

Timber Legality Risk Assessment Germany

Version 1.3 | April 2018



COUNTRY RISK
ASSESSMENTS



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

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FSC CW effective date:

3 April 2018

B. Overview of legality risks

Timber Risk Score: 100 / 100 in 2018

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

- **Low risk for 15 sub-categories.**
- **No legal requirements for 6 sub-categories.**

Timber source types and risks

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

Public forest	Timber from production forest owned by the Federal Republic, Federal States, and Communes.
Private forest	Timber from production forest owned by private entities.
Church-owned forest	Timber from production forest owned by churches (extremely small area and therefore limited source of timber)

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

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

C. Overview of the forest sector in Germany

In Germany there are 11.419.124 ha defined as forest. When the area that is legally registered as forest, does not contain trees, is subtracted from this amount, an area of 11.012.420 ha remains. Thereof 4.539.070 ha is deciduous forests (either monocultures or mixed stands with mostly deciduous trees); 6.257.533 ha is coniferous forests (either monocultures or mixed stands with mainly coniferous trees). 592.662 ha are strictly protected areas, where activities are prohibited by law that can result in deterioration, disturbance or destruction. On 450.000 ha, restrictions for timber use are in place for a variety of reasons (but mainly for protection and conservation reasons, but also due to terrain characteristics).

Three types of forest ownership are existent in Germany: Public forest; private forest; and the forests owned by churches or by cooperatives (however this type of tenure is relevant only on a local scale due to very small parcels). In addition, public forests are further classified as follows: Public forest owned by federal states (Staatswald); public forest owned by municipalities (Körperschaftswald); and public forest owned by the Federal Republic of Germany (Bundeswald). By definition, forest that is not owned by the public or by churches is private. An area the size of 3.309.537 ha is owned by federal states; 2.220.445 ha is owned by municipalities; and 5.485.679 ha is defined as private property. For private forests the size ranges from less than 20 ha (smallest private forest) up to more than 1000 ha (large private forest). The largest private forest is about 28.000 ha owned by the County of Thurn and Taxis. The forest owned by the Federal Republic (e.g. alongside motorways or waterways) only amounts to 403.464 ha that are highly fragmented across the country.

[All information and figures mentioned in the two paragraphs above are taken from the results of last National Forest Inventory (Bundeswaldinventur), which was completed in 2012.]

In Germany, the legal owner of a territory/tract has the right to manage this area (in compliance with the existing laws) or to exercise the associated rights. This principle is regulated in the German Constitution (Grundgesetz) and in the German Civil Code (Bürgerliches Gesetzbuch). If the owner is managing the forest himself, no additional harvesting permits are required. There are mandatory statutes that describe sustainability measures, maintenance of protected areas, protection of environmental values and best practice in harvesting. These acts, laws and decrees exist at a national level and, in addition, at the federal state level. The main acts are: Bundeswaldgesetz (National Forest Act), Bundesnaturschutzgesetz (Federal Nature Conservation Act) and corresponding forest and nature conservation acts at federal state level.

Due to the requirements of the National Forest Act and the forest acts of the federal states, public forest organizations are bound to execute management planning. A strategic planning is made every ten years. Based on this, a detailed plan for the organization is prepared every year. Therein, harvesting measures and volumes are calculated based on a sustainable use. The planning is checked and monitored by the relevant authority (which is different in the federal states due to varying administrative structures). Also private forests of a minimum size are required to undertake planning activities (the particular size is stipulated by each federal state, with the minimum size of about 30 ha). For small private forests, this type of planning is recommended but not mandatory.

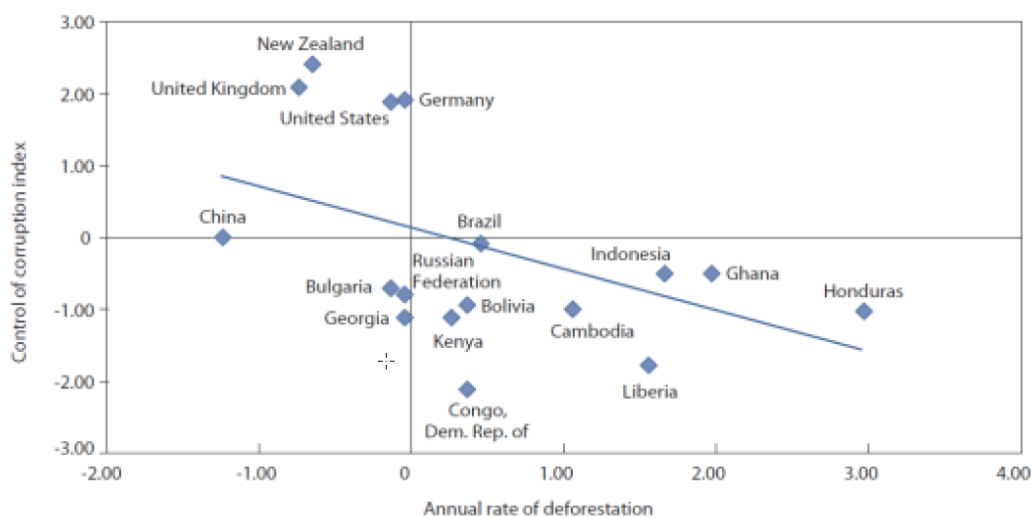
Based on this planning, forest authorities have measures to control and monitor forest use. As described above, these authorities vary from federal state to federal state.

Germany ranks high on the worldwide governance indicator with 'rule of law' being 1.85 and control of corruption at 1.83 on a scale of -2.5 to +2.5. This is one of the highest scores in the world. Germany has a Corruption Perception Index 2014 of 79 (above the threshold of 50) and is ranked worldwide as 12th in CPI ranking.

Tax fraud investigation is carried out intensively in Germany (refer statistics mentioned in 'Sources of information').

An Interpol report from 2016 shows the correlation between deforestation and the control of corruption (based on the World Bank's Worldwide Governance Indicators), indicating that a lower control of corruption may mean a higher annual rate of deforestation. Germany shows a high control of corruption and a low annual rate of deforestation.

Figure 1: Deforestation and corruption⁸



In the Transparency International's Bribe Payers Index Report from 2011 the index shows that there is no country among the 28 major economies whose companies are perceived to be entirely flawless and that do not engage in bribery. Germany is on rank 4, with a score of 8,6 (score of 10 corresponds with the view that companies from that country *never* bribe abroad). Companies from these countries are seen as less likely to engage in bribery than the other listed countries, but there is still room for improvement.

We are not aware of relevant cases in Germany in which systematic illegal harvesting or bribery took place. There were no reports from international organizations such as FAO, Transparency International, The Royal Institute for International Affairs or others stating that logging without harvesting permits is a problem in Germany.

The implementation of the EUTR and HolzSIG refers to two origins, either to timber imported from third countries that is for the first time placed on the European market or to timber harvested in Germany that is placed on the European market. The first case is not relevant for this risk assessment. In the last case, no sources could be found that provide the assumption of a lack of implementation. The Thünen Centre of Competence on the Origin of Timber ([Thünen-Kompetenzzentrum Holzherkunft](#)) has been established that should facilitate the doubtless determination and, if necessary, a possible prosecution.

Sources of information

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

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

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

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required 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

Tenure Rights and ownership:

- Grundgesetz für die Bundesrepublik Deutschland vom 23. Mai 1949 (BGBl. I S. 2438) "German Constitution" - Article 14
http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0079
- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) "German Civil Code" - § 873 (1): Acquisition by agreement and registration
http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3614
- Grundbuchordnung in der Fassung der Bekanntmachung vom 26. Mai 1994 (BGBl. I S. 1114) GBO - "Landbook Rule".
<http://www.gesetze-im-internet.de/gbo/BJNR001390897.html#BJNR001390897BJNG000101307>
- Farm Leasing (Pacht): Leasing of estates with a contract
- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) - § 585 (Declaration and Definition of Farm Leasing)
http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2403
- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) - § 581: Vertragstypische Pflichten beim Pachtvertrag ("contracts and duties concerning farm leasing")
http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2379

Taxes:

- Grundsteuergesetz (GrStG) vom 7. August 1973 (BGBl. I S. 965) GrStG, § 6 (Land tenure taxes in agriculture and forestry)
http://www.gesetze-im-internet.de/grstg_1973/___6.html

- Bewertungsgesetz (BewG) in der Fassung der Bekanntmachung vom 1. Februar 1991 (BGBl. I S. 230) BewG, Part 2, Section B, I-III (Assessment of tax volume in agriculture and forestry)

<http://www.gesetze-im-internet.de/bewg/BJNR010350934.html#BJNR010350934BJNG000502301>

- Handelsgesetzbuch(HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code" §8, 8a, 8b
http://www.gesetze-im-internet.de/hgb/___8.html

1.1.2. Legal authority

- German Constitution: Bundesverfassungsgericht (Federal Constitution Court)
- Civil Act: Ministry of Justice; administration of justice and supervision of compliance of laws is responsibility of federal states
- Grundbuchordnung: Administration of Grundbuch is responsibility of Local Courts for corresponding districts
- Tax law: Ministry of Finance; Collection offices of corresponding districts.

1.1.3. Legally required documents or records

- Grundbucheintrag (entry in the Land Book)
- Pachtverträge ("Contracts of farm leasing")
- Steuerbescheid ("tax assessment")

1.1.4. Sources of information

- Federal Constitution Court, verdict 18,12,1968, Clause 94 (Ownership in German Constitution) (ger.): <http://www.servat.unibe.ch/dfr/bv024367.html>
- Brief explanation of land ownership in Germany (ger.)
<https://www.bundestag.de/blob/414774/826f537e22a405a15f495700b37ab15b/wd-7-018-16-pdf-data.pdf>
<http://wirtschaftslexikon.gabler.de/Definition/grundbesitz.html>
- Family owned enterprises in Agriculture and Forestry (Familienbetriebe Land und Forst (ger.): [http://familienbetriebeluf.de/themen/eigentum/ /](http://familienbetriebeluf.de/themen/eigentum/)
<https://www.bundestag.de/blob/414774/826f537e22a405a15f495700b37ab15b/wd-7-018-16-pdf-data.pdf>
- Principles of ownership (ger.): http://www.ordnungspolitisches-portal.com/03_03_Prinzipien.htm

1.1.5. Risk determination

Overview of legal requirements

Tenure rights are determined through the German Constitution and the Bürgerliches Gesetzbuch (Civil Code). Ownership of estates is documented in the Land Charge Register (Grundbuch). The legal owner of an estate also owns the management rights of the estate, as

long as no other laws are violated. Ownership of land is not legally valid, until the owner is registered in the Land Charge Register. Purchase of land requires a formal agreement by both parties. If there is no entry in the Land Charge Register or if the ownership of the land tenure is not yet registered in the Land Charge Register (e.g. in the event of new structuring and merging of plots), the organization has to prove with appropriate documentation, that it owns the forest and therefore has the right to manage it. To establish a more efficient management, some small private forest owners are incorporated in Forstbetriebsgemeinschaften ('forest enterprises associations'). Here, organizations keep the land ownership and the right to manage, but the management of several small forests is centralized. All owners have to agree to the management and harvesting plans of the association.

A regulation of taxes paid – according to the type land ownership – is carried out through the Property Tax Code (Grundsteuergesetzbuch GrStG). Two kinds of property taxes do exist in Germany: Type A for agriculture and forestry enterprises and Type B for other enterprises. The tax value of assets and estates is regulated by the Valuation Tax Act (BewG). It contains special sections relating only to agriculture and forestry (Bewertungsgesetz BewG Part 2, Section B, I–III). Every legal company has to be registered in the Unternehmensregister (business register).

Customary rights to forest products do not legally exist; but there are traditions that are respected. These, however, refer to a small scale and small amount of use (e.g. traditional collection of non-merchantable wood by local citizens).

Description of risk

Risks can arise when ownership is shifted between generations and the Land Charge Register entry takes time due to lengthy administrative processes. A few problematic cases are known, involving heritage issues and difficulties with the identification of heirs.

Risk Conclusion

Threshold 1 is met. 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. Therefore we consider the risk as 'low risk'.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licenses

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

is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

N/A

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

There is now comparable type of legal tool like a concession in the forest legislation or neighbouring laws. Therefore, this indicator is not applicable

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

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - 1. § 41: Inventory
 - Forest acts of the federal states (1):
<http://www.gesetze-im-internet.de/bwaldg/>
- Baden-Württemberg:
 - Waldgesetz für Baden-Württemberg (Landeswaldgesetz - LWaldG) in der Fassung vom 31. August 1995 (GBl. 1995, 685) - §§ 12, 20 50, 51 (Inventory and management planning in public forest)
http://www.landesrecht-bw.de/jportal/portal/t/6w3/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGBWpG5&doc.part=X&doc.price=0.0&doc.hl=0#focuspoint

- Instruction guideline FED 2000
http://www.waldnaturschutz-forstbw.de/site/downloads/571_32_FED2000_NWW_120217.pdf
- Richtlinie landesweiter Waldentwicklungstypen ("Guideline for Silviculture in Baden-Württemberg")
- http://forstbw.de/fileadmin/forstbw_mediathek/forstbw_praxis/wet/ForstBW_Waldentwicklung_web.pdf
- State forest: FSC certification
- Bayern:
 - Waldgesetz für Bayern (BayWaldG) in der Fassung der Bekanntmachung vom 22. Juli 2005 (GVBl 2005, S. 313) - §§ 18, 19
<http://www.gesetze-bayern.de/jportal/portal/page/bsbayprod.psml?showdoccase=1&doc.id=jlr-WaldGBY2005rahmen&doc.part=X&doc.origin=bs>
 - Körperschaftswaldverordnung KWaldV (Enactment for Körperschaftswald)
 - <http://www.gesetze-bayern.de/jportal/?quelle=jlink&docid=jlr-K%C3%B6rpWaldVBY2007rahmen&psml=bsbayprod.psml&max=true&aiz=true>
 - Richtlinie zur Forsteinrichtung ("Guideline for Forest Planning")
<https://www.verkuendung-bayern.de/files/allmbli/2012/01/anhang/7905.0-L-213-A001.pdf>
 - Waldbaurichtlinie ("Guidelines for Silviculture")
<http://www.baysf.de/de/wald-verstehen/waldbau.html>
- Berlin:
 - Gesetz zur Erhaltung und Pflege des Waldes (Landeswaldgesetz - LWaldG) vom 16. September 2004 (GVBl. 2004, 391) - §1
<http://www.stadtentwicklung.berlin.de/service/gesetzestexte/de/download/forsten/waldg.pdf>
 - Waldbaurichtlinie für die Berliner Forsten ("Guideline for Silviculture in Berlin
<http://www.stadtentwicklung.berlin.de/forsten/waldpflege/download/Waldbaurichtlinie2005.pdf> n")
 - State forest: FSC certification
- Brandenburg:
 - Waldgesetz des Landes Brandenburg (LWaldG) vom 20. April 2004 (GVBl.I/04, [Nr. 06], S.137) - § 30 (periodic forest inventories and forest register)
<http://bravors.brandenburg.de/de/gesetze-212918#30>
 - Betriebliche Anweisung zur Forsteinrichtung BAFE (Official Guideline for Forsteinrichtung in public forests of Brandenburg)
<http://forst.brandenburg.de/cms/media.php/lbm1.a.3310.de/bafe.pdf>
 - Waldbaurichtlinie Brandenburg ("Guideline for Silviculture in Brandenburg")
http://www.mlul.brandenburg.de/media_fast/4055/waldb_rl.15520821.pdf
- Bremen:
 - Bremisches Waldgesetz (BremWaldG) in Kraft ab: 10.06.2010 - §5 (proper forestry)
<https://bremen.beck.de/?bcid=Y-100-G-brwaldg-name-inh>
- Hamburg:
 - Hamburger Landeswaldgesetz Vom 13. März 1978 (HmbGVBl. 1978, S. 74) - §6 (proper forestry)
 - Waldbauliche Rahmenrichtlinie ("Guideline for Silviculture")
 - State forest: FSC certification

- <http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psml?showdoccase=1&st=null&doc.id=jlr-WaldGHARahmen&doc.part=X&doc.origin=bs>
- Hessen:
 - Hessisches Waldgesetz (HWaldG) Vom 27. Juni 2013 (GVBl. 2013, 458) - § 5
<http://www.rv.hessenrecht.hessen.de/jportal/portal/t/1eiz/page/bshesprod.psml;jsessionid=27D4523B110B46866DEDB7C3DD902EEA.jp15?doc.hl=1&doc.id=jlr-WaldGHErahmen&documentnumber=1&numberofresults=46&showdoccase=1&doc.part=X¶mfromHL=true#jlr-WaldGHEpP5>
 - Hessische Waldbaufibel ("Hessian Reader for Silviculture")
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAAahUKEwjL3qyj4u7HAhUM7xQKHTkIBsg&url=http%3A%2F%2Fwww.hessen-forst.de%2Fdownload.php%3Ffile%3Duploads%2Fservice%2Fdownload%2Fwaldbaufibel_hessen_forst.pdf&usq=AFQjCNHT4eKTWpNZFHxhPzPRSMPLu876w&cad=rja
 - Hessische Waldbaurichtlinie ("Guideline for Silviculture")
<http://www.hessen-forst.de/uploads/ueber-uns/riliribes.pdf>
 - State forest: FSC certification
- Mecklenburg-Vorpommern:
 - Waldgesetz für das Land Mecklenburg-Vorpommern (Landeswaldgesetz - LWaldG) In der Fassung der Bekanntmachung vom 27. Juli 2011 (GVOBl. M-V 2011, S. 870) - §§ 4,5
<http://www.landesrecht-mv.de/jportal/portal/page/bsmvprod.psml?showdoccase=1&doc.id=jlr-WaldGMV2011rahmen&doc.part=X&doc.origin=bs&st=lr>
 - Anforderungen an Forsteinrichtungswerke für Privat- und Körperschaftswaldbesitz in Mecklenburg-Vorpommern (Requirements of Forsteinrichtung in private and municipal forests)
<http://www.wald-mv.de/lib/media.php?id=379>
 - State forest: FSC certification
- Niedersachsen:
 - Niedersächsisches Gesetz über den Wald und die Landschaftsordnung (NWaldLG) Vom 21. März 2002 (Nds.GVBl. Nr.11/2002 S.112) - §§ 6
<http://www.recht-niedersachsen.de/79100/nwaldlg.htm#p6,7>
 - LÖWE Programm (Programme for long-term forest development)
<https://www.landesforsten.de/LOEWE-Langfristige-OEkologische-Waldentwicklung.20.0.html>
- Nordrhein-Westfalen:
 - Landesforstgesetz für das Land Nordrhein-Westfalen (Landesforstgesetz - LFoG), Bekanntmachung der Neufassung Vom 24. April 1980 (GV. NW. 1980 S. 546) - §§ 33, 34
https://recht.nrw.de/lmi/owa/br_text_anzeigen?v_id=10000000000000000274#det332959
 - Additional frameworks and documents for inventory, survey and measuring
<https://www.wald-und-holz.nrw.de/wald-und-holz-nrw/service/ausschreibungen-und-vergaben/unterlagen-zur-forsteinrichtung.html>
 - Decree for forest utilization and forest restoration
https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=1&gld_nr=7&ugl_nr=79031&bes_id=2897&val=2897&ver=7&sg=0&aufgehoben=N&menu=1

- State forest: FSC certification
- Rheinland-Pfalz:
 - Landeswaldgesetz (LWaldG) Vom 30. November 2000 (GVBl. 2000, 504) - § 7 (Orderliness of forestry)
http://landesrecht.rlp.de/jportal/portal/t/z59/page/bsrlpprod.psml;jsessionid=B71BD79DA96E0D0BFF2268944A12576A.jp14?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=1&fromdoctodoc=yes&doc.id=jlr-WaldGRPrahen&doc.part=X&doc.price=0.0#jlr-WaldGRPP7
 - Guidelines for silviculture in Rheinland-Pfalz
<http://www.wald-rlp.de/index.php?id=3188>
 - State forest: FSC certification
- Thüringen:
 - Gesetz zur Erhaltung, zum Schutz und zur Bewirtschaftung des Waldes und zur Förderung der Forstwirtschaft (Thüringer Waldgesetz - ThürWaldG -) Vom 6. August 1993 (GVBl. 2008, 327) - § 5, 20, 33
http://landesrecht.thueringen.de/jportal/portal/t/ypv/page/bsthueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGTH2008pG3&doc.part=X&doc.price=0.0&doc.hl=0#focuspoint
 - 3rd and 6th Durchführungsverordnung DVO ("execution decree")
<http://www.wbv-thueringen.de/download/2010-01-25-01.pdf>
http://landesrecht.thueringen.de/jportal/portal/page/bsthueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGDVTH6rahmen&doc.part=X&doc.price=0.0
 - Principles for Silviculture
<http://www.waldbesitzerportal.de/de/waldbesitzerportal/themen/waldbau/waldbaugrundsaeetze-der-thueringer-forstverwaltung/>
- Sachsen:
 - Waldgesetz für den Freistaat Sachsen (SächsWaldG) Vom 10. April 1992 (SächsGVBl. S. 137) - § 22, Abs. 2 (orderliness in forest management), § 48, Abs. 2 (periodic plannings)
http://www.lexsoft.de/cgi-bin/lexsoft/justizportal_nrw.cgi?t=144188655922063511&sessionID=1881078088371660105&templateID=document&source=document&chosenIndex=Dummy_nv_68&xid=171347,1&task=chose_fliesstext#gesetz_fliesstext_171347,23
 - Richtlinie für den Staatswald des Freistaates Sachsen, Bestandeszieltypen ("Guidelines for forest stands development ")
<https://www.smul.sachsen.de/sbs/download/Bestandeszieltypen.pdf>
- Sachsen Anhalt:
 - Waldgesetz für das Land Sachsen-Anhalt (WaldG LSA) Vom 13. April 1994 (GVBl. LSA 1994, 520) - § 5
<http://www.landesrecht.sachsen-anhalt.de/jportal/;jsessionid=3A3570D8278B89C20D7D86153A1BF736.jp25?quelle=jlink&query=WaldG+ST&psml=bssahprod.psml&max=true&aiz=true#jlr-WaldGSTV5P5-jlr-WaldGSTV1P5-jlr-WaldGSTV2P5-jlr-WaldGSTV3P5-jlr-WaldGSTV4P5>
 - Forsteinrichtungsverfahren des Landesforstbetriebes LSA ("Procedure of Forsteinrichtung in State forests")

http://www.mlu.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MLU/MLU/Master-Bibliothek/Landwirtschaft_und_Umwelt/F/Anlage_1_FE_Verf_LFB_An1_1_27_06_07.pdf

- Leitlinie zur Erhaltung und weiteren nachhaltigen Entwicklung des Waldes im Land Sachsen-Anhalt ("Guideline for Conservation and further sustainable Development of the forest in Sachsen-Anhalt")

http://www.mlu.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MLU/MLU/Master-Bibliothek/Landwirtschaft_und_Umwelt/F/Forst/Leitlinie_Wald/LEITLINIE_WALD_2014.pdf

▪ Saarland:

- Waldgesetz für das Saarland (Landeswaldgesetz - LWaldG) Vom 26. Oktober 1977 (Amtsblatt 1977, S. 1009) - §§ 13, 30 (periodic planning)

http://sl.juris.de/cgi-bin/landesrecht.py?d=http://sl.juris.de/sl/gesamt/WaldG_SL.htm#WaldG_SL_rahmen

- Richtlinie für die Bewirtschaftung des Staatswaldes im Saarland ("Guideline for Managing the State forest in Saarland")

http://www.saarland.de/dokumente/thema_naturnutzung/waldbaurichtlinien_saarland.pdf

- State forest: FSC certification

▪ Schleswig-Holstein:

- Waldgesetz für das Land Schleswig-Holstein (Landeswaldgesetz - LWaldG) Vom 5. Dezember 2004 (GVOBl. 2004, 461) - §§ 5, 6

<http://www.gesetze-rechtsprechung.sh.juris.de/jportal/;jsessionid=D1C60BD8B62F01EE5FC1CD430E24D7E0.jp22?quelle=jlink&query=WaldG+SH&psml=bssshoprod.psml&max=true&aiz=true#jlr-WaldGSH2004V5P5-jlr-WaldGSH2004V1P5-jlr-WaldGSH2004V2P5-jlr-WaldGSH2004V3P5-jlr-WaldGSH2004V4P5>

- State forest: FSC certification

1.3.2. Legal authority

- Bundeswaldgesetz: Ministry of Food and Agriculture
- Baden-Württemberg: Ministry of Rural Space; ForstBW (State forestry organization)
- Bayern: Bavarian Ministry of Food, Agriculture and Forest; BaySF (Bavarian state forestry organization)
- Berlin: Berlin Senat of City Development; Berlin Forsten (Berlin State forestry organization)
- Brandenburg: Ministry of Rural Development, Environment and Agriculture; Landesbetrieb Forst Brandenburg (Brandenburg state forestry organization)
- Bremen: Stadt Bremen, Senator für Umwelt, Bau, Verkehr und Europa
- Hamburg: Freie und Hansestadt Hamburg, Behörde für Wirtschaft, Verkehr und Innovation
- Hessen: Ministry of Environment, Climate, Agriculture and Consumer Protection; Hessen Forst (Hessen state forestry organization); FENA (Department of Forest planning)
<http://www.hessen-forst.de/ueber-uns-dienststellen-fena-fachbereich-forsteinrichtung-2051.html>

- Mecklenburg-Vorpommern: Ministry of Agriculture, Environment and Consumer Protection; Landesforst Mecklenburg-Vorpommern (Mecklenburg-Vorpommern state forestry organization)
- Niedersachsen: Ministry of Food, Agriculture and Consumer Protection; Niedersächsische Landesforsten (Niedersachsen state forestry organization)
- Nordrhein-Westfalen: Ministry of Climate Protection, Environment, Agriculture, Nature Conservation and Consumer Protection; Landesbetrieb Wald und Holz NRW (Nordrhein-Westfalen state forestry organization)
- Rheinland-Pfalz: Ministry of Environment, Agriculture, Food, Wine and Forestry, Landesforsten Rheinland-Pfalz (RLP state forestry organization)
- Thüringen: Ministry for Environment, Energy and Nature Conservation; Thüringen Forst (Thüringen state forestry organization)
- Sachsen: Ministry of Environment and Agriculture; Sachsenforst (Sachsen state forestry organization)
- Sachsen Anhalt: Ministry of Agriculture and Environment; Landesforstbetrieb Sachsen-Anhalt (Sachsen-Anhalt state forestry organization)
- Saarland: Ministry of Environment and Consumer Protection; SaarForst (Saarland state forestry organization)
- Schleswig-Holstein: Ministry for Energy Transition, Agriculture, Environment and Rural Spaces; Schleswig Holsteinische Landesforsten (Schleswig-Holstein state forestry organization)

1.3.3. Legally required documents or records

- Public organizations: Forsteinrichtungswerk (mid-term framework, updated every 10-20 years)
- Annual planning of forest organizations
- Annual business planning of organizations
- In Private forests: Planning reports, tax returns, Forsteinrichtung
- Notice of tax assessment

1.3.4. Sources of information

Government sources

- Close to nature silviculture in Bavaria:
<http://www.lwf.bayern.de/mam/cms04/service/dateien/w58-naturnaher-waldbau-bei-den-bayerischen-staatsforsten.pdf>
- Results of Bundeswaldinventur ("national inventory 2012"). "Stock rose again":
<https://www.bundeswaldinventur.de/index.php?id=543&L=3>
- Laws cited

1.3.5. Risk determination

Overview of Legal Requirements

Official national forest inventories (Bundeswaldinventur) do exist in Germany, the last one was finished in 2012. The inventories are subject to binding regulations in the German Forest Act. Forest inventories form the basis of forest planning for each forest organization. The main goals of management planning are to plan and evaluate the sustainable use of forest resources, to control felling activities and to comply with sustainability. To take account of

long-term developments in forestry, every ten to 20 years, public organizations establish a mid-term framework report (the so called Forsteinrichtung), for which responsibility occurs at sovereign level.

Furthermore, state forest organizations establish an annual forest plan including actual and predicted stock, harvesting measures, establishment measures, silvicultural and management measures, conservation, welfare etc. Public municipal forests of medium size (normally 50 or 100 ha or larger) are bound by law to execute annual planning. In addition to these statutes and requirements, some federal states have binding guidelines for silviculture, which define silvicultural best practices for public forests (also recommended for private forests).

For private forests, different regulations do exist; which are described in the Federal Forest Acts, varying between the different federal states. Basically private forestry organizations of mid-size (normally 100 ha) and upwards have to produce an annual plan and a mid-term framework report every ten years. Small private organizations under 100 ha have to prepare an annual report, which is not included in the annual planning, to provide evidence for its management (so called Forstbetriebsgutachten). Below 30 ha, organizations are exempt from planning works, but are bound to the German Forest Act and to supervision by authorities.

When planning occurs in relation to public or private forests, reports have to be sent to the corresponding forest authorities for evaluation and control. Private organizations that are not obliged to do planning are subjected to a control mechanism by the tax assessment. The preparation of mid-term framework reports is done by officials or freelancing consultants.

The results of the National Forest Inventory (Bundeswaldinventur) 2012 have demonstrated that the average timber stocks in German forests rose compared to earlier inventories, which is an indicator of sustainable forestry and proper planning.

Description of Risk

The legal planning situation in Germany is highly diverse, varying from state to state. Risks can arise when small forest organizations – which are not bound to planning due to their size – manage their forest unsustainably OR – if they are bound only to ten-year planning – use the ten-year gap to harvest beyond the sustainability level. However, in any case, monitoring does exist: Municipal public forests in most federal states are managed and thus supervised by state authority foresters, so that control mechanisms exist. Private forest organizations, which are bound only to ten-year planning, are thus controlled every ten years and, if the forests are not sustainably managed, the organizations are sentenced. For small forests with no planning, statutory possibilities for punishment do exist, if laws are not adhered to. We are not aware of relevant cases in which sustainability was seriously compromised by small forest organizations.

The legal background for monitoring and planning is clearly regulated and enforced. Due to the good governance and law enforcement indicators described in the introduction, it can be concluded that there are no enforcement deficits. Management plans are publicly available.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'..

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

N/A

1.4.2. Legal authority

N/A

1.4.3. Legally required documents or records

N/A

1.4.4. Sources of information

Non-Government sources

- Transparency international (Germany): <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- Transparency international: <https://www.transparency.org/country/#DEU>
- World Bank, Governance Indicators for Germany: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.4.5. Risk determination

Overview of Legal Requirements

This topic is covered by sections 1.1 and 1.3 on ownership laws and management planning. Harvesting permits do not exist in Germany.

The legal owner of the forest is allowed to harvest or to sell harvesting rights, without additional permits. Related to activities in private to the purchase tenancy of claims the legislation shall not be violated (concerning taxes protection).

Additionally, as shown in section 1.3 (Management and harvesting planning), planning and sustainable management is described in the statute books: Mid-term management planning

(Forsteinrichtung) and annual planning (Forstbetriebsgutachten) are required in most cases. When plans are submitted to and approved by forest departments, harvesting measures are assumed, based on this planning. Therefore, the owner of the area or the harvesting rights does not need to ask for permission to carry out harvesting activities. Control mechanisms are described above.

Harvest activities are not regulated by through harvesting permits in Germany, but through intensive forest management planning. This means: There is no special approval for each harvesting activity, but there are prescribed laws and regulations providing a framework in which a forest owner can execute his activities (see Section 1.1 and 1.3).

Description of Risk

As mentioned in the overview Germany ranks high on the Global Governance Indicator with rule of law as well as on the Corruption Perception Index, which states the effectiveness of law enforcement.

Forest legislation does not cover the payment of license and harvesting fees.

Risk Conclusion

Therefore, it is indicated that 1.4 does not apply to the German situation.

1.4.6. Risk designation and specification

N/A

1.4.7. Control measures and verifiers

N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

N/A

1.5.2. Legal authority

N/A

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

N/A

1.5.5. Risk determination

N/A

1.5.6. Risk designation and specification

The forest legislation does not include the payment of royalties and harvesting fees, therefore this indicator is not applicable

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

- Umsatzsteuergesetz (UStG) in der Fassung der Bekanntmachung vom 21. Februar 2005 (BGBl. I S. 386) -"Value Added Tax Act":
 - 1. §1 Taxable sales
http://www.gesetze-im-internet.de/ustg_1980/__1.html
 - 2. §10 Basis for assessment
http://www.gesetze-im-internet.de/ustg_1980/__10.html
 - 3. §13, 15 Calculation of VAT

http://www.gesetze-im-internet.de/ustg_1980/___13.html,
http://www.gesetze-im-internet.de/ustg_1980/___15.html

- §17 Changes in basis for assessment
http://www.gesetze-im-internet.de/ustg_1980/___17.html
- §18 Procedures of Taxation
http://www.gesetze-im-internet.de/ustg_1980/___18.html
- §20 Taxation after remuneration
http://www.gesetze-im-internet.de/ustg_1980/___20.html
- §24 VAT in agriculture and forestry
- Abgabenordnung (AO) in der Fassung der Bekanntmachung vom 1. October 2002 (BGBl. I S. 3866; 2003 I S. 61) - "The Fiscal Code of Germany":
 - http://www.gesetze-im-internet.de/ustg_1980/___24.html
 - §§ 140, 141: Obligations of Account keeping
http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p1043
 - §148: Authorization of simplification
http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p1115
 - §§379, 370: Tax crimes and tax evasion
- Handelsgesetzbuch (HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code"
 - http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p2175
 - §6,1: Obligations of Account keeping for incorporated enterprises
http://www.gesetze-im-internet.de/hgb/___6.html

1.6.2. Legal authority

- Low and mid finance Authorities
- Collection offices (controlling and encash)

1.6.3. Legally required documents or records

- Accounts, i.e. documenting all income and investments, in conformance to law cited above
- Bills, trading documents
- Documents for simplifications by law, if necessary

1.6.4. Sources of information

- Taxes in Forestry (lecture, ger.): http://www.ecovis.com/fileadmin/standorte/landau/2013-02-06_Forstbesteuerung_Laimer_Ecovis.pdf
- VAT in Forestry and Hunting (information paper, ger.):
http://www.gutachtering.de/Umsatzsteuer_im_Forst-_und_Jagdbetrieb.pdf
- Information Page for German Tax System (ger.):
<http://www.steuertipps.de/lexikon/v/vorsteuerabzug>
- Laws cited
- Transparency international (Germany): <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- Transparency international: <https://www.transparency.org/country/#DEU>
- Statistics on Tax audits and tax fraud investigations 2014 (ger.):
<http://de.statista.com/infografik/1061/steuerpruefung-und-steuerhinterziehung-in-deutschland/>

- The statistics show numbers of tax fraud investigations: 352.781 trials (2003-2012), 18 billions of back pay, self-complaint 2012/2013 per federal state.
- - World Bank, Governance Indicators for Germany:
<http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.6.5. Risk determination

Overview of Legal Requirements

Germany has value-added taxes (VAT), described in the Value Added Tax Act. All domestic deliveries and benefits for which a company is paid are affected by the VAT (§1 UStG). Companies can levy VAT with sales and have to discharge VAT when buying (§§ 13, 15 UStG). Companies have two kinds of tax-paying systems:

- Imputed taxation: The VAT is calculated at a point in time, when it is not yet clear how much the recipient of the benefit has to pay in a defined period. This is calculated by forecast. VAT can be generated without a bill. The company has to determine the VAT and, if there are any differences, it must report any discrepancy to the finance authority (§17 UStG). Companies can choose what periods they wish to use to forecast VAT, e.g. monthly, quarterly or annually (§ 18 UStG).
- Actual taxation: This is the opposite of imputed taxation. Companies first have to pay VAT after being paid by the recipient of the benefit. This procedure is an exception and has to be approved by the finance authority and is valid only in the following cases (§20 UStG): The total revenue of the company was not higher than 500.000€ in the previous legal year; OR the company is freed from accounting by the finance authority due to § 148 AO; OR if the income was achieved through self-employment.

Two kinds of rates of VAT exist: 19% regular and 7% reduced (e.g. for food or print products). Forest companies benefit by law for simplification reasons (§24 UStG). This simplification is valid for all kinds of forest organizations, irrespective of size, turnover quantity and form of organization. Forest organizations can announce average tax rates of 5.5% for forest products (excluding sawmill by-products, which are taxed at 10.7%); and can also announce a flat VAT volume. This can only be implemented when the forest organization has not resigned from the conventional procedure.

The basis for assessment in all cases is the paid remuneration (§10 UStG): If a company has an income less than 17.500€ per legal year, an exemption of the VAT duty is possible for simplification reasons.

All of the above is controlled by finance authorities. Every company must state its financial turnover in a tax return and, in addition, must demonstrate certain accounting practices (§§140, 141 AO, respectively §6, 1 HGB for incorporated enterprises). All documents are sent to the finance authorities for verification – also irrespective of size, turnover quantity and form of organization. All cash flows have to be documented to verify and to avoid illegal and black market profits. Not mentioning income is seen as tax evasion which attracts severe fines (§§369, 370 AO).

Description of Risk

Tax evasion also occurs in Germany, but legal requirements for documentation and control measures by finance authorities are very strict. According to a rapid appraisal on the topic

(three phone calls) there is no information about relevant tax evasion directly linked to the forest sector. The conclusion is that it is not a relevant issue.

As mentioned above Germany ranks high on the Global Governance Indicator and control of corruption .

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.

Germany has a Corruption Perceptions Index 2014 of 79 (above the threshold of 50) and is ranked worldwide as 12th in CPI ranking.

Tax fraud investigation is carried out intensively in Germany (refer statistics mentioned in 'Sources of information').

Threshold 1 is met. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.6.6. Risk designation and specification

For this indicator the area under assessment is determined to be 'low risk'.

1.5.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

- Einkommensteuergesetz (EStG) in der Fassung der Bekanntmachung vom 8. October 2009 (BGBl. I S. 3366, 3862) ("Income Tax Act"):
 - §2 Volume of taxation, definitions
http://www.gesetze-im-internet.de/estg/__2.html
 - §13 Income from agriculture and forestry
 - Abgabenordnung (AO) in der Fassung der Bekanntmachung vom 1. October 2002 (BGBl. I S. 3866; 2003 I S. 61) - "The Fiscal Code of Germany":
 - http://www.gesetze-im-internet.de/estg/__13.html
 - 140, 141: Obligations of Account keeping
http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p1043
 - §§379, 370: Tax crimes and tax evasion
 - Handelsgesetzbuch (HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code"
 - http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p2175
 - § 6,1: Obligations of Account keeping for incorporated enterprises
http://www.gesetze-im-internet.de/hgb/__6.html

1.7.2. Legal authority

- Low and mid finance Authorities
- Collection offices (controlling and encash)

1.7.3. Legally required documents or records

- Accounts, i.e. documenting all income and investments, in conformance to law cited above
- Bills, trading documents
- Documents for simplifications by law, if necessary

1.7.4. Sources of information

Government sources

- Laws cited

Non-Government sources

- Taxes in Forestry (lecture, ger.): http://www.ecovis.com/fileadmin/standorte/landau/2013-02-06_Forstbesteuerung_Laimer_Ecovis.pdf
- Transparency international (Germany): <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- Transparency international: <https://www.transparency.org/country/#DEU>
- World Bank, Governance Indicators for Germany: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Statistics relating to Tax audits and tax fraud investigation 2014 (ger.): <http://de.statista.com/infografik/1061/steuerpruefung-und-steuerhinterziehung-in-deutschland/>
- The statistics show numbers of tax fraud investigations: 352.781 trials (2003-2012), 18 billions of back pay, self-complaint 2012/2013 per federal state..

1.7.5. Risk determination

Overview of Legal Requirements

The German Income Tax Act defines seven types of income (§2 Abs. 1 S.1 Nr. 1 bis 7 EStG). These are further defined in two groups: 'income of profit' and 'income of surplus' (§ 2 Abs. 2 EStG). In the context of income, every legal and natural person is assigned to one of these types, depending on income type. One of these seven types, in the 'income of profit' category, is "Income from agriculture and forestry" (refer § 13 EStG for a description of the legal basis and definition of income from agriculture and forestry). Income from forestry is defined as profit from business as follows:

- Income from current agriculture or forestry enterprises through natural growth of plants
- Income from hunting
- Income from side-business in forestry

This procedure is valid for all forest companies, irrespective of size, turnover quantity and form of organization. Some exemptions do exist in relation to size, but all are based on the cited regulations. Also some caveats are in place for a very small income from forestry (less than 900€/year).

All of the above is controlled by finance authorities. Every company must state its financial turnover in a tax return and, in addition, must demonstrate certain accounting practices (§§140, 141 AO, respectively §6, 1 HGB for incorporated enterprises). All documents are sent to the finance authorities for verification – also irrespective of size, turnover quantity and form of organization. All cash flows have to be documented to verify and to avoid illegal and black market profits. Not mentioning income is seen as tax evasion which attracts severe fines (§§369, 370 AO).

Description of Risk

Tax evasion also occurs in Germany, but legal requirements for documentation and control measures by finance authorities are very strict. Germany ranks high on the Global Governance Indicator with 'rule of law' being 1.85 and control of corruption at 1.83 on a scale of -2.5 to +2.5. This is one of the highest scores in the world.

Germany has a Corruption Perceptions Index 2014 of 79 (above the threshold of 50) and is ranked worldwide as 12th in CPI ranking.

Tax fraud investigation is carried out intensively in Germany (refer statistics mentioned in 'Sources of information').

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - Article §8 "Protection of forest functions upon plannings and measures by public projects"
 - http://www.gesetze-im-internet.de/bwaldg/___8.html

- Article §9 "Preservation of the Forests"
http://www.gesetze-im-internet.de/bwaldg/___9.html
- Article §11 "Management of forest http://www.gesetze-im-internet.de/bwaldg/___11.html"
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"
 - Article §5 "Agriculture, forestry and fisheries"
 - Forest acts of the federal states (1):
http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnatschg_en_bf.pdf
- Baden-Württemberg:
 - Waldgesetz für Baden-Württemberg (Landeswaldgesetz - LWaldG) in der Fassung vom 31. August 1995 (GBl. 1995, 685) - §§5-28
http://www.landesrecht-bw.de/jportal/portal/t/6w3/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGBWpG5&doc.part=X&doc.price=0.0&doc.hl=0#jlr-WaldGBWpG2
 - Richtlinie landesweiter Waldentwicklungstypen ("Guideline for Silviculture in Baden-Württemberg")
http://forstbw.de/fileadmin/forstbw_mediathek/forstbw_praxis/wet/ForstBW_Waldentwicklung_web.pdf
 - State forest: FSC certification
- Bayern:
 - Waldgesetz für Bayern (BayWaldG) in der Fassung der Bekanntmachung vom 22. Juli 2005 (GVBl 2005, S. 313) - §§ 5-19
<http://www.gesetze-bayern.de/jportal/portal/page/bsbayprod.psml?showdoccase=1&doc.id=jlr-WaldGBY2005rahmen&doc.part=X&doc.origin=bs>
 - Richtlinie zur Forsteinrichtung ("Guideline for Forest Planning")
 - Waldbaurichtlinie ("Guidelines for Silviculture")
<http://www.baysf.de/de/wald-verstehen/waldbau.html>
- Berlin:
 - Gesetz zur Erhaltung und Pflege des Waldes (Landeswaldgesetz - LWaldG) vom 16. September 2004 (GVBl. 2004, 391) - §§ 4-12
<http://www.stadtentwicklung.berlin.de/service/gesetzestexte/de/download/forsten/lwaldg.pdf>
 - Waldbaurichtlinie für die Berliner Forsten ("Guideline for Silviculture in Berlin")

- <http://www.stadtentwicklung.berlin.de/forsten/waldpflege/download/Waldbaurichtlinie2005.pdf>
- State forest: FSC certification
- Brandenburg:
 - Waldgesetz des Landes Brandenburg (LWaldG) vom 20. April 2004 (GVBl.I/04, [Nr. 06], S.137) - §§ 4-10
<http://bravors.brandenburg.de/de/gesetze-212918#30>
 - Waldbaurichtlinie Brandenburg ("Guideline for Silviculture in Brandenburg")
http://www.mlul.brandenburg.de/media_fast/4055/waldb_rl.15520821.pdf
- Bremen:
 - Bremisches Waldgesetz (BremWaldG) in Kraft ab: 10.06.2010 - §§4-8
<https://bremen.beck.de/?bcid=Y-100-G-brwaldg-name-inh>
- Hamburg:
 - Hamburger Landeswaldgesetz Vom 13. März 1978 (HmbGVBl. 1978, S. 74) - §§3,6
<http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psm1?showdoccase=1&st=null&doc.id=jlr-WaldGHARahmen&doc.part=X&doc.origin=bs>
 - Waldbauliche Rahmenrichtlinie ("Guideline for Silviculture")
 - State forest: FSC certification
- Hessen:
 - Hessisches Waldgesetz (HWaldG) Vom 27. Juni 2013 (GVBl. 2013, 458) - §§3-7
http://www.rv.hessenrecht.hessen.de/jportal/portal/t/13q0/page/bshesprod.psm1/action/portlets.jw.MainAction?p1=1&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGHEpIVZ&doc.part=S&toc.poskey=#focuspoint
 - Hessische Waldbaufibel ("Hessian Reader for Silviculture")
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAAahUKEwjL3qyj4u7HAhUM7xQKHTkIBsg&url=http%3A%2F%2Fwww.hessen-forst.de%2Fdownload.php%3Ffile%3Duploads%2Fservice%2Fdownload%2Fwaldbaufibel_hessen_forst.pdf&usq=AFQjCNHT4eKTWpNZFHxhPzPRSMPLu876w&cad=rja
 - Hessische Waldbaurichtlinie ("Guideline for Silviculture")
<http://www.hessen-forst.de/uploads/ueber-uns/riliribes.pdf>
 - State forest: FSC certification
- Mecklenburg-Vorpommern:

- Waldgesetz für das Land Mecklenburg-Vorpommern (Landeswaldgesetz - LWaldG) In der Fassung der Bekanntmachung vom 27. Juli 2011 (GVBl. M-V 2011, S. 870) - §§ 5-15a
<http://www.landesrecht-mv.de/jportal/portal/page/bsmvprod.psml?showdoccase=1&doc.id=jlr-WaldGMV2011rahmen&doc.part=X&doc.origin=bs&st=lr>
- State forest: FSC certification
- Niedersachsen:
 - Niedersächsisches Gesetz über den Wald und die Landschaftsordnung (NWaldLG) Vom 21. März 2002 (Nds.GVBl. Nr.11/2002 S.112) - §§ 5,6,7,8,11,12,15
<http://www.recht-niedersachsen.de/79100/nwaldlg.htm>
 - LÖWE Programm (Programme for long-term forest development)
<https://www.landesforsten.de/LOEWE-Langfristige-OEkologische-Waldentwicklung.20.0.html>
- Nordrhein-Westfalen:
 - Landesforstgesetz für das Land Nordrhein-Westfalen (Landesforstgesetz - LFoG),
 - Bekanntmachung der Neufassung Vom 24. April 1980 (GV. NW. 1980 S. 546) - §§1a, b, 6b, 7, 8, 9, 31, 32, 39
https://recht.nrw.de/lmi/owa/br_text_anzeigen?v_id=10000000000000000274
 - Decree for forest utilization and forest restoration
https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=1&gld_nr=7&ugl_nr=79031&bes_id=2897&val=2897&ver=7&sg=0&aufgehoben=N&menu=1
 - State forest: FSC certification
- Rheinland-Pfalz:
 - Landeswaldgesetz (LWaldG) Vom 30. November 2000 (GVBl. 2000, 504) - §§ 4-8,12-14
http://landesrecht.rlp.de/jportal/portal/t/y1b/page/bsrlpprod.psml/action/portlets.jw.MainAction;jsessionid=51ED59433FC9AE4252FEE4B1AEF35F8A.jp14?p1=1&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGRPpIVZ&doc.part=S&toc.poskey=#focuspoint
 - Guidelines for silviculture in Rheinland-Pfalz
<http://www.wald-rlp.de/index.php?id=3188>
 - State forest: FSC certification
- Thüringen:
 - Gesetz zur Erhaltung, zum Schutz und zur Bewirtschaftung des Waldes und zur Förderung der Forstwirtschaft (Thüringer Waldgesetz - ThürWaldG -) Vom 6. August 1993 (GVBl. 2008, 327) - §§ 5,7,8,18-25,31,33,35

http://landesrecht.thueringen.de/jportal/portal/t/y45/page/bsthueprod.psml/action/portlets.jw.MainAction;jsessionid=BE94CAA06024A777A412E56019D00C5A.jp14?p1=1&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGTH2008V2IVZ&doc.part=S&toc.poskey=#focuspoint

- Principles for Silviculture

<http://www.waldbesitzerportal.de/de/waldbesitzerportal/themen/waldbau/waldbaugrundsaeetze-der-thueringer-forstverwaltung/>

- Sachsen:

- Waldgesetz für den Freistaat Sachsen (SächsWaldG) Vom 10. April 1992 (SächsGVBl. S. 137) §§ 6-10,16-19,21-24

http://www.lexsoft.de/cgi-bin/lexsoft/justizportal_nrw.cgi?t=144197846580523184&sessionID=1881078088371660105&chosenIndex=Dummy_nv_68&templateID=document&source=context&source=context&highlighting=off&xid=171347,1

- Richtlinie für den Staatswald des Freistaates Sachsen, Bestandeszieltypen ("Guidelines for forest stand development ")

<https://www.smul.sachsen.de/sbs/download/Bestandeszieltypen.pdf>

- Sachsen Anhalt:

- Waldgesetz für das Land Sachsen-Anhalt (WaldG LSA) Vom 13. April 1994 (GVBl. LSA 1994, 520) - §§ 4-12, 22,23

http://www.landesrecht.sachsen-anhalt.de/jportal/portal/t/11w3/page/bssahprod.psml/action/portlets.jw.MainAction?p1=1&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGSTV9IVZ&doc.part=S&toc.poskey=#focuspoint

- Forsteinrichtungsverfahren des Landesforstbetriebes LSA ("Procedure of Forsteinrichtung in Sachsen Anhalt")
- Leitlinie zur Erhaltung und weiteren nachhaltigen Entwicklung des Waldes im Land Sachsen-Anhalt ("Guideline for Conservation and further sustainable Development of the forest in Sachsen-Anhalt")

http://www.mlu.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MLU/MLU/Master-Bibliothek/Landwirtschaft_und_Umwelt/F/Forst/Leitlinie_Wald/LEITLINIE_WALD_2014.pdf

- Saarland:

- Waldgesetz für das Saarland (Landeswaldgesetz - LWaldG) Vom 26. Oktober 1977 (Amtsblatt 1977, S. 1009) - §§5-13

http://sl.juris.de/cgi-bin/landesrecht.py?d=http://sl.juris.de/sl/gesamt/WaldG_SL.htm#WaldG_SL_rahmen

- Richtlinie für die Bewirtschaftung des Staatswaldes im Saarland ("Guideline for Managing the State forest in Saarland")

http://www.saarland.de/dokumente/thema_naturnutzung/waldbaurichtlinien_saarland.pdf
- State forest: FSC certification
- Schleswig-Holstein:
 - Waldgesetz für das Land Schleswig-Holstein (Landeswaldgesetz - LWaldG) Vom 5. Dezember 2004 (GVOBl. 2004, 461) - §§ 5-10

http://www.gesetze-rechtsprechung.sh.juris.de/jportal/portal/t/10cb/page/bsshoprod.psml/action/portlets.jw.MainAction;jsessionid=4875A13BC93FB336273277CD26B8B9A6.jp22?p1=2&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGSH2004V5IVZ&doc.part=S&toc.poskey=#focuspoint
 - State forest: FSC certification

<http://www.fsc-deutschland.de/preview.fsc-waldstandard.a-53.pdf>

1.8.2. Legal authority

- Bundesministerium für Ernährung und Landwirtschaft - "Federal Ministry of Food and Agriculture"
- Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit - "Federal Ministry for the Environment, Nature Conservation and Nuclear Safety"
- Baden-Württemberg: Ministry of Rural Space; ForstBW (State forestry organization)
- Bayern: Bavarian Ministry of Food, Agriculture and Forest; BaySF (Bavarian state forestry organization)
- Berlin: Berlin senate of City Development; Berlin Forsten (Berlin State forestry organization)
- Brandenburg: Ministry of Rural Development, Environment and Agriculture; Landesbetrieb Forst Brandenburg (Brandenburg state forestry organization)
- Bremen: Stadt Bremen, Senator für Umwelt, Bau, Verkehr und Europa
- Hamburg: Freie und Hansestadt Hamburg, Behörde für Wirtschaft, Verkehr und Innovation
- Hessen: Ministry of Environment, Climate, Agriculture and Consumer Protection; Hessen Forst (Hessen state forestry organization)
- Mecklenburg-Vorpommern: Ministry of Agriculture, Environment and Consumer Protection; Landesforst Mecklenburg-Vorpommern (Mecklenburg-Vorpommern state forestry organization)
- Niedersachsen: Ministry of Food, Agriculture and Consumer Protection; Niedersächsische Landesforsten (Niedersachsen state forestry organization)

- Nordrhein-Westfalen: Ministry of Climate Protection, Environment, Agriculture, Nature Conservation and Consumer Protection; Landesbetrieb Wald und Holz NRW (Nordrhein-Westfalen state forestry organization)
- Rheinland-Pfalz: Ministry of Environment, Agriculture, Food, Wine and Forestry, Landesforsten Rheinland-Pfalz (RLP state forestry organization)
- Thüringen: Ministry for Environment, Energy and Nature Conservation; Thüringen Forst (Thüringen state forestry organization)
- Sachsen: Ministry of Environment and Agriculture; Sachsenforst (Sachsen state forestry organization)
- Sachsen Anhalt: Ministry of Agriculture and Environment; Landesforstbetrieb Sachsen-Anhalt (Sachsen-Anhalt state forestry organization)
- Landeswaldgesetz Saarland: Ministry of Environment and Consumer Protection; SaarForst (Saarland state forestry organization)
- Schleswig-Holstein: Ministry for Energy Transition, Agriculture, Environment and Rural Spaces; Schleswig Holsteinische Landesforsten (Schleswig-Holstein state forestry organization)

1.8.3. Legally required documents or records

- See Guidelines/Instructions/Directives for silviculture above
- See laws and acts above

1.8.4. Sources of Information

Government sources

- See Guidelines/Instructions/Directives for silviculture as mentioned in indicators 1.1, 1.3, 1.4 as well as the guidelines mentioned below for this indicator
- See Laws and Acts above

1.8.5. Risk determination

Overview of Legal Requirements

Harvesting techniques, technologies and forest planning activities (minimum age, diameter etc.) are amongst the duties of forest managers employed at public or private forest organizations. In public forests, the decisions of forest managers are based on decennial forest inventories (so called Forsteinrichtung) and guidelines for silviculture drafted by each federal state which are obligatory for forest management in municipal forests and state forests.

For private forests, the silvicultural guidelines are only recommendations, but of course private forests are also bound to national and federal law. Regulations of the silvicultural guidelines are based on the National Forest Act and the Federal Nature Conservation Act, which include the stipulations that forests have to be managed properly, advantageously and sustainably, retaining the function of the forest. This means in particular:

- a site-adapted selection of species a persistent soil fertility for long-term usability must be ensured

- the natural features of the managed site (soil, water, flora, fauna) must not be impaired beyond the extent required to achieve a sustainable yield
- fertilizers and pesticides must only be used in accordance with the provisions of the agricultural In accordance with the German legislation fertilization in a conventional sense is excluded to a major extent for forest management.
- regarding the use of woodlands for forestry purposes, the aim must be to establish semi-natural forests and to manage these sustainably without clear-cuts; with an adequate proportion of native woodland plants retained
- clear-cutting is prohibited, unless afforestation is completed in a reasonable time
- Conversion of forests into any other form of land use is only allowed with a permission of a Federal State authority (Forstbehörde), when appropriate compensation measures take place.

This applies to all federal states in Germany. More precise details for timber harvesting activities, technologies and forest management rules are incorporated in the silviculture guidelines, including minimum age, diameter, felling activities, skidding trails etc. In addition to forest laws various other relevant laws do exist that (e.g.) regulate protection of soils, water bodies and other environmental values. They need to be considered when working in forests (e.g. Bodenschutzgesetz: Soil Protection Act).

Description of Risk

Every federal state has the authority to monitor the implementation of the law by the forest supervision (Forstaufsicht). Since state forest organizations are supervised by the federal forest department, forest activities are monitored in both private forest and public forest. The forest supervision (Forstaufsicht) is the implementing authority of the federal state, whereby the state secures legal implementation. Forest supervision is executed by officials of the corresponding low-level forest department and also by the police. Individuals can advise forest authorities about infringement of regulations related to timber harvesting. There are no statistics available how many legal cases there are or have been in Germany in relation to this criterion, but we are not aware of law infringements that have not be examined.

Germany ranks high on the Global Governance Indicator with 'rule of law' being 1.85 and control of corruption at 1.83 on a scale of -2.5 to +2.5. This is one of the highest scores in the world.

Germany has a Corruption Perceptions Index 2014 of 79 (above the threshold of 50) and is ranked worldwide as 12th in CPI ranking

Risk Conclusion

Threshold 1 is met. 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.

For this indicator the area under assessment is determined to be 'low risk'.

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - Article 12 "Protection Forest"
 - http://www.gesetze-im-internet.de/bwaldg/__12.html
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"
 - Article 6 "Monitoring of nature and landscape"
 - Article 7 (13) (14) – "specially protected species" and "strictly protected species"
 - Chapter 3 Article 13-19 "General protection of nature and landscape"
 - Chapter 4 Article 20-36 "Protection of certain parts of nature and landscape"
 - Chapter 5 Section 1-4 Article 37-51 "Protection of wild fauna and flora species, of their living sites and of their biotopes"

http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnatschg_en_bf.pdf
- Bundesartenschutzverordnung (BArtSchV) vom 16. Februar 2005 (BGBl. I S. 258, 896) – "Federal Species Protection Ordinance"

http://www.gesetze-im-internet.de/bartschv_2005/index.html
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora - Article 2,6,12,17

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>
- Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>

1.9.2. Legal authority

- Authorities for Conservation
- Forest Departments

1.9.3. Legally required documents or records

N/A

1.9.4. Sources of Information

Government sources

- Information about implementing Habitats Directive:
http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
- Geographical map showing conservation areas in Germany:
<http://www.geodienste.bfn.de/schutzgebiete/#?centerX=3786876.500?centerY=5669060.000?scale=5000000?layers=524>
- Information on size and locations designated as conservation areas in Germany:
https://www.bfn.de/0308_nsg+M52087573ab0.html
- Information about legal interventions in nature and landscape:
https://www.bfn.de/0306_eingriffsregelung-natur.html
- Protected areas in Germany:
https://www.bfn.de/0308_gebietsschutz+M52087573ab0.html
- Monitoring protected sites in Germany:
https://www.bfn.de/0315_monitoring+M52087573ab0.html
- Habitats Directive areas in Germany:
https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/meldestand_ffh_03012014.pdf
<https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/ffh2013.pdf>
- Birds Directive areas in Germany:
https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/meldestand_spa_31102013.pdf
<https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/spa2013.pdf>
- Monitoring results for Habitats/Birds Directive:
http://www.bfn.de/0316_nat-bericht_ergebnisse2013.html
https://www.bfn.de/0316_nat-bericht_2013-komplett.html
- German National Summary Report for Article 17 of Habitats Directive
https://circabc.europa.eu/sd/a/dcb49f6a-543c-4f4d-b0af-5ec6597decfc/DE_20140528.pdf
- Annexes I, II, IV and V of the Habitats Directive (for Germany)
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-i/>
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-iv/>
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-ii/>
- Annex I of Federal Species Protection Ordinance

http://www.gesetze-im-internet.de/bartschv_2005/anlage_1.html

- Commission Regulation (EU) No 1320/2014 of 1 December 2014 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2014_361_R_0001

Non-Government sources

- Bund für Umwelt und Naturschutz Deutschland e.V. (BUND), „Waldreport 2016.“. https://www.bund.net/fileadmin/bundnet/publikationen/naturschutz/160129_bund_naturschutz_waldreport_2016.pdf (last accessed on 15 October 2016).
- Harvest infringement in Natura 2000 area due to non-existence of management plans <https://www.nabu.de/news/2013/10/16262.html>
- Overview of forest activities in Habitats Directive areas:
http://www.waldwissen.net/waldwirtschaft/waldbau/planung/fva_waldnutzung_ffh_gebiet/index_DE
- Information on planning and monitoring in protected forest sites:
http://www.waldwissen.net/wald/naturschutz/monitoring/fva_monitoring_schutzgebiete/index_DE
- World Bank, Governance Indicators for Germany:
<http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Work Report: FFH-Impact: Part 1: Implementation of the FFH-Directive in the Forest in the Federal States Lydia Rosary, Bernd Wippel & Björn Seintsch, Institute of Economics of the Forest and Timber Industry in cooperation with consulting company Becker, Borchers and Wippel
http://literatur.thuenen.de/digbib_external/bitv/dn050974.pdf
- Winter et al. (2014): The impact of Natura 2000 on forest management: a socio-ecological analysis in the continental region of the European Union. *Biodivers. Conserv* (2014) 23:3451-3482 DOI 10.1007/s10531-014-0822-3
- Winter, S. & Seif, J. (2011): Assessment criteria for the conservation status of Natura 2000 beech forest habitat types. Comparison of different federal states and implementation in management plans. *NuL* 43 (4), 2011,101-110

1.9.5. Risk determination

Overview of Legal Requirements

Various types of protected sites in Germany are legally defined at international, national and federal state level. Each category has regulations in terms of timber harvesting activities, access rights and management of endangered species and their habitats, partially statutory. The different types/categories are classified by the Federal Nature Conservation Act (BNatSchG) Articles 20–36 (including Natura 2000 or N2000) and vary by size, protection purpose and by the restrictions on land use.

Protected sites that are covered by European Law are sites that are under the regime of the Habitats Directive and Birds Directive.

For some strictly protected areas, harvesting, access and management are highly restricted (national parks, nature conservation areas, biosphere reserves). Whether managing and harvesting is allowed, is regulated by management plans based on the Federal Nature Conservation Act.

Protected areas (partially including also legally protected biotopes and Natura 2000 sites) have special protection objectives; management is restricted to the purpose of achieving the protection objective or for special cases in public interest such as traffic safety.

In Germany, harvesting is prohibited on an area of 337.550 ha. About 32.000 ha of this area are classified as protection forest according to National Forest Act Article 12 (e.g. for slope/landslide protection, water protection, soil protection). Protection forests are covered by additional protection designations that apply tighter restrictions to forest management activities. Forest management in protection forest is subject, in addition, to official approval.

Sites subjected to the Habitats Directive, combined with Bird Protection Areas (EGV), form the Natura 2000 sites. They need to be managed either in compliance with the Habitats Directive or the Birds Directive, partially there are overlaps. According to Art. 6 para 1 of the Habitats Directive mandatory management plans need to be elaborated. Management plans have to maintain or restore a favorable conservation status. According to Art. 6 para 2 member states are in bond to avoid damaging activities that could significantly disturb these species or damage or deteriorate habitats or habitats of protected species.

In addition, (as per para 6(3) and 6(4)), for any plan or project that might affect a Natura 2000 site, an appropriate assessment has to be made. The competent authorities can approve the plan or project only after having ascertained that it will not adversely affect the integrity of the particular site.

In exceptional circumstances, a plan or project may still be implemented– despite a negative assessment – if it can be demonstrated that there are no alternative solutions and the plan or project is considered to be of overriding public interest. In such cases the member state is bond to take appropriate compensatory measures to ensure that the overall coherence of the Natura 2000 network is protected.

As mentioned in the overview Germany ranks high on the global Governance Indicator with “rule of law” as well as above the Corruption Perception Index, which states the effectiveness of law enforcement.

According to the German Federal Agency for Nature Conservation (BfN) 1,8 Mio ha of the German forests have been designated as FFH-/Natura2000 sites in 2012. When considering the different ownership relationships, the types of ownership have been designated as Habitats sites by varying parts:

- 5% state forest
- 46% federal forest
- 21% municipal, communal forest
- 28% private forest (with different shares in the federal states)

Compliance with restrictions and laws is done by the nature conservation authorities. Besides prosecution and regular controls several incentive mechanisms have been developed to especially address private forest owners such as contractual conservation management agreements as environmental, compensation payments or subsidy guidelines to ensure the designation of protected areas. This applies to e.g. the federal states of Brandenburg, Hesse, Saxony, Baden-Württemberg, Bavaria.

Description of Risk

Problems concerning the effectiveness of the Habitats Directive might be inter alia lacking management plans, variations in quality of the management plans. This is a problem observed by NGOs in cases where timber was not harvested to prevent damage to biodiversity or soil conditions in Natura 2000 areas. In these cases, however, the "concept of no deterioration" still applies, after Art. 6 (2) of Habitats Directive.

The status of protected sites is documented and monitored in the midterm planning (Forsteinrichtung) and is therefore respected when planning management measures.

Controls are carried out by forest control (Forstaufsicht), employees of the Nature Conservation Federal Agency or by the police.

NGOs like NABU Germany (Nature and Biodiversity Conservation Union) demand more controls in these areas and a legal duty to establish management plans for areas of Habitats Directive.

There are a few law cases, in which NGOs claim that forest management activities are violating the nature protection status of these areas (refer to sources of information). Even though it is known that there are implementation deficits for protected sites e.g. due to the lack of personnel, who can enforce limitations or obligations, there is no indication for systematic or large-scale non-compliances.

Risk Conclusion

Threshold 1 is met. 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.

For this indicator the area under assessment is determined to be 'low risk'.

1.9.6. Risk designation and specification

Low risk

1.9.7. Control measures and verifiers

N/A

1.10. Environmental requirements

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

systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - Article §8 ("Protection of forest functions upon plannings and measures by public projects")
http://www.gesetze-im-internet.de/bwaldg/__8.html
 - Article §9 ("Preservation of the Forests")
http://www.gesetze-im-internet.de/bwaldg/__9.html
 - Article §11("Management of forests")
http://www.gesetze-im-internet.de/bwaldg/__11.html
 - Article §41a ("Forest Monitoring")
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"
 - Article §5 ("Agriculture, forestry and fisheries")
http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnat schg_en_bf.pdf
- Bundes-Bodenschutzgesetz(BBodSchG) vom 17. März 1998 (BGBl. I S. 502) – "Soil Protection Act"
 - Article §17 ("Good agriculture practice")
http://www.gesetze-im-internet.de/bbodschg/__17.html
 - Wasserhaushaltsgesetz(WHG) vom 31. Juli 2009 (BGBl. I S. 2585) - "Water Resources Act"
http://www.gesetze-im-internet.de/whg_2009/
 - Düngeverordnung (DüV) in der Fassung der Bekanntmachung vom 27. Februar 2007 (BGBl. I S. 221) – "Fertilizer legislation"
http://www.gesetze-im-internet.de/d_v/
 - Düngemittelverordnung (DüMV) vom 5. Dezember 2012 (BGBl. I S. 2482) - "Fertilizer ordinance"
http://www.gesetze-im-internet.de/d_mv_2012/
 - C Chemikaliengesetz (ChemG) in der Fassung der Bekanntmachung vom 28. August 2013 (BGBl. I S. 3498, 3991)– "Chemicals Act"
<http://www.gesetze-im-internet.de/chemg/index.html>
 - Pflanzenschutzgesetz (PflSchG) vom 6. Februar 2012 (BGBl. I S. 148, 1281) – "Plant Protection Act"
http://www.gesetze-im-internet.de/pflschg_2012/

- For further environmental requirements see federal state laws and guidelines for silviculture linked at indicator 1.8 and 1.9 as well as in Category 3 (HCVs).

1.10.2. Legal authority

- Forest Departments

1.10.3. Legally required documents or records

- Forest function mapping (mapping of forest functions like water, soil, air)
- Order description for harvesting planning
- Forsteinrichtungswerke" (mid-term framework, updated every 10-20 years)

1.10.4. Sources of information

Government sources

Information on Forest function mapping

- <http://www.forsten.sachsen.de/wald/150.htm>
- http://www.fva-bw.de/indexjs.html?http://www.fva-bw.de/forschung/wg/wfk/wfk_themen.php?thema=1
- <http://forstbw.de/wald-im-land/waldfunktionen.html>

German National Strategy on Biodiversity

- https://www.bfn.de/0304_biodivstrategie-nationale.html

Results of Crown Condition Survey:

- http://www.bmel.de/SharedDocs/Downloads/Landwirtschaft/Wald-Jagd/ErgebnisseWaldzustandserhebung2014.pdf?__blob=publicationFile

Results of the German inventory on forest conditions:

- http://www.bmel.de/SharedDocs/Downloads/Landwirtschaft/Wald-Jagd/ErgebnisseWaldzustandserhebung2014.pdf?__blob=publicationFile
- According to the Overview report of Soil Condition by Federal Environment Agency German soils are in good condition:
<https://www.umweltbundesamt.de/sites/default/files/medien/publikation/long/4291.pdf>

Non-Government sources

- Convention on Biological Diversity
<https://www.cbd.int/information/parties.shtml>
<https://www.cbd.int/doc/world/de/de-nbsap-01-en.doc>
- World Bank, Governance Indicators for Germany:
<http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Giessener Anzeiger, "Besenmoos" controversy: District of Giessen." Giessener Anzeiger, 2016. http://www.giessener-anzeiger.de/lokales/kreis-giessen/landkreis/besenmoos-streit_16873476.htm (last accessed on: September 18, 2016).

- NABU Landesverband Hessen, "NABU reports forest because of environmental damage: Logging in the Laubach Forest destroys protected habitats." NABU Hesse- Press Release No. 21/16 <http://www.nabu-limburg-weilburg.de/PM/NABU-Hessen-PM-2016-21-LaubacherWald.pdf>

1.10.5. Risk determination

Overview of Legal Requirements

Environmental values in relation to timber harvesting activities are covered by Articles 8, 9 and 11 in the National Forest Act which contains effective regulations, but also the regulative framework for federal state laws.

Further environmental requirements are also defined by each federal state in their guidelines for silviculture which are binding for municipal forests and state forests.

The Federal Nature Conservation Act (Bundesnaturschutzgesetz) defines environmental requirements at a national level in Article 5 (Agriculture, forestry and fisheries).

In addition to these Acts are various laws and regulations that define protection of environmental values (e.g. soils, water resources) and which have to be followed when working in forests. These are equally binding for all forest owners (e.g. Bundes-Bodenschutzgesetz (BBodSchG): Soil Protection Act; Düngemittelgesetz (DüV): Fertilizer legislation; Düngemittelverordnung (DüMV): Fertilizer ordinance; Wasserhaushaltsgesetz (WHG): Water Resources Act; Europäische – Wasserrahmenrichtlinie: European Water Framework Directive).

Germany signed the Convention on Biological Diversity in 1992.

When planning harvesting measures or other forest management activities (e.g. road construction), attention to environmental values and protected sites is required. In mid-term management planning (Forsteinrichtung, see above) protected sites and protective functions of forest are addressed.

Description of Risk

Germany has numerous laws, regulations, ordinances and directives designed to regulate environmental values and requirements. Federal state Forestry Departments are duty-bound to enforce and supervise regulations or obligations equally in all forest types. There are no statistics available relating to regular on-site visits by relevant authorities focusing on environmental requirements; however on-site visits are a known measure of control and planning.

On sites visits by authorities for water protection and nature conservation are done on a regular basis. It is obligatory to notify/register water and soil damages, e.g. as mentioned in the Soil Protection Act, the Water Resources Act.

In cases of violations penalties are in place and are implemented. The collaboration between stakeholders such as forest authorities, environmental authorities and environmental NGOs is much elaborated. Environmental NGOs function as watchdogs (see also CW Category 3) and bring up cases of non-compliances, which might lead to law cases and/or penalties respectively correction measures. However, those cases are based on individual circumstances and occur in limited numbers and are not taking place in a systematic way.

Germany ranks high on the worldwide governance indicator with rule of law and control of corruption, therefore it can be concluded that the existing legislation is effectively enforced.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

N/A

1.11. Health and safety

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

1.11.1. Applicable laws and regulations

- Arbeitsschutzgesetz (ArbSchG) vom 7. August 1996 (BGBl. I S. 1246) - Occupational Safety and Health Act
http://www.gesetze-im-internet.de/englisch_arbschg/index.html
- Gesetz über Betriebsärzte, Sicherheitsingenieure und andere Fachkräfte für Arbeitssicherheit (ASiG) vom 12. Dezember 1973 (BGBl. I S. 1885) – "Occupational Safety Act"
<http://www.gesetze-im-internet.de/asig/>
- Das Siebte Buch Sozialgesetzbuch (SGB VII) – Gesetzliche Unfallversicherung – (Artikel 1 des Gesetzes vom 7. August 1996, BGBl. I S. 1254) - "Seventh Social Code Book - statutory accident insurance"
- 5 – Unfallverhütungsvorschriften - "Accident prevention regulations"
http://www.gesetze-im-internet.de/sgb_7/___15.html
- PSA-Benutzungsverordnung (PSA-BV) vom 4. Dezember 1996 (BGBl. I S. 1841) – Directive on personal equipment protection
<http://www.gesetze-im-internet.de/psa-bv/index.html>
- DGUV Regel 114-018 Juni 2009 "Regel Waldarbeiten" - "Rules on Forest Work"
http://www.arbeitssicherheit.de/media/pdfs/bgr_2114.pdf
- DGUV-Information 214-046 Mai 2014 "Sichere Waldarbeiten" - "Safe forest working"

http://www.arbeitssicherheit.de/media/pdfs/CCC_3426.pdf

- Unfallverhütungsvorschrift(VSG) – "Accident prevention regulations"

Allgemeine Vorschriften für Sicherheit und Gesundheitsschutz – General Regulations on Security and protection

https://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/01_vsg11.pdf

Forsten – Forsten - Forestry

https://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/17_vsg43.pdf

Gefahrstoffe – Gefahrstoffe - Hazardous substances

http://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/19_vsg45.pdf

1.11.2. Legal authority

- Employer's liability insurance coverage ("Berufsgenossenschaft")

1.11.3. Legally required documents or records

- Employment contract/agreement
- Social Security card

1.11.4. Sources of information

Government sources

- Research and monitoring on health and safety at work:
<http://www.baua.de/en/Homepage.html>
- Joint German Occupational Safety and Health Strategy:
<http://www.gda-portal.de/en/Homepage.html>
- German Health System:
<https://osha.europa.eu/about-eu-osha/national-focal-points/germany>
<http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/european-and-international-occupational-safety-and-health.html>
<http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/internal-occupational-safety-and-health-systems.html>
<http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/joint-german-occupational-safety-and-health-initiative.html>
- Guideline on occupational safety by the Baden-Württemberg forestry department:
http://forstbw.de/fileadmin/forstbw_mediathek/forstbw_praxis/arbeitssicherheit_auf_den_punkt/Arbeitssicherheit_2013.pdf

- Guidelines on occupational safety by the Bavarian Ministry of Food, Agriculture and Forest (Chapter 2):
<http://www.forstservice-bayern.de/fsb/service/downloads/holzeinschlag-und-holzverkauf.pdf>
- Information on SVLFG and DGUV
<http://www.svlfg.de/index.html>
<http://www.dguv.de/de/index.jsp>
- Social security for agriculture, forestry and horticulture <http://www.svlfg.de/>
- German statutory accident insurance
www.dguv.de/de/index.jsp

Non-Government sources

- - Information about "Unfallverhütungsvorschriften" ("Accident prevention regulations") in Germany.
 - SLVFG Unfallverhütungsvorschrift(UVV) – "Accident prevention regulations"
 - https://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/01_vsg11.pdf
 - https://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/17_vsg43.pdf
 - http://www.svlfg.de/30-praevention/prv03-gesetze-und-vorschriften/prv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz/19_vsg45.pdf
- Social security card:
<http://www.hessenfinder.de/portal/?SOURCE=PstListAZ&SEARCHLETTER=S&PSTID=8960026>
- Statistic 1: Statistics of accidents in German state forests, showed per federal state and summed up (Arbeitsunfälle = accidents by working; Wegeunfälle = accidents on roads; tödliche Unfälle = fatal accidents):
<http://www.kwf-online.org/mensch-und-arbeit/unfallstatistik/2013.html>
- Statistic 2: Statistics of all accidents in German state forests on a timeline from 2000 to 2015 showed per federal state and summed up:
<http://www.kwf-online.org/mensch-und-arbeit/unfallstatistik/unfallzeitreihen.html>
- Statistic 3: Statistics of all accidents in agriculture, forestry and horticulture in 2013 (p. 41) in communes and private forests and percentage of accidents in forestry ("Wald- und Forstarbeiten") (p. 45):
http://www.svlfg.de/30-praevention/prv04-informationsmaterial/praeventionsbericht_2013.pdf

1.11.5. Risk determination

Overview of Legal Requirements

Legal requirements for health and safety are regulated by the German Occupational Safety and Health Act (Arbeitsschutzgesetz, ArbSchG) and the Occupational Safety Act (Arbeitssicherheitsgesetz, ASiG).

The so-called PSA-Benutzungsverordnung is a detailed regulation relating to safety and health protection through use of personal protective equipment at work, based on European Union directive 89/656/EWG.

Binding health and safety regulations – particularly for people who work in forests and/or are employed by forest enterprises – is a matter for the Sozialversicherung für Landwirtschaft Forsten und Gartenbau (SVLFG, 'Social Insurance for Agriculture, Forestry and Horticulture program') or the German Statutory Accident Insurance scheme (Deutsche Gesetzliche Unfallversicherung, DGUV).

Every employee signing an employment contract at a private or public forest company automatically agrees to the Unfallverhütungsvorschrift (Accident Prevention Regulations) available through the SVLFG or the so-called Regel Waldarbeiten (Rules on Forest Work) and Sichere Waldarbeiten (Safe Forest Working) distributed by the DGUV.

There is no known instance of a private or municipal forest company that is not a member of the SVLFG. If this were the case, however, SVLFG would still pay in the event of an accident; however, the company would be required to pay SVLFG back afterwards.

Unfallverhütungsvorschrift Accident Prevention Regulations) and Regel Waldarbeiten (Rules on Forest Work) are based on laws and describe duties in terms of safety, health and working appropriately in forests. Employees working in a private or municipal forest are insured by SVLFG, whereas employees in a state forest are insured through DGUV. Both are legally binding due to Act §15 in the Seventh Social Code Book - Statutory Accident Insurance (Siebtes Buch Sozialgesetzbuch, SGB VII – Gesetzliche Unfallversicherung).

In addition to these, there are many guidelines for occupational safety published by public and private forest organizations. In some cases, these organizations demand additional commitments to safety conditions from their employees. This depends on what work has to be done (e.g. harvesting in steep areas).

Foresters in Germany receive mandatory training in accordance with safety procedures and accident prevention.

Description of Risk

If work-related accidents occur (while employees are either working in stands or on forest roads) and the accident leads to three or more days of illness, this has to be disclosed and documented with the employer's insurance association. State forest enterprises document such accidents themselves. The Social Insurance for Agriculture, Forestry and Horticulture scheme produces statistics for public municipal forests as well as private forests. Statistic 1 shows the rate of accidents in state forests, with an average of 85 accidents/year/1000 forest workers. The timeline (Statistic 2) shows that, over time, the number of accidents in state forests has decreased. In municipal and private forests in 2013 there were 86,773 working accidents in agriculture, forestry and horticulture. Of these, 6.8% (i.e. 5900), occurred in forestry (Statistic 3).

Risk Conclusion

Threshold 1 is met. 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.

For this indicator the area under assessment is determined to be 'low risk'.

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

N/A

1.12. Legal employment

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

1.12.1. Applicable laws and regulations

- Jugendarbeitsschutzgesetz (JArbSchG) vom 12. April 1976 (BGBl. I S. 965) – "Youth employment protection act"
<http://www.gesetze-im-internet.de/jarbschg/>
- Kinderarbeitsschutzverordnung (KindArbSchV) vom 23. Juni 1998 (BGBl. I S. 1508) – "Child Labor Protection Ordinance"
<http://www.gesetze-im-internet.de/kindarbschv/>
- Schwarzarbeitsbekämpfungsgesetz (SchwarzArbG) vom 23. Juli 2004 (BGBl. I S. 1842) - "Act against illegal employment"
http://www.gesetze-im-internet.de/schwarzarbg_2004/
- Arbeitsgenehmigungsverordnung (ArGV) vom 17. September 1998 (BGBl. I S. 2899) – "Regulation on Work Permits for Foreign Workers"
<http://www.gesetze-im-internet.de/argv/>
- Das Fünfte Buch Sozialgesetzbuch (SGB V) – Gesetzliche Krankenversicherung – (Artikel 1 des Gesetzes vom 20. Dezember 1988, BGBl. I S. 2477, 2482) – "Social Code Book V - Statutory Health Insurance"
http://www.gesetze-im-internet.de/sgb_5/
- Das Sechste Buch Sozialgesetzbuch (SGB VI) – Gesetzliche Rentenversicherung – in der Fassung der Bekanntmachung vom 19. Februar 2002 (BGBl. I S. 754, 1404, 3384) – "Social Code Book VI – Statutory Annuity Insurance"

http://www.gesetze-im-internet.de/sgb_6/

- Das Siebte Buch Sozialgesetzbuch (SGB VII) – Gesetzliche Unfallversicherung – (Artikel 1 des Gesetzes vom 7. August 1996, BGBl. I S. 1254) - "Seventh Social Code Book - statutory accident insurance"

http://www.gesetze-im-internet.de/sgb_7/

- Allgemeines Gleichbehandlungsgesetz (AGG) vom 14. August 2006 (BGBl. I S. 1897) – "General Equal Treatment Act"

<http://www.gesetze-im-internet.de/agg/index.html>

- Arbeitszeitgesetz (ArbZG) vom 6. Juni 1994 (BGBl. I S. 1170, 1171) – "Working Time Act"

<http://www.gesetze-im-internet.de/arbzig/index.html>

- Bundeselterngeld- und Elternzeitgesetz (BEEG) vom 5. Dezember 2006 (BGBl. I S. 2748) – "Federal Parental Benefit Act"

<https://dejure.org/gesetze/BEEG>

- Bundesurlaubsgesetz (BUrlG) vom 20. April 2013 (BGBl. I S. 868) - Federal Holiday Act

<http://www.gesetze-im-internet.de/burlg/index.html>

- Kündigungsschutzgesetz (KSchG) in der Fassung der Bekanntmachung vom 25. August 1969 (BGBl. I S. 1317) – "Employment Protection Act"

<http://www.gesetze-im-internet.de/kschg/index.html>

- Mutterschutzgesetz (MuSchG) in der Fassung der Bekanntmachung vom 20. Juni 2002 (BGBl. I S. 2318) – "Maternity Protection Act"

<http://www.gesetze-im-internet.de/muschg/index.html>

1.12.2. Legal authority

- Employer's liability insurance coverage ("Berufsgenossenschaft")
- Federal Customs Authority ("Bundeszollverwaltung")

1.12.3. Legally required documents or records

- Employment contract
- Social Security card

1.12.4. Sources of information

Non-Government sources

- Convention 87 on Freedom of Association and Protection of the Right to Organize, 1948
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232
- Convention 98 on the Right to Organize and Collective Bargaining, 1949
http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::no::P12100_Ilo_Code:C098

- Convention 29 on Forced Labor, 1930
http://www.ilo.ch/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029
- Convention 105 on Abolition of Forced Labor, 1957
http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105
- Convention 100 on Equal Remuneration, 1951
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100
- Convention 111 on Discrimination (Employment and Occupation), 1958
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111
- Convention 138 on Minimum Age for Admission to Employment, 1973
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
- Convention 182 on Worst Forms of Child Labor, 1999
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182
- Transparency international (Germany):
<https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- Transparency international:
<https://www.transparency.org/country/#DEU>
- World Bank, Governance Indicators for Germany:
<http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Haupt, Daniel: „Forestry unobtrusive“ (“Forstwirtschaft unauffällig.”) Published in forstpraxis.de, 25.09.2015.
<https://www.forstpraxis.de/forstwirtschaft-unauffaellig>
- „Fair Work Now, Campaign for IG-BAU main topic 2014, published in Forstliche Mitteilungen 06/2014.
https://www.igbau.de/Binaries/Binary27014/140526_fm1406_www.pdf
- „Many mini-jobbers are deprived of minimum wage“ (“Vielen Minijobber wird Mindestlohn vorenthalten.”) Published on the 31st of January 2017.
<http://www.spiegel.de/wirtschaft/soziales/mindestlohn-vielen-minijobbern-wird-mindestlohn-vorenthalten-a-1132258.html>

1.12.5. Risk determination

Overview of Legal Requirements

As mentioned in the overview Germany ranks high on the worldwide governance indicator with rule of law as well as above the Corruption Perception Index, which states the effectiveness of law enforcement.

Every person working in private or municipal forests is statutorily insured by SVLFG (Social Insurance for Agriculture, Forestry and Horticulture program); and employees working in a state forest are insured by the German Statutory Accident Insurance scheme (Deutsche Gesetzliche Unfallversicherung, DGUV).

See also 1.11 Health and safety.

There are no known conflicts relating to compulsory labor or child labor in Germany.

Germany signed the eight Fundamental ILO (International Labor Organization) Conventions (29, 87, 98, 105, 100, 111, 138, 182) which represent principal rules on labor law.

Further national laws covering minimum age, working hours and working conditions of children are based on two legal foundations, namely Kinderarbeitsschutzverordnung (KindArbSchV or Child Labor Protection Ordinance) and Jugendarbeitsschutzgesetz (JArbSchG) or Youth Employment Protection Act).

Requirements for foreign people working in Germany are covered by the Verordnung über die Arbeitsgenehmigung für ausländische Arbeitnehmer (Regulation on Work Permits for Foreign Workers).

Regulations relating to illegal employment are described in Schwarzarbeitsbekämpfungsgesetz – SchwarzArbG Act Against Illegal Employment).

Description of Risk

In public forests, illegal work is not an issue due to the legal framework and requirements. Contractors working in public forests are required to include details of legal employment in their terms and conditions. In private forests, there are no known cases of illegally employed employers or contractors. Risk can arise in cases where workers (especially overseas workers) are hired as temporary assistant forest workers, e.g. after wind catastrophes. Since this is illegal, random inspections are carried out by the employers' liability insurance association. There are no known significant cases of illegal employment in Germany in the forestry sector.

The existing associations for subcontractors in the forestry sector are very active to set up certifications for subcontractors to guarantee a standard for quality management including wages, e.g. DFSZ (<http://www.alko-cert.de/zertifizierungen/dfs/>) or RAL Certificate GZ 244 (<http://www.ral-ggw.de/index.php/wir-zertifizieren-betriebe-fuer/7-guetezeichen-holzernte-ral-gz-244-1>).

Additionally, if the workers are employed illegally, there is no insurance in the event of a work accident and, in addition, the penalty is high. These realities act as deterrents.

Since 2015 there exists a minimum wage, which is binding and is strictly controlled. No violations could have been detected for the forestry and timber sector so far, as workers are paid above the minimum wage. The bigger problem is disguised employment, which is harshly controlled. The Forest Worker Association (IG BAU) also discussed that topic at their labor union convention in 2014.

A new study of the Hands-Böckler-Stiftung (2017) comes to the result that almost half of the so-called "Minijobbers" haven't received the minimum wage in 2015, with no special reference to the forestry sector.

Legislation and control mechanisms are in place and are constantly adapted. Cases of misuse are published and lead to discussions, fines etc.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.12.6. Risk designation and specification

Low risk

1.12.7. Control measures and verifiers

N/A

THIRD PARTIES' RIGHTS

1.13 Customary rights

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

1.13.1. Applicable laws and regulations

- Deutsches Grundgesetz ("Basic Law for the Federal Republic of Germany")
http://www.gesetze-im-internet.de/englisch_gg/
- Bundesministerium für Ernährung und Landwirtschaft, "Bundeswaldgesetz vom 2. Mai 1975 (BGBl. I S. 1037), das zuletzt durch Artikel 413 der Verordnung vom 31. August 2015 (BGBl. I S. 1474) geändert worden ist". 2015. <http://www.gesetze-im-internet.de/bundesrecht/bwaldg/gesamt.pdf>.

1.13.2. Legal authority

Federal and local (forest) authorities

1.13.3. Legally required documents or records

In some cases, customary rights are registered via entries in the land register.

1.13.4. Sources of information

Government sources

- Deutsches Grundgesetz ("Basic Law for the Federal Republic of Germany")
http://www.gesetze-im-internet.de/englisch_gg/
- Bundesministerium für Ernährung und Landwirtschaft, "Bundeswaldgesetz vom 2. Mai 1975 (BGBl. I S. 1037), das zuletzt durch Artikel 413 der Verordnung vom 31. August 2015

(BGBl. I S. 1474) geändert worden ist". 2015. <http://www.gesetze-im-internet.de/bundesrecht/bwaldg/gesamt.pdf>.

Non-Government sources

- Definition of Customary Rights by the UN:
http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf
- ILO Dossier on Indigenous People (pp. 5 ff.):
http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120.pdf
- District administration Bodenseekreis: Information about entry rights, road safety obligation in the forest:
https://www.bodenseekreis.de/uploads/tx_organisationguidejw/betretensrecht_und_verkehrssicherungspflicht_im_wald.pdf
- „Rules for mushroom picking“. (“Diese Regeln gelten fürs Pilze sammeln.“) Published in the Frankfurter Rundschau on the 7th of September 2015.
<http://www.fr-online.de/recht/menge--verkauf-diese-regeln-gelten-fuers-pilze-sammeln,21157310,28502496.html>
- Definition of customary rights
<http://gewohnheitsrecht.net/>
- Landratsamt Bodenseekreis: Betretensrecht und Verkehrssicherungspflicht im Wald. Erläuterungen.
https://www.bodenseekreis.de/uploads/tx_organisationguidejw/betretensrecht_und_verkehrssicherungspflicht_im_wald.pdf

1.13.5. Risk determination

Overview of Legal Requirements

Customary rights in relation to indigenous and traditional people:

Based on United Nations and ILO definitions, no indigenous people exist in Germany. Also, there is no Act in the German Constitution concerning indigenous people; and there are no legal customary rights for use of forest products.

Customary rights in relation to citizens:

There are respected traditions; these, however, refer to a very limited local scale (e.g. traditional collecting of non-merchantable wood by local citizens). Some are entitled in the land register, but others exist in form of oral or unwritten agreements. Conflicts might arise, but they can be solved through legal recourse and are locally limited and not relevant on a landscape or the country level. So-called customary rights that might affect forested areas on larger scales such as using and entering forests for recreational purposes have been taken up to the legislative level and are protected in the National and Federal Forest Act as well as in the Nature Conservation Act. Besides that, recreational areas are designated in the forest function mapping (see HCV4). Collecting mushrooms and berries is allowed, but there are limits for private use (up to 2kg per day and person), for commercial purposes a permission is

necessary. Also the utilization of firewood is regulated; private users need to buy firewood from the forest owner. It is not allowed to hunt or fish without a license.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.13.6. Risk designation and specification

Low risk

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

- Law for Freedom of Information (Gesetz zur Regelung des Zugangs zu Informationen des Bundes (Informationsfreiheitsgesetz - IFG))
- "Informationsfreiheitsgesetz vom 5. September 2005 (BGBl. I S. 2722), das durch Artikel 2 Absatz 6 des Gesetzes vom 7. August 2013 (BGBl. I S. 3154) geändert worden ist"
<http://www.gesetze-im-internet.de/ifg/index.html> last accessed on 15.02.2017
- Law for the Improvement of Public Participation and Standardization of Planning Procedures (Gesetz zur Verbesserung der Öffentlichkeitsbeteiligung und Vereinheitlichung von Planfeststellungsverfahren" (PIVereinHG))
<http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2012/02/planfeststellung.htm>
|
<http://www.gesetze-im-internet.de/ifg/index.html>, Press Release 29.02.2012. last accessed on 15.02.2017
https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F*%5B%40attr_id%3D%27bgbl113s1388.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl113s1388.pdf%27%5D_1487181917865 last accessed on 15.02.2017
- "Verwaltungsverfahrensgesetz in der Fassung der Bekanntmachung vom 23. Januar 2003 (BGBl. I S. 102), das zuletzt durch Artikel 20 des Gesetzes vom 18. Juli 2016 (BGBl. I S. 1679) geändert worden ist". Last accessed on 15.02.2017.

1.14.2. Legal authority

Federal Ministry of the Interior (Bundesministerium des Inneren (BMI))

1.14.3. Legally required documents or records

N&A

1.14.4. Sources of information

Governmental sources:

- Law for Freedom of Information (Gesetz zur Regelung des Zugangs zu Informationen des Bundes
- (Informationsfreiheitsgesetz - IFG)) "Informationsfreiheitsgesetz vom 5. September 2005 (BGBl. I S. 2722), das durch Artikel 2 Absatz 6 des Gesetzes vom 7. August 2013 (BGBl. I S. 3154) geändert worden ist"
- Law for the Improvement of Public Participation and Standardization of Planning Procedures (Gesetz zur Verbesserung der Öffentlichkeitsbeteiligung und Vereinheitlichung von Planfeststellungsverfahren" (PIVereinHG))
- "Verwaltungsverfahrensgesetz in der Fassung der Bekanntmachung vom 23. Januar 2003 (BGBl. I S. 102), das zuletzt durch Artikel 20 des Gesetzes vom 18. Juli 2016 (BGBl. I S. 1679) geändert worden ist".

1.14.5. Risk determination

Overview of Legal Requirements

Based on United Nations and ILO definitions, no indigenous people exist in Germany. Also, there is no Act in the German Constitution concerning indigenous people.

Germany has similar concepts to the FPIC approach in its legislation, which are described in the following three important Acts:

In the Verwaltungsverfahrensgesetz (VwVfG) – the central Act that defines administrative procedures for federal authorities in Germany -, the 2016 approved new § 25 (3) is to introduce a general rule for an "early public participation" in large projects with a corresponding so-called "obligation to act" of the administration.

The broad and early participation of the public comprises the

- Early notification of the general objectives of the project, the means of implementation and the likely impact,
- The opportunity to make public statements,
- Discussion as well as
- Communication of the results to the competent authority.
- These acts allow citizen to receive information, participate in consultation and make statements.

In 2013 the Federal Cabinet has adopted a draft Law for the Improvement of Public Participation and Standardization of Planning Procedures (PIVereinHG). With this Act, the Federal Government ensures that greater public participation is achieved in large projects. The law also serves to harmonize special regulations from different technical laws. Overall, plan approval procedures are in principle simplified and accelerated.

The Law for Freedom of Information (IFG) provides a precondition for access to official information of federal authorities. The entitlement to information or access to the files in the authority: Everyone is entitled to claim (Jedermannsrecht); There is no need to be concerned about the matter, either legally or actually.

The information claim can be restricted, in particular by public and private interests of §§ 3 to 6 IFG (exceptions possible).

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

Government sources

- Definition of UN:
http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf
- ILO Dossier on Indigenous People (pp. 5 ff.):
http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120.pdf
- German Constitution (engl.):
http://www.gesetze-im-internet.de/englisch_gg/

1.15.5. Risk determination

Overview of Legal Requirements

Based on United Nations and ILO definitions, no indigenous people exist in Germany. Also, there is no Act in the German Constitution concerning indigenous people. Therefore, this indicator is "N/A".

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

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

1.16.1. Applicable laws and regulations

N/A

1.16.2. Legal authority

N/A

1.16.3. Legally required documents or records

- Bills
- Purchase agreements

1.16.4. Sources of information

- Gesetz über gesetzliche Handelsklassen für Rohholz(Forst-HKS)" - "Act on legal commercial categories for wood" – disestablished in 2009
http://forstbw.de/fileadmin/forstbw_pdf/gesetze_verordnungen/hks.pdf
- Framework Agreement for Timber Trade ("Rahmenvereinbarung für den Rohholzhandel in Deutschland")
http://www.fva-bw.de/termine/veranstaltungen/14vorort_rvr.pdf
- Timber classification in Germany:
<http://www.wald-prinz.de/holz-sortierung-holzsortiment/211>

1.16.5. Risk determination

Overview of Legal Requirements

Germany has no Acts or laws relating to the classification of timber. However, there are conventions used as best practice to classify timber. While they are not specifically laws, the following conventions are used in German forestry:

1. Handelsklassensortierung HKS (commercial categories). HKS is a guideline that defines measurements for timber classification, including:

- Sorting by quality grades (A [best, based on various indicators], B, C and D [worst, based on various indicators])

- Sorting by diameter L0 (< 10 cm) to L6 (60 cm and above)
- Sorting by purpose (pulpwood, wood for railway sleepers, chipboard etc.)

2. In some federal states: Heilbronner Sortierung, which defines timber by dimension and diameter. HKS in particular is in many federal states further defined and complemented with regional conditions. In addition, HKS was officially abolished in 2008. Nevertheless, due to a lack of alternatives, HKS and the federal state additions are still applied.

To solve the problem described above, a new convention was developed in 2009, called the German Framework Agreement for Timber Trade (Rahmenvereinbarung für den Rohholzhandel in Deutschland or RVR).

RVR as passed in December 2014 and is at the moment in an implementation phase. All major federal forest organizations have already implemented RVR or are committed to doing so.

The RVR is voluntary in nature; it is based on the HKS and the stakeholder process.

HKS and RVR together form the classification system for the German grade qualification, so that mis-sorting to

tax reductions can be avoided.

Taking this fact into account, the indicator not applicable to the area under investigation.

1.16.6. Risk designation and specification

N/A

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

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

1.17.1. Applicable laws and regulations

- Handelsgesetzbuch (HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code"
 - Article 2. http://www.gesetze-im-internet.de/hgb/_2.html
 - Article 3. http://www.gesetze-im-internet.de/hgb/_3.html
 - Article 341 q,r,t,v,y. <http://www.gesetze-im-internet.de/hgb/BJNR002190897.html>

1.17.2. Legal authority

- Federal Ministry of Finance

1.17.3. Legally required documents or records

- Bills
- Purchase agreements

1.17.4. Sources of information

Non-Government sources

- Occasional report about wood thefts and establishing "wood transport certificates"
<http://www.main-echo.de/regional/kreis-main-spessart/art11869,2468295>, last accessed on 14.02.2017
- Wood thefts in Brandenburg's forests declining; Potsdam – Wood thefts in the forests of Brandenburg have decreased. (Holzdiebstähle in Brandenburgs Wäldern rückläufig ; Potsdam - Die Holzdiebstähle in den Wäldern Brandenburgs sind zurückgegangen.)
http://m.proplanta.de/Agrar-Nachrichten/Agrarwirtschaft/Holz-diebstaehle-in-Brandenburgs-Waeldern-ruecklaeufig_article1492525021.html last accessed on 08.05.2017

1.17.5. Risk determination

Overview of Legal Requirements

Trading within Germany is regulated as described in the Handelsgesetzbuch or HGB (Commercial Code), which is also binding for forestry companies (HGB §§2, 3). Forestry companies must follow the trading laws described in the Commercial Code. A special case exists for companies that harvest timber in primary forests (HGB § 341), but this has no practical relevance in Germany.

Description of Risk

There are occasional reports on timber thefts. These are singular cases, there are no statistics on timber thefts in Germany (no google results and statistics). The interviewed experts stated that timber theft is not a problem. There are no other legal requirements relating to transport of wood within Germany. As mentioned in the overview Germany ranks high on the worldwide governance indicator with rule of law as well as above the Corruption Perception Index, which states the effectiveness of law enforcement.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

N/A

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. 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

- Steuerhinterziehungsbekämpfungsgesetz (StHBG) Gesetz vom 29.07.2009 (BGBl. I S. 2302) – "Tax Evasion Act"
<http://www.buzer.de/gesetz/8930/index.htm>
- Abgabenordnung (AO) in der Fassung der Bekanntmachung vom 1. Oktober 2002 (BGBl. I S. 3866; 2003 I S. 61) - "The Fiscal Code of Germany":
- Article 90 "Obligation of participants to cooperate"
http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0559

1.18.2. Legal authority

- Federal Ministry of Finance

1.18.3. Legally required documents or records

N/A

1.18.4. Sources of information

Government sources

- Transfer Pricing Country Profile by OECD (regulations regarding transfer pricing in Germany)
- http://www.oecd.org/ctp/transfer-pricing/Germany_TPCountryProfile_Nov2012.pdf
- Common Reporting Standard (CRS) in Germany:
- <http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2015/2015-07-15-fight-against-tax-evasion.html>
- <http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>
- Signatories of the CRS:
- <http://www.oecd.org/tax/exchange-of-tax-information/mcaa-signatories.pdf>
- Tax Information Exchange Agreements (TIEAs): Germany
- <http://www.oecd.org/tax/transparency/taxinformationexchangeagreementstieasgermany.htm>

- Germany's exchange Information relationships:
- <http://www.eoi-tax.org/jurisdictions/DE#agreements>

Non-Government sources

- Global Transfer Pricing Review
<https://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/global-transfer-pricing-review/Documents/germany.pdf>
- No official known tax havens:
<http://www.handelsblatt.com/politik/deutschland/wirkungsloses-steinbrueck-gesetz-offiziell-kennt-deutschland-keine-steueroasen/8268080.html>
<http://www.steuerzahler.de/Steuerhinterziehungsbekaempfungsgesetz/20041c23429i1p789/index.html>
- Transparency international (Germany):
<https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- Transparency international:
<https://www.transparency.org/country/#DEU>
- World Bank, Governance Indicators for Germany:
<http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.18.5. Risk determination

Overview of Legal Requirements

The Tax Evasion Act (Steuerhinterziehungsbekämpfungsgesetz or StHBG) was passed in Germany in 2009 to address the occurrence of offshore trading.

This law allows the federal government to put nations on a black list and establish obligations or constraints in relation to these nations. Thus far Germany has not defined any official tax havens nor put any nations on the black list; and the Act is therefore considered by some to be ineffectual.

On 15 July 2015, Germany and over 50 nations adopted the OECD's so-called Common Reporting Standard or CRS. This will enable Germany, from 2017 onwards, to automatically exchange tax-related financial accounting information with other EU member states and non-EU countries.

The international tax standard, developed by the OECD and supported by the UN and the G20, provides for full exchange of information on request in relation to all tax matters – without regard to domestic tax interest requirements or bank secrecy for tax purposes. Currently all 30 OECD member countries, including Germany, have endorsed and agreed to implement the international tax standard. Furthermore, all offshore financial centres accept the standard.

Germany has exchange of information relationships with 116 jurisdictions through 98 Double Taxation Conventions and 15 Tax Information Exchange Agreements including with some of the best-known tax havens. (See <http://www.oecd.org/tax/transparency/taxinformationexchangeagreementstieasgermany.htm>, <http://www.eoi-tax.org/jurisdictions/DE#agreements>.) In the context of the forestry sector in

Germany, no indications of any significant violations are present regarding offshore trading and transfer pricing and thus the indicator is considered Low Risk.

Description of Risk

Due to the above situation, measurements have been established to ensure that offshore trading is avoided.

The corruption level in Germany is considered low; refer to the Transparency International Corruption Perceptions Index of 79 (higher than the threshold of 50).

Germany ranks high on the worldwide governance indicator with 'rule of law' being 1.85 and control of corruption at 1.83 on a scale of -2.5 to +2.5. This is one of the highest scores in the world.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Import
 - Commissions Implementing Regulation (EU) No 498/2012 of 12 June 2012 on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:152:0028:0037:EN:PDF>
 - European Timber Regulation (EUTR)
http://ec.europa.eu/environment/forests/timber_regulation.htm
- Forstvermehrungsgutgesetz vom 22. Mai 2002 (BGBl. I S. 1658), last change on 31 August 2015 (BGBl. I S. 1474) by Article 414
http://www.gesetze-im-internet.de/fovgg/___15.html

1.19.2. Legal authority

- Federal Customs Authority ("Bundeszollverwaltung")
http://www.zoll.de/DE/Fachthemen/Aussenwirtschaft-Bargeldverkehr/Wareneinfuhr/wareneinfuhr_node.html;
http://www.zoll.de/DE/Unternehmen/Warenverkehr/Einfuhr-aus-einem-Nicht-EU-Staat/Zoll-und-Steuern/Normalfall-der-Verzollung/normalfall-der-verzollung_node.html
last accessed on 30th of January 2017.

1.19.3. Legally required documents or records

- Customs declaration

1.19.4. Sources of information

Government sources

- Information about Customs regulations on wood
http://www.rhein-neckar.ihk24.de/international/export/zoll/Zoll_Kontrollen_bei_der_Einfuhr_von_Holz_und_Holzerzeugnissen/940846
- German Customs Directorate:
http://www.zoll.de/DE/Unternehmen/unternehmen_node.html; last visited on 02.02.2017.
http://www.zoll.de/DE/Fachthemen/Aussenwirtschaft-Bargeldverkehr/Wareneinfuhr/wareneinfuhr_node.html;
http://www.zoll.de/DE/Unternehmen/Warenverkehr/Einfuhr-aus-einem-Nicht-EU-Staat/Zoll-und-Steuern/Normalfall-der-Verzollung/normalfall-der-verzollung_node.html;
last visited on 30.01.2017
- Reply of the Federal Government to the interpellation from the representatives Steffi Lemke, Annalena Baerbock, Matthias Gastel, further representatives and the parliamentary group BÜNDNIS 90/DIE GRÜNEN – printed matter 18/9288 – „Controls and false declaration in timber trading.“ German Federal Parliament, 18. Election period, 11.08.2016 (Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Steffi Lemke, Annalena Baerbock, Matthias Gastel, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN – Drucksache 18/9288 -: "Kontrollen und Falschdeklarationen im Holzhandel.", Deutscher Bundestag, 18. Wahlperiode, 11.08.2016
<http://dip21.bundestag.de/dip21/btd/18/092/1809288.pdf>

1.19.5. Risk determination

Overview of Legal Requirements

Custom regulations and specifications are in place and enforced.

As the General Custom Authority states imports of goods from third countries to the EU are, in principle, permitted without restrictions. Deviating from this principle, there are restrictions on certain goods resulting from international regulations and agreements, provisions of the EU and national regulations.

The customs directorate states on its website:

"[...]Typical means of restricting foreign trade are authorizations and monitoring measures which require the submission of specific accompanying documents.[...]

Imports of goods from a third country Customs should be paid. The level of the third country duty depends on which commodity code (TARIC code or code number) is associated with a product. [...]

Central foreign-trade documents for the import of goods are the certificate of origin and the import permit.

For the application of trade policy measures, the import of a product may require the submission of a certificate of conformity, a waiver, an import declaration or a surveillance documents [...]

Detailed requirements for certain products, the country of origin are published. Traders need to follow the procedures; otherwise they have to face penalties in form of fines or even trials.

For some goods embargos are in place.

Timber and timber products that are placed on the European market for the first time need to comply with the EU Timber Regulation, which is enforced in Germany and other European Countries since 2013 (see also indicator 1.21).

Custom authorities are situated at every airport and harbor.

Description of Risk

As mentioned in the overview Germany ranks high on the worldwide governance indicator with 'rule of law' being 1.85 and control of corruption at 1.83 on a scale of -2.5 to +2.5. Germany has a Corruption Perceptions Index 2014 of 79 (above the threshold of 50) and is ranked worldwide as 12th in CPI ranking.

In Transparency International´s Bribe Payers Index Report from 2011. Germany is on rank 4, with a score of 8,6 (score of 10 corresponds with the view that companies from that country never bribe abroad). Companies from these countries are seen as less likely to engage in bribery than the other countries ranked, but there is still room for improvement.

For the importation of species protected by the Washington Convention on Species Protection, an application for authorization must be submitted prior to import or export.

Risk Conclusion

violations that would qualify for specific risk. Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

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

1.20.1. Applicable laws and regulations

- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31997R0338>
- Bundesartenschutzverordnung (BArtSchV) vom 16. Februar 2005 (BGBl. I S. 258, 896) – "Federal Species Protection Ordinance"
http://www.gesetze-im-internet.de/bartschv_2005/index.htm

1.20.2. Legal authority

- Federal Agency for Nature Conservation ("Bundesamt für Naturschutz")

1.20.3. Legally required documents or records

- Import permit of wood from tree species in appendices A and B of the Council Regulation (EC) No 338/97 of 9 December 1996
- Document showing a notification of import of wood from tree species in appendix C of the Council Regulation (EC) No 338/97 of 9 December 1996

1.20.4. Sources of information

Non-Government sources

- Checklist of CITES Species in Germany
http://checklist.cites.org/#/en/search/country_ids%5B%5D=23&output_layout=alphabetical&level_of_listing=0&show_synonyms=1&show_author=0&show_english=1&show_spanish=1&show_french=1&scientific_name=plantae&page=1&per_page=20

1.20.5. Risk determination

Overview of Legal Requirements

Export

No woody species produced in Germany are included on the CITES lists and the risk is therefore considered Low.

Import

Importing CITES species is only possible with permission (see also 1.19) and due to the good rank on the CPI the risk is Low.

Description of Risk

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

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

- Holzhandels-Sicherungs-Gesetz (HolzSiG) vom 11. Juli 2011 (BGBl. I S. 1345) - "Timbertrading security act"
<http://www.gesetze-im-internet.de/holzsig/>
- Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. Text with EEA relevance
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010R0995>
- Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organizations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0607>

1.21.2. Legal authority

- Federal Office for Agriculture and Food (Bundesanstalt für Landwirtschaft und Ernährung)

1.21.3. Legally required documents or records

- Operators placing timber or timber products on the EU market
- Documents required to fulfil the obligation for operators to exercise a due diligence system according to article 4.2 and 6 of the Regulation (EU) No 995/2010
- Documentation on information concerning the operator's supply, according to article 3, Commission Implementing Regulation (EU) No 607/2012

- Register of information concerning the operator's supply as provided for in Article 6.1 a) of Regulation (EU) No 995/2010 and documentation of application of risk mitigation procedures

1.21.4. Sources of information

Government sources

- Overview of EUTR:
http://ec.europa.eu/environment/forests/timber_regulation.htm
- Schematic representation of the Due Diligence System in Germany:
http://www.ble.de/SharedDocs/Downloads/02_Kontrolle/06_HandelMitHolz/a_dds_and_its_main_components.pdf?__blob=publicationFile
- Trading legally harvested timber (in German):
http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/HandelMitHolz_node.html
- Information on EUTR implementation in Germany:
http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/EU_Holzhandelsverordnung/EU-Holzhandelsverordnung_node.html
http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/Pruefungsfeststellungen.html?nn=4717664

Non-Government sources

- Study on the implementation and enforcement of EUTR in Germany by WWF Germany
http://barometer.wwf.org.uk/what_we_do/government_barometer/scores_by_country/country_scores.cfm?country=Germany
- EUWID: WWF publishes current Government Barometer. Press release 12.08.2014,
<http://www.euwid-holz.de/news/handel/einzelansicht/Artikel/wwf-veroeffentlicht-aktualisiertes-government-barometer.html>
- Reply of the Federal Government to the interpellation from the representatives Steffi Lemke, Annalena Baerbock, Matthias Gastel, further representatives and the parliamentary group BÜNDNIS 90/DIE GRÜNEN – printed matter 18/9288 – „Controls and false declaration in timber trading.“ German Federal Parliament, 18. Election period, 11.08.2016
- (Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Steffi Lemke, Annalena Baerbock, Matthias Gastel, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN – Drucksache 18/9288 -: "Kontrollen und Falschdeklarationen im Holzhandel.", Deutscher Bundestag, 18. Wahlperiode, 11.08.2016)
<http://dip21.bundestag.de/dip21/btd/18/092/1809288.pdf>

1.21.5. Risk determination

Overview of Legal Requirements

The European Union directive No. 995/2010 (EUTR) was transposed into German Law through the Timber Trading Security Act (Holzhandels-Sicherungs-Gesetz or HolzSiG) in 2011, and was reviewed in 2013.

The authority for enforcing the law is the Federal Office for Agriculture and Food (BLE).

Annually about 120 inspections are undertaken by the authorized institution (BLE). 370 inspections have already taken place since the implementation of the EU TR in Germany.

Reports about inspections can be found here:

http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/Pruefungsfeststellungen.html?nn=4717664

WWF Germany rates Germany as "a consistently high performer since 2007" in implementation of the EUTR. According to the updated Government Barometer by WWF Europe Germany ranks on the third place with respect to the national implementation of the EUTR, VPAs and FLEGT as well as other indicators (EUWID. (Euwid 2014).

However, many experts believe that the complicated and challenging pre-conditions mean prosecution may never happen in practice. Furthermore, some NGOs (including WWF Germany) believe that the penalties are not enough to be an effective deterrent. The criticism focuses on forest products entering the German market, but not on forest products originating from Germany.

Although there are a lot of efforts to implement the EUTR and DDS completely, there is still potential in Germany due to the implementation of the EUTR has not been fully completed yet and establishing measures to avoid and mitigate any infringement of the regulation has not been finished yet.

More and more companies are getting certified. A certificate also requires a functioning DDS system. The control of the independent certification bodies further improves these systems.

Description of Risk

However, since low risk has been found in CW Categories 1.1-1.20, it is concluded that the potential lack of enforcement will be limited both in impact and in scale. As a consequence, the risk for this indicator for the area under assessment has been concluded to be 'low risk'.

The Timber Trading Security Act (Holzhandels-Sicherungsgesetz) is sufficiently enforced to conclude.

Risk Conclusion

Threshold 1 is met. 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. For this indicator the area under assessment is determined to be 'low risk'.

1.21.6. Risk designation and specification

Low

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Germany** 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 GERMANY						
Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Public Forest	National	Production forest	Federal Republic	Strategic planning every ten years, annual planning	No harvesting permit required	Production forest
Private forest	National	Production forest	County/Church/Commune	Strategic planning every ten years if the forest is of a minimum size (stipulated by each federal state, mostly at least 30 ha). Annually there are small assessments for private forests.	No harvesting permit required	Production forest



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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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