

Timber Legality Risk Assessment Germany

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COUNTRY RISK
ASSESSMENTS



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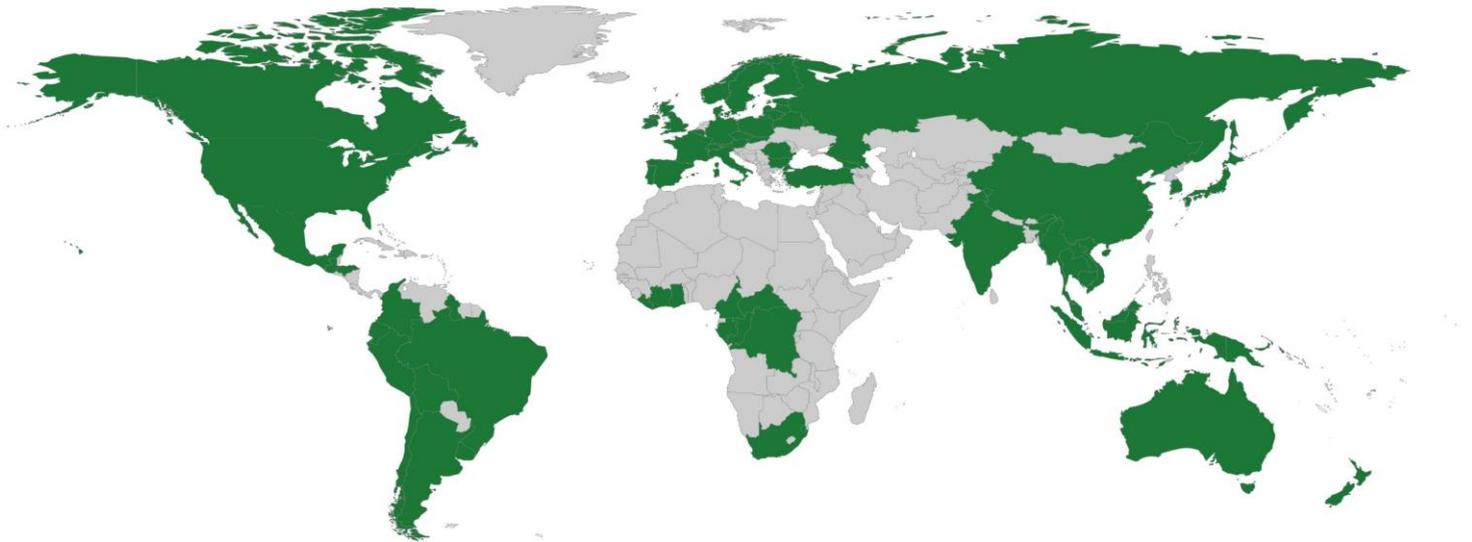
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A. Introduction

This Timber Legality Risk Assessment for Germany provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport. NEPCon has been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007.

In that time, NEPCon has developed timber risk assessments for more than 60 countries, illustrated in Figure 1.



Map created by StatSoft (2016). StatPlanet: Interactive Data Visualization and Mapping software. //www.statsoft.com

Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on NEPCon's website.

B. Overview of legality risks

Timber Risk Score: 100 / 100 in 2017

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

- **Low risk for 13 sub-categories.**
- **No legal requirements for 8 sub-categories.**

Timber source types and risks

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

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

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

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

C. Overview of the forest sector in Germany

In Germany there are 11.419.124 ha defined as forest. When the area that is legally registered as forest, but does not contain trees, is subtracted from this amount, an area of 11.012.420 ha remains. Of the total, 4.539.070 ha are deciduous forests (either monocultures or stands with mostly deciduous trees) and 6.257.533 are coniferous (either monocultures or stands with mainly coniferous trees). An area of 592.662 ha consists of highly protected areas for conservation where actions that can lead to deterioration, disturbance or destruction are prohibited by law. On 450.000 ha, restrictions are in place in relation to timber use, these being for a variety of reasons (mainly protection and conservation, but also due to the properties of the site).

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

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

In Germany, the legal owner of an area has the right to manage the area (due to existing laws) or to commit the associated rights. This is regulated in Grundgesetz (German Constitution) and Bürgerliches Gesetzbuch (Civil Code). If the owner is managing the forest, no additional harvesting permits are required. There are binding laws that describe sustainability measures, protection of areas for conservation, protection of environmental values and best practice in harvesting. These Acts, laws and decrees exist at a national level and, in addition, at the federal state level. The main Acts are: Bundeswaldgesetze (National Forest Act), Bundesnaturschutzgesetz (Federal Nature Conservation Act) and corresponding forest and nature conservation Acts at federal state level.

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

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

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

Tenure Rights and ownership

- Grundgesetz für die Bundesrepublik Deutschland vom 23. Mai 1949 (BGBl. I S. 2438) "German Constitution" - Article 14
German Constitution, Article 14 (engl.). Available at: http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0079
- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) "German Civil Code" - § 873 (1): Acquisition by agreement and registration. BGB, § 873 (1) (engl.). Available at: http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3614
- Grundbuchordnung in der Fassung der Bekanntmachung vom 26. Mai 1994 (BGBl. I S. 1114) GBO - "Landbook Rule". Grundbuchordnung GBO (ger.). Available at: <http://www.gesetze-im-internet.de/gbo/BJNR001390897.html#BJNR001390897BJNG000101307>

Farm Leasing (Pacht): Leasing of estates with a contract

- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) - § 585 (Declaration and Definition of Farm Leasing) Bürgerliches Gesetzbuch BGB, § 585 (engl.). Available at: http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2403
- Bürgerliches Gesetzbuch (BGB) in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738) - § 581: Vertragstypische Pflichten beim Pachtvertrag ("contracts and duties concerning farm leasing")
Bürgerliches Gesetzbuch BGB, § 581 (engl.). Available at: http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p2379

Taxes

- Grundsteuergesetz (GrStG) vom 7. August 1973 (BGBl. I S. 965) GrStG, § 6 (Land tenure taxes in agriculture and forestry). Grundsteuergesetz GrStG, § 6 (ger.). Available at: http://www.gesetze-im-internet.de/grstg_1973/_6.html
- Bewertungsgesetz (BewG) in der Fassung der Bekanntmachung vom 1. Februar 1991 (BGBl. I S. 230) BewG, Part 2, Section B, I-III (Assessment of tax volume in agriculture and forestry)
Bewertungsgesetz BewG, Part 2, Section B, I-III (ger.) Available at: <http://www.gesetze-im-internet.de/bewg/BJNR010350934.html#BJNR010350934BJNG000502301>
- Handelsgesetzbuch(HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code" §8, 8a, 8b
Handelsgesetzbuch HGB, §8, 8a, 8b (ger.). Available at: http://www.gesetze-im-internet.de/hgb/_8.html

1.1.2. Legal authority

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

1.1.3. Legally required documents or records

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

1.1.4. Sources of information

Government sources

- servat.unibe.ch (N.Y). *Federal Constitution Court, verdict 18,12,1968, Clause 94 (Ownership in German Constitution) (ger.)*. [Online] Available at: <http://www.servat.unibe.ch/dfr/bv024367.html>

Non-Government sources

- immobilienscout24.de (2017). *Grundeigentümer*. [Online]. Brief explanation of land ownership in Germany (ger.). Available at: <http://www.immobilienscout24.de/eigentuemmer/lexikon/grundeigentuemmer.html>
- wikipedia.org (2016). *Grundbesitz*. [Online]. Available at: <https://de.wikipedia.org/wiki/Grundbesitz>
- grundbesitzerverbaende.de (N.Y.). *Community of Land Owners (ger.)*. [Online]. Homepage. Available at: <http://grundbesitzerverbaende.de>.
- ordnungspolitisches-portal.com (N.Y). *Prinzipien*. [Online]. Principles of ownership (ger.). Available at: http://www.ordnungspolitisches-portal.com/03_03_Prinzipien.htm

- wikipedia.org (2017). *Eigentum (Deutschland)*. [Online]. Available at: https://de.wikipedia.org/wiki/Eigentum_%28Deutschland%29

1.1.5. Risk determination

Overview of legal requirements

Tenure rights are determined through the German Constitution and Bürgerliches Gesetzbuch (Civil Code). Ownership of estates is documented in the Land Book (Grundbuch). The legal owner of an estate also has the management rights to the estate, as long as no other laws are violated. Ownership of land is not legal until the owner is registered in the Land Book. Purchase of land requires formal agreement by both parties. If there is no entry in the Land Book or if the ownership of the land tenure is not yet registered in the Land Book (e.g. in the event of new structuring and merging of the plots), the Organization has to prove, using appropriate documentation, that it owns the forest and therefore has the right to manage it. To make management more efficient, some small private forest owners are incorporated in Forstbetriebsgemeinschaften ('forest enterprises associations'). Here, organizations keep land ownership and the right to manage, but management of several small forests is centralized. All owners have to agree to the management and harvesting plans of the association.

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

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

Description of risk

Risk can arise when ownership is shifted between generations and the Land Book registration takes a long time due to lengthy administrative processes. A few problematic cases are known involving heritage issues and difficulties with ready identification of heirs. But due to clarity of the regulations and the small number of observed cases involving doubt of ownership, we consider the risk as Low.

Risk Conclusion

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

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licenses

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

1.2.1. Applicable laws and regulations

N/A

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

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
1. § 41: Inventory <http://www.gesetze-im-internet.de/bwaldg/>

Forest acts of the federal states

- Baden-Württemberg:

- Waldgesetz für Baden-Württemberg (Landeswaldgesetz - LWaldG) in der Fassung vom 31. August 1995 (GBl. 1995, 685) - §§ 12, 20 50, 51 (Inventory and management planning in public forest) http://www.landesrecht-bw.de/jportal/portal/t/6w3/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGBWpG5&doc.part=X&doc.price=0.0&doc.hl=0#focuspoint
- Instruction guideline FED 2000 http://www.waldnatureschutz-forstbw.de/site/downloads/571_32_FED2000_NWW_120217.pdf
- Richtlinie landesweiter Waldentwicklungstypen ("Guideline for Silviculture in Baden-Württemberg")
http://www.forstbw.de/fileadmin/forstbw_infothek/forstbw_praxis/wet/ForstBW_Waldentwicklung_web.pdf
- State forest: FSC certification
- Bayern:
 - Waldgesetz für Bayern (BayWaldG) in der Fassung der Bekanntmachung vom 22. Juli 2005 (GVBl 2005, S. 313) - §§ 18, 19: <http://www.gesetze-bayern.de/jportal/portal/page/bsbayprod.psml?showdoccase=1&doc.id=jlr-WaldGBY2005rahmen&doc.part=X&doc.origin=bs>
 - Körperschaftswaldverordnung KWaldV (Enactment for Körperschaftswald):
<http://www.gesetze-bayern.de/jportal/?quelle=jlink&docid=jlr-K%C3%B6rpWaldVBY2007rahmen&psml=bsbayprod.psml&max=true&aiz=true>
 - Richtlinie zur Forsteinrichtung ("Guideline for Forest Planning"):
<https://www.verkuendung-bayern.de/files/allmbl/2012/01/anhang/7905.0-L-213-A001.pdf>
 - Waldbaurichtlinie ("Guidelines for Silviculture"): <http://www.baysf.de/de/wald-verstehen/waldbau.html>
- Berlin:
 - Gesetz zur Erhaltung und Pflege des Waldes (Landeswaldgesetz - LWaldG) vom 16. September 2004 (GVBl. 2004, 391) - §1:
<http://www.stadtentwicklung.berlin.de/sen/uvk/service/gesetzestexte/de/forsten.shtml>
 - Waldbaurichtlinie für die Berliner Forsten ("Guideline for Silviculture in Berlin"):
<http://www.stadtentwicklung.berlin.de/forsten/waldpflege/download/Waldbaurichtlinie2005.pdf>
 - State forest: FSC certification
- Brandenburg:
 - Waldgesetz des Landes Brandenburg (LWaldG) vom 20. April 2004 (GVBl.I/04, [Nr. 06], S.137) - § 30 (periodic forest inventories and forest register):
<http://bravors.brandenburg.de/de/gesetze-212918>
 - Betriebliche Anweisung zur Forsteinrichtung BAFE (Official Guideline for Forsteinrichtung in public forests of Brandenburg):
<http://forst.brandenburg.de/cms/media.php/lbm1.a.3310.de/bafe.pdf>

- Waldbaurichtlinie Brandenburg ("Guideline for Silviculture in Brandenburg"): http://www.mlul.brandenburg.de/media_fast/4055/waldb_rl.15520821.pdf
- Bremen:
 - Bremisches Waldgesetz (BremWaldG) in Kraft ab: 10.06.2010 - §5 (proper forestry): http://transparenz.bremen.de/sixcms/detail.php?gsid=bremen2014_tp.c.72104.de&asl=bremen203_tpgesetz.c.55340.de&template=20_gp_ifg_meta_detail_d
- Hamburg:
 - Hamburger Landeswaldgesetz Vom 13. März 1978 (HmbGVBl. 1978, S. 74) - §6 (proper forestry): : <http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psml?showdoccase=1&st=null&doc.id=jlr-WaldGHARahmen&doc.part=X&doc.origin=bs>
 - Waldbauliche Rahmenrichtlinie ("Guideline for Silviculture")
 - State forest: FSC certification
- Hessen:
 - Hessisches Waldgesetz (HWaldG) Vom 27. Juni 2013 (GVBl. 2013, 458) - § 5: http://www.rv.hessenrecht.hessen.de/lexsoft/default/hessenrecht_rv.html?doc.hl=1&doc.id=jlr-WaldGHErahmen&documentnumber=1&numberofresults=46&showdoccase=1&doc.part=X¶mfromHL=true%23jlr-WaldGHEp5#docid:5782775,1,20160101
 - Hessische Waldbaufibel ("Hessian Reader for Silviculture"): https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAAahUKEwjL3qyj4u7HAhUM7xQKHTkIBsg&url=http%3A%2F%2Fwww.hessen-forst.de%2Fdownload.php%3Ffile%3Duploads%2Fservice%2Fdownload%2Fwaldbaufibel_hessen_forst.pdf&usq=AFQjCNHTr4eKTWpNZFHxhPzPRSMPLu876w&cad=rja
 - Hessische Waldbaurichtlinie ("Guideline for Silviculture"): <http://www.hessen-forst.de/uploads/ueber-uns/riliribes.pdf>
 - State forest: FSC certification
- Mecklenburg-Vorpommern:
 - Waldgesetz für das Land Mecklenburg-Vorpommern (Landeswaldgesetz - LWaldG) In der Fassung der Bekanntmachung vom 27. Juli 2011 (GVOBl. M-V 2011, S. 870) - §§ 4,5: <http://www.landesrecht-mv.de/jportal/portal/page/bsmvprod.psml?showdoccase=1&doc.id=jlr-WaldGMV2011rahmen&doc.part=X&doc.origin=bs&st=lr>
 - Anforderungen an Forsteinrichtungswerke für Privat- und Körperschaftswaldbesitz in Mecklenburg-Vorpommern (Requirements of Forsteinrichtung in private and municipal forests): <http://www.wald-mv.de/>
 - State forest: FSC certification
- Niedersachsen:
 - Niedersächsisches Gesetz über den Wald und die Landschaftsordnung (NWaldLG) Vom 21 März 2002 (Nds.GVBl. Nr.11/2002 S.112) - §§ 6,7:

https://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjs79DUkuXSAhXmJZoKHQGDdDFUQFggaMAA&url=http%3A%2F%2Fwww.ml.niedersachsen.de%2Fdownload%2F83140%2FNiedersaechsisches_Gesetz_ueber_den_Wald_und_die_Landschaftsordnung_NWaldLG_vom_21._Maerz_2002_Stand_13.10_.2011.pdf&usq=AFQjCNEYBs6pjTRkKnjVdgnygKKPsD5RdQ&sig2=4gZCx1U_QT1pg3cmwdf-wQ

- LÖWE Programm (Program for long-term forest development):
<https://www.landesforsten.de/LOEWE-Langfristige-OEkologische-Waldentwicklung.20.0.html>
- Nordrhein-Westfalen:
 - Landesforstgesetz für das Land Nordrhein-Westfalen (Landesforstgesetz - LFoG), Bekanntmachung der Neufassung Vom 24 April 1980 (GV. NW. 1980 S. 546) - §§ 33,34:
https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=2&gld_nr=7&ugl_nr=790&bes_id=3830&menu=1&sg=0&aufgehoben=N&keyword=landesforstgesetz#det0
 - Additional frameworks and documents for inventory, survey and measuring:
<https://www.wald-und-holz.nrw.de/wald-und-holz-nrw/service/ausschreibungen-und-vergaben/unterlagen-zur-forsteinrichtung.html>
 - Decree for forest utilization and forest restoration:
https://recht.nrw.de/lmi/owa/br_bes_text?anw_nr=1&gld_nr=7&ugl_nr=79031&bes_id=2897&val=2897&ver=7&sg=0&aufgehoben=N&menu=1
 - State forest: FSC certification
- Rheinland-Pfalz:
 - Landeswaldgesetz (LWaldG) Vom 30. November 2000 (GVBl. 2000, 504) - § 7 (Orderliness of forestry):
http://landesrecht.rlp.de/jportal/portal/t/z59/page/bsrlpprod.psml;jsessionid=B71BD79DA96E0D0BFF2268944A12576A.jp14?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=1&fromdoctodoc=yes&doc.id=jlr-WaldGRPrahen&doc.part=X&doc.price=0.0#jlr-WaldGRppP7
 - Guidelines for silviculture in Rheinland-Pfalz: <http://www.wald-rlp.de/index.php?id=3188>
 - State forest: FSC certification
- Thüringen:
 - Gesetz zur Erhaltung, zum Schutz und zur Bewirtschaftung des Waldes und zur Förderung der Forstwirtschaft (Thüringer Waldgesetz - ThürWaldG -) Vom 6. August 1993 (GVBl. 2008, 327) - § 5, 20, 33:
http://landesrecht.thueringen.de/jportal/portal/t/ypv/page/bsthueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGTH2008pG3&doc.part=X&doc.price=0.0&doc.hl=0#focuspoint
 - 3rd and 6th Durchführungsverordnung DVO ("execution decree"): <http://www.wbv-thueringen.de/>,
<http://landesrecht.thueringen.de/jportal/portal/page/bsthueprod.psml?pid=Dokumenta>

[nzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGDVTH6rahmen&doc.part=X&doc.price=0.0](http://www.thueringenforst.de/taetigkeitsbereiche-produkte/forschung/waldumbau/)

- Principles for Silviculture : <https://www.thueringenforst.de/taetigkeitsbereiche-produkte/forschung/waldumbau/>

- Sachsen:

- Waldgesetz für den Freistaat Sachsen (SächsWaldG) Vom 10. April 1992 (SächsGVBl. S. 137) - § 22, Abs. 2 (orderliness in forest management), § 48, Abs. 2 (periodic plannings) : <http://www.baumpruefung.de/gesetze-und-verordnungen/waldgesetze-der-bundeslaender/sachsen>

- Richtlinie für den Staatswald des Freistaates Sachsen, Bestandeszieltypen ("Guidelines for forest stands development ") : <https://www.smul.sachsen.de/sbs/download/Bestandeszieltypen.pdf>

- Sachsen Anhalt:

- Waldgesetz für das Land Sachsen-Anhalt (WaldG LSA) Vom 13. April 1994 (GVBl. LSA 1994, 520) - § 5: <http://www.landesrecht.sachsen-anhalt.de/jportal/?quelle=jlink&query=WaldG+ST&psml=bssahprod.psml&max=true&aiz=true>
- Forsteinrichtungsverfahren des Landesforstbetriebes LSA ("Procedure of Forsteinrichtung in state forests"): http://www.mlu.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MLU/MLU/Master-Bibliothek/Landwirtschaft_und_Umwelt/F/Anlage_1_FE_Verf_LFB_An1_1_27_06_07.pdf
- Leitlinie zur Erhaltung und weiteren nachhaltigen Entwicklung des Waldes im Land Sachsen-Anhalt ("Guideline for Conservation and further sustainable Development of the forest in Sachsen-Anhalt"): http://www.mlu.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MLU/MLU/Master-Bibliothek/Landwirtschaft_und_Umwelt/F/Forst/Leitlinie_Wald/LEITLINIE_WALD_2014.pdf

- Saarland:

- Waldgesetz für das Saarland (Landeswaldgesetz - LWaldG) Vom 26 Oktober 1977 (Amtsblatt 1977, S. 1009) - §§ 13, 30 (periodic plannings): http://sl.juris.de/cgi-bin/landesrecht.py?d=http://sl.juris.de/sl/gesamt/WaldG_SL.htm#WaldG_SL_rahmen
- Richtlinie für die Bewirtschaftung des Staatswaldes im Saarland ("Guideline for Managing the state forest in Saarland"): http://www.saarland.de/dokumente/thema_naturnutzung/waldbaurichtlinien_saarland.pdf

- State forest: FSC certification

- Schleswig-Holstein:

- Waldgesetz für das Land Schleswig-Holstein (Landeswaldgesetz - LWaldG) Vom 5 Dezember 2004 (GVOBl. 2004, 461) - §§ 5,6 : <http://www.gesetze-rechtsprechung.sh.juris.de/jportal/;jsessionid=D1C60BD8B62F01EE5FC1CD430E24D7E0.jp22?quelle=jlink&query=WaldG+SH&psml=bsshoprod.psml&max=true&aiz=true#jlr->

[WaldGSH2004V5P5-jlr-WaldGSH2004V1P5-jlr-WaldGSH2004V2P5-jlr-WaldGSH2004V3P5-jlr-WaldGSH2004V4P5](#)

- State forest: FSC certification

1.3.2. Legal authority

- Bundeswaldgesetz: Ministry of Food and Agriculture
- Baden-Württemberg: Ministry of Rural Space; ForstBW (State forestry organisation)
- Bayern: Bavarian Ministry of Food, Agriculture and Forest; BaySF (Bavarian state forestry organization)
- Berlin: Berlin Senat of City Development; Berlin Forsten (Berlin State forestry organization)
- Brandenburg: Ministry of Rural Development, Environment and Agriculture; Landesbetrieb Forst Brandenburg (Brandenburg state forestry organization)
- Bremen: Stadt Bremen, Senator für Umwelt, Bau, Verkehr und Europa
- Hamburg: Freie und Hansestadt Hamburg, Behörde für Wirtschaft, Verkehr und Innovation
- Hessen: Ministry of Environment, Climate, Agriculture and Consumer Protection; Hessen Forst (Hessen state forestry organization); FENA (Department of Forest planning)
<http://www.hessen-forst.de/ueber-uns-dienststellen-fena-fachbereich-forsteinrichtung-2051.html>
- Mecklenburg-Vorpommern: Ministry of Agriculture, Environment and Consumer Protection; Landesforst Mecklenburg-Vorpommern (Mecklenburg-Vorpommern state forestry organization)
- Niedersachsen: Ministry of Food, Agriculture and Consumer Protection; Niedersächsische Landesforsten (Niedersachsen state forestry organization)
- Nordrhein-Westfalen: Ministry of Climate Protection, Environment, Agriculture, Nature Conservation and Consumer Protection; Landesbetrieb Wald und Holz NRW (Nordrheinwestfalen state forestry organization)
- Rheinland-Pfalz: Ministry of Environment, Agriculture, Food, Wine and Forestry, Landesforsten Rheinland-Pfalz (RLP state forestry organization)
- Thüringen: Ministry for Environment, Energy and Nature Conservation; Thüringen Forst (Thüringen state forestry organization)
- Sachsen: Ministry of Environment and Agriculture; Sachsenforst (Sachsen state forestry organization)
- Sachsen Anhalt: Ministry of Agriculture and Environment; Landesforstbetrieb Sachsen-Anhalt (Sachsen-Anhalt state forestry organization)
- Saarland: Ministry of Environment and Consumer Protection; SaarForst (Saarland state forestry organization)
- Schleswig-Holstein: Ministry for Energy Transition, Agriculture, Environment and Rural Spaces; Schleswig Holsteinische Landesforsten (Schleswig-Holstein state forestry organization)

1.3.3. Legally required documents or records

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

1.3.4. Sources of information

Government sources

- lwf.bayern.de (2016). *Naturnaher Waldbau bei den bayerischen staatsforsten*. [Online]. Available at: http://www.lwf.bayern.de/service/publikationen/lwf_aktuell/077618/index.php
- bundeswaldinventur.de (2012). *Bundeswaldinventur*. [Online]. Available at: <https://www.bundeswaldinventur.de/>
- Laws cited

1.3.5. Risk determination

Overview of Legal Requirements

Official national forest inventories (Bundeswaldinventur) exist in Germany, the last of which was finished in 2012. The inventories are bindingly regulated by the German Forest Act. Forest inventories are the basis for forest planning in each forest organization. The main goals in management planning are to plan and evaluate sustainable utilization of forest resources, to control felling, and to comply with sustainability. To take account of long-term developments in forestry, every ten to 20 years, public organizations establish a mid-term framework report (the so called Forsteinrichtung), for which responsibility occurs at a sovereign level.

In addition, state forest organizations establish an annual forest plan including actual and predicted stock, harvesting measures, establishment measures, silvicultural and management measures, conservation, welfare etc. Public municipal forests of medium size (normally 50 or 100 ha or larger) are bound by law to annual planning. In addition to these Acts and requirements, some federal states have binding guidelines for silviculture, which define silvicultural best practice for public forests (also recommended for private forests). For private forests, different regulations exist; which are described in federal forest Acts, varying between the different federal states. Basically private forestry organizations of mid-size (normally 100 ha) and upwards have to produce an annual plan and Forsteinrichtung every ten years. Small private organizations under 100 ha have to prepare an annual report, which is not as involved as a normal annual plan, to prove its management (so called Forstbetriebsgutachten). Under 30 ha, organizations are freed from planning works, but are bound to the German Forest Act and to supervision by authorities.

When planning occurs in relation to public or private forests, reports have to be sent to the corresponding forest authorities for evaluation and control. Those private organizations who

are not required to plan pass through a control mechanism involving tax assessment. Preparation of mid-term framework reports is done by officials or freelancing consultants.

The national forest inventory (Bundeswaldinventur) 2012 results showed that average timber stocks in German forests rose compared to earlier inventories, which is an indicator of sustainable forestry and proper planning.

Description of Risk

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

Due to the legal situation, monitoring and planning structure, we consider the risk to be Low.

Risk Conclusion

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

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

N/A

1.4.2. Legal authority

N/A

1.4.3. Legally required documents or records

N/A

1.4.4. Sources of information

Non-Government sources

- transparency.de (2014). *Tabellarisches-Ranking*. [Online] Available at: <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- transparency.org (2016). *Germany*. [Online]. Available at: <https://www.transparency.org/country/#DEU>
- info.worldbank.org (2016). Governance Indicators for Germany. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>

1.4.5. Risk determination

Overview of Legal Requirements

This topic is covered within sections 1.1 and 1.3 on ownership laws and management planning. Harvesting permits do not exist in Germany, with one exception, as follows:

The legal owner of the forest is allowed to harvest or to purchase harvesting rights. When harvesting privately owned forest, as well as when purchasing or leasing harvesting rights, laws (relating to trade, tax, forest, conservation) must not be infringed.

Additionally, as shown in section 1.3 (Management and harvesting planning), planning and sustainable management is described in Federal Law Acts: Mid-term management planning (Forsteinrichtung) and annual planning (Forstbetriebsgutachten) are required in most cases. When plans are submitted to and approved by forest departments, harvesting measures are assumed, based on this planning. Therefore, the owner of the area or the harvesting rights does not need to apply to carry out harvesting activities. Control mechanisms are described above.

This means: There is no special approval for each harvesting activity but there are prescribed laws and regulations providing a framework in which a forest owner can act.

Exception: Clear-cutting (or clearfelling) is forbidden in Germany by Federal Forest Acts, and to be carried out requires an application to be made (with rationale) and permission to be granted. Clear-cutting is defined variously in each federal state either by size (e.g. a minimum area of 1 ha in Baden-Württemberg) or by function (e.g. harvesting without guaranteed reforestation).

Every federal state has an authority (Forstaufsicht or 'Forest Control') to monitor implementation of the law. Since state forest organizations are supervised by the federal forest department, forest activities are monitored in both private forest and public municipal forest. Forstaufsicht is the implementing arm of the federal state, whereby legal implementation is secured. Forstaufsicht is executed by officials of the corresponding low-level forest department and also by police. Infringement of regulations due to timber harvesting or illegal clear-cutting can be announced by Forstaufsicht.

The legal planning situation in Germany is highly diverse, varying from state to state. Risk can arise when small forest organizations – which are not bound to planning due to their size – manage their forest unsustainably OR – if they are bound only to ten-year planning – use the ten-year gap to harvest beyond the sustainability level. However, in any case, monitoring exists: in most federal states, public commune forests are managed and thus supervised by state authority foresters, so that control mechanisms exist. Private forests, which are bound only to ten-year planning, are controlled every ten years and, if there were illegal harvesting, the organizations managing them would be sentenced. For small forests with no planning, legal avenues exist when the laws are not followed.

We are not aware of relevant cases in which illegal harvesting took place.

Description of Risk

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

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

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

Due to the legal situation and control mechanisms, as described above, we consider the risk to be low.

Risk Conclusion

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

1.4.6. Risk designation and specification

Low risk

1.4.7. Control measures and verifiers

N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

N/A

1.5.2. Legal authority

N/A

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

N/A

1.5.5. Risk determination

N/A

1.5.6. Risk designation and specification

N/A

1.5.7. Control measures and verifiers

N/A

1.6. Value added taxes and other sales taxes

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

1.6.1. Applicable laws and regulations

- Umsatzsteuergesetz (UStG) in der Fassung der Bekanntmachung vom 21. Februar 2005 (BGBl. I S. 386) -"Value Added Tax Act":
 - §1 Taxable sales: : http://www.gesetze-im-internet.de/ustg_1980/_1.html
 - §10 Basis for assessment: http://www.gesetze-im-internet.de/ustg_1980/_10.html
 - §13, 15 Calculation of VAT: http://www.gesetze-im-internet.de/ustg_1980/_13.html
http://www.gesetze-im-internet.de/ustg_1980/_15.html

- §17 Changes in basis for assessment: http://www.gesetze-im-internet.de/ustg_1980/_17.html
- §18 Procedures of Taxation: http://www.gesetze-im-internet.de/ustg_1980/_18.html
- §20 Taxation after remuneration: http://www.gesetze-im-internet.de/ustg_1980/_20.html
- §24 VAT in agriculture and forestry: http://www.gesetze-im-internet.de/ustg_1980/_24.html
- Abgabenordnung (AO) in der Fassung der Bekanntmachung vom 1. Oktober 2002 (BGBl. I S. 3866; 2003 I S. 61) - "The Fiscal Code of Germany":
 - §§ 140, 141: Obligations of Account keeping: Obligations of Account keeping (engl.): http://www.gesetze-im-internet.de/englisch_ao/
 - §148: Authorisation of simplification.): http://www.gesetze-im-internet.de/englisch_ao/
 - §§379, 370: Tax crimes and tax evasion: http://www.gesetze-im-internet.de/englisch_ao/
 - Handelsgesetzbuch(HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code"
 - §6,1: Obligations of Account keeping for incorporated enterprises: http://www.gesetze-im-internet.de/hgb/_6.html

1.6.2. Legal authority

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

1.6.3. Legally required documents or records

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

1.6.4. Sources of information

Government sources

- ecovis.com (2013). *Forstbesteuerung*. [Online]. Available at: http://www.ecovis.com/fileadmin/standorte/landau/2013-02-06_Forstbesteuerung_Laimer_Ecovis.pdf
- gutachtering.de (2008). *Umsatzsteuer im Forst- und Jagdbetrieb*. [Online]. Available at: [http://www.gutachtering.de/Umsatzsteuer im Forst- und Jagdbetrieb.pdf](http://www.gutachtering.de/Umsatzsteuer_im_Forst-_und_Jagdbetrieb.pdf) (Information paper, ger.)
- steuertipps.de (Year?). *Vorsteuerabzug*. [Online]. Available at German Tax System: <http://www.steuertipps.de/lexikon/v/vorsteuerabzug> Information Page for German Tax System (ger.)
- Laws cited

Non-Government sources

- transparency.de (2014). *Tabellarisches-Ranking*. [Online]. Available at: <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- transparency.org (2016). *Germany*. [Online]. Available at: <https://www.transparency.org/country/#DEU>
- info.worldbank.org (2016). *Governance Indicators for Germany*. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>
- de.statista.com (2014): *Steuerprüfung und Steuerhinterziehung in Deutschland* [Online]. Available at: <http://de.statista.com/infografik/1061/steuerpruefung-und-steuerhinterziehung-in-deutschland/> Statistics on Tax audits and tax fraud investigations 2014 (ger.): The statistics show numbers of tax fraud investigations: 352.781 trials (2003-2012), 18 billions of back pay, self-complaint 2012/2013 per federal state.

1.6.5. Risk determination

Overview of Legal Requirements

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

Companies have two kinds of tax-paying systems:

- Shall-taxation: Here VAT is calculated at a point in time when it is not yet clear how much the recipient of the benefit has to pay in a defined period. This is calculated by forecast. VAT can be generated without a bill. The company has to determine the VAT and, if there are any differences, must report any discrepancy to the finance authority (§17 UStG). Companies can choose what periods they wish to use to forecast VAT, e.g. monthly, quarterly or annually (§ 18 UStG).

- Actual-taxation: This is the opposite of shall-taxation. Companies first have to pay VAT after being paid by the recipient of the benefit. This procedure is an exception and has to be approved by the finance authority and is valid only in the following cases (§20 UStG): Total company sales were not larger than 500.000€ in the previous legal year; OR the company is freed from accounting by the finance authority due to § 148 AO; OR if the income was achieved through self-employment.

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

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

All of the above is controlled by finance authorities. Every company must state its financial turnover in a tax return and, in addition, must demonstrate certain accounting practices (§§140, 141 AO, respectively §6, 1 HGB for incorporated enterprises). All documents are sent

to the finance authorities for verification – also irrespective of size, volume of sales and form of organization. All cash flows have to be documented to verify and to avoid illegal and black market earnings. Not mentioning income is seen as tax evasion which attracts severe fines (§§369, 370 AO).

Description of Risk

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

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

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

Taking the above into account, we consider risk of tax evasion in forestry as Low.

Risk Conclusion

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

1.6.6. Risk designation and specification

Low risk

1.5.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

- Einkommensteuergesetz (EStG) in der Fassung der Bekanntmachung vom 8. Oktober 2009 (BGBl. I S. 3366, 3862) ("Income Tax Act"):
 - §2 Volume of taxation, definitions: http://www.gesetze-im-internet.de/estg/_2.html
 - §13 Income from agriculture and forestry: http://www.gesetze-im-internet.de/estg/_13.html
- Abgabenordnung (AO) in der Fassung der Bekanntmachung vom 1. Oktober 2002 (BGBl. I S. 3866; 2003 I S. 61) - "The Fiscal Code of Germany":
 - 140, 141: Obligations of Account keeping: http://www.gesetze-im-internet.de/englisch_ao/
 - §§379, 370: Tax crimes and tax evasion: http://www.gesetze-im-internet.de/englisch_ao/

- Handelsgesetzbuch(HGB) 1897 (BGBl. I S. 1474) - "German Commercial Code"
 - § 6.1: Obligations of Account keeping for incorporated enterprises: http://www.gesetze-im-internet.de/hgb/_6.html

1.7.2. Legal authority

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

1.7.3. Legally required documents or records

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

1.7.4. Sources of information

Government sources

- Laws cited

Non-Government sources

- ecovis.com (2013). *Forstbesteuerung*. [Online]. Available at: http://www.ecovis.com/fileadmin/standorte/landau/2013-02-06_Forstbesteuerung_Laimer_Ecovis.pdf
- transparency.de (2014). *Tabellarisches-Ranking*. [Online]. Available at: <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- transparency.org (2016). *Germany*. [Online]. Available at: <https://www.transparency.org/country/#DEU>
- info.worldbank.org (2016). *Governance Indicators for Germany*. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>
- de.statista.com (2014). *Steuerprüfung und Steuerhinterziehung in Deutschland*. [Online]. Available at: <http://de.statista.com/infografik/1061/steuerpruefung-und-steuerhinterziehung-in-deutschland/> Statistics on Tax audits and tax fraud investigations 2014 (ger.): The statistics show numbers of tax fraud investigations: 352.781 trials (2003-2012), 18 billions of back pay, self-complaint 2012/2013 per federal state.

1.7.5. Risk determination

Overview of Legal Requirements

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

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

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

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

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

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

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

Taking the above into account, we consider risk of tax evasion in forestry as Low.

Description of Risk

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

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

Taking the above into account, we consider risk of tax evasion in forestry as Low.

Risk Conclusion

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

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - Article §8 "Protection of forest functions upon plannings and measures by public projects": http://www.gesetze-im-internet.de/bwaldg/_8.html
 - Article §9 "Preservation of the Forests": http://www.gesetze-im-internet.de/bwaldg/_9.html
 - Article §11 "Management of forests": http://www.gesetze-im-internet.de/bwaldg/_11.html
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"
 - Article §5 "Agriculture, forestry and fisheries": http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnatschg_en_bf.pdf
Forest acts of the federal states:
- Baden-Württemberg:
 - Waldgesetz für Baden-Württemberg (Landeswaldgesetz - LWaldG) in der Fassung vom 31. August 1995 (GBl. 1995, 685) - §§5-28: http://www.landesrecht-bw.de/jportal/portal/t/6w3/page/bsbawueprod.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&fromdoctodoc=yes&doc.id=jlr-WaldGBWpG5&doc.part=X&doc.price=0.0&doc.hl=0#jlr-WaldGBWpG2
 - Richtlinie landesweiter Waldentwicklungstypen ("Guideline for Silviculture in Baden-Württemberg"):
https://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwj-roCcluXSAhXrKJoKHTbPAGQQFgghMAE&url=http%3A%2F%2Fwww.forstbw.de%2Ffileadmin%2Fforstbw_infothek%2Fforstbw_praxis%2Fwet%2FForstBW_Waldentwicklung_web.pdf&usq=AFQjCNH5rvcoPS6bZcFII6VS1I1BP7nwpA&sig2=4baZJbYxRKRWGQNJhD2yuw&bvm=bv.149760088,d.bGs
 - State forest: FSC certification
- Bayern:

- Waldgesetz für Bayern (BayWaldG) in der Fassung der Bekanntmachung vom 22. Juli 2005 (GVBl. 2005, S. 313) - §§ 5-19: <http://www.gesetze-bayern.de/Content/Pdf/BayWaldG?all=True>
- Richtlinie zur Forsteinrichtung ("Guideline for Forest Planning"): <http://www.baysf.de/de/wald-verstehen/waldbau.html>
- Waldbaurichtlinie ("Guidelines for Silviculture"): <http://www.baysf.de/de/wald-verstehen/waldbau.html>
- Berlin:
 - Gesetz zur Erhaltung und Pflege des Waldes (Landeswaldgesetz - LWaldG) vom 16. September 2004 (GVBl. 2004, 391) - §§ 4-12: <http://www.stadtentwicklung.berlin.de/sen/uvk/service/gesetzestexte/de/forfors.shtml>
 - Waldbaurichtlinie für die Berliner Forsten ("Guideline for Silviculture in Berlin"): <http://www.stadtentwicklung.berlin.de/forsten/waldpflege/download/Waldbaurichtlinie2005.pdf>
 - State forest: FSC certification
- Brandenburg:
 - Waldgesetz des Landes Brandenburg (LWaldG) vom 20. April 2004 (GVBl.I/04, [Nr. 06], S.137) - §§ 4-10: <https://bravors.brandenburg.de/de/gesetze-212918>
 - Waldbaurichtlinie Brandenburg ("Guideline for Silviculture in Brandenburg"): http://www.mlul.brandenburg.de/media_fast/4055/waldb_rl.15520821.pdf
- Bremen:
 - Bremisches Waldgesetz (BremWaldG) in Kraft ab: 10.06.2010 - §§4-8: http://transparenz.bremen.de/sixcms/detail.php?gsid=bremen2014_tp.c.72104.de&asl=bremen203_tpgesetz.c.55340.de&template=20_gp_ifg_meta_detail_d
- Hamburg:
 - Hamburger Landeswaldgesetz Vom 13. März 1978 (HmbGVBl. 1978, S. 74) - §§3,6 : <http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psml?showdoccase=1&st=null&doc.id=jlr-WaldGHARahmen&doc.part=X&doc.origin=bs>
 - Waldbauliche Rahmenrichtlinie ("Guideline for Silviculture")
 - State forest: FSC certification
- Hessen:
 - Hessisches Waldgesetz (HWaldG) Vom 27. Juni 2013 (GVBl. 2013, 458) - §§3-7: http://www.rv.hessenrecht.hessen.de/jportal/portal/t/13q0/page/bshesprod.psml/action/portlets.jw.MainAction?p1=1&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGHEpIVZ&doc.part=S&toc.poskey=#focuspoint
 - Hessische Waldbaufibel ("Hessian Reader for Silviculture"): <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAAahUKEwjL3qyj4u7HAhUM7xQKHTkIBsg&url=http%3A%2F%2Fwww.hessen->

forst.de/download.php?file=Duploads%2Fservice%2Fdownload%2Fwaldbaufibel_hessen_forst.pdf&usg=AFQjCNHTr4eKTWpNZFHxhPzPRSMPLu876w&cad=rja

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

1993 (GVBl. 2008, 327) - §§ 5,7,8,18-25,31,33,35:

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

- Principles for Silviculture:

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

- Sachsen:

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

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

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

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

- Sachsen Anhalt:

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

<http://www.wald-prinz.de/waldgesetz-sachsen-anhalt-waldg-lsa/3086>

- Forsteinrichtungsverfahren des Landesforstbetriebes LSA ("Procedure of Forsteinrichtung in Sachsen Anhalt")

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

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

- Saarland:

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

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

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

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

- State forest: FSC certification

- Schleswig-Holstein:

- Waldgesetz für das Land Schleswig-Holstein (Landeswaldgesetz - LWaldG) Vom 5.

Dezember 2004 (GVBl. 2004, 461) - §§ 5-10: <http://www.gesetze-rechtsprechung.sh.juris.de/jportal/portal/t/10cb/page/bsshoprod.psml/action/portlets.j>

[w.MainAction;jsessionid=4875A13BC93FB336273277CD26B8B9A6.jp22?p1=2&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WaldGSH2004V5IVZ&doc.part=S&toc.poskey=#focuspoint](http://www.fsc-deutschland.de/preview.fsc-waldstandard.a-53.pdf)

- State forest: FSC certification
- German FSC-Standard <http://www.fsc-deutschland.de/preview.fsc-waldstandard.a-53.pdf>

1.8.2. Legal authority

- Bundesministerium für Ernährung und Landwirtschaft - "Federal Ministry of Food and Agriculture"
- Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit - "Federal Ministry for the Environment, Nature Conservation and Nuclear Safety"
- Baden-Württemberg: Ministry of Rural Space; ForstBW (State forestry organisation)
- Bayern: Bavarian Ministry of Food, Agriculture and Forest; BaySF (Bavarian state forestry organization)
- Berlin: Berlin senate of City Development; Berlin Forsten (Berlin State forestry organization)
- Brandenburg: Ministry of Rural Development, Environment and Agriculture; Landesbetrieb Forst Brandenburg (Brandenburg state forestry organization)
- Bremen: Stadt Bremen, Senator für Umwelt, Bau, Verkehr und Europa
- Hamburg: Freie und Hansestadt Hamburg, Behörde für Wirtschaft, Verkehr und Innovation
- Hessen: Ministry of Environment, Climate, Agriculture and Consumer Protection; Hessen Forst (Hessen state forestry organization)
- Mecklenburg-Vorpommern: Ministry of Agriculture, Environment and Consumer Protection; Landesforst Mecklenburg-Vorpommern (Mecklenburg-Vorpommern state forestry organization)
- Niedersachsen: Ministry of Food, Agriculture and Consumer Protection; Niedersächsische Landesforsten (Niedersachsen state forestry organization)
- Nordrhein-Westfalen: Ministry of Climate Protection, Environment, Agriculture, Nature Conservation and Consumer Protection; Landesbetrieb Wald und Holz NRW (Nordrheinwestfalen state forestry organization)
- Rheinland-Pfalz: Ministry of Environment, Agriculture, Food, Wine and Forestry, Landesforsten Rheinland-Pfalz (RLP state forestry organization)
- Thüringen: Ministry for Environment, Energy and Nature Conservation; Thüringen Forst (Thüringen state forestry organization)
- Sachsen: Ministry of Environment and Agriculture; Sachsenforst (Sachsen state forestry organization)
- Sachsen Anhalt: Ministry of Agriculture and Environment; Landesforstbetrieb Sachsen-Anhalt (Sachsen-Anhalt state forestry organization)

- Landeswaldgesetz Saarland: Ministry of Environment and Consumer Protection; SaarForst (Saarland state forestry organization)
- Schleswig-Holstein: Ministry for Energy Transition, Agriculture, Environment and Rural Spaces; Schleswig Holsteinische Landesforsten (Schleswig-Holstein state forestry organization)

1.8.3. Legally required documents or records

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

1.8.4. Sources of Information

Government sources

- See Guidelines/Instructions/Directives for silviculture above
- See Laws and Acts above

1.8.5. Risk determination

Overview of Legal Requirements

Harvesting techniques, technologies and forest planning activities (minimum age, diameter etc.) are amongst the duties of forest managers employed at public or private forest organizations. In public forests, the decisions of forest managers are based on ten yearly forest inventories (so called Forsteinrichtung) and guidelines for silviculture drafted by each Federal State which are obligatory for forest management in municipal forests and state forests. For private forests, the silviculture guidelines are only recommended, but private forests of course are also bound to national and federal law. Regulations of the silviculture guidelines are based on the National Forest Act and the Federal Nature Conservation Act, which include the stipulations that forests have to be managed properly, advantageously and sustainably, retaining the function of the forest. This means in particular:

- cultivation must be appropriate to the location; and the sustained fertility of the soil and long-term usability of the land must be ensured
- the natural features of the arable land (soil, water, flora, fauna) must not be impaired beyond the extent required to achieve a sustainable yield
- fertilisers and plant-protection products must be used in accordance with the provisions of specialised laws pertaining to agriculture
- regarding the use of woodlands for forestry purposes, the aim must be to establish semi-natural forests and to manage these sustainably without clear-felling; with an adequate proportion of native woodland plants retained.

Every federal state has the authority to monitor implementation of the law relating to forest control (Forstaufsicht). Since state forest organizations are supervised by the federal forest department, forest activities are monitored in both private forest and public commune forest. Forstaufsicht is the implementing arm of the federal state, whereby the state secures legal implementation. Forstaufsicht is executed by officials of the corresponding low-level forest department and also by police. Individuals can advise forest authorities about infringement of regulations due to timber harvesting. There are no statistics available as to how many legal

cases there are or have been in Germany in relation to this criterion, but we are not aware of law infringements that have not be examined.

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

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

Due to this and due to control mechanisms, we consider the risk to be Low

Description of Risk

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Due to this and due to control mechanisms, we consider the risk to be Low.

Risk Conclusion

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

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act" Article 12 "Protection Forest" http://www.gesetze-im-internet.de/bwaldg/_12.html
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"
 - Article 6 "Monitoring of nature and landscape"
 - Article 7 (13) (14) – "specially protected species" and "strictly protected species"
 - Chapter 3 Article 13-19 "General protection of nature and landscape"
 - Chapter 4 Article 20-36 "Protection of certain parts of nature and landscape"
 - Chapter 5 Section 1-4 Article 37-51 "Protection of wild fauna and flora species, of their living sites and of their biotopes"
http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnatschg_en_bf.pdf
 - Bundesartenschutzverordnung (BArtSchV) vom 16. Februar 2005 (BGBl. I S. 258, 896) – "Federal Species Protection Ordinance" http://www.gesetze-im-internet.de/bartschv_2005/index.html
 - Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora - Article 2,6,12,17 : <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>
 - Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489134425762&uri=CELEX:32009L0147>

1.9.2. Legal authority

- Authorities for Conservation
- Forest Departments

1.9.3. Legally required documents or records

N/A

1.9.4. Sources of Information

Government sources

- ec.europa.eu (Year?). *The Habitats Directive*. [Online]. Available at: http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
- geodienste.bfn.de (2014). *Naturschutzgebiete*. [Online]. Available at: <http://www.bfn.de/23539.html>
- Geographical map showing conservation areas in Germany.
- bfn.de (2017). *Nature Conservation Areas*. [Online]. Available at: https://www.bfn.de/0308_nsg+M52087573ab0.html

- Information on size and locations designated as conservation areas in Germany
 bfn.de (2011). *Eingriffe in Natur und Landschaft*. [Online]. Available at:
https://www.bfn.de/0306_eingriffsregelung-natur.html
- bfn.de (2016). *Protected Areas*. [Online] Available at:
https://www.bfn.de/0308_gebietsschutz+M52087573ab0.html
- bfn.de (2016). *Monitoring and Indicators in Nature Conservation* [Online]. Available at:
https://www.bfn.de/0315_monitoring+M52087573ab0.html
- Habitats Directive areas in Germany:
 - bfn.de (2014). FFH-Gebiete in Deutschland. [Online]. Available at:
https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/meldestand_ffh_03012014.pdf
 - bfn.de (2013). *FFH-Gebiete in Deutschland*. [Online]. Available at:
<https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/ffh2013.pdf>
- Birds Directive areas in Germany:
 - bfn.de (2013). *Vogelschutzgebiete in Deutschland*. [Online]. Available at:
https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/meldestand_spa_31102013.pdf
 - bfn.de (2013). *Europäische Vogelschutzgebiete in Deutschland* .[Online]. Available at:
<https://www.bfn.de/fileadmin/MDB/documents/themen/natura2000/gebiete/spa2013.pdf>
- Monitoring results for Habitats/Birds Directive:
 - bfn.de (2013). *Naturbericht- Ergebnisse 2013*. [Online]. Available at:
http://bfn.de/0316_nat-bericht_ergebnisse2013.html
 - bfn.de (2013). *Arten – FFH-Berichtsdaten 2013*. [Online]. Available at:
https://www.bfn.de/0316_nat-bericht_2013-komplett.html
- German National Summary Report for Article 17 of Habitats Directive
 - circabc.europa.eu (2012). *National Summary for Article 17- Germany*. [Online]. Available at:
https://circabc.europa.eu/sd/a/dcb49f6a-543c-4f4d-b0af-5ec6597decfc/DE_20140528.pdf
- Annexes I, II, IV and V of the Habitats Directive (for Germany)
 - ffh-gebiete.de (Year?). *Anhang I der FFH-Richtlinie*. [Online]: Available at:
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-i/>
 - ffh-gebiete.de (Year?). *Anhang IV der FFH-Richtlinie*. [Online]: Available at:
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-iv/>
 - ffh-gebiete.de (Year?). *Anhang II der FFH-Richtlinie*. [Online]: Available at:
<http://www.ffh-gebiete.de/natura2000/ffh-anhang-ii/>
- Annex I of Federal Species Protection Ordinance

- [gesetze-im-internet.de \(2005\). *Verordnung zum Schutz wild lebender Tier- und Pflanzenarten*. \[Online\]. Available at: \[http://www.gesetze-im-internet.de/bartschv_2005/anlage_1.html\]\(http://www.gesetze-im-internet.de/bartschv_2005/anlage_1.html\)](http://www.gesetze-im-internet.de/bartschv_2005/anlage_1.html)
- Annexes A and B of Council Regulation (EC) No. 338/97
 - [bfn.de \(2006\). *Hunted Species protected according to Regulation \(EC\) and not simultaneously listed in Annex XIII*. \[Online\]. Available at: \[https://www.bfn.de/0305_arten_b+M52087573ab0.html\]\(https://www.bfn.de/0305_arten_b+M52087573ab0.html\)](https://www.bfn.de/0305_arten_b+M52087573ab0.html)
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Non-Government sources

- [nabu.de/ \(2013\). *Natura-2000-Umsetzung im Wald nicht ausreichend*. \[Online\]. Available at: <https://www.nabu.de/news/2013/10/16262.html> Harvest infringement in Natura 2000 area due to non-existence of management plans.](https://www.nabu.de/news/2013/10/16262.html)
- [waldwissen.net \(2012\). *Grundsätze der Waldnutzung in FFH-Waldgebieten*. \[Online\]. Available at: \[http://www.waldwissen.net/waldwirtschaft/waldbau/planung/fva_waldnutzung_ffh_gebiet/index_DE\]\(http://www.waldwissen.net/waldwirtschaft/waldbau/planung/fva_waldnutzung_ffh_gebiet/index_DE\) Overview of forest activities in Habitats Directive areas.](http://www.waldwissen.net/waldwirtschaft/waldbau/planung/fva_waldnutzung_ffh_gebiet/index_DE)
- [waldwissen.net \(2012\). *Planung und Monitoring in geschützten Waldgebieten*. \[Online\]. Available at: \[http://www.waldwissen.net/wald/naturschutz/monitoring/fva_monitoring_schutzgebiete/index_DE\]\(http://www.waldwissen.net/wald/naturschutz/monitoring/fva_monitoring_schutzgebiete/index_DE\) Information on planning and monitoring in protected forest sites.](http://www.waldwissen.net/wald/naturschutz/monitoring/fva_monitoring_schutzgebiete/index_DE)
- [worldbank.org/ \(year?\). *Governance Indicators for Germany*. \[Online\]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>](http://data.worldbank.org/data-catalog/worldwide-governance-indicators)

1.9.5. Risk determination

Overview of Legal Requirements

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

Protected sites covered by European Law are Habitats Directive and Birds Directive.

For some highly protected areas, harvesting, access and management are highly restricted in terms of use (national parks, nature conservation areas, Biosphere reserves, legally protected biotopes, Natura 2000). Whether managing and harvesting is allowed, it is regulated by management plans based on the Federal Nature Conservation Act.

Protected sites have special protection objectives and management is restricted to the purpose of achieving this protection objective or for special cases in public interest such as traffic safety. Any forest activities therefore are allowed only with permission of nature conservation authorities.

In Germany, no harvesting is permitted on an area of 337.550 ha. About 32.000 ha of this area is identified as protection forest, after National Forest Act Article 12 (e.g. landslide

protection, water protection, soil protection). It is thus covered by a further protection designation, where tighter restrictions apply to forest activities. Management of protection forest is subject, in addition, to official approval.

Habitats Directive areas including Natura 2000 also have to be managed by binding management plans due to article 6 (1) of Habitats Directive. Management plans have to maintain or restore favourable conservation status. Article 6(2) requires of member states that they "Avoid damaging activities that could significantly disturb these species or deteriorate the habitats of the protected species or habitat types."

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

In exceptional circumstances, a plan or project may still be allowed to go ahead – despite a negative assessment – if it can be demonstrated that there are no alternative solutions and the plan or project is considered to be of overriding public interest. In such cases the Member State must take appropriate compensatory measures to ensure that the overall coherence of the N2000 Network is protected.

Description of Risk

Problems with forest activities in protected sites can occur where they are in private ownership, since management plans are only compulsory for areas owned by the states. If areas become designated as protected, they still remain in private ownership. Despite this fact, any private owner still has a "social responsibility of ownership" according to the German Constitution. Therefore the owner still has to accept restrictions for protected sites and has to get permission from nature conservation authorities for any activity that needs to be justified for a protective purpose. Due to this, conflicts can arise. In some cases areas are sold to the German state.

Problems concerning Habitats Directive occur where no management plans exist. This is a problem observed by NGOs in cases where – because there was no management plan – timber was harvested in Natura 2000 areas. In these cases, however, the "concept of no deterioration" still applies, after Art. 6 (2) of Habitats Directive.

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

Controls are carried out by forest control (Forstaufsicht), employees of the Nature Conservation Federal Agency or by the police; but it is known that there are implementation deficits for protected sites due to the lack of personnel who can enforce limitations or obligations.

NGOs like NABU Germany (Nature and Biodiversity Conservation Union) demand more controls in these areas and a legal duty to establish management plans for areas of Habitats Directive. The national report prepared under art. 17 of the Habitats Directive from 2013 outlines the results of an appraisal of the ecological conservation status of the habitat types in the special areas of conservation (SACs) throughout Germany. These areas are found to be unfavourable in parts of the country (especially in the Atlantic and continental regions). Given the legal framework in place in Germany, and in spite of the numerous instances of an unfavourable rating of the ecological status of SACs, it is not currently expected that breaches of protection regulations will lead to a large-scale threat to the conservation aims and the assets within

SACs as a consequence of forest management. Nor is it believed that these forests are extensively and substantially endangered by forestry.

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

Due to this legal framework, we consider risk of forest activities and endangerment of species and their habitats in protected sites as Low.

Risk Conclusion

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

1.9.6. Risk designation and specification

Low risk

1.9.7. Control measures and verifiers

N/A

1.10. Environmental requirements

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

1.10.1. Applicable laws and regulations

- Bundeswaldgesetz (BWaldG) vom 2. Mai 1975 (BGBl. I S. 1037) - "National Forest Act"
 - Article §8 ("Protection of forest functions upon plannings and measures by public projects") http://www.gesetze-im-internet.de/bwaldg/_8.html
 - Article §9 ("Preservation of the Forests") http://www.gesetze-im-internet.de/bwaldg/_9.html
 - Article §11("Management of forests") http://www.gesetze-im-internet.de/bwaldg/_11.html
 - Article §41a ("Forest Monitoring")
- Bundesnaturschutzgesetz (BNatSchG) vom 29. Juli 2009 (BGBl. I S. 2542) - "Federal Nature Conservation Act"

- Article §5 ("Agriculture, forestry and fisheries") http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Naturschutz/bnatschg_en_bf.pdf
- Bundes-Bodenschutzgesetz(BBodSchG) vom 17. März 1998 (BGBl. I S. 502) – "Soil Protection Act"
 - Article §17 ("Good agriculture practice") http://www.gesetze-im-internet.de/bbodschg/_17.html
- Wasserhaushaltsgesetz(WHG) vom 31. Juli 2009 (BGBl. I S. 2585) - "Water Resources Act" http://www.gesetze-im-internet.de/whg_2009/
- Düngeverordnung (DüV) in der Fassung der Bekanntmachung vom 27. Februar 2007 (BGBl. I S. 221) – "Fertilizer legislation" http://www.gesetze-im-internet.de/d_v/
- Düngemittelverordnung (DüMV) vom 5. Dezember 2012 (BGBl. I S. 2482) - "Fertilizer ordinance" http://www.gesetze-im-internet.de/d_mv_2012/
- Chemikaliengesetz (ChemG) in der Fassung der Bekanntmachung vom 28. August 2013 (BGBl. I S. 3498, 3991)– "Chemicals Act" <http://www.gesetze-im-internet.de/chemg/index.html>
- Pflanzenschutzgesetz (PflSchG) vom 6. Februar 2012 (BGBl. I S. 148, 1281) – "Plant Protection Act" http://www.gesetze-im-internet.de/pflschg_2012/

For further environmental requirements see federal state laws and guidelines for silviculture linked at topic 1.8 and 1.9

1.10.2. Legal authority

- Forest Departments

1.10.3. Legally required documents or records

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

1.10.4. Sources of information

Government sources

Information on Forest function mapping

- forsten.sachsen.de/ (year?). *Waldfunktionskartierung*. [Online]. Available at: <http://www.forsten.sachsen.de/wald/150.htm>
- fva-bw.de (Year?). *Waldfunktionenkartierung*. [Online]. Available at: http://www.fva-bw.de/indexjs.html?http://www.fva-bw.de/forschung/wg/wfk/wfk_themen.php?thema=1
- forstbw.de (year?). *Waldfunktionenkartierung (WFK) in Baden-Württemberg*. [Online]. Available at: <http://forstbw.de/wald-im-land/waldfunktionen.html>

German National Strategy on Biodiversity

- bfn.de (2012). *Nationale Strategie zur biologischen Vielfalt*. [Online]. Available at: https://www.bfn.de/0304_biodivstrategie-nationale.html
Results of Crown Condition Survey:
- bmel.de (2014). *Ergebnisse der Waldzustandserhebung*. [Online]. Available at: http://www.bmel.de/SharedDocs/Downloads/Landwirtschaft/Wald-Jagd/ErgebnisseWaldzustandserhebung2014.pdf?__blob=publicationFile
According to the Overview report of Soil Condition by Federal Environment Agency german soils are in good condition:
- umweltbundesamt.de (year?). Bodendaten in Deutschland. Übersicht über die wichtigsten Mess- und Erhebungsaktivitäten für Böden. Im Auftrag des Umweltbundesamtes. Available at: <https://www.umweltbundesamt.de/sites/default/files/medien/publikation/long/4291.pdf>

Non-Government sources

- cbd.int/information/parties.shtml (2007). *National Strategy on Biological Diversity*. [Online]. Available at: <https://www.cbd.int/doc/world/de/de-nbsap-01-en.doc> - Convention on Biological Diversity.
- info.worldbank.org (2016). *Governance Indicators for Germany*. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>

1.10.5. Risk determination

Overview of Legal Requirements

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

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

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

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

Germany signed the Convention on Biological Diversity in 1992.

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

Description of Risk

To summarize: Germany has numerous laws, regulations, ordinances and directives designed to regulate environmental values and requirements. Federal state Forestry Departments are duty-bound to enforce and supervise regulations or obligations equally in all forest types.

There are no statistics available relating to regular on-site visits by relevant authorities focusing on environmental requirements; however on-site visits are a known measure of control and planning. If there is an infringement of the law, this is normally pointed out by local communities or local Conservation NGOs. In addition, due to the awareness of high penalties, there are no known significant environmental conflicts relating to harvesting activities.

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

Germany has a Corruption Perceptions Index of 79 (above the threshold of 50) and is placed 12th worldwide.

Based on this information, the risk for this category is assessed as Low.

Risk Conclusion

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

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

N/A

1.11. Health and safety

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

1.11.1. Applicable laws and regulations

- Arbeitsschutzgesetz (ArbSchG) vom 7. August 1996 (BGBl. I S. 1246) - Occupational Safety and Health Act http://www.gesetze-im-internet.de/englisch_arbschg/index.html
- Gesetz über Betriebsärzte, Sicherheitsingenieure und andere Fachkräfte für Arbeitssicherheit (ASiG) vom 12. Dezember 1973 (BGBl. I S. 1885) - "Occupational Safety Act" <http://www.gesetze-im-internet.de/asig/>
- Das Siebte Buch Sozialgesetzbuch (SGB VII) – Gesetzliche Unfallversicherung – (Artikel 1 des Gesetzes vom 7. August 1996, BGBl. I S. 1254) - "Seventh Social Code Book - statutory accident insurance"
 - Article §15 – Unfallverhütungsvorschriften - "Accident prevention regulations" http://www.gesetze-im-internet.de/sgb_7/_15.html

- PSA-Benutzungsverordnung (PSA-BV) vom 4. Dezember 1996 (BGBl. I S. 1841) – Directive on personal equipment protection <http://www.gesetze-im-internet.de/psa-bv/index.html>
- DGUV Regel 114-018 Juni 2009 "Regel Waldarbeiten" - "Rules on Forest Work" http://www.arbeitssicherheit.de/media/pdfs/bgr_2114.pdf
- DGUV-Information 214-046 Mai 2014 "Sichere Waldarbeiten" - "Safe forest working" http://www.arbeitssicherheit.de/media/pdfs/CCC_3426.pdf
- Unfallverhütungsvorschrift(VSG) – "Accident prevention regulations"
 - VSG 1.1 Allgemeine Vorschriften für Sicherheit und Gesundheitsschutz – General Regulations on Security and Health protection https://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwiK05PrneXSAhXDDpoKHTb1ADsQFggoMAI&url=https%3A%2F%2Fwww.svlfq.de%2F30-praevention%2Fprv1400-gesetze-und-vorschriften%2Fprv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz%2F01_vsg11.pdf&usq=AFQjCNFNiHa6rTcKIzX2JU9YFxFxQ0LNe_g&sig2=IBZw5QHQNWYGQ_qfMyq6FA
 - VSG 4.3 Forsten – Forsten - Forestry https://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiK05PrneXSAhXDDpoKHTb1ADsQFgghMAE&url=https%3A%2F%2Fwww.svlfq.de%2F30-praevention%2Fprv1400-gesetze-und-vorschriften%2Fprv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz%2F17_vsg43.pdf&usq=AFQjCNGSZRiaDKot0jJvwuhVhK16Il35SA&sig2=Hf8uorB8g-JVbvZFTv5FAw
 - VSG 4.5 Gefahrstoffe – Gefahrstoffe - Hazardous substances https://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi4wtCInuXSAhXrC5oKHY7JA0gQFggaMAA&url=https%3A%2F%2Fwww.svlfq.de%2F30-praevention%2Fprv1400-gesetze-und-vorschriften%2Fprv0301-vorschriften-fuer-sicherheit-und-gesundheitsschutz%2F19_vsg45.pdf&usq=AFQjCNFaSMp7pvEUSkYSHRUKuhzuXOY9og&sig2=MFEDMeqNA4Wi9SAO6sZ03w

1.11.2. Legal authority

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

1.11.3. Legally required documents or records

- Employment contract/agreement
- Social Security card

1.11.4. Sources of information

Government sources

- Research and monitoring on health and safety at work:
 - baa.de (2017). *Federal Institute for occupational safety and health*. [Online]. Available at: <http://www.baa.de/en/Homepage.html>
- Joint German Occupational Safety and Health Strategy:

- gda-portal.de (2015). *Joint German Occupational Safety and Health Strategy*. [Online]. Available at: <http://www.gda-portal.de/en/Homepage.html>
German Health System:
- osha.europa.eu (2017). *Germany*. [Online] Available at: <https://osha.europa.eu/about-eu-osha/national-focal-points/germany>
- bmas.de (2011). *European and International Occupational Safety and Health*. [Online]. Available at: <http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/european-and-international-occupational-safety-and-health.html>
- bmas.de (2011). *Internal Occupational Safety and Health Systems*. [Online]. Available at: <http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/internal-occupational-safety-and-health-systems.html>
- bmas.de (2011). *Joint German Occupational Safety and Health Initiative*. [Online]. Available at: <http://www.bmas.de/EN/Our-Topics/Occupational-Safety-and-Health/joint-german-occupational-safety-and-health-initiative.html>
- Guideline on occupational safety by the Baden-Württemberg forestry department:
 - forstbw.de (2013). *Arbeitssicherheit*. [Online]. Available at: <http://www.forstbw.de/produkte-angebote/infothek/publikationen/forstbw-praxis/arbeitssicherheit-auf-den-punkt-gebracht/>
- Guidelines on occupational safety by the Bavarian Ministry of Food, Agriculture and Forest (Chapter 2):
 - forstservice-bayern.de (2010). *Holzeinschlag und Holzverkauf*. [Online]. Available at: <http://www.forstservice-bayern.de/fsb/service/downloads/holzeinschlag-und-holzverkauf.pdf>
- Information on SVLFG and DGUV
 - svlfg.de (2017). *Sozialversicherung für Landwirtschaft, Forsten und Gartenbau*. [Online]. Available at: <http://www.svlfg.de/index.html>
 - dguv.de (year?). *Deutsche Gesetzliche Unfallversicherung*. [Online]. Available at: <http://www.dguv.de/de/index.jsp>

Non-Government sources

- Information about "Unfallverhütungsvorschriften" ("Accident prevention regulations") in Germany.
 - wikipedia.org (2017). *Unfallverhütungsvorschriften*. [Online]. Available at: <https://de.wikipedia.org/wiki/Unfallverh%C3%BCtungsvorschriften>
 - wikipedia.org (2017). *Sozialversicherung für Landwirtschaft, Forsten und Gartenbau*. [Online]. Available at: https://de.wikipedia.org/wiki/Sozialversicherung_f%C3%BCr_Landwirtschaft,_Forsten_und_Gartenbau
 - wikipedia.org (2017). *Deutsche Gesetzliche Unfallversicherung*. [Online]. Available at: https://de.wikipedia.org/wiki/Deutsche_Gesetzliche_Unfallversicherung

- Social security card:
wikipedia.org (2017). *Sozialversicherungsausweis*. [Online]. Available at: <https://de.wikipedia.org/wiki/Sozialversicherungsausweis>
- Statistic 1: Statistics of accidents in German state forests, showed per federal state and summed up (Arbeitsunfälle = accidents by working; Wegeunfälle = accidents on roads; tödliche Unfälle = fatal accidents):
kwf-online.org (2013). *Unfallstatistik*. [Online]. Available at: <http://www.kwf-online.org/mensch-und-arbeit/unfallstatistik/2013.html>
- Statistic 2: Statistics of all accidents in German state forests on a timeline from 2000 to 2015 showed per federal state and summed up:
kwf-online.org (2013). *Unfallzeitreihen*. [Online]. Available at: <http://www.kwf-online.org/mensch-und-arbeit/unfallstatistik/unfallzeitreihen.html>
- Statistic 3: Statistics of all accidents in agriculture, forestry and horticulture in 2013 (p. 41) in communes and private forests and percentage of accidents in forestry ("Wald- und Forstarbeiten") (p. 45): svlfg.de (2013). *Praeventionsbericht 2013*. [Online]. Available at: http://www.svlfg.de/60-service/serv02_brosch/serv0201praev/broschueren/index.html

1.11.5. Risk determination

Overview of Legal Requirements

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

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

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

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

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

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

In addition to these, there are many guidelines for occupational safety published by public and private forest organizations. In some cases these organizations demand additional

commitments to safety conditions from their employees. This depends on what work has to be done (e.g. harvesting in steep areas etc.).

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

Description of Risk

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

Due to this legal framework and high level of monitoring, we consider risk associated with health and safety as Low.

Risk Conclusion

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

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

N/A

1.12. Legal employment

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

1.12.1. Applicable laws and regulations

- Jugendarbeitsschutzgesetz (JArbSchG) vom 12. April 1976 (BGBl. I S. 965) – "Youth employment protection act". <http://www.gesetze-im-internet.de/jarbschg/>
- Kinderarbeitsschutzverordnung (KindArbSchV) vom 23. Juni 1998 (BGBl. I S. 1508)– "Child Labour Protection Ordinance". <http://www.gesetze-im-internet.de/kindarbschv/>

- Schwarzarbeitsbekämpfungsgesetz (SchwarzArbG) vom 23. Juli 2004 (BGBl. I S. 1842) - "Act against illegal employment". http://www.gesetze-im-internet.de/schwarzarbg_2004/
- Arbeitsgenehmigungsverordnung (ArGV) vom 17. September 1998 (BGBl. I S. 2899) - "Regulation on Work Permits for Foreign Workers". <http://www.gesetze-xxl.de/arbeitsgenehmigungsverordnung-argv-vom-17-09-1998-bgbi-i-s-2899/>
- Das Fünfte Buch Sozialgesetzbuch (SGB V) – Gesetzliche Krankenversicherung – (Artikel 1 des Gesetzes vom 20. Dezember 1988, BGBl. I S. 2477, 2482) – "Social Code Book V - Statutory Health Insurance". http://www.gesetze-im-internet.de/sgb_5/
- Das Sechste Buch Sozialgesetzbuch (SGB VI) – Gesetzliche Rentenversicherung – in der Fassung der Bekanntmachung vom 19. Februar 2002 (BGBl. I S. 754, 1404, 3384) – "Social Code Book VI – Statutory Annuity Insurance". http://www.gesetze-im-internet.de/sgb_6/
- Das Siebte Buch Sozialgesetzbuch (SGB VII) – Gesetzliche Unfallversicherung – (Artikel 1 des Gesetzes vom 7. August 1996, BGBl. I S. 1254) - "Seventh Social Code Book - statutory accident insurance". http://www.gesetze-im-internet.de/sgb_7/
- Allgemeines Gleichbehandlungsgesetz (AGG) vom 14. August 2006 (BGBl. I S. 1897) – "General Equal Treatment Act". <http://www.gesetze-im-internet.de/agg/index.html>
- Arbeitszeitgesetz (ArbZG) vom 6. Juni 1994 (BGBl. I S. 1170, 1171) – "Working Time Act". <http://www.gesetze-im-internet.de/arbzg/index.html>
- Bundeselterngeld- und Elternzeitgesetz (BEEG) vom 5. Dezember 2006 (BGBl. I S. 2748) – "Federal Parental Benefit Act". <https://dejure.org/gesetze/BEEG>
- Bundesurlaubsgesetz (BUrlG) vom 20. April 2013 (BGBl. I S. 868) - Federal Holiday Act. <http://www.gesetze-im-internet.de/burlg/index.html>
- Kündigungsschutzgesetz (KSchG) in der Fassung der Bekanntmachung vom 25. August 1969 (BGBl. I S. 1317) – "Employment Protection Act". <http://www.gesetze-im-internet.de/kschg/index.html>
- Mutterschutzgesetz (MuSchG) in der Fassung der Bekanntmachung vom 20. Juni 2002 (BGBl. I S. 2318) – "Maternity Protection Act". <http://www.gesetze-im-internet.de/muschg/index.html>

1.12.2. Legal authority

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

1.12.3. Legally required documents or records

- Employment contract
- Social Security card

1.12.4. Sources of information

Non-Government sources

- Ilo.org (2016). *Co87 – Freedom of Association and Protection of the Right to Organise convention, 1948*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232
- Ilo.org (2016). *Co98 – Right to organise and Collective Bargaining Convention, 1949*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::no::P12100_Ilo_Code:C098
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- Ilo.org (2016). *C105 – Abolition of Forced Labour Convention, 1957*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105
- Ilo.org (2016). *C100 – Equal Remuneration Convention, 1951*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100
- Ilo.org (2016). *C111 – Discrimination (Employment and Occupation) Convention, 1958*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111
- Ilo.org (2016). *C138 – Minimum Age Convention, 1973*. [Online]. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
- Ilo.org (2016). *C182 – Worst Forms of Child Labour Convention, 1999*. [Online] Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182
- transparency.de (2014). *Tabellarisches-Ranking*. [Online]. Available at: <https://www.transparency.de/Tabellarisches-Ranking.2574.0.html>
- transparency.org (2016). *Germany*. [Online]. Available at: <https://www.transparency.org/country/#DEU>
- info.worldbank.org (2016). *Governance Indicators for Germany*. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>

1.12.5. Risk determination

Overview of Legal Requirements

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

See also 1.11 Health and safety.

There are no known conflicts relating to compulsory labour or child labour in Germany. Germany signed the eight Fundamental ILO (International Labour Organisation) Conventions

(29, 87, 98, 105, 100, 111, 138, 182) which represent principal rules on labour law. Further national laws covering minimum age, working hours and working conditions of children are based on two legal foundations, namely Kinderarbeitsschutzverordnung (KindArbSchV or Child Labour Protection Ordinance) and Jugendarbeitsschutzgesetz (JArbSchG) or Youth Employment Protection Act).

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

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

Description of Risk

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

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

Considering the above, risk in relation to this criterion is considered Low.

Risk Conclusion

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

1.12.6. Risk designation and specification

Low risk

1.12.7. Control measures and verifiers

N/A

THIRD PARTIES' RIGHTS

1.13 Customary rights

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

1.13.1. Applicable laws and regulations

N/A

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

Government sources

- [gesetze-im-internet.de](http://www.gesetze-im-internet.de) (2017). *Deutsches Grundgesetz ("Basic Law for the Federal Republic of Germany")*. [Online]. Available at: http://www.gesetze-im-internet.de/englisch_gg/

Non-Government sources

- un.org (year?). Indigenous People, Indigenous Voices. [Online]. Available at: http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf
- un.org (2008). *Research on Best Practices for the Implementation of the Principles of ILO Convention No. 169. Case Study: 7*. [Online]. (ILO Dossier on Indigenous People (pp. 5 ff.)). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120.pdf

1.13.5. Risk determination

Overview of Legal Requirements

Based on United Nations and ILO definitions, no indigenous people exist in Germany. Also, there is no Act in the German Constitution concerning indigenous people; and there are no legal customary rights for use of forest products. There are respected traditions; these, however, refer to scale and amount of use that is small (e.g. traditional collecting of non-merchantable wood by local citizens).

1.13.6. Risk designation and specification

N/A

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

N/A

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

Overview of Legal Requirements

This topic is covered within section 1.1 on ownership laws. The legal owner of the forest is allowed to harvest or to purchase harvesting rights. Also, transfer and purchase of land are regulated through the Land Book. The purchase or lease of land or harvesting rights must not lead to diminution or damage of other laws (e.g. trade, tax, forest).

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

Government sources

- [gesetze-im-internet.de](http://www.gesetze-im-internet.de) (2017). *Deutsches Grundgesetz* ("Basic Law for the Federal Republic of Germany"). [Online]. Available at: http://www.gesetze-im-internet.de/englisch_gg/

Non-Government sources

- un.org (year?). *Indigenous People, Indigenous Voices*. [Online]. Available at: http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf
- un.org (2008) *Research on Best Practices for the Implementation of the Principles of ILO Convention No. 169. Case Study: 7*. [Online]. (ILO Dossier on Indigenous People (pp. 5 ff.)). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120.pdf (ILO Dossier on Indigenous People (pp. 5 ff.)).

1.15.5. Risk determination

Overview of Legal Requirements

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

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

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

1.16.1. Applicable laws and regulations

N/A

1.16.2. Legal authority

N/A

1.16.3. Legally required documents or records

- Bills
- Purchase agreements

1.16.4. Sources of information

Government sources

- forstbw.de (1983). *Gesetzliche Handelsklassensortierung für Rohholz*. [Online]. (Act on legal commercial categories for wood – disestablished in 2009). Available at: http://forstbw.de/fileadmin/forstbw_pdf/gesetze_verordnungen/hks.pdf
- fva-bw.de (2014). *Rahmenvereinbarung für den Rohholzhandel in Deutschland*. [Online]. Available at: http://www.fva-bw.de/termine/veranstaltungen/14vorort_rvr.pdf
- wald-prinz.de (2009). *Holzsortierung / Holzsortiment*. [Online]. Information on how wood is sorted in Germany. Available at: <http://www.wald-prinz.de/holz-sortierung-holzsortiment/211>

1.16.5. Risk determination

Overview of Legal Requirements

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

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

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

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

2. In some federal states: Heilbronner Sortierung, which defines timber by dimension and diameter. HKS in particular is in many federal states further defined and complemented with regional conditions. In addition, HKS was officially abolished in 2008. Nevertheless, due to a lack of alternatives, HKS and the federal state additions are still applied. Thus, at the moment, no uniform and legal classification system exists in Germany. The defined quality is stated only in purchase agreements and/or declared on bills, as is the wood species – so that these features can be checked and evaluated after purchasing.

Description of Risk

Risk can arise when timber is traded and the seller and buyer – regardless of billing documentation – are working with different timber quality or dimension classifications, due to slightly different classifications in federal states. However, there are no known conflicts where timber quality, amount or dimension have been an issue between seller and buyer. Considering the above, the risk is considered to be Low.

To solve the problem described above, a new convention was developed in 2009, called the German Framework Agreement for Timber Trade (Rahmenvereinbarung für den Rohholzhandel in Deutschland or RVR). The convention was developed over seven years by two German central forestry associations, Deutscher Forstwirtschaftsrat and Deutscher Holzwirtschaftsrat. The Agreement regulates timber measurement, timber quality classification, volume calculations and terms of timber trade. The RVR was developed through a long-term process involving many stakeholders of the timber trade including public and forest organizations as well as timber consumers.

RVR as passed in December 2014 and is at the moment in an implementation phase. All major federal forest organizations have already implemented RVR or are committed to doing so. While RVR is voluntary in nature, it is based on the HKS and the stakeholder process and is therefore seen as a normative framework for German forestry.

Risk Conclusion

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

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery.

In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

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

1.17.2. Legal authority

- Federal Ministry of Finance

1.17.3. Legally required documents or records

- Bills
- Purchase agreements

1.17.4. Sources of information

Non-Government sources

- main-echo.de(2013). *Holzabfuhrscheine gegen Diebstahle*. [Online]. Report about wood thefts and establishing "wood transport certificates". Available at: <http://www.main-echo.de/regional/kreis-main-spessart/art11869,2468295> Report about wood thefts and establishing "wood transport certificates"

1.17.5. Risk determination

Overview of Legal Requirements

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

Description of Risk

In some incidents – involving thefts of high quantities of timber – so-called 'wood transport certificates' (Holzabfuhrschein) were established to mitigate the risk. This type of certificate identifies the legal owner of the transported timber and must be shown to authorities on request. This is limited to only a few communities in Germany.

There are no other legal requirements relating to transport of wood within Germany. There are no known infringements in this category that would qualify for Specified Risk.

Risk Conclusion

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

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

N/A

1.18. Offshore trading and transfer pricing

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

1.18.1. Applicable laws and regulations

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

1.18.2. Legal authority

- Federal Ministry of Finance
- Federal Ministry of Finance

1.18.3. Legally required documents or records

N/A

1.18.4. Sources of information

Government sources

- Transfer Pricing Country Profile by OECD (regulations regarding transfer pricing in Germany)
oecd.org (2012). *Transfer Pricing Country Profile*. [Online]. Transfer Pricing Country Profile by OECD (regulations regarding transfer pricing in Germany) Available at: http://www.oecd.org/ctp/transfer-pricing/Germany_TPCountryProfile_Nov2012.pdf
- bundesfinanzministerium.de (2015). *German government presses forward with fight against tax evasion*. [Online]. Information on CRS. Available

at: <http://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2015/2015-07-15-fight-against-tax-evasion.html>

- oecd.org (N.Y). *Standard for Automatic Exchange of Financial Account Information* [Online]. Available at: <http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>
- oecd.org (2016). *Signatories of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and Intended First Information Exchange Date*. [Online]. Available at: <http://www.oecd.org/tax/exchange-of-tax-information/mcaa-signatories.pdf>
- oecd.org (N.Y). *Tax Information Exchange Agreements (TIEAs): Germany*. [Online]. Available at: <http://www.oecd.org/tax/transparency/taxinformationexchangeagreementstieasgermany.htm>
- eoi-tax.org (N.Y). *Germany*. [Online]. Germany's exchange Information relationships. Available at: <http://www.eoi-tax.org/jurisdictions/DE#agreements>

Non-Government sources

- kpmg.com (N.Y). *Global Transfer Pricing Review*. [Online]. Available at: <https://home.kpmg.com/content/dam/kpmg/pdf/2015/10/tp-review-germany-v2.pdf>
- handelsblatt.com (2013). *Offiziel kennt Deutschland keine Steueroasen*. [Online]. Available at: <http://www.handelsblatt.com/politik/deutschland/wirkungsloses-steinbrueck-gesetz-offiziell-kennt-deutschland-keine-steueroasen/8268080.html>
- steuerzahler.de (2009). *Steuerhinterziehungsbekämpfungsgesetz*. [Online]. Available at: <http://www.steuerzahler.de/Steuerhinterziehungsbekämpfungsgesetz/20041c23429i1p789/index.html>
- de.wikipedia.org (2016). *Steuerhinterziehungsbekämpfungsgesetz*. [Online]. Available at: <https://de.wikipedia.org/wiki/Steuerhinterziehungsbek%C3%A4mpfungsgesetz>
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- transparency.org (2016). *Germany*. [Online]. Available at: <https://www.transparency.org/country/#DEU>
- info.worldbank.org (2016). *Governance Indicators for Germany*. [Online]. Available at: <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>

1.18.5. Risk determination

Overview of Legal Requirements

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

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

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

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

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

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

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

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

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

Description of Risk

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

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

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

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

Risk Conclusion

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

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Import
 - Commissions Implementing Regulation (EU) No 498/2012 of 12 June 2012 on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:152:0028:0037:EN:PDF>
 - Forstvermehrungsgutgesetz vom 22. Mai 2002 (BGBl. I S. 1658), last change on 31 August 2015 (BGBl. I S. 1474) by Article 414.
http://www.gesetze-im-internet.de/fovg/_15.html

1.19.2. Legal authority

- Federal Customs Authority ("Bundeszollverwaltung")

1.19.3. Legally required documents or records

- Customs declaration

1.19.4. Sources of information

Non-Government sources

- rhein-neckar.ihk24.de (2010). *Einfuhr von Holz und Holzzeugnissen*. [Online]. Available at: http://www.rhein-neckar.ihk24.de/international/export/zoll/Zoll_Kontrollen_bei_der_Einfuhr_von_Holz_und_Holzzeugnissen/940846

1.19.5. Risk determination

Overview of Legal Requirements

For import of spruce and pine from the Russian Federation, special tariff quotas are in place in line with (EU) No 498/2012. Import of forest reproduction material is regulated through the Forest Reproduction Material Act (Forstvermehrungsgutgesetz).

At present there are no documents required for Customs clearance. Therefore there are no indications or records of any significant violations that would qualify for specific risk.

Description of Risk

At present there are no documents required for Customs clearance. Therefore there are no indications or records of any significant violations that would qualify for specific risk.

Risk Conclusion

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

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

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

1.20.1. Applicable laws and regulations

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

1.20.2. Legal authority

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

1.20.3. Legally required documents or records

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

1.20.4. Sources of information

Non-Government sources

- checklist.cites.org (Year?). *Checklist of CITES Species*. [Online]. Available at: http://checklist.cites.org/#/en/search/country_ids%5B%5D=23&output_layout=alphabetical&level_of_listing=0&show_synonyms=1&show_author=0&show_english=1&show_spanish=1&show_french=1&scientific_name=plantae&page=1&per_page=20

1.20.5. Risk determination

Overview of Legal Requirements

Export

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

Import

N/A

Description of Risk

Low Risk

Risk Conclusion

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

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

N/A

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

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

1.21.2. Legal authority

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

1.21.3. Legally required documents or records

- Operators placing timber or timber products on the EU market

- Documents required to fulfil the obligation for operators to exercise a due diligence system according to article 4.2 and 6 of the Regulation (EU) No 995/2010
- Documentation on information concerning the operator's supply, according to article 3, Commission Implementing Regulation (EU) No 607/2012
- Register of information concerning the operator's supply as provided for in Article 6.1 a) of Regulation (EU) No 995/2010 and documentation of application of risk mitigation procedures

1.21.4. Sources of information

Government sources

- europa.eu (2017). *Timber Regulation*. [Online]. Overview of EUTR. Available at: http://ec.europa.eu/environment/forests/timber_regulation.htm Overview of EUTR.
- ble.de (2013): *A DDS (Due Diligence System) and its main components* [Online]. Schematic representation of the due Dilligence System. Available at: http://www.ble.de/SharedDocs/Downloads/02_Kontrolle/06_HandelMitHolz/a_dds_and_its_main_components.pdf?__blob=publicationFile
- ble.de (Year?). *Handel mit Holz aus legalem Einschlag*. [Online]. Trading legally harvested timber (in german). Available at: http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/HandelMitHolz_node.html
- ble.de (Year?). *EU Holzhandelsverordnung*. [Online]. Information on EUTR implementation in Germany. Available at: http://www.ble.de/DE/02_Kontrolle/06_HandelMitHolz/EU_Holzhandelsverordnung/EU-Holzhandelsverordnung_node.html Information on EUTR implementation in Germany.

Non-Government sources

- barometer.wwf.org.uk (2012). *WWF Barometer 2012* [Online]. Study on the implementation and enforcement of EUTR in Germany by WWF Germany. Available at: http://wwf.panda.org/wwf_news/?203548/EU-barometer-2012

1.21.5. Risk determination

Overview of Legal Requirements

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

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

WWF Germany rate Germany as "a consistently high performer since 2007" in implementation of the EUTR. However, many experts believe that the complicated and challenging pre-conditions mean prosecution may never happen in practice. Furthermore some NGOs (including WWF Germany) believe that the penalties are not enough to be an effective deterrent.

After the HolzSiG legislation was reviewed in 2013, a new addition stipulates that a criminal act includes additional requirements such as gross self-interest and persistent repetition. This added complexity makes it unlikely that a criminal act will be proven for EUTR infringements; and therefore it is also unlikely that sanctions will be imposed. It is considered that the application of the criminal act to the enforcement of this legislation actually disarms the EUTR

as an effective legal instrument.

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

All of the above mainly applies to the German forest industry. On for what considers German forest owners we do not have any evidence neither for nor against, the fact that they appropriately enforce due diligence.

Description of Risk

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

Risk Conclusion

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

1.21.6. Risk designation and specification

Low

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

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

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

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

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

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

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

Annex II. Expert consultation

	Name	Email	Address	Job title	Organisation	Area of expertise (category/sub-category)	Contact made	Meeting time/date
1.	Rudolf Hansknecht	Rudolf.Hansknecht@wald-und-holz.nrw.de	Wald und Holz NRW, Zentrale / FB II, Kurt-Schumacher-Str. 50 b, 59759 Arnsberg	Consultant	Wald und Holz NRW	Taxes/Concession licences/ Tenure rights / management planning	Phone	10-09-2015
2.	Thomas Rätz	traetz@gstbrp.de	Freiherr-vom-Stein-Haus, Deutschhausplatz 1, 55116 Mainz	Consultant	Gemeinde- und Städtebund RLP	Taxes/Concession licences/ Tenure rights / management planning	Phone	11-09-2015
3.	Marco Sarcoli	sarcoli@barthel-sarcoli.de	Am Lusbühl 24, 79110 Freiburg	Tax accountant	Steuerberatung Barthel&Sarcoli	Taxes	Phone	18-09-2015
4.	Joachim Morat	joachim.morat@kwf-online.de	Spremlinger Str. 1, 64820 Groß-Umstadt	Chief of department „Qualification and safety“	Kuratorium für Wald- und Forsttechnik	Health and Safety/Legal employment	Phone	15-09-2015

5.	Ulrich Malessa	ulrich.malessa@fsc-deutschland.de	Merzhauser Straße 173, 79100 Freiburg	Registered manager	FSC Deutschland	Trade and transport	Oral	10-09-2015
6.	Järmo Stablo	jaermo.stablo@forst.bwl.de	Wonnhaldestraße 4, 79100 Freiburg	Scientist	Forstliche Versuchs- und Forschungsanstalt	Classification of species...	Phone	28-09-2015
7.	Dr. Marion Karmann	mkarmann@web.de	Combahnstraße 81, 53225 Bonn	Program Manager (Monitoring and Evaluation)	FSC International	Indigenous, FPIC		22-09-2015
8.	Johannes Enssle	johannes.enssle@NABU-BW.de	NABU Baden-Württemberg, Tübinger Str. 15, 70178 Stuttgart	Consultant for Forestry, Nature Conservation, Hunting	NABU Baden-Württemberg	Protected sites and species	Phone	22-09-2015
9.	N.N.	citesma@bfn.de	Konstantinstr.110, D53179 Bonn	N/A	Federal Office for Conservation	CITES	Phone	15-09-2015

10.	N.N.	N.N.	Mauerstr. 39 – 42, 10117 Berlin	N/A	Federal Office for Consumer Protection and Food Safety	GMOs	Phone	18-09- 2015
11.	Christian Beck	christian.beck@mlr.bwl.de	Kernerplatz 10, 70182 Stuttgart	Officer of Ministry	Ministry for Rural Areas and Consumer Protection of the state Baden- Württemberg	Concession Licences / Conversion	Phone	17-09- 2015
12.	Julius Forneck	julius.forneck@mlr.bwl.de	Kernerplatz 10, 70182 Stuttgart	Officer of Ministry	Ministry for Rural Areas and Consumer Protection of the state Baden- Württemberg	Tenure rights	Phone	10-09- 2015



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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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