

# Timber Legality Risk Assessment Bolivia

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COUNTRY RISK  
ASSESSMENTS



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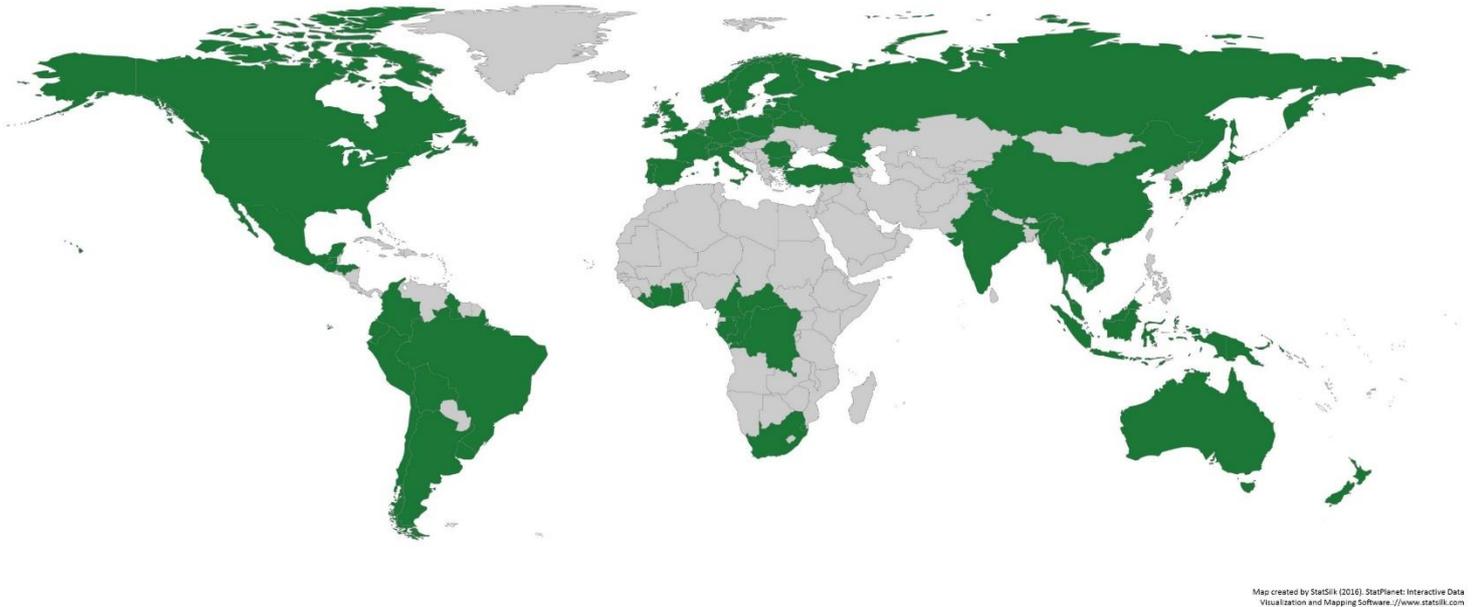
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## A. Introduction

This Timber Legality Risk Assessment for Bolivia 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:** 20 / 100 in 2017

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

- **Specified risk for 16 sub-categories.**
- **Low risk for 4 sub-categories.**
- **No legal requirements for 1 sub-categories.**

The Timber Risk Score for Bolivia is 20 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, third parties' rights, and transport and trade.

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

- conflicting land use claim exist (1.1)
- third parties enter and occupy forestry concessions (1.1)
- Lack of official land registration can lead to another person registering the territory under his/her name by using influences or tricks, and the real owner may lose his/her territory (1.1)
- inventory data is inflated to get extra volume recorded in the forest management plan, so that the timber from non-authorized sources can be laundered through legally approved areas (1.3, 1.4)
- owners of forests with management plan request the cancellation of plans before the cutting cycle is over (1.3)
- Annual operational plan (POAF) are not implemented in the field or what is implemented does not correspond to what is defined in the management plan. Non-conformances include: change of species, exploitation outside the authorized area, overestimation of volumes in small instruments (1.3)
- forestry engineers do not conduct the necessary monitoring in the field; This mainly relates to private properties (1.3)
- more transport permit (CFO) are applied for than required to sell timber from non-authorized sources (misuse of the authorisation) (1.3)
- forestry exploitation happens in non-authorized areas (1.4).
- timber is obtained from illegal forest clearing activities and is commercialized in the black market, sometimes being covered up with legal timber
- Misuse of documents to launder timber (buying transport permit - CFOs, fraud in management plans, illegal forest clearing) (1.4)

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

- non-payment of VAT takes place (1.6)

- invoicing is avoided. This is a risk often in the informal economy, which includes small and medium timber enterprises and well as retail transactions of timber in the national market (1.6)
- communities do not register as companies as legally required (1.6)
- non-payment of income tax takes place (corporate profits tax is a calculated based on sales invoices (1.7)

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

- Silvicultural treatments are not applied onsite (1.8)
- Requirements on protected sites and species are violated (1.9)
- Environmental requirements are not in place, such as; protections in place for conservation easements (protection strips on watercourses, waterlogged sites, sites with slopes greater than 45%, etc.) (1.10)
- polluting materials such as batteries, plastics, etc. are left behind (1.10)
- in streams, the flow of water is blocked to make roads and at the end of the operation the water is used to facilitate drainage (1.10)
- lack of affiliation with any health insurance provider, mainly due to the absence of workers' identity cards (1.11).
- The requirements for safety equipment demanded by law, as well as sanitary conditions in the on-site camps, are frequently not complied with in the field (1.11).
- Requirements on safety, lodging, health, insurance and other social coverage are not complied with (1.11)
- In the management plans of indigenous or peasant communities, compliance with labour law is minimal or zero. There is no provision for first aid, although a medicine box is present (1.11)
- contracts are verbal, on-site camps are improvised and devoid of comforts (1.12)
- payments are delayed.
- in indigenous or peasant communities, there are no contracts and less any payment of social benefits and absence of a nurse, and medical centre, etc (1.12).

For **Third Parties' Rights**, there is a risk that:

- Companies take contracts directly to communities and sign them there and then, and the community become witnesses rather than decision-makers because they do not often know or understand the scope of the contract. The price, volume, species and other variables are negotiated previously between leaders and the company, without the community. This is not considered to be the case with management plans in private properties (1.14).
- rural communities do not have management plans (1.15)
- indigenous peoples lose actual control over forest operations, when private logging companies under third-party harvesting contracts finance the management plans (1.15).

- indigenous peoples are violated in forest harvesting by, amongst others (1.15):
  - fixing the price of timber, non-compliance with contracts, making it impossible to change contracts, the non-purchase of all agreed wood volumes, hiring of people from the community without considering legal labour requirements.

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

- species are incorrectly classified, despite the log being legally sourced (1.16)
- volumes are greater than reported in the certificates of origin (CFO) when measuring and loading the wood in the truck (1.16)
- species are not included in the group of commercial species outlined in the management plan (1.16)
- using legal documents (the forestry certificates of origin (CFO)), issued by the ABT for the transport of wood from authorized sources, to extract wood from unauthorized (illegal) sources (1.17).
- transport wood takes place without a CFO concealing the load under a fruit load (1.17).
- the police and civil servants in the checkpoints are bribed by the offender so that the truck is allowed to keep going without a CFO (1.17).
- transfer pricing can take place (1.18)
- There is a risk of violation of customs regulation (1.19)

## Timber source types and risks

There are four general timber source types found in Bolivia. 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 four of these source types and found that where legislation is applicable, the risk conclusions do not differ between the source types.

### **Natural forest in permanent forestry production territories (TPFP is the Spanish acronym)**

For management of natural forest on the permanent production territories a forestry management plan based on a forestry inventory is required. This plan is assessed and approved by the ABT. The management plan shall be prepared by a forestry engineer who shall be registered in the Authority for the Social Audit and Control of Forests and Lands (ABT) staff.

It is mandatory to show the documents supporting the ownership of the land (license resolution, executorial deed or INRA sanitation certificate). Besides the management plan, an annual operational forestry plan (POAF is the Spanish acronym) shall be submitted to. A usable surface regulation tax shall be paid.

**Multiple use forest (TUM is the Spanish acronym)**

The allowed use in this category is that of agriculture, cattle or forestry management.

For forestry exploitation purposes, the requirements and procedures are the same as the ones for TFPF. For forestry exploitation purposes, the requirements and procedures are the same as the ones for TFPF. Additionally; it is necessary to prepare:

- a land use planning document (technical document which regulates the land use according to its highest capacity) in case of agricultural or cattle uses.
- forest clearing plan including the commercial timber volume based on sampling. As opposed to the management plan, the forest clearing plan is an authorisation to change the land use from forestry to agriculture or cattle and it is valid for a year.

Once the forest clearing is done, the auxiliary agent shall write a storage report and submit it to the Authority for the Social Audit and Control of Forests and Lands (ABT), which has the right to do an inspection prior to issuing the Forestry Origin Certificate (CFO - transport permit). A patent based on the usable volume shall be paid.

**Natural forest in buffer zones of protected areas**

The allowed use in this category depends on the protected area management plan. Only communities or private individuals with the corresponding ownership titles can use these lands.

For forestry exploitation purposes, the requirements and procedures are the same as the ones for TFPF. Additionally; it is necessary to prepare:

- a land use planning document (technical document which regulates the land use according to its highest capacity) in case of agricultural or cattle uses.
- forest clearing plan including the commercial timber volume based on sampling. As opposed to the management plan, the forest clearing plan is an authorisation to change the land use from forestry to agriculture or cattle and it is valid for a year.

Once the forest clearing is done, the auxiliary agent shall write a storage report and submit it to the Authority for the Social Audit and Control of Forests and Lands (ABT), which has the right to do an inspection prior to issuing the Forestry Origin

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Certificate (CFO - transport permit). A patent based on the usable volume shall be paid.

A copy of all the documents shall be submitted to the Protected Area Management Unit, which has the right to verify them.

**Forestry plantations in community or private territories**

It is necessary to register the plantation with the Authority for the Social Audit and Control of Forests and Lands (ABT) and to obtain the cutting license after the plantation is established. The cutting is authorized by means of an administrative resolution. In Bolivia, the management plan is not a legal requirement to establish and exploit plantations.

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

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

## C. Overview of the forest sector in Bolivia

Bolivia, located in the center of South America, covers an area of 109.58 million hectares. 40% of this area is covered by forest (53.1 million hectares), mainly located in the east and north of the country. 41.2 million hectares of this forest have been declared suitable for forestry exploitation by the Supreme Decree 26075/2001 (D.S. 26075/2001). The rest of the forest has no potential for forestry exploitation so it remains in its natural condition. Of the 41.2 million forestry exploitation:

- 28.2 million hectares have no exploitation restrictions;
- 2.4 million hectares have some kind of restriction; and
- 10.6 million hectares are under temporary protection (Moreno, 2016).

According to the Superintendence for Forests (1999), five regions of Bolivia were identified as timber producers, namely: Bajo Paragua (3.8 million hectares), Chiquitania (6.3 million hectares), Chore (1.6 million hectares) and Pre-Andean Amazonian (4.1 million hectares); all of their areas equate to 15.8 million hectares, a part of the 28 million hectares dedicated to timber exploitation with no restrictions. These hectares have a great timber yielding potential and also the potential to produce non-timber yielding products such as chestnuts, rubber and açai; the rest of the timberland (12.4 million hectares) is located in areas in between these regions, constituting dispersed forested areas.

In 2013, the Ministry of Environment and Water published the new Bolivian forestry map, raising the forested regions from 5 to 9: Amazonian forest, Yungas forest, Sabanas inundadas, Chiquitiano forest, Pantanal forest, Bolivian Tucuman forest, Andean forest and Inter-Andean forest. This map has been updated in 2015, covering an area of 51.2 million hectares. Although this new classification includes the entire national territory, it seems necessary to clarify that some areas such as the Andean and the Inter-Andean forests are not timber yielding forestry; due to this, it is preferable to keep this study within the scope of the 5 timber yielding regions and the inventories carried out there.

The current Bolivian forestry regulations began in 1997 with the enactment of Act 1700 (Ley 1700), which replaced the previous regulations from 1974. The new act set up modern regulation mechanics to achieve sustainable forestry management, such as: forestry census, minimum diameters for cutting, annual exploitation areas, identification of exploitable trees and seed catalogues, using operational maps in the fields, etc. In 2001, the forestry areas subject to permanent production were defined in the Supreme Decree 26075/2001 (Decreto Supremo 26075 del año 2001). Most of the timberland in forestry regions are owned by the State, but there are also community territories owned by indigenous peoples and other areas owned by natural and legal people. At a national level (including Amazonian forest and the high plateau), there are 20.7 million hectares registered as community and country territories (TIOC is the Spanish acronym) and 1.7 million hectares pending of registration.

In addition, there is a protected areas system covering around 17 million hectares spread out in 22 protected areas all around the country. These areas are handled by the National Service of Protected Areas (SERNAP is the Spanish acronym), which establishes the rules and regulations about timber management. Every Protected Area has its own administration lead by an Executive Director. Inside every area, there is a core zone in which no anthropic activities are permitted. At the same time, there is a buffer zone surrounding the core zone where human communities are frequently settled; these communities are allowed to perform farming activities and forestry

exploitation in accordance with the regulations established by the protected area management plan.

As stated by the Forestry Act 1700 (ley forestal 1700), the State granted Harvesting licences to the timber industry for forestry exploitation in 1997; these licenses replaced the previous long-term contracts. Act 1700 establishes that a forestry management plan approved by the proper authorities is necessary to carry out the forestry exploitation in state, community and/or private territories. In addition, a forestry operation plan based on a census (100% inventory - cruise) has to be prepared on an annual basis. In 1997, the Superintendence for Forests was founded with the mandate of being the authority in charge of the forestry regulations; it was replaced by the Authority for the Social Audit and Control of Forests and Lands (ABT is the Spanish acronym) in 2009, which regulates both forestry and farming activities. Licenses granted by the ABT are: forestry exploitation, forest clearing for farming purposes, approval of land use planning, raw material supplying programs for processing centers, annual exploitation reports.

In practice, forestry exploitation starts with the inventory of the annual exploitation area (AAA is the Spanish acronym), followed by the preparation of the annual operational plan (POAF is the Spanish acronym); this plan is subject to the revision and approval of the ABT. The felling, cutting and transportation of the timber follows a methodology established in the technical regulations stated by ABT; this includes a chain of custody system based on the identification of trees with an alphanumeric code preserved in the logs until they arrive at the sawmill. At the end of the harvest, the annual report is prepared and sent to the ABT for approval. ABT carry out certain inspections prior to the granting of the forestry origin certificates (CFO is the Spanish acronym); these supporting documents are necessary to transport the timber. ABT performs inspections at all stages of the activity, including the forestry inventory. The sawn timber also requires forestry origin certificates (CFOs) in order to be transported. There are permanent control centers all along the different transport routes of the country which check the CFO data against the forestry product. Processing centers are supposed to send quarterly and annual reports to ABT, in which they should provide information about their timber accounts as well as the supporting documents concerning custody chain and legality.

The Directorate-General for Forest Management and Development (Dirección General de Gestión y Desarrollo Forestal) states that the annual deforestation exceeds 200 million hectares per year and that the national forest cover raised up to 52.14 million hectares in 2015.

Additional sources:

- Globalforestwatch.org. N.Y. Bolivia. Country profiles. <http://www.globalforestwatch.org/country/BOL>
- FAO (2015): Global Forest Resources Assessment 2015. Food And Agriculture Organization Of The United Nations. Rome, 2015: <http://www.fao.org/3/a-i4808e.pdf>

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## 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

###### GENERAL LEGISLATION:

- Constitution of the Plurinational State of Bolivia (2009): Articles 349, 386 and 387. Available at: <http://www.harmonywithnatureun.org/content/documents/159BoliviaConstitucion.pdf>. [Accessed on 28 February 2017].
- Constitution of the Plurinational State of Bolivia (2012): Framework legislation of Mother Earth and Comprehensive Development of Well-Living No. 300, articles 16, 19, 25 and 54. Available at: [http://www.harmonywithnatureun.org/content/documents/157BoliviaLey\\_300.pdf](http://www.harmonywithnatureun.org/content/documents/157BoliviaLey_300.pdf). [Accessed 28 February 2017].
- INRA (1996): National Service of Land Reforming Act. Articles 3, 9, 41, 51, 65, 69 and 74. Available at: <http://www.lexivox.org/norms/BO-L-1715.xhtml>. [Accessed on 28 February 2017].
- Official Bulletin of Bolivia (2013): Act 477 (Ley 477) against the subjugation and traffic of the land. Available at: <http://medios.economiayfinanzas.gob.bo/MH/documentos/NORMAS-Y-DECRETOS/LEYES-2013/L477.pdf>. [Accessed on 28 February 2017].

###### LEGISLATION APPLICABLE TO THE FORESTY EXPLOITATION IN NATURAL FORESTS (TPFP, TUM, BUFFER ZONES IN PROTECTED AREAS):

- Bolivia Forestry Law (1996): Forestry Act no. 1700 (Ley forestal N° 1700) 12 July 1996. Articles 12, 15, 16, 22, 26, 27, 28, 29, 33, 36, 38, 41 and 42. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 28 February 2017].
- Bolivia Forestry Law (2001): Supreme Decree no. 26075. 41,235,487 hectares declared Permanent Forestry Production Territories 16 February 2001. Articles 1, 2, 3 and 4. Available at: <http://www.lexivox.org/norms/BO-DS-26075.xhtml>. [Accessed on 28 February 2017].
- Bolivia Forestry Law (1996): Supreme Decree no. 24453 (Decreto Supremo N° 24453). Regulations of the Forestry Act 1700 (Ley Forestal 1700). Published on 21 December 1996. Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 3 March 2017].

- Bolivia Forestry Law (2003): Supreme Decree no. 27024. Regulations of section e), Paragraph I, Article 34 and of Paragraph I, Article 36 from Act 1700. Statement of the Forestry Regulation Tariff published on 6 May 2003. Available at: <http://www.lexivox.org/norms/BO-DS-27024.xhtml>. [Accessed on 28 February 2017].
- Bolivia Forestry Law (2009): Supreme Decree no. 0071 9 April 2009. Foundation of the Authority for the Social Audit and Control of Forests and Lands (ABT is the Spanish acronym). Articles 3 and 31. Available at: <http://www.lexivox.org/norms/BO-DS-N071.xhtml>. [Accessed on 28 February 2017].

#### LEGISLATION APPLICABLE TO FORESTRY PLANTATIONS (TUM):

- Bolivia Forestry Law (1996): Forestry Act no. 1700. Articles 12, 14, 17 and transitory provisions. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml> [Accessed on 28 February 2017].
- Bolivia Forestry Law (1996): Supreme Decree no. 24453 (Decreto Supremo N° 24453). Regulations of Forestry Act 1700 (Ley Forestal 1700). Published on 21 December 1996. Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 28 February 2017].
- Bolivia Forestry Law (2010): Supreme Decree 443, 10 March 2010. Foundation of the Forestry and Reforestation National Program published on 10 March 2010. Available at: <http://www.lexivox.org/norms/BO-DS-N443.xhtml>. [Accessed on 28 February 2017].

#### 1.1.2. Legal Authority

##### POLICY AUTHORITIES:

- Ministry of Environment and Water (MMyA is the Spanish acronym): it issues regulation directives and rules.
- Vice-Ministry of Environment, Biodiversity, Climate Change and Forestry Development and Management: it prepares policies, rules and directives.
- Directorate-General for Forest Management and Development (Dirección General de Gestión y Desarrollo Forestal): it prepares policies, rules and directives.

##### REGULATORY AUTHORITIES:

- Authority for the Social Audit and Control of Forests and Lands (ABT is the Spanish acronym): proper entity on charge of the authorisation and regulation of forestry exploitation. It checks and approves forestry management solutions such as forestry management plans, land use planning, forest clearing plans, etc. Besides, it is on charge of verifying the compliance with these regulations and manages administrative processes against those who violate the forestry act and the associated regulations. It confiscates and eliminates illegal forestry products.
- National Service of Land Reforming (INRA is the Spanish acronym): it is the entity on charge of issuing property titles of the land in Bolivia. It carries out legal sanitation, verifies the locations and resolves property rights in case of dispute among owners. INRA is also the proper authority to certify the legality of a property. Moreover, it certifies who is/are the owner/s of a particular property.

- National Service of Protected Areas (SERNAP is the Spanish acronym): it is the entity that manages the protected areas of Bolivia. It appoints the executive directors of the National Protected Areas. Within the protected areas, SERNAP revises and authorizes the forestry management plans proposed, which are submitted to ABT for final approval. At the same time, the Protected Area directors confiscate and store illegal forestry products extracted from the protected areas.
- Municipal Forestry Unit: it is a municipal institution which aims at supporting ABT with field inspections and checking of the forestry users' documents, especially communities.
- Judiciary Council: it registers the Royal Rights, which is the State authority to register real estate. Urban and rural properties shall be registered in the Royal Rights to be considered "legally registered".

### 1.1.3. Legally required documents or records

For the exploitation of Harvesting licenses (special transitory authorizations for companies and local social groups), the required documents are:

- Administrative resolution of the Harvesting license
- Forestry Management General Plan approved by ABT
- Annual Operational Forestry Plan (POAF is the Spanish acronym) approved by ABT
- Forestry Origin Certificate (CFO is the Spanish acronym) supporting the timber
- Annual report of POAF

For private properties, the required documents are:

- Property title registered in Royal Rights
- Management plan approved by ABT (administrative resolution)
- Annual Operational Forestry Plan (POAF is the Spanish acronym) approved by ABT (administrative resolution)
- Forestry Origin Certificate (CFO is the Spanish acronym) supporting the timber
- Annual report of POAF

In farming communities or community origin lands, the required documents are:

- Property title or sanitation certificate issued by INRA
- Forestry Management General Plan approved by ABT
- Annual Operational Forestry Plan (POAF is the Spanish acronym) approved by ABT
- Forestry Origin Certificate (CFO is the Spanish acronym) supporting the timber
- Annual report of POAF

Besides the technical documents above mentioned, companies are required to have the Fundempresa certificate, the TIN number and the Legal Representative Power. Companies having a sawmill are required to register it with the ABT by submitting the Running License granted by the Municipal Government, the Raw Material Supplying Program, Fundempresa certificate in case the sawmill has a different registered name and TIN.

Regarding the communities, a directive resolution from the indigenous mother organization granting the area management to the community; ABT requests this document when the management plan is being checked.

#### 1.1.4. Sources of information

##### *Government sources*

- ABT (Authority for the Social Audit and Control of Forests and Lands). (2016): Annual report 2015. Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 1 March 2017].
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##### *Non-Government sources*

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- Illegal Logging Portal (2015): Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 1 March 2017].
- Forest Legality Alliance (2016): Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 1 March 2017].
- Interpol (2017): Bolivia. Available at: <http://www.interpol.int/es/Países-miembros/Américas/Bolivia>. [Accessed on 1 March 2017].
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- Global Forest Watch (2017): Bolivia. Available at: <http://www.globalforestwatch.org/country/BOL>. [Accessed on 1 March 2017].
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- Vargas; M. Teresa; E. Osinaga: Who is on charge of the forest in Bolivia? Consequences of the possession in forestry management and in the rural livelihood. Santa Cruz, Bolivia.
- P. Pacheco (2005): CIFOR Natural Resources and Environment no. 49-50. The Bolivian forestry regulations: a hindsight ten years after its implementation. Available at: [http://www.cifor.org/publications/pdf\\_files/articles/APacheco0701.pdf](http://www.cifor.org/publications/pdf_files/articles/APacheco0701.pdf). [Accessed on 13 February 2017].
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- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

Conversations with different experts carried out throughout October 2016 helped the authors of this report to understand better the applicable legislation and the risks associated with each category of the laws.

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

##### *Overview of Legal Requirements*

According to the Constitution of 2009, natural resources are considered strategically important for the development of the country (Articles 348 and 386), the right of exploitation is acknowledged for private operators, and communities have exclusive rights over the forestry exploitation in their territories (Article 389).

The State, by means of the Framework legislation of Mother Earth (*Ley Marco de la Madre Tierra*), establishes that forestry management should be comprehensive for the well-being of the Bolivian people, (Articles 16 and 25). The Plurinational Authority of Mother Earth was created to prepare and promote policies regarding the adaptation and mitigation of climate change by assigning resources from the Plurinational Climate Justice Fund (Article 53).

The Forestry Act 1700 (Ley forestal 1700) dated 12 July 1996, sets out the requirements that forestry users shall fulfill in order to exploit the forest. State forests have been granted by Harvesting licences to forestry companies for 40 years, while private territories (individual or collective) and communities (indigenous or farming) have the exclusive right to exploit the forest on land they own. Forests on public land have been granted by means of licenses to two different kinds of user: the traditional timber companies and the local social groups, which are constituted by people who practiced illegal timber commerce in the past and who had the opportunity to become legal by applying a sustainable management plan (under the Forestry Act 1700). Before the Forestry Act 1700 (Ley Forestal 1700), there were long-term exploitation contracts instead of licenses and they covered a total surface close to 23 million

hectares. With the new forestry act, both of these users moved to using Harvesting licences in state territories covering around 7 million hectares. The rest of the territory (16 million hectares) was returned to the state in order to be granted to new actors, but to date, this has not.

Supreme Decree 26075 (D.S. 26075) of 2001 defines and categorizes the permanent forestry production territories. Where private territories are categorized as Permanent Forestry Production Territories (TPFP is the Spanish acronym), forestry activities, carried out with a forestry management plan, are the only permitted commercial activities. However, farming use is allowed as well as forestry where the land has been classified as 'multiple use'. In both cases, the first document to be prepared and approved by ABT is the land use planning (POP is the Spanish acronym), which defines the purpose of the land as a last resort.

INRA Act no. 1715 (Ley INRA N° 1715) establishes the National Institute of Agrarian Reform (El Instituto Nacional de Reforma Agraria (INRA)). This act sets out the legal and technical mechanisms so that each land owner in Bolivia can formalise their property rights. This is carried out by revising and updating the legal documents on property rights where a possession conflict has occurred in the past (i.e. two or more alleged owners of the same property, location conflicts, fraudulent endowments, etc.). The INRA checks the existing documents, has an audience with the neighbors, checks the social economic issues, resolves the property rights in case there are more than one plaintiff and issues property titles free of overlapping claims.

Act 1333 (Ley 1333) Environmental Act of 27 March 1992 and Supreme Decree no. 24781 (D.S. 24781) of 31 July 1997 set out the management regime for protected areas. This includes the requirement to have management plans in protected areas. The buffer zones are defined where there are human settlements, as well as the rules and levels of intervention of the land for farming, touristic or total protection purposes. The management plan defines the core area of strict protection, the integrated management area (in which farming is allowed), and the timber exploitation and non-timber yielding exploitation area (based on a forestry management plan approved by the Protected Area Direction and the ABT).

### *Description of Risk*

Concerning Harvesting licences to companies and local social groups (ASL is the Spanish acronym):

The risk that the possession of the land is false or illegal is low because all harvesting licences were granted in a public and transparent process in 1997. No new licenses have been granted since then.

There is a potential risk that the licensees may undergo some difficulties to perform their normal activities in the concessions due to the subjugation of third parties (mostly politically encouraged inhabitants) or due to the cancellation of the licenses made by the State, but this is not a risk relevant to this indicator. There have been cases in which the subjugation has been held for a long time so finally the forestry concession has been taken and consequently the rights of the Harvesting licensee have been violated.

In addition, there have been cases of inactivity of lack of economic or technical capability of the licensee to work on the assigned area; this situation has made easier for third parties to enter and occupy the forestry concession.

In the past few years, other issues have emerged, including: instances of the creation of communities inside the concessions (which are acknowledged by the authorities despite private companies having legitimate claims to the land), the legalization of the subjugations or the lack of authority to enforce the forestry rights, as well as the inactivity or absence of the licensee in other cases. The interviewed parties agreed that the licensees 'documents are in order'.

Concerning the community origin territories /TIOC (is the Spanish acronym):

The INRA has developed a long and very participatory process to issue titles on indigenous territories, therefore the risks associated with this category of property rights is considered low.

There is a risk that these lands, granted to indigenous communities, may be subjugated by third parties (as described above with forestry concessions). The AFIN people interviewed in the preparation of this report stated that the indigenous territories are acknowledged and certified by the State; however, there are intercultural social groups competing to settle inside the TIOCs or their surrounding areas. This constitutes a threat to the forest integrity in compliance with the indigenous leaders (source: Interview with AFIN).

In the interviews conducted in the preparation of this report, several key actors agreed that there have been unauthorised human settlements in several forestry concessions throughout the past ten years. These settlements aimed at creating farming communities, and are responsible for the deforestation of small areas as forest land is converted for agricultural use. This has also been happening in the integrated management zones of the protected areas. Experts also mentioned that there are management plans using the legal documents of a property to support the management plan of a different property whose documents are not in order; however, this constitutes illegal extraction and therefore it doesn't jeopardize the property rights.

After the interview with public servants of ABT, it can be concluded that ABT approves management plans but it doesn't guarantee the property rights, although they always request supporting documents or at least the sanitation certificate issued by INRA. The INRA sanitation certificate is very specific and reliable.

Whenever a territory is not registered, there is a risk that another person registers this territory under his/her name by using influences or tricks; therefore, the real owner may lose his/her territory. Due this, the best evidence of someone being the owner of a land is the registration in Royal Rights.

#### *Risk Conclusion*

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

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

Specified risk

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

- Regarding the concessions, it is necessary to verify that a Harvesting licence resolution has been issued by the Superintendence for Forests.
- Concerning private properties, it is necessary to verify that there is a property title or, if applicable, an INRA certificate stating that the property is undergoing a sanitation process. In addition, it is necessary to verify that the property is registered in the Royal Rights. It is also necessary to make a consultation with the Royal Right to determine if the property is subject to encumbrance or if the name of the owner has changed.
- For community territories, it shall be verified that there is a collective property title in name of the community, as well as the legal entity of the community mother organization. This title shall be registered in Royal Rights.
- With regards to the Community origin territories, it shall be verified that there is a property title in name of the mother organization of the TCO. At the same time, there shall be a resolution issued by the Indigenous Mother Organization Management by which a particular area is granted to a forestry community or organization for forestry management purposes.
- Concerning all the possession cases: it is necessary to request Property Registration Certificated as updated as possible (allodium certificate). (<http://bolivia-tramites.blogspot.com/2013/04/certificado-alodial.html>)
- As per field verification, it is mandatory to certificate the absence of third parties occupying areas inside forestry concessions or properties. It is also desirable to consult with the neighbors about the territory boundaries or the existence of current or potential conflicts due to overlapping or other alleged rights.

## 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

- Constitution of the Plurinational State of Bolivia (2009): Article 349 (Natural resources owned and ruled by the State) and 386 (Forests and forest soils have a strategic character.). Available at: [http://www.harmonywithnatureun.org/content/documents/159Bolivia Consitucion.pdf](http://www.harmonywithnatureun.org/content/documents/159Bolivia%20Consitucion.pdf). [Accessed on 1 March 2017].
- Constitution of the Plurinational State of Bolivia (2009): Mother Earth Act no. 300, article 19 (To make the access to the mother earth's components easy and fair). Available at: [http://www.harmonywithnatureun.org/content/documents/157Bolivia Ley 300.pdf](http://www.harmonywithnatureun.org/content/documents/157Bolivia%20Ley%20300.pdf). [Accessed on 1 March 2017].

### Legislation applicable to the forestry exploitation in natural forests:

- Forestry Act (1996): no. 1700 of 12 July 1996, Articles 26 (Granting of exploitation rights), 27 (Management plan), 28 (Classification of rights), 29 (Harvesting licence), 36 (Classification of forestry patents) and 37 (Amount of the patents). Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- Forestry Act (2001): Supreme Decree no. 26075 of 16 February 2001, Articles 2 (Permanent Forestry Production Territories. Licenses) and 3 (Authorization of forestry exploitation in Protected Areas). Available at: <http://www.lexivox.org/norms/BO-DS-26075.xhtml>. [Accessed on 1 March 2017].

#### 1.2.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands: proper entity that is on charge of the application of the forestry legislation and the regulation of the forestry exploitation.
- National Service of Land Reforming (INRA): proper entity on charge of issuing property titles (private and collective).

#### 1.2.3. Legally required documents or records

For licensed companies or local social groups:

- Registration in Fundempresa
- Taxpayer's Identification number (TIN)
- Resolution of granting Harvesting licence
- Resolution of the management plan approval
- Resolution of the approval of the annual operational forestry

#### 1.2.4. Sources of information

##### *Government sources*

- ABT (2015): Annual report. Authority for the Social Audit and Control of Forests and Lands. Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 1 March 2017].

##### *Non-Government sources*

- Vargas; M. Teresa; E. Osinaga: Who is on charge of the forest in Bolivia? Consequences of the possession in forestry management and in the rural livelihood. Santa Cruz, Bolivia.
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[http://www.cifor.org/publications/pdf\\_files/OccPapers/OP-100.pdf](http://www.cifor.org/publications/pdf_files/OccPapers/OP-100.pdf). [Accessed on 13 February 17].

- Transparency International (2016). Corruption Perception Index, Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed 13 February 2017].
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### 1.2.5. Risk determination

#### *Overview of Legal Requirements*

##### a) Constitution of the Pluractional State of Bolivia

Article 349:

I. Natural resources are property and indivisible, imprescriptible and directly ruled by the Bolivian people. The State will manage then according to the collective interests.

II. The State will acknowledge, respect and grant individual and collective property rights over the land, as well as use and exploitation right over other natural resources.

III. Agriculture, cattle and fishing and hunting activities which don't involve protected species are regulated by the fourth part of this Constitution, which deals with the structure and the economic organization of the State.

Article 386: natural forests and forest soils have a strategic character in the development of the Bolivian people. The State will grant forestry exploitation rights in favour of communities and private operators. In addition, the State will promote preservation and sustainable exploitation activities, as well as rehabilitation and reforestation of degraded areas and the generation of added value for their products.

##### b) Mother Earth Act no. 300 (Ley de la Madre Tierra N° 300)

Article 19: To facilitate the equate access to mother earth's components. The Plurinational State of Bolivia will facilitate the reduction of the differences regarding the access of the Bolivian people to the land, water, forests, biodiversity and other mother earth's components, by means of:

- Eliminating the land property concentration or large estate, as well as the concentration of other components of Mother Earth in the hands of agrarian owners and companies. This will improve the sovereignty, the food safety, the strengthening of the community economy within the framework of what is established by the Constitution (Chapter IX, Title II, Part Four).
- Regulation and control of the transfer of the property, access and exploitation of the Mother Earth's components to foreign owners.

#### *Description of risk*

##### a) Forestry Act no. 1700 (Ley forestal N° 1700) of 12 July 1996

Section 26: Forestry exploitation rights are only obtained by the State grant in compliance with the law; they are only kept if their exercise considers the protection and sustainable use of forests and forestry territories, complying with the rules and prescriptions on the subject.

Section 27: The Management Plan is an essential requirement for all kinds of forestry use and for the legal exercise of forestry activities. It is part of the license resolution authorisation or forest clearing license and its fulfillment is mandatory. Management Plans shall be prepared and signed by forestry professionals or technicians, who will be civilly and criminally responsible for the veracity and the extent of the information included on the same. The implementation of the Management Plan will be supervised by the professionals or technicians above mentioned, who will be acting as auxiliary agents of the proper entity; they will prepare documents and reports containing attestation, at the responsibilities mentioned in the present law and the associated regulations.

In order to grant the functioning authorisation to the primary processing centers of forestry products and its validity, a raw material supplying program shall be presented and updated on an annual basis; this shall include the sources and amounts to be used, which have to come from managed forests except for the forest clearing cases fully authorized. The aforementioned authorisation is an administrative license whose violation may lead to a temporary suspension or the final cancellation of the activities, notwithstanding the civil and criminal penalties applicable.

Section 28: Classification of the rights

The following forestry use rights are established:

- Harvesting licence in public land
- Exploitation authorisation in private properties
- Forest clearing license

Section 29: Harvesting licence

The harvesting licence is the administrative act by which the Superintendence for Forests grants individual or collective entities the exclusive right to exploit forestry resources in a limited public land. The management of wild life, biodiversity, genetic resources and any other special resources are governed by the specific legislation on that subject. In order for third parties to use certain forestry resources not included in the licensee's Management Plan, the licensee may (or should, if so it is resolved by the proper authority in compliance with the regulations) sign subsidiary contracts provided that the licensee keeps being responsible for all the resources in the licensed Area. Whenever local groups or indigenous peoples are involved, the only applicable contracts will be the ones voluntarily signed, but the arbitration of the Superintendence for Forests won't be applicable. Regulations will set the rules for the execution of a subsidiary contract, which will have to be notified and approved by the Superintendence for Forests.

The license is granted for a period of forty (40) years, extendable as long as there are evidences of fulfillment supported by the forestry authorities.

The license is subject to be transferred to third parties with the authorisation of the Superintendence for Forests, whenever a previous fulfillment audit is conducted in

accordance with the special procedure to the legally established; in this case the assignee assumes the obligations of the assignor within full rights.

The harvesting licence is a document that do its owner credit to claim and obtain the prompt and effective protection of the administrative, police and jurisdictional authorities in accordance with the current law and their regulations.

It allows the license to be waived after an external forestry audit, qualified and independent, is conducted to determine whether the Management Plan has been fulfilled or not. The waiving party shall assume the audit costs and the arising obligations, whenever applicable.

- a) Supreme Decree no. 26075 (Supreme Decree no. 26075 (Decreto Supremo N° 26075), 16 February 2001.

Article 2. In Permanent Forestry Production Territories, it is legal to:

1. Exploit the forestry by implementing Forestry Management Plans approved by the Superintendence for Forests.
2. Grant Harvesting licences.
3. Authorise forestry exploitation in Protected Areas; the authorisation will be issued by the SERNAP together with the Superintendence for Forests.
4. Use the forestry in private territories according to what is established by Act 1700 (Ley 1700).
5. Supply and adjudicate according to what is ruled by Act 1715 (Ley 1715) and stated by Act 1700 (Ley N° 1700).
6. Execute the necessary constructions for public good authorised by the corresponding environmental license in compliance with Act 1333 (Ley N° 1333) and the Forest Clearing Plan complying with Act 1700 (Ley N° 1700).

Article 3: The authorisation of forestry exploitation in Protected Areas will be issued in accordance with the following regulations: a) Foundation as a Protected Area; b) Management Category; c) Management Plans and Programs; d) The preliminary or final division into zones; e) Plans to use the specific resource; f) Regulations governing Use.

#### *Risk conclusion*

This indicator has been evaluated as low risk for forestry concessions located in state territories. 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. The legal requirements do not apply to the other source types.

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

Low risk

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

N/A

### 1.3. Management and harvesting planning

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

#### 1.3.1. Applicable laws and regulations

##### LEGISLATION APPLICABLE TO THE FORESTRY EXPLOITATION IN NATURAL FORESTS:

- Forestry Act (1996): Act no. 1700 of 12 July 1996. Articles 26, 27, 28, 29, 36, 41 and 42. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- Supreme Decree (2001): Decree no. 26075 of 16 February 2001, Articles 2, 3 and 4. Available at: <http://www.lexivox.org/norms/BO-DS-26075.xhtml>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on forest clearing plans. 131/97 (RM 131/97). Available at: <http://www.estrucplan.com.ar/Producciones/entrega.asp?IdEntrega=1540>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans for areas smaller than 200 hectares. 132/97 (RM 132/97). Available at: [http://pdf.usaid.gov/pdf\\_docs/Pnacw448.pdf](http://pdf.usaid.gov/pdf_docs/Pnacw448.pdf). [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on raw material supplying programs. 134/97 (RM 134/97). Available at: <http://docplayer.es/22726485-Normas-tecnicas-sobre-programa-de-abastecimiento-y-procesamiento-de-materia-prima.html>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans in Andean and Chaco territories. 135/97 (RM 135/97). Available at: <http://docplayer.es/18496264-Republica-de-bolivia-ministerio-de-desarrollo-sostenible-y-medio-ambiente.html>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans in indigenous community territories. 136/97 (RM 136/97). Available at: <https://rmportal.net/library/content/libros/normas-tecnicas-tcos.pdf>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on inventories and management plans. 248/98 (RM 248/98). Available at: <https://www.scribd.com/doc/314916829/Normas-Tecnicas-248-98>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on non-timber yielding management plans. 22/2006 (RM 22/2006). Available at: [http://www.museoelkempff.org/cgb/Informacion/normas\\_tecnicas/CGB\\_nt\\_productos\\_no\\_maderables.pdf](http://www.museoelkempff.org/cgb/Informacion/normas_tecnicas/CGB_nt_productos_no_maderables.pdf) [Accessed on 1 March 2017].

- ABT (Foundation of the Authority for the Social Audit and Control of Forests and Lands) (2009): Supreme Decree 0071/2009 (D.S. 0071/2009) of 9 April 2009, Articles 3 and 31. Available at: <http://www.lexivox.org/norms/BO-DS-N071.xhtml>. Accessed on [1 March 2017].

#### LEGISLATION APPLICABLE TO FORESTRY PLANTATIONS:

- Forestry Act (1996): no. 1700 Article 17: Property right granted for degraded territories which have been rehabilitated with plantations. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- Supreme Decree (1996): no. 24453 (D.S. N° 24453). Regulations of the Forestry Act no. 1700 of 21 December 1996, Articles 54 and 68. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- ABT (2010): Supreme Decree 443 (D.S. 443) of 10 March 2010, Foundation of the Afforestation and Reforestation National Program. ABT directive: Plantation registration. Available at: <http://www.lexivox.org/norms/BO-DS-N443.xhtml>. [Accessed on 1 March 2017].

#### 1.3.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (ABT is the Spanish acronym): entity responsible of revising and approving management plans, forest clearing plans and any other authorisation for exploiting and transporting forestry products in permanent forestry production territories and multiple use territories.
- The Managements of the Protected Areas are responsible for revising and approving forestry users' management plans for those who want to carry out forestry management in integrated management zones inside the protected area.

#### 1.3.3. Legally required documents or records

##### FOR THE EXPLOITATION IN PERMANENT FORESTRY PRODUCTION TERRITORIES (TPFP IS THE SPANISH ACRONYM):

- Forestry Management General Plan
- Annual Operational Forestry Plan
- Registration in the ABT of the forestry professional signing the documents (auxiliary agent)
- Contract between the forest title holder and the auxiliary agent

##### FOR THE EXPLOITATION IN MULTIPLE USE TERRITORIES (TUM IS THE SPANISH ACRONYM):

- Land Use Plan
- Forestry Management General Plan
- Annual Operational Forestry Plan
- Forest Clearing Plan

- Registration in the ABT of the forestry professional signing the documents (auxiliary agent)
- Contract between the forest title holder and the auxiliary agent

#### 1.3.4. Sources of information

##### *Government sources*

- ABT (2015): Annual report. Authority for the Social Audit and Control of Forests and Lands. Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 1 March 2017].
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- World Resources Institute (2014): Forest Legality Alliance. Risk Tool – Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 13 February 2017].
- Chatham House (2016): Illegal Logging Portal – Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

##### *Interviews with Experts*

Conversations with different experts carried out throughout October 2016 helped the authors of this report to understand better the applicable legislation and the risks associated with each category of the laws.

#### 1.3.5. Risk determination

##### *Overview of Legal Requirements*

The concept of sustainable forest management was introduced in Bolivia with the reform of the forestry law in 1996. Since then forest management plans, forest inventories, harvest limits, seed tree retention, and annual reports have become obligatory. A professional forestry agency, the Bolivian Forestry Superintendent (Superintendencia Forestal) was created to provide oversight for the implementation and enforcement of the regulations. For the first time in Bolivian history indigenous communities' ancestral rights have precedence over concession-holders' rights and communities were given back the right to manage their forests for timber (FLA 2014).

The legal requirement for forestry exploitation is the management plan. There are no other management methods that can support a sustainable exploitation. However, the forest clearing plan is a valid instrument to legally exploit the timber obtained after the forest clearing.

In order to prepare a management plan, a forestry inventory consisting of a systematic sampling of the management area is required. Data is paramount to plan the cutting cycle, the estimated available volume, the allowable annual cutting, the forest growing rate, the range of species, etc.

To prepare the Annual Operational Forestry Plan (POAF is the Spanish acronym), it is necessary to conduct a forestry census consisting of a sampling of the whole annual exploitation area (AAA is the Spanish acronym). All the trees are marked and codified with diameters over the minimum cutting diameter. A forestry census (100% inventory) of the inner part of the AAA is also required. In this operation, an aluminum plaque with an alphanumeric code is set in all the exploitable trees and seed catalogues. Later, these codes will be part of a database, which is the core of the Annual Operational Forestry Plan (POAF). ABT registers this database in its monitoring system.

AAA is calculated dividing the total producing surface by the cutting cycle (usually 20 years). The AAA is located in a different zone every year in order to give the forest a 20-year recuperation (cutting cycle).

Technical regulations define the specifications to prepare inventories, associated documentation, and data analysis. The management plan is presented to the ABT to be checked and approved. After that, the POAF is presented to be revised and approved. ABT approves both documents by means of an administrative resolution.

Concerning the forest clearing plans, less intensive sampling than the management plan is required. The timber amount to be commercialized is estimated based on the sampling data; this amount will be verified and corrected once the logs are stored. The planning document is the forest clearing plan, also approved by the ABT through an administrative resolution.

Regarding plantations, the Forestry Act doesn't require a management plan to be prepared. The only requisite to be legal is to register the plantation with the local government or the ABT. This registration is what ABT will request to authorise the cutting in the harvesting period.

### *Description of Risk*

Regarding management planning approval, exploitation authorisation and implementation in the field, the following risks have been identified:

- Due to the lack of ABT staff charged with auditing and controlling, there is weak field control of the management plan approval. In addition, there has been a significant increase in the number of management plans in the past few years, which means that of the approved plans have not been verified in the field. ABT also confirms that the problem is the lack of enough resources (for example, barely 5% of the management plans presented are verified in the field) (based on discussion with ABT staff in 2016).
- When writing management plans, it is very common to inflate the census volumes to get extra volume, so the timber from non-authorized sources can be laundered through legally approved areas (based on expert discussions in Bolivia, 2016).

- Another problem detected and explained by the staff of SCBI-ABT (during consultation in the preparation of this report) is that some owners of forests with management plan request the cancellation of plans same before the cutting cycle is over. In these cases, ABT is cancelling the management plan to allow the forest clearing for farming purposes, i.e. clearfelling. This doesn't happen with the transitory authorisations, but it does happen in private properties with management plans, especially when the area is small.
- Another problem detected by ABT is that POAFs are not always implemented in the field or what is implemented doesn't correspond to what is defined in the management plan; therefore, the implementation is low and a weakness of the system.
- Due to the economic crisis, forestry engineers don't conduct the necessary monitoring in the field; most of their time is spent with procedures in the ABT or preparing reports. This mainly happens in private properties, as concessions have forestry engineers in their campsites inside the management area.
- ABT technicians point out that the non-fulfillments of the management plans are around 50%. The non-conformances include: change of species, exploitation outside the authorized area, overestimation of volumes in small instruments, applying for more CFO than required to sell timber from non-authorized sources (misuse of the authorisation).
- There are fraudulent plans and instances of the use of CFOs to launder illegal timber.
- Another risk found in the interviews is the possible corruption of users and public agents regarding the management instrument control, the timber exploitation and the timber transport in the field.
- The 2016 Transparency International Corruption Perception Index ranked Bolivia as 113 out of 176 countries. A score of 33 out of 100 was awarded Bolivia, meaning there are high levels of perceived corruption in Bolivia.

### *Risk Conclusion*

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

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

Specified risk

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

- Approved Management Plan and annual POAF shall be available.
- ABT reports of inspections of the management areas shall confirm that plans are being complied with in the field.
- Field visit to:
  - Verify that the forestry census data (POAF) are accurate and that the legal and technical restrictions are respected in the field.
  - Review the management area map and the proximities (following the approved management plan).

- Review whether there are legal conflicts in situ (subjugation, illegal harvesting, etc.).

## 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

#### LEGISLATION APPLICABLE TO THE FORESTRY IN NATURAL FORESTS:

- Forestry Act (1996): Act no. 1700 of 12 July 1996, Articles 26, 27, 36, 41 and 42. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- Supreme Decree (2001): Act no. 26075 of 16 February 2001, Articles 2 and 3. Available at: <http://www.lexivox.org/norms/BO-DS-26075.xhtml>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on forest clearing plans. 131/97 (RM 131/97). Available at: <http://www.estrucplan.com.ar/Producciones/entrega.asp?IdEntrega=1540>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans for areas smaller than 200 hectares. 132/97 (RM 132/97). Available at: [http://pdf.usaid.gov/pdf\\_docs/Pnacw448.pdf](http://pdf.usaid.gov/pdf_docs/Pnacw448.pdf). [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on raw material supplying programs. 134/97 (RM 134/97). Available at: <http://docplayer.es/22726485-Normas-tecnicas-sobre-programa-de-abastecimiento-y-procesamiento-de-materia-prima.html>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans in Andean and Chaco territories. 135/97 (RM 135/97). Available at: <http://docplayer.es/18496264-Republica-de-bolivia-ministerio-de-desarrollo-sostenible-y-medio-ambiente.html>. [Accessed on 1 March 2017].
- Ministerial Order (1997): Technical regulations on management plans in indigenous community territories. 136/97 (RM 136/97). Available at: <https://rmportal.net/library/content/libros/normas-tecnicas-tcos.pdf>. [Accessed on 1 March 2017].

- Ministerial Order (1998): Technical regulations on inventories and management plans. 248/98 (RM 248/98). Available at: <https://www.scribd.com/doc/314916829/Normas-Tecnicas-248-98>. [Accessed on 1 March 2017].
- Ministerial Order (2006): Technical regulations on non-timber yielding management plans. 22/2006 (RM 22/2006). Available at: [http://www.museonoelkempff.org/cgb/Informacion/normas\\_tecnicas/CGB\\_nt\\_productos\\_no\\_maderables.pdf](http://www.museonoelkempff.org/cgb/Informacion/normas_tecnicas/CGB_nt_productos_no_maderables.pdf). [Accessed on 1 March 2017].

#### LEGISLATION APPLICABLE TO FORESTRY PLANTATIONS:

- Forestry Act (1996): Act no. 1700, Article 17. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].
- Supreme Decree (1996): Decree no. 24453 (D.S. N° 24453). Regulations of the Forestry Act no. 1700 of 21 December 1996, Articles 54 and 68. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017].

#### 1.4.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (ABT)

#### 1.4.3. Legally required documents or records

- Annual Operational Forestry Plan (POAF) to be prepared and approved by the ABT every year before the exploitation starts.
- Annual POAF report (informing ABT about the outcome of POAF implementation).
- Forestry Origin Certificates (CFO is the Spanish acronym), which are documents supporting the transport of forestry products. ABT issues these certificated based on the product volume stated in the POAF.
- Storage reports: they quantify the volume of cut timber prior to the transport from the forest to the industry.

#### 1.4.4. Sources of information

##### *Government sources*

- ABT (2015): Annual report, Authority for the Social Audit and Control of Forests and Lands. Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 1 March 2017].
- ABT (2012/2013): Annual Management report, 2012 and 2013. Authority for the Social Audit and Control of Forests and Lands. Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance\\_sresultados2012-2013.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance_sresultados2012-2013.pdf). [Accessed on 1 September 2017].

##### *Non-Government sources*

- Tierra Foundation (2014): Responsible extension of the farming borders. Tierra Foundation. Santa Cruz Bolivia. Available at:

[http://www.ftierra.org/index.php?option=com\\_mtree&task=att\\_download&link\\_id=119&cf\\_id=52](http://www.ftierra.org/index.php?option=com_mtree&task=att_download&link_id=119&cf_id=52). [Accessed on 1 September 2017].

- Urioste Andrea (2010): Deforestation in Bolivia. A Threat greater than climate change. FAN. Santa Cruz, Bolivia. Available at: <http://library.fes.de/pdf-files/bueros/bolivien/07570.pdf>. [Accessed on 1 March 2017].
- Transparency International (2017): Corruption Perception Index 2016 – Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed 13 February 2017].
- World Resources Institute (2014): Forest Legality Alliance Risk Tool, Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 13 February 2017].
- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed 13 February 2017].

### *Interviews with Experts*

Conversations with different experts carried out throughout October 2016 helped the authors of this report to understand better the applicable legislation and the risks associated with each category of the laws.

#### **1.4.5. Risk determination**

##### *Overview of Legal Requirements*

According to Forestry Act no. 1700 (Ley forestal N° 1700) of 12 July 1996, the regulations of the Supreme Decree 24453 (DS 24453) and all the other technical regulations listed in *applicable legislation*, the document required to exploit forestry products is the Annual Operational Forestry Plan, which is prepared after the approval of the management plan. This document is prepared and signed by a forestry engineer registered in ABT (auxiliary agent) and then it is presented to ABT for revision and approval. The database containing the census of the exploitable trees is a part of this document and it is registered in ABT the cutting and extraction of timber can be monitored. The document certifying that the POAF is approved is the ABT's Administrative Resolution. After that, the forestry user can cut the timber. Later, the logs will be transported and stored in the designated areas, where a list including the log codes will be prepared. Finally, ABT issues the Forestry Origin Certificates (CFOs) to transport the timber from the management area to the sawmills.

In order to carry out the timber cutting or the forestry product exploitation, POAF approval is required. This is the only document that confirms the right to cut the authorized trees in the Annual Exploitation area (AAA is the Spanish acronym). Regarding the forest clearing plan, the approval resolution shall be obtained so the timber can be cut and stored; later, every log will be measured and a report will be presented to ABT in order to request the patent payment and the corresponding CFOs to transport the timber to the sawmill.

Once the timber is cut, CFOs are required; as mentioned before, they have to be issued by the ABT based on the timber registered in the POAF database. To sum up, all the exploited and/or transported timber shall be supported by the CFO, which certifies the authorized source of the same.

This procedure and these requirements are applicable to forestry concessions (transitory authorizations), private properties and community territories.

Although forest clearing plans does not require a POAF, a storage report shall be prepared once the timber has been stacked, coded and measured. ABT approves this report, collects the patent and issues the corresponding CFOs for transportation.

#### *Description of Risk*

Frequently, forestry exploitation happens in non-authorized areas. The timber is made legal by the support of other CFOs from management plans or forest clearing plans approved by ABT. This implies using legal documents (CFOs granted by ABT to transport timber from authorized sources) to extract timber from non-authorized sources (illegal). This activity has commonly been happening in the past few years, but it has decreased thanks to the verification storage controls implemented by ABT (Source: interview with experts conducted in Bolivia, 2016).

Extraction in non-authorized areas with no management plan is also common in Bolivia. The extracted timber is then disguised with other farming products when being transported (Source: interview with experts conducted in Bolivia, 2016).

Every year, the ABT publishes in the annual reports, the number of administrative procedures executed by this entity against the offenders of the forestry regulations (ABT, 2014). ABT reports include the number of administrative procedures to be executed against the offenders. For example, the ABT's Annual Management Report from 2015 presents a summary of several years. To mention some of these numbers, 2,252 procedures were initiated in 2012, 2,574 in 2013, 1,579 in 2014 and 1483 in 2015; the number is tending to decrease, but there is still a great number of violations of the forestry regulations.

In many cases, the violation risk is in the forestry census/inventory, mostly in private properties or indigenous territories. The volume of trees is inflated to overestimate the volume and to use the corresponding CFOs to launder the illegal timber. The interviewed parties agreed that the illegal extraction of timber hasn't stopped, only decreased.

The timber is obtained from illegal forest clearing activities and it is usually commercialized in the black market, sometimes being covered up with legal timber (Cano et al 2015, ABT 2014).

Expert interviews also revealed that CFOs are being sold to third parties to legalize illegal timber; due to this, some legal timber corresponding to these CFOs hasn't been extracted.

#### *Risk Conclusion*

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

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

Specified risk

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

- Review of ABT's authorizations and reports about the legal fulfillment of the forestry exploitation and management (POAF, IAPOAF) made by the title holder.
- Audit in the field to verify the following:
  - The exploitation shall be carried out in the AAA established in the POAF (duly approved by the ABT).
  - Exploitation restrictions shall be respected in the field.
  - Authorities shall be consulted to determine the existence of penalties or violations made by forestry managers.
  - Forestry managers shall have their own monitoring program.
  - The harvesting volumes shall be contrasted with the approved volumes.
- AAA maps including the existence and location of trees shall be verified in an audit. Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation.

## TAXES AND FEES

### 1.5. Payment of royalties and harvesting fees

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

#### 1.5.1. Applicable laws and regulations

##### NATURAL FOREST HARVESTING LICENCE:

- Forestry Act (1996): Nº 1700. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 1 March 2017]:
  - Section 29, Paragraph III, Subparagraph f) Establishing the compulsory cash payment of the yearly harvesting licence. (Art. 29, Parágrafo III, inciso f): Establece la obligatoriedad del pago en efectivo de la patente forestal anual.)
  - Section 32: Harvesting licence for private property and communal land. (Art. 32: Autorización de aprovechamiento en tierras de propiedad privada y en tierras comunitarias de origen.)
  - Section 36: Types of harvesting licences. (Art. 36: Clases de patentes forestales.)
  - Section 37: Licence prices. (Art. 37: Monto de las patentes.)
  - Section 38: Distribution of harvesting licences. (Art. 38: Distribución de las patentes forestales.)
- Supreme Decree (1996): Nº 24453. Regulations of Forestry Act Nº 1700 (D.S. Nº 24453. Reglamento de la Ley Forestal Nº 1700). Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 1 March 2017]:
  - Section 62: Adjustment of harvesting permits. (Art. 62: Ajuste de la patente forestal.)
- Supreme Decree (2003): Nº 27024 of 6 May 2003 (Decreto Supremo 27024 (6 de mayo de 2003)). Available at: <http://www.lexivox.org/norms/BO-DS-27024.xhtml>. [Accessed on 1 March 2017]:
  - Section 3: Regulating section 36. (Artículo 3: Reglamentación al artículo 36.)
  - Section 4: Regulation tax. (Artículo 4: Tarifa de regulación.)
- Directive Nº 002 of 2003: Establishing the forest regulation tax. (The digital version is the only available at the ABT). (Directriz Nº 002 de 2003: Establece el valor de la tasa de regulación forestal.)
- Gaceta Oficial (2015): Act Nº 741 of 29 September 2015 - The authorised area for land clearing is increased from 5 to 20 hectares, without a Property Regulation Plan (Plan de Ordenamiento Predial, POP). (Ley Nº 741 (29 de septiembre de 2015): Aumenta el

desmante de 5 a 20 hectares, sin POP.). Available at:  
<http://www.ruralytierras.gob.bo/planificacion/leyes-739-740-741.pdf>. [Accessed on 1 March 2017].

#### PLANTED FOREST HARVESTING PERMIT:

- Supreme Decree (1997): N° 24453 Regulation of Forestry Act N° 1700 (Decreto Supremo N° 24453: Reglamento de la Ley Forestal N° 1700.). Available at:  
<http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 1 March 2017].
- Section 54, Paragraph VII (Art. 54 Parágrafo VII.): As regards planted forest or agroforestry plantations on private land, the coming into force of this Supreme Decree grants the landowner the ownership of the forest canopy from the effective date of the Supreme Decree. According to Section 32, Paragraph I, of the Act, these areas are not subject to the tax on rural immovable property. According to this Section, no harvesting licence applies to timber from planted forests.

#### 1.5.2. Legal authority

- The Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT) is responsible for the collection of harvesting licence fees.

#### 1.5.3. Legally required documents or records

- Bank deposit: The deposit receipt shall serve as proof of payment of the harvesting licence fee.
- Debt clearance certificate: Additionally, the ABT issues debt clearance certificates stating the organization has no pending fees.

#### 1.5.4. Sources of information

##### *Government sources*

- P. Pacheco (2003): The Bolivian forest regime (El régimen forestal Boliviano.) Recursos Naturales y Ambiente N° 49-50:58-6. Available at:  
[http://www.cifor.org/publications/pdf\\_files/articles/APacheco0701.pdf](http://www.cifor.org/publications/pdf_files/articles/APacheco0701.pdf). [Accessed on 1 March 2017].
- T. Fredericksen (2000): Forest harvesting and conservation in Bolivia (Aprovechamiento forestal y conservación de los bosques en Bolivia.) Technical Document (Documento Técnico) 95/2000. BOLFOR. Santa Cruz, Bolivia.
- J. Darby (1999): Certification and sustainable forest management in Bolivia (La certificación y el manejo forestal sostenible en Bolivia.) Technical Document (Documento Técnico) 79/1999. BOLFOR. Santa Cruz, Bolivia. Available at:  
[http://www.columbia.edu/~dj2183/bolivia\\_espanol.pdf](http://www.columbia.edu/~dj2183/bolivia_espanol.pdf). [Accessed on 1 March 2017].
- Transparency International (2016): Corruption Perception Index, Bolivia. Available at:  
<http://www.transparency.org/country/BOL>. [Accessed on 13 February 2017].

- World Resources Institute (2014): Forest Legality Alliance, risk tool, Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed 13 February 2017].
- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

### *Interviews with Experts*

Conversations with various experts were carried out in October 2016. They helped the authors of this report to better understand the applicable legislation, as well as the risks connected to each legislation category.

#### **1.5.5. Risk determination**

##### *Overview of Legal Requirements*

Two kinds of harvesting licences exist, as stated in Forestry Act N° 1700, Section 36 (Ley Forestal N° 1700, Art. 36):

**I.** Forest harvesting licence (patente de aprovechamiento forestal): paid in exchange for the exploitation of forest resources. Its cost is estimated on the basis of the exploitable area granted in the management plan.

**II.** Land clearing licence (patente de desmonte): paid in exchange for land clearing rights.

As regards forest management units, in order to obtain timber harvesting rights, the harvesting licence and the forest regulation tax (tasa de regulación forestal, TRF) must be paid. Both must be paid at the same time and before a licence is obtained for timber harvesting or the exploitation of non-timber-yielding products.

The Forestry Act N° 1700, Section 29, Paragraph III, Subparagraph f) (Ley Forestal N° 1700, Art. 29, Parágrafo III, Inciso f)), states that the yearly forest harvesting licence shall be paid in three instalments: 30% on the last working day in January, 30% on the last working day in July and 40% on the last working day in October. Areas designated as protected or non-exploitable in a duly sanctioned Management Plan which are also effectively conserved are not subject to harvesting licence fees, albeit only up to 30% of the total area granted. If said areas are not effectively conserved or if their forest resources are exploited, the concession shall be revoked.

Licences for harvesting Brazil nuts, rubber, hearts of palm and similar products amount to 30% of the minimum fee if the authorisation refers exclusively to the aforementioned products.

For forest harvesting concessions on public land and private property ("special temporary authorisations", autorizaciones especiales transitorias), concession holders used to be subject to a yearly licence fee of USD 1/ha, which applied to the whole area affected by the concession. However, in 2003, this was changed by means of Supreme Decree N° 27024 (Decreto Supremo N° 27024). Currently, the licence fee only applies to the area harvested in a year (área aprovechada anualmente, AAA) rather than to the whole productive area for which a concession has been granted. Additionally, the forest regulation tax (tasa de regulación forestal, TRF), which also applies to the AAA, was created. Currently, the harvesting licence plus the TRF add up to around USD 8/ha. The TRF is paid annually as a

prerequisite for the approval of the annual operational forestry plan (plan operativo anual forestal, POAF).

After harvesting, in order to transport the product, a forestry certificate of origin (certificado forestal de origen, CFO) must be obtained. This document shall be carried in the lorry transporting the timber in order to guarantee the product originates in an authorised source. No other payment shall be required. All payments shall be made into the account of the ABT in Banco Unión, directly connected to the national treasury.

Rural and indigenous communities are subject to a USD 1/ha licence fee, applicable to the area harvested in a year (área aprovechada anualmente, AAA). This fee is lower than the fee for concession holders and property owners.

The land clearing licence fee is equal to fifteen times the minimum fee, and also to 15% of the value of the raw timber harvested in the cleared area, as stated in the applicable regulations. No licence shall be necessary for the clearing of up to 5 hectares of land that is suitable for agricultural activities (a Supreme Decree increased the above area to 20 hectares). Buyers of timber harvested during land clearing shall pay 15% of its value as a raw product as transport fee, according to applicable regulations.

According to Supreme Decree N° 24453 and Regulation of Forestry Act N° 1700 (D.S. N° 24453. Reglamento de la Ley Forestal N° 1700), section 62. (Art. 62), the licence fee for each concession shall be adjusted up or down every five years on the basis of the change in its weighted value. It must stay above the minimum value established by law.

Act N° 1700, Section 36 (Ley N° 1700, Art. 36), was reinterpreted in 2003 by means of Supreme Decree N° 27024, Section 3 (Decreto Supremo N° 27024, Art. 3). It states that Exploitable Areas (área aprovechable) are areas that will be harvested within one year, as defined by the General Forest Management Plan (Plan General de Manejo Forestal). The Forest Harvesting Licence (Patente Forestal de Aprovechamiento) is estimated on the basis of the Exploitable Area. This means that the competent authority shall no longer charge fees for the whole exploitable area in the concession or the management unit. According to Section 4, the Forestry Superintendency (now the ABT) is entitled to collect a regulation fee which takes into account the average administrative cost per regulated hectare for the exploitation of timber-yielding products. This is the same area referred to in the Annual Operational Forestry Plan (Plan Operativo Anual Forestal, POAF), which cannot in any case exceed thirty-five housing development units of account (unidades de fomento a la vivienda, UFV). The Forestry Superintendency defined and published the fee conditions in Directive N° 002 of 2003.

For planted forests, Supreme Decree N° 24453, Section 54, Paragraph VIII (D.S. n° 24453, Art. 54, Parágrafo VIII), sets out that, regarding any forest or agroforestry plantations on private land, the coming into force of this Supreme Decree grants the landowner the ownership of the forest canopy from the effective date of the Supreme Decree. According to Section 32, Paragraph I (Art. 32, Parágrafo I), these areas are not subject to the tax on rural immovable property.

#### *Description of Risk*

Licence payments are not made public. The only way to find out whether a user has any pending fees is to request a debt clearance certificate from the Authority for the Social Audit

and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT).

The risk of fund diversion, licence fee underpayment or avoidance is considered low because the payment of licence fees is always a prerequisite before authorisations can be issued for both forest harvesting in management units and land clearing for conversion. Illegal harvesting or land clearing implies avoidance of fee payment. However, this is a general infringement of the law, not a lack of compliance with the fees.

In interviews it was stated that companies have no outstanding payments. The ABT collects licence fees in advance as a requisite for the approval of the management documents. Therefore, outstanding payments do not pose a serious problem in complying with the law.

The ABT confirms there are no outstanding licence fees. There are a number of exceptions among the concession-holders. However, when a licence fee is not paid, the ABT prevents the forestry certificates of origin (certificado forestal de origen, CFO) from being issued, which immediately forces companies to pay the fee or sign up for an instalments plan.

#### *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.

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

Low risk

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

N/A

### **1.6. Value added taxes and other sales taxes**

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

#### **1.6.1. Applicable laws and regulations**

- Impuestos Nacionales (2014): Act N° 843, Version 1.3 (Ley N° 843 Versión 1.3), updated on 28 November 2014. Available at: <http://www.impuestos.gob.bo/images/comunicacion/varios/LEY-843-28-11-14.pdf>. [Accessed on 1 March 2017]:
  - Section 1: Introducing the value-added tax (VAT) (Art. 1: Se crea el impuesto al valor agregado (IVA))
  - Section 3: VAT taxable persons (Art. 3: Sujetos pasivos del impuesto IVA)
  - Section 72: Introducing the transaction tax (IT) (Art. 72: Crea el impuesto a las transacciones (IT))
- Supreme Decree (1987): Decree N° 21532 of 27 February 1987, regulating the transaction tax (Decreto Supremo N° 21532 (27 de febrero de 1987): Reglamenta el

impuesto a las transacciones). Available at: <http://www.lexivox.org/norms/BO-DS-21532.xhtml>. [Accessed on 1 March 2017].

- Supreme Decree (2004): Decree N° 27566 of 11 June 2004, financial transaction tax (Decreto Supremo N° 27566: Impuestos a las transacciones financieras). Available at: <http://www.lexivox.org/norms/BO-DS-27566.pdf>. [Accessed on 1 March 2017].

#### 1.6.2. Legal authority

- National taxing authority (Servicio de impuestos nacionales, SIN)

#### 1.6.3. Legally required documents or records

- Monthly payment forms for the value-added tax (16%)
- Monthly payment form for the transaction tax (3 %)

#### 1.6.4. Sources of information

##### *Government sources*

- Ministry of Economy and Public Finance (2012): Tax revenue journal (Boletín de ingresos tributarios). La Paz, Bolivia. Available at: [http://www.economiayfinanzas.gob.bo/index.php?opcion=com\\_contenido&ver=contenido&id=2975&id\\_item=670&seccion=269&categoria=1561](http://www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=2975&id_item=670&seccion=269&categoria=1561). [Accessed on 1 March 2017].
- Ministry of Economy and Public Finance (2014): National Treasury tax statistics (Estadísticas fiscales del TGN). La Paz, Bolivia. Available at: [http://www.economiayfinanzas.gob.bo/index.php?opcion=com\\_contenido&ver=contenido&id=3537&id\\_item=670&seccion=269&categoria=1561](http://www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=3537&id_item=670&seccion=269&categoria=1561). [Accessed on 1 March 2017].

##### *Non-Government sources*

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- Transparency International (2016): Corruption Perception Index, Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed on 13 February 2017].
- World Resources Institute (2014): Forest Legality Alliance, Risk Tool, Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 13 February 2017].

- Chatham House (2016): Illegal Logging Portal – Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

### *Interviews with experts*

Conversations with various experts were carried out in October 2016. They helped the authors of this report to better understand the applicable legislation, as well as the risks connected to each legislation category.

### **1.6.5. Risk determination**

#### *Overview of Legal Requirements*

Act Nº 843 (Updated on 31 December 2012): Value-added tax (VAT) (Ley Nº 843: Impuesto al valor agregado, IVA):

In Bolivia, the value-added tax is collected upon any sale of goods, works contracts, contracts for the provision of services and imports. Added value represents the increase in value of goods and services as they are transformed during production. Legal entities carrying out said operations are subject to this tax. The tax rate is 13% and it applies to both input and output tax. It is paid monthly and the due date varies depending on the last digit of the taxpayer's identification number (NIT is the Spanish acronym).

Generally speaking, when raw timber is sold to a sawmill or another intermediary, neither of the transaction parties are subject to tax. Indigenous or rural communities do not issue invoices. These communities are not registered with the the national taxing authority so, according to the applicable law, they are only subject to an 8% tax withholding, which must be subsequently paid by the buyer. Typically, however, this amount is neither withheld nor paid. In order to have timber cut into boards, the forest operator working with sawmills or "barracas" (centre selling boards) must have a taxpayer identification number (Número de Identificación Tributaria, NIT) and shall issue invoices, as they would do for any other good or service. There is no tax preference for the forestry sector or for timber products.

Transaction tax (impuesto a las transacciones, IT):

This is a tax on economic activities carried out in the national territory, such as trade, industry, professional activities, rent, etc. A "transaction" is any purchase or sale of a good and/or service in Bolivian territory. All individuals and legal entities carrying out any of the above activities are subject to this tax. The transaction tax amounts to 3% of the transaction value. It is paid on a monthly basis.

Timber processing plants are subject to the transaction tax. They have taxpayer identification numbers (Número de Identificación Tributaria, NIT) and issue invoices.

#### *Description of Risk*

Timber trade in Bolivia is subject to the aforementioned taxes. Invoices must be issued for any sale, and used as the base to estimate the three types of tax. Generally, however, only companies in the formal economy issue invoices. In the informal economy, which includes small and medium timber enterprises, invoicing is often avoided (Expert discussions carried out in Bolivia 2016).

Tax evasion has always been high in Bolivia. In recent years, the Government has worked to increase taxpayer numbers and prevent the late payment of taxes. According to a study by

Cossio and Delgadillo (1994), up to 40%-50% (depending on the measurement method used and the authors consulted) of VAT is lost to tax evasion in Bolivia. This older research is supported by a later analysis undertaken by Jornadanet.com, an on-line journal, that points out that Bolivia tops the tax fraud ranking. Tax evasion in the country amounts to 66% of its GDP (Jornadanet, 2013).

Invoices are rarely issued for retail transactions of timber in the national market (Expert discussions carried out in Bolivia 2016). Unless the client requests an invoice, sellers do not usually issue any. Usually, no invoices are issued when sawmills sell timber to “barracas” (retail timber selling agencies), either. However, an invoice is a prerequisite for export, so this duty is unavoidable when exporting timber.

During the interviews conducted, it was stated that regulation is excessive and it is challenging to fulfil all tax obligations because control mechanisms change on a yearly basis. It was also mentioned that there is no special scheme for communities; they must register as companies, but they do not fulfil this requirement.

Issuing invoices is not common practice. Interviewed stakeholders confirm there is a legal vacuum regarding timber transactions between rural communities and companies. There is a large gap between the taxes paid by agricultural (USD 0.50/ha) and forestry companies (USD 8/ha). There is serious competition between them, and this gap is an incentive for companies to switch their business activity. This is why 33% of deforestation in Bolivia takes place in lands suitable for forestry (tierra de vocación forestal).

In conclusion, the risk of non-issue of invoices and non-payment of national taxes is high.

#### *Risk Conclusion*

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

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

Specified risk for all source types.

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

- Management assessment and Financial audits of the companies shall be available to verify compliance
- Tax payment receipts stamped by the relevant bank shall confirm that taxes have been paid
- Request the company’s debt clearance certificate, issued by the national taxing authority.
- The volumes, species and qualities stated in the transport and sale documents of forest products must match and be backed by what is stated in invoices (taxes).

### **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**

- Impuestos (2014): Act N° 843, Version 1.3 updated on 28 November 2014. Section 36: Introducing the tax on corporate profits. (Ley N° 843, Versión 1.3, Art. 36º: Crea el impuesto a las utilidades de las empresas.) Available at: <http://www.impuestos.gob.bo/images/comunicacion/varios/LEY-843-28-11-14.pdf>. [Accessed on 1 March 2017].

#### **1.7.2. Legal authority**

- National taxing authority (Servicio de impuestos nacionales, SIN) of the Plurinational State of Bolivia is the only responsible for national tax collection.

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

- Corporate profits tax (Impuestos a las Utilidades de Empresas, IUE) form
- Payment form stamped by the bank

#### **1.7.4. Sources of information**

##### *Government sources*

- Ministry of Economy and Public Finance (2012): Tax revenue journal (Boletín de ingresos tributarios). Ministry of Finance (Ministerio de Hacienda). La Paz, Bolivia. Available at: [http://www.economiayfinanzas.gob.bo/index.php?opcion=com\\_contenido&ver=contenido&id=2975&id\\_item=670&seccion=269&categoria=1561](http://www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=2975&id_item=670&seccion=269&categoria=1561). [Accessed on 3 March 2017].
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##### *Non-Government sources*

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- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed 13 February 2017].

### *Interviews with experts*

Conversations with various experts were carried out in October 2016. They helped the authors of this report to better understand the applicable legislation, as well as the risks connected to each legislation category.

### **1.7.5. Risk determination**

#### *Overview of Legal Requirements*

Act Nº 843 (Ley Nº 843) (Updated on 31 December 2012) established the corporate profits tax (Impuestos a las Utilidades de Empresas, IUE). This is a tax on the taxable-year-end profits, in accordance to this Act. The tax is only paid when a profit has been made. For the purposes of this Act, “profit” is defined as the interest, gain or benefit obtained from something, such as a good or an investment. The profit is usually included in the Financial Statements listing the result of the activities carried out during the year by an individual or legal entity.

This tax is paid by public and private enterprises, including sole proprietorships. The tax rate amounts to 25% of the profit, be it estimated or presumptive. Tax must be paid within 120 days of the end of the taxable year. Indigenous and rural communities pay no tax on their timber sales because they are not registered. However, according to legislation, they should register their companies with the tax authority and issue invoices.

#### *Description of Risk*

Like VAT and the transaction tax, the corporate profits tax is calculated based on sales invoices. Studies by the government and independent researchers show that there is constant tax evasion in Bolivia. Aliaga and Oropeza (2015) and Cossio (2004) state that tax evasion in Bolivia is high and estimate it between 35% and 50%, depending on the assessment period.

Stakeholders consulted in the timber industry explained that their companies fulfil all their tax obligations, and duly pay the forest regulation fee and the forest harvesting licence at the Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT).

It was also stated that the communities implementing management plans are unable to pay tax. On the one hand, they lack the technical expertise to keep accounts and, on the other

hand, their income would be heavily reduced. According to an interviewee, 80% of the communities would go bankrupt if they were required to have taxpayer identification numbers (NIT) and pay tax, so they cannot operate legally.

Legislation was designed for companies, not for communities and, thus, it does not accommodate them.

According to legislation, communities should pay 8% of the sale value as tax. This amount is generally deducted by the buyer, but it does not always reach the national taxing authority.

### *Risk Conclusion*

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

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

Specified risk

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

- Management assessment and Financial audits of the companies shall be available to verify compliance
- Corporate profits tax payment receipts stamped by the bank
- The volumes, species and qualities stated in the transport and sale documents of forest products must match and be supported by invoices (taxes).

## 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

##### APPLICABLE LEGISLATION FOR NATURAL FOREST HARVESTING:

- Forestry Act (1996): Act N° 1700 (Ley forestal N° 1700) of 12 July 1996. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 2 March 2017].
  - Section 13: Conservation easements (Art. 13: Servidumbres ecológicas)
  - Section 26, Section 27: Harvesting rights and management plan (Art. 26, Art. 27: Derechos de aprovechamiento y plan de manejo)
  - Section 41 and Section 42: Forestry law violations and crimes (Art. 41 y Art. 42: Contravenciones y delitos forestales)
- Supreme Decree (1996): Decree N° 24453. Regulation of Forestry Act N° 1700 (D.S. N° 24453. Reglamento de la Ley Forestal N° 1700). Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 2 March 2017].
  - Section 1: Minimum tree diameter for harvesting (Art. 1: Diámetro mínimo de corta)
  - Sections 30, 35, 36 and 37: Conservation easements (Art. 30, 35, 36 y 37: Servidumbres ecológicas)
  - Section 69: Hunting and silvicultural treatment ban (Art. 69: Prohibición de cacería y tratamientos silviculturales)
- Supreme Decree (2001): Decree N° 26075 (Decreto Supremo N° 26075) published 16 February 2001. Available at: <http://www.lexivox.org/norms/BO-DS-26075.xhtml>. [Accessed on 2 March 2017].
  - Section 2: Authorising harvesting activities in Permanent Forestry Production Territories (TPFP) (Art. 2: Autoriza aprovechamiento forestal en TPFP)
  - Section 3: Authorising forest harvesting activities in protected areas (Art. 3: Autoriza aprovechamiento forestal en áreas protegidas)
- Ministerial Order (1997): Order N° 132 of 1997 Technical standard for management plans for areas under 200 hectares (Resolución Ministerial N° 132 de 1997: Norma técnica para planes de manejo en superficie menor a 200 hectáreas.). Available at: [http://pdf.usaid.gov/pdf\\_docs/Pnacw448.pdf](http://pdf.usaid.gov/pdf_docs/Pnacw448.pdf). [Accessed on 2 March 2017].

- Ministerial Order (1997): Order N° 135 of 1997 Technical standard for management plans in the Andean and Chaco regions. (Resolución Ministerial N° 135 de 1997: Norma técnica para planes de manejo en tierras andinas y chaqueñas.). Available at: <http://docplayer.es/18496264-Republica-de-bolivia-ministerio-de-desarrollo-sostenible-y-medio-ambiente.html>. [Accessed on 2 March 2017].
- Ministerial Order N° 136 of 1997 Technical standard for management plans in indigenous community lands (Resolución Ministerial N° 136 de 1997: Norma técnica para planes de manejo en tierras comunitarias indígenas.) <https://rmportal.net/library/content/libros/normas-tecnicas-tcos.pdf>. [Accessed on 2 March 2017].
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- Ministerial Order (2006): Order N° 22 of 2006 Technical standard for management plans of non-timber-yielding products (Resolución Ministerial N° 22 de 2006: Norma técnica para planes de manejo de productos no maderables.). Available at: [http://www.museonoelkempff.org/cgb/Informacion/normas\\_tecnicas/CGB\\_nt\\_productos\\_no\\_maderables.pdf](http://www.museonoelkempff.org/cgb/Informacion/normas_tecnicas/CGB_nt_productos_no_maderables.pdf). [Accessed on 2 March 2017].

#### LEGISLATION APPLICABLE TO PLANTED FORESTS:

- Forestry Act (1996): N° 1700 (Ley Forestal N° 1700) Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 2 March 2017].
  - Section 17: Granting property rights to degraded lands that have been restored through plantations (Art. 17: Concede derecho de propiedad a tierras degradadas rehabilitadas con plantaciones.).
- Supreme Decree (1996): Decree N° 24453 (Regulation of Forestry Act N° 1700) (21 December 1996) (D.S. N° 24453. Reglamento de la Ley Forestal N° 1700). Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 2 March 2017].
  - Section 54: Forest canopy ownership in planted forests (Art. 54: Propiedad del vuelo forestal de las plantaciones.)
  - Section 68, Paragraph VI: Planted forest register (Art. 68, Parágrafo VI: Registro de plantaciones forestales)

#### 1.8.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT)

#### 1.8.3. Legally required documents or records

#### FOR NATURAL FOREST HARVESTING FOLLOWING MANAGEMENT PLANS:

- ABT-approved Annual Operational Forestry Plan (Plan Operativo Anual Forestal, POAF)
- Decision approving the POAF

- Landing report
- Marking the trees above the minimum diameter for tree felling as apt for harvesting
- Conservation of seed trees
- Ban on wild fauna hunting
- Forestry Certificate of Origin (Certificado Forestal de Origen, CFO)
- Annual POAF report (harvesting results)

FOR HARVESTING UNDER LAND CLEARING PLANS:

- ABT-approved Land Clearing Plan
- Landing report
- Forestry Certificate of Origin (Certificado Forestal de Origen, CFO)
- Informe de conclusión de plan de desmonte

FOR PLANTED FOREST HARVESTING:

- ABT-approved harvesting request
- Forestry Certificate of Origin (Certificado Forestal de Origen, CFO)

#### 1.8.4. Sources of Information

##### *Government sources*

- ABT (2015): Annual Report (Informe Anual 2015) Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT). Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 2 March 2017].
- ABT (2014, 2012, 2013): Annual Management Report (Informe Anual Gestión 2012 y 2013). Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT). Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance\\_sresultados2012-2013.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance_sresultados2012-2013.pdf). [Accessed on September 2016].

##### *Non-Government sources*

- P. Pacheco (2007): A retrospective look at the Bolivian forestry regime, ten years after implementation (El régimen forestal boliviano a diez años de su implementación, una mirada retrospectiva). Natural Resources and the Environment (Recursos Naturales y Ambiente) No. 49-50:58-6. Available at: [http://www.cifor.org/publications/pdf\\_files/articles/APacheco0701.pdf](http://www.cifor.org/publications/pdf_files/articles/APacheco0701.pdf). [Accessed on 2 March 2017].
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- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

#### *Interviews with experts*

Conversations with various experts were carried out in October 2016. They helped the authors of this report to better understand the applicable legislation, as well as the risks connected to each legislation category.

### **1.8.5. Risk determination**

#### *Overview of Legal Requirements*

There are several legal requirements for harvesting activities, such as the minimum diameter for tree felling (diámetro mínimo de corta, DMC), leaving 20% of the trees belonging commercial species standing (seed trees), respecting conservation easements (lands with gradients higher than 45%, protected areas around water bodies), among others.

Technical Standard N° 248 of 1998 (Norma Técnica N° 248 de 1998) sets out the minimum diameters for tree felling (DMC). This means that trees below the DMC should not be registered in the tree census and, therefore, shall not be felled. The most common DMC is 50 cm. For fast-growth species, the DMC is often 70 cm, while for some slow-growth species the DMC is 40 cm.

The 20% seed-tree reserve means that one out of every five trees must be designated as a "seed tree" in the census. Technically speaking, those reserved trees are kept for the next felling cycle (20 years). In the meantime, however, they act as seed trees.

There are two types of conservation easements. Lands with gradients higher than 45% automatically become conservation easements where tree felling is forbidden. Protected areas around water bodies (e.g. rivers, lakes, wetlands, high wetlands, etc.)

Another measure taken is the hunting ban. Fauna in tropical forests is abundant. In the past, however, timber industry workers fed on wild animal meat. To stop this, Act N° 1700 (Ley N° 1700) banned hunting and forced employers to purchase meat from farmed animals (beef, pork, etc.) for their workers.

Lastly, if the management plan establishes any silvicultural treatment, its application shall be compulsory. However, if the plan does not set out any treatment, the latter shall not be compulsory. One of the most usual treatments, especially among certified companies, is to remove any climbing plants from commercial and seed trees.

#### *Description of Risk*

Out of the aforementioned measures (DMC, respecting conservation easements, hunting ban, seed tree felling ban), the hunting ban is most frequently breached. Hunting control among certified companies is highly efficient, and staff are satisfactorily provided with beef. However, uncertified companies and communities with management plans do not control hunting, although they do not promote it, either.

Silvicultural treatments are set out in the management plans, but they are not widely applied on site. If at all, they are applied to symbolic areas or by certified companies. Other companies barely apply these treatments (Expert interviews conducted in Bolivia, 2016).

Generally speaking, the ABT is not monitoring the application of silvicultural treatments. It simply verifies no unauthorised trees have been fallen and no felling has been carried out outside the authorised area, as well as the legal transport of the product (chain of custody) (Expert interviews conducted in Bolivia, 2016).

### *Risk Conclusion*

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

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

Specified risk

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

- At the landing, before any transport can be carried out, roundwood must be measured, given a new code number and registered in a database to be sent to the ABT. The ABT reviews and takes each of the logs off the POAF (annual operational forestry plan) database. Afterwards, the ABT issues forestry certificates of origin (certificados forestales de origen, CFO) which allow transport of the timber to the sawmill.
- After harvesting, an assistant drafts an annual report on the implementation of the POAF (IAPOAF), which must be reviewed and approved by the ABT.
- Field visit shall verify:
  - Harvesting is conducted within the authorised boundaries of the ABT and shall be limited to authorised trees.
  - Harvesting shall not take place in areas where harvesting is legally prohibited.
  - Tree species or selected trees found within the forest areas shall fulfil technical requirements.
  - Harvesting restrictions shall be observed in the field.
  - Authorities were consulted to check the sanctions or breaches committed by forest managers.
  - Approved plans fulfil technical requirements and are observed in the field.
  - Forest managers have their own monitoring and control system.
  - Verify health and safety regulations in the workplace are observed, as set out in the labour and social security legislation.
- Check that harvested volumes match the data in the approved documents and that there are traceability registers available.

### **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

#### NATIONAL LEGAL FRAMEWORK:

- Constitution of Bolivia (2009): published on 7 February 2009 Sections 298, 302, 304, Chapter 7: Biodiversity, coca, protected areas and forest resources - part III: Section 385  
(Constitución Política del Estado, Art 298; 302; 304; Capítulo séptimo: Biodiversidad, coca, áreas protegidas y recursos forestales- sección III: Art 385.) Available at: <http://www.lexivox.org/norms/BO-CPE-20090207.html>. [Accessed on 3 March 2017].
- Forestry Act (1996): Act N° 1700 published on 12 July 1996. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 2 March 2017].
  - Section 12, III. Protective conservation easements  
(Ley forestal N° 1700, Art. 12, III: Servidumbres ecológicas de protección.)
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  - Section 23: Preserving biological and cultural diversity.  
(Ley N° 300: Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir bien. Art. 23: Conservación de la diversidad biológica y cultural.)
- Supreme Decree (1996): Decree N° 24453 (Decreto Supremo N° 24453). Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 21 December 1996].
  - Section 35: Types of conservation easements (Art. 35: Tipos de servidumbres ecológicas)
  - Section 41: Private natural reserves constitute conservation easements (Art. 41: Reservas privadas del patrimonio constituyen servidumbres ecológicas)
  - Section 43: Right to protect conservation easements by closing them to third parties (Art. 43: Derecho a proteger las servidumbres cerrado el paso a terceros)
  - Section 69: Ban on wild fauna hunting (Art. 69: Prohibición de la cacería de la fauna silvestre)
- Constitution of Bolivia (1975): Decree on Wildlife, National Parks, Hunting and Fishing, Act N° 12301 of 14 February 1975. Sections 1, 5, 7, 28, 31, 32, 33, 40, 70, 71, 99 (Decreto Ley Vida Silvestre, Parques Nacionales, Caza y Pesca, Ley N° 12301, 14 de febrero de 1975. Art. 1; 5; 7; 28; 31; 32; 33; 40; 70; 71; 99.) [Accessed on 3 March 2017].
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- Constitution of Bolivia (1990): Permanent General Hunting Ban, Supreme Decree N° 22641 (Veda General Indefinida, Decreto Supremo N° 22641) published on 8 November 1990. Available at: <http://www.lexivox.org/norms/BO-DS-22641.xhtml>. [Accessed on 2 March 2017].
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#### INTERNATIONAL LEGAL FRAMEWORK:

- Ramsar Convention (1971): Convention on Wetlands of International Importance, Especially as the Habitat of Waterfowl (Convenio RAMSAR - Convención relativa a los Humedales de Importancia Internacional, especialmente como hábitat de aves acuáticas). Signed in Ramsar, Iran, on 2 February 1971 and ratified by means of Act N° 2357 (Ley N° 2357) of 7 May 2002. Available at: <http://www.lexivox.org/norms/BO-L-2357.pdf>. [Accessed on 2 March 2017].
- Convention on Biological Diversity (1994): Convenio de Diversidad Biológica signed in Rio de Janeiro, Brazil, in 1992, and ratified by means of Act N° 1580 (Ley N° 1580) of 25 July 1994. Available at: <http://www.lexivox.org/norms/BO-L-1580.xhtml>. [Accessed on 2 March 2017].
- Cartagena (2001): Protocol on Biosafety signed in Montreal, Canada, in 2000 and ratified by means of Act N° 2274 (Ley N° 2274) on 22 November 2001. Available at: <http://www.lexivox.org/norms/BO-L-2274.xhtml>. [Accessed on 2 March 2017].
- International Tropical Timber Agreement (1994): Signed in Geneva in 1994 and ratified by means of Act N° 1652 (Ley N° 1652) of 13 July 1995, with the aim to create a framework for the cooperation of tropical timber producer countries and the promotion of international trade, the preservation of tropical forests and the genetic resources thereof. Available at: <http://www.lexivox.org/norms/BO-L-1652.pdf>. [Accessed on 2 March 2017].
- CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora): signed in Washington in 1973 and ratified by means of Act N° 1255 (Ley N° 1255). Available at: <http://www.lexivox.org/norms/BO-L-1255.xhtml>. [Accessed on 2 March 2017].
- CITES (2016): flora list I, II and III updated on 10 March 2016. Available at: <https://cites.org/eng/app/appendices.php>. [Accessed on 2 March 2017].
- Vicuña Conservation and Management Convention (1980): Signed in December 1979, ratified on 30 September 1980. Available at: <http://www.serfor.gob.pe/wp->

[content/uploads/2015/12/Convenio\\_Conservación\\_Manejo\\_Vicuña.pdf](content/uploads/2015/12/Convenio_Conservación_Manejo_Vicuña.pdf). [Accessed on 2 March 2017].

- CMS, Convention on the Conservation of Migratory Species of Wild Animals (1979): Signed in Bonn in 1979, the Convention came into force on 1 November 1983. Ratified by means of Act N° 2352 (Ley N° 2352) of 7 May 2002. Available at: <http://www.lexivox.org/norms/BO-L-2352.pdf>. [Accessed on 2 March 2017].

#### 1.9.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT)
- The Environment and Water Ministry (Ministerio de Medio Ambiente y Agua) is in charge of defining Bolivian forestry policy, as well as the national general forest regime. The Ministry includes a Vice-Ministry for the Environment, Biodiversity, Climate Change and Forest Management and Development (Viceministerio de Medio Ambiente, Biodiversidad, Cambios Climáticos y de Gestión y Desarrollo Forestal), within which the Directorate-General for Biodiversity and Protected Areas (Dirección General de Biodiversidad y Áreas Protegidas, DGBAP) and the Directorate-General for Forest Management and Development (Dirección General de Gestión y Desarrollo Forestal) are found. The latter is in charge of forestry policy
- The National Forest Development Fund (Fondo Nacional de Desarrollo Forestal, FONABOSQUE) was set up by means of Forestry Act N° 1700 (Ley Forestal N° 1700), of 12 July 1996. It was conceived as a public body under supervision of the Environment and Water Ministry (Ministerio de Medio Ambiente y Agua) and its aim is to promote funding for the sustainable use and conservation of forests and forest land.

#### 1.9.3. Legally required documents or records

- Annual operational forestry plan (plan operativo anual forestal, POAF)
- POAF operational maps of trees apt for harvesting

#### 1.9.4. Sources of Information

##### *Government sources*

- DGBAP Directorate-General for Biodiversity and Protected Areas (2015): Institutional information. Available at: [http://www.mmaya.gob.bo/index.php/informacion\\_institucional/DGBAP1470.html](http://www.mmaya.gob.bo/index.php/informacion_institucional/DGBAP1470.html). [Accessed on 2 March 2017].
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- University of the Cordillera (2014): The Joint Mitigation and Adaptation Mechanism for the Integral and Sustainable Management of Forests for the decolonization of policies, La Paz, Bolivia. Available at: <http://ucordillera.edu.bo/index.php/2013-05-14-22-20-09/boletin-ruta/finish/12-boletin-ruta-critica/169-a-look-at-the-forest-policy-in-bolivia-summary/0>. [Accessed on 2 March 2017].
- Global Forest Atlas (2016): Forest Governance Bolivia. Available at: <http://globalforestatlas.yale.edu/amazon/forest-governance/bolivia>. [Accessed on 2 March 2017].

#### *Non-Government sources*

- Santivañez, J. (2007): Hunting in productive forests in Bolivia (Cacería en bosques de producción forestal en Bolivia). IBIF. Santa Cruz, Bolivia. Available at: [http://www.infocyt.gob.bo/files/caceria\\_bolivia.pdf](http://www.infocyt.gob.bo/files/caceria_bolivia.pdf)
- Ecología en Bolivia (2006): 41(2): 99-116, Types of forest, flora diversity and composition in the Amazon region in south-west Bolivia. Available at: <http://infobosques.com/descargas/biblioteca/459.pdf>. [Accessed on 2 March 2017].
- Pablo, R. (2003): Ecología en Bolivia, v.38 n.1, La Paz, April 2003. Flora diversity and endemism in Bolivian dry valleys (Diversidad florística y endemismo de los valles secos bolivianos). Available at: [http://www.scielo.org.bo/scielo.php?script=sci\\_arttext&pid=S1605-25282003000100004](http://www.scielo.org.bo/scielo.php?script=sci_arttext&pid=S1605-25282003000100004). [Accessed on 2 March 2017].
- M. Quintanilla; D. Larrea (2014): Wetlands of international importance in Bolivia. [file:///localhost/Available at/ http://www.fan-bo.org/wp-content/files/R-1\\_Humedales.pdf](file:///localhost/Available%20at/http://www.fan-bo.org/wp-content/files/R-1_Humedales.pdf). [Accessed on 2 March 2017].
- Friends of Nature Foundation (2012): Analysis of gaps in representation in the Bolivian national protected areas system. Available at: <http://www.fan-bo.org/que-hacemos/ciencias/planificacion-para-la-conservacion/planificacion-a-escala-de-areas-protegidas-o-unidades-de-conservacion/analisis-de-vacios-de-representatividad-del-sistema-nacional-de-areas-protegidas-de-bolivia/>. [Accessed on 2 March 2017].
- Transparency International (2016): Corruption Perception Index Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed on 13 February 2017].
- World Resources Institute (2014): Forest Legality Alliance, Risk Tool, Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 13 February 2017].

- Chatham House (2016): Illegal Logging Portal Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

### *Interviews with experts*

Conversations with various experts were carried out in October 2016. They helped the authors of this report to better understand the applicable legislation, as well as the risks connected to each legislation category.

### **1.9.5. Risk determination**

#### *Overview of Legal Requirements*

According to Act N° 1333 on the Environment, Chapter VI (Ley N° 1333 del Medio Ambiente, Capítulo VI), flora and fauna, especially endemic species, restricted distribution species and threatened or endangered species, must be conserved, protected and restored. Section 111 of the aforementioned Act states that unauthorised hunting and/or trade of fauna products is an environmental offence.

Technical Standard N° 248 of 1998, paragraph 1.1 (Norma Técnica N° 248 de 1998, párrafo 1.1.), acknowledges the fulfilment of the environmental impact mitigation measures as set out in Act N° 1333 (Ley N° 1333).

The Regulations established by the Act on the Environment (Ley del Medio Ambiente) define “mitigation measure” as the implementation or application of any policy, strategy, work or action aimed at eliminating or minimizing the adverse impact caused by the development of a project in any of its stages. An Environmental Implementation and Monitoring Plan (Plan de Aplicación y Seguimiento Ambiental) must be drawn up in order to monitor the implementation of said measures. Mitigation measures must be included in the forest management plan.

According to Technical Standard N° 248 of 1998 (Norma Técnica N° 248 de 1998), Technical Standard N° 136 of 1997 (Norma Técnica N° 136 de 1997) and other forest management standards, 20% of the commercial species trees in the harvesting area must be marked as residuals (also known as seed trees).

Act N° 1333, Section 29 (Ley N° 1333, Art. 29º) sets out that the State shall promote treaties and international action for flora and fauna preservation, conservation and control in protected areas, basins and/or transnational ecosystems.

The Regulations established by Forestry Act N° 1700, section 69, paragraph b.9 (Ley Forestal N° 1700, Art. 69, punto b.9), set out that the company “shall have specific guidelines regarding wildlife, such as bans on hunting and fishing, no supply of ammunition by the company, bans on poison fishing with barbasco and dynamite fishing, bans of transport of wild animals and products thereof”.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convención sobre el comercio internacional de especies amenazadas de Fauna y Flora Silvestre, CITES) regulates trade of wildlife specimens and products among member countries. CITES has drawn up three lists (Appendices) of flora and fauna species. Appendix I lists species threatened with extinction and whose trade is strictly regulated. Appendix II includes species that are not threatened, but whose trade must be strictly regulated so as to

prevent overexploitation. Appendix III lists species at the request of a member country in order to prevent or place restrictions on their exploitation.

The Convention on Biological Diversity, section 7 (Convenio de Diversidad Biológica, Art. 7), sets out that the States shall identify components of biological diversity in ecosystems and habitats containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes. Section 7 also states that processes and categories of activities which have significant adverse impacts on conservation and sustainable use of biological diversity shall be identified and their impact shall be monitored through sampling and other techniques.

The Ramsar Convention's mission is the conservation and wise use of all wetlands through local, regional and national action and international cooperation, as a contribution towards achieving sustainable development throughout the world. Bolivia is the country with the largest area of wetlands designated under the Convention, over 148,000 km<sup>2</sup>.

#### *Description of Risk*

The hunting ban frequently is not be fully observed during harvesting, because evidence is easy to hide from controls. In a study on hunting in management areas in Bolivia, Santivañez (2007) points out that indigenous communities in Origin Community Lands (Tierras Comunitarias de Origen, TCO), rural communities and timber workers' communities still hunt various wild animal species. This is not sustainable in the long term unless hunting management plans are developed. Mammals are under the most pressure from hunting, especially most primate and ungulate species. This is due to hunting during the breeding season of these species. Their breeding seasons are long, but they have few offspring. This, together with high pressure from hunting and the fact that hunting seasons coincide with breeding seasons, makes sustainable hunting impossible.

According to Technical Standard N° 248 of 1998 (Norma Técnica N° 248 de 1998), Technical Standard N° 136 of 1997 (Norma Técnica N° 136 de 1997) and other forest management standards, 20% of the trees in the harvesting area must be marked as seed trees. This is a widespread practice in all forest operations. Seed trees are protected, and felling them by mistake entails a fine from the ABT, which applies very strict standards in this regard.

In order to export CITES forest species, an export permit must be granted by CITES in the framework of the management plan. There are no legal requirements for domestic trade.

In interviews with stakeholders it was made clear that on-site control regarding the conservation of protected species or areas is non-existent. It was also shown that there is no on-site control of the mitigation measures included in the forest management plan for the monitoring and implementation of the Environmental Implementation and Monitoring Plan (Plan de Aplicación y Seguimiento Ambiental).

#### *Risk Conclusion*

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

### 1.9.6. Risk designation and specification

Specified risk

### 1.9.7. Control measures and verifiers

- Field audit in order to shall ensure that all legally protected areas are not affected and that there is no harvesting in protected areas. Using geo-positioning information, confirm that forest operations are not carried out in national, departmental or municipal conservation or protection areas.
- Verify the application of environmental measures outlined in the management plan.
- Verify inspection reports in the management area (on hunting).
- Check the list of species harvested in Annual Operational Forestry Plans (POAFs) and compare with the CITES list.
- Verify records on the monitoring of flora and fauna species as stated.
- Interview technical and field staff to validate actions aimed at protecting flora and fauna, as well as improving their knowledge and accountability.

## 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

- State Political Constitution (2015): Articles 343, 347. Available at: [http://www.harmonywithnatureun.org/content/documents/159Bolivia Constitucion.pdf](http://www.harmonywithnatureun.org/content/documents/159Bolivia%20Constitucion.pdf). [Accessed on 2 March 2017].
- Law on Mother Earth and Comprehensive Development for Wellbeing (2012): Law 300-15 October 2012 Framework. Available at: [http://www.harmonywithnatureun.org/content/documents/157Bolivia Ley 300.pdf](http://www.harmonywithnatureun.org/content/documents/157Bolivia%20Ley%20300.pdf). [Accessed on 2 March 2017].
  - Art 9 (rights); Art 10 (obligations of the state); Art 12 (aims of wellbeing through comprehensive development) Art 15 (establishing non-polluting productions processes that respect Mother Earth´s capacity to regenerate, in the light of public interest); Art 16 (conserving the components, areas and life systems of Mother Earth in the framework of comprehensive sustainable development); Art 23 (conserving biological and cultural diversity); Art 25 (Forests)

- Gaceta Oficial de Bolivia (1992): Law 1333 on the Environment published 23 March 1992. Available at: <http://www.ine.gob.bo/indicadoresddhh/archivos/alimentacion/nal/Ley N° 1333.pdf>. [Accessed on 2 March 2017].
- Colegio de Ingenieros Forestales (2006): Supreme Decree 28592 of 17/01/2006, complementary laws passed to update environmental permits and the institutional framework. Available at: <http://www.cifscz.org/ds-28592.html>. [Accessed on 2 March 2017].
- Colegio de Ingenieros Forestales (2005): Supreme Decree 28499 of 10/12/2005, add-on to the regulations of Law 1333, to improve audit processes and the application of environmental audits. Available at: <http://www.cifscz.org/ds-28499.html>. [Accessed on 2 March 2017].
- Constitution of the Plurinational State of Bolivia (1996): Forestry Act 1700 of 12 July 1996, Art. 12, III. Protected areas of conservation easement. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 2 March 2017].
- Constitution of the Plurinational State of Bolivia (1996): Supreme Decree 24453 published 21 December 1996. Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 3 March 2017].
  - Art. 35: Types of conservation easement
  - Art. 41: Private heritage reserves are considered conservation easement
  - Art. 43: Right to protect conservations by prohibiting access to third-parties

#### INTERNATIONAL LEGAL FRAMEWORK:

- United Nations Framework Convention on Climate Change (1994): a global agreement to stabilise green-house gas emissions, ratified and passed by Act 1576 of 25 July 1994. (Convenio marco de las naciones unidas sobre el cambio climático, acuerdo de escala global para estabilizar la emisión de gases de efecto invernadero, ratificado y aprobado mediante Ley 1576 de 25/07/94). Available at: <http://www.lexivox.org/norms/BO-L-1576.xhtml>. [Accessed on 3 March 2017].
- Vienna and Montreal Conventions to protect the Ozone Layer (1994): Global agreement to reduce the gas emissions that affect the ozone layer, ratified and passed by Act 1584 of 25 August 1994, and the amendments thereto in Act 1933 of 21 December 1998. (Convenios de Viena y Montreal para la protección de la capa de Ozono, acuerdo de escala global para reducir la emisión de gases que afectan la capa de Ozono, ratificado y aprobado mediante Ley 1584 de 25/08/94, igualmente las enmiendas mediante Ley 1933 de 21/12/98). Available at: <http://www.lexivox.org/norms/BO-L-1933.xhtml>. [Accessed on 3 March 2017].
- Convention on Biological Diversity (1994): Global agreement to conserve biological diversity, ratified and passed by Act 1580 of 25 July 1994 (Convenio sobre la Diversidad Biológica, acuerdo de escala global para conservar la diversidad biológica, ratificado y aprobado mediante Ley 1580 de 25/07/94). Available at: <http://www.lexivox.org/norms/BO-L-1580.xhtml>. [Accessed on 3 March 2017].

- CITES (1991): Ratified by Act 1255 of 05 July 1991. (Convención sobre Comercio Internacional de Especies Amenazadas de Flora y Fauna Silvestres (CITES), ratificado mediante Ley No. 1255 de 5/07/91). Available at: <http://www.lexivox.org/norms/BO-L-1255.pdf>. [Accessed on 3 March 2017].
- Cartagena Biosecurity Protocol (1991): Ratified and passed by Act 2274 of 22/11/91 (Protocolo de Bioseguridad de Cartagena, aprobado y ratificado mediante Ley 2274, de 22/11/91). Available at: <http://www.lexivox.org/norms/BO-L-2274.xhtml>. [Accessed on 3 March 2017].
- RAMSAR Convention on Wetlands of International Importance especially as Waterfowl Habitat (2002): Passed by Act 2357 of 07/05/02 (Convención Relativa a los Humedales de Importancia Internacional como Hábitat de Aves Acuática (RAMSAR), aprobado mediante Ley No. 2357, de 7/05/02). Available at: <http://www.lexivox.org/norms/BO-L-2357.pdf>. [Accessed on 3 March 2017].
- Basil Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal (1968): ratified and passed by Acts 1968 of 12/07/96 and 2777 of 07/07/04 (Convenio de Basilea sobre Movimientos Transfronterizos de Desechos Peligrosos y su eliminación, ratificado y aprobado mediante Leyes 1698 de 12/07/96 y 2777 de 7/07/04). Available at: <http://www.basel.int/Portals/4/BaselConvention/docs/text/BaselConventionText-s.pdf>. [Accessed on 3 March 2017].
- Amazon Cooperation Treaty (1973): Regional-level agreement to promote the development of amazon territories, ratified and passed by Acts 874 of 30/05/86 and 1973 of 30/04/99 (Tratado de Cooperación Amazónica, acuerdo de escala regional para promover el desarrollo de los territorios amazónicos, ratificado y aprobado mediante Leyes 874 (30/05/86) y 1973 (30/04/99). Available at: [http://www.otca.info/portal/admin/\\_upload/tratado/TRATADO\\_COOPERACION\\_AMAZONICA\\_ESP.pdf](http://www.otca.info/portal/admin/_upload/tratado/TRATADO_COOPERACION_AMAZONICA_ESP.pdf). [Accessed on 3 March 2017].
- Stockholm Convention (2002): Global agreement to protect human health and the environment from Persistent Organic Pollutants, ratified and passed by Act 2417 of 25/10/02 (Convenio de Estocolmo, acuerdo de escala global para proteger la salud humana y el medio ambiente de Contaminantes Orgánicos Persistentes, ratificado y aprobado mediante Ley 2417 de 25/10/02). Available at: [http://www.mapama.gob.es/es/calidad-y-evaluacion-ambiental/legislacion/convenioestocolmo\\_tcm7-3186.pdf](http://www.mapama.gob.es/es/calidad-y-evaluacion-ambiental/legislacion/convenioestocolmo_tcm7-3186.pdf). [Accessed on 3 March 2017].
- Kyoto Protocol (1999): Global agreement to stabilise greenhouse gas emissions and put in place reduction mechanisms, ratified and passed by Act 1988 of 22/07/99 (Protocolo de Kyoto, acuerdo de escala global para estabilizar la emisión de gases efecto invernadero y establecer mecanismos de reducción, ratificado y aprobado mediante Ley 1988 de 22/07/99). Available at: <http://unfccc.int/resource/docs/convkp/kpspan.pdf>. [Accessed on 3 March 2017].
- Convention to Combat Desertification and Drought (1996): Approved by Act 1688 of 27/03/96 (Convenio de Lucha contra la Desertificación y la Sequía, aprobado mediante Ley 1688 de 27/03/1996). Available at: <http://eur-lex.europa.eu/legal-content/ES/TXT/?uri=URISERV:r12523>. [Accessed on 3 March 2017].

### 1.10.2. Legal authority

- Vice ministry for the Environment, Biodiversity and Climate Change, under the Ministry of Environment and Water.
- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT)

### 1.10.3. Legally required documents or records

- Annual Operational Forestry Plans (POAFs) document
- Maps of the management plan's administrative units
- Operational maps of the annual forest plan of operations
- Map of protected areas within management units
- Environmental licence for sawmills
- Environmental file for the management plan
- Authorisation to purchase diesel (controlled substance)

### 1.10.4. Sources of information

#### *Non-Government sources*

- Palacios, M. 2005. Compilation of national and regional environmental regulations in Bolivia since 1980, and an assessment of compliance with legal authorities. CEBEM, La Paz, Bolivia. (Compilación de normas nacionales y regionales sobre medio ambiente desde 1980 en Bolivia y diagnóstico sobre su cumplimiento ante autoridades judiciales. CEBEM. La Paz, Bolivia). Available at: <http://www.bvsde.paho.org/bvsacd/cd27/compila.pdf>. [Accessed on 3 March 2017].
- Transparency International (2016): Corruption Perception Index, Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed on 13 February 2017].
- World Resources Institute – Forest Legality Alliance, 2014. Risk Tool – Bolivia. Available: <http://www.forestlegality.org/risk-tool/country/bolivia> [Accessed 13 February 2017].
- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017.]

#### *Interviews with experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

### 1.10.5. Risk determination

#### *Overview of Legal Requirements*

The New Political Constitution of Bolivia (2009) defines the framework for environmental rights and obligations for citizens, organizations and authorities. Environmental Law No. 1333 (1992) in Article 1 declares the protection and conservation of the Environment to be a main

objective, with a view to improving quality of life for the population. The regulation of this law (Supreme Decree 27173, of 09/15/2003) sets out the obligation to carry out environmental impact assessment studies on any project or productive activity. In Supreme Decree 28592 of 01/17/2006, supplementary regulations were approved to update environmental licences and the institutional framework.

Supreme Decrees 267075 of 10/07/2002 and 28499 of 10/12/2005, complemented and modified the regulations of the Environmental Law, for improved auditing and application of environmental audits.

The Environmental Protection and Control Regulation of Law 1333 establishes the technical and legal framework pertaining to the procurement of the Environmental File, the Environmental Manifesto, Environmental Impact Assessment Studies (EIA), Environmental Audits, Categorization of Environmental Impacts and relevant authorities.

The EIA is to be applied to all work, activities and projects, be they public or private, as well as to any programs and plans, and is done prior to the investment phase, any implementation action, or expansion. The Environmental Quality Control (CCA) is applicable to all works, activities and public or private projects, which are in the process of implementation, operation, maintenance or abandonment.

**Environmental licence:** The environmental licence, in accordance with Art. 7 of the Regulation for Environmental Protection and Control, is: 'The administrative legal document granted by the Competent Environmental Authority to the LEGAL REPRESENTATIVE, it guarantees compliance with all the requirements set forth in the LAW and corresponding regulations pertaining to environmental protection and control procedures. For legal and administrative purposes, the Environmental Impact Statement, the Exemption Certificate and the Declaration of Environmental Sustainability constitute an Environmental License'. Environmental Licences are valid for 10 years (Art 61, General Regulation of Environmental Management), at the end of which the renewal must be requested.

**Environmental Impact Assessment (EIA):** This is the preventive instrument of environmental management, applicable to new projects.

Each project is placed in one of four categories, with 'one' requiring a comprehensive (the most complete) analytical environmental impact assessment study, and 'four' not requiring any study (exemption). This categorization is done through the completion of an Environmental File.

The Regulation on Water Pollution (08/12/1995), of the Environment Law, defines the water pollution control system and the permissible limits of potential pollutants. In Annex A-2 of this Regulation permissible limits for liquid discharges in bodies of water are defined, with an emphasis on Heavy Metals, Oils and Fats and BOD/COD.

Regarding biodiversity, the New Political Constitution of the State maintains that all genetic resources, microorganisms and associated knowledge will be protected. It proclaims the establishing of an intellectual property registration system in favour of the State (Article 381, II). It provides for the defence and recovery of biological material (Article 382), establishes restrictions on extractive uses and criminal sanctions for possession, management and illegal trafficking of species (Article 383). The Amazon is declared as a strategic space for biodiversity (Article 390).

Land use is decided according to its capacity for broader use, organization and occupation of the area, taking into account the biophysical, socioeconomic, cultural and political/institutional characteristics (Article 380, II of the Political Constitution of the State). The conversion of forested land for other uses will only be possible in legally determined areas. Environmental Law 1333 makes reference to land resources, with a view to correctly managing and conserving these resources.

The Regulations for Activities with Hazardous Substances set out procedures for handling, controlling and reducing the risk of corrosive, explosive, inflammable, pathogenic/biologically infectious, radioactive, reactive or toxic substances. It sets out the procedures for registering activities with dangerous substances in order to monitor and control these, in compliance with basic regulations in order to avoid damage to the environment due to inappropriate handling of these substances. As a country-level reference, it establishes the United Nations list. At national level, the Industrial Pollution Control Project PRONACOP was created as a technical and operational body, which is responsible for enforcing the commitments of the Stockholm Convention. Given that it is a controlled substance, diesel, the fuel used for heavy machinery and for electricity generators in sawmills (in forest management areas), requires authorisation for its purchase.

According to Forestry Act regulation, conservation easements are strips of vegetation that must be protected on both sides of any streams, rivers and roads, as well as any sloping areas. Environmental reserves are areas of forest declared as protected areas within the management units, either because there is no timber potential, or because they are flood-prone, or rocky areas, etc.

Neither conservation easements nor environmental reserves can be used, nor can any extraction entry and exit roads be built. They must be demarcated on maps and marked on the ground.

#### *Description of Risk*

In Bolivia, the low number of lawsuits for environmental crimes or infractions is notable. The work done by Palacios (2005) reviews legal cases in the field of the environment and finds very few, the majority of which have no ascertainable sentence. On the one hand, this may be due to ignorance of environmental laws, or to the fact that there are no lawyers trained in these laws, or simply because in legal terms the environment is not a priority.

The work of Palacios (2005) shows that Bolivian legislators have shown keenness to elaborate more than 100 regulations including supreme laws and decrees. It has been observed that these rules, although abundant, are not effective in protecting and caring for the environment. Factors such as extreme poverty, lack of employment, corruption, bad government policies, inequality, marginality, lack of education, among others, are the country's fundamental problems, thus the environment is not a priority. The laws themselves are thought to be sufficient to save the environment, when control systems are either insufficient or do not work. The lack of basic environmental education is a problem, for example, throwing rubbish on the street, abusive use of plastic, indiscriminate logging for agriculture by peasant families and businesses. These are actions against the environment that occur on a daily basis in Bolivia. The author concludes that the

environment is a forgotten issue forgotten and is sidelined by authorities and the population (Palaciones 2005).

In management plans, although there are protections in place for conservation easements (protection strips on watercourses, waterlogged sites, sites with slopes greater than 45%, etc.) these are not respected in practice, except for during certified operations. Trees are chosen and felled on riverbanks or streams, polluting materials such as batteries, plastics, etc. are left behind. In streams, the flow of water is blocked to make roads and at the end of the operation the water is used to facilitate drainage. Farmers and people in the area are often responsible for fires by throwing away their cigarette butts or leaving fires lit, leading to forest fires. In reality, it is difficult to verify that conservation easements or environmental reserves are being protected on the ground. There is always the risk that they will be affected (Based on expert interviews conducted in Bolivia in 2016).

In addition, inspections by the regulatory entity, ABT does not focus on these environmental breaches on these areas or protected sites. No cases have been found in which fines have been issued for forestry companies' non-compliance.

#### *Risk Conclusion*

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

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

Specified risk

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

- Environmental restrictions must be enforced on the ground, such as those related to land damage, buffer zones, river zones, restrictions on the use of conditioned species, closures, if applicable. They are identified in POAF operational maps that identify and define areas with environmental restrictions.
- AAA (annual harvesting area) field visits to show the protection of protected areas in general.
- Visits to field areas to check the presence or absence of waste and its management.
- Interview with key stakeholders on recent hunting and forest fires.
- There are training and updating measures for the personnel involved, regarding environmental and protection regulations in forest areas (buffer zones, protection areas, pollutants and their management, etc.).

#### **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**

- General Labour Act, December 8 1942 (Ley General del Trabajo [8 de diciembre de 1942])
  - Section 63: Health of women and children in work (Salud de mujeres y niños en el trabajo)
  - Section 67: Health and safety measures for workers (Medidas de salud y seguridad para los trabajadores)
- Decree of August 23 1943, in line with General Labour Law - (Decreto de 23 de agosto de 1943, reglamentario de la ley general del trabajo)
  - Section 61: Hygiene and security (Higiene y seguridad)
  - Section 64: Medical assistance (Asistencia médica)
  - Section 72: On-site conditions (Condiciones en campamentos)
  - Section 80: Professional risks – industrial security (riesgos profesionales - seguridad industrial)
  - Section 85: Accidents at work (Accidentes de trabajo)
  - Section 89: Types of incapacity (Tipos de incapacidad)
  - Section 93: Compensation (Indemnizaciones)
  - Section 103: First aid in case of accident (Primeros auxilios en accidentes)
  - Section 109: Compulsory social security (Seguro social obligatorio)
  - Section 159: Right to strike (Derecho a la huelga)

#### **1.11.2. Legal authority**

- Ministry of Work, Employment and Social Security

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

- Worker affiliation in the National Health Fund
- Provision to workers of work clothes and personal protective equipment
- Provision of sites which are equipped according to labour law
- Setting up of an on-site first aid centre
- Record of accidents and medical attention on site

#### **1.11.4. Sources of information**

##### *Non-Government sources*

- M. T. Vargas; E. Osinaga (2009): Whose hands are Bolivia´s forests in? Implications of land tenure on forest management and rural ways of life. FAO, La Paz, Bolivia. (¿En

manos de quien están los bosques en Bolivia? Implicaciones de la tenencia en el manejo forestal y en los medios de vida rurales. FAO. La Paz, Bolivia.).

- Transparency International (2016): Corruption Perception Index, Bolivia. Available at: <http://www.transparency.org/country/BOL>. [Accessed 13 February 2017].
- World Resources Institute (2014): Forest Legality Alliance Risk Tool, Bolivia. Available at: <http://www.forestlegality.org/risk-tool/country/bolivia>. [Accessed on 13 February 2017].
- Chatham House (2016): Illegal Logging Portal, Bolivia. Available at: <http://www.illegal-logging.info/regions/bolivia>. [Accessed on 13 February 2017].

### *Interviews with experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

#### **1.11.5. Risk determination**

##### *Overview of Legal Requirements*

The Labour Law establishes minimum requirements for workers in forest sites. The law and its regulations stipulate that workers must enjoy social benefits such as health insurance and be affiliated with pension insurers.

In the Labour Law regulations, the following requirements are established:

- Art. 62: companies with more than twenty employees must have a legally established Internal Regulation on Health and Safety.
- Art. 64: A doctor and pharmacy service must be available, without tax or any fee taken from workers. The pharmacies will have the minimum stock of medicines specified by the Ministry of Health.
- Art. 65: The medical insurance includes the family of the worker (spouse, minors, dependent parents or younger siblings).
- Art. 67: The company will provide medical care, if it is obliged to have it. Failing that, the employer will cover the doctor and pharmacy costs needed to treat the worker.
- Article 70: Mining and industrial companies (including forestry companies) and railway companies with more than 500 workers, are obliged to have a permanent and free dental service, providing them with the necessary equipment and materials. Only the cost of metals and similar materials used in dental restoration shall be assumed by the worker.
- Art. 71: In the case of death due to an occupational accident or illness, the company will pay the burial expenses independently, at the rate of one month's salary according to the last salary of the victim.
- This payment shall be made without delay and as a matter of urgency to the family of the victim, or in the absence thereof, to the hospital or persons who are responsible for the deceased worker.

- Art.72: Companies that house personnel on-site must comply with all hygiene standards and submit the plan of such works for the approval of the Ministry of Labour, Health and Social Security, as a matter of obligation.
- Article 103: companies must have first **aid for any accident that occurs at work.**

### *Description of Risk*

Regarding occupational safety and other social aspects, although there is a labour law that establishes minimums for workers in forest sites, there is non-compliance in terms of safety, lodging, health, etc, with the exception of certified operations (Based on the professional experience of the author, expert interviews conducted in Bolivia in 2016 and Vargas et al 2009).

One of the problems with labour law compliance is the lack of affiliation with any health insurance provider, mainly due to the absence of workers' identity cards. Some companies, such as FSC-certified ones, are given the job of processing their workers' ID, but each year they have the same problem because workers are constantly changing.

The requirements for safety equipment demanded by law, as well as sanitary conditions in the on-site camps, are frequently not complied with in the field.

Regarding occupational safety and other social aspects, although there is a labour law that establishes minimums for workers in forest sites, there is non-compliance in terms of safety, lodging, health, insurance and other social coverage, with the exception of certified operations.

In the management plans of indigenous or peasant communities, compliance with labour law is minimal or zero. They do not have any provision for first aid, although they have a medicine box. Usually those harvesting the wood are the purchasing company and not the community, but employees are usually hired from the community. In either case, neither the community nor the company complies with health and safety measures established by labour law. In the interviews, this was justified by the costs involved in providing safety equipment and also because of the short operating period in communal forests (a couple of months) (Based on the professional experience of the author, expert interviews conducted in Bolivia in 2016 and Vargas et al 2009).

The authorities do not inspect rural populations or cities to enforce workers' legal Health and Safety requirements (Based on the professional experience of the author, expert interviews conducted in Bolivia in 2016 and Vargas et al 2009).

### *Risk Conclusion*

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

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

Specified risk

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

- All safety and health regulations shall be followed and all required safety equipment shall be used
- All personnel shall observe occupational health and safety requirements involved in harvesting activities.
- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organization.
- All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable).
- Payment receipt for medical insurance shall be available
- Verify that the company has a document on Risks at Work, Policies and Actions.
- All personnel involved in harvesting activities must have access to occupational health and safety requirements, in accordance with Bolivian regulations. Verify payroll to confirm payment of social security contributions.
- Interviews with staff and contractors should confirm that the legally required protective equipment is provided by the organization.
- Official audit reports on occupational health and safety are available, based on national standards.
- There are reports of how actions have been implemented, if required by the authority.
- All those involved in forestry operations are covered by the social security and risks at work system, according to the law.
- Verification is made of the training process for personnel on occupational health and safety.
- Regulatory compliance with safety at work is verified in the field. Visual inspections performed of: use of personal protection equipment, security signs and working spaces of the organization.
- If required, consult the Ministry of Labour on complaints or violations

## 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

- NATLEX (1942): General Labour Act of 8 December 1942 (Ley General del Trabajo 8 de diciembre de 1942). Available at:

<http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46218/65057/S92BOL01.htm>. [Accessed on 3 March 2017].

- Decree of August 23 1943, which establishes regulations under General Labour Law (Decreto de 23 de agosto de 1943, reglamentario de la ley general del trabajo). Available at:  
<http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46219/65058/S92BOL02.htm>. [Accessed on 3 March 2017].
  - Art. 5: Employment contract (Contrato de trabajo)
  - Art. 33: Annual holidays (Vacaciones anuales)
  - Art. 35 Working day (Jornada de trabajo)
  - Art. 39 Remuneration or holidays (Remuneración o salario)
  - Art. 52: Work of women and minors (Trabajo de mujeres y menores)
  - Art. 61: Hygiene and security (Higiene y seguridad)
  - Art. 64: Medical assistance (Asistencia médica)
  - Art. 72: On-site conditions (Condiciones en campamentos)
  - Art. 80: Professional risks – industrial security (riesgos profesionales - seguridad industrial)
  - Art. 85: Accidents at work (Accidentes de trabajo)
  - Art. 89: Types of incapacity (Tipos de incapacidad)
  - Art. 93: Compensation (Indemnizaciones)
  - Art. 103: First aid in case of accident (Primeros auxilios en accidentes)
  - Art. 109: Compulsory social security (Seguro social obligatorio)
  - Art. 159: Right to strike (Derecho a la huelga)

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

- Ministry of Work, Employment and Social Security

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

- Employer registration (every employer must register with the Ministry of Labour)
- Employment contract approved by the Ministry of Labour
- Social benefits payment cards (Health Insurance, etc.)
- Payroll

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

##### *Government sources*

- Ministry of Labour (2016): Bolivia identifies the 22 worst forms of child labour. (Ministerio del Trabajo. Bolivia identifica 22 peores formas de trabajo infantil).

Available at: <http://www.mintrabajo.gob.bo/PrincipalPublicaciones.asp?target=48>. [Accessed on 3 March 2017].

- National Institute of Statistics (1999): Rights to Work. La Paz, Bolivia. (INE. Derecho al trabajo. La Paz, Bolivia). Available at: [http://www.ine.gob.bo/indicadoresddhh/archivos/primerborrador/Derecho al Trabajo.pdf](http://www.ine.gob.bo/indicadoresddhh/archivos/primerborrador/Derecho%20al%20Trabajo.pdf). [Accessed on 3 March 2017].

#### *Non-Government sources*

- US Department of Labour (2016): List of Goods Produced by Child Labor or Forced Labor. Available at: <https://www.dol.gov/ilab/reports/child-labor/list-of-goods/>. [Accessed on 10 February 2017].

#### *Interviews with Experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

### **1.12.5. Risk determination**

#### *Overview of Legal Requirements*

The labour law establishes that every worker must have a contract signed and a copy sent to the Labour Inspectorate, under the Ministry of Labour. It also establishes that for every 50 workers there must be a health professional, an on-site camp with bathrooms for men and women, an area of social recreation, and food appropriate to the job done. It also stipulates that workers must be free to enjoy holiday, health insurance and other social benefits.

The Labour Act also contains provisions covering: holidays, working hours, holiday pay, working women and minors, hygiene and security, professional risks – industrial security, compulsory social security and the right to strike.

#### *Description of Risk*

It should be noted that the work on forest management in Bolivia is restricted to dry season months, between May and December. Workers are hired temporarily for this period. A few work longer, from March to December, because they operate the sawmills, but none are employed after December. Workers are casual and there is high turnover from one year to another; some come back and others do not. Thus, every year forest companies are faced with staffing problems.

In certified forest management operations, the labour law is complied with at a greater level than in non-certified operations. Workers have written contracts, enjoy the social benefits that the law grants them, on-site camps are equipped with adequate housing and dining rooms, have medical centres and a supply of medicines, as well as a permanent nurse, etc.

In non-certified operations the level is much lower, contracts are verbal, on-site camps are improvised and devoid of comforts (Based on expert interviews conducted in Bolivia in 2016). The argument for not complying with legal requirements is that logging is only done for a period of 6 to 8 months and that staff are temporary and rotate every year. Certified

companies, who have the same characteristics of rotation and times of use, still comply with the legislation. Added to this is the fact that there is no control of any State body to enforce labour law in the forest camps (Based on expert interviews conducted in Bolivia in 2016).

In indigenous or peasant communities, labour regulations are not complied with (Based on expert interviews conducted in Bolivia in 2016). To begin with, there are no contracts, far less any payment of social benefits. The presence of the workers is much shorter than in company operations, barely 2 to 3 months, so it is difficult to obtain employment contracts and social security affiliation. In addition, the workers themselves are the owners of the forest; therefore, they are owners working for themselves. As mentioned before, in most cases, the forestry census is carried out by community members on their own (approximately one month), but it is the buyers who hire external staff combined with personnel from the communities that own the management plan, But the labour conditions are the same: no written contracts, improvised camps with tents, absence of a nurse and medical centre, etc.

In the work of Vargas and Osinaga (2009) it is indicated that in those companies certified by the Forest Stewardship Council, workers enjoy adequate salaries and social benefits. Indigenous communities have several strategies for the distribution of income from forest management: after paying the salary of those who actually worked in the forest, and the legal obligations related to the management plan, the communities allocate the remainder to works or activities of a communal nature.

After reviewing the information and interviews with third parties, it has been found that the main violations of workers' rights in the forest sector in Bolivia correspond to the following:

Lack of contracts: Workers have verbal contracts, in some cases due to the seasonal nature of the work (only a few months) and in other cases due to simple non-compliance by contractors. They do not sign contracts and therefore do not know either their conditions or their rights, they do not enjoy any holiday rights, worker and family health insurance, etc. In Bolivia, a high level of non-compliance exists with labour legislation and other standards in almost all sectors (forestry, agriculture, livestock, mining, etc.).

Another example is non-compliance is payment of their wages being delayed, even to when the harvest ends, at the end of the year. At the beginning, wage advances are given and the next payment will be in two or three months, then the final payment at the end of the harvest.

The Ministry of Labour indicates that labour law is violated during the harvesting of Brazil nuts (*bertholletia excelsa*), with even children working in unsanitary conditions (Ministry of Labour, 2016). In fact, child labour during the Brazil nut harvest is an ancestral customary right of the Amazonian families of Pando. Whole families enter the forest at harvest time and remain there in temporary camps for approximately 3 months. Parents are better off with their children near them than leaving them alone in the city. Obviously this work is not salaried; it is the independent work of families. They collect the Brazil nuts from the forest and sell them to the processing companies.

The US Department of Labour maintain a List of Goods Produced by Child Labor or Forced Labor. In 2017, Bolivia's at risk products are reported to be: brazil nuts/chestnuts, bricks, cattle, corn, gold, peanuts, silver, sugarcane, tin and zinc.

### *Risk Conclusion*

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

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

Specified risk

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

- All workers are employed according to the regulation and required contracts are in place
- Persons involved in harvesting activities shall be covered by obligatory insurances.
- At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
- Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in hazardous work.
- Stakeholders shall confirm that forced or compulsory labour is not involved in harvesting activities.
- Field audit shall verify:
  - Employment contracts for all staff. Evidence that employment contracts are delivered to the worker.
  - Contracts approved by the Ministry of Labour.
  - Interviews with workers.
  - Interviews with the regional labour inspector.
  - Verification of payment forms duly registered with the Ministry of Labour.
  - The company or organization must prove, by means of Certification from the Ministry of Labour, that it does not have any outstanding payroll debts, allegations of abuses, proceedings against it for non-payment, etc.
- In the case of indigenous communities, verify that contracting agreements are governed according to their customs and traditions (ILO Convention 169) and do not violate the rights of workers and labour law.

## 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

- Political Constitution of the Plurinational State of Bolivia (2000): Harmony with Nature. Available at: <http://www.harmonywithnatureun.org/content/documents/159BoliviaConstitucion.pdf>. [Accessed on 3 March 2017].
  - Article 2: Self-determination of indigenous peoples (Libre determinación de los pueblos indígenas)
  - Article 349: Natural resources are state property (Los recursos naturales son propiedad del Estado)
  - Article 352: Consultation process (Proceso de consulta)
  - Article 353: Equitable access benefits natural resources (Acceso equitativo beneficios recursos naturales)

#### 1.13.2. Legal authority

- Vice-Ministry of Native Indigenous Peasants Autonomies
- Vice Ministry of Environment, Biodiversity, Climate Change, and Forest Management and Development
- ABT for the approval of management plans and plans for clearing (Authority for the Social Audit and Control of Forests and Lands).

#### 1.13.3. Legally required documents or records

- Minutes of consultations done with affected communities
- ABT Permits for forest intervention (management and clearing plans)

#### 1.13.4. Sources of information

##### *Government sources*

- The Forest Trust (2013): COUNTRY GUIDE TO TIMBER LEGALITY: The Timber Trade Action Plan. Available at: [http://www.tft-earth.org/wp-content/uploads/2013/03/TTAP\\_Guide\\_to\\_Legality\\_Bolivia.pdf](http://www.tft-earth.org/wp-content/uploads/2013/03/TTAP_Guide_to_Legality_Bolivia.pdf). [Accessed on 3 March 2017].
- CIFOR (2010): Forests and Community Rights: Reforms in Forest Tenure. (Bosques y Derechos Comunitarios: Las Reformas en la Tenencia Forestal. CIFOR, 2010). Available at: [http://www.cifor.org/publications/pdf\\_files/Books/BLarson1001S.pdf](http://www.cifor.org/publications/pdf_files/Books/BLarson1001S.pdf). [Accessed on 3 March 2017].
- CIFOR-CATIE Brazil (2008): Community forest management in Latin America: Experiences, lessons learned and challenges for the future. (Manejo Forestal

Comunitario en América Latina: Experiencias, Lecciones aprendidas y retos para el futuro. CIFOR-CATIE, Brasil 2008). Available at: [http://www.cifor.org/publications/pdf\\_files/Books/BSabogal0801S2.pdf](http://www.cifor.org/publications/pdf_files/Books/BSabogal0801S2.pdf). [Accessed on 3 March 2017].

### *Interviews with Experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

#### **1.13.5. Risk determination**

##### *Overview of Legal Requirements*

Article 2 of the Bolivian Constitution (2009) guarantees the self-determination of indigenous peoples within the framework of the unity of the State, which consists of their right to autonomy, self-government, culture, recognition of institutions and the consolidation of territorial entities, in accordance with the Constitution and the law.

Similarly, Art. 349 indicates that I) natural resources are the property of the Bolivian people and are their direct, indivisible and imprescriptible domain. The State will be responsible for its administration depending on collective interests. II) The State will recognize, respect and grant individual and collective land rights, as well as rights to use and exploit other natural resources. III. Agriculture, livestock, as well as hunting and fishing activities that do not involve protected animal species are guaranteed.

##### *Description of Risk*

Land ownership in Bolivia is being reviewed to resolve problematic overlapping and illegal tenure, as well as compliance with the social economic function of land. The National Institute of Agrarian Reform (INRA) is carrying out this process. Indigenous peoples have benefited from the recognition of large areas of land known as community lands of origin. Vargas and Osinaga (2009) estimate that these will make up about 23 million hectares, of which 7 to 6 million hectares will have high forest potential, with indigenous communities gradually acquiring more control over forests. Customary law in Bolivia would not apply in the forestry sector, because indigenous peoples have already been endowed with their territories and have access to them as owners of their own resource.

As mentioned before, forest concessions on state lands are outside these indigenous territories, but indigenous communities in Bolivia are now new forest actors with full control and access to their lands and forests through the autonomous exercising of their rights over natural resources (Harvesting of fruits, hunting of wild animals, medicinal plants, wood for their homes, etc.).

This situation has developed in line with customary rights and access to land by the indigenous and peasant communities of northern Bolivia (Pando and Beni), mainly those dedicated to the harvesting of Brazil nuts and other non-timber forest resources. The year 2008 saw the completion of the cleaning-up of the 6.3 million hectares of the department of Pando.

It is possible that there may still be some indigenous community demands for land and access to forest resources, but these would be managed according to legally established channels.

### *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.

#### **1.13.6. 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**

- Political Constitution of the Plurinational State of Bolivia (2000): Harmony with Nature. Available at: <http://www.harmonywithnatureun.org/content/documents/159BoliviaConsitucion.pdf>. [Accessed on 3 March 2017].
  - Art. 30. (15): Rights of indigenous peoples to be consulted. (Derechos de los pueblos indígenas a ser consultados).
  - Art. 352: Free, prior and informed consent (Consulta libre, previa e informada).
- Gaceta oficial de bolivia (1991): Law N° 1257 of July 11 1991. Available at: <http://www.gacetaoficialdebolivia.gob.bo/index.php/normas/descargar/21748>. [Accessed on 3 March 2017].
- Single article: Ratifies ILO Convention 169 concerning Indigenous and Tribal Peoples in independent countries (Ratifica Convenio 169 de la Organización Internacional del Trabajo sobre Pueblos Indígenas y Tribales en países independientes)

#### **1.14.2. Legal authority**

- Ministry of Autonomies

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

N/A

#### **1.14.4. Sources of information**

##### *Government sources*

- Ameller; Chavez (2012): Right to prior consent of indigenous peoples in Latin America. Edited by De La Vega and Heins. Konrad Adenauer Foundation. La Paz, Bolivia. (El

derecho a la consulta previa de los pueblos indígenas de America Latina. Editores De la Vega y Heins. Fundación Konrad Adenauer. La Paz, Bolivia). Available at: [http://www.kas.de/wf/doc/kas\\_33592-1522-4-30.pdf?130221162744](http://www.kas.de/wf/doc/kas_33592-1522-4-30.pdf?130221162744). [Accessed on 3 March 2017].

- Foundation for due diligence (2015): Right to consultation and free, prior informed and informed consent in Latin America. Progress and challenges for implementation in Bolivia, Brazil, Chile, Colombia, Guatemala and Peru. Washington. D.C. (Fundación para el debido proceso. 2015. Derecho a la consulta y al consentimiento previo, libre e informado en América Latina. Avances y desafíos para su implementación en Bolivia, Brasil, Chile, Colombia, Guatemala y Perú. Washington. D.C.). Available at: [http://www.dplf.org/sites/default/files/informe\\_consulta\\_previa\\_2015\\_web-2.pdf](http://www.dplf.org/sites/default/files/informe_consulta_previa_2015_web-2.pdf). [Accessed on 3 March 2017].
- M. Vargas (2015): Rights of consultation, participation and free, prior and informed consent for indigenous peoples and nations and peasant communities. Cejis. PetroPress. La Paz, Bolivia. (Derechos de consulta, participación y consentimiento libre previo e informado para las naciones y pueblos indígenas originarios y comunidades campesinas. Cejis. PetroPress. La Paz). Available at: <http://www.cedib.org/wp-content/uploads/2012/03/derecho-de-consulta-participacion-y-consentimiento-previo-libre-e-informado.pdf>. [Accessed on 3 March 2017].
- Enlace indígena (2011): Preliminary draft debated and passed in the National Assembly of Ayllus and Markas del Qullasuyu. (Anteproyecto fue debatido y legitimado en Asamblea Nacional de Ayllus y Markas del Qullasuyu). Available at: [http://www.movimientos.org/es/enlacei/show\\_text.php3%3Fkey=19663](http://www.movimientos.org/es/enlacei/show_text.php3%3Fkey=19663). [Accessed on 3 March 2017].

### *Interviews with experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

#### **1.14.5. Risk determination**

##### *Overview of Legal Requirements*

In Ameller and Chavez (2012) the way in which the Constitution and other laws have addressed the issue of prior and informed consultations with communities and indigenous people is reviewed, as quoted:

The new constitutional text of the Bolivian State states that: *"Within the framework of state unity and in accordance with this Constitution, indigenous peoples and nations have the following rights: [...] 15. To be consulted through appropriate procedures, and in particular through their institutions, whenever legislative or administrative measures are likely to affect them. In this context, the right to obligatory prior consultation, carried out in good faith by the State, will be respected and guaranteed, whenever there is a view to exploit non-renewable natural resources in the territory they inhabit."*

In turn, regarding the nature of the consultation, the Political Constitution of the State stipulates that: *"The exploitation of natural resources in a given territory will be subject to a consultation process of the affected population, which is convened by the State and which*

*will be free, prior and informed. Citizen participation is guaranteed in the environmental management process and the conservation of ecosystems will be promoted, in accordance with the Constitution and the law. The consultation with indigenous people's nations and indigenous peasants will take place in accordance with their own rules and procedures."*

In this context, in terms of indigenous territoriality, the constitutional text states that: *"I. It recognizes the integrity of the native indigenous peasant territory, which includes the right: to land; to the exclusive use and management of renewable natural resources, as determined by the law; to prior and informed consultation; to participation in exploiting non-renewable natural resources in their territories; to apply their own rules, managed by their structures of representation and their cultural criteria and principles of harmonious coexistence with nature. Indigenous peasant territories may consist of communities. II. The native indigenous peasant territory comprises areas of production, areas for the use and conservation of natural resources and spaces for social, spiritual and cultural expression. The law shall establish the procedure for the recognition of these rights."*

At the same time, within the framework of the State's territorial reform, the Constitution recognizes the existence of four types of autonomy, one of which is indigenous peasant autonomy. The importance of this in the framework of prior consultation means that the autonomy has exclusive competence *"to participate in, develop and execute the mechanisms of prior, free and informed consultation, regarding the implementation of legislative, executive and administrative measures that affect it"*.

As can be seen, indigenous autonomies have the power to create mechanisms for prior consultation of any action involving the use of their natural resources.

#### *Description of Risk*

Vargas (2015) in his analysis of the consultation processes, highlights that "the obligation to carry out consultations on decisions that limit the collective use and enjoyment of the territory and natural resources implies that: a) the State can not delegate this obligation to third parties, far less so to private companies seeking to begin economic undertakings that would affect indigenous territories; B) the procedures, timescales and decision-making processes of indigenous peoples must be respected and duly incorporated into the consultation process; C) Indigenous peasant peoples and communities should have the possibility to consider independent technical studies and analyses to help them assess the consequences of decisions taken in relation to their future as peoples; and d) the decision for which consultation is being done should always include the content and result, which should be clearly reflected in the final decision".

So far, oil has been the one most affected industry by discussions and the application of consultation processes. In forestry, this has not been done since indigenous peoples already control their resources and have exclusive access to their products.

During consultation this report, the National Indigenous Forest Association (AFIN) indicated that since the adoption of the new constitution in 2009, indigenous rights have been institutionalized. However, there are things that are not complied with, since there is no coherence between government discourse and practices. AFIN argues that the relationship between communities and companies has been uneven, and there has been no long-term strategic alliance. Agreements are rare and consultations are, in general, formalities that are not being reviewed by authorities. Companies take contracts directly to communities and sign

them there and then, and the community become witnesses rather than decision-makers because they do not often know or understand the scope of the contract. The price, volume, species and other variables are negotiated previously between leaders and the company, without the community. This is not the case with management plans in private properties, where the owner is the one who looks for the client.

### *Risk Conclusion*

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

#### **1.14.6. Risk designation and specification**

Specified risk

#### **1.14.7. Control measures and verifiers**

- Consultation with the Confederation of Indigenous Peoples of East Bolivia (CIDOB) to ensure a stakeholder process has been established that demonstrates prior and informed consent.
- Consultation with community leaders to verify that a stakeholder process has been established that demonstrates prior and informed consent
- On site verification that, where applicable, a stakeholder process has been established that demonstrates prior and informed consent. Interviews with all stakeholders show that contracts and other elements have been agreed in a participatory and transparent manner between the relevant parties.
- On site verification that the status and process of prior information received will be made available to communities, peoples or nations for consultation.

### **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**

- Political Constitution of the Plurinational State of Bolivia (2009): Harmony with Nature. Available at: [http://www.harmonywithnatureun.org/content/documents/157Bolivia\\_Ley\\_300.pdf](http://www.harmonywithnatureun.org/content/documents/157Bolivia_Ley_300.pdf). [Accessed on 3 March 2017].
  - Art. 36: Right of indigenous peoples to voluntary isolation (Derecho de aislamiento voluntario de pueblos indígenas)
  - Art. 255: Respect of the rights of indigenous peoples (Respeto de los derechos de los pueblos indígenas)
  - Art. 289: Indigenous autonomy (Autonomía indígena) Art. 290: Indigenous autonomies are based on ancestral territories (Autonomías indígena se basa en territorios ancestrales)

- Infoleyes (1996): Act 1715 of July 12 1996. Available at: <https://bolivia.infoleyes.com/norma/1274/ley-del-servicio-nacional-de-reforma-agraria-1715>. [Accessed on 3 March 2017].
  - Section 2: Social function of original community land (Función social de las tierras comunitaria de origen)
  - Section 3: Enshrines the right of indigenous peoples on their land and natural resources (Garantiza el derecho de los pueblos indígenas sobre su territorio y sus recursos naturales)
  - Section 40, Paragraph III. Indigenous peoples exempt from agricultural property taxes (Pueblos indígenas exento de impuestos de inmueble agrario)
  - Section 41, Paragraph I. Recognises the original community land as a space for the life and development of indigenous peoples (Reconoce la tierra comunitaria de origen como el espacio de vida y desarrollo de los pueblos indígenas)
  - Section 42: Free awarding of original community lands (Dotación de las tierras comunitarias de origen a título gratuito)
- Forestry Act 1700 (Ley Forestal 1700) of 12 July 1996.
  - Section 32: Authorisation to harvest in indigenous lands (Autorización de aprovechamiento en tierras indígenas)
- Lexivox (1996): Supreme Decree 24453 (21 December 1996). Forestry Act Regulation 1700. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 3 March 2017].
  - Section 28: Consultation process for management plans with indigenous peoples (Proceso de consulta para planes de manejo en pueblos indígenas)
- Ministerial Order 136/97 of 9 June 1997. Approves technical regulation for management plans in original community lands (Aprueba norma técnica para planes de manejo en tierras comunitarias de origen)

#### **1.15.2. Legal authority**

- National Institute for Agrarian Reform – INRA. Land titles in original communal lands (INRA para la titulación de las tierras comunitarias de origen)
- ABT for the approval of management and clearing plans (ABT para la aprobación de planes de manejo y planes de desmonte)

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

- INRA resolution awarding land titles to original community territories
- ABT resolution to approve management plan
- ABT Resolution to approve Annual Operational Forestry Plans (POAFs)

#### **1.15.4. Sources of information**

*Government sources*

- ABT (2012/2013): Annual Management Report. Santa Cruz, Bolivia. Accessed in September 2016. (Informe Anual Gestión 2012 y 2013. Autoridad de Fiscalización y Control Social de Bosques y Tierras. Santa Cruz, Bolivia. Accedido en septiembre 2016 en) Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance\\_sresultados2012-2013.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavance_sresultados2012-2013.pdf). [Accessed on 3 March 2017].

#### *Non-Government sources*

- M. T. Vargas; E. Osinaga (2009): Whose hands are Bolivia's forests in? Implications of land tenure on forest management and rural ways of life. FAO, La Paz, Bolivia. (¿En manos de quien están los bosques en Bolivia? Implicaciones de la tenencia en el manejo forestal y en los medios de vida rurales. FAO. La Paz, Bolivia.)
- Cronkleton et al (2009): Land tenure reform in Bolivia. Communal management in the lowlands. CIFOR-CEDLA, La Paz, Bolivia. (Reformas en la tenencia forestal en Bolivia. La gestión comunal en las tierras bajas. CIFOR-CEDLA. La Paz, Bolivia). Available at: [http://www.cifor.org/publications/pdf\\_files/Books/BCronkleton0901.pdf](http://www.cifor.org/publications/pdf_files/Books/BCronkleton0901.pdf). [Accessed on 3 March 2017].

#### *Interviews with experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

### **1.15.5. Risk determination**

#### *Overview of Legal Requirements*

In Bolivia, much progress has been made in legislation on the rights of indigenous peoples. Law 1715 (1996) recognizes the right to territory and self-determination over the use of their natural resources, culture and development. Indigenous peoples are organized at the national level in the Confederation of Indigenous Peoples of East Bolivia (CIDOB), which encompassed the majority of the lowlands indigenous. At regional level, indigenous peoples have parent organizations that bring together other community structures to reach the community.

Forestry Law 1700 grants indigenous communities the right of exclusivity to using forest in their territories. However, they must comply with the same rules as the contracted companies, and even have additional requirements like keeping minutes of consultations in all participatory processes. In fact, Ministerial Regulation 136/97 establishes the requirements that the indigenous peoples must meet to obtain approval of their management plans.

#### *Description of Risk*

Cronkleton et al (2009) mention that developing the forest management plan is generally out of reach for most rural communities, due to the difficulties of meeting technical requirements and the lack of financial resources to pay for them. Thus, much of the community forest management plans have been supported or subsidized by forestry development institutions and projects or logging companies interested in gaining access to forests. But this support has been given only to a minority of indigenous management

plans. Private logging companies under third-party harvesting contracts have financed the bulk of management plans. In this context, indigenous peoples lose actual control over forest operations, and in many cases become spectators. There are few cases where community members participate in field operations. In its annual reports the ABT states that more communities are now party to forest management plans, to the extent that almost half of the area under current management is under the control of the communities.

There are many ways the rights of indigenous peoples can be violated in forest harvesting, but this happens mainly in fixing the price of timber, non-compliance with contracts, making it impossible to change contracts, the non-purchase of all agreed wood volumes, hiring of people from the community without considering legal labour requirements - among others. It is common to see cases in which the buyer fails to extract the entire volume cut in the forest due to weather factors or bad planning. The volume left in the forest is not paid for and the community loses out. The method of same price payment for any species is the most common way of agreeing prices. On the other hand, there are no problems of third-party dispossession of land. Much progress has been made in the area of the indigenous issue in the consolidating their rights over land tenure (Based on communication and interviews with the Director of the Indigenous Forestry Association (Asociación Forestal Indígena) 2016).

According to National indigenous Forest Association (interview 2016), there are issues between state discourse and what happens in practice. A decree on food security has been created to expand agricultural activity to 1 million hectares per year, which means an increase in clearings and risks to the preservation of Forests, which could affect above all the rights of indigenous peoples living in the forest.

According to the Forest Chamber of Bolivia, there is a risk when indigenous people sell management of forests to third parties (contractors) who only provide harvesting services, acting as a commercial link but not a long-term one. No data exists, but it is thought that this type of business makes up a high percentage (Interview 2016).

### *Risk Conclusion*

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

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

Specified risk

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

- Interviews with indigenous leaders in parent organizations of original community lands to evaluate and confirm there is not any risk of violation of traditional /indigenous rights on the forest area where the wood come from
- Visit to the CIDOBin order to evaluate if there is any risk in relation with the forest area where the wood come from, in terms of indigenous/traditional people rights.

- 
- Even if there is a global confederation, on each region or community land, there is the matrix community responsible (leads), it's for that we include twice interviews with these important organisation.
  - Review communal records approving use of forest resources and distribution of economic benefits

## 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

- Lexivox (1996): Forestry Act 1700 (12 July 1996), Article 11, 74, 95, 96. Available at: <http://www.lexivox.org/norms/BO-L-1700.xhtml>. [Accessed on 3 March 2017].
- BOLFOR (1996): Supreme Decree 24453 Forestry Act Regulation, Article 69 - b.9, 70, 74, 94, 96. Available at: [http://www2.congreso.gob.pe/sicr/cendocbib/con4\\_uibd.nsf/29C02ACDA16F561A05257DCB00544B53/\\$FILE/Ley\\_Forestal\\_varios\\_bolivia.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/29C02ACDA16F561A05257DCB00544B53/$FILE/Ley_Forestal_varios_bolivia.pdf). [Accessed on 3 March 2017].
- USAID (1997): RM 136/97, technical regulations for management plans on indigenous community lands. Available at: <https://rmportal.net/library/content/libros/normas-tecnicas-tcos.pdf>. [Accessed on 3 March 2017].
- Ministerio de Desarrollo Sostenible y Planificación (1998): RM 248/98, technical regulations for management plans and inventory. Available at: <https://www.scribd.com/doc/314916829/Normas-Tecnicas-248-98>. [Accessed on 3 March 2017].

#### 1.16.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras, ABT)

#### 1.16.3. Legally required documents or records

- Annual Operational Forestry Plans (POAFs)
- Technical data file for each species
- Certificate of Forest Origin

#### 1.16.4. Sources of information

##### *Non-Government sources*

- WWF (2015): Bolivia promotes forest legality (Bolivia promueve legalidad forestal). Available at: [http://www.wwf.org.bo/noticias/noticias\\_nacionales/?uNewsID=256171](http://www.wwf.org.bo/noticias/noticias_nacionales/?uNewsID=256171). [Accessed on 3 March 2017].

##### *Interviews with experts*

Discussions with different experts, undertaken during May 2016, helped the authors of this report to better understand relevant legislation and associated risks of each category of legislation.

#### **1.16.5. Risk determination**

##### *Overview of Legal Requirements*

Regulation 248/98 states that the annual operational forestry plans (POAFs) should describe the species and the volumes registered for harvesting. This required the completion of a technical data file containing the list of species to be harvested, the volume of the product, and numbers per hectare. This file is the summary of the database that contains the forest census for the annual harvest area (AAA) and is the basis to calculate the patent and the forest regulation tax (TRF).

Transportation, wood and any other products are registered with a Certificate of Forest Origin (CFO), with species (scientific name), type of product and units. The contents of the CFOs are checked by ABT technicians in the fixed inspection posts, located on main roads where the forest products are transported. The regulation states that the information on the data file and what is transported in the truck must match fully, with goods being confiscated if this is not the case.

Regulation 248/98 also requires a sawmill yield study for each species.

##### *Description of Risk*

Transportation, wood and any other products are registered with a Certificate of Forest Origin (CFO), with species (scientific name), type of product and units. The contents of the CFOs are checked by the ABT technicians in the fixed inspection posts, located on main roads where the forest products are transported. However, sometimes, there are violations with respect to the correct name of the species. That is to say that the botanical name of the species is incorrect but that the log is legally sourced (Based on expert interview conducted in Bolivia in 2016).

Other times there are problems with volumes, because when measuring and loading the wood in the truck, the volume is greater than the volume reported in the CFO. In both cases the ABT confiscates and opens proceedings against those responsible for non-compliance with regulations (Based on expert interview conducted in Bolivia in 2016).

Another type of non-compliance concerns using species not included in the group of commercial species outlined in the management plan. The management plan sets out a list of species to be harvested but during harvesting, other species are added, which, although part of the area's inventory, are not part of the species list. Therefore, it is an offense, unless the ABT has been requested to incorporate new species into the commercial species list outlined in the management plan (Based on expert interview conducted in Bolivia in 2016).

##### *Risk Conclusion*

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

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

Specified risk

### 1.16.7. Control measures and verifiers

- Review annual POAF reports and the species list in the management plan to verify the species on the CFO (transport) and invoices correlates with the actual species included on the POAF (annual planning of the management plan) and the list of species.
- Review the technical data files of the approved POAF to see if they have only harvested the species authorized in the management plan
- Products must be correctly classified (species, quantities, quality, etc.) in sales documents, customs declarations and other documents required by law
- Physical inspections must be verified to ensure that the material in question is the same as the one that has been invoiced and dispatched in the CFOs

## 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

- Presidente constitucional de la republica (2000): Supreme Decree 24453 (Decreto Supremo 24453) (12 July 1996). Forestry Act 1700 Rules (Reglamento de la Ley Forestal 1700). Available at: [http://biblioteca.unmsm.edu.pe/redlieds/Recursos/archivos/Legislacion/Bolivia/DS\\_24453\\_Reg\\_Ley\\_Forestal.pdf](http://biblioteca.unmsm.edu.pe/redlieds/Recursos/archivos/Legislacion/Bolivia/DS_24453_Reg_Ley_Forestal.pdf). [Accessed on 3 March 2017].
  - Sections 70 and 74 (Art. 70º y 74º): Certificates of origin for transportation of forestry products.
  - Section 95 (Art. 95º): Forest surveillance checkpoints
  - Section 95, Paragraph IV (Art. 95º, Paragrafo IV) Prohibits transport and trade without a forestry certificate of origin (Certificado Forestal de Origen or CFO),
  - Section 96, Paragraph I (Art. 96º, Paragrafo I). Seizing illegal forest products.

### 1.17.2. Legal authority

- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras)

### 1.17.3. Legally required documents or records

Overall, the documents that have to be submitted to the Authority for the Social Audit and Control of Forests and Land (ABT) in order to obtain a forestry certificate of origin (CFO) are these:

- Annual Operational Forestry Plan (POAF is the Spanish acronym) including the database of registered trees
- Landing report (Informe de rodeo) (volume of wood stored in landings)

- Bank slip as prove of payment for the forestry certificates of origin

#### 1.17.4. Sources of information

##### *Government sources*

- ABT (2012/2013): Annual Management Report (Informe Anual Gestión 2012 y 2013). Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras). Santa Cruz, Bolivia. Available at: <http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/Memoriaavancesresultados2012-2013.pdf>. [Accessed on 3 March 2017].
- ABT (2016/2015): Annual Report Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización y Control Social de Bosques y Tierras). Santa Cruz, Bolivia. Available at: [http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe\\_anual\\_2015.pdf](http://www.abt.gob.bo/images/stories/Transparencia/InformesAnuales/informe_anual_2015.pdf). [Accessed on 3 March 2017].

##### *Non-Government sources*

- A. Andaluz; R. Mancilla (2006): National preliminary analysis on good governance and compliance with the legislation in Bolivian forestry (Análisis nacional preliminar sobre gobernabilidad y cumplimiento de la legislación en el sector forestal de Bolivia). World Bank. Washington D.C. Available at: <http://documents.worldbank.org/curated/en/136341467998179650/pdf/804960WPOSPANI0Box0379805B00PUBLIC0.pdf>. [Accessed on 3 March 2017].
- TFT (2013): Country Guide for Timber Legality – Bolivia. Available at: [http://www.tft-earth.org/wp-content/uploads/2013/03/TTAP\\_Guide\\_to\\_Legality\\_Bolivia.pdf](http://www.tft-earth.org/wp-content/uploads/2013/03/TTAP_Guide_to_Legality_Bolivia.pdf). [Accessed on 3 March 2017].

##### *Interviews with experts:*

Conversations with various experts, carried out during October 2016, helped the authors of this report to better understand the applicable legislation and the risks associated with each category of legislation.

#### 1.17.5. Risk determination

##### *Overview of Legal Requirements*

Transporting timber in Bolivia requires obtaining a Forestry Certificate of Origin issued by the Authority for the Social Audit and Control of Forests and Lands in accordance with the authorised timber volumes.

When the forestry organisation submits the Annual Operational Forestry Plan (Plan Operativo Anual Forestal, POAF), it submits as well the database of timber to be extracted in the area of annual harvesting (AAA is the Spanish acronym). Then, each time that the forestry organisation requests a Forestry Certificate of Origin (Certificado Forestal de Origen, CFO), the ABT removes or cancels from the database the volume transported with the Forestry Certificates of Origin that have been granted.

According to Section 74 of the DS 24453 (Art. 74º del DS 24453), the transport of forest products must be conducted always holding the corresponding certificate of origin, duly undersigned by

the appointed public officer, or else a seizure warrant shall be issued, in accordance with current legislation.

Section 95 (Art. 95º) establishes that forestry checkpoints, strategically located on hotspot roads or crossroads of walking paths or river paths, shall regulate the transport of forest products. By virtue of this section the transport, storage, processing and trade of forest products is prohibited as well in the entire national territory, for those who do not hold the corresponding certificate of origin, duly undersigned by the appointed public officer or the export permit, and provides for a punishment of seizure, fine and ban for those who fail to comply with the aforementioned requirement, in accordance with this legislation.

Section 96 (Art. 96º) provides for the seizure of products and means of non-compliance with the law in cases of illegal harvesting, transport, production and commercialisation of forest products, as well as of tools for illegal or unauthorised deforestation or slash-and-burn practices. It establishes as well that in order to transport timber or any other forest product, each truck used for transporting the goods shall carry a Forestry Certificate of Origin (CFO). The Forestry Certificates of Origin (CFOs) are issued by the Authority for the Social Audit and Control of Forests and Lands (ABT) upon payment at the Banco Unión bank. The Authority for the Social Audit and Control of Forests and Lands (ABT) removes from the Annual Operational Forestry Plan (POAF) the volume registered in the database. To sum up, all harvesting and/or transport of timber must be supported by a Forestry Certificate of Origin which can prove the authorised timber source. There are forestry checkpoints on the roads across the country, in which ABT officers check and verify the information on the Forestry Certificates of Origin and the load carried by the trucks. The Forestry Certificates of Origin (CFOs) are sealed and then cancelled to prevent their re-utilisation.

### *Description of Risk*

When illegal harvesting takes places in Bolivia, it is often in unauthorized areas, which is laundered through forestry certificates of origin from the legally approved management plans or deforestation plans. This involves using legal documents (the forestry certificates of origin or CFOs), issued by the ABT for the transport of wood from authorized sources, to extract wood from unauthorized (illegal) sources. This has been common practice over the last few years. However, this trend has recently started to die down thanks to the ABT's search and control operations on the landings (Andaluz 2006).

Another way to avoid this obligation is to transport wood without a CFO (and thus, illegally) concealing the load under a fruit load. Finally, the most widespread method is the one where the police and civil servants in the checkpoints are bribed by the offender so that the truck is allowed to keep going without a CFO. It is extremely difficult to prove these occurrences because there is no related literature nor official records. However, the interviews with different stakeholders led to the conclusion that they exist (Andaluz 2006).

Every year, the ABT publishes in its annual report data on the administrative claims filed by this institution against those who breach the laws that regulate forests (ABT, 2014; ABT 2016), and on the volumes of forest products that have been seized for non-compliance with the requirement of including a forestry certificate of origin to prove their legal origin.

During the interviews it was often stressed that illegal timber is hidden and legalised in processing centres thanks to overestimated sawmill outputs (the current legislation establishes a 55% outcome while the actual outcome is in fact a much lower percentage).

### *Risk Conclusion*

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

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

Specified risk

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

- ABT (2014): reports on the management of legal compliance with forestry trade and transport regulations. The reports will show the level of conformance of different enterprises based on the national certification system in Bolivia (Bolivian System of Forests Certification and Incentives (ABT-Sistema Boliviano de Certificación de Bosques e Incentivos). Available at: <http://tools.cfb.org.bo/downloads/directriz-abt-005-2014-reglamentacion-sistema-certificacion-bosques-incentivos-sbcbi.pdf>. [Accessed on 3 March 2017].
- Check volumes approved in the Annual Operational Forestry Plan (Plan Operativo Anual Forestal, POAF) against transported and commercialised volumes.
- Check the information on forest transport guidelines (forestry certificates of origin or CFOs) which support the entry and exit of timber
- Profitability studies, to prove that the volumes sold are backed by timber profits.

### **1.18. Offshore trading and transfer pricing**

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

#### **1.18.1. Applicable laws and regulations**

- Lexivox (2014): Act No. 549 (Ley N° 549) of 21<sup>st</sup> July 2014- Section 2 (Art. 2°). Transfer pricing. Available at: <http://www.lexivox.org/norms/BO-L-N549.pdf>. [Accessed on 3 March 2017].
- Ley general de Aduanas (1999): Bolivia General Act on Customs No. 1990 of 28 July 1999 (Ley General de Aduanas Bolivia- Ley N°1990 de 28 de julio de 1999). Available at: [http://www.cumbre.com.bo/procedimientos/LEY\\_GENERAL\\_DE\\_ADUANAS.pdf](http://www.cumbre.com.bo/procedimientos/LEY_GENERAL_DE_ADUANAS.pdf). [Accessed on 3 March 2017].

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

- Ministry of Economy (Ministerio de Economía)

### 1.18.3. Legally required documents or records

- Accounting records that can be verified by the State.

### 1.18.4. Sources of information

#### *Non-Government sources*

- CEPB Bolivian Businessmen Association (2016): Transfer pricing, regulations in Bolivia. Informative Bulletin. Year 4 No. Available at: [http://www.cepb.org.bo/boletin\\_informativo/Noviembre2014/Boletin\\_Noviembre2014.pdf](http://www.cepb.org.bo/boletin_informativo/Noviembre2014/Boletin_Noviembre2014.pdf). [Accessed on 3 March 2017].

#### *Interviews with experts:*

Conversations with various experts, carried out during October 2016, helped the authors of this report to better understand the applicable legislation and the risks associated with each category of legislation.

### 1.18.5. Risk determination

#### *Overview of Legal Requirements*

The regulation includes the concept of “related parties” as a criterion to evaluate trade and/or financial operations. The norm includes a definition for “parties”, but it has not yet defined a minimum percentage with regard to the direction, control, and/or administration that an individual/corporate must have in the other company to be considered a related party. It only establishes that there is a relationship when an individual or a corporate entity participates in the direction, control, administration, or has capital in another company, or when a third party, directly or indirectly, participates in the direction, control, administration, or has capital in two or more companies.

The law recognises the capacity of the Bolivian tax authority to verify that all transactions between related parties are conducted in accordance with the norm and to adjust or re-assess as appropriate in cases where the law is being applied in order to avoid paying taxes or if its application results in a reduction of the companies’ tax liability in Bolivia.

The Customs Act authorises the customs administration to conduct and/or require transfer pricing studies from importers pertaining to their transactions with related parties, especially in the case of reasonable doubt regarding the declared value in the transactions. The law aims to evaluate whether the relationship between buyer and seller has an effect on the transaction’s value for customs purposes and whether or not it has an effect on the prices.

For transfer pricing taxation, there is a 12-month deadline that starts at the beginning of the taxation process and finishes when the provisional tax debit order (Vista de Cargo) is issued. This deadline can be extended for another twelve months. The law is effective as of the first day following the end of the Corporate Income Tax fiscal year in accordance with the economic activity of the taxpayer.

#### *Description of Risk*

Those who were interviewed said that Act No. 549 of 21 July 2014 on Transfer Pricing (Ley 549 of 21 July 2014 sobre Precios de transferencia) had been passed, but only very slowly has it started to be implemented. The aim of this regulation is to avoid utilisation of the international

trade system by way of under-invoicing to facilitate avoidance of import or customs duties. The rationale behind this measure is that there is a risk that national companies sub-invoice friend companies abroad for the purposes of evading taxes.

Bolivia has not applied nor raised awareness on this act so far and enforcement activities have not been carried out by the authorities.

#### *Risk Conclusion*

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

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

Specified risk

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

- The products shall not have been traded through countries known as "tax havens".
- There shall be no illegal manipulation in relation to the transfer pricing.

### **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**

- Presidente constitucional de la Republica (1993): Act 1483 on Taxes on Exports (Ley 1483, Ley de Tratamiento Impositivo a las Exportaciones). Available at: [http://www.promueve.gob.bo/DocPDF/MExportador/LEY\\_1489 - LEY DE EXPORTACIONES.pdf](http://www.promueve.gob.bo/DocPDF/MExportador/LEY_1489_-_LEY_DE_EXPORTACIONES.pdf). [Accessed on 3 March 2017].
- Lexivox (1996): Supreme Decree 24453 (Decreto Supremo 24453). Forest Act Regulations (Reglamento de la Ley Forestal). Available at: <http://www.lexivox.org/norms/BO-DS-24453.xhtml>. [Accessed on 3 March 2017].
  - Section 8 (Art. 8) Last paragraph of sub-section I. It shall be prohibited to export wood in the rough for a period of 5 years after these regulations comes into force.

#### **1.19.2. Legal authority**

- Authority for the Social Audit and Control of Forests and Lands (Autoridad de Fiscalización de Bosques y Tierras)
- Bolivian customs

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

There are two different procedures within the "Free Management" ("Libre Gestión") to process an export. The first one involves hiring a Customs Brokerage Agent which shall deal with the process on behalf of the exporter, submitting all required documents and filling-in all the necessary forms. The second one consists of the exporter conducting the process herself by virtue of the rights granted to her under the Free Management provision.

The main documents required for exports are:

- Commercial invoice of export (which must include: correlated invoice number, place and date of issue, business name and address of exporter, general information of importer or consignee, details and quantity of merchandise, unit and total value, condition of sale (INCOTERMS), signature of the exporter and stamp of the company)
- Packing List (which must include: commercial export invoice number related to the packing list, place and date of issue, general information of the exporter, total number of packages, dimensions and weight of each package, exact Articles containing each box, package, packaging or other type of packaging, packaging description, marks and sizes of goods, total net and gross weight, signature of the exporter and stamp of the company)
- Export Declaration (SINGLE EXPORT DOCUMENT - DUE)
- Certificate of origin
- Phytosanitary certificate
- CITES Certificate
- Forest Certificate of Origin (CFO)
- Transport document (issued by the transport company contracted by the exporter to carry out the export operation, in the case of being a shipping agency is called: Bill of Lading)
- Insurance

For timber export, it will be necessary the following:

- Registry of the National Superintendence for Forests
- Application letter addressed to the Departmental Director (Carta de solicitud de inscripción dirigida al Director Departamental)
- Scheme for raw materials processing and supply of the current management unit, in accordance with the terms and conditions established under the Forestry Act regulations (Programa de abastecimiento y procesamiento de materias primas de la gestión presente [de acuerdo al Reglamento de la Ley Forestal])
- Company's data: Location of the warehouse, machinery etc.
- A copy of the taxpayer identification number (NIT)
- A copy of the entry in the exporters registry (Registro del Exportador or REX)
- A copy of the FUNDEMPRESA incorporation certificate (Fotocopia de matrícula de FUNDEMPRESA)
- Power of attorney for legal representatives (Poder de Representante legal) (when appropriate)
- Requirements for being granted an Exports Certificate (Certificado de Exportación CFO-4)
- Application letter to the Departmental Director (Carta de solicitud al Director Departamental)
- Forestry certificate of origin 2 (CFO 2 de Origen), original copy
- Description Form for the CFO-4 Rough Product (Plantilla de descripción del producto)

#### **1.19.4. Sources of information**

##### *Government sources*

- HOW TO EXPORT - GUIDELINES FOR MICRO/SMALL BUSINESSES AND PRODUCERS (CÓMO EXPORTAR GUIA PARA PRODUCTORES, MICRO Y PEQUEÑOS EMPRESARIOS) - [http://www.promueve.gob.bo/DocPDF/GUIA\\_COMO\\_EXPORTAR\\_2010C.pdf](http://www.promueve.gob.bo/DocPDF/GUIA_COMO_EXPORTAR_2010C.pdf)

##### *Non-Government sources*

- Imports-Exports of Forests Products in Bolivia (Exportación – Importación de Productos Forestales de Bolivia) <http://tools.cfb.org.bo/downloads/2014-05-Export-import-bolivia-forestal.pdf>

##### *Interviews with experts:*

Conversations with various experts, carried out during October 2016, helped the authors of this report to better understand the applicable legislation and the risks associated with each category of legislation.

#### **1.19.5. Risk determination**

##### *Overview of Legal Requirements*

The law requires the submission of several certifications to export timber and other forest products.

The country's legislation on forests has prohibited exports of wood in the rough since 2002. Ever since then, this type of product has not been exported.

The steps and requirements that exporters must follow have been listed in institutional guidelines such as the one provided hereby, "How To Export - Guidelines For Micro/Small Businesses And Producers (Cómo Exportar Guia Para Productores, Micro Y Pequeños Empresarios)", available at:

[http://www.promueve.gob.bo/DocPDF/GUIA\\_COMO\\_EXPORTAR\\_2010C.pdf](http://www.promueve.gob.bo/DocPDF/GUIA_COMO_EXPORTAR_2010C.pdf)

##### *Description of Risk*

No instances of non-compliance with legal requirements for exports have been identified in the preparation of this report. There are several requirements to comply with, which are to be verified by different institutions (first, the Authority for the Social Audit and Control of Forests and Lands [ABT], then the customs office, then CITES for species listed within CITES annexes, and finally the National Service of Food and Agricultural Health (SENASAG), in charge of spraying against pathogens. Customs control over exports is very efficient.

During interviews conducted with guilds and professional associations of exporters, it was highlighted that there are no major issues regarding exports-related law violations. Apparently, there are high levels of compliance with the legal requirements. There are even cases where it is international buyers themselves who verify their Bolivian suppliers' compliance with the law.

In spite of this, it was also mentioned that the ABT does not control timber containers, and that it is the customs' staff that is in charge of their surveillance. Allegedly, this staff is often unfamiliar with the types of species to watch for. However, no evidence was found during our research that confirmed this type of error in the identification of species or products.

A key element that must be underlined is the concealment of drugs in wood products.

In compliance with the precautionary principle and in the absence of more substantial evidence, this category shall be regarded as a specified risk.

### *Risk Conclusion*

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

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

Specified risk

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

- Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).
- All required import and exports permits shall be in place.

### **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**

- Gaceta (1991): Act 1255 (05 July 1991) (Ley 1255). Available at: [http://www.museonoelkempff.org/cgb/Informacion/leyes/CGB\\_ley\\_1255.pdf](http://www.museonoelkempff.org/cgb/Informacion/leyes/CGB_ley_1255.pdf). [Accessed on 3 March 2017].
- Single Section: Ratifies the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), signed on 23 December 1974 and ratified on 6 July 1979 by Bolivia.

#### **1.20.2. Legal authority**

The National Competent Environmental Authority (Autoridad Ambiental Competente Nacional [AACN]) is the Vice-Ministry for the Environment, Biodiversity, Climate Change and Forest Management and Development (Viceministerio de Medio Ambiente, Biodiversidad, Cambios Climáticos y de Gestión y Desarrollo Forestal or VMABCCGDF). This is the body which regulates and issues authorisations for national and international trade, as well as the transport and possession of fauna and flora specimens listed in the Convention's appendices.

CITES has a Scientific Authority and an Administrative Authority.

- The Scientific Authority has been appointed by the Minister of Water and the Environment (Ministro de Medio Ambiente y Aguas) through a Ministerial Order. Their role is to represent CITES in Bolivia and oversee the application of the international convention in the country
- The Administrative Authority is bestowed upon the Deputy Minister of Biodiversity, Forests Development and the Environment (Viceministro de Medio Ambiente, Biodiversidad y Desarrollo Forestal), who deals with the administrative procedures that lead to the

obtention of a CITES permit and with those to do with exports of species listed in the CITES appendices.

### 1.20.3. Legally required documents or records

General and specific requirements for being granted a CITES permit General documents:

- Application letter addressed to the CITES Administrative Authority: General Directorate for Biodiversity and Protected Areas (Dirección General de Biodiversidad y Áreas Protegidas).
- Bank slip for the transaction at Banco Unión bank, Account No. 1-3517288 MMAYA–CITES Original bank slip.
- Other additional documents that might be requested in any specific cases. Requirements for being granted forest wood species certificates and permits.
- Single copy of commercial invoice.
- Packing list.
- Executed copy of forestry certificates of origin CF0 4 Requirements for animal sub-products and derivatives (leather or fur, meat, bones and others).
- CITES Permit

### 1.20.4. Sources of information

#### *Government sources*

- CITES (1991): Conclusions report on the issuing of CITES permits and authorisations in the Plurinational State of Bolivia - current situation (Documento de diagnóstico de la emisión de permisos y autorizaciones cites en el estado plurinacional de Bolivia- situación actual). Available at:  
[https://cites.org/sites/default/files/common/docs/informes\\_ACTO/Bolivia/ANEXO A. Documento Diagnóstico Final BOLIVIA.pdf](https://cites.org/sites/default/files/common/docs/informes_ACTO/Bolivia/ANEXO A. Documento Diagnóstico Final BOLIVIA.pdf). [Accessed on 3 March 2017].
- CITES (1991): Procedures for issuing CITES permits at the CITES administrative authority in Bolivia (Procedimientos para la emisión de permisos cites de la autoridad administrativa cites de Bolivia). Available at:  
[https://cites.org/sites/default/files/common/docs/informes\\_ACTO/Bolivia/ANEXO A4 Procedimientos CITES Bolivia Final.pdf](https://cites.org/sites/default/files/common/docs/informes_ACTO/Bolivia/ANEXO A4 Procedimientos CITES Bolivia Final.pdf). [Accessed on 3 March 2017].
- R. Aguayo (2013): Project "Electronic procedure for issuing CITES permits in the Member States of the Amazon Cooperation Treaty Organisation OTCA" ("Emisión Electrónica de Permisos CITES en los Países Miembros de la Organización del Tratado de Cooperación Amazónica [OTCA]"). Available at:  
[https://cites.org/sites/default/files/common/docs/informes\\_ACTO/Bolivia/Informe Final E-Permit BOLIVA 30 12 13.pdf](https://cites.org/sites/default/files/common/docs/informes_ACTO/Bolivia/Informe Final E-Permit BOLIVA 30 12 13.pdf). [Accessed on 3 March 2017].
- MMAYA Environment and Water Ministry (2014): Illegal trafficking in wildlife in Bolivia ("Tráfico ilegal de vida silvestre en Bolivia"). Available at:  
<http://es.slideshare.net/vladyvostok/guia-control-trfico>. [Accessed on 3 March 2017].

#### *Interviews with Experts:*

Conversations with various experts, carried out during October 2016, helped the authors of this report to better understand the applicable legislation and the risks associated with each category of legislation.

### 1.20.5. Risk determination

#### *Overview of Legal Requirements*

Bolivia, in its capacity as a signatory to the Convention on International Trade in Endangered Species – CITES, ratifies its endorsement thereof on 3 March 1973. It became effective as of 4 October 1979, under Decree-Law No. 16464 of 17 May 1979 (Decreto Ley Nº 16464 del 17 de mayo de 1979). Later on it was elevated to the status of law under Act No. 1255 of 5 July 1991 (Ley Nº 1255 de 5 de julio de 1991).

CITES provides for the international trade in specimens of fauna and flora species listed in its appendices through a system of Permits and Certifications issued by the countries of origin and destination upon compliance with certain conditions.

Applications for import/export permits or re-export certifications are processed at the one-stop point of contact at the the Vice-Ministry for the Environment, Biodiversity, Climate Change and Forest Management and Development (Viceministerio de Medio Ambiente, Biodiversidad, Cambios Climáticos y de Gestión y Desarrollo Forestal or VMABCCGDF) in the city of La Paz. These applications are handed in in person or by a company's proxy.

Received applications for the export of a species listed in CITES are then sent to the Directorate-General for Biodiversity and Protected Areas (Dirección General de Biodiversidad y Áreas Protegidas, DGBAP), which in turn sends it to the CITES administrative office. It is there that the application's documents are checked. If all requirements are duly fulfilled and all information provided is valid, the data are registered in the database and a CITES permit is issued.

During the application phase where the documents are assessed, the CITES Assistant and/or Coordinator at the administrative office checks the national and international CITES database in order to verify quotas allocated to companies, seal numbering, the adequacy of the values featured, Forestry Certificates of Origin (CFOs), appendices, species and other relevant data. These data are registered in the corresponding database and, whenever necessary and depending on the type of permit or certificate, the country's Scientific Authorities and/or the Administrative Authorities at the re-export country are consulted via e-mail.

The CITES documents are requested by the customs authorities at the moment when the goods are to exit the country. Moreover, the National Service of Food and Agricultural Health (SENASAG) requests a CITES permit for specimens included in the CITES appendices before issuing their plant and cattle health certificate.

#### *Description of Risk*

The forest species featured in the CITES list for Bolivia are *Swietenia macrophylla* (CITES II) and *Cedrella sp.* Both species require a CITES certificate in order to be exported. However, exports of these species have been stagnant due to the lack of profitability they entail, because of the low number of specimens of this kind that can be found in the management units. As verified against the CITES database ([https://trade.cites.org/en/cites\\_trade/#](https://trade.cites.org/en/cites_trade/#)) between 2014 and 2015.

The interviews conducted in the preparation of this report revealed that, in the CITES lists as of 10 March 2016, two wood species are registered in CITES II and three cedar species in CITES III:

- CITES II Species: *Swietenia macrophylla*, *Bulnesia sarmientoi*
- CITES III species: *Cedrela fissilis*; *Cedrela lilloi*; *Cedrela odorata*,
- These 5 species cannot be exported without a CITES certificate.

The paper “Illegal trafficking in wild fauna and flora in Bolivia” (“tráfico ilegal de vida silvestre en Bolivia”) by the Environment and Water Ministry (Ministerio de Medio Ambiente y Agua [MMAyA]) provides information on occurrences of trafficking in artisanal products made of giant tree fern from the Cyatheaceae family of species included in CITES list.

Many species of wood are highly demanded for their quality. In particular, species from the Meliaceae family, namely mahogany (*Swietenia macrophylla*) and cedar (*Cedrela fissilis*, *Cedrela odorata* and other species), both in the local and international markets. Even though both of these species feature in CITES, a great part of the demand for them is supplied by illegal markets.

During the interviews with officers at the Deputy Ministry’s office, it was stressed on several occasions that the CITES permit is granted in relation with the Forestry Certificate of Origin (CFO) issued by the Authority for the Social Audit and Control of Forests and Lands (ABT) for timber to be exported. In addition, public officers always verify that the exporting company’s records are valid (ABT, Chamber of Exporters, etc.) Until 2012, the Deputy Minister’s office would survey wood, but it no longer does so, since the ABT’s CFO and the company’s records are regarded as reliable enough. This means that there might be some risk involved.

*Cedrela odorata* exports decreased considerably between 2014 and 2015. The 2015 figures are much lower than the figures for 2014. During the interviews conducted with several experts it was found out that the *Swietenia macrophylla* species has not been exported since 2010 due to the non-availability of the Non-detriment findings that CITES Bolivia has not issued yet.

The risk of non-compliance with this requirement in the case of exports is low. Customs and SENASAG’s authorities request the CITES certificate before granting their own permits.

In addition, since exports of these species have been stagnant, this risk has been considered to be 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.

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

Low risk

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

N/A

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

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

**1.21.1. Applicable laws and regulations**

N/A

**1.21.2. Legal authority**

N/A

**1.21.3. Legally required documents or records**

N/A

**1.21.4. Sources of information**

N/A

**1.21.5. Risk determination**

N/A

**1.21.6. Risk designation and specification**

N/A

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**1.21.7. Control measures and verifiers**

N/A

## Annex I. Timber source types

The table Timber Source Types in Bolivia identifies the different types of sources of timber it is possible to find in the country of origin.

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

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

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

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

## TIMBER SOURCE TYPES IN BOLIVIA

Forest type	Region/Area	Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural forest	Bajo Paragua (3.8 million hectares)	Permanent forestry production territories	State, private and indigenous territories	State, private and indigenous territories	In private properties, a management plan approved by the Authority for the Social Audit and Control of Forests and Lands (ABT is the Spanish acronym) is necessary for forestry exploitation; on the other hand, POPs and forest clearing plans approved by ABT are necessary to transform forest into farming lands.	Legal timber obtained by the management plans of the permanent forestry production territories. Non-timber yielding products such as almonds ( <i>Bertholletia excelsa</i> ), açai ( <i>Euterpe precatoria</i> ) among others shall be authorized by ABT.
	Chiquitanía (6.3 million hectares)	Permanent forestry production territories	State, private and indigenous territories			
	Choré (1.6 million hectares)	Permanent forestry production territories	State, private and indigenous territories			
	Guarayos (4.2 million hectares)	Permanent forestry production territories	State, private and indigenous territories			
	Pre-Andean Amazonian (4.1 million hectares)	Permanent forestry production territories	State, private and indigenous territories			
	Protected areas (17 million hectares)	National, regional and municipal parks	State territories	The National Service of Protected Areas (SERNAP is the Spanish acronym) is	NA	Tree cutting is not allowed

	spread all over the national territory			on charge of the management of these areas; every park management is delegated in the Executive Direction of the same.		
Natural forest	Integrated management natural areas spread all over the national territory.	Buffer areas surrounding protected areas	State and private territories	Frequently populated by rural communities settled there even before protecting those areas.  . The SERNAP is on charge of managing these areas.	Management plan and annual operational forestry plan approved by ABT and SERNAP.  Forest clearing plan approved by ABT and the Protected Area Management Unit.	Legal timber from integrated management natural areas planning. Legal timber from forest clearing.
Natural forest	Multiple use lands spread all over the national territory	Territories whose better use is farming.  Territories used for agriculture, cattle, forestry management or all of them.	State, private and indigenous territories	Multiple use state territories have to be distributed to the rural communities by the State. The Land Reform National Institute is on charge of identifying and granting the lands to farming communities.	Private territories need a land use planning (POP is the Spanish acronym) as an essential requirement for any activity, as well as a forest clearing plan to change their use.  Communities can clear forest without a POP (limited to 20 hectares per family)	Legal timber from multiple use land management plans. Legal timber from forest clearing.

					but they shall request a forest clearing license.	
Forestry plantations	Valleys (Cochabamba, Chuquisaca and Tarija regions)	Community and private plantations	Community and private territories	For forestry exploitation purposes, it is necessary to register the plantation with the ABT and to obtain the cutting license. Plantations are exempt from the legal requirement of presenting management plans to the ABT.	Cutting license granted by ABT.  For forestry exploitation purposes, it is necessary to register the plantation with the ABT and to obtain the cutting license. Plantations are exempt from the legal requirement of presenting management plans to the ABT.	Legal timber from forestry plantations with exploitation authorisation
	Lowland areas (Santa Cruz region)	Private plantations	Private territories	Aim at producing timber as a way of exploiting territories after being used for agriculture or cattle.	For forestry exploitation purposes, it is necessary to register the plantation with the ABT and to obtain the cutting license. Plantations are exempt from the legal requirement of presenting management plans to the ABT.	Legal timber from forestry plantations with exploitation authorization



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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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