

Timber Legality Risk Assessment Georgia

Version 1.2 | April 2018



COUNTRY RISK
ASSESSMENTS



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

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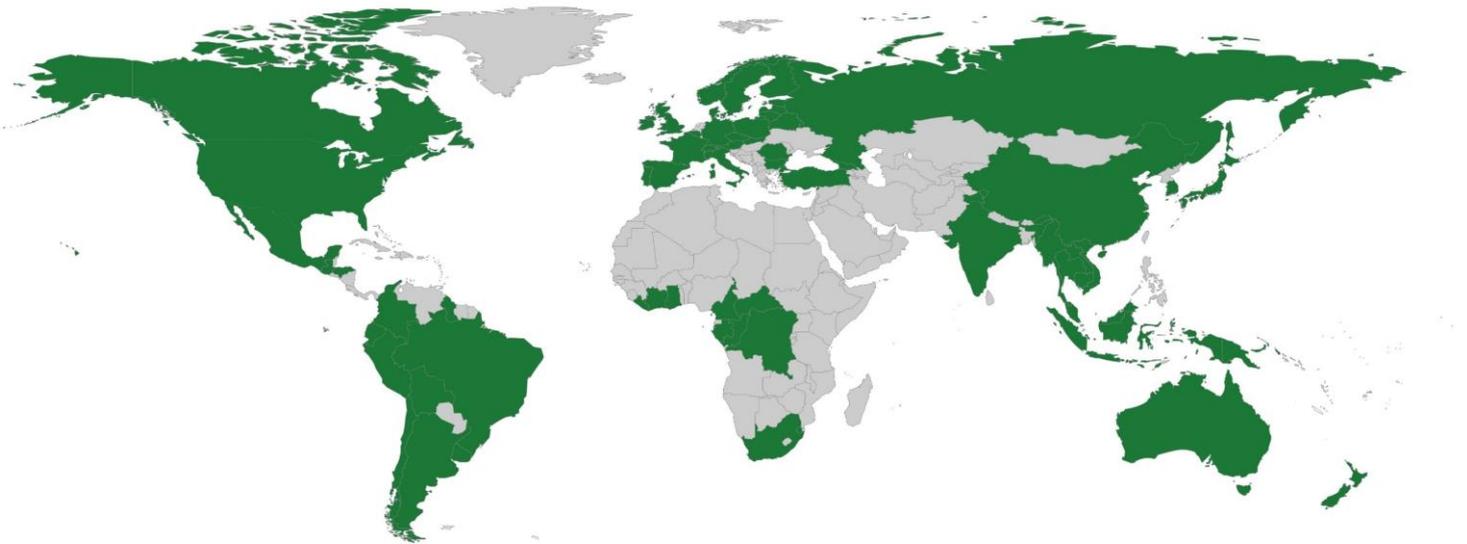
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A. Introduction

This Timber Legality Risk Assessment for Georgia 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.



Map created by StatSilk (2016). StatPlanet: Interactive Data Visualization and Mapping Software. //www.stat silk.com

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 the [NEPCon Sourcing Hub](#).

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

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

All FSC Risk Assessments can be downloaded in the [FSC Document Centre](#).

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

Draft prepared by NEPCon:	February 2016
Stakeholder consultation	July-August 2017

Final approval by FSC: 3 April 2018

FSC CW effective date: 3 April 2018

NEPCon originally published the Timber Legality Risk Assessment for Georgia in August 2017. Since then, minor amendments to the Assessment have been made, but the risk designations have not changed.

B. Overview of legality risks

Timber Risk Score: 63 / 100 in 2018

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

- Specified risk for 7 sub-categories.
- Low risk for 12 sub-categories.
- No legal requirements for 2 sub-categories.

The Timber Risk Score for Georgia is 74 out of 100. The key legality risks identified in this report concern legal rights to harvest and timber harvesting activities.

For **Legal Rights to Harvest**, there is a risk that forest outside the boundaries/limits of licence areas is harvested and that licence areas are overharvested (sub-category 1.4).

For **Timber Harvesting Activities**, there is risk that:

- Harvesting regulations (e.g. rules on cutting methods, regeneration, transport of timber from felling sites and seasonal limitations, size of felling areas, minimum age and/or diameter for felling, elements that shall be preserved during felling, road construction and establishment of skidding or hauling trails, and planning and monitoring of harvesting activities) are violated (1.8).
- Regulations related to the protection of particular species and their habitats (1.9).
- Environmental requirements are violated during harvesting (1.10).
- Health and safety regulations are not upheld e.g. forestry workers do not have personal protective equipment or have not been instructed on safety measures (1.11).

Timber source types and risks

There is one timber source type found in Georgia. 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.

Permanent forest concessions

State Forests managed by the State Forest Authorities, which issues concessions (Forest Use Licenses) to private enterprises.

Note: This is the main source type for Georgia, from which nearly all commercial timber is derived.

Permanent forest – state management

Natural forest use by State Forest Authorities.

Note: This is presently a theoretically possible source of legal timber, but is not practiced

Conservation areas

Clear cut logging which is rarely allowed as a source of legal timber, and only through State Forest Authorities

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

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

C. Overview of the forest sector in Georgia

All forests in Georgia are currently owned by the State. In Georgia, around 2.77 million ha are covered with forests, i.e. 39.9% of the country's territory – including an estimated 0.5 million ha of primary forests, 2.2 million ha of natural modified forests and 60,000 ha of artificial plantations. The total standing volume amounts to 430 million m³, and average annual forest growth measures approximately 4.0 million m³. At the same time forests in Georgia are unevenly distributed, with some areas rich in forests and many scarcely forested regions where the covering of the territory by forest does not exceed 10% by area. The area classified as 'forest lands' (both covered by forests and without forests) in Georgia comprises 2,966,546 ha, of which the National Forest Agency manages 1,894,777 ha (63.8%); Protected Areas Agency, 452,469 ha (15.2%); Forest Agency of Ajara Autonomous Republic, 137,684 ha (4.6%); with the remainder of the forest lands (16.4%) located on the territories under de facto Russian Federation control (Abkhazia and South Ossetia). Accurate and reliable information about the precise extent of forest cover is missing, due to the lack of up-to-date inventory materials for much of the forest area. Various sources provide differing information. Nevertheless, if approximate figures are taken, the data provided by different sources are more or less consistent (Sources: National Biodiversity Strategy and Action Plan of Georgia, 2014-2020; FAO Forest resources Assessment 2015, Georgia; Caucasus Biodiversity Monitoring Network, information on forests for 2009-2016 - <http://www.wwfcaucasus.net/Index.aspx>; personal communication with Merab Machavariani, Deputy Head of National Forestry Agency, Ministry of Environment and Natural Resources Protection; Date: 2 October 2015).

Forest classification consists of two types of forests:

1. Forests for Commercial Use: forests under the management of the National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection) and Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara; the Directorate in its turn is subordinated to the Government of Ajara Autonomous Republic) and
2. Protected Areas Forests: forests under the management of the Protected Areas Agency (subordinated to the Ministry of Environment and Natural Resources Protection).

Commercial harvesting can be conducted under:

1. The Forest Use License. There are two types of Forest Use License:
 - Forest Use Special License (only harvesting)
 - Forest Use General License (harvesting and hunting)

Furthermore, harvesting can be done under:

2. 'Logging ticket' for individuals - Timber harvested under this permit is not allowed to enter the commercial supply chain.
3. Agreement on special use (of forest, for construction purposes). In exceptional circumstances, timber harvested under this permit can enter the commercial timber chain. Please see Category 1, 1.4 for sources of this information.

For several decades before Georgia's independence in 1991, Georgia's forests were managed for their protective functions and to provide fuel wood and minor wood products such as bean poles for rural households. Industrial wood was imported from Russia. After independence,

unsustainable and illegal harvesting became rife: demand for fuel wood increased after gas supplies were cut; imported industrial wood was no longer available in the quantities demanded and at an affordable price. As the economic situation of the country has improved and control of forest use is substantially strengthened, unsustainable and illegal logging has declined – but still continues.

The present system of authorizing and controlling the harvest and transport of wood and wood products is established through the following legislation:

- Law on Licenses and Permits 2005 (as amended): establishes the legal basis for issuing licenses to persons to use forests for the purpose of harvesting timber and hunting. Procedures and terms of forest use licensing are laid down in the regulation adopted by Decree of the Government of Georgia of 2005 No. 132 described below. The Law establishes that no other licenses or permits and no obligations that imply the establishment of a licensing regime may be introduced other than by the Law on Licenses and Permits.
- Forest Code 1999 (as amended): establishes permissible forms of forest use and lays down conditions that must be met before forest use may take place. The Forest Code specifies a number of types of forest use. However, the Law on Licenses and Permits, which is superior to the Forest Code, specifies only two types of forest use: harvesting of wood and hunting. Article 93 of the Forest Code provides for the system of control documents specified in the Decree of the Government of Georgia No. 46 of 2014.
- Decree of the Government of Georgia of 2005 No. 132, 11 August 2005, On Approval of the Regulation On the Procedure and Terms of Forest Use Licensing (as amended): establishes the procedures and terms for issuing licenses for using forests for harvesting timber and for hunting. The regulations provide that the National Forest Agency (and the equivalent body in Ajara Autonomous Republic) may allocate cutting areas without a license and by a simple administrative procedure to provide fuel wood and timber to meet the needs of the local population; and for special purposes through Agreements on Special Use and well as logging ticket (please see table below). The regulations also lay down obligations on license holders regarding the preparation of forest use (harvesting) plans before harvesting of trees can occur.
- Regarding controls over the transport of wood the Decree of the Government of Georgia No. 46 of 2014 states: that wood transported within the territory of Georgia must be accompanied by a certificate of origin of the appropriate form and special label; and that primary timber processing, timber transportation within the territory of Georgia, and timber sales shall be prohibited without a legal harvesting certificate (certificate of origin).

There are conflicts in the legislative framework for issuing licenses as defined under the Law on Licenses and Permits 2005, and the Forest Code 1999. However, this risk assessment will focus only on the implementation of the legislation that is directly applicable to forest harvest and transport and will not go further into an evaluation of the legislative framework. The need at the present time is for the Georgian authorities to be able to detect and deter illegal logging by conducting checks on the origin of timber after it has left the forest (and perhaps also checks on timber products if this activity will add to the effectiveness of the system without adding unreasonable costs). Since wood and wood products in Georgia originate almost entirely from State forests, producers depend on the government to provide some of the

documents or other records that can be used to verify legal source and sustainably managed source (Source: personal communication with Merab Machavariani, Deputy Head of National Forestry Agency, Ministry of Environment and Natural Resources Protection; Date: 2 October 2015).

According to the World Bank Worldwide Governance Indicators, Georgia has improved on all Governance Indicators over the last ten years. On a range from -2.5 to +2.5. Georgia, in 2014, received 0.48 for Government Effectiveness, 0.20 for Rule of Law and 0.74 for Control of Corruption. Thus Georgia scores a little over average in these categories. According to Transparency International Corruption Perceptions Index (CPI), Georgia scored a CPI of 52 out of a range of 100, and in 2014 crossed the threshold of 50. At present, the CPI score for Georgia is 57 (based on the data for 2016). For forestry, there are no major issues of lack of enforcement and corruption amongst forest officials. The enforcement of forest-related laws in Georgia is limited by lack of capacity and large spatial areas to be covered (Source: World Bank Worldwide Governance Indicators (2014), available online under <http://info.worldbank.org/governance/wgi/index.aspx#reports>)

Sources of information

The list of sources provided in FSC-PRO-60-002a, section 3.3.3 has been reviewed for relevance in regards to the national legality risk assessment of Georgia. The following sources have been used:

- a) Chatham House: <http://www.illegal-logging.info/>;
- b) EU FLEGT process:
http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm;
- c) Government reports and assessments of compliance with related laws and regulations;
- d) Independent reports and assessments of compliance with related laws and regulations
- e) Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
- f) Stakeholder and expert consultation outcomes from NRA development processes;
- g) Transparency International Corruption Perceptions Index:
http://www.transparency.org/policy_research/surveys_indices/cpi;
- h) World Bank Worldwide Governance Indicators:
<http://data.worldbank.org/datacatalog/worldwide-governance-indicators>;
- i) In cases where other sources of information are not available, consultations with experts within the area were conducted.

Where relevant, they have been specifically referenced under "Sources of Information" for each applicable sub-category.

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 licences. 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

- Law on Public Register (2008) / Law of Georgia No 820-IIrs of 19 December, 2008 (Legislative Herald of Georgia, Part I, Vol. 41, 30.12.2008) / Consolidated Version as of 22.04.2015 / as modified by 17 amending laws / Last amended by Law of Georgia No 3420-IIIs of 01.04.2015 - LHG Official Website, 22.04.2015
<https://matsne.gov.ge/ka/document/view/20560>
- Forest Code (1999) / Law of Georgia No 2124-IIIs of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Tax Code of Georgia (2010) / Law of Georgia No 3591-IIIs of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws / Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015
<https://matsne.gov.ge/en/document/view/1043717>

1.1.2. Legal authority

- National Agency of Public Registry of the Ministry of Justice of Georgia
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Tax Service of Georgia (subordinated to the Ministry of Finance of Georgia)
- Forest Agency of Ajara Autonomous Republic (directly subordinated to the Directorate of Environment Protection and Natural Resources, which in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.1.3. Legally required documents or records

- Forest Use License
- Harvesting Ticket (Fuel wood permit for individuals)
- Agreement (contract) for special use.

1.1.4. Sources of information

Government sources

- Register of land ownership: <http://napr.gov.ge/udzravi>
- Register of Private entities (Business Register): <http://napr.gov.ge/pol>
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020) <https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>
- Personal Communication with Merab Machavariani, Deputy Head of National Forestry Agency, Ministry of Environment and Natural Resources Protection; Date: 2 October 2015

Non-Government sources

- USAID (2011). Evaluation of the Georgia Land Market Development Program. Report prepared by Mendez England & Associates. http://pdf.usaid.gov/pdf_docs/Pdacs584.pdf
- WWF-Caucasus Programme Office. Caucasus Biodiversity Monitoring Network, information on forests for 2009-2016 <http://www.wwfcaucasus.net/#>
- FAO Forest resources Assessment 2015; Country Report: Georgia. <http://www.fao.org/3/a-az219e.pdf>
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017), http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.1.5. Risk determination

Overview of legal requirements

The tenure of Georgia's forests is as follows: Practically all forests (and forest lands) are owned by the State; the whole territory covering forests and areas officially classified as non-forest lands comprises 2,966,546 ha, of which the National Forest Agency manages 1,894,777 ha (63.8%); Protected Areas Agency, 452,469 ha (15.2%); Forest Agency of Ajara Autonomous Republic, 137,684 ha (4.6%); with the remainder of the forest lands (16.4%) located on the territories under de facto Russian Federation control (Abkhazia and South Ossetia). Small areas exist outside the officially mapped forest area, and can be either private or public, but these cannot be used as a legal source of timber to supply the commercial market. (Sources: National Biodiversity Strategy and Action Plan of Georgia, 2014-2020; FAO Forest resources Assessment 2015, Georgia; Caucasus Biodiversity Monitoring Network, information on forests for 2009-2016; personal communication with Merab Machavariani, October 2015).

According to the 2010 rules on establishing State forest land boundaries, such boundaries have to be established by the government. In 2011 the government approved a list of all State forest lands (with relevant GIS information and maps) to be further registered in the Public Land Registry managed by the National Agency of Public Registry. However, because of inconsistencies and shortcomings in GIS data, the process for forest land title registration was stopped and it presently takes place on a case-by-case basis.

Private land and tenure rights can be registered in the Public Land Registry only if a natural person or legal entity of any form provides relevant documents confirming the legal rights to the land concerned. The required documents include identification documents (passport, identification card, company registration documents, etc.), sales/ purchase agreements, court decisions or other documents proving legal right to own real property. Land registration

has improved following the implementation of the USAID-funded Land Market Development Project in 1999–2005 that ensured a systematic cadaster measuring land parcels up to 2.5 ha in size and their registration with the National Agency of Public Registry (NAPR) (USAID 2011). All persons may apply to the NAPR for land registration. The Civil Code of Georgia requires titles to be registered and the validity of titles and rights to be effective from the date of such registration. The title pursuant to a contract will not be considered effective, operational and enforceable unless registered with the NAPR (Law on Public Register, 2008).

Tenure rights are publicly available, as land and businesses are registered and all relevant information from these registries is available on the internet:

- Register of land ownership: <http://napr.gov.ge/udzravi>
- Register of private entities (Business Register): <http://napr.gov.ge/pol>

Current Forest Use Licenses have been the predominant form of forest tenure and the primary mechanism for the allocation and utilization of wood on State forest lands in Georgia since 2005. See 1.2 Concession licenses and 1.4 Harvesting permits for more information on the licensing system.

Individuals or businesses with any business license(s) have to be registered, by the tax authority of Georgia, to pay tax. All entities must be registered as taxpayers in the Revenue Service (a division of the Ministry of Finance) where they will be provided with: Tax and VAT payer identification number/ code; and user name and password. This user name and password is used to access their page on the Ministry of Finance (MoF) website since all tax declarations as well as VAT invoices are submitted through this website (Tax Code, 2010).

Description of risk

Unclear land/ use rights: Georgia is undergoing a process of privatization of land that had been made State land under the Soviet Union. As well as State land, private land must also be registered in the Public Registry, and the land title can be registered on areas not claimed and registered by other parties in the land registry (Law on Public Register, 2008). As not all forest lands are fully registered in the Public Registry (Personal Communication with Merab Machavariani, October 2015), unregistered Forest Fund areas can be claimed by private entities. Unless an area is registered in the Public Registry, there is no cross-check carried out by the National Agency of Public Registry to verify if an area is under the Forest Fund. This means in theory that a licensed area (if tenure rights are not publicly registered) could be privatized and thus, cases of tenure rights conflicts can occur. However, the process of privatization is undertaken for small areas (up to 2.5ha), and only near populated areas and at forest borders. In practice there are no issues with such licensed areas being privatized. That there is no actual threat to the use rights of license holders is further supported by the fact that very few license holders register in the Public Registry. This could be an option for ensuring tenure rights, but this is costly and currently license holders do not find this to be necessary, as the risk of privatization is considered low. If a case of conflict occurred this could be resolved in court (Law on Public Register, 2008; Tax Code, 2010; Forest Code, 1999).

To summarize - the laws requiring registration of business and tenure rights over forests are upheld in Georgia - there have not been any reported cases of violations of such legal requirements, or cases of reported corrupt deals (including bribery) in obtaining these rights. The risk that these legal requirements will be violated is insignificant in present

circumstances (as the process of privatization is undertaken for small areas and only near population centers, far from the forests). Based on this, it can be concluded that the respective laws are enforced.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licences

Legislation regulating procedures for the issuing of forest concession licences, including use of legal methods to obtain concession licence. Especially bribery, corruption and nepotism are well-known issues in connection with concession licences. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licences 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

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Law on Management of Forest Fund [= Management of Forest Resources and Forest Lands] (2010) / Law of Georgia No 3345-rs of 6 July, 2010 (Legislative Herald of Georgia, Part I, Vol. 39, 19.07.2010) / Consolidated Version as of 05.04.2013 / as modified by 7 amending laws / Last amended by Law of Georgia No 461-RS of 25 March, 2013 - LHG Official Website, 05.04.2013 <https://matsne.gov.ge/ka/document/view/92344>
- Law on Licenses and Permits (2005) / Law of Georgia No 1775-rs of 24 June, 2005 (Legislative Herald of Georgia, Part I, Vol. 40, 18.07.2005) / Consolidated Version as of 30.06.2015 / as modified by 60 amending laws / Last amended by Law of Georgia No 3704-II of 12.06.2015 - LHG Official Website, 30.06.2015 <https://matsne.gov.ge/en/document/view/26824>
- Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132 "On Adoption of Rules and Conditions for Issuing Forest Use Licenses" (Legislative Herald of Georgia, Part III, Vol.94, 08.12.2005, Clause 1066) / as modified by 61 amending decrees / last amended by the Decree of the Government of 16.07.2015 #351 <https://matsne.gov.ge/ka/document/view/10234>
- Reporting Rules Applicable to Forest Use Special License Holders (2015) – Annex 1 to the Order of the Minister of Environment and Natural Resources Protection of Georgia of

February 18, 2015 #179 "On Adoption of Rules and Time Limits for Submission of Progress Reports [to the Ministry] by the Holders of Natural Resource Use Licenses on Fulfilment of License Conditions/Requirements" (Official Website of the Legislative Herald of Georgia, 18.02.2015) <https://matsne.gov.ge/ka/document/view/2724305>

1.2.2. Legal authority

- National Environmental Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.2.3. Legally required documents or records

- Forest Use (Harvesting) license
- General Forest Management Plan (has to be prepared by the forest authorities for a wider forest area/forest administrative unit)
- Forest Use (Harvesting) Plan (has to be prepared by license holder for a licensed area located within the wider forest area)

1.2.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- State Audit Office of Georgia. 2016. Management of commercial resources of wood. The report on the audit of effectiveness. Available here in Georgian: <https://sao.ge/files/auditi/auditis-angarishebi/2016/komerciuli-xe-tye.pdf>
- Personal Communication with Merab Machavariani, Deputy Head of National Forestry Agency, Ministry of Environment and Natural Resources Protection; Date: 2 October 2015

1.2.5. Risk determination

Overview of Legal Requirements

The present system of authorizing harvesting is established by the following legislation:

Law on Licenses and Permits 2005 (as amended): establishes the legal basis for issuing licenses to persons to use forests for the purposes of either harvesting timber (Forest Use Special License) or of both harvesting timber and hunting (General Forest Use License). Procedures and terms of forest use licensing are laid down in the regulation adopted by Decree of the Government of Georgia of 2005 No. 132 described below. The Law establishes that no other licenses or permits and no obligations that imply the establishment of a licensing regime may be introduced other than by the Law on Licenses and Permits.

Forest Code 1999 (as amended): establishes permissible forms of forest use and describes conditions that must be met before forest use may take place. The Forest Code specifies a

number of types of forest use (e.g. for timber harvesting, recreation, scientific and agricultural purposes etc.).

Decree of the Government of Georgia of 2005 No. 132, 11 August 2005, On Approval of the Regulation on the Procedure and Terms of Forest Use Licensing (as amended) establishes the detailed procedures and terms for issuing licenses for using forests for harvesting timber and as hunting ranges.

Forest Use Licenses are a form of forest tenure that provide the basis for a forest concession system. Forest Use Licenses involve elements of a contract between the forest owner (government, as owner of State forest lands) and another party (private sector entities or individuals) giving rights to harvest specified resources from a given forest area (forest utilization elements) and elements of a contract to manage given resources within the specified forest area (forest management services elements).

Forest Use Licenses involve both types of the above elements: granting harvesting or use rights, but also requiring forest management and other obligations as part of the license. Since 2013 a Forest Management Plan has to be established by the National Forest Agency. Forest Use Licenses are issued through auctions, after which the Forest Manager is required to prepare a harvesting plan and inventory prior to initiating the harvesting operation (see 1.3 Management and harvesting planning).

In most cases, current Forest Use Licenses are long-term contracts of 10–20 years (Law on Licenses and Permits, 2005; Rules and Conditions for Issuing Forest Use Licenses, 2005).

There are two types of Forest Use Licenses;

- Forest Use Special License (only harvesting)
- Forest Use General license (Harvesting and hunting)

Both license types have the same requirements to management and harvesting. The only difference is the Forest Use General License includes rights to hunting. Both licenses will in the future be referred to under Forest Special License (Forest Code, 1999; Rules and Conditions for Issuing Forest Use Licenses, 2005).

Description of risk

The license is issued through open auction organized by the National Environmental Agency which is directly subordinated to the Ministry of Environment and Natural Resources Protection. Bids are received in envelopes and opened publicly (Rules and Conditions for Issuing Forest Use Licenses, 2005). The process is transparent and the risk of corruption is not considered to be substantial in Georgia, which is also confirmed by Transparency International's CPI of 57 and, respectively, 44th position in 2016 (according to the same data, Georgia ranked 48th in 2015 with the score of 52). There has not been much competition in relation to harvesting rights, and illegal price regulation is not found to be an issue. Today, the auctioning and issuing of licenses can be organized only if forest areas have been mapped and registered in the Public Registry, and in situations where the general management plan has been created by the National Forest Agency. As preparation of general forest management plans is currently underway and not yet completed, no new licenses have been issued since January 2013 when the requirement for general management planning was introduced. In total, 38 Forest Use Special Licenses are operational today (State Audit Office, 2016) although all of them were issued before 2013 and consequently without general

management plans applicable to wider forest areas (forest administrative units) where licensing was a requirement (Personal Communication with Merab Machavariani, October 2015).

The participants of common stakeholder meeting (held on 9 August 2017 as part of the public consultation process) have agreed with this argumentation.

Risk conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.2.6. Risk designation and specification

Low risk

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

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

1.3.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Rules for Forest Inventory, Planning and Monitoring (2013) - Decree of the Government of Georgia of July 17, 2013, #179 "On Adoption of Rules for Forest Inventory, Planning and Monitoring" (Official Website of the Legislative Herald of Georgia, 19.07.2013) <https://matsne.gov.ge/ka/document/view/1971205>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>
- Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132 "On Adoption of Rules and Conditions for Issuing Forest Use Licenses" (Legislative Herald of Georgia, Part III, Vol.94, 08.12.2005, Clause 1066) / as modified by 61 amending decrees / last amended by the Decree of the Government of 16.07.2015 #351 <https://matsne.gov.ge/ka/document/view/10234>

1.3.2. Legal authority

- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.3.3. Legally required documents or records

- Forest Use (Harvesting) license
- • General Forest Management Plan (has to be prepared by the forest authorities for a wider forest area/forest administrative unit)
- Forest Use (Harvesting) Plan (has to be prepared by license holder for a licensed area located within the wider forest area)

1.3.4. Sources of information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- National Environmental Action Programme of Georgia (2012–2016)
http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP_eng_2012.pdf
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020)
<https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>
- Personal Communication with Merab Machavariani, Deputy Head of National Forestry Agency, Ministry of Environment and Natural Resources Protection; Date: 2 October 2015
- Personal Communication with Natia Iordanishvili, Deputy Head of National Forestry Agency; 27 November 2017

Non-Government sources

- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.3.5. Risk determination

Overview of Legal Requirements

After 2013 legal requirements were introduced for general management planning (including conducting forest inventories), having forest management plans and related planning and monitoring, as well as approval of these by competent authorities, which is governed by many legislative provisions. These aspects include:

- Forest use is planned on the basis of a general forest management plan (prepared by the National Forest Agency) and forest harvesting plan (prepared by Forest Use License holder) [Article 24 the Forest Code (1999)];
 - Forest monitoring should be carried out on a permanent basis and outcomes shall be reflected in forest management planning [Article 25 of the Forest Code (1999)];
 - Forest Use Licenses should be issued only within the boundaries of forest territories where forest inventory will have been carried out after January 1, 2013 [Article 21, Paragraph 1 of the Rules and Conditions for Issuing Forest Use Licenses (2005)];
 - Forest Use License holders are required to have a forest harvesting plan for licenses granted for more than a five-year period and a forest utilization perspective plan (simplified version of harvesting plan) for licenses granted for less than a five-year period [Article 8 of the Rules and Conditions for Issuing Forest Use Licenses (2005)];
 - Forest harvesting plans should be developed based on general forest management plans for wider forest areas (normally covering entire forest administrative district) [Article 18 of the Rules for Forest Inventory, Planning and Monitoring (2013)];
 - Forest Use Licenses do not become operational and harvesting may not be carried out without a forest harvesting plan (or forest utilization perspective plan) that has been approved by the forest authorities (National Forest Agency) [Article 8 of the Rules and Conditions for Issuing Forest Use Licenses (2005)];
 - The forest harvesting plan must be prepared by a license holder within 12 months of issue of the Forest Use Licenses [Article 8 of the Rules and Conditions for Issuing Forest Use Licenses (2005)];
 - If the Forest Use License is sold by the license holder to another physical or legal person, the updated forest harvesting plan (or forest utilization perspective plan) must be submitted to and approved by the forest authorities (National Forest Agency). Before approval of the updated plans, harvesting operations are prohibited [Article 8 of the Rules and Conditions for Issuing Forest Use Licenses (2005)];
 - The process of preparing both the forest management plan and the forest harvesting plan must include consultation with stakeholders and must take account of stakeholder comments [Articles 15 and 20 of the Rules for Forest Inventory, Planning and Monitoring (2013)];
 - After approval, the forest harvesting plan becomes part of the licensing conditions (obligations) and its implementation is monitored by competent authorities (Environmental Supervision Department and National Forest Agency – both under the Ministry of Environment and Natural Resources Protection) during and by the end of the licensing period [Forest Use Rules (2010) and Rules and Conditions for Issuing Forest Use Licenses (2005)].
- The forest management plan shall cover a wide variety of topics such as land use data, forest resources inventory data, possible forest use types, volumes for maximum allowable cut, geographical and biodiversity descriptions, economic context etc. [Article 14 of the Rules for Forest Inventory, Planning and Monitoring (2013)].
- The forest harvesting plan shall incorporate [Article 19 of the Rules for Forest Inventory, Planning and Monitoring (2013)] the following topics:

- General statements for the license area (including geographical, social and economic characteristics, etc.)
- Changes in forest resources and recently realized activities
- Assessment of timber volume to be processed over the license period
- Forest protection measures and reforestation
- Forest infrastructure
- Biodiversity and environment protection measures

Description of Risk

The overall inventory data for most of Georgia's forests are 15 or more years out of date. Until 2013, legislation did not require that a full inventory be carried out of a proposed licensed area and/ or to develop a general forest management plan covering the entire forest administrative district where the proposed licensed areas might be allocated Rules for Forest Inventory, Planning and Monitoring (2013). Inventory was done only for the specific harvesting area (personal communication with Merab Machavariani, October 2015).

Instead the 15-year-old inventory data were used to prepare auctions of licenses supplemented by information from records about illegal logging in the territory. The lack of inventory and general forest management plans for larger forest areas prior to 2013 was compensated by the obligatory requirements to carry out detailed inventory of the harvesting area and then – after issuing of licenses and based on that inventory – to develop a separate harvesting plan for each licensed area. This is still applicable and, if harvesting plans are not approved, harvesting operations cannot be initiated (personal communication with Merab Machavariani, October 2015).

The forest authority (National Forest Agency) is responsible for labour preparing the forest management plan, while a license holder carries out the inventory and creates the harvesting plan.

For licenses issued prior to 2013, no forest management plans were prepared before licenses were issued, although license holders arranged for inventory and prepared forest harvesting plans before operations commenced. No Forest Use Special Licenses have been issued since the legislation went into force in 2013, showing the actual practices to be in conformance with the legal requirements (Merab Machavariani, personal communication, October 2015). The licenses issued prior to 2013 are found to be in conformance with prior legislation, i.e. conducting inventory checks at the harvesting area prior to and after harvesting operations as part of management planning.

By November 2017, all logging license holders have conducted inventories and have up-to-date forest management plans (Natia Iordanishvili, Personal Communication, November 2017).

Licensed areas, as well as particular tree felling areas, are registered in the Timber Resources Management Electronic System (electronic database for management of timber resources). See more information in indicator 1.17 Trade and Transport.

Nevertheless, during the public consultation, some stakeholders argued that specified risk should be assigned to this indicator, because very often fuelwood harvesting permissions for the local population (outside logging license areas) are allocated in those forest stands where

no detailed inventory has been carried out and no management plan has been prepared for the last few decades. Further detail is given in the stakeholder consultation report – see Sources of Information column. This viewpoint was accepted by consensus among the WGFS. A respective control measure has been defined by the WGFS (see below).

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (forest inventory and management planning has not been implemented in most of the forests). Consequently, the risk for this indicator has been assessed as specified.

1.3.6. Risk designation and specification

Specified risk

1.3.7. Control measures and verifiers

Generic

Management plans shall exist with sustainable Annual Allowable Cuts defined, prior of commencement of logging operations

Country specific

Detailed forest inventory should have been carried out (with the inventory data less than 10 years old) within the forest management unit (FMU), based on the Rules for Forest Inventory, Planning and Monitoring (#179, adopted in 2013), before commencement of logging within this FMU,

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013
- <https://matsne.gov.ge/ka/document/view/16228>
- Law on Management of Forest Fund [= Management of Forest Resources and Forest Lands] (2010) / Law of Georgia No 3345-rs of 6 July, 2010 (Legislative Herald of Georgia,

Part I, Vol. 39, 19.07.2010) / Consolidated Version as of 05.04.2013 / as modified by 7 amending laws / Last amended by Law of Georgia No 461-RS of 25 March, 2013 - LHG Official Website, 05.04.2013 <https://matsne.gov.ge/ka/document/view/92344>

- Law on Licenses and Permits (2005) / Law of Georgia No 1775-rs of 24 June, 2005 (Legislative Herald of Georgia, Part I, Vol. 40, 18.07.2005) / Consolidated Version as of 30.06.2015 / as modified by 60 amending laws / Last amended by Law of Georgia No 3704-IIIs of 12.06.2015 - LHG Official Website, 30.06.2015 <https://matsne.gov.ge/en/document/view/26824>
- Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132 "On Adoption of Rules and Conditions for Issuing Forest Use Licenses" (Legislative Herald of Georgia, Part III, Vol.94, 08.12.2005, Clause 1066) / as modified by 61 amending decrees / last amended by the Decree of the Government of 16.07.2015 #351 <https://matsne.gov.ge/ka/document/view/10234>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>
- Reporting Rules Applicable to Forest Use Special license Holders (2015) – Annex 1 to the Order of the Minister of Environment and Natural Resources Protection of Georgia of February 18, 2015 #179 "On Adoption of Rules and Time Limits for Submission of Progress Reports [to the Ministry] by the Holders of Natural Resource Use Licenses on Fulfilment of license Conditions/Requirements" (Official Website of the Legislative Herald of Georgia, 18.02.2015) <https://matsne.gov.ge/ka/document/view/2724305>
- Technical Regulations establishing Rules for Movement of Wood within the Territory of Georgia and Technical Regulations for Primary Round Wood (Logs) Processing Facilities - Sawmills (2014) - Decree of the Government of Georgia of January 10, 2014 #46 "On Adoption of Technical Regulations establishing Rules for Movement of Wood within the Territory of Georgia and Technical Regulations for Primary Round Wood (Logs) Processing Facilities - Sawmills" (Official Website of the Legislative Herald of Georgia, 15.01.2014) / as modified by 3 amending decrees / last amended by the Decree of the Government of Georgia #675, 10.12.2014 <https://matsne.gov.ge/ka/document/view/2193366>

1.4.2. Legal authority

- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.4.3. Legally required documents or records

- Forest Use Licence.
- Forest Ticket (Fuel wood permit for individuals).

- Agreement (contract) for special use.

1.4.4. Sources of information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- National Environmental Action Programme of Georgia (2012–2016)
http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP_eng_2012.pdf
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020)
<https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>
- Quarterly report of the National Forestry Agency for the 3rd quarter of 2017:
<http://forestry.gov.ge/files/angarishebi/Annual%20report%20III%202017.pdf>

Non-governmental sources

- Newspaper article: [Commersant.ge](http://www.commersant.ge) (2014) "The large-scale forest cutting continues" [in Georgian; 15.11.2014] <http://www.commersant.ge/old1/?menuid=11&id=17180&lang=1>
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.4.5. Risk determination

Overview of Legal Requirements

Decree of the Government of Georgia of 2005 No. 132, 11 August 2005, On Approval of the Regulation on the Procedure and Terms of Forest Use Licensing (as amended) establishes the procedures and terms for issuing licenses to use forests for harvesting timber and as hunting ranges. The regulations provide that the National Forest Agency (and Forestry Agency in Ajara Autonomous Republic) may allocate cutting areas without a license, such that by a simple administrative procedure and issuing of 'harvesting tickets' fuel wood and timber can be provided for special purposes and to meet the needs of the local population. The regulations also establish obligations on license holders regarding the preparation of forest use (harvesting) plans before harvesting of trees can occur.

Timber to be used commercially can be allocated through the following licenses:

1. Forest Use Licenses are a form of forest tenure. Forest Use Licenses involve elements of a contract between the forest owner (government, as owner of State forest lands) and another party (private sector entities or individuals) giving rights to harvest specified resources from a given forest area (forest utilization elements) and elements of a contract to manage given resources within the specified forest area (forest management services elements).

Forest Use Licenses involve both types of the above elements granting harvesting or use rights, but also requiring forest management and other obligations as part of the license.

There are two types of Forest Use Licenses;

- Forest Use Special License (only harvesting)
- Forest Use General license (Harvesting and hunting)

Both license types have the same requirements to management and harvesting. The only difference is the Forest Use General License includes rights to hunting. Both licenses will in the future be referred to under Forest Special License.

In most cases current forest use (harvesting) licenses are long-term contracts of 10–20 years.

2. According to the Forest Use Rules adopted by Decree #242 of the Government of Georgia (August 20, 2010), agreements of Special Forest Use (purpose) are used for infrastructure construction purposes and other special purposes where small areas of forest need to be cleared. Timber harvested through Agreement on Special Forest Use will have to be handed over to the National Forest Agency. Primarily this timber will be allocated to social purposes, but timber can in small amounts enter the commercial supply chain but will always have to be traded through the National Forest Agency.

Forest tenures involving 'forest utilization granting rights' to harvest timber without forest management obligations are termed forest special use and use of forest by individuals for fuel wood. However, even forest special use may require some forest management obligations (Forest Use Rules 2010).

Fuel wood and urban trees can be logged for social use under the harvesting ticket, but these materials are not allowed on the open market (Forest Code, 1999), and will thus not be assessed further.

Description of Risk

There are risks related to the use of Forest Use Licenses. For tracking purposes, all harvested timber shall be marked (Technical Regulations on Movement of Wood, 2014), but both official and non-official sources state that logging out of bounds and overharvesting under the guise of the Forest Use License may technically occur. Due to lack of capacity of enforcement personnel, it is not possible to fully control the entire licensed area, although work is underway to improve the situation in the near future (Biodiversity Strategy and Action Plan for Georgia, 2014-2020; Newspaper Commersant.ge 2014). Nevertheless, so far these efforts are insufficient to significantly reduce the risk under Indicator 1.4 (WGFS as well as the stakeholders attending the common meeting on 9 August 2017).

Agreements of Special Forest Use are issued through application and approved and signed by the forest authorities. Agreements of Special Forest Use is usually sought for infrastructure projects and approved only after a technical evaluation (Forest Use Rules, 2010). The Agreement is not issued on a regular basis, and harvested timber has to be delivered to the State authorities. There is no revenue to be gained on the timber through the use of the Agreement. Wood produced by means of special cuts (for example, an electricity producing company cutting the forest to free up the space for power lines which go through the forest) is given to the National Forestry Agency free of charge. The agency then supplies this wood to public organizations such as schools, hospitals, etc. (Forest Use Rules, 2010). This is a very common practice and so far there are no indications of misuse, and the associated risk is considered low. The WGFS as well as the stakeholders attending the common meeting (on 9 August 2017) have agreed to this conclusion.

There is a risk that firewood logged under the harvesting ticket may be sold locally. As transported timber will require transport documents (which are not issued under harvesting tickets), it is difficult to transport large amounts of firewood over long distances without being detected. While a high volume of informal trade takes place at the local level, the risk of firewood entering the commercial market is considered low. The WGFS as well as the stakeholders attending the common meeting (on 9 August 2017) have agreed to these conclusions.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (the identified laws are not enforced by relevant authorities). Consequently, the risk for this indicator has been assessed as specified.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

Generic

Harvesting permits (license or similar legal document governing the harvesting of forest resources) shall exist.

Country specific

For state forests located on areas under management of the National Forest Agency – existing governmental (Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection and/or National Forest Agency) recent monitoring reports on use of special use licenses shall be observed.

However, if such reports are not available, then independent field inspection (especially if primary source of timber is a “forest use special license”) shall confirm that: a) harvesting takes place within limits given in the harvesting permit and b) information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation.

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

- Law on Fees for Use of Natural Resources (2004) / Law of Georgia No 946-rs of 29 December, 2014 (Legislative Herald of Georgia, Part I, Vol. 41, 30.12.2004) / Consolidated Version as of 04.06.2015 / as modified by 24 amending laws / Last amended by Law of Georgia No 3674-II of 29.05.2015- LHG Official Website, 04.06.2015 <https://matsne.gov.ge/ka/document/view/28948>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455

1.5.2. Legal authority

- Revenue Service of the Ministry of Finance of Georgia.

1.5.3. Legally required documents or records

- Payment document covering forest harvesting specific fee such as stumpage fee (Fee for Use of Natural Resource) based on correct classification of quantities, qualities and species.

1.5.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- Revenue Service of Georgia (Frequently asked questions): http://www.rs.ge/Default.aspx?sec_id=4723&lang=1
- Personal Communication with Gogi Datunaishvili, Head of the Regional Division of Samegrelo and Zemo Svaneti of the National Forestry Agency; Date: 23 December 2016
- State Audit Office of Georgia. 2016. Management of commercial resources of wood. The report on the audit of effectiveness.
- Available here in Georgian: <https://sao.ge/files/auditi/auditis-angarishebi/2016/komerციული-xe-tye.pdf>.

1.5.5. Risk determination

Overview of Legal Requirements

According to the Law on Fees for Use of Natural Resources (2004) as well as Forest Use Rules (2010), harvested timber is subject to a natural resource use fee (formerly known as a stumpage price) based on the correct classification of quantities, qualities and species provided by the above law.

The fee is paid depending on:

- Volume
- Species
- Quality
- Fuel wood/ Industrial timber.

The local municipality receives all revenues from such fees.

The natural resource use fee is paid depending on m3 harvested. The harvested volume is reported by the license holders to the tax authorities. In the case of forest licenses, the reported volume is cross-checked with the volumes indicated in the forest origin document issued by the forest authorities after harvesting, with the fee paid after the harvesting process. In the case of firewood (which is harvested by individuals), the fee is paid prior to harvesting, with volumes harvested also cross-checked with the volumes indicated in forest inventory data. (In this latter case, the tax receipt is the basis for issuing the 'Harvesting Ticket') (Law on the Fees for the Use of Natural resources, 2004; Forest Use Rules 2010).

There is no property tax that has to be paid by the forest owner (i.e. the State).

The situation is different with the private companies - logging license holders. According to the Revenue Service of Georgia, the holders of licenses on natural resource use (including timber use licenses) are NOT exempt from the property (land) tax, based on Article 204 of the Tax Code of Georgia (2010). However, many license holders have opposed to payment of this tax and have put the matters to the court. The respective cases are still under court consideration. This issue only relates to very minor proportion of the forest fund used by the logging license holders (less than five percent of the total forest cover, and the figure becomes smaller each year, as the license terms are gradually expiring, while no new logging licenses have been issued since 2012).

Description of Risk

According to Institute for the Study of Labour (2012), the tax collection system in Georgia has become effective in recent years. In this regard, Government control is very strict, while the corruption level is low. Furthermore, corruption at the lowest levels which might have been encountered in daily activities (e.g. public services level – the so-called petty corruption) is low (World Bank, 2012). This can be backed up by the firm tendency of improvement of Georgia's performance with respect to Transparency International's CPI in recent years. This also apply to the Ministry of Environment and Natural Resources Protection. Furthermore, so far there have been no reports (neither from governmental nor NGO sectors) with respect to the failure of paying stumpage fees or other taxes or payments related to forest use. This conclusion has been confirmed by the stakeholders during the 60-day public discussion as well as WGFS members.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.5.6. Risk designation and specification

Low risk

1.5.7. Control measures and verifiers

N/A

1.6. Value added taxes and other sales taxes

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

1.6.1. Applicable laws and regulations

- Tax Code of Georgia (2010) / Law of Georgia No 3591-II of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws/ Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015
<https://matsne.gov.ge/en/document/view/1043717>

1.6.2. Legal authority

- Revenue Service of the Ministry of Finances of Georgia.

1.6.3. Legally required documents or records

- Tax declarations and tax payment documents.

1.6.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- Official Tax Service Electronic System <https://www.rs.ge>
- Personal communication with customs authorities of the state revenue service, Merab Arakhamia (Deputy Head of the Legal Department) and Mikhail Kavtaradze (Customs Department) on 4 October 2015.

Non-Government sources

- Institute for the Study of Labour (2012).
- Tax Reform in Georgia and the Size of the Shadow Economy <http://ftp.iza.org/dp6912.pdf>
- Transparency International Georgia
- Review of the Georgian Tax System [May 2010, in Georgian]
http://www.transparency.ge/sites/default/files/post_attachments/Taxation%20in%20Georgia_GEO.pdf

- The World Bank (2012). Fighting corruption in public services: Chronicling Georgia's reforms.
<http://documents.worldbank.org/curated/en/518301468256183463/pdf/664490PUB0EPIO065774B09780821394755.pdf>
- GAN Integrity. 2017. Georgia corruption report. Snapshot. <http://www.business-anti-corruption.com/country-profiles/georgia>
- C. Berglund, J. Engvall. 2015. How Georgia Stamped out Corruption on Campus. FP (online magazine); issued on 3 September 2015.
<http://foreignpolicy.com/2015/09/03/how-georgia-stamped-out-corruption-on-campus/>
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017)
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.6.5. Risk determination

Overview of Legal Requirements

According to the Tax Code of 2010, VAT at a rate of 18% is applicable to timber products and operations:

Current tax legislation also imposes fines for under-reporting and late payment of taxes. In addition, criminal charges might be imposed in cases of substantial violation of tax legislation.

All the above taxes are administered by the Revenue Service of the Ministry of Finance of Georgia through an electronic tax services system (unified tax declaration and payment system) available for all registered tax payers at the official governmental site: www.rs.ge. All entities must be registered as taxpayers in the Revenue Service where they will be provided with: a) Tax and VAT payer ID number/ code; and b) User name and password. This user name and password is used to access their page on the Ministry of Finance website (www.rs.ge) since all tax declarations as well as VAT invoices are submitted through this website

Description of Risk

Georgian tax authorities are allowed to conduct formal tax audit procedures only once a year, unless there is reliable evidence of tax evasion, in which case more frequent auditing is permitted. However, tax revenues are regularly checked for all tax payers through the electronic tax services system that effectively monitors all possible fluctuations in tax payments (Tax Code, 2010).

Information on market prices is to be obtained from official sources – which may include government databases, information submitted by taxpayers, or other reliable information. In some cases, required information is obtained directly from the foreign customs authorities (Personal Communication with Merab Arakhamia, October 2015).

Enforcement of current tax legislation is considered (not only by government officials, but also by international organizations (for instance - the World Bank, GAN Integrity) and experts (K.Torosyan, R. Filler, C. Berglund, J. Engvall and others) very effective due to electronic

services and strictly controlled tax declaration and payment systems as well as substantial reduction of corruption levels in the country. In addition, there are no reports or other evidence of significant number of cases of evasion of payment of VAT or other sales taxes, including for timber. This has been confirmed by the stakeholders (as well as WGFS) attending the common meeting on 9 August 201.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

- Tax Code of Georgia (2010) / Law of Georgia No 3591-II of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws / Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015
<https://matsne.gov.ge/en/document/view/1043717>

1.7.2. Legal authority

- Revenue Service of the Ministry of Finances of Georgia.

1.7.3. Legally required documents or records

- Tax declarations and tax payment documents.

1.7.4. Sources of information

- Government sources
- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- Official Tax Service Electronic System <https://www.rs.ge>
- Personal communication with customs authorities of the state revenue service, Merab Arakhamia (Deputy Head of the Legal Department) and Mikhail Kavtaradze (Customs Department) on 4 October 2015.

1.7.5. Risk determination

Overview of Legal Requirements

According to the Tax Code of 2010, profit tax up to 15% – known also as ‘corporate income tax’ – is relevant to the profit derived from sale of forest products and harvesting activities and to income from the sale of timber.

Profit tax payers are: a) a resident enterprise; and b) a non-resident enterprise that conducts business in Georgia through a permanent establishment and/ or earns income from a Georgian-based source.

Taxable profit is defined as the difference between the gross income of a taxpayer and the deductions (e.g., grants, charity etc.) provided in the Tax Code.

Current tax legislation imposes fines for under-reporting and late payment of taxes. In addition, criminal charges might be imposed in cases of substantial violation of tax legislation.

The above tax is administered by the Revenue Service of the Ministry of Finance of Georgia through an electronic tax services system (unified tax declaration and payment system) available for all registered tax payers at the official governmental site: www.rs.ge.

Description of Risk

Georgian tax authorities are allowed to conduct formal tax audit procedures only once a year, unless there is reliable evidence of tax evasion, in which case more frequent auditing is permitted. However, tax revenues are regularly checked for all tax payers through the electronic tax services system that effectively monitors fluctuations in tax payments (Tax Code, 2010).

Enforcement of current tax legislation is considered (not only by government officials, but also by international organizations (for instance - the World Bank, GAN Integrity) and experts (K.Torosyan, R. Filler, C. Berglund, J. Engvall and others) very effective due to electronic services and strictly controlled tax declaration and payment systems and also due to the substantial reduction of overall corruption level in the country in recent years. There are no reports (from any source) confirming the avoidance of paying income or profit taxes including on timber. This conclusion has been confirmed by the stakeholders during the 60-day public discussion (including during a one-day stakeholder meeting on 9 August) as well as WGFS members.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.7.6. Risk designation and specification

Low risk.

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>
- Rules for Forest Inventory, Planning and Monitoring (2013) - Decree of the Government of Georgia of July 17, 2013, #179 "On Adoption of Rules for Forest Inventory, Planning and Monitoring" (Official Website of the Legislative Herald of Georgia, 19.07.2013) <https://matsne.gov.ge/ka/document/view/1971205>
- Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132 "On Adoption of Rules and Conditions for Issuing Forest Use Licenses" (Legislative Herald of Georgia, Part III, Vol.94, 08.12.2005, Clause 1066) / as modified by 61 amending decrees / last amended by the Decree of the Government of 16.07.2015 #351 <https://matsne.gov.ge/ka/document/view/10234>
- Rules on Caring for Forests and Forest Restoration (2010) - Decree of the Government of Georgia of August 13, 2010 #241 "On Adoption of Rules on Caring for Forests and Forest Restoration" (Legislative Herald of Georgia, Part III, Vol.100, 17.08.2010, Clause 1496)/ as modified by 2 amending decrees / last amended by the Decree of the Government of 13.10.2011 #391 <https://matsne.gov.ge/ka/document/view/1021046>
- Operational Instructions for Timber Resources Management Electronic [Data Base] System (2014) - Decree of the Government of Georgia of April 30, 2014 #118 "On Adoption of Operational Instructions for Timber Resources Management Electronic System" (Official Website of the Legislative Herald of Georgia, 10.05.2014) / as modified by 2 amending decrees / last amended by the Decree of the Government of Georgia #224, 23.09.2015 <https://matsne.gov.ge/ka/document/view/2309913>
- Reporting Rules Applicable to Forest Use Special License Holders (2015) – Annex 1 to the Order of the Minister of Environment and Natural Resources Protection of Georgia of February 18, 2015 #179 "On Adoption of Rules and Time Limits for Submission of Progress Reports [to the Ministry] by the Holders of Natural Resource Use Licenses on

Fulfilment of license Conditions/Requirements” (Official Website of the Legislative Herald of Georgia, 18.02.2015) <https://matsne.gov.ge/ka/document/view/2724305>

1.8.2. Legal authority

- Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.8.3. Legally required documents or records

- Forest Use Licence.
- Forest Use (Harvesting) Plan.
- Agreement (contract) for special use.
- Forest monitoring documents.

1.8.4. Sources of Information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020)
- <https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>
- Written comment provided by Papuna Kapanadze (Forest Policy and Biodiversity Protection Department of the Ministry of Environment and Natural Resources Protection of Georgia) on 1 September 2017

Non-Government sources

- E-journal “Ambioni” [in Georgian]. Current ecological problems of Georgian forests. 8 Mar 2013. Author of the publication: Teona Nozadze. <http://www.ambioni.ge/qartuli-tyis-sadreiso-ekologiuri-problemebi>
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017) http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.8.5. Risk determination

Overview of Legal Requirements

Legal requirements for harvesting techniques and technology are set by the number of statutory instruments. These rules include cutting methods and rules for different cutting types; natural regeneration; transport of timber from felling sites and seasonal limitations;

regulatory elements on the size of felling areas, minimum age and/ or diameter for felling activities and elements that shall be preserved during felling; road construction and establishment of skidding or hauling trails; and planning and monitoring of harvesting activities.

Namely, the Forest Code (1999; Chapter XV) sets general rules for cutting methods and related restrictions for different cutting types. These rules are further specified in Rules for Forest Inventory, Planning and Monitoring (2013) and Forest Use Rules (2010).

Requirements and rules for planning of harvesting and post-harvesting activities are given in Rules for Forest Inventory, Planning and Monitoring (2013) and also in Rules and Conditions for Issuing Forest Use Licenses (2005) and in Rules on Caring for Forests and Forest Restoration (2010).

Monitoring related provisions are provided in Operational Instructions for Timber Resources Management Electronic System (2014) and Reporting Rules Applicable to Forest Use Special License Holders (2015).

Rules and Conditions for Issuing Forest Use Licenses (2005) refers to the forest use or harvesting plan as a pre-condition for establishment of site-specific requirements for harvesting techniques and technology - before the start of harvesting operations. In turn, Rules for Forest Inventory, Planning and Monitoring (2013) establishes rules and requirements for development of both general forest management plans and forest use/ harvesting plans.

Elements of general restrictions and requirements are, to varying degrees, integrated into the above rules and instructions. These include elements related to natural regeneration; transport of timber from felling sites and seasonal limitations; regulations as to the size of felling areas, minimum age and/ or diameter for felling activities and elements that shall be preserved during felling; road construction and establishment of skidding or hauling trails. In some cases, the restrictions and requirements lack technical details, making assessment of compliance rather complicated (e.g. legislation relating to preservation of biodiversity without damaging soil; although there is no guidance as to how to do this).

Description of Risk

There is a risk of harvesting regulations being violated due to lack of capacity for both forest operations and enforcement authorities. Full-scale enforcement is not in place, there is a lack of technical guidance for enforcement and monitoring, as well as a lack of capacity in relation to technical and professional forestry. These problems have been confirmed by most of the participants of the common stakeholder meeting held on 9 August 2017

According to Papuna Kapanadze's (Forest Policy and Biodiversity Protection Department of the Ministry of Environment and Natural Resources Protection of Georgia) written comment provided to WGFS on 1 September 2017: "Taking into consideration the fact that logging is conducted by non-professionals (often by the local population), of course, it is specified risk".

According to Teona Nozadze (see the respective reference to her online article in the information source column), forests are cut in chaotic and unprofessional way; best trees are cut, which reduces the quality of remaining stands.

Due to lack of enforcement and monitoring capacity, it is not possible to fully control all requirements for harvesting techniques and technology by the state forestry authorities (National Biodiversity Protection and Action Plan for Georgia, 2014-2020)

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. Refer also to 1.4 Harvesting permits.

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

- For state forests located on areas under management of the National Forest Agency – existing governmental (Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection and/or National Forest Agency) recent monitoring reports on use of special use licenses shall be observed.
- However, if such reports are not available, then independent field inspection/evaluation (especially if primary source of timber is a “forest use special license”) shall confirm that harvesting rules and restrictions are complied with (Harvesting is conducted within the authorized boundaries of the FMU; Harvesting did not take place in areas where harvesting is legally prohibited; Tree species or selected trees found within the FMU for which felling is prohibited were listed in operational plans; Tree species or selected trees found within the FMU for which felling were prohibited were marked, etc.).
- Refer also to country specific measures in 1.4 (Harvesting permits)

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

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 “On Adoption of Forest Use Rules” (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>
- Rules for Forest Inventory, Planning and Monitoring (2013) - Decree of the Government of Georgia of July 17, 2013, #179 “On Adoption of Rules for Forest Inventory, Planning and Monitoring” (Official Website of the Legislative Herald of Georgia, 19.07.2013) <https://matsne.gov.ge/ka/document/view/1971205>

- Rules on Caring for Forests and Forest Restoration (2010) - Decree of the Government of Georgia of August 13, 2010 #241 "On Adoption of Rules on Caring for Forests and Forest Restoration" (Legislative Herald of Georgia, Part III, Vol.100, 17.08.2010, Clause 1496) / as modified by 2 amending decrees / last amended by the Decree of the Government of 13.10.2011 #391 <https://matsne.gov.ge/ka/document/view/1021046>
- Law of Georgia "On the System of Protected Areas" (1996) <https://matsne.gov.ge/ka/document/view/32968>
- Law of Georgia "On Wildlife" (1996) <https://matsne.gov.ge/ka/document/view/33352>
- Law of Georgia "On the Red List and Red Data Book of Georgia" (2003) <https://matsne.gov.ge/ka/document/view/12514>
- The Convention on Biological Diversity (ratified by Resolution No 471 of the Parliament of Georgia, 21 April 1994)
- United Nations Convention to Combat Desertification (ratified by Resolution No 2141 of the Parliament of Georgia, 23 June 1999)
- The Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1997) (ratified by Resolution No 136 of the Parliament of Georgia, 11 February 2000)
- The Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar) (ratified by Resolution No 201 of the Parliament of Georgia, 30 April 1996)
- The Convention on the Conservation of European Wildlife and Natural Habitats (Berne, 1979) (ratified by Resolution No 940 of the Parliament of Georgia, 30 December 2008)
- The European Landscape Convention (2000) (Order of the President of Georgia #39, 9 June 2010)

1.9.2. Legal authority

- Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)
- Protected Areas Agency (subordinated to the Ministry of Environment and Natural Resources Protection).

1.9.3. Legally required documents or records

- Forest Use Licence.
- Forest Use (Harvesting) Plan.
- Agreement (contract) for special use.
- Forest monitoring documents.

1.9.4. Sources of Information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- National Environmental Action Programme of Georgia (2012–2016)
http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP_eng_2012.pdf
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020)
<https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>
- Website of the Agency of Protected Areas of Georgia:
<http://www.apa.gov.ge/en/Frequently-Asked-Questions>

Non-Government sources

- Forests and the Biodiversity Convention Independent Monitoring of the Implementation of the Expanded Programme of Work in Georgia. Global Forest Coalition, May 2008.
<http://globalforestcoalition.org/wp-content/uploads/2010/11/IM-Report-Georgia1.pdf>
- Personal communication with Irakli Macharashvili, Biodiversity Program Coordinator, NGO Green Alternative (date: 1 October 2015)
- Annual Reports of the Agency of Protected Areas of Georgia (2007-2015) [in Georgian] –
<http://www.apa.gov.ge/ge/angariSebi>
- Caucasus Biodiversity Council, CBC. (2012). Ecoregion Conservation Plan for the Caucasus. 2012 revised and updated edition.
http://wwf.panda.org/wwf_news/?205437/Ecoregion-Conservation-Plan-for-the-Caucasus-revised
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.9.5. Risk determination

Overview of Legal Requirements

The 1996 law on the Protected Area System defines protected area management categories (based on IUCN categories) and their protection and management regimes. Currently, the protected area network includes a total of 520,811.14 hectares, which is about 7.47% of the country's overall territory and consists mainly of forest lands (452,469 ha or 15.2% of the total forest land area). Protected areas are managed by the Protected Areas Agency (under the Ministry of Environment and Natural Resources Protection of Georgia) which, inter alia, is responsible for enforcement of forestry-related legislation on the protected areas. However, logging operations are carried out only in some categories of protected areas (traditional use zones of National Parks/ IUCN Category II, and in Sanctuaries/ IUCN Category IV) based on the requirements of protected area management plans, and only for individuals (from local populations) for fuel wood to be used solely for their personal purposes. Timber from this source is not allowed on the open market and exists in very limited quantities

Outside the protected areas, responsibility for enforcement of protected sites/ species-related legislation on forest lands is held by the Environmental Supervision Department (on the whole territory of the country), National Forest Agency of Georgia (within State forest lands

governed by the agency) and Forest Agency of Ajara Autonomous Republic (on State forest lands within Ajara Autonomous Republic

Georgia has ratified many international treaties and agreements such as the Convention on Biological Diversity (1992), Bern Convention on the Conservation of European Wildlife and Natural Habitats (1979) and the European Landscape Convention (2000). Georgian laws On Wildlife (1996) and On the Red List and Red Data Book of Georgia (2003) set out requirements and rules for protection of wildlife species and their habitats.

In turn, the current forestry legislation including Forest Code (1999), Forest Use Rules (2010), Rules for Forest Inventory, Planning and Monitoring (2013) and Rules on Caring for Forests and Forest Restoration (2010) refers specifically to the above sectoral laws and describes general requirements that biodiversity assets such as significant sites; wildlife; rare, threatened and endangered species and their habitats should be protected and monitored during forest operations. In addition, protection measures should be planned and overseen within the forest inventory, planning and licensing processes (general forest management planning and forest use/ harvesting/ planning). Elements of the above restrictions and requirements are, to varying degrees, integrated into the above rules and instructions but in some cases lack technical details making assessment of compliance complicated.

Description of Risk

There is a lack of technical forestry experience and monitoring capacities amongst both enforcement entities and forest practitioners. The cases of illegal logging within protected areas are much less common in comparison to the forests outside these areas. Specifically, only a few hundreds of cubic meters of wood are being harvested illegally from the protected areas each year. This minor scale has been maintained, despite significant expansion of forests within formally designated protected areas in recent years (National Biodiversity Strategy and Action Plan of Georgia for 2014–2020)

According to the National Biodiversity Strategy and Action Plan of Georgia for 2014–2020 [Chapter 4.1.11 Key biodiversity areas], as well as Ecoregional Conservation Plan for the Caucasus (2012) there are numerous key biodiversity areas (KBA) outside the current system of protected areas in Georgia. These include biological corridors, animal migration corridors, important plant areas (IPA), important bird areas (IBA), etc. KBAs must be identified and mapped, their formal status must be determined and their potential must be assessed so that suitable protection/ restoration measures can be implemented as well as sustainable management prescriptions. The same document refers [Chapter 6.2 Strategic approach] to the fact that the current unfavourable status of forest biodiversity in Georgia is primarily related to unsustainable forest management practices.

For instance, floodplain forests, which are under special protection regime (Forest Code 1999, Article 41, Part 1), are still under logging and grazing pressure outside formally designated protected areas (IUCN I-IV Categories).

As it was stated in National Biodiversity Strategy and Action Plan (2014-2020), which was also confirmed during the consultation with a NGO representative in October 2015 and participants of the common stakeholder meeting in August 2017 (as part of the 60-day stakeholder consultation process), there were concerns over violations of species/ habitat-

related rules during harvesting on State forest lands under management of the forest authorities.

Overall, sites and species (located outside protected areas) are significantly threatened by unsustainable forestry, specifically - over-harvesting (resulting in reduced density of tree cover), damage to natural regeneration and soils caused by inappropriate tree felling. Law enforcement is insufficient due to the limited capacities of the state forestry authorities. As a result, significant volumes of wood harvested from protected sites (outside PAs) enter supply chain. Most likely, these volumes are in the order of thousands of cubic meters per year (though, precise volumes are not known, because of the limited state capacities for monitoring). In general, stakeholders participating in the 60-day consultation process as well as GWFS confirm these findings.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (the identified laws are not enforced by relevant authorities). Consequently, the risk for this indicator has been assessed as specified.

Refer also to 1.4 Harvesting permits.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- All legally established protected areas (including species habitats) shall be included in the management plan or related documentation.
- For state forests located on areas under management of the National Forest Agency – existing governmental (Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection and/or National Forest Agency) monitoring reports shall be observed.
- For state forests located within protected areas under management of the Protected Areas Agency – existing governmental (Protected Areas Agency) monitoring and/or evaluation reports shall be observed.
- Refer also to country specific measures in indicator 1.4 (Harvesting permits) and 1.8 (Forest harvesting regulations)

1.10. Environmental requirements

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

1.10.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-IIs of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>
- Rules for Forest Inventory, Planning and Monitoring (2013) - Decree of the Government of Georgia of July 17, 2013, #179 "On Adoption of Rules for Forest Inventory, Planning and Monitoring" (Official Website of the Legislative Herald of Georgia, 19.07.2013) <https://matsne.gov.ge/ka/document/view/1971205>
- Rules on Caring for Forests and Forest Restoration (2010) - Decree of the Government of Georgia of August 13, 2010 #241 "On Adoption of Rules on Caring for Forests and Forest Restoration" (Legislative Herald of Georgia, Part III, Vol.100, 17.08.2010, Clause 1496) / as modified by 2 amending decrees / last amended by the Decree of the Government of 13.10.2011 #391 <https://matsne.gov.ge/ka/document/view/1021046>
- Law of Georgia "On Environment Protection" (1996) <https://matsne.gov.ge/ka/document/view/33340>
- Law of Georgia "On Mineral Deposits" (1996) <https://matsne.gov.ge/ka/document/view/33040>
- Law of Georgia "On Water" (1999) <https://matsne.gov.ge/ka/document/view/33448>
- Law of Georgia "On the Protection of Atmospheric Air" (1999) <https://matsne.gov.ge/ka/document/view/16210>

1.10.2. Legal authority

- Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection
- National Environmental Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.10.3. Legally required documents or records

- Forest Use License
- Forest Use (Harvesting) Plan
- Agreement (contract) for special use

- Forest monitoring documents

1.10.4. Sources of information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- National Environmental Action Programme of Georgia (2012–2016)
http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP_eng_2012.pdf
- National Biodiversity Strategy and Action Plan of Georgia (2014-2020)
<https://www.cbd.int/doc/world/ge/ge-nbsap-v2-en.pdf>.

Non-Government sources

- Caucasus Biodiversity Council, CBC. (2012). Ecoregion Conservation Plan for the Caucasus. 2012 revised and updated edition.
- Can be downloaded here: http://wwf.panda.org/wwf_news/?205437/Ecoregion-Conservation-Plan-for-the-Caucasus-revised
- Personal communication with Irakli Macharashvili, Biodiversity Program Coordinator, NGO Green Alternative (date: 1 October 2015)
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.10.5. Risk determination

Overview of Legal Requirements

Laws On Environment Protection (1996), On Mineral Deposits (1996), On Water (1999), On the Protection of Atmospheric Air (1999) set out general principles, requirements and rules for identification and protection of environmental values including acceptable levels of soil damage, establishment of buffer zones (e.g. along watercourses), biodiversity conservation, air quality, protection and restoration of water quality, and mineral exploration and extraction.

Under forestry legislation including the Forest Code (1999), Forest Use Rules (2010), Rules for Forest Inventory, Planning and Monitoring (2013) and Rules on Caring for Forests and Forest Restoration (2010), there are requirements to follow the above sectoral laws as well as general requirements that relevant rules (including maintenance of retention trees on felling sites, seasonal limitations of harvesting times, environmental requirements for forest machinery etc.) should be monitored during forest operations. Additionally, protection measures should be planned and overseen within the forest inventory, planning and licensing processes (general forest management planning and forest use/ harvesting/ planning). Elements of the above restrictions and requirements, to varying degrees, are integrated into the above rules and instructions; although in some cases lack technical details, making assessment of compliance complicated

Description of Risk

During consultation with a NGO representative (as well as 60-day long public consultations as part of the NRA process), it was highlighted that there were concerns over violations of protection of species and other environmental requirements during harvesting on State forest lands under management of the forest authorities. Also, there is a risk relating to lack of enforcement, lack of technical forestry experience amongst both enforcement entities and forest practitioners. This argument is reinforced by officially adopted strategic documents such as National Biodiversity Strategy and Action Plan (2014-2020) and Ecoregional Conservation Plan for the Caucasus (2012-2016).

Due to lack of enforcement and monitoring capacities it is not possible to fully control the entire range of requirements for this indicator. This conclusion is supported by the stakeholders participating in the 60-day public consultation as well as WGFS.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (the identified laws are not enforced by relevant authorities). Consequently, the risk for this indicator has been assessed as specified.

Refer also to 1.9 Protected sites and species.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- For state forests located on areas under management of the National Forest Agency – existing governmental (Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection and/or National Forest Agency) recent monitoring reports on use of special use licenses shall be observed.
- However, if such reports are not available, then independent field inspection/evaluation (especially if primary source of timber is a “forest use special license”) shall confirm that environmental restrictions (such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.) were followed.
- Refer also to country specific control measures and verifiers under indicator 1.9 Protected sites and species.

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

- Labor Code of Georgia (2010) / Organic Law of Georgia No 4113-ES of 17 December 2010 – LHG Official Website, 27.12.2012 / Consolidated Version as of 27.09.2013 / as modified by 5 amending laws / Last amended by Law of Georgia No of 27 September 2015 - LHG Official Website, 09.10.2013. Available at: <https://matsne.gov.ge/en/document/view/1155567>

1.11.2. Legal authority

- Ministry of Labor, Health and Social Protection of Georgia

1.11.3. Legally required documents or records

- N/A

1.11.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>

Non-Governmental Sources

- Georgian Trade Unions Confederation official web page <http://gtuc.ge/eng>
- Personal communication with forestry sector labour union representatives, Mr. Guram Khurtsidze, Deputy Chairman of the Georgian Constructors and Foresters Independent Professional Union and Zurab Ghughunishvili, Leading Specialist of the Georgian Constructors and Foresters Independent Professional Union. Date: 2 October 2015

1.11.5. Risk determination

Overview of Legal Requirements

The Labour Code of Georgia (2010) sets out general principles, requirements and standards for safe and healthy working environments. According to Article 35 of the Code (Right to safe and healthy working environment):

- Employers are obliged to provide employees with a working environment that is optimally safe for the life and health of employees.
- Employers are obliged to provide employees, within a reasonable timeframe, with complete, objective, and clear information on all factors affecting employees' life and health and the safety of the natural environment.
- Employees may refuse to perform the work, assignment, or instruction if it is in contravention of the law or, due to the lack of occupational safety standards, obviously and substantially endangers the life, health, or property of the employee or another person, or the safety of the natural environment.
- Employers are obliged to introduce a preventative system ensuring labour safety and provide employees – in a timely manner - with relevant information about labour safety-related risks and measures for preventing the risks.
- Additionally, employers shall inform employees of the rules for handling equipment with which there is an associated risk and, if necessary, provide employees with personal protective equipment. Along with technological progress, employers shall, in a timely

manner, replace hazardous equipment with safe or less hazardous equipment, as well as taking all other steps for employees' safety and to protect their health.

- An employer is obliged to take every step to localize and eliminate an industrial accident in a timely fashion; to administer first aid and evacuate personnel.

Despite the fact that some specific technical regulations are not adopted yet, all the above general statements under the Labour Code represent direct legal requirements. These specific regulations (which have not been adopted yet) related for silvicultural operations include personal protective equipment for persons involved in harvesting activities, use of safe felling and transport practices, establishment of protection zones around harvesting sites, and machinery safety requirements; as well as health and safety requirements including those relating to forest operations.

Description of Risk

During consultation with Trade Union representatives (The Georgian Constructors and Foresters Independent Professional Union – a member of the wider Georgian Trade Unions Confederation), it was particularly highlighted from the Union perspective that the right to a safe and healthy working environment as granted by the Labour Code is predominantly violated in forest operations (in October 2015; see information sources for further details). People working in forests, for example, often do not have safety equipment or have not been instructed on safety measures when cutting trees.

There is a risk of limited enforcement due to the lack of a specialized enforcement unit operating within the Ministry of Labour, Health and Social Protection. The Social Service Agency (which is part of the Ministry of Labour, Health and Social Protection with the status of the Legal Entity of Public Law) is generally responsible for enforcement of the Labour Code. However, as the representatives of the Trade Union (see above) maintained, the capacities of this agency are quite limited, while the latter are mainly concentrating their activities on providing financial assistance to the families with very limited income and other social programs. The agency is not involved in promoting health and safety issues related to forestry operations.

Due to absence of enforcement and monitoring capacities it is not possible to fully control the entire range of requirements for this indicator. Furthermore, as mentioned above, according to the representatives of forestry Trade Unions, the violation of health and safety norms during forestry operations are widespread in the country.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (the identified laws are not enforced by relevant authorities). Consequently, the risk for this indicator has been assessed as specified.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- Occupational health and safety requirements shall be observed by independent evaluator in cooperation with all personal involved in harvesting activities accompanying with

interviews with staff and contractors that confirms that legally required protection equipment is required/provided by the organization

- A labor inspector (accredited by the respective state authorities) shall be employed by the FMU and this shall be checked by the organization. This inspector shall ensure that all respective occupational health and safety requirements are properly met at the FMU. Reports or equivalent shall be available (produced by the labor inspector) as well as evidence of the fulfilment of the requirements with respect to occupational health and safety outlined in these reports.

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

- Labour Code of Georgia (2010) / Organic Law of Georgia No 4113-ES of 17 December 2010 – LHG Official Website, 27.12.2012 / Consolidated Version as of 27.09.2013 / as modified by 5 amending laws / Last amended by Law of Georgia No of 27 September 2015 - LHG Official Website, 09.10.2013
<https://matsne.gov.ge/en/document/view/1155567>
- Tax Code of Georgia (2010) / Law of Georgia No 3591-II of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws / Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015
<https://matsne.gov.ge/en/document/view/1043717>

1.12.2. Legal authority

- Ministry of Labor, Health and Social Protection of Georgia.
- Revenue Service of the Ministry of Finances of Georgia.

1.12.3. Legally required documents or records

- Tax audit and monitoring documents.

1.12.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>.

Non-Government sources

- Chinese Business in Georgia 2010 published by the Economic and Commercial Counselor's Office of the People's Republic of China (PRC) Embassy in Georgia. Available at: http://ge2.mofcom.gov.cn/accessory/201010/128825288464_8.pdf
- KPMG Georgia - Business Climate in Georgia (2013). http://www.amcham.ge/res/news/0054/DBIG_June_2013.pdf
- Personal communication with forestry sector labour union representatives, Mr. Guram Khurtsidze, Deputy Chairman of the Georgian Constructors and Foresters Independent Professional Union and Zurab Ghughunishvili, Leading Specialist of the Georgian Constructors and Foresters Independent Professional Union. Date: 2 October 2015
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017), http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.12.5. Risk determination

Overview of Legal Requirements

The Labour Code of Georgia (2010) regulates labour and its concomitant relations in the territory of Georgia, unless they are otherwise governed by other special law or international agreements of Georgia. Labour-related questions not governed by the Labour Code or by other special law are regulated by the Civil Code of Georgia. The general principle under the Labour Code is that any labour agreement may not establish norms different from those provided for by the Labour Code and that can worsen employees' conditions. Furthermore, the Labour Code sets out, inter alia, general legal requirements for employment of personnel including the requirement for anti-discrimination rules, the right to join professional associations, and conditions around employee age and contracts.

Legal requirements for personnel involved in harvesting activities or any other forest operations – including the requirement for working permits, requirements for obligatory insurances, requirements for certificates of competency and other training requirements – are not applicable in Georgia.

As to the requirements concerning payment of income taxes withheld by employer: under the Tax Code it is a requirement for the employer to declare and withhold income taxes for hired personnel. This requirement is strictly administered and monitored by the Georgian tax authorities (Revenue Service of the Ministry of Finances) under general tax administration rules.

Description of Risk

According to the Labour Code (2010) there are two types of contracts – written and verbal. The contract agreement should be written, if the work lasts for more than three months. It can be verbal, if it lasts for three months or less. Forestry work performed by seasonal or temporary workers usually lasts for less than three months, while longer-term workers, such as rangers or managers, always have written contracts.

Many international observers (KPMG Georgia: Business Climate in Georgia, 2013) consider the Labour Code of 2010 to be very flexible and currently favourable for employers who - to make their work more efficient and effective - are free to design and include basically any

term in a labour contract, except terms directly restricted by law. At the beginning of the long-term forest licensing process (in 2007), there were cases of tension over the contractual conditions and lock-out rights between foreign operators and local personnel involved in forest activities (refer Chinese Business in Georgia 2010), although these tensions were regulated based on consensus and without the involvement of State authorities.

Despite the fact that there is no specialized enforcement and monitoring body within the Ministry of Labour, Health and Social Protection (the agency responsible for enforcement of the Labour Code) (Personal communication with Guram Khurtsidze and Zurab Ghughunishvili, October 2015), the risk is low in all above-mentioned aspects as the Labour Code provides for liberal arrangements based not on State intervention and control, but rather on expression of free will and consensus principles.

In addition, requirements relating to employer income tax payments and withholding are strictly observed and monitored by the tax authorities – thus, the overall risk for this sub-category is assessed as low.

To summarize - there are no evidences of “systematic or large scale non-compliance with labour and/or employment laws” (extract from FSC-PRO-60-002A V1-0 EN, page 19), with respect to employment conditions, possible forced labour, violations of contracts and tax payment.

However, the situation is different with respect to the freedom of association and right to collective bargaining. Apart from the Labour Code, these rights are regulated by The Law on Professional Unions (adopted in 1997). Specifically, the state applies excessive civil and penal sanctions against workers and unions involved in non-authorized strike actions. Also, the government often interferes in trade union affairs. There are also potential problems with regard to child labour. The Labour Code (2010) defines the minimum working age (including in the forestry sector) as 16 years. Persons 14 years old or older (but under 16), can be legally allowed to work, with the permission of their legally defined representative (or stewardship organization), if the respective work will not be detrimental to the interests of the under-aged and his/her physical, mental moral development and will not restrict his/her rights of receiving education. In no circumstances it is allowed for the under-aged persons to work under hazardous conditions. Nevertheless, the child labour is widespread in the field of agriculture in Georgia. There are no direct evidences of child labour in forestry operations. However, the likelihood that the under-aged/child labour occurs in forestry operations as well, is significant. Also, in some cases, no contracts are available for temporary forestry workers (this opinion was expressed by Marina Kurtanidze, a representative of forest labor unions, during the one-day stakeholder meeting on 9 August 2017). Further details are given in the assessment for Indicator 2.2.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (2) is met for this indicator (the identified laws are not enforced by relevant authorities and are often ignored). Consequently, the risk for this indicator has been assessed as specified.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

Independent evaluator shall observe the fulfilment of requirements with respect to freedom of association and right to collective bargaining, absence of discrimination, and preventing child labour, in cooperation with all personal involved in harvesting activities accompanying with interviews with staff and contractors that confirms that these requirements are properly fulfilled by the respective wood supplying unit.

Written contract agreements with all forestry workers, regardless of their status, shall be available within the FMU.

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

- Forest Code (1999) / Law of Georgia No 2124-IIs of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013. Available at: <https://matsne.gov.ge/en/document/view/16228>

1.13.2. Legal authority

- National Environmental Agency (subordinated to the Ministry of Environment and Natural Resources Protection).
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection).
- Forest Agency of Adjara Autonomous Republic (directly subordinated to the Government of Adjara Autonomous Republic).

1.13.3. Legally required documents or records

- N/A

1.13.4. Sources of information

Government sources

- Official web page of the Legislative Herald of Georgia <https://matsne.gov.ge>
- The decision of Georgian Government # 142 (dated 11 August 2009 (on amendments introduced to Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132)

1.13.5. Risk determination

Overview of Legal Requirements

There are no groups of individuals holding customary rights to forest harvesting activities (this includes requirements covering sharing of benefits and Indigenous rights).

However, there are customary rights to second-rate (secondary/ minor/ accessory) timber materials and non-timber forest products which are defined by the Forest Code (1999).

According to Article 88 (Chapter XXIV) of the Forest Code (1999), the presence of populations (individuals) in the forest is permitted without any preconditions or prerequisites. Under the same Article, any person is allowed to move freely within the forest; to collect for individual consumption purposes second-rate (secondary/ minor/ accessory) timber materials such as dead branches and roots of trees, tree stumps, dead bark and brushwood; to collect

for individual consumption purposes non-timber products; and to use forests for recreation and tourism.

Description of Risk

In the past there have been reports of Forest Use License holders refusing to allow people to enter their licensed forest areas. These reports mainly used the surveys of local population as the sources of information. Specifically, a relatively small proportion of population in various regions of Georgia (varying from 0 to 36%, depending on the region) complained that the logging license holders restricted their free access to the forest. These concerns by the locals were mainly expressed in the period 2009-2012 (CENN, 2013; more detailed source is given in the column "Sources of Information"). After inclusion in the Procedure and Terms of Forest Use Licensing (2005) of certain rights including access and collecting for personal consumption purposes (the decision of Georgian Government # 142, dated 11 August 2009), the problem was gradually resolved and violations of these rights are no longer reported to be an issue. Each year, tens of thousands of people (both Georgians and foreign tourists visiting Georgia) use Georgian forests for recreation and collection of non-wood products for personal consumption free of charge. This also includes wood use license areas. There are no recent reports available (at least for the recent 3-4 years), indicating of any type of unlawful restriction of people's access to the forests, including by logging license holders.

In addition to that, participants of the common stakeholder meeting (9 August 2017) confirmed that there are no indigenous or traditional peoples in Georgia. Some participants mentioned that there might be some people wishing to conduct traditional forestry practices. However, no concrete examples were mentioned. Furthermore, none of the participants of that meeting mentioned any fact of restriction of the rights on free access of the people to the forest.

Consequently, the risk for this indicator is considered low. The WGFS as well as the participants of the meeting held on 9 August 2017 support these conclusions and agree to assign a "Low risk" category to this indicator.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.13.6. Risk designation and specification

Low risk

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

- Law on Licenses and Permits (2005) / Law of Georgia No 1775-rs of 24 June, 2005 (Legislative Herald of Georgia, Part I, Vol. 40, 18.07.2005) / Consolidated Version as of 30.06.2015 / as modified by 60 amending laws / Last amended by Law of Georgia No 3704-II of 12.06.2015 - LHG Official Website, 30.06.2015
<https://matsne.gov.ge/en/document/view/26824>
- Rules and Conditions for Issuing Forest Use Licenses (2005) - Decree of the Government of Georgia of August 11, 2005 #132 "On Adoption of Rules and Conditions for Issuing Forest Use Licenses" (Legislative Herald of Georgia, Part III, Vol.94, 08.12.2005, Clause 1066) / as modified by 61 amending decrees / last amended by the Decree of the Government of 16.07.2015 #351 <https://matsne.gov.ge/ka/document/view/10234>
- Rules on Transfer and Receipt of the Forest Land Plots Prescribed under general and Special Forest Use Licenses (2009) – Annex 1 to the Order of the Minister of Environment and Natural Resources Protection of Georgia of February 10 September, 2009 #33 "On Adoption of Rules and Forms for Transfer and Receipt of the Forest Land Plots Prescribed under General and Special Forest Use Licenses (Legislative Herald of Georgia, Part III, Vol.112, 14.09.2010) / as modified by 2 amending orders / last amended by the Order of the Ministry of Environment Protection and Natural Resources 18.11.2010 #59
<https://matsne.gov.ge/ka/document/view/85996>

1.14.2. Legal authority

- N/A

1.14.3. Legally required documents or records

- Forest Use (Harvesting) License
- • General Management Forest Plan (has to be prepared by the forest authorities for a wider forest area/forest administrative unit)
- Forest Use (Harvesting) Plan (has to be prepared by license holder for a licensed area located within the wider forest area)

1.14.4. Sources of information

Government sources

- Official web page of the National Forest Agency of Georgia <http://forestry.gov.ge/>

Non-Government sources

- Problems and Challenges of Forest Governance in Georgia. 2012. Publication by NGO "Green Alternative"; sponsored by the US Embassy in Georgia.
http://www.greenalt.org/webmill/data/file/publications/Report_Forest_1.pdf
- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.14.5. Risk determination

Overview of Legal Requirements

Free, prior and informed consent is covered in applicable laws indirectly (see also Overview of Legal Requirements in 1.13 Customary rights).

Rules and Conditions for Issuing Forest Use Licenses (2005) sets out the procedure for decision-making on forest use (harvesting) plans that must be prepared by Forest Use Special License holders and approved by the forest authorities before license-related forest operations may commence. The procedure implies public disclosure of a draft plan and consultation where elements of free, prior and informed consent are indirectly presented – as the local population has the right to obtain information in advance and to express opinions about the transfer of forest management/ operational rights (and some existing customary rights) to the organization in charge of the harvesting operation within the defined licensed area.

In addition, according to Article 3 (Paragraph 'a.a') of the Law on Licenses and Permits (2005), a license holder may divide and/or fully or partially transfer the license to another person, including by inheritance. Rules and Conditions for Issuing Forest Use Licenses (2005) provides further details for full or partial transfer of the forest use (harvesting) license to another person. According to Article 8 (Paragraph 'I') of the Rules and Conditions for Issuing Forest Use Licenses, a person (whether natural or legal) who has fully or partially transferred a forest use (harvesting) license is obliged to prepare and submit to the forest authorities a new forest use (harvesting) plan for consideration and further approval.

Overall, Georgian law does not provide for the direct implementation of free, prior and informed consent that, under international law (The United Nations Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly 61st session on 13 September 2007), relates to the rights of Indigenous People.

It has to be considered also that customary rights in Georgia are not directly related to the whole spectrum of forest management rights, but represent a limited segment of minor use rights (see more details in 1.13 Customary rights).

Description of Risk

Decision-making procedures for forest use/ harvesting plans (where elements of free, prior and informed consent are indirectly presented) are generally followed by the forest authorities. Specifically, each draft forest use plan is discussed publically. Some environmental NGOs argue that the public participation level is not sufficient (a participant of the common stakeholder meeting, held on 9 August 2017, expressed this view; further details are provided in the stakeholder consultation report). This is explained by the low environmental awareness of the public and by the fact that limited time is allowed for the submission of comments on the draft forest use plans after they are made publicly available (i.e. 15 calendar days). Nevertheless, there have been several cases in the past years (from 2009 till now) when the draft plans were sent back to the authors for the revision, after public consultations. This means that the principle of Free Prior and Informed Consent is generally working in Georgia. This argument was supported by the majority of the participants of the stakeholder meeting (held on 9 August 2017) as well as WGFS. No further objections were made by any stakeholder.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.14.6. Risk designation and specification

Low risk

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

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

1.16.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Law on Fees for Use of Natural Resources (2004) / Law of Georgia No 946-rs of 29 December, 2014 (Legislative Herald of Georgia, Part I, Vol. 41, 30.12.2004) / Consolidated Version as of 04.06.2015 / as modified by 24 amending laws / Last amended by Law of Georgia No 3674-II of 29.05.2015 - LHG Official Website, 04.06.2015 <https://matsne.gov.ge/ka/document/view/28948>
- Rules for Forest Inventory, Planning and Monitoring (2013) - Decree of the Government of Georgia of July 17, 2013, #179 "On Adoption of Rules for Forest Inventory, Planning and Monitoring" (Official Website of the Legislative Herald of Georgia, 19.07.2013) <https://matsne.gov.ge/ka/document/view/1971205>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 "On Adoption of Forest Use Rules" (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455 <https://matsne.gov.ge/ka/document/view/1025889>

1.16.2. Legal authority

- Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)

1.16.3. Legally required documents or records

- Forest inventory data

- Forest use licenses and Documents of Origin of Wood
- Sales Contracts for Wood and Primary Wood Products
- Waybill
- Forest operations and felling areas monitoring documentation.

1.16.4. Sources of information

Government sources

- Official Timber Resources Management Electronic System (access for authorized state bodies) <http://ms.anr.ge>
- Official Timber Resources Management Electronic System (access for registered forest operators) <http://portal.anr.ge>
- Official Tax Service Electronic System – E-Services (access for authorized state bodies and registered tax payers) <https://www.rs.ge>

Non-Governmental sources

- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017), http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.16.5. Risk determination

Overview of Legal Requirements

According to the Forest Code of 1999 (Articles 93 and 931), the National Forest Agency is responsible for enforcement of legislation regulating classification of harvested material in terms of species, volumes and qualities in connection with trade and transport. The legal acts approved in this context (Rules for Forest Inventory, Planning and Monitoring, 2013 and Forest Use Rules, 2010) are mentioned in the source information. In addition, the Law on Fees for Use of Natural Resources (2004) provides a classification of harvested material in terms of species, volumes and qualities.

The above laws and regulations define what should be classified and measured (e.g. standing and harvested wood must be classified according to species, quality and quantity); however they do not stipulate how the species, volume and quality for standing forest or different timber products (roundwood, sawn timber, commercial wood, etc.) shall be calculated (where relevant) and do not provide relevant tables on log volume calculations, other formulas for calculation and/or identification, or other technical guidance, reference to other technical standards and/or details.

Technical rules and standards for measurements and calculations that are currently used in forestry planning, monitoring and enforcement practice are not legally binding and are based on Soviet rules and standards that have been slightly modified and rearranged.

Description of Risk

Based on the abovementioned, non-legally binding measurement rules and standards, wood is almost always transported and traded with all necessary accompanying documentation

(see more details in 1.17 Trade and Transport) including all required details such as species, volumes, quality etc.

There is a lack of capacity in technical expertise which makes it difficult for both responsible government agencies and forest operators to fully follow the range of requirements related to measurements and calculations according to the technical rules and standards. As these are not legally binding, however, the risk of legal violation is considered to be low. This viewpoint was supported by the majority of the participants of the common stakeholder meeting (held on 9 August 2017) as well as WGFS.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

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

1.17.1. Applicable laws and regulations

- Forest Code (1999) / Law of Georgia No 2124-II of 22 June, 1999 (Legislative Herald of Georgia, Part I, Vol. 28/35/, 08.07.1999) / Consolidated Version as of 23.09.2013 / as modified by 21 amending laws / Last amended by Law of Georgia No 1031-Is, 06.09.2013 - LHG Official Website, 23.09.2013 <https://matsne.gov.ge/ka/document/view/16228>
- Technical Regulations establishing Rules for Movement of Wood within the Territory of Georgia and Technical Regulations for Primary Round Wood (Logs) Processing Facilities - Sawmills (2014) - Decree of the Government of Georgia of January 10, 2014 #46 "On Adoption of Technical Regulations establishing Rules for Movement of Wood within the Territory of Georgia and Technical Regulations for Primary Round Wood (Logs) Processing Facilities - Sawmills" (Official Website of the Legislative Herald of Georgia, 15.01.2014) / as modified by 3 amending decrees / last amended by the Decree of the Government of Georgia #675, 10.12.2014 <https://matsne.gov.ge/ka/document/view/2193366>
- Operational Instructions for Timber Resources Management Electronic System (2014) - Decree of the Government of Georgia of April 30, 2014 #118 "On Adoption of Operational Instructions for Timber Resources Management Electronic System" (Official Website of the Legislative Herald of Georgia, 10.05.2014) / as modified by 2 amending decrees / last amended by the Decree of the Government of Georgia #224, 23.09.2015 <https://matsne.gov.ge/ka/document/view/2309913>

- Instruction on Administering of Taxes (2010) – Order of the Minister of Finances of December 31, 2010, #996 “On Administering of Taxes” (Official Website of the Legislative Herald of Georgia, 03.01.2010) / as modified by 122 amending orders/ last amended by the Order of the Minister of Finances of 22.10.2015 #339
<https://matsne.gov.ge/ka/document/view/1167887>
- Forest Use Rules (2010) - Decree of the Government of Georgia of August 20, 2010 #242 “On Adoption of Forest Use Rules” (Legislative Herald of Georgia, Part III, Vol. 103, 24.08.2010, Clause 1533) / as modified by 40 amending decrees / last amended by the Decree of the Government of 04.09.2015 #455
<https://matsne.gov.ge/ka/document/view/1025889>

1.17.2. Legal authority

- Environmental Supervision Department of the Ministry of Environment and Natural Resources Protection
- National Forest Agency (subordinated to the Ministry of Environment and Natural Resources Protection)
- Forest Agency of Ajara Autonomous Republic (subordinated to the Directorate of Environment Protection and Natural Resources of Ajara Autonomous Republic; the Directorate in its turn is directly subordinated to the Government of Ajara Autonomous Republic)
- Revenue Service of the Ministry of Finance.

1.17.3. Legally required documents or records

- Waybill
- Document of Origin for Wood
- Sales Contract for Wood and Primary Wood Products
- Wood Labels

1.17.4. Sources of information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- Official Tax Service Electronic System – EI-Services (access for authorized state bodies and registered tax payers) <https://www.rs.ge>
- Official Timber Resources Management Electronic System (access for authorized state bodies) <http://ms.anr.ge>
- Official Timber Resources Management Electronic System (access for registered forest operators) <http://portal.anr.ge>

1.17.5. Risk determination

Overview of Legal Requirements

According to the Forest Code of 1999 (Articles 93 and 931), forest authorities are responsible for enforcement of legislation regulating management of timber operations and timber

products relating to data generation and sharing in connection with trade and transport. The legislation approved in relation to the above (and other relevant implementing regulations) is mentioned in the source information; namely, Technical Regulations establishing Rules for Movement of Wood within the Territory of Georgia and Technical Regulations for Primary Round Wood (Logs) Processing Facilities - Sawmills (2014) [or 'Technical Regulations (2014)'], Instruction on Administering of Taxes (2010), Operational Instructions for Timber Resources Management Electronic System (2014) [or 'Operational Instructions (2014)'] and Forest Use Rules (2010), set out rules and requirements for transportation and trade in wood and primary wood products.

Legal requirements regarding transportation

Legal requirements regarding transportation of wood (round logs) from the harvesting area to a certain destination can be classified as follows:

1. Document of Timber Origin (required for transportation of all types of wood derived from all types of use, and from all types of forest operators, whether commercial timber and fuel wood or whether harvested on State forest lands or elsewhere): document, with some minor exceptions, is obtained directly from the forest authorities (National Forest Agency and in Ajara from the Forest Agency of Ajara Autonomous Republic); document is issued based on existing licenses, forest harvesting tickets (in case of fuel wood), special forest use contracts, and forest operations- and felling areas-related monitoring documentation under Forest Use Rules (2010) and - in the case of timber harvested outside State forest lands - based on other documents. The document is also required for transportation of imported timber; and in this case the document is issued based on existing import-related documents (such as a contract, customs documentation etc.). [Legal references: Article 93 of Forest Code/ Article 3 of Technical Regulations (2014)]
2. Timber Waybill: used in situations where timber is to be used for commercial purposes or for trade; and is required for transportation of all types of wood derived from all types of use, and from all types of forest operators, whether commercial timber and fuel wood or whether harvested on State forest lands or elsewhere. The waybill is issued by tax authorities (Revenues Service of the Ministry of Finances) through the tax services' electronic system and is obtained electronically by registered tax payer operators (either a physical or legal person). The waybill is also required for transportation of imported timber. [Legal reference: Articles 24 and 252 of the Instruction on Administering of Taxes (2010)]
3. Timber Label: required for all types of timber except fuel wood logs, which have to be harvested and transported only in 'log' form with a length of no more than 1 meter. Each label has its own unique code number and each log shall be subject to labeling. The label, with some minor exceptions, is obtained directly from the forest authorities (National Forest Agency and in Ajara from the Forest Agency of Ajara Autonomous Republic). [Legal references: Article 93 of Forest Code/ Article 3 of Technical Regulations (2014)]

Legal requirements regarding trade

1. Document of Timber Origin [Legal References: Forest Code/ Technical Regulations (2014)]
2. Timber Waybill (following a request from a buyer) [Legal Reference: Instruction on Administering of Taxes (2010)]

3. Timber Label (is required where timber is purchased directly from the Forest Use Special License holder) [Legal References: Forest Code/ Technical Regulations (2014)]
4. Timber sales primary contract (required in instances of secondary sale and/or export)
5. Trade in timber harvested for social purposes through forest use tickets and/or special forest use contracts (whether fuel wood or commercial timber) is prohibited. Trade is prohibited also in primary timber products processed from the above timber.

Description of Risk

Timber transportation, trade and primary processing-related data and documents - as well as forest operations- and felling areas-related monitoring documentation under Forest Use Rules (2010) - are uploaded and integrated into the Timber Resources Management Electronic System according to the rules and procedures set out in the Operational Instructions (2014). The Electronic System is coordinated by the National Forest Agency; however other related agencies as well as forest operators (e.g. Forest Use Special License holders) are also authorized to upload documents. Since its introduction in 2014 and following further development, the Electronic System has gradually become an effective instrument for forest operations monitoring and timber tracking at national and local levels. This system has been regarded as an effective instrument because all required transport and trade documents are recorded; volumes, species and qualities are classified; and documents related to transportation, trade, import and export are clearly linked to the specific material in question. Thus, the risk of corrupt deals has been brought to minimum. This viewpoint was supported by the majority of the participants of the common stakeholder meeting (held on 9 August 2017) as well as WGFS.

Rules and requirements for transportation and trade are strictly administered by the enforcement bodies including the Environmental Supervision Department, National Forest Agency and Forest Agency of Ajara Autonomous Republic (for transportation); and by the Revenue Service (for trade). Under current administrative and criminal law, administrative and criminal responsibility is envisaged for violation of the above rules. To date, there have been only very few cases of violation of these rules. In those cases, the respective law enforcement authority (i.e. Environmental Supervision Department of the Ministry of Environment Protection and Natural Resources) has taken immediate and effective actions to stop illegal activities and prosecute the violators (kvira.ge, 2015).

The overall low level of corruption in the country is proved by: a) various publications (see the relevant sources of information for this indicator as well as Indicator 1.5), b) the firm tendency of improvement of Georgia's performance with respect to Transparency International's CPI in recent years, and c) absence of reports or any other sources of information confirming significant number of cases of corruption in Georgia.

Because of the high level of law enforcement for this indicator, and low level of corruption in the country (including in the forestry sector) risk for this indicator is assessed as low. This view (i.e. on low corruption lever and, respectively, low risk on the indicator on "Trade and Transport") was shared by all of the participants of the common stakeholder meeting (9 August 2017) as well as the WGFS members.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

N/A

1.18. Offshore trading and transfer pricing

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

1.18.1. Applicable laws and regulations

- Tax Code of Georgia (2010) / Law of Georgia No 3591-II of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws / Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015
- Art 22, Principles of Determining the Price of Goods (Services) for Taxation Purposes,
- Art 23, Interrelated Parties, provides the basis for transfer pricing control by the tax authorities.
- Chapter XVII. Articles: 126,127, 128, 129. (Amended in 2011). Specific transfer pricing regulation <https://matsne.gov.ge/en/document/view/1043717>
- Instruction for Controlled International Operations (2013) - Decree of the Government of Georgia of December 18, 2013, #423 "On Adoption of Instruction for Assessment of Controlled International Operations" (Official Website of the Legislative Herald of Georgia, 18.12.2013, 190040000.22.033.016592) <https://matsne.gov.ge/ka/document/view/2078069>

1.18.2. Legal authority

- Revenue Service of the Ministry of Finance of Georgia.

1.18.3. Legally required documents or records

- Trade Contracts

1.18.4. Sources of information

Government sources

- Georgian National Investment Agency <http://investinggeorgia.org/en/georgia/taxation>

Non-Government sources

- UHY International (2015). *Global Transfer Pricing Guide* [online]. London: UHY International. Available at: <http://www.uhy.com/wp-content/uploads/Global-Transfer-Pricing-Guide-January-2015.pdf> [accessed on March 2, 2017].
- PwC (2014). *International Transfer Pricing 2013/14* [online]. PwC. Available at: <http://www.pwc.com/gx/en/international-transfer-pricing/assets/itp-2013-final.pdf> [accessed on March 2, 2017].
- eoi-tax.org (2017). *Exchange of Tax Portal* [online]. Available at: <http://www.eoi-tax.org/jurisdictions/GE#agreements>

1.18.5. Risk determination

Overview of Legal Requirements

Since 1993, Georgia has been incorporating certain transfer pricing concepts into general tax legislation (currently Tax Code of 2010). Specific transfer-pricing regulation has been effective from 1 January 2011. The law follows the principles of the Organization for Economic Co-operation and Development (OECD). No Tax Information Exchange Agreements (TIEAs) have been signed, but 50 Double Tax Conventions (DTCs) have been signed in relation to 49 jurisdictions.

The Tax Code stipulates that the tax authority may recalculate taxes if it can be proven that the transaction prices applied by related parties differ from market prices.

The Georgian tax authorities can evaluate transfer pricing in controlled transactions (including international transactions) involving various jurisdictions and parties. The tax authorities may apply transfer pricing regulations when transactions occur between related parties (unless their relationship does not impact on the results of the transaction); or to transactions in which the tax authorities can prove that the price declared by the transacting parties differs from the actual price (UHY 2015). This applies to transactions between Georgian companies; or transactions between independent parties if one of the parties is a tax-haven resident or is registered in the Free Industrial Zone (FIZ).

The definition of 'related parties' is found in Article 19 of the Tax Code. Parties are recognized as related if their relationship could affect the conditions or economic results of their activities.

The definition of 'arm's length' can be evaluated by the authorities through various methods including: comparable uncontrolled price method; resale price method; cost plus method; net profit margin method; or profile split method. If the cost plus method is chosen, the law indicates that the mark-up should be benchmarked against similar transactions between non-related parties. It is yet to be seen how the government will seek to implement the benchmarking requirement.

The burden of proof remains with the taxpayer to confirm acceptability of the existing prices.

Rules and instructions relating to submission of transfer pricing documentation to the tax authorities have been determined by the order of the Ministry of Finance (which also includes

the assessment methods used by the authority). All related information (including contracts) proving fair prices shall be presented to the Revenue Service if requested.

Description of Risk

Transfer pricing is regulated through control of transfer prices and general tax audits. Only one can occur annually, unless reliable information exists relating to tax evasion (Tax Code, 2010).

PwC, in their International Transfer Pricing Book 2013/14, has identified 'export and import' as a risk area for transactions. Companies undergoing general tax audits have to provide additional information if tax evasion is suspected. Tax legislation is generally considered well-implemented and enforced by all key stakeholders, from not only state, but also NGO sectors and independent researchers (e.g. Liberal Academy Tbilisi). This has been confirmed by the fact that in recent years there have been no reported (or otherwise revealed) cases of bribery with respect to tax legislation enforcement. There have been no cases of transfer pricing related to the trade of timber, and generally the financial value of the timber trade is considered to be low. This view was shared by all of the participants of the common stakeholder meeting (9 August 2017) as well as the WGFS members.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Tax Code of Georgia (2010) / Law of Georgia No 3591-II of 17 September, 2010 (Legislative Herald of Georgia, Part I, Vol. 54, 12.10.2010) / Consolidated Version as of 04.08.2015 / as modified by 94 amending laws / Last amended by Law of Georgia No 4088-rs of 22.07.2015 - LHG Official Website, 04.08.2015 <https://matsne.gov.ge/en/document/view/1043717>
- Instruction on Movement and Registration of Goods on the Customs Territory of Georgia (2012) – Order of the Minister of Finances of July 26, 2012, #179 "On Adoption of Instruction on Movement and Registration of Goods on the Customs Territory of Georgia" (Official Website of the Legislative Herald of Georgia, 31.07.2012) / as modified by 64 amending orders/ last amended by the Order of the Minister of Finances of 01.09.2015 #285 <https://matsne.gov.ge/ka/document/view/1709684>

1.19.2. Legal authority

- Customs Department of the Revenue Service of the Ministry of Finances of Georgia

1.19.3. Legally required documents or records

- Customs Declaration
- Waybill
- Document of Origin of Wood and Primary Wood Products
- Sales Contract for Wood and Primary Wood Products

1.19.4. Sources of information

Government sources

- Reports of the National Forest Agency for 2014 and for the first half of 2015
<http://forestry.gov.ge/ge/public-information/general-information>
- Personal communication with customs authorities of the state revenue service, Merab Arakhamia (Deputy Head of the Legal Department) and Mikhail Kavtaradze (Customs Department) on 4 October 2015

Non-government sources

- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.19.5. Risk determination

Overview of Legal Requirements

Since August 2015, special requirements were introduced regarding the export of wood and/or wood products from Georgia.

According to the Tax Code of 2010, movements and registration of goods within the customs territory of Georgia are regulated by implementation of the Instruction on Movement and Registration of Goods on the Customs Territory of Georgia, 2012.

This Instruction specifies general rules for customs clearance (Article 4) including that clearance for all exported and imported goods requires submission of a general customs declaration, waybill, and contractual and financial information. Additional documentation (special permits or certificates) is required only if export or import is related, inter alia, to wood (unprocessed logs) and primary wood products. This documentation (in addition to the customs declaration and waybill) include: Document of Origin of Wood and Primary Wood Products (issued by the forest authority [National Forest Agency]; document allows timber to be tracked back to its primary source); Sales Contract for Wood and Primary Wood Products.

Customs declarations can be submitted electronically, or manually at the border, and the system is linked with the tax system.

Thus, special requirements (such as document of origin and contract in the case of purchases) for exporting of wood and wood products from Georgia are required under the customs regulations. Export and import of timber are linked with particular conifer or broad-leaved species and measured in both cubic meters and tones. Additional cross-checking of documents could be carried out at customs ports where 'objectively verified suspicion' exists. If the required documentation cannot be presented, wood may not be exported

Description of Risk

During the public consultations, one of the stakeholders mentioned that timber was measured in volumes (m³) in wood origin documents, while at the customs, the same wood was measured in metric tons. This might create serious discrepancies and prevent from proper tracking of wood. In addition, as this stakeholder argued, the customs officials did not possess sufficient knowledge to distinguish among wood species.

Nevertheless, according to another stakeholder, the customs officials are not obliged to measure timber in cubic meters, according to existing customs regulation (Instruction on Movement and Registration of Goods on the Customs Territory of Georgia, 2012). At present, only the documents attached to the cargo are checked. However, the customs officials have the so-called special risks program which reveals persons fined in the past; if such a person is revealed, his/her cargo is checked. Regarding the estimation of amounts of wood by weight, there is a special conversion table to cross check the volumes and weight for dry and moist wood. Furthermore, often the Environmental Supervision Department and/or Financial Police conduct random checks of the transported wood. The huge penalties discourage the potential violators from violation of the customs rules.

No records exist demonstrating violation of the existing customs requirements for wood and wood product exports. There have been no inconsistencies detected through cross-checking information provided through the personal communication with Merab Arakhamia (October 2015) and other stakeholders during the 60-day public consultations in July-August 2017.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

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

1.20.1. Applicable laws and regulations

- Decree of the President of Georgia of 12 August of 1996 #524 "On Accession to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

(CITES) / (Collection of Decrees and Ordinance of the President of Georgia, 30.08.1996)
<https://matsne.gov.ge/ka/document/view/108562>

- Decree of the Government of Georgia "On Approval of the Regulation on the Rule and Conditions of Issuance of Permit to Export, Import, Re-export and Introduction from the Sea of the Specimens (their parts and derivatives) of the Species Included in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)" – Decree of the Government of Georgia #18, February 6, 2007 (Legislative Herald of Georgia, Part III, Vol.20, 13.02.2007) / as modified by 6 amending decrees / last amended by the Decree of the Government of 19.03.2015 #119 <https://matsne.gov.ge/ka/document/view/8140>
- Instruction on Movement and Registration of Goods on the Customs Territory of Georgia (2012) – Order of the Minister of Finances of July 26, 2012, #179 "On Adoption of Instruction on Movement and Registration of Goods on the Customs Territory of Georgia" (Official Website of the Legislative Herald of Georgia, 31.07.2012) / as modified by 64 amending orders/ last amended by the Order of the Minister of Finances of 01.09.2015 #285 <https://matsne.gov.ge/ka/document/view/1709684>

1.20.2. Legal authority

- Ministry of Environment and Natural Resources Protection of Georgia

1.20.3. Legally required documents or records

- Permit to export, import, re-export; and introduction of the specimens (their parts and derivatives) of the species included in the Appendices of the CITES Convention.

1.20.4. Sources of information

Government sources

- CITES; Checklist of CITES Species; accessed 1. October 2015
http://checklist.cites.org/#/en/search/country_ids%5B%5D=240&output_layout=alphabetical&level_of_listing=0&show_synonyms=1&show_author=1&show_english=1&show_spanish=1&show_french=1&scientific_name=&page=1&per_page=20
- Biennial Report of Georgia for 2011-2012 to the CITES Secretariat
<https://cites.org/sites/default/files/reports/11-12Georgia.pdf>

Non-Governmental sources

- Working Group of Georgia on FSC Standards.
- NRA stakeholder consultation report (produced on 26.10.2017),
http://wwf.panda.org/what_we_do/where_we_work/black_sea_basin/caucasus/?314994/Controlled-Wood-National-Risk-Assessment-for-Georgia--public-consultation-report

1.20.5. Risk determination

Overview of Legal Requirements

Georgia became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1996, with the Convention coming into force in the territory of Georgia on 12 December 1996.

The Implementing Regulation of 2007 (Governmental Decree #18, 6 February 2007) sets rules and conditions for: (a) granting of permits to export, import, re-export; and (b) introduction of the species included in the Appendices to the CITES Convention.

Permits and other documents - as specified in the CITES Convention - are issued by the Ministry of Environment and Natural Resources Protection of Georgia to allow export of CITES-listed animals and plants, parts thereof or articles made of them to third-party countries. According to Article 4 (paragraph 4, sub-paragraph 'a.a.e') of the Instruction on Movement and Registration of Goods in the Customs Territory of Georgia (2012), CITES permits and certificates are required during customs clearance and therefore accomplishment of customs formalities is allowed only upon presentation of the above documentation.

Description of Risk

There are no woody species listed on the CITES list for Georgia (see respective link in the Sources of Information). Furthermore, based on annual reports from Georgia to the CITES Secretariat there is no specification of tree species exported (re-exported) from Georgia. This view was supported by the stakeholders participating in the public consultation in July and August 2017 as well as WGFS.

Risk Conclusion

Based on the available information, it can be concluded that Threshold (1) is met. The risk for this indicator has been assessed as low.

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

N/A

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

N/A

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

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 Georgia** identifies the different types of sources of timber it is possible to find in the country of origin.

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

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

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

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

License type - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN GEORGIA

Forest type	Region/ Area	Legal Land Classification	Ownership	Management regime	Licence / Permit Type	Description of source type
Natural Forest	National	Permanent forest [State Forests under Management of State Forest Authorities].	State	Private	1. Forest Use (harvesting) Licence - Forest Use Special Licence (only harvesting) - Forest Use General licence (Harvesting and hunting)	Natural forest concession (=Forest Use Special License).
		Permanent forest [State Forests under Management of State Forest Authorities].		State	1. Forest Use (harvesting) Licence- Forest Use Special Licence (only harvesting)- Forest Use General licence (Harvesting and hunting)	Natural forest use by State Forest Authorities (source of legal timber [of both industrial wood and firewood] for the commercial marked). Note: theoretically possible source of legal timber but not yet practiced
		Permanent forest [State Forests under Management of State Forest Authorities]. (Harvesting/Forest Ticket).		State (Logging performed by households).	2. 'Logging ticket' for individuals - not to enter the commercial supply chain 3. Agreement on special use (of forest) (for	Firewood for households and also, on non-permanent basis, limited quantities of industrial wood for households and local public organizations – e.g. kindergartens, schools. No source of legal timber for the commercial market.

					construction purposes)	
		Conversion area (Special forest Use).	State/private		N/A	Clear cut logging (As a rule, no source of legal timber for the commercial market. Rarely allowed as source of legal timber, and only through State Forest Authorities [National Forest Agency])
		Protected Areas [State Forests under Management of State Protected Areas Authorities] (Harvesting/Forest Ticket).	State	State	Logging ticket for individuals.	Firewood for households, No source of legal timber for the commercial market.
Plantation forest	National	Trees on municipal lands (cities, settlements).	Municipal	Communal Tree Management	'Logging ticket' for individuals	Firewood for local municipal households, no source of legal timber for the commercial market.
		Farm lands (Trees on private lands).	Private	Private Tree Management	'Logging ticket' for individuals	Wood for private land owners' individual use/consumption. No source of legal timber for the commercial market.



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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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