

# Timber Legality Risk Assessment Honduras

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FSC™ A000535

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## Contents

<b>A. Introduction .....</b>	<b>1</b>
<b>B. Overview of legality risks.....</b>	<b>2</b>
<b>C. Overview of the forest sector in Honduras .....</b>	<b>6</b>
<b>D. Legality Risk Assessment.....</b>	<b>8</b>
LEGAL RIGHTS TO HARVEST .....	8
1.1. Land tenure and management rights .....	8
1.2. Concession licenses .....	13
1.3. Management and harvesting planning.....	16
1.4. Harvesting permits.....	20
TAXES AND FEES.....	24
1.5. Payment of royalties and harvesting fees .....	24
1.6. Value added taxes and other sales taxes.....	26
1.7. Income and profit taxes .....	29
TIMBER HARVESTING ACTIVITIES .....	31
1.8. Timber harvesting regulations .....	31
1.9. Protected sites and species.....	33
1.10. Environmental requirements.....	37
1.11. Health and safety .....	40
1.12. Legal employment.....	43
THIRD PARTIES' RIGHTS .....	48
1.13 Customary rights.....	48
1.14. Free prior and informed consent.....	50
1.15. Indigenous/traditional peoples' rights .....	52
TRADE AND TRANSPORT .....	56
1.16. Classification of species, quantities, qualities .....	56
1.17. Trade and transport.....	58
1.18. Offshore trading and transfer pricing .....	61
1.19. Custom regulations.....	63
1.20. CITES .....	67
1.21. Legislation requiring due diligence/due care procedures .....	70
<b>Annex I. Timber source types.....</b>	<b>74</b>

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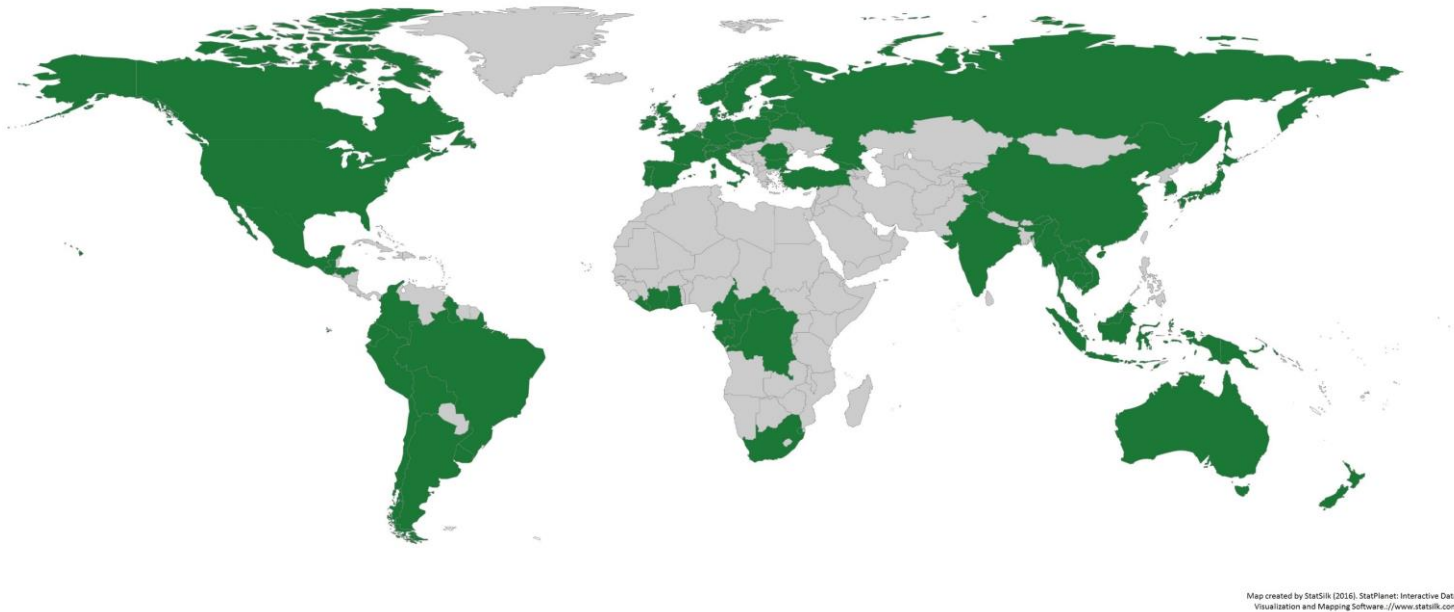
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## A. Introduction

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

In that time, NEPCon has 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 use an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on NEPCon's website.

## B. Overview of legality risks

**Timber Risk Score:** 0 / 100 in 2017

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

- **Specified risk for 19 sub-categories.**
- **No legal requirements for 2 sub-categories.**

The Timber Risk Score for Honduras is 0 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, third parties' rights, and transport and trade.

For **Legal rights to harvest**, there is a risk that:

- fraudulent privatisation of forest land takes place (1.1)
- mapping of areas are unclear (1.1)
- overlap of land tenure occur due to:
  - titles issued by the wrong governmental entity. The National Agrarian Institute (Instituto Nacional Agrario) has awarded titles on forestry land which is outside their area of responsibility (1.1).
  - titles have been awarded to communities or indigenous peoples without previously researching the title history of the area
  - titles being granted to third parties in areas where a Forest Management Program is already being implemented. (1.1).
  - management contracts (communal and private) are awarded without the government having performed a proper legal title transfer for the property, why property claims may exist in areas assigned to third parties or other occupants. (1.2)
- information in the inventory data have been altered and is asymmetric (1.3)
- markings in the field are incorrect (1.3).
- harvesting takes place without an approved Annual Operation plan (1.3)
- harvesting takes place without a permit (1.4)
- irregularities in the approval and renewal of harvesting permits occur (1.4)
- irregularities in the preparation of Standing Timber Auctions occur (1.4).
- manipulation of communal organizations takes place in order to obtain harvesting permits (1.4)
- salvage plans are mis-used, such as the authorization of these plans for non-infested bark beetle areas.

For **Taxes and fees**, there is a risk that:

- data have been altered in order to reduce payment of harvesting related fees (1.5)
- value added taxes are evaded by trade companies (1.6).

- Income tax are evaded by the forest industry, including false data on taxpayer declarations, fraudulent use of invoices and, common bribe payments in order to evade taxes (1.7).

For **Timber harvesting activities**, there is a risk that:

- Harvesting takes place outside the boundaries of the FMPs (1.8)
- there is general non-compliance with technical norms (1.8).
- Illegal logging in protected areas takes place (1.9)
- felling of trees for wildlife habitat takes place (1.9)
- illegal trafficking of protected species (including CITES) takes place (1.9)
- there is lack of application of the measures specified in the environmental impact statement (1.10)
- there is lack of use of safety equipment and safe forestry labour practices (1.11)
- there is lack of medical care coverage in case of accidents (1.11)
- there are high rates of child labour (1.12)
- labour-law rights are not complied with (1.12)
- social security service requirements are not complied with (1.12)
- there are violations of freedom of association for workers (1.12)
- there are unregistered workers in the forestry sector (1.12)

For **Third parties' rights**, there is a risk that:

- claims and management activities overlap with ancestral indigenous and Afro-Honduran territories or with land granted to communities for management (1.13, 1.15)
- there is a lack of recognition of ancestral rights of indigenous people by authorities despite being covered by the Property law.
- local authorities are involved in illegal sales of indigenous ancestral territories.

For **Trade and Transport**, there is a risk that:

- fraudulent timber invoices are used by companies (1.16)
- invoices do not have the corresponding stamps, or do not match the product sold in terms of volumes, species and quantities (1.16)
- the same invoice is used more than once (1.16, 1.17)
- Laundering of timber takes place, though use of fraudulent transportation waybills (guías de movilización) and invoices (1.17)
- trucks travel during unauthorized hours (1.17)
- transfer pricing occur. Not many cases of trade outside the territory exist in the forestry industry. However, there is lack of information regarding this point, and caution should be taken (1.18)
- illegal shipments occur (e.g. cases have been registered in which narcotics have been found hidden in timber shipments) (1.19)



- export documents are not prepared as required (1.19)
- evasion of forestry or phytosanitary permits, or that they are obtained through false declarations that do not conform to national law (1.19)
- laundering of timber occur, in which the product passes illegally through blind spots on the border and then enters the country with legal documentation from other countries in the region (1.19)
- fraudulent classification of exported CITES species takes place, where the name has been changed to a non-CITES species (1.20)
- only one CITES species is declared while two are exported in the same shipment (1.20)

Overall there are high levels of corruption in Honduras, which are explaining the bulk of the risks described above. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

## Timber source types and risks

There are five timber source types found in Honduras. 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 all five of these source types and found that if legislation is in place for the specific source type, the risk is the same.

<b>National public forest</b>	Wood coming from forests in government areas assigned to private individuals or communities through a management contract which may be short-, medium- or long-term
<b>Municipality-owned (ejidales) – public forest</b>	Wood coming from forests under areas owned by municipalities assigned to private individuals or communities through a management contract which may be short-, medium- or long-term
<b>Private forest</b>	Wood from privately owned natural forests
<b>Forest plantations</b>	Wood from plantations, which can be publicly, privately and municipality owned.
<b>Agro-forest plantation systems</b>	Wood coming from agroforestry systems with coffee or other crops grown in association with timber species



This matrix summarises the findings of the timber legality risk assessment set out in this report. The risks are not distinguished between the sources types for Honduras, hence the risk conclusions are for all sources of timber in Belarus.

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

## C. Overview of the forest sector in Honduras

Forest cover in Honduras is estimated at 5,398,137 ha, which represents 48% of the Honduran territory. Of this area, 57.5% (3,101,574.31 ha) is broadleaf forests, 36.3% (1,960,511.08) coniferous forests, 5.3% (284,473.76 ha) mixed forests and 1.0% (51,578.18 ha) mangrove forests (Source: 2014 Forest and land Cover Map for Honduras (*Mapa Forestal y de Cobertura de la tierra en Honduras, 2014*). With respect to planted forests, a total of 29,939.5 ha of plantations certified by the government of Honduras have been reported (Source: Institute for Forest Conservation, Protected Areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*), 2014 Forest Statistics Annual Report (*Anuario Estadístico Forestal*)).

Eight natural forest categories are identified: three corresponding to broadleaf forests (humid, deciduous, and moist floodplain) which cover 27.33% of the national territory, mixed forests (broadleaf and coniferous) covering 2.54%, coniferous forests (dense and sparse) with 17.54% and mangroves with 0.47% (Source: ICF, 2014)

The government manages the National Public Forest (*Bosque Público Nacional*) and regulates municipality-owned (ejidales) and private forests through the Institute for Forest Conservation, Protected Areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*), which is responsible, among other functions, for: approving management and operating plans; issuing felling permits, plantation certificates and CITES certificates; registering forest industries; awarding land titles in favor of the government, and others. Other pertinent institutions in the forestry sector are: the Ministry of Energy, Natural Resources, Environment and Mines (*Secretaría de Energía, Recursos Naturales, Ambiente y Minas (MIAmbiente, Spanish acronym)*), which is responsible for granting environmental licenses to industries involved in processing, industrialization and the sale of timber, among other functions; the Ministry of Agriculture and Livestock (*Secretaría de Agricultura y Ganadería (SAG-OIRSA, Spanish acronym)*), which issues CITES export permits and plant health certificates; Ministry of Industry and Commerce (*Secretaría de Industria y Comercio*) which is in charge of the industrial register (non-mandatory); Ministry of Finances (*Secretaría de Finanzas (SEFIN- DEI, Spanish acronym)*) which is responsible for income or revenue taxes (*ISR, Spanish acronym*), 15% value-added tax (*IVA, Spanish acronym*) and issuance of export policies; Central Bank of Honduras (Banco Central de Honduras) which is responsible for foreign currency exports and repatriation permits; the municipalities are responsible for charging taxes for standing timber, production and operating permits for industries (primary, secondary and point-of-sale); the Property Institute (*Instituto de la Propiedad*) is in charge of registering properties and awarding land titles to private parties; the Ministries of Defense and Security are responsible for operations to control illegal trafficking of forest products; the National Agrarian Institute (*Instituto Nacional Agrario (INA, Spanish acronym)*) is responsible for the process of awarding land titles to indigenous territories; the Public Ministry (*Ministerio Público*) addresses complaints; the National Human Rights Commission (*Comisionado Nacional de los Derechos Humanos (CONADEH, Spanish acronym)*), through Independent Forest Monitoring (IFM), performs inspections in coordination with other authorities to independently verify legality.

Other stakeholders from civil society who have influence in the forestry sector are: professional labor unions (*Gremios Profesionales*); national, state, municipal and

communal advisory councils (*Consejos Consultivos Nacionales, Departamentales, Municipales y Comunitarios*); representatives of indigenous peoples and Afro-Hondurans; and other organizations from the forestry sector.

The Law for forests, protected areas and wildlife (*Ley Forestal, Áreas Protegidas y Vida Silvestre (LFAPVS)*, Spanish acronym)) provides the legal basis for the regulation of forest management in Honduras. Other laws related to timber harvesting, processing, and trade are: the General Environmental Law (*Ley general del Ambiente*), Municipalities Law (*Ley de Municipalidades*), Taxpayer Law (*Ley Tributaria*), Foreign Exchange Law (*Ley Cambiaria*), Plant Health Law (*Ley de Sanidad Vegetal*), Convention 169 on Indigenous and Tribal Peoples (*Convenio No. 169 sobre Pueblos Indígenas y Tribales*), CITES Convention, Labor Code (*Código del Trabajo*), Social Security Law (*Ley del Seguro Social*), Private Tax Law (*Ley del Régimen de Aportaciones Privadas (RAP)*, Spanish acronym), Law on transparency and international treaties and accords ratified by the government.

Forest lands can be natural, regenerated, or planted. Three types of land tenure for forest property are recognized: public, private, and government (*fiscal*). Government (*fiscal*) is when the government assigns tenure rights to a public party, which may be a public institution that manages and secures the public resources in the government's name and to its favor. Public land can be national (government property) or municipality-owned property (*ejidales*). Private land can be private, communal, tribal or collective.

Trade is regulated according to the type of forest and market. For the national market, harvesting of planted or coniferous forests is not restricted in any way, while harvesting and marketing of prohibited species is restricted in broadleaf forests.

For the international market, natural and planted coniferous forests have no restrictions, and broadleaf species can only be exported as finished furniture products and their parts, which require CITES certificates for species included on CITES species lists. Forests planted with exotic species do not have any restrictions, only forests planted with CITES species require a CITES certificate.

Harvesting is classified as commercial and non-commercial (Articles 90 and 91 of *LFAPVS*). Commercial is subject to a management plan, which is in effect for a minimum period equal to the rotation period. Non-commercial harvesting is for domestic use and requires submitting a request to the regional *ICF* office, which performs a field inspection and issues a ruling. If the decision is favorable, the respective non-commercial harvesting license is issued.

## 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

Tenure rights:

- Property Law Art. 37. Available at: <http://www.sefin.gob.hn/wp-content/uploads/2004/06/Ley-de-la-Propieda.pdf>
- Law for Forests, Protected Areas and Wildlife (*Ley Forestal, Áreas Protegidas y Vida Silvestre* (LFAPVS, Spanish acronym)) Articles 56, 57 and 60. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- LFAPVS Regulation Articles 95 to 99, 140, 142 and 176. Available at: <http://www.tsc.gob.hn/leyes/Reglamento%20General%20de%20la%20Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>

Customary rights:

- LFAPVS, Article 58.
- LFAPVS Regulation, Articles 102, 129 and 132.
- Property Law Article 70.

Management rights:

- LFAPVS Articles 77, 126 to 132.

Legal Company Registration:

- LFAPVS Articles 98 and 100.
- LFAPVS Regulation Articles 222 and 230.
- Municipalities Law Article 78. Available at: <http://www.poderjudicial.gob.hn/CEDIJ/Documents/Ley%20de%20Municipalidades.pdf>
- Municipalities Law Regulation Articles 109-136. Available at: <http://amhon.hn/files/pdfs/Ley%20De%20Municipalidades%20y%20Su%20Reglamento.pdf>

Tax Register:

- National Taxpayer Register Law (*Ley del Registro Tributario Nacional*) (Law Decree 102-1974), Articles 1 and 2. Available at: <https://honduras.eregulations.org/media/registro%20tributario%20nacional.pdf>
- Financial Balance and Social Protection Law (*Ley de Equilibrio Financiero y la Protección Social*) (Decree 194-2002), Article 39.
- Taxpayer Equity Law (*Ley de Equidad Tributaria*) (Decree no. 51-2003): Art.27. Available at: <http://www.poderjudicial.gob.hn/juris/Leyes/LEY%20DE%20EQUIDAD%20TRIBUTARIA%20REFORMADA.pdf>
- Sales Tax Law and Reforms (*Ley de Impuestos Sobre ventas y sus reformas*) (Decree 24-1963). Available at: [http://www.sefin.gob.hn/wp-content/uploads/leyes/LEY%20DE%20IMPTO\\_S\\_VTAS.pdf](http://www.sefin.gob.hn/wp-content/uploads/leyes/LEY%20DE%20IMPTO_S_VTAS.pdf)
- Law for the Regulation of Invoicing (*Ley de Reglamento del Régimen de Facturación*), other financial documents and financial registry of printers, Arts. 12, 19 and 44. Available at: <https://drive.google.com/file/d/0B8F1MwA7RWErZWV5dV9ZRklnVDQ/view?pref=2&pli=1>

#### 1.1.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym))
- Property Institute (*Instituto de la Propiedad* (IP, Spanish acronym))
- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos* (DEI, Spanish acronym))
- Local municipalities

#### 1.1.3. Legally required documents or records

- Property Title for the Registration of the Property: Private Forest, municipality-owned (*ejidales*) and National Land titles awarded in favor of the government
- Registration in the Inalienable Public Forest Resources Catalogue (*Catálogo del Patrimonio Público Forestal Inalienable* (CPPFI, Spanish acronym) of national land titles awarded in favor of the government.
- Management Contract: National areas assigned by the government to natural or legal persons
- Communal Forest Management Contract: National areas assigned by the state to communities
- Registration of Forest Industries with the ICF and municipalities.
- Declaration of Income: Natural or legal persons
- National Taxpayer Register (*Registro Tributario Nacional* (RTN, Spanish acronym)); Natural or Legal Persons

#### 1.1.4. Sources of information

##### *Government sources*

- Coalianza.gob.hn. (N.Y.). Over 17,500 families from La Mosquitia benefited by receiving titles to one million hectares of land (*Más de 17,500 familias de La Mosquitia beneficiadas con titulación de un millón de hectáreas de tierra*). [online]. Commission for the Promotion of the Private-Public Alliance (*Comisión para la Promoción de la Alianza Público Privada* (COALIANZA, Spanish acronym). Press conference. Available at: <http://coalianza.gob.hn/es/noticias/588-mas-de-17-500-familias-de-la-mosquitia-beneficiadas-con-titulacion-de-un-millon-de-hectareas-de-tierra>

##### *Non-Government sources*

- Oas.org. (2015). Report on the Human Rights Situation in Honduras (*Situación de Derechos Humanos en Honduras*). IACHR (Inter-American Commission on Human Rights). Available at: <http://www.oas.org/es/IACHR/informes/pdfs/Honduras-es-2015.pdf>
- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- Forest-trends.org. (2015). Forest Trends Information Brief: Awarding of titles for La Mosquitia Honduran indigenous lands, exploring the implications for the indigenous peoples of the country (*La titulación de territorios indígenas en La Mosquitia hondureña: Explorando las implicaciones para los pueblos autóctonos del país*). Forest Trends. Available at: [http://www.forest-trends.org/documents/files/doc\\_4976.pdf](http://www.forest-trends.org/documents/files/doc_4976.pdf)
- IUCN. (2015). Forestry Law in Mesoamerica (*Legalidad Forestal en Mesoamérica*). The International Union for Conservation of Nature (IUCN). Available at: <https://portals.iucn.org/library/efiles/documents/EPLP-082.pdf>

#### 1.1.5. Risk determination

##### *Overview of Legal requirements*

Tenure: Owners of private forest land (individuals, communal, tribal, etc.) and municipality-owned property (*ejidales*) (owned by municipalities) requesting *ICF* to approve forest management plans shall prove ownership of the land with the following documentation:

- Title of domain and complete certification of the registration of the title (*asiento registral*) with each Annual Operating Plan (AOP) (Property Law Art. 37)
- Proof of the cadastral situation (only once for approval of the Forest Management Plan (FMP)): Certificate of property title registration, certificate from the institute of the property with its cartographic map indicating location of the property, proof of no encumbrances.

In terms of the public forest areas, the *LFAPVS* (Arts. 56 and 61) establishes that the government, through the *ICF*, shall execute legal regularization and recovery processes to title the lands in favor of the government and register them in the Inalienable Public Forest Resources Catalogue (*Catálogo del Patrimonio Público Forestal Inalienable* (CPPFI, Spanish

acronym). In addition, the *LFAPVS* recognizes customary rights in the process of regularization of land tenure and when granting usufruct contracts or forest management agreements (Art. 77 *LFAPVS*)

**Legal Registration of Industries:** Forest industries wanting to operate in the country must request to be registered with the *ICF* and corresponding municipalities:

**Registration with the *ICF* (Art. 98 *LFAPVS*):** The owner or legal representative requests to register the industry in the regional *ICF* office, which reviews the documentation and issues a technical ruling that is sent to the Department for Forest Management and Development (*Departamento de Manejo y Desarrollo Forestal (DMDF*, Spanish acronym) which, after review, submits the documentation to the Executive Director, who signs the approval and returns it to the *DMDF*, which delivers the resolution to the owner or representative and sends a copy of the registration to the corresponding regional *ICF* (Source: *VPA-FLEGT* Legality Table (*Tabla de Legalidad VPA-FLEGT*)).

**Registration with the municipality (Art. 78 of the Law of Municipalities):** The owner or representative submits the request to register with the corresponding municipality, which through the taxpayer administration performs the calculations and sends an invoice to the owner of the industry. Once the invoice is paid, the operating permit is delivered to the owner and the industry is registered (Source: *VPA-FLEGT* Legality Table (*Tabla de Legalidad VPA-FLEGT*)).

**Registration for Taxes:** Forest industries shall register with the *DEI*, requesting their *RTN* and filling out form *DEI-410* (legal basis: Art 1 and 2, Law decree 102-1974, Art 39 decree 194-2002 Financial Balance and Social Protection Law (*Ley de Equilibrio Financiero y la Protección Social*), Art. 27, Decree no. 51-2003, Taxpayer Equity Law (*Ley de Equidad tributaria*) Art. 10, decree 24-1963, Sales tax law and its reforms (*Ley de Impuestos Sobre ventas y sus reformas*)).

### *Description of risk*

Honduras is ranked 112 of 168 countries evaluated for international transparency, with a Corruption Perception Index of 31, category corresponding to a country with a high degree of corruption, even though its transparency ranking has improved over recent years. According to the country report presented by the Inter-American Commission on Human Rights (IACHR), in December 2015, the battle over the land exacerbated the violence against indigenous peoples and Afro-descendants due to conditions of inequality and discrimination experienced by these groups.

Non-governmental organizations at the national level (CESPAD environmental consultants) that cite irregularities related to land tenure and management rights mention factors such as: poor governance of public forest areas, institutional weakness in the areas of human resources and finances, fraudulent privatization of forest land, overlapping of laws with usufruct rights, administrative corruption, non-compliance with norms by companies, and various forms of possession or occupation of the land.

The experts consulted during the interviews mentioned risks related to tenure such as:

- Land tenure is irregular, even on land with a defined legal nature (property titles with full domain) there is a risk of claims and unauthorized invasions by third parties.
- For Protected areas, the tenure is not clear in some cases.



- Problems with titles granted to the community (confusing area measurements)
- The National Agrarian Institute (*Instituto Nacional Agrario*) has awarded titles for lands of forest aptitude despite not having authority to do so.
- On occasion, titles have been awarded to communities or indigenous peoples without previously researching the title history of the area.
- Lack of consistent information from the institutions responsible for the land register (*IP, INA* etc.), which in some cases results in titles being granted to third parties in areas where a Forest Management Program is already being implemented.

According to the government officials interviewed, they are working on standardizing policies that have encouraged the awarding of land titles for forest areas by other institutions through a "Productive Landscape Policy" ("*Política de Paisajes Productivos*"), a project already approved by the Council of Ministers, aimed at solving problems due to inconsistent laws. This aspect (conflicts among laws) has been included in the complementary measures of the VPA-FLEGT agreement. In addition, the Honduras government is working to regularize tenure in indigenous communities, as what occurred in the area of La Mosquitia. In this region, through a process that was initiated in the year 2012 by the Porfirio Lobo Sosa administration, property titles have been awarded to *Misquito* indigenous communities through their territorial councils (there are 16 territorial councils and 13 have been granted property titles to date). National institutions (*ICF, IP*) as well as international organizations such as the World Bank have participated in this process.

Nevertheless, some of the experts consulted indicated that risks could be present in the areas where titles have been issued, such as invasions and claims over the territory. Forest Trends, in its August 2015 article "Awarding of land titles to the La Mosquitia Honduran Indigenous Territories, Exploring the Implications for the Indigenous Peoples of the Country (*La Titulación de los territorios Indígenas de la Mosquitia hondureña, Explorando las implicaciones para los pueblos autóctonos del país*)", describes the process to award land titles and reviews the implications of laws that affect indigenous territories, as well as the external and internal risks facing the indigenous peoples who have received property titles. This article mentions that "areas in La Mosquitia for which titles have been awarded will not be territories in the strict sense as long as local management and defense procedures have not been built."

#### *Risk conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.1.6. Risk designation and specification**

Specified risk: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.1.7. Control measures and verifiers**

- The registration of the property shall confirm the validity of the property title.

- *DEI* authorities shall confirm the financial registration of companies and compliance with respective tax payments (an agreement between the *ICF* and the *DEI* is included in *VPA-FLEGT* complementary measures to share industry databases for financial control).
- Interviews with authorities in the *ICF* and municipalities enable verification of the registry of forest industries.
- Interviews with authorities in the *ICF* and the *PI* confirm that there are no irregularities in the property titles and that said areas do not overlap with government property.
- The Forest Management Plan shall clearly indicate the property rights.
- The technical inspections of the harvesting areas by *ICF* personnel or independent monitoring (IFM, for example) shall confirm that harvesting is performed within the property limits.

## 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

- Issuance of Concession Licenses (*Emisión de Licencias para concesiones*) (Management Contracts, which is the instrument used in Honduras) *LFAPVS*, Arts. 58, 77, 126 to 132: Available at:  
<http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- *LFAPVS* Regulation, Arts. 453, 458 and 459. Available at:  
<http://www.tsc.gob.hn/leyes/Reglamento%20General%20de%20la%20Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>

### 1.2.2. Legal authority

- The Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (*ICF*, Spanish acronym))

### 1.2.3. Legally required documents or records

For communal organizations:

- Legal status,
- Organization statutes,
- List of members,

- Copies of identification of the members of the executive board,
- Documentation of social projects in their communities, and when it is a community initiative and not one by the *ICF*,
- Request that the *ICF* grants a contract.

For natural or legal persons:

- Request designation of the national area from the *ICF*.

#### 1.2.4. Sources of information

##### *Government sources*

- ICF. (2016). Over 3,000 ha of forest under municipality-owned (*ejidales*) forest management (*Más de 3,000 ha de bosque bajo manejo forestal ejidal*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*. Available at: <http://icf.gob.hn/?p=7619>
- ICF. (2016). Forest management contracts benefit 242 families from Soledad en el Paraíso (*Con contratos de manejo forestal se benefician a 242 familias de soledad en el paraíso*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*. Available at: <http://icf.gob.hn/?p=6908>
- Mosef.org. (2014). Project MOSEF: Modernization of the Forestry Sector in Honduras (*Proyecto Modernización del Sector Forestal en Honduras - MOSEF*). Information from Annex C, p. 54 (*Anexo C*). Available at: [http://mosef.org.hn/wp-content/uploads/2015/11/consultoria\\_18.pdf](http://mosef.org.hn/wp-content/uploads/2015/11/consultoria_18.pdf)

##### *Non-Government sources*

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- IUCN. (2015). Forestry Law in Mesoamerica (*Legalidad Forestal en Mesoamérica*). The International Union for Conservation of Nature (IUCN). Available at: <https://portals.iucn.org/library/efiles/documents/EPLP-082.pdf>
- Larios, M. V. (2011). Preliminary Evaluation of Causes of Deforestation and Degradation of Forests in Honduras. Final Report (*Evaluación Preliminar sobre Causas de Deforestación y Degradación de Bosques en Honduras. Informe Final*). Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Causas-de-la-deforestacion-y-degradacion-en-Honduras.pdf>

#### 1.2.5. Risk determination

##### *Overview of Legal Requirements*

The *ICF* and the municipalities enter into management contracts (for natural or legal persons), or communal forest management contracts (for organized communities settled in forested areas that have legal status), after the legal title transfer of the property (Art. 77 *LFAPVS*).

In order to receive Communal Forest Management Contracts, the communal organization must be registered in the Forestry Social System and submit documents that certify the organization. They shall submit the request to the *ICF*, or this institution shall initiate the process to grant the areas through the Communal Forest Management Contract. For the signing of the management contract between the *ICF* and the community, the *ICF* provides technical assistance to the community in terms of diagnostics, characterization, collectivization and consultation (Source: VPA-FLEGT Legal Table).

Natural or legal persons shall submit a request for the designation of the area to the *ICF*, which in turn executes the verification procedures (opening a file, verifying property limits) involved in designating the area. This includes consultation with the community and identification of possible property limit conflicts. If the verification is positive, a legal ruling is granted for the signature of the management contract (Source: VPA-FLEGT Legal Table). The participants in the contracting process shall uphold their offers with a bank guarantee to hold the offer, and in the case of a favorable ruling, prior to signing, they shall comply with the conditions specified in Art. 82 of the *LFAPVS* concerning fees and presentation of bank guarantee. The receiver of the management contract shall be responsible for the protection, improvement and harvesting of forest products in accordance with the Forest Management Plan and the terms of the contract (Art 78 *LFAPVS*).

#### *Description of risk*

Honduras is ranked 112 of 168 countries evaluated for international transparency, with a Corruption Perceptions Index of 31, category corresponding to a country with a high degree of corruption, even though its transparency ranking has improved over recent years (Transparency International, 2015). A review of Honduras forestry law (IUCN, 2015) indicates that risks are present when management contracts (communal and private) are awarded without the government having performed a proper legal title transfer for the property, and therefore property claims may exist in areas assigned to third parties or other occupants.

#### *Risk conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.2.6. Risk designation and specification**

Specified risk

#### **1.2.7. Control measures and verifiers**

- Areas that are granted through a management contract or communal management contracts should have been submitted to the legal process corresponding to title transfers (precluding any claims on the property by third parties or illegal invasions) before being registered.
- Consultations with *ICF* authorities to verify that the recipients of the management contracts have complied with the registration requirements.

- Interviews with communal organizations and advisory councils to confirm that they have been consulted during the process to grant the management contract.
- Review of management contracts to confirm that they include the rights and obligations of the parties registered and that they are not transferrable to third parties.
- Consultations with community members to verify that the terms of the management contracts have been properly communicated to the recipient communities.

### 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

Management Plans:

- *LFAPVS* Arts. 58, 70, 71, 72 and 74. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- *LFAPVS* Regulation, articles 169, 171, 172, 174 and 175. Available at: <http://www.tsc.gob.hn/leyes/Reglamento%20General%20de%20la%20Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- Agreement 006-2011. Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/Acuerdo-PW-06-2011.pdf>
- Manual of Simplified Norms (*Manual de Normas Simplificadas*) for management and operating plans in mixed coniferous and broadleaf forests on land equal to or less than 100 ha,
- Manual of Guidelines and Norms for Improved Forest Management (*Manual de Lineamientos y Normas para un Mejor Manejo Forestal*). Available at: <http://colproforh.org.hn/v2/documentos/Manuales/Normas Tecnicas manejo forestal.pdf>
- Technical norms and guidelines for developing forest management and operating plans for broadleaf forests. Not available online.
- Administrative guide (*Guía de Administración*) for harvesting plans in pine forests. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/GUIA-PLANES-DE-APROVECHAMIENTO-EN-BOSQUES-DE-PINO.pdf>

Inventories, Planning and Evaluation of Environmental Impact Statements:

- *LFAPVS* Regulation 170 & 173.
- Manual of Guidelines and Norms for Improved Forest Management (*Manual de Lineamientos y Normas para un Mejor Manejo Forestal*).

- Technical norms and guidelines for developing forest management and operating plans for broadleaf forests. Not available online.
- Administrative guide (*Guía de Administración*) for harvesting plans in pine forests.

### 1.3.2. Legal authority

- The Institute of Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym))

### 1.3.3. Legally required documents or records

Private properties:

- Title of the registered property
- “No objection” application
- Registration of the qualified forest technician and contractor with the ICF.

Communal organizations:

- Registration in the forest social system
- Communal forest management contract currently in force.

### 1.3.4. Sources of information

#### *Government sources*

- ICF. (N.Y.). Consultation of SNIF administrative processes, services offered by regional offices (*Consultas de Trámites SNIF*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym). Available at: [http://icf.gob.hn/?page\\_id=2424](http://icf.gob.hn/?page_id=2424) [Accessed 3 October 2016]

#### *Non-Government sources*

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- Independent Forest Monitoring (IFM): Reports II, IV and 2011 report on illegal logging
- Vallejo L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). IUCN Regional Office for Mesoamerica/Caribbean Initiative (*Oficina Regional de UICN para Mesoamérica/Iniciativa Caribe*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis\\_marco\\_legal\\_para\\_aprovechamiento\\_y\\_comercio\\_de\\_madera\\_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn)
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### 1.3.5. Risk determination

### *Overview of Legal Requirements*

In Honduras, all legal harvesting (other than exceptional cases such as pine beetle infestations which require a salvage plan, or special plans for agroforestry systems which require the development of a special plan for agroforestry systems) on private or municipality-owned (*ejidales*) forests is regulated by a Forest Management Plan (FMP) with procedures based on the *LFAPVS* regulation and technical norms established according to the type of forest (broadleaf or coniferous).

The request for approval of a Forest Management Plan involves a series of legal and administrative requirements that begin with the request for “no objection” and includes some of the following steps (IUCN, 2015):

- Request for approval, which includes power of attorney
- Power of attorney letter (authenticated)
- Proof of appointment of the qualified forest technician
- Proof of acceptance of the qualified forest technician
- Copy of the “no objection” resolution
- Currently valid qualifications of the forest technician
- For municipality-owned property (*ejidales*), the minutes of the corporation in which the Mayor who shall represent the municipality before the *ICF* is appointed.
- Free of liens and encumbrances
- Copy of the public registry
- Certification of the registration of the property
- Authorization of the entity that has the registered title.
- Note of legal responsibility of the property-owner and technician.
- Contract of rights and obligations of the property-owner and the technician.

After obtaining the approval for the development of the FMP, the Qualified Forest Technician is responsible for developing and implementing it. This person must be registered with the *ICF*. After approval of the Forest Management Program by the *ICF*, it shall be registered in the corresponding municipality. The development of Annual Operating Plans (AOP) requires the presentation of bank guarantees for compliance with technical norms, in addition to a guarantee for regeneration in the case of coniferous forests.

With the approval of the FMP, access is available to the different forest harvesting permits, which include felling, transportation and sale (FAPVS: Arts. 70, 74, 159-162).

### *Description of Risk*

A study about the legal framework for harvesting forest products (Vallejo, 2013) presents some risk factors, such as:



- Intermediate effectiveness in monitoring and evaluating compliance with the FMP and AOP due to scarce resources in the *ICF*, and the monitoring of social-environmental aspects in the FMP is not very effective due to lack of resources.
- Authorities do not have a monitoring program to determine the impact of statistical controls on illegal harvesting.

Experts consulted on the topic indicated the following risks:

- The authorities do not always perform proper field monitoring of compliance with the activities in the FMP and AOP.
- Altered asymmetric information in the inventory data and application of treatments not prescribed in the AOP (more invasive)
- Incorrect markings in the field.
- Lack of diligence in the approval of FMP and AOP, which encourages illegality.
- Excessive administrative procedures for approval of a FMP (30 to 40 steps) and high costs for its development, which encourages illegal harvesting without an approved plan and the invasion of areas by third parties.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.3.6. Risk designation and specification**

Specified risk

#### **1.3.7. Control measures and verifiers**

- Management plans and AOP contain detailed maps of the felling areas in accordance with the approved plan.
- For the development of the AOP, the FMP shall be approved and registered with the corresponding municipality.
- All harvesting (with the exception of infested areas which shall have a Salvage Plan, and agroforestry systems which have a special plan) shall be performed according to the AOP approved by the *ICF*.
- The FMP and the AOP shall contain the legal and administrative requirements as well as *ICF*'s requirements with respect to technical norms and good management.
- The contents of the AOP shall be consistent with the planning proposed in the FMP.
- The harvesting activities shall be made known to the communities included in the areas before beginning operations (evidence such as meeting minutes and photographs).
- Protection and conservation areas shall be defined by maps and indicated by signage on the land (site visits to verify signage).
- Inventories and management techniques follow the guidelines contained in the technical norms and regulations for the FMP and AOP according to the type of forest.

- Periodic field inspections shall be conducted in the field to verify compliance with the activities established in the FMP and AOP.

Documented evidence that the FMP and AOP have been approved in accordance with the technical and legal requirements stipulated by the *ICF* (registrations, technical rulings, approvals and reviews of FMP and AOP).

## 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

Harvesting in private and public forests:

- LFAPVS Arts. 88, 90, 91 and 92. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- LFAPVS Regulation Arts. 185, 192 and 193. Available at: <http://www.tsc.gob.hn/leyes/Reglamento%20General%20de%20la%20Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- Administrative Guide for harvesting plans in Pine forests. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/GUIA-PLANES-DE-APROVECHAMIENTO-EN-BOSQUES-DE-PINO.pdf>
- Manual of Guidelines and Regulations to improve forest management. Available at: [http://colproforh.org.hn/v2/documentos/Manuales/Normas Tecnicas manejo forestal.pdf](http://colproforh.org.hn/v2/documentos/Manuales/Normas_Tecnicas_manejo_forestal.pdf)
- ICF Resolution 030/2013 (salvage plans). Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/Acuerdo-PW-30-2013.pdf>

Approval for plantations and agroforestry systems:

- Plantation Certificates. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Resolucion-DE-MP-071-2010-certificados-de-plantacion-cprote-cplanta.pdf>
- Agreement 006-2011. Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/Acuerdo-PW-06-2011.pdf>

- Special Agroforestry System Plans (*Planes Especiales en Sistemas Agroforestales* (PESA, Spanish acronym). Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/ACUERDO-010-2015-Normativa-de-Planes-Especiales-en-Sistemas-Agroforestales-PESA.pdf>

#### 1.4.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym)), Honduran Institute of Coffee (*Instituto Hondureño del café* (IHCAFE, Spanish acronym) ICF-IHCAFE agreement for agroforestry systems.

#### 1.4.3. Legally required documents or records

- Management plan currently in force
- Approved AOP
- Salvage plan (areas infested by *Dendroctonus frontalis*)
- Plantation certificate and felling plan (plantations)
- Special Agroforestry System Plans (*Planes Especiales en Sistemas Agroforestales* (PESA, Spanish acronym): forest plantations mixed with crops such as coffee
- For contractors: valid identification, registration of personnel and machinery with the ICF (Art. 99 LFAPVS, Arts. 216 and 217 of the LFAPVS Regulation))

#### 1.4.4. Sources of information

##### *Government sources*

- ICF. (N.Y.). Consultation of SNIF administrative processes, services offered by regional offices (*Consultas de Trámites SNIF*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym). Available at: [http://icf.gob.hn/?page\\_id=2424](http://icf.gob.hn/?page_id=2424) [Accessed 3 October 2016]

##### *Non-Government sources*

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- Independent Forest Monitoring (*Monitoreo Forestal Independiente* (IFM, Spanish acronym), Reports II, IV and 2011 Report on illegal logging
- WEF. (2014). *The Global Competitiveness Report 2014-2015*. World Economic Forum (WEF). Available at: [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2014-15.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf)
- Vallejo L. Preliminary evaluation of the causes of deforestation and degradation of forests in Honduras, 2001 (*Evaluación preliminar sobre las causas de deforestación y degradación de bosques en Honduras*): <http://icf.gob.hn/wp-content/uploads/2015/08/Causas-de-la-deforestacion-y-degradacion-en-Honduras.pdf>

#### 1.4.5. Risk determination

##### *Overview of Legal Requirements*

For operations conducted in natural forests (public/private), the approval of the FMP and AOP provides access to different forest harvesting permits, including timber felling, transportation and sale. Before harvesting, the holder of the FMP shall register the staff (Qualified Forest Technician and Contractors) and the machinery to be used for harvesting. This registry shall be used for the *ICF* staff's monitoring of the AOP (Source: *VPA-FLEGT* Legality Table (*Tabla de Legalidad VPA-FLEGT*)).

Agroforestry systems shall have an approved and currently in force PESA and AOP. The owners of plantations shall have a plantation certificate issued by the *ICF*, and an authorization to harvest the plantation issued by the corresponding regional forestry authority.

##### *Description of Risk*

According to the ranking of bribe payments, the country ranks 90/144 with a score of 3.5 out of 7 points (Source: Global Competitiveness Report, 2014-2015).

In terms of the percentage of illegal logging, Vallejo L. (Preliminary evaluation of the causes of deforestation and degradation of forests in Honduras, 2001 (*Evaluación preliminar sobre las causas de deforestación y degradación de bosques en Honduras*)) cites: "There are no reliable data as to the magnitude of illegal logging in Honduras, but many actors recognize that it is a serious problem, since it is a complex phenomenon with multiple implications. Economically speaking, the losses are in the millions, but even more important are the social and environmental impacts, which have not yet been quantified, resulting from changes in micro-climates, degradation of forests, loss of soil, damage to the quality and quantity of water, etc." which have an impact on increasing unauthorized harvesting.

The following risk factors have been reported by some national NGOs, among others:

- Irregularities in the approval and renewal of harvesting permits (IFM cites illegal logging mechanisms used by forest authorities)
- Irregularities in the preparation of Standing Timber Auctions (IFM).
- Manipulation of communal organizations to obtain harvesting permits (IFM).
- Felling in protected areas such as water sources (IFM)
- Irregularities with respect to salvage plans in areas infested by pine beetles have been reported, such as the authorization of these plans for non-infested areas (IFM reports).

Experts consulted about this issue cited risks such as:

- Excessive administrative procedures and regulations
- Time periods for the approval of permits are regulated but in practice are not adhered to, which encourages illegality and the payment of bribes to facilitate processing.

##### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.4.6. Risk designation and specification**

Specified Risk

#### **1.4.7. Control measures and verifiers**

- Before harvesting, those responsible for the FMP and AOP shall register the responsible personnel (contractors and technicians) and machinery with the *ICF*.
- The *ICF*, through its staff and support organizations, such as the IFM, shall visit the sites to verify felling area boundaries, species and volumes.
- The areas to be harvested shall have a currently in force AOP, salvage plan, felling plan (plantations) or other legal harvesting documents.
- The boundaries of the felling areas shall be identified on the land and on maps.
- The *ICF* and municipalities must confirm the validity of the AOP and other types of harvesting permits.
- Consultations with interested parties on the site shall confirm that the legal procedures to obtain the permits have been followed.

## 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

Other taxes based on volume:

- Municipalities Law Arts. 76 and 80 (Decree 134-90). Available at: <http://www.poderjudicial.gob.hn/CEDIJ/Documents/Ley%20de%20Municipalidades.pdf>
- Agreement 041A-2013 (Payment for Standing Timber to the ICF). Available at: [http://www.ccichonduras.org/website/descargas/leyes/LEGISLACION\\_AMBIENTAL/ACUERDO\\_041\\_A\\_2013\\_PRECIO\\_DEL\\_TRONCONAJE\\_QUE\\_SE\\_PAGARA\\_AL\\_ICF.PDF](http://www.ccichonduras.org/website/descargas/leyes/LEGISLACION_AMBIENTAL/ACUERDO_041_A_2013_PRECIO_DEL_TRONCONAJE_QUE_SE_PAGARA_AL_ICF.PDF)
- Harvesting Rights: *LFAPVS* Arts. 18 section 18 and 81. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>

#### 1.5.2. Legal authority

- The Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym)),
- Local municipalities.

#### 1.5.3. Legally required documents or records

- Bank guarantee of compliance with technical norms (approval of AOP)
- Fee for administrative services (private and municipality-owned property (*ejidales*))
- Payment of standing timber volumes (auctions)
- Standing timber fee (cooperatives and agroforestry groups)
- Payment of municipal taxes (public/private)

#### 1.5.4. Sources of information

*Government sources*

- ICF. (2014). Manual of Administrative (*Manual de Procesos y Procedimientos Administrativos*). Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym). Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/Acuerdo-PW-08-2014.pdf>

### *Non-Government sources*

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- Independent Forest Monitoring (IFM). (2011). Analysis of illegal logging and monitoring the enforcement of the legislation by the corresponding authorities (*Análisis de la tala ilegal y el seguimiento en la aplicación de la legislación por parte de las autoridades correspondientes*). Available at:
- WEF. (2014). *The Global Competitiveness Report 2014-2015*. World Economic Forum (WEF). Available at: [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2014-15.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf)
- Infobae.com. (2015). The 10 countries in America where bribes are most common (*Los 10 países en los que es más común el soborno en América*). Infobae América. Available at: <http://www.infobae.com/2015/03/08/1714441-los-10-paises-los-que-es-mas-comun-el-soborno-america/>
- FAO. (2012). Sector studies: Evaluation of the impact of charging for rights to harvest standing timber and other fees on forest management in Honduras (*Evaluación del impacto del cobro por derechos de aprovechamiento de madera en pie y otras tasas sobre el manejo forestal en Honduras*). Food and Agriculture Organization of the United Nations. Available at: <http://www.fao.org/fileadmin/templates/tci/pdf/HONDURASCompleteLOW.pdf>

### **1.5.5. Risk determination**

#### *Overview of Legal Requirements*

The approval of operating plans (AOP) requires payment of a bank guarantee of compliance with technical norms, whose value is established based on volume. For coniferous forests, a bank guarantee of regeneration is also required. To harvest on private and municipality-owned property (*ejidales*), a fee is charged for administrative services, which for coniferous forests is dependent on the diameter and volume category. The price of the sale of standing timber from auctions (national coniferous forests) is determined according to the auction. For broadleaf forests, standing timber value is determined per species and cubic meter. For agroforestry groups and cooperatives in the social system, fees are defined for standing timber for coniferous and broadleaf forests. The municipal tax is paid when registering the management plan (which has been approved by the *ICF*) before the corresponding municipality (*LFAPVS*: Arts. 18 section 18 and 81, Law of municipalities: Arts. 76 and 80, Agreement 041A-2013)

#### *Description of Risk*

The ranking of bribe payments places the country at 90 of 144, with a score of 3.5 of 7 points (WEF, 2014)

According to the barometric survey of the Americas (2015), Honduras is among the 10 countries in the Americas where bribes are most common, with 23%.

The Independent Forest Monitoring (IFM) reports risks in some cases, such as:



- Irregularities by authorities in the preparation of auctions.
- Abuse of power by the authorities such as police and municipal authorities when dictating orders that are contrary to laws.
- Tax fraud by industries (evasion of national and municipal taxes)

Experts consulted about the topic mentioned the following factors:

- Arbitrary fees charged by municipalities (the law establishes 1%, but in reality the fee charged depends on rates established by each municipality, which do not take into account what is established by law). On occasion, communities near the management area demand improvements for their communities (such as road maintenance or contributions to communal works such as schools) in exchange for permission to operate in the management area.
- Payment of bribes to evade fees.
- Altering asymmetric data to reduce charges.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.5.6. Risk designation and specification**

Specified risk

#### **1.5.7. Control measures and verifiers**

- Private property owners, contractors, organized groups, municipality-land (*ejidales*) property owners and tribal land property owners shall keep copies of receipts and invoices for the payment of taxes and administrative fees.
- Volumes, species and quantities reported must match the fees charged by the *ICF* and municipalities.
- The data pertaining inventories and classification of species shall agree with fees charged by the *ICF* and municipalities (site visits by the technician and the *ICF*).

### **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**

- Value-added tax (*Impuesto sobre el valor añadido (IVA*, Spanish acronym), Agreement 462-2014, Art. 19. Available at: <http://www.tsc.gob.hn/leyes/Acuerdo-No-462-2014-Reglamento-Decreto-278-2013-21JUL14.pdf>

- Regulation of Invoicing (Agreement 189-2014) Arts. 12 and 19. Available at: [http://www.tsc.gob.hn/leyes/ACUERDO\\_189-2014\\_REGIMEN\\_DE\\_FACTURACION.pdf](http://www.tsc.gob.hn/leyes/ACUERDO_189-2014_REGIMEN_DE_FACTURACION.pdf)

#### 1.6.2. Legal authority

- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos (DEI*, Spanish acronym)

#### 1.6.3. Legally required documents or records

- National Taxpayer Register (*Registro Tributario Nacional (RTN*, Spanish acronym) for natural or legal persons,
- Coded Sales Invoices issued by the companies and stamped by the *ICF*,
- Shipping waybill (*guía de remisión*).
- The producers of raw material are exempt from value-added tax (*IVA*) (this only applies to the sale of timber that comes from primary and secondary industries)

#### 1.6.4. Sources of information

##### *Government sources*

- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos (DEI*, Spanish acronym). Available at: <http://www.dei.gob.hn/website/index.php?lang=es>

##### *Non-Government sources*

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- Laprensa.hn. (2016, January 15). Evasion in Honduras reaches 57% (*Evasión Fiscal en Honduras del ISV llega al 57%*). *Diario La Prensa*. Available at: <http://www.laprensa.hn/economia/dineroynegocios/920265-410/evasi%C3%B3n-fiscal-en-honduras-del-isv-llega-al-57> [Accessed 3 October 2016]
- Independent Forest Monitoring (IFM). (2011). Analysis of illegal logging and monitoring the enforcement of the legislation by the corresponding authorities (*Análisis de la tala ilegal y el seguimiento en la aplicación de la legislación por parte de las autoridades correspondientes*). Independent Forest Monitoring (IFM). Available at:
- Center for Democracy Studies. (2015). Deforestation of Forests in Honduras: Illegal logging and unstable institutionalality (*La deforestación del bosque en Honduras: entre la tala ilegal y una endeble institucionalidad*). Center for Democracy Studies (*Centro de Estudio para la Democracia (CESPAD*, Spanish acronym)). Available at: <http://www.cespad.org/sites/default/files/Informe%20Monitoreo%20RRNN%204.pdf>
- Environmental Impact Statement. (2005). Illegal logging crisis in Honduras (*Crisis de la tala ilegal en Honduras*). Evaluación de Impacto Ambiental, EIA, Spanish acronym.

Available at:

<http://www.puchica.org/Documenti/HONDURAS/MAO/CrisisdeTalaIlegal.pdf>

#### **1.6.5. Risk determination**

##### *Overview of Legal Requirements*

Value-added taxes (*IVA*) are mandatory for the sale of timber in the primary and secondary industries. The Companies shall be registered with the *DEI (RTM)* and print sales invoices with the legal requirements (Agreement 462-2014: Art. 19, Invoicing Regulations (Agreement 189-2014): Arts. 12, 19) established for value-added tax charges.

##### *Description of Risk*

According to a report developed by the *DEI* (Diario La Prensa, 2016, 15 January), the evasion of value-added tax by companies in Honduras in 2015 was 57%. IFM, in 10 of its reports, notified the *DEI* of a series of irregularities related to the evasion of taxes by the forestry industry, and the *DEI* has taken actions only on 3 of these cases.

Another risk mentioned is the sale of timber without an invoice, which is evidence of its illegal source, generating annual losses for the government of roughly 18 million dollars (approximate value cited by several studies, such as the Environmental Impact Statement of 2005: Illegal logging crisis in Honduras (*Crisis de la tala ilegal en Honduras*). The experts consulted on the topic indicate that there are controls over registered industries, but little control over businesses that sell timber and furniture, such as warehouses and carpentry shops, where a large percentage of the illegal timber circulates.

Experts interviews indicated the following risks:

- With the new requirements for medium and small companies (changes to the tax code) the cooperatives in the social system would not be able to compete, which would encourage illegality.
- The high fees make competition unfair for companies that work legally, because while these companies are controlled, many companies selling timber operate illegally and evade taxes and they are not controlled.

##### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.6.6. Risk designation and specification**

Specified risk

#### **1.6.7. Control measures and verifiers**

- The forest industries (primary and secondary) shall have copies of invoices indicating the amount of value-added taxes charged (joint audits by the *DEI* and *ICF* are mentioned as *VPA-FLEGT* complementary measures).

- Forest companies shall be registered in the *DEI* and have an *RTN*.
- The volumes, species and qualities indicated by sales invoices shall match the fees paid (*ICF* and *IFM* inspections)
- The classification of species, volumes and qualities match the fee payments shown on company sales invoices.

## 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

- Income/Revenue tax (*Impuesto sobre la renta*). Decree 278-2013, Public Financing Law, control of exemptions and anti-evasion measures, Arts. 7 and 22 (Agreement 278-2013). Available at: <http://www.sefin.gob.hn/wp-content/uploads/2014/06/DECRETO-278-2013.pdf>

### 1.7.2. Legal authority

- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos (DEI*, Spanish acronym)

### 1.7.3. Legally required documents or records

- National Taxpayer Register (*Registro Tributario Nacional (RTN*, Spanish acronym) for natural or legal persons,
- Proof of tax payment (Form *DEI 272* for natural persons and *DEI 352* for legal persons)

### 1.7.4. Sources of information

#### *Government sources*

- *DEI* (2014). Strategic Plan 2014-2017 (*Plan Estratégico*). Dirección Ejecutiva de Ingresos. Available at: <http://www.dei.gob.hn/website/uploaded/content/category/1575776183.pdf>

#### *Non-Government sources*

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- Independent Forest Monitoring (IFM). (2011). Analysis of illegal logging and monitoring the enforcement of the legislation by the corresponding authorities (*Análisis de la tala ilegal y el seguimiento en la aplicación de la legislación por parte de las autoridades correspondientes*). Independent Forest Monitoring (IFM). Available at:
- Center for Democracy Studies. (2015). Deforestation of Forests in Honduras: Illegal logging and unstable institutionalality (*La deforestación del bosque en Honduras: entre*

*la tala ilegal y una endeble institucionalidad*). Center for Democracy Studies (*Centro de Estudio para la Democracia (CESPAD*, Spanish acronym)). Available at: <http://www.cespad.org/sites/default/files/Informe%20Monitoreo%20RRNN%204.pdf>

#### **1.7.5. Risk determination**

##### *Overview of Legal Requirements*

The payment of income taxes (*ISR*) is mandatory for the primary and secondary industries. The companies shall register with the *DEI* to obtain their *RTN* and present their income declaration at the end of the fiscal period for the calculation of their income tax (*ISR*) (Decree 278-2013, Arts. 7 and 22). The cooperatives are exempt from income tax charges.

##### *Description of Risk*

IFM data presented in several reports sent to the *DEI* (IFM, 2011) show that 10 reports were sent to the *DEI*, corresponding to its jurisdiction, of which the *DEI* took action only in 3, which indicate tax evasion by forestry industry sectors, ranging from false data on taxpayer declarations –placing the taxpayers in a position in which they will pay no taxes are – to the use of fraudulent invoices, which is a tax evasion crime that state institutions are not very effective in stopping. Experts consulted also indicated the risk of industries paying bribes in order to evade taxes.

In its reports, the IFM indicated that the government loses between 6 and 8 million dollars yearly, and the municipalities approximately 1.6 million from lack of tax payments due to illegal trade.

According to the experts consulted about this topic, some cooperatives (Cooperatives Association) complain about how much their organizations are charged, which sometimes exceeds the income tax payment, and therefore they prefer to pay these taxes.

##### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.7.6. Risk designation and specification**

Specified risk

#### **1.7.7. Control measures and verifiers**

- Consultations with *DEI* authorities to verify that the income tax payments have been made and are consistent with the income tax declaration.

## 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

- Legal Requirements for Harvesting Techniques and Technologies (*Requisitos Legales para las Técnicas y Tecnologías de Aprovechamiento*), Manual of Guidelines and Regulations for Improved Forest Management (*Manual de Lineamientos y Normas para un mejor manejo forestal*), Chap 1 Numbers 2.6, 3.11 (sections a, c, d, e, g, h). Available at: [http://colproforh.org.hn/v2/documentos/Manuales/Normas\\_Tecnicas\\_manejo\\_forestal.pdf](http://colproforh.org.hn/v2/documentos/Manuales/Normas_Tecnicas_manejo_forestal.pdf)
- Administrative Guide for Harvesting Plans in Pine Forests, Title IX. Technical Norms and Guidelines for the development of forest management plans and operating plans for broadleaf forests, Number 2.6. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/GUIA-PLANES-DE-APROVECHAMIENTO-EN-BOSQUES-DE-PINO.pdf>

#### 1.8.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym))

#### 1.8.3. Legally required documents or records

- Annual Operating Plan (AOP),
- Felling plans (plantations),
- Salvage plans (areas infested with pine beetles),
- Receipts and proof of municipal and administrative payments,
- Auction contracts,
- Management agreements and contracts,
- Bank guarantees,
- Proof of registration of contractors with the ICF,
- Receipt of payment for felling areas

#### 1.8.4. Sources of Information

### *Government sources*

- ICF. (N.Y.). Responsibilities of the forest management and development sub-department according to the law (*Atribuciones según la ley para la subdirección de manejo y desarrollo forestal*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*. Available at: <http://icf.gob.hn/?portfolio=subdireccion-de-desarrollo-forestal>

### *Non-Government sources*

- Independent Forest Monitoring (IFM). (2011). Analysis of illegal logging and monitoring of the application of legislation by the corresponding authorities.
- Vallejo L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). IUCN Regional Office for Mesoamerica/Caribbean Initiative (*Oficina Regional de UICN para Mesoamérica/Iniciativa Caribe*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis\\_marco\\_legal\\_para\\_aprovechamiento\\_y\\_comercio\\_de\\_madera\\_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn)

## **1.8.5. Risk determination**

### *Overview of Legal Requirements*

A qualified forest technician is responsible for the planning of the FMP and AOP activities. The *ICF*, through its technical auditing department, monitors activities and performs audits of the FMP, AOP and industries, in addition to a final audit of the AOP evaluating its fulfillment of technical norms included in the FMP and AOP, according to the type of forest (coniferous or broadleaf). The technical audits of management plans are performed yearly, and AOPs are inspected at least twice during their implementation. The final audit of the AOP is performed after these activities have concluded.

The department of Forest Management and Development also coordinates with independent supervisors, such as the IFM (part of the National Human Rights Commission (*Comisionado Nacional de los Derechos Humanos CONADEH*, Spanish acronym)), to perform technical audits of industries and operating plans, offering the opportunity to have a more transparent and verifiable process and be involved in the different phases of the production chain.

### *Description of Risk*

According to several studies by consultants (Vallejo, 2013) and reports by the IFM (IFM, 2011), in some cases irregularities have been reported concerning compliance with harvesting norms, and in some cases there have been indications that the monitoring of compliance with the FMP and AOP by *ICF* personnel is not as effective due to lack of resources. In 44% of the reports, IFM cites irregularities by the forest authorities concerning non-compliance with control inspections and field monitoring (Vallejo, 2013; IFM, 2011).

Experts consulted agree there is little technical monitoring in the field, which encourages illegal forestry activities. They also mention the following risks:



- Lack of resources to control and monitor harvesting.

Independent Forest Monitoring (IFM) reports some irregularities, such as harvesting outside the boundaries of the FMP, illegal authorization of harvesting by forest authorities, usurpation of land, illegal industrialization, non-compliance with technical norms.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

### **1.8.6. Risk designation and specification**

Specified risk

### **1.8.7. Control measures and verifiers**

- Harvesting shall be performed within the boundaries of the Annual Felling Areas (*Areas de Corta Anual, ACA*, Spanish acronym) defined by the AOP.
- The protection sites defined in the AOP shall be respected and marked with signage.
- Inspections of the site verify that the at-risk species and trees for wildlife are protected.
- The field inspections verify compliance with technical norms for harvesting.
- The review of *ICF* technical audit reports verifies that final audits are performed (photographs and cross-checking).

## **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**

- *LFAPVS*, Title VI, Protected areas and Species: Chap. I to III, Arts. 107 to 119. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- Title IX, Chap. III, Arts. 187 to 192. Available at: <http://www.tsc.gob.hn/leyes/Reglamento%20General%20de%20la%20Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- *LFAPVS* Regulation, Title VIII, Cloud Forest Law (*Ley de Bosques Nublados*) Decree 87-87. Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/AP-Decreto-87-87-Declaratoria-Bosques-Nublados.pdf>
- General Environmental Law: [http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras\\_104-93.pdf](http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras_104-93.pdf)

### 1.9.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym)).

### 1.9.3. Legally required documents or records

- Protected area declaration,
- Management plan for the protected area,
- Protection zones specified in the FMP and AOP,
- Protected or prohibited species list

### 1.9.4. Sources of Information

#### *Government sources*

- Secretaria de Recursos Naturales y Ambiente (SERNA). (2008). Species of Special Concern in Honduras (*Especies de Preocupación Especial en Honduras*). Ministry of Natural Resources and the Environment. Available at: [http://www.undp.org/content/dam/honduras/docs/publicaciones/Especies\\_Preocupacion\\_Especial\\_Honduras.pdf](http://www.undp.org/content/dam/honduras/docs/publicaciones/Especies_Preocupacion_Especial_Honduras.pdf)
- ICF. (2011). National Plan for the Conservation of the jaguar (*Panthera Onca*) in Honduras (*Plan Nacional para la Conservación del Jaguar (Panthera Onca) Honduras*). Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym). Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/PLAN-JAGUAR-FINAL-3.pdf>

#### *Non-Government sources*

- IUCN. (2011). Red List of Threatened Species in Honduras (*Lista Roja de Especies Amenazadas para Honduras*). The International Union for Conservation of Nature. Available at: [https://angelarandazzoeisemann.files.wordpress.com/2014/03/lista\\_roja\\_especies-amenazadas\\_y\\_peligro\\_uicn2010\\_hn.pdf](https://angelarandazzoeisemann.files.wordpress.com/2014/03/lista_roja_especies-amenazadas_y_peligro_uicn2010_hn.pdf)
- Independent Forest Monitoring (IFM): General reports II, IV and 2011 report of the analysis of illegal logging.
- Global Witness. (2009). Illegal logging in the biosphere of the Platano River: A farce in three-acts (*La tala ilegal en la Biósfera del Río Plátano: Una Farsa en tres actos*). Global Witness report. Available at: [file:///Users/anne-mettehulsdymose/Downloads/tala\\_ilegal\\_rio\\_platano\\_final\\_es\\_low\\_res\\_1%20\(1\).pdf](file:///Users/anne-mettehulsdymose/Downloads/tala_ilegal_rio_platano_final_es_low_res_1%20(1).pdf)
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- Biotraficohn.blogspot.dk. (2011 – July 3). Illegal hunting of wild animals in Honduras, a video (*Caza ilegal de animales silvestres en Honduras, un video*). [online]. *Bio Trafico HN*. Available at: <http://biotraficohn.blogspot.com/2011/07/trafico-y-utilizacion-ilegal-de.html> [Accessed 4 October]
- Duarte, K.J. (2011). Diagnosis of the legislation and regulations for wildlife for the purpose of updating the legal norms for the implementation of CITES in Honduras (*Diagnóstico de la legislación y normativa vinculante a la vida silvestre con el objetivo de actualizar la normativa legal para la implementación de la CITES en Honduras*). Available at: <http://www.ahprahonduras.org/uploaded/content/category/1958013766.pdf>

#### 1.9.5. Risk determination

##### *Overview of Legal Requirements*

The FMP and AOP contain a map of the protected areas, as well as a plan for the protection activities to control fires and other activities (technical norms for the FMP). Protected areas, such as historic or cultural zones, are recognized by legislation, and permitted and prohibited activities are defined based on their categories (*LFAPVS*: Title VI: Chaps. I to III, Arts. 107 to 119, Title IX, Chap. III, Arts. 187 to 192, *LFAPVS* Regulation: Title VIII, Cloud Forest Law: Decree 87-87).

According to the law, each protected area must have a co-manager (NGO to which the government delegates administrative responsibilities for the protected area) and shall have an agreement with the government that is updated every 5 years.

The exploitation, harvesting, hunting, capture, sale or destruction of protected flora and fauna species are prohibited (Art. 41 of the General Environmental Law). For hunting animals, the *ICF* shall, in advance, conduct a technical and scientific study of the species, prohibitions, permitted hunting zones, maximum sizes, sex, age and quantities (Art. 42 of the General Environmental Law). This shall be done through a binding agreement issued by the executive branch, through the secretary of the office of natural resources (Art. 43 of the General Environmental Law). Exports and imports require a license issued by the *ICF* department of protected areas and wildlife (Art. 44 of the General Environmental Law), which is subject to international agreements and other requirements, included in the regulation pertaining to the general environmental law and related laws.

In accordance with the Convention on Biological Diversity ratified by the Honduras government, the General Department of Biodiversity (*Dirección General de Biodiversidad* (*DiBio*, Spanish acronym)) updates the lists of endemic species and those of special concern in Honduras. After a review of the information, a list is produced composed of endemic and meso-endemic species, IUCN red list species, CITES species, and those of national concern.

##### *Description of Risk*

According to several studies by non-governmental organizations for example, Global Witness, (2009) and reports by IFM (2011) IFM report: Analysis of illegal logging and the monitoring of the application of legislation by the corresponding authorities: an analysis of 94 individual IFM reports indicates logging in protected areas that are water sources (3%), logging without documents (4%) and illegal logging (12%) (IFM, 2011). In some

cases, activities in protected areas have been reported; for example, illegal logging in the Platano River biosphere and trafficking of mahogany, included on the CITES list. Studies of the verification and monitoring of FMP and AOP also have reported harvesting in protected areas such as water sources, and felling of seed trees or trees for wildlife habitat (IFM, 2011).

The experts consulted on the topic of risks in protected areas mentioned the following:

- Institutional weakness on-site (little presence of authorities) and co-managers do not possess the legal authority to take actions against illegal activities (they can only report them to the corresponding authorities), which sometimes places them at risk.
- In addition to illegal logging, protected areas are threatened by political decisions (reduction of core zone) that have favored certain stakeholders to the detriment of the area.
- Monocultures, such as African palm and extensive livestock activities, represent threats to the protected areas (changes in land use, provoking fires).
- The boundaries of most of the areas are not physically marked, which creates the risk that they will not be respected.
- Some laws, such as those for mining, have been damaging for the protected areas, since they allow mining activities to be conducted in these areas.
- It has not been possible to contain the problem of land use changes in protected areas.

With respect to protected species, the illegal trafficking of endangered fauna has been reported (reports of seizures published by media outlets, for example, *Diario Tiempo*, August 30, 2015: Seizure of animals in zoo owned by an Iranian man in Honduras) to sell them as pets (parrots, macaws, monkeys) in the country or in other countries of the region. In addition, the illegal trafficking of CITES species such as mahogany is common in the biosphere zone (reports by Global Witness).

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.9.6. Risk designation and specification**

Specified risk

#### **1.9.7. Control measures and verifiers**

- The protected areas indicated by the *LFAPVS* and technical regulations shall be established in the FMP and AOP, and the boundaries of the terrain shall be clearly identified.
- Consultations with stakeholders (property-owners, communities, authorities) to verify that the threatened or endangered species identified have been properly protected.

- The technical inspections shall verify that the protected areas and regulations for protected species are respected.
- The boundaries of the protected areas shall be clearly identified on site.
- Each protected area has its legal declaration, which includes a description of the activities permitted protection measures for important species.

### 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

- Legislation on environmental values: *LFAPVS* Arts.120 to 125. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- Manual of Guidelines and Regulations for Improved Forest Management (*Manual de Lineamientos y Normas para un mejor manejo forestal*), Chap 1, numbers 3.1.1 section 'a' and 'f', 4.1 to 4.5. Available at: <http://colproforh.org.hn/v2/documentos/Manuales/Normas Tecnicas manejo forestal .pdf>
- Legislation on environmental licenses: General Environmental Law, Arts 11, number, chap. and art. 83. Available at: [http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras\\_104-93.pdf](http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras_104-93.pdf)
- Regulation pertaining to the National System for Environmental Impact Assessments (*Sistema Nacional de Evaluación de Impacto Ambiental*), Arts 9 and 10, number 3. Available at: <http://faolex.fao.org/docs/pdf/hon42081.pdf>

#### 1.10.2. Legal authority

- Ministry of Energy, Natural Resources, the Environment and Mines (*Ministerio de Energía, Recursos Naturales, Ambiente y minas* (*MiAmbiente*, Spanish acronym))
- Local municipalities

#### 1.10.3. Legally required documents or records

- Assessment of environmental impact and social aspects in the FMP and AOP and protection plans in the AOP.
- Environmental license for primary and secondary forest companies and timber trade warehouses.

#### 1.10.4. Sources of information

##### *Government sources*

- Trámites.gob.hn. (2009). Compilation of special regulations derived from the General Environmental Law (*Compilación de Reglamentos Especiales Derivados de la Ley General del Ambiente*). Available at: <http://tramites.gob.hn/sites/default/files/Compilaci%C3%B3n%20de%20Reglamentos.pdf>

##### *Non-Government sources*

- Independent Forest Monitoring (IMF): General Reports IV (2005-2008) and II (2005-2006).
- Latribuna.hn. (2014, March 19). Intervention of SERNA produces first results (*Intervención en la SERNA arroja los primeros resultados*). [online]. Diario La Tribuna. Available at: <http://www.latribuna.hn/2014/03/19/intervencion-en-serna-arroja-primeros-resultados/> [Accessed 4 October 2016]
- Vallejo L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). IUCN Regional Office for Mesoamerica/Caribbean Initiative (*Oficina Regional de UICN para Mesoamérica/Iniciativa Caribe*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis\\_marco\\_legal\\_para\\_aprovechamiento\\_y\\_comercio\\_de\\_madera\\_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn)

#### 1.10.5. Risk determination

##### *Overview of Legal Requirements*

The FMP and AOP approved by the *ICF* shall contain an environmental impact statement which includes the following aspects, among others:

- Actions to be performed
- Description of potential impacts of forestry activities
- Evaluation criteria
- Limits and degree of the impact
- Mitigation measures for each impact

The technical field inspection verifies aspects such as: closing of cleared areas, works to counter erosion, management of residues, and protected wildlife species.

The general environmental law contains measures for the use of pesticides and the protection of biodiversity.

As for the industries, they shall comply with the contract for the mitigation of environmental impacts contained in the environmental license. The department of environmental evaluation and control (*dirección de evaluación y control ambiental* (*DECA*, Spanish acronym) performs two types of company inspections:

- Off-site verification: Through a service provider, the forest industry submits a report on environmental control measures (*informe de medidas de control ambiental (ICMA*, Spanish acronym) to the *DECA* describing in detail compliance with impact mitigation measures. The *DECA* analyzes the information submitted and plans the inspection of the site.
- On-site verification: The *DECA* convenes the *SINEA* and performs the on-site verification in coordination with other institutions.
- Off-site verifications: The industries submit the *ICMA* to the *DECA* every 6 months, and the on-site verification is conducted once a year.

#### *Description of Risk*

General reports by the IFM (II and IV) indicate irregularities in compliance with the technical regulations in the AOP and FMP, for example, concerning erosion control measures and other post-harvesting activities by forest operators (industry, technicians). They also report non-compliance with inspections and technical regulations on the part of the authorities. In general report II, corresponding to the years 2005 to 2006, non-compliance by forestry operators was reported in 6 of the 13 reports presented. General report IV presents non-compliance with inspections and technical norms by forest authorities in 33% of the cases, and non-compliance with post-harvesting measures and technical norms by forestry operators in 18% of the reports. The greatest risks are lack of application of the measures specified in the environmental impact statement, and low effectiveness of technical monitoring to evaluate compliance (Vallejo, 2013), which states that the monitoring and evaluation of compliance with management plans is not very effective due to a lack of resources in the ICF.)

As for the *DECA* granting environmental licenses, irregularities have been reported in communications media, which led to an intervention in the year 2014 (for example, *Diario La Tribuna*, March 19, 2014, Intervention of SERNA yields its first results (*Intervención en la SERNA arroja los primeros resultados*).

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.10.6. Risk designation and specification**

Specified risk

#### **1.10.7. Control measures and verifiers**

- The FMP and AOP shall contain environmental and social impact statements approved by the *ICF*.
- The technical monitoring of the sites enables verification of the effectiveness of the measures proposed.
- Damage to soil, water sources and biological diversity shall be minimized through the application of mitigation measures.



- Consultations with *DECA* authorities to verify that the industries have their environmental licenses and submit their *ICMA* every six months, in compliance with the environmental mitigation impact measures.
- Review of on-site verification reports to demonstrate the effectiveness of the measures proposed in the contract.

### 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

- Constitution of the Republic, Art. 128, sub-paragraph 3. Available at: [http://www.se.gob.hn/media/files/leyes/LC\\_BTf7DGE.pdf](http://www.se.gob.hn/media/files/leyes/LC_BTf7DGE.pdf)
- Safe Harvesting and Transportation Practices: Labor Code, Arts. 391-459-Title V. Available at: [http://www.ccichonduras.org/website/descargas/leyes/LEYES\\_LABORALES/CODIGO\\_DE\\_TRABAJO.pdf](http://www.ccichonduras.org/website/descargas/leyes/LEYES_LABORALES/CODIGO_DE_TRABAJO.pdf)
- Legal protection equipment for harvesting: General Regulation for Measures to Prevent Workplace Accidents and Occupational Illnesses (*Reglamento General de Medidas Preventivas de Accidentes de Trabajo y Enfermedades Profesionales*) (Legal Equipment Protection in General): Arts. 278, 281 to 286, 293 to 295, 304, Health Code: Art. 123. Available at: <http://www.salud.gob.hn/transparencia/archivos/codigodesalud.pdf>
- Establishment of Protection zones: Manual of Guidelines and Regulations for Improved Forest Management (*Manual de Lineamientos y Normas para un Mejor Manejo Forestal*), Chapter I: 4, 4.1., 4.3., 5.3. and 7, Chapter II: 15, 16 and 17: [http://colproforh.org.hn/v2/documentos/Manuales/Normas\\_Tecnicas\\_manejo\\_forestal.pdf](http://colproforh.org.hn/v2/documentos/Manuales/Normas_Tecnicas_manejo_forestal.pdf)
- Safety Requirements for Machinery: General Regulation for Measures to Prevent Workplace Accidents and Occupational Illnesses (*Reglamento General de Medidas Preventivas de Accidentes de Trabajo y Enfermedades Profesionales*), Arts. 418, 419, 429 to 432, 441 to 444: [file:///C:/Users/usuario/Downloads/medidaspreventivas%20\(1\)](file:///C:/Users/usuario/Downloads/medidaspreventivas%20(1)) (The complete document is not available online)

#### 1.11.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (*ICF*, Spanish acronym))
- Ministry of Health (*Secretaria de Salud*)

- Ministry of Labor and Social Security (*Secretaría del Trabajo y Seguridad Social (STSS, Spanish acronym)*), General Department of Social Security (*Dirección General de Previsión Social*) and Services Department for Occupational Health and Safety Inspections (*Departamento de Servicios de Inspección e Higiene y Seguridad Ocupacional*)

#### 1.11.3. Legally required documents or records

For companies with more than 10 employees:

- Proof of compliance with health and social security conditions is required
- Creation of a Mixed Health and Safety Committee (*Comité Mixto de Higiene y Seguridad (CMHS, Spanish acronym)*,
- Copies of Inspection Reports (*Actas de Inspección*) containing the findings from the Services Department for Occupational Health and Safety Inspections related to corrections needed and time granted to complete them (*Departamento de Servicios de Inspección e Higiene y Seguridad Ocupacional*) (Source: VPA-FLEGT Legality Table)

#### 1.11.4. Sources of information

##### *Government sources*

- Secretaría de Trabajo y Seguridad Social. (N.Y.). Monitoring file from the Mixed Health and Safety Committee (*Comité Mixto de Higiene y Seguridad (CMHS, Spanish acronym)*). [online]. Ministry of Labor and Social Security.  
<http://www.trabajo.gob.hn/organizacion/dgt-1/direccion-generla-de-prevision-social/formatos-1/Ficha%20de%20Monitoreo%20de%20Comision%20Mixta%20de%20Higiene%20y%20Seguridad%20Ocupacional.pdf>

##### *Non-Government sources*

- Instituto Regional de Estudios en Sustancias Tóxicas. (2013). Honduras Occupational Health Profile, 2013 (*Perfil de Salud Ocupacional, 2013*). Central American Health, Labor and Environment Program (*Programa Salud, Trabajo y Ambiente en América Central (SALTRA, Spanish acronym)*). Available at:  
<http://www.corteidh.or.cr/tablas/29868.pdf>
- Ccichonduras.org. (2014). Workplace Health and Safety Program (*Programa de Salud y Seguridad en el Area de Trabajo*). Slideshow. Chamber of Commerce and Felling Industries (*Cámara de Comercio e Industrias de Cortes (CCIC, Spanish acronym)*). Available at:  
[http://www.ccichonduras.org/website/descargas/presentaciones/2014/PROGRAMA\\_DE\\_SALUD\\_Y\\_SEGURIDAD\\_EN\\_EL AREA DE TRABAJO 2103 07 23.PDF](http://www.ccichonduras.org/website/descargas/presentaciones/2014/PROGRAMA_DE_SALUD_Y_SEGURIDAD_EN_EL AREA DE TRABAJO 2103 07 23.PDF)

#### 1.11.5. Risk determination

##### *Overview of Legal Requirements*

The government of Honduras has ratified 25 ILO (International Labour Organization) conventions on occupational health. In addition, health and safety issues are covered by national laws such as the Labor Code (*Código del Trabajo*), the health code (*Código de*

*Salud*), and the guidelines of measures to prevent workplace accidents and occupational illnesses. Companies with over 10 employees must create and register a Mixed Health and Safety Commission (*Comisión Mixta de Higiene y Seguridad (CMHS*, Spanish acronym), and those with under 10 employees must have an occupational health representative.

The *CMHS* has the following functions, among others:

- Elect a president and secretary
- Hold one meeting per month
- Monitor compliance with norms for the health and safety of workers
- Investigate workplace accidents
- Verify the supply of the Individual Protection Equipment and whether it is suitable to the risk to be prevented.
- Receive information from workers regarding health and safety
- Monitor the organization of fire prevention and first-aid squads.
- Inform the Ministry of Labor and Social Security of its activities every 6 months.

The inspectors from the Services Department for Occupational Health and Safety Inspections (*Departamento de Inspección de Higiene y Seguridad Ocupacional*) perform regular periodic inspections or inspections in response to complaints by employees, or at the company's request, and verify the on-site work conditions based on the general regulation for prevention of workplace accidents and occupational illnesses. As a result of the inspection, a legal document is written regarding the safety conditions found, detailing the deficiencies, risks and infringements found. The document is delivered to the company with indications of what needs to be corrected and the time frame in which to comply.

### *Description of Risk*

According to the Regional Institute for Studies on Toxic Substances (*Instituto Regional de Estudios en Sustancias Tóxicas (IRET-UNA*, Spanish acronym) and the Central American Health, Labor and Environment Program (*Programa Salud, Trabajo y Ambiente en América Central (SALTRA*, Spanish acronym), the following risks are reported in an occupational health document (Honduras Occupational Health Profile, 2013 (*Perfil de Salud Ocupacional Honduras*):

- Companies have a medium to low compliance Index with respect to labor and health laws.
- Non-compliance with measures and impunity against non-compliance.
- The highest exposure risks are: chemicals (insecticides), noise, work microclimate (humidity...) and others.
- Health and occupational safety services have low coverage and poor accessibility.
- It is difficult to determine data regarding professional risks due to under-registration and underreporting to health and safety services.

- Statistics regarding occupational risks and illnesses are not generated proactively by the responsible institutions (*IHSS, SS, STSS*)
- Low number of doctors specialized in occupational health

Experts interviewed about the topic indicated:

- Lack of culture or custom in the country in terms of the use of safety equipment and safe forestry labor practices.
- Organizations certified by FSC show a certain degree of responsibility in the use of safety equipment, but there is still a good deal of work to be done in this respect since its use is not continuous and the equipment is not always appropriate for the climatic conditions, making it uncomfortable to use, and therefore workers prefer not to use it. (The certified company has issued corrective actions, specifically, the mandatory use of safety equipment, the need to have first-aid kits available in case of accidents, and medical care coverage in case of accidents).

VPA-FLEGT complementary measures include an agreement between the *ICF* and the *STSS* to improve the labor and social security conditions for forestry work, in order to improve the application of hiring laws, payments and workplace safety in forestry activities.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.11.6. Risk designation and specification**

Specified risk

#### **1.11.7. Control measures and verifiers**

- Forest companies or forest organizations have basic health and safety equipment for their employees or associates.
- Companies with over 10 employees create a mixed health and safety committee (*Comité Mixto de Higiene y Seguridad (CMHS, Spanish acronym)*)
- Companies with less than 10 employees have an occupational health representative.
- Measures to prevent environmental pollution and safe handling of chemicals are implemented.
- Equipment is acquired that is appropriate to the scale, intensity and climate in which the forestry work is performed.
- The workers and employees know the risks to their health and safety that exist at the workplace.
- The workers are found to be properly registered for social security, or there is a contingency plan in case of accidents.

#### **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 the Republic: Art. 128, section 5. Available at: [http://www.ina.hn/userfiles/file/nuevos/constitucion de la republica de honduras.pdf](http://www.ina.hn/userfiles/file/nuevos/constitucion%20de%20la%20republica%20de%20honduras.pdf)
- Minimum salary: Minimum Wage Law: Arts. 2 and 12 (sections 'a' and 'b'). Available at: <http://www.trabajo.gob.hn/biblioteca-y-documentos/leyes/ley%20del%20salario%20minimo.pdf>
- Work contracts and permits: Labor Code: Arts. 20 to 25, 37 to 39, 40, 46, 53, 54, 59, 203, 381 and 387. Available at: [http://www.ccichonduras.org/website/descargas/leyes/LEYES LABORALES/CODIGO D E TRABAJO.pdf](http://www.ccichonduras.org/website/descargas/leyes/LEYES%20LABORALES/CODIGO%20DE%20TRABAJO.pdf)
- Insurance: Constitution of the Republic Arts. 142 to 144. Available at: [http://www.ina.hn/userfiles/file/nuevos/constitucion de la republica de honduras.pdf](http://www.ina.hn/userfiles/file/nuevos/constitucion%20de%20la%20republica%20de%20honduras.pdf)
- Social Security Law: Arts. 1 to 4, 7, 34, 42, 43, 45, 48 and 49. Available at: [http://www.ihss.hn/docs/Documents/Ley del Seguro Social](http://www.ihss.hn/docs/Documents/Ley%20del%20Seguro%20Social.pdf)
- Social Protection Law: Arts. 26, 29, 30 and 36. Available at: <http://www.trabajo.gob.hn/biblioteca-y-documentos/leyes/Ley%20Marco%20del%20Sistema%20de%20Proteccion%20Social.pdf>
- Minimum working age: Labor Code: Arts. 32, 34, 129 to 131 and 199. Available at: <http://www.trabajo.gob.hn/biblioteca-y-documentos/leyes/ley%20del%20salario%20minimo.pdf>
- Discrimination and Freedom of Association: Constitution of the Republic: Arts. 78. Available at: [http://www.ina.hn/userfiles/file/nuevos/constitucion de la republica de honduras.pdf](http://www.ina.hn/userfiles/file/nuevos/constitucion%20de%20la%20republica%20de%20honduras.pdf)
- Labor Law: Arts. 460, 468, 469, 471, 478 and 537. Available at:
- Penal Code: Art. 321. Available at: [http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20\(09\).pdf](http://www.poderjudicial.gob.hn/juris/Codigos/C%C3%B3digo%20Penal%20(09).pdf)
- Equal opportunity law for women: Arts. 46 and 55. Available at: <http://www.trabajo.gob.hn/biblioteca-y->

[documentos/leyes/Ley%20de%20Igualdad%20de%20Oportunidades%20para%20la%20Mujer%20Decreto%2034-2000.pdf](#)

#### 1.12.2. Legal authority

- Ministry of Labor and Social Security (*Secretaría de Trabajo y Seguridad Social (STSS*, Spanish acronym):
  - Department of General Labor Inspections (*Dirección de Inspección General del Trabajo*),
  - Honduras Social Security Institute (*Instituto Hondureño de Seguro Social (IHSS*, Spanish acronym),
  - Attorney General

#### 1.12.3. Legally required documents or records

- Labor contracts
- Registration of companies in the IHSS
- Proof of registration in the IHSS
- IHSS identity card
- Payroll forms
- Proof of payments

#### 1.12.4. Sources of information

##### *Government sources*

- *Secretaría de Estrategia y Comunicaciones. (N.Y.).* High compliance with labor rights guarantees compliance with the Hondurans 20/20 program (*Alto cumplimiento de los derechos laborales garantiza el cumplimiento del programa Honduras 20/20*). Ministry of Strategy and Communications.

##### *Non-Government sources*

- Casa Alianza Honduras. (2015). Situation of the rights of boys, girls and youth in Honduras (*Situación de derechos de niños, niñas y jóvenes en Honduras*). Casa Alianza Honduras. Available at:  
[http://www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Boletines-2015/02.%20e\\_book\\_resumen%20mayo%202015.pdf](http://www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Boletines-2015/02.%20e_book_resumen%20mayo%202015.pdf)
- World Vision Honduras (2015). Diagnostic of the Child Labor Situation in Honduras (*Diagnóstico de la situación del trabajo infantil en Honduras*). World Vision. Available at:  
<http://www.wvi.org/sites/default/files/Diagn%C3%B3stico%20Trabajo%20Infantil%20En%20Honduras.pdf>
- ASEPROLA. (2004). A look at 6 basic labor rights in Honduras (*Un vistazo por 6 derechos laborales básicos en Honduras*). Asociación Servicios de Promoción Laboral

(ASEPROLA). Available at: [http://www.laborrights.org/sites/default/files/publications-and-resources/Un\\_vistazo\\_a\\_6\\_Derechos\\_laborales\\_en\\_Honduras.pdf](http://www.laborrights.org/sites/default/files/publications-and-resources/Un_vistazo_a_6_Derechos_laborales_en_Honduras.pdf)

- UNICEF Honduras. (2010). Childhood in Honduras: Analysis of the Situation 2010 (*La Infancia en Honduras: Análisis de la situación 2010*). United Nations International Children's Emergency Fund (*Fondo de las Naciones Unidas para la Infancia*). Available at: [http://www.unicef.org/honduras/Sitan - Analisis de Situacion-Honduras 2010 2.pdf](http://www.unicef.org/honduras/Sitan_-_Análisis_de_Situacion-Honduras_2010_2.pdf)

#### 1.12.5. Risk determination

##### *Overview of Legal Requirements*

Forestry companies and forest owners must comply with legislation related to social security (registration of workers in the *IHSS*), contracts (labor code, individual and collective contracts), work of minors (children under 14 years of age are not permitted to work, and for minors, work in harvesting activities is classified as hazardous, according to the type of activity, with the exception of work in nurseries) and, freedom of association (labor code and related laws). The Department of General Labor Inspections (*Dirección de Inspección General del Trabajo*) is responsible for conducting inspections to verify compliance, performing regular periodic inspections or inspections in response to complaints. These inspections involve the review of contracts, payroll forms, work hours and payment of benefits such as vacations, or bonuses for permanent workers, among others. Verbal contracts are also accepted for forestry work.

With regard to discrimination of any type (race, sex, age, class, religion, political affiliation, among others), the penal code penalizes this behavior based on its severity, with imprisonment and fines of between 30,000 and 50,000 lempiras. The equal opportunity law for women also prohibits any type of discrimination based on sex or the status of women (for example, pregnancy) in the case of hiring and public job announcements.

##### *Description of Risk*

According to the studies and reports from national and international non-governmental organizations, the greatest risks are:

- High rates of child labor, especially in rural areas (74.1% child labor according to data from the National Institute of Statistics: Ongoing Survey of Households for Multiple Purposes, 2013 (*Instituto Nacional de Estadísticas: Encuesta permanente de hogares con propósitos múltiples*) and in farm work (livestock, silviculture, agriculture, hunting and fishing), where 59.7% of child labor is concentrated (World Vision: Diagnostic of the Child Labor Situation in Honduras, 2015: <http://www.wvi.org/sites/default/files/Diagn%C3%B3stico%20Trabajo%20Infantil%20En%20Honduras.pdf>)
- Non-compliance by employers with labor rights laws (ASEPROLA: 2004: A look at 6 basic labor rights in Honduras (Un vistazo por 6 derechos laborales básicos en Honduras: [http://www.laborrights.org/sites/default/files/publications-and-resources/Un\\_vistazo\\_a\\_6\\_Derechos\\_laborales\\_en\\_Honduras.pdf](http://www.laborrights.org/sites/default/files/publications-and-resources/Un_vistazo_a_6_Derechos_laborales_en_Honduras.pdf))
- Agricultural workers have poor access to social security services.



- Complaints related to violations of freedom of association for workers.
- The risk of finding unregistered workers in the forestry sector is very low (National Statistics Institute, Ongoing Survey of Households, 2013: Agriculture, silviculture, hunting and fishing activities with the highest underemployment indexes (*Instituto Nacional de Estadísticas, Encuesta permanente de hogares: Actividad de agricultura, silvicultura, caza y pesca con los mayores índices de subempleo*). The labor code authorizes verbal hiring in agriculture and livestock activities, as long as there are less than 10 employees, except for industrial or trading companies related to agriculture or livestock.

The experts consulted on this topic mentioned:

- Child labor is higher in rural areas, where it is generally seen as financial support for the family.
- Some companies follow the established norms, but there is little monitoring of companies that break them.

VPA-FLEGT complementary measures include entering into an agreement between the *ICF* and the *STSS* to improve verification of compliance with labor conditions by forestry companies.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.12.6. Risk designation and specification**

Specified risk

#### **1.12.7. Control measures and verifiers**

- Forestry employers (owners of industries and forests) shall comply with the legal requirements for hiring workers involved in harvesting and transformation activities.
- Consultations with *IHSS* and *STSS* authorities to verify the registration of workers by forest companies.
- Compliance with current minimum wage laws is required.
- Hiring children under 14 years of age is not permitted for forest harvesting work, and the minimum age for work considered to be hazardous shall be respected.
- Inspections of work sites to verify the non-existence of forced labor and other types of labor exploitation.
- Interviews with workers to verify that freedom of association and non-discrimination are respected.
- Consultations with *IHSS* inspectors to verify that the complaints and requests from workers have been addressed in the form of inspections of the companies to verify compliance with legislation.

## 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

- Customary Harvesting Rights (*Derechos Consuetudinarios sobre el aprovechamiento*), LFAPVS: Arts. 51, 57, 58, 126 and 128. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- LFAPVS Regulation: Art. 102. Available at: [http://www2.congreso.gob.pe/sicr/cendocbib/con4\\_uibd.nsf/2FC9E14AD296EE4205257DCB006E8695/\\$FILE/Reglamento\\_Forestal\\_honduras.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2FC9E14AD296EE4205257DCB006E8695/$FILE/Reglamento_Forestal_honduras.pdf)
- Property Law: Arts. 70, 71, 74 and 75. Available at: <https://www.ccit.hn/wp-content/uploads/2013/12/LEY-DE-PROPIEDAD.pdf>

#### 1.13.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym))

#### 1.13.3. Legally required documents or records

For community organizations:

- Registration in the Social Forest System.

For natural persons:

- Identity card,
- Proof from the Property Registry Office that there are no properties registered, and
- Proof from the National Agrarian Institute (*Instituto Nacional Agrario* (INA, Spanish acronym)) that the organization is not a beneficiary of agrarian reform.

#### 1.13.4. Sources of information

##### *Government sources*

- Instituto Nacional Agrario (INA). (N.Y.). Land Title Process: Ethnic sector (*Proceso de Titulación de tierras: Sector étnico*). National Agrarian Institute. Available at: [http://www.ina.hn/userfiles/proceso\\_sector\\_etnico.pdf](http://www.ina.hn/userfiles/proceso_sector_etnico.pdf)
- Instituto de la Propiedad. (2016). Over 7,000 families in Mosquitia benefitting from property titles (*Más de siete mil familias beneficiadas en la Mosquitia con títulos de propiedad*). [online]. Property Institute. Last updated 3 March. Available at: <http://www.ip.gob.hn/index.php/7miltitulos-la-mosquitia> [Accessed 4 October 2016]

##### *Non-Government sources*

- Inter-American Commission on Human Rights (IACHR). (2015). Human Rights Situation in Honduras, 2015 (*Situación de los Derechos Humanos en Honduras 2015*). The Organisation of American States, Inter-American Commission on Human Rights. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>
- Office of the United Nations High Commissioner for Human Rights (OHCHR). (2015). Honduras End of Special Mission Statement by the United Nations Special Rapporteur on the Rights of Indigenous Peoples (*Declaración Final Misión Honduras de la Relatora Especial de Naciones Unidas, sobre los derechos de los pueblos indígenas*). Office of the United Nations High Commissioner for Human Rights (*Naciones Unidas Derechos Humanos - Oficina Del Alto Comisionado*). Last Updated 10 November 2015. Available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=16740&LangID=S>
- Centro de estudio para la Democracia (CESPAD). (2015). Mining in Honduras: between the utopia of development and the battle of indigenous people in defense of their territories (*Monitoreo septiembre 2015: La Minería en Honduras: entre la utopia del desarrollo y la lucha de los pueblos por la defensa de sus territorios*). Research Centre for Democracy (*Centro de estudio para la Democracia*). Available at: <http://cespad.org/sites/default/files/Informe%20Monitoreo%20RRNN%201.pdf>

#### 1.13.5. Risk determination

##### *Overview of Legal Requirements*

Natural persons who demonstrate the peaceful and uninterrupted occupation of national forest land shall be beneficiaries of the regularization of forest land, and permitted to enter into management and usufruct contracts with the government. In addition, agroforestry groups in the social forest system may enter into community management contracts for forest harvesting on government land.

The legislation recognizes that the customary rights of indigenous peoples and national policies against racism and racial discrimination promote awarding of land titles to indigenous communities. Indigenous communities in Mosquitia, Honduras, have already been granted titles to ancestral lands. The rights of indigenous communities to own land have been recognized, and the government has implemented a Land Titling Program for Ethnic Groups, which from 1993 to 2015 issued 507 property titles to *PIAH* (Spanish acronym, *Pueblos Indígenas y Afrohondureños*), corresponding to a total area of 1,389,812 ha.

In order to issue “full domain” titles in territories occupied by indigenous and Afro-Honduran people, a procedure is applied which has been in effect since 2015 (Source: *VPA-FLEGT Legality Table*, INA: Title Awarding Process for the Ethnic Sector (*Proceso de Titulación Sector étnico*)), in which the indigenous peoples and Afro-Hondurans request a title from the corresponding institution (*ICF* or *INA*), which performs studies and investigations that are submitted to the *IP* for validation. The title is issued with safeguards, and the *IP* subsequently registers it in the property register and the unified registry system (*Sistema Unificado de Registro (SURE*, Spanish acronym).

##### *Description of Risk*

In Honduras, there are 7 groups of indigenous peoples (*Lenca, Maya-Chorti, Tolupan, Pech, Tawahka, Misquito* and *Nahua*) and 2 Afro-descendent ethnicities (*Garifuna* and the English-speaking black population). These groups are some of the most vulnerable in the country, presenting inequities in the areas of education and health.

The primary risk for these ethnic groups is when development activities, such as mining, tourism and the generation of renewable energies (sometimes authorized by government institutions), overlap with ancestral indigenous and Afro-Honduran territories or with land granted to communities for management. Several complaints have been presented nationally as well as internationally regarding the sale of municipality land or granting concessions for mining exploitations, tourism projects or renewable energy on indigenous or municipality land. (For example, the Agua Zarca Hydroelectric Dam in Lenca territory, cases related to the Triunfo de la Cruz and Punta Piedra *Garifuna* communities, which were resolved by the IACH, complaints related to mining projects filed by the *Tolupan* people before the UN, among others). In some cases, these vulnerable groups have been placed in at-risk situations. (Communities certified by the FSC in the northern region were affected by the construction of small projects for the generation of energy in areas with Community Forest Management Contracts, which resulted in corrective actions to prevent possible environmental damage: COATLAHL 2009 re-evaluation report and 2010 annual audit, available at the FSC webpage.)

Government experts indicated that the government is working on awarding land titles for indigenous lands and harmonizing laws that overlap with indigenous and Afro-Honduran ancestral rights.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.13.6. Risk designation and specification**

Specified risk

#### **1.13.7. Control measures and verifiers**

- Consultation with the parties involved (communities, indigenous peoples, *ICF, IP, DINAFROH*) confirms respect and recognition of customary rights.
- Field inspections for on-site verification of indigenous and Afro-Honduran territories.

### **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**

There is no national legislation for "free, prior and informed consent".

The Honduran government ratified ILO convention 169. In addition, article 18 of the Constitution of the Republic recognizes the international right by stating that international treaties and conventions ratified by the government take priority over national laws.

Nevertheless, the government experts consulted mentioned that there is currently no mechanism to implement FPIC CPLI (and since this has not been legislated, this sub-category does not currently apply) with which the government, through the *ICF*, can consult indigenous peoples. They indicated there is a draft bill for CPLI consultation (introduced in the National Congress and currently under review by indigenous and Afro-Honduran peoples) to consult each ethnicity in accordance with their customs.

One of the risks mentioned that face indigenous and Afro-Honduran peoples (*Pueblos Indígenas y Afrohondureños (PIAH*, Spanish acronym) in the defense of their ancestral territories is the approval of development projects (mining, hydroelectric dams, tourism projects, etc.) without prior consultations. Such complaints have been submitted to the national as well as international agencies (IACHR, UN) which document violations of this right established in ILO Convention 169, for example, IACHR: October 8, 2015 Ruling;

Hyperlinks:

- IACHR. (2015). Victory of la Cruz Garifuna Community vs. Honduras (*Comunidad Garífuna Triunfo de la Cruz y sus Miembros vs. Honduras*). Inter-American Court of Human Rights. Available at:  
[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_305\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_305_esp.pdf)
- OFRANEH. (2015). Dam in Río Cuyamel violates the right to prior consultation. (Represa en el Río Cuyamel violenta el derecho de consulta previa). [online]. Organización Fraternal Negra Hondureña (OFRANEH). Available at:  
<https://honduprensa.wordpress.com/2015/01/03/represa-en-el-rio-cuyamel-violenta-el-derecho-de-consulta-previa-ofraneh/> [Accessed 5 October 2016]
- OHCHR (2015, 10 November). End-of-mission statement on Honduras by the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz. [online]. Office of the United Nations High Commissioner for Human Rights. Available at:  
<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=16740&LangID=5> [Accessed 5 October 2016]

#### 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

Legislation related to Indigenous Peoples:

- Constitution of the Republic: Art. 346. Available at: [http://www.ina.hn/userfiles/file/nuevos/constitucion\\_de\\_la\\_republica\\_de\\_honduras.pdf](http://www.ina.hn/userfiles/file/nuevos/constitucion_de_la_republica_de_honduras.pdf)
- *LFAPVS*: Art. 45. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- General Environmental Law: Art. 71. Available at: [http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras\\_104-93.pdf](http://www.oas.org/dsd/fida/laws/legislation/honduras/honduras_104-93.pdf)
- ILO Convention 169: Arts. 6, 7, 14 and 15 (Ratified by Honduras), in addition, Art 18 of the constitution recognizes that the treaties and conventions ratified by the country take priority over national laws. Available at: [http://www.oit.org.pe/WDMS/bib/publ/libros/convenio\\_169\\_07.pdf](http://www.oit.org.pe/WDMS/bib/publ/libros/convenio_169_07.pdf)
- Property Law Arts. 93, 94 and 125. Available at: <http://www.ccit.hn/wp-content/uploads/2013/12/LEY-DE-PROPIEDAD.pdf>

#### 1.15.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (*ICF*, Spanish acronym))
- Federations and organizations of Indigenous and Afro-Honduran Peoples (indigenous peoples and Afro-Honduran government bodies)

#### 1.15.3. Legally required documents or records

- Meeting minutes from consultations with Indigenous and Afro-Honduran Peoples (*PIAH*, Spanish acronym),
- Land title documents for Indigenous and Afro-Honduran peoples ("full domain" titles given to the *PIAH*).

#### 1.15.4. Sources of information

*Government sources*

- National Agrarian Institute. (2014). Strategic Plan, title goals for indigenous territories - 2015-2018 (*Plan Estratégico - 2015-2018*). National Agrarian Institute (*Instituto Nacional Agrario*). Available at:

<http://www.ina.hn/userfiles/Plan%20Institucional%20INA%202012-2013%20-%20Auditoria-En%20revisi%C3%B3n.pdf>

- ICF. (2015). Agreement PW 18-2014: Declaration of the Pech Anthropological and Forest Reserve (*Declaración de Reserva Antropológica y Forestal Pech*). Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*). Available at: <http://icf.gob.hn/wp-content/uploads/2015/09/Acuerdo-PW-18-2014.pdf>

#### *Non-Government sources*

- Oas.org. (2015). Report on the Human Rights Situation in Honduras (*Situación de Derechos Humanos en Honduras*). IACHR (Inter-American Commission on Human Rights). Available at: <http://www.oas.org/es/IACHR/informes/pdfs/Honduras-es-2015.pdf>
- Forest Trends. (2015). Awarding land titles for indigenous territories in La Mosquitia, Honduras (*La titulación de territorios indígenas en la Mosquitia hondureña*) – Information Brief, August 2015. Forest Trends. Available at: [http://www.forest-trends.org/documents/files/doc\\_4976.pdf](http://www.forest-trends.org/documents/files/doc_4976.pdf)
- OFRANEH (2016, 5 April). Observatory of indigenous peoples in Honduras introduces draft Prior Consultation Law into National Congress (*Observatorio de los pueblos indígenas en Honduras introdujo anteproyecto Ley de Consulta Previa en el congreso nacional*). [online] Organización Fraternal Negra Hondureña (OFRANEH, Spanish acronym). Available at: <https://ofraneh.wordpress.com/2016/04/05/observatorio-de-los-pueblos-indigenas-de-honduras-introdujo-ante-proyecto-ley-de-consulta-previa-en-el-congreso-nacional/>
- Office of the United Nations High Commissioner for Human Rights (OHCHR). (2015). Honduras End of Special Mission Statement by the United Nations Special Rapporteur on the Rights of Indigenous Peoples (*Declaración Final Misión Honduras de la Relatora Especial de Naciones Unidas, sobre los derechos de los pueblos indígenas*). Office of the United Nations High Commissioner for Human Rights (*Naciones Unidas Derechos Humanos - Oficina Del Alto Comisionado*). Last Updated 10 November 2015. Available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=16740&LangID=S>

#### **1.15.5. Risk determination**

##### *Overview of Legal Requirements*

The Honduran government has signed ILO Convention 169 on indigenous and tribal peoples. Article 346 of the constitution of the republic stipulates that the government is responsible for the protection of indigenous peoples and their territories and forests. The *LFAPVS* and the General Environmental Law establish respect of indigenous peoples and their traditional ways of using natural resources. Concerning the government's recognition of the rights of Indigenous and Afro-Honduran Peoples (*PIAH*, Spanish acronym) over their ancestral lands, Chapter II of the Property Law includes the regularization of land for the *PIAH*.



### *Description of Risk*

In some cases of defense of territories and ancestral customs by the *PIAH*, public and private institutions have not considered their rights to the land and natural resources. This situation has been widely documented by human rights and indigenous rights organizations, such as the visit by the United Nations special rapporteur concerning the rights of indigenous peoples in November 2015, and the "2015 Report on Human Rights in Honduras" by the IACHR, in which the following aspects stand out:

- Lack of full recognition of the ancestral rights of indigenous peoples over their territories.
- Indigenous territories are threatened by invasion from third parties for the purpose of development projects, model cities, tourism and protected areas.
- Complaints against local authorities involved in illegal sales of indigenous ancestral territories.
- Creation of protected areas that overlap with indigenous territories, restricting access to the land and resources.
- Atmosphere of violence that affects indigenous peoples who defend their territories, and impunity surrounding these cases of violence.
- Lack of access to justice and lack of basic education and health services.
- Claims by third parties have been filed even in areas where indigenous communities hold titles.
- Approval of hydroelectric projects by national legislation without prior consultation with indigenous communities, such as the case of Agua Zarca, with the Lenca ethnicity.

Experts interviewed on the subject were of the opinion that, in the case of land titles awarded to the *PIAH*, a proper title transfer must be conducted to avoid subsequent claims. The country currently lacks a law to interpret what has been stipulated by the ILO (International Labour Organization) Convention 169 on Indigenous and Tribal Peoples in Independent Countries, especially with respect to free, prior, and informed consent. Therefore, the new law being drafted is aimed at fulfilling the expectations of the Indigenous and Afro-Honduran peoples in the country, who have been working on efforts to obtain a legal framework to guarantee their ancestral rights.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.15.6. Risk designation and specification**

Specified risk

#### **1.15.7. Control measures and verifiers**

- Consultations with authorities in institutions with influence in *PIAH* territories (*ICF, INA, IP*) to confirm that they have been consulted, and that the risks from activities that affect their ancestral territories have been identified.
- Forestry activities are performed through the *CPLI* in the indigenous and Afro-Honduras communities.
- Interviews with government entities related to the *PIAH* (attorney's office for ethnicities and *DINAFROH* (Spanish acronym, Department of Indigenous and Afro-Honduran People (*direccion de pueblos indigenas y afrohondureños*) to verify that complaints of violations of their rights have been addressed and the corresponding mitigation measures have been implemented.
- Review of documentation related to the land-title awarding process for the *PIAH*, and consultations in their communities to demonstrate that the government, through its institutions, has guaranteed their rights.

## 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

- Classification norms and regulations: Norms for the classification of Honduran pine saw timber (ICF), Guide for the classification of block saw timber and dimensioning of the broadleaf forest (Cuprofor-SOCODEVI): 8.1.1.1., 8.1.1.3., 8.2., 8.3. Available at: <http://documents.mx/documents/guia-clasificacion-de-madera-cuprofor-socodevi-definitiva-1.html>

#### 1.16.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre*)

#### 1.16.3. Legally required documents or records

- Transportation waybills (*guías de movilización*),
- Purchase-sales invoices,
- Contracts.

#### 1.16.4. Sources of information

##### *Government sources*

- Institute for Forest Conservation, Protected areas and Wildlife (Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)). Available at: <http://icf.gob.hn/>

##### *Non-Government sources*

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- Forestlegality.org. (N.Y.). Forest Legality Alliance Risk Tool. [online]. Available at: <http://www.forestlegality.org/risk-tool/countries/258/laws>
- Mfi.conadeh.hn. (N.Y.). Independent Forest Monitoring. [online]. Available at: <http://mfi.conadeh.hn/index.php/mfi>

#### 1.16.5. Risk determination

### *Overview of Legal Requirements*

The purchase-sales invoices and transportation waybills (*guías de movilización*) must indicate species, volumes and quantities. With respect to quality, existing norms are based on international guidelines and there are some drafts of norms by forest type (coniferous and broadleaf), but Honduras does not currently have a technical norm for the classification of timber. The tax payments do not differ based on quality.

### *Description of Risk*

Honduras is ranked 112 of 168 countries evaluated for international transparency, with a Corruption Perceptions Index of 31, category corresponding to a country with a high degree of corruption. With regard to illegal logging, due to the use of different methodologies (review of reports and studies by different authors about the topic, for example, Vallejo L., Murillo, A. and IFM reports), data are not available to determine reliable or comparable figures, but this is recognized to be a large problem involving corruption at various levels.

The IFM reports specify some of the illegal logging mechanisms, such as fraudulent timber invoices used by companies. On occasion, there have been reports of invoices without the corresponding stamps, or that do not match the product sold in terms of volumes, species and quantities (for example, 9% reported in 2005-2008 IFM reports, 16% illegal trade and 12% improper use of documents. In 2011, IFM reports an analysis of illegal logging and supervision by authorities).

The greatest risk is that the measures contained in the technical norms are rarely applied in the field, and technical supervision to evaluate compliance is not very effective. It is important to note the risk that can exist from incorrectly classifying species (for example, Navarro et. al., 2011), primarily in natural forests, due to the existence of protected species (CITES, prohibited species), on the other hand, the minimum felling diameters vary by species. There is also the risk of erroneous volumes reported, primarily for tax-evasion purposes.

The experts consulted cited the use of the same invoice more than once; the payment of bribes (involving police authorities); and incorrect classification to reduce payments (in broadleaf forests, different charges are applied depending on the species).

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.16.6. Risk designation and specification**

Specified risk

#### **1.16.7. Control measures and verifiers**

- The classification (species, volumes, quantities and quality) of the products on the purchase-sales invoices or on the shipping waybills (*guías de transporte*) stamped by the ICF shall correspond to the product sold or transported.

- Consultations with authorities in charge of the control of documentation accompanying transport (*ICF, Postas, Attorney General, IFM*) show evidence (reports, photographs of documents) of the correct classification of the product transported (species and quantities).
- Reports of *ICF* and *DEI* audits of forestry companies (primary and secondary) show compliance with the documentation in terms of classification of the product (species and quantities).

## 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

Documentation of transportation and sales:

- *LFAPVS*: Arts. 98 and 103. Available at: <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/LeyForestalAreasProtegidasVidaSilvestre.pdf>
- *LFAPVS* Regulation: Arts. 22, 230, 236, 235 and 238. Available at: [http://www2.congreso.gob.pe/sicr/cendocbib/con4\\_uibd.nsf/2FC9E14AD296EE4205257DCB006E8695/\\$FILE/Reglamento\\_Forestal\\_honduras.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/2FC9E14AD296EE4205257DCB006E8695/$FILE/Reglamento_Forestal_honduras.pdf)
- Invoicing regulation, other financial documents and the Financial Registry of Accountants Agreement 189-2014 *DEI*: Art. 19. Available at: <http://elcontador.org/images/pdf/ACUERDO189.2014.pdf>

### 1.17.2. Legal authority

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre*)
- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos (DEI, Spanish acronym)*)

### 1.17.3. Legally required documents or records

- Registry of primary and secondary companies with the *ICF*,
- Transportation waybill (*guía de movilización*) (document issued by the *ICF* in accordance with the FMP and AOP, for the transportation of round wood, saw timber and forest sub-products),
- Shipping waybill (*guía de remisión*) (document from the *DEI* that supports the transportation of merchandise through the national territory),

- Coded invoices issued by the company (authorized by the *DEI* and stamped by the *ICF*), proof of tax payments (*DEI* forms 272 and 352).

#### 1.17.4. Sources of information

##### *Government sources*

- ICF. (2011). Methodology for the Transportation of Forest Products (*Metodología Para El Control De Transporte De Productos Y Sub Productos Forestales*). Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym). Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Metodologia-Para-el-Transporte-de-Productos-Forestales.pdf>
- Executive Department of Revenue (*Dirección Ejecutiva de Ingresos (DEI*, Spanish acronym): economic activities code: <http://www.dei.gob.hn/website/uploaded/content/category/1721427521.pdf>

##### *Non-Government sources*

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]
- Independent Forest Monitoring Reports: II (2005-2006), IV (2005-2008), Analysis of Illegal Logging and monitoring of the application of legislation by the corresponding authorities (2011), Analysis and follow-up of IFM reports, 2014-2015.
- Navarro M., G.A.N., O. J., Santamaría G., L.C., Vargas B. & V. Milla Q. (2011). Analysis of International Timber Trade Products and Administrative Governance: Central America and the Dominican Republic region, 2000-2011 (*Análisis del Comercio Internacional de Productos de Madera y su Gobernanza Administrativa: Región de América Central y la República Dominicana*). International Union for Conservation of Nature (IUCN). Available at: [http://cmsdata.iucn.org/downloads/analisis\\_del\\_comercio\\_internacional\\_version\\_digital.pdf](http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf)
- Vallejo, L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis\\_marco\\_legal\\_para\\_aprovechamiento\\_y\\_comercio\\_de\\_madera\\_23oct13.docx+&cd=2&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=2&hl=es&ct=clnk&gl=hn)

#### 1.17.5. Risk determination

##### *Overview of Legal Requirements*

Forestry companies (primary or secondary) shall be duly registered with the *ICF* and the corresponding municipality. They shall also meet all the legal operating requirements (environmental licenses and legal registrations).

To transport timber (roundwood, saw timber, products and sub-products) from the forest to primary and secondary forestry companies, transportation waybills (*guías de*

*movilización*) are used, which are generated by the *ICF* in accordance with the respective AOP (a certain quantity is issued based on the capacity of the vehicles' load and the quantity of timber to be extracted). Each regional *ICF* office delivers these waybills, and each region keeps a receipt book as a registry of the waybills that are delivered, with receipt numbers correlating to the waybills to facilitate control.

To transport saw timber sold by the forestry industry (primary, secondary, or locations where timber is sold), coded purchase/sales invoices are used, which are issued by the companies (in accordance with invoicing guidelines), and authorized by the *DEI* and stamped by the *ICF* (safety stamps). Each forestry company registered with the *ICF* presents a monthly production report, which describes in detail the incoming and outgoing timber for the month, and the *ICF* performs technical audits of the companies to corroborate the data.

In addition, timber transported from the forest to companies, and wood sold by companies or at sales locations, is accompanied by a shipping waybill (*guía de remisión*) which is a document required by the *DEI* based on invoicing guidelines.

### *Description of Risk*

Honduras is ranked 112 out of 168 countries evaluated for international transparency, with a Corruption Perceptions Index of 31, category corresponding to a country with a high degree of corruption.

Percentages of illegal timber trafficking cited by several publications are consistent with a study about illegal timber performed in the 1990s (Filipo del Gatto). According to the experts interviewed, no current study exists to enable comparing data and analyzing the evolution of the causes (which also involve the current situation regarding lack of safety and organized crime). Nevertheless, the majority agrees that it is a serious problem, which impacts the environment and contributes to large economic losses.

The following risks are mentioned, among others:

- Through various institutions (*ICF*, *DEI*, police and others), the government has tried to reduce illegality, but the greatest problem is how to ensure that those responsible for control take correct actions.
- Corruption is present throughout nearly the entire chain of custody for timber, such as: payments of bribes to authorities, trucks without invoices that travel during unauthorized hours, use of transportation waybills (*guías de movilización*) more than once, transporting CITES species under the names of other less valuable species, among others (IFM reports, Navarro *et. al.* 2011, *CESPAD*, among others, cite some of these cases).
- Control does not exist throughout the entire value chain, leaving space open for illegality (there is a large degree of control in the industry, but not in smaller companies such as lumber yards, timber trade warehouses, carpentry shops and small workshops).
- There are a lot of control-related regulations, but little supervision in the field.



- IFM reports describe various methods used to launder timber (in volume, species and documents that accompany shipping, such as fraudulent transportation waybills (*guías de movilización*) and invoices

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.17.6. Risk designation and specification**

Specified risk

#### **1.17.7. Control measures and verifiers**

- The species and products are marketed and sold according to current regulations (*ICF, DEI*).
- Transportation waybills (*guías de movilización*) and invoices must meet all the safety requirements (*ICF* stamps, safety stamps, *DEI* registration, etc.)
- Shipping documents must match the products (species, quantities).
- The hours to transport any type of timber must be respected (5:00 a.m. to 9:00 p.m.)
- Consultations with the *ICF*, national police, Justice Department, to ensure control over the transportation of products and sub-products
- Consultations with the authorities responsible for the control of documentation related to timber trade and transportation, to corroborate the implementation of controls over companies that falsify transportation documents such as waybills and invoices.

#### **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**

Legislation that regulates the transfer of prices and trade outside the territory:

- Tax Code Art. 87-A, Transfer Prices Regulatory Law Arts. 2 and 3, Sections 2 to 5, 6, 8 and 10. Available at:

[http://www.poderjudicial.gob.hn/juris/Leyes/CODIGO%20TRIBUTARIO%20\(actualizada-07\).pdf](http://www.poderjudicial.gob.hn/juris/Leyes/CODIGO%20TRIBUTARIO%20(actualizada-07).pdf)

- Regulatory Law for the Regulation of Transfer Prices. Available at: <http://www.dei.gob.hn/website/uploaded/content/article/280454502.pdf>

#### **1.18.2. Legal authority**

- Executive Department of Revenue (Dirección Ejecutiva de Ingresos (*DEI*, Spanish acronym))

#### **1.18.3. Legally required documents or records**

- Income tax declaration,
- Detailing expenses and income,
- Information on sales invoices, transaction registries, among others, in order to determine the value of their operations with related parties,
- Annual sworn informative declaration of transfer prices.
- Evidentiary information (study of transfer prices)

#### **1.18.4. Sources of information**

##### *Government sources*

- ccichonduras.org. (2015). Frequently Asked Questions about Transfer Prices (*Preguntas Frecuentes Precios de Transferencias*). Honduras Chamber of Commerce and Felling Industries (*Cámara de Comercio e Industrias de Cortes (CCIC*, Spanish acronym)). Available at: <http://www.ccichonduras.org/website/Descargas/PRESENTACIONES/2015/03-Marzo/DEI/PRECIOS DE TRANSFERENCIA TRIFOLIO.pdf>
- Executive Department of Revenue (DEI). Presentation on Transfer Prices Law (Ley de Regulación De Precios De Transferencia). Slideshow by Dirección Ejecutiva de Ingresos (DEI). Available at: <http://www.sefin.gob.hn/wp-content/uploads/2016/06/ACUERDONo027-2015.pdf>

##### *Non-Government sources*

- Diario el Heraldo (2016, 2 June). The Internal Revenue Service Issues Fines for Non-Compliance with Transfer Prices (*SAT aplica multas por incumplimiento de precios de transferencia*). [online]. Diario el Heraldo. Available at: <http://www.elheraldo.hn/economia/dineroynegocios/966170-466/sat-aplica-multas-por-incumplimiento-de-precios-de-transferencia> [Accessed 5 October 2016]
- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/> [Accessed 3 October 2016]

#### **1.18.5. Risk determination**

##### *Overview of Legal Requirements*

Honduras has legislation that regulates transfer prices (Transfer Prices Regulatory Law (*Ley de Regulación de precios de transferencia*) Arts.: 2, 3 Sections 2 to 5, 5, 6, 8 and 10), which specifies the procedure to be used by the *DEI* for trade outside the territory, in order to prevent tax evasion among the related parties.

According to *DEI* procedures, the companies (4 types of companies: large and medium companies that as of December 31 report having transactions with related local parties and/or with parties outside the territory, taxpayers who have operations with persons in tax havens, persons belonging to special tax regimes, and persons who have had income over 1 million dollars with related parties) are subject to the transfer price regulatory law and shall submit an annual sworn informative declaration of transfer prices and a study of transfer prices. In the case of non-compliance with this requirement, financial penalties may be applied, which are established by the transfer price regulation.

#### *Description of Risk*

According to the experts consulted, not many cases of trade outside the territory exist in the forestry industry (what does occur is laundering in the chain of custody, where legal timber is transported during the day and illegal timber at night, with the payment of bribes to soldiers and police. Other types of laundering also exist, such as representing a species as a different species).

#### *Risk Conclusion*

Although no examples have been found of trade outside the territory and price transfers in the forestry industry, there have been accusations of illegal transactions in the forestry industry (representing a species as a different species, illegal border crossings, and legal exportation of products from uncertain sources), therefore it would be risky to classify this category as "low risk".

"Specified Risk" (until sufficient information is available).

#### **1.18.6. Risk designation and specification**

Specified risk

#### **1.18.7. Control measures and verifiers**

- The consultations with the institutions that regulate transfer prices corroborate that forestry companies that have transactions with related parties meet the legal requirements.

### **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 legislation:

- Taxpayer Equity Law: Art. 27. Available at: <http://www.poderjudicial.gob.hn/juris/Leyes/LEY%20DE%20EQUIDAD%20TRIBUTARIA%20REFORMADA.pdf>

- Central American Uniform Customs Code (*Código Aduanero Uniforme Centroamericano* (CAUCA, Spanish acronym)): Arts. 16, 45, 46, 48, 51 and 52 CAUCA Regulation: Arts. 317 to 321, 358, 371, 372 and 374. Available at: <http://www.sefin.gob.hn/data/leyes/CODIGO%20DE%20ADUANA%20UNIFORME%20CENTROAMERICANO.pdf>
- CAUCA Regulation. Available at: <http://www.sre.gob.hn/inicio/Leyes/reglamento-del-codigo-aduanero.pdf>

#### 1.19.2. Legal authority

- Executive Department of Revenue (*DEI*, Spanish acronym),
- Ministry of Agriculture and Livestock (*Secretaría de Agricultura y Ganadería* (SAG, Spanish acronym),
- International Regional Organization for Plant and Livestock Health (*Organismo Internacional Regional de Sanidad Agropecuaria* (OIRSA, Spanish acronym)

#### 1.19.3. Legally required documents or records

- National Taxpayer Register (*Registro Tributario Nacional* (RTN, Spanish acronym) detailing financial activities
- Single Customs Declaration Register (*Registro de Declaración Única Aduanera* (DUA, Spanish acronym)
- Clearance Authorization
- Sales invoice
- Certificate from CENTREX
- Phytosanitary certificate
- CITES certificate
- Certificate of Origin

#### 1.19.4. Sources of information

##### *Government sources*

- CAFTA-DR. (N.Y.). Definitive Customs Import and Export Procedures Manual for Honduras (*Manual de Procedimientos Aduaneros de Importación y Exportación definitivos para Honduras*).
- Executive Department of Revenue. (2010). Customs Procedures Manual (*Manual de Procedimientos Aduaneros*). [online]. *Dirección Ejecutiva de Ingresos* (DEI, Spanish acronym): Available at: <http://www.dei.gob.hn/website/uploaded/content/category/1268580696.pdf>
- Ministry of Agriculture and Livestock. (2014). Regulation for the packaging of timber used in international trade (*Reglamento para Embalaje de Madera utilizado en el Comercio Internacional*). Secretaría de Agricultura y Ganadería (SAG, Spanish acronym). Available at: <http://www.senasa-sag.gob.hn/wp->

[content/uploads/2014/08/Reglamento-para-Embalaje-de-Madera-utilizado-en-el-Comercio-Internacional.pdf](#)

- International Regional Organization for Plant and Livestock Health. (N.Y.). Procedures Manual for the Application of Quarantine Control Methods. Organismo Internacional Regional de Sanidad Agropecuaria (OIRSA, Spanish acronym).

#### *Non-Government sources*

- Navarro M., G.A.N., O. J., Santamaría G., L.C., Vargas B. & V. Milla Q. (2011). Analysis of International Timber Trade Products and Administrative Governance: Central America and the Dominican Republic region, 2000-2011 (*Análisis del Comercio Internacional de Productos de Madera y su Gobernanza Administrativa: Región de América Central y la República Dominicana*). International Union for Conservation of Nature (IUCN). Available at: [http://cmsdata.iucn.org/downloads/analisis del comercio internacional version digital.pdf](http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf)
- Vallejo L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). IUCN Regional Office for Mesoamerica/Caribbean Initiative (*Oficina Regional de UICN para Mesoamérica/Iniciativa Caribe*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis marco legal para aprovechamiento y comercio de madera 23oct13 .docx+&cd=4&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwwQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn)
- Diario La Prensa. (2015, 2 May). Drug traffickers invent new ways to transport drugs (*Narcos se ingenian nuevas formas para trasegar drogas*). [online]. La Prensa. Available at: <http://www.laprensa.hn/honduras/tegucigalpa/836370-410/narcos-se-ingenian-nuevas-formas-para-trasegar-drogas> [Accessed 5 October 2016]
- Diario El Heraldo. (2014, 7 April). Honduras lost 2,250 million due to customs bribes (*Honduras perdió 2,250 millones por sobornos en aduanas*). [online]. El Heraldo. Available at: <http://www.elheraldo.hn/economia/610204-216/honduras-perdio-2250-millones-por-sobornos-en-aduanas>
- Diario El Heraldo. (2014, 23 December). Honduras: 339 kilos of cocaine found in circuit boards (*Honduras: Hallan 339 kilos de "coca" en regletas*). [online]. El Heraldo. Available at: <http://www.elheraldo.hn/sucesos/779403-219/honduras-hallan-339-kilos-de-coca-en-regletas> [Accessed 5 October 2016]
- IPSNoticias.net. (2005, 3 November). Environment-Honduras: Devastating and Corrupt Illegal Logging (*Ambiente-Honduras: Devastadora y corrupta tala ilegal*). [online]. Inter Press Service (IPS). Available at: <http://www.ipsnoticias.net/2005/11/ambiente-honduras-devastadora-y-corrupta-tala-ilegal/> [Accessed 5 October 2016]
- CONEXIHON. (2013, 23 July). Colombian Mafia Now Trafficking Timber and Gold in Honduras (*Mafia colombiana ahora trafica con madera y oro en Honduras*). [online]. Available at: <http://conexihon.hn/site/noticia/derechos-humanos/ddhh->

[investigaciones/mafia-colombiana-ahora-trafica-con-madera-y-oro-en](#)[Accessed 5 October 2016]

- Asjhonduras.com. (N.Y.). *Information on Corruption Perceptions Index 2015*. [online]. Construyendo Transparencia en Honduras (Transparency International in Honduras). Available at: <http://asjhonduras.com/ti-asj/>[Accessed 3 October 2016]

#### 1.19.5. Risk determination

##### *Overview of Legal Requirements*

The exportation of timber and timber products (including packaging) in Honduras is subject to international phytosanitary regulations and the issuance of CITES certificates by SAG. Norms are required for each market with respect to packaging, phytosanitary certificates, and customs and sales invoices. There is also cross-checking of export certificates, which guarantees compliance with administrative procedures.

Every exporter or importer of timber or timber products shall be registered with the Executive Department of Revenue (*Dirección Ejecutiva de ingresos (DEI*, Spanish acronym) and have a taxpayer number (*RTN*, Spanish acronym). Customs procedures are performed by a customs agent, who registers the single customs declaration (*declaración única aduanera (DUA*, Spanish acronym) within the Automated Customs Revenue System (*Sistema Automatizado de Rentas Aduaneras (SARAH*, Spanish acronym). After registering and obtaining the *DUA*, documentation is submitted to customs, at which point an official verifies that it is in order and the exporter is registered in the E-TAX system, in order to proceed with the clearance authorization. In addition, exporters of CITES species shall submit the corresponding certificates to prove the legality of origin.

##### *Description of Risk*

In addition to the position in the corruption ranking and statistics regarding illegal trade of timber, several studies on trade (Navarro et al., 2011: Analysis of International Timber Trade Products and Administrative Governance: Central America and the Dominican Republic region, 2000-2011 (*Análisis del Comercio Internacional de Productos de Madera y su Gobernanza Administrativa: Región de América Central y la República Dominicana*) indicate that "even though there is administrative compliance with customs requirements, this does not necessarily ensure that the timber has been legally harvested." The need for verification mechanisms to ensure the legal source of the project is indicated.

In national media sources (for example, *La Prensa*, 2015, 2 May), risks have been reported involving: illegal shipments (cases have been registered in which narcotics have been found hidden in forestry shipments); illegal timber shipments; and the improper preparation of exportation documents (for example, Navarro et. al. 2011, in a regional analysis, report the existence of financial incentives to evade forestry or phytosanitary permits, or obtain them through false declarations that do not conform to national and international laws). It is known in the region that there is a high degree of corruption involving bribes, though this is not formally denounced (for example, *ISPNoticias: Environment-Honduras: Devastating and Corrupt Illegal Logging*: <http://www.ipsnoticias.net/2005/11/ambiente-honduras-devastadora-y-corrupta-tala->

illegal/, accusation of the illegal transportation of mahogany from Honduras to Nicaragua, from where it is exported as “Nicaraguan timber”).

The experts interviewed agree that there is corruption in the customs agency and that the personnel that review certain procedures are not different from those who authorize them (it was reported that efforts are being made to train customs personnel to macroscopically identify species, given the difficulty of having *ICF* and *SAG* technicians available at customs points). Another point, which was mentioned, was the laundering of timber, in which the product passes illegally through blind spots on the border and then enters the country with legal documentation from other countries in the region.

With the signing of the VPA-FLEGT, a System to Ensure Legality (*Sistema de Aseguramiento de la Legalidad* (*SALH*, Spanish acronym) is expected to be developed, and the effective implementation of the National Strategy Against Illegal Logging (*Estrategia Nacional contra la Tala Ilegal* (*ENCTI*, Spanish acronym) is expected to ensure the export of products from legal sources to international markets.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.19.6. Risk designation and specification**

Specified risk

#### **1.19.7. Control measures and verifiers**

- Consultations with the responsible authorities, ranging from the forest (*ICF*, municipalities, *MiAmbiente*) to industry (*DEI*, *ICF*) and the final product (for example, *DEI*, *OIRSA*, *SAG*) make it possible to verify the origin of forestry products.
- Interviews with authorities responsible for national processes (*ENCTI*) and international processes (VPA-FLEGT) in order to verify legality enable verification of compliance with legal procedures related to the export and import of forestry products.
- All the administrative procedures and requirements for the export of timber and timber products are met (cross-checking, Timber Tracing System (*Sistema de Rastreo de Madera* (*SIRMA*, Spanish acronym, which according to government experts, will be implemented by the *ICF*)), consultations with *DEI* authorities to verify that there has not been any tax evasion, and that verification has been performed and it matches the declared merchandise.)

#### **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**



Laws related to permits to export CITES species:

- *LFAPVS*: Arts. 102 & 118. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- Regulation for Procedures to apply the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in Honduras: Arts. 25 to 30, Agreement No. 936-13. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Acuerdo-No-936-13-Comercio-Internacional-de-Especies.pdf>
- *ICF*: Instructional 001, for the process and issuance of reports and rulings that correspond to the ICF prior to soliciting CITES certification for commercial use. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Requisitos-Flora-y-Fauna-CITES.pdf>

#### 1.20.2. Legal authority

Scientific authority: In compliance with Agreement No. 936-13, the following institutions are designated as scientific CITES authorities:

- Zamorano Biodiversity Center (*Centro Zamorano de Biodiversidad*), of El Zamorano Pan-American School of Agriculture (*Escuela Agrícola Panamericana El Zamorano (EAP*, Spanish acronym))
- Lancetilla Botanical Garden (Jardín Botánico Lancetilla), part of El Zamorano Pan-American School of Agriculture (*ESNACIFOR*, as of June 2016 National University for Forestry Sciences (*Universidad Nacional de Ciencias Forestales (UNACIFOR*, Spanish acronym))
- School of Biology, National Autonomous University of Honduras (*UNAH*, Spanish acronym)
- General Department of Biodiversity of the Ministry of Natural Resources and the Environment (*Secretaría de Recursos Naturales y Ambiente (DiBio*, Spanish acronym))
- *ICF* Department of Wildlife
- General Department of Fisheries and Aquaculture, of the Ministry of Agriculture and Livestock (*DIGEPESCA*, Spanish acronym)

Administrative Authority:

- Ministry of Agriculture and Livestock (*Secretaría de Agricultura y Ganadería (SAG*, Spanish acronym)), National CITES office

#### 1.20.3. Legally required documents or records

- Registration of the business owner with the national CITES office
- Request for permit
- Certificate of origin
- Approved CITES certificate

#### 1.20.4. Sources of information

##### *Government sources*

- Ministry of Natural Resources and the Environment. (2010). Country Report IV: 2010 Convention on Biological Diversity (*IV Informe De Pais: Convención sobre Diversidad Biológica, Enero 2010*). Ministry of Natural Resources and Environment (*Secretaría de Recursos Naturales y Ambiente, SERNA, Spanish acronym*), General Department of Biodiversity (*Dirección General de Biodiversidad, DiBio, Spanish acronym*). Available at: <https://www.cbd.int/doc/world/hn/hn-nr-04-es.pdf>
- CITES. (N.Y.). National CITES Office in Honduras (Country page). [online]. Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres (CITES). Available at: <https://cites.org/esp/cms/index.php/component/cp/country/HN>
- ICF. (2015). Export Register for CITES Flora Species (*Registro Exportación de flora Especies CITES*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*. Available at: <http://icf.gob.hn/wp-content/uploads/2015/08/Exportacion-de-Flora-CITES.pdf>

##### *Non-Government sources*

- Navarro M., G.A.N., O. J., Santamaría G., L.C., Vargas B. & V. Milla Q. (2011). Analysis of International Timber Trade Products and Administrative Governance: Central America and the Dominican Republic region, 2000-2011 (*Análisis del Comercio Internacional de Productos de Madera y su Gobernanza Administrativa: Región de América Central y la República Dominicana*). International Union for Conservation of Nature (IUCN). Available at: [http://cmsdata.iucn.org/downloads/analisis\\_del\\_comercio\\_internacional\\_version\\_digital.pdf](http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf)
- Vallejo L. M. (2013). Analysis of the Legal Framework for Sustainable Timber Harvesting and Trade in the Mesoamerica Region: Case of Honduras (*Análisis del Marco Legal para el Aprovechamiento sostenible y comercio de la madera en la región de Mesoamérica: Caso Honduras*). IUCN Regional Office for Mesoamerica/Caribbean Initiative (*Oficina Regional de UICN para Mesoamérica/Iniciativa Caribe*). Available at: [https://webcache.googleusercontent.com/search?q=cache:TPwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis\\_marco\\_legal\\_para\\_aprovechamiento\\_y\\_comercio\\_de\\_madera\\_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn](https://webcache.googleusercontent.com/search?q=cache:TPwwvQegmtEJ:https://cmsdata.iucn.org/downloads/analisis_marco_legal_para_aprovechamiento_y_comercio_de_madera_23oct13.docx+&cd=4&hl=es&ct=clnk&gl=hn)

#### 1.20.5. Risk determination

##### *Overview of Legal Requirements*

In accordance with CITES regulations, the applications to export CITES species shall be submitted to the *SAG* through a legal representative. Its acceptance is decided within a period of three working days. If the application pertains to a species requiring a ruling by the *ICF*, the applicant shall have submitted the application previously to the *ICF*, and submit to the *SAG* the technical scientific ruling along with the application for permit. The application shall also include other documents, such as: original and copy of the

company's articles of incorporation and bylaws, certificate of origin of the timber, company's environmental license, export invoice.

After the *SAG* issues its ruling, the administrative decision shall be issued within two working days. After the resolution is signed by a *SAG* official, it shall be signed by the national CITES office official who shall generate the CITES certificate or permit.

#### *Description of Risk*

Although the procedure to obtain CITES certificates meets the administrative requirements for their issuance, and legislation has been reformed to simplify the administrative process (the experts interviewed mentioned that, in practice, the administrative process takes longer than expected), some studies cite the risk of legally exporting illegally harvested timber with a CITES certificate (Navarro et All, 2011). In addition, there is mention of the need for a verification system that enables tracing the timber from its origin. The country has made efforts to strengthen these weaknesses, such as negotiations for the signature of the VPA-FLEGT with the EU, and the design of a strategy to control illegal timber (*ENCTI*, Spanish acronym). In a study of trade in the Central American region (Navarro et al., 2011), cases have been identified in which the name of the species (covered by CITES) to be exported is changed to one that is not covered by CITES, to avoid paying for the certificate (experts consulted confirmed this information). In other cases, only one CITES species is declared while two are exported in the same shipment. Also mentioned is that "the CITES statistics compiled by the administrative authorities do not match the tariff items and therefore cannot be cross-checked with the trade statistics from the countries."

The government experts consulted indicated that a unified system is used, which enables cross-verification of statistics among related institutions (*ICF*, *SAG* and others).

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.20.6. Risk designation and specification**

Specified risk

#### **1.20.7. Control measures and verifiers**

- The issuance of CITES certificates must follow a rigorous procedure to enable coordination with systems that verify the legal origin of the product (*SALH*, *ENCTI*).
- All cross-border trade of CITES species must include the legally required documentation, such as export certificates and permits issued by the corresponding authorities (*SAG*, *ICF*, *DEI*, *OIRSA* etc.)
- Interviews with the responsible authorities (*ICF*, *SAG*) must ensure that the CITES list of species for Honduras is being applied and respected.

#### **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**

There are no legislation covering due diligence/due care procedures.

Laws on ensuring the legality of the timber trade:

- National Strategy Against Illegal Logging (Estrategia Nacional Contra la Tala Ilegal - ENCTI, Spanish acronym) in compliance with Art. 18, sub-paragraph 22 of the LFAPVS. Available at: <http://www.tsc.gob.hn/leyes/Ley%20Forestal,%20Areas%20Protegidas%20y%20Vida%20Silvestre.pdf>
- VPA-FLEGT Round of Negotiations between Honduras and the EU: Development of the legality table with the current regulations and in the process of developing a system to ensure legality (SALH, Spanish acronym). Available at: [http://icf.gob.hn/?page\\_id=2397](http://icf.gob.hn/?page_id=2397)

#### **1.21.2. Legal authority**

- Institute for Forest Conservation, Protected areas and Wildlife (*Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre* (ICF, Spanish acronym)),
- Ministry of Labor and Social Security (*Secretaría de Trabajo y Seguridad Social*),
- Institute for Access to Public Information (*Instituto de Acceso a la información Pública*),
- Property Institute (*Instituto de la Propiedad*),
- Ministry of Energy, Natural Resources, the Environment and Mines (*Secretaría de Energía, Recursos Naturales, Ambiente y Minas: MiAmbiente*),
- National Agrarian Institute (*Instituto Nacional Agrario*),
- Municipalities.

#### **1.21.3. Legally required documents or records**

- Currently in force and approved management and operating plans,
- Permits,
- Registrations,
- Waybills,
- Invoices,
- Reports,
- Taxpayer declarations
- Customs declarations

- (VPA-FLEGT certificate when available)

#### 1.21.4. Sources of information

##### *Government sources*

- ICF. (N.Y.). Supports Record of Round of Negotiations with the EU (*Ayudas Memoria Rondas de Negociaciones con la UE*). [online]. *Instituto de Conservación Forestal Áreas Protegidas y Vida Silvestre (ICF, Spanish acronym)*. Available at: [http://icf.gob.hn/?page\\_id=2397](http://icf.gob.hn/?page_id=2397) [Accessed 5 October 2016]
- Ministry of Energy, Natural Resources, the Environment and Mines (MiAmbiente). (2016, 17 February). Honduras heads up Latin American efforts for forest governance (*Honduras encabeza esfuerzos Latinoamericanos por Gobernanza Forestal*). [online]. Ministerio de Energía, Recursos Naturales, Ambiente y minas (MiAmbiente, Spanish acronym). Available at: <http://www.miambiente.gob.hn/?q=node/686>
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#### 1.21.5. Risk determination

##### *Overview of Legal Requirements*

There is no legislation on due diligence/due care in Honduras.

However, as a representative of the government, the *ICF* has initiated negotiations with the EU to enter into the VPA-FLEGT, which may occur in the second half of 2016 according to the government experts consulted (nevertheless some experts from other sectors indicate that it will take longer to sign the agreement with the EU). To this end,

the legality table has been generated and a Legality Assurance System (*Sistema de Aseguramiento de la Legalidad* (*SALH*, Spanish acronym) is in the process of being created. As a complement, the government has developed a national strategy against illegal logging (*ENCTI*) coordinated by the *ICF* with the support of all stakeholders along the chain of custody.

For both processes, it is not yet possible to evaluate the impact on reducing and controlling illegal logging and trade. The non-government experts consulted mentioned that, in order for the signature of the agreement to help governance, the institutions (*SAHL*, *ENCTI*) in charge of the control and supervision of the systems developed need to be strengthened.

*Description of Risk*

N/A

*Risk Conclusion*

N/A

**1.21.6. Risk designation and specification**

N/A

**1.21.7. Control measures and verifiers**

N/A

## Annex I. Timber source types

The table **Timber Source Types in Honduras** 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.
- g. could be a concession license, harvest permit, community forestry permit etc.



## TIMBER SOURCE TYPES IN HONDURAS

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural Forest	Broadleaf (moist, moist floodplain, deciduous)	Productive forests, protection forests, protected areas, declared micro-watersheds	Public/private	National public, municipality-owned ( <i>ejidales</i> ) public, Private individual, Tribal, Private Communal, Private Collective	<ul style="list-style-type: none"> <li>Property title</li> <li>Management contract</li> <li>Management plan</li> <li>Communal Forest</li> <li>Management Contract</li> </ul>	Timber from broadleaf species sourced from National Public Forest/Municipality-owned ( <i>ejidales</i> ) Public Forest, Private Forest.  Forests in government areas assigned to private individuals or communities through a management contract which may be short-, medium- or long-term.
	Coniferous (dense, sparse)	Productive forests, protection forests, protected areas, declared micro-watersheds	Public/private	National public, municipality-owned ( <i>ejidales</i> ) public, Private individual, Private tribal, Private communal, Private collective	<b>Main license requirements:</b> <ul style="list-style-type: none"> <li>Management</li> <li>Operating Plan</li> <li>Salvage Plan (infested areas)</li> </ul>	Timber from coniferous species sourced from National Public Forest/Municipality-owned ( <i>ejidales</i> ) Public Forest, Private Forest.  Forests belonging to municipalities and managed by the municipality, or assigned to legal persons or communities.
	Mixed	Productive forests, protection forests, protected areas, declared micro-watersheds	Public/private	National public, municipality-owned ( <i>ejidales</i> ) public, Private individual, Private tribal, Private communal, Private collective		Timber from mixed species sourced from National Public Forest/Municipality-owned ( <i>ejidales</i> ) Public Forest, Private Forest  Forest property belonging to individual persons or collectives such as tribes, communities or groups of several property owners
	Mangrove (tall, low)	RAMSAR areas	Public	National public/municipality-owned ( <i>ejidales</i> ) public.		No source  Timber from mangrove species sourced from National Public Forest/Municipality-owned ( <i>ejidales</i> ) Public Forest
Plantation forest	Plantation forest	Plantations	Private/public	National public, municipality-owned ( <i>ejidales</i> ) public/ private	<ul style="list-style-type: none"> <li>Property title</li> <li>Certificate</li> </ul> <b>Main license requirements:</b> <ul style="list-style-type: none"> <li>Plantation certificate</li> <li>Annual felling plans</li> </ul>	Forest Plantation timber
	Agroforestry systems	Agroforestry systems	Private	Private	<ul style="list-style-type: none"> <li>Property title,</li> <li><b>PESA</b></li> </ul> <b>Main license requirements:</b> <ul style="list-style-type: none"> <li>Special Plans for Agroforestry Systems (<i>Planes Especiales en Sistemas Agroforestales (PESA)</i>)</li> </ul>	Agroforestry systems with coffee or other crops in association with timber species

Sources consulted: 2014 Forest Statistics Annual Report (*Anuario Estadístico Forestal*), 2014 Forest Map, VPA-FLEGT Honduras negotiation reports

- National Public Forest: forest area belonging to the government.
- Municipality-owned (*ejidales*) public forest or municipality: forest area, which is the property of a municipality-owned farm (*ejido*) or municipality.
- Private forest: forest site having a title that has been duly recorded in the Unified Property Register (*registro unificado*).



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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.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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