Stakeholder Consultation  
- Timber Legality Risk Assessment for Ukraine, V1.0 November 2021

Dear Stakeholder,

I am writing to seek your feedback on a report prepared by Preferred by Nature about Timber Legality in Ukraine. 

Preferred by Nature is an international non-profit organization working to encourage and support sustainable land use worldwide. Responsible and legal forest management is one of our core competence areas. We have developed similar timber legality risk assessments for more than 65 countries available on the Sourcing Hub.

The report is a risk assessment of timber legality and is developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and Preferred by Nature. A detailed description of the methodology can be found on the Preferred by Nature’s Sourcing Hub.

Timber Legality Risk Assessment and toolkit for Ukraine

As part of the full public consultation package, we are releasing the following report and related toolkit:

- **Timber Legality Risk Assessment for Ukraine, V1.0**
  - Full risk assessment with detailed findings on legal requirements and risks identified concerning harvesting, transport, and timber trade.

- **List of Applicable Legislation**

The key document for the public consultation is the Ukraine Timber Legality Risk Assessment, which analyzes the risk of sourcing timber from areas of illegal harvesting and transport. We have developed the risk assessment to support companies carrying out due diligence on their supply chains following the EU Timber Regulation, the US Lacey Act, or the Australian Illegal Logging Prohibition Act.

The risk assessment report analyses the risks associated with sourcing across 6 broad areas of law and 26 sub-categories (please see the Categories and sub-categories evaluated at the end of this document). 5 of the categories of law reflect the areas of applicable legislation in the EU Timber Regulation. For each of the areas of law, we have:
- Identified all applicable legislation;
- Listed the documents that are legally required;
- Provided sources of information;
- Described the legal requirements;
- Analyzed the risk of non-compliance with legal requirements;
- Concluded whether there is a low risk that the law is breached or a non-low risk (which we call a 'specified' risk); and
- Where the risk is specified, desired actions can be taken to mitigate the identified risks.

Again, please refer to Preferred by Nature's Sourcing Hub for more information on the methodology used.

We have included further down a Summary of identified Timber Legality Risks. For the full legality evaluation, please refer to the full Risk Assessment report for Ukraine.

**Stakeholder Consultation Process**

Following the Risk Assessment Development Procedure, we are opening a **stakeholder consultation from 10 November 2021 to 10 December 2021**. During this time, we are asking that interested stakeholders read the Draft Risk Assessment and provide feedback on the findings using the **Stakeholder Feedback Form Provided**. Feedback can be provided in any manner appropriate to the Stakeholder, but feedback in writing (either by post or email) is preferred.

Feedback should be provided to:

Ditte Steffensen

*Sourcing Hub Manager*

sourcinghub@preferredbynature.org

If you cannot provide feedback in writing, you can provide verbal feedback via phone or skype or in-person feedback to one of Preferred by Natures 250+ staff worldwide.

**Consideration when submitting feedback**

In providing your feedback, please provide as much detail as possible and provide sources and evidence to support your comments. Please be aware that clear and undisputable evidence must be provided for stakeholder feedback to result in amendment to the RA, particularly one that changes a risk determination and/or changes a risk mitigation recommendations. Examples of clear and indisputable evidence may include but are not limited to:

a) changes in legislation,
b) results of complaints handled at the international level; and

  c) newly published evidence.

We want your general comments on the following points:

1. Does this risk assessment cover all applicable legal requirements concerning the forestry sector? Are there any current legislative changes not captured in our analysis?

2. Do you agree or disagree on the risk conclusion for each category? If you disagree, please comment and provide us with any relevant information (where possible) we might have missed.

3. Would you mind letting us know of publicly available information that may be relevant and help us to evaluate timber legality risks?

4. Any other suggestions/comments to this risk assessment we need to cover?

Once we have concluded the stakeholder consultation period, we will review all stakeholder feedback and amend the risk assessment accordingly. We may contact you again once we have received your feedback if we have any queries regarding the information you have provided. All stakeholder feedback will be included in a Stakeholder Feedback Report. This report will contain a complete and accurate record of the review and consideration of all stakeholder feedback that indicates how feedback was incorporated or provided a response/justification for not including them in the final version. If you wish to remain anonymous, please clearly indicate this in the feedback you provide.

We look forward to receiving your feedback. Please do not hesitate to contact us with any further questions or comments.

Kind regards:

Ditte Steffensen
Sourcing Hub Manager

sourcinghub@preferredbynature.org
Summary of identified Timber Legality Risks

This report contains an evaluation of the risk of illegality in Ukraine for a total of six categories and 26 sub-categories of law.

Relevant for the legality of harvesting, and related trade and transport of timber in Ukraine we evaluated 5 categories and 21 indicators. We found:

- Specified risk for 15 sub-categories.
- Low risk for 2 sub-categories.
- No legal requirements for 3 sub-categories.

For wood processing we evaluated 1 category and 5 indicators. We found:

- Specified risk for 4 sub-categories.
- No legal requirements for 1 sub-categories.

The key legality risks identified in this report are mainly related to timber harvesting activities and Legal Rights to Harvest, Taxes and fees, trade and transport, and timber processing. In almost all cases, the risk exists in both source types (A. Forest owned by the state and managed by SFRA and B. Forest managed by other entities), but the level of risk is higher in B. Forest managed by other entities.

The following risks were identified:

For **Legal Rights to Harvest**, there is a risk of:

- occupation of forest land for other activities
- forest management without having land right documents requested by the Law
- conversion of forest land to agricultural land
- planning of unjustified sanitary cutting in a healthy forest
- lack of approvement of continuous forest management planning at the FME level by the Ministry of Environment
- logging in areas not covered by Forest Management Plan
- incorrect allotment and mensuration of harvest areas
- incorrect assessment of volumes, species composition, and size-quality characteristics of wood during the planning
- preparing technological (logging) maps without considering field practices
- harvest without the necessary permits
- illegally obtaining harvesting permits for sanitary cuttings
- issuance of harvest permits based on wrong inventory data
- selling wood through direct agreement, without auction
- selling wood through auction without competition

For **Taxes and Fees**, there is a risk of:
underestimation of the tax "special use of forest resources”, as the taxes are paid based on in-correct classification of wood
value-added taxes are not paid based on the correct classification of wood
income and profit taxes are not paid based on the correct classification of wood

For **Timber Harvesting Activities**, there is a risk of:

- poor quality of harvesting activities and violation of technical and silvicultural requirements
- habitats of Red Book species are destroyed
- identified Nature Reserve Funds are not registered correctly in the State Land Cadastre
- illegal logging in Nature Reserve Funds (NRFs)
- harvesting activities affect the conservation status
- prohibited sanitary felling in the Carpathians are conducted through another cutting types name
- trees that perform “important environmental functions” – as defined by the law are removed
- not following the regulation related to obtaining the EIA
- logging maps not containing environmental details
- health and safety equipment not being provided
- health and safety equipment not being worn
- staff are not following the safety measures from logging maps
- periodical medical checks are not conducted
- forest workers not being officially employed
- forest workers not receiving benefits guaranteed by the law

For **Trade and transport**, there is a risk of:

- incorrect classification of species, qualities, and quantities in waybills.
- transport of wood without waybills
- multiple transports with the same document
- transport with fraudulent documents
- transfer pricing occurring at a different level of the supply chain
- wood or wood products banned from export are exported
- understating classification and volumes of timber for exports

For **Timber processing**, there is a risk of:

- small sawmills not being legally registered
- activities are conducted without minimization of pollution
- activities are conducted without considering health and safety requirements
- technical specification of technological equipment is inaccurate
- workers not being legally employed
### Categories and sub-categories evaluated

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<th>Sub-category</th>
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