

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

- [Act 43/2003](#) (Forest Act/*Ley de Montes*) modified by laws 10/2006 and [21/2015](#)):
 - Chapter II Articles 8 and 9, establishes the division of competences in forest issues assigned to each autonomous community.
 - Chapter II Articles 29-31, (and Act 10/2006, which amends Chapter IV of article 17 of Act 43/2003), provide for the development of a Spanish Forest Strategy including a Spanish Forest Plan revised every 10 years, and the possibility for the autonomous community to develop Forest Resources Management Plans (PORF), which together with Natural Resources Management Plans (PORN) and with Municipal Urban Planning will represent the planning tools.
 - Chapter III Article 32 states that the Autonomous Communities have responsibility for the approval of management instructions and use of forests.
 - Chapter III Article 33 - Forests declared to be of public utility and protection forests must have a forest management project, a dasocratic plan or another equivalent management tool. The documents will be developed at the request of the owner, or the regional forest organization (autonomous community). Regional forest organizations must always approve these documents.
 - Chapter III Article 37 states that the Autonomous Communities have responsibility for the regulation of harvesting operations. It indicates different process and requirements for obtaining harvesting licenses for forests that are managed under an approved management plan or similar instrument, versus those forests without forest management plan or similar instrument.
 - Chapter III Article 63 includes reference to economical incentives for forests with a management plan or similar instrument.

The different Autonomous Communities have developed, or are developing, their own Forest laws to apply in their territory. State law, in turn defines the departments responsible for forest management and planning. The most relevant regional items of legislation are as follows:

Galicia:

- Order of September 28, 2004, by which timber and firewood harvesting is regulated
- Decree 105/2006, June 22, on measures relating to the prevention of forest fires, protection of settlements in rural areas and the regulation of harvesting and reforestation (DOG nº 125, do 30 de xuño de 2006)
- Act 7/2012 of 28 June on the forests of Galicia. (DOG nº 140, del 23 de julio de 2012)
- Act 73/2020 of 24 April on timber harvest regulations for private-owned forest areas.

- Order of 9 February 2021 including amendments for Annex I of Order of 19 May 2014 on the establishing of Silviculture Models or Orientative Forest Management Models for good forestry practices on the Galician forestry districts.
- Decree 52/2014 of 16 April for regulating general forest management instructions in Galicia.

Principality of Asturias:

- Asturian-Law 3/2004, of 23 November, on Forests and Forest Management.
- Asturian-Law 6/2010, of 29 October, the first amendment of the Forests and Forest Management Law.
- Forest Plan of Asturias (2001-2015)
- District (Comarca) Forest Plans (for some Asturian districts only)

Cantabria:

- Preliminary Draft Law on Forestry in Cantabria (Draft Law)

Basque Country:

- Gipuzkoa: Norma Foral 7/2006 on the Forests of Gipuzkoa.
- Bizkaia: Norma Foral 3/94 on Forestry and the Management of Protected Natural Areas. Modifications: Norma Foral 3/2007 on the modification 3/1994 Provincial Law.
- Álava: Norma Foral de Montes 11/2007 of March 26.

Navarra:

- Foral Law 13/1990 of 31 December, on the protection and development of the forest heritage of Navarre. Modification of Foral Law 3/2007, of 21 February on amending the Foral Law 13/1990 is modified.
- Foral Decree 59/1992, of 17 February, in which the regulation of forests in development of the Law is approved.

La Rioja:

- Law 2/1995 of February 10 on Forest Protection and Development of the Forest Heritage of Rioja
- 114/2003 Decree of 30 October, by which the regulations implementing that law are passed

Aragon:

- Law 15/2006 of 28 December on the Forests de Aragón.

Catalonia:

- Law 6/1988, of 30 March, Forests of Catalonia. Modifications made: Legislative Decree 3/2010, of 5 October; Regional law 31/2002 of 30 December; 7/1999 autonomous law of 30 July; Regional Legislative Decree 10/1994, of 26 July.

Valencia:

- Law 3/1993, of December 9, of the Generalitat Valenciana, Forestry of the Valencian Government developed by Decree 98/1995, of 16 May, by which the rules of Act 3/1993 are approved

Castilla y León:

- Law 3/2009 Forests de Castilla y León.

Madrid:

- Law 16/1995 Forest and Nature Conservation in the Community of Madrid.
- Decree 114/2003 of 30 October, by which the regulation developing the law is passed.

Castilla La Mancha:

- Law 3/2008, of 12 June, Forestry and Sustainable Forest Management of Castilla-La Mancha.
- Order of 09/03/2011, of the Ministry of Agriculture, Environment, which approves special technical specifications optional conditions for regulating the implementation of the exploitation and standards for the conducting of harvesting.

Extremadura:

- Act 1/1982, of 25 May, of Dehesa
- Decree 9/1989, of 13 February, on the promotion of afforestation
- Order of November 13, 2003, which establishes the procedure for certain administrative authorizations in the area of forest harvesting and silvicultural treatments on lands not managed by the Regional Forestry Administration.

Andalucía:

- Forest-Law 2/1992 of Andalucía
- Decree 208/1997 of 9 September on the Forest regulation of Andalucía
- Decree 15/2011 of 1 February, by which the general system of planning of uses and activities in parks are approved and actions established to streamline administrative procedures.

Region of Murcia:

- Forestry Strategy Review Document in the Region of Murcia. 2003-2007.
- Balearic Islands:
- No law developed for Forests

Canarias:

- No Forest Law developed for the region. Keep in mind that management rights for forest services, cattle trails and pastures have been transferred to the Island Councils.

Regarding the requirements to be met by forest management plans, applicable state legislation exists in all autonomous communities:

- Ministerial Order of 29 December 1970 amending the General Instructions for the Management of Forests Woodlands, and the Ministerial Order of 29 June 1971 laying down general rules for the study and drafting of Technical Plans for Woodlands.

These communities have developed their own instructions and require the development of plans in their territories:

- Castilla y León (General Instructions for the Management of Forests in Castilla and Leon, 1999)
- Andalucía (General Instructions - and Manual - for the Management of Forests in the Autonomous Community of Andalucía: Management Plans and Technical Plans, 2004)
- Madrid (Instructions for the Management of Forests in Madrid, 2010)

- Catalonia: ORDER of 20 July 1994 laying down the general instructions for the drafting, adoption and review of the technical management plans and forest improvement (PTGMF). ORDER MAB/394/2003 of 18 September, by which the content is regulated, approval, review and monitoring of the technical management plans and forest improvement (PTGMF) and simple forest management plans (PGSF). This last command adapts and updates the regulation of PTGMF to create PSGF which apply to areas with a lower extension 25 ha.
- Navarre: Administrative Tender documents for Management Plans and review of Management plans (1995).
- Galicia: Decree 52/2014 of 16 April for regulating general forest management instructions in Galicia. Article 9 allows for private-owned small properties, less than 15 ha, to adhere to Silviculture Model for Good Practices developed by the Galicia Forest Service, thus providing for opportunities to increase dramatically the proportion of "managed forests", which the Decree sees as must in order for Galician timber to access certification and sustainable timber markets. The vast majority of private forest areas in Galicia are labelled "nanoproperties", ranging 1 – 1,5 ha and often spread over a number of separate polygons.

And we know that the following have developed the drafts:

- Castilla - La Mancha

Forest fires:

- Decree 3769/1972 of 23 December, approving the Regulations of Law 81/1968, of 5 December, regarding forest fires.
- Royal Decree Law 11/2005 laying down urgent measures relating to forest fires.

Hunting and fishing:

- Real 1095/1989 Decree of 8 September, by which the species hunted and fished are declared and standards established for their protection.
- Real 1118/1989 Decree of 15 September, by which the species hunted and fished in a commercial way are determined and related rules determined.
- Law 1/1970 of 4 April, Hunting

Livestock:

- Law 8/2003, of 24 April, on animal health.
- Royal Decree 479/2004 of 26 March, which establishes and regulates the general register of livestock farms.

Other:

- Royal Decree 1098/2002 of 25 October, by which the feeding of carrion-eating birds of prey with certain dead animals and products is regulated.
- Royal Decree 342/2010 of 19 March, which modifies the Royal Decree 664/2007, of 25 May, by which the feeding of carrion-eating birds of prey with animal sub-products not intended for human consumption, is regulated.
- Royal Decree 39/1998 of 16 January, which modifies the Royal Decree 401/1996, of March 1, laying down conditions for the introduction into the country of certain harmful plants, vegetable products and others, for testing purposes, scientific activity and variety selection.
- Act 43/2002, of 20 November, on plant health.

- Royal Decree 1290/2012 of 7 September, modifying the Public Water Regulation, approved by Royal Decree 849/1986, of 11 April, and Royal Decree 509/1996, of 15 March, developing Royal Decree-Law 11/1995 of 28 December, the rules applicable to the treatment of urban waste water.
- Royal Decree 1220/2011 of 5 September, which modifies the Royal Decree 289/2003 of 7 March, on the marketing of forest reproductive material. Law 3/1995, of March 23, on driving roads.
- Law 8/2007 of 28 May on Soils.
- 1st National Accessibility Plan 2004-2012 (Adopted by the Council of Ministers on July 5, 2003)
- Law 26/2011 of 1 August, for adaptation of the international convention on the rights of persons with disabilities

1.3.2. Legal authority

- In each Autonomous Community has an agency is designated to review and approve Management Plans.

1.3.3. Legally required documents or records

- Formal Management Plan according to applicable legislation in the Autonomous Community.
- Document confirming the registration with the Competent Authority for the Management Plan.
- Resolution approving the Management Plan by the Competent Authority of the Autonomous Community.

1.3.4. Sources of information

Government sources

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- boe.es (N.Y.) Boletín Oficial del Estado [online] (Official Gazette, BOE). Available at: www.boe.es
- boe.es (2003). Forest Act [online]. (Consolidation Act). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2003-21339>
- boe.es (N.Y.) Boletines Oficiales Autonómicos[online]. (Official Gazettes of the Autonomous Communities). Available at: https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php
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- Sustainable Forest Management: https://www.mapa.gob.es/es/desarrollo-rural/estadisticas/forestal_gestion_sostenible.aspx

- mapa.gob.es (2018) Statistics of the National Wood Balance: https://www.mapa.gob.es/es/desarrollo-rural/estadisticas/forestal_balance_nacional_madera.aspx
- mapa.gob.es (2016) Harvesting production and other forest products: https://www.mapa.gob.es/es/desarrollo-rural/estadisticas/forestal_produccion_cortas_y_opf_2016.aspx

Forest owners associations, e.g.:

- Asociación de Propietarios Forestales de Ávila, Castilla y León. Available at: <http://www.fafcycle.es/asfoavi/>
- Asociación de Propietarios Forestales de La Región de Murcia. Available at: <http://www.profomur.com/profomur/>
- Asociación Forestal de Soria. Available at: <http://www.asfoso.org/es/>
- Asociación de Propietarios Forestales de Navarra. Available at: <http://www.foresna.org/>
- Asociación de Empresas Forestales y Paisajísticas de Andalucía. Available at: http://www.aaf.es/aso_af.aspx

Non-Government sources

- Rojo Alboreca A. (2013) The challenge of managing private forests in Spain [online] (El reto de la ordenación de los montes privados en España). 6^o Spanish Forestry Congress. Available at: (<http://www.congresoforestal.es/actas/doc/6CFE/6CFE02-020.pdf>)

1.3.5. Risk determination

Overview of Legal Requirements

A clear legal framework exists for the development of forest planning figures (Forest Act- Ley 43/2003 de Montes, modified by Laws 10/2006 y 21/2015). The Forest Act promotes the development of forest management plans. However, there are regional differences in the regulatory framework for forest planning and management. Article 32 of the Forest Act establishes that the autonomous communities are responsible for approving forest management and use instructions. The different autonomous communities have developed or are developing their own forestry laws to apply in their territory

According to Forest Act, legal obligation to have a management project, a dasocratic plan or another equivalent instrument is limited to the cataloged "Public Utility forests" (bosques de utilidad pública) or "Protection forests" (bosques protectores) due to the forest or natural values they possess and which make this specific instrument necessary. Likewise, the autonomous communities may extend this obligation to forests they deem appropriate.

According to Art 33(5), the competent Regional (Comunidad Autónoma) Forestry body will regulate in which cases it may be mandatory to have a management instrument for private and public forests that are not catalogued as "protection" or "Public Utility forests". Following this, many Autonomous Communities (AC) have developed, or are in active process of developing, consistent regulations on the management of forest areas.

In this way the Forest Act includes provisions for simplified management and planning requirements for private owned forests, and small forests areas, for which an individualized forest management/technical plan is very expensive and unaffordable by their owners or managers. The autonomous communities can establish a series of forest management model-types for each of the types of forest that they have in their territory and that they consider that, due to their size, their

structural simplicity or for any other reasons, they can be the subject of a very simple management plan. The owner who, in writing, adheres to one of these approved models, commit to follow what is indicated in the forest management model and the adhered forest is considered to be ordered. (Article 32.4).

Forests management plans or equivalent management tools developed for Catalogued "Forest Utility forests" and "Protection Forests" should be approved by the corresponding Regional Forest Administration ("Órgano forestal de la CCAA correspondiente"). The elaboration of these instruments must be directed and supervised by professionals with university forestry degrees and must have as a reference, where appropriate, the PORF (Forest Resources Management Plan/Plan de Ordenación de los Recursos Forestales) within which the forest is located.

Even if there is no legal obligation for private and public forests that are not catalogued as "protection" or "Public Utility forests". to have a management plan, the article 33 (point 1) mentions that public administrations will technically and economically promote the management of all forest and in this sense, according to Article 63 General Provisions, private forests, can benefit from economic incentives to prepare one.

In accordance with Spanish legislation, Timber and wood products (firewood, etc.) harvesting will be regulated by the regional Forestry body of the autonomous community. In summary there are 2 possible ways to obtain legal authorisation in forests, not managed by regional forest authority (private or public forests):

- For harvesting operations in forests with an approved Management Plan or equivalent, the owner must provide a self-declaration/ notification to the competent body of the Autonomous Community before harvesting. (NOTE: If forest is under an approved management instrument, it is enough with notifying the Regional Forest Authority, it is not required to obtain a specific harvesting license. Silence from Forest authority after notification means harvesting activities can take place according to what is described in the approved management plan)(art 37 -a).
- For harvesting in forests without an approved Forest Management Plan or equivalent, it is required to obtain a specific harvesting authorisation issued by the regional forest authority (art 37-b);(there are some exceptions for domestic harvesting and short turn species)(Forest Act. Art. 23 private forest management- paragraph3.... In the absence of a management instrument, for forest harvesting, it is required a prior authorization for forest harvesting in the terms that the autonomous community establishes according to articles 36 and 37).

These documents (notification, authorisation) will help each Autonomous Community to keep an accounting and regulation of the activities carried out in the forest.

Description of Risk

Based on annual forest statistics data reviewed, and confirmed by interview with Ministry of Forest, during recent years, the area of public forests as well as private forests under a forest management instrument have increased.

The public data (2019) reviewed indicates that 42,8% of public area and 11,1% of private area is managed based on a management instrument:

COMUNIDAD AUTÓNOMA	Superficie pública ordenada (ha)	% Superficie ordenada respecto superficie pública	Superficie privada ordenada (ha)	% Superficie ordenada respecto superficie privada
Andalucía	666.895	57,0%	651.021	20,2%
Aragón	148.873	14,2%		
Canarias				
Cantabria	54.434	20,8%	308	0,30%
Castilla - La Mancha	487.036	59,4%	398.475	14,5%
Castilla y León	801.147	46,7%	133.162	4,3%
Cataluña	209.229	43,3%	455.512	30,0%
Comunidad de Madrid	36.535	25,3%	26.610	9,1%
Comunidad Foral de Navarra	299.409	76,4%	19.289	9,5%
Comunidad Valenciana	97.073	24,1%	42.237	5,0%
Extremadura	82.099	42,3%	216.935	8,1%
Galicia	20.279	67,1%	231.007	11,5%
Islas Baleares	482	3,3%	11.903	5,8%
La Rioja	84.852	41,1%	327	0,3%
País Vasco	56.772	25,0%	38.319	14,4%
Principado de Asturias	84.485	28,1%	4.987	1,1%
Región de Murcia	155.908	100%	11.416	3,1%
ESPAÑA	3.285.508	42,8%	2.241.508	11,1%

Figures are steadily moving upwards, with private forest areas increasing from 5% to 11% in the last decade and public forest areas doing accordingly from 30 to 42%, resulting in an overall increase from 12 to 20% at a national level.

Despite the low level of management planning, there is a minor risk related with illegal harvesting timber, as there is a legal requirement (Chapter IV of the Forest Act -Forest Harvesting) that, where no forest management plan has been approved, administrative authorization is required prior to harvesting (see legal description above where the different types are described).

The latest amendment to the Forest Act (21/2015), in article 32, considers "managed forests" all those that adhere to one of the established types of management models. This facilitates access to management planning and more area becomes managed under the control and supervision of the administration. Gradually, the Autonomous Communities where the forest sector is a key economic player, such as in Galicia, forest agencies are developing different management models and passing the correspondent laws. ([Orden de 9 febrero de 2021 por la que se modifican el anexo I de la Orden de 19 de mayo de 2014 por la que se establecen los modelos selvícolas o de gestión forestal orientativos y referentes de buenas prácticas forestales para los distritos forestales de Galicia](#))

In order to monitor the evolution per region (Comunidad Autónoma), the administration keeps a registry of all authorizations/declarations for timber harvesting done during the year and report the data to the Ministry to keep updated statistics.

The "Balance de la Madera" (Timber balance) is a statistic methodology which objective is to provide a quantitative description of the annual roundwood circuit in Spain, considering the timber harvesting figures, as well as the foreign trade figures (imports and exports) and the consumption of timber made by the first transformation industry (pulp, board, saw, veneer, bioenergy, poles). In this Balance (developed by the MITECO- Ministry for the Ecological Transition and the Demographic Challenge) it is analyzed by Autonomous Community, by public or private property and by species, feeding the Forest Statistics Annual registry of which provide data in volumes of timber until 2019.

In this Annual registry, we can see that until 2011 there was a certain percentage of timber volume was unclassified (this label belonged to a volume that was not registered in the permits) and that therefore did not allow that to confirm timber flows are correct; however, from 2011, we can appreciate that this label disappears including only data from coniferous and hardwood so that it is appreciated how the data is correct and match with the reality.

There are three ways of accounting and verifying the timber harvested/use data provided by different sources match and reflect the reality with no irregularities.

1st methodology: For any private forest harvesting, it will be necessary to request a permit/authorization that must be approved by the competent entity, in this case the Forest Administration from the Autonomous Community. In this permit, the amount of timber harvested will be included and accounted on registry.

2nd methodology: An accounting of the amount of timber that is sold in the market by the agents is kept (e.g. sawmills have to declare the amount of timber they work with). Data provided by associations like ANFTA, ASPAPEL and others.

3rd methodology: Ministry works with EUTR responsible declarations that are aimed at those who harvest national timber or import timber or timber products in Spain in order to sold at first time in the market. These companies must periodically maintain and evaluate a Due Diligence System (DDS) and annually submit a responsible declaration of the EUTR products that they have used or imported the previous year. These declarations are collected by Autonomous Communities, by product code and origin and by type.

Using these 3 methodologies, comparing and matching the information, the Ministry, in addition to reviewing, approving the "harvest permit", "management plans", has develop a tool to check if the data from the forest is consistent and help them to avoid any risk from non-approved permit/harvesting enter in the market.

Reports from local experts from the forest sector stress the dramatic increase in figures of "managed forest areas" due to numerous advantages for public funding (local, national and European) and access to markets (through certification under Sustainable Forest Management schemes). Some of the Autonomous Communities, such as Castilla y Leon, already have more than 50% of their public forest areas under FM Plans and significant public investment is being oriented to developing new Forest Management Plans and updating those expired or about to.

Throughout the North of Spain, where most of timber harvest takes place (Galicia, Castilla y Leon, Cantabria, Asturias, País Vasco, Navarra and Aragon), forest owner associations are helping develop Simplified Management Plans, adherances to Silviculture Models or other feasible legal instruments in order to become "managed forests". In this strategy, the Local Forest Service agencies are contributing by exerting regular control checks and awarding managed areas to have privileged access to funding opportunities (reforestation, restoration, silviculture treatments, integrated pest management, tax deductions and others).

Therefore, it can be ensured that the timber sold in Spain, as well as the forest harvesting activities are regulated and follow a meticulous process in which volumes, species and areas of origin are analysed among other data, thus allowing to ensure that the risk of illegality is kept low.

Risk Conclusion

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

1.3.6. Risk designation and specification

Low risk

1.3.7. 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

- Indirect tax of Finance: Tax (VAT): Law 37/1992, of 28 December, Value Added Tax. (BOE, 29-Dec-1992)
- 1624/1992 Royal Decree of 29 December, approving the Regulation of Value Added Tax (BOE, 31-dec-1992) and amending Royal Decree 1041/1990, which regulates the census declarations that must be presented for tax purposes by taxpayers
- Royal Decree 338/1990, which regulates the composition and the use of the tax identification number
- Royal Decree 2402/1985, which regulates the duty of issuing and delivering invoices to employers and employees
- Royal Decree 1326/1987, which establishes the procedure for implementing the European Economic Community Directives on the exchange of tax information

1.6.2. Legal authority

- Ministry of Finance and Public Service, Ministry of Finance.
- State Tax Administration Agency (AEAT)
- Departments of Economy and Finance of the different Autonomous Communities and local bodies (Town halls, municipalities, councils, etc.)

1.6.3. Legally required documents or records

- VAT: Certificate verifying that the owner is up to date with their payments to the Treasury. Companies and freelancers are obliged to make quarterly payments of VAT.
- Invoice with corresponding VAT.
- Declaration of the corresponding Annual Income, for individuals.

1.6.4. Sources of information

Government sources

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- [agenciatributaria.es](http://www.agenciatributaria.es) (N.Y.) *Agencia Tributaria* [online] (Tax Agency) Available at: <http://www.agenciatributaria.es/AEAT.internet/Inicio/ Segmentos /Empresas y profesionales/Empresas/IVA/Novidades en IVA/Novidades en IVA.shtml>
- FLEGT legal timber and EUTR management
- <https://www.mapa.gob.es/es/desarrollo-rural/temas/politica-forestal/Madera Legal FLEGT EUTR/sistema/LIGNUM-Gestion-EUTR.aspx>

Non-Government sources

- [atkearney.com](http://www.atkearney.com) (2013) *The Shadow Economy in Europe 2013* [online]. Available at: <http://www.atkearney.com/documents/10192/1743816/The+Shadow+Economy+in+Europe+2013.pdf/42062924-fac2-4c2c-ad8b-0c02e117e428>
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1.6.5. Risk determination

Overview of Legal Requirements

Value Added Tax legislation in place in Spain specifies rights, obligations and liability of tax authorities and taxable persons. All companies and individuals have a tax identification number or "NIF" for companies and individuals (VAT number) for tax purposes. Quarterly tax payments are made.

VAT rates are: 4% (super-reduced), 10% (reduced) or 21%, except from Canary Island with lower tax rates (IGIC). It is not difficult to verify payment as it is possible to obtain a Certificate of Payment for a company from the Treasury that shows if the company is up to date with their payments.

Law 7/2012, of 29 October, amending tax and budgetary regulations and adapting financial regulations to intensify action to prevent and combat fraud, establishes the limitation of cash payments for certain operations. In particular, it is established that transactions in which any of the intervening parties acts in an entrepreneurial or professional capacity with an amount equal to or greater than 2,500 euros or its equivalent in foreign currency may not be paid in cash.

In Spain, there is a special tax regime for the sale of timber that evades any type of tax fraud, as it would prevent VAT compensation for commercial transactions.

The special regime for agriculture, livestock and fishing, applicable to forest owners, referred to in art. 124 (VAT Law) et seq., shall be applicable to agricultural, forestry, livestock or fishery operations that directly obtain natural, plant or animal products from their crops, holdings or captures for transmission to third parties, as well as to services ancillary to such operations referred to in art. 127 (VAT Law).

The flat-rate compensation for forest owners shall be obtained by applying 12% to the selling price of the products or services, for deliveries of natural products obtained on agricultural or forestry holdings and for services ancillary to those holdings.

A register shall be kept in which all the operations included in the special regime for agriculture, livestock and fishing (income) must be recorded. No VAT returns will be submitted for activities under the special regime for agriculture, livestock and fishing; Form 309, "nonrecurrent return" will be submitted in turn. Other links in the timber value chain apply 21% of VAT to purchases and sales.

Description of Risk

Regarding VAT, it is possible that timber could be sold without being invoiced. For other taxes, it would be unrealistic to say that there is no risk of fiscal fraud, but control exists which ensure that the risk is relatively low.

A 2019 report on the VAT Gap in Europe states that the VAT gap in Spain has fallen from an average of 6% of VTTL (VAT Total Tax Liability) in the 2014 – 2018 period to a 3% in 2019. Data show consistent improvement, with 18% in 2012. This was above the EU average of 16%. Scores for other countries were: Austria 7,5%, Sweden 0,7%, Germany 7,7%, France 3,9%, Italy 23,9%, Lithuania 21,6%, Romania 33,4%. The report doesn't analyse specifically the forest sector and provide a general overview/analysis for all economic sectors.

The 2013 VISA Europe report on the shadow economy in Europe estimated the shadow economy in Spain to be 19% of the total economy. The EU average was 18,5% and scores of other countries were: the Netherlands 9%, Sweden 14%, Germany 13%, France 10%, Italy 21%, Lithuania 28%, and Romania 28%. Manufacturing, construction, and wholesale and retail have the highest share in the shadow economy. New research on the matter (internet and stakeholder consultation) doesn't give us confident data to confirm the shadow economy is mostly related with forestry sector. It would be unrealistic to say that there are no cases of tax fraud, but there are adequate mechanisms of control and monitoring that are carried out by the Tax Agency. The level of enforcement of the Tax Agency is high.

Several new legal initiatives have been put in place by the Spanish Government during 2013/14 in order to prevent fiscal fraud in Spain (it is important to take into account the high level of social indignation linked to the emergence of multiple cases of corruption within governments and political parties all over Spain); among them, a new law to strengthen measures to prevent and combat tax fraud; a plan of extraordinary regularization of hidden income; and a tightening of the Penal Code for the most serious cases of tax fraud against Social Security (still under study).

Also, Spain has a high CPI (Corruption Perceptions Index) score of 61 (in 2021).

There is a control system in place by the public administration (Tax agency/Agencia tributaria, available at: <http://www.agenciatributaria.es/>): The number of controls performed by the Tax Agency increased by 16.7% in 2012 (470000 fiscal inspections done), with particular emphasis on the increased control of VAT and Corporate Tax statements, where performances were up 30% over 2011. In 2015, 107,680 inspections were conducted (8.03% increase), and 1,761,553 actions of Control (16.45% increase). This confirms the trend towards a notable increase in the tax collection effort through inspections and controls.

Recent improving controls, especially derived from fiscal and EUTR Control Checks, show that risk has been reduced to a low level. A steady increase in Chain of Custody certificates, demand for traceability and accountability for the timber sector also has played an important role in promoting formalization of markets and practices.

During interview with Forest Ministry (MITECO), it was described a new way to verify the compliance of forest companies to pay taxes related with sales.

Since 2015 (Royal Decree 1088/2015, of December 4, to ensure legal trade of timber and timber products), each operator (*Agente*) shall put in place a Due diligence system and evaluate any risk of illegal harvesting of the timber before placing it on the market. Every year is required to prepare a responsible declaration of the EUTR products that have been imported and traded. According to the 2017 data, agents 1 and 2 (forest owners) have a total of 567 aggregates who have submitted a responsible declaration. In addition to this, inspections done by competent authorities are carried out in which they review the documentation and sales invoices to ensure that the material comes from legal sources.

The regional EUTR authorities will be in charge of both receiving the responsible declaration and carrying out the aforementioned controls. These authorities will communicate the data to the competent national authority.

According to the information provided by those responsible for implementing the EUTR, no problems have been reported since this mechanism was put in place. In total, in 2019 a total of 585 controls were carried out by autonomous community, of which 36 were indicated as non-compliant (source: FLEGT legal timber and EUTR management)

Risk Conclusion

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

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.21. 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

- Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.
- Commission delegated Regulation of 23.2.2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market
- Commission implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of

the Council laying down the obligations of operators who place timber and timber products on the market.

- Royal Decree 1088/2015, to ensure the legality of the commercialization of wood and wood products
- Regulation EC No 2173/2005 on FLEGT licenses
- Act 43/2003, of Forests

1.21.2. Legal authority

- Dirección General de Desarrollo Rural y Política Forestal (MAGRAMA)
- Regional governments.

1.21.3. Legally required documents or records

- Due Diligence System, valid registry with the mandatory information, FLEGT certificate, CITES licence, legality certificate

1.21.4. Sources of information

Government sources

- MITECO EUTR implementation. Available at: <https://www.miteco.gob.es/es/biodiversidad/temas/internacional-especies-madera/madera-legal/EUTR/>
- LIGNUM (Information System created by MITECO). Available at: <https://www.miteco.gob.es/es/biodiversidad/temas/internacional-especies-madera/madera-legal/sistema/>
- ec.europa.eu (N.Y.) *Illegal logging/FLEGT Action Plan* [online] European Commission. Available at: http://ec.europa.eu/environment/forests/illegal_logging.htm
- euflegt.efi.int (N.Y.) *Financial mechanism EU-EFI-FLEGT* [online] Available at: <http://www.euflegt.efi.int/portal/>
- fao.org (N.Y.) *Program FAO-FLEGT* [online] Available at: <http://www.fao.org/forestry/acp-flegt/en/>

Non-Government sources

- illegal-logging.info (N.Y.) *Illegal logging* [online]. (Chatham House. UK) Available at: <http://www.illegal-logging.info/>
- diligenciadebida.es (N.Y.) *CONFEMADERA* [online] Available at: <http://www.diligenciadebida.es/>
- wwf.org.uk (N.Y.) *WWF Barometer 2012: EU countries still failing the forests* [online] Available at: http://wwf.panda.org/wwf_news/?203548/EU-barometer-2012
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1.21.5. Risk determination

Overview of Legal Requirements

On 11 December 2015, a [Royal Decree \(1088/2015\)](#) was published that establishes the necessary provisions for the application of the EUTR in Spain. This decree describes the obligations of the "Operators" and "Traders" (as defined by EUTR) for compliance with the EUTR. Among the obligations it is included the obligation for operators to implement a Due Diligence System to ensure the legal origin of their product. It also establishes the minimum information of the responsible statement (*declaración responsable*) that must be completed and communicated annually by all Operators (*agentes*) who place first time timber or its derivative products on the European market; as well as the obligation to present it before March 31 of each year. This decree designs the General Directorate of Biodiversity, Forests and Desertification as EUTR Competent Authority for the coordination, the relationship with the European Union and the management of the State System of timber trade ([LIGNUM](#)); and to the [Competent Authorities designated by the Autonomous Communities](#), as authorities in charge of carrying out controls on economic Operators who trade timber and wood products into the European Market.

Currently, Act 43/2003, of November 21, on Forestry (modified by Act 21/2015, of July 20th), establishes that in public contracting procedures, the Public Administrations will adopt the appropriate measures to avoid the acquisition of wood and products derived from illegal logging in third countries and promote the acquisition of those from certified forests.

In this sense, within the scope of the General State Administration, the Ecological Public Procurement Plan (2018-2025) determines, among other things, that the purchase of wood used in furniture must have a legal origin and come from managed forestry operations in a sustainable way.

Likewise, Act 43/2003, of November 21, on Forestry (modified by Act 21/2015, of July 20), has incorporated the sanctioning regime in relation to the legality of the commercialization of wood and its derivatives as well as the new infractions for violation of the precepts derived from the application of Regulation 995/2010 of the European Parliament and of the Council, of October 20.

The level of compliance at the national and regional level is reported in the biennial monitoring reports of the national control plan elaborated by the Ministry of Agriculture, Fisheries, Food and Environment.

Description of Risk

The application of the EUTR in Spain began later than expected, in 2015 with the implementation of Royal Decree No. 1088. Since this date, the Spanish National Plan for the Control of the Legality of Commercialized Timber (February 2015) start to be implemented by the Ministry of Agriculture, Fisheries and Food.

On October 8, 2018, the [National Plan for Control of the Legality of Commercialized Wood](#) was approved at the Sectoral Conference on Agriculture and Rural Development, through which compliance with regulatory obligations by EUTR operators is coordinated throughout Spain. It is also the basis for enforcement within Autonomous Communities. The National Plan uses different economic criteria to inform enforcement efforts, analysing aspects such as: the number of imports, the value of imports, number of importing companies, or associates, number and relevance of ports of entry, etc. Regional actions and regional plans analyse risk per enterprise using risk criteria, such as exporting countries, level of company certification, marketed volumes, species, etc. The National Plan of Controls started in Spain in the first week of April 2016. The enforcement activities are based on the 2016 National Plan of Controls, with a homogeneous distribution of controls throughout the national territory, both in number and type of agents controlled.

A review of the national control plan for the following years is being prepared with the new information collected.

The level of compliance at national and regional level is detailed in the biennial monitoring reports of the national control plan drawn up by the Ministry of Agriculture, Fisheries, Food and Environment. Based on the number of controls and level of implementation, legislation relating to EUTR compliance and due diligence systems is currently being implemented and enforced.

Risk Conclusion

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

1.21.6. Risk designation and specification

Low risk

1.21.7. Control measures and verifiers

N/A