

Timber Legality Risk Assessment Argentina

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COUNTRY RISK
ASSESSMENTS



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B. Overview of legality risks

Timber Risk Score: 25 / 100 in 2017

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

- **Specified risk for 14 sub-categories.**
- **Low risk for 4 sub-categories.**
- **No legal requirements for 3 sub-categories.**

The Timber Risk Score for Argentina is 25 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, and third parties' rights, and trade and transport.

For **Legal rights to harvest**, there is a risk that:

- conflict of land tenure takes place (1.1)
- communal land may be sold in fractions to legal entities (1.1)
- there is a lack of registration of titles (very old) (1.1)
- deviations occur in cadastral information (1.1)
- there are irregularities related to land tenure and rights to request permits (1.1)
- High Conservation Value Attributes (Atributos de alto valor de conservación - AAVC) is often not understood or implemented as required by law (1.3)
- authorities approve harvesting or planting plans in sites where forestry activities have possibilities of causing impacts on high conservation value attributes (1.3)
- forest inventory does not correspond to the situation in the field. There are risks of changing name species, position in stratum and slopes, diameters, etc (1.3)
- bribes are paid to field inspecting representatives in relation to harvesting permits,
- logging is allowed on indigenous lands without free, prior and informed consent from the communities due to mistakes in land cadaster (1.4)
- harvesting takes place outside allocated area (1.4)
- Permits are issued to different entities on the same plot in consecutive years, thus allowing over-exploitation of the timber resource and infringing legal requirements (1.4)

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

- sales are not recorded, and thus takes place without legal sales document, i.e. sales invoice. If the sale is not legally recorded, the tax for added value is not paid, nor the royalties or other taxes (1.5, 1.6, 1.7)
- General risk of tax withholdings (1.6)
- income statements are not submitted (1.7)

For **Timber harvesting activities**, there is a risk that:

- violation of harvesting regulation takes place (1.8)
- forests are illegally cleared (1.8)
- harvesting takes place within protected areas, often by communities for own consumption (1.9)
- harvesting of protected species takes place (1.9)

- species, which are protected in one province, but not in another, is illegally harvested and sold with the claim of being harvested in another province (1.9)
- incorrect declarations of protected species and CITES species, such as false statement of origin, species, diameter, etc. (1.9)
- environmental requirements are violated (1.10)
- hazardous residues are not managed as required by law (1.10)
- personal safety equipment is lacking or not living up to required standard (1.11)
- when personal protective equipment is provided to employees, there is a lack of use (1.11)
- training on the use of personal safety equipment is lacking, as well as on the safe way to execute an activity (1.11)
- control on food and drinking water is lacking for unskilled workers (1.11)
- non-registered worker “en negro” are employed, with the result of lack of payment of of taxes taxes, contributions, social security, burial security, union, risk of forced labour, poor transportation, food and lodging conditions (1.12).
- non-registered workers can include; underage workers, women with their children, persons with physical problems, illegal immigrants (1.12)

For **Third parties’ rights**, there is a risk that:

- NTFP, important to communities and indigenous people, are diminished due to over-exploitation of forest resources when overestimating inventory data (1.13, 1.15).
- felling of trees in forest areas protecting watersheds or steep slopes leads to negative impact on watercourses indispensable for rural survival, and reduction of specific NTFPs in this area (1.13, 1.15)
- felling of minimal diameters under what is legally admitted leads to diminishing volumes and wood species traditionally used by rural communities (1.13, 1.15)
- conflicts occur on related to water consumption by plantations, land concentration, use of agrochemicals, landscape alteration, among other factors (1.15)

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

- incorrect classification of species takes place (1.16)
- Erroneous volume classification (1.16)
- natural timber transported does not have legal, reliable, necessary documents (1.17)
 - forged waybills or packing slips, duplicating or cloning of these documents, obtaining them by bribery or volumes higher than that those estimated by the Annual Allowable Cut (1.17).
- transfer pricing takes place (1.18)
- illegal shipments of timber takes place (some cases of narcotic substances masked inside forest shipments of coal coming from natural species have been registered) (1.19)
- export of illegally harvested natural timber takes place (1.19)
- information on exports documents are not correct (1.19)
- alterations in documents or inaccurate declarations of CITES species as non-CITES species (1.20)

Timber source types and risks

There are three main timber source types found in Argentina, and one limited source. 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 these source types and found that risk differs between natural and plantation forest.

Natural forest- Approved Forestry Exploitation permit/plan

Permit for selective logging for natural forest. This license is issued mainly if the specific forest is located in a "green or yellow zone", according to the OTBN (*Ordenamiento Territorial de Bosques Nativos*).

Forest harvesting plan (general and according to jurisdiction), including Environmental Impact Assessment, inventory and annual harvest plan is required. The specific name for the permit can differ between provinces.

Natural forest - Land Use Conversion Permit

Conversion of natural forest. Permit can be issued for forest in the green zone, according to the OTBN (*Ordenamiento Territorial para Bosques Nativos*). The project requiring conversion of forest is subject to public hearing. Land use conversion Plan (in general and according to jurisdiction), including Environmental Impact Assessment is required.

Forest plantation

No permit or license for harvesting is required. An approved Forest Plan, including Environmental Impact Assessment) is required; if this approval does not happen for any reason or the procedure is discontinued, the stakeholder can harvest the wood with no other requirements, although the benefits of the stated law will not be granted. Plantations done outside this promotion law are scarce and although they do not need a harvesting permit either, both cases do need transportation documents, varying according to province and accompanying invariably the forest load.

Indigenous lands (in selected provinces)

Limited source of timber. Permits are required. Harvesting and even land use conversion is allowed only in a portion of the indigeneous land. The most important commercial use registered in these areas is non-timber forest products.

This matrix summarises the findings of the timber legality risk assessment set out in this report. Even though it is possible for timber from indigenous land can enter the commercial supply chain, this rarely happens and therefore the risks on indigenous lands are not included in the risk table below.

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

C. Overview of the forest sector in Argentina

The Republic of Argentina has a continental area of 2.791.810 km², between 22° and 55° south Latitude. Argentina has 23 provinces and its capital, the Autonomous City of Buenos Aires (CABA). According to its National Constitution, the country adopted a representative, federal, republican system. Regarding natural resources, all provinces and the CABA have their own Constitutions, Laws and Institutions regulating these aspects as well as others; for instance, concerning tax laws (except VAT, which is a federal tax), rates and the forest waybill system. With regards to labour, safety and health, land tenure and usufruct areas there are national laws, although in some cases there can be provincial or sectorial adaptations (e. g., work agreements by productive sectors) that are mandatory.

According to data from the Secretariat of the Environment and Sustainable Development (*Secretaría de Ambiente y Desarrollo Sustentable*) and from the 2013 updates, the country has 26.59 MM hectares of natural forest land, representing 9.52% of the total extension of the country (source:

<http://obio.ambiente.gob.ar/multimedia/files/Segundo%20Reporte%20de%20Argentina%20al%20Proceso%20de%20Montreal.pdf>). Also, according to the National Division of Forest Production (*Dirección de Producción Forestal de la Nación*) and data from SIG Area at the Ministry of Agriculture, Livestock and Fisheries (*Ministerio de Agricultura, Ganadería y Pesca*), currently known as Ministry of Agro-Industries (*Ministerio de Agroindustrias*), the land used for plantations is around 1.120.411 hectares. In the last three years, the growth rate for these lands has been practically the same.

According to Cabrera's phyto-geographic classification (1976), there are different types of forests in different regions of the country: Provincia Paranaense (NE Argentina); Provincia Chaqueña (NE and centre north); Provincia de las Yungas (NWA); Provincia del Monte (Cuyo and centre); Provincia Altoandina (Andes, centre and south); Provincia Pampeana (centre and east); and Provincia del Espinal (centre and coastline). Another classification used in the country is the one proposed by the National Parks Administration, (*Administración de Parques Nacionales, APM*) in 1998, categorizing eco-regions and differing from the first classification in being wider and including other eco-systems: Argentine Northwest Monte and Thistle of the Prepuna (*Monte de Sierras and Bolsones*), Selva Tucumano-Boliviana or Yungas, Chaco Seco, Chaco Húmedo, Selva Misionera or Paranaense, Delta and Islas del Paraná, Espina, Pampa, Argentine Low Monte (*Monte de Llanuras y Mesetas*), and Patagonic or Andean-Patagonic forests.

Natural forests are dispersed in the Northern area of Argentina, in the islands around the water complex of the rivers Paraná and Uruguay, in the North zone of Patagonia Andina, and isolated and being lower forests, in the centre area of the country. Nevertheless, forest plantations are located mainly in the coastline of Argentina, in the centre, NWA and Cuyo.

Natural forests are classified according to the National Law for the Defence of Forest Wealth (*Ley Nacional de Defensa de la Riqueza Forestal*), Nº 13.273 in: protective, permanent, experimental, special mountains, and for production; these last two being subject to forest harvesting under legal authorization.

Land tenure is private in almost 90% of the national territory. Natural forests can be found in private and public lands, while plantations are mainly in private properties, except for the Provincia de Neuquén where there is a state corporation managing public plantations.

Regarding National Forest Institutions with competence in the whole country it has been stated that the natural forests are under the Ministry of the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sustentable*) through the Forest Division (*Dirección de Bosques*), while forest plantations are promoted by the Ministry of Agro-Industries (*Ministerio de Agroindustrias*), through the Division of Forest Production (*Dirección de Producción Forestal*). Only in exceptional cases, like the Ministry of Ecology in Misiones (*Ministerio de Ecología de Misiones*) plantations fall under institutional scopes different to those of natural forests. These provincial authorities through their entities (names varying according to provinces, from Divisions, Secretariats, Sub-secretariats, Ministries, etc.) are the ones in charge of approving management plans for natural forests (or equivalent name, as it also varies according to the province), forest plans (plantations), supervising forests and in some cases, dictating, establishing and controlling provincial laws. Although there are different administrative realities in each province, in general terms, authorities check documents, undertake inspections before issuing permits, supervise closing or endings of operative plans, issue reports (approvals, denials, provide requested complementary information, etc.)

The use of wood from natural forests is regulated at national level through Law N 13.273 on the Defence of Forest Richness (*Defensa de la Riqueza Forestal*). Also, each province has its own legislation regulating use, promotion and research. In order to gain usufruct rights of natural forests for any activity (forest, recreational, etc.) owners need to obtain permits from provincial authorities. In all cases, these permits are requested through Provincial Delegations representing the interests of those authorities. In general terms, the documents to submit are as follows: Owner's title, Leasing Contract (if applicable), Management Plans, and Environmental Impact Assessments (if applicable), in addition to the payment of applicable fees. The greatest volumes of natural forest species used include: *Prosopis alba*, *P. nigra*, *P. flexuosa*, *P. kuntzei*, *Aspidosperma quebracho-blanco*, *Schinopsis balansae*, *Astronium balansae*, *Apuleia leiocarpa*, *Cedrella fissilis*, *Junglans regia*, *Parapiptadenia rigida*, *Tabebuia heptaphyla*, *T. impetiginosa*, *T. serratifolia*, *Nothofagus pumilio*, etc.

Regarding forest plantations, there are other administrative requirements for planting, harvesting and transportation of forest products, including: Registration in the Registry of Forest or Forest-Industrial Undertakings (*Registro de Emprendimientos Forestales o Forestoindustriales*), Annual Operating Plans (AOP), and Environmental Impact Assessment. In both cases, economic administrative requirements (fees, taxes, etc.) vary according to the province in which the resources are located. The most common cultivated genus among forest species are: Eucalyptus (*E. grandis*, *E. dunnii*, *E. camaldulensis*, *E. saligna*, *E. citriodora*, among others); Pinus (*P. elliottii*, *P. taeda*, *P. pinaster*, *P. patula*, among others, and also some hybrids), *Salix*, *Grevillea robusta*, *Melia azedarach*, etc.

Additional sources:

- FAO, 2015, Global Forest Resource Assessment, <http://www.fao.org/forest-resources-assessment/en/>.
- GAIN, 2013, Wood production – Argentina 2013, <https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Wood%20Production%20-%20Argentina%202013%20Buenos%20Aires%20Argentina%207-2-2013.pdf>.

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- Greenpeace, 2008, Emergencia Forestal, <http://www.greenpeace.org/argentina/Global/argentina/report/2008/3/emergencia-forestal.pdf>
 - Illegal Logging Portal, 2017, Argentina country page, <https://www.illegal-logging.info/regions/argentina>.

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

National Legislation:

- National Constitution: National Law N° 24.430 (Approved in 1853 with reforms in years: 1860, 1866, 1898, 1957 and 1994). Approved: December 15, 1994. Enacted: January 3rd, 1995. Articles 121 and 124. [*Constitución Nacional: Ley N° 24.430 (sancionada en 1853 con las reformas de los años 1860, 1866, 1898, 1957 y 1994). Sancionada: Diciembre 15 de 1994. Promulgada: Enero 3 de 1995.*]

National Law N° 26.737, Protection Provisions of the National Domain on Property, Ownership, and Rural Land Tenure. (Approved: December 22, 2011, Enacted: December 22, 2011). Chapters III, IV- Articles 14 and 15, and Chapter V. [*Ley Nacional N° 26.737, Régimen de Protección al Dominio Nacional sobre la Propiedad, Posesión o Tenencia de las Tierras Rurales. (Sancionada: Diciembre 22 de 2011, Promulgada: Diciembre 27 de 2011).*]

National Law N° 13.273, Law for the Defence of Argentina Forest Wealth (November, 1995). Chapters III (Art. 12, 13 and 14) and V (Art. 25 and 26). [*Ley Nacional N°13.273, Ley de la Defensa de la Riqueza Forestal Argentina (Noviembre de 1995).*]

National Law N°25509/01. Real Rights of Forest Area: Articles N 2, 3, 5 and 7. [*Ley Nacional N°25509/01. Derecho Real de Superficie Forestal*] Available at: <http://www.infoleg.gob.ar/infolegInternet/verNorma.do?id=70786>

National Law N 26.331 Minimum Budget for Environmental Protection of Natural Forests, Chapter II, Article 9. [*Ley Nacional N 26.331. Presupuestos mínimos de protección ambiental de los bosques nativos.*] Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/135000-139999/136125/norma.htm>

1.1.2. Legal authority

- The Executive Branch and the Judiciary Branch (both with responsibilities in implementing the National Constitution);
- Forest Division from the National Ministry of the Environment and Sustainable Development [*Dirección de Bosques del Ministerio de Ambiente y Desarrollo Sustentable de la Nación*];
- Division of Forestry from the Ministry of Agro-Industries [*Dirección de Forestación del Ministerio de Agroindustrias*] (for cases of forest plans);

- Judiciary Branch [*Poder Judicial*] (for all cases).

1.1.3. Legally required documents or records

Documents approving land tenure:

- Title (Individual, Community, Companies, Legal entities, etc.);
- Title Deed;
- Ownership Certificate;
- Usufructuary Rights;
- Similar others (like Usucapion or adverse possession).

Documents proving the right to start a process to obtain a permit:

- Approved forest plan, in the case of plantations;
- Leasing or usufruct contracts;
- Conservation plan, Sustainable Management Plan, or Land Use Conversion Plan, in the case of natural forests;

1.1.4. Sources of information

Government sources

- Ministry of Agro-Industries The Nation's Presidency Argentina (2000). *Situaciones problemáticas de tenencia de la tierra* [online]. [Ministerio de Agroindustrias, Presidencia de la Nación (2000)]. Available at: <http://www.ucar.gob.ar/index.php/biblioteca-multimedia/buscar-publicaciones/24-documentos/261-argentina-situaciones-problematicas-de-tenencia-de-la-tierra>
- Ministry of Agro-Industries The Nation's Presidency, International Fund for Agricultural Development (2016). *La Problemática de la Tierra en Argentina*. [online]. [Ministerio de Agroindustrias, Presidencia de la Nación (2016) Fondo Internacional de Desarrollo Agrícola] Available at: <http://www.ucar.gob.ar/index.php/biblioteca-multimedia/buscar-publicaciones/23-libros/287-la-problematica-de-la-tierra-en-argentina>

Non-Government sources

- Transparency International (N.Y). [online] Available at: <https://www.transparency.org/country/#ARG>
- Chaco Argentina Agro-Forest Network (2012). *3º Informe Conflictos sobre la Tenencia de la Tierra y Ambientales en la Región Chaqueña Argentina*. [online]. [Red Agroforestal Chaco Argentina (2012)] Available at: <http://redaf.org.ar/3-informe-conflictos-sobre-la-tenencia-de-la-tierra-y-ambientales-en-la-region-chaquena-argentina/>.

Interviews with experts

- Conversations with different experts: held during the months of February and March, 2016. They helped the authors of this report to better understand the applicable legislation and the risks associated to each legislation category. Regarding this sub-category several representatives of different organizations were interviewed, such as: Democratic Change

Foundation (*Fundación Cambio Democrático*), Greenpeace Argentina, Pro-Yungas Foundation (*Fundación ProYungas*), and independent consultants.

1.1.5. Risk determination

Overview of legal requirements

The laws of the country refer to land tenure and use in several legal documents, such as: the National Constitution (*Constitución Nacional*): The right to use and dispose of property, Article 14; Law N 26.737 (*Ley N 26.737*): To determine ownership and regulate land tenure, Article 2 (*Art. 2*), regulates land tenure for foreigners; Chapter III, creates the National Registry of Rural Land, Article 14; Law N 13.273 (*Ley N 13.273*): Requires land owners begin using the resources according to previous agreements with authorities, Article 12; establishes conditions for legal logging, Articles 22 to 33; Law N 26.331 (*Ley N 26.331*): Establishes the categories of forests connected to a country order and corresponding activities approved in each one of them, Article 9 (*Art. 9*).

Land tenure is demonstrated through legal documents proving ownership or the legal use land rights in the long term, while rights to forest management are demonstrated by Real Rights to Land (*Derecho Real de Superficie*) which applies only in forestation cases through a forest concession license (the name varies according to province), being it a harvesting permit (selective or non-selective cutting), land use conversion clearance) permit, or forest plan (for plantation, forest, industrial or cattle breeding purposes).

Description of risk

Land tenure continues to be a weak aspect of legal control in the country, particularly in rural areas. All types of problems can be seen: communal land may be sold in fractions to legal entities, non-registered titles (very old), cadastral deviations, among others. Normally, problems related to land tenure appear when landholders request credits, subsidies or try to sell the land.

The Third Report of Conflicts on Land Tenure and the Environment in the Argentina Chaco Region [*Tercer Informe de Conflictos de Tenencia de la Tierra y Ambientales en La Región del Chaco Argentino (REDAF, 2012)*], describes 386 cases of conflict of land tenure and the environment identified in the region; 248 were solved in eight provinces from the Chaco Region: Catamarca, Chaco, Córdoba, Corrientes, Formosa, Salta, Santa Fe, and Santiago del Estero. From these 248 solved cases, 214 were about land tenure, 24 for environmental problems, and 10 for both problems simultaneously. According to this report 127 886 persons have been affected by land tenure conflicts and 1 499 952 by environmental conflicts.

In the Transparency International ranking, the country occupies in the 107 place of 168 evaluated countries, with a score of 32/100. In the ranking of bribery payments, the country occupies rank 23/28, with a score of 7.3 over 10 possible points (Bribe Payers Index 2011, from the Transparency International Corruption Perception Index 2015). This shows a high level of corruption as many of these actions are related to natural resources, in terms of ownership or tenure, and with regards to usufructuary rights (logging); especially in relation to natural forests and the ecosystems they shelter, being this more frequent in the north of Argentina.

Several Non-government sources file public complaints on cases of irregularity related to land tenure and rights to request permits, among them: Mandela Centre DD.HH. (*Centro Mandela*

DD.HH.) (www.centromandela.com); Greenpeace Argentina (www.greenpeace.org/argentina/es/); MOCASE Vía Campesina (www.mocase.org.ar); FARN (www.farn.org.ar); ENDEPA (www.endepa.org.ar); Agro-Forest Network (*Red Agroforestal*) (www.redaf.org.ar), among others. Several of the mentioned webpages include complaints regarding natural resources management, among which are some against rights to felling. It is worth mentioning that links to these complaints are not on Internet and in order to do a follow-up of the legal system in Argentina, it is necessary to follow a formal legal process with legal advice.

Risk Conclusion

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

1.1.6. Risk designation and specification

Specified risk

1.1.7. Control measures and verifiers

- Land registry shall confirm ownership and validity of property deed.
- In areas with land ownership conflicts, consultation with neighbours, local communities and others shall confirm that land tenure rights are clear.
- The management contract or other agreements with the owner shall indicate clear management rights.
- Valid business registration documents shall exist.
- Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).
- Original document or Notary Certified Copy of Property Titles or similar;
- Original document and number of procedure for Harvesting License;
- Original and number of Forest Plan (for forest plantations);
- Legal agreements with notary intervention for usufructuary rights, Real Rights of Land, third party harvesting contracts and similar.
- In case of corporation, incorporation papers;
- Inspections of the appropriate province authority (these inspections can stop the project's harvesting, picking or planting activities, cancelling it).

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

Not applicable.

(No forest concessions have been issued in the country in the past decades. Furthermore, none of historically registered concessions granted are valid in forest lands or natural forests.)

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

National Legislation:

- National Law N°26.331: Minimum Budget for Environmental Protection of Natural Forests, Chapters V, Articles 13, 14, 16, 17 and 19 [*Ley Nacional N°26.331: Ley de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*].
- National Law N°13.273 for the Defence of Argentina Forest Wealth (November, 1995). Chapters III, Articles 12 and 15 [*Ley Nacional N°13.273, Ley de la Defensa de la Riqueza Forestal Argentina (Noviembre de 1995)*].

National Law N 25.675, General Law for the Environment (2002), articles 2, 8, 10 [*Ley Nacional N 25.675, Ley General del Ambiente (2002)*]

- National Law N 25.080 and N 26.432 (extends the previous one), Investment for cultivated forests, Articles 5 and 31 [*Ley Nacional N 25.080 y N 26.432 (Prorroga la anterior), Inversiones para bosques cultivados*]. Available at:
<http://www.infoleg.gob.ar/infolegInternet/anexos/55000-59999/55596/texact.htm>
- National registry of Offenders (Article 2 of law 26331) [*Registro Nacional de Infractores*] Available at:
<http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=1095&IdSeccion=2>

Provincial Legislation:

- Each province manages its own resources, dictates its own laws, regulations, decrees and procedures. Legal framework diversity and its dynamics are very wide;
- As there are at least 12 provinces with natural forests and plantations in the country from which commercial goods are obtained, the more representative, in terms of traded and planted volumes, and diversity of species and populations related to forests, among other factors are given as examples. These provinces are: Misiones, Chaco and Salta.

Misiones:

Law XVI – Nº105 del 02/09/2010: *Act on Territorial Planning and Land Use of Natural Forests (Ley XVI – Nº105 del 02/09/2010: Ordenamiento Territorial de los Bosques Nativos)*. Creation of the Provincial Program for Protection and Sustainable Management of Natural Forests (*Programa Provincial de Protección y Manejo Sostenible de los Bosques Nativos*). Creation of Provincial Fund for Compensating and Promoting Natural Forests (*Creación de los Fondos Provinciales de Compensación y de Promoción de los Bosques Nativos*). Available at:

http://www.diputadosmisiones.gov.ar/digesto_juridico/content.php?id_category=214

Law XVI-7 (Formerly, Law N 854); Law of Forests (Article 10, 18, 19) [*Ley XVI-7 (Antes Ley N 854): Ley de Bosques (Art. 10, 18, 19)*] Available at:

http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/75.pdf

Law VIII-37 (Formerly, Law Nº3585): Adhesion to National Law Nº 25.080. Investment for Cultivated Forests. Article 5 (Ley VIII-37 (Antes Ley Nº3585): Adhesión a la Ley Nacional Nº 25.080. Inversiones para Bosques Cultivados.) Available at:

http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/37LP-3585-Anexo.pdf

Chaco:

Law Nº2386: Forest Law, Article 19 (*Ley Nº2386: Ley de Bosques*). Available at:

<http://www2.medioambiente.gov.ar/sian/chaco/normativa/ley2386.htm>

- Law N 6409 (2009): *Act on Territorial Planning and Land Use of Natural Forests, Articles 4, 8 and 9 (Ley N 6409 (2009): Ordenamiento Territorial de los Bosques Nativos)*. Available at:

<ftp://www.justiciachaco.gov.ar/Biblioteca/BOSQUES/LEGISLACION/LEY%206409%20BOSQUES%20NATIVOS%20B.O.%208998%2004-12-2009.pdf>

Salta:

Law N 7070: Environment Protection, Sections I, II, III and IV, Chapter IV (*Ley N 7070: Protección del Medio Ambiente*). Available at:

<http://ambiente.bioetica.org/normas/sa7070.htm>

- Law N° 7543: Establishes the rules set forth in the Act on Territorial Planning and Land Use for the Provincia de Salta, in compliance with provision in Article 6 of National Law N° 26.331: Minimum Budget for Environmental Protection of Natural Forests, Articles: 5, 11, 12,14, 15 and 17 (*Ley N°7543: Establece las Normas de Ordenamiento Territorial de los Bosques Nativos de la Provincia de Salta, en cumplimiento de lo previsto en el artículo 6º de la Ley Nacional N° 26.331 de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*). Available at: <http://www.prograno.org/site/wp-content/uploads/2011/05/Ley-7543.pdf>

1.3.2. Legal authority

National:

- Natural Forests: Ministry of the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sustentable*). Available at: www.ambiente.gov.ar
- Forest Plantations: Division of Forest Production from the Ministry of Agro-Industries from the Nation's Presidency (*Dirección de Producción Forestal del Ministerio de Agroindustria de la Presidencia de la Nación*) Available at: <http://www.agroindustria.gov.ar/new/0-0/forestacion/index.php#>

Provincial Authorities:

There are competent authorities in the 12 provinces. The more representative, in terms of traded and planted volumes, diversity of species and populations related to the forests, among other factors, were taken as examples:

Misiones: Ministry of Ecology (*Ministerio de Ecología*). Available at: <http://www.ecologia.misiones.gov.ar/ecoweb/index.php>;

Chaco: Sub secretariat of Natural Resources and the Environment (*Subsecretaría de Recursos Naturales y Medioambiente*). Available at: <http://rnaturaleschaco.gov.ar/>

Salta: Ministry of Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*). Available at: <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>

1.3.3. Legally required documents or records

- Sustainable Management Plan of Natural Forest (includes Forest harvesting permit) [*Plan de Manejo Sostenible de Bosque Nativo (el mismo incluye el permiso de aprovechamiento Forestal)*];
- Presenting Forest Projects, Implanted Forests (Forest Plans – only plantations) [*Presentación de Proyectos Forestales, Bosques Implantados (Planes Forestales – solo Plantaciones)*]
- Harvesting Plan for Land Use Conversion (Conversión of natural forests to other land uses) [*Plan de Aprovechamiento de Cambio de Uso de suelo (a partir de bosques naturales conversiones para otros usos de suelo)*].

1.3.4. Sources of information

Government sources

- cba.gov.ar (N.Y). *Registry of Offenders from the Environmental Police* (Registro de Infractores de la Policía Ambiental) [online]. Available at: <http://www.cba.gov.ar/policia-ambiental/registro-infractores-policia-ambiental/>

Non-Government sources

- farn.org.ar (N.Y). *Los bosques nativos de Salta no están en orden*. [online] [Environment and Natural Resources Foundation (*Fundación Ambiente y Recursos Naturales*)]. Available at: <http://www.farn.org.ar/wp-content/uploads/2014/07/POLICY-Bosques-Salta-ESP.pdf>
- Transparency International (N.Y). [online] Available at: <http://www.transparency.org/country/#ARG>
- Greenpeace Argentina (2008). *Emergencia Forestal* [online]. Available at: <http://www.greenpeace.org/argentina/Global/argentina/report/2008/3/emergencia-forestal.pdf>
- Press-North Daily (2014). *La tala indiscriminada se llevó 218.034 hectáreas de bosques en el Chaco*. [online]. Available at: <http://www.diarionorte.com/article/115418/la-tala-indiscriminada-se-llevo-218034-hectareas-de-bosques-en-el-chaco>

Interviews with experts

- Conversations with different experts –carried out during the months of February and March, 2016 – helped authors to understand better the applicable legislation and the associated risks in the field implementation. Referring to this sub-category, representatives of different organizations were interviewed, such as: Forests Bank (*Banco de Bosques*), Greenpeace Argentina, ProYungas Foundation (*Fundación ProYungas*), Wild Life Foundation (*Fundación Vida Silvestre*), Forest Division from the Ministry of Agro-Industries (*Dirección Forestal del Ministerio de Agroindustrias*), CITES Authority (*Autoridad CITES*), CECOAL (Northeast Centre for Ecology (*Centro de Ecología del Nordeste*)).

1.3.5. Risk determination

Overview of Legal Requirements

There are differences between natural forests and forestry plantations requirements. However, national laws are in place as a general framework for management and harvesting planning requirements. The National Environmental Law forms the basis for the legal framework at the national level and covers sustainable resources management, preservation and protection of biodiversity and sustainable development implementation. It establishes a general normative framework for environmental issues. Subsequently, complementary laws to this general law were issued going as far as promoting free access to public environmental information, territorial legislation and a directory of environmental offenders.

Natural Forests:

Each province establishes specific requirements for the whole process of the use of resources in natural forests (from enrichment, harvesting, as well as land use conversion), according to Articles 121 and 124 of the National Constitution, amended in 1994. These requirements include planning and filing of the required documents, payment of audit fees, leases and transportation of timber. Planning and legal use rights are approved when the respective plan is approved. In general terms, this is the procedure to follow:

- Prove land tenure;
- Classify the land according to the Law of Minimum Budgets (there are areas where harvesting or plantations can be done, and areas where all productive activities are forbidden);
- Submit and obtain approval of Management Plan or Conservation Plan (including several components such as species inventory; environmental values, such as rivers, streams, etc.; resource management proposal, etc.);
- Submit and obtain approval of Environmental Impact Assessment;
- Submit an AOP (Annual Operating Plan) detailing annual activities to be carried out;
- In case of a Plan with Land Use Conversion (PCUS, in Spanish), it is mandatory to go through the process of consultation and public hearings, in addition to the submission of an Environmental Impact Assessment.

Eventually, and with variations according to jurisdiction, even in the same province, once the forest harvesting or land use conversion starts (clearance), appropriate authority representatives will inspect the plot. Planning documents undergo desk audits by authorities, but they will only be validated during the field visit. There are some exceptions like the one in the Provincia de Tierra del Fuego, where authority inspection is done before harvesting activities begin.

Plantations:

Projects or forest plans under forest promotion regulations have three components:

- Technical: submitting an application or annexes with detail of the activities intended to be performed, together with graphic land documentation (mapping);
- Legal: referring to legal land documentation or incorporation act of legal entities;
- Environmental: Environmental Impact Assessment (only for planting projects).

In the case of forest plantations under these promotional regulations, the provincial authority supervises these activities. Once the plantation finalises its growing stage, that authority provides data to the National Government in order to make the appropriate payments or implement the awaited tax relief.

Description of Risk

According to information provided by some organizations, such as Environment and Natural Resources Foundation (*Fundación Ambiente y Recursos Naturales*, FARN) which refers to the "12th Report on the Nation's General Audit (AGN): In May, 2014 AGN made public a report in which it points out that *Ministerio de Ambiente y Desarrollo Sustentable* (currently the Ministry of Environment) has not enough institutional power to accomplish an integral, efficient and effective management of public policies as established in the Forest Legislation. It points out that natural forest policies have not yet been harmonized with those regarding agricultural production, and this represents a potential threat for the conservation of natural forests. It also points out the *Ministerio de Ambiente y Desarrollo Sustentable* has little capabilities to undertake field control. No improvements were found with regards to the implementation of a monitoring system for conservation, management and harvesting plans in land use conversion, nor performance indicators. Neither is there enough information about

non-compliances and penalties applied by provinces, nor a database centralizing information on the various provincial management instruments.

Adding to data collected through interviews to national experts and available data in public summaries of evaluation and audit processes of forests management, according to FSC, it can be concluded that with respect to natural forest planning and management, there are several risks situations, including:

- Inspections are not carried out or are delayed several years, which makes it impossible to verify the initial condition of the project;
- The concept of sites with High Conservation Value Attributes (*Atributos de alto valor de conservación - AAVC*) is not widespread, nor understood or implemented by economic stakeholders, natural communities or public administrations (as/where required by law). Authorities could be approving harvesting or planting plans in sites where forestry activities have possibilities of causing impacts on these high conservation value attributes;
- The forest inventory submitted to get approval is not always compared in the field in a professional and reliable way. There are risks of changing name species, position in stratum and slopes, diameters, etc.
- There are even cases recorded by the CITES Authority in the Country where direct harvesting has been carried out in neighbouring lands next to those considered in the previous, as well as in the actual planning.

Regarding planning and forest plantation management, risks are considerably reduced if two facts are taken into account: higher simplicity of the project in botanical terms (one or two species, normally), and in technical terms (land is ploughed, there is control of undergrowth and plagues, species are planted, pruned, thinned out and the stand is harvested).

Furthermore, provincial authorities do field inspections before defining the money contribution (being this a promotional regulation) or imposed tax relief, while national authorities perform the project follow-up through satellite development (or contraction) images.

Risk Conclusion

Forest plantations: 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.

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

1.3.6. Risk designation and specification

Specified risk (for natural forests)

Low risk (For forest plantations)

1.3.7. Control measures and verifiers

- Maps showing harvesting, protection, and communal areas, forest roads, intermediate collecting yards (according to the forest or harvesting plan);

- Document review: approved harvesting, conservation, and land-use conversion plans, or forest plan;
- Field visits: administrative verification of submitted data, regarding contractors as well as the Timber Harvesting Contract, when applicable;
- Harvesting and forest plans shall include all information and procedures required by law. In the case of natural forests, these requirements vary considerably from one province to another;
- Annual operating plans (AOP) or annual harvesting plans, should have been approved by legally competent authorities.
- Operating or harvesting annual plans shall have information and procedures according to legal requirements;
- Contents of operating or harvesting plans shall be consistent with the approved forest management plans.
- Plans to carry out harvesting operations must be subject to the public disclosure and submission of challenges prior to initiating activities, if this is required by law (as in the case of natural forests included in the Law of Minimum Budgets located in areas with restrictions);
- Restrictions for harvesting shall be identified in the management plan and in maps, if required by law.

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

National Legislation:

- National Law N°26.331: Law for Minimum Budgets of Environmental Protection in Natural Forests, Chapter V; Articles 16, 17, 18, and 22 (*Ley Nacional N°26.331: Ley de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*).
- National Law N°13.273: Law for the Defence of Argentina Forest Wealth (November, 1995) Articles 12 and 26 [*Ley Nacional N°13.273: Ley de la Defensa de la Riqueza Forestal Argentina (Noviembre de 1995)*].
- National Law N 25.675: General Law for the Environment (2002), Sections: Order, Environmental Impact Assessment, and Environmental Damage. Articles 11, 12, and 13

[*Ley Nacional N 25.675, Ley General del Ambiente (2002), Secciones de Ordenamiento, Evaluación de Impacto Ambiental, y Daño Ambiental.*].

- National Law N 24071 (1992): Approval of ILO 169 Indigenous and Tribal Peoples Convention. Articles 4, 7, 14, 15, and 16 [*Ley Nacional N 24071 (1992): Aprobación del Convenio 169 de OIT sobre pueblos indígenas.*]. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/470/norma.htm>
- National Registry of Offenders (Article 2 of 26331 Law (*Registro Nacional de Infractores*) (Art. 2/ de la Ley 26331). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=1095&IdSeccion=2>

Provincial Legislation:

Notes:

1. As each province manages its own resources, it dictates its own laws, regulations, decrees and procedures. Diversity of legal framework and its dynamics vary widely;
2. As there are at least 12 provinces with natural forests and plantations in the country from which commercial goods are obtained, the more representative, in terms of traded and planted volumes, diversity of species and populations related to forests, among others, are given as examples. These provinces are: Misiones, Chaco and Salta.

Misiones:

- Law XVI – Nº105 from 02/09/2010: Act on Territorial Planning and Land Use of Natural Forests. Creation of Provincial Programme for the Protection and Sustainable Management of Natural Forests. Creation of Provincial Funds for Compensation and Promotion of Natural Forests, Art 11 (*Ley XVI – Nº105 del 02/09/2010: Ordenamiento Territorial de los Bosques Nativos. Creación del Programa Provincial de Protección y Manejo Sostenible de los Bosques Nativos. Creación de los Fondos Provinciales de Compensación y de Promoción de los Bosques Nativos*).
- Law XVI-7 (Previously, Law N 854): Law of forests; Article 10 [*Ley XVI-7 (Antes Ley N 854): Ley de Bosques*].
- Law XVI-53 (Previously, Law N 3426): Declaration and Regulations of Protective Forests and Ecological Belts, Article 5 [*Ley XVI-53 (Antes Ley N 3426): Declaración y Reglamentación de Bosques Protectores y Fajas Ecológicas*].

Chaco:

- Law Nº2386: Forests Law, Article 19 and 19a (*Ley Nº2386: Ley de Bosques*). Available at: <http://www2.medioambiente.gov.ar/sian/chaco/normativa/ley2386.htm>
- 037/10, Chapter V: gives details of forestry plan; Chapter IV: gives details of contents and sequences of harvesting plan; Article 6, 7, 10 and 11 (*Regulación 037/10, Capítulo V detalla plan silvícola Capítulo IV: detalla los contenidos y secuencias del plan de aprovechamiento*). Available at: <https://drive.google.com/file/d/0BySd3Q6MLiNia0dGdGpYQm5aZmM/view?pref=2&pli=1>

Salta:

- Law N 7070: Environmental Protection, Article 54 (*Ley N 7070: Protección del Medio Ambiente*). Available at: <http://ambiente.bioetica.org/normas/sa7070.htm>

- Law N°7543: Establishes the rules set forth in the Act on Territorial Planning and Land Use of Natural Forests for the Provincia de Salta, fulfilling the provision in article 6 from National Law N° 26.331 of Minimum Budget for Environmental Protection in Natural Forests; Article 23 (*Ley N° 26.331 de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos; Art. 23; N°7543: Establece las normas de Ordenamiento Territorial de los Bosques Nativos de la Provincia de Salta, en cumplimiento de lo previsto en el artículo 6º de la Ley Nacional N° 26.331 de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*). Available at: <http://www.ambienteforestalnoa.org.ar/userfiles/ordenamiento/Ley7543.pdf>

1.4.2. Legal authority

National Authorities:

- Natural Forest: Ministry of the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sustentable*) Available at: www.ambiente.gov.ar
- Forest Plantations: Forest Production Division of the Ministry of Agro-Industry from the Nation's Presidency (*Plantaciones forestales: Dirección de Producción Forestal del Ministerio de Agroindustria de la Presidencia de la Nación*). Available at: <http://www.agroindustria.gob.ar/new/0-0/forestacion/index.php#>

Provincial Authorities:

- Specific authorities in the 12 provinces. The more representative provinces, in terms of traded and planted volumes, diversity of species and populations related to the forests, among other factors, are given as examples:
- Misiones: Ministry of Ecology (*Ministerio de Ecología*). Available at: <http://www.ecologia.misiones.gov.ar/ecoweb/index.php>;
- Chaco: Sub secretariat of Natural Resources and the Environment (*Subsecretaría de Recursos Naturales y Medioambiente*). Available at: <http://rnaturaleschaco.gob.ar/>;
- Salta: Ministry of Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*). Available at: <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>.

1.4.3. Legally required documents or records

- Felling Permit (Permit for harvesting natural species included in the Sustainable Management Plan for Natural Forests);
- Submission of Forest Projects, Plantation Forests (Forest Plans - Plantations only);
- Permit for implementing Harvesting Plan for Land Use Conversion (Conversion from natural forests to other types of land use).

1.4.4. Sources of information

Government sources

- cba.gov.ar (N.Y). *Registry of Offenders from the Environmental Police* (Registro de Infractores de la Policía Ambiental) [online]. Available at: <http://www.cba.gov.ar/policia-ambiental/registro-infractores-policia-ambiental/>

- ambiente.gov.ar (N.Y). *Second Report from Argentina to the Montreal Process* [online]. Available at: <http://www.ambiente.gov.ar/archivos/web/DB/file/Proceso%20de%20Montreal/Segundo%20Reporte%20Proceso%20de%20Montreal%20Argentina.pdf>

Non-Government sources

- FARN - Environment and Natural Resources Foundation (*Fundación Medio Ambiente y Recursos Naturales*) [online]. Available at: <http://www.farn.org.ar/wp-content/uploads/2014/07/POLICY-Bosques-Salta-ESP.pdf>
- Transparency International (N.Y). [online] Available at: <http://www.transparency.org/country/#ARG>
- Greenpeace Argentina (2008). *Emergencia Forestal*. [online]. Available at: <http://www.greenpeace.org/argentina/Global/argentina/report/2008/3/emergencia-forestal.pdf>
- Greenpeace Argentina (2013). *Salta: El festival de desmontes no se detiene*. [online]. Available at: <http://www.greenpeace.org/argentina/Global/argentina/report/2013/bosques/Informe-Salta-2013-FINAL.pdf>
- Press-North Daily (2014). *La tala indiscriminada se llevó 218.034 hectáreas de bosques en el Chaco*. [online]. Available at: <http://www.diarionorte.com/article/115418/la-tala-indiscriminada-se-llevo-218034-hectareas-de-bosques-en-el-chaco>
- Gomiz and Salgado (2010). *Convenio 169 de la OIT sobre Pueblos Indígenas, su aplicación en el Derecho interno argentino*. [online]. Available at: http://www.iwgia.org/iwgia_files_publications_files/ILO_argentina_text.pdf

Interviews with experts

- Discussions with different experts – carried out during the months of February and March, 2016, helped the authors of this report to better understand the applicable legislation and associated risks when carrying out field implementation, among them aspects related to harvesting permits. Regarding this sub-category several representatives of different organizations were interviewed, such as the Forests Bank (*Banco de Bosques*), Greenpeace Argentina, Pro-Yungas Foundation (*Fundación ProYungas*), Wild Life Foundation (*Fundación Vida Silvestre*) Forest Division of the Ministry of Agro-Industries (*Dirección Forestal del Ministerio de Agroindustrias*), CITES Authority (*Autoridad CITES*), CECOAL (Northeast Centre for Ecology) (*Centro de Ecología del Nordeste*), Delegate from Indigenous Peoples of Zicosur (*Delegado de Pueblos Indígenas de Zicosur*).

1.4.5. Risk determination

Overview of Legal Requirements

A distinction should be made between requirements for forest harvesting in natural forests and those for forest plantations. Always taking into consideration that there are national laws which give the general framework for requirements related to issuing, maintenance and cancelling of harvesting permits, such as the General Environmental Law.

Natural Forests:

Once the Management Plan has been approved, it is required to request a harvesting permit and the Forest Waybill. Once forest harvesting or land use conversion (clearance) has begun, the competent authority, through its representatives is required by law to inspect the plot.

Regarding harvesting permits covering indigenous or territorial lands, and according to the requirements set forth in ILO 169 Convention, a mechanism towards communities shall be implemented seeking free, prior and informed consent of these communities for implementing forest work in the vicinity, even if it is not exactly on the lands occupied by these communities, understanding that they use resources beyond the limits of the territory they inhabit.

Forest plantations:

A forest plan, for the initial plantation establishment includes several technical elements, among them, species to plant, soil preparation tasks, weed control, etc. Approved forest plans for plantations include the logging permit. No other separate permit is needed for logging, collecting or harvesting.

The forest plan details a logging rotation cycle in the plantation, although, as the cycles are long, it is subject to change. In case there are changes in this logging rotation cycle, after formally submitting the modification, in most cases the authority authorizes the change. The main difference in the follow up from the authorities with regards to the permits for harvesting natural forests and plantations is that in the case of plantations, the National Forest Division (*Dirección Forestal Nacional*) does a follow up with satellite images of the implementation or progress of the forest plans. Even though this plays a controlling role as these plans are included in the promotion programme (with stable taxes or no refundable contributions) in technical and administrative terms, it makes it possible to give an identity to each project and do a follow up on each of them.

Description of Risk

With regards to harvesting permits in natural forests, approval of some of them is questioned in the northern provinces (like Chaco, Formosa, Santiago del Estero, Salta, and Misiones) due to the existence of corruption cases (mainly bribery to field inspecting representatives), lack of transparency in the processes, weak surveillance, mistakes in the cadastre which can admit logging in neighbouring lands, overlaps with indigenous lands without free, prior and informed consent from the communities, use of outdated technology for project evaluation, and lack of follow up after harvesting, at the individual level and from the authorities. Ariel Araujo, Executive Secretary of the Parliament of the Indigenous Peoples of Chaco Americano and Zicosur (Parlamento de los Pueblos Indígenas del Chaco Americano y Zicosur) (Personal communication): (...) even if there have been a few attempts to convene hearings with indigenous communities according to the requirements established in ILO 169 Convention, the results have been very poor (...) the rights of natural communities are not taken into account when issuing permits for forest harvesting. This complements the collected information from national experts during interviews.

In 2007, in parliamentary discussions about the Forest Law, and avoiding the moratorium established by the rule, Salta government authorized, in a clearly speculative attitude, clearing of more than 400.000 hectares, quadrupling the permits given the previous year (Greenpeace Salta Report, 2013).

In personal interviews which the authors of this report held with national and some provincial authorities (from Chaco) and with some former authorities (from Misiones), cases were

mentioned where harvesting permits were granted to some specific plots although the work was done in neighbouring lands (with greater occurrence of commercial species), as well as cases where several successive permits to different entities were granted on the same plot in consecutive years, thus allowing over-exploitation of the timber resource and infringing legal requirements such as the General Environmental Law.

Regarding forest plantations, no situations as those described above were reported with harvesting activities and permits granted being under control (as was mentioned earlier, they are not exactly permits but approved general plans, which include harvesting).

Risk Conclusion

Forest plantations: 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.

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

1.4.6. Risk designation and specification

Low risk (Forest plantations)

Specified risk (Natural Forest).

1.4.7. Control measures and verifiers

- Field visits to verify maps are according to reality;
- The organization doing the work should have a harvesting permit (authorized or other legal documents ruling forest harvesting and the names of which vary according to province);
- Harvesting thresholds shall be clearly defined, based on maps, number of standing trees, geographical references, among other elements;
- Authorities shall confirm the validity of harvesting permits;
- Consultation with stakeholders shall confirm that competent authorities have issued harvesting permits according to the appropriate laws and regulations (only for forests included in yellow or red category, according to the Act on Territorial Planning and Land Use of Natural Forests required by the Law of Minimum Budget);
- Field inspections shall confirm that harvesting was performed within the thresholds indicated in the permits;
- Field inspections shall indicate that data regarding area, species and volumes, as well as the rest of information included in the harvesting permit are correct and activities are performed within the provisions established in the law;
- Due to technical requirements of best practices and according to the spirit of the different national laws, evaluation results after harvesting should be required in order to verify the condition of the remaining forest.

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

National Legislation

- National Law N 24857 (1997): Tax Stability for Forest Activity [*Ley Nacional N 24857 (1997): Estabilidad Fiscal para la actividad forestal*]. Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=139&IdSeccion=2>

There are no other requirements for payments of royalties or harvesting fees, for planted forests (plantations) or natural forests at national level, although provinces determine these rules for forest activity.

Provincial Legislation

Notes:

- As each province manages its own resources, it dictates its own laws, regulations, decrees and procedures. Diversity in the legal framework and its dynamics is very wide;
- As there are at least 12 provinces with natural forests and plantations in the country from which commercial goods are obtained, the more representative, in terms of traded and planted volumes, diversity of species and populations related to forests, among other factors are given as examples. These provinces are: Misiones, Chaco and Salta.

Misiones:

- General Resolution N 10/2015 y N 23/2006 [*Resolución General N 10/2015 y N 23/2006*]. Available at: https://www.dgr.misiones.gov.ar/portal/index.php?option=com_content&view=article&catid=271:2015&id=1208:r-g-10-2015-procedimiento-para-la-inscripcion-de-los-sujetos-obligados-al-pago-de-la-tasa-forestal-y-de-los-agentes-de-retencion-y-o-percepcion and https://www.dgr.misiones.gov.ar/portal/index.php?option=com_content&view=article&catid=116:2067&id=644:rg23-modificase-el-articulo-1d-de-la-rg-nd-0406-dgr
- Law N 4248: Technical Services provided by the Ministry of Ecology, Articles 3 and 4 [*Ley N 4248: Servicios Técnicos prestados por el Ministerio de Ecología*].

Chaco:

- Service Fee for Monitoring Plans (Resolution N°243/2010 from Provincia del Chaco) [*Tasa por Servicio de Monitoreo de Planes (Resolución N°243/2010 de la Provincia del Chaco)*]. Available at:

<http://cedei.produccion.chaco.gov.ar/Bosques/Forestal%20N/RESOLUCION%20%2024310.pdf>

Salta:

- General Resolution N 25/2013 from the Provincia de Salta, Articles 1 and 2 (*Resolución General N 25/2013 from Provincia de Salta*). Available at: <http://www.dgrsalta.gov.ar/rentassalta/jsp/informacionFisc/resultNormativas.jsp?anio=2013>

1.5.2. Legal authority

National level:

AFIP (Federal Administration of Public Revenue) (*Administración Federal de Ingresos Públicos*).

Provincial level:

Misiones: Department of Revenue (*Dirección General de Rentas*);

Chaco: Provincial Tributary Administration (*Administración Tributaria Provincial*);

Salta: Department of Revenue (*Dirección General de Rentas*)

1.5.3. Legally required documents or records

- Salta: Income Payment Form F938 NM (for natural forest products) [*Formulario de Pago de Rentas F938 NM (para productos del bosque nativo)*].
- Chaco: Inspection Service Payment Fee (for natural forest products) [*Pago de Tasa de Servicio de Inspección (para productos del bosque nativo)*].
- Misiones: Income Payment (for forest products in general) [*Pago de Rentas (de productos forestales en general)*].

1.5.4. Sources of information

Non-Government sources

- Ríos, G. (2012). *Los Impuestos en la Actividad Forestal*. [online]. Federación Argentina de Consejos Profesionales de Ciencias Económicas. Informe N 24. Available at: <http://www.facpce.org.ar/pdf/cecyt/tributaria-24.pdf>
- infobae.com (2016). *La recaudación tributaria subió 38,5% en el primer mes de gestión de Mauricio Macri*. [online]. Available at: <http://www.infobae.com/2016/02/01/1787014-la-recaudacion-tributaria-subio-385-el-primer-mes-gestion-mauricio-macri>

1.5.5. Risk determination

Overview of Legal Requirements

Legal entities (individuals, corporations, etc.) with forest harvesting permits in natural forests, or permits for conversion of land, shall pay harvesting fees and inspection fees. Payment shall be made prior to the issue of harvesting permits. The name of the document generated by this payment varies from province to province.

For forest plantations income taxes of varying amounts, depending on the province, shall be made; although inspections made by provincial or national authorities do not generate any payment. In the last few years, payment control has improved, according to consulted experts. These controls are carried out in industries but mainly on public roads where authority controls transportation shipments.

Description of Risk

In Argentina, it is not possible to obtain a harvesting or conversion permit if the fee payment has not been made previously, and therefore, taking into consideration this factor alone, it is impossible for Licenses or Waybills legally supporting a forest harvesting to exist without prior payment. Media reports* from the first half of 2016 point out that official national and provincial statistics show an increase in imposed payments and fees collection from the primary activity of the previous years.

Nevertheless, several experts consulted during this process expressed that they often hear of cases of forest harvesting, especially in natural forests that failed to make these payments. Moreover, they said that regarding the cases they have heard of, only a few infractions are formally acknowledged and mostly informal arrangements are made between the parties.

On the other hand, according to these same experts, for timber from forest plantations, conditions are different and only a few cases are known of failure to pay the appropriate fees and other taxes.

Risk Conclusion

Forest plantations: 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.

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

1.5.6. Risk designation and specification

Forest plantations: Low risk.

Natural forests: Specified risk.

1.5.7. Control measures and verifiers

- Payment receipts for taxes and harvesting fees, as well as other payments applying in the jurisdiction where the wood was sourced shall be available.
- These payments must include the different timber volumes for which the verification is being done (in case of processors of natural forest timber, there usually is a great diversity of species and stocks with many years of age that can be mixed).

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

National Legislation

- Regulation 280/97. Law text substituted by Law N°23.349 and its amendments. Published on March 26, 1997. (*Decreto 280/97. Texto de Ley sustituido por la Ley N°23.349 y sus modificaciones. Publicada el 26 de marzo de 1997*).
- Regulation for Issuing Receipts. Filing of Operations and Information (2003). AFIP. Title II, Chapter A and F. [*Régimen de Emisión de Comprobantes, Registración de Operaciones e Información (2003). AFIP.*]. Available at: <http://www.afip.gov.ar/afip/resol141503.html>

Provincial Legislation

Notes:

1. As each province manages its own resources, it dictates its own laws, regulations, decrees and procedures. Diversity in the legal framework and its dynamics is very wide;
2. As there are at least 12 provinces with natural forests and plantations in the country from which commercial goods are obtained, the more representative, in terms of traded and planted volumes, diversity of species and populations related to forests, among other factors are given as examples. These provinces are: Misiones, Chaco and Salta.

Misiones:

- Law XXII - 35 (Previously, Law N 4366) Tax Code [*Ley XXII - 35 (Previamente Ley N 4366) Código Fiscal*].

Chaco:

Law Decree N° 2444/62- Provincial Tax Code (*Decreto Ley N° 2444/62- Código Tributario Provincia*). Available at:
[http://atp.chaco.gob.ar/formularios/CODIGO%20TRIBUTARIO%20\(2\).pdf](http://atp.chaco.gob.ar/formularios/CODIGO%20TRIBUTARIO%20(2).pdf)

Salta:

- Law Decree N° 9/75 and its amendments. Tax Code [*Decreto Ley N° 9/75 y sus modificatorias. Código Fiscal*]. Available at:
http://www.dgrsalta.gov.ar/rentassalta/jsp/informacionFisc/leyes/CODFISCACT_0910.pdf

1.6.2. Legal authority

National:

Ministry of Economy and Public Finance [*Ministerio de Economía y Finanzas Públicas*]

Provincial Authorities:

Specific Authorities in the 12 provinces. The more representative, in terms of traded and planted volumes, diversity of species, as well as peoples related to forests, among other factors are given as examples:

Provincia de Misiones: Department of Revenue (*Dirección General de Rentas*);

Provincia de Chaco: Provincial Tributary Administration (*Administración Tributaria Provincial*);

Provincia de Salta: Department of Revenue (*Dirección General de Rentas*).

1.6.3. Legally required documents or records

- Sales Invoice (for services, goods – timber, standing, loaded in truck or transported) [Factura de Venta (*Factura de Venta (por servicios, por bienes – madera, tanto en pie como puesta sobre camión o transportada)*);
- Receipt of VAT statement and payment (Value Added Tax) [*Comprobante de declaración y pago de IVA (Impuesto al Valor Agregado)*].

1.6.4. Sources of information

Non-Government sources

- ic.fsc.org (2015). *Forest Stewardship Council Controlled Wood Risk Assessment Argentina*. [online]. (*Consejo de Manejo Responsable de los Bosques y Espacios Forestales*). Available at: <https://ic.fsc.org/es/our-impact/program-areas/controlled-wood-01/controlled-wood-risk-assessments/national-risk-assessments>
- Ríos, G. (2012). *Los Impuestos en la Actividad Forestal*. [online]Informe N 24. Federación Argentina de Consejos Profesionales de Ciencias Económicas. Available at: <http://www.facpce.org.ar/pdf/cecyt/tributaria-24.pdf>
- Niklitschek, M. E. (2012). *Sector Forestal Argentino, Desafíos y Oportunidades*. Inter-American Development Bank.
- consejosalta.org (N.Y.) *El Delito de la Evasión Tributaria*. [online]. Consejo Profesional de Ciencias Económicas de Salta. Available at: <http://www.consejosalta.org.ar/wp-content/uploads/EL-DELITO-DE-EVASION-TRIBUTARIA-Espeche.pdf>
- Aquino, L.M.A. (N.Y.) *La Evasión Fiscal*. [online]. Available at: <http://www.iefer.org.ar/trabajos/evasionfiscal.htm>

1.6.5. Risk determination

Overview of Legal Requirements

Decree 280/97 is the legal norm approving the Added Value Law. This norm describes the activities liable for this tax, the competent authorities, exemptions, fiscal credit and debit and import and export regulations, among other things. The Regulation for Issuing Receipts, Operations and Information Registry AFIP, establishes the elements that each type of invoice shall have.

At the point of sale (i.e. logs from plantations or natural forests) the legal entity is required to contribute the corresponding value added tax (VAT). If wood has not been processed (logs), VAT would be in the amount of 10.5% from the selling value; if it has been processed, 21%. At the same time, and as the common custom in the country dictates, harvesting or transportation service providers, and others, shall pay this same type of tax at the time they issue their invoices for these services.

Description of Risk

In the selling of wood from natural forests and plantations, there is the risk of sales not being recorded, that is without generating the legal sales document, i.e. sales invoice. If the sale is not legally recorded, the tax for added value is not paid, nor the royalties or other taxes. According to consulted national experts, and although some improvement has been perceived,

tax controls are infrequent on roads and highways (wood transportation) but higher in cities and towns (industries). Even though, people from the industry can support part of their purchases with purchase invoices, in general, an important percentage of these purchases is not supported by such invoices (and its corresponding tax payment). All this also according to consulted experts.

"Tax withholdings and taxes to the gross value of exports have also been a source of concern for the forest private sector (Forest Development Journal 2009 and 2011, Desarrollo Forestal 2009 y 2011). Besides withholdings at the national level, the government of the province of Misiones has tried to raise contributions from the exports sector to finance the provincial administration, through imposed rates of 6% of the gross value of lumber, pulp and paper. These measures affect industries with approved plans and tax stability and weakens the incentives to investment established by Law N 25080/99" [Ley N 25080/99] [Braier 2010, quoted by Mario Niklitschek in *Forest Sector of Argentina, Challenges and Opportunities (Sector Forestal Argentino, Desafíos y Oportunidades)*].

"In the Republic of Argentina, tax evasion is one of the more evident symptoms of the global crisis that affects the nation". Lic. Miguel Aquino-IEFE.

In general, these irregularities are more frequent in the trade of timber from natural forests than in that of exotic timber from plantations, although the issues exist for both source types.

Risk Conclusion

This indicator has been evaluated as specified risk, for natural forests products as well as those from plantations. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.6.6. Risk designation and specification

Specified risk

1.6.7. Control measures and verifiers

- Sale documents shall include the VAT;
- VAT filing and payment receipts must be available;
- Volumes, species and/or amounts indicated in the sales and transportation documents shall match the paid rates;
- Sale prices shall correspond to market prices;
- Declared species, volumes, amounts (when applicable) and quality shall match those in the sale documents;
- Competent authorities shall confirm that the seller is up to date with respect to its applicable sales tax payments;
- Fiscal and income competent authorities of the province where the goods originated shall be consulted to verify that all taxes on revenues and profits have been paid.

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

National Legislation:

- Decree N 649/97: The Law on Profit Taxes (Decreto N 649/97: sobre Ley de Impuesto a las Ganancias). Available at: <http://www.infoleg.gob.ar/infolegInternet/anexos/40000-44999/44911/norma.htm>
- Law N 26.893 (amends The Law on Profit Taxes). Issued on September, 2013 [Ley N 26.893 (modificatoria de la Ley del Impuesto a las Ganancias). Publicada en septiembre de 2013]. Available at: <http://www.infoleg.gob.ar/infolegInternet/anexos/220000-224999/220131/norma.htm>
- Regulations for Issuing Receipts. Operations and Information Recording (2003). AFIP. Title II, Chapter A and F [Régimen de Emisión de Comprobantes, Registración de Operaciones e Información (2003). AFIP. Título II, Capítulo A y F.]. Available at: <http://www.afip.gov.ar/afip/resol141503.html>
- Law N 25063: Minimum Alleged Profit (Ley N 25063: Ganancia Mínima Presunta].

Provincial Legislation:

Notes:

As there are at least 12 provinces with natural forests and plantations in the Country from which commercial goods are obtained, the more representative, in terms of commercialized and planted volumes, diversity of species, as well as peoples related to forests are: Misiones, Chaco and Salta.

As each province manages its own resources, it dictates its own laws, regulations, decrees and procedures. Diversity in the legal framework and its dynamics is very wide;

Misiones:

- Law XXII - 35 (Previously Law N 4366) Tax Code [Ley XXII - 35 (Previamente Ley N 4366) Código Fiscal]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/35LP-4366.pdf
- Law N 4366, Law on Gross Income (Ley N 4366 de Ingresos Brutos). Available at: <http://ingresosbrutos.blogspot.com.ar/2009/10/ingresos-brutos-codigo-fiscal-misiones.html>

Chaco:

- Law Decree N° 2444/62- Provincial Tax Code (Decreto Ley N° 2444/62- Código Tributario Provincial). Available at: [http://atp.chaco.gob.ar/formularios/CODIGO%20TRIBUTARIO%20\(2\).pdf](http://atp.chaco.gob.ar/formularios/CODIGO%20TRIBUTARIO%20(2).pdf)
- Provincial Tax Rating Law, Law Decree N 2071- year 2013 (Ley Tarifaria Provincial, Decreto Ley N 2071- año 2013). Available at: http://atp.chaco.gob.ar/legislacion/ley_tarifaria_provincial.pdf

Salta:

- Law Decree N° 9/75 and its amendments. Tax Code (Decreto Ley N° 9/75 y sus modificatorias. Código Fiscal). Available at: http://www.dgrsalta.gov.ar/rentassalta/jsp/informacionFisc/leyes/CODFISCACT_0910.pdf

1.7.2. Legal authority

National:

Federal Administration of Public Revenue (*AFIP, Administración Federal de Ingresos Públicos*);

Provincial Authorities:

Specific Authorities in the 12 provinces. The more representative, in terms of traded and planted volumes, diversity of species, as well as peoples related to forests, among other factors are given as examples:

Provincia de Misiones: Department of Revenue (*Dirección General de Rentas*);

Provincia de Chaco: Provincial Tax Administration (*Administración Tributaria Provincial*);

Provincia de Salta: Department of Revenue (*Dirección General de Rentas*).

1.7.3. Legally required documents or records

- Payment Receipt for Gross Income Tax (paid at the provincial level) [*Comprobante de pago de Impuesto a los Ingresos Brutos (pagados a nivel provincial)*];
- AFIP Form 711 and payment receipt (ticket) of the amount calculated and filed in Form 711 (national level) [*Formulario 711 de AFIP y comprobante de pago (ticket) del importe calculado y presentado en dicho formulario (a nivel nacional)*].

1.7.4. Sources of information

Government sources

- afip.gov.ar (N.Y). [online]. Available at: <http://www.afip.gov.ar/institucional/estudios/>

Non-Government sources

- ic.fsc.org (2015). *Forest Stewardship Council Controlled Wood Risk Assessment*. [online] (*Consejo de Manejo Responsable de los Bosques y Espacios Forestales*). Argentina. Available at: <https://ic.fsc.org/es/our-impact/program-areas/controlled-wood-01/controlled-wood-risk-assessments/national-risk-assessments>
- Ríos, G. (2012). *Los Impuestos en la Actividad Forestal*. [online]. Federación Argentina de Consejos Profesionales de Ciencias Económicas. Informe N 24. Available at: <http://www.facpce.org.ar/pdf/cecyt/tributaria-24.pdf>
- Niklitschek, M.E. (2012). *Sector Forestal Argentino, Desafíos y Oportunidades*.
- consejosalta.org (N.Y.) *El Delito de la Evasión Tributaria*. [online]. Consejo Profesional de Ciencias Económicas de Salta. Available at: <http://www.consejosalta.org.ar/wp-content/uploads/EL-DELITO-DE-EVASION-TRIBUTARIA-Espeche.pdf>
- Aquino, L.M.A. (N.Y). *La Evasión Fiscal*. [online]. Available at: <http://www.iefer.org.ar/trabajos/evasionfiscal.htm>

1.7.5. Risk determination

Overview of Legal Requirements

In the national corporate framework, natural persons and others must pay taxes for revenues or income obtained in the country, or abroad. The Law on Profit Taxes, falls on net profits considering annual turnover minus direct costs of the activity. Even though there are standard variations based on the turnover and the type of legal entity, for companies the value is 35%, and the payment is done annually. Discussions regarding amendments to this Law took place during the first quarter of 2016.

The Law for Minimum Alleged Profit has to do with assets, valued according to guidelines in the text of this same law.

In the AIFP webpage, there is a Catalogue for Economic Activities (*Nomenclador de Actividades Económicas*), where companies can get information on the applicable portions. Forestry activity is listed along with agricultural, livestock and hunting activities.

At the provincial level there is a Gross Income Tax, which is a direct tax on sales. Depending on the activity, this tax may not be applicable to all parts. Provincial administrations have webpages where companies (and other entities) may obtain information on the taxes applicable to them.

Description of Risk

Risk exists and is the same for timber from plantations and from natural forests, and it has to do with potential tax evasion due to deceitful statements or failure to file income statements, which situates the contributor out of reach of the tax framework where he/she belongs, according to their different levels of turnover.

To illustrate, the Tax Code from Chaco, Article 7º mentions: *According to what has been established in the Tax Code, Article 143, the proportional general rate regarding Gross Income Tax will be three point five percent (3.5%).* As Lic. Miguel Aquino-IEFE states: *In the Republic of Argentina, tax evasion is one of the most evident symptoms of the global crisis that affects the Nation.*

Although it is a fact, as the stated statistics in this same sub-category show, that the level of taxes perceived by the National State and provinces increases, the percentage of evasion is also very important. This has been stated by several external experts consulted during the development of this document.

Risk Conclusion

This indicator has been evaluated as specified risk, for products of natural forests as well as those from plantations. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.7.6. Risk designation and specification

Specified risk

1.7.7. Control measures and verifiers

- Receipt for payment of profits payment together with AFIP Form 711;

-
- Receipt for payment of Minimum Alleged Profit;
 - Receipt for payment of Gross Income in each province;
 - Competent authorities shall confirm that the operation is up to date in its tax payments on applicable sales (those mentioned in this category).
 - Consultation with competent tax authority to verify that all income and profit taxes have been paid.

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

National Legislation:

- National Law N°26331: Minimum Budget for Environmental Protection of Natural Forests, Articles 15, 16, 17, 18, 22, and 24b (*National Law N°26331: Ley de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*).
- National Law N 24.688: Forest conservation (Andino-patagónicos) [*Ley Nacional N 24.688: Conservación del bosque (Andino-patagónicos)*].
- National Law N 25.675, General Environmental Law (2002), Articles 2, 8, 10 [*Ley Nacional N 25.675, Ley General del Ambiente (2002)*].
- National Laws N 25.080 and N 26.432 (Extends the previous one), Investments for cultivated forests, Articles 5 and 31 [*Ley Nacional N 25.080 y N 26.432 (Prorroga la anterior), Inversiones para bosques cultivado*]. Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/55000-59999/55596/texact.htm>

Provincial Legislation:

Notes:

- As each province manages its own resources, it dictates its own laws, regulations, decrees and procedures. Diversity in the legal framework and its dynamics is very wide;
- As there are at least 12 provinces with natural forests and plantations in the country from which commercial goods are obtained there are also forests in other provinces although in those there are not harvesting projects but areas are dedicated to conservation and tourism), the more representative, in terms of traded and planted volumes, diversity of species and populations related to forests, among other factors are given as examples. These provinces are: Misiones, Chaco and Salta.
- Legal requirements related to natural forest are different from those of forest plantations;
- In most provinces, natural forests and plantations are monitored by different governmental hierarchic structures. Therefore, individuals and companies interested in providing information and obtaining licenses (for harvesting activities, among others), must visit the different stratum of the provincial states;
- The size of the companies (or undertakings, as in many cases they are activities carried out by families) is an important factor to consider regarding the monitoring capability of the

State over these properties, as well as in relation to the impacts of forest management on forests, mainly natural forests:

- Company size varies if the activities are being carried out in natural forests or in plantations. In the case of natural forests, thousands of families and small companies make use of this resource. Actually, only in Provincia de Salta there are areas of natural forests larger than 20 thousand hectares carrying out commercial timber harvesting.
- In the case of forests plantations, there are fewer companies dedicated to these activities, although some of them cover some large extensions (in excess of 40 thousand and even 200 thousand hectares). The Division of Forest Production from the Ministry of Agro-Industries considers large producers all those with plantations larger than 100 hectares, medium sized producers, those between 10 and 100 hectares, and small producers, those under 10 hectares.

Misiones

- Law XVI - Nº105 dated 02/09/2010: Act on Territorial Planning and Land Use of Natural Forests (*Ley XVI - Nº105 del 02/09/2010: Ordenamiento Territorial de los Bosques Nativos*). Creation of a Provincial Program for Protection and Sustainable Management of Natural Forests (*Programa Provincial de Protección y Manejo Sostenible de los Bosques Nativos*). Creation of Provincial Funds for Compensation and Promotion of Natural Forests. Articles 18 and 20 (*Fondos Provinciales de Compensación y de Promoción de los Bosques Nativos. Art. 18 y 20*).
- Law XVI-7 (Previously, Law N 854): Forest Law, Articles 12 and 19 [*Ley XVI-7 (Antes Ley N 854): Ley de Bosques*].
- Law XVI-53 (Previously, Law N 3426): Declaration and Regulations of Protective Forests and Ecological Belts (*Ley XVI-53 (Antes Ley N 3426): Declaración y Reglamentación de Bosques Protectores y Fajas Ecológicas*).

Chaco:

- Law Nº 2386: Forests Law. Article 19 and 19bis (*Ley Nº2386: Ley de Bosques*). Available at: <http://www2.medioambiente.gov.ar/sian/chaco/normativa/ley2386.htm>

Salta:

- Law N 7070: Environmental Protection. Articles 38, 43 and 44 (*Ley N 7070: Protección del Medio Ambiente*). Available at: http://ambiente.bioetica.org/normas/sa7070.htm#_Toc177023848
- Resolution 558/13 Minimum Contents of Management Plans – Forest Harvesting Modality (*Resolución 558/13 Contenidos mínimos de los planes de Manejo modalidad aprovechamiento forestal*). Available at: http://boletinoficialsalta.gob.ar/NewDetalleResolucion.php?nro_resolucion=558/13

1.8.2. Legal authority

National authorities:

Natural forests: Ministry of the Environment and Sustainable Development (Ministerio de Ambiente y Desarrollo Sustentable);

Forest Plantations:

Sub secretariat of Forest-industrial Development, from the Ministry of Agro-Industry of the Nation's Presidency (*Subsecretaría de Desarrollo Forestoindustrial, dependiente del Ministerio de Agroindustria de la Presidencia de la Nación*).

Provincial Authorities:

The framework of Law N 26331 establishes that each province shall have its competent Local Authority (ALA, *Autoridad Local de Aplicación*). In this case, there are: Forest Divisions (*Direcciones de Bosques*), Sub secretariats of Natural Resources (*Subsecretarías de Recursos Naturales*), Afforestation Divisions (*Direcciones de Forestación*), etc. A list of these can be found in pages 14 and 15 of the following document

Specific authorities can be found in the following list:

Misiones: Ministry of Ecology (*Ministerio de Ecología*). . Available at:

<http://www.ecologia.misiones.gov.ar/ecoweb/index.php>

Chaco: Subsecretariat of Natural Resources and the Environment (*Subsecretaría de Recursos Naturales y Medioambiente*). Available at: <http://rnaturaleschaco.gov.ar/>

Salta: Ministry of Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*). Available at: <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>.

1.8.3. Legally required documents or records

Regarding documents, the authority requires different ones, according to:

- Size of company: For plantation companies with more than 100 hectares, requirements are higher than for those with smaller land surface; for instance, the EIA (Environmental Impact Assessment, Estudio de Impacto Ambiental) that shall be submitted by medium and small companies could be made using Form 200 from the Ministry of Agro-Industries (Ministerio de Agrindustrias), where in a few pages, the subscribed professional in charge of the plan is to fill in spaces and matrixes. Large companies must provide EIAs much more elaborated with technical supplementary surveys (flora, fauna, etc.), and monitoring plans with complex structures regarding requirements.
- Natural forest: The person in charge of the project submits a Management Plan (Plan de Manejo) with all its characteristics, preventive and corrective measures of forestry treatments which could potentially affect the remaining forest. The authority could approve the plan or it could request from the person in charge the submission of an EIA. An AOP (Annual Operating Plan) with a description of the work to be carried out must be submitted annually;
- Harvesting Plan for land use conversion: To have a PCUS (Plan with Land Use Conversion) approved, an Environmental Impact Assessment is mandatory, according to specifications in the General Law of the Environment (Ley General del Ambiente) (N 25.675), in Law N 26.331 (Ley N 26.331) and the provincial regulations complementing it. These processes promote civil participation through consultations and public hearings;
- Forest plantations: Forest Plan (with its technical, legal and environmental components), accompanied by an EIA differing in terms of requirements according to b) in this section.

1.8.4. Sources of Information

Government sources

- ambiente.gov.ar (2008). *Pérdida de bosque nativo en el norte de Argentina*. [online]. Ministry of Environment (*Ministerio de Ambiente*). Available at: http://www.ambiente.gov.ar/archivos/web/UMSEF/File/deforestacion07-08_ley26331.pdf

Non-Government sources

- FARN (2014) *Los bosques nativos de Salta no están en orden*. [online]. Informe 2014. Available at: <http://www.farn.org.ar/wp-content/uploads/2014/07/POLICY-Bosques-Salta-ESP.pdf>
- Greenpeace Argentina (2008). *Emergencia Forestal*. [online]. Available at: <http://www.greenpeace.org/argentina/Global/argentina/report/2008/3/emergencia-forestal.pdf>
- rbyungas.org.ar (2007). *Proyecto Alto Bermejo - Análisis de legislación ambiental aplicable a la Reserva de Biosfera de las Yungas*. [online]. Available at: <http://www.rbyungas.org.ar/archivos/ANALISIS%20LEGAL%20RBYUNGAS.pdf>

Expert Interviews

- During the drafting of this work several persons, representing environmental organizations, authorities related to forests and plantations, scholars and independent consultants were interviewed. During the course of these talks the authors were able to verify that there are different ways of looking at forest harvesting, legal requirements, rate of illegal felling, rural communities' empowerment, among other issues.
- With regards to these subcategory, interviews were carried out with representatives from different organizations, including: Forests Bank (*Banco de Bosques*), Greenpeace Argentina, ProYungas Foundation (*Fundación ProYungas*), Wild Life Foundation (*Fundación Vida Silvestre*), Forest Division of the Ministry of Agro-Industries (*Dirección Forestal del Ministerio de Agroindustrias*), Ministry of the Environment (*Ministerio de Ambiente*), CITES Authority (*Autoridad CITES*), CECOAL (Northeast Centre for the Ecology, *Centro de Ecología del Nordeste*), Delegate from Indigenous Peoples of Zicosur, Tierra del fuego Government), Chaco Division of Forests (*Dirección de Bosques de Chaco*).

1.8.5. Risk determination

Overview of Legal Requirements

Natural forests:

Provincial legislation (requirements) vary although in essence two main documents are required: Forest Management Plan (including selective cutting and/or harvesting for products like firewood, poles, etc. or management for enrichment or conservation) and the Waybill (for selling and transportation of specific goods). Provincial authorities approve these plans and send their report to the National Government (Ministry of Environment) who send funds to the provinces for cases contemplated in Law N 26331.

Eventually, and with variations according to jurisdiction, even in the same province, once the forest harvesting or land use conversion starts (clearance), appropriate authority representatives will inspect the plot. This inspection may result in the need of making

adjustments to forest plans, as well as penalties for diversions, or even putting a halt to it. These inspections by the authority verify the various aspects of the plan, including areas, location, environmental safeguards, species, diameters and other results from the forest inventory.

Plantations:

Regarding forest plantations, no harvesting plans are required as this activity is included in the forest plan previously approved by the authority. Requirements of these plans have three components: technical, legal and environmental, and included in the environmental component is the need for approval of EIA, in the case of plantations. Approval is carried out by the National Authority, although all the information is submitted to provincial authorities functioning as a liaison with the National authorities, and are also the ones that perform inspections. These inspections are made at different intervals; after plantation, pruning and thinning, as these activities are promoted and undertaken to obtain financial benefits. After each provincial inspection, the National Government could do a joint inspection (generally for large areas of land) or decide to assign payments or tax benefits according to previous agreements with the interested party. At the same time, the National Authority (occasionally with the help of provincial governments) monitors plantation lands and harvesting (forest harvesting) with the intent of carrying out updates to the forest inventory and using control tools regarding benefits for tax or monetary incentives that the State provides for this sector.

Description of Risk

Regarding natural forest harvesting, although negative effects (due to indiscriminate cutting, clearing, fire, etc.) have diminished in the last years, civil society is demanding (not necessarily formally) to stop cases of corruption, lack of supervision, and destruction of natural forest due to harvesting (allegedly evident in clearance and conversion).

The Ministry of the Environment states, in the study "Loss of Natural Forest in the North of Argentina" (*"Pérdida de bosque nativo en el norte de Argentina"*), the following: the analysis carried out makes evident the existence of deforestation in the period between when Law Nº 26.331 of Minimum Budgets for Environmental Protection of Natural Forests (*Ley Nº 26.331 de Presupuestos Mínimos de Protección Ambiental de los Bosques Nativos*) was issued and the present day, in spite of clearings being forbidden, as stipulated in Article 8 from that law. In the area under study, an area covering 136 000 ha corresponds to clearing performed during the ban.

In its report "Forest Emergency", Greenpeace adds: In 1880, the tannin industry was established in Argentina producing a strong landscape degradation due to indiscriminate felling of species like quebracho colorado (*Schinopsis lorentzii*, family Anacardiaceae) (...) Since 1900, another destructive processes started, when the agricultural and livestock country, situated mainly in the humid pampa is expanded to the interior aided by the railroad extension, with new borders which means more clearing in ecologically unstable areas due to scarce water supply (...). Year after year, the agricultural and livestock border and the extensive cattle breeding keep expanding in a progressive way, becoming the main drivers of ecosystems degradation.

During the present study, several sources from civil society were interviewed and the above statements were confirmed. Although still developing, Law 26331 established a registry of environmental offenders in the provinces and in the Ministry of Environment. Each province

enacts this requirements in its own way, but some of the people interviewed point out that this is not always available to the public as required by the Law of Access to Environmental Information (*Ley de Acceso a la Información Ambiental*).

Regarding Forest Plantations these issues do not exist, as confirmed by interviewed experts, since harvesting tasks are carried out in a more orderly and legal way, and with greater auditing and transparency.

Another crucial difference between harvesting activities in natural forests and plantations that impacts forest harvesting activities, is the number of stakeholders involved, and the size of areas. In the case of natural forests, hundreds of different stakeholders are involved in each province (companies, families, natural communities, municipalities, contractors buying rights of harvesting, etc.), within small to medium size extensions of land (only in the Provincia de Salta there are harvesting lands larger than 20 thousand hectares.) In the case of plantations, only a few stakeholders are involved in each province, with forest plans referred to non-changing extensions of land (contrary to the activities in natural forests where every year migrations might happen), in medium to large size areas.

Risk Conclusion

For forest plantations: 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.

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

1.8.6. Risk designation and specification

Low risk for forest plantations,
Specified risk for natural forests.

1.8.7. Control measures and verifiers

- Harvesting is carried out within the limits of the holding as approved by the authorities;
- Harvesting cannot happen in areas where law prohibitions or specific provisions from sector authorities exist;
- Selected tree species within the FMU (Forest Management Unit, *Unidad de Gestión Forestal*) for which logging is prohibited shall be protected from cutting and permanent damage;
- Harvesting restrictions established by national or provincial laws should be enforced on sites;
- Forests should be protected from illegal logging and forest fires;
- Consultation with provincial forests authorities from where the wood was sourced confirm harvesting regularity. Providers shall be required to have an approved forest plan or an approved management plan, an EIA, public consultation (if applicable), etc.

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their

habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

National Legislation:

- National Law Nº22.351: Creation of National Parks, Natural Monuments, and National Reserves (*Ley Nacional Nº22.351: Creación de Parques Nacionales, Monumentos Naturales y Reservas Nacionales*). Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/15000-19999/16299/texact.htm>
- Law N 21836 approving the Convention Concerning the Protection of the World Cultural and Natural Heritage (*Ley N 21836 de aprobación de la Convención sobre la Protección del Patrimonio Mundial, Cultural y Natural. de los Recursos Naturales*).
- Law N 22344 approving Convention on International Trade in Endangered Species (*Ley N 22344 de aprobación de la Convención sobre el Comercio Internacional de Especies Amenazadas*).
- Law N 23919 Convention related on Wetlands of International Importance especially as Waterfowl Habitat, signed in Ramsar (*Ley N 23919 de aprobación de la Convención Relativa a los Humedales de Importancia Internacional especialmente como Hábitat de Aves Acuáticas, firmada en Ramsar*). Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/0-4999/319/norma.htm>
- Law N 24375 on the approval of the Convention on Biological Diversity Agreement (*Ley N 24375 de aprobación del Convenio de Diversidad Biológica*). Available at: <http://www.infoleg.gov.ar/infolegInternet/verNorma.do?id=29276>
- Law N 13273 for the Forest Defence, Improvement and Extension (*Ley N 13273 de Defensa, Mejoramiento y Ampliación de los bosques*).
- Law N 26331 Minimum Budget for Forest Protection (*Ley N 26331 de Presupuestos Mínimos de Protección de los Bosques*).
- Law N 24702 of Natural Monuments (*Ley N 24702 de Monumentos Naturales*). Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/35000-39999/39913/norma.htm>
- Law N 22421 on Wildlife Protection (*Ley N 22421 de Protección de la Fauna*). Available at: <http://www2.medioambiente.gov.ar/sian/pan/Leyes-decretos/Ley22421.html>
- Law N 25675 Environment General Law (*Ley N 25675 General del Ambiente*).
- Law N 22344 on Endangered Species (*Ley N 22344 sobre Especies Amenazadas*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=412&IdSeccion=0>
- Law Nº 25.463 on the National Natural Yaguareté Monument (*Ley Nº 25.463: Yaguareté Monumento Nacional Natural*).
- Decree 666/97 (*Decreto 666/97*). Available at: http://www2.medioambiente.gov.ar/mlegal/fauna_flora/dec666_97.htm

Provincial Legislation:

Misiones:

- Law XVI-29 (Previously, Law N 2932): System of Protected Areas [*Ley XVI-29 (antes Ley N 2932): Sistema de Áreas Protegidas*]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/205.pdf
- Law XVI-19 (Law N° 2.380): Natural Monuments: Pino, Paraná and Palo Rosa located on government-owned lands and Creation of the Provincial Registry for the Protection of Said Species [*Ley XVI-19 (Ley N° 2.380): Monumentos Naturales: Pino Paraná y Palo Rosa ubicados en Tierras Fiscales y Crea Registro Provincial de Protección de las citadas especies*]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/87.pdf
- Law XVI-91 (Law N° 4.318): Lapacho Negro, Official Flower and Natural Monument [*Ley XVI-91 (Ley N° 4.318): Lapacho Negro, flor oficial y Monumento Natural*]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/621.pdf
- Law N 3257: Declaration of *Grapia (Apuleia Ieoicarpa)* as a Protected Species (*Ley N 3257: Declaración de la Grapia como especie protegida*). Available at: http://diputadosmisiones.gov.ar/secretaria_legislativa/content.php?id_category=37&id=12051&pag=old

Chaco:

- Law N 4306: Natural Monuments from Provincia de Chaco (*Ley N 4306: Monumentos Naturales de la Provincia de Chaco*). Available at: <http://direcciondefauna.blogspot.com.ar/2010/04/ley-de-monumentos-naturales.html>
- Law N 2386/79: Forest Law (*Ley N 2386/79: Ley de Bosques*). Available at: <http://www2.medioambiente.gov.ar/sian/chaco/normativa/ley2386.htm>

Salta:

- Law N 7070/00: Law on Environmental Protection (Title IV, and Chapters I and VII) [*Ley N 7070/00: de Protección del Medio Ambiente (Título IV Capítulo I, y Capítulo VII)*].
- Decree 1660: on the Protection of Yaguareté (*Decreto 1660: de protección del Yaguareté*). Available at: <http://www.redyaguarete.org.ar/legislacion/decreto-1660/>

1.9.2. Legal authority

National Authorities:

National Ministry of the Environment and Sustainable Development (in this institution and according to the case, the competent authority can be the Forest Division and/or the CITES Authority working in its field) [*Ministerio de Ambiente y Desarrollo Sustentable de la Nación (dentro de esta institución y según el caso, puede ser autoridad de aplicación la Dirección de Bosques y/o la Autoridad CITES que trabaja dentro de su órbita)*]; www.ambiente.gov.ar;

National Parks Administration (*Administración de Parques Nacionales*).

Provincial Authorities:

There are specific authorities in all the 12 provinces. The most relevant, in terms of traded and planted volumes, diversity of species, and peoples related to forests, are detailed for:

Misiones: Ministry of Ecology (*Ministerio de Ecología*). Available at:

<http://www.ecologia.misiones.gov.ar/ecoweb/index.php>

Chaco: Sub secretariat of Natural Resources and the Environment (*Subsecretaría de Recursos Naturales y Medioambiente*). Available at: <http://rnaturaleschaco.gob.ar/>

Salta: Ministry of Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*). Available at: <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>

1.9.3. Legally required documents or records

Natural Forests: Management Plan or Land Conversion Plan (with its complementary documents: EIA, POA, etc.) [*Plan de Manejo o Plan de Aprovechamiento de Cambio de Uso de Suelo (con sus documentos complementarios: EIA, POA, etc.)*].

Forest Plantations: Forest Plan with its complementary document (EIA, fauna and flora assessment, for large companies, etc.) [*Plantaciones forestales: Plan Forestal con sus documentos complementarios (EIA, relevamientos de fauna y flora para grandes empresas, etc.)*].

1.9.4. Sources of Information

Non-Government sources

- Greenpeace (2012). *Cazadores matan a un yagareté en misiones*. [online]. Greenpeace-Noticias sobre Biodiversidad - Hernan Giardini. Available at: <http://www.greenpeace.org.ar/blog/cazadores-matan-a-un-yaguarete-en-misiones/6785/>
- Cuadra D.E. (2012). *LA PROBLEMÁTICA FORESTAL EN LA PROVINCIA DEL CHACO, ARGENTINA. UN ANÁLISIS DESDE LA GEOGRAFÍA*. [online]. Revista Geográfica Digital. IGUNNE. Facultad de Humanidades. Year 9. Nº 18. ISSN 1668-5180 Resistencia, Chaco. Available at: <http://hum.unne.edu.ar/revistas/geoweb/Geo18/archivos/cuadra12.pdf>

Interviews with experts

During the drafting of this work, several experts representing different organizations were interviewed, such as Greenpeace Argentina, Wild Life Argentina Foundation (*Fundación Vida Silvestre Argentina*), Pro-Yungas Foundation (*Fundación ProYungas*); representatives from national authorities, such as: the National Parks Administration (*Administración de Parques Nacionales*), Ministry of the Environment (*Ministerio de Ambiente*), Ministry of Agro-Industries (*Ministerio de Agroindustrias*); and provincial authorities, such as: IIFA (Forests Division (*Dirección de Bosques*) from Chaco. Also several independent professionals working in this field were interviewed. These people gave some data to help understand the complexity of forest management in internal areas or neighbouring protected sites or areas.

1.9.5. Risk determination

Overview of Legal Requirements

Regarding protected species, the legal framework is controlled by different organisations withing the national government, such as the Ministry of the Environment (*Ministerio de Ambiente*) (for species) and the National Parks Administration (*Administración de Parques Nacionales*) (for areas that contain species). At the same time, provinces have their own legal frameworks defining natural monuments, protected species, etc. In the bibliographic review, it

was noted that many wildlife species that have been declared national or provincial monuments, including the *yaguareté* (*Panthera onca* or jaguar) that fall into this category at the national level, also inhabit forests and other intimately related areas, such as wetlands and pastures. Therefore, in several regions in the north of Argentina and the *Patagonia Andina*, protected species and forests areas coexist.

Regulations for economic activities in protected areas are clearly specified, while protected species are not subject to harvesting for economical purposes, although there is one endangered species subject to forest harvesting, the so-called *Palo Santo* (*Bulnesia sarmientoi*). In provinces like Misiones (Yabotí Biosphere Reserve, *Reserva de la Biosfera Yabotí*) and Corrientes (Iberá Provincial Reserve, *Reserva Provincial Iberá*), conservation and productive activities coexist.

The General Environmental Law (*La Ley General del Ambiente*) establishes the minimum budgets for achieving a sustainable and adequate administration, preservation and protection of biological diversity and the implementation of sustainable development.

Law N 22344, which refers to approval of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (*Ley N 22344 de aprobación de la Convención sobre el Comercio Internacional de Especies Amenazadas of Wild Flora and Fauna*), includes appendixes for all endangered species, species whose situation is critical and controlled species in order to restrict their trade. The parties to the Convention will prohibit trading of these specimens, except in accordance with the terms of the Convention. Limitations established by said Convention regarding flora can be found in Appendix I, including any part or easily identified derivative product. Appendix II and III refer to fauna, including any part or easily identified derivative product.

Law N 24702 (*Ley N 24702*) refers to several mammal species that fall into the category of protected species. Even though they are found in the Patagonia Region, several of them inhabit forest areas.

Law N 26331 (*Ley N 26331*) establishes the Territorial Planning Act which provinces shall follow in their territories. This territorial act states one of three possible categories, namely, total conservation (although it is not strict, which means that some activities, like obtaining NTFPs by rural communities is possible.)

Article N 8 of the National Law for the Defence of Forest Wealth (*Ley de Defensa de la Riqueza Forestal*) (13273) defines the different types of protective forests included in the common forest regulations, the promotion of afforestation, and the enrichment of these areas, among other aspects.

Law N 22351 states: The law can declare a national park, natural monument or national reserve any of those territories from the Republic that due to its extraordinary beauty or richness in natural flora or fauna, or scientific interest should be protected and preserved, and such declaration shall be required by law. At the same time, items, animals or plants with aesthetic interest, historical or scientific value, or those whose absolute protection has been assigned to, can be declared natural monuments. The establishment of new national parks, natural monuments or national reserves in a provincial territory will only be allowed after this territory has been transferred to the National State. In these areas there are restrictions regarding the activities that can be carried out. In national parks, all economic exploitation, except that pertaining to tourism is forbidden, while in reserves, sports, and commercial and

industrial activities complying with regulations and authorizations from competent authority can be carried out.

Law N 22421, Law of Protection and Conservation of Wildlife (*Ley de Protección y Conservación de la Fauna Silvestre*) covers public interest wildlife inhabiting the territory of the Republic, as well as its conservation, propagation and use. It establishes the duty of the nation's inhabitants to protect the wildlife in accordance with existing regulations issued by competent authorities for its conservation and management.

Decree 666/97 regulates protection and conservation of wildlife, as well as import, export and interprovincial trade of live animals and products and by-products derived from them. It also approves hunting regulations.

Regarding provincial laws, those cited in Provincia de Misiones declare some species as protected, and it states: *The following specimens of natural species are declared Natural Provincial Monuments of public interest and not for trade: "Araucaria Angustifolia" (Pino Paraná) and "Aspidosperma Polyneurum" (Palo Rosa), found in provincial-owned lands, in self-sufficient entities, decentralized, municipal and/or from private properties, in order to accomplish preservation, conservation and reproduction of these species, and avoid their extinction.* A similar declaration is made for *Lapacho Negro (Tabebuia heptaphyla)*.

Description of Risk

The risk of timber being harvested from protected areas, or protected species being cut, is potentially real, especially in the north part of the country. Greenpeace and other organizations such as UNNE have documented evidences showing these risks for different sources: In a report, Greenpeace states *"Yaguareté is one of the few protected species of the Argentinian fauna that was declared Natural National Monument by Law Nº 25.463 of 2001. This ruling states that the Administration of National Parks and the Division of the Nation's Wildlife must develop and implement a management plan ensuring its survival in the national territory. It is also a declared Natural Provincial Monument in Chaco, Salta and Misiones."*

Another article from Greenpeace points out: "A group of hunters shot an animal 20 days ago, approximately, in the Provincial Park Urugua-í (Misiones) with no other apparent purpose than hunting it."

An article written by Dr. Cuadra (UNNE), regarding the problems in natural forests states: *"... To all this, it should be added a great tendency of many actors to commit illegalities, and who evade or conceal information, give or receive bribes, or even practice several types of violence to obtain their pursued benefits."*

In interviews with the mentioned experts for this case, it was confirmed that the risk derives from the rural communities' culture of using forests as a source for their supplies, and who do not necessarily follow the laws protecting them, as well as the lack of strict control of land boundaries in national and provincial jurisdictions. It is worth mentioning that these types of situations are frequent in the country, especially in the northern provinces. In some of these protected areas in the north of the country, neighbours or neighbouring rural communities use these areas as firewood, NTFPs and protein (hunting of mammals and birds) sources, and sometimes sourcing larger diameter wood (timber) for house construction or even for selling in small quantities (a type of commerce locally called *"al menudeo"*). These types of incidents can also be found in protected areas of the *Patagonia Andina*, although at a smaller scale.

Regarding individual protected species, the scenario is more complex, as was verified in interviews with the experts consulted for this work. Instances of cutting of protected species reported in Provincia de Misiones, the province with the greatest biodiversity in the country and containing several protected species. Regarding one of these protected species - *Handroanthus heptaphyllus* (*Lapacho Negro*), the difficulty has increased due to the fact that in neighbouring provinces this species is not protected and cutting could be justified in this way, although with probabilities that there might be wrong versions or incorrect declarations regarding origin, species, diameter, etc. Similar conditions exist for *Bursera graveolens* (*Palo Santo*) (CITES II) in Chaco, Salta and Formosa.

In relation to forest plantations, cultivated species are mainly exotic and because they come from plantations, they are no longer considered protected species. In provinces like Misiones, Corrientes and Entre Ríos, these plantations compete in a way with areas that have protected species, fauna mainly. These are birds like saffron-cowled blackbird (*Xanthopsar flavus*, *tordo amarillo*), strange-tailed tyrant (*Alectrurus risora*, *yetapá de collar*), yellow cardinal (*Gubernatrix cristata*, *cardenal amarillo*), etc., and mammals like pampas deer (*Ozotoceros bezoarticus*, *venado de las pampas*), marsh deer (*Blastocerus dichotomus*, *ciervo de los pantanos*), among others. These potential impacts on forestation are continually pointed out by organizations such as the Conservation Lund Trust, Wild Life Argentina (Fundación Vida Silvestre Argentina), and others. While this has a negative impact on some protected species, it is not necessarily illegal.

Risk Conclusion

This indicator has been evaluated as specified risk for natural forest and low risk for plantation forest.

Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk for natural forest

Low risk for plantation forests

1.9.7. Control measures and verifiers

- In this forest management unit, procedures for identifying and protecting species at risk or endangered should be followed;
- Regulations for nature's protection, like protected areas, reserved areas, protected species and hunting should be upheld;
- Approved harvesting plans shall be for the appropriate sector and shall not affect environmental safety regulations of protected areas;
- Waybill documents shall specify the origin of timber.

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

National Legislation:

- National Constitution: Articles 41, 43 and 124 (*Constitución Nacional*). Available at:

Resolutions:

- [95/02](#) -S.A.y D.S.- 22/04/2002. Amends Annex II of Resolution 501/95, Registry of Consultants on Environmental Impact Studies; Instrumentation and Regulations (*Modifica el Anexo II de la Resolución 501/95, Instrumentación y Reglamentación del Registro de Consultores en Estudios de Impacto Ambiental*). Available at: http://www.ambiente.gov.ar/archivos/web/DCA/File/Resolucin%2095_02.pdf
 - [693/98](#) -S.R.N.and D.S.- 27/08/1998. The Secretariat of Natural Resources and Sustainable Development requires that all those performing EIA must be registered in the Registry of Consultants on Environmental Impact Studies (*Exigencia de estar inscriptos en el Registro de Consultores en Estudios de Impacto Ambiental a quienes realicen EIA exigidos por la Secretaría de Recursos Naturales y Desarrollo Sustentable*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=407&IdSeccion=16>
 - [60/96](#) -S.R.N.and A.H.- 23/02/1996. Complements reregulation of Registry of Consultants on Environmental Impact Studies; Right to be registered and others (*Complemento de la reglamentación del Registro de Consultores en Estudios de Impacto Ambiental. Derecho de inscripción y otros*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=406&IdSeccion=16>
 - [501/95](#) -S.R.N.and A.H.- 12/12/1995. Implementation and Regulation of the Registry of Consultants on Environmental Impact Studies. Approval of the General Environmental Guide (*Instrumentación y Reglamentación del Registro de Consultores en Estudios de Impacto Ambiental. Aprobación de la Guía Ambiental General*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=557&IdSeccion=16>
 - 897/02 – On Hazardous residues (*Sobre Residuos Peligrosos*). Available at: http://www2.medioambiente.gov.ar/mlegal/residuos/res897_02.htm
- Protective Forests: National Law N°13273 on Forest Wealth (*Ley Nacional N°13273, de Riqueza Forestal*).
- Law N 22.428 Legal Regulations for Promoting Private and Public Action to Preserve and Recover the Productive Capacity of Soils (*Ley N 22.428: Régimen legal para el fomento de la acción privada y pública tendiente a la conservación y recuperación de la capacidad productiva de los suelos*).
- Biocides: Each province where biocides (agrochemicals to present effects) are used has its own laws and regulations.

- Wetlands: Bill for Protecting Wetlands (not yet passed and therefor with no reference number) [*Proyecto Ley de Protección de Humedales*]. Available at: <http://www.proteger.org.ar/ley-de-humedales-onqs-piden-apoyo-a-los-diputados-nacionales/>

Provinces like Corrientes, Chaco, Formosa, and Santa Fe have their own legal framework to protect sites of special interests.

Law N 24051 of Hazardous residues (*Ley N 24051 de Residuos Peligrosos*).

Regulatory Decree N 831/93 (*Decreto Reglamentario N 831/93*). Available at: http://www2.medioambiente.gov.ar/mlegal/residuos/dec831/dec831_93.htm

Law N 26815 Fire Management (*Ley N 26815 de Manejo del Fuego*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=1387&IdSeccion=0>

Provincial Legislation

Misiones:

Law N 3079, Responsibilities and criteria for Use and Implementation of Evaluations of Environmental Impact (*Ley N 3079, de Responsabilidades y Criterios para el uso e implementación de la evaluación de impacto ambiental*).

Resolution 228/00: Creates the Registry of Consultants Authorized to Perform EIA (Resolución 228/00: Crea el Registro de consultores habilitados para realizar EIA).

Chaco:

Law N 3964, On the Environment (*Ley N 3964, de Medioambiente*).

Biocides:

- LAW No. 7032.

Salta:

- Law N 7070 on Environmental Protection (*Ley N 7070, de Protección del Medioambiente*).

1.10.2. Legal authority

National authorities:

Ministry of the Environment and Sustainable Development (Ministerio de Ambiente y Desarrollo Sustentable): www.ambiente.gob.ar

Provincial Authorities:

- Misiones: Ministry of Ecology (Ministerio de Ecología). Available at: <http://www.ecologia.misiones.gov.ar/ecoweb/index.php>
- Chaco: Sub secretariat of Natural Resources and the Environment (Subsecretaría de Recursos Naturales y Medioambiente). Available at: <http://rnaturaleschaco.gob.ar/>
- Salta: Ministry of Environment and Sustainable Production (Ministerio de Ambiente y Producción Sustentable). Available at: <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>

1.10.3. Legally required documents or records

Environmental Impact Assessment (Estudio de Impacto Ambiental) approved by competent authority.

In general terms, forest harvesting, enrichment and land-use conversion plans, or plantation forest plans, include the requirements to safeguard environmental values in a specific plot; once these documents have been approved, the automatic approval of environmental measures requested by authorities is achieved.

1.10.4. Sources of information

Government sources

- medioambiente.gov.ar. (N.Y.). *Section on fires in the Provincia de Santa Cruz Major Book*. [online]. Statistical data provided by the Department of Forest Fires of the Provincial Livestock Council. National Ministry of the Environment (Ministerio de Ambiente de la Nación). Editorial Centro Alfa Literario. Milenio Ediciones. Available at: <http://www2.medioambiente.gov.ar/sian/scruc/flora/incendio.htm>
- agroindustria.gob.ar (2016). *Conclusiones de la 7 Conferencia del Ciclo de Buenas Prácticas Agrícolas*. [online]. Available at: http://www.agroindustria.gob.ar/site/agregado_de_valor/gestion_ambiental/index.php
- cofema.gob.ar (N.Y.). *Objectives of the Federal Council for the Environment*. [online]. COFEMA-an organization created by the National Government for working on environmental issues. (Consejo Federal del Medio Ambiente). Available at: <http://www.cofema.gob.ar/>
- minagri.gob.ar (N.Y.). *Argentina, Forest plantations and sustainable management*. [online]. Ministry of Agroindustries (Ministerio de Agroindustrias). Informe: Argentina, plantaciones forestales y gestión sostenible. Available at: http://www.minagri.gob.ar/new/0-0/forestacion/archivos/amobiente/publi_ambiental.pdf

Non-Government sources

- infobae.com (2013). *Argentina: mal uso de los agroquímicos provoca problemas de salud* [online]. News Portal (Portal de noticias- Infobae-Sociedad). Available at: <http://www.infobae.com/2013/10/21/1517756-argentina-mal-uso-los-agroquimicos-provoca-problemas-salud>
- lanacion.com.ar (2016). News Portal – La Nación [online]. Available at: <http://www.lanacion.com.ar/1888353-martin-prieto-argentina-se-encuentra-entre-los-10-paises-que-mas-destruyen-sus-bosques-nativos>
- cmf.org.ar (N.Y.). Fire Management Consortium- Forest Association of Corrientes- Seasonal Report (Consortio manejo del Fuego- Asociación Forestal de Corrientes- Informe de temporada). [online]. Available at: <http://www.cmf.org.ar/index.php?s=3&t=3>
- Greenpeace (2012). *El Impenetrable en peligro: Greenpeace denuncia que Chaco viola la Ley de Bosques* [online]. Available at: <http://www.greenpeace.org/argentina/es/noticias/Greenpeace-denuncia-que-Chaco-viola-la-Ley-de-Bosques/>
- ECO-SITIO (2016). *Forestal de Papel Prensa contamina con agroquímicos* [online]. Environment and Ecology Portal - news February 2016. Available at: <http://noticias->

ambientales-argentina.blogspot.com.ar/2016/02/forestal-de-papel-prensa-contaminacion.html

Consultation of experts

- Several NGOs work in the country under this sub-category. Some of them are: Greenpeace Argentina, Wild Life Foundation Argentina (*Fundación Vida Silvestre Argentina*), Foundation Habitat and Development (*Fundación Hábitat y Desarrollo*), FARN, Pro-Yungas Foundation (*Fundación Pro Yungas*), ENDEPA, Aboriginal Pastoral (*Pastoral Aborigen*), Conservation Land Trust, Proteger Foundation (*Fundación Proteger*), CEIBAS, among many others. During the present work representatives from some of these organizations were interviewed in order to have a better understanding of the regulatory framework and the reality of the countryside in the various regions.

1.10.5. Risk determination

Overview of Legal Requirements

The constitutional reform of 1994, at Article 41, introduced an acknowledgement of the right of all inhabitants to a healthy environment and the responsibility of preserving it. In the same line, it imposes to anyone causing an environmental damage the obligation of correcting it.

Article 43 establishes that any person can seek legal protection against any action or omission from public authorities or private persons, who in real or imminent form injures, restricts, affects or threatens, with arbitrariness or manifest illegality, the rights and privileges acknowledged by the National Constitution, adding that action could be filed with regards to the protection of the environmental rights by the offended, the people's defence counsel or any association trying to defend these rights (non-government associations, NGOs).

Article 124 establishes that provinces have the original domain of natural resources available in their territory.

There is a very wide legal framework in the country referring to environmental requirements. Laws have been issued for the past two decades (some have been updated, others have not) regarding care to natural forests, wetlands, emblematic and protected species when their conservation is considered endangered, with respect to soils, wetlands, the atmosphere and especially the ozone layer. On the other hand, the country constantly ratifies international treaties and conventions regarding environmental concerns.

Environmental requirements regarding natural forests are basically explained in National Law N 26331, although there are other supporting laws.

While forest plantations have environmental requirements in order to control dispersion of the exotic species that are planted, for soil conservation, the use of agrochemicals and management of their residues, to avoid conversion of natural forests, (although the possibility is not totally banned as OTBN admits conversion of natural forests and pasturelands) to preserve natural forests, and control forest fires, among other aspects.

When submitting plans for forest plantations or natural forest management with the aim of obtaining the benefits granted by the National Government, applicants should provide EIAs (Environmental Impact Assessments) describing environmental characteristics of the land and the project, practices to be implemented and environmental safeguards. Depending on the

project's land surface, wider and more specific requirements will be requested, starting at 100 hectares and over. Agrochemicals (biocides) use for soil management is part of these EIAs.

Regarding soils, the legislation promotes their conservation by encouraging practices that avoid their destruction and ensure their use through time. In relation to the documents or formalities that a primary producer must undertake, although there is not a specific document granting use of this resource (soil), the purpose for requesting a license, the practices to be used and the project justification will determine the type of license that the authority will grant, and the restrictions that should be observed.

Regarding protective forests, harvesting is banned by national and provincial laws recognizing that their importance for the environment is acknowledged in the Law for the Defence of Argentina Forest Wealth issued in 1970.

Regarding pesticides, in different provinces specific agronomic formulas made by professionals indicating their use, the authorization of the company that will apply them, treatment given to residues like containers, etc. are contemplated. Connected to these products and other related products are hazardous residues, Law N 24051 regulates generating, handling, transportation, treatment and final disposal of hazardous residues. In principle, it only applies to residues generated or located in places under national jurisdiction and those located in provinces abiding by it. It could also be applied to hazardous residues located in a provincial territory if one of the premises stated by Article 1 of the Law is fulfilled (interprovincial transportation, possibility of impacting the environment or people beyond the limits of the province).

Notwithstanding the above, provisions regarding civil and criminal responsibility of this Law apply to the whole country. Regulation Decree 897/02 (Decreto Regulatorio 897/02) includes Annex I (Anexo I) from Law 24.051 (Ley 24.051) and its Regulatory Decree 831/93 (Decreto Regulatorio 831/93) from the Category Subjected to Y48 Control (Categoría Sometida a Control Y48) regarding all materials and/or different elements contaminated with one or more hazardous residues identified in Annex I (Anexo I) or presenting one or more dangerous characteristics listed in Annex II (Anexo II) of the Law on Hazardous residues (Ley de Residuos Peligrosos).

Regarding wetlands, their use in forestry terms (floodable forests) and use land conversion are controlled by national and provincial laws. Obviously, there are commercial initiatives related to fishing, sand mining, tourism, etc. in the same environments and with different requirements, and the impact of these activities also differs.

Finally, the country has been working for a couple of decades on a National Service for Fire Management (Servicio Nacional de Manejo del Fuego) coordinated by the Ministry of the Environment. The environmental impact of a forest fire is widely understood as of alarming magnitude. The National Service for Fire Management, in addition to the above-mentioned national organization, has Consortiums for Fire Management (Consortios de Manejo del Fuego). These consortiums are civil organizations comprised mainly of plantation companies working in coordination with firemen, civil defence centres, neighbours (mainly stockbreeders), the police, National Highway Administration (Vialidad Nacional), and also provincial highways administrations, among other actors. These consortiums, besides keeping statistics and informing their members daily on climate conditions and risks keep an alert system for smoke (early detection) so the companies can start tasks for stopping fires and be alert.

Description of Risk

There are several risks related to environmental impacts, even though the legal framework for preserving environmental values is wide and includes not only forests but also other areas, species and values, the level of compliance and supervision is weak, as was verified in the interviews to external experts. Natural forests must be the object of preservation and improvement according to what national and provincial laws dictate; nevertheless, the country was one of the main deforesters in the world in the 2000-2010 decade, according to data from FAO.

Several sources identify risks, such as the ones mentioned by Greenpeace Argentina:

"Growth in the intensive cattle breeding could imply in a medium term the fragmentation and vanishing of a great part of "The impenetrable" (El Impenetrable), a valuable forest ecosystem covering 4 million hectares in the semiarid Chaqueña region, and which shelters seriously endangered species, such as the yaguareté (Panthera onca, jaguar), tatú carreta (Priodontes maximus, giant armadillo) and oso hormiguero (Myrmecophaga tridactyla, anteater)", stated Giardini. While this may not imply an illegality risk relevant to this indicator, it is relevant to consider the pressure on the forest resource.

Also ECO-SITIO described on February 2016: The Supreme Court of Buenos Aires issued the order for the forest plantation (...) in Alberti to cease all activities. According to the court's decision, agrototoxic substances are being used to fumigate without an environmental plan and without informing about the final destination of empty containers.

Also, when detecting deviations, the violation system is very weak and, depending on the jurisdiction in each province, it will or will not be applied, according to what stakeholders confirmed in interviews. On the other hand, violations and penalties are not being made public nowadays, in spite of having a double legal requirement: from the Law of Minimum Budget for Environmental Protection of Natural Forests, and the Law of Public Access to Environmental Information. Thus, the implemented system itself is weak.

In the season of forest fires there are campaigns to raise awareness of the civil population and the primary producers. In spite of all efforts made, huge forest fires continue to happen affecting immense regions in the north part of the country and the Andean region. Following is fact describing the magnitude of the problem of rural fires in critical season: in the NE region of Corrientes/ south of Misiones in only one day, in the year 2012, 200 seats of fire were reported in an area of approximately 0.25MM hectares.

Another environmental high impact risk is the management of hazardous residues (lubricants, agrochemicals containers, contaminated soil, etc.). To give an example of the magnitude of this case, three interviews with stakeholders in the main forest province of the country, Misiones, only two forest companies manage their hazardous residues as required by law, in a forest industrial complex of more than 700 companies.

Risk Conclusion

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

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- Evaluations of environmental and social impact should be carried out and should be approved by the competent authorities;
- Requirements for environmental supervision from competent authorities shall be fulfilled;
- On site environmental restrictions shall be fulfilled, such as the requirements related to soil damages, buffer zones, seed trees, seasonal limitations in the rainy season, etc.;
- Forest companies either of natural forests or plantations must implement a hazardous residues management plan when applicable;
- Competent authorities should be interviewed to find out if the project has any pending environmental disqualifications or penalties.

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

National level

- Law (Decree Law) N°19.587/1972 Health and Safety at Work [Ley (Decreto Ley) N°19.587/1972 de Higiene y Seguridad en el Trabajo] (B.O. 28/04/1972). Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/15000-19999/17612/norma.htm>
- Law 24.557 Risks at Work (Ley 24.557 de Riesgos del Trabajo) (B.O. 13/09/1995).
- Law N 11726 9 Conventions 1 to 6 from the First International Labour Conference (Ley N 11726 Convenciones 1 a 6 de la Primera Conferencia Internacional del Trabajo).
- Decree Law N 11594: Ratification of Various International Agreements (Decreto Ley N 11594: Ratificación de diversos Convenios internacionales).
- Law N 14932: Approval of various international agreements (Ley N 14932: Aprobación de diversos convenios internacionales). Available at: <http://www.infoleg.gov.ar/infolegInternet/verNorma.do;jsessionid=0113B50BC9E0B73B2B9AAB9203C2DD37?id=203613>
- Law 26727: Approval of Regulations of Agricultural Work. Title VII: About Safety and Work Risks (Ley 26727: Apruébase el Régimen de Trabajo Agrario. Título VII: De la seguridad y los riesgos en el trabajo) (B.O. 28/11/2011).
- Decree 617/1997: Regulation of Health and Safety for Agricultural Work (Decreto 617/1997: Reglamento de Higiene y Seguridad para la Actividad Agraria). (B.O. 11/07/1997).
- Decree 351/79 SRT: Technical Standards and Health Measures (Decreto 351/79 SRT: Normas Técnicas y Medidas Sanitarias).
- Resolution N° 11/2011 from the National Commission of Agricultural Work (CNTA): General Conditions of Work for Temporary, Cyclic and Seasonal Agricultural Workers (Resolución N°

11/2011 de la Comisión Nacional de Trabajo Agrario (CNTA): Condiciones Generales de Trabajo para trabajadores agrarios temporarios, cíclicos y estacionales) (B.O. 11/04/2011). Available at: <http://www.redcame.org.ar/adjuntos/resolucion1409.pdf>

- Resolution 415/02 (Resolución 415/02). Available at: <http://infoleg.mecon.gov.ar/infolegInternet/anexos/75000-79999/79053/texact.htm>

1.11.2. Legal authority

- Superintendence of Labour Risks (Superintendencia de Riesgos del Trabajo);
- Ministry of Labour, Employment and Social Security (Ministerio de Trabajo, Empleo y Seguridad Social);

1.11.3. Legally required documents or records

- ART (Work Risks Insurance Company) Coverage [*Cobertura de ART (Aseguradora de Riesgo de Trabajo)*];
- Payment of fees for this insurance coverage;
- Training according to the risks employees face;
- Record of accidents;
- Report of accidents to ART;
- Pre-occupational Medical exam;
- Periodical Medical periodic exam.

1.11.4. Sources of information

Government sources

- ilo.org (1998). *Safety and health in Forestry Work*. [online]. (Seguridad y Salud en el Trabajo Forestal). Available at: http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/normativeinstrument/wcms_112615.pdf

Non-Government sources

- Peirano, C. (2012). *La sostenibilidad social en el trabajo forestal. El caso de Argentina*.

1.11.5. Risk determination

Overview of Legal Requirements

Argentina is a country that has ratified most of ILO International Conventions related to labour, among them: Law 11.726 (Ley 11.726), Article 26 of Law 24.013 (B.O. 17-12-1991), Decree Law 11.594 (Decreto de Ley 11.594), Law 14.932 (Ley 14.932), Resolution 415/02 from SRT (Resolución 415/02 de SRT), Current Legal Norms on Health and Safety at work. Superintendent's Office of Labour Risks (2014),

Legal requirements for safety at work are related to a significant number and diversity of topics, among others: workers' age; health conditions, before, during and after being hired; training; elements of personal protection; transportation from their place of residence; lodging; food and drink in the field; access to medical services, breaks and vacations, working hours, among others.

Description of Risk

In 2012, in a published work by Claudia Peirano (Forest Association Argentina, *Asociación Forestal Argentina*) she states: "Although technically speaking, forest work can be defined as a

green job, labour conditions, safety at work, and social benefits for forest workers are critical issues in order to project forest and forest-industrial activities as generators of decent jobs and as a development tool for achieving a sustainable future" (...) "Besides it's informality, the sector has the characteristic of being highly dangerous. According to a SRT study (SRT, 2007) the forest activity showed the greatest rate of labour accidents for the period 2002-2004. As one of the figures illustrates in this this article, there are 195 accidents per every 1000 workers; as such this sector appears then as the most dangerous in the country."

This note from the academic Claudia Peirano, working in Forest Association. – Argentina (*Asociación Forestal Argentina*) is clearly related to activities in forest plantations. In the same line, and after implementing a program of labour qualifications for a few years, the same report states: "*Regarding reported accidents, the forest sector was able to achieve a 49% reduction between 2003 and 2010 (see figure): from 198 accidents for every 1000 workers in 2003 to 101 accidents for every 1000 employees.*"

In the natural forest sector there are no official statistics, nor are there organizations working on the safety and health of employees. It is worth noting that even though the legal framework, the knowledge, and the entities and organizations of this kind do exist and are available, they are practically never used.

Due to cultural and historical reasons, and failure to comply with the law, work in safe conditions can only be expected in registered work.

As a result of Interviews with experts and the review of public reports of FSC certification processes, recurring non-compliances with the law are the following, both in plantations (attenuated in intensity and frequency) and in natural forests:

1. Lack of personal safety equipment (EPIs);
2. When this equipment is provided to employees, there is a lack of use of all its components;
3. When all components are used, there is a lack of control with regards to the state the equipment is in;
4. Lack of training on the use of EPIs, as well as on the safe way to execute an activity;
5. Lack of control on food and drinking water for unskilled workers (which affects performance and increases the number of accidents).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. In the sector of forest plantations, there are fewer risks but they are significant and have been described in the above-mentioned reports.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- All safety and health regulations shall be implemented and all necessary safety equipment for a specific activity shall be used;
- All personnel involved in planting, pruning, thinning, forest harvesting or gathering shall comply with the legal requirements of health and safety at work;
- All personnel shall be trained for their activity, made aware of labour risks and of health and safety measures at work;

- Interviews with personnel and contractors shall confirm that the organization provides and requires the use of safety equipment required by law, as well as training courses on health and safety at work;
- All requirements regarding the prevention of air and water pollution shall be fulfilled and verified through surveillance reports on pollution (when applicable).

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

National level:

- Law N°22.248: Agricultural Labour Act (*Ley N°22.248: Ley de Trabajo Agrario*).
- Law 26.940: Promotion of Registered Work and Prevention of Labour Fraud (*Ley 26.940: Promoción del Trabajo Registrado y Prevención del Fraude Laboral*) (B.O. 02/06/2014). Available at: <http://www.infoleg.gob.ar/infolegInternet/anexos/230000-234999/230592/norma.htm>
- International Labor Organization Conventions ratified by the country [*Convenios de la OIT (Organización Internacional del Trabajo) ratificados por el país*]. Available at: http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102536

1.12.2. Legal authority

At the national level:

- Ministry of Labour, Employment and Social Security (Ministerio de Trabajo, Empleo y Seguridad Social);
- AFIP – Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos);
- ANSES – National Administration of Social Security (Administración Nacional de la Seguridad Social).

At the provincial level:

Misiones:

- AFIP - Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos) (different Regional Offices, depending on the city, e. g.: AFIP Misiones Regional Posadas, Regional Oberá, etc.);

- ANSES – National Administration of Social Security (Administración Nacional de la Seguridad Social) (different offices depending on the city, e. g.: ANSES Misiones Oficina Posadas, Oficina Oberá, etc.);
- Ministry of Labour and Employment of Provincia de Misiones (Ministerio de Trabajo y Empleo de la Provincia de Misiones).

Chaco:

- AFIP - Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos) (different Regional Offices, depending on the cities, e. g.: AFIP Chaco Regional Resistencia, Regional P. R. Sáenz Peña, etc.);
- ANSES – National Administration of Social Security (Administración Nacional de Seguridad Social) (different offices depending on the cities, e. g.: Anses Chaco Oficina Resistencia, Oficina P. R. S. Peña, etc.);
- Ministry of Government, Justice and Labour of Provincia del Chaco (Ministerio de Gobierno, Justicia y Trabajo de la Provincia del Chaco).

Salta:

- AFIP - Federal Administration of Public Revenue (Administración Federal de Ingresos Públicos) (different Regional Offices depending on the cities, e. g.: AFIP Salta Regional Ciudad de Salta, Regional Orán, etc.);
- ANSES - National Administration of Social Security (Administración Nacional de la Seguridad Social) (different offices depending on the cities, e. g.: ANSES Salta Oficina Salta, Oficina Tartagal, etc.);
- Ministry of Labour of Salta (Ministerio de Trabajo de Salta).

1.12.3. Legally required documents or records

- Early admission (AFIP Form): this form has a character of monthly affidavit and is used to pay to the authority the employees' taxes and contributions;
- ART coverage;
- Social Security Affiliation;
- Payment of fees that correspond to these coverages (ART and ANSES);
- Labour training;
- OIT Conventions: Compliance with minimum age, right to collective bargaining, right to dismissal with compensation, right to not be dismissed for being pregnant, right to overtime payment, etc.

1.12.4. Sources of information

Government sources

- Nation's Presidency, Ministry of Labour, Employment and Social Security: official abbreviated description of the labor framework in the country (*Presidencia de la Nación, Ministerio de Trabajo, Empleo y Seguridad Social: Descripción abreviada oficial del marco laboral en el país*).

- Nation's Presidency, Ministry of Labour, Employment and Social Security: Obligations of the Employer (*Presidencia de la Nación, Ministerio de Trabajo, Empleo y Seguridad Social: Obligaciones del Empleador*).

Non-Government sources

- Télam-News Agencies (2015). *El Índice del empleo no registrado bajó al 31,9 por ciento en el término del primer trimestre del año*. [online]. Available at: <http://www.telam.com.ar/notas/201506/108969-indice-empleo-no-registrado-indec-primer-trimestre-2015.html>
- [Peirano](#), C. (2012). *La sostenibilidad social en el trabajo forestal. El caso de Argentina*.
- [facpce.org.ar](#) (N.Y.). *Working Situation of Foreigners in Argentina*. [online]. Federación Argentina de Consejos Profesionales de Ciencias Económicas. Available at: <http://www.facpce.org.ar:8080/iponline/situacion-laboral-de-los-extranjeros-en-argentina/>
- Schiavoni, G., Alberti, A. (2013). *Autonomy and Migration: the forestall workers of the northeast of Misiones (Argentina)*. [online]. Trabajo y sociedad. Available at: <http://www.unse.edu.ar/trabajosociedad/23%20SCHIAVONI-%20ALBERTI%20Obreros%20forestales%20en%20Misiones.pdf>

1.12.5. Risk determination

Overview of Legal Requirements

Argentina has ratified 80 ILO Conventions and one Protocol. Employment laws are based on labour codes of European countries. The National Government has Ministries, Administrations, Public Prosecutors Offices and other administrative entities for monitoring and supervising legal employment. Additionally, provincial governments have Ministries, Regional Offices from the Central Government, Prosecutors Offices and other structures for similar purposes.

Requirements for the legal registration of an employee are the same irrespective of company size and start with Early Admission at AFIP (tax entity), continues with pre-occupational exams that must be carried out under the scope of an insurance company for labour risks, then the person shall receive personal protection equipment, job and safety training, and legal working conditions, as applicable (housing, food and transportation, etc.).

Early Admission is an AFIP requirement to register employees and is one of the most dynamic requirements to find out if an employee has been registered or not. If an employee is not in the payroll of contributions, it means he/she is not registered.

Simplified Framework of Labour Relations:

- Employment Contract - Requirements to enter into an employment contract:
 - At least eighteen years old;
 - At least 14 years old and under 18 living independently from their parents but who are informed of the minor's occupation;
 - If older than 14 and under 18 and performing activities in a dependency relation, it is assumed that they have authorization to be employed;
 - Younger emancipated by marriage.

- Dismissal
 - Employer shall inform employee of the dismissal decision one month in advance. Otherwise, worker is entitled to receive a compensation for lack of notice, equivalent to the salary of one month.
 - To claim a compensation there must be a labour relation, which is deemed to exist even if no contract signed by the parties exists.
 - The worker shall be considered in a relation of dependency when:
 - performing tasks under the direction of another person or company;
 - receives payment for the task;
 - tasks are performed for a determined period of time.
 - The worker has two years to initiate a dismissal claim in order to receive compensation.
- Wages - Decrees 388/2003 and 392/2003 establish the minimum, vital and mobile wage for workers paid on a daily or monthly basis if they fulfil legal hours of full time work. Employer and employee can freely agree on a salary, as long as it is not under the minimum wage established by law, by collective sector agreements or conciliatory agreements.
- Leaves - Existing leaves, besides the ordinary ones (for vacation) are as follows:
 - birth of a child: 2 full days
 - marriage: 10 full days
 - death of partner, child or parents: 3 full days
 - death of brother or sister: 1 day
 - present an exam: 2 full days, 10 days maximum in a year
- Social security
 - Employee and employer shall each pay their contributions resulting in retirement pensions, social works, etc. Percentages are calculated on the employee's gross salary. The employer is responsible for withholding and paying the compulsory contribution the employee must pay.
 - The employee shall receive the following allowances: for a child, for a child with disability, prenatal, for schooling, basic and polymodal education, for maternity, for birth, for adoption, for marriage. These allowances will be paid according to income parameters and type of assignation established by the State.

Description of Risk

Work locally denominated "*en negro*", is non-registered work, where the employee arranges a monthly or daily pay with the employer and as this arrangement is not registered, no contributions are paid (taxes, contributions, social security, burial security, union, etc.), and the worker has more money at hand than if the arrangement had been registered. The advantage for the employer is that he does not pay social charges and it is easier for him to deny responsibility in case of labour lawsuit..

Quote from in the article *Trabajo y Sociedad, Segmentación Ocupacional*, by Gabriela Schiavoni and Alfonsina Alberti, " *This factor explains also the preference for work 'en negro. This refers to a situation in which he worked with social security, a worker explains: 'I had all the rights we should have, but less money than if I worked ien negro because there are a lot of meetings to attend. And, how are we going to work, if we lose a day is a bad thing for us. If we have to do everything they want, our work does not bear fruit'*" (Mario, 31 years).

Another worker talks about his experience: " *I started working at 13 in thinning. I don't go to Entre Ríos anymore because seven years ago I got hurt, I hurt my back, I fell sitting down on a trunk; a trunk kicked me and I fell sitting on another one*" (Abelino, 38 years).

In spite of the country having ratified international agreements, and having a wide regulatory framework on the subject, the risk of finding a non-registered workers in forest activity is high, a little bit higher in activities carried out in natural forests than in plantations. This risk only diminishes with companies whose management is certified by independent organizations or with large transnational plantation operators. Medium sized companies with national capital usually have an important number of registered employees in their activities, although in critical moments where demand for labour increases (pruning, thinning, sourcing logs from natural forests) temporary employees are hired who are not registered in the national accounting system.

In Chapter 6.3.a of the Second Report from Argentina to the Montreal Process, 31.014 jobs generated by the forest system in 2013 are mentioned, stating also that this figure corresponds only to the registered paid work in the Integrated Provisional System of Argentina (*SIPA, Sistema Integrado Previsional Argentino*) and other State employees (also registered).

As a result of interviews with national experts, it was possible to learn that when the authorities are doing a supervision, it normally follows a procedure that can be evaded by the supervised party, in the sense that the visit is notified and the supervised party usually dismisses (momentarily) workers with low performance, or quickly fixes weaknesses that could generate higher fines, although this improvement is not maintained for long periods of time. An opposite case is when a complaint is being investigated, and even more if the complaint is made public. In this case, the visit is unannounced and the offending party, and its employees are interviewed; evidences of all kinds are taken and made public. The normal process is totally different, since the visit is previously notified in writing and very few employees are interviewed.

The most common deficiencies are related to non-registered employees (the employer saves more than 50% in the contracting costs for that person); working conditions which according to the law are strictly of forced labour, poor transportation, food and lodging conditions. Sometimes under age workers, women with their children, infants in many cases, persons with physical problems, with no safety equipment, among other aspects can be found especially in the forests in the northern part of the country. To clarify even more this situation, it is necessary to mention that many of these persons operate chain saws, forest machinery, coal ovens, etc.

Quote from *Situación laboral de los extranjeros en Argentina*:

" *The purpose of this work (...) is to set out the labour problem of foreigners in Argentina as it is a source of concerns and doubts for companies. Currently, one of the most important*

difficulties that employers have to face is the lawsuits for non-registered labour filed by illegal immigrants."

Misiones and Salta are the main provinces having foreign migrant labour, in some cases whole families, children included. In general, it is more frequent to find these situations in natural forests, but not exclusively.

Official statistics show that more than 30% of work in the country is irregular. It is assumed that in the agricultural sector (forest sector included) the rate exceeds 40%, and very likely, in natural forests in the northern part of the country, it exceeds 70% (as quoted from Periano's work: "(...) *two out of three forest jobs are informal (...) Informality, low provision of educational facilities and a risky activity practiced in isolation constitute an important challenge to improve labour safety and quality, and provide opportunities for workers.*") With this information, and the findings of interviews to national experts, and the review of several FSC Certification forest audit reports, it is clear that there are weaknesses in the supervising efficiency of the quality of agricultural work.

Risk Conclusion

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

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- All people involved in forest activities shall be hired according to regulations and under a formal contract (field verification: wage stub, where information about the worker and the contributions on his behalf are stated);
- All people involved in forest activities shall have coverage on mandatory insurances;
- All people involved in forest activities shall have certification of skills for the work they do and shall undergo periodic exams performed by ART professionals as required by law;
- All people involved in forest activities shall receive at least, the minimum wage stated in the Collective Agreement, or vital or mobile;
- The employer shall officially pay and declare all wages according to requirements for personnel involved in forest activities;
- All people involved in forest activities shall be hired according to the minimum working age;
- All personnel involved in dangerous work shall respect the minimum age for this kind of work, shall receive formal training as required and be provided with personal safety equipment;
- Lodging, transportation, food conditions, among others, shall comply with all legal requirements;
- Interviews with workers shall confirm that they are not being forced to sign papers declaring unreal labour conditions nor shall their freedom to collectively bargain with the employer be denied;

- Stakeholders shall confirm that forced or mandatory labour is not related to forest activities.

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

- Constitution of the Republic of Argentina. Section 1º, Chapter 1, Article 41; and Chapter 4º, Article 75, Paragraphs 17 and 22 (Constitución de la República Argentina.).
- Law N 24071: Approving United Nations Declaration on the Rights of Indigenous Peoples, Article 26 (specific to Land, Territories and Resources – Rights of indigenous peoples to lands, territories and resources (Ley N 24071: Aprueba la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas. Artículo 26 (es el específico a Tierras, Territorios y Recursos - Derechos de los pueblos indígenas a las tierras, los territorios y los recursos)).
- International Labour Organization Agreement 169 on indigenous and tribal peoples in independent countries. Articles 13 to 19 (Convenio 169 de la Organización Internacional del Trabajo sobre pueblos indígenas y tribales en países independientes.). Available at: <http://www.infoleg.gov.ar/infolegInternet/anexos/0-4999/470/norma.htm>

Provincial Legislation:

Chaco

- Law N° 3258 of the aboriginal chaqueño (Ley N°3258, del aborigen chaqueño). Available at: http://indigenas.bioetica.org/leyes/chaco.htm#_Toc124265962

Salta

- Constitution of Provincia de Salta, Articles 13 and 14, among others (Constitución de la Provincia de Salta, Artículos 13 y 14 entre otros). Available at: http://www.unsa.edu.ar/histocat/proesa/docs/b_constitucion_1929.htm

Misiones

- Constitution of Provincia de Misiones (Constitución de la Provincia de Misiones). Available at: <http://diputadosmisiones.gov.ar/uploads/provincial.pdf>

1.13.2. Legal authority

National:

- The Executive Branch (Regarding the enforcement of the National Constitution) [Poder Ejecutivo (en relación al cumplimiento de la Constitución Nacional)];
- INAI - National Institute of Indigenous Affairs, (Instituto Nacional de Asuntos Indígenas), as a decentralized organization it depends on the Ministry of Social Development (Ministerio de Desarrollo Social);

- Legal agencies (Courts) all over the country.

Provincial:

Chaco:

- The Executive Branch at the Provincial level (Poder Ejecutivo Provincial);
- Institute of the Aboriginal Chaqueño (Instituto del Aborigen Chaqueño).

Salta:

- The Executive Branch (Poder Ejecutivo).

Misiones:

- The Executive Branch (Poder Ejecutivo);
- Division of Guarani Affairs (Dirección de Asuntos Guaraníes).

1.13.3. Legally required documents or records

As proof of legality, with regards exclusively to the current relation between the right of third parties and forest management and harvesting, these documents are required:

- Indigenous Land Titles (they exist in Chaco, Formosa, Misiones and Salta provinces that have indigenous communities living in forest lands);
- Land Titles of the legal person responsible for forest management and harvesting;
- Forest harvesting permit based on a Management Plan according to OT requirements in each province. Requirements for this permit do not vary for indigenous communities in terms of the kind of operator. The permit is established over a specific area, with a wood quota by species, for the landholder (that could be a community or a company, or even an individual) and invariably refers to natural forests as in these territories there are no forest plantations.
- In the case of forest plans in forest plantations where the rights of proponents to carry out the mentioned plan are first reviewed and recorded (land, prohibitions, etc.), the documents that guarantee respect for the rights of third parties are the same as those in the approval of said plans.

1.13.4. Sources of information

Non-Government sources

- iied-al.org.ar (N.Y.). *Report of the Democratic Change Foundation*. [online]. (Informe de la Fundación Cambio Democrático). Available at: <http://www.iied-al.org.ar/fanas/Pueblos%20Ind%EDgenas%20y%20sostenibilidad%20ambiental.pdf>
- ambiente.gov.ar (N.Y.). *Press release: Parliament of Original Peoples from Mercosur and Zicosur*. [online]. (Parlamento de los Pueblos Originarios del Mercosur y Zicosur). Available at: <http://www.ambiente.gov.ar/archivos/web/CompBosNatBio/file/04%20-%20COMUNICADO%20DE%20PRENSA%20San%20Pedro.pdf>
- amnistia.org.ar (N.Y.). *Report from Amnesty International*. [online]. (Informe de Amnistía Internacional). Available at: <http://www.amnistia.org.ar/actua/firma-acciones/argentina-defensa-de-los-derechos-de-los-ind%C3%ADgenas-de-la-comunidad-el-descanso>

- eluniverso.com (2014). *Amnistía denuncia abusos contra pueblos indígenas de América Latina*. [online]. Press release from Universal News (Noticia Universo). Available at: <http://www.eluniverso.com/noticias/2014/08/09/nota/3355696/amnistia-denuncia-abusos-contra-pueblos-indigenas-latinoamerica>
- somosamigosdelatierra.org (N.Y.). *Grandes plantaciones, grandes problemas*. [online]. Report from Friends of the Land (Amigos de la Tierra). Available at: http://www.somosamigosdelatierra.org/05_ecosistemas/forestacion/forestacion02.htm

Interviews with experts

- During the present work several experts on human and community rights, as well as the Coordinator of the of FSC Argentina Working Group, and provincial government officials were interviewed in order to collect the elements necessary to analyse the affectation of third party rights caused by the forest activities, subject matter of this work.

1.13.5. Risk determination

Overview of Legal Requirements

The National Constitution, at Article 41, First Section establishes: *All inhabitants enjoy the right to a healthy, balanced, appropriate environment for human development and which enables productive activities to meet the present needs without compromising those of future generations; inhabitants also have the responsibility of preserving it. Environmental damage will primarily generate the obligation of repair as required by law.*

While Article 17 in Chapter Four stipulates: To acknowledge the ethnic and cultural pre-existence of indigenous peoples from Argentina, Article 22 establishes the approval of international treaties.

The Law of the Aboriginal Chaqueño (*Ley del Aborigen Chaqueño*), issued on May 14, 1986 addresses land allocation in Chapter II:

- Article 8: Allocation of property to the existing indigenous communities in the Province, who have complied with Article 6 of the present law, of appropriate and sufficient lands for agricultural, farming, forest, mining, industrial or handcrafting activities, according to appropriate modalities of each community.
- Article 10: Allocated lands shall be dedicated to agricultural, forest, mining, industrial or handcrafting activities, in any of their specialities, notwithstanding the existence of other simultaneous activities.
- Article 11: Lands allocated in accordance to this law cannot be seized, alienated, leased to third parties, and used as collateral, either by "*inter vivos*" or "*mortis causa*" acts, for a term of 20 years as of the date of allocation of the title, under penalty of nullity.

The Constitution of Provincia de Salta, in its first section establishes the rights of the inhabitants. Articles 13 and 14, among others are mentioned:

- Article 13: All inhabitants of the Province are by nature free and independent and have the perfect right to defend themselves, and to receive protection for their lives, freedom, reputation, safety and prosperity. No one can be deprived from these enjoyments except by a verdict from a competent judge based on a previous law with respect to the event relevant to the process.

- Article 14: No one is obliged to do what the law does not dictate, nor would a person be denied to do what the law does not prohibit.

The Constitution of Provincia de Misiones in its Second Title, Single Chapter, on Individual Rights and Safety, states in Article 7: The inhabitants of this Province enjoy full rights and privileges acknowledged by the National Constitution, under the laws that regulate their exercise.

It should be mentioned that the country only acknowledges customary law for indigenous populations. Regarding forest harvesting by indigenous or natural communities, the licenses issued by provincial authorities establish the same requirements as those for non-indigenous legal entities or leaseholders. In general, these communities receive technical help from the Social Pastoral (*Pastoral Social*), provincial government programmes, international foundations, among others, for carrying out this previous work related to forest inventory, a logging plan, maps, geo-referencing, work plan, and EIA (this being a new requirement following the guidelines of the Forest Law (N 26331)). Also, in some cases natural communities sell the forest logging right to third parties or companies, these being the ones in charge of developing the technical project and acting as the representatives of these communities before the authorities as they are the ones interested in obtaining licenses for cutting wood. This transfer of responsibilities is generally reflected on an agreement or legal contract, although provincial authorities are interested not so much on the relationship between private actors, as on having the names and legal information of both entities inscribed in the licenses, as this will have an impact on the forest waybills and eventual penalties.

Description of Risk

Considering that there are several indigenous communities in the various provinces, in the north and central part of the country and the Argentinian Andes, and as a result of interviews with anthropology experts, mention was made about some creole populations with a strong imprint that makes them extremely homogeneous groups, such as those from the Interfluvio del Chaco, Embalsados, and Esteros del Iberá, among others. However, as experts expressed with regards to the rights of these groups, they are highly vulnerable and hardly taken care of in their full dimension in the various jurisdictions.

In the different projects by Amnesty International (2008), it is specified that: "*whole communities are denied access to their ancestral lands while others are victims of violent repression and abuses for peacefully demonstrating in demand of their human rights.*" And, "*For more than eight years the State of Argentina has refused to establish a constructive dialogue on matters of concern to the community and has also denied the existence of any negative impact of the work on the exercise of the rights of indigenous people and mainly the right to free, prior and informed consent and the right to lands, territories and natural resources*".

In Interviews with experts, carried out during this work we were able to learn that according to them, and in relation to natural resources, the greatest risk is the irrational exploitation of natural forests that shows in general terms the following deviations:

- Forest over-exploitation selling volumes higher than those allowed by the inventory results (effect: diminishing NTFPs that traditional communities use for subsistence);
- Felling of trees in forest areas protecting watersheds or steep slopes (effect: impacts on watercourses indispensable for rural survival, and reduction of specific NTFPs in this area);

- Felling of minimal diameters under what is legally admitted (effect: diminishing volumes and wood species traditionally used by rural communities).

Regarding third party rights in forest plantations, the views of Friends of the Earth (*Amigos de la Tierra*) * and experts said, in provinces like Misiones and Corrientes (whose planted areas are the largest in the country) were considered. According to these sources, the main effect on third parties relate to quality of employment, scarcity of water, change of landscapes, scarcity of land for traditional activities and urbanisation.

According to interviews with non-government experts, indigenous peoples' rights in general, and customary rights as protected and recognised by several international, national and even provincial laws are at risk. In the country there are a number of indigenous communities in several provinces, in the north, the centre and the Argentinian Andes. However, as experts expressed these rights are highly vulnerable and rarely respected in full in these jurisdictions.

*Quote from Friends of the Land (Argentina): *Larger industrial plantations benefit the pulp and paper international industry and make it possible for large economic groups that plant them to periodically obtain very high profits. Nevertheless, these projects are not designed for benefiting our countries, the people and the environment. In general, they destroy more jobs than those they generate, and depend on subsidies extracted from ample sectors of the population to generate their profit. They do not help to preserve the lands, forests, pastures, or water resources, but exploit relentlessly the local natural advantages.*

Risk Conclusion

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

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Validity of Forest Management Plans and Annual Operating Plans (Planes Operativos Anuales);
- Approval and validity of the Forest Plan (Plan forestal) (plantations);
- Consultation with the appropriate entity in the natural community (could have different names depending of the Peoples -Qom, Kolla, Mapuche, etc. - and their political organization. It could be the Community Center, the Aboriginal Council, Elders Council, Chief (Cacique), etc.);
- Consultation with external organizations working with these communities;
- Consultation with the Ombudsman's Office (Defensor del Pueblo);
- Consultation to third parties interested in the rural area where the forest project being undertaken.

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

As there are no regulations for free, prior and informed consent as a defence mechanism for the rights of individuals, there are currently no legal/documental requirements to carry out this informative process in order to obtain consent.

The interviewed persons indicated that the free, prior and informed consultation process so far has been used experimentally in the country; that is, it is not a practice required by law nor ruled by specific procedures in the provinces.

Some laws mentioning it:

- Constitution of the Republic of Argentina. Article 75 paragraph 17 (*Constitución de la República Argentina*.)
- National Law N°24071, approval of United Nations Declaration on the Rights of Indigenous Peoples. Articles 10, 11, 16, 19, 28, 29 and 32 (*Ley Nacional N°24071, aprobación de la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas*).
- United Nations Declaration on the Right to Development. Available at: http://www.unicef.org/argentina/spanish/derechos_indigenas.pdf

1.14.2. Legal authority

- The Executive Branch (*Poder Ejecutivo*) in relation to enforcement of what is dictated in the Constitution;
- National Institute of Indigenous Affairs, (INAI - *Instituto Nacional de Asuntos Indígenas*), decentralized entity under the Ministry of Social Development of the Nation (*Ministerio de Desarrollo Social de la Nación*);
- Legal entities (Courts) all over the country

1.14.3. Legally required documents or records

As there are no regulations for free, prior and informed consent as a defence mechanism for the rights of individuals, there are currently no legal requirements to carry out this informative process in order to obtain consent.

1.14.4. Sources of information

Non-Government sources

- Democratic Change Foundation (Fundación Cambio Democrático) – Pueblos Indígenas y el Derecho a la Consulta Previa - brochure given during the interview.
- Parliament of Original Peoples from Mercosur and Zicosur (Parlamento de los Pueblos Originarios del Mercosur y Zicosur). Available at: <http://www.ambiente.gov.ar/archivos/web/CompBosNatBio/file/04%20-%20COMUNICADO%20DE%20PRENSA%20San%20Pedro.pdf>
- somosradiativa.wordpress.com (2015). *Grave situación ambiental por contaminación del Río Jacha*. [online]. Radio Nativa – News. Available at:

<https://somosradionativa.wordpress.com/2015/11/03/grave-situacion-ambiental-por-contaminacion-del-rio-jachal/>

- diarionorte.com (2016). *La mayor propiedad comunitaria de la Argentina* Diario Norte [online]. (Chaco, April, 2016). Available at: <http://www.diarionorte.com/article/136579/la-mayor-propiedad-comunitaria-de-la-argentina>
- acnur.org (N.Y.). UNHCR (United Nations High Commissioner for Refugees). [online]. Available at: <http://www.acnur.org/nuevaspaginas/tablas/tabla6.htm>
- un.org (N.Y.). *United Nations Declaration on the Right to Development: "Everyone has the right to development. Sustainability of development is linked to the capacity of people to control their developmental goals. Involvement of the community in the projects that affect it shall be consistent with its underlying principles of FPIC."* [online]. Available at: <http://www.un.org/es/events/righttodevelopment/declaration.shtml>

Interviews with experts

- During the process of consultation, several experts on work with rural communities, both natural and creole were interviewed. They confirmed that the process of free, prior and informed consultation has been used so far as an experiment in the country; that is, it is not a practice required by law nor ruled by specific procedures in the provinces.

1.14.5. Risk determination

Overview of Legal Requirements

The legal requirements were developed based on consultation in an atmosphere of dialogue and respect to obtain consent of indigenous peoples regarding several issues, among them, Indigenous Peoples lands, territories and resources (Declaration on the Rights of Indigenous Peoples, ratified by National Law N°24071, *Declaración de los Derechos de los Pueblos Indígenas*).

It should be noted that these requirements are not executed in practice as there are no formal requirements for FPIC in Argentina.

Description of Risk (Although not applicable)

Quoted from Ana Cabria Mellace, author of the piece written for the Democratic Change Foundation (*Fundación Cambio Democrático*):

"In general terms, the rights of indigenous peoples and individuals acknowledged by international regulations are part of the legislation in Argentina. Nevertheless, up to this day those rights have not been translated into an effective implementation. On the contrary, failure to comply with the law has created various conflicts documented in the last 10 years and basically associated to territories and exploitation of natural resources. Currently, out of the total number of land-related conflicts, 30% (278 conflicts) involve indigenous peoples. The North western part of Argentina (NOA) concentrates the majority of them (28.2 %), followed by Patagonia (21, 1%), Northeast Argentina (19, 8%), Centre (19, 1%) and Cuyo (11, 7%)."

Quote from in Diario Norte, Chaco, April, 2016:

(...) there is a formal flaw in the law that is of extreme gravity. It is precisely an "indigenous law" that did not respect the rights of the communities themselves. ILO 169 convention, ratified and incorporated into our National Constitution by Law 24071 (ley 24071) establishes that all norms

issued by the authority must include a participative process of the affected communities. This did not occur with Law 7775, which has a serious legal problem because if ratified and implemented it could make the province incur in an international liability for not complying with international treaties. On the other hand, this situation would force the communities to bring the relevant claim before the judicial authorities.

In interviews with experts from non-government organizations working in various areas of the country it was verified that, even though there is some background of attempts to get free, prior and informed consent, the experiences have not been fruitful in the country. The high diversity of actors, inexperience in these processes, logistic and economic difficulties, and the highly contrasting interests of different players in some cases (e.g. silver mining or clearances by third parties-companies in indigenous lands) make the process difficult.

The main risk, corroborated in interviews with experts, is that this free and prior consultation is not carried out, or that the process does exist as such but fails to fulfil the requirements stated in international treaties, with one of the interested parties seeking to take advantage of the agreements. Both scenarios are frequent in the country, according to experts. In those scenarios, problems due to productive activities of third parties being allowed in indigenous territories occur and have been huge (see quote above on the work from the *Fundación Cambio Democrático*), as after these poorly conducted processes, natural peoples would resume the claims for rights they consider fair, turning the issue into a long dispute and leaving a legacy of over exploitation of wood resources (in addition to gold, and affectation to water resources, etc.) in several provinces. Sites of historical and spiritual interest or sites related to the survival of those communities are also being affected.

Risk Conclusion

Not applicable.

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

National Legislation:

- Constitution of the Republic of Argentina. Article 75 paragraph 17 (Constitución de la República Argentina).
- National Law N°24071, approval of the United Nations Declaration on the Rights of Indigenous Peoples, Articles 10, 11, 19, 29 and 32 (Ley Nacional N°24071, aprobación de la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas.).

- United Nations Declaration on the Rights of Indigenous Peoples, Article 26 (Rights of indigenous peoples on Land, Territories and Resources). Available at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_es.pdf
- United Nations Declaration on the Right to Development. Available at: http://www.unicef.org/argentina/spanish/derechos_indigenas.pdf
- Law N°26160, on the emergence of land ownership (prohibits eviction of indigenous communities) [Ley N°26160, sobre la emergencia en la posesión de tierras (prohibición de desalojo de comunidades indígenas)].
 - Note: This law was extended twice (has an applicable period of four years each time), according to laws N°26554/09 and 26894/13.
 - Note from Infoleg: for article 1 of Law N 26894 B.O. 21/10/2013 (art. 1 de la Ley N 26894 B.O. 21/10/2013) is extended until November 23, according to the period established in this article, 2017. Last extension: Law N 26554 B.O. 11/12/2009 (Ley N 26554 B.O. 11/12/2009).

Provincial Legislation:

Chaco:

- Law of the Aboriginal Chaqueño (Ley del Aborigen Chaqueño). Available at: http://indigenas.bioetica.org/leyes/chaco.htm#_Toc124265962

For the other two provinces, Salta and Misiones, references to specific laws for original peoples living there were not found

1.15.2. Legal authority

- The Executive Branch (Poder Ejecutivo) with regards to compliance with Constitution;
- Ministry of Justice, Secretariat of Human Rights (Ministerio de Justicia, Secretaría de Derechos Humanos);
- National Institute of Indigenous Affairs, (Instituto Nacional de Asuntos Indígenas - INAI), decentralized entity under the Ministry of Social Development of the Nation (Ministerio de Desarrollo Social de la Nación);
- Institute of the Aboriginal Chaqueño (Instituto del Aborigen Chaqueño); (Chaco);
- Legal entities (Courts) all over the country.

1.15.3. Legally required documents or records

Regarding management and forest harvesting:

- Indigenous Land Titles (*Títulos de tierras indígenas*) (Can be found in Chaco, Formosa, Misiones, and Salta).
- Management Plan and AOP, whose approval is the result of forest harvesting licenses (the name of this document varies according to the applicable province). This license establishes timber quotas and always refers to natural forests as there are no forest plantations in these territories.

Regarding the rights of indigenous peoples:

- Documents generated through free, prior and informed consultation;
- Presence/absence of legal lawsuits over resources and affectation to the rights of these individuals.

1.15.4. Sources of information

Government sources

- [ucar.gob.ar](http://www.fao.org/family-farming/detail/es/c/370041/) (2013). *Surveys and systematization of land problems of family agriculture in Argentina*. [online]. (Relevamiento y Sistematización de problemas de tierra de los agricultores familiares en la Argentina.) Secretariat of Rural Development and Family Agriculture (*Secretaría de Desarrollo Rural y Agricultura Familiar*). Available at: <http://www.fao.org/family-farming/detail/es/c/370041/>

Non-Government sources

- Democratic Change Foundation (Fundación Cambio Democrático) – Pueblos Indígenas y el Derecho a la Consulta Previa - brochure given during the interview.
- Parliament of Original Peoples from Mercosur and Zicosur (Parlamento de los Pueblos Originarios del Mercosur y Zicosur); <http://www.ambiente.gov.ar/archivos/web/CompBosNatBio/file/04%20-%20COMUNICADO%20DE%20PRENSA%20San%20Pedro.pdf>
- [somosradionativa.wordpress.com](https://somosradionativa.wordpress.com/2015/11/03/grave-situacion-ambiental-por-contaminacion-del-rio-jachal/) (2015). *Grave situación ambiental por contaminación del Río Jachal*. [online]. Radio Nativa – News. Available at: <https://somosradionativa.wordpress.com/2015/11/03/grave-situacion-ambiental-por-contaminacion-del-rio-jachal/>
- [proyectoibera.org](http://www.proyectoibera.org/informacion_amenazas.htm) (N.Y.). *Amenazas al Iberá*. [online]. Report from Conservation Land Trust. Available at: http://www.proyectoibera.org/informacion_amenazas.htm
- [acnur.org](http://www.acnur.org/nuevaspaginas/tablas/tabla6.htm) (N.Y.). UNHCR (United Nations High Commissioner for Refugees). [online]. Available at: <http://www.acnur.org/nuevaspaginas/tablas/tabla6.htm>
- [un.org](http://www.un.org/es/events/righttodevelopment/declaration.shtml) (N.Y.). *United Nations Declaration on the Right to Development: "Everyone has the right to development. Sustainability of development is linked to the capacity of people to control their developmental goals. Involvement of the community in the projects that affect it shall be consistent with its underlying principles of FPIC."* [online]. Available at: <http://www.un.org/es/events/righttodevelopment/declaration.shtml>

Interviews with experts

- During the process of consultation to experts several persons specialized in work with rural communities, both natural and creole were interviewed.

1.15.5. Risk determination

Overview of Legal Requirements

Article 75 Paragraph 17 from the National Constitution states: *To acknowledge the ethnic and cultural pre-existence of Argentinian indigenous peoples. To guarantee the respect of their identity and right to a bilingual and intercultural education; to acknowledge the legal status of their communities, and communal ownership and possession of lands that they have*

traditionally occupied; and to regulate the delivery of other lands appropriately and sufficiently for human development; none of these lands shall be assignable, transmissible or susceptible of encumbrance or seizure. To guarantee the involvement of these indigenous people in managing their natural resources and other interests affecting them. Provinces may exercise these attributions concurrently.

Article 26 United Nations Declaration on Indigenous Peoples (ratified by Argentina):

- 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
- 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
- 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

Law N°26160, on the emergence of land ownership (prohibits eviction of indigenous communities) [Ley N°26160, sobre la emergencia en la posesión de tierras (prohibición de desalojo de comunidades indígenas)]

Declares the emergence in regards to land ownership and property that these indigenous and natural communities have traditionally occupied in the country, and whose legal status has been registered in the National Registry of Indigenous Communities or competent provincial entities or any other pre-existing registries, for the term of 4 (FOUR) years.

Customary rights and indigenous rights are analysed in the same way by the appropriate authorities. Law treats these people similarly, independently of the social or ethnic group they belong to.

In general terms, indigenous peoples' rights are protected by several international, national and provincial laws. With regards to forest harvesting by indigenous or natural communities, licenses granted by provincial authorities have the same requirements than licenses granted to other non-indigenous legal entities or leaseholders. In some cases communities sell the forest logging right to third parties or companies through a legal contract; these being the ones in charge of developing the technical project and acting as the representatives of the communities before the authorities as they are the ones interested y obtaining licenses for cutting wood.

Description of Risk

Quoted from Ana Cabria Mellace, author of the piece written for the Democratic Change Foundation (*Fundación Cambio Democrático*):

"(...) Currently, out of the total number of land-related conflicts related, 30% (278 conflicts) involve indigenous peoples. The North Western part of Argentina (NOA) concentrates the majority of them (28.2 %), followed by Patagonia (21,1%), Northeast Argentina (19, 8%), Centre (19, 1%) and Cuyo (11, 7%)." This data is clearly associated with the considerable increase of investment for exploiting natural resources in indigenous territories. This data is

clearly associated to the considerable increase of investment for exploiting natural resources in indigenous territories."

Quoted from the work of Secretariat of Rural Development and Family Agriculture (2013):

"Transferring political problematic situations to the judicial arena can be observed in Table 4 (of the work in question). From the totality of cases, 39% (331 cases) has been transferred to the judicial arena while 59% has not (508 cases). No information was found regarding 18 situations".

Quoted from the website of Conservation Land Trust:

(...) In planted areas, vegetation coverage and fauna are completely wiped-out and the close bodies of water dry-up due to the abundant consumption of water needed to cultivate pines and eucalyptus.

These people confirmed that the process of free, prior and informed consultation has been used so far as an experiment in the country; that is, it is not a practice required by law nor is it regulated by specific procedures in the provinces. They also confirmed other information related to lawsuits due to affectations to resources and rights of natural and creole (traditional) communities. It is worth mentioning that it is hard to obtain this information on-line as the legal system does not require that these cases get published, thus, information is not public unless a long administrative process is followed in order to access part of it.

In the relationship between natural forest exploitations and customary rights of original peoples and traditional communities, there are several potential risks derived from the forest activities:

- Over-exploitation of the forest with higher volumes of wood sold than those allowed in the results of forest inventories (effect: a decrease in NTFPs used by traditional communities for their livelihood);
- Felling of trees in forest areas protecting watersheds or steep slopes (effect: affectation of watercourses indispensable for rural survival, and decrease of specific NTFPs in these areas);
- Felling of minimal diameters below what is legally authorized (effect: increase in of habitat degradation and decrease in the volumes and wood species traditionally used by rural communities).

As a result of the interviews with regional experts and by verifying public reports on FSC certification processes in these regions, it was established that for forest plantations risks are mainly of a different type. Natural and traditional communities that perceive their resources as threatened by plantation activities are located in the provinces of Corrientes and Misiones. Conflicts in these cases are related to water consumption by plantations, land concentration, use of agrochemicals, landscape alteration, among other factors.

Another common aspect on indigenous lands, although not linked to legal or traditional rights, is that communities have bovine, ovine, equine and/or caprine herds, freely grazing in the forests. The effect of continuous browsing of young trees has a high effect for degradation, especially after felling where latent seeds are liberated. When communities are close to national or provincial parks (e.g., Provincial Park Loro Hablador, National Park Copo, Provincial

Park Calilegua, Provincial Park Laguna Pintascayo, etc.), there could be an overlap of felling area and the boundaries of these protected sites.

Risk Conclusion

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

1.15.6. Risk designation and specification

Specified risk

1.15.7. Control measures and verifiers

- Validity of Forest Management Plans and Annual Operating Plans;
- Records of FPIC (previous consultation);
- Reports on evictions of natural communities;
- Consultation with the appropriate entity in the natural community (could have different names depending of the Peoples - Qom, Kolla, Mapuche, etc- and their political organization. It could be the Community Center, the Aboriginal Council, Elders Council, Chief (Cacique), etc.);
- Consultation with external organizations working with these communities;
- Consultation with the Ombudsman's Office (Defensor del Pueblo);

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

National Legislation:

- National Law N° 13.273, Forest Promotion (Ley Nacional N° 13.273 de Promoción Forestal).
- National Law N 26.432 (Extension and amendment of National Law N25.080 on Promotion of Investments for Cultivated Forests) [Ley Nacional N 26.432 (Prórroga y modificatoria de la Ley Nacional N25.080 de Promoción de Inversiones para Bosques Cultivados)]. Available at: <http://www.infoleg.gov.ar/infolegInternet/verNorma.do?id=148753>
- National Law N°26.331 of Minimal Budgets (Ley Nacional N°26.331 de Presupuestos Mínimos) Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/135000-139999/136125/norma.htm>

Provincial legislation:

Chaco:

- Article 44, Constitution of Provincia del Chaco (Artículo 44 de la Constitución de la Provincia del Chaco).
- Law N°6409 (Act on Territorial Planning and Land Use, sanctioned in addition to Law N 26.331) [Ley N°6409 (Ordenamiento Territorial, sancionada en adhesión a la Ley N 26.331)].

Misiones:

- Forest Law (N°XVI – 7) [Ley de Bosques (N°XVI - 7)]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/75.pdf

Salta:

- Law N°7543 Act on Territorial Planning and Land Use of Natural Forests (Ley N°7543. Normas de Ordenamiento Territorial de los Bosques Nativos).

1.16.2. Legal authority

National Authorities:

- Natural Forests: Forest Division of the Ministry of the Environment and Sustainable Development (*Dirección de Bosques del Ministerio de Ambiente y Desarrollo Sustentable*) (www.ambiente.gov.ar);
- Forest Plantations: Division of Forest Production of the Ministry of Agro-Industries, the Nation's Presidency (*Dirección de Producción Forestal del Ministerio de Agroindustria de la Presidencia de la Nación*) (<http://www.agroindustria.gov.ar/new/0-0/forestacion/index.php#>)

Provincial Authorities:

- Specific Authorities in the 12 provinces. The more representative, in terms of traded and planted volumes, and diversity of species and populations related to forests, among other factors are given as examples.
- Misiones: Ministry of Ecology (*Ministerio de Ecología*); <http://www.ecologia.misiones.gov.ar/ecoweb/index.php>;
- Chaco: Sub secretariat of Natural Resources and Environment (*Subsecretaría de Recursos Naturales y Medioambiente*) - <http://rnaturaleschaco.gov.ar/>;
- Salta: Ministry of the Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*) - <http://www.salta.gov.ar/organismos/ministerio-de-ambiente-y-desarrollo-sustentable/10>.

1.16.3. Legally required documents or records

- Sustainable Management Plan, variation Forest Harvesting (for natural forests) [*Plan de Manejo Sostenible variante Aprovechamiento Forestal (para bosques nativos)*];
- Forest Plans (for plantations) [*Planes forestales (para plantaciones)*];
- Packing slip (for forest plantations) [*Remitos de madera (para plantaciones forestales)*];
- Timber Waybill (for natural forests) [*Guías de Transporte de maderas (para bosque nativo)*];
- Invoice (for the domestic market- A, B, or C, and for the international one – E) [*Facturas (para el mercado nacional -A, B, o C; como para el internacional - E)*];
- Exported shipment declaration (packing list and its link to bill of lading) [*Declaración de carga exportada (packing list y su vinculación con el bill of lading)*]. These last two documents are required for timber from plantations or natural forests.

1.16.4. Sources of information

Government sources

Timber from natural forests:

- [ambiente.gov.ar](http://www.ambiente.gov.ar) (N.Y.). *Forest Statistics 2004-2010*. [online]. Ministry of the Environment and Sustainable Development of the Nation. Available at: <http://www.ambiente.gov.ar/archivos/web/PNEF/file/Series%202010/Series%202010.PDF>

Timber from plantations:

- minagri.gob.ar (2014). *Forest Statistics 2013* [online]. Ministry of Agro-Industries of the Nation (Ministerio de Agroindustrias de la Nación). Available at: http://www.minagri.gob.ar/new/0-0/forestacion/_archivos/_econo/sector%20forestal%202013.pdf

Non-Government sources

- wri.org (2014). *En la Búsqueda de Madera producida Legalmente*. [online]. World Resources Institute. Available at: https://www.wri.org/sites/default/files/fla_legality_guide_spanish.pdf

Experts consultation

- During this process, several experts with working experience in different areas of the country were interviewed. We were able to gain in-depth knowledge of their opinions with regards to the risks associated to this category.

1.16.5. Risk determination

Overview of Legal Requirements

Regarding timber from natural forests, different provincial legislations requires that all companies or legal entities performing forest harvesting submit – as part of their forest inventories to have harvesting plans approved – details of species, dimensions, volumes, and the logging plan included in the AOP (Annual Operative Plan). This logging plan is valid for two to five years, according to jurisdiction. With this information the provincial authority decides if a technical visit is necessary and then decides if the company is authorized to market specific volumes of timber of each specie, according to diameters and depending on the Annual Allowable Cut (*Corta Anual Permisible*, CAP) submitted in previous technical studies. Waybills are given in accordance to these inventories and are subtracted from the total volumes as they are harvested in the forest. Data from approved forest inventories, timber waybills, sales invoices and tax returns, has to match volumes and species in order to confirm that data has not been forged.

In forest plantations, species are determined in the forest plan. Diameters and volumes are important for provincial governments in terms of taxation, but not strictly for matters related to forest management. For example, in Provinces like Misiones, there is a lease rental for material transported from the forest to the industry, but diameters and species are not supervised (as long as they come from forest plantations). Timber leaves plantations and travels to industries, with a packing slip which is a document describing species, harvested stand, carrier, data from the vehicle, contact details of the seller and buyer, date, lengths and diameters.

Description of Risk

According to the work carried out by the World Resources Institute, 2014 report (p. 5), around 20 to 30% of timber marketed in South America comes from illegal sources. No available sources were found on the Internet with official statistics for the specific case of the country; nevertheless, interviewed experts involved in the work considered that this percentage is a slightly higher in Argentina with regards to wood from natural forests and a lot smaller when talking about timber from plantations. That is, some of the experts consulted during the process consider that the percentage of illegal timber (understood as timber traded outside

market requirements, outside stated measurements, with false information in order to evade taxes, inaccuracy in declared species, generally for natural forest timber) exceeds 40% of the total of traded material in the country. Clearly, the volume in species from natural forest is more important than that from plantations.

According to these sources, risks associated to this subcategory belong mainly to two kinds:

- Incorrect classification of species: in all provinces with natural forests there are protected species, although they are also of commercial interest. There are also minimal diameters for cutting that vary according to species. Consulted experts pointed out that in different cases when authorities supervise a project, they find inaccurate classifications (although convenient for the operator as this means less taxes, or because he can introduce species to the market that were not stated in the forest plan). So much so, that for some protected species the authority has designed identifiers of appearance that are provided to supervisors in the control routes (as indicated by the country's CITES authority);
- Erroneous cubing: in order to evade taxes or at least to pay less to the various provincial fiscal divisions. Consulted experts also declared this.

Generally, in the case of forest cultivation species there are no risks or they are low in terms of classification of species, measures and quantities. This was expressed by representatives of forest plantation companies, as well as by external advisers to private companies and governments from the northeast of Argentina.

Risk Conclusion

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

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

1.16.6. Risk designation and specification

Low risk (For timber from plantations)

and

Specified risk (For timber from natural forests).

1.16.7. Control measures and verifiers

- Accurate forest inventories and approved by the authorities;
- Sustainable Forest Management Plans for natural forests, or Harvesting Plan of land use Conversion, approved by the authorities (natural forests);
- Forest plan approved by competent authorities (plantations);
- Legal and correctly designed waybills (natural forest);
- Correctly designed packing slip (plantations);
- Legal and correctly designed sales invoices;

- Consultation to the competent provincial authority or provincial delegation where forest plan of sourced timber corresponds in order to verify validity of permit.

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

National Legislation:

- Law N°24653, Motor vehicle transportation of loadings (*Ley N°24653, del Transporte Automotor de Cargas*).
- Decree N°1035/02: Regulates Loadings Law (*Decreto N°1035/02: Reglamenta la Ley de Cargas*).
- National Law N° 13.273 for Forest Promotion (*Ley Nacional N° 13.273 de Promoción Forestal*).
- National Law N 26.432 (Extension and amendment of National Law N25.080 on Promotion of Investments for Cultivated Forests) [*Ley Nacional N 26.432 (Prórroga y modificatoria de la Ley Nacional N25.080 de Promoción de Inversiones para Bosques Cultivados)*]. Available at: <http://www.infoleg.gov.ar/infolegInternet/verNorma.do?id=148753>

Provincial legislation:

Chaco:

- Article 44, Constitution of the Provincia del Chaco (*Artículo 44 de la Constitución de la Provincia del Chaco*).
- Law N°6409 (Act on Territorial Planning and Land Use, sanctioned in addition to Law N 26.331) [*Ley N°6409 (Ordenamiento Territorial, sancionada en adhesión a la Ley N 26.331)*].

Misiones:

- Forest Law (N°XVI – 7) [*Ley de Bosques (N°XVI - 7)*]. Available at: http://www.diputadosmisiones.gov.ar/digesto_juridico/documentos/75.pdf

Salta:

- Law N°7543. Norms for Act on Territorial Planning and Land Use of Natural forests (*Ley N°7543. Normas de Ordenamiento Territorial de los Bosques Nativos*).
- Decree N° 2785. Regulating Law N° 7543 (*Decreto N° 2785. Reglamentario Ley N° 7543*); <http://www.salta.gov.ar/prensa/noticias/plan-de-ordenamiento-territorial-de-las-reas-boscosas-/1652>

1.17.2. Legal authority

National authorities:

- Ministry of Transport, Argentina (*Ministerio de Transporte de Argentina*);
- Forest Division under the Ministry of the Environment and Sustainable Development of the Nation (*Dirección de Bosques del Ministerio de Ambiente y Desarrollo Sustentable de la Nación*);
- Forest Division under the Sub secretariat of Forest-Industrial Development under the Ministry of Agro-Industries (*Dirección de Forestación de la Subsecretaría de Desarrollo Foresto-industrial, dependiente del Ministerio de Agroindustrias*);

Provincial authorities:

Chaco: Forest Division, under the Sub secretariat of Natural Resources (*Dirección de Bosques, dependiente de la Subsecretaría de Recursos Naturales*);

Misiones: Ministry of Ecology and Renewable Natural Resources (*Ministerio de Ecología y Recursos Naturales Renovables*);

Salta: Ministry of Environment and Sustainable Production (*Ministerio de Ambiente y Producción Sustentable*).

1.17.3. Legally required documents or records

- Natural forest: Approval of Sustainable Management Plan, variation Forest Harvesting Plan or Land Use Conversion Plan (*Aprobación del Plan de Manejo Sostenible variante Aprovechamiento Forestal, o de Aprovechamiento de cambio de uso de suelo*);
- Plantations: Approved Forest Plans;
- Plantations: Packing slip for transportation of timber (*Remito de transporte de madera*);
- Natural forest: Timber waybill (*Guías de transporte de maderas*);
- Sales invoices (*Facturas de Ventas*) (and exportation when applicable, being two different documents);
- Shipment documents (*Documentos de embarque*) for exports (they come attached to the export invoice, or are issued simultaneously, or could be sent separately).

1.17.4. Sources of information

Government sources

Timber from natural forests:

- ambiente.gov.ar (N.Y.). *Forest Statistics 2004-2010*. [online]. Ministry of the Environment and Sustainable Development of the Nation. Available at:
<http://www.ambiente.gov.ar/archivos/web/PNEF/file/Series%202010/Series%202010.PDF>

Timber from plantations:

- minagri.gov.ar (2014). *Forest Statistics 2013* [online]. Ministry of Agro-Industries of the Nation (Ministerio de Agroindustrias de la Nación). Available at:
<http://www.minagri.gov.ar/new/0-0/forestacion/archivos/econo/sector%20forestal%202013.pdf>

Non-Government sources

- wri.org (2014). *En la Búsqueda de Madera producida Legalmente*. [online]. World Resources Institute. Available at: https://www.wri.org/sites/default/files/fla_legality_guide_spanish.pdf

Consultation with experts

- During the process several national experts on timber trade and transportation were interviewed. As a result, it was possible to know more thoroughly the conditions in which these activities are performed and the associated risks.

1.17.5. Risk determination

Overview of Legal Requirements

Timber transportation from natural forests is regulated by the issuance and carrying of waybills or removal waybills (for processed products). These bills are issued by many offices of provincial entities in specific geographic locations of Argentina. They are numbered, which in theory would avoid duplications. Carrier must present this document to the authority in case it is required to do so. The document states the forest plan number related to the timber (that should be valid and authorized), information on species, dimensions, origin and destiny, and dates. It also has information from the carrier and in some cases from the addressee.

Regarding timber from plantations, it is mandatory to have the transportation document known as packing slip (*remito*). This document is consecutively numbered and controlled by the Public Income Federal Administration (*Administración Federal de Ingresos Públicos, AFIP*). Knowing the tax code, CUIT (contributors' code, *código del contribuyente*), the type of provided service or product sold, it is possible to have access to the AFIP electronic site to learn about the company status regarding regularization of its operations, that is to know if it is selling timber legally.

In addition, trade is regulated by the emission of sale invoices. According to seller records in the national tax administration, the type of invoice he/she issues varies (A, B, or C), although if it is for exporting goods, it will always be "E". In export sales, in addition to the above mentioned documents, he/she must have customs documents such as the Bill of Lading and the export operation can only be done through a customs agent recorded in the respective legal registry.

Law N°26631 (*Ley N°26631*) requires provinces to have a public Registry of Offenders (*Registro de Infractores*) to this law.

Description of Risk

This is one of the weakest points of responsible forest management in Argentina. According to consulted experts, it is estimated that only half of the natural timber transported has the legal, reliable, necessary documents. The most frequent deviations have to do with forged waybills or packing slips, duplicating or cloning of these documents, obtaining them by bribery or volumes higher than that those estimated by the Annual Allowable Cut (CAP).

In consultation with experts in several provinces and with national and provincial government officials, it was verified that the Registry of Offenders, which each province must possess has not been implemented up to this day, least made public.

Regarding timber from plantations, the risk is low or even null, depending on the province. There are no cases of penalties or complaints of cases of transportation cases or trade of illegal timber from plantations, and this has been confirmed by the interested interviewed parties.

Risk Conclusion

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

For timber from natural forests this indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.17.6. Risk designation and specification

Low risk for plantations

and

Specified risk for timber from natural forests

1.17.7. Control measures and verifiers

- Natural forest: Waybill (*Guía Forestal*) with complete information and signed by the issuer and carrier;
- Plantations: Timber packing slip (*Remito de madera*);
- Sales invoice (*Factura de venta*) with information linking it to the waybill(s) or packing slips, as applicable;
- In the case of sales for exports, besides the mentioned documents, the shipping permit (*permiso de embarque*) and lading bill (*listado de empaque*) shall be verified since they have to match the previous documents.

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

National Legislation:

- Law N°19550 of Trade Associations Article 124 (*Ley N°19550, de las Sociedades Comerciales. Artículo 124*). Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/25000-29999/25553/texact.htm>

1.18.2. Legal authority

Division of Trade Associations of the Ministry of Justice of the Nation (*Dirección de Sociedades Comerciales del Ministerio de Justicia de la Nación*).

1.18.3. Legally required documents or records

Record of the associations on the web (*Registro de inscripción de las sociedades en la web*):
<http://www.jus.gob.ar/igj/tramites/guia-de-tramites/inscripcion-en-el-registro-publico-de-comercio.aspx>

1.18.4. Sources of information

Non-Government sources

- ic.fsc.org (N.Y.). *FSC Controlled Wood Risk Assessment for Argentina, in accordance to FSC-PRO-60-002*. [online]. Available at: <https://ic.fsc.org/en/our-impact/program-areas/controlled-wood-01/controlled-wood-risk-assessments/national-risk-assessments>
- inspiration.org (N.Y.). *Qué es una empresa offshore y para qué sirve. O cómo evadir impuestos*. [online]. Available at: <https://www.inspiration.org/justicia-economica/empresas-offshore>
- elsalvador.com (2016). *Estalla escándalo global de empresas "offshore"*. [online]. Medio Digital Salvadoreño. Available at: <http://www.elsalvador.com/articulo/nacional/estalla-escandalo-global-empresas-offshore-106515>

1.18.5. Risk determination

Overview of Legal Requirements

Although there is a regulatory framework for companies established in the country and abroad, transfer prices and off-shore trading are not permitted under national regulations. Article 124, part XV of Law Nº19550 (*Artículo 124 de la parte XV de la Ley Nº19550*) establishes: *A society constituted in a foreign country with headquarters in the Republic or whose main objective is designated to be fulfilled in the Republic, shall be considered as a local society for the effects of fulfilling formalities regarding its establishment or reform and controlling its operation.*

Description of Risk

Quoted from Inspiration: *(...) in legal terms it refers to companies or associations established outside the country of residence, in regions where taxation is 0%. Offshore companies are established in tax paradises to avoid taxes.* Using transfer prices through offshore companies is done to avoid paying taxes and royalties in countries where timber is harvested. Recently, a considerable number of companies involved in this practice have been made public in an article of the Salvadoran digital medium.

Due to the difficulty of tracking offshore companies, as well as the wide possibilities existing to register associations of this type in countries in America, this indicator has been evaluated as specified risk.

Risk Conclusion

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

1.18.6. Risk designation and specification

Specified risk

1.18.7. Control measures and verifiers

- Require audit report for transfer prices;
- Perform formal consultations with the relevant authority (IGJ) on the state of transfer prices reports and establishment of offshore associations of the seller;
- Verify the legal status of the forest supplier organization in the framework of trade regulations and establishment of associations.

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

- Customs Regulations (Approval of National Law N°22.415) [*Código Aduanero (Sanción de la Ley Nacional N°22.415)*]. Available at: http://www.infoleg.gov.ar/infolegInternet/anexos/15000-19999/16536/Ley22415_Titulo_preliminar.htm
- Imports: Section III; Article 130 to 216 (arrival of goods), and 217 and 320 (destinations of imports) [*Importación: Sección III; Artículos 130 a 216 (arribo de mercadería), y 217 a 320 (destinaciones de importación)*];
- Exports: Section IV; Articles 321 and 396 (destinations of exports), and 397 to 409 (departure of goods) [*Exportación: Sección IV; Artículos 321 a 396 (destinaciones de exportación), y 397 a 409 (salida de mercadería)*].
- AFIP General Resolution N°2964/10, Chapter 44 (*Resolución General de AFIP N°2964/10, Capítulo 44*). Available at: <http://www.afip.gov.ar/afip/resol1097.html>

1.19.2. Legal authority

- Customs of Argentina (Aduana Argentina) (www.aduanaargentina.com)
- AFIP (Federal Administration of Public Revenue, *Administración Federal de Ingresos Públicos*) (www.afip.gov.ar)
- SENASA (National Service of Health and Agri-Food Quality, *Servicio Nacional de Sanidad y Calidad Agroalimentaria*) (www.senasa.gov.ar)

1.19.3. Legally required documents or records

- Registration in the Customs Registry (*Inscripción en el Registro Aduanero*);
- Loading permit (*Permiso de Embarque*);
- Exports Invoice (*Factura de Exportación*);

- Packing list;
- Certificate of Origin (*Certificado de origen*);
- Phytosanitary Certificate (*Certificado fitosanitario*).

1.19.4. Sources of information

Government sources

- agroindustria.gob.ar (2015). *Report "Comercio Exterior- Intercambio comercial argentino de productos forestales 2014"*. [online]. Ministry of Agriculture, Livestock and Fisheries. Available at: <http://www.agroindustria.gob.ar/new/0-0/forestacion/archivos/econo/comercio2014.pdf>
- FAO (2005). *International Standards for Phytosanitary Measures*. [online]. Available at: <http://www.fao.org/docrep/009/a0450e/a0450e00.htm>

Non-Government sources

- Niklitschek, M. (2012) *Sector Forestal Argentino, desafíos y oportunidades*. Inter-American Development Bank.
- lanacion.com.ar (2015). *Fuertes condenas en el caso Carbón Blanco*. [online]. Diario La Nación. Available at: <http://www.lanacion.com.ar/1828971-fuertes-condenas-en-el-caso-carbon-blanco>

1.19.5. Risk determination

Overview of Legal Requirements

The Customs System is regulated at the national level. Forest goods generally leave the country by land transportation to neighbouring countries and by maritime transportation to the rest of the world. In several ports there are transit zones where goods are stored while awaiting to get loaded in the ship. Exports procedures end when the means of transportation passes the last customs post with a foreign destination. The customs document supporting exports for consumption is the Loading Permit (*Permiso de Embarque*). First of all, the exporter needs be registered as such in the customs service (Exporters Registry) and must request the services of a customs agent. The customs agent classifies, values and states in a sworn statement the goods to be exported. The Loading Permit is complete when the goods to be exported get into the Primary Customs' Zone to be submitted to controls of customs and other entities (SENSA, AFIP, etc.) prior to their exportation. Depending on the type of product and the buyer's requirements, there are some destinations that require a Phytosanitary Certification, according to FAO standardization (<http://www.fao.org/docrep/009/a0450e/a0450e00.htm>). In that case, SENASA is the authority supervising the shipment, regardless of whether other authorities like AFIP participate in the inspection and liberation of the shipment for exportation.

Regarding export charges, a rate of 5% of the FOB price of the goods is determined to be paid by the

Exportation almost concludes when the goods are authorized for exportation, and are loaded in the means of transportation; then then administrative customs procedures are entered into the informatics system (*María*) and in the Loading Permit (PE, *Permiso de Embarque*) that covers

the exports shipment (shipment confirmation). PEs can be fulfilled totally or partially, according to the actual embarked merchandise. A copy of the commercial invoice (type "E") and a copy of the packing list accompanies the PE. For the goods verifying process, the verifier agent from customs and the custom agent representing the exporter are present. This guarantees that the timber or other forest products to be exported are in accordance with what was declared by the exporter. The merchandise schedule system has the following elements: a list of goods that is called the Schedule (*Nomenclador*), a system of legal notes positioning the location of the goods in this schedule, six general rules related to the characteristics of the goods, and as a complement, a compendium with the generic description of the goods, which is called Explanatory Notes (*Notas explicativas*); this manual is a compilation of technical information; lastly, a publication called index of classification criteria. Clearly, all the information in the exports documents shall match the dispatched shipment and be truthful in relation to it.

Description of Risk

Argentina is a net exporter of wood pulp and solid wood and the manufactures derived from them, and a net importer of paper and cardboard.

In interviews with officials from the Ministry of Environment and the Ministry of Agro-Industries, we were able to find out that between 90 and 95% of wood exports correspond to those coming from forest plantations and the rest from natural forests. It should be pointed out that one of the CITES species in the country (*Bulnesia sarmientoi*) is object of exportation. Due to different irregularities revealed by Scientific Authorities from CITES Argentina, these exports are currently interrupted.

Through information collected in the press and interviews with experts, it was possible to verify that in general, exportation risks are related to illegal shipments (some cases of narcotic substances masked inside forest shipments of coal coming from natural species have been registered); shipments of illegal natural timber (different species), and erroneous filing of exports documents (although since this is done electronically, including invoices, it is now less probable.)

It should also be mentioned that in the exporting system, the existence of cases of corruption due to bribery is known in forest shipments although it is not formally reported due to the consequences it implies (extortion of members of dockers' organizations to speed up or delay shipments, or to speed up shipments of protected species whose documents of origin, or Flora Certification issued by the competent authority could not exist or be forged).

Regarding timber from forest plantations, as there are fewer actors involved (producers) that are also involved in a more transparent market with fewer middlemen there are fewer risks. Furthermore, no press records were found, nor findings through interviews, of cases where export rules were violated in the case of timber from implanted sources.

Risk Conclusion

For forest plantations 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.

and,

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

1.19.6. Risk designation and specification

Low risk (For timber from forest plantations)

and

Specified Risk (For timber from natural forests).

1.19.7. Control measures and verifiers

- Loading permit (*Permiso de Embarque*);
- Phytosanitary Certificate (*Certificado fitosanitario*)
- Certificate of Origin (*Certificado de origen*);
- Correct shipment classification (*Clasificación correcta de las cargas*);
- Packing List (*Listado de Carga de Embarque*);
- Export invoice linking the shipment with the statement in the Packing List (*Factura de Exportación que vincule la carga con la declaración del Packing List*);

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

National Legislation:

- National Law N° 22.344 Convention on International Trade in Endangered Species of Wild Fauna and Flora (*Ley Nacional N° 22.344 Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestre*) (CITES). Available at: <http://www.cijuso.org.ar/publicaciones/LEY-NACIONAL-22344.pdf>
- Decree N°522/1997: Regulates Law N°22344 (*Decreto N°522/1997: Reglamenta la Ley N°22344*). Available at: http://www2.medioambiente.gov.ar/mlegal/fauna_flora/dec522_97.htm
- Law N°26631: Minimal Budgets for Environmental Protection of Natural Forests (*Ley N°26631: Presupuestos mínimos de protección ambiental de los bosques nativos*).
Decree N 91/2009: Regulates Law N°26631 (*Decreto N 91/2009: Reglamenta la Ley N°26631*).

Resolutions:

- 393/2013: Approval of the Quarterly Report to be submitted by provinces inhabited by *Palo Santo* (*393/2013: Aprobación del Informe Trimestral que deben presentar las provincias donde habita el Palo Santo*). Available at: <http://www.ambiente.gov.ar/?aplicacion=normativa&IdNorma=1399&IdSeccion=24;>

Relevant Provincial Legislation from the three Argentinian provinces inhabited by Palo Santo:

Salta:

- Law N 7070: Protection of the Environment (*Ley N 7070 de Protección del Medio Ambiente*)
- Decree 6982 from Provincia de Salta: Bans felling of *B. sarmientoi* in public lands, allowing felling, sale and trade in private properties (*Decreto 6982 de la Provincia de Salta: Prohíbe el apeo de B. sarmientoi en tierras fiscales permitiendo el apeo, venta y comercialización en propiedades privadas*).
- Resolution N° 006/2001 from the Secretariat of the Environment and Sustainable Development of Provincia de Salta: Creates a New System of Waybills (*Resolución N° 006/2001 de la Secretaría de Medio Ambiente y Desarrollo Sustentable de la Provincia de Salta: Crea un nuevo sistema de guías forestales*).

Formosa:

- Law N° 488 on Forest Defence on the Provincia de Formosa (*Ley N° 488 de la Defensa Forestal de la Provincia de Formosa*);
- Law 1496 Conditions removal from the province of round wood, logs, bark stripped turned cylinders of any diameter, laminated boards, beams, full-edged beams or any other denomination previous to manufacturing (*Ley 1496: Condiciona la salida de la provincia de las maderas en rollos, rollizos, cilindros torneados descortezados, cualesquiera fueren sus diámetros, sándwich, vigas y canteados u otra denominación, a su previa industrialización*).
- Provision 355/1989: Authorizes cutting *B. sarmientoi* under strict control, establishing minimal diameters of felling to ensure continuity of the species in 0.35 meters (*Disposición 355/1989: Autoriza la corta de B. sarmientoi bajo estricto control. Se establece el diámetro mínimo de corta para asegurar la perpetuidad de la especie en 0.35 mts*).
- Provision 79/2006: Specifies special norms for using the Palo Santo species (*Disposición 79/2006: Fija normas especiales para el aprovechamiento de la especie palo santo*).

Chaco:

- Resolution N 0314/2002: From the Ministry of Production, on selective forest harvesting of species *Bulnesia sarmientoi* (*Resolución N 0314/2002: Del Ministerio de la Producción, a los efectos de realizar un aprovechamiento forestal selectivo de la especie Bulnesia sarmientoi*).

1.20.2. Legal authority

In the Ministry of the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sustentable*) there are two areas related to CITES, a technical area and an administrative area.

The Secretariat of Environmental Policies, Climate Change and Sustainable Development (*Secretaría de Política Ambiental, Cambio Climático y Desarrollo Sustentable*) is part of the structure of the Ministry; the Sub secretariat of Territorial Environmental Planning and Management (*Subsecretaría de Planificación y Ordenamiento Ambiental del Territorio*) is part of the Secretariat.

This Sub secretariat houses the Forest Division (*Dirección de Bosques*), under which operates the CITES Scientific Authority and Forest Endangered Species (*Autoridad Científica CITES y Especies Forestales Amenazadas*).

Information on species included in the CITES listings and the administrative contacts <http://www.ambiente.gov.ar/?idarticulo=10890>

Please note that National Authorities are the ones in charge of issuing these documents; not the provinces.

1.20.3. Legally required documents or records

CITES Licence (Permit) [*Licencia (Permiso) CITES*] for export (or import) issued by the Forest Division (*Dirección de Bosques*) of the Ministry of the Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sustentable*).

1.20.4. Sources of information

Government sources

- ambiente.gov.ar. (2015). *Fifteenth meeting of the Conference of the Parties in Doha (Qatar)*. [online] March 13-25, 2010. Document presented by Argentina. Available at: http://www.ambiente.gov.ar/archivos/web/DNRNyCB/file/palo%20santo%20ap_%20II.pdf

Non-Government sources

- chacodiapordia.com (2014). *Chaco nunca presentó un plan de manejo para maderas de palo santo*. [online]. Digital news on 'Chaco dia por día.com' Available at: <http://chacodiapordia.com/noticia/85493/chaco-nunca-presento-un-plan-de-manejo-para-maderas-de-palo-santo>

1.20.5. Risk determination

Overview of Legal Requirements

Decree 522/97 (*Decreto 522/97*) is the implementing legislation for the CITES treaty in Argentina. In signatory countries like Argentina, CITES regulates the international trade of wild species of flora and fauna with some degree of threat or in critical danger. That is, exports, re-exports and imports of animals and plants, alive or death, and parts or derivatives of these are regulated through a system of permits (licenses) and certificates issued if certain requirements are met. These documents shall be submitted to obtain authorization of entrance or exit of shipments of specimens of certain species to a specific country. Species regulated by CITES are included in the listings named Annexes, according to their degree of threat.

There are over a hundred species of flora protected by CITES in Argentina, in different categories (I or II). In this context, Palo Santo (*Bulnesia sarmientoi*), a species in CITES list II is the only forest species that is usually exported. For the CITES Scientific Authority to issue an export license, the timber should be sourced from a forest harvesting operation with a Sustainable Forest Management Plan. This plan should be supervised by the province in which the cutting happens (Formosa, Chaco, or Salta). Once the plan has been approved by the province, the Forest Division of the Nation through the CITES Authority carries out a field inspection to verify the veracity of the reports (this is done at the level of the management plan, and not for each timber shipment). If the CITES Authority ratifies the provincial approval,

the export license is issued to the holder of the sustainable management harvesting plan. Customs personnel have information on the species. This information has been provided to them in order to reduce the probability of approving an export shipment with an inaccurate determination of the species.

On the other hand, none of the forest cultivated species (in plantations), that are mainly exotic are protected by CITES. Therefore, there are no export restrictions for any of them.

Description of Risk

Quoted from the newspaper Chaco Día por Día: "*Mariana Stamati with other professionals from the national organization, pointed out during a training for government employees and technicians from Chaco, Formosa and Salta – all the three provinces having and trading the species Palo Santo- that none of them have ever submitted a management plan for the species, in spite of regulations existing since 2006; none of those regulations are observed in the field.*"

Quotes from a report presented by Argentina in the Fifteenth meeting of the Conference of the Parties in Doha (Qatar), March 13-25, 2010.

"In this way, it can be asserted that the main causes of loss of diversity in the Great Chaco are forest land conversions to agricultural lands and forest fires."

"(...) Since the effective inclusion of B. sarmientoi in CITES Annex III, irregularities have been detected, such as alterations in documents or inaccurate declarations which have required the following procedures → February, 2008 – Seventeen tons of lumber were detained when they were about to leave the country, bound for the United States of America. These goods lacked the necessary documentation to be approved for exportation. → March, 2008 – 1.85 tons of roundwood (20) were detained as they were about to leave the country bound for Germany. This timber was inaccurately declared (a non-protected CITES species was declared) in the export certificate application. → April, 2008 - 199.6 m² of floor boards were detected close to leaving the country bound for Sri Lanka. This wood was inaccurately declared (a non-protected CITES species was declared) in the export certificate application. → August, 2008 - 401 pieces of roundwood were detained when they were about to leave the country bound for China. These goods did not have the necessary documentation to be approved for exportation. → August, 2008 - 329 pieces of roundwood were detained when they were about to leave the country bound for China. These goods did not have the necessary documentation to be approved for exportation. → June, 2009 – 200 pieces of roundwood were detained when they were about to leave the country bound for China. These goods did not have the necessary documentation to be approved for exportation."

In interviews with CITES Technical Authority, it was verified that there are disagreements with the provinces regarding approval of these forest plans and currently exportations have been interrupted. Nevertheless, the authority admits (admission stated in documents presented in international forums, like the one in Doha, in 2010) that timber from this species is being exported anyway although in much smaller quantities. This shows a permeable and prone to corruption system for exportations. Risks are associated to the veracity of the Export Permits; the approval of forest plans by the provinces and the Nation; the sustainable management of the resource in order to preserve it, and other economic and social risks, such as: cutting on indigenous lands with no authorization from the community, non-registered or very low payments for cut timber, among others.

Risk Conclusion

For timber from natural forest (especially *Bulnesia sarmiento*) this indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.20.6. Risk designation and specification

Specified risk (For timber from natural forests, especially *Bulnesia sarmiento*).

And

Low risk for plantations

1.20.7. Control measures and verifiers

- Requesting an export permit [done in CATICE, Centre for Technical Assistance and Inspection of Foreign Trade (*Centro de Asistencia Técnica e Inspección del Comercio Exterior*)];
- Export Licence of CITES species [*Licencia de Exportación de especies CITES*] (it is granted once the sustainable management plan for the species has been approved. This plan is done in relation to the land, not for the shipment to be exported).
- NOTE: The Forest Division is in the process of evaluating other tracking systems for trade of CITES species using seals.

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

N/A

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

N/A

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Argentina** 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 ARGENTINA

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural forest	Provincia Paranaense (rainforest formation) Provincia de Misiones	Natural forest management in private lands	Private	In order to undertake forest harvesting, enrichment, land use conversion, etc., land owners must obtain the appropriate permits from competent authorities, according to the guidelines established in the Act on Territorial Planning and Land Use of Natural Forests (OTBN - Ordenamiento Territorial de Bosques Nativos) that determine in public or private lands, if a natural forest can be managed or not and under which regulations. This process is mandatory. Any activities performed must be supervised by the authority.	Forest exploitation permit (for selective forests exploration); Land use conversion permit (for forests conversion to other uses)	Natural forest. Also a source for NTFPs (non-timber forest products), (PFNM - <i>Productos Forestales no-Madereros</i>).
		Protected areas	Public and Private	Protected areas like National Parks, Provincial Parks, and Private Protected Areas. In many cases they represent important amounts of land with abundant endemic species. In the private land ownership, they correspond mainly to private reserves protecting high valued places dedicated to different activities (tourism, recreational, etc.) and also those that can		No source for commercial timber. NTFPs and other forest services, like tourism, landscape,

				establish connections between protected neighbouring lands. Logging is not allowed.		recreation, etc.) Restricted felling.
Provincia Chaqueña (Rainforest, forest, savanna and park formations). Provincias de Chaco, Formosa, Santa Fe, Santiago del Estero and Salta.	Natural forest management in private lands	Private		At the property level, harvesting and even land use conversion are allowed only in a portion of the whole property and following the legal requirements of the Law of Minimum Budgets for Natural Forests (Ley de Presupuestos Mínimos para Bosques Nativos), effective at the national level, and also according to specific laws that the provinces might have for each provincial territory. This process is mandatory. Activities performed in these properties are supervised by the authority.	In order to undertake forest harvesting, enrichment, land use conversion, etc., land owners must negotiate the appropriate permits with competent authorities, according to the guidelines established in the OTBN (Ordenamiento Territorial de Bosques Nativos) that determine in public or private lands, if a forest can be managed and under which regulations.	Natural forest. Also a source for NTFPs (non-timber forest products).
	Protected areas	Private and public		Protected areas like National Parks, Provincial Parks, Protected Private Areas. In many cases, they represent important amounts of land (more than 70 thousand hectares) with abundant endemic species. These areas also establish connections between neighbouring protected areas and even with other neighbouring provinces and countries (i.e. Paraguay and Bolivia). In some of these areas		No commercial source. NTFPs, and other forest services, like tourism, landscape, recreation,

			there is illegal logging of wood although in small volumes for domestic use, and not as a commercial activity.		etc.) Restricted felling.
	Indigenous lands (Provincias de Chaco and Formosa)	Public and community	At the property level, harvesting and even land use conversion are allowed only in a portion of the land, according to legal requirements of the National Law of Minimum Budgets for Natural Forests (Ley Nacional de Presupuestos Mínimos para Bosques Nativos), and to specific laws for each sector valid only in that provincial territory. Later on, these activities are supervised by the authority. The most important commercial use registered in these areas is NTFPs (Non timber Forest Products): basketry, seeds, carob flour, gums, mucilage, etc.	Permits are requested in the framework of the OTBN, (Ordenamiento Territorial de Bosque Nativo), which determines in public and private, community and indigenous lands, if a forest can or cannot be managed and under which regulations.	Natural forests NTFPs, other services (landscape, places of spiritual value, etc.) and to a lesser extent, wood and other wood products (like firewood).
Sub-Antarctic forest (Andean regions in the provinces of Neuquén, Río Negro, Chubut, Santa Cruz and Tierra	Forest management in private lands	Private	Harvesting of wood in natural forests is strictly supervised by the authority as the main activity associated with these forest is tourism. In some areas, natural people inhabit these forests (mainly Neuquén and Río Negro) and make use of the resources found herein, mainly NTFPs and water resources. In this region there are some CITES forest species and harvesting is highly restricted. Harvesting of the Araucaria fruit is allowed but controlled by different legal procedures.	In order to undertake forest harvesting, enrichment, land use conversion, etc., land owners must obtain the appropriate permits from competent authorities, according to the guidelines established in the OTBN (Ordenamiento Territorial de Bosques Nativos) that determine in public or	Natural forest. Also a source for NTFPs (non-timber forest products).

	del Fuego - in its totality, except pastures)			At property level, harvesting and even land use conversion are allowed only in a portion of the property, according to the legal requirements of the Law of Minimum Budgets for Natural Forests (Ley de Presupuestos Mínimos para Bosques Nativos) functioning at the national level, as well as specific laws for each sector, valid only in the province. This process is mandatory; any activity performed in these properties is supervised by the authority.	private lands, if a natural forest can be managed or not and under which regulations.	
		Protected areas	Private and public	Protected areas like National Parks, Provincial Parks, and Private Protected Areas. In many cases they represent an important amount of land with abundant endemic species. Sometimes they protect valuable sites dedicated to different activities related to tourism. They can also establish connections between protected lands of neighbouring countries. Logging is not allowed.		NTFPs and other services, mainly related to tourism. Restricted felling.
	Provincia de las Yungas (Rainforest formation and high grasslands). NOA Region (Salta,	Natural forest management in private lands	Private	In order to undertake forest harvesting, enrichment, land use conversion, etc., land owners must negotiate the appropriate permits with competent authorities, according to the guidelines established in the OTBN (Ordenamiento Territorial de Bosques Nativos) that determine in public or private lands, if a forest can be managed and under which regulations.		Natural forests Wood, NTFPs, other services (basin control, landscape

	Jujuy, Tucumán)			At property level harvesting and land use conversion are allowed only in part of the land and according to legal requirements of the Law of Minimum Budgets for Natural Forests (Ley de Presupuestos Mínimos para Bosques Nativos) functioning at the national level, as well as the specific laws that the provinces may have for each sector within the provincial territory. This process is mandatory; any activity performed in these properties is supervised by the authority.		continuity, etc.).
	Protected Areas	Public and private		Protected areas like National Parks, Provincial Parks, Protected Private Areas. In many instances, they represent important amounts of land (more than 50 thousand hectares) with abundant endemic species; these areas also establish connections between neighbouring protected areas and even with other provinces or countries, like the case of Bolivia.		No commercial source. NTFPs, and other forest services, like tourism, landscape, recreation, etc.) Restricted felling.
	Indigenous lands (Salta, Jujuy and Tucumán Provinces)	Public and community		With similar biological characteristics to natural forest in private lands, in these forests an important number of people from natural groups live. Although the peoples use wood from these forests for commercial purposes, the main use is NTFPs and even tourism activities.		Natural forests. NTFPs, services

			<p>In all cases where commercial forest harvesting is done, it is mandatory to request a Harvesting Permit according to legal requirements similar to those ruling for companies or legal entities.</p> <p>In Salta and Jujuy provinces there are communities of natural groups with community property titles of the forest land they inhabit. Other communities are still lacking these titles in spite of inhabiting these lands and having usufruct of their resources. Nevertheless, they are not allowed to undertake land use conversion. For any type of natural forest management and/or conversion, communities shall seek to obtain the same permits and follow the same guidelines from the OTBN for the Province (Ordenamiento Territorial de la Provincia) in which the forest is located.</p>		related to tourism, timber and firewood.
Provincias del Espinal y del Monte (Lower forest formations, grasslands, scrublands and gallery rainforest)	Natural forest management in private lands	Private	<p>Forests of natural low height arboreal or shrub species of slow growth rate. Forests protecting brooks, rivers or other bodies of water are usually higher and have certain biodiversity. There are tourism activities directly or indirectly related to natural forests. Forest formations are endangered due to conversion, forestation, and rice and grains cultivation, like soy and corn. In order to undertake forest harvesting, enrichment, land use conversion, etc., land owners must negotiate the appropriate permits with competent authorities, according to the guidelines established in the OTBN</p>		<p>Natural forests</p> <p>Source for (poles and firewood), and NTFPs.</p>

Costal region (Entre Ríos, Corrientes and south part of Misiones)			<p>(Ordenamiento Territorial de Bosques Nativos) that determine in public or private lands, if a forest can be managed and under which regulations.</p> <p>At property level, harvesting and land use conversion are allowed but only in part of the land and according to legal requirements of the Law of Minimum Budgets for Natural Forests (Ley de Presupuestos Mínimos para Bosques Nativos) functioning at national level, as well as the appropriate laws for each sector, valid only in the specific province. This process is mandatory; any activity performed in these properties is supervised by the authority.</p>		
	Protected areas	Public and Private	<p>Protected areas like National Parks, Provincial Parks, Protected Private Areas.</p> <p>In many instances, they represent important amounts of land with endemic species, also establishing connections between neighbouring protected areas in other provinces or even countries like Brazil and Uruguay.</p>		<p>No commercial source. NTFPs and other services (land conservation and tourism). Restricted felling.</p>

		Indigenous community lands (south of Misiones)	Public and community	<p>Areas of variable size including arboreal formations (although more impoverished than the formations in the centre and north of Misiones), also shrub and herbaceous. They have relevance in providing goods, services and protective functions related to wood and water provision for different uses, flooding regulation and control, and continuity of ecological processes. These areas establish connections between terrestrial ecosystems or among other State protected or private areas, including some from Brazil. There is an important reserve of biodiversity widely used by local and migrating fauna, with several endemic species. These forests are inhabited by several peoples of the Guarani ethnic group organized in villages with eventual dismembering which results in the formation of new settlements. At owner level, harvesting and even conversion are allowed only in part of the land and according to legal requirements of prevailing laws.</p> <p>Whenever forest harvesting is undertaken for commercial purposes, the community should request a harvesting permit, according to legal requirements; the same required from any type of company or legal entity according to the guidelines stated by the OTBN (Ordenamiento Territorial de Bosques Nativos).</p>		<p>No commercial source.</p> <p>Wood, NTFPs, other services (watershed control, spiritual, landscape, etc.). In minor scale, wood for personal supply.</p>
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	The whole country	Protective Forests	Public	<p>Protective forests are themselves protected by national and provincial laws. In these laws protective forests are defined taking into consideration the intended use for:</p> <ul style="list-style-type: none"> a) National security purposes; b) Defending the land, roads, fluvial banks, lake shores and lagoon banks, islands, channels, irrigation ditches, reservoirs; c) Protection and occasional regulation of the water system; d) Fixation of sandbanks and dunes; e) Assuring public health conditions; f) Shelter against the elements, winds, avalanches and floods g) Shelter and protection for flora and fauna species whose existence has been considered necessary. <p>National Law N 13.273, Defence of Forest Wealth (Ley Nacional N 13.273 de Defensa de la Riqueza Forestal) is the main framework; furthermore, each province has its own specific laws, where these forests are defined as well as the applicable regulations. Logging for commercial purposes is not permitted in these formations, although some interventions are allowed: Felling, reforestation, enrichment, etc., with the aim of meeting the objectives for which they have been classified in this category. This type of forest can be found in most provinces where forest and shrub formations exist; that is,</p>		No commercial source.
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				north and Andean zone, coastline, and in areas of the central zone.		
Forest plantation	Provincias del Espinal and del Monte. Coastline region (Entre Ríos, Corrientes, south of Misiones)	Private forest plantations of continuous production	Private	Private processes of mainly mono-specific production of exotic species (other supplementary activities are performed in the same land: livestock, honey production, agroforestry, etc.)	Forest plan approval	Forest plantations of exotic species (genus: Pinus, Eucalyptus, Grevillea, Melia, and others).
	Provincia Paranaense and Misiones	Private forest plantations of continuous production	Private	Private processes of mainly mono-specific production of exotic species (other supplementary activities are performed in the same land: cattle breeding, honey production, agroforestry, etc.)		
	Sub-Antarctic forest. Mountain range region.	Private forest plantations of continuous production	Public (Neuquén) and private	Public management (State provincial in Provincia Neuquén), and private (Neuquén, Río Negro and Chubut) with mainly mono-specific production of exotic species. Other supplementary activities are also carried out in the same land, like cattle breeding, gathering of NTFPs, etc.).		
	Provincia Pampeana,	Private forest plantations of	Private	Private management with mainly mono-specific production of exotic species. Other		

	<p>centre region of Provincia de Buenos Aires, south of Santa Fe, San Luis, and La Pampa)</p>	<p>continuous production</p>		<p>supplementary activities are also carried out in the same land, like: cattle breeding, honey production, agroforestry, etc.).</p>		
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Annex II. Expert consultation

	Name	Email	Address	Job title	Organisation	Area of expertise (category / sub-category)	Contact made	Meeting time / date
1.	Emiliano Ezcurra	director@bancodebosques.org	Av. Santa Fe 690, B. Aires	Vice-president	National Parks Administration (<i>Administración de Parques Nacionales</i>)	Conversion / GMOs / Protected species	Personal interview	February 23, 8 am
2.	Hernán Giardini	hernan.giardini@greenpeace.org	Zabala 3873, B. Aires	Forest Campaign Coordinator	Greenpeace Argentina	Forest harvesting / Conversion / GMOs	Personal interview	February 22, 11 am
3.	Karina Carreras	fscarg.coordinadora@gmail.com	Buenos Aires	Coordinator	Responsible Management of Forests and Forest Spaces (<i>Administración Responsable de Bosques y Espacios Boscosos</i>)	Forest harvesting / GMO / Conversion	Personal interview	February 22, 11 am
4.	Claudia Peirano	cpeirano@afoa.org.ar	Buenos Aires	Executive Secretary	AfoA – Forest Association Argentina (<i>Asociación Forestal Argentina</i>)	Plantations / Legal work / Transportation / Health and safety at work	Personal interview	February 23, 11.30 am
5.	Juan Pablo Cinto	gerenciasocioambiental@gmail.com	Posadas, Misiones	Director	Socio Environmental Manager Office (<i>Gerencia Socio Ambiental</i>)	Protected species / Conversion / Natural people's rights	Telephone interview	February 22, 17 pm

6.	Victoria Matamoros	vmatamoro@gmail.com	Av. Entre Ríos 258, B. Aires	Director	Democratic Change Foundation (<i>Fundación Cambio Democrático</i>)	Civil rights / Natural people's rights	Personal interview	February 23, 10.30 am
7.	Pablo Lumerman	plumerman@gmail.com	Cipoletti, Neuquén	Consultant	Independent	Natural people's rights	Telephone interview	February 25, 11 am
8.	Walter Acosta	walteracostaw@gmail.com	Resistencia, Chaco	Consultant	Forest Division(<i>Dirección de Bosques</i>), Chaco	Conversion / Forest harvesting / OMGs	Telephone interview	February 24, 15 hs
9.	Daniel Maradei	Daniel.maradei@maradeipike.com	Buenos Aires	Consultant	Maradei&Pike	Forest plantations / Laws related to forest promotion / Exports / Environmental impact	Personal interview	February 24, 9 am
10	Fabián Jaras	fabianjaras@gmail.com	Tierra de Fuego	Consultant	Government of Tierra del Fuego (<i>Gobierno de Tierra del Fuego</i>)		Personal interview	February 24, 13 hs
11.	Inés Heinrich	iheinrich@ambiente.gob.ar	San Martín 451, B. Aires	Technical Advisor	Secretariat of Environmental Policies (<i>Secretaría de Política Ambiental</i>)	Conversion / Protected species / Forest plantations	Personal interview	February 24, 10 am
12.	Mariana Stamati	mstamati@ambiente.gob.ar	Tucumán 633, 6º piso - Ciudad Autónoma de Buenos Aires	Scientific Authority CITES	Ministry of Environment of the Nation (<i>Ministerio de Ambiente de la Nación</i>)	CITES	Personal interview	February 24, 14 pm

13.	Paula Montenegro	paula.montenegro1@hotmail.com	Posadas, Misiones	Consultant	Independent	Labour and community rights	Personal interview	February 25, 19 pm
14.	Juan José Neiff y Silvina Casco	jj@neiff.com.ar	Corrientes	Researchers	CONICET and CECOAL	Cites/ Environmental impact / Conversion / Protected species	Telephone interview	February 25, 18 hs
15.	Santiago García	sgarciaalvarez@ambiente.gob.ar	Tucumán 633, 6º piso - Ciudad Autónoma de Buenos Aires	Scientific Authority CITES	Ministry of Environment of the Nation (<i>Ministerio de Ambiente de la Nación</i>)	CITES	Personal interview	February 24, 14 pm
16.	Agustina Soto Castelló	agusotocastello@gmail.com	Salta	Forest expert	ProYungas Foundation (<i>Fundación ProYungas</i>)	Forest harvesting	Telephone interview	February 25, 18 pm
17.	Estefanía Sánchez Cuartielles	estafania.s.c@gmail.com	San Martín 518, Jujuy	Forest expert	Provincial Division of Environmental Policies and Natural Resources – Division of Flora and Fauna (<i>Dirección Provincial de Política Ambiental y Recursos Naturales - Dirección de Flora y Fauna</i>)	Forest harvesting	E-mail interview	February 21 to 23
18.	Manuel Jaramillo	manuel.jaramillo@vidasilvestre.org.ar			<i>Fundación Vida Silvestre Argentina</i>	Environmental Impact/ Conversion / Protected species	Telephone interview	February 25, 17 pm

19.	Mirta Larriau		Paseo Colón 982, B. Aires	Forest Director	Ministry of Agro- Industries (<i>Ministerio de Agroindustrias</i>)	Plantations / GOMs / Environmental Impact	Personal interview	February 23, 16 pm
20.	Ariel Araujo	centromocovi@yahoo.com .ar	Reconquista , Sta. Fe	Executive Secretary	Parliament of Original Peoples from Mercosur and Zicosur (<i>Parlamento de los Pueblos Originarios del Chaco Americano y Zicosur</i>);	Indigenous people's rights	Telephon e interview	February 25, 19 pm



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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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