

# Timber Legality Risk Assessment Poland

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COUNTRY RISK  
ASSESSMENTS



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FSC™ A000535

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## Contents

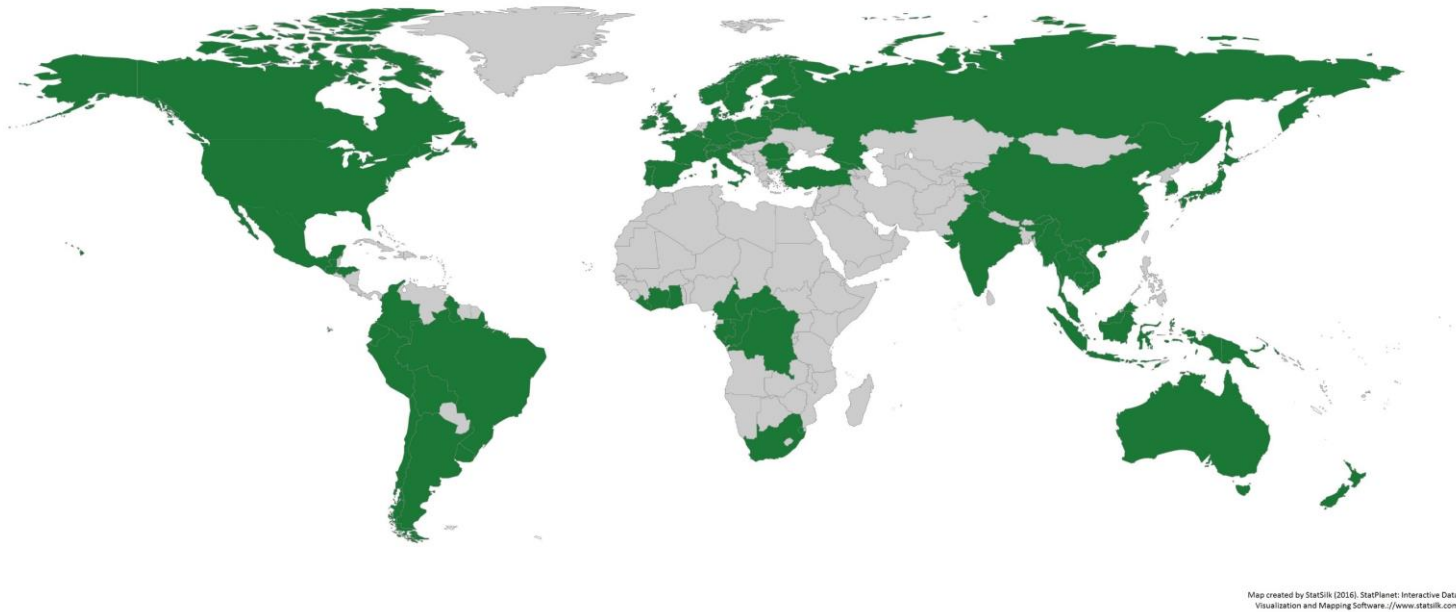
<b>A. Introduction</b> .....	<b>1</b>
<b>B. Overview of legality risks</b> .....	<b>2</b>
<b>C. Overview of the forest sector in Poland</b> .....	<b>4</b>
<b>D. Legality Risk Assessment</b> .....	<b>6</b>
LEGAL RIGHTS TO HARVEST .....	6
1.1. Land tenure and management rights .....	6
1.2. Concession licenses .....	8
1.3. Management and harvesting planning .....	8
1.4. Harvesting permits .....	10
TAXES AND FEES .....	11
1.5. Payment of royalties and harvesting fees .....	11
1.6. Value added taxes and other sales taxes .....	12
1.7. Income and profit taxes .....	13
TIMBER HARVESTING ACTIVITIES .....	15
1.8. Timber harvesting regulations .....	15
1.9. Protected sites and species .....	16
1.10. Environmental requirements .....	18
1.11. Health and safety .....	20
1.12. Legal employment .....	21
THIRD PARTIES' RIGHTS .....	23
1.13 Customary rights .....	23
1.14. Free prior and informed consent .....	24
1.15. Indigenous/traditional peoples' rights .....	24
TRADE AND TRANSPORT .....	26
1.16. Classification of species, quantities, qualities .....	26
1.17. Trade and transport .....	27
1.18. Offshore trading and transfer pricing .....	28
1.19. Custom regulations .....	30
1.20. CITES .....	31
1.21. Legislation requiring due diligence/due care procedures .....	32
<b>Annex I. Timber source types</b> .....	<b>35</b>

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## A. Introduction

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

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



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

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

## B. Overview of legality risks

**Timber Risk Score:** 91 / 100 in 2017

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

- Specified risk for 2 sub-categories.
- Low risk for 15 sub-categories.
- No legal requirements for 4 sub-categories.

The Timber Risk Score for Poland is 91 out of 100. The key legality risks identified in this report concern taxes and fees, and trade and transport.

For **Taxes and Fees**, there is a risk that land-use tax is not paid by private land owners (applies to private forest source types only) (1.5).

For **Trade and Transport**, there is a risk that forest owners and managers of private forest do not implement their due diligence obligations (1.21).

### Timber source types and risks

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

<b>State forest</b>	Timber from state-owned forest classified as permanent forest and managed by the National Holding of State Forests, or by local communities and provincial governments.
<b>Private forest</b>	Privately-owned forest classified as permanent forest and managed by the private owners.
<b>Forest in national parks and nature reserves</b>	Timber from forest in national parks and nature reserves, managed by the national parks administration, or by others under the supervision of the administration or  Limited source of timber
<b>Experimental forest stations</b>	Timber from experimental forest stations owned by universities.  Limited source of timber.

This matrix summarises the findings of the timber legality risk assessment set out in this report.

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

## C. Overview of the forest sector in Poland

Forest functions in Poland are divided into: production forests, protective forests and social forests. Production forests are maintained to ensure their sustainability for regular harvesting of timber and non-timber forest products, development of tourism, income from timber sales, and hunting services. They create work places and support national government and local self-governments through regularly paid taxes. Protective forests ensure the protection of biodiversity including a variety of habitats and animal and plant species. Forests also impact positively for climate protection, regulate water circulation, prevent floods and soil erosion. Social forests enhance recreational and health conditions for society, contribute to cultural and science development and are included in the country's defense system. In Poland, 85% of forests are State-owned, 13% are privately owned, 1.9% owned by National Parks and 0.1% owned by Experimental Forest Stations (that is, owned by universities).

Wood in Poland is harvested based on the stipulations of Forest Management Plans and their annual revisions. Based on the FMPs, particular compartments are harvested each year, depending on the kind of forest habitat.

In State Forests, permission to harvests is achieved through several steps as follows: firstly, the FMU manager approves the annual harvest inventory, following which field staff (foresters) issue to the harvesting company the order to harvest (in Poland harvesting is done only by contractors). Finally, the harvested wood is marked by the foresters as legally harvested (authorized).

In National Parks and Experimental Forest Stations, the same process occurs as described above for State Forests.

In Private Forests, permission to harvest is given either by a State Forest Officer (forester) or by the State Forest Authority (depending on the kind of supervision). Timber harvesting is regulated through the Act of 28 September 1991 on Forest (Dz. U No. 101, item 444). Harvesting of particular FMUs is based on the details contained in Forest Management Plans, approved by the Ministry of Environment. In State Forests responsibility for compliance with the Act on Forest and Forest Management Plans rests in general with Regional Directorates of State Forests (RDSFs), whereas in private forests it depends on the supervision type (that is, RDSF or State Authority).

The entire Polish State Forest is PEFC-certified, with 16 out of 17 Regional Directorates of State Forests possessing valid FSC certificates. The only non-FSC-certified RDSF (in Krosno) is being prepared for FSC certification, so it is very likely that this forest will soon be FSC-certified.

This means that 7,6 million hectares of forests in Poland are PEFC-certified and 7,2 million hectares are FSC-certified.

The list of sources provided in FSC-PRO-60-002a, section 3.3.3 has been reviewed in regards to the national legality risk assessment for Poland. The following sources have been used; World Bank "Worldwide Governance Indicators" and the Transparency International "Corruption Perceptions Index", and are referred to under "sources of Information" for each applicable sub-category. The remaining sources were found not to be relevant for the legality risk assessment for Poland.



Poland has an above-middle governance score according to the World Bank Governance Index. On a range from -2.5 to +2.5, Poland has a score of 0.79 in relation to "Rule of law" and on control of corruption a score of 0.55. According to Transparency International Poland has a Corruption Perception Index of 60 (2013). Though Poland does not score very high it is considered that significant improvements in their scoring in both indexes has taken place over the years, signifying a continuous improvement - also their score is at a medium-high level globally and is not considered to give rise to significant concerns over corruption and governance issues in general.

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 Poland. The following sources have been used: (NOTE: delete as appropriate)

1. Chatham House: <http://www.illegal-logging.info/>;
2. Environmental Investigation Agency: <http://www.eia-international.org/>;
3. EU FLEGT process:  
[http://ec.europa.eu/comm/development/body/theme/forest/initiative/index\\_en.htm](http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm);
4. Independent reports and assessments of compliance with related laws and regulations, e.g., the Royal Institute of International Affairs:  
<http://www.illegallogging.org>
5. Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
6. Public summaries of FSC forest management certification reports published at [info.fsc.org](http://info.fsc.org) (information on legal areas where non-compliances have been identified during the certification process that are likely to be common for non-certified operations);
7. Transparency International Corruption Perceptions Index:  
[http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi);
8. World Bank Worldwide Governance Indicators:  
<http://data.worldbank.org/datacatalog/worldwide-governance-indicators>;
9. In cases where other sources of information are not available, consultations with experts within the area shall be conducted.

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

The remaining sources were found not to be relevant for the legality risk assessment for Poland.

## D. Legality Risk Assessment

### LEGAL RIGHTS TO HARVEST

#### 1.1. Land tenure and management rights

*Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.*

##### 1.1.1. Applicable laws and regulations

For all ownership types:

- Act on Forest 1991 (Dz.U. 1991 nr 101 poz. 444). [online]. Came into effect 01.01.1992. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19911010444>
- Law on geodesy and cartography 1989 (Dz.U. 1989 nr 30 poz. 163). [online]. Came into effect 01.07.1989. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19890300163>
- Law on forest land ownership 1998 (Dz.U. 1998 nr 69 poz. 450). [online]. Came into effect 21.06.1089. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19980690450>

##### 1.1.2. Legal authority

- Ministry of Infrastructure, Ministry of Environment, Ministry of Agriculture and Country Development

##### 1.1.3. Legally required documents or records

- Land register, Ownership Act

##### 1.1.4. Sources of information

*Government sources*

- isap.sejm.gov.pl (N.Y.). *Web page of Legal Acts Online System*. [online]. ISAP (Internetowy System Aktow Prawnych). Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19911010444>
- geoportal.gov.pl (N.Y.). *Geoportal: Information about land registry, public maps*. [online]. Available at: <http://geoportal.gov.pl/>
- mr.gov.pl (N.Y.). *Web page of Ministry of Infrastructure and Development*. [online]. Ministerstwo Rozwoju. Available at: <http://www.mir.gov.pl/Strony/glowna.aspx>
- minrol.gov.pl (N.Y.). *Web page of Ministry of Agriculture*. [online]. Ministerstwo Rolnictwa I Rozwoju WSI. Available at: <http://www.minrol.gov.pl/>

- mf.gov.pl (N.Y.). *Web page of Ministry of Finance*. [online]. Ministerstwo Finansow. Available at: <http://www.mf.gov.pl/ministerstwo-finansow>
- lazy.gov.pl (2013). *State Forest report on thefts*. [online]. Directorate for National Forests. Available at: [bip.lasy.gov.pl/pl/bip/px\\_~raport\\_pgl\\_lp\\_2012\\_szk.pdf](http://bip.lasy.gov.pl/pl/bip/px_~raport_pgl_lp_2012_szk.pdf)
- ecologia.pl (N.Y.). *Web page of Eco-portal*. [online]. Available at: <http://www.ekologia.pl/srodowisko/ochrona-srodowiska/lasy-panstwowe-kradna-drewno-w-lasach,14999.html>
- lazy.gov.pl (2013). *Report on Forest Conditions 2013*. <http://www.lasy.gov.pl/publikacje/informacje-statystyczne-i-raporty/raporty/raporty-o-stanie-lasow-2013>
- lazy.gov.pl (N.Y.). *General data on thefts in forests*. [http://start.lasy.gov.pl/web/rdlp\\_lodz/155](http://start.lasy.gov.pl/web/rdlp_lodz/155)

#### *Non-Government sources*

- Transparency International (2013). *Corruption Perceptions Index* [online]. Available at: <http://cpi.transparency.org/cpi2013/results/>

#### **1.1.5. Risk determination**

##### *Overview of legal requirements*

There is a property tax that has to be paid by each forest owner, whether private or State.

##### *Description of risk*

The tenure of Poland's forests is as follows: State Forests 85%, private forests 13%, National Parks 1,9%, Experimental Forest Stations 0,1%. The ownership is clearly established, with all relevant information being publicly available (see Ministry of Environment geoportal; and Ministry of Infrastructure and Development).

There are no records of violation of the requirement to pay property tax (see Ministry of Finance site; and General Directorate of State Forest site).

There are known issues in Poland relating to wood theft, including low levels of wood theft in State Forests. However, more commonly, wood is stolen after harvesting. In these cases, the timber is harvested legally (according to the Forest Management Plan), but then stolen once harvested. Discussions with officials from the Regional Directorate of State Forests in radom revealed that there is a small number of thefts relating to standing timber, as it is easier and quicker to steal harvested wood than standing trees. These findings are supported by observations during Forest Management audits. The number of such cases is very limited and thus the risk is evaluated as low.

##### *Risk Conclusion*

Risk level for this indicator is considered as low.

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

Low risk

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

N/A

## 1.2. Concession licenses

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

### 1.2.1. Applicable laws and regulations

N/A

### 1.2.2. Legal authority

N/A

### 1.2.3. Legally required documents or records

N/A

### 1.2.4. Sources of information

N/A

### 1.2.5. Risk determination

N/A

### 1.2.6. Risk designation and specification

N/A

### 1.2.7. Control measures and verifiers

N/A

## 1.3. Management and harvesting planning

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

### 1.3.1. Applicable laws and regulations

- Regulations for preparation of Forest Management Plan (FMP), Simplified Forest Management Plan (SFMP) and forest inventory 1998 (Dz.U. 1999 nr 3 poz. 16) [online]. Came into effect 15.01.1999, annulled 01.01.2006. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19990030016>

### 1.3.2. Legal authority

- Ministry of Environment

### 1.3.3. Legally required documents or records

- Forest Management Plan, Simplified Forest Management Plan, Forest Condition Inventory, Environmental Protection Program

### 1.3.4. Sources of information

#### *Government sources*

- mos.gov.pl (N.Y.). *Web page of Ministry of Environment*. [online]. Ministerstwo Srodowiska. Available at: <https://www.mos.gov.pl/>

#### *Non-Government sources*

- pracownia.org.pl (N.Y.). *Official web site of NGO "Workshop for All Beings"*. [online]. Pracownia na rzecz wszystkich istot. Available at: <http://pracownia.org.pl/>
- wwf.org.pl (N.Y.). *Official web page of WWF Poland*. [online]. Available at: <http://www.wwf.pl/>

### 1.3.5. Risk determination

#### *Overview of Legal Requirements*

The main document that regulates harvesting is the Forest Management Plan (approved by the Minister of Environment), based on which the annual registry of cut is described and approved by the FMU Manager. Based on the registry of cut, the order for cutting is issued by the forester, with this methodology applying to State Forests, National Parks and Experimental Forest Stations.

For Private Forests, Simplified Forest Management Plans are used. Based on the SFMP, the owner may apply for cutting and, after the cutting, the certificate of legal harvesting is issued by the forester or by the State Forest Authority (depending on the supervision).

#### *Description of Risk*

There is a Forest Management Plan prepared for each State-owned Forest Inspectorate and a Simplified Forest Management Plan created for each private forest owner by the Office for Forest Management and Forest Geodesy. The FMP and SFMP contain the equivalent of ten years of harvest-related data. Every year the FMU Manager approves the register of cuts (prepared by FMU staff and based on the FMP), with the register of cuts containing harvesting data for a period of a year. The plans are authorised by the Regional Directorates of State Forests (for State Forests) and either State Authorities or Forest Inspectorates (for private forests) and approved by the Minister for the Environment. As plans are prepared by government-authorized authorities and reviewed and authorized by a separate administrative authority (Ministry of Environment), there is a low risk that plans are not prepared in accordance with legal requirements.

#### *Risk Conclusion*

Risk level for this indicator is considered as low.

### 1.3.6. Risk designation and specification

Low risk

### 1.3.7. Control measures and verifiers

N/A

## 1.4. Harvesting permits

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

### 1.4.1. Applicable laws and regulations

N/A. No permits for harvesting exist. See: Act on timber legal harvesting 1998 by Ministry of Environment.

### 1.4.2. Legal authority

N/A

### 1.4.3. Legally required documents or records

N/A

### 1.4.4. Sources of information

N/A

### 1.4.5. Risk determination

N/A

### 1.4.6. Risk designation and specification

N/A

### 1.4.7. Control measures and verifiers

N/A

## TAXES AND FEES

### 1.5. Payment of royalties and harvesting fees

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

#### 1.5.1. Applicable laws and regulations

- Law on tax registry 2004 Includes several documents [online]. Available at: <http://isap.sejm.gov.pl/VolumeServlet?type=wdu&rok=2004&numer=087>
- Tax Ordinance 1997 (Dz.U. 1997 nr 137 poz. 926). [online]. Came into effect 01.01.1998. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19971370926>

#### 1.5.2. Legal authority

- Ministry of Finance

#### 1.5.3. Legally required documents or records

- Declaration on Forest Tax

#### 1.5.4. Sources of information

##### *Government sources*

- mf.gov.pl (N.Y.). *Web page of Ministry of Finance.* [online]. Ministerstwo Finansow. Available at: <http://www.mf.gov.pl/ministerstwo-finansow>
- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest.* [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>

#### 1.5.5. Risk determination

##### *Overview of Legal Requirements*

Forest Inspectorates and private forest owners are required to pay tax for land use. The tax – payment of which is a strict requirement of the Ministry of Finance is tallied every month.

##### *Description of Risk*

There are no registered cases of lack of payments relating to State-owned forests, National Parks or Experimental Forest Stations. Private Forest owners are obliged to pay land use tax to municipal offices. There are 2479 municipalities in Poland. Each municipal office has its own register of Private Forest owners. In the case where a payment is not made, the municipal office sends notification to the debtor as well as information to the local Tax Office. The Tax Office is obliged (by the courts and bailiffs) to collect unpaid tax from the forest owner. Debtors' details are available from municipal offices, the Tax Office and the Ministry of Finance. However, it was not possible during this project to achieve cooperation from the listed offices and no reports or records were provided relating to the number of cases of

unpaid tax for land use. In addition, the main Statistical Office is not in possession of such data. Following on a telephone conversation with staff of the Municipal Office in Fałków, it was determined that cases of unpaid tax for land use do occur (it concerns private forest owners only); however no details as to the number of cases per year were provided. In such situations, according to Tax Office staff, the tax is collected through a court decision process.

#### *Risk Conclusion*

Low risk for state forest, National Parks and Experimental Forest Stations.

Specified risk for private forest.

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

State forest, National Parks and Experimental Forest Stations – Low risk

Private forest – Specified risk

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

- If State Forest, National Park or Experimental Forest Station - no further actions required
- If private forest - verification of records/documents confirming payment of land tax is required

### **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**

- Law on tax registry 2004 Includes several documents [online]. Available at: <http://isap.sejm.gov.pl/VolumeServlet?type=wdu&rok=2004&numer=087>
- Tax Ordinance 1997 (Dz.U. 1997 nr 137 poz. 926). [online]. Came into effect 01.01.1998. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19971370926>

#### **1.6.2. Legal authority**

- Ministry of Finance

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

- Declaration of VAT

#### **1.6.4. Sources of information**

##### *Government sources*

- mf.gov.pl (N.Y.). *Web page of Ministry of Finance*. [online]. Ministerstwo Finansow. Available at: <http://www.mf.gov.pl/ministerstwo-finansow>
- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest*. [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>



### 1.6.5. Risk determination

#### *Overview of Legal Requirements*

The requirement to pay VAT is strictly monitored by the Ministry of Finance, Tax Office, the Main Controlling Office (State authority), with internal control by Regional Directorates of State Forests.

#### *Description of Risk*

According to statements made by State Forest representatives as well as information gathered during a telephone call with a Tax Office representative in Końskie, Forest Inspectorates are obliged to pay VAT. During the course of this project, no information was gathered in relation to the lack of VAT payment. The main Statistical Office is not in possession of such information. All 17 Regional Directorates of State Forests are PEFC-certified (PEFC requires all taxes to be paid in a timely manner).

Most of the wood from private forests is used for the forest owners' own needs. The owners do not run the business so are not obliged to pay VAT while selling timber to companies.

#### *Risk Conclusion*

Risk level for this indicator is considered 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

- Law on tax registry 2004 Includes several documents [online]. Available at: <http://isap.sejm.gov.pl/VolumeServlet?type=wdu&rok=2004&numer=087>
- Tax Ordinance 1997 (Dz.U. 1997 nr 137 poz. 926). [online]. Came into effect 01.01.1998. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19971370926>

### 1.7.2. Legal authority

- Ministry of Finance

### 1.7.3. Legally required documents or records

- Declaration of Income Tax

### 1.7.4. Sources of information

### *Government sources*

- mf.gov.pl (N.Y.). *Web page of Ministry of Finance*. [online]. Ministerstwo Finansow. Available at: <http://www.mf.gov.pl/ministerstwo-finansow>
- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest*. [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>

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

##### *Overview of Legal Requirements*

Income tax requirements apply to Private and State Forests.

##### *Description of Risk*

According to the information provided by the State Tax Authorities, some cases occur (in Private Forests only) where the wood is sold 'unofficially' and therefore income tax is not paid. However, this is not a common case (since most round wood from private forests is used for forest owners' own needs), with relevant information being very difficult to source. Generally, timber from Private Forests is not sold commercially but is used for private consumption. This private consumption accounts for approximately 80% of the timber generated from Private Forests.

There is no information available that would indicate that there is a specified risk in this category in Poland.

##### *Risk Conclusion*

Risk level for this indicator is considered 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

- Regulations for preparation of Forest Management Plan (FMP), Simplified Forest Management Plan (SFMP) and forest inventory 1998 (Dz.U. 1999 nr 3 poz. 16) [online]. Came into effect 15.01.1999, annulled 01.01.2006. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19990030016>
- Instruction for Forest Management 2011 /Part I. [online]. Issued by State forests directorate. Available at: [http://www.kp.org.pl/pdf/poradniki/iol/instr\\_urzadzania\\_lasu\\_2011.pdf](http://www.kp.org.pl/pdf/poradniki/iol/instr_urzadzania_lasu_2011.pdf)
- Instruction for Forest Protection 2012/ Part I. [online]. Issued by State forests directorate. Available at: [http://www.lasy.gov.pl/publikacje/copy\\_of\\_gospodarka-lesna/ochrona\\_lasu/instrukcja-ochrony-lasu-tom-i](http://www.lasy.gov.pl/publikacje/copy_of_gospodarka-lesna/ochrona_lasu/instrukcja-ochrony-lasu-tom-i)
- Instruction for Forest Protection 2012/ Part II. [online]. Issued by State forests directorate. [http://www.lasy.gov.pl/publikacje/copy\\_of\\_gospodarka-lesna/ochrona\\_lasu/instrukcja-ochrony-lasu/instrukcja-ochrony-lasu-tom-ii](http://www.lasy.gov.pl/publikacje/copy_of_gospodarka-lesna/ochrona_lasu/instrukcja-ochrony-lasu/instrukcja-ochrony-lasu-tom-ii)

#### 1.8.2. Legal authority

- Ministry of Environment
- General Directorate of State Forest

#### 1.8.3. Legally required documents or records

- Annual allowable cut is included in FMP and SFMP (for 10 years period). For 1 year period there is register of cuts (elaborated by FMU staff and approved by FMU manager).

#### 1.8.4. Sources of Information

##### *Government sources*

- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest.* [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>
- buligl.pl (N.Y.). *Official website of Office of Forest Management and Geodesy.* [online]. BULiGL (Biuro Urządzenia Lasu i Geodezji Leśnej). Available at: <http://www.buligl.pl/>
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#### 1.8.5. Risk determination

### *Overview of Legal Requirements*

The Instruction for Forest Management and Instruction for Forest Protection include detailed requirements, particularly subjects, such as, forest buffer zones, skid or snig tracks and other environmental obligations. These instructions are further described on the General Directorate of State Forests site. The compliance monitoring and enforcement of these instructions are carried out by the Regional Directorates and occur frequently (at least annually).

### *Description of Risk*

The most critical points regarding the harvesting regulations that are violated in Poland are:

- not respecting maximum harvesting volume (AAC);
- harvesting without verbal permission of FMU manager or State authority (in private forests only).

In the first case, the control activities regularly carried out by RDSF (Regional Directorates of State Forests) lead to quick discovery and disclosure of such cases. (This is achieved through comparison of harvesting plans and data included in the FMP with data collected after finalisation of harvesting; with this information being included in the computer database SILP or State Forest Information System.) According to information collected during a telephone conversation with a representative of State Forests, AAC always must be met – otherwise the Forest Inspectorate Manager or Deputy Manager is fired.

In private stands it is easy to hide some harvested timber, and claim that some timber has been stolen. In such cases it is almost impossible to prove that AAC was deliberately exceeded. Taking into consideration the fact that private forest owners in 99% of cases receive permission to harvest, hiding of harvested amounts is therefore not a common practice. Forest Inspectorates and State Authority (supervising Private Forests) declined to provide any records concerning the cases where AAC was exceeded in Private Forests.

### *Risk Conclusion*

According to the information provided above, the risk for this indicator can be considered as low.

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

Low risk

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

N/A

### **1.9. Protected sites and species**

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

### 1.9.1. Applicable laws and regulations

- Act on protected plants 2012 (Dz. U. Nr 2012.14.81.). [online]. Came into effect 04.02.2012, date of repeal 02.10.2014. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20120000081>
- Act on protected mushrooms 2004 (Dz. U. Nr 2004.168.1765). [online]. Came into effect 12.08.2004, date of repeal 02.10.2014. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20041681765>
- Act on protected animals 2011 (Dz. U. 2011.237.1419). [online]. Came into effect 23.11.2011, date of repeal 02.10.2014. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20112371419>
- Act on areas of birds protection 2011 (Dz. U. 2011.25.133). [online]. Came into effect 19.02.2011. Available at: <http://isip.sejm.gov.pl/DetailsServlet?id=WDU20110250133>
- Act on Nature 2000 habitats 2010 (Dz.u. 2010.77.510). [online]. Available at: <http://www.google.pl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CCkQFjAA&url=http%3A%2F%2Fisip.sejm.gov.pl%2FDownload%3Fid%3DWDU20100770510%26type%3D2&ei=x8RpVNXJLoXgywPw7IKABw&usq=AFQjCNHCAr2QAQ2nZJIOL4jHrThq5xeIsg&bvm=bv.79142246,d.bGQ>
- Act on Environment Protection 2004 (Dz.U. 2004 nr 92 poz. 880). [online]. Came into effect 01.05.2004. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040920880>
- Ordinance on improving forest management on ecological basis 11A 1999. [online]. General Directorate of State Forest. Available at: [http://www.bialystok.lasy.gov.pl/c/document\\_library/get\\_file?uuid=0e961d9e-5e0c-4d54-959a-3d92ffeeaaef&groupId=1226300](http://www.bialystok.lasy.gov.pl/c/document_library/get_file?uuid=0e961d9e-5e0c-4d54-959a-3d92ffeeaaef&groupId=1226300)

### 1.9.2. Legal authority

- Ministry of Environment

### 1.9.3. Legally required documents or records

- Registry of identification of fragile sites, buffer zones, protected flora/fauna habitats marked on maps, Program of Environmental Protection

### 1.9.4. Sources of Information

#### *Non-Government sources*

- pracownia.org.pl (N.Y.). *Official web site of NGO "Workshop for All Beings"*. [online]. Pracownia na rzecz wszystkich istot. Available at: <http://pracownia.org.pl/>
- birdlife.org (N.Y.). *Poland – Polish Society for the Protection of Birds (OTOP)*. [online]. Official Web site of Birdlife International. Available at: <http://www.birdlife.org/europe-and-central-asia/partners/poland-%E2%80%93-polish-society-protection-birds-otop>
- przyrodnicze.org (N.Y.). *Official web site of NGO "The Nature Heritage Foundation"*. [online]. Fundacja Dziedzictwo Przyrodnicze. Available at: <http://przyrodnicze.org/>

### 1.9.5. Risk determination

#### *Overview of Legal Requirements*

In Poland there have been developed and enforced legislation covering environmental protection, supporting preservation of forest biodiversity, protection of protected and endangered species and describing harvesting activity on Natura 2000 areas. Ministry of Environment is the governmental body responsible for development and implementation of the legislation. Forest owners and/or managers are responsible for implementing legislation in every day practice. Forest Inspection is responsible for verification of implementation of the applicable legislation by State Forest. In private forest the State Authority or Forest Inspection verify implementation of the legislation. In National Parks and Experimental Forest Stations the control function is done by County Inspectorates of Environmental Protection.

#### *Description of Risk*

There are no records or cases of exceeding AAC of damage of fragile habitats have been registered, since the environmental issues are treated very seriously by controlling body in Poland - forest owners/managers are under strict supervision and regular control.

#### *Risk Conclusion*

According to the information above the risk level for this indicator is considered as low.

### 1.9.6. Risk designation and specification

Low risk

### 1.9.7. Control measures and verifiers

N/A

## 1.10. Environmental requirements

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

### 1.10.1. Applicable laws and regulations

- Act on Environmental Protection 2001 (Dz.U. z 2008 nr 25 poz. 150). [online]. Came into effect 01.10.2001. Available at:  
<http://isap.sejm.gov.pl/DetailsServlet?id=WDU20010620627>

- Instruction for Forest Protection 2012/ Part I. [online]. Issued by State forests derictorate. Available at: [http://www.lasy.gov.pl/publikacje/copy\\_of\\_gospodarka-lesna/ochrona\\_lasu/instrukcja-ochrony-lasu-tom-i](http://www.lasy.gov.pl/publikacje/copy_of_gospodarka-lesna/ochrona_lasu/instrukcja-ochrony-lasu-tom-i)
- Instruction for Forest Protection 2012/ Part II. [online]. Issued by State forests derictorate. [http://www.lasy.gov.pl/publikacje/copy\\_of\\_gospodarka-lesna/ochrona\\_lasu/instrukcja-ochrony-lasu/instrukcja-ochrony-lasu-tom-ii](http://www.lasy.gov.pl/publikacje/copy_of_gospodarka-lesna/ochrona_lasu/instrukcja-ochrony-lasu/instrukcja-ochrony-lasu-tom-ii)

#### 1.10.2. Legal authority

- Ministry of Environment
- General Directorate of State Forest

#### 1.10.3. Legally required documents or records

- Program of Environmental Protection,
- Evaluation of Environmental Impact of FMPs

#### 1.10.4. Sources of information

##### *Non-Government sources*

- fsc.org (N.Y.). *FSC Public search*. [online]. FSC International. Available at: [www.info.fsc.org](http://www.info.fsc.org)

#### 1.10.5. Risk determination

##### *Description of Risk*

The main environmental restrictions that are reported to be violated by the forest owners (that is, by the companies harvesting wood for State Forests) are: damage of standing trees, and forest soil damage – with this damage being carried out by harvesters during spring and autumn (in wet soil condition).

However, these issues do not occur very often (such information received during the interview with representative of RDSF in Wroclaw and RDSF in Lublin), are strictly monitored by RDSF and FMU managers who outsource the harvesting, and are not considered as specified risk. Moreover, service agreements with contractors include clauses such that – for any destroyed tree – the contractor will be required to pay a penalty. Therefore, contractors avoid damage to trees and, in 'hot spots' (for example, sharp turns in forest roads) protect trees by wrapping them with damage-proof materials.

The amount of damage is so small that it is not even reported (this information was gathered during a telephone conversation with a representative of the State Forests).

Based on publicly available reports from FSC Forest Management and Chain of Custody audits, it can be said that this is a marginal issue. No comments regarding this point have been received from NGOs or wood processors (NGOs are mainly interested in other issue, not connected with this point).

##### *Risk Conclusion*

This indicator is considered to be low risk.

#### 1.10.6. Risk designation and specification

Low risk

#### 1.10.7. Control measures and verifiers

N/A

### 1.11. Health and safety

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

#### 1.11.1. Applicable laws and regulations

- Act on requirements regarding general rules of Health and Safety 1997 (Dz.U. 1997 nr 129 poz. 844). [online]. Came into effect 24.04.1998. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19971290844>

#### 1.11.2. Legal authority

- Ministry of Work and Social Policy

#### 1.11.3. Legally required documents or records

- Health and Safety (H&S) procedures
- Risk evaluation of work positions
- Register of accidents
- Protocols of H&S trainings
- Chainsaw operator license
- Harvester operator license

#### 1.11.4. Sources of information

##### *Government sources*

- pip.gov.pl (N.Y.). *Health and Safety regulations*. [online]. State Labour Inspection (Państwowa Inspekcja Pracy). Available at: <https://www.pip.gov.pl/pl/niezbednik-pracodawcy/wykaz-aktow-prawnych/18659,rozporzadzenia.html>

#### 1.11.5. Risk determination

##### *Overview of Legal Requirements*

The health and safety (H&S) regulations are clearly described in the legislation and are followed and controlled on a regular basis by the State labour inspection office, Regional Directorates of State Forests' inspection division and Forest Inspectorates themselves



(internal control). Forest staff is obligated to remove contractors from logging sites if any violation of H&S requirements is found.

#### *Description of Risk*

In the case where logging is conducted by the forest owners, no one controls and supervises logging activity in Private Forests. So there are no records of violations of the applicable legislation that would constitute specified risk.

#### *Risk Conclusion*

This indicator is considered to be low risk.

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

Low risk

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

N/A

### **1.12. Legal employment**

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

#### **1.12.1. Applicable laws and regulations**

- Labour Book of Ministry of Work and Social Policy 1974 (Dz.U. 1974 nr 24 poz. 141). [online]. Came into effect 01.01.1975. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19740240141>

#### **1.12.2. Legal authority**

- Ministry of Work and Social Policy

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

- Work agreement
- List of payments
- Insurance payments
- Tax payments

#### **1.12.4. Sources of information**

N/A

#### **1.12.5. Risk determination**

### *Description of Risk*

State Forest Inspectorates outsource logging to external logging companies. There are only a dozen logging workers employed by the State Forest Administration in the whole country.

Loggers who works for a contractor company are employed by the contractor company; and must have work agreements and be legally employed.

In Private Forests, trees are cut mostly by the forest owners themselves or members of their family. No employment contracts exist.

There are no records of violation of these requirements. Workers with the contractor company are regularly checked in the forest by the Regional Directorate of State Forests personnel, Forest Inspectorates field staff and by State Labour Inspection.

### *Risk Conclusion*

This indicator is considered to be low risk.

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

Low risk

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

N/A

## THIRD PARTIES' RIGHTS

### 1.13 Customary rights

*Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.*

#### 1.13.1. Applicable laws and regulations

- Forest act 1991 (Dz. U No 101, item 444). [online]. Chapter 5, articles 26-31, came into effect 01.01.1992. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19911010444>

#### 1.13.2. Legal authority

- Ministry of Environment

#### 1.13.3. Legally required documents or records

None

#### 1.13.4. Sources of information

*Government sources*

- mos.gov.pl (N.Y.). *Web page of Ministry of Environment*. [online]. Ministerstwo Srodoviska. Available at: <https://www.mos.gov.pl/>
- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest*. [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>

#### 1.13.5. Risk determination

*Description of Risk*

There is no information available that would indicate a risk that these rights are not respected by forest owners. According to the Act on Forest, people have free access to forests and may collect mushrooms, berries, and herbs for their own needs. No records exist demonstrating violation of this requirement.

The Private Forests may be fenced, which may make access more difficult, but people are still allowed access to these forests.

*Risk Conclusion*

This indicator is considered to be Low risk.

#### 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

N/A for Poland

### 1.14.2. Legal authority

N/A

### 1.14.3. Legally required documents or records

N/A

### 1.14.4. Sources of information

N/A

### 1.14.5. Risk determination

N/A

### 1.14.6. Risk designation and specification

N/A

### 1.14.7. Control measures and verifiers

N/A

## 1.15. Indigenous/traditional peoples' rights

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

### 1.15.1. Applicable laws and regulations

N/A

### 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

### 1.15.6. 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

- Quality and size qualification of timber PN-93/D-02002. [online]. Available at: [isap.sejm.gov.pl/Download;jsessionid=8B335CC4DB08A50E4239102D2240B4F7?id=WDU19950500273&type=2](http://isap.sejm.gov.pl/Download;jsessionid=8B335CC4DB08A50E4239102D2240B4F7?id=WDU19950500273&type=2)
- Regulation on Environmental Protection, Natural Resources and Forestry 1995 (Dz.U. 1995 nr 50 poz. 273). [online]. Came into effect 31.05.1995. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19950500273>

#### 1.16.2. Legal authority

- Polish Standardization Committee

#### 1.16.3. Legally required documents or records

- Protocols from training of staff according to requirements of PN-93/D-02002 Quality and size qualification of timber

#### 1.16.4. Sources of information

##### *Government sources*

- Quality and size measurement: <http://zsl.org.pl/pliki/materialy/uzytowanie-lasu/sposoby-pomiaru-drewna-normy.pdf>

#### 1.16.5. Risk determination

##### *Description of Risk*

Harvested wood must be classified according to quality and quantity. Specification of wood classification is also included in the Act on Forests, with both documents and procedures concerning wood measurement making it impossible to avoid payment of taxes and/or other fees. No cases have been recorded in this term by General Directorate of State Forests, Ministry of Environment and State Authority supervising private forests.

##### *Risk Conclusion*

This indicator is evaluated as Low risk.

#### 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

- Act on road transport of Ministry of Transportation 2004 (Dz. U. 2004 r. Nr 204 poz. 2088). [online]. Date of repeal 26.06.2007. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20042042088>
- Ordinance on timber trade of State Forest № 82/2012. [online]. Available at: [http://drewno.zilp.lasy.gov.pl/drewno/zarzadzenie\\_nr\\_82.pdf](http://drewno.zilp.lasy.gov.pl/drewno/zarzadzenie_nr_82.pdf)
- Ordinance on accounting and prints of State Forest organizational units №27/1996. [online]. Available at: [www.lasy.gov.pl/informacje/zamowienia-publiczne-zarzadzenia-decyzje/copy\\_of\\_zarzadzenia-i-decyzje-do-19-stycznia-2010-r/1981\\_2004/z27-1996](http://www.lasy.gov.pl/informacje/zamowienia-publiczne-zarzadzenia-decyzje/copy_of_zarzadzenia-i-decyzje-do-19-stycznia-2010-r/1981_2004/z27-1996)
- Tax Act on goods and services (Dz.U. 2004 nr 54 poz. 535). [online]. Came into effect 20.04.2004. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040540535>

#### 1.17.2. Legal authority

- Ministry of Transportation
- General Directorate of the State Forest
- Ministry of Finance

#### 1.17.3. Legally required documents or records

Transportation:

- Transport tickets (bills of lading)
- Certificate of legality of timber harvesting

Trade:

- Invoice (wholesale purchase)
- Receipt (retail purchase)
- No trading permits or licences are required (everyone can buy and sell timber in Poland)

#### 1.17.4. Sources of information

N/A

#### 1.17.5. Risk determination

##### *Overview of Legal Requirements*

Each truck transporting domestic wood must carry the transport ticket (bill of loading) that describes the quantity, quality and species of the material transported. The checks on the roads are conducted by Police, Forest Guards, Customs and Border Guard and – in particular – Road Transport Inspection, with controls being frequent and very effective.

No permits or licences are required in Poland for timber trade. Sales documentation shall follow the legal requirements of Ministry of Finance and no data are available relating to violation of this requirement.

##### *Description of Risk*

Thus far, there are no records demonstrating violation of the applicable legislation that would constitute specified risk (all transport documentation contains all legally required information).

Trade:

Methods of selling timber in State Forests are developed and implemented by the General Director of the State Forests. Currently, the auctions and limited tenders are corruption-free ways to sell timber, so are considered as entrepreneur-friendly. Prices of small quantities sold to local communities (retail sale) are established individually by FMU Managers every year (depending on market demands, supply, etc.). No violations in this context were recorded, either by the State Authority or by self-governments of small local societies.

##### *Risk Conclusion*

This indicator is evaluated as Low risk.

#### 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. 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

- Act on Customs of Ministry of Finance 2004 (Dz.U. 2004 nr 68 poz. 622). [online]. Came into effect 01.05.2004. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040680622>.



### 1.18.2. Legal authority

- Ministry of Finance, Ministry of Economy

### 1.18.3. Legally required documents or records

- Declaration of customs payment (for selling out of the EU)
- VAT declaration for selling within EU countries

### 1.18.4. Sources of information

#### *Government sources*

- mf.gov.pl (N.Y.). *Duty-Basic information*. [online]. Ministry of Finance (Ministerstwo Finansow). Available at: <http://www.mf.gov.pl/web/wp/clo/informacje-podstawowe;jsessionid=68CFB70BCFFB68D25ACCEoA3672075B80>
- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest*. [online]. Available at: <http://www.lasy.gov.pl/>

#### *Non-Government sources*

- drewno.pl (N.Y.). *2 Million m3 of timber from polish forests THIS year will go to Germany*. [online]. Polish Branch Press. Available at: <http://www.drewno.pl/artykuly/9436,2-mln-m3-drewna-z-polskich-lasow-wyjedzie-w-tym-roku-do-niemiec.html>
- przemysldrzewny.pl (N.Y.). *Official website of Polish Association of Wood Processors*. [online]. PIGPD. Available at: <http://www.przemysldrzewny.pl/>

### 1.18.5. Risk determination

#### *Description of Risk*

Trade of roundwood in Poland is considered low risk for transfer pricing manipulation as roundwood is sold based on agreements between Forest Inspectorates and individual companies. Some roundwood is sold through auctions; any company that is registered in the auctions portal may buy roundwood. There are no records of violation of this requirement.

Roundwood from Private Forests is used mostly for forest owners' needs, with a small proportion sold to Polish companies.

There is no ban on selling roundwood abroad. However there is no evidence and records regarding sale of roundwood to companies placed in tax havens (according to opinions expressed by State Authority personnel). Polish companies complain that too much wood is sold abroad but there is no restriction or limitation on selling wood to companies located in other countries. The Ministry of Finance does not treat this as a problem; in their opinion, in a democratic country an open market is a necessity. Moreover, selling roundwood abroad increases the price of timber in Poland; that is, according to State Forests and Ministry of Finance, a beneficial situation.

#### *Risk Conclusion*

The risk can be considered 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 licenses, product classification (codes, quantities, qualities and species).*

### 1.19.1. Applicable laws and regulations

- Law 29.03.2005 on requirements that should be met by phytosanitary certificate 2005 (Dz. U. Nr 57, poz 498). [online]. Ministry of Agriculture and Country Development. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20050570498>
- Act on Custom Legislation 2004 (Dz. U. Nr 68, poz 622) and (2013, poz. 727). [online]. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040680622> and <http://isap.sejm.gov.pl/DetailsServlet?id=WMP20130000727>

### 1.19.2. Legal authority

- Ministry of Agriculture and Country Development
- Ministry of Finance

### 1.19.3. Legally required documents or records

- Phytosanitary Certificate (required only for export outside the EU)
- Customs payment

### 1.19.4. Sources of information

#### *Government sources*

- porin.gov.pl (2007). *Convention on amendments to the International Plant Protection 2006 (includes information about necessity of issuance of phytosanitary certificate)*. [online]. State Inspection of Plant Protection and Seed Production. Available at: [http://porin.gov.pl/files/userfiles/giorin/prawo/konwencja/ippc\\_pl.pdf](http://porin.gov.pl/files/userfiles/giorin/prawo/konwencja/ippc_pl.pdf)
- Law of Ministry of Agriculture of 18.03.2013
- Regulations on Customs Law 2004 (Dz. U. Nr 68, poz 622). [online]. Kancelaria Sejmu. Available at: <http://www.google.pl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0CCYQFjAB&url=http%3A%2F%2Fisap.sejm.gov.pl%2FDownload%3Fid%3DWDU20040680622%26type%3D3&ei=3322VJSaIoOuaYzngqAK&usq=AFQjCNG4TC09P9YB99mVMq8sjeSSCeQPRg&bvm=bv.83640239,d.d2s>

### 1.19.5. Risk determination

### *Description of Risk*

There are no restrictions regarding the export of timber from Poland. If the buyer's country requires a phytosanitary certificate, then it is issued by Voivodship Inspectorate of Environment Protection). Where timber is imported, the mandatory requirements of the exporting countries will apply.

The roundwood sold by State Forests is classified according to the Polish Standard for Wood Measurement. Information on species as well as quantities is also provided on sales and transport documentation.

There have been no known issues that would indicate specified risk evaluation; that is, no records exist demonstrating violation of this requirement.

### *Risk Conclusion*

This indicator can be considered to be low risk.

#### **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**

- CITES regulations

### **1.20.2. Legal authority**

- Ministry of Environment

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

- CITES license (if applicable)

### **1.20.4. Sources of information**

#### *Government sources*

- mos.gov.pl (N.Y.). *The Washington Convention (CITES)*. [online]. CITES requirements in Poland// Ministry of the Environment (Ministerstwo Srodowiska). Available at: <https://www.mos.gov.pl/srodowisko/przyroda/konwencje-miedzynarodowe/konwencja-waszyngtonska-cites/>

### **1.20.5. Risk determination**

### *Description of Risk*

There are no violations of CITES since CITES timber species are neither cultivated nor harvested in Poland.

### *Risk Conclusion*

This indicator can be considered to be low risk.

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

Low risk

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

N/A

### **1.21. Legislation requiring due diligence/due care procedures**

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

#### **1.21.1. Applicable laws and regulations**

- EU Timber Regulation 995/2010. [online]. Official Journal of the European Union. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:PL:PDF>
- Ustawa o lasach (Forestry Law), consolidated text of 10 December 2015. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19911010444>
- Kodeks karny (Criminal Code), consolidated text of 29 July 2016. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19970880553>
- Kodeks wykroczeń (Code of Offences), consolidated text of 4 August of 2015. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19710120114>
- Kodeks postępowania administracyjnego (Administrative Procedure Code), consolidated text of 7 January 2016. Available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19600300168>

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

- Główny Inspektorat Ochrony Środowiska – Department of Market Control

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

- Due diligence system
- Valid registry with the required information and documentation confirming wood origin

#### **1.21.4. Sources of information**

### *Government sources*

- lasy.gov.pl (N.Y.). *Official website of General Directorate of State Forest*. [online]. LAZY PANSTWOWE. Available at: <http://www.lasy.gov.pl/>
- mos.gov.pl (N.Y.). *Web page of Ministry of Environment*. [online]. Ministerstwo Srodoviska. Available at: <https://www.mos.gov.pl/>

### *Non-Government sources*

- Client Earth (2017). *Info-brief: EUTR enforcement in Poland*. [online]. Client Earth. Available at: <https://www.documents.clientearth.org/wp-content/uploads/library/2017-07-26-polish-eutr-enforcement-info-brief-ce-en.pdf>

#### **1.21.5. Risk determination**

##### *Description of Risk*

Client Earth (2017) has reported that domestic illegal logging is likely to be caught under the criminal offence of substantial damage to a plant or animal life, which is punishable by up to 5 years imprisonment.

##### *Risk Conclusion*

According to information available this indicator can be considered as specified risk

#### **1.21.6. Risk designation and specification**

Specified risk

#### **1.21.7. Control measures and verifiers**

1. Can the material be tracked back to the entity placing it on the market – the Operator?
  - If the timber is sold as standing stock to a logging company, the logging company will be the operator.
  - If the timber is sold as an assortment by the forest owner/manager, then the forest owner/manager will be the operator.
  - If no: do not buy.
  - If yes: go to 2
2. Can the operator document that a Due Diligence System is in place in accordance with the EU Timber Regulation No. 995/2010 (EUTR)? Operators placing for the first time on the internal market for distribution or use in the course of a commercial activity any products listed in the Annex to Regulation (EU) No. 995/2010 (EUTR) should present:
  - documents required according to Articles 4.2 and 6 of the Regulation (EU) No. 995/2010;
  - documents required according to Article 3, Commission Implementing Regulation (EU) No. 607/2012;
  - register of information concerning the operator's supply as provided for in Article 6.1 a) of Regulation (EU) No. 995/2010 and documentation of application of risk mitigation procedures.

- If no: don't buy
- If yes: risk mitigated for this point.

## Annex I. Timber source types

The table **Timber Source Types in Poland** 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:

- a) **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.
- b) **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.
- c) **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.
- d) **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.
- e) **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.
- f) **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 POLAND

Forest type	Region / Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of Source Type
Semi-natural forest	The whole country	Permanent forest	Public – State owned	State – National Holding of State Forests	NA	State owned, permanent, productive secondary forests with partial semi-natural structure. Regular source of timber.
				State – other managing entities (e.g. Ministry of Defense)		Not applicable – not a source of commercial wood
			Public – owned by local communities and provincial governments	communal and provincial		Privately/publicly owned, permanent, semi-natural, production forest
			Private (individual, farmer)	private – individual owners		
		Protected areas – national parks and nature reserves	State owned	State – National Parks administration and regional directorates for environmental protection		State owned, permanent, semi-natural, limited source of timber
			Public – owned by provincial governments	Communal and provincial, under supervision of the National Parks administration or the corresponding regional		Privately/publicly owned, permanent, semi-



				directorate for environmental protection	natural, limited source of timber
			Private – individual and community owned	Private – individual owners or communities under supervision of the National Parks administration or the corresponding regional directorate for environmental protection	
	Protected areas – other than above		Public – state owned	State – National Holding of State Forests	State owned, permanent, productive secondary forests with partial semi-natural structure. Regular source of timber.
			Public – owned by provincial governments	communal and provincial	Privately owned, permanent, productive secondary forests with partial semi-natural structure. Regular source of timber.
			Private – individual and community owned	private – individual owners or communities	



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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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