

# Timber Legality Risk Assessment Spain

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COUNTRY RISK  
ASSESSMENTS



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FSC™ A000535

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## Contents

<b>A. Introduction .....</b>	<b>1</b>
<b>B. Overview of legality risks .....</b>	<b>2</b>
<b>C. Overview of the forest sector in Spain .....</b>	<b>4</b>
<b>D. Legality Risk Assessment .....</b>	<b>5</b>
<b>LEGAL RIGHTS TO HARVEST .....</b>	<b>5</b>
<i>1.1. Land tenure and management rights .....</i>	<i>5</i>
<i>1.2. Concession licenses .....</i>	<i>10</i>
<i>1.3. Management and harvesting planning .....</i>	<i>11</i>
<i>1.4. Harvesting permits .....</i>	<i>18</i>
<b>TAXES AND FEES .....</b>	<b>21</b>
<i>1.5. Payment of royalties and harvesting fees .....</i>	<i>21</i>
<i>1.6. Value added taxes and other sales taxes .....</i>	<i>23</i>
<i>1.7. Income and profit taxes .....</i>	<i>25</i>
<b>TIMBER HARVESTING ACTIVITIES .....</b>	<b>28</b>
<i>1.8. Timber harvesting regulations .....</i>	<i>28</i>
<i>1.9. Protected sites and species .....</i>	<i>30</i>
<i>1.10. Environmental requirements .....</i>	<i>32</i>
<i>1.11. Health and safety .....</i>	<i>35</i>
<i>1.12. Legal employment .....</i>	<i>37</i>
<b>THIRD PARTIES' RIGHTS .....</b>	<b>40</b>
<i>1.13 Customary rights .....</i>	<i>40</i>
<i>1.14. Free prior and informed consent .....</i>	<i>41</i>
<i>1.15. Indigenous/traditional peoples' rights .....</i>	<i>42</i>
<b>TRADE AND TRANSPORT .....</b>	<b>43</b>
<i>1.16. Classification of species, quantities, qualities .....</i>	<i>43</i>
<i>1.17. Trade and transport .....</i>	<i>44</i>
<i>1.18. Offshore trading and transfer pricing .....</i>	<i>45</i>
<i>1.19. Custom regulations .....</i>	<i>48</i>
<i>1.20. CITES .....</i>	<i>50</i>
<i>1.21. Legislation requiring due diligence/due care procedures .....</i>	<i>52</i>
<b>Annex I. Timber source types .....</b>	<b>55</b>

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## B. Overview of legality risks

**Timber Risk Score:** 87 / 100 in 2017

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

- Specified risk for 3 sub-categories.
- Low risk for 16 sub-categories.
- No legal requirements for 2 sub-categories.

The Timber Risk Score for Spain is 87 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, and trade and transport.

For **Legal Rights to Harvest**, there is a risk that forest management plans are not in place (Sub-category 1.3)

For **Taxes and Fees**, there is a risk that VAT is not paid on timber sales from private forest (1.6).

For **Trade and Transport**, there is a risk that entities that place timber on the EU market due not implement a due diligence system (1.21).

### Timber source types and risks

There are three timber source types found in Spain. 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 differ between them.

<b>Public forest</b>	Forest on state land, managed by forest administrations.
<b>Private forest with an approved management plan</b>	Forest on private land, with an approved management plan. A Harvest Notification document should cover management plan activities, while other activities will need a Harvesting Permit.
<b>Private forest without an approved management plan</b>	Forest on private land, without an approved management plan. Harvesting should be conducted with a Harvesting Permit containing all forest/harvest-related details, such as volume, species, harvesting activity, machinery, etc.

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

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



## C. Overview of the forest sector in Spain

There are approximately 27.7 million ha of woodland within Spain, representing 56% of the total land area. Of this area, 18million ha is considered forested land (36%) and 9.5million (19%) falls in the category of Other Wooded Land. Of the 18million ha of forested land, approximately 86% is considered semi-natural. The remaining 14% are plantations. A small, but increasingly significant, proportion of these plantations (580,000 ha, representing 5% of all forested land – 2005 data) is made up primarily of non-native species, namely *Eucalyptus* spp.

There are four broad categories of forest type. The first includes Mediterranean broadleaved forest/dehesa landscape, occupying approximately 30% of the land area in the south-central part of the Iberian Peninsula. Mediterranean conifer forests (28.7%) are also found in this area. Thirdly, Atlantic forest, a group of mixed formations of beech, oak, chestnut, birch, etc. covers around 12% of the land area. Finally, plantations of introduced species account for 5%.

The public administration of forests and forestry is divided among different jurisdictional levels in Spain: i. State General Administration; ii. Autonomous Communities (AC) of which there are 17 covering all Spanish territory and; iii. Local public bodies within each Autonomous Community.

One third of Spanish forests are under public ownership, however only a very small proportion is owned by the state. Most public land is owned by local public corporations. Forest management is also shared among the different jurisdictional levels; there are State laws which include general regulations but most responsibility for the management of public forests falls at the level of the Autonomous Community. Wood harvesting is regulated by the Autonomous Community's forest agency, these agencies authorize and supervise harvesting in accordance with the applicable legislation. Management and legislation is shared between state and Autonomous Communities; but it depends on the topic. There are specific areas legislated mostly by the state (e.g. land tenure, tax payment, transports) but others for which each AC has developed their own legislation, the content and provisions of which differs from one community to another (as with management and harvesting planning). Regarding the reforestation of private and municipal woodlands by means of a consortium, these are especially important to allow the restoration of private woodlands whose benefits are of public interest.

The Spanish state forest law (Law 43/2003) forms the legislative basis for forest management. Most Autonomous Communities have their own law ("Ley de Montes") that regulates the protection, management and harvesting of forests in their territory. Article 33 establishes the need for both public and private forests to have the following: a Forest Management Plan, a working scheme or other equivalent Management Instrument. These documents will be elaborated by the owner/title holder and must always be approved by the regional forestry organization. In case of an approved management plan, this sets out the specific regulations to take into account in the forest in question.

Multiple laws in each Autonomous Community regulate forestry and harvesting and the specific technical constraints (type of cut, maximum surface-area permitted to be cut, machinery to be used according to ground conditions, ...), diameters (minimum and/or maximum), species and other parameters.



## 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

Registering property (not legally required):

- Mortgage Law, revised by Decree of February 8, 1946.
- Mortgage Regulation approved by Decree of February 14, 1947.
- 1867/1998 Royal Decree of 4 September, by which items Mortgage Regulation were amended.
- Real Estate Cadastre - Registration is compulsory and without charge. The cadastral description of the property includes the physical, legal and economic characteristics, among which are its location, cadastral reference, surface area, use, cultivation, plan, rateable value and owner. The cadastre is primarily used in apportioning taxes.

State Regulations:

- Legislative Royal Decree 1/2004, of 5 March, approving the revised text of the Law of Real Estate Cadastre
- 417/2006 Royal Decree of 7 April, in which the revised text of the Law on Real Estate Cadastre is developed.
- Type of property - public / private
- Catalogue of Forests for Public Use (Montes de Uso Público, MUP)
- Law 55/1980, of 11 November, regarding Communally-owned community forests (Montes Vecinales en Mano Común)
- Law 7/2012 of 28 June regarding the forests of Galicia
- Law 3/2004 of Asturias, 23 November, regarding Forests (Forest Management) and other figures
- Consortiums / Conventions: The reforestation of private and municipal woodlands by means of a consortium. Consortia are especially important to allow the restoration of private woodlands whose benefits are of public interest.

- Law and Regulations of the Forest Patrimony of the State (This law was derogated by Decree 485/1962 of 22 February but remains valid due to the adopting of Forestry Regulation, Book III, Title I, Chapter 1).
- Forest Law and Regulations (Law 43/2003 of 21 November on Forestry, Law 10/2006 of 28 April, which modifies Law 43/2003).
- Easements - An easement is a tax lien on a property for the benefit of another belonging to another owner. The Administrative easements are legal easements on a particular property for the benefit of another public domain. All aspects concerning easements established for public or communal use are governed by special laws and regulations. In addition, provisions of the Civil Code may apply: Water Law, Land Law, Law of Railways, Regulation on the maintenance and policing of Highways, Forest Law, Drover's Roads Law, Electric Power Supply Law.
- Royal Decree of 24 July 1889 approving the Spanish Civil Code is published (BOE no. 206 of 07.25.1889), Title VII.
- Applicable rates - The Real Property Tax (IBI) is a tax levied on real property located in the municipality that collects the tax. Its management is shared between the central government and the municipalities.
- Revised text of the Law on Local Finance (Legislative Decree 2/2004) and the revised text of the Law on Real Estate Cadastre (Legislative Decree 1/2004) and the implementing regulations (RD 417/2006).
- Taxation - (Direct and Indirect) Depending on the whether the Owner/Manager is a physical or legal entity, taxes will apply directly or indirectly.
- Direct Taxes at 3 levels: State, Autonomous Community (Autonomous Basque Country and Navarre with their own tax system, Common Regime for the rest with exceptionality for the Canary Isles) and Local. The regional and local levels also have some ability to generate their own taxes. Income tax (individual), Corporate tax (IS, company) Capital taxes
- Indirect Taxes, the most important is VAT, although there are many more.
- Fees to be paid whenever they apply.
- General Tax Law (officially, Law 58/2003, of 17 December, General Tax)
- Law 12/2002 of 23 May, approving the Economic Agreement with the Basque Country.
- Organic Law 13/82 of August 10, Reintegration and Improvement of the Regional Government of Navarra and Law 28/1990, of 26 December, approving the Economic Agreement between the State and the Autonomous Community of Navarra.
- Law 37/1992, of 28 December, Value Added Tax. (BOE, 29-Dec-1992)
- 1624/1992 Royal Decree of 29 December, approving the Regulations on Value Added Tax (BOE, 31-dec-1992)

#### Social Security:

- Royal Legislative Decree 1/1994, of 20 June - approving the revised text of the General Social Security Act.

- Order ESS/56/2013 of 28 January - the legal rules for contributions to Social Security, unemployment, protection for stoppage of work, wage guarantee, fund vocational training, contained in Law 17/2012 of 27 December on the State General Budget for 2013.
- Law 12/2012, of 26 December - urgent measures to liberalize trade and certain services.
- 1619/2012 Royal Decree of 30 November - approving the Regulation laying down the obligations regulating billing is approved.
- Law 20/2007, of 11 July - Statute regarding self-employment.
- Royal Decree 84/1996 of 26 January - the General Regulations on business registration and enrollment, registering, unregistering and data changes in workers' Social Security are approved.
- Royal Legislative Decree 1/2010, of 2 July - the revised text of the Companies Act (effective September 1, 2010, this standard regulates Corporations and Limited Liability companies)
- Law 4/1997, of 24 March, Labour Societies (Sociedades Laborales)
- Law 27/1999, of 16 July, Cooperatives.
- Law 12/1991 of 29 April on Economic Interest Groupings.
- Title III and VIII of the Civil Code (Civil Societies and Real Communities)
- Law 1/1994, of 11 March, on the Legal Regime of Mutual Guarantee
- Law 2/2007, of 15 March, professional societies
- Organic Law 1/2002 of 22 March regulating the Right of Association.
- 1497/2003 Royal Decree of 28 November, approving the Regulation on the National Register of Associations and its relations with the other associations' records
- 1740/2003 Royal Decree of 19 December - the procedures for the declaration of public utility associations and federations, confederations and federations of associations and the rendering of the accounts of these entities when they are declared for public use or revocation of declarations public interest.

#### **1.1.2. Legal authority**

- Property records: under the Ministry of Justice, Directorate General of Registries and Notaries. The entire territory of Spain is divided into districts, called Mortgage Districts. For each Mortgage District there is a corresponding Mortgage District Land Registry, maintained by a Registrar.
- Cadastre: Ministry of Finance and Public Administration, Directorate of Land Registry.
- Consortia and Agreements: Public administration involved: Central Government ministry (MAGRAMA) or Autonomous Community. Canary Island Councils.
- Easements: Private (propietarios envueltos), Public (Public or Regional competent authority - Public Domain must comply by law)

- Fees and taxes: Municipal councils (IBIS), Finance: Directorate General of Taxation, Ministry of Finance and Public Administrations and other Regional public administrations. Autonomous Communities and Local (Taxes, including VAT, and Taxes)
- Social Security: General Treasury of the Social Security.

#### 1.1.3. Legally required documents or records

- Register of Ownership: Nota Simple o Certificación
- Cadastre: Rateable property code (Referencia catastral del predio)
- Consortium / Convention: Consortium supporting evidence, nº cast - documento acreditativo consorcio, nº elenco
- Easements: In Public Utility Forests (MUPs) they must be in the Catalogue of MUPs, other forests are in the Property Registry. Administrative concessions that are considered real property are recorded in the Land Registry; easements are reflected in the registration documents; in the section on charges related to a property (see section I Register). As the easement represents a restriction on rights of ownership, their existence must be demonstrated via documentation of the easement.
- Other rates: IBI (property tax), certificate declaring the property owner is up to date with payments
- Finance: certificate declaring owner is up to date with payments
- Social Security: certificate declaring owner is up to date with payments.

#### 1.1.4. Sources of information

##### *Government sources*

- mjusticia.gob.es (N.Y.) *Ministerio de Justicia* [online] (Ministry of Justice) Available at: <http://www.mjusticia.gob.es/>
- seg-social.es (2014) *Ley General de la Seguridad Social* [online] Available at: <http://www.seg-social.es/prdi00/groups/public/documents/normativa/095093.pdf> .
- catastro.meh.es (N.Y.) *Dirección General del Catastro (General Directorate of Cadastre)* [online] Ministerio de Hacienda y Administraciones Públicas (Ministry of Finance and Public Administration). Available at: <http://www.catastro.meh.es/>
- Magrama.gob.es (N.Y.) *Ministerio de Medio Ambiente* [online] (Ministry of Environment, MAGRAMA). Available at: [www.magrama.gob.es/](http://www.magrama.gob.es/)

##### *Regional Public Administrations:*

- gobiernodecanarias.org (N.Y.) *Cabildo* [online] (Local Government Council) Available at: <http://www.gobiernodecanarias.org/>
- navarra.es (N.Y.) *Gobierno de Navarra* [online] (Government of Navarra) Available at: <http://www.navarra.es/>
- agenciatributaria.es (N.Y.) *Agencia Tributaria* [online] (Tax Agency) Available at: <http://www.agenciatributaria.es/>

- seg-social.es (N.Y.) *Tesorería General de la Seguridad Social* [online] (General Treasury of the Social Security). Available at: <http://www.seg-social.es/>
- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)

#### 1.1.5. Risk determination

##### *Overview of legal requirements*

Land tenure and management rights are comprehensively covered by legislation in Spain, and the authorities have implemented tools to record and monitor land tenure and management rights. Since ancient times, these rights have had a lot of social and economic relevance so they are widely developed and recognised. Examples of land tenure and management rights relevant to the Spanish context include, but are not limited to: surveying and marking of public forests, property register and cadastre, boundary stones (as property markers) on private small property, Public utility forests Catalogue, Easements, Community forests, Forestry Boards (Juntas de Montes) etc. There are many civil associations (e.g. owners associations in Galicia, Soria Forestry Association, Forestry Boards) that play an important role in the recovery and maintenance of various types of ownership: small property, partner forests (Montes de socios), community forest.

##### *Description of risk*

Some specific and local issues with land tenure and management rights have been identified:

- Private contracts not registered with a notary, old documents / manuscripts (e.g. inheritance) or property from antiquity without documentary evidence.
- Different levels of awareness of forest property boundaries based on different records: old maps, literary description documents (including property registrations), old landmarks, registration not updated, cadastre not updated, etc...

These two issues are being resolved by concerned parties, by updating information and ensuring property by legally established channels (notary, property register, cadastre). This issue is more relevant in north-western Spain for smallholdings. These risks can be defined as low, given that there are clear pathways to address the situation.

- Abandoned lands unclaimed by heirs (related to migrations in XIX-XX centuries). Regional Governments have issued laws regarding these situations where relevant (eg. [http://www.xunta.es/dog/Publicados/2011/20111026/AnuncioC3B0-191011-7669 es.html](http://www.xunta.es/dog/Publicados/2011/20111026/AnuncioC3B0-191011-7669_es.html))
- Easements conflicts (eg. public trails on private properties unrecognized by owners not allowing public transit, eg. specific issues on public domains). These are usually denounced by civil associations and solved via negotiation or via the courts.
- Local conflicts with customary rights (eg. nestled lands conflicts in Sierra de Cazorla). Local conflicts with Consortia. Local, specific and identified issues usually complex. They are usually public cases, well known by people and governments concerned. These usually require government legislation to be solved.

The above two issues are local, specific and known to the relevant authorities. There are clear ways to address these via legal avenues, as they arise, and existing conflicts are in the process of being resolved. Therefore the risk can be classified 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**

- Most public forests are the property of the municipalities. Article 148 of Spanish Constitution and Law 23/2003 states that of these municipal forests are under the management responsibility of the Autonomous Community's competent authority.
- The reforestation of private and municipal woodlands by means of a consortium is legislated by: Law and Regulations of the Forest Patrimony of the State (This law was derogated by Decree 485/1962 of 22 February but remains valid due to the adopting of Forestry Regulation, Book III, Title I, Chapter 1).
- Law 21/2015 of 20 July which modifies the Law 43/2003 of 21 November. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-8146&p=20150721&tn=1>

#### **1.2.2. Legal authority**

- In each Autonomous Community an agency is designated to have oversight of the relevant requirements.

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

- Consortium / Convention: Consortium supporting evidence, nº cast - documento acreditativo consorcio, nº elenco

#### **1.2.4. Sources of information**

### *Government sources*

- congreso.es (1978). *Spanish Constitution* [online]. Available at: [http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist\\_Normas/Norm/const\\_esp\\_texto\\_ingles\\_0.pdf](http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_esp_texto_ingles_0.pdf)
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- boe.es (2003). *Forest Act* [online]. BOE. Available at: <http://www.boe.es/boe/dias/2003/11/22/pdfs/A41422-41442.pdf>

### **1.2.5. Risk determination**

#### *Overview of Legal Requirements*

Private and public forests can be managed legally by someone who is not the owner, under the condition that applicable legislation and regulations are followed. The allocation of Consortia was far more common before 1980. These consortia were primarily allocated for reforestation between 1940-1980. In many, the contracts were between private or public owners and the State Forestry Authority (SFA), giving the SFA the right to manage forests and the future incomes from the harvest.

#### *Description of risk*

Today, those Consortia still in existence are managed by Autonomous Communities. There is no available information to indicate any risk of illegality related to Consortia. Therefore risk can be considered 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.

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

Low risk

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

N/A

## **1.3. Management and harvesting planning**

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



### 1.3.1. Applicable laws and regulations

- The Forest Act (Forest Law and Regulations: Law 43/2003, of 21 November, Forestry and Law 10/2006, of 28 April, and Law 21/2015, which modifies the Law 43/2003, Consolidation Act) sets out the division of powers with regards to forest matters assigned to the Autonomous Communities. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-8146&p=20150721&tn=1>)
- Law 43/2003 Chapter II Articles 29-31, and Law 10/2006, which amends Chapter IV of article 17 of Law 43/2003, provides for the development of a Spanish Forest Strategy with a Spanish Forestry Plan to be reviewed every 10 years as well as the possibility by the Autonomous Community to develop PORF (Management Plans for Forest Resources), which together with PORN (Management Plans of Natural Resources) and complemented by Municipal Urban Planning will be the Planning Instruments.
- Law 43/2003 Chapter III Article 33 - requires both public and private forests to have: Forest Management Plan or other equivalent management instrument. Documents will be developed at the request of the owner, or the regional (Autonomous Community) forestry organization. Regional forestry organisations must always approve these documents.
- Article 32 states that the Autonomous Communities have responsibility for the approval of management instructions and use of forests.

The different Autonomous Communities have developed, or are developing, their own Forest laws to apply in their territory. State law, in turn defines the departments responsible for forest management and planning. The most relevant regional items of legislation are as follows:

Galicia:

- Order of September 28, 2004, by which timber and firewood harvesting is regulated
- Decree 105/2006, June 22, on measures relating to the prevention of forest fires, protection of settlements in rural areas and the regulation of harvesting and reforestation (DOG nº 125, do 30 de xuño de 2006)
- Act 7/2012 of 28 June on the forests of Galicia. (DOG nº 140, del 23 de julio de 2012)

Principality of Asturias:

- Asturian-Law 3/2004, of 23 November, on Forests and Forest Management.
- Asturian-Law 6/2010, of 29 October, the first amendment of the Forests and Forest Management Law.
- Forest Plan of Asturias (2001-2015)
- District (Comarca) Forest Plans (for some Asturian districts only)

Cantabria:

- Preliminary Draft Law on Forestry in Cantabria (Draft Law)

Basque Country:

- Gipuzkoa: Norma Foral 7/2006 on the Forests of Gipuzkoa.
- Bizkaia: Norma Foral 3/94 on Forestry and the Management of Protected Natural Areas. Modifications: Norma Foral 3/2007 on the modification 3/1994 Provincial Law.

- Álava: Norma Foral de Montes 11/2007 of March 26.

#### Navarra:

- Foral Law 13/1990 of 31 December, on the protection and development of the forest heritage of Navarre. Modification of Foral Law 3/2007, of 21 February on amending the Foral Law 13/1990 is modified.
- Foral Decree 59/1992, of 17 February, in which the regulation of forests in development of the Law is approved.

#### La Rioja:

- Law 2/1995 of February 10 on Forest Protection and Development of the Forest Heritage of Rioja
- 114/2003 Decree of 30 October, by which the regulations implementing that law are passed

#### Aragon:

- Law 15/2006 of 28 December on the Forests de Aragón.

#### Catalonia:

- Law 6/1988, of 30 March, Forests of Catalonia. Modifications made: Legislative Decree 3/2010, of 5 October; Regional law 31/2002 of 30 December; 7/1999 autonomous law of 30 July; Regional Legislative Decree 10/1994, of 26 July.

#### Valencia:

- Law 3/1993, of December 9, of the Generalitat Valenciana, Forestry of the Valencian Government developed by Decree 98/1995, of 16 May, by which the rules of Act 3/1993 are approved

#### Castilla y León:

- Law 3/2009 Forests de Castilla y León.

#### Madrid:

- Law 16/1995 Forest and Nature Conservation in the Community of Madrid.
- Decree 114/2003 of 30 October, by which the regulation developing the law is passed.

#### Castilla La Mancha:

- Law 3/2008, of 12 June, Forestry and Sustainable Forest Management of Castilla-La Mancha.
- Order of 09/03/2011, of the Ministry of Agriculture, Environment, which approves special technical specifications optional conditions for regulating the implementation of the exploitation and standards for the conducting of harvesting.

#### Extremadura:

- Act 1/1982, of 25 May, of Dehesa
- Decree 9/1989, of 13 February, on the promotion of afforestation

- Order of November 13, 2003, which establishes the procedure for certain administrative authorizations in the area of forest harvesting and silvicultural treatments on lands not managed by the Regional Forestry Administration.

Andalucía:

- Forest-Law 2/1992 of Andalucía
- Decree 208/1997 of 9 September on the Forest regulation of Andalucía
- Decree 15/2011 of 1 February, by which the general system of planning of uses and activities in parks are approved and actions established to streamline administrative procedures.

Region of Murcia:

- Forestry Strategy Review Document in the Region of Murcia. 2003-2007.
- Balearic Islands:
- No law developed for Forests

Canarias:

- No Forest Law developed for the region. Keep in mind that management rights for forest services, cattle trails and pastures have been transferred to the Island Councils.

Regarding the requirements to be met by forest management plans, applicable state legislation exists in all autonomous communities:

- Ministerial Order of 29 December 1970 amending the General Instructions for the Management of Forests Woodlands, and the Ministerial Order of 29 June 1971 laying down general rules for the study and drafting of Technical Plans for Woodlands.

These communities have developed their own instructions and require the development of plans in their territories:

- Castilla y León (General Instructions for the Management of Forests in Castilla and Leon, 1999)
- Andalucía (General Instructions - and Manual - for the Management of Forests in the Autonomous Community of Andalucía: Management Plans and Technical Plans, 2004)
- Madrid (Instructions for the Management of Forests in Madrid, 2010)
- Catalonia: ORDER of 20 July 1994 laying down the general instructions for the drafting, adoption and review of the technical management plans and forest improvement (PTGMF). ORDER MAB/394/2003 of 18 September, by which the content is regulated, approval, review and monitoring of the technical management plans and forest improvement (PTGMF) and simple forest management plans (PGSF). This last command adapts and updates the regulation of PTGMF to create PSGF which apply to areas with a lower extension 25 ha.
- Navarre: Administrative Tender documents for Management Plans and review of Management plans (1995).

And we know that the following have developed the drafts:

- Galicia

- Castilla La Mancha

Forest fires:

- Decree 3769/1972 of 23 December, approving the Regulations of Law 81/1968, of 5 December, regarding forest fires.
- Royal Decree Law 11/2005 laying down urgent measures relating to forest fires.

Hunting and fishing:

- Real 1095/1989 Decree of 8 September, by which the species hunted and fished are declared and standards established for their protection.
- Real 1118/1989 Decree of 15 September, by which the species hunted and fished in a commercial way are determined and related rules determined.
- Law 1/1970 of 4 April, Hunting

Livestock:

- Law 8/2003, of 24 April, on animal health.
- Royal Decree 479/2004 of 26 March, which establishes and regulates the general register of livestock farms.

Other:

- Royal Decree 1098/2002 of 25 October, by which the feeding of carrion-eating birds of prey with certain dead animals and products is regulated.
- Royal Decree 342/2010 of 19 March, which modifies the Royal Decree 664/2007, of 25 May, by which the feeding of carrion-eating birds of prey with animal sub-products not intended for human consumption, is regulated.
- Royal Decree 39/1998 of 16 January, which modifies the Royal Decree 401/1996, of March 1, laying down conditions for the introduction into the country of certain harmful plants, vegetable products and others, for testing purposes, scientific activity and variety selection.
- Law 43/2002, of 20 November, on plant health.
- Royal Decree 1290/2012 of 7 September, modifying the Public Water Regulation, approved by Royal Decree 849/1986, of 11 April, and Royal Decree 509/1996, of 15 March, developing Royal Decree-Law 11/1995 of 28 December, the rules applicable to the treatment of urban waste water.
- Royal Decree 1220/2011 of 5 September, which modifies the Royal Decree 289/2003 of 7 March, on the marketing of forest reproductive material. Law 3/1995, of March 23, on driving roads.
- Law 8/2007 of 28 May on Soils.
- 1st National Accessibility Plan 2004-2012 (Adopted by the Council of Ministers on July 5, 2003)
- Law 26/2011 of 1 August, for adaptation of the international convention on the rights of persons with disabilities

### 1.3.2. Legal authority

- In each Autonomous Community has an agency is designated to review and approve Management Plans.

### 1.3.3. Legally required documents or records

- Formal Management Plan according to applicable legislation in the Autonomous Community.
- Document confirming the registration with the Competent Authority for the Management Plan.
- Resolution approving the Management Plan by the Competent Authority of the Autonomous Community.

### 1.3.4. Sources of information

#### *Government sources*

- congreso.es (1978). *Spanish Constitution* [online]. Available at: [http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist\\_Normas/Norm/const\\_esp\\_texto\\_ingles\\_0.pdf](http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_esp_texto_ingles_0.pdf)
- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- boe.es (2003). *Forest Act* [online]. (Consolidation Act). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2003-21339>
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)
- magrama.gob.es (2012). *Control of timber harvesting and risk assessment in each region to meet DDS requirements* [online] Study published by MAGRAMA (Ministry of Environment) in collaboration with COSE (Spanish Confederation of Forester Organisations). Available at: [http://www.magrama.gob.es/es/biodiversidad/publicaciones/control\\_cortas\\_de\\_madera\\_espanya\\_2012\\_tcm7-266223.pdf](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf)

Forest owners associations, e.g.:

- Asociación de Propietarios Forestales de Ávila, Castilla y León. Available at: <http://www.fafcyle.es/asfoavi/>
- Asociación de Propietarios Forestales de La Región de Murcia. Available at: <http://www.profomur.com/profomur/>
- Asociación Forestal de Soria. Available at: <http://www.asfoso.org/es/>
- Asociación de Propietarios Forestales de Navarra. Available at: <http://www.foresna.org/>
- Asociación de Empresas Forestales y Paisajísticas de Andalucía. Available at: [http://www.aaef.es/aso\\_af.aspx](http://www.aaef.es/aso_af.aspx)

### *Non-Government sources*

- Rojo Alboreca A. (2013) *The challenge of managing private forests in Spain* [online] (El reto de la ordenación de los montes privados en España). 6º Spanish Forestry Congress. Available at: (<http://www.congresoforestal.es/actas/doc/6CFE/6CFE02-020.pdf>)

#### **1.3.5. Risk determination**

##### *Description of Risk*

A clear legal framework exists for the development of forest planning figures (Forest Act). Many Autonomous Communities (AC) have developed, or are in active process of developing, consistent regulations on the management forest areas. All forest management plans must be publicly reviewed by the competent authority and approved.

There are large regional differences in the compliance with this requirement. Currently, 12% of the forest area in Spain is covered by a forest management plan, of this 28% of all public forest area and 6.5% of private forest area is covered.

The challenge is especially relevant for private forest lands, which account for 65% of Spanish forests. See Rojo Alboreca, 2013: "The inadequacy of the figures of the current management documents in most of the state, which has resulted in only 6.5% of the privately owned Spanish forests now having some kind of management tool". In Catalonia, 77% of forest area is privately owned. Of this, 29% is covered by adequate forest management plans. In Andalucía (74% forest land is private) it is 15%, and in Galicia almost 10% (98% private).

In Galicia, where 98% of the forest area is privately owned, this situation is being addressed mainly due to pressure for forest certification in smallholder's private property (which represents 70% of the forest property in Galica). New models of management plans have been developed, and Xunta de Galicia has advanced draft management guidelines covering such property in order to simplify existent planning guidelines and develop the plan for such properties.

Despite the low level of management planning, there is a minor risk illegal harvesting wood, as there is a legal requirement (Chapter IV of the Forest Act -Forest Harvesting) that, where no forest management plan has been approved, administrative authorization is required prior to harvesting.

A study published by MAGRAMA (Ministry of Environment) concludes that Spanish regulations and surveillance procedures conducted by Autonomous Communities are consistent and guarantee legality of timber harvesting, however, due to the high level of non-compliance with the specific requirements for Forest Management Plan, this category must be considered specified risk.

##### *Risk Conclusion*

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

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

Specified risk

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

- Approved forest management plans shall exist for the FMU where the harvesting is taking place.
- Forest management plans shall contain all legally required information and procedures.
- Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.
- Harvesting restrictions shall be identified in management plan and maps if legally required.
- Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process.
- The contents of the management plan shall be technically sound and consistent in meeting legal requirements.

## 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

- The Forestry Law (Law 43/2003, of 21 November, Forestry; Law 10/2006, of 28 April, which modifies Law 43/2003 - Consolidation Act) assigns responsibilities relating to forestry to the Autonomous Communities.

Regulated at the general level by Chapter IV of the Forest Act -Forest Harvesting. This chapter establishes that: Where a Management Plan or equivalent management plan exists, or the forest is included within the scope of a PORF (Management Plans for Forest Resources), the title holder must notify the competent body of the Autonomous Community before harvesting.

In other cases, (where there is no Management Plan or similar) administrative authorization prior to the harvesting is required.

The Forest Act explicitly states that timber and firewood harvesting is governed by the forestry organization of the Autonomous Community. Therefore each Autonomous Community designates its competent authority on the subject and develops the harvesting permit system and prior-notice requirement.

- As an example in Asturias, see:  
<https://sede.asturias.es/portal/site/Asturias/menuitem.46a76b28f520ecaaf18e90dbbb30a0a0/?vgnextoid=8687799a28d4f010VgnVCM100000b0030a0aRCRD>



- or Galicia for the authorization in private forests that do not have approved management tool: <https://sede.xunta.es/detalle-procedemento?codCons=MR&codProc=603A&procedemento=MR603A>
- and for the reporting with regards to private forests that have approved management tools: <https://sede.xunta.es/detalle-procedemento?codCons=MR&codProc=602A&procedemento=MR602A> .

In areas of public domain, it is also necessary obtain permission from the specific competent authority for the Public Domain (e.g. area of water, roads, etc.)

#### 1.4.2. Legal authority

- Each Autonomous Community defines the competent authority to regulate forestry and forest harvesting.
- For example, in Galicia: SECRETARIA XERAL DE MEDIO RURAL E MONTES de la CONSELLERÍA DO MEDIO RURAL E DO MAR. Regulations: Orde do 28 de setembro de 2004, pola que se regulan os aproveitamentos madeireiros e leñosos, en aplicación da Lei 43/2003, do 21 de novembro de montes (DOG nº 195 do 6 de outubro de 2004). Available at: [http://www.xunta.es/dog/Publicados/2004/20041006/Anuncio1A372\\_gl.html](http://www.xunta.es/dog/Publicados/2004/20041006/Anuncio1A372_gl.html)
- For areas in the public domain: Roads (County Councils for local administrations), Water (Water Boards, Aguas de Galicia ...), Maritime-Terrestrial Public Domain (Area of Activity related to Coasts and Marine Environment, MAGRAMA), ...

#### 1.4.3. Legally required documents or records

- Felling permit or harvesting notification. Information required, applications and procedures differ for each AC.
- As an example in Cantabria AC there are 2 different applications for harvesting activities: for fast and slow- growing species. In both cases the applicant shall provide information about: Area, owner or representative, affidavit stamped by the municipality, buyer data and harvesting characteristics (species, No. of trees, type of harvesting, product and destiny, declared value in euros, wood volume). For slow- growing species an official tree marking report is requested as is a report from regional (Autonomous Community) forest inspectors.
- Source of reference: Environmental Service of each Autonomous Community. See examples and models here: [http://www.magrama.gob.es/es/biodiversidad/publicaciones/control\\_cortas\\_de\\_madera\\_espanya\\_2012\\_tcm7-266223.pdf](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf)

#### 1.4.4. Sources of information

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- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)

- [magrama.gob.es \(2012\). \*Control of timber harvesting and risk assessment in each region to meet DDS requirements\* \[online\]](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf) Study published by MAGRAMA (Ministry of Environment) in collaboration with COSE (Spanish Confederation of Forester Organisations). Available at:  
[http://www.magrama.gob.es/es/biodiversidad/publicaciones/control\\_cortas\\_de\\_madera\\_espanya\\_2012\\_tcm7-266223.pdf](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf)
- Autonomous Communities Competent Authority websites

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

##### *Overview of Legal Requirements*

A study published by MAGRAMA, in collaboration with COSE (Spanish Confederation of Forester Organisations), states that the degree of control by the forest authority is high or very high in all Autonomous Communities (AC) except Galicia, where the level of control is considered medium, and in Cantabria, which is medium-high. The report states that there is no risk in any AC of undeclared timber harvesting of significant size. The study concludes that Spanish regulations and the surveillance procedures conducted by Autonomous Communities are consistent and guarantee legality of timber harvesting.

##### *Description of Risk*

There are some problems, usually on a small scale, of illegal harvesting/gathering of NTFPs, especially pine cones, but also cork and heather (Brezo). The magnitude of this is usually very small and not of significant economic impact. Some problems exist relating to poaching. Although these issues do have general relevance to legality in the timber sector, they do not have an impact on the legality of the timber itself.

There are no reports of significant fraud or falsehood with links to corruption in the area of 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.

#### **1.4.6. 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

- The Forestry Law (Law 43/2003, of 21 November, Forestry, Law 10/2006, of 28 April, which modifies Law 43/2003; Consolidation Act) assigns responsibilities for forestry to the Autonomous Communities. These are therefore responsible for establishing, if any, fees to pay (usually associated with the harvesting permit). Therefore there is great variability in this regard; with some regions that do not set rates and others that do but only for select species.
- As an example see in Asturias:  
<https://sede.asturias.es/portal/site/Asturias/menuitem.46a76b28f520ecaaf18e90dbbb30a0a0/?vgnextoid=8687799a28d4f010VgnVCM100000b0030a0aRCRD> where it is established that one of the requirements to obtain a felling license is the payment of the fees for slow-growing species (the fast-growing species do not pay a fee).
- Or in Galicia where no fees are charged for forest harvesting, but fees are payable in the bonded zones in the public domain (rivers, roads, ...) which are payable to the appropriate public entity.

#### 1.5.2. Legal authority

- Each Autonomous Community defines the Competent Authority to regulate forestry and forest harvesting.
- For example, in Galicia: SECRETARIA XERAL DE MEDIO RURAL E MONTES of CONSELLERÍA DO MEDIO RURAL E DO MAR. Regulations: Orde do 28 de setembro de 2004, pola que se regulan os aproveitamentos madeireiros e leñosos, en aplicación da Lei 43/2003, do 21 de novembro de montes (DOG nº 195 do 6 de outubro de 2004):  
[http://www.xunta.es/dog/Publicados/2004/20041006/Anuncio1A372\\_gl.html](http://www.xunta.es/dog/Publicados/2004/20041006/Anuncio1A372_gl.html).
- In areas in the public domain: Carreteras (County Councils for local administrations), Water (Water Boards, Aguas de Galicia ...), Maritime-Terrestrial Public Domain (Area of Activity relating to Coasts and Marine Environment, MAGRAMA, "Costas").

#### 1.5.3. Legally required documents or records

- Document certifying the payment of fees, which must include the seal of the competent authority.

#### 1.5.4. Sources of information

### *Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)
- magrama.gob.es (2012). *Control of timber harvesting and risk assessment in each region to meet DDS requirements* [online] Study published by MAGRAMA (Ministry of Environment) in collaboration with COSE (Spanish Confederation of Forester Organisations). Available at: [http://www.magrama.gob.es/es/biodiversidad/publicaciones/control\\_cortas\\_de\\_madera\\_espanya\\_2012\\_tcm7-266223.pdf](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf)
- Autonomous Communities Competent Authority websites

### *Non-Government sources*

- Transparency International's Corruption Perception Index - <http://www.transparency.org/country#ESP> .

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

##### *Overview of Legal Requirements*

Payment of the required fees is necessary to obtain harvesting license. A study published by MAGRAMA in collaboration with COSE states that the degree of control by the forest authority is high or very high in all AC except in Galicia, where the control is medium and Cantabria, which is medium-high. The report does not identify risk in AC of undeclared timber harvesting of significant size. The study concludes that Spanish regulations and surveillance procedures conducted by Autonomous Communities are consistent and guarantee legality of timber harvesting.

##### *Description of Risk*

The possible risk in this category relates to fraud in the issuance of harvesting permits (the process for which includes the necessary cooperation of responsible officer) or illegal activities without harvesting permits. There are no reports on significant fraud or falsehood linked to corruption in forest sector nor about significant impact on illegal logging. The Transparency International Corruption Perception Index (CPI) is above 50 (58) in 2016, and the issues related to corruption in Spain are not commonly related to the forest sector.

##### *Risk Conclusion*

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

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

Low risk

#### 1.5.7. Control measures and verifiers

N/A

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

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

#### 1.6.1. Applicable laws and regulations

- Indirect tax of Finance: Tax (VAT): Law 37/1992, of 28 December, Value Added Tax. (BOE, 29-Dec-1992)
- 1624/1992 Royal Decree of 29 December, approving the Regulation of Value Added Tax (BOE, 31-dec-1992) and amending Royal Decree 1041/1990, which regulates the census declarations that must be presented for tax purposes by taxpayers
- Royal Decree 338/1990, which regulates the composition and the use of the tax identification number
- Royal Decree 2402/1985, which regulates the duty of issuing and delivering invoices to employers and employees
- Royal Decree 1326/1987, which establishes the procedure for implementing the European Economic Community Directives on the exchange of tax information

#### 1.6.2. Legal authority

- Ministry of Finance and Public Service, Ministry of Finance.
- State Tax Administration Agency (AEAT)
- Departments of Economy and Finance of the different Autonomous Communities and local bodies (Town halls, municipalities, councils, etc.)

#### 1.6.3. Legally required documents or records

- VAT: Certificate verifying that the owner is up to date with their payments to the Treasury. Companies and freelancers are obliged to make quarterly payments of VAT.
- Invoice with corresponding VAT.
- Declaration of the corresponding Annual Income, for individuals.

#### 1.6.4. Sources of information

##### *Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- agenciatributaria.es (N.Y.) *Agencia Tributaria* [online] (Tax Agency) Available at: [http://www.agenciatributaria.es/AEAT.internet/Inicio/\\_Segmentos\\_/Empresas\\_y\\_profesionales/Empresas/IVA/Novedades\\_en\\_IVA/Novedades\\_en\\_IVA.shtml](http://www.agenciatributaria.es/AEAT.internet/Inicio/_Segmentos_/Empresas_y_profesionales/Empresas/IVA/Novedades_en_IVA/Novedades_en_IVA.shtml)

### *Non-Government sources*

- atkearney.com (2013) *The Shadow Economy in Europe 2013* [online]. Available at: <http://www.atkearney.com/documents/10192/1743816/The+Shadow+Economy+in+Europe+2013.pdf/42062924-fac2-4c2c-ad8b-0c02e117e428>
- ec.europa.eu (2012) *Study to quantify and analyse the VAT Gap in the EU-27 Member States* [online] Available at: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/docs/body/vat-gap.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/vat-gap.pdf)
- transparency.org (N.Y.) *Transparency International Corruption Perceptions Index* [online] Available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi)

### **1.6.5. Risk determination**

#### *Overview of Legal Requirements*

Value Added Tax legislation is in place in Spain that specifies rights, obligations and liability of tax authorities and taxable persons. All companies and individuals have a tax identification number: "CIF" for companies and "NIF" for individuals (VAT number) for tax purposes. Quarterly tax payments are made. 3 VAT rates: 4% (super-reduced), 10% (reduced) or 21%, except from Canary Island with lower tax rates (IGIC). It is not difficult to verify payment as it is possible to obtain a Certificate of Payment for a company from the Treasury that shows if the company is up to date with their payments.

#### *Description of Risk*

Fraud with regards to declaring VAT is linked to informal agreements paid by cash and without invoice on private properties. Such actions may originate both from owner and company that carries out the work.

A 2014 report on the VAT "Gap" in Europe states that the gap in Spain was 18% in 2012. This was above the EU average of 16%. Scores of other countries were: Holland 5%, Sweden 7%, Germany 10%, France 15%, Italy 33%, Lithuania 36%, Romania 44%. The 2013 VISA Europe report on the shadow economy in Europe estimated the shadow economy in Spain to be 19% of the total economy. The EU average was 18,5% and scores of other countries were: the Netherlands 9%, Sweden 14%, Germany 13%, France 10%, Italy 21%, Lithuania 28%, and Romania 28%. Manufacturing, construction, and wholesale and retail have the highest share in the shadow economy. The report "Fraud tax and VAT in Spain, the XV Encounter of Public Economy" identifies fraudulent sectors that exceed 1% of GDP, and agriculture, which would likely have included forestry, was one of them.

Given the data above it would be unrealistic to say that no fiscal fraud exists, so there is a risk that companies operating in wood processing sector would not pay or pay partly VAT for delivered wood resources.

Several new legal initiatives have been put in place by the Spanish Government during 2013/14 in order to prevent fiscal fraud in Spain (it is important to take into account the high level of social indignation linked to the emergence of multiple cases of corruption within governments and political parties all over Spain); among them, a new law to strengthen measures to prevent and combat tax fraud; a plan of extraordinary regularization of hidden income; and a tightening of the Penal Code for the most serious cases of tax fraud against Social Security (still under study).

Law 7/2012, of October 29, modifying the tax and budgetary rules and adjusting the financial regulations for the intensification of actions in the prevention and fight against fraud, establishes the limitation of payments in cash for certain operations. In particular, it is stipulated that no transactions may be paid in cash, when any of the intervening parties acts as an entrepreneur or professional, with an amount equal to or greater than 2,500 euros or equivalent.

There is a control system in place by the public administration (Tax agency/Agencia tributaria, available at: <http://www.agenciatributaria.es/>): The number of controls performed by the Tax Agency increased by 16.7% in 2012 (470000 fiscal inspections done), with particular emphasis on the increased control of VAT and Corporate Tax statements, where performances were up 30% over 2011. In 2015, 107,680 inspections were conducted (8.03% increase), and 1,761,553 actions of Control (16.45% increase). This confirms the trend towards a notable increase in the tax collection effort through inspections and controls.

In spite of the recent and improving controls, it is not yet known if risk has been reduced to a low level, and so maintaining the precautionary approach, the risk is still considered specified for this sub-category.

### *Risk Conclusion*

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

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

Specified risk for private forest

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

- Sales documents shall include applicable sales taxes.
- Receipts for payment sales taxes shall exist.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.
- Sales prices shall be in line with market prices.
- Harvested species, volume and qualities shall match the sales documents.
- Authorities shall confirm that operation is up to date in payment of applicable sales taxes.
- Consultation with financial authority to verify that all required income and profit taxes have been paid

## **1.7. Income and profit taxes**

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

### **1.7.1. Applicable laws and regulations**

N/A, specific to forests products or harvesting activities.



#### Legislation:

- General Tax Law (officially, Law 58/2003, of 17 December, General Tax)
- Law 12/2002 of 23 May, by which the Economic Agreement with the Basque Country was approved.
- Organic Law 13/82 of August 10, Reintegration and Improvement of the Regional Government of Navarra and Law 28/1990, of 26 December, approving the Economic Agreement between the State and the Autonomous Community of Navarra.

#### 1.7.2. Legal authority

- Finance: Directorate General of Taxation of the Ministry of Finance and other Public Administrations.
- Other Regional and Local Government administrations (Autonomous Communities Finance Agencies,...)

#### 1.7.3. Legally required documents or records

- Financial Certificate verifying owner is current on payments (State, Autonomous Communities or Municipalities according to tax in question).

#### 1.7.4. Sources of information

##### *Government sources*

- boe.es (2003). *Forest Act* [online]. (Consolidation Act). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2003-21339>
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)
- agenciatributaria.es (N.Y.) *Agencia Tributaria* [online] (Tax Agency) IS. Available at: [https://www.agenciatributaria.gob.es/AEAT.sede/Inicio/Procedimientos\\_y\\_Servicios/Impuestos\\_y\\_Tasas/Impuesto\\_sobre\\_Sociedades/Impuesto\\_sobre\\_Sociedades.shtml](https://www.agenciatributaria.gob.es/AEAT.sede/Inicio/Procedimientos_y_Servicios/Impuestos_y_Tasas/Impuesto_sobre_Sociedades/Impuesto_sobre_Sociedades.shtml)
- agenciatributaria.es (N.Y.) *Agencia Tributaria* [online] (Tax Agency) IRPF. Available at: [http://www.agenciatributaria.es/AEAT.internet/Inicio/Ayuda/Manuales\\_Folletos\\_y\\_Videos/Manuales\\_practicos/IRPF/IRPF.shtml](http://www.agenciatributaria.es/AEAT.internet/Inicio/Ayuda/Manuales_Folletos_y_Videos/Manuales_practicos/IRPF/IRPF.shtml)

##### *Non-Government sources*

- atkearney.com (2013) *The Shadow Economy in Europe 2013* [online]. Available at: <http://www.atkearney.com/documents/10192/1743816/The+Shadow+Economy+in+Europe+2013.pdf/42062924-fac2-4c2c-ad8b-0c02e117e428>

#### 1.7.5. Risk determination

##### *Overview of Legal Requirements*

There are general tax requirements for all companies and individuals in Spain. Direct Taxes exist at three levels: State; Autonomous Community (Autonomous Basque Country and Navarra have their own tax system; Common Regime for the rest of the Autonomous

Communities with the exception of the Canary Islands) and Municipalities. The regional and local levels have some ability to generate their own taxes. Companies must declare their turnover on an annual basis and pay applicable taxes (Corporate tax statement).

#### *Description of Risk*

2013 VISA Europe report on shadow economy in Europe states that the shadow economy in Spain is 19%, other studies establish a range between 20-25% (EU average is 18,5%; other countries Holland 9%, Sweden 14%, Germany 13%, France 10%, Italy 21%, Lithuania 28%, Romania 28%). The manufacturing, construction and wholesale&retail sectors have the highest share in shadow economy. The share of the forest sector would probably be included within "agriculture" which is estimated in 15% of the volume of agriculture income. It would be unrealistic to say that there is no instances of fiscal fraud, but there are adequate mechanisms in place and control and oversight is carried out by the public administration controlling office (Agencia Tributaria). The level of enforcement of the Agencia Tributaria is high.

#### *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

- Law 43/2003, of 21 November, on Forestry.
- Amended by Law 10/2006 of 28 April. This law was itself amended by Law 42/2007 Law on Forestry (Forest Law and Regulations) which sets out the division of powers/responsibilities for forestry as they are assigned to the Autonomous Communities.
- Chapter III Management of Forests in Article 33 establishes the need for both public and private forests to have: Forest Management Plan or other equivalent Management Instrument. These documents will be elaborated by the owner/title holder and must always be approved by the regional (Autonomous Community) forestry organisation. In case of an approved management plan, this sets out the specific regulations to take into account in the forest in question.
- Article 32 states that the regions have responsibility for the approval of management instructions and use of forests.
- The different Autonomous Communities have, or are developing, their own Forest laws to apply, in their territory. The State law will define the departments responsible for forest management and planning.
- Multiple laws in each Autonomous Community regulate forestry and harvesting and specific technical constraints (type of cut, maximum surface-area permitted to be cut, machinery to be used according to ground conditions, ...), diameters (minimum and/or maximum), species and other parameters.

#### 1.8.2. Legal authority

- Each Autonomous Community defines the competent authority to regulate forestry and forest harvesting.
- For example, in Galicia: SECRETARIA XERAL DE MEDIO RURAL E MONTES de la CONSELLERÍA DO MEDIO RURAL E DO MAR.
- In areas in the public domain: Roads (County Councils for local administrations), Water (Water Boards, Aguas de Galicia ...), Maritime-Terrestrial Public Domain (Area of Activity relatin to Coasts and Marine Environment, MAGRAMA, "Costas").

#### 1.8.3. Legally required documents or records

- Felling permit

#### 1.8.4. Sources of Information

##### *Government sources*

- Different Autonomuos Community Government web sites
- Magrama.gob.es (N.Y.) *Ministerio de Medio Ambiente* [online] (Ministry of Environment, MAGRAMA). Available at: [www.magrama.gob.es/](http://www.magrama.gob.es/)
- magrama.gob.es (2012). *Control of timber harvesting and risk assessment in each region to meet DDS requirements* [online] Study published by MAGRAMA (Ministry of Environment) in collaboration with COSE (Spanish Confederation of Forester Organisations). Available at: [http://www.magrama.gob.es/es/biodiversidad/publicaciones/control\\_cortas\\_de\\_madera\\_espanya\\_2012\\_tcm7-266223.pdf](http://www.magrama.gob.es/es/biodiversidad/publicaciones/control_cortas_de_madera_espanya_2012_tcm7-266223.pdf)

#### 1.8.5. Risk determination

##### *Overview of Legal Requirements*

Forest activities surveillance and control are under the responsibility of Autonomous Communities (AC). According to the legal mandate of Forest Act, each AC defines the control procedures to ensure compliance with the legal requirements for forest activities stated on column E under the following structure:

- Where a Management Plan exists the title holder must notify the competent body of the AC before harvesting (management plan needs to be aproved by the AC).
- In other cases, (where there is no Management Plan or similar) administrative authorization prior to the harvesting is required.

Also in areas of forest within the public domain it is necessary to obtain permission from the specific competent authority for the Public Domain.

So the competent authority is involved in the approval of all timber harvesting regulations relating to forests (Management Plan or administrative authorization) and could define specific regulations and limits where necessary (it is usually done for protected ecosystems, species and natural forests).

##### *Description of Risk*

A study published by MAGRAMA, in collaboration with COSE, states that the degree of control by the forest authority is high or very high in all AC except Galicia, where the level of control medium and Cantabria, which is medium-high. The report states that there is no risk in any AC of undeclared timber harvesting of significant size. The study concludes that Spanish regulations and the surveillance procedures conducted by Autonomous Communities are consistent and guarantee legality of timber harvesting.

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.

#### 1.8.6. 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

- 139/2011 Royal Decree of 4 February, on the development of the List of Wildlife Species under Special Protection and the Spanish Catalogue of Endangered Species.
- Royal Decree 1997/1995 on measures to contribute towards maintaining biodiversity through the conservation of natural habitats and of wild fauna and flora.
- Amended by RD 1421/2006.
- Annexes repealed by Law 42/2007.
- Law 42/2007, of 13 December, on Natural Heritage and Biodiversity. Also incorporates into Spanish law Directives 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) and Directive 79/409 / EEC on the conservation of wild birds (Birds Directive).
- Protected Natural Areas: in Spain the Central Government is responsible for basic legislation on protected natural areas. However, the declaration and management of them corresponds to the Autonomous Communities (Regions).
- National Parks are declared by Act of Parliament and subject to a common legal framework, the Law on National Parks Network (LAW 5/2007, of 3 April, on the Network of National Parks). There are currently 15 National Parks.
- The total of state and regional figures protects 6.1 million hectares of land. Each space should have regulations governing (great disparity in policy development by Autonomous Communities) management constraints necessary to maintain and enhance their values.

#### 1.9.2. Legal authority

- Ministry of Agriculture, Food and Environment.

Each Autonomous Community defines the competent authority in the management of protected natural areas. Powers are effectively transferred from the national level to the AC mostly by the fact that the management of the protected area is performed by the Autonomous Community. For example:

- Galicia: Consellería de Medio Ambiente, Territorio e Medio Ambiente (Department of Environment, Land); Espazos Protexidos; <http://goo.gl/CUzq3b>; Lei do DOG # 171 do 04\_09\_2001 - da natureza conservation.
- Asturias: Consejería de Fomento, Ordenación del Territorio y Medio Ambiente (Department of Development, Planning and Environment), <http://goo.gl/FhMXKd>, Environmental Network Asturias, Natural Areas
- Catalonia: Departament d'Agricultura, Ramaderia, Pesca, Alimentació i Medi Natural, Espais naturals protegits (Department of Agriculture, Livestock, Fisheries, Food, Natural Environment, Natural Protected Spaces), <http://goo.gl/z02c8i>, <http://goo.gl/EmElQs>
- Castilla y León: Consejería de Fomento y Medio Ambiente, Dirección General de Medio Natural (Department of Development and Environment, Directorate General for the Environment), <http://goo.gl/oJ8XJ4>
- Andalusia: Consejería de Medio Ambiente y Ordenación del Territorio (Ministry of Environment and Planning), <http://goo.gl/0tQu6m>. General Secretariat for Integral Management of Environment and Water, Department of Natural Spaces and Public participation.

### 1.9.3. Legally required documents or records

N/A

### 1.9.4. Sources of Information

#### *Government sources*

- Magrama.gob.es (N.Y.) *Ministerio de Medio Ambiente* [online] (Ministry of Environment, MAGRAMA). Available at: [www.magrama.gob.es/](http://www.magrama.gob.es/)

There are only a few protected areas managed by the State; the main conservation figures (National Parks, Biosphere Reserves, Natural Parks, Red Natura, etc...) are managed by Autonomous Communities. Each Autonomous Community has its own website, some examples:

- Galicia: Consellería de Medio Ambiente, Territorio e Medio Ambiente (Department of Environment, Land); Espazos Protexidos; Available at: <http://goo.gl/CUzq3b> ; Lei do DOG # 171 do 04\_09\_2001 - da natureza conservation.
- Asturias: Consejería de Fomento, Ordenación del Territorio y Medio Ambiente (Department of Development, Planning and Environment), Available at: <http://goo.gl/FhMXKd> , Environmental Network Asturias, Natural Areas
- Catalonia: Departament d'Agricultura, Ramaderia, Pesca, Alimentació i Medi Natural, Espais naturals protegits (Department of Agriculture, Livestock, Fisheries, Food, Natural Environment, Natural Protected Spaces), Available at: <http://goo.gl/z02c8i>, <http://goo.gl/EmElQs>
- Castilla y León: Consejería de Fomento y Medio Ambiente, Dirección General de Medio Natural (Department of Development and Environment, Directorate General for the Environment), Available at: <http://goo.gl/oJ8XJ4>

- Andalusia: Consejería de Medio Ambiente y Ordenación del Territorio (Ministry of Environment and Planning), Available at: <http://goo.gl/0tQu6m> . General Secretariat for Integral Management of Environment and Water, Department of Natural Spaces and Public participation.

#### *Non-Government sources*

- redeuroparc.org (2011) *National yearbook of the status of protected areas in Spain* [online]. Available at: <http://www.redeuroparc.org/observatorio/anuario2011>

### **1.9.5. Risk determination**

#### *Overview of Legal Requirements*

There is systematic planning of formal (legal) forest protection in Spain through the establishment of national parks, natural parks/reserves, Natura 2000-areas, biosphere reserves,... 27% of the Spanish territory is classed as legally protected areas, making Spain the EU country with the largest protected area within EU.

The Iberian Peninsula is a biodiversity hotspot with many rare or endangered species present.

Protected areas cover both public and private land. There is a good level of governance and a comprehensive legal framework developed for Spanish protected areas, and good level of control on the AC Competent Authorities (CA). Any harvesting activities which may affect rare or endangered species have limitations specified by the AC in the felling permit.

#### *Description of Risk*

Environmental NGOs have an active role in Spain (SEO/Birdlife <http://www.seo.org/> ; WWF <http://www.wwf.es/> ; Greenpeace <http://www.greenpeace.org/espana/es/> ; Ecologistas en acción <http://www.ecologistasenaccion.es/> ; Amigos de la Tierra <http://www.tierra.org/spip/spip.php> ; Adegas <http://adega.gal/web/portada.php> ;...). As a result of this, many local and specific complaints can be found about rare or endangered species. However, there are no reports of significant impacts of harvesting activities in protected area/species.

#### *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**

- Law 9/2006 on the evaluation of the effects of certain environmental plans and programs.
- Law 21/2013 of December 9 on environmental impacts, where it is mandatory develop an environmental assessment for any reforestation project greater than 50has or any harvesting activity with land change use purposes.
- Royal Decree 1/2008, of 11 January, by which the revised text of the Law on Environmental Impact Assessment of projects is approved.

##### **Forest Fires**

- Decree 3769/1972 of 23 December, approving the Regulations of Law 81/1968, of 5 December, regarding forest fires.
- Royal Decree Law 11/2005 laying down urgent measures in relation to forest fires.

##### **Hunting and fishing**

- 1095/1989 Royal Decree of 8 September, in which the species hunted and fished are declared and requirements established for their protection.
- 1118/1989 Royal Decree of 15 September, in which the species hunted and commercially fished are determined and requirements developed with regard to these.
- Law 1/1970 of 4 April, Hunting

##### **Livestock**

- Law 8/2003, of 24 April, on animal health.
- Royal Decree 479/2004 of 26 March, which establishes and regulates the general register of livestock farms.

##### **Other**

- Royal Decree 1098/2002 of 25 October, by which the feeding of carrion-eating birds of prey with certain dead animals and products is regulated.
- Royal Decree 342/2010 of 19 March, which modifies the Royal Decree 664/2007, of 25 May, by which the feeding of carrion-eating birds of prey with animal sub-products not intended for human consumption, is regulated.
- Royal Decree 1432/2008 of 29 August, establish measures which provide for the protection of birds against collision and electrocution by electrical power lines.

- Royal Decree 1628/2011 of 14 November, approving the listing and cataloguing of invasive alien species.
- Royal Decree 39/1998 of 16 January, which modifies the Royal Decree 401/1996, of March 1, laying down conditions for the introduction into the country of certain harmful plants, vegetable products and others, for testing purposes, scientific activity and variety selection.
- Law 43/2002, of 20 November, plant health.
- Royal Decree 1290/2012 of 7 September, modifying the Public Water Regulation, approved by Royal Decree 849/1986, of 11 April, and Royal Decree 509/1996, of 15 March, developing Royal Decree-Law 11/1995 of 28 December, the rules applicable to the treatment of urban waste water
- Royal Decree 1220/2011 of 5 September, which modifies the Royal Decree 289/2003 of 7 March, on the marketing of forest reproductive material.
- Law 3/1995, of March 23, on driving roads.
- Law 8/2007 of 28 May on Soils

#### 1.10.2. Legal authority

- Ministry of Agriculture, Food and Environment. Each Autonomous Community defines the competent authority with regards to environmental assessment. Powers are effectively transferred from the national level to the AC mostly by the fact that the management of the protected area is performed by the Autonomous Community.

For example:

- Galicia: Consellería de Medio Ambiente, Territorio e Medio Ambiente; Medio ambiente e Sostibilidade; Avaliación Ambiental; <http://goo.gl/gAk2lg>; LEI 9/2006 do 28 April, sobre avaliación dos efectos de determinados plans e programas no medio ambiente.
- Asturias: Consejería de Fomento, Ordenación del Territorio y Medio Ambiente, <http://goo.gl/FhMXKd>, Red ambiental de Asturias, Evaluación y control Ambiental
- Cataluña: Departament de Territori i Sostenibilitat, Medi Ambient i Sostenibilitat, <http://goo.gl/XEo1oy>

#### 1.10.3. Legally required documents or records

- If required, the environmental study or Environmental Impact Assessment.
- Evaluation of non-binding Environmental Impact Assessment.

#### 1.10.4. Sources of information

##### *Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- guardiacivil.es (N.Y.) *SEPRONA Servicio de Protección de la Naturaleza* [online] Available at: [http://www.guardiacivil.es/es/institucional/Conocenos/especialidades/Medio\\_ambiente/](http://www.guardiacivil.es/es/institucional/Conocenos/especialidades/Medio_ambiente/)
- Autonomous Communities Competent Authorities

### *Non-Government sources*

- EIA (N.Y.) *Spanish Association for the Evaluation of Environmental Impacts* [online]. The list of applicable legislation. Available at: [http://www.eia.es/nueva/legislacion\\_nacional.html](http://www.eia.es/nueva/legislacion_nacional.html)

#### **1.10.5. Risk determination**

##### *Overview of Legal Requirements*

Forest activities with certain characteristics and of a certain size, as set out in the law, must have an environmental impact report prior to the request for license activity. Environmental impacts of harvesting activities, like soil or water course damage, are generally well regulated in Spanish legislation.

##### *Description of Risk*

Regarding the establishment of buffer zones, gaps of minor impact can be found in the more productive forests. This is also the case with buffer zones along water courses in Galicia, commonly not met on smallholders lands.

SEPRONA (Nature Protective Service) or Agentes Forestales/Medioambientales (Autonomous Communities controlling officers) are the bodies dealing with this control. Nature conservation societies also have an active role in Spain and there are no reports published about relevant environmental damages linked to harvesting activities.

##### *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**

- Royal Decree 1435/1992 implementing Directive 89/392/EEC on the aligning of the laws of Member States relating to machinery.

- Amended by RD 56/1995
- Royal Decree 1407/1992 Regulation of intra-Community trade conditions and free movement of personal protective equipment.
- Amended by RD 159/1995
- Law 31/1995 Prevention of occupational risks
- Royal Decree 39/1997 laying down the rules of prevention services.
- Act 1627/1997 Minimum requirements of Health and Safety at construction sites
- Royal Decree 1215/1997 Minimum Health and Safety requirements for the use by workers of work equipment
- Amended by RD 2177/04 on temporary work at height
- ILO Convention 119 on the Guarding of Machinery.
- Royal Decree 773/1997 Minimum safety concerning the use by workers of personal protective equipment.
- 486/1997 Royal Decree laying down minimum health and safety requirements set out in the workplace.
- Royal Decree 485/1997 minimum requirements regarding health and safety signing at work
- Royal Decree 614/2001, minimum standards for the protection of health and safety of workers against electrical hazards.
- Law 54/2003 of 12 November, reforming the regulatory framework on the prevention of occupational hazards.

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

- Ministry of Employment and Social Security, National Institute for Health and Safety at Work. Available at: <http://goo.gl/WuypXH>
- Ministry of Employment and Social Security Inspectorate of Labour and Social Security (ITSS) . Available at: <http://www.empleo.gob.es/itss/web/index.html>

Autonomous Communities designate competent regional bodies:

- Galicia: Galician Institute for Occupational Health and Safety at Work/Instituto Galego de Seguridade e Saúde Laboral (ISSGA) . Available at: <http://issga.xunta.es/portal/index.html?lang=es>
- Catalonia: Departament d'Empresa i Ocupació, labor Seguretat i salut. Available at: <http://goo.gl/2DQiZl>

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

- Current Plan in force for the Prevention of Occupational Risks.
- Contract (signed and in force) with a company for the implementation of the necessary measures for Health and Safety at Work (includes the previous plan).

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

### Government sources

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- empleo.gob.es (N.Y.) *Work and Social Security Inspectorate (ITSS)* [online] Available at: <http://www.empleo.gob.es/itss/web/index.html>
- empleo.gob.es (2013) *Annual report on Work Inspectorate and Social Security 2013* [online] (Informe Anual de la Inspección de Trabajo y Seguridad Social 2013) Available at: [http://www.empleo.gob.es/itss/web/que\\_hacemos/Estadisticas/doc/Memoria\\_2013/Memoria\\_2013.pdf](http://www.empleo.gob.es/itss/web/que_hacemos/Estadisticas/doc/Memoria_2013/Memoria_2013.pdf)

#### 1.11.5. Risk determination

##### *Overview of Legal Requirements*

There is a comprehensive legal framework for Health and Safety (H&S), as well as designated competent authorities in all Autonomous Communities. All companies need to have H&S plans in place and implemented. Legislation includes control and monitoring by a dedicated administration, the Work Inspectorate and Social Security.

##### *Description of Risk*

Statistics show (see Annual report on Work Inspectorate and Social Security) data improvement in the last five years. In 2013 there were made 113520 inspections related to H&S with 78843 visits to work places, as a result of that there were detected 14103 infractions. Percentages on infringements have been reduced on 23% since 2009. In 2013 Agriculture sector (where Forestry is included) have a result of 4,5% infractions from the total of inspections made by State Inspectorate Agency.

##### *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**

- Royal Decree 1/1995, of March 24 by which the Consolidated Text of the Law of the Workers' Statute is approved.
- Royal Decree Law 2/1995, of April 7 by which the Consolidation of Labour Procedure Act is approved.
- Law 32/2006, of 18 October, regulating subcontracting in the construction industry.
- Royal Decree 1109/2007 of 24 August, by which the Law 32/2006, of 18 October, developing regulations relating to subcontracting in the construction industry.
- Organic Law 1/2002 of 22 March regulating the Right of Association.
- Law 56/2003 of 16 December on Employment.

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

- Ministry of Employment and Social Security

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

- Certificate demonstrating that a company is up to date with their Social Security payments.
- Employment Contracts. Could be special contracts cover under legislation on agrarian regime.

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

##### *Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- empleo.gob.es (N.Y.) *Work and Social Security Inspectorate (ITSS)* [online] Available at: <http://www.empleo.gob.es/itss/web/index.html>
- empleo.gob.es (2013) *Annual report on Work Inspectorate and Social Security 2013* [online] (Informe Anual de la Inspección de Trabajo y Seguridad Social 2013) Available at: [http://www.empleo.gob.es/itss/web/que\\_hacemos/Estadisticas/doc/Memoria\\_2013/Memoria\\_2013.pdf](http://www.empleo.gob.es/itss/web/que_hacemos/Estadisticas/doc/Memoria_2013/Memoria_2013.pdf)

#### **1.12.5. Risk determination**

##### *Overview of Legal Requirements*

Spanish legislation is comprehensive and includes control and monitoring by a dedicated administration, the Work Inspectorate and Social Security. The administration conducts inspections, monitoring, evaluation and implement specific action plans to control this fraud.

##### *Description of Risk*

Statistics show (see Annual report on Work Inspectorate and Social Security, ITSS) that the number of workers without being discharged from Social Security detected by ITSS grows almost every year of the past five years, reaching its highest level in 2013: from 100 inspections in 2013 were detected 13.67 employees on illegal employment situation,

representing an increase of 53.94% compared to 2009 and 7.05% from 2012. By sectors almost 78% of undeclared work in 2013 found concentrated in four sectors or industries: hostelry (with 31.52%), services (22.62%), retail/commerce (13.13%) and construction (10.36%). Agriculture sector (where Forestry is included) concentrate 4.66% of illegalities.

Therefore, it is concluded that the overall risk 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.

#### **1.12.6. 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

- Civil Code: In MUP (Public Utility Forests) customary rights must appear in each forest record. For other cases (e.g. easements) could be regulated by the Civil Code, but both parties need to register these rights within the easement.
- Customary and traditional courts are recognized in the Spanish Constitution of 1978, Article 125. The implementation of these rights is regulated at the regional (Autonomous Community) level via regional legislation. E.g. Art 44 Law 4/2000, of 13 November, on the Modernization and Agricultural Development of Asturias by which - in the case of forest harvesting - where there is a common law or custom of the place involving some peculiarity or relevant expertise impacting the implementation of this policy, this should be brought to the attention of the Ministry.
- The Ombudsman and the High Commissioner of Parliament are in charge of defending the fundamental rights and civil liberties of citizens by monitoring the activity of government. Organic Law 3/1981 of 6 April Ombudsman. Law 36/1985 of 6 November, by which the relations between the institution of the Ombudsman and similar figures in the different regions are regulated (BOE No 271 of 12 November 1985).
- MVMC (Communally-owned community forests) which their specific law, have their own courts according to each province.

#### 1.13.2. Legal authority

- Ombudsman
- Customary Law courts.
- Public Administrations

#### 1.13.3. Legally required documents or records

None

#### 1.13.4. Sources of information

*Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)
- congreso.es (1978). *Spanish Constitution* [online]. Artículo 54. Available at: [http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist\\_Normas/Norm/const\\_esp\\_texto\\_ingles\\_0.pdf](http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_esp_texto_ingles_0.pdf)

### *Non-Government sources*

- defensordelpueblo.es (N.Y.) *Defensor del pueblo (defender of the people)* [online] Annual reports from 2012 and 2013. Available at: <http://www.defensordelpueblo.es/>

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

##### *Overview of Legal Requirements*

There are many customary rights linked to forests across the Iberian Peninsula that come from antiquity. There is no information available on any relevant and sizeable conflicts linked to these rights. In many cases, these rights have been integrated into modern management of forests (droving roads, public roads, firewood production, etc...) and many others have fallen into disuse. There are no records of customary rights at risk on a significant scale.

##### *Description of Risk*

Conflicts related to customary rights can be addressed through the Ombudsman (Defensor del Pueblo). From the last 2013 report, of all conflicts recorded, there was no reference to customary rights linked to forests. The Ombudsman also reports about control of public administrations and in the last annual review report (2012-2013), not data was included relating to forest territories.

##### *Risk Conclusion*

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

#### **1.13.6. Risk designation and specification**

Low risk

#### **1.13.7. Control measures and verifiers**

N/A

### **1.14. Free prior and informed consent**

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

#### **1.14.1. Applicable laws and regulations**

The concept of "free prior and informed consent" is not included in Spanish legislation.

#### **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
<b>1.14.5. Risk determination</b>
N/A
<b>1.14.6. Risk designation and specification</b>
N/A
<b>1.14.7. Control measures and verifiers</b>
N/A
<b>1.15. Indigenous/traditional peoples' rights</b>
<i>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.</i>
<b>1.15.1. Applicable laws and regulations</b>
Rights of indigenous/traditional peoples are not covered by Spanish legislation, as far as forest activities are concerned.
<b>1.15.2. Legal authority</b>
N/A
<b>1.15.3. Legally required documents or records</b>
N/A
<b>1.15.4. Sources of information</b>
N/A
<b>1.15.5. Risk determination</b>
N/A
<b>1.15.6. Risk designation and specification</b>
N/A
<b>1.15.7. Control measures and verifiers</b>
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

- There is no specific legislation covering how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport.
- The volume, species and qualities of timber is information that appears on the selling trade contracts template distributed by the forest associations dealing with private forest owners.

#### 1.16.2. Legal authority

N/A

#### 1.16.3. Legally required documents or records

- Trade agreements

#### 1.16.4. Sources of information

*Government sources*

- basoa.org (N.Y) *Forest Owners Associations*. [online]. Available at: <http://basoa.org/es/>

#### 1.16.5. Risk determination

*Overview of Legal Requirements*

There is no benefit linked to incorrect classification of harvested material. Regarding quantities, enough control from Police exists (see 5.2.)

*Description of Risk*

The checks on the roads are conducted by Police and Customs (Civil Guard) and are frequent and effective. There are no records on violating the applicable legislation so far that would qualify for specified risk.

As there are no specific legal requirements for classification of species this category is 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.

#### 1.16.6. 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

- Law 15/2009, of 11 November, on the contracting of surface-transport of goods.
- BOE no. 141 Tuesday June 14, 2011 Sec. I. p. 61018 Instrument of Accession of Spain to the
- Additional Protocol to the Convention on the Contract for International Carriage of Goods by Road (CMR) concerning the electronic consignment made in Geneva on February 20, 2008.  
Head of Communication SEPRONA Registration No. 99341 to FSC Spain on statistical performances conducted by SEPRONA on Flora, forests and woodlands data for the period 2007 -2011
- Law 16/87 of 30 July, on Land Transport. (BOE 31).
- Organic Law 5/87 of 30 July, on the delegation of powers of the State in the Autonomous Communities in relation to road transport and by cable. (BOE 31).
- Royal Decree 1211/90 of 28 September, approving the Regulation of the Law on Land Transport (ROTT).

#### 1.17.2. Legal authority

- Ministry of Public Works and Autonomous Communities

#### 1.17.3. Legally required documents or records

- Maximum quantities for road transport and utilization requirements.
- CMR
- Delivery note

#### 1.17.4. Sources of information

##### *Government sources*

- foment.gob.es (N.Y.) *Ministerio de Fomento* [online] (Ministry of Public Works) Available at: [http://www.fomento.es/MFOM/LANG\\_CASTELLANO/DIRECCIONES\\_GENERALES/TRANSPORTE\\_TERRESTRE/IGT/PESO/pesos-sanciones.htm](http://www.fomento.es/MFOM/LANG_CASTELLANO/DIRECCIONES_GENERALES/TRANSPORTE_TERRESTRE/IGT/PESO/pesos-sanciones.htm)

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- boe.es (N.Y.) *Boletines Oficiales Autonómicos* [online]. (Official Gazettes of the Autonomous Communities). Available at: [https://www.boe.es/legislacion/enlaces/boletines\\_autonomicos.php](https://www.boe.es/legislacion/enlaces/boletines_autonomicos.php)

#### 1.17.5. Risk determination

##### *Overview of Legal Requirements*

The only risk associated with trade and transport would be a fraud as in Spanish law is mandatory for each track transported material to have the corresponding invoice, delivery note and CMR with information about quantities. The checks on the roads are conducted by Police and Customs (Civil Guard) and are frequent and effective.

##### *Description of Risk*

There are no records on violating the applicable legislation so far 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

- Royal Decree 1080/91 which lists a total of 48 offshore jurisdictions. RD 1080/91, article 2 states: "Countries and territories [...] with Spain sign an agreement to exchange information on tax matters and an agreement to avoid double taxation treaty with an exchange of information shall cease to be consideration of tax havens in the time such agreements or arrangements are operational."

Updated double taxation agreements exist to exchange tax information and exist on the website of the Spanish Ministry of Economy:

- Double taxation agreements to exchange tax information.
- Information exchange agreements
- Articles 16 and 17 of Law 36/2006, modifying the CITL, in Royal Decree 1793/2008 of 3 November, amending the CITL Regulations and in Article 41 of Law 35/2006, Modifying the Personal Income Tax Law (PITL).
- Article 41 of the PITL establishes, as a general principle, that transactions between related persons or entities will be priced in accordance with the arms-length principle. The procedure for establishing the arms-length value and, where necessary, for substituting the value declared in a taxpayer's return is set out in Articles 16 and 17 of the CITL.

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

- Ministry of Public Works and Autonomous Communities.

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

- Group-level and taxpayer-specific documentation for each tax year.
- Documents of purchases and sales (invoices).
- The Royal Decree 1080/91 draws on the principles contained in the EU Code of Conduct on transfer pricing documentation and requires the taxpayer to produce, at the request of the tax authorities, documentation which in turn is divided into two parts:
  - Documentation relating to the group to which the taxpayer belongs; and
  - Documentation on the taxpayer itself.
- With regard to the first year in which the documentation obligations must be applied, the documentation obligations must be deemed to apply to transactions performed on or after 19 February 2009.
- The royal decree also establishes the following instances in which there is no documentation requirement for related party transactions:
  - Transactions carried out within a consolidated Spanish fiscal group;
  - Transactions carried out by economic interest groups and temporary business associations; and
  - Transactions involving the purchase or sale of publicly traded shares.
- At the same time, the royal decree establishes reduced documentation obligations for (1) related party transactions involving small companies (net revenues for the consolidated group of less than EUR 8 million in the previous tax year) and (2) individual persons.
- Documentation is required for transactions with entities, related party or not, resident in tax havens.



#### 1.18.4. Sources of information

##### *Government sources*

- boe.es (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)
- minhap.gob.es (N.Y.) [online] Available at: <http://www.minhap.gob.es/es-ES>
- oecd.org (N.Y.) *Spain - OECD Anti-Bribery Convention* [online] Available at: <http://www.oecd.org/daf/anti-bribery/spain-oecdanti-briberyconvention.htm>
- eoi-tax.org (N.Y.) *Exchange of Tax Information Portal* [online] Available at: <http://www.eoi-tax.org/jurisdictions/ES#agreements>
- oecd.org (N.Y.) *Statement of OECD Working Group on Bribery on Spain's efforts to amend its Penal Code and to enforce its foreign bribery offence* [online] Available at: <http://www.oecd.org/corruption/oecd-working-group-on-bribery-on-spain-efforts-to-amend-its-penal-code-and-to-enforce-its-foreign-bribery-offence.htm>

##### *Non-Government sources*

- paraisos-fiscales.info (N.Y.) *List with the Fiscal Paradises for Spain* [online] Available at: <http://www.paraisos-fiscales.info/lista-paraisos-fiscales-espanola.html>
- ibfd.org (N.Y.) *International Transfer Pricing Journal* [online] Available at: <http://www.ibfd.org/IBFD-Products/International-Transfer-Pricing-Journal-All-Articles> (find 'Spain')
- pwc.com (N.Y.) *International transfer pricing 2012* [online] report by PriceWaterhouseCooper. Available at: [http://download.pwc.com/ie/pubs/2012\\_international\\_transfer\\_pricing.pdf](http://download.pwc.com/ie/pubs/2012_international_transfer_pricing.pdf)

#### 1.18.5. Risk determination

##### *Overview of Legal Requirements*

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

Spain has recently signed (at least) nine Tax Information Exchange Agreements (TIEAs) with jurisdictions of offshore financial centres and are signatories to 1 multilateral mechanism: the Convention on Mutual Administrative Assistance in Tax Matters.

The Spanish tax authority has been increasing, and continues to increase, its awareness of and attention to transfer pricing. Under the former legislation (1978 CITL), the Central Treasury and Tax Court (Tribunal Económico Administrativo Central (TEAC), an administrative body included within the Tax Administration but acting independently of the tax audit authorities), had created a solid administrative doctrine that was consistently applied. It also established some important principles for dealing with transfer pricing issues (PWC 2012).

Regarding the current legislation, the Spanish tax authorities and the jurisprudence issued by the tribunals have widely used the OECD Guidelines to apply or interpret the Spanish transfer

pricing rules and regulations. In particular, the TEAC is making an extensive and intensive use of the OECD Guidelines. (PWC 2012). Some interesting TEAC's resolutions are mentioned below:

- RTEAC 7 June 1994; RTEAC 22 October 1997; RTEAC 29 January 1999;
- RTEAC 9 March 2000; RTEAC 1 December 2000; RTEAC 26 March 2004; and
- RTEAC 8 October 2009; RTEAC 22 October 2009.

Until recently, the Spanish High Court of Justice (STS) ruled on just a few cases regarding transfer pricing issues. In line with the heightened interest given to transfer pricing in 2007, these rulings went against the taxpayer. The rulings dealt with various related party transactions, including management fees, customs regulations and purchase of active ingredients. (PWC 2012).

- STS 11 February 2000; STS 15 July 2002; and
- STS 4 December 2007; STS 22 January 2009; STS 30 November 2009.

A specialist unit dealing with transfer pricing issues has been established. The regional and national tax offices, which are responsible for the larger companies or multinational companies, normally deal with transfer pricing issues during the course of a general tax audit (PWC 2012).

In addition, significant resources are being made available to improve inspectors' ability to successfully undertake audits, and active training is taking place. Tax inspectors currently act on their own, although this does not rule out the possibility that they could receive assistance from in-house experts. Additionally, tax inspectors are able to exchange information under the principles established in the OECD Model Tax Convention and in the European Directive 2004/56 on Mutual Assistance (PWC 2012).

So far, they have not concentrated on any particular industry, although emphasis has been placed on the automobile, computer/software and pharmaceutical industries. Special attention has been directed towards management fees, royalties and loans.

### *Description of Risk*

The corruption level in Spain is considered medium-low, refer to the Transparency International corruption perception index (2016) of 58 (higher than the threshold of 50).

### *Risk Conclusion*

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

#### **1.18.6. 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**

- Royal Decree 511/1977 of 18 February, by which the revised text of the Integrated Customs Taxes is approved.
- Organic Law 12/1995 of 12 December on the suppression of smuggling. By which the penalties for importing or exporting materials without fulfilling legal importation procedures, is established.
- Spain is within the Customs Union of Europe in relation to goods import rules. In general, foreign trade in the EU is governed by the principle of commercial freedom and only for some goods, mainly from agriculture, statistical surveillance is applied. The Community Customs Code establishes, at the Community level, issues relating to trade in goods between the EU and third countries, including measures of agricultural policy, trade policy, and statistical measures.

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

- Ministry of Finance and Public Administrations
- Tax Agency
- Customs authority

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

- Rates, relevant records and statements
- Single Administrative Document (SAD).

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

##### *Government sources*

- [mineco.gob.es](http://mineco.gob.es) (N.Y.) *Ministerio de Hacienda y Administraciones Públicas* [online] (Ministry of Finance and Public Administration) Available at: [www.mineco.gob.es](http://www.mineco.gob.es)
- [agenciatributaria.es](http://agenciatributaria.es) (N.Y.) *Agencia Tributaria* [online] (Tax Agency) Available at: <http://www.agenciatributaria.es/>
- [boe.es](http://boe.es) (N.Y.) *Boletín Oficial del Estado* [online] (Official Gazette, BOE). Available at: [www.boe.es](http://www.boe.es)

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

##### *Overview of Legal Requirements*

Royal Decree 511/1977 and other organic laws puts in place comprehensive requirements covering customs matters.

The Ministry of Finance and Public Administrations; Tax Agency and Customs authority are, combined, responsible for the implementation of all legislation relating to customs control and surveillance.

### *Description of Risk*

There are no records available about violations of the applicable legislation, so far, 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.

#### **1.19.6. 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**

- The accession of Spain to the CITES Convention was made by the Instrument of Accession of Spain, May 16, 1986 .
- At present, the application of the CITES Convention within the EU - and therefore in Spain - is enacted via Regulation ( EC ) 338/97 of the Council of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade, and by a more detailed implementing Regulation: the Regulation (EC) 865/2006 of the Commission on 4 May 2006 laying down provisions for implementing Regulation (EC ) 338/97.
- Instrument of Accession of Spain (May 16, 1986) on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). (Published in the Official Gazette No. 181 of 30/07/1986).
- Royal Decree 1739/97 of 20 November 1997 on measures to implement the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) made at Washington on March 3, 1973, and Regulation ( EC ) 338/97 of the Council of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (published in the Official Gazette No. 285 . of 28/11/1997) NOTE: designated scientific authority, the main administrative authority and the additional administrative authority and controls to be performed by each.
- Resolution of May 5, 1998 , the Directorate General of Foreign Trade, the Centers and Units Technical Assistance and Inspection of Foreign Trade (designated SOIVRE ) are authorized to issue permits and certificates referred to in Regulation ( EC ) 338/97 of the Council of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade, and model "document inspection of protected species" is set (published in BOE No. 125 of 26/05/1998).

- 1456/2005 Royal Decree of 2 December, the Territorial and Provincial Departments of Commerce (published in the Official Gazette No. 299 of 15/12/2005) are regulated.
- 1333/2006 Royal Decree of 21 November, by which the fate of confiscated specimens of endangered species of fauna and protected wild flora by regulating trade therein (published in the Official Gazette No. 286 of 30/11 / regulated 2006).
- Additional Provision Two of Law 32/2007 , of 7 November, for the care of the animals on his farm, transport, slaughter and experimentation (published in the Official Gazette 08/11/2007). NOTE : set the rates for the management and processing of CITES permits and certificates .
- 630/2013 Royal Decree of 2 August, by the Spanish Catalogue of Invasive Alien Species (published in the Official Gazette No. 185 of 03/08/2013) is regulated.

#### 1.20.2. Legal authority

- The Ministry of Commerce has been assigned as the Management Authority in accordance with the provisions of Article IX of the Convention CITES . The Management Authority processes and authorizes, where appropriate, applications for import, export or re-export to SOIVRE (Official Service of Surveillance, Certification and Technical Assistance of Foreign Trade, a body of the Ministry of Industry, Tourism and Commerce) and also the development of control actions and corresponding inspections.
- Border Inspection Points (PIFs) - govern import transactions and (re)export for CITES material at the points of entry into the country.

#### 1.20.3. Legally required documents or records

- Original foreign-issued CITES document (export permit or re-export certificate from the country of origin) to Customs at the first point of entry into the EU will be presented.

#### 1.20.4. Sources of information

##### *Government sources*

- cites.es (N.Y.) *Portal de la autoridad administrativa CITES en Espana* [online] Available at: <http://www.cites.es/>
- CITES checklist (N.Y) Checklist of CITES species. [Online]. Available at: <http://checklist.cites.org/#/en>

#### 1.20.5. Risk determination

##### *Overview of Legal Requirements*

Spain has implemented CITES requirements within its territory and the current system is robust. Information regarding authorities, procedures, certificates, permits, electronic applications and all necessary administrative processes are clearly available in [www.cites.es](http://www.cites.es).

##### *Description of Risk*

Different territorial authorities (Servicios de Inspeccion SOIVRE) and Puntos de Inspección Fronteriza (PIFs) work daily with suppliers and customers. There is no evidence known of CITES violations in Spain.

There are currently no CITES species grown in Spain, therefore the risk can be considered low.

#### *Risk Conclusion*

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

#### **1.20.6. 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**

- 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.
- Commission delegated Regulation of 23.2.2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market
- Commission implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.
- Royal Decree 1088/2015, to ensure the legality of the commercialization of wood and wood products
- Regulation EC No 2173/2005 on FLEGT licenses
- Law 43/2003, of Forests

#### **1.21.2. Legal authority**

- Dirección General de Desarrollo Rural y Política Forestal (MAGRAMA)
- Regional governments.

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

- Due Diligence System, valid registry with the mandatory information, FLEGT certificate, CITES licence, legality certificate

#### 1.21.4. Sources of information

##### *Government sources*

- magrama.gob.es (N.Y.) *Spanish application of the EU Timber Regulations* [online] Available at: [www.magrama.gob.es/es/desarrollo-rural/temas/politica-forestal/planificacion-forestal/comercializacion-de-madera-legal/index.aspx](http://www.magrama.gob.es/es/desarrollo-rural/temas/politica-forestal/planificacion-forestal/comercializacion-de-madera-legal/index.aspx)
- ec.europa.eu (N.Y.) *Illegal logging/FLEGT Action Plan* [online] European Commission. Available at: [http://ec.europa.eu/environment/forests/illegal\\_logging.htm](http://ec.europa.eu/environment/forests/illegal_logging.htm)
- euflegt.efi.int (N.Y.) *Financial mechanism EU-EFI-FLEGT* [online] Available at: <http://www.euflegt.efi.int/portal/>
- fao.org (N.Y.) *Program FAO-FLEGT* [online] Available at: <http://www.fao.org/forestry/acp-flegt/en/>

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#### 1.21.5. Risk determination

##### *Description of Risk*

On 11 December 2015, a Royal Decree (1088/2015) was published that establishes the necessary provisions for the application of the EUTR in Spain. The decree establishes 12 Autonomous Communities and 2 Autonomous cities as Competent Authorities within their jurisdictions, with the authority to carry out checks on operators and traders who trade in timber and wood products in Spain.

In 2015, the *National Plan for Controlling the Legality of Marketed Timber* was approved at the Sectoral Conference on Agriculture and Rural Development. This document establishes the coordination of enforcement of the EUTR. It is also the basis for enforcement within Autonomous Communities. The National Plan uses different economic criteria to inform enforcement efforts, analysing aspects such as: the number of imports, the value of imports, number of importing companies, or associates, number and relevance of ports of entry, etc. Regional actions and regional plans analyse risk per enterprise using risk criteria, such as exporting countries, level of company certification, marketed volumes, species, etc.

The National Plan of Controls started in Spain in the first week of April 2016. The enforcement activities are based on the 2016 National Plan of Controls, with a homogeneous distribution of



controls throughout the national territory, both in number and type of agents controlled. To date, more than 500 controls have been carried out.

The National Competent Authority is currently funding two major projects aimed at improving the implementation of the standard: the establishment of the State Information System for the Timber Trade and the establishment of a State system for the identification of timber species.

The level of compliance at the national and regional level is reported in the biennial monitoring reports of the national control plan elaborated by the Ministry of Agriculture, Fisheries, Food and Environment. A review of the national control plan for the following years is being prepared with the new information collected. However, it appears too early to know the results of the enforcement that has been taking place, particularly with respect to operators who are placing timber harvested in Spain on the market. Therefore, the precautionary approach is taken and this sub-category is considered to be specified risk.

### *Risk Conclusion*

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

#### **1.21.6. Risk designation and specification**

Specified risk

#### **1.21.7. Control measures and verifiers**

1. Can the material be tracked back to the entity placing it on the market - the Operator?

- If the timber is sold as standing stock to a logging company, the logging company will be the operator.
- If the timber is sold as assortment by the forest owner/manager, then the forest owner/manager will be the operator.

If no - do not buy.

If yes - go to 2

2. Can the operator document that a Due Diligence System is in place in accordance with the EU Timber Regulation No 995/2010 (EUTR). Operators placing for the first time on the internal market for distribution or use in the course of a commercial activity any products listed in the annex to Regulation (EU) No 995/2010 (EUTR) should present:

- documents required according to article 4.2 and 6 of the Regulation (EU) No 995/2010,
- documents required 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.

If no - don't buy

If yes - risk mitigated for this point.

## Annex I. Timber source types

The table **Timber Source Types in Spain** 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:

- a) **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.
- b) **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.
- c) **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.
- d) **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.
- e) **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.
- f) **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 SPAIN						
Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Forest without management plan approved			Private		Harvesting permit with all forest details, volume, species, harvesting activity, machinery, etc.	There is an important variability between AC
Forest with management plan approved			Private		Harvesting notification with all forest activity details.	Harvest Notification only in activities covered by Management Plan, any other forest activity will need Harvesting permit. There is an important variability between Autonomous Communities
Public forest managed by administration			Public		Internal Forest Service approval	There is an important variability between AC



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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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