.

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

N/A

1.2.7. Control measures and verifiers

N/A

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, as well as 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 Act (Skovloven) - LBK nr. 678 af 14/06/2013. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Museum Act (Museumsloven) - LBK nr. 358 af 08/04/2014 - Article 1-2, 8, 23-31, 38-40a, 41-45. Available at: www.retsinformation.dk/forms/R0710.aspx?id=162504
- Nature Protection Act (Naturbeskyttelsesloven) - LBK nr 1578 af 08/12/2015. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=155609>

1.3.2. Legal authority

- Ministry of Environment and Food
- Ministry of Culture

1.3.3. Legally required documents or records

N/A

1.3.4. Sources of information

Government sources

- retsinformation.dk (N.Y.) *Retsinformation* [online]. Available at: [www.https://www.retsinformation.dk](http://www.retsinformation.dk)
- naturstyrelsen.dk (N.Y.) *The Danish Nature Agency (Naturstyrelsen)* [online] Available at: <http://naturstyrelsen.dk>

Non-Government sources

- skovforeningen.dk (N.Y.) *Danish Forest Association (Dansk Skovforening)* [online] Available at: <http://www.skovforeningen.dk/>
- dn.dk (N.Y.) *Denmark's Society for Nature Conservation (Naturfredningsforeningen)* [online] Available at: <http://www.dn.dk/>

1.3.5. Risk determination

Overview of Legal Requirements

Natura 2000 forest plans are regulated through Article 4 of the Forest Act. The Forest Act requires that forest plans for these areas shall be developed by the Minister of the Ministry of Environment and Food. As the basis for the forest plan, the Minister shall register and map the location and conservation status of all relevant species in the area. This forest plan is not to be confused with a forest management plan.

Private forest owners are not required to develop a forest management plan. However, private forest managers can apply for subsidies if performing specific environmental actions, in which case they are required to have a forest management plan. The forest management plan does then need to be approved by the forest administration to obtain the subsidy (Forest Act, Articles 3-6).

All State-owned forests have a forest management plan. 'Fredskov' is a Danish concept relating to forest reserves; and forests can be designated a forest reserve by the Minister of

the Environment or by registration in the Land Book. Ninety per cent of all Danish forests are classified as 'fredskov' (see <http://www.dn.dk/Default.aspx?ID=8740>).

The Museum Act provides legal requirements for protection of cultural and natural heritage through the planning and preparation of earthworks, including archaeological and natural history assessments. Risk assessments are important in forest management as many natural heritage values occur in Danish forests. In forests in Denmark, there are more and better-preserved ancient monuments and burial mounds than in cleared land, where they have been removed to give way to agriculture. The Nature Protection Act requires that there shall be a 100 meter zone around each monument. Within this zone various obligations must be met, for example, fences for forestry use cannot occur, and logging residues cannot be left. According to the Danish Forest Association, there have been a few cases of logging residues left within this zone, and one case where a forest owner dug a foxhole in a burial mound. However, these are considered exceptional and it is not the general picture that the Museum Act is being violated inside the forests.

According to the Forest Act, the Minister for the Environment and Food shall monitor the state of the forests and development of the forest industry. The Danish Nature Agency carries out monitoring of businesses considered to have a high risk of offending against the law. This means that the Agency mainly visits forest owners, where there is a known case of offending. The Minister shall also ensure that statistical data are collected on a regular basis and that reports are developed about the state of Danish forests. The Minister can determine requirements as to how monitoring and data collection are carried out (Forest Act, Articles 35-36). These tasks are carried out under the auspices of Forest & Landscape, a centre of the Department of Earth Science and Nature Management and the Department of Food and Resource Economics.

The purposes of forest monitoring are to: follow changes in forest growth and condition and relate them to human as well as natural influences; monitor forest resources and forest production; provide the knowledge base for operational as well as natural and environmental strategic decisions; provide national and international reports. For the latest results of forest monitoring, refer <http://ign.ku.dk/samarbejde-raadgivning/myndighedsbetjening/skovovervaagning>

Description of Risk

Forest management plans are not a requirement for Danish forests. Forest monitoring is only for statistical purposes; conformance with the law is not monitored. According to both Danish Nature Agency and Denmark's Society for Nature Conservation, the Danish Nature Agency only monitors companies involved with import of timber, but not forest management units. This represents a risk. However, it is confirmed by Danish Nature Agency; Denmark's Society for Nature Conservation, and Danish Forest Association, that Danish forest managers in general have a very high level of legal compliance. This is explained by the fact that Danish forests are generally visible to visitors and neighbours, so it is difficult for the forest owners to carry out illegal activities without these being observed.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

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 Act (Skovloven) - LBK nr 678 af 14/06/2013, §17. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Nature Protection Act (Naturbeskyttelsesloven) - LBK nr 1578 af 08/12/2015, §19. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=155609>

1.4.2. Legal authority

The Nature Agency

Municipality

1.4.3. Legally required documents or records

Natura2000 harvest notification

1.4.4. Sources of information

Svana.dk (N.Y)a: Anmeldeordning Natura 2000 – fredskovsarealer. Miljø- og fødevarsestyrelsen. Styrelses for Vand og Naturforvaltning. Available at: <http://svana.dk/natur/natura-2000/anmeldeordning-i-natura-2000-omraader/fredskovsarealer/>. [Accessed on 22 December 2016].

Svana.dk (N.Y)b: Anmeldeordning - anden jord end fredskovsarealer. Miljø- og fødevarsestyrelsen. Styrelses for Vand og Naturforvaltning. Available at: <http://svana.dk/natur/natura-2000/anmeldeordning-i-natura-2000-omraader/ikke-fredskovsarealer/> [Accessed on 22 December 2016].

Personal Communication Danish Forest Association and Danish Nature Agency.

1.4.5. Risk determination

Overview of legal requirements

Harvesting in- and outside of forest reserves does not require a harvesting permit.

However, if logging is to be conducted within Natura2000 logging is covered by a notification system. Forest managers are to notify the authorities if certain types of activities are to be conducted within Natura2000-.

The nature Protection Act regulated areas outside the forest reserve, and the Forest Act regulates harvesting of Natura2000 areas within the forest reserve.

Natura2000 in Forest reserve: The Nature Agency are to be notified 4 weeks prior to harvest of hardwood forest; promotion of coniferous trees in the deciduous forest and new establishment of intensive production of greenery, Christmas trees, etc., which require the use of inputs (fertilizers and pesticides). The nature Agency will consider whether the activities can damage the Natura2000 values and are go give notice within 4 weeks. If there has been no notification from the Nature Agency harvesting can proceed.

Natura2000 Outside forest reserve: In case of harvesting related activities forest owners must notify the Municipality about clearing and tree species change 4 weeks prior to harvesting. The Municipality must assess the case within 4 weeks. If no notification is received back from the Municipality, then harvesting can proceed.

Description of risk

According to the Danish Forest Association and Danish Nature Agency, there have been incidents of a forest owner cutting dead Ash trees within a Natura 2000 area without first obtaining a permit. However, permits have in these cases been granted retrospective when applied for, as these are rare cases and not considered to be a significant risk by the Nature Agency.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.4.6. Risk designation and specification

Low Risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the 'authorities and/or by the relevant entities.

1.4.7. Control measures and verifiers

N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering 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

N/A. In Denmark, there are no royalties and harvesting fees required in relation to harvest.

1.5.2. Legal authority

N/A

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

N/A

1.5.5. Risk determination

N/A

1.5.6. Risk designation and specification

N/A

1.5.7. Control measures and verifiers

N/A

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

- VAT Act (Momsloven) - LBK nr. 106 af 23/01/2013) – Article 11, 70, 81. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=145054>
- Tax Collection Act (Opkrævningsloven) - LBK nr. 569 af 28/05/2014. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=163005>
- Corporation Tax Act (Selskabsskatteloven) - LBK nr 680 af 20/05/2015. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=169477>

- Business Tax Law (Virksomhedsskatteloven) - LBK nr. 1114 af 18/09/2013. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=158215>
- Bekendtgørelse af lov om indkomstskat for personer m.v. (personskatteloven) Available at: www.retsinformation.dk/Forms/R0710.aspx?id=145909

1.6.2. Legal authority

- Ministry of Taxation

1.6.3. Legally required documents or records

N/A

1.6.4. Sources of information

Government sources

- Personal communication with The Danish Nature Agency (Naturstyrelsen). Available at: <http://naturstyrelsen.dk>

Non-Government sources

- Info.worldbank.org (2016): Worldwide Governance Indicators – Denmark. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>. [Accessed on 22 December 2016].

1.6.5. Risk determination

Overview of Legal Requirements

VAT of 25% shall be paid in accordance with the Tax Collection Act and the VAT Law. Sales tax shall be paid on a monthly basis; and is administered by the Ministry of Taxation and applies to persons who conduct an independent business.

Description of Risk

The Danish Nature Agency confirms that some illegalities occur associated with firewood sold directly from the forest management unit. However, as this firewood does not end up on the commercial market, and since it represents a very limited volume, this does not represent a high risk.

Denmark scores high against World Bank Worldwide Governance Indicators. On a scale of -2.5 to +2.5, Denmark receives a score of 1.73 (2015) for Regulatory Quality, 2.04 for Rule of Law and 2.23 for Control of Corruption. Regulation of sales tax and VAT is considered well-enforced in Denmark.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

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

- VAT Act (Momsloven) - LBK nr. 106 af 23/01/2013) – Article 1, 2, 3. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=145054>
- Tax Collection Act (Opkrævningsloven) - LBK nr. 569 af 28/05/2014. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=163005>
- Corporation Tax Act (Selskabsskatteloven) - LBK nr. 680 af 20/05/2015. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=169477>
- Law on Business Tax (Virksomhedsskatteloven) - LBK nr. 1114 af 18/09/2013. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=158215>
- Personskatteloven (Personal Tax Act) - LBK nr. 382 af 08/04/2013. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=145909>
- Bekendtgørelse af lov om påligningen af indkomstskat til staten (ligningsloven)1) - LBK nr. 1081 af 07/09/2015, article 8, K. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=173414#id7137a323-bfc0-4a2a-ac6d-6943723c6c33>

1.7.2. Legal authority

- Ministry of Taxation (Skatteministeriet)

1.7.3. Legally required documents or records

N/A

1.7.4. Sources of information

Government sources

- skat.dk [2017]. *C.C.4.3.4 Skovbrug* [online]. Available at: <http://www.skat.dk/SKAT.aspx?oID=2047189>

Non-Government sources

- Hilbert, P. (2008). *Skov og skat* [online]. Skovdyrkerne. Available at: <http://www.skovdyrkerne.dk/om-os/nyheder/nyhed/artikel/skov-og-skat/> [accessed at March 15, 2017]
- Transparency.org (2016): Corruption Perceptions Index 2015. Available at: <https://www.transparency.org/cpi2014/results>. [Accessed on 22 December 2016].

- [Info.worldbank.org](http://info.worldbank.org/governance/wgi/index.aspx#reports) (2016): Worldwide Governance Indicators – Denmark. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>. [Accessed on 22 December 2016].

1.7.5. Risk determination

Overview of Legal Requirements

Income tax for companies is calculated from income and - when companies are legally registered - paid automatically through bank accounts. Tax regulations also include penalties and provisions for sanctions.

Income tax has to be paid based on the value of the sold timber. Costs incurred in relation to the forest operation can be deducted from income tax.

Tax deductions allowed in forestry are described in Tax Assessment Act article (Ligningsloven) 8K. The Tax Assessment Act gives requirements on how income tax to the state is calculated.

Tax authorities require that there is a correlation between the income covered by the tax regulation and the expenses being claimed as a tax deduction; thus, only expenses that can be deducted are those that are used to gain, ensure and maintain income.

Costs associated with planting of forest reserves, Christmas trees, and greenery and fruit trees can be deducted by up to 20% annually. It is a condition of deduction that, for the area planted as a forest reserve, duty is imposed through the provisions of the Forest Act, and that the forest reserve obligation is recorded in the Land Book and cadastral map. Costs of reforestation can be deducted immediately.

Expenditure incurred for the construction of shelterbelts and additional hardwood shelter plantings is fully deductible from taxable income in the income year in which the expense is incurred.

The purchase of forest machinery and equipment and real estate in relation to forestry activity can be deducted or amortized only under the provisions of the Tax Assessment Act relating to tax depreciation.

Description of Risk

According to the Danish Forest Association, some small-scale forest owners do not register all firewood sales and thus do not pay the required tax. However, this is a very limited volume of wood that does not enter the commercial timber chain.

Denmark scores high against World Bank Worldwide Governance Indicators. On a scale of -2.5 to +2.5, Denmark receives a score of 1.73 (2015) for Regulatory Quality, 2.04 for Rule of Law and 2.23 for Control of Corruption. Regulation of income tax is considered well-enforced in Denmark.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as low.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

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

- Forest Act (Skovloven) - LBK nr. 678 af 14/06/2013. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Water Course Act (Vandløbsloven) - LBK nr. 1579 af 08/12/2015. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=175898>

1.8.2. Legal authority

- Ministry of the Environment and Food

1.8.3. Legally required documents or records

N/A

1.8.4. Sources of Information

Government sources

- Personal communication with Danish Nature Agency (Naturstyrelsen). Available at: <http://naturstyrelsen.dk>

Non-Government sources

- Personal communication with Danish Forest Association (Dansk Skovforening). Available at: <http://www.skovforeningen.dk/>

1.8.5. Risk determination

Overview of Legal Requirements

Specific requirements for forest activities within forest reserves are stipulated in the Forest Act, Article 8, which states that the area shall have a continuous forest cover. Harvest (except for thinning) shall not take place before the forest, or any tree, has reached the age of harvest maturity. No more than ten years after harvest or thinning, the area shall again be forested. Animal husbandry is prohibited in forest reserves. The Forest Act further sets legal specifications on how the non-protected forest reserves shall be managed. This includes the following:

Coppice and grazing forest together comprise up to 10 percent of the forest area. If animals are kept in the forest with the purpose of grazing, the fencing of these animals shall not limit public access and stay. Areas where Christmas trees and greenery are grown must not comprise more than 10% of the area. It is prohibited to construct buildings, set up facilities, implement landscape change or leave waste. However, sheds not more than 10 square meters and construction or landscape changes necessary for forest management are exempt. Drainage systems and bridges are covered in the Water Course Act. Denmark has a relatively limited area of commercial forest, which is the reason that detailed legal requirements for harvest activities are not present in the Forest Act.

Description of Risk

Risks related to forest management techniques are trees felled before harvest maturity, but this is rarely seen according to both the Danish Nature Agency and Danish Forest Association. Instances are known of nest trees being felled, for which court cases occur. According to the Danish Nature Agency, however, there is not more than one case per year meaning that this is not a significant risk.

The requirements for actual forest management are limited in non-protected forest reserves in Denmark. Furthermore, a large proportion of Danish forests are not managed for timber harvest but for environmental, biodiversity or recreational values. Therefore, violation of the legislation relating to timber harvesting does not present a significant risk.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A

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

- Nature Protection Act (Naturbeskyttelsesloven) - LBK nr. 951 af 03/07/2013 - especially Article 17, Article 19. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=155609>
- Forest Act (Skovloven) - LBK nr. 678 af 14/06/2013. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Hunting and Game Management Act (Jagt- og Vildtforvaltningsloven) - LBK nr. 735 af 14/06/2013. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=143627>

- The Order on Designation and Management of International Nature Protection Areas and Protection of Certain Species (Bekendtgørelse om udpegning og administration af internationale naturbeskyttelsesområder samt beskyttelse af visse arter) - BEK nr. 1828 af 16/12/2015. Available at:
<https://www.retsinformation.dk/Forms/R0710.aspx?id=176434>

1.9.2. Legal authority

- Ministry of the Environment and Food

1.9.3. Legally required documents or records

N/A

1.9.4. Sources of Information

Government sources

- Møller, J; Baagøe, H; Degn, H. (2013). *Forvaltningsplan for flagermus. Beskyttelse og forvaltning af de 17 danske flagermusarter og deres levesteder* [online]. København: Naturstyrelsen, Miljøministeriet. Available at:
http://naturstyrelsen.dk/media/nst/Attachments/FLAGERMUS_forvaltningsplan_2013_FinalCut2.pdf

1.9.5. Risk determination

Overview of Legal Requirements

For areas covered by Natura 2000, the following management activities shall be notified to the authorities prior to harvesting: clear felling of hardwood forest, planting of deciduous forest, promotion of conifers in broadleaf forest, establishment of intensive production of greenery such as Christmas trees, use of auxiliary substances (fertilizers and pesticides), construction of industry facilities, or changes to drainage conditions (Forest Act, Article 17). In 2012 the Danish Nature Agency adopted a series of action plans for implementation of Natura 2000. Article 19 of the Forest Act regulates international nature protection, including Natura 2000 areas.

The Species Conservation Notice 4 lists protected reptiles, amphibians, fish, invertebrates and plants in Denmark. The forest manager is obliged to protect protected species if he is aware of their presence in his forest. He will then have to make sure that the prescribed care is taken. This is especially relevant for birds nesting in the trees and for woodpeckers and bats. The Forest Act describes all requirements for the protected species.

The Minister of Environment and Food are to map Natura2000 areas (§15) and can furthermore choose to include other naturally valuable forests (§25) The forest owner/manager is not obliged to map protected sites and species.

Description of Risk

In the past, there have been issues with registration of particularly valuable natural assets, which, according to the Forest Act, should be mapped. The mapping of such assets has only recently started and should be completed by 2019. Damaging protected sites and species are not considered to be a legal violation if the forest manager is not aware of their

presence. The damage of known protected sites and species is not considered to be a systematic and large scale issue.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.9.6. Risk designation and specification

Low risk

1.9.7. Control measures and verifiers

N/A

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

- Forest Act (Skovloven) - LBK nr. 678 af 14/06/2013. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Environmental Protection Act (Miljøbeskyttelsesloven) - LBK nr. 879 af 26/06/2010. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=132218>
- EIA Notice (VVM-bekendtgørelsen) - BEK nr. 1184 af 06/11/2014. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=165403>
- Environmental Damage Act (Miljøskadeloven) - LBK nr. 916 af 03/07/2015. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=173182>
- Ochre Act (Okkerloven) - LBK nr. 934 af 24/09/2009. Available at: www.retsinformation.dk/forms/R0710.aspx?id=127107
- Planning Act (Planloven) - LBK nr. 587 af 27/05/2013: Article 1-4, 10a-38, 51-70. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=144425>
- Water Course Act (Vandløbsloven) - LBK nr 1208 af 30/09/2013. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=145855>

1.10.2. Legal authority

- Ministry of the Environment and Food

1.10.3. Legally required documents or records

N/A

1.10.4. Sources of information

Government sources

- retsinformation.dk [N. Y.]. *Retsinformation* [online]. Available at: [www.https://www.retsinformation.dk](https://www.retsinformation.dk)

Non-Government sources

- Personal Communication: Denmark's Society for Nature Conservation

1.10.5. Risk determination

Overview of Legal Requirements

The Forest Act: The law aims to preserve and protect Denmark's forests and increase the forest area. The law also aims to promote sustainable management of the country's forests. Management and administration of the forests should promote resilient forests, ensure forest production, conserve and enhance forest biodiversity and ensure that landscapes, natural history, cultural history, environmental protection and outdoor recreation can be accommodated.

The Environmental Protection Act sets requirements for protection of nature and the environment, so that society can develop on a sustainable basis while respecting human quality of life and protecting animal and plant life.

The Environmental Impact Assessment (EIA) statutory order requires assessments, under the Planning Act, of the impact of certain public and private installations on the environment.

The Environmental Damage Act aims to ensure that the person responsible for environmental damage or an imminent threat of environmental damage prevents and alleviates the damage or danger and bears all costs thereof.

The Ochre Act sets up legal requirements for digging of trenches, which is also relevant to forestry in Denmark.

The objective of the Planning Act is to ensure that planning takes into account society's interests in land use and contributes to protecting Denmark's nature and environment, so that society can develop on a sustainable basis respecting human quality of life and protecting animal and plant life.

The Water Course Act regulates all watercourses in Denmark, including ditches, canals, pipelines and drainage systems as well as lakes, ponds and other similar inland waters.

Description of Risk

In some cases, buildings are constructed for forestry use; but in reality they are used more (e.g.) for hunting shelters or events. According to the Forest Act, only shelters smaller than 10 square metres can be built in forest reserves. The Danish Nature Agency has reviewed aerial photos to control the size of the buildings and this does not represent an important risk. According to the Forest Act (Article 28), open areas of less than 0.25 ha must not be destroyed and shall be maintained; however this requirement is very poorly enforced. However, as the areas are very limited it does not represent any important risk in Danish forestry.

The use of chemicals is limited to Christmas tree production (an enterprise that can cover up to 10% of a forest reserve). According to Denmark's Society for Nature Conservation, there are some problems with the use of chemicals within the Christmas tree industry, where prohibited chemicals might be used and legal amounts exceeded. However, most Christmas tree production takes place on agricultural land, and not in the small plots in the forest reserves. Therefore, the use of chemicals within the Christmas tree industry does not represent an important risk within the forest industry.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

N/A

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

- Working Environment Act (Arbejds miljøloven) - LBK nr. 1072 af 07/09/2010. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>

1.11.2. Legal authority

- Ministry of Employment
- Labour Inspectorate

1.11.3. Legally required documents or records

N/A

1.11.4. Sources of information

Non-Government sources

- Det Nationale Forskningscenter for Arbejds miljø (NFA) (2016): Danskernes Arbejds miljø 2014. Available at: <http://www.arbejds miljøforskning.dk/~media/Boeger-og-rapporter/AH-2014okt-final-version.pdf>. [Accessed 22 December 2016]. The National Research Centre for the Working Environment (2014).
- Arbejds miljøforskning (2013): Diagram: Branchegrupper: Landbrug, skovbrug og fiskeri (Online). Available at:

http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/arbejdsmiljoe-og-helbred-20/arbejdsmiljoeet-i-tal/alle-svar-for-branchegrupper/diagram?group=Branche36_018. [Accessed on 22 December 2016].

- Arbejdstilsynet (2014): Arbejdsulykker. Arbejdstilsynets årsopgørelse 2013.
- Personal communication with Anne marie Hagelskjær Smit from Gls-arbejsgiver.dk (<https://www.gls-a.dk>)

1.11.5. Risk determination

Overview of Legal Requirements

The Work Environment Act aims to create a safe and healthy work environment at all times in accordance with society's technical and social development. The Act is the basis for companies to resolve health and safety issues with guidance from social organizations and guidance and control by the Labour Inspectorate.

The employer has to ensure that working conditions are acceptable according to health and safety, and has to develop a written assessment of the health and safety of the working environment (in Danish; arbejdsmarkedspladsvurdering, APV). The type of work and the size of organisation must be considered, and the APV shall be revised either when organisational changes occur or every third year. The APV shall be accessible for management, employees and the supervision authorities.

Description of Risk

According to statistics from the Labour Inspectorate, forestry work – together with agriculture – has a high risk of work-related accidents, but lower than (e.g.) construction, slaughterhouse, water, or sewer work (Arbejdstilsynet 2014). Companies are required to make an evaluation of their work place, but both companies and individual entrepreneurs are subject to health and safety legislation, and can be controlled by the Labour Inspectorate.

An assessment of work environments for a variety of industries was carried out in Denmark 2014. The forestry industry was placed in a joint category with agriculture and fisheries; and as a whole performed better than the mean when responding to the statements "the management always encourages safety at work" and "[Management provides] guidance and instruction for safe execution", which indicates sufficient enforcement of the Work Environment Act. In the same assessment, respondents indicated that minor accidents are an accepted part of the work. However, no evidence was found that the law was not enforced (National Research Centre for the Working Environment 2014). The study on the working environment showed no issues of violation of health and safety legislation.

In general there is a relatively strong focus on the work environment and safety in Denmark. The employer is required by the Work Environment Act to correctly instruct the workers on the use of (e.g.) machinery. According to the Danish Forest Association there may be cases where this obligation is not respected. However, in general, according to both the Danish Forest Association and the Danish Nature Agency, accidents occurring in Danish forestry are not related to violation of the law. In general the risk is also low because employees in Denmark are aware of their rights and of the legislation related to health and safety.

Risk Conclusion

Based on the available information, the risk for this category has been assessed as Low.

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

N/A

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

- Working Environment Act (Arbejds miljøloven) - LBK nr. 1072 af 07/09/2010. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=143280>
- Act on equal treatment of men and women in occupational social security schemes (Bekendtgørelse af lov om ligebehandling af mænd og kvinder inden for de erhvervstilknyttede sikringsordninger) - LBK nr. 950 af 14/08/2015. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=168655>
- Holidays Act (Ferie lov) - LBK nr. 202 af 22/02/2013. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=145329>
- Law on Labour and Industrial Arbitration (Lov om arbejdsret og faglige voldgiftsretter) - LOV nr. 106 af 26/02/2008. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=115370>
- Salaried Employees Act (Funktionærloven) - LBK nr. 81 af 03/02/2009. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=123029>
- Notice of ILO Convention (Bekendtgørelse af ILO-konvention nr. 151) - BKI nr. 58 af 02/06/1982. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=84794>
- Act on posting of employees, etc. (Bekendtgørelse af lov om udstationering af lønmodtagere m.v.) - LBK nr. 342 af 03/04/2014. Available at: <https://www.retsinformation.dk/forms/r0710.aspx?id=161810>
- Labor law (Arbejdsmarkedsbidragsloven). Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=125354>

1.12.2. Legal authority

- Ministry of Employment
- Ministry of Business and Growth
- Ministry of Foreign Affairs

1.12.3. Legally required documents or records

N/A

1.12.4. Sources of information

Government sources

- danskemodel.dk (2013). *Den danske Model (The Danish model)* [online]. Available at: <http://www.danskemodel.dk/overenskomster/arbejdspladser-uden-overenskomst>

Non-Government sources

- Personal communication with Danish Forest Association

1.12.5. Risk determination

Overview of Legal Requirements

The Act relating to equal treatment of men and women ensures equal treatment of men and women in the occupational schemes and covers the working population, including self-employed, workers who are temporarily out of work due to illness, maternity, accident or involuntary unemployment and persons seeking employment, and retired and disabled workers. The law is also applicable in relation to insurance and related financial services.

According to the Holiday Act, holidays and payments for employees are regulated. An employee is entitled to holiday pay or salary during holidays.

In Denmark there are strict rules as to types of work and working hours for youth, with dangerous work not allowed for children aged 15 years or younger.

There is no minimum wage in Denmark.

Description of Risk

In Denmark there is relatively high enforcement of work environment regulation, for safety, minimum age of work, and hazardous work. Most employees in Denmark are covered by a collective agreement. Companies covered by a collective agreement shall follow the law.

Danish forests are permitted to cover an area up to 10% with Christmas trees. Within the Christmas tree industry, there are – according to Denmark's Society for Nature Conservation – problems with illegal employment of staff from Eastern Europe.

However in forests with requirements for long-term management, this is not reported to be an issue. As Christmas trees will not be sold and used in further wood processing, the risk is not considered relevant in relation to this risk assessment.

Risk Conclusion

Based on the available information the risk for this category has been assessed as low.

1.12.6. Risk designation and specification

Low risk

1.12.7. Control measures and verifiers

N/A

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.

1.13.1. Applicable laws and regulations

- Nature Protection Act (Naturbeskyttelsesloven) - LBK nr. 951 af 03/07/2013: article 23, Access to forests. Available at: <https://www.retsinformation.dk/forms/R0710.aspx?id=155609>
- Notice of public access to move and stay in the wild (Bekendtgørelse om offentlighedens adgang til at færdes og opholde sig i naturen) - BEK nr. 1317 af 21/12/2011, article 28. Available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=139348>

1.13.2. Legal authority

- Ministry of Environment and Food

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

Government sources

- svana.dk (N. Y.). *Hvad må jeg samle i skoven?* [online]. Available at: <http://svana.dk/natur/friluftsliv/hvad-maa-jeg-i-naturen/hvad-maa-jeg-samle/>
- Skov- og Naturstyrelsen (2005). *Naturen må gerne betrædes – men trød varsomt* [online]. København: Skov- og Naturstyrelsen. Available at: http://naturstyrelsen.dk/media/nst/Attachments/naturen_maa_gerne.pdf
- Personal communication with Danish Nature Agency

Non-Government sources

- friluftsrådet.dk,(2014) *Gener i naturen. Danskernes brug af naturen og omfanget af generende oplevelser i mødet med andre brugere.* [Online] Available at: http://www.friluftsradet.dk/media/974418/rapport_danskernes_brug_af_naturen.pdf

1.13.5. Risk determination

Overview of Legal Requirements

According to the Nature Protection Act, article 23 the public have the right to access both public and private forest by foot, bicycle and horseback (except areas used by the military). In public forests, access is permitted to the entire forest area, while the public has a right to private forests only by roads or trails from 6am until sunset. Fencing out or restricting public access is not permitted. A private forest owner is able to restrict access by bicycles and

horseback riding, even though such restriction in certain cases can be overruled by the municipality.

Gathering of mushrooms, berries and mosses in all forests for private use is permitted, but only in limited amounts (BEK nr 1317 af 21/12/2011, §28). In private forests, however, only what can be reached from the roads or trails may be collected. It is permitted to cut branches from deciduous trees above 10 meters, while branches may be collected from both deciduous and coniferous trees that are dead.

Firewood can be collected only with a license, which can be obtained at the Danish Nature Agency.

Description of Risk

There are a few cases of conflict occurring between private forest owners and people accessing the forests (personal communication); for example, a private forest owner not wanting to allow access to their private land. Such cases are being reported to and dealt with by the Municipality. Often these cases are resolved after the legislation and requirements are clarified with the forest owners or the public users of the forests. The cases are rarely brought to court. According to a 2014 report from the Outdoor Council, 25% of Danes have to some degree been 'bothered' when they are in a natural setting, but primarily this relates to other users, dogs or the presence of garbage. There are no indications of systemic conflicts with forest owners; with the same report stating that 97% are happy with their visit to the forests and mainly use the forest for recreational purposes.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.13.6. Risk designation and specification

Low risk

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

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.

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

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 land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

N/A. As this assessment relates only to Denmark (without Greenland and Faeroe Islands), it is not relevant to Indigenous people.

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with 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

- Act on classification of wood sold under certain conditions (Lov om sortering af råtræ der forhandles under visse betegnelser) - LOV nr 535 af 13/12/1972.
<https://www.retsinformation.dk/forms/R0710.aspx?id=79824>

1.16.2. Legal authority

- Ministry of the Environment and Food

1.16.3. Legally required documents or records

N/A

1.16.4. Sources of information

Government sources

- Personal Communication: Danish Nature Agency and Danish Forest Association

Non-Government sources

- Byggewiki.dk, (2011). Konstruktionstræ. [Online] Classification of wood. Available at:
<http://byggewiki.dk/Konstruktionstr%C3%A6>

1.16.5. Risk determination

Overview of Legal Requirements

The Act on Classification of Wood Sold under certain Conditions regulates classification of harvested material. The regulation provides material classifications and quality category names. The Act specifies requirements for measuring, and sorting by dimension and quality. Trees must be sorted by species and usual product type (e.g. plank logs, sleeper logs, full-length timber, impregnation masts, piles, box wood, chip wood etc.). All wood classified under this Act shall be marked with A/EØF, B/EØF or C/EØF, etc., indicating the quality. These designations show that the wood has been classified according to the law.

Description of Risk

Trade in Danish-produced wood material is well-regulated and – according to both Danish Nature Agency and Danish Forest Association – there is no known corruption associated with this requirement.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

N/A

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

N/A. There are no legislation covering the removal and transport of timber

1.17.2. Legal authority

N/A

1.17.3. Legally required documents or records

N/A

1.17.4. Sources of information

N/A

1.17.5. Risk determination

N/A

1.17.6. Risk designation and specification

N/A

1.17.7. Control measures and verifiers

N/A

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

- Tax Assessment Act (Ligningsloven), Article 2, LBK nr 1081 af 07/09/2015
<https://www.retsinformation.dk/forms/r0710.aspx?id=173414>
- Tax Control Act (Skattekontrolloven), Article 3B. - LBK nr 1264 af 31/10/2013
<https://www.retsinformation.dk/forms/r0710.aspx?id=152434>
- Regulation no. 42 of January 24, 2006 on Transfer Pricing Documentation (Bekendtgørelse om dokumentation af prisfastsættelsen af kontrollerede transaktioner) - BEK nr 42 af 24/01/2006
<https://www.retsinformation.dk/Forms/R0710.aspx?id=17190>
- Corporation Tax Act (Selskabsskatteloven), section 11. - LBK nr 680 af 20/05/2015
<https://www.retsinformation.dk/forms/r0710.aspx?id=169477>

1.18.2. Legal authority

- Ministry of Taxation
- Ministry of Business and Growth

1.18.3. Legally required documents or records

- Annual reporting on transfer pricing (not public)

1.18.4. Sources of information

Non-Government sources

- deloitte.com (2015) *Global Transfer Pricing Country Guide*. [Online] Available at: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-transfer-pricing-country-guide-2015.pdf>
- PWC (2015) *International Transfer Pricing 2015/16* [online] p. 375-388. Available at: <http://www.pwc.com/gx/en/international-transfer-pricing/assets/itp-2015-2016-final.pdf>
- *Eoi-tax.org (N.Y): Denmark*. Available at: <http://www.eoi-tax.org/jurisdictions/DK#agreements>

1.18.5. Risk determination

Overview of Legal Requirements

Danish legislation builds on the 2010 OECD transfer pricing guidelines, applying the 'arm's length' principle for a given transaction. The legislation regulates both domestic and cross-border, inter-company transactions.

Statutory financial results of Danish companies are publicly available in a Danish database (see www.Virk.dk).

Each year, companies must disclose details of all transactions (no later than the income tax return filing date) or 60 days after being requested by the authorities. Documentation requirements are stipulated in Reg. No. 42.

Penalties are in place. Following the failure to submit transfer pricing documentation, a 250,000 DKK fine can be issued (approx. EURO 35,000)

Description of Risk

Transfer pricing is a high priority for the Danish tax authorities, and an increasing number of transfer pricing issues have been detected over the past couple of years. In 2014, 76 transfer pricing adjustments were issued, nine more than in 2012 and 44 more than 2009. An amount of 40 billion DKK was issued as transfer pricing adjustments over the last two years (PWC 2015). Transfer pricing rarely ends up in litigation and only five significant legal cases have been brought to court since the 1980s, with none of these being in relation to Danish forestry. Where relevant, transfer pricing audits are conducted during regular tax audits. If a Danish company is part of a multinational group, the tax authorities generally always issue a request for transfer pricing documentation.

Denmark has entered into 53 Tax Information Exchange Agreements (TIEAs) with several of the known tax havens (eio-tax.org (N.Y)).

No issues have been identified in relation to transfer pricing in Danish forestry.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Customs Act (Toldloven) - LBK nr 1223 af 20/09/2016
<https://www.retsinformation.dk/Forms/R0710.aspx?id=183644#id6cfae6b0-3ee5-4c9e-b9fc-8bdacfb00a4e>

1.19.2. Legal authority

- Ministry of Taxation

1.19.3. Legally required documents or records

N/A

1.19.4. Sources of information

Non-Government sources

- Gregersen, R. (2013): Voldsom vækst i eksport af trævarer. Wood-supply.dk. Available at: http://www.wood-supply.dk/article/view/119588/voldsom_vaekst_i_eksport_af_traevarer#.Vh644vmqqko. [Accessed 22 December 2016.]

1.19.5. Risk determination

Overview of Legal Requirements

Toldloven (Customs Act) sets general requirements for goods exported as well as imported. EU disclosure requirements are also included in this Act. According to the Customs Act, customs and tax authorities charge or refund the duties and taxes relating to goods exported from the Danish customs territory for export from the EU customs territory, as well as providing appropriate monitoring and controls.

The Minister of Taxation can specify rules for implementing the tariff provisions of the intergovernmental agreements on international transport of goods and the rules on the transport and storage of unpaid goods.

For what regards control, the Customs and Tax Administration, can in order to detect and control goods without a court order move freely anywhere along the coasts, ports, airports, landing sites, in transport centers, in trains, on railway and on roads where there is public access. The authorities can inspect goods in postal items in warehouses, in containers, vehicles and other temporary or permanent sites, which can be used for storage of goods, etc. (Article 15).

Drivers of vehicles shall, before departure from the Danish customs territory to a third country (Country outside Denmark and the EU), report to the Customs and Tax Administration. Captains of ships arriving in a Danish port from elsewhere in the EU customs territory (or leaving the Danish customs territories for departure to somewhere else in the EU customs territory) must also – if the ship is carrying goods for which has not been paid duties or charges – report to customs and tax administration (Article 18).

Customs and tax authorities may collect the relevant details of exporters, manufacturers, traders and other business organizations to meet EU reporting obligations. The reporting must contain information on currency, health, safety, veterinary, and plant pathological conditions (Article 27).

Description of Risk

Denmark mainly exports wood to countries ranking relatively high on the Corruption Perceptions Index (Transparency.org 2016): Germany (12), Sweden (4), Great Britain (14),

Norway (5) and Belgium (15) (Gregersen, 2013). This indicates that risks associated with exports are limited. Furthermore, tax required through the Customs Act is applicable only to goods exported outside the EU, which is less relevant to the export of Danish wood.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

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

- The Washington Convention/CITES (Washingtonkonventionen/CITES) - LBK nr 951 af 03/07/201 <https://www.retsinformation.dk/Forms/R0710.aspx?id=12548>

1.20.2. Legal authority

- Ministry of Food and Environment

1.20.3. Legally required documents or records

N/A

1.20.4. Sources of information

Non-Government sources

- [checklist.cites.org](http://checklist.cites.org/#/en) (N.Y). *CITES species check list* [Online] Available at: <http://checklist.cites.org/#/en>

1.20.5. Risk determination

Overview of Legal Requirements

Denmark is a signatory to the CITES convention, and all CITES listed species shall only be traded with a permit.

Description of Risk

There are no tree species classified as CITES species in Denmark. Therefore, it is not possible to violate the CITES requirements for timber.

Risk Conclusion

This indicator has been evaluated as low risk

1.20.6. Risk designation and specification

Low Risk

1.20.7. Control measures and verifiers

N/A

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

- EUTR Law (EUTR loven) - LOV nr 1225 af 18/12/2012
<https://www.retsinformation.dk/forms/r0710.aspx?id=144423>

1.21.2. Legal authority

- Ministry of Food and Environment

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

Government sources

- Eutr.dk/, (year?) EUTR forbyder ulovligt fældet træ I EU. [Online] Available at:
<http://eutr.dk/>

1.21.5. Risk determination

Overview of Legal Requirements

The Bekendtgørelse om handel med træ og træprodukter med henblik på bekæmpelse af handel med ulovligt fældet træ (Executive Order on Trade in Wood and Wood Products to Combat the Trade in Illegally Harvested Timber) establishes the regulation required to support the EUTR. The Danish Nature Agency is appointed to administer the enforcement. The regulation describes administrative decisions and penalty provisions. The legislation requires that all companies who are placing wood on the market: shall have a due diligence system in place; do not trade in illegally harvested wood: and shall be able to identify the companies' one step up and one step down the market chain.

Description of Risk

The Executive Order on Trade in Wood and Wood Products to Combat the Trade in Illegally Harvested Timber establishes the regulation required to support the EUTR. The Danish Nature Agency, which is appointed as the Competent Authority, has employed two staff to

deliver the necessary control of Danish companies within the forestry sector. This could potentially represent a risk as it might not be possible for the two staff to reach all companies within a given timeframe. There are still companies without a due diligence system in place in Denmark. However, since low risk has been found in sub-categories 1.1-1.20, it is concluded that the potential impact of this lack of enforcement will be limited both in impact and in scale for Danish forestry. As a consequence, the risk has been concluded to be low.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.21.6. Risk designation and specification

Low risk

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Denmark** 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, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types 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, farm land, 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 DENMARK

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Semi-natural forest/planted forest	National	Forest Reserve	Private	Private	N/A	Managed semi-natural forest. Management plans are not required for Danish forests outside Natura 2000 areas.
		Forest Reserve	State	State and Communal		
		Natura 2000	Private	Private	Permit needed	
		Natura 2000	State	State and Communal		



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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of 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 joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



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