

Timber Legality Risk Assessment Belgium

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

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B. Overview of legality risks

Timber Risk Score: 100 / 100 in 2017

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

- Low risk for 17 sub-categories.
- No legal requirements for 4 sub-categories.

Timber source types and risks

There are eleven timber source types found in Belgium. 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.

Private plantations in Flanders larger than 5ha and situated in the Flemish Ecological Network	A forest management plan is required. No separate harvesting permit is needed if the forest exploitation is included in a management plan that is accepted by the forest administration.
Private plantations in Flanders smaller than 5 hectares and situated in the Flemish Ecological Network	Harvesting requires a management plan according to the criteria for sustainable forest management or a harvesting permit. No separate harvesting permit needed, if the harvest is included in a management plan that is accepted by the forest administration.
Private plantations in Flanders larger than 5 hectares and situated outside the Flemish Ecological Network	Harvest may be conducted under a management plan (optional, not mandatory), or a harvesting permit.
Private plantations in Wallonia in the Natura 2000 network	Natura 2000 management plan required for harvest.
Private plantations in Wallonia outside the Natura 2000 network	Harvest requires authorization from the land owner, but no management plan or harvesting permit is needed.

Mixed forest in Flanders	Public forests (forests owned by the Flemish Region, municipalities, provinces, etc.). An elaborate forest management plan, based on the criteria for sustainable forest management and/or the management vision for public forests is required for harvest.
Mixed forest in Wallonia in the Natura 2000 network	Public forests ('forêts domaniales', forests owned by municipalities, provinces, ...) in the Natura 2000 network. Harvested in accordance with the 'Arrêté du Gouvernement wallon' of 19 may 2011, with the harvesting permit, and with the specific terms and conditions for harvesting operations ('Cahier des charges'). Natura 2000 management plan required for harvest.
Mixed forest in Wallonia outside the Natura 2000 network	Public forests ('forêts domaniales', forests owned by municipalities, provinces, ...) contiguously larger than 20 hectares, outside the Natura 2000 network. Forests may be owned by the Belgian state, the Walloon Region, the provinces, municipalities or other public institutions, except military areas. The forests owned by public owners, except military areas, are managed by the forest and nature administration. Forest management plans and harvesting permits are required.
Natural forest in Flanders	Publicly owned forest reserves Forest reserves / nature reserves (with forest cover). Management plan needed for harvest. Note: In principle, harvesting in 'integral forest reserves' is excluded
Natural forest in Wallonia	Publicly owned Forest reserves and nature reserves (with forest cover) in Wallonia. Natura 2000 management plan required for harvest.
Unspecified forest	Forests converted to non-forest land use (e.g. for housing or industry) Note: In principle, harvesting in 'integral forest reserves' is excluded

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

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	Low
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	N/A
	1.15 Indigenous/traditional people's rights	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Low
	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 Belgium

Belgium has a forest cover of about 700.000 hectares or 22% of the total surface area. Belgium is a federal country with three regions (Flanders, Brussels-Capital Region, and Wallonia) that have their own forest-related legislation and administration, while some matters (e.g. taxation, customs, etc.) are arranged at the federal ('Belgian') level.

About 75% of Belgian forests are in the Walloon (French-speaking) Region, the remaining forests are mainly in the Flemish (Dutch-speaking) Region. The forest area in the Brussels-Capital Region is only 0.25% of the total forest area in Belgium, is all public forest and currently entirely FSC certified. Over half of Belgium's forests are privately owned – by individuals, businesses and communities – while 44% are owned by the state (FAO 2010).

Ownership distribution in the regions:

Flanders: about 70% private forests and about 30% public forests.

Wallonia: about 52% private forests and about 48% public forests.

None of the country's primary forests remain, and 58% of existing forest cover comprises forest plantations. Forests owned by private persons are mainly plantations (predominantly poplar or pine in Flanders, and spruce or other conifers in Wallonia). Public forests, as well as forests owned by nature conservation organizations, are rather mixed forests and generally have a higher share of broadleaved tree species (oak, beech, etc.).

Forest management in Flanders:

Timber harvesting is regulated by the Forest Decree of 13 June 1990. There are three levels of forest management:

- 1) Basic level, according to the Forest Decree;
- 2) Level of the criteria for sustainable forest management that shall be applied in public forests and in private forests larger than 5 hectares situated in the Flemish Ecological Network – these criteria can also be applied elsewhere on a voluntary basis;
- 3) Level of the management vision ('beheervisie') for public forests, based on the Pro Silva 'close to nature' management principles - note that the management vision has no legally binding status, but is applied in the forests owned by the Flemish government (13% of the forest area) and is recommended (encouraged) in all other public forests (e.g. for forests owned by municipalities, provinces, etc.- 17% of the forest area).

All public forests (about 50.000 hectares) and about 30.000 hectares of private forests in Flanders are covered by management plans. Terms and conditions for harvesting in the forest apply. These conditions are included in the Forest Decree regulations for recognition of companies harvesting in public forest ('Erkenningsregeling exploitanten'). This regulation is also applied by some forest owner groups ('bosgroepen'). All companies harvesting more than 50 m³ per year need an official recognition by the forest administration, which includes requirements on training, safety at work, legal employment, payment of taxes, etc.

A harvesting permit is required, unless the harvesting operations are included in a management plan approved by the forest and nature administration. Given the low forest

cover in Flanders, the Flemish government has strict regulations for deforestation (conversion to non-forest land use).

Three principles apply:

1. Deforestation is prohibited, except in cases described in the Forest Decree.
2. If deforestation is not prohibited, an urbanism permit is required.
3. An urbanism permit for deforestation or an allotment permit for forested land can only be granted if approved compensation measures are in place.

Forest management in Wallonia:

The permission of the forest owner is required for all harvesting operations. A harvesting permit is required for all public forests. All public forests (200.000+ hectares) contiguously larger than 20 hectares have a management plan (mandatory). Management plans are not required (optional) for small private forests. About 30.000 hectares of private, PEFC certified forests in Wallonia are covered by management plans.

For the whole of Belgium, the area of forests covered by a management plan amounts to about 360.000 hectares. The increase in the area of certified forests means that the share of forests with a management plan is increasing. In 2011, about 287.000 hectares of forest were PEFC certified (50% of the forest area in Wallonia, nearly all public forests and 11% of the private forests). In 2014, about 21000 hectares of forest were FSC certified (in Flanders and Brussels).

Forests included in the Natura 2000 network cover 209.000 hectares (total for the three regions). In the Natura 2000 network, forest management activities are subject to specific conditions to protect species and habitats. The economic and social functions of Natura 2000 forests are not excluded, but the priority is the ecological function. Note that in this framework important changes to legislation are underway in Flanders. Forest reserves have been designated in all three regions, and are included in the Natura 2000 network.

In Wallonia, about 100.000 hectares of public forests have as primary function the protection of vulnerable soils (e.g. on slopes) and water bodies. These forests are subject to particular protection measures.

The remaining surface area (about 400.000 ha in Belgium) is 'multifunctional' forest according to the forest legislation.

The surface area of 'permanent forest' amounts to about 600.000 hectares. This entails forests which lie in zones that are designated as forests in the regional spatial plans. These forests cannot be converted to non-forest land use, except for particular cases of 'public interest' that are subject to strict procedures. The corruption level in Belgium is considered low, refer to the Transparency International corruption perception index of 75 (higher than the threshold of 50), so there is not much risk for fraud, e.g. in procedures such as the approval of forest management plans or the issuance of harvesting permits or urbanism permits.

The (regional) competent authorities are the Agency for Nature and Forests (Flanders) and the Department of Nature and Forests (Wallonia). The forest and nature administrations are involved in the approval of management plans, granting of harvesting permits, sales of wood from public forests, and field verification of harvesting operations.

Infringements, observed during inspection of the site of forest exploitation, during and/or shortly after the harvesting operations, are recorded as complaints or in official reports.

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 Belgium.

Following sources has been used; "World Bank Worldwide Governance Indicator" and Transparency International Corruption Perception Index, and referred to under "sources of Information" for each applicable sub-category.

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

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

Belgium:

- Civil Law (Burgerlijk Wetboek/Code Civil) 21.03.1804, Book II, Title IV, Articles 516-710 and Book III, Title VIII, Chapter II, Section 3.
- Rural Code (Veldwetboek/Code Rural) 1886, Article 29.
- Forest Code (Boswetboek / Code Forestier) 1854, Title XI.
- Code on Criminal Procedure (Wetboek van Strafvordering / Code d'instruction criminelle) 17.11.1808 and more recent amendments (articles 16-21, partly abrogated).
- Income Tax Code (Wetboek van de Inkomstenbelastingen' / 'Code des impôts sur les revenus) 1992, including Title IX (Kadastraal inkomen van onroerende goederen' / 'Le revenu cadastral des biens immobiliers).

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990, Chapter IX, Articles 10 and 51.
- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990), 08.11.2002.

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008.
- Code of Registration, Mortgage and Registry Rights in Wallonia (Code des droits d'enregistrement, d'hypothèque et de greffe,) (N.Y), Title I.
- Droit d'enregistrement (N.Y), Chapter IV, Section I.

1.1.2. Legal authority

Belgium:

- The Cadastre (land register), an administration which is part of the General Administration Heritage Documentation, part of the Federal Public Service of Finance (database of property)
- The notary (documents/deeds and registration of property)
- Tax office of the federal Ministry (FOD / SPF) of Finance (for tax registration)
- Registry of the Court of Commerce ('Griffie van de Rechtbank van Koophandel' / 'Greffes du tribunal de commerce')
- Enterprise office ('Ondernemingsloket' / 'Guichet d'entreprise')

Flanders:

- Agency for Nature and Forests (recognition of harvesting companies and inspections in the field)

Wallonia:

- Département de la Nature et des Forêts (inspections in the field)"

1.1.3. Legally required documents or records

Belgium:

- Cadastre plan of lots/allotments
- Property certificate with survey plan (attachment to the notarial document/deed)
- Business registration documents: foundation document ('Oprichtingsakte' / 'document d'établissement') and registration thereof at the registration office of the Ministry of Finance; and enterprise identification number ('ondernemingsnummer' / 'numéro d'entreprise')

Flanders:

- Recognition for harvesting companies, as required under the 'Erkenningsregeling exploitanten', for companies that harvest wood from (most) public forests and for private forest owners united in 'forest groups' ('Bosgroepen') that choose to work only with recognized harvesting companies.
- Harvesting permit or approved management plan, and urbanism permit in particular cases (refer to 1.4)

Wallonia:

- In private forests: authorization from the land owner to harvest wood
- In public forests: harvesting permit ('permis d'exploiter')
- An urbanism permit is required for all harvesting activities in 'agricultural zones' or 'green zones' as defined in the spatial plan ('plan de secteur').

1.1.4. Sources of information

Government sources

Flanders:

- Financien.belgium.be, (N.Y). *Patrimoniumdocumentatie*. [online] Available at: http://financien.belgium.be/nl/over_de_fod/structuur_en_diensten/algemene_administraties/patrimoniumdocumentatie/ (in Dutch)
- Belgium.be, (2017). *Justice*. [online] Available at: <http://www.belgium.be/en/justice/>
- Natuurenbos.be, (2017). *Toegankelijkheid*. [online] Available at: <http://www.natuurenbos.be/nl-BE/Natuurbeleid/Toegankelijkheid.aspx>
- Belgium.be, (N.Y). 1990 – Bosdecreet. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1990061332

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>

Non-Government sources

- Burgerlijkwetboek.be, (N.Y). [online] Available at: <http://www.burgerlijkwetboek.be/> (in Dutch)
- Droitbelge.be, (2017). *Codes*. [online] Available at: <http://www.droitbelge.be/codes.asp> (in French)
- Globalwitness.org, (2017). *Homepage*. [online] Available at: <http://www.globalwitness.org>
- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.1.5. Risk determination

Overview of legal requirements

Companies harvesting wood in the forest require valid tax registration. The business register shall confirm valid business licenses to operate within the jurisdiction. In Flanders, all companies harvesting more than 50 m³ per year need an official recognition by the forest administration ('Erkenningsregeling exploitanten'). In the procedure for approval of forest management plans, there is stakeholder consultation. The regional competent authorities (forest and nature administrations) carry out inspections of harvesting sites to confirm that harvesting takes place within property limits (including felling, transport and log landings).

Description of risk

There are no elements that indicate that the forest sector in Belgium is considered a sector with major conflicts (refer to Global Witness). Belgium is a constitutional state where civil rights and property rights apply, with complaint mechanisms. There are recognised and equitable processes in place to solve conflicts related to e.g. user rights and cultural interests. In (federal) civil law and (regional) forest law, rights and interests concerning forest use and access to the forest are clearly described. Land ownership conflicts related to forests are relatively rare. All land titles are recorded in the land registry. When a land owner rents out the land, this is recorded in a land lease contract, stipulating the right to use the land according to the contract but without owning it.

Companies harvesting wood in the forest require valid tax registration. The business register shall confirm valid business licenses to operate within the jurisdiction. In Flanders, all companies harvesting more than 50 m³ per year need an official recognition by the forest administration ('Erkenningsregeling exploitanten'). In the procedure for approval of forest management plans, there is stakeholder consultation. The regional competent authorities (forest and nature administrations) carry out inspections of harvesting sites to confirm that harvesting takes place within property limits (including felling, transport and log landings).

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicator. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50). Based on the strong legal framework, governance and law enforcement, and the low level of conflicts in the Belgian forest sector, the risk of infringement on land tenure rights is considered low.

Risk Conclusion

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

1.1.6. 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 (There are no concessions for harvesting wood from the forest, only concessions for hunting and for the use of real estate in forests owned by the government and managed by the forest and nature administration)

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

N/A

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

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

1.3.1. Applicable laws and regulations

Belgium:

- Federal law of 6 May 1999 on the creation of forest owner groups (Loi visant à promouvoir la création de sociétés civiles de groupements forestiers).

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990, Chapter IX, Articles 41b (on forest owner groups, 'bosgroepen'), 41quater (on forest inventories), 43 and 47 (on management plans).
- Order of the Flemish Government concerning the management of forests (Besluit van de Vlaamse Regering betreffende de beheerplannen van bossen van 27 juni 2003) 27.06.2003.

- Nature Decree (Natuurdecreet) 21.10.1997, for forests situated in the Flemish Ecological Network ('Vlaams Ecologisch Netwerk', VEN).
- Decree of 25 april 2014 'tot wijziging van de regelgeving betreffende natuur en bos' (amending act to the Forest Decree 1990, Nature Decree 1997 and other decrees).

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008; Chapter II, Articles 8 – 11 (on the permanent inventory of forest resources) and 31 (on forest protection in the management plan) and Chapter III, Articles 57 - 70 (on management plans)

1.3.2. Legal authority

Flanders:

- Agency for Nature and Forests ('Agentschap voor Natuur en Bos') in cooperation with the Forest Groups ('Bosgroepen') for private forests

Wallonia:

- Département de la Nature et des Forêts (regional or provincial level)
- Municipality/City council (for communal forests) or other local authorities that own forest land

1.3.3. Legally required documents or records

Flanders:

- A forest management plan is required (mandatory) for private forests larger than 5 hectares and for all public forests.
- For specific management activities (e.g. planting of exotic tree species, change of relief, the use of glyphosate, etc.) in forests situated in the Flemish Ecological Network, an exemption is required from the Agency for Nature and Forests.
- For specific management operations in small (< 5 hectares) private forests outside the Flemish Ecological Network without a management plan, a nature license ('natuurvergunning') from the Agency for Nature and Forests may be required. Management operations not included in an approved management plan are submitted to authorization by the Agency for Nature and Forests.
- Note that several private or public forest owners can write a common management plan together.
- The regional forest inventory (for the whole of Flanders) is carried out continuously with a cycle of 10 years.
- Individual forest inventories shall be prepared at the start of a new management plan (valid for 20 years) and there shall be management evaluations at least every 5 years.

Wallonia:

- A forest management plan is required (mandatory) for all public forests contiguously larger than 20 hectares (Forest Law, article 57)

- Forest management plans are required (mandatory) for public forests and private forests in Natura 2000 areas. The government replaces the owner if he has not prepared and implemented a management plan in time (as stipulated in the Forest Law, article 63).
- In the public forests classified as natural reserves, forest reserves, Natura 2000 sites or nature parks the management plan needs to be revised and made in accordance with the rules and objectives of this status.

1.3.4. Sources of information

Government sources

Flanders:

- Forest Decree ('Bosdecreet') 1990.
- Order of the Flemish Government concerning the management of forests (Besluit van de Vlaamse Regering betreffende de beheerplannen van bossen van 27 juni 2003) 27.06.2003. Available at: https://emis.vito.be/nl/actuele_wetgeving/27-juni-2003-besluit-van-de-vlaamse-regering-betreffende-de-beheerplannen-van
- Nature Decree (Natuurdecreet) 21.10.1997. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1997102140&table_name=wet
- Natuurenbos.be, (2017). *Toegankelijkheid*. [online] Available at: <http://www.natuurenbos.be/nl-BE/Natuurbeleid/Toegankelijkheid.aspx>
- Natuurenbos.be, (2017). *Bosbeheerplanning*. [online] Available at: <http://www.natuurenbos.be/nl-BE/natuurbeleid/bos/Bosbeheerplanning>
- Natuurenbos.be, (2017). *Procedure voor goedkeuring*. [online] Available at: http://www.natuurenbos.be/nl/BE/natuurbeleid/bos/Bosbeheerplanning/Procedure_voor_g_oedkeuring
- Belgium.be, (N.Y). *Besluit van de Vlaamse regering tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse Gewest*. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2003062745

Wallonia:

- Wallonie.be, (N.Y). [online] Available at: <http://environnement.wallonie.be/dnf/inventaire/indgen.htm>
- Décret du 15 juillet 2008 relatif au Code forestier. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.3.5. Risk determination

Overview of Legal Requirements

Flanders:

There are two kinds of forest management plans. Concise management plans must fulfil the basic level of the Forest Decree, while elaborate management plans must comply with the criteria for sustainable forest management. The criteria for sustainable forest management are based on the FSC principles.

According to the Forest Decree all private forests larger than 5 hectares and all public forests shall have a forest management plan. For all public forests and for private forests in the Flemish Ecological Network, this must be an elaborate management plan. Other forest owners (outside the Flemish Ecological Network) can apply the criteria for sustainable forest management on a voluntary basis. Furthermore, management plans are available for forest reserves.

In public forests, the management vision for public forests ('Beheervisie') is applied in addition to the criteria for sustainable forest management. About 33% of the forest area in Flanders is covered by forest management plans. Management plans are generally valid for a time of 20 years.

Note, for Flanders, that the 'new nature decree' of 25 april 2014 ('Decreet tot wijziging van de regelgeving betreffende natuur en bos') will entail an integration of the forest-related and nature-related legislation. Forest and nature management will be re-orientated toward reaching the European and regional conservation objectives for species and habitats. Most new rules will enter into force by mid-2015, when the implementing orders are expected. Changes will include the introduction of an integrated 'forest and nature management plan' and integrated 'criteria for sustainable forest and nature management'.

Wallonia:

Forest management plans are required for all public forests contiguously larger than 20 hectares. Forest management plans are not mandatory for private forests, but large forest owners (including nature conservation organizations) will generally have them. Management plans include maps. Drafts of new elaborate management plans are subject to public consultation prior to approval by the forest and nature administration. There are guidelines for the content of management plans and management plans are evaluated by the forest administration, on the basis of a set of criteria, prior to approval. In the case of a forest being (part of) a Natura 2000 site, a Natura 2000 management plan has to be developed and approved by the competent authorities (forest and nature administration). This plan needs to identify all allowed land uses and set up a monitoring system. New forest management plans will have to be evaluated on the basis of the conservation objectives.

Belgium:

Forest owners need to comply with national, provincial and local legislation, and apply for permits at different levels. The forest owner groups ('Bosgroepen' in Flanders / 'Groupements forestiers' in Wallonia) can assist in navigating the complexities involved. Applications for permits are checked for compliance by the relevant authorities. There are field verifications (by the competent forest administration / inspection) to check that the conditions/restrictions/limits of the harvesting plans are adhered to in the field. Apart from

monitoring activities (required for modifications to the management plan), there are regular ('informal') evaluations (e.g. with the forest administration, even in private forest) to ensure that harvesting plans are consistent with approved forest management plans.

Description of Risk

Despite assistance provided for applying for permits and approval of management plans, oversights can occur. Potential consequences do not appear to be severe though, as destructive management operations (e.g. large-scale clearcutting) do not occur in Belgium. Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

As there is a clear legal framework for management planning and there is no evidence that procedures for approval of management plans would not be followed, the risk is considered low.

Risk conclusion

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

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. 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

Belgium:

- Rural Code (Veldwetboek/Code rural) 1886, Article 29.
- Code on Criminal Procedure (Wetboek van Strafvordering / Code d'instruction criminelle) 17.11.1808, Article 537.

Flanders:

- Forest Decree (Bosdecreet), Articles 20, 50, 62, 66, 79, 81 and 97.
- Decree on the organization of planning (Decreet houdende de organisatie van de Ruimtelijke Ordening) 1999, Article 99 (on urbanism permits).
- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990), 08.11.2002.

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008, Title IV, Chapter VI (on forest exploitation), Article 80 (harvesting permit).
- Cahier des charges pour la vente des coupes de bois dans les forêts de la Région wallonne (Forêts domaniales) et dans les forêts des administrations subordonnées, particularly chapter V, article 28 (on the harvesting permit for exploitation in public forests owned by the Walloon Region and other administrations).

1.4.2. Legal authority

Flanders:

- Agency for Nature and Forests
- Agency for Spatial Planning
- Municipality (Council of Mayor and Aldermen), in case of an urbanism permit
- Agency for Realty Heritage, in case of a protected landscape

Wallonia:

- Département de la Nature et des Forêts
- Municipality (Council of Mayor and Aldermen), in case of an urbanism permit

1.4.3. Legally required documents or records

Flanders:

- Management plan, accepted by the Agency for Nature and Forests
- Harvesting authorization (permit) in case the cutting is not included in an accepted management plan
- Urbanism or allotment permit (in case of harvesting that leads to deforestation)
- Note that in private forests exceptional harvesting without harvesting permit is possible for safety reasons or for phytosanitary reasons, but then the Agency for Nature and Forests shall be notified in writing (within 24 hours or 14 days, respectively) and a proposal for restoration measures shall be sent to the Agency within 6 months after harvesting
- Private persons or companies buying or harvesting wood (at least 50m³ per year and per address) in public forests in Flanders require an official admission / recognition card and number according to defined conditions.

Wallonia:

- In private forests: authorization from the land owner to harvest wood
- In public forests: harvesting permit ('permis d'exploiter')
- An urbanism permit is required for all harvesting activities in 'agricultural zones' or 'green zones' as defined in the spatial plan ('plan de secteur').

1.4.4. Sources of information

Government sources

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990
- Decree on the organization of planning (Decreet houdende de organisatie van de Ruimtelijke Ordening) 1999, Article 99 (on urbanism permits)
- ANB report 'Handhavingsrapport 2013' (on law enforcement)
- Natuurenbos.be, (2017). *Procedure voor goedkeuring*. [online] Available at: http://www.natuurenbos.be/nl-BE/natuurbeleid/bos/Bosbeheerplanning/Procedure_voor_goedkeuring
- Natuurenbos.be, (2017). *Bomen & Bossen*. [online] Available at: http://www.natuurenbos.be/nl-BE/natuurbeleid/bos/wetgeving_en_vergunning/Kapmachtiging
- Natuurenbos.be, (2017). *Natuur inspectie* [online] Available at: <http://www.natuurenbos.be/nl-BE/Natuurbeleid/Natuurinspectie.aspx>
- Natuurenbos.be, (2017). *Erkenningsregeling voor bosexploitanten*. [online] Available at: <http://www.houtverkopen.be/erkenningsregeling-voor-bosexploitanten>

Wallonia:

- Décret du 15 juillet 2008 relatif au Code forestier. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts de la région wallonne (forêts domaniales). Available at: http://environnement.wallonie.be/dnf/daqf/forets_domaniales.pdf
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts des personnes morales de droit public belge autres que ceux de la région wallonne. Available at: http://environnement.wallonie.be/dnf/daqf/forets_subordonnees.pdf
- Wallonie.be (N.Y). [online] Available at: <http://environnement.wallonie.be/dnf/inventaire/indgen.htm>
- Wallonie.be (2008). *Tableau de bord de l'environnement wallon 2008* [online] Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/archives/tbe2008_full.pdf

- Wallonie.be (N.Y). *Tableau de bord de l'environnement wallon 2010* [online] Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/tbe/TBE2010_complet.pdf

Non-Government sources

- Globalwitness.org, (2017). *Homepage*. [online] Available at: <http://www.globalwitness.org>
- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Illegal-logging.info, (2017). *Homepage*. [online] Available at: <https://www.illegal-logging.info/>
- Eia-international.org, (2017). *Homepage*. [online] Available at: <https://eia-international.org/>

1.4.5. Risk determination

Overview of Legal Requirements

Flanders:

A system of harvesting permits exists. Harvesting permits are not always required, but the rules for getting permits are transparent. Permits are always published in order to inform the public. No separate harvesting permit is needed in case a forest management plan is approved by the forest administration (refer to the column 'Legally required documents'). A formal recognition (according to the 'Erkenningsregeling exploitanten') is required for companies that harvest wood from (most) public forests and for private forest owners united in forest owner groups ('Bosgroepen') that choose to work exclusively with recognized harvesting companies. Field inspection (before, during and/or after the exploitation) by the forest administration confirms that harvesting takes place within limits given in the harvesting permit.

Wallonia:

Any harvesting activity, both in public forest and in private forest, requires the advance authorization from the land owner (article 32 of the Forest Code). Furthermore, forest exploitation in public forests must be carried out according to the specified terms and conditions ('cahier des charges', article 78 of the Forest Code) and therefore a harvesting permit ('permis d'exploiter', article 80 of the Forest Code) is required. After forest exploitation, there is a control operation - by the government - consisting of the counting of the number/volume of trees cut and to be sold ('récolement'). Sanctions - applicable in cases of infringements - are also described in the Forest Code and specified in the terms and conditions. Sanctions may include the exclusion from wood purchases and harvesting during several years (article 89 of the Forest Code). In private forests, the use of specified (written) terms and conditions is not mandatory, but is recommended for large harvesting operations. Even when there are no specified terms and conditions, forest exploitation shall be carried out within the limits of the Forest Code.

Description of Risk

The corruption level in Belgium is considered low, refer to the Transparency International corruption perception index of 75 (higher than the threshold of 50), so there is not much risk for issuance of illegal harvesting permits.

According to the participants of the FSC Belgium working groups on Controlled Wood (both Dutch and French speaking), harvesting of wood is subject to a robust authorisation procedure and the level of law enforcement (including field inspections) is sufficient. Furthermore, there are little indications or evidence of harvesting without required permit in Belgium (refer to the ANB Handhavingsrapport for Flanders and the TBE reports for Wallonia). As a large share of the forests are open to recreation, and forests are patrolled by the forest and nature administration and inspection agencies, harvesting operations are quickly noticed.

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

The participants agreed that the risk can be considered low.

Risk conclusion

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

1.4.6. Risk designation and specification

Low risk

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

N/A

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

Belgium:

- Law concerning the introduction of legislation on value added tax (1969) and subsequent law amendments

1.6.2. Legal authority

Belgium:

- The tax office of the federal public service (FOD / SPF) of Finance

1.6.3. Legally required documents or records

Belgium:

- Enterprise identification number ('ondernemingsnummer' / 'numéro d' entreprise', formerly known as the VAT number)
- Yearly tax assessments
- Documents of purchase / sales (invoices and receipts) "

1.6.4. Sources of information

Government sources

- Belgium.be, (2017). *VAT manual*. [online] Available at: <http://finances.belgium.be/fr/> (in French)
- Belgium.be, (2017). *Btw*. [online] Available at: http://www.belgium.be/nl/economie/onderneming/fiscaliteit_en_boekhouding/btw/ (in Dutch)
- Belgium.be, (2017). *Btw-plichtig*. [online] Available at: http://www.belgium.be/nl/belastingen/btw/btw-plichtig_zijn/

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). World Banks Worldwide Governance Indicator. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Elfri.be, (2014). *Btw Wetboek*. [online] Available at: <http://www.elfri.be/BTW-wet>

1.6.5. Risk determination

Overview of Legal Requirements

Companies must pay Value Added Tax on all their sales. It is legally required to print this on the invoice, and buyers would not accept an invoice without VAT specified as this would compromise their administration and tax assessments. All companies have to be registered with the Chamber of Commerce and the Tax Office. These registrations are linked so it is not possible to be registered with one and not the other. Once registered, a company is automatically requested to file their tax assessments and pay the VAT. It is not possible to do business without the correct registrations as suppliers and customers will require them.

For Flemish public forests, data on volumes, species and qualities are included in a digital database system. Documents like the harvesting permit and sales invoice are produced automatically from the system so there is very little to no room/space for fraud or error. Generally, sales of wood from public forests are public. Only in rare cases (e.g. for wood from windfall) no public sales sessions are organized. The specified terms and conditions ('houtcatalogoog' / 'cahier des charges') for the sales of wood from public forests include a chapter on payments and VAT (e.g. chapter IV of the 'cahier des charges' on payments for

forest exploitation, article 22 on VAT). There is no system of public sales (auctions) for wood in private forests.

Note that some public forest owners, including nature conservation organizations, are registered as Public Benefit Organisations and are entitled to specific tax advantages.

Description of Risk

Wallonia:

According to the French-speaking FSC Belgium working group on Controlled Wood, private forest owners do not have a real interest to sell wood on the black market because there is no taxation for the income from wood sales. This measure prevents fraud and results in transparency in wood sales from private forests. The sales note ('bordereau de vente') constitutes the proof of the wood sale, should problems arise. Furthermore, the provincial tax on the sales of fire-wood does not exist anymore, which also adds to transparency.

Belgium:

Even if fraud can still exist in the matter of wood sales, this phenomenon is considered marginal. Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

The participants of the FSC Belgium working groups on Controlled Wood agreed that the risk can be considered low.

Risk conclusion

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

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

Belgium:

- Belgium Income Tax Code (Wetboek van de Inkomstenbelastingen' / 'Code des impôts sur les revenus) 1992, including Title IX (Kadastraal inkomen van onroerende goederen' / 'Le revenu cadastral des biens immobiliers)

1.7.2. Legal authority

Belgium:

- Tax office of the federal Ministry (FOD / SPF) of Finance
- Registry of the Court of Commerce ('Griffie van de Rechtbank van Koophandel' / 'Greffe du tribunal de commerce
- Enterprise office ('Ondernemingsloket' / 'Guichet d'entreprise')

1.7.3. Legally required documents or records

Belgium:

- Yearly tax assessments
- Foundation document ('Oprichtingsakte') and registration thereof at the registration office of the Ministry of Finance
- Enterprise identification number ('ondernemingsnummer' / 'numéro d' entreprise')

1.7.4. Sources of information

Government sources

- Belgium.be, (2017). *Vennootschapsbelasting*. [online] Available at: http://www.belgium.be/nl/economie/onderneming/fiscaliteit_en_boekhouding/vennootschapsbelasting/
- Belgium.be, (2017). *Belasting van Zelfstandig*. [online] Available at: http://www.belgium.be/nl/economie/onderneming/fiscaliteit_en_boekhouding/zelfstandigenbelasting/
- Belgium.be, (2017). *Fiscale Control*. [online] Available at: http://www.belgium.be/nl/economie/onderneming/fiscaliteit_en_boekhouding/controle/
- Belgium.be, (2017). *Economie*. [online] Available at: <http://economie.fgov.be>

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Elfri.be, (2014). *Wetboek inkomstenbelastingen WIB 1992*. [online] Available at: <http://www.elfri.be/WIB92>

1.7.5. Risk determination

Overview of Legal Requirements

All companies have to be registered with the Chamber/Court of Commerce and the Tax Office. These registrations are linked so it is not possible to be registered with one and not the other. Once registered, a company is automatically requested to file their tax assessments.

Description of Risk

All companies are automatically requested to file their tax assessments, and except for individual cases of deliberate fraud which can never be excluded, there is little risk of tax evasion.

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Banks Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

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.

1.7.6. 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

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990, Articles 54, 64, 70, 71.
- Order of the Flemish Government establishing the criteria for sustainable forest management for forests situated in the Flemish Region (Besluit Vlaamse Regering tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse gewest) 27.06.2003.
- Nature Decree ('Natuurdecreet') 21.10.1997, Articles 13 § 4 (on 'nature license') and Article 25 § 1, 2nd part, 1° and 5° (on criteria for sustainable forest management in the Flemish Ecological Network).
- Management vision for public forests (Beheervisie Openbaar Bos) 2001. Available at: http://www.natuuralsgoedebuor.be/~media/Files/Publications/2001/Buysse_et_al_2001_Beheervisie_Openbare_Bossen.pdf
- Code for good nature practice (Code goede natuurpraktijk) 10.11.1998).
- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990), 08.11.2002.

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 15.06.2008; Title IV, Chapter VI (on forest exploitation), Articles 81 – 91 and Title IV, Chapter IV (on forest conservation) Article 71.
- Cahier des charges pour la vente des coupes de bois dans les forêts de la Région wallonne (Forêts domaniales) et dans les forêts des administrations subordonnées, particularly chapter V, article 28 (on the harvesting permit for exploitation in public forests owned by the Walloon Region and other administrations).

1.8.2. Legal authority

Flanders:

- Agency for Nature and Forests ('Agentschap voor Natuur en Bos'), in cooperation with the Forest Groups ('Bosgroepen') for private forests

Wallonia:

- Département de la Nature et des Forêts"

1.8.3. Legally required documents or records

Flanders:

- A forest management plan, approved by the forest and nature administration, is required (mandatory) for private forests larger than 5 hectares and for all public forests.
- For specific management activities (e.g. planting of exotic tree species, change of relief, the use of glyphosate, etc.) in forests situated in the Flemish Ecological Network, an exemption is required from the Agency for Nature and Forests.
- For specific management operations in small (< 5 hectares) private forests outside the Flemish Ecological Network without a management plan, a nature license ('natuurvergunning') from the Agency for Nature and Forests may be required.
- All comprehensive forest management plans have to comply with the criteria for sustainable forest management ('criteria voor duurzaam bosbeheer', CDB) as described in the B.VI.Reg. of 27 July 2003 'tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse gewest.'

Wallonia:

- Forest management plans are required (mandatory) for public forests.
- Exemption ('dérogation') is required for specific management activities. "

1.8.4. Sources of Information

Government sources

Flanders:

- Besluit Vlaamse Regering van 27 juni 2003 'tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse gewest. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2003062745
- ANB report 'Handhavingsrapport 2013' (on law enforcement)
- INBO report by Thomaes & Vandekerckhove (2004). Een vergelijking van beheerlijnen voor bossen en invulling van verschillende beschermingsstatuten aan de hand van bosbeheerlijnen (refer to page 26)
- Natuurenbos.be, (2017). *Procedure voor goedkeuring*. [online] Available at: http://www.natuurenbos.be/nl-BE/natuurbeleid/bos/Bosbeheerplanning/Procedure_voor_goedkeuring
- Natuurenbos.be, (2017). *Natuur inspectie* [online] Available at: <http://www.natuurenbos.be/nl-BE/Natuurbeleid/Natuurinspectie.aspx>
- Natuurenbos.be, (2017). *Erkenningsregeling voor bosexploitanten*. [online] Available at: <http://www.houtverkopen.be/erkenningsregeling-voor-bosexploitanten>

Wallonia:

- Décret du 15 juillet 2008 relatif au Code forestier. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts de la région wallonne (forêts domaniales). Available at: http://environnement.wallonie.be/dnf/dagf/forets_domaniales.pdf
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts des personnes morales de droit public belge autres que ceux de la région wallonne. Available at: http://environnement.wallonie.be/dnf/dagf/forets_subordonnees.pdf
- Wallonie.be (N.Y). [online] Available at: <http://environnement.wallonie.be/dnf/inventaire/indgen.htm>
- Wallonie.be (2008). *Tableau de bord de l'environnement wallon 2008* [online] Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/archives/tbe2008_full.pdf
- Wallonie.be (N.Y). *Tableau de bord de l'environnement wallon 2010* [online] Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/tbe/TBE2010_complet.pdf

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.8.5. Risk determination

Overview of Legal Requirements

In Flanders, there are three levels of forest management (refer to INBO report Thomaes & Vandekerckhove 2004) with increasing level of harvesting regulations:

- 1) Basic level, according to the Forest Decree and the internal regulation ('dienstorder') of the forest and nature administration;
- 2) Level of the criteria for sustainable forest management ('Criteria Duurzaam Bosbeheer', CDB) that apply in public forests and in private forests larger than 5 hectares situated in the Flemish Ecological Network and
- 3) Level of the management vision ('beheervisie') for public forests - note that the management vision has no legally binding status, but is applied in the forests owned by the Flemish government (13% of the forest area) and is recommended (encouraged) in all other public forests (e.g. for forests owned by municipalities, provinces, etc - 17% of the forest area).

Conditions for harvesting are included in the recognition for companies harvesting in the forest ('Erkenningsregeling exploitanten'). At least in public forests, trees in the forest management unit for which felling is prohibited are marked.

The regional forest administration carries out an inspection of the site of forest exploitation, during and/or shortly after the operations (according to article 76 of the Forest Decree and article 90 of the Forest Code, respectively). Infringements are recorded as complaints or in official reports ('PVs'). In general, harvesting operations are relatively small-scale. A large part of harvesting operations is for thinning. Clear-cuts must not be larger than 1 to 3 or 5 hectares (depending on the tree species composition and the status of the site concerning protection of natural values). A large percentage of forests is public or owned by nature conservation organizations (with as main objectives the ecological and social functions of the forest, rather than the economical function / revenues from harvesting).

Description of Risk

Law enforcement by regional forest and nature administration ensures that harvesting restrictions are adhered to and that harvesting does not take place in areas where harvesting is legally prohibited. Only a limited number of cases of infringements is reported. Nature conservation societies and civilians can (and do) notify the forest and nature administration on infringements. Infringements include exceeding the maximum size of felling areas, felling protected (marked) trees or felling in a period of seasonal limitation. However, the relatively low number of infringements is limited in their temporal and spatial impact (Handhavingsrapport 2013, and personal communications from the nature and forest administration and inspection agencies)

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.

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50). Given the high level of law enforcement by the forest and nature administration and inspection agencies, as well as the low number and small scale of reported infringements, the risk is considered low.

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

International agreements:

- Belgium has signed/ratified the Convention on Biological Diversity (CBD) 1992, as well as the Ramsar, Bern and Bonn Conventions.

European Union:

- Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive).
- Council Directive 2009/147/EC on the conservation of wild birds (Birds Directive).

Belgium:

- Royal Decree on protected animal species 1980 (modified in 1987, 1992 and 2001).
- Law on the protection of birds 1981.
- Several Royal Decrees on the protection of natural areas including e.g. the Sonian Forest.

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990, Articles 22 - 30 (on forest reserves).
- Landscape Decree (Decreet van 16 april 1996 betreffende de landschapszorg) 16.04.1996, Articles 14,16.
- Nature Decree (Natuurdecreet) 21.10.1997, Article 14 ('zorgplicht'), Articles 2 and others (on Natura 2000 special areas of conservation (Habitat Directive and Bird Directive areas) and Articles 48 and 50 (on the 'natuurrichtplan').
- Decree of 25th April 2014 'tot wijziging van de regelgeving betreffende natuur en bos' (amendment to the Forest Decree 1990, Nature Decree 1997 and other decrees).
- Decree on Archeological Heritage (Decreet van 30 juni 1993 houdende bescherming van het archeologisch patrimonium) 30.06.1993.
- Order of the Flemish Government establishing the areas of implementation of Article 4, paragraph 1 of Directive 92/43 / EEC of the European Communities of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora have been proposed to the European Commission as special Protection Areas (Besluit van de Vlaamse regering tot vaststelling van de gebieden die in uitvoering van artikel 4, lid 1, van Richtlijn 92/43/EEG van de Raad van de Europese Gemeenschappen van 21 mei 1992 inzake de instandhouding van de natuurlijke habitats en de wilde flora en fauna aan de Europese Commissie zijn voorgesteld als speciale beschermingszones) 24.05.2002
- Decree on Heritage (Onroerenderfgoeddecreet van 12 juli 2013) 12.06.2013

Wallonia:

- Decree of 6th December 2001 on the conservation of Natura 2000 sites and wild fauna and flora (Décret du 6 décembre 2001 relatif à la conservation des sites Natura 2000 ainsi que de la faune et de la flore sauvages).
- Order of the Walloon Government on general preventive measures applicable to Natura 2000 sites and to sites applying for the Natura 2000 network (Arrêté du Gouvernement

wallon portant les mesures préventives générales applicables aux sites Natura 2000 ainsi qu'aux sites candidats au réseau Natura 2000) 24.03.2011.

- Order of the Walloon Government fixing the types of management units that may be delimited within a Natura 2000 site and the specific prohibitions and preventive measures applicable there (Arrêté du Gouvernement wallon fixant les types d'unités de gestion susceptibles d'être délimitées au sein d'un site Natura 2000 ainsi que les interdictions et mesures préventives particulières qui y sont applicables) 19.05.2011.
- Order of the Walloon Government laying down certain arrangements for the preventive regime applicable to Natura 2000 sites (Arrêté du Gouvernement wallon fixant certaines modalités du régime préventif applicable aux sites Natura 2000) 23.10.2008.
- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008, Title IV, Chapter IV (on forest protection), Article 71.
- Wallon Code of Town and Country Planning, Urban Planning and Heritage (Code wallon de l'Aménagement du Territoire, de l'Urbanisme et du Patrimoine) 19.04.2007; Book III, Articles 185 – 252 and Book IV, Article 450 (partim) and 477 - 529 (protection of heritage, including archeological sites).
- Decree on Natural Parks (Décret wallon relatif aux Parcs naturels du 16 juillet 1985 modifié le 3 juillet 2008) 03.06.2008.
- Various Flemish and Walloon decrees/acts to designate Natura 2000 areas.

1.9.2. Legal authority

Flanders:

- Agency for Nature and Forests (Agentschap voor Natuur en Bos);
- Agency for Realty Heritage (Agentschap Onroerend Erfgoed) - for archaeological sites

Wallonia:

- Département de la Nature et des Forêts;
- Conseil supérieur wallon de la conservation de la nature' (CSWCN) - for approval of management plans of reserves
- Direction de la Protection du patrimoine / Direction de l'Archéologie (for archaeological sites)

1.9.3. Legally required documents or records

Flanders:

- For forests situated in the Flemish Ecological Network, comprehensive forest management plans are required. Comprehensive forest management plans have to comply with the criteria for sustainable forest management ('criteria voor duurzaam bosbeheer', CDB) as described in the BVR of 27.07.2003 'tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse gewest'. These include biodiversity conservation (Principle 5) with criteria and indicators for species and habitats.
- For forests situated in protected landscapes, the forest management plan shall include a section on measures aimed at realization of the management objectives for the protected

landscape. There are general and specific regulations for activities in protected landscapes, e.g. activities for which a permit is required are submitted to an additional 'binding advice' from the authorized administration; activities for which no permit is required are submitted to direct approval by the administration.

Wallonia:

- Forest management plans are required (mandatory) for all public forests and for forests in the Natura 2000 network. The government replaces the owner if he has not prepared and implemented a management plan in time (as stipulated in Article 63).
- In the public forests classified as natural reserves, forest reserves, Natura 2000 sites or nature parks the management plan needs to be revised and made in accordance with the rules and objectives of this status. The management plan shall be approved by the 'Conseil supérieur wallon de la conservation de la nature' (CSWCN).
- A management agreement ('contrat de gestion active') may be signed between the government and the owner or tenant of the land, if this is considered appropriate for the fulfilment of the management objectives (as described in Article 27 of the 'Décret du 6 décembre 2001 relatif à la conservation des sites Natura 2000 ainsi que de la faune et de la flore sauvages')
- For some management activities, an exemption of protection measures may be attributed by the government - Département de la Nature et des Forêts (as described in Décret du 6 décembre 2001 relatif à la conservation des sites Natura 2000 ainsi que de la faune et de la flore sauvages, 'Section 4. - Dérogations') "

1.9.4. Sources of Information

Government sources

- Portal.openbelgium.be (N.Y): Database for "Area of nature and forest reserve per province" Dataset oppervlakte natuur- en bosreservaat per provincie. [Online]. Available at: <http://portal.openbelgium.be/es/dataset/oppervlakte-natuur--en-bosreservaat-per-provincie--in-ha-06192013t104350>

Flanders:

- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990.
- Nature Decree (Natuurdecreet) 21.10.1997. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1997102140&table_name=wet
- Landscape Decree (Decreet van 16 april 1996 betreffende de landschapszorg) 16.04.1996. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1996041634&table_name=wet
- Decree on Archeological Heritage (Decreet van 30 juni 1993 houdende bescherming van het archeologisch patrimonium) 30.06.1993. Available at: <http://elfri.be/wetgeving/decreet-houdende-bescherming-van-het-archeologisch-patrimonium>
- ANB report 'Handhavingsrapport 2013' (on law enforcement)

- INBO report by Thomaes & Vandekerckhove (2004). Een vergelijking van beheerrichtlijnen voor bossen en invulling van verschillende beschermingsstatuten aan de hand van bosbeheerrichtlijnen.
- Dumortier M., De Bruyn L., Hens M., Peymen J., Schneiders A., Van Daele T. and Van Reeth W. (red.) (2007). *Natuurrapport 2007. Toestand van de natuur in Vlaanderen: cijfers voor het beleid. Mededeling van het Instituut voor Natuur- en Bosonderzoek, nr.4, Brussel.*
- Inbo.be (N.Y): *Natuurindicatoren (Indicators for nature quality/quantity in Flanders)* [Online]. Available at: <https://www.inbo.be/nl/natuurindicatoren>
- *Natuurenbos.be*, (2017). *Wetgeving*. [online] Available at: http://www.natuurenbos.be/nl-BE/wetgeving_en_subsidies/wetgeving/natuurdecreet
- *Natuurenbos.be*, (2017). *Natuurinspectie*. [online] Available at: <http://www.natuurenbos.be/nl-BE/Natuurbeleid/Natuurinspectie.aspx>

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>
- *Wallonie.be*, (N.Y). *Nature 2000 en Wallonie*. [online] Available at: <http://biodiversite.wallonie.be/fr/natura-2000.html?IDC=829>
- *Wallonie.be*, (N.Y). *La protection des especes*. [online] Available at: http://environnement.wallonie.be/dnf/dcnev/consnat/protection_des_especes.htm#a6
- *Wallonie.be*, (N.Y). *Protected des habitats*. [online] Available at: http://environnement.wallonie.be/dnf/dcnev/consnat/protection_des_habitats.htm#a7
- *Wallonie.be*, (N.Y). *Les Parcs Naturels de Wallonie*. [online] Available at: <http://environnement.wallonie.be/dnf/parcsNaturels.pdf>
- *Wallonie.be* (2008). *Tableau de bord de l'environnement wallon 2008* [online] Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/archives/tbe2008_full.pdf
- *Wallonie.be* (N.Y). *Tableau de bord de l'environnement wallon 2010* [online]. Available at: http://etat.environnement.wallonie.be/download.php?file=uploads/tbe/TBE2010_complet.pdf
- *Wallonie.be* (2008). *Arrete du Gouvernement wallon fixant certaine modalites du regime preventif applicable aux sites Natura 2000*. [online] Available at: <https://wallex.wallonie.be/PdfLoader.php?type=doc&linkpdf=12439-11894-6625>
- *Wallonie.be* (2012). *Résultats du Rapportage Article 17 au titre de la Directive 92/43/CEE pour la période 2007 - 2012*. [online] Available at: <http://biodiversite.wallonie.be/fr/resultats-du-rapportage-article-17-au-titre-de-la-directive-92-43-cee-pour-la-periode-2007-2012.html?IDD=4237&IDC=5803>
- *Wallonie.be* (N.Y). *La biodiversite en Wallonie*. [online] Available at: <http://biodiversite.wallonie.be>

Non-Government sources

- Natura.org (2017). *Homepage*. [online] Available at: <http://www.natura.org>
- Latham, J., Frank, G., Fahy, O., Kirby, K., Miller, H., & Stiven, R. (2005). *COST Action E27. Protected forest areas in Europe-analysis and harmonisation (PROFOR): Reports of signatory states*. Federal Research and Training Centre for Forests, Natural Hazards and Landscape (BFW).

1.9.5. Risk determination

Overview of Legal Requirements

Both in Flanders and Wallonia, habitats and species of European (community) interest, including priority habitats, Bird Directive areas and Habitat Directive areas, have been designated. There are general and specific measures for protection of these species and habitats.

Flanders:

Natura 2000 network:

The total area of the Natura 2000 network (Bird Directive and Habitat Directive areas) in Flanders amounts to 166.322 hectares (12,3% of the total surface area of Flanders). In Flanders, about half of the Annex I habitats are forests. The main policy instruments for these habitats are the elaborate forest management plans, the nature reserves and the forest reserves.

The Flemish Ecological Network ('Vlaams Ecologisch Netwerk', VEN):

The Spatial Structure Plan for Flanders of 23 september 1997 contains 125.000 hectares (9,2 % of the total surface area of Flanders) for the Flemish Ecological Network, consisting of Large Units of Nature and Large Units of Nature in Development. Furthermore, nature interweaving areas ('Natuurverweavingsgebieden') shall be designated, in which the ecological function shall sustainably be combined with agriculture, forestry and recreation. These areas shall be connected by the provinces in their spatial structure plans.

The area of protected sites (including Flemish nature reserves, recognized nature reserves, forest reserves, and military areas with a 'nature protocol') is increasing gradually, but is still below the generally (European) recommended level of 10% of the total surface area.

A considerable area (about 20 000 hectares) of forests with high ecological value are threatened to a certain extent, because they are situated in areas designated for other functions such as housing or industry (refer also to sub criterion 3.6 conversion). The Flemish government is currently working towards the implementation of an action plan for the conservation of these forests.

Forest management in Flanders is strongly regulated by forest and nature legislation. Therefore, a large number of protection measures foreseen by the European Union (habitats and species) in Special Areas of Conservation are already covered in the basic level of forest management that is applicable for all forests (according to the Forest Decree).

Note, for Flanders, that the 'new nature decree' of 25 april 2014 ('Decreet tot wijziging van de regelgeving betreffende natuur en bos') will entail an integration of the forest-related and nature-related legislation. Forest and nature management will be re-orientated toward reaching the European and regional conservation objectives for species and habitats. The

majority of new rules will enter into force by mid-2015, when the implementing orders are expected.

Wallonia:

Protected sites have been designated with varying statutes (and corresponding levels of protection), including the Natura 2000 network, protected natural sites (public nature reserves, recognized nature reserves, and forest reserves), ancient forests and natural parks.

The Walloon Natura 2000 network entails about 221.000 hectares of which 150.000 hectares are forests (about 10% of the total surface area of the Walloon Region). General and specific protection measures have been elaborated and are subject to public consultation.

Protected natural sites (including forest reserves) require a management plan approved by the Walloon nature conservation council ('Conseil supérieur wallon de la conservation de la nature', CSWCN) and have a strong legal protection. The surface area of protected natural sites is increasing (doubled over the past 20 years) to reach about 11.000 hectares (TBE2010, page 196)

A forest management plan is required for all public ancient forests ('Forêts historiques') larger than 20 hectares and receive particular attention during forest management activities (according to article 57 of the Forest Code).

Forests with high conservation value have been identified and adequate measures of protection are in place.

For forests in the Natura 2000 network, general and specific protection measures have been elaborated and compensation measures are being established for situations where priority of the ecological function of the forest leads to a loss of income for the forest owner. This should serve as an incentive to foster the protection of forest habitats and forest-related species. En cas d'infraction, des réductions de primes, des exclusions ou des pénalités sont prévues.

All activities that may harm protected sites or species need to apply for a permit or exemption, unless they were included in a management plan, approved by the competent (regional) forest and nature administration.

A permit or exemption can be issued when significant effects can be excluded, if needed by an environmental impact assessment procedure. If significant effects cannot be excluded, a permit will only be issued under very specific circumstances.

A large share of the species (in Flanders more than 50%) and habitats (in Flanders about 75%) of the Habitat Directive are currently in a very unfavorable state of conservation.

Description of Risk

Both in Flanders and Wallonia, forests are controlled by the forest and nature administration/inspection and particular attention is paid to the follow-up of public and private forests in the Natura 2000 network.

There are reports of infringements, e.g. the illegal killing of protected birds of prey (refer to ANB Handhavingsrapport 2013). It is still possible that timber is (knowingly or unknowingly) harvested from a place where it is not allowed (e.g. due to the presence of endangered species).

The extent/scale of harvesting operations in Belgium is generally limited (e.g. only small-scale clearcutting). A large percentage of forests is owned by the government (particularly in Wallonia) and nature conservation societies (aiming at services to society rather than revenues from harvesting). Nature conservation societies and civilians have a pro-active approach and infringements can be (and are) reported to the forest and nature administration, which carries out inspections in the field.

Although it will be a difficult task to achieve a favorable state of conservation for many habitats and species, the risk of legal infringements concerning protected species and habitats is considered low.

Risk conclusion

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

1.9.6. 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

Flanders:

- Decree on Environmental License (Milieuvergunningsdecreet) 28.06.1985.
- Decree on General regulations on Environmental Policy (Decreet Algemene Bepalingen Milieubeleid) 05.04.1995.
- Decree on the organization of planning (Decreet houdende de organisatie van de Ruimtelijke Ordening) 1999, Article 99 (on urbanism permits).
- Forest Decree (Bosdecreet van 13 juni 1990) 13.06.1990, Articles 90, 96 and 97 (on forest protection).
- Nature Decree (Natuurdecreet) 21.10.1997.

- Order of the Flemish Government establishing the classes of projects subject to environmental impact (Besluit van de Vlaamse regering van 10 december 2004 houdende vaststelling van de categorieën van projecten onderworpen aan milieueffectrapportage) 10.12.2004.
- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990), 08.11.2002.

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008; Title 3, Chapter VI, Articles 31 - 51 (on forest protection); Title 4, Chapter III, Article 57 (environmental requirements in management plans) and Title 4, Chapter IV, Article 71 (on conservation).
- Wallon Code of Town and Country Planning, Urban Planning and Heritage (Code wallon de l'Aménagement du Territoire, de l'Urbanisme et du Patrimoine) 19.04.2007; Book I, Title V, Chapter III, Section VII (procedure for urbanism permit and environmental impact assessment) and Book V, Title 1, Chapter I bis, Section 1, Article 254 (procedure).
- Circulaire n° 2556 of 14 april 1995 and Circulaire n° 2619 of 22 september 1997 'relative aux aménagements dans les bois soumis au régime forestier' (on specific measures for the protective role of public forests).

1.10.2. Legal authority

Flanders:

- Agency for Nature and Forests ('Agentschap voor Natuur en Bos');
- Agency for Spatial Planning ('Agentschap RO-Vlaanderen')

Wallonia:

- Département de la Nature et des Forêts
- Municipality - Council of Mayor and Aldermen ('Collège communal') - in case of urbanism permit for deforestation - refer to criterion 3.6 Conversion"

1.10.3. Legally required documents or records

Flanders:

- A forest management plan is required (mandatory) for private forests larger than 5 hectares and for all public forests.
- For specific management activities (e.g. planting of exotic tree species, change of relief, the use of glyphosate, etc.) in forests situated in the Flemish Ecological Network, an exemption is required from the Agency for Nature and Forests.
- For specific management operations in small (< 5 hectares) private forests outside the Flemish Ecological Network without a management plan, a nature license ('natuurvergunning') from the Agency for Nature and Forests may be required.

Wallonia:

- A forest management plan is required (mandatory) for all public forests contiguously larger than 20 hectares
- Urbanism permit (in case of land-use changes) "

1.10.4. Sources of information

Government sources

Flanders:

- Decree on Environmental License (Milieuvergunningdecreet) 1985. Available at: <https://navigator.emis.vito.be/pdfservlet?woId=297&woLang=nl&version=2016-03-31&compareVersion=2016-03-31&lang=nl>
- Decree on the organization of planning (Decreet houdende de organisatie van de Ruimtelijke Ordening) 1999, Article 99 (on urbanism permits). Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1999051833&table_name=wet
- Decree on general regulations on environmental policy (Decreet Algemene Bepalingen Milieubeleid) 1995. Available at: <https://navigator.emis.vito.be/mijn-navigator?woId=308>
- Forest Decree (Bosdecreet) 13.06.1990.
- Nature Decree (Natuurdecreet) 21.10.1997. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1997102140&table_name=wet
- ANB report 'Handhavingsrapport 2013 (on law enforcement)
- Natuurenbos.be, (2017). *Erkenningsregeling voor bosexploitanten*. [online] Available at: <http://www.houtverkopen.be/erkenningsregeling-voor-bosexploitanten>

Wallonia:

- Forest Code (Décret du 15 juillet 2008 relatif au Code forestier) 2008. Available at: <http://environnement.wallonie.be/legis/dnf/forets/foret025.htm>
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts de la région wallonne (forêts domaniales). Available at: http://environnement.wallonie.be/dnf/dagf/forets_domaniales.pdf
- Cahier des charges pour la vente des coupes de bois dans les bois et forêts des personnes morales de droit public belge autres que ceux de la région wallonne. Available at: http://environnement.wallonie.be/dnf/dagf/forets_subordonnees.pdf
- Wallonie.be, (N.Y). *Code de l'Environnement*. [online] Available at: <http://environnement.wallonie.be/legis/menucode.htm>
- Wallonie.be, (N.Y). *Code wallon de l'Aménagement du Territoire, de l'Urbanisme, du Patrimoine et de l'Energie*. [online] Available at: <http://wallex.Wallonie.be/index.php?doc=1423>

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

1.10.5. Risk determination

Overview of Legal Requirements

All plans and activities that may harm the environment or protected sites and species, are subject to an environmental impact assessment and shall be approved by the legally competent authorities. The assessments are part of the procedure for applying for a permit. In the case of archaeological sites of interest being present, research need to be carried out beforehand. General restrictions to harvesting are mentioned in the forest-related legislation (Forest Decree / Forest Code). Further terms and conditions for forest harvesting are specified in the sales catalogue ('houtcatalogoog' / 'cahier des charges') for sales of wood in public forests and in some (large) private forests. Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions (e.g. harvesting operations must not take place from 1 April to 30 June (during the period of nesting for birds, applicable both in Flanders and Wallonia).

Flanders:

Principles of environmental policy in Flanders are the precautionary principle, the stand-still principle, high level of protection, (source-oriented) prevention of damage to the environment, and the principle that 'the polluter pays' (for the cost of the damage to the environment). Large-scale clear-cutting is prohibited. The maximum surface area of clear-cuts is 1 hectare in general. For plantations of poplar, American red oak, Scots pine and Corsican pine the maximum surface area of clear-cuts is 3 hectares. Deep soil preparation, construction of new permanent exploitation roads, change of relief, new drainage systems, fertilization, removal of litter and the use of herbicides is prohibited in principle. There are detailed regulations for protection of sites and species.

Wallonia:

Environmental requirements are included in the Forest Code and in the terms and conditions for exploitation in public forests ('cahier des charges'). Elsewhere, including in private forests, environmental regulations are in effect. About 100.000 hectares of public forests have as primary function the protection of vulnerable soils (e.g. on slopes) and water bodies. These forests are subject to particular protection measures (stipulated by the Circulaire n° 2556 du 14 avril 1995 and Circulaire n° 2619 du 22 septembre 1997 'relative aux aménagements dans les bois soumis au régime forestier').

Description of Risk

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicator. In relation to control of corruption Belgium ranks 91.9% and has a CPI of 75 in 2013 (Above the threshold of 50). While the legal framework is quite strong, it is still possible that timber is (knowingly or unknowingly) harvested from a place where it is not allowed.

The extent/scale of harvesting operations in Belgium is generally limited (e.g. thinnings, only small-scale clearcutting). A large percentage of forests is owned by the government (particularly in Wallonia) and nature conservation societies (aiming at services to society rather than revenues from harvesting). Nature conservation societies and civilians have a proactive approach and infringements can be reported to the forest and nature administration, which carries out inspections in the field. Although isolated cases of wrong-doings can occur, the risk of legal infringements is considered low.

Risk conclusion

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

1.10.6. 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

International agreements:

- As an ILO member, Belgium has ratified all fundamental and governance conventions and about half of the technical conventions.

Belgium:

- Law of 4 August 1996 on well-being of workers in the performance of their work.
- Relevant Royal Decrees, as summarized in the 'Codex on well-being at work' (2012).
- General regulations on the protection of workers, 1947 (partly abrogated).

Flanders:

- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990) 08.11.2002.

Wallonia:

- Cahier des charges pour la vente des coupes de bois dans les forêts de la Région wallonne (Forêts domaniales) et dans les forêts des administrations subordonnées, particularly chapter V, article 28 (on the harvesting permit for exploitation in public forests owned by the Walloon Region and other administrations).

1.11.2. Legal authority

Belgium:

- Federal Public Service Employment, Labour and Social Dialogue

Flanders:

- Agency for Nature and Forests

Wallonia:

- Département de la Nature et des Forêts

1.11.3. Legally required documents or records

Belgium:

- Dynamic risk management system, including a risk analysis with preventive measures
- Training plan for employees; Training records
- Records of (near-) accidents at work (including annual report), available with the person responsible for supervision of health and safety at work within the company

Flanders and Wallonia:

- Certificates of training for workers operating machines during harvesting operations "

1.11.4. Sources of information

Government sources

Belgium:

- Belgium.be, (2017). *Gezondheid en welzijn*. [online] Available at: http://www.belgium.be/nl/werk/gezondheid_en_welzijn/ (in Dutch)
- Belgium.be, (2017). *Gezondheid en welzijn op het werk*. [online] Available at: <http://www.employment.belgium.be/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1896>
- Belquique.be, (2017). *Inspection du travail*. [online] Available at: http://www.emploi.belgique.be/detailA_Z.aspx?id=916
- Belquie.be, (2017). *Codex over het welzijn op het werk*. [online] Available at: <http://www.werk.belgie.be/moduleDefault.aspx?id=1958#> (in Dutch)
- Belquique.be, (2017). *Code sur le bien-être au travail*. [online] Available at: <http://www.emploi.belgique.be/moduleDefault.aspx?id=1958> (in French)
- Belquie.be, (2011). *Annual Report 2011 of the General Direction Supervision on Well-Being At Work*. [online] Available at: <http://www.werk.belgie.be/WorkArea/DownloadAsset.aspx?id=31974&LangType=2067> (in Dutch)

- Belgium.be, (2012). *Annual Report 2012 of the Labour/Social Inspection*. [online] Available at: http://www.socialsecurity.fgov.be/docs/nl/publicaties/jaarrapport_si/jaarverslag-sociale-inspectie-2012-nl.pdf (in Dutch)

Flanders:

- Natuurenbos.be, (2017). *Erkenningsregeling voor bosexploitanten*. [online] Available at: <http://www.houtverkopen.be/erkeningsregeling-voor-bosexploitanten>

Wallonia:

- Cahier des charges pour la vente des coupes de bois dans les bois et forets de la region wallonne (forets domaniales). Available at: http://environnement.wallonie.be/dnf/dagf/forets_domaniales.pdf
- Cahier des charges pour la vente des coupes de bois dans les bois et forets des personnes morales de droit public belge autres que ceux de la region wallonne. Available at: http://environnement.wallonie.be/dnf/dagf/forets_subordonnees.pdf

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Ilo.org, (2017). *Homepage*. [online] Available at: <http://www.ilo.org>
- Ilo.org, (2017). *Belgium*. [online] Available at: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:102560

1.11.5. Risk determination

Overview of Legal Requirements

Belgium is an ILO member and signed/ratified the (basic) conventions. There is national (federal) legislation in place that prescribes how health and safety need to be dealt with at work. Required safety measures are included in the (region-specific) terms and conditions of the wood sales for public forests and for some (large) private forests ('houtcatalog' / 'cahier des charges'). Compliance is checked by a federal government inspection agency ('Arbeidsinspectie' / 'Inspection du travail') and by the competent (regional) forest and nature administration. All safety and health regulations shall be followed and all required safety equipment shall be used. Occupational health and safety requirements shall be observed by all personal involved in harvesting activities. Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organisation. All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable). Most employees can be found with the large forest owners and harvesting companies, including government institutions and nature conservation organizations. Generally, specialized contractors and/or freelancers are hired to do e.g. harvesting work. It is not common to employ labourers on a temporary basis, except contractors and freelancers.

Description of Risk

It is unlikely that fraud or abuse in relation to foreign labourers or seasonal workers would occur in the Belgian forestry sector, as skilled permanent staff and/or specialized contractors are hired instead of unskilled workers.

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

While isolated cases of infringements can never be excluded, the FSC Belgium working groups on Controlled Wood are convinced that the framework of the Belgian legislation is strong and that there are adequate control mechanisms in place to prevent infringements concerning health and safety of workers. Hence, the risk is considered low.

Risk conclusion

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

1.11.6. 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

International agreements:

- As an ILO member, Belgium has ratified all fundamental and governance conventions and about half of the technical conventions.

Belgium:

- Labour Law of 16 March 1971.
- Law of 3 July 1978 on work contracts (and subsequent amendments).

Flanders:

- Order of the Flemish Government concerning the recognition of purchasers and operators of timber in accordance with Article 79 of the Forest Decree of June 13, 1990 (Besluit van de Vlaamse regering houdende de erkenning van kopers en exploitanten van hout overeenkomstig artikel 79 van het Bosdecreet van 13 juni 1990), 08.11.2002.

1.12.2. Legal authority

Belgium:

- Federal Public Service Employment, Labour and Social Dialogue"

1.12.3. Legally required documents or records

Belgium:

- Register of personnel (or electronic 'dimona' declaration)
- The individual account and payslip
- Work contracts, including agreements for flexible employment or employment as student or apprentice
- Foreign workers (not citizens of countries of the European Economic Area and Switzerland) need a work permit ('arbeidskaart' / 'permis de travail')
- If there is a Collective Labour Agreement, the employer shall adhere to the regulations stipulated therei
- All social security contributions ('Rijksdienst voor Sociale Zekerheid' / 'Office Nationale de Sécurité Sociale') shall be paid - via the tax office
- The buyer of wood from public forests shall identify the company/individuals carrying out the harvesting operations. For harvesting in military areas, an attendance register is required

1.12.4. Sources of information

Government sources

Belgium:

- Belgium.be, (N.Y). *Arbeidswet*. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=we t&cn=1971031602
- Belgium.be, (N.Y). *Wet betreffende de arbeidsovereenkomsten*. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=we t&cn=1978070301
- Belgium.be, (2017). *Werk*. [online] Available at: <http://www.belgium.be/nl/werk/>
- Belgie.be, (2017). *Arbeidsreglementering*. [online] Available at: <http://www.werk.belgie.be/defaultTab.aspx?id=387#>
- Belgium.be, (2017). *NSSO Registration*. [online] Available at: <http://www.rsz.fgov.be/en/employers-and-nssso/registering>
- Belgium.be, (2017). *Justice*. [online] Available at: <http://www.belgium.be/en/justice/>

- Belgium.be, (2012). *Annual Report 2012 of the Labour/Social Inspection*. [online] Available at: http://www.socialsecurity.fgov.be/docs/nl/publicaties/jaarrapport_si/jaarverslag-sociale-inspectie-2012-nl.pdf (in Dutch)

Flanders:

- Natuurbos.be, (2017). *Erkenningsregeling voor bosexploitanten*. [online] Available at: <http://www.houtverkopen.be/erkenningsregeling-voor-bosexploitanten>

Non-Government sources

- Transparency.org, (2017). Transparency International Corruption Perception Index. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). World Banks Worldwide Governance Indicator. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Ilo.org, (2017). *Belgium*. [online] Available at: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:102560

1.12.5. Risk determination

Overview of Legal Requirements

As an ILO member, Belgium has ratified all fundamental and governance conventions and about half of the technical conventions. There is no indication / evidence of violation of the principles and fundamental rights of the ILO (e.g. freedom of association, elimination of forced and compulsory labour, child labour, discrimination, etc.) in the Belgian forest sector.

The Belgian legislation on work rights is conform with the European and international requirements. There is federal legislation in place that prescribes what requirements employers have to meet. Belgium has a federal service of labour inspection that carries out inspections and checks compliance with aspects like permits, insurances and working conditions. Compliance with aspects like taxes and social security contributions are checked by the tax office.

The Flemish regulations on the recognition of harvesting companies ('Erkenningsregeling exploitanten') includes mandatory training prior to the start of any harvesting operations. This ensures that persons involved in harvesting activities hold required certificates of competence for the function they carry out.

Description of Risk

Most employees can be found with the large forest owners and harvesting companies, including government institutions and nature conservation organizations. Generally, specialized contractors and/or freelancers are hired to do e.g. harvesting work. It is not common to employ labourers on a temporary basis, except contractors and freelancers. It is unlikely that fraud or abuse in relation to foreign labourers or seasonal workers would occur in the Belgian forestry sector, as skilled permanent staff and/or specialized contractors are hired instead of unskilled workers. Isolated cases of infringements can never be excluded.

The FSC Belgium working groups on Controlled Wood are convinced that the framework of the Belgian legislation is strong and that there are adequate control mechanisms in place to

prevent violation of fundamental principles and rights of workers. Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicator. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50). There are no indications of violation of ILO fundamental Principles and Rights at work.

Hence, the risk is considered low.

Risk conclusion

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

1.12.6. 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

Belgium:

- Civil Law (Burgerlijk Wetboek/Code Civil) 21.03.1804, Book II, Title IV, Article 516-710.

1.13.2. Legal authority

Belgium:

- The Cadastre (land register), part of the General Administration Heritage Documentation, which is part of the federal Ministry (FOD) of Finance (database of property)
- The notary (documents/deeds and registration of property)"

1.13.3. Legally required documents or records

Belgium:

- Documents of ownership (notarial document/deed with survey plan as measured by the land surveyor)
- Customary rights can exist in the form of condoned situations (e.g. a particular use of the land) that have lasted for more than 30 years ('erfdienstbaarheden' / 'servitudes'). These rights may be found on the documents of ownership. "

1.13.4. Sources of information

Non-Government sources

Landmeters-experten.be, (2013). *Erdienstbaarheid*. [online] Available at: <http://www.landmeters-experten.be/docs/doc%20erfdienstbaarheid.pdf>

1.13.5. Risk determination

Overview of Legal Requirements

"Customary rights (erfdienstbaarheden) come into existence when a specific land use is condoned for more than 30 years. When identified, these rights will be recorded on the ownership documents when the property is sold. Other customary rights may exist without having been recorded, but these generally have a limited scope (for example the right to cross the land to reach adjacent lands). If contested, customary rights can be argued and determined in a court of law.

In the Walloon Region, some user rights still exist in some municipalities and are preserved even while the Forest Code did not foresee new user rights (article 48). In private forest, notarial deeds (documents) may include certain rights that are thus protected.

Forest management plans are subject to stakeholder consultation prior to approval by the forest and nature administration. This should ensure that customary rights are observed during harvesting activities.

Description of Risk

Given their limited scope and legal status, infringements on customary rights are not likely and the risk is considered low.

Risk Conclusion

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

1.13.6. Risk designation and specification

Low risk

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

N/A (There is no transfer of forest management rights or customary rights to organisations harvesting in the forest)

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

N/A (There are no indigenous people in Belgium, according to UN definition (refer also to ILO convention 169))

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

Low risk

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

European Union:

- Council Regulation (EEC) number 2913/92 of 12 October 1992 establishing the Community Customs Code.
- Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

1.16.2. Legal authority

Belgium:

- Federal Public Service of Finance, Administration of Customs and Excise
- Customs offices

1.16.3. Legally required documents or records

Belgium:

Set of Due Diligence standards:

- Records of purchases / sales (invoices) and transport documents (CMR document, bill of lading, packing list / delivery note), records of harvests including species, proof of legality, and a risk analysis
- For import/export of wood products, the common European customs document ('Enig Document' / 'Document administratif unique') includes information on the nature of the goods, the tariff classification (TARIC code), the transaction classification, etc."

1.16.4. Sources of information

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code. Available at:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992R2913:20070101:EN:PDF>

- Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code. Available at:
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20130131:EN:PDF>

1.16.5. Risk determination

Overview of Legal Requirements

A government inspection agency checks compliance (refer also to 5.4 and 6.1), including verification of product classification (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents.

Description of Risk

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

There are no indications or evidence that infringements are occurring frequently or are likely to occur. Though implementation of the EUTR in practice may come with initial problems due to complexity, there seems to be little scope for fraud regarding classification or volumes. Therefore, the risk for this sub-criterion is considered low.

Risk Conclusion

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

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

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

1.17.1. Applicable laws and regulations

International agreements:

- Convention on the contract for the international carriage of goods by road (Convention Relative au Contrat de Transport International de Marchandises par Route) 1956 (modified in 1978).

European Union:

- Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC.
- Council Directive 95/ 18/EC of 19 June 1995 on the licensing of railway undertakings.

Belgium:

- Belgium signed the CMR convention on 19 May 1956 and ratified the convention on 18 September 1962.
- Law of 15 July 2013 on the carriage of goods by road, and including execution of the Resolution (EC) number 1071/2009 of the European Parliament and the Council of 21 October 2009 (on establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator, and access to the market for international carriage of goods by road).
- Royal Decree of 22 May 2014 on the carriage of goods by road.
- Royal Decree of 4 April 2014 - Amending act to the Royal Decree of 15 October 1935 concerning the general regulations for shipping waterways of the Kingdom and amending the Royal Decree of 24 September 2006 concerning the general police regulations for shipping on the inland waterways of the Kingdom.
- Royal Decree of 30 September 2005 on the promotion of combined transport of goods.
- Each waterway (canal, river, or part thereof) has its own specific shipping regulations and police regulations.

1.17.2. Legal authority

Belgium:

- Federal Public Service - Mobility and Transport

1.17.3. Legally required documents or records

Belgium:

1) Road transport:

- Board documents (vehicle registration, insurance, technical inspection)
- Wood transported by truck shall be accompanied by a transport document specifying nature and quantities of the goods (CMR 'vrachtbrief' / 'lettre de voiture')
- Transport companies need permits for national and international road haulage / carriage of goods by road

2) Waterway transport:

- Tonnage certificate (measuring bill) and documents that specify the nature and quantities of cargo on board
 - Documents that show the vessel and its equipment meet the technical requirements
 - Community inland navigation certificate, according to Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006
 - Certificates of the captain of the ship
 - Transport companies need permits for waterway transport; Exploitation licence
- 3) Railroad transport:
- Railway undertakings require a licence and a safety certificate
 - Documents that specify the nature and quantities of cargo

1.17.4. Sources of information

Government sources

Belgium:

- Wet betreffende het goederenvervoer over de weg en houdende uitvoering van de Verordening (EG) nr. 1071/2009 van het Europees Parlement en de Raad van 21 oktober 2009. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2013071522 (in Dutch)
- Koninklijk besluit betreffende het goederenvervoer over de weg. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2014052236 (in Dutch)
- Koninklijk besluit betreffende de bevordering van het gecombineerd goederenvervoer. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2005093031&table_name=wet
- Wet betreffende de vergunning voor de exploitatie van binnenvaartuigen en betreffende de financiering van het Instituut voor het transport langs de binnenwateren. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1976070830&table_name=wet
- Koninklijk besluit tot wijziging van het koninklijk besluit van 15 oktober 1935 houdende algemeen reglement der scheepvaartwegen van het Koninkrijk en tot wijziging van het koninklijk besluit van 24 september 2006 houdende vaststelling van het algemeen politiereglement voor de scheepvaart op de binnenwateren van het Koninkrijk. Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2014040406
- Belgium.be, (2017). *Wegverkeer*. <http://mobilit.belgium.be/nl/wegverkeer/> . [online] Available at:

- Belgium.be, (2017). *Binnenvaart*. [online] Available at: <http://www.mobilit.belgium.be/nl/scheepvaart/binnenvaart/>
- Belgium.be, (2017). *Goederentransport via het spoor*. [online] Available at: <http://www.belgium.be/nl/mobiliteit/goederentransport/spoor/>
- Belgium.be, (2017). *Spoorvervoer*. [online] Available at: <http://www.mobilit.belgium.be/nl/spoorwegverkeer/>

Non-Government sources

- European Economic Area Joint Parliamentary Committee - Report on Transport Policy in the European Economic Area, 30 May 2013, Brussels. Available at: <http://www.europarl.europa.eu/document/activities/cont/201305/20130531ATT67143/20130531ATT67143EN.pdf>
- 2006/87/EC Directive of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC. Available at: http://eur-lex.europa.eu/legal-content/en/ALL/;ELX_SESSIONID=1Vv1Jl3DGPPPhSbj9wDnhQTWBSFjYVgzQgLOPlzWv8sxpP0LRGZLp!1543137432?uri=CELEX:32006L0087
- COUNCIL DIRECTIVE 95/18/EC of 19 June 1995 on the licensing of railway undertakings. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31995L0018&from=NL>
- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Unidroit.org, (2017). *Convention on the contract for the international carriage of goods by road*. [online] Available at: <http://www.unidroit.org/instruments/transport/cmr-convention>

1.17.5. Risk determination

Overview of Legal Requirements

The main mode of transport of wood (and wood products) within Belgium is the carriage by road. Furthermore, shipping via inland waterways and railways account for relatively limited volumes, for wood products in containers or bulk (e.g. roundwood for paper industries, or sawnwood).

The CMR convention (on international transport of goods by road) applies to all road transport from, or to, a country that ratified the convention. The CMR is legally binding (article 41 of the convention). The CMR document is also valid for a domestic transport as part of an international transport.

Road transport companies need to apply for permits for national and international road haulage (European regulations). Transport of goods by railroad in Belgium was completely liberalized in early 2007. There are various companies with a security certificate that currently drive on the Belgian railroad network.

With the unification of the European market, inspections by customs services are not only carried out at the national borders, but can be carried out anywhere. These inspections include inspections of validity and conformity of required transport documents.

Description of Risk

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

There are no indications or evidence that infringements on the regulations for trade and transport (of domestic wood within Belgium) occur frequently in Belgium. Therefore, the risk is considered low.

Risk Conclusion

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

1.17.6. 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

Belgium:

- Law of 10 february 1999 on repression of corruption (Wet betreffende de bestraffing van corruptie' / 'Loi relative à la répression de la corruption).

Legislation relevant to corruption/bribery:

- Penal Code (Wetboek van Strafrecht/ Code pénal) 1867, Articles 5, 7bis, 41bis, 246 (§2), 250.

- Code on Criminal Procedure (Wetboek van Strafvordering / Code d'instruction criminelle) 17.11.1808, Articles 21, 21ter and 22 of the Preliminary Title, Articles 10quater (§1 and 2), 29.
- Income Tax Code (Wetboek van de Inkomstenbelastingen' / 'Code des impôts sur les revenus) 1992, Articles 53 (§24), 219.

1.18.2. Legal authority

Belgium:

- Federal Public Service - Finance

1.18.3. Legally required documents or records

Belgium:

- Yearly tax assessments
- Documents of purchases and sales (invoices)

1.18.4. Sources of information

Government sources

Non-Government sources

- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- OECD, (2017). *Belgium – OECD Anti-Bribery Convention*. [online] Available at: <http://www.oecd.org/daf/anti-bribery/belgium-oecdanti-briberyconvention.htm>
- Ibfd, (2017). *International Transfer Pricing Journal – All Articles*. [online] Available at: <http://www.ibfd.org/IBFD-Products/International-Transfer-Pricing-Journal-All-Articles>

1.18.5. Risk determination

Overview of Legal Requirements

The international tax standard, developed by OECD and supported by the UN and the G20, provides for full exchange of information on request in all tax matters without regard to a domestic tax interest requirement or bank secrecy for tax purposes. In March 2009, Belgium withdrew its reservation to the OECD standard. Currently all 30 OECD member countries, including Belgium, have endorsed and agreed to implement the international tax standard. Furthermore, all offshore financial centres accept the standard.

Belgium wrote to more than 100 countries to propose the conclusion of protocols to update Article 26 of its existing treaties or to enter into new exchange of information agreements. Belgium has recently signed (at least) twelve Tax Information Exchange Agreements (TIEAs) with jurisdictions of offshore financial centres. Therefore, Belgium moves into the OECD category of "Jurisdictions that have substantially implemented the internationally agreed tax standard."

Description of Risk

The room for companies in the forestry sector for trading through countries known as "tax havens" is limited. From a Belgian perspective, no specific transfer pricing rules apply to transactions involving low-tax jurisdictions. Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50).

There are no indications or evidence that wood or wood products from Belgium are traded through countries known as "tax havens". There are no indications or evidence that there is illegal manipulation in relation to the transfer pricing in Belgium. Therefore, the risk is considered low.

Risk Conclusion

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

1.18.6. 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

European Union:

- Council Regulation (EEC) number 2913/92 of 12 October 1992 establishing the Community Customs Code.
- Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

Belgium:

- Ministerial Decision of 11 January 2007 (Enig document' / Document administratif unique)

1.19.2. Legal authority

Belgium:

- Federal Public Service of Finance, Administration of Customs and Excise
- Customs offices

1.19.3. Legally required documents or records

Belgium:

- In case of import of timber, phytosanitary regulations, CITES and legality requirements apply.
- The EU TR and subsequent due diligence always applies.
- Certificates may be required depending on the species (e.g. CITES permit, FLEGT permit, certificate of origin, phytosanitary certificate).
- A customs declaration is required (the former national customs documents were replaced by the common European customs document, 'Enig Document' / 'Document administratif unique').
- Note that digital/electronic systems of "paperless customs" (e.g. PLDA and NCTS) are introduced, so the format of declarations is changing thoroughly.

1.19.4. Sources of information

Government sources

Belgium:

- Ministerial Decision of 11 January 2007 (explanation of the common customs document, 'Enig document'). Available at: http://financien.belgium.be/nl/douane_accijnzen

Flanders:

- Vlaanderen.be, (2017). *Invoer en uitvoer*. [online] Available at: <http://www.vlaanderen.be/nl/werk/buitenlands-beleid/invoer-en-uitvoer>

Non-Government sources

- Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code. Available at: http://europa.eu/legislation_summaries/other/l11010_en.htm (EEC Customs Code - summary)
- Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code. Available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20130131:EN:PDF>
- Transparency.org, (2017). *Transparency International Corruption Perception Index*. [online] Available at: <http://www.transparency.org/cpi2013/results>
- Worldbank.org, (2017). *World Banks Worldwide Governance Indicator*. [online] Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Ec.europa.eu, (2017). *Taxation and Customs Union*. [online] Available at: http://ec.europa.eu/taxation_customs/index_en.htm
- Ec.europa.eu, (2017). *Customs Legislation*. [online] Available at: http://ec.europa.eu/taxation_customs/common/legislation/legislation/customs/index_en.htm

- Europa.eu, (2017). *Reporting of exports and imports*. [online] Available at: http://europa.eu/youreurope/business/vat-customs/report-imports-exports/index_nl.htm

1.19.5. Risk determination

Overview of Legal Requirements

All relevant international legislation is implemented in Belgian legislation, and inspections are carried out. Export of domestic wood occurs as high and low grade roundwood, wood products and biomass. Domestic wood is exported mainly to other EU member states, but part is exported to other continents. Products are classified by type, custom code, species, quantities, qualities, etc. The Customs Office carries out checks on exports, including verification of documents and EU TR (if requested by the competent Federal Public Service), FLEGT and phytosanitary requirements.

Description of Risk

The corruption level in Belgium is considered low, refer to the Transparency International corruption perception index of 75 (higher than the threshold of 50).

Procedures exist for preventing fraud, and control has become more efficient by using electronic declarations.

Belgium has a high ranking of 89.9% (2013) in regards to "rule of Law" under the World Bank's Worldwide Governance Indicators. This is a score of 1.40 on a scale of -2.5 to +2.5. In relation to control of corruption Belgium ranks 91.9% (score of 1.63) and has a CPI of 75 in 2013 (Above the threshold of 50). As there is no evidence of legal infringements or fraud related to activities of the Customs Office and timber from Belgian forests, the risk is considered low.

Risk Conclusion

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

1.19.6. 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

International:

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) - Washington, 3 March 1973.

European Union:

- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein.
- Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein.
- Commission Regulation (EU) No 750/2013 of 29 July 2013 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein.

Belgium:

- Law of 28 July 1981 (and subsequent amending acts) on the approval of the CITES convention and of the Annexes, as well as the amendment to the Convention of Bonn of 22 June 1979.
- Royal Decree of 9 April 2003 on protection of species of wild fauna and flora through control of the trade.

1.20.2. Legal authority

Belgium:

- Federal Public Service Health, Food Chain Safety and Environment (Directorate General 'Animal, Plant and Nutrition' - Office for Animal Welfare and CITES)

1.20.3. Legally required documents or records

Belgium:

- CITES certificate (original and valid) for species of EU-CITES Annex A
- (re-)export permit/certificate

1.20.4. Sources of information

Government sources

Belgium:

- Belgium.be, (N.Y). *Koninklijk besluit inzake de bescherming van in het wild levende dieren plantensoorten door controle op het desbetreffende*. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2003040943&table_name=wet (in Dutch)
- Belgium.be, (N.Y). *Arrêté royal relatif à la protection des espèces de faune et de flore sauvages par le contrôle de leur commerce*. [online] Available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2003040943&table_name=loi (in French)

- Belgium.be, (2017). *Internationale verdragen*. [online] Available at: http://www.belgium.be/nl/leefmilieu/biodiversiteit_en_natuur/bedreigde_diersoorten/internationaal/
- Health.belgium.be, (2017). *The lists of the species protected by CITES*. [online] Available at: <http://www.health.belgium.be/en/animals-and-plants/animals/cites-and-endangered-species/lists-species-protected-cites>

Non-Government sources

- Cites.org, (2017). *Homepage*. [online] Available at: www.cites.org

1.20.5. Risk determination

Overview of Legal Requirements

The CITES rules have been implemented in Belgian (federal) legislation. Compliance is checked through inspections and verifications by the Customs Office at (re-)export. Permits are handled by the Federal Public Service Health, Food Chain Safety and Environment.

Description of Risk

For wood from Belgian forests:

There are no CITES (tree/wood) species occurring in Belgian forests. Therefore, there is no risk for this sub-criterion.

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

European Union:

- Regulation (EU) number 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.
- Commission Delegated Regulation (EU) No 363/2012 of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring

organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.

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

Belgium:

- Law of 21 December 1998 (on product standards to foster sustainable production and consumption patterns and to protect the environment, public health and workers).
- Royal Decree of 16 November 2000 (on designation of officials of the Federal Public Service Environment to carry out inspection activities).
- Law of 25 April 2014, amending act to the 'product standards law' of 21 December 1998.
- Royal Decree of 2 July 2014 (on the regulation of control measures for the enforcement of the 'product standards law' of 21 December 1998).

1.21.2. Legal authority

Belgium:

- Federal Public Service Health, Food Chain Safety and Environment (Federal Public Service Product Policy Unit - DG Environment)

1.21.3. Legally required documents or records

Belgium:

- Supplier invoices, packing lists / delivery notes, and transport documents (CMR, CIM, airway bill, bill of lading)
- Information describing the timber and timber products, country of harvest, species, quantity, details of the supplier and information on compliance with national legislation
- Risk assessment (concerning illegal timber)
- Risk mitigation measures (additional information and verification from the supplier)
- Timber and timber products covered by valid FLEGT or CITES licenses are considered to comply with the requirements of the Regulation.

1.21.4. Sources of information

Government sources

WWF (2014): Governance Barometer 2014. Available at:

http://barometer.wwf.org.uk/what_we_do/government_barometer/. Link no longer valid.

Belgium:

- Health.belgium.be, (2017). *Environment and Inspection*. [online] Available at: <http://health.belgium.be/eportal/Environment/EnvironmentAndInspection/index.htm?fodnlang=en#.VFfIPrt0ycw>

Non-Government sources

- 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. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>
- Commission Delegated Regulation (EU) No 363/2012 of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0363>
- Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0607>
- Ec.europa.eu, (2017). *Nominated Competent Authorities*. [online] Available at: http://ec.europa.eu/environment/forests/pdf/list_competent_authorities_eutr.pdf
- Emis.vito.be, (N.Y). *Vraag & antwoord over FSC en de EU Houtverordening*. [online] Available at: http://emis.vito.be/sites/emis.vito.be/files/messages/2026/2013/FicheFSC-EUTR_NL201211.pdf
- Ec.europa.eu, (2017). *EUTR 2013*. [online] Available at: http://ec.europa.eu/environment/eutr2013/index_fr.htm (in French)
- Ec.europa.eu, (2017). *Eurostat*. [online] Available at: <http://epp.eurostat.ec.europa.eu/newxtweb/setupdimselection.do>
- Illegal-logging.info, (2017). *Belgium*. [online] Available at: <https://www.illegal-logging.info/regions/belgium>

1.21.5. Risk determination

Overview of Legal Requirements

The EU TR came into effect and became applicable in its entirety throughout the EU on 3 March 2013. The EU Timber Regulation is legally binding on all EU Member States, which are responsible for laying down effective, proportionate and dissuasive penalties and for enforcing the Regulation. Operators are monitored by monitoring organizations, whose activities are checked by the Member States' competent authorities.

According to the WWF Government Barometer 2014, Belgium has made the necessary legislative changes to implement the EUTR. The EU Timber Regulation is implemented in Belgian (federal) legislation, including a set of due diligence requirements. Belgium has

introduced the corresponding sanction regime through the adaptation of the (federal) law on product standards ('productnormen'). The implementation, enforcement and control (including sanctions) of the EUTR in Belgium is the responsibility of the Federal Public Service (Public Health, Security of the Food Chain, and Environment). The competent Federal Public Service investigates wood trade (in collaboration with customs offices) and there are procedures for sanctions and prosecution of companies that do not fulfil the requirements.

In case of complaints (e.g. from environmental NGOs or independent observers) the Product Policy Unit alerts authorities of other EU member states (in case of transit-trade) and the European Commission. The Belgian competent authorities will report (every two years) to the Commission on the application of the Regulation.

For domestic wood (from Belgian forests): Most wood from public forests in Belgium is sold by the regional forest administrations in public 'standing stock' sales. This has as a consequence that the forest administrations are not considered as 'operators' under the EU TR. Instead, the companies harvesting in the forest (and selling harvested wood) have to comply with the Regulation.

The Flemish Agency for Nature and Forests has prepared a document for forest managers and harvesting companies on how they can comply with the EU TR ('Infofiche : Toepassing van de EU Hout verordening of 'EU Timber Regulation (EUTR)' voor beheerders van natuur- en groengebieden'). Based on the (region-specific) criteria for legality applicable to wood from Belgian forests, there is a low risk for illegal wood from Belgian forests. However, apart from the EU 'guidance document' to the EUTR, there are currently no specific guidelines or templates (on format and content) for the 'due diligence system' in Belgium.

Description of Risk

At present, only a limited number of 'operators' (forest owners, companies harvesting in the forests, and wood importers) have a true 'due diligence system' in place. In most cases the 'basic information' (step 1) is available (although often not systematically kept in a database), but a formal 'risk evaluation procedure' (step 2) and 'risk reduction procedure' (step 3) is lacking.

So far, no 'due diligence systems' (other than those for certified wood and legality-verified wood) have as such been certified by independent monitoring organizations (or certification bodies) active in Belgium. Furthermore, given the limited capacity (personnel) of the inspection agencies (Product Policy Unit of the competent Federal Public Service Public Health, Security of the Food Chain, and Environment) priorities for inspections are currently at the (higher-risk activities of) companies importing non-domestic wood.

There is limited evidence to suggest that the DDS requirements are uniformly enforced at forest level. However, since low risk has been found in CW Categories 1.1-1.20, it is concluded that the potential impact of this lack of enforcement will be limited both in impact and in scale. As a consequence, the risk has been concluded to be low.

Risk Conclusion

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

1.21.6. Risk designation and specification

Low risk

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Belgium** 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 BELGIUM

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Plantation Forest	Flanders	Private forests larger than 5 hectares situated in the Flemish Ecological Network	Private	N/A	- An elaborate forest management plan is required (mandatory) - No separate harvesting permit needed	- No separate harvesting permit needed, if the forest exploitation is included in a management plan, accepted by the forest administration - Comprehensive forest management plan according to the criteria for sustainable forest management (refer to BVR 27 July 2003 'tot vaststelling van de criteria voor duurzaam bosbeheer voor bossen gelegen in het Vlaamse gewest.')
		Private forests smaller than 5 hectares situated in the Flemish Ecological Network			- Management plan, according to the criteria for sustainable forest management OR - Harvesting permit	No separate harvesting permit needed, if the forest exploitation is included in a management plan, accepted by the forest administration
		Private forests larger than 5 hectares situated outside the			- Management plan (optional, not mandatory), according	- This basic level of management corresponds with the level prescribed in the Forest Decree

		Flemish Ecological Network		to the basic level of the Forest Decree OR - Harvesting permit	(1990) - The criteria for sustainable forest management can be applied on a voluntary basis, in a management plan
	Wallonia	Private forests outside the Natura 2000 network		- Authorization from the land owner - No management plan needed - No harvesting permit needed	
		Private forests in the Natura 2000 network		-	
Mixed Forest	Flanders	Public forests (forests owned by the Flemish Region, municipalities, provinces, etc.)	Public	-Elaborate forest management plan, based on the criteria for sustainable forest management and/or the management vision for public forests	
	Wallonia	Public forests ('forêts domaniales', forests owned by municipalities, provinces, ...) contiguously larger than 20 hectares,			- Forest management plans are required (mandatory) - Harvesting permit

		outside the Natura 2000 network			owners, except military areas, are managed by the forest and nature administration, according to the Forest Code.
		Public forests ('forêts domaniales', forests owned by municipalities, provinces, ...) in the Natura 2000 network		- Natura 2000 management plan required - Harvesting permit	Harvested in accordance with the 'Arrêté du Gouvernement wallon' of 19 may 2011, with the harvesting permit, and with the specific terms and conditions for harvesting operations ('Cahier des charges')
Natural Forest	Flanders	Forest reserves / nature reserves (with forest cover)	Public	-Management plan	Note: In principle, harvesting in 'integral forest reserves' is excluded
	Wallonia	Forest reserves / nature reserves (with forest cover)		- Natura 2000 management plan required	
Unspecified type	National	Forests converted to non-forest land use (e.g. for housing or industry)	N/A	- Urbanism permit / certificate is required - Exemption ('dérogation') granted by the government is required	Note: In principle, harvesting in 'integral forest reserves' is excluded



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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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