

Timber Legality Risk Assessment BRAZIL

Version 2.0 | 14 June 2023



COUNTRY RISK
ASSESSMENTS





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A. Introduction

The 'Timber Legality Risk Assessment for Brazil' is an instrument developed to provide an analysis of the risk of sourcing timber in production forests in the country under different land tenure and/or titling and forest management modalities. Since 2007 Preferred by Nature (PBN) has been working on timber legality risk assessments in partnership with various organizations. The risk assessments are developed in collaboration with local experts in forest legality and use an assessment methodology jointly developed by FSC and PBN.

In Brazil, the *Institute for Forest and Agricultural Management and Certification* (IMAFLOA) has been the entity responsible for developing and updating the timber legality risk assessment. In this second version of the risk assessment for Brazil, developed in the first part of 2023, in addition to updating to the regulatory context and forest production carried out since version 1.1 (May 2017), we included a new source of type represented by forest concessions in the Amazon. The forest concession mechanism in Brazil, although already under development for a period of 15 years, could represent one of the main sources of timber production, mainly from natural forests, in the coming years.

Version history

Version 1.0: Published May 2017

Version 2.0: Published June 2023 (Current version)

Overview of methodology

Preferred by Nature would like to recognise the huge contribution Imaflora performed in connection with this report. Their involvement has been invaluable in obtaining the latest information across the broad range of timber legality issues presented in this report. Preferred by Nature's country risks assessments are always evolving, and by retaining local experts, we are confident the advice expressed in this report is truthful and reliable.

The risk assessments are developed with local forest legality experts and use an assessment methodology jointly developed by FSC and Preferred by Nature. A detailed description of the methodology can be found on the [Preferred by Nature Sourcing Hub](#).

The risk assessment for timber legality in Brazil is published in Portuguese and English.

Interviews with experts

The list of experts is not included in the risk assessment. However, all experts are known to Imaflora and Preferred by Nature.

Version 1.0: Expert consultation in October 2016.

Version 2.0: Expert consultation in October-December 2021.

Public consultation

Version 1.0: Online public consultation on the Sourcing Hub: February 22 – March 22, 2022.

Version 2.0: No delimited public consultation period. Comments can be provided anytime to sourcinghub@preferredbynature.org.

Overview of legality risks

This report contains a legality risk assessment associated with the timber supply chain in Brazil with seven categories and 26 subcategories covering issues related to the right to explore and harvest forests, taxes and fees, harvesting activities, third-party rights, trade and transportation, due diligence procedures and legality in the supply chain. In Brazil, the risks of each category are intrinsically related to the scope of their source of supply. For this reason, in this version of the legality risk assessment we are dedicated to analysing the risks under the three scopes of the forest sector in Brazil, referring to the management of natural forests in private areas, planted forests, and the management of natural forests in public areas under forest concession.

Timber sources and associated risks. The different types of timber sources are subject to different applicable laws and specific contexts of regulation and enforcement pressure that affect the risk of non-compliance. We analysed the risks for the three timber source types in Brazil, summarized in Table 1. We found, for the scopes and criteria analysed, a specified risk for 36 criteria, and low risk for 22. There are no applicable legal requirements for 8 of these criteria/scopes.

This report contains an evaluation of the risk of illegality in Brazil for six categories and 26 sub-categories of law. We found:

Management of Natural forests in Private Areas

- Specified risk for 19 sub-categories.
- Low risk for 4 sub-categories.
- No legal requirements for 3 sub-categories.

Management of Planted Forests

- Specified risk for 15 sub-categories.
- Low risk for 6 sub-categories.
- No legal requirements for 5 sub-categories.

Management of Public Natural Forests (Concessions)

- Specified risk for 11 sub-categories.
- Low risk for 13 sub-categories.
- No legal requirements for 2 sub-categories.

The key legality risks identified in this report concern timber harvesting activities related to Legal right to harvest, Taxes and fees, Timber harvesting activities, Third Parties rights and Transport and Trade and Processing.

For Legal Rights to Harvest:

- Risk of irregular allocation of property because of dysfunctional and confusing legislation and bureaucratic procedures (e.g., land is not properly registered in property records).
- Risk of disputes over the use, ownership, and access to land in forest management units.
- Risk of forest management activity taking place without a license or with a license issued by illegal means, such as corruption.
- Risk of illegal logging, without an approved management plan.
- Risk of approving insufficient (low-quality) management plans that do not meet the minimum legal requirements or that contain false or inaccurate information.
- Risk of forest management carried out in disagreement with the approved management plan.
- Risk of management activities in private natural forests that occur without a license, or with a license obtained by illicit means, such as corruption, theft of wood and falsification of the credits obtained.
- Risk of logging of native species cultivated in planted forests being carried out without proper logging authorizations (only applicable to those states in which a logging authorization is required for native species)

For Taxes and Fees:

- Risk of selling products without the provision of a sales invoice
- Risk of the sales invoice declaring a volume smaller than the actual volume delivered.
- Risk of tax evasion related to income and profits. Evasion is caused by fraud, making the total revenue earned by a company greater than the revenue declared.

For Timber Harvesting Activities,

- Risk of forest management being carried out in violation of the approved management plan, which includes risk of infringing the technical criteria of sustainable forest management (i.e.: exploring prohibited trees, exploring in non-licensed areas, in volumes greater than authorized, or harvesting trees with diameters smaller than allowed, etc.).
- Risk of logging protected areas inside and outside management plans in private natural forests, in addition to protected species or sites of special importance for conservation.
- Risk that planting activities may be carried out without proper approval (or declaration) from legal reserve areas, such as exploration of environmental protection areas.
- Risk that forestry activities are carried out without complying with environmental standards, partially or in full, and that they are carried out with practices that may cause environmental damage due to lack of adequate control by the competent authorities.

- Occupational health and safety rights risk not being respected because of lack of minimum required health and safety work conditions
- Risk of irregularities associated with the hiring and compensation of workers and inadequate law enforcement.

For Third Parties Rights,

- Risks relate to non-compliance with existing laws and regulations on traditional and indigenous communities due to confusing and bureaucratic procedures and the large number, diversity and dispersed nature of traditional communities
- Risks relate to non-compliance with existing laws and regulations on traditional and indigenous communities due to confusing and bureaucratic procedures and the large number, diversity, and dispersed nature of traditional communities

For Trade and transport,

- There is a risk of incorrect classification of species, quantity or quality of timber products due to the fragility of the DOF system and the high degree of perceived corruption in Brazil.
- Risk, although not present in all regions of the country, of theft of timber, even exotic species, that may be transported through the issuance of fraudulent invoices.
- Risks of contamination of production chains by illegally harvested timber, through document fraud in control documents (DOF/GF transport documents) or invoices issued.
- For a Brazilian company to export its products, it must be registered with the Federal Revenue as an exporter and, therefore, must comply with several legal requirements. Normally, export mechanisms are demanding, well controlled and well supervised. There may be instances of corruption, but these are not significant enough to make this a specific risk.
- Furthermore, there are few Brazilian companies that have a structure that includes companies associated abroad and organized in holding companies. This situation tends to reduce the risk and probability of the existence of associated companies in tax havens.
- Risk of illegal logging of CITES species
- Risk that the regulation related to harvesting of CITES species are not complied with
- Risk of trade without or misuse of/fraud with CITES permit

Processing requirements,

- Risk related to compliance with registration of business requirements
- Risks related to compliance with processing requirements.
- Risk related to compliance with Health and Safety requirements in the timber processing sector
- Risks related to Legal employment in the timber processing sector

Timber source types and risks

There are 3 main timber source types found in Brazil. 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 of these source types and found that the risk differs slightly for timber from private forests.

Management of Natural forests in Private Areas

Management of Natural Forests in private areas. Timber from natural forests in private areas can only be exploited through an AUTEF/AUTEX (Forest Logging Authorization), issued through a Sustainable Forest Management Plan and Annual Operational Plan approved by state environmental agencies. Sales and transport must be accompanied by the DOF (Document of Forest Origin) or GF (Forest Waybill), duly accompanied by the sales invoice.

Management of Planted Forests

Timber from planted forests on private land, both native and exotic. Although there may be variations, especially when considering the planting of native species, forest plantations do not require concession or licensing efforts by the State. Some states, however, require an environmental license for managing plantations, in addition to rural licensing and the Environmental Declaratory Act (ADA, the acronym in Portuguese). The management of forest plantations, however, can also entail legality risks with regard to compliance with the Brazilian Forest Code (Law 12,651/2012) at the level of the rural properties on which the plantations were established. Sales and transportation must be accompanied by sales invoices.

Management of Public Natural Forests (Concessions)

In Brazil, the forest concession is one of the public forest management modalities provided for in Law 11,284 of 2006, which allows the federal government, states, and municipalities, through bidding, to grant a legal entity the right to manage the forests under public domain to acquire products and services. Timber from natural forests under forest concession must follow a few regulatory and legal compliance aspects. First, it must follow the regulations regarding the management of natural forests in private areas, requiring the same documents demanded for these forests. Second, it must follow the rules of adherence to forest management being carried out in the concession contract signed with the managing body - at the federal level, for example, the Brazilian Forest Service - SFB. In addition to requiring the adoption of forest management practices, the contracts have clauses that dictate the need to maintain the technical, administrative, and financial qualification conditions identified at the time the concession was granted. There is also an obligation, by law, to carry out independent forest audits in periods of up to 3 years, in addition to the

adoption of the Brazilian Forest Service's (SFB) Chain of Custody System.

Table 1. Summarized table of the national legality risk assessment related to the origin of timber in Brazil under three source types, 2022

| CATEGORIES | SUB-CATEGORIES | Risk Conclusion | | |
|------------------------------|-----------------------------------------------------------|------------------------------------------------|-------------------------------|----------------------------------------------------|
| | | Management of Natural forests in Private Areas | Management of Planted Forests | Management of Public Natural Forests (Concessions) |
| Legal rights to harvest | 1.1 Land tenure and management rights | <i>Specified risk</i> | <i>Specified risk</i> | <i>Low risk</i> |
| | 1.2 Concession licenses | <i>NA</i> | <i>NA</i> | <i>Low risk</i> |
| | 1.3 Management and harvesting planning | <i>Specified risk</i> | <i>NA</i> | <i>Low risk</i> |
| | 1.4 Harvesting permits | <i>Specified risk</i> | <i>Specified risk</i> | <i>Low risk</i> |
| Taxes and Fees | 1.5 Payment of royalties and harvesting fees | <i>Low risk</i> | <i>Low risk</i> | <i>Low risk</i> |
| | 1.6 Value added taxes and othes sales taxes | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| | 1.7 Income and profit taxes | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| Timber Harvesting activities | 1.8 Timber harvesting regulations | <i>Specified risk</i> | <i>NA</i> | <i>Low risk</i> |
| | 1.9 Protected sites and species | <i>Specified risk</i> | <i>Specified risk</i> | <i>Low risk</i> |
| | 1.10 Environmental requirements | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| | 1.11 Health and safety | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| | 1.12 Legal employment | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| Third parties' rights | 1.13 Customary rights | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| | 1.14 Free prior and informed consent | <i>NA</i> | <i>NA</i> | <i>NA</i> |
| | 1.15 Indigenous/taditional peoples' rights | <i>Specified risk</i> | <i>Specified risk</i> | <i>Specified risk</i> |
| Trade and transport | 1.16 Classification of species, quantities and, qualities | <i>Specified risk</i> | <i>Low risk</i> | <i>Low risk</i> |
| | 1.17 Trade and transport | <i>Specified risk</i> | <i>Specified risk</i> | <i>Low risk</i> |
| | 1.18 Offshore trading and transfer pricing | <i>Low risk</i> | <i>Low risk</i> | <i>Low risk</i> |
| | 1.19 Custom regulations | <i>Low risk</i> | <i>Low risk</i> | <i>Low risk</i> |
| | 1.20 CITES | <i>Specified risk</i> | <i>Low risk</i> | <i>Low risk</i> |

| CATEGORIES | SUB-CATEGORIES | Risk Conclusion | | |
|-------------------------------|---------------------------------------------------------------|------------------------------------------------|-------------------------------|----------------------------------------------------|
| | | Management of Natural forests in Private Areas | Management of Planted Forests | Management of Public Natural Forests (Concessions) |
| Due diligence | 1.21. Legislation requiring due diligence/due care procedures | NA | NA | NA |
| Legality in timber processing | 1.22. Legal Registration of business | Specified risk | Specified risk | Specified risk |
| | 1.23. Environmental requirements for processing | Low risk | Low risk | Low risk |
| | 1.24. Processing requirements | Specified risk | Specified risk | Specified risk |
| | 1.25. Health and Safety in the timber processing sector | Specified risk | Specified risk | Specified risk |
| | 1.26. Legal employment in the timber processing sector | Specified risk | Specified risk | Specified risk |

Overview of the forest sector in Brazil

According to Mapbiomas, Brazil encompassed, in 2020, about 508 million hectares of forests, equivalent to 60% of the national territory. This represents the second largest area of forests on the planet, behind only Russia. Of this coverage, according to the same source, around 65% was represented by natural forests in the Amazon biome (~330 million hectares). From the point of view of forest typologies, forest management activities in Brazil can occur in natural forests (tropical forests), mostly located in the Amazon, or planted forests in different regions of the country, covering different biomes.

The new frontiers of forest management expansion are located in the Midwest, Northeast and North regions of the country. Highlighting the states MATOPIBA, an acronym formed by the abbreviations of the four states (MA + TO + PI + BA), and Mato Grosso do Sul in forest plantations.

The old borders of established forest plantations and forest entities are in the South and Southeast regions.

Forests planted on private properties. The management of planted forests, from the point of view of land ownership, is carried out only on private land. Data from IBÁ (Brazilian Tree Industry), in 2020, indicate a total area of 9.55 million hectares of forest plantations for industrial purposes, of which 3.73 million (39%) would be areas of commercial plantation certified by FSC systems and/or CERFLOR (the equivalent of PEFC certification in Brazil), considering only the areas effectively planted. Of this total, 88% are concentrated in forest enterprises located in the south and southeast regions of Brazil. Although there are no statistics in this regard, a smaller proportion of these plantations are found in areas of small-scale producers, who establish contracts with the producing companies for the purpose of planting and supplying timber. Among the planted species, 78% of the area is made up of eucalyptus (*Eucalyptus spp.*), with 7.47 million hectares, and 18% of pine (*Pinus spp.*), with approximately 1.7 million hectares. In addition to these plantations, the sector has around 382,000 hectares planted with other species, including rubber tree (*Hevea brasiliensis*), acacia (*Acacia mangium*), teak (*Tectona grandis*) and paricá (*Schizolobium amazonicum*). In 2020, the number of chain-of-custody certificates (FSC and CERFLOR/PEFC) included 1,086 enterprises in the country, with an estimate that 70% of forest plantations aimed at producing pulp and paper in the country are now certified. According to official data from the Brazilian Institute of Geography and Statistics (IBGE, the acronym in Portuguese), the total production of wood logs from planted forests in Brazil was in the order of 140 million cubic meters in 2020, with roughly half of this volume referring to timber production from *Eucalyptus spp.* for the production of pulp and paper. IBGE estimates the value associated with the production of planted forests in Brazil at around BRL 9 billion in 2019.

Natural forests. The management of natural forests, from the point of view of land ownership, can be carried out on public or private land. The management of natural forests on private properties represents the oldest form of access to native timber. Brazilian public lands are subject to forest management through a system of concessions, established since the approval of the *Public Forest Management Law* in 2006 (Federal Law 11,284). Concessions can be conducted at the federal level (in the case of federal public lands), under the responsibility of the Brazilian Forest Service (SFB), or at the state level, in the case of state public lands, where each state has an agency that acts as managing body of these concessions. The Brazilian model

of forest concessions was developed at a late point in the history of the country's forest sector, especially if compared with systems developed in other countries. However, the concession system was developed at a crucial moment for forest management in the Amazon, since the lack of land title definition in a large part of the region ended up restricting the expansion of forest management.

Figure 1. Forest cover and biomes in Brazil. Source: data from Mapbiomas (2021), compiled by IMAFLORA.

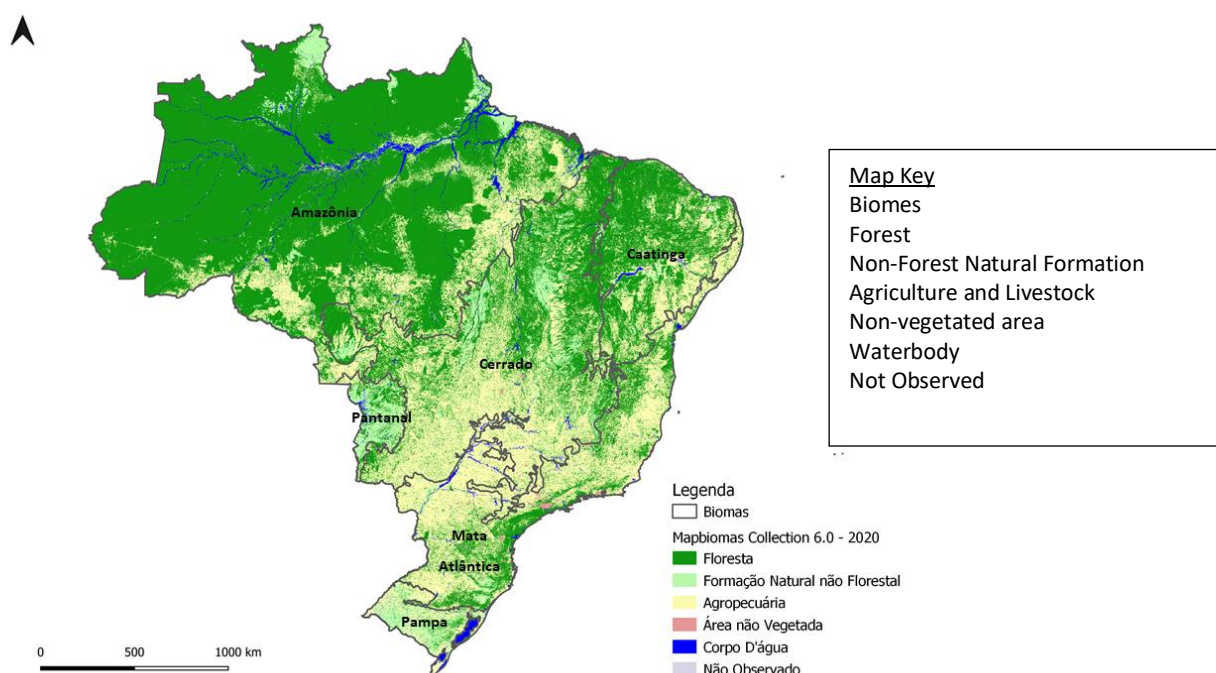


Table 2. Area statistics related to forest cover in the different biomes of Brazil. Source: data from Mapbiomas (2021), compiled by IMAFLORA.

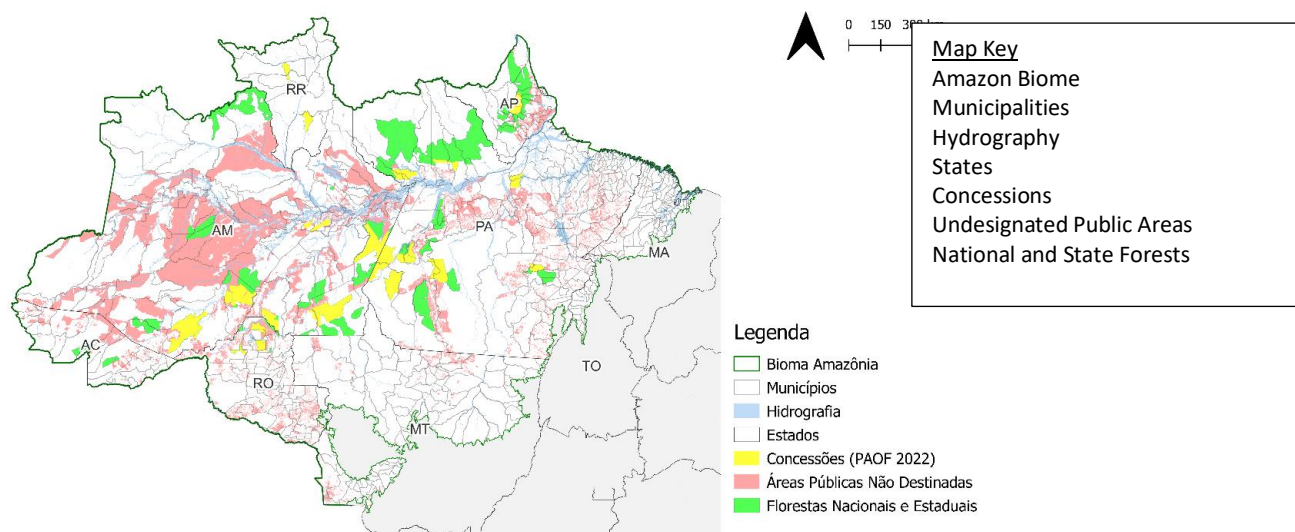
| Biome | Area (million hectares) | | | | |
|-----------------|-------------------------|------------------------------|------------------------------------|--------------------|--------------------------------|
| | Forest | Non-forest natural formation | Agriculture and Livestock activity | Non-vegetated area | Rivers, lakes, and waterbodies |
| Amazon | 330.16 | 15.77 | 63.05 | 0.55 | 12.01 |
| Caatinga | 50.06 | 3.98 | 30.40 | 0.94 | 0.88 |
| Cerrado | 88.37 | 19.54 | 87.66 | 1.53 | 1.36 |
| Atlantic Forest | 31.92 | 2.93 | 71.22 | 2.49 | 2.12 |
| Pampa | 2.30 | 6.64 | 8.28 | 0.36 | 1.81 |
| Pantanal | 5.02 | 7.08 | 2.44 | 0.01 | 0.55 |
| Brazil | 507.82 | 55.94 | 263.05 | 5.89 | 18.72 |

The management of Brazilian forests involves different institutions at three levels of government (federal, state, and municipal). In the federal government, forest management is under the direct responsibility of different entities. The *Brazilian Forest Service* (SFB) is the institution that manages federal public forests for the sustainable production of goods and services, responsible for forest concession contracts. It is also responsible for generating information, training, and promoting forest issues. The *Brazilian Institute for the Environment and Renewable Natural Resources* (IBAMA) is the institution responsible for environmental control and enforcement and is also responsible for licensing and environmental control of Brazilian forests within its area of competence. The *Chico Mendes Institute for Biodiversity Conservation* (ICMBio) is responsible for proposing, implementing, managing, protecting and supervising the Protected Areas established by the Federal Government, which include the National Forests partially used for concessions. At the state level, in general, the state environmental secretariats (Oemas) are responsible for formulating forest policies and norms, and state environmental institutions are responsible for licensing, control, and enforcement of forest and conservation activities.

According to the Brazilian Forest Service (SFB), a concession contract is a formalized license to carry out the management of forest products and services, granted to a legal entity (previously issued through a public bidding), requiring payment for the forest products and services that will be accessed by the concessionaire, in addition to meeting other obligations and responsibilities. In addition to payment, concessionaires assume a set of commitments and goals related to issues such as the number of jobs generated, the amounts to be invested in goods and services for local communities, the degree of local value added to exploited products, among other aspects.

At the federal level, managed by the Brazilian Forest Service, there are 18 concession contracts signed, totalling 1.05 million hectares of forest management area. At the state level, two units of the Federation have signed forest concession contracts. The state of Pará has eight contracts, totalling 433,000 hectares of forests under concession, and Amapá has only one contract, with 67,500 hectares of concession area. In the 2021-22 biennium, the Brazilian Forest Service, through the Annual Forest Concession Plan, is preparing for the launching of another 5.4 million hectares of concession forests, mostly in the northern region of the country.

Figure 3. Forest concessions in progress and potential areas for conducting forest concessions in the Brazilian Amazon. Source: 2022, compiled by IMAFLORA, based on data and information from the Brazilian Forest Service.



The total volume of logs from native forests in the Brazilian Amazon generated in 2020 was around 10 million cubic meters, 86% of which originated in the states of Pará, Mato Grosso, and Rondônia. In the same year, the production of timber products (laminated, plywood, sawn and trimmed) was around 3.3 million cubic meters. The gross revenue related to the timber sector in the Amazon was estimated by the SFB in 2016 at around BRL 4.4 billion.

General aspects of regulation for forest management. The rules for managing native forests are much stricter than those for plantations and, in many states, there is no need for environmental licensing for forest plantations. Due to the large dimension of these areas, number of applicable laws and regulations, as well as the difficulty in carrying out enforcement, the risks to the legality of native timber are greater than those related to the use of plantations. This justifies, to an important extent, the risk analysis resulting from these two different types of access to forests. As for forest concessions, due to the improved transparency and control environment in relation to the management of private natural forests, in addition to the requirement of independent third-party audits every three years, the legality risks arising from their supply also are relatively smaller.

Sources of information

Mapbiomas. A collaborative network, formed by NGOs, universities and technology start-ups, which reveals the transformations of the Brazilian territory, through science, providing knowledge about land use, in order to seek conservation and combat climate change. Available at <https://mapbiomas.org/>

IBÁ (Brazilian Tree Industry). Association responsible for the institutional representation of the productive chain of planted trees, from the field to the industry, with its main stakeholders. Available at <https://www.iba.org/>.

Brazilian Institute of Geography and Statistics (IBGE). Main provider of data and information in the country, which meet the needs of the most diverse segments of civil society, as well as federal, state and municipal government bodies. Available at <https://www.ibge.gov.br/>

Brazilian Forest Service. Government entity responsible, at the federal level, for forest concessions and promotion of sustainable forest production. Available at <https://www.gov.br/agricultura/pt-br/assuntos/servico-florestal-brasileiro>.

Ibama (Brazilian Institute for the Environment and Renewable Natural Resources). Government entity responsible at the federal level for the monitoring, control and enforcement of forest activities in the country. Available at <https://www.gov.br/ibama/pt-br>.

ICMBio (Chico Mendes Institute for Biodiversity Conservation). Government entity responsible, at the federal level, for proposing, implementing, managing, protecting and supervising the Protected Areas established by the Federal Government. Available at <https://www.gov.br/icmbio/pt-br>.

B. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary land rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights.

Management rights related to other rights than land and land management is covered under 1.13 (Customary rights) and 1.15 (Indigenous/traditional people's rights)

This indicator also covers legal forest management business registration and tax registration, including relevant legal required licenses (Industrial business and tax registration are covered under 1.22). 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. 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

1.1.1. Applicable laws and regulations

- Constitution of the Federative Republic of Brazil - 1988. Chapter I - Clause 5 (XXII - Ownership of land). *Constituição da República Federativa do Brasil - 1988. Capítulo I - Cláusula 5ª (XXII - Propriedade da terra)*. Available at: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm
- Law 5,868/1972 - National Rural Registry System. *Lei 5.868/1972. Sistema Nacional de Cadastro Rural*. Available at: http://www.planalto.gov.br/ccivil_03/leis/15868.htm
- Law 4,947/1966 - Agrarian Law. Chapters III and IV (agrarian contracts and general provisions). *Lei 4.947/1966. Lei Agrária. Capítulos III e IV (contratos agrários e disposições gerais)*. Available at: http://www.planalto.gov.br/ccivil_03/leis/L4947.htm
- Decree 72,106/1973 - Regulates Law 5,868, of 12/12/1972, which instituted the national system of rural registration and covers other matters. *Decreto 72.106/1973 - Regulamenta a Lei 5.868, de 12/12/1972, que instituiu o sistema nacional de registro rural e dispõe de outros assuntos*. Available at: https://www.planalto.gov.br/ccivil_03/Decreto/1970-1979/d72106.htm
- Law 4,504/1964 - Land Statute, Chapter I (Access to Land); Chapter IV (Use or temporary ownership of land). *Lei 4504/1964 - Estatuto da Terra, Capítulo I (Acesso à terra); Capítulo IV (Uso ou posse temporária da terra)*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4504.htm
- Law 9,393/1996 - Defines the Tax on Rural Territorial Property (ITR). *Lei 9.393/1996 - Dispõe sobre o Imposto sobre a Propriedade Territorial Rural (ITR)*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9393.htm
- Law 6,015/1973 - Provides for public registration. *Lei 6.015/1973 - Dispõe sobre o registro público*. Available at: https://www.planalto.gov.br/ccivil_03/Leis/L6015compilada.htm

- Decree 4,382/2002 - Classifies the Tax on Rural Territorial Property (ITR). *Decreto 4.382/2002 Dispõe sobre o Imposto sobre a Propriedade Territorial Rural (ITR)*. Available at: https://www.planalto.gov.br/ccivil_03/Decreto/2002/d4382.htm
- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012 – Institui o Código Florestal. Capítulo*. Available at: http://www.planalto.gov.br/ccivil_03/ato2011-2014/2012/lei/l12651.htm
- Law 11,284/2006 - Public Forest Management Law. Titles I and II - Management of Public Forests for Sustainable Production. *Lei 11.284/2006 - Lei de Gestão de Florestas Públicas. Títulos I e II - Gestão de Florestas Públicas para Produção Sustentável*. Available at: http://www.planalto.gov.br/ccivil_03/ato2004-2006/2006/lei/l11284.htm
- Decree 6,063/2007 regulates Law 11,284/2006, which provides for the management of public forests for sustainable production, and other provisions. Arts 25,27,28. *Decreto 6.063/2007 - Regulamenta a Lei de Gestão de Florestas Públicas*. Available at: http://www.planalto.gov.br/ccivil_03/ato2007-2010/2007/Decreto/d6063.htm
- Law 10,406/2002 - Established the Civil Code (Clause 45). *Lei 10.406/2002 - Instituiu o Código Civil (Cláusula 45)*. Available at: https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=247357&filename
- Law 11,598/2007 - Establishes guidelines and procedures for simplifying and integrating registration and legalization processes for entrepreneurs and legal entities. Chapter I. - *Lei 11.598/2007. Estabelece diretrizes e procedimentos para simplificação e integração dos processos de cadastramento e legalização de empresários e pessoas jurídicas. Capítulo I*. Available at: www.planalto.gov.br/ccivil_03/ato20072010/2007/Lei/L11598.htm
- Decree 8235/2014 - Establishes general rules complementary to the Environmental Regularization Programs (PRA, the acronym in Portuguese) of the States and the Federal District, covered by Decree No. 7,830/2012. *Decreto 8235/2014. Estabelece normas gerais complementares aos Programas de Regularização Ambiental (PRA) dos Estados e do Distrito Federal, de que trata o Decreto no. 7.830/2012*. Available at: http://www.planalto.gov.br/ccivil_03/ato2011-2014/2014/decreto/d8235.htm
- Decree No. 7,830/2012- Classifies the Rural Environmental Registration System (CAR, the acronym in Portuguese), establishes general rules for Environmental Regularization Programs (PRA, the acronym in Portuguese). *Decreto no. 7.830/2012- Dispõe sobre o Sistema de Cadastro Ambiental Rural (CAR), estabelece normas de caráter geral aos Programas de Regularização o Ambienta (PRA)*. Available at: http://www.planalto.gov.br/ccivil_03/ato2011-2014/2012/Decreto/D7830.htm
- Law 11.952/2009- Provides for the land tenure regularization of incidental occupations in land located in areas of the Union, within the scope of the Legal Amazon. *Lei 11.952/2009- Dispõe sobre a regularização fundiária das ocupações incidentes em terras situadas em áreas da União, no âmbito da Amazônia Legal*. Available at: http://www.planalto.gov.br/ccivil_03/ato2007-2010/2009/lei/l11952.htm

1.1.2. Legal authority

- SISNAMA (IBAMA and ICMBio; Oemas and municipal agencies - *IBAMA e ICMBio; Oemas e agências municipais*)
- SFB (Brazilian Forest Service - *Serviço Florestal Brasileiro*)
- Brazilian Federal Revenue Secretariat - *Secretaria da Receita Federal do Brasil*
- Real Estate Registry Offices - *Cartórios de Registros de Imóveis*
- SNCR (National Rural Registry System of the National Institute of Colonization and Agrarian Reform (INCRA) - *Sistema Nacional de Cadastro Rural do Instituto nacional de Colonização e Reforma Agrária (INCRA)*)
- MMA (Ministry of the Environment - *Ministério do Meio Ambiente*)
- MAPA (Ministry of Agriculture and Supply - *Ministério da Agricultura e Abastecimento*)
- Federal Police - *Polícia Federal*
- Public Prosecutor's Offices - *Ministérios públicos*

1.1.3. Legally required documents or records

- CCIR (Certificate of Rural Property Registration - Rural Property Registration Certificate), proving that the rural property is registered in INCRA's National System of Rural Registration (SNRA). - (*Certificado de Registro de Imóvel Rural - Certificado de Cadastro do Imóvel Rural*), comprovando que o imóvel rural está cadastrado no Sistema Nacional da Cadastro Rural (SNRA) do INCRA. Available at: <https://www.gov.br/pt-br/servicos/emitir-o-certificado-de-cadastro-de-imovel-rural-ccir>
- Deed Certificate of Integration of the Content of the Rural Property (Registration Certificate of Entire Content of the Rural Property). - *Certidão de Escritura de Integração do Conteúdo do Imóvel Rural (Certidão de Matrícula de Inteiro Teor do Imóvel Rural)*. Available at: <http://www.registradores.org.br/>
- Rural Property Registration Receipt in the CAR / Registration in the CAR (Rural Environmental Registry). - *Recibo de Inscrição do Imóvel Rural no CAR / Registro no CAR (Cadastro Ambiental Rural)*. Available at: <https://www.car.gov.br/#/consultar> (SICAR- El Sistema Nacional de Registro Ambiental Rural)
- Temporary Occupancy Authorization provided by INCRA - *Autorização de Ocupação Temporária fornecida pelo INCRA*
- Proof of Registration from the Territorial Institute-Land Institute - related to the Rural Territorial Property Tax (ITR) - Comprovante de Registro do Instituto territorial-Instituto da Terra - Imposto sobre a Propriedade Territorial Rural (ITR)
- CNDIR (Debt Clearance Certificate for Rural Property - *Certidão Negativa de Débitos do Imóvel Rural*). Available at: <http://servicos.receita.fazenda.gov.br/Servicos/certidaoitr/Certidao/Emissao>
- Company CNPJ (Legal Entity Taxpayer ID) Card - *Cartão CNPJ da empresa*. Available at: https://servicos.receita.fazenda.gov.br/servicos/cnpjreva/cnpjreva_solicitacao.asp
- Operating license/Operation Permit - *Licença de Operação/Permissão de Operação*

1.1.4. Sources of information

Government Sources

- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Secretaria da Receita Federal do Brasil. Available at: <https://www.gov.br/receitafederal/pt-br>
- Serviço Florestal Brasileiro (SFB). Available at: <https://www.florestal.gov.br/florestas-sob-concessao>
- Programas de Parceria e Investimentos (PPI). Available at: <https://www.ppi.gov.br/>
- Instituto Nacional de Colonização e Reforma Agrária -INCRA. Available at: <https://www.gov.br/incra/pt-br>

Non-government Sources

- FGV (2015) - Índice de Percepção de Conformidade Legal - IPCL Brasil Fundação Getúlio Vargas, pp. 1-37. Available at: <http://bibliotecadigital.fgv.br/dspace/handle/10438/14133>
- Contrato de Concessão de Direito Real de Uso - CCDRU (Reserva Extrativista e Reserva de Desenvolvimento Sustentável)
- Contrato de Concessão de Uso (Floresta Nacional)
- Inscrição no CTF (Cadastro técnico federal). Available at: <http://www.ibama.gov.br/cadastro-tecnico-federal-ctf>
- White Paper on Illegal Land Grab (2014)- Available at: <https://www.gov.br/incra/pt-br>
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>
- Greenpeace – Blood-Stained Timber (2017). Available at: https://www.greenpeace.org.br/hubfs/Greenpeace_BloodStainedTimber_2017.pdf
- SCHMITT, Jair. Crime sem castigo: a efetividade da fiscalização ambiental para o controle do desmatamento ilegal na Amazônia. 2015. 188 f., il. Tese (Doutorado em Desenvolvimento Sustentável)—Universidade de Brasília, Brasília, 2015. Available at: <https://repositorio.unb.br/handle/10482/19914>

1.1.5. Risk determination

Overview of legal requirements

In Brazil, land ownership can be considered legal if it is validated and notarized in the name of the owners. Forest activity can occur in a few different situations: in public areas through forest concessions, areas in which a right of use concession was issued by the government to the resident populations, the management of natural forests on private lands, and the management of plantations in private areas.

Although longstanding, one of the main laws that regulate the regularity and use of land in Brazil is the Land Statute (Law No. 4,504/1964). The Law establishes the rights and obligations related to land and rural properties, as well as the definitions of Agrarian Reform

and Agrarian Policies. Considerations related to the ownership of real estate are also dealt with in the Civil Code, Law no. 10,406/2002.

Law No. 11,952/2009 provides for the land tenure regularization of land occupations located in federal government areas, within the scope of the Legal Amazon¹. For the purposes of this Law, forestry is included as one of the activities permitted by law. Law no. 11,284/2006 regulates the management of public forests for sustainable production, provides for the National Registry of Public Forests and regulates, at the federal level, the allocation of public forests to local communities or for the logging of forest products and services through concessions.

The Forest Code (Law No. 12,651/2012) is the main guideline for environmental regularization and sustainable forest management.

Rural property is subject to some mandatory registrations, which give rise to documents that are essential. In this sense, the first step is to regularize and register the property within the National Rural Registration System (SNCR, the acronym in Portuguese), of the National Institute of Colonization and Agrarian Reform (INCRA), to issue the Rural Property Registration Certificate (CCIR, the acronym in Portuguese). Every rural property must be registered with INCRA, as without registration it is not possible to issue the CCIR. It is in the CCIR and in the registration description provided by the Real Estate Registry Office that the rural property code, composed of 13 numbers, will appear, and which will identify the property registration under INCRA.

The Rural Environmental Registry, a nationwide electronic public registry, has also become mandatory for all rural properties since January 2019. The Rural Environmental Registry (CAR, the acronym in Portuguese) and the Environmental Regularization Program (PRA, the acronym in Portuguese) are environmental regularization instruments for properties. Federal Decrees No. 8,235/2014 and No. 7,830/2012 complement the provisions on CAR and PRAs. The Environmental Regularization Program is being conducted by the states, which have complementary regulations, and seeks to regularize the situation of rural properties that have environmental liabilities, mainly in permanent preservation areas (APPs, the acronym in Portuguese) and Legal Reserves (RL, the acronym in Portuguese). After registration within the CAR, the owners and/or holders of rural properties with environmental liabilities related to the reduction of remnants (remaining) native vegetation, which occurred until July 22, 2008 (Cut-off date according to the 2012 Forest Code), in Permanent Preservation Areas (APP), Legal Reserve (RL) and restricted use (AUR, the acronym in Portuguese), may request to join the PRA of the States and the Federal District, in order to carry out the environmental regularization of their rural properties.

The Rural Environmental Registry Created by Law No. 12,651/2012, within the scope of the National Environmental Information System - SINIMA, and regulated by MMA Normative Ruling No. 2, of May 5, 2014, is a nationwide electronic public registry, mandatory for all rural properties in the country, including areas and territories for collective use, titled or granted to traditional peoples or communities (and rural properties in the Agrarian Reform Program, known as settlements), regardless of the form of titling and exploration of the rural property. Proof of land ownership is presumed to be validated by the competent

¹ The Legal Amazon, known as "Amazônia Legal" in Portuguese, is an area of more than 5M km² comprising the Brazilian states of Acre, Amapá, Amazonas, Maranhão, Mato Grosso, Pará, Rondônia, Roraima, and Tocantins. It is a political-administrative division, different from the Amazon Biome.

environmental agency. CAR is an essential registration system in Brazil linked to the competent environmental agency with the purpose of integrating the environmental information of rural properties referring to Permanent Preservation Areas - APP, areas of restricted use, Legal Reserves, remnants of forests and other forms of native vegetation, and of consolidated areas. It comprises a strategic database for the control, monitoring, environmental and economic planning of rural properties, in addition to combating deforestation. Enrolling in the CAR is the first step towards obtaining the environmental compliance of the property, and includes: data on the owner, rural possessor or person directly responsible for the rural property; data on documents proving ownership and/or possession; and georeferenced information on the perimeter of the property, areas of social interest and areas of public utility, with information on the location of remnants of native vegetation, Permanent Preservation Areas, Restricted Use areas, consolidated areas and Legal Reserves.

The National Rural Environmental Registry System – SICAR (the acronym in Portuguese) was created by Decree No. 7,830/2012 and defined as a nationwide electronic system for the integration and management of environmental information on rural properties across the country. This information is intended to support policies, programs, projects and control, monitoring, environmental and economic planning activities and combat illegal deforestation activities. SICAR is responsible for issuing the Registration Receipt of the Rural Property within the CAR, which confirms the completion of the registration and the submission of the required documentation for the analysis of the location of the Legal Reserve area.

Rural Territorial Property Tax (ITR, the acronym in Portuguese) was instituted by Law no. 9,393 of 1996 and is regulated by Decree no. 4,382 of 2002.

The economic exploitation of land is the right of its owner. If there is interest in other options, the right may be transferred to a third party. However, there are legal methods governing the issue of forest management rights. In public forests, the logging right is transferred through forest concessions (see criterion 1.2). On private land, the owner can also assign the right to forest management and logging to a third party through formal contracts registered with a notary office (Article 92 of Law 4504/1964), a very common practice in forest plantations.

Description of risk

Historically, land rights have been inconsistently managed, resulting in many properties being held illegally, particularly in the north of the country. As there are forest plantations throughout the country, this risk of illegal ownership is not limited to natural forests, but also applies to forest plantations.

Even in the southern and south-eastern states of the country, theoretically in regions where a significant portion of land use problems have been settled, this problem may still be present in small-scale properties. There may also be forest management units in areas inhabited by traditional communities, with the risk of disputes over use, ownership, and access to land.

Existing legislation is dysfunctional and has led to confusing and bureaucratic procedures, which in turn often lead to regulation of land ownership by judicial and extrajudicial means. Judicial or extrajudicial disputes over land tenure are frequent, as can be seen in the INCRA White Paper on Illegal Land Grabbing.

It is common for land not to be duly registered in the property registry, or for false documents to be acquired in land grabbing ('grilagem', in Portuguese) processes that may result in more than one property document relating to the same area. Normally, this overlap only becomes noticeable when there is a conflict related to land ownership, in which more than one owner claims legitimate ownership, or when the entire domain is analysed (which is a requirement of state environmental agencies). Therefore, there is a risk of forest management taking place without a license or with a license issued through illegal means such as corruption. In private areas, the possibility of acquiring licenses through corrupt government agents is known and well documented (e.g., Greenpeace, 2018). Government oversight and enforcement are limited and passive, occurring only when required for licensing or dispute resolution purposes. (NOTE: Brazil can be considered a country with a high perception of corruption: The PLCI (Perception of Legal Conformity Index) was 7 in the first quarter of 2015 (on a scale of 0 to 10 where 10 represents the perception that laws are enforced in the country). This perception of law enforcement fell compared to the index for the first half of 2013 (7.2). Furthermore, the CPI (Corruption Perception Index) in Brazil in 2020 was 38 (on a scale of 0 to 100 where 100 is the lowest level of corruption), ranking 94th in a ranking with 180 countries. This means that there is a strong perception that Brazil is a corrupt country).

This issue also impacts when usage rights are assigned through concession agreements to third parties. Contracts for the concession of rights of use and logging to third parties in private areas can be made in a relatively simple way, however, due to the fact that the rights of use and ownership of the land are often poorly resolved, there is the possibility of licenses being granted to actors who are not forest rights holders. One of the specialists interviewed commented that another of the problems with these concessions of exploration rights in private areas arises after the exploration period. The contracts for this type of agreement do not have legal certainty, since there is no specific legal instrument for this type of activity in Brazil and, therefore, they apply models of concession agreements of other scopes, such as agriculture in Brazil. However, the risks of illegality between the forestry and agriculture sectors are intrinsically different and exporting this model does not predict these differences. The expert comments that if forest management takes place illegally in the granted area, the landowner is held accountable for the environmental liability and not the person in charge of exploration and, therefore, it is an important legal issue to be assessed specifically for the timber sector in private concession areas.

The Pastoral Land Commission (CPT, the acronym in Portuguese) annually publishes its report on Rural Conflicts, listing data on land conflict areas in Brazil. Through these reports, we are able to identify all the properties in dispute at INCRA.

Greenpeace's 'Blood-Stained Timber' report points out that conflicts over land tenure are common in the Legal Amazon region. These conflicts are often related to land grabbers and illegal loggers who use violence to drive local and traditional populations away from their lands and make illegal use of their resources. In some cases, the timber extracted from these areas reaches the international market.

The Logging Monitoring System (SIMEX, the acronym in Portuguese) indicates that, in 2020, 55% of the logging in Pará and 38% in Mato Grosso (states responsible for 61.6% of the exploited area in the Brazilian Amazon) was carried out without authorization from the competent bodies. According to a study carried out at the University of Brasilia, only 0.2% of

the amount imposed by fines associated with land clearing is effectively collected (Schmitt, 2015).

These sources show that violations related to land regularity are a systemic problem in Brazil, as a large number of new occurrences are registered each year throughout the country.

An important exception to note, at least in the current context evaluated, is represented by concessions in public forests. In the case of forest concessions in Brazil, the law prohibits the right of ownership. The only right is management over a certain time for the logging of forest resources. The designation of public forests for concessions in Brazil follows a long rite of technical and legal studies that allows forest management units to be allocated in areas in which management and land tenure conflicts have been resolved before bidding. Although there have been recent cases of interruptions in concession processes motivated by claims of tenure rights belonging to traditional populations, we consider that the transparency and governance environment in which concessions have been developed represents an exception to the context described above. On the other hand, the government intends to increase concession areas in undesignated public forests, which are more susceptible to third-party occupations, with or without legal grounds, which may lead to conflicts over third-party land tenure in the future.

Risk Conclusion

Since there are common cases of irregular allocation of property and numerous cases of unlicensed forestry activity or illegally obtained licenses for forestry activity, we conclude that there is a specific risk of illegality related to land tenure and ownership.

In concessions, we consider that the current context represents an exception to this assessment.

1.1.6. Risk designation and specification

Specified risk for Private Natural Forests and Plantations. The risks are as follows:

- Risk of irregular allocation of property because of dysfunctional and confusing legislation and bureaucratic procedures (e.g., land is not properly registered in property records).
- Risk of disputes over the use, ownership, and access to land in forest management units.
- Risk of forest management activity taking place without a license or with a license issued by illegal means, such as corruption.

Low risk for Public Natural Forests (Concessions).

1.1.7. Control measures and verifiers

To mitigate:

- Risk of irregular allocation of property because of dysfunctional and confusing legislation and bureaucratic procedures (e.g., land is not properly registered in property records) in Private Natural Forests and Plantations, AND

- Risk of disputes over the use, ownership, and access to land of forest management units in Private Natural Forests and Plantations:

Review and verify documents:

There must be documents that ensure the ownership/possession and use of the land, such as the following:

- CCIR (Certificate of Rural Property Registration - Rural Property Registration Certificate), proving that the rural property is registered in INCRA's National System of Rural Registration (SNRA). Available at:
- <https://www.gov.br/pt-br/servicos/emitir-o-certificado-de-cadastro-de-imovel-rural-ccir>
- Proof of Registration of the Rural Property in the CAR system / Registration in the CAR (Rural Environmental Registry). Available at: <https://www.car.gov.br/#/consultar>
- Property deed
- Proof of land records and real estate registries
- In case of right of use assigned to third parties, the management contract or other agreements with the owner must clearly indicate the management rights (Temporary Occupancy Authorization provided by INCRA)

Consult:

- The land registry (in the property registries) must confirm ownership and the validity of the property deed.
- Consult reports relevant to the matter, such as the Pastoral Land Commission (CPT, the acronym in Portuguese) and others (reports, newspaper record, complaints, noise documented on the website to support, above all, agrarian conflict processes. - <https://www.cptnacional.org.br/downloads/category/76-publicacoes-amazonia>), to verify that suppliers are not involved in land disputes;
- In areas with land tenure conflicts, consultation with neighbours, local communities, and others should confirm that land tenure rights are clear
- Consult specialized maps/documents to define possible sources of conflict. For example, a map with traditional, local, or indigenous communities near forested areas can be used to help identify potential land use conflicts.

Verify onsite:

- Logging site inspections must confirm that harvesting (including cutting, hauling and unloading logs) takes place within property boundaries.

To mitigate the risk of a forest management activity taking place without a license or with a license issued by illegal means, such as corruption in Private Natural Forests and Plantations:

Review and verify documents:

- There must be valid and registered land registration documents. For the legal exercise of forestry activities, minimum environmental issues such as registration under the Rural Environmental Registry (CAR) and, when applicable, the Environmental Declaratory Act (ADA) must also be required.

- The commercial registry (Operation License/Operation Permission/company CNPJ (taxpayer ID) Card) must confirm commercial licenses valid to operate within the jurisdiction

Consult:

- Stakeholder consultations can be used to confirm the legal status of the operation or to check whether the established rights for the development of activities are not frauded. The relevant stakeholders to consult will depend on each individual supply chain.

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

- Law 4,947/1966 - Agrarian Law. Chapters III and IV (agrarian contracts and general provisions). *Lei 4.947/1966. Lei Agrária. Capítulos III e IV (contratos agrários e disposições gerais)*. Available at: http://www.planalto.gov.br/ccivil_03/leis/L4947.htm
- Law 4,504/1964 - Land Statute, Chapter I (Access to Land); Chapter IV (Use or temporary ownership of land). *Lei 4504/1964 - Estatuto da Terra - Capítulo I (Acesso à terra); Capítulo IV (Uso ou posse temporária da terra)*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4504.htm
- Law 6938/1981- National Environmental Policy. Purposes and mechanisms of formulation and application, and makes other provisions. *Clause 10 Lei 6.938/1981 - Dispõe sobre a Lei da Política Nacional do Meio Ambiente, seus fins e mecanismos de formulação e aplicação, e dá outras providências. Cláusula 10*. Available at: http://www.planalto.gov.br/ccivil_03/leis/L6938compilada.htm
- Law 11,284/2006 - Public Forest Management Law. Titles I and II - Management of Public Forests for Sustainable Production. *Lei 11.284/2006 - Lei de Gestão de Florestas Públicas. Títulos I e II - Gestão de Florestas Públicas para Produção Sustentável*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Decree 6,063/2007 - Regulates the Public Forest Management Law. *Decreto 6.063/2007 - Regulamenta a Lei de Gestão de Florestas Públicas*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/Decreto/d6063.htm
- Law 11,516/2007 - Defines the creation of the Chico Mendes Institute for Biodiversity Conservation (ICMBio). Clause 1. *Lei 11.516/2007 - Dispõe sobre a criação do Instituto Chico Mendes de Conservação da Biodiversidade (ICMBio). Cláusula 1*. Available at: www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/lei/l11516.htm

- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012 – Institui o Código Florestal. Capítulo VII (Exploração Florestal)*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- Decree 59,566/1966 - Regulates Sections I, II and III of Chapter IV of Title III of Law no. 4,504, of November 30, 1964, the Land Statute, Chapter III of Law no 4,947, of April 6, 1966, and takes other measures. Chapters, I, II and III. *Decreto 59.566/1966 - Regulamenta as Seções I, II e III do Capítulo IV do Título III da Lei no. 4.504, de 30 de novembro de 1964, o Estatuto da Terra, o Capítulo III da Lei no. 4.947, de 6 de abril de 1966, e dá outras providências. Capítulos, I, II e III*. Available at: http://www.planalto.gov.br/ccivil_03/Decreto/antigos/d59566.htm

1.2.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais e Municipais de Meio Ambiente*
- Brazilian Forest Service - *SFB Serviço Florestal Brasileiro*
- INCRA - National Institute of Colonization and Agrarian Reform - *Instituto Nacional de Colonização e Reforma Agrária*
- Registry of Deeds and Documents - *Cartórios de Registro de Títulos e Documentos*

1.2.3. Legally required documents or records

- Lease, partnership, or rural lending agreement, registered or notarized - *Contrato de arrendamento, parceria ou comodato rural, registrado ou com reconhecimento de cartório*
- Right of Use Concession Agreement - CCDRU (Extractive Reserve and Sustainable Development Reserve) - *Contrato de Concessão de Direito Real de Uso - CCDRU (Reserva Extrativista e Reserva de Desenvolvimento Sustentável)*
- Use Concession Agreement (National Forest) - *Contrato de Concessão de Uso (Floresta Nacional)*
- Registration in the Federal Technical Register (CTF). - *Inscrição no CTF (Cadastro técnico federal)*. Available at: <http://www.ibama.gov.br/cadastro-tecnico-federal-ctf>

1.2.4. Sources of information

Government sources

- IBAMA - Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis. Available at: <http://www.ibama.gov.br/>
- Ministério da agricultura. Available at: <http://www.agricultura.gov.br/> [7 de dezembro
- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Florestal.gov.br. (WL). Serviço Florestal Brasileiro (SFB). Available at: <https://www.florestal.gov.br/florestas-sob-concessao>

1.2.5. Risk determination

Overview of Legal Requirements

The economic exploitation of land is the right of its owner. If there is interest in other options, the right may be transferred to a third party. However, there are legal methods governing the issue of forest management rights.

Forest management concession rights occur in two ways in Brazil:

If the forest is public, the rights are managed through public forest concession contracts, when the government assigns the right to sustainable forest management to the company that presents the best financial and technical proposal, according to clause 35 of decree 6063/2007. Such rights can also be derived, in community forest management, from the granting of the Right of Use in Protected Areas of the RESEX (Extractivist Reserves) and RDS (Sustainable Development Reserves) categories and rural settlements of the agrarian reform.

If the land is private, the owner can assign the right to use it to a third party through formal contracts registered with a notary office (article 92 of Law 4504/1964), a very common practice in forest plantations (see criteria 1.1).

There are no legal requirements regarding the granting of licenses for the activity of forest plantations in public forests.

Description of risk

The public concession process is very transparent and reviewed, reducing the possibility of unethical conduct at all stages of the process, from the publication of bids to the auditing for contract completion. Due to the enhanced environment of transparency and governance created around public forest concessions in the Amazon, as well as clarity about land use rights and land ownership (public lands), the possibility of concessions being granted to actors who are not titleholders right is reduced.

Risk conclusion

In forest concessions in public forests, the arrangement process of public forests tendered to the private sector brings a greater set of guarantees that the rights of ownership and use of land and resources are assured.

Indicator 1.2 does not apply to forest plantations and Private Natural Forests. The risk associated with contracts for the assignment of rights to use, manage and exploit private land (natural forest and plantations) and the granting of licenses to third parties are covered in criterion 1.1.

1.2.6. Risk designation and specification

Risk is considered low for Public Natural Forests (Concessions).

Indicator 1.2 does not apply to forest plantations and Private Natural Forests.

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

- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012. Código Florestal. Capítulo VII (Exploração Florestal)*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- CONAMA Resolution 495/2019 - SFMP in the Amazon. *Resolução CONAMA 495/2020 - PMFS na Amazônia*. Available at: <https://www.in.gov.br/en/web/dou/-/resolucao-n-495-de-19-de-agosto-de-2020-273215187>
- Decree 5,975/2006 - Regulates several laws and decrees on management and transport. *Decreto 5.975/2006 - Regulamenta diversas leis e Decretos sobre gestão e transporte*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/Decreto/d5975.htm
- Normative Ruling MMA 05/2006 - Technical procedures for the elaboration, presentation, execution, and technical evaluation of Sustainable Forest Management Plan - SFMP. *Instrução Normativa MMA 05/2006 - Procedimentos técnicos para elaboração, apresentação, execução e avaliação técnica do Manejo Florestal Sustentável - PMFS*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0002-270607.PDF>
- CONAMA Resolution 1/1986 - Environmental Impact Report - RIMA. *Resolução CONAMA 01/1986 - Relatório de Impacto Ambiental - RIMA*. Available at: <http://www.mma.gov.br/port/conama/res/res86/res0186.html>
<http://www2.mma.gov.br/port/conama/res/res86/res0186.html>
- Normative Ruling MMA 05/2009 - APP (Permanent Preservation Areas) Restoration/Recovery. *Instrução Normativa MMA 05/2009 - Restauração/Recuperação de APP*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0005-090909.PDF>
- CONAMA Resolution 378/2006 - Defines the undertakings that would potentially cause national or regional environmental impacts. *Resolução CONAMA 378/2006 - Define os empreendimentos que potencialmente causariam impactos ambientais nacionais ou regionais*. Available at: <http://www2.mma.gov.br/port/conama/legiabre.cfm?codlegi=641>
- CONAMA Resolution 237/1997 - Requires environmental licensing for forestry, agricultural, industrial, road and gravel exploration activities. *Resolução CONAMA 237/1997 - Requer licenciamento ambiental para atividades florestais, agrícolas e industriais, estradas e exploração de cascalho*. Available at: <http://www2.mma.gov.br/port/conama/res/res97/res23797.html>
- Administrative Resolution IBAMA 19/2003 - Monitoring and evaluation of the SFMP. *Resolução Administrativa IBAMA 19/2003 - Acompanhamento e avaliação do PMFS*.

Available at:

<http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0019-110403.PDF>

- Decree 4733/2003 - Criteria for exploration of mahogany in the Amazon. First clause. *Decreto 4733/2003 - Critérios para exploração do mogno na Amazônia*. Available at: https://www.planalto.gov.br/ccivil_03/Decreto/2003/d4722.htm
- Administrative Dispatch IBAMA 083/1991 - Criteria for logging of the mastic tree (Anacardiaceae family). *Despacho Administrativo IBAMA 083/1991 - Critérios para exploração da aroeira (família Anacardiaceae)*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0083-260991.PDF>
- CONAMA Resolution 13/1990 - Surroundings of protected areas. Complete (within a 10km radius of the PAs, any activity that may affect the biota must be licensed). *Resolução CONAMA 13/1990 - Entorno às unidades de conservação. Pleno (em um raio de 10km das UCs, qualquer atividade que possa afetar a biota deve ser licenciada)*. Available at: https://cetesb.sp.gov.br/licenciamento/documentos/1990_Res_CONAMA_13.pdf
- Decree No. 7,830/2012- Classifies the Rural Environmental Registration System (CAR, the acronym in Portuguese). *Decreto 7.830/2012 - Dispõe sobre o Sistema de Cadastro Ambiental Rural, o Cadastro Ambiental Rural (CAR)*. Available at: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/Decreto/d7830.htm
- Normative Ruling ICMBIO 16/2011 - Regulates, within the scope of the Chico Mendes Institute, the guidelines and administrative procedures for the approval of the Communal Sustainable Forest Management Plan (SFMP) for the logging of timber resources within Extractive Reserves, Sustainable Development Reserves, and National Forests. *Instrução Normativa ICMBIO 16/2011 - Regulamenta, no âmbito do Instituto Chico Mendes, as diretrizes e os procedimentos administrativos para a aprovação do Plano Comunal de Manejo Florestal Sustentável (PMFS) para exploração de recursos madeireiros no interior de Reservas Extrativistas, Desenvolvimento Sustentável Reservas e Florestas Nacionais*. Available at: <https://www.icmbio.gov.br/portal/images/stories/o-que-somos/in162011.pdf>
- Normative Ruling IBAMA 15/2015 - New NORMATIVE RULING of the Federal Technical Register of Environmental Defence Activities and Instruments. *Instrução Normativa IBAMA 15/2015 - Nova INSTRUÇÃO NORMATIVA do Cadastro Técnico Federal de Atividades e Instrumentos de Defesa Ambiental*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/IN0015-21092015.pdf>
- Law 11,284/2006 - Public Forest Management Law. Titles I and II - Management of Public Forests for Sustainable Production. *Lei 11.284/2006 - Lei de Gestão de Florestas Públicas. Títulos I e II - Gestão de Florestas Públicas para Produção Sustentável*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Decree 6,063/2007 - Regulates the Public Forest Management Law. *Decreto 6.063/2007 - Regulamenta a Lei de Gestão de Florestas Públicas*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/Decreto/d6063.htm

1.3.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Estadual de Meio Ambiente e Órgãos Municipais*
- MMA (Ministry of the Environment - *Ministério do Meio Ambiente*).

1.3.3. Legally required documents or records

- Registration in the CAR (Rural Environmental Registry). - *Registro no CAR (Cadastro Ambiental Rural)*. Available at: <https://www.car.gov.br/#/consultar>
- APAT - Prior authorization for analysis of the Sustainable Forest Management Plan (SFMP) (only for natural forests; does not apply to forest plantations) - *APAT - Autorização prévia para análise do Plano de Manejo Florestal Sustentável (PMFS) (apenas para florestas naturais; não aplicável para plantações florestais)*
- SFMP - Sustainable Forest Management Plan (only for natural forests; does not apply to forest plantations) - *PMFS - Plano de Manejo Florestal Sustentável (apenas para florestas naturais; não aplicável para plantações florestais)*

1.3.4. Sources of information

Government sources

- IBAMA. Manejo florestal sustentável. Available at: <https://www.gov.br/ibama/pt-br>
- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Florestal Brasileiro (SFB). Available at: <https://www.florestal.gov.br/florestas-sob-concessao>
- Ministério do Meio Ambiente (MMA) Available at: <https://www.gov.br/mma/pt-br>
- Conselho Nacional do Meio Ambiente (CONAMA). Available at: <http://www2.mma.gov.br/port/conama/>
- Instituto Chico Mendes de Conservação da Biodiversidade (ICMBio). Available at: <https://www.icmbio.gov.br/portal/planosmanejo>
- Non-Government sources
- Imazon (2021) - Boletim Transparência Manejo Florestal. Available at: <http://www.imazon.org.br/publicacoes/transparencia-manejo-florestal>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>
- Greenpeace (2018) – Árvores imaginárias, destruição real: como a fraude no licenciamento e extração ilegal de ipê estão causando danos irreversíveis à Floresta Amazônica. Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImaginarasDestruicaoReal.pdf
- Simex. Sistema de monitoramento da exploração madeireira. Imazon, ICV, Idesam e Imaflora. Available at <https://imazon.org.br/publicacoes/sistema-de-monitoramento-da-exploracao-madeireira-simex-mapeamento-da-exploracao-madeireira-na-amazonia-agosto-2019-a-julho-2020/>

- Brancalion, P., et al. 2018. Fake legal logging in the Brazilian Amazon. Science Advances, 4: eaat1192 15 August 2018. Downloaded from <http://advances.sciencemag.org/>

1.3.5. Risk determination

Overview of Legal Requirements

In Brazil, forest plantations are not legally required to have a management plan. Larger companies operating in plantations end up creating a management plan as a forest management instrument rather than for complying with legal requirements. In general, for most states, the procedures to be notified to environmental agencies are for information purposes and are not subject to prior licensing.

The management of public and private natural forests must have a Sustainable Forest Management Plan (SFMP) approved by the competent environmental agency (Article 2 of Decree 5,975/2006). The content of the management plan varies according to the scale and intensity of the enterprise and must follow minimum guidelines established through resolutions, as well as normative rulings issued by federal environmental agencies (Conama 406/2009, MMA NR 05/2006, IBAMA Ordinance 19/2003). Each State has autonomy to establish its own procedures for approving management plans, which causes subtle differences in legal requirements in different districts. The regional regulatory framework, however, has a high frequency of changes and is considered by specialists and entrepreneurs to be quite unstable.

Description of Risk

In Brazil, forest plantations are not legally required to have a management plan. In this way, there is no risk of illegality related to the plantation management plan.

For natural forests, the risks inherent in the forest management plan are mainly:

- (i) approval of poor-quality management plans that do not meet minimum legal requirements or contain false or inaccurate information;
- (ii) forest management carried out in disagreement with the approved management plan, resulting in socioenvironmental impacts beyond those foreseen; and
- (iii) illegal logging, without an approved Sustainable Forest Management Plans (SFMP).

The latest result of the Logging Monitoring System (SIMEX, the acronym in Portuguese) (dated 2019-2020), indicates that at least half of forestry activities occur illegally in the state of Pará. According to a study by IMAZON, even among the few cases in which management occurs with the approval of the regulatory body, almost the entire area is managed under practices considered of intermediate or low quality, reaching 90% in Mato Grosso and 96% in Pará (i.e., the percentage of forests managed to an intermediate or low level of compliance with its Sustainable Forest Management Plans (SFMP)).

There are, therefore, a series of risks related to the licensing of logging of natural forests in the Amazon. First, as studies have shown (Greenpeace 2018, Brancalion et al. 2018) there is evidence that management plan inventories are purposely inflated to allow illegal logging of valuable species such as ipê (*Handroanthus ssp.*). These plans are then often approved with the collusion of public agents in the state agencies responsible (Oemas). In fact, the environment of corruption, low monitoring capacity, and often the very negligence of public

actors makes illegal logging frequently occur in the Amazon, legitimized by licensing processes and management plans that do not correspond to reality.

Concessions in public forests in the Amazon, which also have the legal requirement to have a management plan, were developed in an environment of control and governance by the government, including independent third-party audits of the management plans, which entail in a low risk of legality associated with this indicator. Over the last few years, these third-party audits, performed by certification agencies, have been dedicated to looking in detail at operational aspects of forest management such as the quality of the inventory being conducted. In addition, the implementation of a production control system and the chain of custody of the forest by the Brazilian Forest Service (SFB) has provided a lower level of risk to the information provided by concessionaires in their the Sustainable Forest Management Plans (SFMP),.

Risk Conclusion

The management of private natural forests is considered a specified risk due to the high probability of forest activity occurring without authorization or with inaccurate and inflated planning instruments. Production from forest concessions can be considered low risk in this regard. There is no risk for plantations, as there is no legal need to have a management plan for them.

1.3.6. Risk designation and specification

Specified risk for Private Natural Forests, the risks are as follows:

- Risk of illegal logging, without an approved management plan
- Risk of approving insufficient (low-quality) management plans that do not meet the minimum legal requirements or that contain false or inaccurate information;
- Risk of forest management carried out in disagreement with the approved management plan

Low risk for Public Natural Forests (Concessions).

Not applicable for Plantations

1.3.7. Control measures and verifiers

To mitigate the risk of illegal logging, there must be an approved management plan for private natural forests:

Review and verify documents:

- A sustainable forest management plan (SFMP) must be formally approved by the state environmental agencies (depending on the state where the enterprise is located), duly accompanied by the authorization for forest logging (AUTEX or AUTEF). In the states of Pará and Mato Grosso, forest management approvals are issued through the Sisflora systems. In other states, through the SisDOF system. There is an effort on the part of Ibama to unify the different state control systems through the Sinaflor platform, but this effort had not yet been completed during the drafting of this manuscript.

To mitigate the risk of approving insufficient (low-quality) management plans that do not meet minimum legal requirements or that contain false or inaccurate information on private natural forests:

Review and verify documents:

- Verification of the planning instruments by independent specialists: approved harvest plan and management plan, as well as the georeferenced forest inventory of measured and harvested trees.
- Sustainable Forest management plans (SFMP) must contain all legally required information and procedures.
- Annual operational or harvesting plans must contain information and procedures in compliance with all legal requirements.
- The content of operational and harvesting plans must be consistent with approved forest management plans.
- There are post-exploratory reports that describe the harvest carried out (species, products, volumes, infrastructure, etc.) consistent with what is observed in the field.
- Plans to carry out harvesting operations must be subject to public disclosure and objections prior to commencement, if legally required.
- Harvest restrictions must be identified in the management plan and maps, if legally required.

To mitigate the risk of the forest management carried out in disagreement with the management plan approved in Private Natural Forests:

Verify onsite:

- Harvest inventories must be conducted in compliance with legal requirements. Onsite verifications must indicate that harvesting plans are followed in the field.
- The onsite verification must indicate within the FMU that the permanent preservation areas are not exploited, and the management must not have affected their physical integrity, in compliance with the legislation.
- Use of remote sensing techniques (for example, SIMEX) that are able to indicate irregularities in the forest logging of the authorized management plans in the Amazon, such as portions of the management units that have been exploited improperly or without the possibility of logging (i.e., areas without forest potential, exploited permanent preservation areas, etc.)

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

- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012. Código Florestal. Capítulo VII (Exploração Florestal)*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- CONAMA Resolution 495/2019 - Creation of the SFMP in the Amazon. *Resolução CONAMA 495/2019 - Criação do PMFS na Amazônia*. Available at: <https://www.in.gov.br/web/dou/-/resolucao-n-495-de-19-de-agosto-de-2020-273215187>
- Decree 5,975/2006 - Regulates several laws and decrees on management and transport. *Decreto 5.975/2006 - Regulamenta diversas leis e decretos sobre gestão e transporte*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/Decreto/d5975.htm
- Normative Ruling MMA 02/2007 - Technical procedures for the elaboration, presentation, execution, and technical evaluation of Sustainable Forest Management Plan - SFMP. *Instrução Normativa MMA 02/2007 - Procedimentos técnicos para elaboração, apresentação, execução e avaliação técnica do Manejo Florestal Sustentável - PMFS*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0002-270607.PDF>
- Normative Ruling IBAMA 06/2014 - Regulates the Annual Report on Potentially Polluting Activities and Users of Environmental Resources – RAPP (the acronym in Portuguese), under the terms of this Normative Ruling. *Instrução Normativa IBAMA 06/2014 - Regular o Relatório Anual de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Ambientais - RAPP, nos termos desta Instrução Normativa*. Available at: <http://www.ibama.gov.br/component/legislacao/?view=legislacao&force=1&legislacao=138368>
- CONAMA Resolution 1/1986 - Environmental Impact Report - RIMA. *Resolução CONAMA 01/1986 - Relatório de Impacto Ambiental - RIMA*. Available at: <http://www2.mma.gov.br/port/conama/res/res86/res0186.html>
- Normative Ruling MMA 05/2009 – APP (Permanent Preservation Areas) Restoration/Recovery. *Instrução Normativa MMA 05/2009 - Restauração/Recuperação de APP*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0005-090909.PDF>
- CONAMA Resolution 237/1997 - Requires environmental licensing for forestry, agricultural, industrial, road and gravel exploration activities. *Resolução CONAMA*

237/1997 - *Requer licenciamento ambiental para atividades florestais, agrícolas, agrícolas, industriais, rodoviárias e exploração de cascalho*. Available at: <http://www2.mma.gov.br/port/conama/res/res97/res23797.html>

- Administrative Resolution IBAMA 19/2003 - Monitoring and evaluation of the SFMP. *Resolução Administrativa IBAMA 19/2003 - Acompanhamento e avaliação do PMFS*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0019-110403.PDF>
- Decree 4733/2003 - Criteria for exploration of mahogany in the Amazon. First clause. *Decreto 4733/2003 - Critérios para exploração do mogno na Amazônia. Primeira cláusula*. Available at: https://www.planalto.gov.br/ccivil_03/Decreto/2003/d4722.htm
- Administrative Dispatch IBAMA 083/1991 - Criteria for logging of the mastic tree (Anacardiaceae family). *Despacho Administrativo IBAMA 83/1991 - Critérios para exploração da aroeira (família Anacardiaceae)*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0083-260991.PDF>
- CONAMA Resolution 13/1990 - Surroundings of protected areas. Complete (within a 10km radius of the PAs, any activity that may affect the biota must be licensed). *Resolução CONAMA 13/1990 - Entorno às unidades de conservação. Pleno (em um raio de 10km das UCs, qualquer atividade que possa afetar a biota deve ser licenciada)*. Available at: https://cetesb.sp.gov.br/licenciamento/documentos/1990_Res_CONAMA_13.pdf
- Decree 7,830/2012 - Classifies the Rural Environmental Registry System, the Rural Environmental Registry (CAR, the acronym in Portuguese). *Decreto 7.830/2012 - Dispõe sobre o Sistema de Cadastro Ambiental Rural*. Available at: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/Decreto/d7830.htm
- Normative Ruling IBAMA 15/2015 - New NORMATIVE RULING of the Federal Technical Register of Environmental Defence Activities and Instruments. *Instrução Normativa IBAMA no. 15/2015 - Nova IN do Cadastro Técnico Federal de Atividades e Instrumentos de Defesa Ambiental*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/IN0015-21092015.pdf>

1.4.2. Legal authority

- *SISNAMA* (Federal Executive Bodies: IBAMA and ICMBio; State Environmental and Municipal Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais de Meio Ambiente e Municipais*

1.4.3. Legally required documents or records

- Logging authorization (AUTEX/AUTEF) for the management of natural forests (private or concessions) - *Autorização de exploração (AUTEX/AUTEF) para manejo de florestas naturais (privadas ou concessões)*
- A logging permit may be required in some states of the country for the specific case of wood from species native to Brazil in planted forests. - *A autorização de corte para o caso específico de madeira de espécies nativas do Brasil em cultivos florestais pode ser requerido em alguns estados do país.*

1.4.4. Sources of information

Government sources

- IBAMA - Descrição dos Procedimentos de Acompanhamento e Avaliação da Execução de PMFS na Amazônia Legal - Análise e Aprovação dos POAs. Available at: <http://www.ibama.gov.br/empreendimentos-e-projetos/delegacoes/167-licenciamento-ambiental/processo-de-licenciamento>

Non-Government sources

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. <https://timberlex.apps.fao.org/>
- Greenpeace (2018) – Árvores imaginárias, destruição real: como a fraude no licenciamento e extração ilegal de ipê estão causando danos irreversíveis à Floresta Amazônica. Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImagariasDestruicaoReal.pdf
- Brancalion, P., et al. 2018. Fake legal logging in the Brazilian Amazon. Science Advances, 4: eaat1192 15 August 2018. Downloaded from <http://advances.sciencemag.org/>

1.4.5. Risk determination

Overview of Legal Requirements

The Brazilian constitution establishes that states and municipalities can legislate more restrictively in relation to matters already regulated by federal law. Federal Law 12,651/2012 (Forest Code), in Clause 31, establishes that the logging of natural forests depends on a license issued by the competent body within SISNAMA (National Environmental System) upon approval of the sustainable forest management plan (SFMP), both in public and private forests.

Harvesting permission must be accounted for in the SFMP, established by a set of regulations, including the Brazilian Forest Code and Decree no. 5,975/2006. The document must contain, according to Article 3, data relating to the harvesting inventory, the intensity of logging compatible with the forestry cycle, the harvesting cycle compatible with the recovery time of the harvested volume, and the adoption of measures aimed at promoting the natural regeneration of the forest. Article 5 of the Decree requires the submission of the Annual Operational Plan (POA, the acronym in Portuguese) to the environmental agency, containing information on the proposed maximum volume to be harvested within a 12-month period. Article 6 of the same Decree establishes the need to present an annual report to the environmental agency with information on the volume harvested in the previous period.

According to MMA Normative Ruling no. 5/2006, the person responsible for exploration must also present the AUTEX, an annual document to be issued by the competent authority authorizing the start of the Annual Production Unit (UPA, the acronym in Portuguese) operation, specifying the maximum volume to be explored for each species.

MMA Normative Ruling 01/2015 establishes specific procedures for the logging of species listed on the Official National List of Flora Species Threatened with Extinction in the Amazon biome.

CONAMA Resolution 237/1997 provides that activities that may cause environmental impacts must be licensed according to their size and location, considering their potential environmental impact, and that they can be regulated by SISNAMA bodies at the federal, state, or municipal

level. This leads the different states to define mandatory environmental licensing criteria for silviculture and forest management of natural forest areas, or there may be definition of size or location limits that require licensing coverage or simplified forms of licensing (see indicator 1.10).

Federal Law No. 12,651/2012 stipulates in Art.35 that planting and reforestation with native or exotic forest species does not require prior authorization. Such undertakings, however, are subject to environmental licensing, which provides a legal foundation for some states to require the activity's environmental licensing, depending on the size (according to Complementary Law No. 140/2011). However, permission to harvest planted forests is not required by national legislation. Only a few states have specific regulations related to the harvesting of commercial planted forests. In general, Brazilian legislation views the logging of planted forests as subject to informative procedures, highlighting the ADA (Environmental Declaratory Act), often maintaining the need for some level of rural licensing, with some additional requirements present depending on state legislation (see indicator 1.10). A logging license, however, may be required in some Brazilian states in the case of logging of native species planted in forest plantations.

In short, the logging of natural forests, in private areas or in concessions, can only be carried out with the formal issuance of an Authorization for Forest Logging (Autex, in the states that use the DOF as a forest control system, or the AUTEF, in the case of states controlled by Sisflora systems), a requirement that is not present in plantations.

Description of Risk

There are a series of risks linked to licensing the exploration of natural forests in the Amazon. In addition to the risk of unlicensed exploration activities, there is the environment of corruption that approves inflated management plans (Brancalion et al., 2018), low monitoring capacity and often the very negligence of public actors makes the illegal logging of timber occur frequently in the Amazon. Natural forest harvesting licenses are linked to the existence of an updated SFMP approved by the responsible environmental agency. As highlighted by Greenpeace (2018), the SFMP and its related documents can be prepared based on false inventories, allowing to generate a surplus of credits that are used to commercialize illegally harvested timber. This context is strongly supported by the high level of Brazilian corruption. Brazil's Corruption Perception Index is still 38, it is common to see news of scandals involving corruption around the issuance of environmental licenses in the media. Still, according to the UN study, the probability of illegal logging activities resulting in penalties in Brazil is less than 0.08%.

Even in forest plantations, despite the lower regulatory need linked to the issuance of licenses, the monitoring of the logging being carried out is not effective, especially in the current political context of the country, in which the budget and the autonomy of the command-and-control agencies have fallen sharply. In this way, although the risks of illegal logging are theoretically lower, there is an environment in which producers who were logging wood from permanent preservation areas (riparian forests protected by the Forest Code) or even from operations involving theft of wood, could occur without major complications (see indicator 1.9). There is also the case of the logging of wood from native species in forest plantations, which requires a logging authorization in some states, being carried out without the issuance of this authorization.

Concessions in public forests in the Amazon, were developed in an environment of control and governance by the government, including independent third-party audits of the management plans, which entail in a low risk of legality associated with this indicator. Over the last few years, these third-party audits, performed by certification agencies, have been dedicated to looking in detail at operational aspects of forest management such as the quality of the inventory being conducted. In addition, the implementation of a production control system and the chain of custody of the forest by the Brazilian Forest Service (SFB) has provided a lower level of risk to the information provided by concessionaires in their forest management plans.

Risk Conclusion

A high risk related to the licensing of natural forest management was identified based on the high probability that management activities take place without licensing, or with the license obtained by illicit means, or in non-compliance with general environmental aspects related to logging.

Although, in Brazil, most of the procedures related to the logging of planted forests tend to follow informative rites, there may be exceptions at the national level of wood from native species cultivated in planted forests that do not contain the proper logging authorizations, due, in part, to the different ways in which state environmental agencies deal with these issues. In addition, the risks linked to illegal operations such as wood theft or logging of environmental protection areas cannot be ignored (see indicator 1.9).

The forest management carried out in concessions in the Amazon, on the other hand, can be considered as low risk, due to an improved environment of control, monitoring, reporting and independent verification of the forest management being carried out.

1.4.6. Risk designation and specification

Specified risk for Private Natural Forests and Plantations. The risks are as follows:

- Risk of management activities in private natural forests that occur without a license, or with a license obtained by illicit means, such as corruption, theft of wood and falsification of the credits obtained.
- Risk of logging of native species cultivated in planted forests being carried out without proper logging authorizations (only applicable to those states in which a logging authorization is required for native species)

Low risk for Public Natural Forests (Concessions)

1.4.7. Control measures and verifiers

To mitigate the risk associated with management activities in private areas without the proper licenses, or through licenses obtained through illicit means, such as corruption, wood theft and falsification of the credits obtained, it is necessary to:

Review and verify documents:

- Harvesting licenses (license or similar statutory document governing the harvesting of forest resources) must exist.

- Harvest must have clearly defined boundaries based on maps and quantities. The authorities must confirm the validity of the harvesting and/or logging license.

Verify onsite:

- Onsite verifications must confirm that the harvest has taken place within the limits required in the harvesting license.
- Onsite verifications must confirm that information regarding area, species, volumes and other information provided in the harvesting license is correct and within the limits prescribed by law.

In order to mitigate the risk that logging of native species grown in planted forests is being carried out without proper logging authorizations (only applicable to those states in which logging authorization is required for native species), or illegal methods such as wood theft, the following is required:

- Check for environmental licenses (applicable only for specific properties and size of operations: check applicability of state or municipal environmental licensing)

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

- Law 11,284/2006 - Public Forest Management Law. *Lei 11.284/2006 - Lei de Gestão de Florestas Públicas*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Law 8,137/1990 - Defines tax evasion and economic crimes and crimes against consumer relations and covers other provisions. *Lei 8.137/1990 - Define os crimes contra a ordem tributária, econômica e as relações de consumo e dá outras providências*. Available at: http://www.planalto.gov.br/ccivil_03/leis/l8137.htm

1.5.2. Legal authority

- SFB (Brazilian Forest Service - *Serviço Florestal Brasileiro*)
- National Treasury - *Tesouro Nacional*
- Brazilian Federal Revenue Secretariat - *Secretaria da Receita Federal do Brasil*
- Secretaria da Fazenda do Estado - *Secretaria da Fazenda do Estado*

1.5.3. Legally required documents or records

- Proof of payment of fees related to the analysis of the management plan by the environmental agency responsible - *Comprovante de pagamento das taxas referente à análise do plano de manejo pelo órgão ambiental responsável.*
- In the case of a public forest concession - Proof of collection of the GRU (Union Collection Voucher) referring to the costs defined in the concession contract. - Em caso de concessão florestal pública - *Comprovante de recolhimento do GRU (Vale Arrecadação Sindical) referente aos custos definidos no contrato de concessão.* Available at: http://consulta.tesouro.fazenda.gov.br/darf_gps/recibos_siafi_darf_gps.asp
- Joint certificate of debts related to federal taxes and outstanding debt with the union. - *Certidão Conjunta de Débitos Relativos a Tributos Federais e à Dívida Corrente perante a União.* Available at: <https://receita.economia.gov.br/interface/lista-de-servicos/certidoes-e-situacao-fiscal/autenticidade-e-2a-via-de-certidao/confirmar-autenticidade/servico>

1.5.4. Sources of information

Government sources

- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Serviço Florestal Brasileiro - Resultados Econômicos das Concessões Florestais. Available at: <https://www.florestal.gov.br/beneficios-economicos>
- Secretaria da Receita Federal do Brasil. Available at: <https://www.gov.br/receitafederal/pt-br>

Non-Government sources

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. <https://timberlex.apps.fao.org/>

1.5.5. Risk determination

Overview of Legal Requirements

In Brazil, there is no specific fee or royalties for forest management, except for public forest concessions, where the concessionaire pays the State proportionally to the volume of timber harvested, and not according to the explored/registered area. Law no. 11.284/2006 is the main regulation on forest concession fees, payments, and royalties.

Information on the volume of timber harvested is audited by institutions accredited by a recognized certification body. It is mandatory that the concessionaire pay a Minimum Annual Value (MAV), whether or not there is any activity, and this value can be reduced later as management is carried out. The amounts paid are publicly available on the Brazilian Forest Service website.

In private areas, the fees that the interested party must pay, in the exercise of any economic activity (including forestry), are related to licensing, analysis, monitoring and approval by administrative bodies. An example could be the analysis and approval of the management plan and fees related to the issuance of operating licenses. For the management of natural forests,

fees are also collected to issue documents related to the transport, trade and circulation of the timber produced.

Description of risks

In general, companies willing to legally carry out the activity are also usually willing to pay the fees. Such fees do not represent a significant financial burden for companies, compared to their magnitude, for example, with the taxes to be collected. Failure to pay fees results in license retention and may lead the company to become indebted to the Government. It may also lead to the confiscation of company assets for the settlement of outstanding fees.

A special case worth noting is the logging in natural private forests in the Amazon. One of the mechanisms used in illegal logging is the circulation of more than one load of timber using the same transport document. Although the use of the same waybill implies avoiding the tax payment report on the new waybill, this subterfuge is evidently not done with the aim of circumventing the issuance fee for a new waybill, but to be able to commercialize of a larger amount of timber than was originally allowed by the exploration permit. Risk related to this topic is considered in criteria 1.17.

Furthermore, one of the most common processes of fraud is timber laundering, in which certain companies self-declare a greater volume than explored in their licensing, generating an overestimated credit to generate a legal document for other timber with illegal origins, such as those coming from Indigenous Lands and Protected Areas. In this case, the payment of fees is not affected, since even illegally logged wood is taxed on top of the fraudulent document. In the areas of Forest Concessions, the practice of "heating wood" is not common. Wood stocks and associated prices are known and established between the grantor and the concessionaire in the concession contract, in addition to having a third-party audit to monitor and validate compliance with the agreements established in the concession process, reducing the risk of fraud.

Risk Conclusion

Considering that only legally constituted companies with licensed operations must pay fees related to harvested timber and transportation of logs and the low financial charges represented by such fees, the risk for this criterion is considered low.

1.5.6. Risk designation and specification

Low risk for Plantations, Public Natural Forests (Concessions), Private Natural Forests.

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

- Law 8,137/1990 - Defines tax evasion and economic crimes and crimes against consumer relations and covers other provisions. *Lei 8.137/1990 - Define os crimes contra a ordem tributária, econômica e contra as relações de consumo e dá outras providências.* Available at: http://www.planalto.gov.br/ccivil_03/leis/l8137.htm
- Decree 1,899/1981 - Classification, Enforcement, and Inspection fee for products of animal and vegetable origin or for consumption in agricultural activities. *Decreto 1.899/1981 - Classificação, Fiscalização e Taxa de fiscalização de produtos de origem animal e vegetal ou de consumo na atividade agrícola.* Available at: http://www.planalto.gov.br/ccivil_03/Decreto-lei/1965-1988/Del1899.htm
- Decree 7,212/2010 - Regulates the levying, inspection, collection, and administration of the Tax on Industrialized Products – IPI, the acronym in Portuguese. *Decreto 7.212/2010 - Regulamenta a cobrança, fiscalização, arrecadação e administração do Imposto sobre Produtos Industrializados - IPI.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/Decreto/d7212.htm
- Decree 10,923/2021- Approves the Table of Taxation on Industrialized Products - TIPI. - *Decreto 10,923/2021- Aprova a Tabela de Incidência do Imposto sobre Produtos Industrializados - TIPI.* Available at: https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2021/Decreto/D10923.htm#art5.0
- Complementary Law 87/1996 - Defines the State and Federal District tax on operations related to the Circulation of Goods and Services (ICMS, the acronym in Portuguese). (KANDIR LAW). *Lei complementar 87/1996 - Dispõe sobre o imposto dos Estados e do Distrito Federal sobre operações relativas à Circulação de Mercadorias e Serviços (ICMS). (LEI KANDIR).* Available at: http://www.planalto.gov.br/ccivil_03/leis/lcp/lcp87.htm#:~:text=1%C2%BA%20Compete%20aos%20Estados%20e,presta%C3%A7%C3%B5es%20se%20iniciem%20no%20exterior.
- Law 8,846/1994 - Deals with the issuance of tax documents and the arbitration of the minimum income for taxation and other measures. *Lei 8.846/1994 - Dispõe sobre a emissão de documentos fiscais e o arbitramento da receita mínima para a tributação e dá outras providências.* Available at: http://www.planalto.gov.br/ccivil_03/leis/L8846.htm

1.6.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais de Meio Ambiente e Municipais*
- Brazilian Federal Revenue Secretariat - *Secretaria da Receita Federal do Brasil*
- State Revenue Secretariat - *Secretaria da Receita do Estado*

1.6.3. Legally required documents or records

- Invoice and/or DANFE (Electronic Invoice auxiliary document) - *Nota Fiscal e/ou DANFE (Documento auxiliar da Nota Fiscal Eletrônica).* Available at: <https://www.nfe.fazenda.gov.br/portal/consultaRecaptcha.aspx?tipoConsulta=resumo&tipoConteudo=7PhJ+gAVw2g=&AspxAutoDetectCookieSupport=1>

- Debt clearance certificate IBAMA. - *Certificado de débito negativo do IBAMA*. Available at: <http://www.ibama.gov.br/certificados-e-certidoes/certidao-negativa-de-debitos>

1.6.4. Sources of information

Government sources

- IBAMA
- Secretaria da Receita Federal do Brasil
- Secretarias da Receita do Estado
- Secretaria da Receita Federal do Brasil - Impostos sobre Produtos Industrializados IPI. Available at: <https://receita.economia.gov.br/aceso-rapido/tributos/ipi-old>

Non-Government sources

- SINPROFA (2013) - Sonegação no Brasil: uma estimativa do desvio da arrecadação do exercício de 2013 - Sindicato Nacional dos Procuradores da Receita Federal. Available at: <http://www.quantocustaobrasil.com.br/>
- Greenpeace – The Amazon’s Silent Crisis (2014). <https://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/SilentCrisisTimberReport.pdf>
- Greenpeace – Imaginary Trees, Real Destruction: how the fraud in licensing and illegal logging of Ipê are causing irreparable damages to the Amazon Forest (2018). https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImagariasDestruicaoReal.pdf
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. <https://timberlex.apps.fao.org/>

1.6.5. Risk determination

Overview of Legal Requirements

Most of the taxes paid by the industry are calculated based on the company's revenue. The amount invoiced by the company is verified according to the volume and value of invoices issued for sales of logs and products. According to the Brazilian Forest Service (2013), in a review of the tax framework applicable to the logging activity, the following taxes are applicable in the production chain: (i) rural social security contribution; (ii) labour and social contributions levied on the payroll; (iii) Social Integration Program/ Civil Servant Asset Formation Program (PIS/Pasep) and Contribution to Financing Social Security (COFINS); (iv) Tax on industrialized products (IPI); (v) taxes levied on imports and exports; (vi) Tax on the circulation of goods and services (ICMS); (vii) Tax on services (ICMS); (ix) Corporate income tax; and (x) social contribution on the company's net income. The total tax burden varies considerably from region to region, as some of these taxes are levied at different federative levels (federal, state, and municipal). While items (i), (ii) and (iii) are of a labour and social security nature, and items (ix) and (x) will be dealt with in the next criterion (1.7), this indicator deals specifically with taxes related to the IPI (iv), ICMS (vi) and ISS (vii).

Decree No. 7,212, of 2010, regulates the Tax on Industrialized Products (IPI, the acronym in Portuguese). The IPI tax levels were established by Decree No. 8,850 of 2016.

Complementary Law No. 87/1996 (Kandir Law) defines the taxation of the States and the Federal District on operations related to the movement of goods and on the provision of interstate and intercity transport and communication services (ICMS, the acronym in Portuguese). As a tax regulated by state laws, there are a number of particularities established by each state in an attempt to protect its economy. For example, in most states there is no ICMS for trading logs within the state, but ICMS is applied when logs cross the state border. According to the study carried out by the Brazilian Forest Service, the total tax burden on sawn wood from its production to the final consumer can vary between 5% and 32%, depending on the state in which it is being sold. .

Description of Risk

As the tax burden in Brazil is relatively high (up to 32% of the final value of timber products), there are established practices for tax evasion. The techniques used include selling products without providing a sales invoice, issuing an invoice with a volume lower than that actually delivered, or issuing a sales invoice with the declared value of the product lower than the actual value. A study carried out by SINPROFAZ showed that tax evaded each year amount to an equivalent to 10% of the Brazilian GDP.

The great diversity of taxes and the large number of relevant legislations make the tax environment confusing and subject to errors, whether deliberate or not. Inspections are carried out by cross-referencing information by the Brazilian Federal Revenue Service, tax audits (internal) by companies, state and municipal tax offices, or even through tax-verification units on the roads to check transport documentation. However, the capacity of the supervisory bodies is insufficient to reduce the existing risk. Additionally, as we discussed in previous indicators, , the climate of high corruption in Brazil means that there is a high probability of corruption in order to avoid full payment of taxes on the sale of products.

The AUTEX or AUTEF (Exploration Authorization) is the document issued by the environmental agency that authorizes the start of management in a natural forest, specifying the maximum volume that can be removed. The DOF (Document of Forest Origin) and the GF (Transport Document) are the documents that accompany the timber during transport, keeping control of quantities and species. These documents allow checking the validity of the invoice, comparing the volume authorized for harvesting (AUTEX/AUTEF), the transported volume (DOF/GF) and the volume in the sales documents. In this way, it is possible to control whether the sales documents are being issued accordingly and whether the correct amount of taxes is being paid. However, these indirect modes of verification are not secure. According to Greenpeace (2014, 2018), there are many forms of illegality in the supply chain of native timber that can generate tax fraud, such as false forest inventories, alteration of timber credits in documents and logging without authorization. This includes activities that can lead to sales tax evasion. The reports also present information on how illegal timber reaches the market, highlighting the fragility of enforcement in the timber production chain. Despite the efforts of the bodies responsible for supervising the payment of taxes, the available structure has proved to be ineffective in preventing tax evasion. Fraud cases include the sale of goods without an invoice or an invoice with false information.

Risk Conclusion

Tax evasion is considered a specified risk due to the high probability of the sale of products in conflict with Brazilian tax legislation. There are products that are sold without the provision of a sales invoice or with a sales invoice that incorporates a volume smaller than the actual volume delivered, both for plantations and for natural forests (private areas and concessions).

1.6.6. Risk designation and specification

Specified risk for Private Natural Forests, Plantations and Public Natural Forests (Concessions). The risks are as follows:

- Risk of selling products without the provision of a sales invoice
- Risk of the sales invoice declaring a volume smaller than the actual volume delivered

1.6.7. Control measures and verifiers

To mitigate the risk of selling products without the provision of a sales invoice:

Review and verify documents:

- An invoice or DANFE (Electronic Invoice Auxiliary Document) must exist for each legal transaction (purchase-sale/export) and relevant fees must be included.

Consultation:

- Check DANFE authenticity on the national NF-e portal: www.nfe.fazenda.gov.br/portal or on the Sefaz (Brazilian Treasury Office) website. Check the nature of the transaction and whether the fees applied are correct.

To mitigate the risk that the sales invoice incorporates a smaller volume than the actual volume delivered:

Review and verify documents:

- Invoice or DANFE (Electronic Invoice Auxiliary Document) must exist for each legal transaction (purchase-sale/export):
- Sales invoices must include applicable sales taxes. There must be receipts for payment of sales tax.
- The volumes, species and qualities contained in the sales and transport documents must match the taxes paid.
- Sales prices must be in line with market prices.
- Harvested species, volume and qualities must match the sales documents.

Others:

Better production control systems for timber processing companies, as well as the adoption of production traceability systems, can increase security in relation to the amounts effectively sold and reduce the operating margin for tax evasion.

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

- Law 8,137/1990 - Defines tax evasion and economic crimes and crimes against consumer relations and covers other provisions. *Lei 8.137/1990 - Define os crimes contra a ordem tributária, econômica e contra as relações de consumo e dá outras providências.* Available at: https://www.planalto.gov.br/ccivil_03/leis/l8137.htm
- Law 8,846/1994 - Deals with the issuance of tax documents and the arbitration of the minimum income for taxation and other measures. *Lei 8.846/1994 - Dispõe sobre a emissão de documentos fiscais e o arbitramento da receita mínima para a tributação e dá outras providências.* Available at: http://www.planalto.gov.br/ccivil_03/leis/L8846.htm
- Decree 9,580/2018 - Regulates the taxation, inspection, collection, and administration of tax on income and earnings of any nature. *Decreto 9.580/2018 - Regulamenta a tributação, a fiscalização, a arrecadação e a administração do imposto sobre a renda e proventos de qualquer natureza.* Available at: https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2018/Decreto/D9580.htm#art4
- Law 1,578/1977 - Export Tax. *Lei 1.578/1977 - Imposto sobre a Exportação.* Available at: https://www.planalto.gov.br/ccivil_03/Decreto-lei/del1578.htm

1.7.2. Legal authority

- Brazilian Federal Revenue Secretariat - *Secretaria da Receita Federal do Brasil*

1.7.3. Legally required documents or records

- Joint certificate of debts related to federal taxes and outstanding debt with the union. - *Certidão conjunta de débitos relativos a tributos federais e dívida viva junto à união.* Available at: <http://solucoes.receita.fazenda.gov.br/Servicos/certidaointernet/PJ/Emitir>

1.7.4. Sources of information

Government sources

- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Secretaria da Receita Federal do Brasil. Available at: <https://www.gov.br/receitafederal/pt-br>

Non-Government sources

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. <https://timberlex.apps.fao.org/>

1.7.5. Risk determination

Overview of Legal Requirements

According to the Brazilian Forest Service (2013), in a review of the tax framework applicable to the timber activity, two taxes that relate to the profit and income from timber products can be applied to the production chain. First, the corporate income tax and then the social contribution on the company's net income.

In Brazil, the body responsible for the collection and inspection of income tax is the Brazilian Federal Revenue Service (RFB, the acronym in Portuguese). The RFB has a computerized system for collecting income tax from all private individuals and legal entities, crossing data between different payers and recipients of revenues. The government acts on those who try to evade the income tax. Anyone can check if a company has a dispute with the Brazilian Federal Revenue Service through the RFB website.

Description of Risk

Although Brazil's federal revenue service is in a continuous process of updating its systems and routines to prevent and punish companies that evade taxation on profit and revenue, evasion caused by fraud in sales documents (see criteria 1.6) makes the actual income obtained by the companies higher than that declared. There are also different subterfuges used by companies in terms of accounting and profit reporting that are carried out with the intention of reducing tax payment.

There are, however, few studies and specific cases in the forestry area to be reported that could confirm these allegations. Based on the precautionary principle, however, we consider this indicator as a specified risk.

Risk Conclusion

Based on the precautionary principle we consider this indicator as a specified risk.

1.7.6. Risk designation and specification

Specified risk for Private Natural Forests, Plantations and Public Natural Forests (Concessions). The risks are as follows:

- Risk of tax evasion related to income and profits. Evasion is caused by fraud, making the total revenue earned by a company greater than the revenue declared.

1.7.7. Control measures and verifiers

Mitigate the risk of tax evasion related to income and profits. Evasion is caused by fraud, making the total revenue earned by a company greater than the revenue declared.

Consult:

- Verification of companies along the supply chain to check pending issues with the Brazilian Federal Revenue Service through the RFB website (<https://www.gov.br/receitafederal/pt-br>), which can be evidence of tax evasion on income and profits.
- Check whether companies along the supply chain have more than one legal entity/CNPJ (company taxpayer ID) on invoices, which may be an indication that they use this device in order to evade taxes on revenue.

Others:

Better production control systems for timber processing companies, as well as the adoption of production traceability systems, can increase security in relation to the amounts effectively sold and reduce the operating margin for tax and income tax evasion.

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 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12.651/2012. Código Florestal. Capítulo VII (Exploração Florestal)*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- CONAMA Resolution No. 406/2009 - Establishes technical parameters to be adopted in the elaboration, presentation, technical evaluation, and execution of a sustainable forest management plans (SFMP) with logging purposes, for native forests and their forms of succession in the Amazon biome. Arts.4-5; 14-15. *Resolução CONAMA No. 406/2009 - Estabelece parâmetros técnicos a serem adotados na elaboração, apresentação, avaliação técnica e execução de plano de manejo florestal sustentável-pmfs com fins madeireiros, para florestas nativas e suas formas de sucessão no bioma amazônia. Arts.4-5; 14-15*. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&legislacao=114762>
- CONAMA Resolution 495/2019 - SFMP in the Amazon. *Resolução CONAMA 495/2020 - PMFS na Amazônia*. Available at: <https://www.in.gov.br/en/web/dou/-/resolucao-n-495-de-19-de-agosto-de-2020-273215187>
- Decree 5,975/2006 - Regulates several laws and decrees on management and transport. *Decreto 5.975/2006 - Regulamenta diversas leis e decretos sobre gestão e transporte. Integral*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/Decreto/d5975.htm
- Normative Ruling MMA 05/2006 - Technical procedures for the elaboration, presentation, execution, and technical evaluation of Sustainable Forest Management Plan - SFMP. *Instrução normativa MMA 05/2006 - Procedimentos técnicos para elaboração, apresentação, execução e avaliação técnica do Manejo Florestal Sustentável - PMFS*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0002-270607.PDF>
- CONAMA Resolution 1/1986 - Environmental Impact Report - RIMA. *Resolução CONAMA 01/1986 - Relatório de Impacto Ambiental - RIMA*. Available at: <http://www2.mma.gov.br/port/conama/res/res86/res0186.html>
- Normative Ruling MMA 05/2009 – APP (Permanent Preservation Areas) Restoration/Recovery. *Instrução Normativa MMA 05/2009 - Restauração/Recuperação de APP*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/IN0005-090909.PDF>

- CONAMA Resolution 237/1997 - Requires environmental licensing for forestry, agricultural and industrial activities, roads and gravel exploration. *Resolução CONAMA 237/1997 - Requer licenciamento ambiental para atividades florestais, agrícolas, agrícolas, industriais, rodoviárias e exploração de cascalho*. Available at: <http://www2.mma.gov.br/port/conama/res/res97/res23797.html>
- Administrative Resolution IBAMA 19/2003 - Monitoring and evaluation of the SFMP. *Resolução administrativa IBAMA no. 19/03 - Acompanhamento e avaliação do PMFS*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0019-110403.PDF>
- CONAMA Resolution 13/1990 - Surroundings of protected areas. Complete (within a 10km radius of the PAs, any activity that may affect the biota must be licensed). *Resolução CONAMA no. 13/90 - Entorno às unidades de conservação. Pleno (em um raio de 10km das UCs, qualquer atividade que possa afetar a biota deve ser licenciada)*. Available at: https://cetesb.sp.gov.br/licenciamento/documentos/1990_Res_CONAMA_13.pdf
- Normative Ruling ICMBIO 16/11 - Guidelines for approval of the management plan. *Instrução normativa ICMBIO 16/11 - Diretrizes para aprovação do plano de manejo*. Available at: <https://www.icmbio.gov.br/portal/images/stories/o-que-somos/in162011.pdf>

1.8.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State Environmental and Municipal Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais de Meio Ambiente e Municipais*

1.8.3. Legally required documents or records

Only for natural forest (not for planted forest)

- *APAT (Prior authorization for analysis of the Sustainable Forest Management Plan – Autorização Prévia para Análise Técnica do Plano de Manejo Florestal Sustentável)*
- *SFMP (Sustainable Forest Management Plan - PMFS (Plano de Manejo Florestal Sustentável)*
- *AOP (Annual Operational Plan) - POA (Plano Operacional Anual)*
- *Term of Responsibility for Forest Maintenance - Termo de Responsabilidade de Manutenção da Floresta*
- *AUTEX (Forest Logging Authorization - Autorização de Exploração Florestal)*
- *Some states may require logging permits for wood from native species grown in forest plantations - Alguns estados podem requerer autorizações de corte para a madeira de espécies nativas cultivadas em plantios florestais*

1.8.4. Sources of Information

Government sources

- IBAMA - Manejo florestal sustentável. Available at: <https://www.gov.br/ibama/pt-br>

- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>

Non-Government sources

- Imazon (2012) - Boletim Transparência Manejo Florestal Pará. Available at: <https://imazon.org.br/en/publicacoes/forest-management-transparency-report-state-of-para-2011-to-2012/>
- Imazon (2012) – Transparency in forest management – state of Mato Grosso. Available at: <https://imazon.org.br/en/publicacoes/transparency-in-forest-management-state-of-mato-grosso/>
- Imazon (2021) - Boletim Transparência Manejo Florestal. Available at: <http://www.imazon.org.br/publicacoes/transparencia-manejo-florestal>
- Imazon (2022) - System for Monitoring Timber Harvesting (Simex): Mapping logging in the Amazon – August 2020 to July 2021. Belém: Imazon, Idesam, Imaflora e ICV. Available at: <https://imazon.org.br/en/publicacoes/system-for-monitoring-timber-harvesting-simex-mapping-logging-in-the-amazon-august-2020-to-july-2021/>
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>
- Greenpeace – The Amazon’s Silent Crisis (2014). <https://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/SilentCrisisTimberReport.pdf>
- Greenpeace – Imaginary Trees, Real Destruction: how the fraud in licensing and illegal logging of Ipê are causing irreparable damages to the Amazon Forest (2018). Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImaginasDestracaoReal.pdf
- Portal da legislação federal do Brasil. Available at: <http://www4.planalto.gov.br/legislacao/>

1.8.5. Risk determination

Overview of Legal Requirements

According to Clause 31 of Law 12,651/2012 (Brazilian Forest Code), the management of Brazilian natural forests can only be carried out upon approval of a sustainable forest management plan (SFMP). For the plan to be approved by the competent environmental agency, it must meet the minimum requirements defined in normative rulings and resolutions (Conama 406/2009, MMA NR 04 and 05/2006- Arts.1; 3; 5; 7-8, Ordinance IBAMA 19/2003). These normative rulings and resolutions present criteria such as permitted management intensity, minimum cutting diameters, number of trees per species, management cycle, inventory techniques, maintenance of protected species and seeds, among other aspects. In addition, the Brazilian Forest Code (Law No. 12,651/2012) also defines periods of restriction for harvesting and logging activities in the rainy season, including the criteria for the management of natural forests and determines the requirement of reforestation in case of removal of native vegetation (Art. 33).

At subnational levels, there are also requirements regarding the periods in which the harvest can be conducted and in which activities must be paused. The requirements for exploited private or public natural forests (concessions) are basically the same, adding some harvesting requirements to the second case, specifically defined in the concession contracts.

Brazilian legislation does not include legally established procedures for harvesting planted forests. There are no regulations specifying the management techniques that must be used in plantations. Therefore, the risk related to harvesting regulations for forest plantations is considered as not applicable.

Description of Risk

According to the SIMEX Network, there are indications of 38% of harvesting being illegal in the Brazilian Amazon (2020-2021). This indicates that the enforcement capacity of the responsible bodies is not enough to reduce the risk of forest management being carried out in violation of the approved management plan. By carrying out the management in disagreement with the approved management plan, the company runs the risk of infringing the technical criteria of sustainable forest management, such as logging prohibited trees, logging in non-licensed areas, harvesting volumes greater than authorized, or harvesting trees with a diameter smaller than allowed, among other irregularities with existing regulations.

As for the concessions, due to the improved governance and control environment, and considering that the contracts explicitly contain clauses that impose the adoption of regulated management practices during the harvest, we understand that these risks can be considered as significantly lower. Since the implementation of independent forest audits, which must be conducted by forest certification bodies accredited by Inmetro (Brazil's National Institute for Metrology, Quality, and Technology), in regular periods that must not exceed three years, it is our understanding that concessions have developed in an environment in which control over the non-compliance with regulations related to logging has been improved.

Risk Conclusion

Based on the high probability that forest management of Private Natural Forests occurs without authorization or in violation of the authorization, the risk associated with private natural forests in this category must be specified. As for Public Natural Forests (Concessions), we consider this criterion as low risk due to the third-party audit. By definition, due to the lack of formally established rules for the management of Plantations, we consider this criterion not applicable.

1.8.6. Risk designation and specification

Low risk for Public Natural Forests (Concessions).

Not applicable for Plantations

Specified risk for Private Natural Forests. The risks are as follows:

- Risk of forest management being carried out in violation of the approved management plan, which includes risk of infringing the technical criteria of sustainable forest management (i.e.: exploring prohibited trees, exploring in non-licensed areas, in volumes greater than authorized, or harvesting trees with diameters smaller than allowed, etc.).

1.8.7. Control measures and verifiers

To Mitigate the risk of forest management being carried out in violation of the approved management plan, which includes the risk of infringing the technical criteria of sustainable forest management (i.e.: exploring prohibited trees, exploring in non-licensed areas, in volumes greater than authorized, or harvest trees with a diameter smaller than allowed, etc.), it is necessary to:

Review and verify documents:

- Verify that the Sustainable Forest Management Plan (SFMP) and Annual Operational Plan (POA) are approved, and the exploration license (AUTEX/AUTEF) was issued by the regional authority (Oema).

Verify onsite:

Independent onsite verifications to confirm compliance with regulations related to forest management. Field visits should verify that:

- Harvesting is conducted within the limits of the authorized management unit and in accordance with the management plan (SFMP and POA).
- Harvesting does not take place in areas where harvesting is legally prohibited (i.e.: unlicensed areas, protected areas)
- Forest species for which logging is prohibited are listed in operational plans and are respected and preserved within the FMU.
- Harvest restrictions must be observed in the field, especially in relation to normative recommendations for embargoing the harvest.
- Tree or selected species found within the management unit for which logging is prohibited are marked and are respected in the field.

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

- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012 Código Florestal. Capítulo VII (Exploração Florestal)*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- Normative Ruling MMA 07/2003. Disciplines the rules for the logging of mahogany (*Swietenia macrophylla* K.) in forest management plans in the Amazon. *Instrução Normativa MMA 07/2003. Disciplina as regras para a exploração do mogno (Swietenia macrophylla K.) em planos de manejo florestal na Amazônia*. Available at <https://www.ibama.gov.br/component/legislacao/?view=legislacao&legislacao=110376>
- Law 9,985/2000 - Establishes the SNUC (National Protected Areas System). *Lei no. 9.985 / 2000 - Institui o Sistema Nacional de Unidades de Conservação da Natureza (SNUC)*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9985.htm

- CONAMA Resolution No. 428/2010, which defines the buffer zone (modified by Ordinance 55/2014, and Resolutions 347/2004; 378/2006; 473/2015). *Resolução CONAMA nº 428/2010, que define a zona tampão (modificada pela Portaria 55/2014, e Resoluções 347/2004; 378/2006; 473/2015)*. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&legislacao=116423>
- Decree 5,975/2006 - Regulates several laws and decrees on management and transport. *Decreto 5.975/2006 - Regulamenta diversas leis e Decretos sobre gestão e transporte*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/Decreto/d5975.htm
- Administrative Dispatch IBAMA 083/1991 - Criteria for logging of the mastic tree (Anacardiaceae family). Complete (Clause 29 Felling of Brazil nut trees and rubber trees). *Despacho Administrativo IBAMA 083/1991 - Critérios para exploração da aroeira (família Anacardiaceae). Íntegra (Cláusula 29 Derrubada da castanheira do Brasil e da seringueira)*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/PT0083-260991.PDF>
- Law 5,197/1967 - Provides for the protection of fauna. *Lei 5.197/1967 - Dispõe sobre a proteção da fauna*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l5197.htm
- MMA Ordinance no. 43/2014 - Establishes the National Program for the Conservation of Endangered Species. Available at: http://cncflora.jbrj.gov.br/portal/static/pdf/portaria_MMA_43.2014.pdf
- MMA Ordinance no. 443/2014 - Recognizes endangered species of Brazilian flora. *MMA Ordinance no. 443/2014 - Reconhece as espécies da flora brasileira ameaçadas de extinção*. Available at: http://cncflora.jbrj.gov.br/portal/static/pdf/portaria_mma_443_2014.pdf
- Ordinance MMA 444/2014 - Recognizes the endangered species of Brazilian fauna. *Portaria MMA 444/2014 - Reconhece as espécies da fauna brasileira ameaçadas de extinção*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/MMA/PT0444-171214.pdf>
- MMA Ordinance No. 445/2014 - List of endangered species of fish and aquatic invertebrates (modified by MMA Ordinance No. 98/2015, and No. 163/2015). *Portaria MMA no. 445/2014 - Lista de espécies ameaçadas de extinção de peixes e invertebrados aquáticos (modificado pela Portaria do MMA no. 98/2015, and no. 163/2015)*. Available at: https://www.icmbio.gov.br/cepsul/images/stories/legislacao/Portaria/2014/p_mma_445_2014_lista_peixes_amea%C3%A7ados_extin%C3%A7%C3%A3o.pdf
- Ordinance MMA 561/2021 - Endangered species of the Brazilian flora. *Portaria MMA 561/2021 - Espécies da flora brasileira ameaçadas de extinção*. Available at: <https://www.in.gov.br/en/web/dou/-/portaria-mma-n-561-de-15-de-dezembro-de-2021-367747322>
- Ordinance MMA 148/2022 - Updates the national list of endangered species. Species of Brazilian flora threatened with extinction. *Portaria MMA 148/2022 - Atualiza da lista nacional de espécies ameaçadas de extinção. Espécies da flora brasileira ameaçadas de extinção*. Available at: https://www.icmbio.gov.br/cepsul/images/stories/legislacao/Portaria/2020/P_mma_148_

2022_altera_anexos_P_mma_443_444_445_2014_atualiza_especies_ameacadas_extincao.pdf

- Decree 3,607/2000 - Classifies the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES, and other measures. - *Decreto 3.607/2000 - Dispõe sobre a implementação da Convenção sobre o Comércio Internacional de Espécies da Fauna e Flora Silvestres Ameaçadas de Extinção - CITES, e dá outras providências*. Available at: https://www.planalto.gov.br/ccivil_03/Decreto/d3607.htm
- CITES. Flora Annex I, II, III. - Anexos I, II e III da CITES. Flora. Available at: <https://cites.org/eng/app/appendices.php>
- CONAMA Resolution 369/2006 - Suppression in the APP (Permanent Preservation Areas). Sections I, V and VI. *Resolução CONAMA 369/2006 - Supressão na APP. Seções I, V e VI*. Available at: <http://www2.mma.gov.br/port/conama/legiabre.cfm?codlegi=489>
- Law 9,985/2000 - Establishes the SNUC (National Protected Areas System). *Lei 9.985/2000 - Institui o SNUC*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9985.htm
- Law 11,428/2006 - Protection of the Atlantic Forest. Clause 14 (bans the suppression of primary and secondary vegetation in advanced stages). *Lei 11.428/2006 - Proteção da Mata Atlântica. Cláusula 14 (proíbe a supressão da vegetação primária e secundária em estágios avançados)*. Available at: www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11428.htm
- CONAMA Resolution 278/01 - Bans the felling of endangered species of flora in the Atlantic Forest. *Resolução CONAMA 278/01 - Proíbe a derrubada de espécies ameaçadas de extinção da flora da Mata Atlântica*. Available at: <http://www.mma.gov.br/port/conama/res/res01/res27801.html>
- Law 3,924/1961 - Addresses archaeological and prehistoric monuments. *Lei 3.924/1961 - Aborda os monumentos arqueológicos e pré-históricos*. Available at: http://www.planalto.gov.br/ccivil_03/leis/1950-1969/l3924.htm

1.9.2. Legal authority

- SISNAMA ((Federal Executive Bodies: IBAMA and ICMBio; State Environmental and Municipal Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais de Meio Ambiente e Municipais*)

1.9.3. Legally required documents or records

- Forest management plans and annual operational plans describing the areas, species, sites, and attributes that need to be conserved by forest management. - *Planos de manejo florestal e planos operacionais anuais descrevendo as áreas, espécies, sítios e atributos que precisam ser conservados pelo manejo florestal*.
- Environmental license for logging in APPs (Permanent Preservation Areas), when applicable/required by environmental control agencies. - *Licença ambiental para corte de madeira em APPs (Áreas de Preservação Permanente), quando cabível/requerido pelas agências de controle ambiental*.

- AUTEX (Forest Logging Authorization - *Autorização de Exploração Florestal*)
- Agreement of Environmental Bodies for the management of areas near Protected Areas - *Convênio de Órgãos Ambientais para gestão de áreas próximas às Unidades de Conservação*

1.9.4. Sources of Information

Government sources

- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Serviço Florestal Brasileiro (SFB). Available at: <http://www.florestal.gov.br>
- Instituto Chico Mendes de Conservação da Biodiversidade (ICMBio). Available at: <http://www.icmbio.gov.br/portal/biodiversidade/unidades-deconservacao/planos-de-manejo.html>
- IBAMA - Espécies ameaçadas. Available at: <http://www.ibama.gov.br/documentos/o-que-e-especie-ameacada>
- Imazon Visor – Desmatamento na Amazônia Legal. Inclui mapas de Unidades de Conservação Federais, Unidades de Conservação Estaduais. Available at: <https://imazongeo.org.br/#/> .
- Iphan – Sítios arqueológicos georreferenciados. Available at: <http://portal.iphann.gov.br/pagina/detalhes/1701/>

Non-Government sources

- INPE (2022). Desmatamento nas unidades de conservação do Brasil. Available at: <http://www.dpi.inpe.br/prodesdigital/prodesuc.php>
- Desmatamento nas terras indígenas do Brasil. Available at: https://pib.socioambiental.org/pt/P%C3%A1gina_principal
- O ECO (2013) - Unidades de conservação estão ameaçadas em Rondônia. Available at: <http://www.oeco.org.br/oeco-data/27682-unidades-de-conservacao-estaoameacadas-em- rondonia>
- WWF (2014) - Estado da Amazônia: Representação Ecológica em Áreas Protegidas e Territórios Indígenas. Available at: <https://www.wwf.org.br/?42285/Unidades-de-conservacao-e-Terras-Indigenas-na-Amaznia--uma-rede-de-segurana-para-a-biodiversidade-e-os-seres-humanos>
- Greenpeace (2014). Governo omite informações sobre degradação na Amazônia. Available at: <http://www.greenpeace.org/brasil/pt/Noticias/Governo-omiteinformacoes-sobre-degradacao-na- Amazonia/>
- Exame (2014). Desmatamento na Amazônia brasileira subiu 467%, alerta ONG. Available at: <http://exame.abril.com.br/brasil/noticias/desmatamento-na-amazoniabrasileira-subiu-467- alerta-ong-imazon>
- Maretti, CC, Riveros S., JC, Hofstede, R., Oliveira, D., Charity, S., Granizo, T., Alvarez, C., Valdujo, P. & C. Thompson. (2014) - Estado da Amazônia: Representação Ecológica em Áreas Protegidas e Territórios Indígenas. Brasília e Quito: Iniciativa Vivendo a Amazônia

(Global) do WWF. 82 pp. Available at:

http://d2ouvy59p0dg6k.cloudfront.net/downloads/final_report_11_11_14.pdf

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. <https://timberlex.apps.fao.org/>
- Greenpeace – Imaginary Trees, Real Destruction: how the fraud in licensing and illegal logging of Ipê are causing irreparable damages to the Amazon Forest (2018). Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImagariasDestruicaoReal.pdf
- Brancalion, P., et al. 2018. Fake legal logging in the Brazilian Amazon. Science Advances, 4: eaat1192 15 August 2018. Downloaded from <http://advances.sciencemag.org/>

1.9.5. Risk determination

Overview of Legal Requirements

Brazil defines, through its Forest Code (Law 12,651/2012), permanent preservation areas (APP, the acronym in Portuguese), represented mainly as riverbanks and areas adjacent to watercourses, as well as springs and other sensitive ecological formations. Due to their wide distribution, these protected areas are the vulnerable areas during forestry activities. The same Law also introduces the concept of Legal Reserve (LR), areas that can represent between 20% and 80% of the rural property, depending on the biome where it is located, which must be maintained under forest cover, with a certain proportion of exotic species allowed. In these areas, sustainable forest management can be carried out, whereas planting and, consequently, the logging of exotic species in monoculture systems cannot, except in small family properties, in which production plantations are allowed.

In addition to these areas, Brazil institutes the National System of Protected Areas (SNUC, the acronym in Portuguese), with more than 300 protected areas that can be classified as fully protected or as sustainable use areas (Law 9,985/2000). Some categories of sustainable use protected areas can be managed through forest concessions.

Brazil also has specific regulations for the protection of endangered fauna and flora species. MMA ordinances no. 443, 444, 445/2014 and 148/2022 provide updated lists of endangered species of flora, fauna and fish and aquatic invertebrates, respectively.

In the case of Brazilian native flora species, relevant to the management of natural forests, the main regulations are MMA Ordinance 561/2021, MMA Ordinance 443/2014 and MMA NR 01/2014. All determine existing restrictions in terms of protection and management of endangered and vulnerable species of flora, following the classifications recommended by the IUCN and CITES lists and an assessment by national authorities.

The main species with timber potential protected in Brazil include mahogany (*Swietenia macrophylla* King), which can be exploited upon management approval. There is also the mastic tree (*Astronium* spp.), Brazilian pine (*Araucaria angustifolia*) and the Rubber Tree (*Hevea brasiliensis*), which can only be explored if they come from plantations. The Atlantic Forest Biome has other diverse species of commercial interest, but the Biome is protected by law and its logging is prohibited.

The Atlantic Forest Protection Law (11,428/2006) bans the suppression of primary and secondary vegetation in advanced stages and establishes specific guidelines for the protection and use of natural resources in this biome, considering its status as a biodiversity hotspot. It is important to mention CONAMA Resolution no. 278 of 2001, which discusses the logging of endangered species in the area covered by the biome.

Law no. 3,924/1961, on the other hand, deals with archaeological and prehistoric monuments, defining these places of protection under the responsibility of the public authorities. According to article 2 of the law, the following are considered as archaeological or prehistoric sites: (i) deposits of any kind, origin or purpose, which represent the testimony of the Brazilian Paleo-Amerindian culture, such as mounds, artificial assemblies, wells burials, tombs and others not specified, but with similar value, subject to the evaluation of the legal authority; (ii) sites containing remains of occupation by Paleo-Amerindians, such as caves; (iii) sites identified as cemeteries, tombs or long resting places or villages, where human remains of archaeological or paleo-ethnographic interest can be found; and (iv) the inscriptions of rocks or places with grooves for polishing tools and other traces of Paleo-Amerindian activity.

Description of Risk

Risks related to the potential impact of forest management activities in protected areas may be largely related to damage to permanent preservation areas, whether due to direct harvesting activities or construction of exploration infrastructure. In native forests, risks related to the potential impact of timber supply on protected sites or species may also be related to unapproved management or deforestation in protected areas. Management or planting activities may be carried out without proper approval (or declaration) from legal reserve areas. In this way, there is an environment in which producers who eventually were logging timber from permanent preservation areas (riparian forests protected by the Forest Code) or even from timber theft operations, could occur without major complications.

Studies have shown (e.g., Greenpeace 2018, Brancalion et al. 2018) that, since official forest control systems are flawed, there are no guarantees that timber is not being produced from illegal logging in protected areas or on other protected sites. These studies have also shown that species that are classified as vulnerable on official lists and regulations rarely have special treatment in the field in relation to care in their handling and logging.

Despite the broad legal framework existing in Brazil for defining protected areas, the enforcement system is inadequate to mitigate the risk of damage in these areas. Imazon data on deforestation in the Amazon and MMA (Brazilian Ministry of Environment) data on deforestation in other biomes show that illegal deforestation is systematic. By cross-checking these data with MMA data on protected areas, it is visible that many of these cases of deforestation occur within protected areas.

A WWF study (2014) shows that protected areas in the Amazon are threatened by human activity. Small-scale deforestation, mainly driven by local slash-and-burn agriculture and occupation along rivers, has always been present. Large-scale deforestation, however, intensified in the mid-20th century, increasing throughout the 1970s and 1980s. This destruction was largely the result of land conversion driven by a complex range of factors, including land speculation, land grabbing associated with rising land prices, new road routes and access to the rainforest, large-scale agriculture and livestock, and interest in the exploitation of natural resources (wood, minerals, oil and gas, and hydroelectric power). The

prevalence of agribusiness, including cattle, soy, palm oil and sugarcane - along with continued land speculation - has dramatically accelerated deforestation.

Although one of the specialists interviewed reported on the relationship between the theft of timber from protected species in planted areas and social inequality in Brazil, this is not associated with the chain of timber from planted forests, where the risk of a buyer acquiring timber from a protected species coming from areas of planted forests is practically nil in Brazil. The theft of species in protected areas of forest plantations in Brazil is generally associated with actors external to the enterprise, caused by invasion of properties by local populations that need means of subsistence. The Credit Suisse global wealth report pointed out that, in Brazil, the level of social inequality in the countryside, measured by the Gini index, rose from 82 in 2010 to 89 in 2020. From the perspective of social inequality that grows in rural areas, this becomes a fundamental issue, since people who live in rural areas often depend on natural resources for their survival. Because this risk is associated with actors who are not involved in the market for timber from planted forests, this risk is low since it does not include the timber that will be included in the commercial timber chain.

In forest concessions, such risks can be considered low for a number of reasons. Forest concession contracts contain sites that cannot be exploited (such as the absolute reserve) and also species that are protected by contract, such as species protected by law or of importance for the collective use of local communities. According to experts interviewed, the risk is low of the concessionaire neglecting the contract for the logging of such protected species simply for economic reasons, compared to the high investments made to obtain the concession and the high degree of monitoring implemented in these areas by the regulatory body. Once this non-compliance was identified by the monitoring and auditing systems, the concessionaire would lose the contract. The experts interviewed also commented that there may be flaws in the concessions' monitoring systems, but that even in these cases the risks associated with the logging of protected species and sites are significantly lower than those currently existing in privately managed areas.

Risk Conclusion

The risk of logging of protected species and sites is considered low for Public Natural Forests (Concessions), as this is not a common issue in this sector. In private management areas and forest plantations, the risk is greater due to poor governance and non-compliance with the Forest Code (Law 12,651/12)

1.9.6. Risk designation and specification

Low risk for public natural forests (concessions).

Specified risk for Private Natural Forests and Plantations. The risks are as follows:

- Risk of logging protected areas inside and outside management plans in private natural forests, in addition to protected species or sites of special importance for conservation.
- Risk that planting activities may be carried out without proper approval (or declaration) from legal reserve areas, such as exploration of environmental protection areas.

1.9.7. Control measures and verifiers

Review and verify documents:

- Compare the wood supply areas in relation to the protected areas and/or respective buffer zones to verify possible overlaps:

In cases where there is overlap with protected areas (PAs) and/or buffer zones, evidence of compliance with the Protected Area's management plan (when applicable) must be collected. In the buffer zones, there must be evidence of approval by the environmental agency in relation to the regularity of conducting forest management, as well as the existence of a SFMP and POAs approved by the environmental agency responsible for managing the PA.

Note: Obtaining information related to protected areas depends on the system in the individual state. There are three systems in Brazil (Sisflora/PA, Sisflora MT and Sinaflor/DOF).

Only from the state of Mato Grosso will information be easily available by SIMGEO in shapefile.

Pará, the largest producer, requires a cooperation agreement for sharing information and the other states managed by Sinaflor/DOF (Ibama) only points are available, not shape in the full area.

In cases of overlapping archaeological heritage identified with management units, the good management practices required by the SFMP must be confirmed to avoid damage to these values. Examples of good management practices are, but are not limited to:

- Soil and water conservation measures, avoiding erosion and damage to these values;
- Tree felling direction control, avoiding damage to these values;
- Harvest and transport planning to avoid damage to these values;
- Avoid planting near archaeological sites whenever possible.

Verify onsite:

Independent onsite verifications to confirm the fulfilment of the norms related to the protection of areas restricted by law for forest harvesting. Field visits should verify that:

- All legally protected areas (including species habitats) are included in the management plan or related documentation, if required by law.
- Established legal procedures for the survey, management and protection of threatened or endangered species within the management unit are followed.
- Complementary regulations related to nature protection, such as protected areas, reserved areas, protected species and hunting are followed.
- Protected areas in the vicinity of supplier districts are mapped and when activities occur in the buffer zone of these PAs, appropriate approvals are obtained.
- Within the FMU, permanent preservation areas are not invaded without authorization from the competent body or, alternatively, they will not suffer impacts, under the terms of the legislation.
- When there is authorization for protected areas, management operations must be carried out with the least possible environmental impact and the required conditions must be met.

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 6938/1981- National Environmental Policy. Modified by Law No. 140/2011. *Lei 6938/1981- Política Nacional do Meio Ambiente. Modificada pela Lei No. 140/2011.* Available at: http://www.planalto.gov.br/ccivil_03/leis/L6938.htm
- Decree 8235/2014. Establishes general rules complementary to the Environmental Regularization Programs of the States and the Federal District, covered by Decree No. 7,830, of October 17, 2012, establishing the Mais Ambiente Brasil Program, and other measures. *Decreto 8235/2014. Estabelece normas gerais complementares aos Programas de Regularização Ambiental dos Estados e do Distrito Federal, de que trata o Decreto no. 7.830, de 17 de outubro de 2012, institui o Programa Mais Ambiente Brasil, e dá outras providências.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/decreto/d8235.htm
- Law 12,651/2012. Forest Code. Chapter VII (Forest Logging). *Lei 12651/2012 Código Florestal. Capítulo VII (Exploração Florestal).* Available at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm
- Law 11,284/2006 - Management of Public Forests for Sustainable Production. Art18. *Lei 11.284/2006 - Gestão de Florestas Públicas para Produção Sustentável. Art18.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Decree 6,063/2007 - Regulates the Public Forest Management Law (Law 11,284/2006). Art. 25,27, 28. *Decreto 6063/2007 regulamenta a Lei no 11.284/2006, que dispõe sobre a gestão de florestas públicas para a produção sustentável, e dá outras providências. Arts 25,27,28* Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6063.htm
- Law 8,171/1991 - Agrarian Policy. Clauses 102 and 103 - Damage to the soil (Erosion). *Lei 8.171/1991 - Política Agrária. Cláusulas 102 e 103 - Danos ao solo (Erosão).* Available at: www.planalto.gov.br/ccivil_03/leis/l8171.htm
- Normative Ruling IBAMA 05/2009 - Standardizes the model of the Environmental Declaratory Act (ADA, the acronym in Portuguese). *Instrução normativa IBAMA 05/2009 - Padroniza o modelo do Ato Declaratório Ambiental (ADA).* Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/IN0005-250309.PDF>
- Law 9,605/1998 - Law of Crimes, Conduct, and Activities Harmful to the Environment. Chapter IV - Environmental Crimes. *Lei 9.605/1998 - Lei de Crimes, Condutas e Atividades Prejudiciais ao Meio Ambiente. Capítulo IV - Crimes Ambientais.* Available at: https://www.planalto.gov.br/ccivil_03/leis/l9605.htm

- CONAMA Resolution 495/2019 - SFMP in the Amazon. *Resolução CONAMA 495/2020 - PMFS na Amazônia*. Available at: <https://www.in.gov.br/en/web/dou/-/resolucao-n-495-de-19-de-agosto-de-2020-273215187>
- CONAMA Resolution 1/1986 - Environmental Impact Report - RIMA. *Resolução CONAMA 01/1986 - Relatório de Impacto Ambiental - RIMA*. Available at: <http://www2.mma.gov.br/port/conama/res/res86/res0186.html>
- Law 9,433/1997 - National Water Resources Policy. Clause 49 (Infringements and penalties in the use of water). *Lei 9.433/1997 - Política Nacional de Recursos Hídricos. Cláusula 49 (Infrações e penalidades no uso da água)*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9433.htm
- Decree 24,643/1934 - Classifies water and its properties. *Decreto 24.643/1934 - Disposições sobre a água e suas propriedades*. Available at: <https://www2.camara.leg.br/legin/fed/decret/1930-1939/Decreto-24643-10-julho-1934-498122-publicacaooriginal-1-pe.html>
- Law 12,305/2010 - Implements the national solid waste policy. *Lei 12.305/2010 - Implementa a política nacional de resíduos sólidos*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12305.htm

1.10.2. Legal authority

- SISNAMA ((Federal Executive Bodies: IBAMA and ICMBio; State Environmental and Municipal Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Estaduais de Meio Ambiente e Municipais*)

1.10.3. Legally required documents or records

- Operating license (OL) for sawmills and timber processing units - *Licença de operação (LO) para as serrarias e unidades de processamento de madeira*
- Registration in the Federal Technical Register (CTF). - *Inscrição no Cadastro Técnico Federal (CTF)*. Available at: <http://www.ibama.gov.br/cadastro-tecnico-federal-ctf>
- Sustainable Forest Management Plan (SFMP) and authorizations for forest logging on an annual basis for forest management projects - *Plano de Manejo Florestal Sustentável (PMFS) e autorizações para exploração florestal em base anual para os empreendimentos de manejo florestal*
- ADA (Environmental Declaratory Act, applicable to forest plantations - *Ato Declaratório Ambiental, aplicável para as plantações florestais*)
- EIA/RIMA (Environmental Impact Study/Report (applicable to large forest enterprises, especially to large forest plantations, only in some Brazilian states; In forest concessions, these are requirements that must be compiled by the managing body, and not by the concessionaire company. - *EIA/RIMA (aplicável para dos empreendimentos florestais de grande porte, especialmente aos grandes cultivos florestais, somente em alguns estados brasileiros; Em concessões florestais são requisitos que devem ser compilados pelo órgão gestor, e não pela empresa concessionária)*.

1.10.4. Sources of information

Government sources

- IBAMA - Descrição dos Procedimentos de Acompanhamento e Avaliação da Execução de PMFS na Amazônia Legal - Análise e Aprovação dos POAs

Non-Government sources

- FGV (2015) - Índice de Percepção de Conformidade Legal - IPCL Brasil Fundação Getúlio Vargas, pp. 1-37. Available at: <http://bibliotecadigital.fgv.br/dspace/handle/10438/14133>
- Foelkel (2019) - Eucalyptus Newsletter no. 74: Ecoeficiência; Produção mais limpa; Gestão de Poluentes e Resíduos; Sustentabilidade & Desenvolvimento e Promoção das Florestas Plantadas. Available at: https://www.eucalyptus.com.br/news/pt_setembro2019.pdf
- Transparência Internacional (2021). Índice de Percepção de Corrupção (IPC) para o Brasil (Perfil do país). Available at: <https://www.transparency.org/en/countries/brazil>
- The Global wealth report (2021) - Índice de desigualdade social. Available at: <https://www.credit-suisse.com/about-us/en/reports-research/global-wealth-report.html>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.10.5. Risk determination

Overview of Legal Requirements

Brazil defines, through its Forest Code (Law 12,651/2012), permanent preservation areas (APP, the acronym in Portuguese), represented mainly as riverbanks and areas adjacent to watercourses, as well as springs and other sensitive ecological formations. The same Law also introduces the concept of Legal Reserve (LR), areas that can represent between 20% and 80% of the rural property, depending on the biome where it is located, which must be maintained under forest cover, with a certain proportion of exotic species allowed. In these areas, sustainable forest management can be carried out, whereas planting and, consequently, the logging of exotic species in monoculture systems cannot.

The management of Brazilian natural forests can only be carried out through the approval of a sustainable forest management plan, which is only approved when meeting the minimum requirements defined in normative rulings and resolutions (Conama 406/2009-establishes technical parameters to be adopted for the SFMP in the Amazon biome; MMA NR 04 and 05/2006- establishes technical procedures for SFMPs for natural forests in the Amazon; Ordinance IBAMA 19/2003). These normative rulings and resolutions present criteria such as permitted management intensity, minimum cutting diameters, number of trees per species, management cycle, inventory techniques, maintenance of protected species and seeds, among other aspects. At subnational levels, there are also requirements regarding the periods in which the harvest is banned. The requirements for exploited private or public natural forests (concessions) are basically the same, adding to the second case some harvesting requirements specifically defined in the concession contracts. The protection of water resources is regulated both through the Water Code (Law 24,643/1934), which created the National Water Resources Management System, and in the Brazilian Water Resources Management System Law (Law 9,433/1997).

The National Environmental Policy Law (6,938/1981) establishes that potential polluting activities and users of environmental resources, including forestry, are subject to an Environmental Impact Assessment (EIA). CONAMA Resolution No. 1/1986 on Environmental Impact Assessment (EIA) requirements establishes basic criteria and general guidelines for EIA (Art. 5, Art. 6). Article 2 establishes that the economic logging of wood or firewood in areas over 100 ha (or smaller when approaching areas that are significant in percentage terms, or of importance in an environmental context) are subject to the preparation of an EIA and its respective Report of Environmental Impact (RIMA, the acronym in Portuguese) that need to be submitted for approval of the competent state agency of the Special Secretariat for the Environment - SEMA. In practice, the EIA/RIMA is required of large forestry enterprises (especially large forest plantations) prior to the installation of the enterprise in some Brazilian states.

Law 11,284/2006 on the management of public forests for sustainable production also requires that the EIA/RIMA grant a preliminary license for forest concessions. In addition, Decree no. 6,063/2007 establishes the need for public forests to prepare a Preliminary Environmental Report (RAP, the acronym in Portuguese) for the protection of environmental and social values (Art. 25, Art. 27), whose requirements are established in its article 28, including the identification of potential environmental and social impacts and efforts to prevent and mitigate negative impacts. However, these requirements for EIA /RIMA in forest concessions are requirements that must be compiled by the managing body, and not by the concessionaire company.

Although the logging of planted forests in Brazil does not have specific environmental requirements in the licensing, it is necessary to present the ADA (Environmental Declaratory Act) for properties subject to forest logging. The Environmental Declaratory Act (ADA) is determined by IBAMA Normative Ruling 05/2009.

Description of Risk

Due to the large area, difficult access, and the consequent reduced power of enforcement by regulatory bodies, harvest areas are rarely monitored to verify compliance with environmental requirements. This can occur both in timber harvesting areas in natural forests, often associated with the probability of conducting illegal logging, as discussed in other criteria of this assessment (see indicator 1.4, 1.9), and in forest plantations not complying with specific items related to the Brazilian Forest Code.

There is also, in most situations, the risk of water resource management not being carried out efficiently during harvesting operations, and there being low levels of monitoring and adaptive management to prevent such impacts.

The use of chemicals and the management of waste from forestry operations, whether or not related to the use of heavy machinery in harvesting, are also issues worth mentioning. In general, the intensity of the use of chemical products in silviculture of planted forests tends to be less intense than in agricultural crops (Foelkel, 2019). The forest receives agrochemical applications in the initial phase of its planting, in pre-planting to clean the area, in planting and in forest maintenance in the first or even the second year of growth. However, in planted forest operations, as well as in native forests, the storage and transport of chemical products and fuels, even on a small scale, may eventually pose risks. It is important to consider that there are also ineffective control efforts by environmental agencies regarding the handling and

transport of chemical products, including fuels and lubricants, mainly on small properties and in forest systems managed at the family level.

The interviewees commented that compliance with environmental requirements during forest logging, in general, depends a lot on the experience and efforts of the enterprises in the sense of fulfilling them in an environment of low regulation in the field, and, therefore, they consider that this risk makes it susceptible in all scopes of forest management in Brazil.

Risk Conclusion

Considering the high probability that forestry activities are carried out with practices that may cause environmental damage, to a greater or lesser extent, and the lack of adequate control by the competent authorities, we consider that there is a specific risk in relation to this criterion in all forest management categories.

1.10.6. Risk designation and specification

Specified risk for private natural forests, plantations, and public natural forests (concessions). The risks are as follows:

- Risk that forestry activities are carried out without complying with environmental standards, partially or in full, and that they are carried out with practices that may cause environmental damage due to lack of adequate control by the competent authorities.

1.10.7. Control measures and verifiers

Mitigate the risk that forestry activities do not comply with environmental standards and that they are carried out with practices that may cause environmental damage due to lack of adequate control by the competent authorities:

Review and verify documents:

- Annual Operational Plan (POA) for the current year, approved by the environmental agency, containing all relevant environmental information on the operations being carried out (applicable to natural forests), including authorizations for forest logging.
- Environmental impact assessments (EIA, RIMA) must be implemented and approved by the competent authority, if legally required, prior to the installation of large-scale forest projects, especially forest plantations.
- Environmental declaratory act, applicable to forest plantations.

Consult:

- Requirements for environmental monitoring must be observed, such as detailed validation of the techniques used in the field, monitoring of permanent plots to learn about the dynamics and development of the forest and possible impacts on biodiversity, and onsite verification of the information declared in the forest inventory
- Consultation with environmental agencies to verify the absence of penalties in the supplying units related to the material purchased, or to the forest management company.

Verify onsite:

- Onsite verifications to confirm compliance of operations with applicable environmental legislation, paying attention to at least the following aspects, but not limited to them:
 - Fulfilment of the requirements of the Environmental Impact Study (EIA) when applicable;
 - Requirements related to soil damage, buffer zones, retained trees, seasonal restrictions, etc.;
 - Soil and water conservation;
 - Use and proper handling of chemical products, fuels and lubricants, in addition to appropriate waste management practices (such as oils, packaging, contaminated material, etc.) generated in harvesting and transportation activities;
 - Compliance with the period of exploration and harvesting activities according to the restriction calendar of local authorities.

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

- Administrative Resolution 3,158, of 05/18/1971 Ministry of Labour and Employment (MTE) - Creates the Inspection Book - *Resolução Administrativa 3.158, de 18/05/1971 MTE - Cria o Livro de Fiscalização*
- Administrative Decision 3,214, OF JUNE 8, 1978 - "Approves the Regulatory Norm - RN- of Chapter V, Title II, of the Consolidation of Labour Laws, relating to Occupational Safety and Medicine" - *Decisão Administrativa 3.214, DE 8 DE JUNHO DE 1978 - "Aprova a Norma Regulamentadora - NR - do Capítulo V, Título II, da Consolidação das Leis do Trabalho, relativa à Segurança e Medicina do Trabalho"*
- Regulatory Standard 01 - General Provisions - *Norma Regulamentadora 01 - Disposições Gerais.*
- Regulatory Standard 02 - Prior Inspections - *Norma Regulamentadora 02 - Inspeções Prévias*
- Regulatory Standard 03 - Embargo or Exclusion - *Norma Regulamentadora 03 - Embargo ou Interdição*
- Regulatory Standard 04 - Specialized Services in Safety Engineering and Occupational Medicine - *Norma Regulamentadora 04 - Serviços Especializados em Engenharia de Segurança e em Medicina do Trabalho*
- Regulatory Standard 05 - Internal Accident Prevention Committee - *Norma Regulamentadora 05 - Comitê Interno de Prevenção de Acidentes*

- Regulatory Standard 06 - Regulatory Standard 6 - Personal Protective Equipment - PPE - *Norma Regulamentadora 06 - Equipamentos de Proteção Individual - EPI*
- Regulatory Standard 07 - Occupational Health Medical Control Programs - *Norma Regulamentadora 07 - Programas de Controle Médico de Saúde Ocupacional*
- Regulatory Standard 09 - Environmental Risk Control Programs - *Norma Regulamentadora 09 - Programas de Controle de Riscos Ambientais*
- Regulatory Standard 11 - Transport, Handling, Storage and Treatment of Materials - *Norma Regulamentadora 11 - Transporte, Manuseio, Armazenamento e Manipulação de Materiais*
- Regulatory Standard 12 - Occupational Safety of Machinery and Equipment - *Norma Regulamentadora 12 - Segurança do Trabalho de Máquinas e Equipamentos*
- Regulatory Standard 16 - Dangerous Activities and Operations - *Norma Regulamentadora 16 - Atividades e Operações Perigosas*
- Regulatory Standard 20 - Safety and Health at Work with Flammable and Combustibles - *Norma Regulamentadora 20 - Segurança e Saúde no Trabalho com Inflamáveis e Combustíveis*
- Regulatory Standard 21 - Work in an External Environment - *Norma Regulamentadora 21 - Trabalho em Ambiente Externo*
- Regulatory Standard 23 - Fire Protection - *Norma Regulamentadora 23 - Proteção Contra Incêndios*
- Regulatory Standard 24 - Health and Comfort Conditions at Work
- Regulatory Standard 26 - Safety Signs - *Norma Regulamentadora 26 - Sinalização de Segurança*
- Regulatory Standard 17 – Ergonomics
- Regulatory Standard 31 - Regulatory Standard for Safety and Health at Work with Safety in Agriculture, Livestock, Forestry, Forest Logging and Aquaculture
- Regulatory Standard 35 - Working at Heights
- Decree - Law 5,452/1943 Approves the Consolidation of Labour Laws. Available at: http://www.planalto.gov.br/ccivil_03/Decretolei/Del5452compilado.htm
- ANVISA Resolution 216/2004 – Food Services

1.11.2. Legal authority

- MTE (Ministry of Labour and Employment - *Ministério do Trabalho e Emprego*)
- DRT (Regional Labour Agency - *Delegacia Regional do Trabalho*)
- MPT (Public Prosecutor's Office for Labour Issues - *Ministério Público do Trabalho*)

1.11.3. Legally required documents or records

- PPRA (Environmental Risk Prevention Program - *Programa de Prevenção de Riscos Ambientais*)

- PCMSO (Occupational Health Medical Control Program – *Programa de Controle Médico de Saúde Ocupacional*)
- CIPA/CIPATR Minutes - *Atas da CIPA/CIPATR*
- Ministry of Labour Inspection Book - *Livro de Inspeção do Ministério do Trabalho*
- Proof of Delivery of PPE (Personal Protective Equipment) - *Comprovante de Entrega de EPI (Equipamento de Proteção Individual)*
- ASO (Occupational Health Certificate - *Atestado de Saúde Ocupacional*)
- Proof of OHS training (for different functions and operations in timber processing plants) - *Prova de treinamento SSO (para diferentes funções e operações nas unidades de processamento de madeira)*

1.11.4. Sources of information

Government sources

- Safety and Health in Forestry Work. Available at: <http://fundacentro.gov.br/biblioteca/bibliotecadigital/download/Publicacao/167/Trabalho%20Florestal-pdf> [8 de dezembro de 2016]
- Public Prosecutor's Office on Labour. Available at: <http://portal.mpt.gov.br/>
- Brazilian Ministry of Labour and Employment. Available at: <http://portal.mte.gov.br/legislacao/normas-regulamentadoras-1.htm>
- Labour Inspection Portal – Panel of Information and Statistics of Labour Inspection in Brazil. Available at: <https://sit.trabalho.gov.br/radar/>

Non-Government sources

- International Labour Organization (ILO). Available at: <http://www.oitbrasil.org.br/content/seguran-e-sa-de-no-trabalho-florestal-c-digo-depr-ticas>
- Reporterbrasil.org.br (nd). What is slave labour (Blacklist of Slave labour). NGO Repórter Brasil. Available at: <http://reporterbrasil.org.br/trabalhoescravo/>
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.11.5. Risk determination

Overview of Legal Requirements

The Ministry of Labour and Employment (MTE) is the body responsible for monitoring and regulating health and safety at work. The Regulatory Standards of the Ministry of Labour and Employment (MTE) require adequate health and safety conditions at work. In total there 36 norms in place. There is a wide range of Regulatory Norms (RN), the most applicable to the forestry sector being RN 31 (Safety and Health at Work in Agriculture, Livestock, Silviculture, Forest Logging and Aquaculture), which aims to align planning and development of rural activities with the health and safety of workers. It deals with issues related to pesticides, the

environment and waste, hand tools, agricultural tools and machine safety, transport and housing for workers, cargo transport and rural buildings. Forest enterprises are required by regulations to establish and formally implement occupational health and environmental risk programs, with the support and periodic evaluation of professionals linked to the areas of occupational medicine and occupational safety.

The Administrative Decision of the MTE no. 3,158 of 1971 addresses the requirement for a labour inspection book, which is a standardized document that must be kept by all companies, so that labour inspectors can use it in order to keep all the notes detected in the company. The Ministry of Labour and Employment, through the Labour Inspection Secretariat, provides an online system for providing Electronic Bills of Labour Debts (CEDT, the acronym in Portuguese) (Ordinance No. 1421/2014) that allows interested parties to issue and authenticate certificates related to the existence of labour claims against specific corporate entities.

Description of Risk

Forest management in Brazil is generally carried out with low mechanization and great human effort, mainly for forestry conducted on small properties and for the management of natural forests, a situation in which the existence of large trees and the fragility of the soil make mechanization of the entire activity impossible. The type of activity creates risks to the health and safety of employees, as it includes chemical, physical and even biological risks, including venomous animals and endemic diseases.

The forestry sector has a very low degree of professionalization and most workers learned to work hands-on, without professional guidance. This fact, added to a persistent culture that treats the issue of health and safety at work as of minor importance, results in a large number of workers exposed to risks beyond legal limits.

Inspections by the Ministry of Labour and Employment have resulted in countless companies sued for lack of minimum health and safety conditions at work, as well as for irregularities associated with the hiring and compensation of workers. The 'Blacklist of Slave Labour', drawn up by the Ministry of Labour and Employment and widely publicized by the NGO Repórter Brasil, lists 590 companies, of which at least 37 are directly linked to forest activities. Despite these fines, enforcement is not enough to guarantee a significant reduction in the occurrence of irregularities.

Furthermore, in planted forest operations, as well as in native forests, the storage and transport of chemicals and fuels, even on a small scale, may eventually pose risks. It is also important to consider that there are also ineffective control efforts on the part of environmental agencies with regard to the handling and transport of chemical products, including fuels and lubricants, mainly on small properties and in forest systems managed at the family level.

The National Classification of Economic Activities (CNAE, the acronym in Portuguese), described in Regulatory Norm No. 4, related to "Specialized Services in Occupational Safety Engineering and Occupational Medicine", classifies forest activity as risk level 3, for plantations, and 4, for native forests. The risk level is a numerical value between 1 and 4 indicating the risk intensity for the main economic activity of a company, with level 4 being the highest risk.

Consistently, the experts interviewed comment that full compliance with these requirements is still a challenge for the forest sector, especially in the Brazilian Amazon. Despite advances in the health and safety of forestry workers, especially in forest concessions, which require

training and the use of PPE provided for in the contract, failure to meet all the necessary requirements is still a reality.

Risk Conclusion

Due to the large number of fines related to health and safety and the prevailing culture related to occupational health and safety, this category is considered a specified risk both for Plantations and for Private Natural Forests and Public Natural Forests (Concessions), following the precautionary principle.

1.11.6. Risk designation and specification

Specified risk for Private Natural Forests, Plantations and Public Natural Forests (Concessions). The risks are as follows:

- Occupational health and safety rights risk not being respected because of lack of minimum required health and safety work conditions.

1.11.7. Control measures and verifiers

Review and verify documents:

Check documentary evidence to ensure that forestry activities comply with legal occupational health and safety requirements. This verification may include (but is not limited to) the following documents:

- Record of provision of personal safety equipment to employees;
- Record of employee training on the execution of their activities

Consult:

- The issuance of the Debt Certificate, consultation of the Procedural Progress and consultation of Procedural Information of Notification of Violation can be carried out on the website: <http://consultacpmr.mte.gov.br/ConsultaCPMR/>

Verify onsite:

Independent checks to verify compliance with regulations relating to occupational health and safety protection. During field visits, through interviews with workers and review of documents in the field, they must verify:

- Proper use of individual safety equipment;
- Interviews with employees and contractors confirm that legally required protective equipment is provided by the organization at no cost to the forest worker.
- Occupational health and safety requirements are observed by all personnel involved in harvesting activities.
- Depending on the size and scale of the enterprise, there are formal programs for occupational health and prevention of occupational environmental risks that are satisfactorily implemented.

- Working conditions related to harvesting activities must be safe in the forest management unit for all employees, including access to water and food in satisfactory quantity and quality, transportation conditions, adequate housing, and sanitary facilities, etc.

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

- Decree 5,452/1943 Approves the Consolidation of Labour Laws – CLT (the acronym in Portuguese). *Decreto 5.452/1943 Aprova a Consolidação das Leis do Trabalho - CLT*. Available at: http://www.planalto.gov.br/ccivil_03/Decretolei/De15452compilado.htm
- Decree 3,048/1999 - Regulates Social Security. Chapter I. *Decreto 3.048/1999 - Regulamenta a Previdência Social. Capítulo I*. Available at: http://www.planalto.gov.br/ccivil_03/Decreto/D3048.htm
- Normative Ruling RFB 971/2009 - provides for the social security taxation rules on the collection of social contributions. Clause 8. *Instrução normativa RFB 971/2009 - dispõe sobre as regras de tributação da previdência sobre a arrecadação das contribuições sociais. Cláusula 8*. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=15937>
- Law 8212/1991 - provides for the organization of Social Security, creates the Financing Plan and makes other provisions. Clause 11. *Lei 8212/1991 - dispõe sobre a organização da Previdência Social, cria o Plano de Financiamento e dá outras providências. Cláusula 11*. Available at: http://www.planalto.gov.br/ccivil_03/leis/l8212cons.htm
- Law 605/1949 - Compensation for Weekly Rest. *Lei 605/1949 - Compensação por Descanso Semanal*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l0605.htm
- Law 3,030/1956 - Discount for Supply of Food. *Lei 3.030/1956 - Desconto por Fornecimento de Alimentos*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l3030.htm
- Law 4,090/1962 – Christmas Bonus. *Lei 4.090/1962 - Bonificação de Natal*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4090.htm
- Law 4,749/1965 – 13th-month bonus (in Brazil). *Lei 4.749/1965 - 13º Salário*. Available at: http://www.planalto.gov.br/ccivil_03/LEIS/L4749.htm
- Law 5,889/1973 - Rural Work. *Lei 5.889/1973 - Trabalho Rural*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l5889.htm
- Law 7,418/1985 - Transportation Voucher. *Lei 7.418/1985 - Vale Transporte*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l7418.htm

- Law 8,036/1990 – FGTS (Severance Indemnity Fund) Law. *Lei 8.036/1990 - Lei do FGTS*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l8036consol.htm
- Law 9,601/1998 - Hour Bank and Contract for Specific Period. - *Lei 9.601/1998 - Banco de Horas e Contrato por Prazo Específico*. Available at: http://www.planalto.gov.br/ccivil_03/LEIS/L9601.htm
- Law 10,101/2000 - Profit Sharing. *Lei 10.101/2000 - Participação nos Lucros*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10101.htm
- Law 10,820/2003 - Deduction of Instalments from Payroll. *Lei 10.820/2003 - Desconto do Parcelamento em Folha de Pagamento*. Available at: https://www.planalto.gov.br/ccivil_03/Leis/2003/L10.820.htm
- Resolution 425/2010 - Characterization of Family Rural Business. - *Resolução 425/2010 - Caracterização de Empresa Rural Familiar*. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/CONAMA/RE0425-250510.PDF>
- Law 4,266/1963 – Family Salary - *Lei 4.266/1963 - Salário Família*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4266.htm
- Law 4,725/1965 – Collective Agreements - *Lei 4.725/1965 - Acordos Coletivos*. Available at: https://www.planalto.gov.br/ccivil_03/leis/1950-1969/l4725.htm
- Law 4,923/1965 – Working hours - *Lei 4.923/1965 - Horário de Trabalho*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4923.htm
- Law 7,783/1989 – Strikes - *Lei 7.783/1989 - Greves*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l7783.htm
- Law 8,900/1994 - Unemployment Compensation. - *Lei 8.900/1994 - Compensação de Desemprego*. Available at: http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13134.htm#art6iii
- Law 9,029/1995 - Work Admission - *Lei 9.029/1995 - Admissão ao Trabalho*. Available at: http://www.planalto.gov.br/ccivil_03/leis/l9029.htm
- Law 9,029/1995 – Vacation - *Lei 9.093/1995 - Férias*. Available at: http://www.planalto.gov.br/ccivil_03/leis/l9093.htm
- Law 10,097/2000 - Child Labour (Ban on Child Labour) - For Consolidation purposes, the age of fourteen to eighteen is considered a minor. - *Lei 10.097/2000 - Trabalho Infantil (Proibição do Trabalho Infantil) - Considera-se menor para fins de Consolidação a idade de quatorze a dezoito anos*. Available at: www.planalto.gov.br/ccivil_03/leis/l10097.htm

1.12.2. Legal authority

- Brazilian Revenue Service - *Receita Federal do Brasil*
- MTE (Ministry of Labour and Employment - *Ministério do Trabalho e Emprego*)
- TST (Superior Labor Court - *Tribunal Superior do Trabalho*)
- TRT (Regional Labour Court - *Tribunal Regional do Trabalho*)
- DRT (Regional Police Station for Labour Issues - *Delegacia Regional do Trabalho*)

- MPT (Public Prosecutor's Office for Labour Issues - *Ministério Público do Trabalho*)
- CET (Caixa Econômica Federal bank - *Caixa Econômica Federal*)
- INSS (National Social Security Institute - *Instituto Nacional do Seguro Social*)

1.12.3. Legally required documents or records

- CAGED Declaration - General Registry of the Employed and Unemployed - *Declaração CAGED - Cadastro Geral de Empregados e Desempregados*
- Collective Agreement registered with the MTE - *Acordo Coletivo registrado no MTE*
- CNDT (Labour Debt Clearance Certificate - *Certidão Negativa de Débito Trabalhista*)
- Labour Lawsuit Clearance Certificate - *Certidão Negativa de Ações Trabalhistas*
- CRF - FGTS (Severance Indemnity Fund) Certificate of Good Standing - *Certificado de Regularidade do FGTS (Fundo Garantidor do Tempo de Serviço)*
- CND (Clearance Certificate of Debts with the Federal Revenue Service - INSS (National Social Security Institute) - *Certidão Negativa de Débitos perante a Receita Federal - INSS (Instituto Nacional do Seguro Social)*)
- Salary Receipt or Proof of Deposit in Current Account - *Recibo de Salário ou Comprovante de Depósito em Conta Corrente*
- Employment and Social Security Card - *Carteira de Trabalho e Previdência Social*

1.12.4. Sources of information

Government sources

- Ministério do Trabalho e Emprego (MTE). Available at: <https://granulito.mte.gov.br/portalcaged/paginas/home/home.xhtml>
- Caixa Econômica Federal. Available at: <https://www.sifge.caixa.gov.br/Cidadao/Governo/Asp/crf.asp>
- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>
- Cadastro de empregadores que submeteram trabalhadores a condições análogas à escravidão. Available at: http://portal.mte.gov.br/trab_escravo/portaria-do-mte-cria-cadastro-de-empresas-e- pessoas-autuadas-por- exploracao-do-trabalho-escravo.htm
- Portal da Inspeção do Trabalho – Painel de Informações e Estatísticas da Inspeção do Trabalho no Brasil. Available at: <https://sit.trabalho.gov.br/radar/>

Non-Government sources

- Tribunal Superior do Trabalho (TST). Available at: www.tst.jus.br/certidao
- Portal Amazônia – Trabalho escravo na Amazônia Brasileira. Available at: <http://www.portalamazonia.com.br/editoria/economia/amazonia-concentra-mais-dametade-de-empresas-com-trabalho-escravo-no-brasil/>
- Repórter Brasil (2016) – Lista Suja do Trabalho Escravo. Available at: <http://reporterbrasil.org.br/>

- Projeto de Indicadores de Governança Mundial. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>
- Ciríaco, J. et al. 2019. Uma análise do trabalho infantil na região sul do Brasil. Brazilian Journal of Development, 5(8):13500-13514. Doi 10.34117/bjdv5n8-148.

1.12.5. Risk determination

Overview of Legal Requirements

Brazil has a broad legal framework related to the legality of employment. Decree-Law 5,452/1943 (Consolidation of Labour Laws or CLT, the acronym in Portuguese) is the main guideline in this matter. This Law includes conditions that guarantee basic labour rights such as maximum working hours, periods of paid leave and rest, minimum age, child and female labor, minimum wage, remuneration, unionization, and other matters, etc.

As for the minimum age for employment, the law stipulates that it is prohibited to hire employees younger than 16 years old, except when hiring apprentices aged 14 years or older.

This Law stipulates that all workers must be registered by the employing company (Art41). The worker's registration guarantees rights such as the FGTS severance indemnity fund (cumulative amount that can be withdrawn with the termination of the employee, expiration of the contract or the worker's retirement) and support from the INSS (National Social Security Institute), which is converted as a pension after retirement or various benefits in cases such as sick leave, disability, or death. To make this structure viable, the employer pays the government a monthly contribution proportional to the salary of the registered employee.

Law 7998/1990 regulates unemployment insurance, which is compensation granted by the government to workers who are unemployed without just cause after having completed at least six months of formal employment. This benefit lasts for four months.

Description of Risk

In general, forestry workers in Brazil have low levels of education and are often unaware of their labour rights. Inspections carried out by the Ministry of Labour and Employment are insufficient to ensure compliance with legislation, especially in the rural sector. The results obtained in inspections, such as the slave labour list, demonstrate that there are serious problems in the sector. Among the 590 companies fined by the Ministry of Labour and Employment for work analogous to slavery, 37 cases related to forest management were registered. Even in forest plantations, there are studies proving the existence of child labour in rural areas in different regions of Brazil (Ciríaco et al 2019).

In general, labour laws are not respected in the forestry sector in Brazil. This finding is supported by the 'Rule of Law' index of around 50 (on a scale of 0 to 100 where 100 is good) established by the World Bank (www.govindicators.org).

Finally, larger and better organized forestry companies, although they tend to follow labour legislation more rigorously with regard to their own workers, often fail to demand the same requirements from third party service providers in the management unit, which has been

continually demonstrated in independent assessment reports of the requirements for forest certification.

Risk Conclusion

Based on the high probability that the forest worker will have his/her labour rights disregarded, this criterion is considered as a specified risk for all scopes evaluated.

1.12.6. Risk designation and specification

Specified risk for private natural forests, plantations, and public natural forests (concessions). The risks are as follows:

- Risk of irregularities associated with the hiring and compensation of workers and inadequate law enforcement.

1.12.7. Control measures and verifiers

Review and verify documents:

- List of contract workers with age information.
- List of workers registered with the INSS
- Employment contracts
- Salary payment record
- Qualification certificates required for the function they perform.

Consult:

- The forest management entity in question, as well as their suppliers or service providers, are not included in the MTE's Blacklist of Slave Labour.

Verify onsite:

Independent onsite verification continues to be the most effective method of confirming compliance with labour regulations. During field visits, interviews with workers and review of documents (employment contracts, payroll, worker registration, etc.) in the field, must verify that:

- All workers are hired in compliance with regulations and the required contracts and evidence are in place, including specification of roles and tasks, hours of work per week, breaks and vacations, wages and benefits, provision of personal protective equipment required by the work, transport and food conditions at work, and lack of payments not covered by the respective labour taxes (extra payroll compensation).
- People involved in the harvesting activity are covered by mandatory life insurance, in addition to enrolment in the official social security system (INSS) and in the severance indemnity fund for length of service (FGTS).
- People involved in harvesting activities must have qualification certificates required for the function they perform.

- At least the legally established minimum wages must be paid to personnel involved in harvesting activities.
- Wages must be paid and officially declared by the employer in compliance with legal requirements for personnel involved in harvesting activities.
- Minimum age must be observed for all personnel involved in harvesting activities. The minimum age must be observed for all personnel engaged in hazardous work.
- The company must not employ unregistered workers, whether on probation or receiving government unemployment benefits.
- Companies providing services in the management unit implement the same labour requirements as workers in the company that owns the unit.

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. The indicator is relevant to customary rights other than land and land management rights. Customary land and land management rights are covered under 1.1.

1.13.1. Applicable laws and regulations

- Constitution of the Federative Republic of Brazil - 1988. Chapter I - Clause 5 (XXII - Ownership of land); Chapter VIII (Indigenous People). *Constituição da República Federativa do Brasil - 1988. Capítulo VIII (índios)*. Available at: www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm
- Decree 485/2006 - Convention for the protection and promotion of the diversity of cultural expressions, celebrated in Paris, on October 20, 2005. *Decreto 485/2006 - Convenção para a proteção e promoção da diversidade das expressões culturais, celebrada em Paris, em 20 de outubro de 2005*. Available at: <https://www2.camara.leg.br/legin/fed/decleg/2006/Decretolegislativo-485-20-dezembro-2006-548645-convencao-63819-pl.html>
- Decree 5,753/2006 - Promulgates the convention for the protection of intangible cultural assets, approved in Paris. *Decreto 5.753/2006 - Promulga a convenção para a proteção dos bens imateriais culturais, aprovada em Paris*. Disponível: <https://www2.camara.leg.br/legin/fed/decret/2006/decreto-5753-12-abril-2006-541765-publicacaooriginal-47851-pe.html>
- Decree 6,040/2007 - Institutes the national policy for the sustainable development of people and traditional communities. Clause 3. *Decreto 6.040/2007 - Institui a política nacional de desenvolvimento sustentável das pessoas e comunidades tradicionais. Cláusula 3*. Available at: https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6040.htm
- Decree 419/2011 - Classifies the performance of federal public administration bodies and entities involved in environmental licensing that are the subject of Clause 14 of Law No. 11,516, of August 28, 2007. *Decreto 419/2011 - Dispõe sobre a atuação dos órgãos e*

entidades da administração pública federal envolvidos no licenciamento ambiental que são objeto da Cláusula 14 da Lei no. 11.516, de 28 de agosto de 2007. Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/mma/pt0419-271011.pdf>

- Decree 10,088/2019 - Classifies the promulgation of conventions and recommendations of the international labour organization - ILO. *Decreto 10.088/2019 - Dispõem sobre a promulgação de convenções e recomendações da organização internacional do trabalho - OIT.* Available at: https://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/d10088.htm#art5
- Law 6,001/1973 - Statute of the Indian (X). Title III. *Lei 6.001/1973 - Estatuto do Índio (X). Título III.* Available at: https://www.planalto.gov.br/ccivil_03/leis/l6001.htm
- Law 11,284/2006 - Public Forest Management Law. Article 6; 11;17;21. *Lei 11.284/2006 - Lei de Gestão de Florestas Públicas. Art 6; 11;17;21.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Decree 6063/2007 - Regulates Law 6001/1973 on the Management of Public Forests. Arts.14-16;18. *Decreto 6.063/2007 - Regulamenta a Lei 6.001/1973 de Gestão de Florestas Públicas. Arts.14-16;18.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/Decreto/d6063.htm

1.13.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*
- FUNAI (National Indigenous Peoples' Foundation - *Fundação Nacional do Índio FCP - Fundação Cultural Palmares*)
- IPHAN (National Historical and Artistic Heritage Institute - *Instituto do Patrimônio Histórico e Artístico Nacional*)

1.13.3. Legally required documents or records

- In cases of forest management in areas near Indigenous Reserves, Environmental License issued by IBAMA and endorsed by the legally competent bodies (FUNAI, FCP, IPHAN) - *Nos casos de manejo florestal em áreas próximas a Reservas Indígenas: Licença Ambiental emitida pelo IBAMA e endossada pelos órgãos legalmente competentes (FUNAI, FCP, IPHAN)*

1.13.4. Sources of information

Government sources

- FUNAI - Modalidades de Terras Indígenas. Available at: <http://www.funai.gov.br/index.php/indios-no-brasil/terras-indigenas>
- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>

- Imazon Visor– Desmatamento na Amazônia Legal. Inclui mapas de Unidades de Conservação Federais, Unidades de Conservação Estaduais. Available at: <https://imazongeo.org.br/#/>

Non-Government sources

- Instituto Socioambiental (2021). Available at: http://www.socioambiental.org/inst/esp/consulta_previa/?q=consulta-predicted-andmeasures-legislative
- Comissão Pastoral da Terra. Available at: <https://www.cptnacional.org.br/>
- Fundação Cultural Palmares. Available at: http://www.palmares.gov.br/?page_id=95
- Greenpeace – Blood-Stained Timber (2017). Available at: https://www.greenpeace.org.br/hubfs/Greenpeace_BloodStainedTimber_2017.pdf
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.13.5. Risk determination

Overview of Legal Requirements

Decree 6,040/2007 defines traditional people and communities as 'culturally unique groups that recognize themselves as such and maintain their own social organization, and that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledge, innovation, and practices generated and transmitted by tradition'.

The same decree also defines traditional territories as 'the spaces necessary for the cultural, social and economic reproduction of traditional peoples and communities, whether used permanently or temporarily'.

According to the Ministry of the Environment, Brazilian traditional peoples and communities include groups such as indigenous peoples, *quilombolas* (descendants of rebellious slave communities), *seringueiros* (latex collectors), community workers, *castanheiros* (Collectors of Brazil nuts), babassu palm coconut breakers, *fundo de pasto* communities, prairie residents, small-scale fisherfolk, shellfish gatherers, riverine communities, *varjeiros*, *caiçaras* and *praieiros*, *sertanejos*, *jangadeiros*, gypsies, Azoreans (descendants of settlers from Azores, Portugal), and other workers from the rural and river communities.

It is important to note that indigenous peoples are included in the definition of traditional peoples. The Institute of New Social Cartography identified and mapped several traditional communities in Brazil, indicating that there are traditional communities spread throughout the national territory. The Palmares Foundation indicates that, today, there are 3,475 quilombola communities distributed across all regions of the country. The Instituto Socioambiental mapped 724 Indigenous Lands. Within this set, 487 indigenous lands are recognized and legally regulated, i.e., they have already been acquired by the Union or donated by third parties to the indigenous people. The remainder of the Indigenous Land is in the process of identification

or being recognized. In total, there are more than 110 million hectares of indigenous lands in Brazil.

The 1988 Constitution, in its article 216, recognizes the material and immaterial goods that represent the identity of the different groups that constitute Brazilian society, including forms of expression, lifestyles, scientific, artistic, and technological knowledge, works and spaces destined to artistic and cultural manifestations and places of historical and cultural value as Brazil's cultural heritage. The Constitution protects the indigenous right to maintain their lands, way of life, customs, and traditions. It also establishes that lands belonging to indigenous peoples are inalienable and unavailable (Art. 231). The Constitution also recognizes the right to land of the remnants of quilombola communities (Art. 68).

Law No. 6,001/1973 of the Statute of the Indigenous People regulates the legal status of indigenous peoples or aborigines and indigenous communities, with the aim of preserving their culture and integrating them, progressively and harmoniously, into national society. The Indigenous Peoples statute provides for the use of natural resources (art. 22), which includes forest resources, activities essential to their subsistence or economically useful (art. 23, art. 24), recognition of the right to land (art. 25, Art. 32. Art. 33), right to enjoyment and use of natural resources and assets on their lands (art. 26), and provisions on indigenous heritage assets, including land and exclusive usufruct of natural resources and all existing utilities on their lands (Art. 39).

With regard to forestry activities, Law no. 11,284/2006, which deals with the management of public forests, and Decree No. 6063/2007, which regulates the Law, include specific provisions recognizing the right of the local community to participate in the forest concession bidding process. It also establishes that, prior to the implementation of forest concessions, public forests occupied or used by local communities will be identified for the destination of these communities through the creation of extractive reserves and sustainable development reserves (according to Law no. 9,985/2000), the creation of forest settlement projects and other forms of supplying forests to traditional peoples. Law no. 9,985/2000 defines the concept of Extractive Reserve as an area used by traditional populations who use the available resources for their subsistence. These areas aim to preserve the traditional way of life and culture of these populations. The PAOF (Annual Forest Allocation Plan) for forest concessions must provide restricted use areas for local communities. Products for traditional and subsistence use by local communities will be excluded from the purpose of the forest concession.

The interministerial administrative decree of the Ministry of the Environment 419/2011 provides that, when applying for an environmental license for activities around indigenous or quilombola lands, the applicant must inform IBAMA of this fact, so that IBAMA can consult the entities involved. It may be necessary to prepare an EIA/RIMA (Environmental Impact Study and Report) after public consultation.

The issue of customary law with regard to forest planting activity is restricted to the issue of land ownership and use, as it is not directly related to other issues associated with the use of the genetic or intellectual heritage of traditional populations, since only the planted species are used. The land policy, as explained in indicator 1.1, is composed of rules and instruments that aim to guarantee the right of possession and use to the legitimate owners, either through the protection of the acquired right or the restitution of the right, through agrarian reform. Furthermore, there is no legislation covering the sharing of benefits in harvesting activities on plantations.

Description of Risk

There are laws in Brazil regarding the rights of traditional and indigenous communities to access forest resources. However, due to the large number, diversity and dispersion of traditional communities, there is a risk in Brazil of having a low level of compliance with the relevant legislation. In management operations, both in planted and native forests, the lack of specific requirements linked to the need to map traditional populations around forest units in order to determine their customary rights to use land and existing resources is a weakness. Considering the size of the Brazilian territory and its immense cultural diversity, the occurrence of customary rights must be evaluated in each case. It is not uncommon to find, in different regions of the country, forest management areas (plantations or native forests) coexisting with communities associated with a unique cultural identity and customary rights.

Public forest concessions, instituted based on Federal Law 11,284/2006, on the other hand, were developed through a process in which public forests to be allocated undergo a set of technical studies aimed at determining the existence or use of resources by traditional communities. In general, this process, in addition to conducting public consultations during the tendering of management units, constitutes an improved step to prevent customary rights from being violated by concessions or by the subsequent conduct of forest management. Although questions may arise from traditional communities claiming rights over areas submitted to bidding, the governance environment and the technical studies carried out before the establishment of concessions constitute a step forward to respect customary claims. The experts interviewed commented that, even so, in forest concessions, there is a risk related to the rights of surrounding communities to access the forest for the collection of products and natural resources being affected. In these cases, the concessionaire and the competent bodies must discuss with the communities the conditions of access to the forest, in order to respect customary rights. However, this condition may depend on the concessionaire's initiative and proactivity in resolving such issues, with a significant risk, therefore, mainly in the Brazilian Amazon, which is home to a large number of peoples and traditional communities.

The risks associated with the violation of customary rights in the forest planting activity have been related to recurrent cases of illegal land tenure across the country, however, experts consulted in this update considered that such risks exist only for new expanding frontiers, while most plantations in Brazil (more than 80% of planted areas) are located in consolidated borders, where these rights are heard and mainly resolved. However, they warn that there is also a rapid growth of forest plantations in recent frontiers of expansion, especially in the MATOPIBA region, an acronym that represents the states of Maranhão, Tocantins, Piauí, and Bahia; in addition to eastern Pará, which has a significant number of local communities.

In general, there is a lack of information about the application of laws related to the rights of traditional and indigenous peoples. However, cases of disrespect for traditional land use rights

and cases of violence against indigenous people are frequent throughout the country. For this reason, the precautionary approach was applied to this indicator, especially considering that the assessment applies to the entire Brazilian territory, and not just to the land use boundaries that are already consolidated.

Risk Conclusion

The risk of this criterion can be considered as specified for plantations and forest management in natural forests (private areas and forest concessions). It is important to point out that this risk can still be considered low in planted forests located in the main timber-producing enterprises in the consolidated frontiers of forest plantations, but due to the uncertainties arising from growing risks in the new expansion frontiers, the entire scope of planted forests was defined as a specified risk.

It is important to point out that this risk can still be considered low in planted forests located in the main timber-producing enterprises in the consolidated frontiers of forest plantations, but due to the reservations arising from growing risks in the new expansion frontiers, the entire scope of planted forests was pointed out as a specified risk.

1.13.6. Risk designation and specification

Specified risk for plantations and forest management in natural forests (private areas and forest concessions).

- Risks relate to non-compliance with existing laws and regulations on traditional and indigenous communities due to confusing and bureaucratic procedures and the large number, diversity and dispersed nature of traditional communities.

1.13.7. Control measures and verifiers

Review and verify documents:

Traditional communities must be known and/or mapped in the timber supply districts and, when potentially affected by forest management activities, these communities must be consulted in advance:

- Checking the maps of the forestry management and cultivation areas of the enterprises and other available information, to see if there is any overlap with the surrounding areas of territories occupied by populations, such as indigenous lands, extractive reserves. This can be verified using data from official sources such as FUNAI, Palmares Cultural Foundation, Secretariat of Culture, IPHAN, local associations, among others;
- Observe if there are consultations with interested parties carried out in a regular and transparent way by these enterprises.

Consult:

Survey of information indicating the existence of conflict or not, for example:

- Search the reports of civil society entities (ISA, Pastoral da Terra, Greenpeace, among others) for evidence of endeavours that have caused a history of customary conflicts with

communities in Brazil. In addition, consult with stakeholders locally to find out if there are existing conflicts in the region where the forest management unit or plantation is located.

Verify onsite:

In case of signs of conflict, onsite verifications will be carried out with the affected communities:

- In conflict areas stakeholder consultation should confirm that customary rights are observed during harvesting activities.
- Grievance channels regarding the protection of customary rights and dialogue with companies must be created and known by traditional communities and representative associations.

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

- Decree no. 5.051/2004 – Enacts ILO Convention no. 169 about tribal and indigenous population. http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/decreto/d5051.htm
- Decree No. 7.747 establishing the National Policy on Territorial and Environmental Management of Indigenous Lands (PNGATI). <http://faolex.fao.org/docs/texts/bra120048.doc>

1.14.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*)
- FUNAI (National Indigenous Peoples’ Foundation - *Fundação Nacional do Índio FCP - Fundação Cultural Palmares*)
- IPHAN (Instituto do Patrimônio Histórico e Artístico Nacional - *Instituto do Patrimônio Histórico e Artístico Nacional*)

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.2. Risk determination

Overview of Legal Requirements

Free, Prior and Informed Consent (FPIC) can be defined as “the right to participate in decision-making and to give, modify, withhold, or withdraw consent to an activity that affects the holder of this right. Consent must be given freely, obtained prior to the implementation of such

activities, and be based on an understanding of the full range of issues implied by the activity or decision in question (Colchester and MacKay, 2004)".

In Brazil, there are still no norms, either at the national or subnational level, for the State or forest management enterprises to formally carry out FPIC with communities affected by policies and economic projects. In Brazil, this item applies only to activities that are subject to an environmental license through studies and environmental impact reports (EIA-RIMA) and, therefore, are endeavours that involve major environmental risks, not applicable to forest management.

The National Policy for Territorial and Environmental Management of Indigenous Lands (PNGATI) Guidelines (Decree No. 7,747/2012) guarantee the right of indigenous peoples to consultation, under the terms of Convention No. 169 of the International Labour Organization (ILO). The two components of the Guidelines dealing with provisions on free, prior and informed consent are: i) Component 2 - governance and indigenous participation; and ii) Component 3 - protected areas and indigenous lands. However, the Decree only requires consultation and Free, Prior and Informed Consent (FPIC) from indigenous peoples in the environmental licensing process of activities and undertakings/projects that directly affect indigenous peoples and their lands only, this means activities that are subject to environmental license through studies and reports of environmental impact (EIA-RIMA) and, therefore, are enterprises that involve great environmental risks, and does not apply to forest management.

Description of Risk

Although Brazil does not have legislation governing FPIC related to forestry, experts comment that there is a lack of clarity among federal agencies regarding the application of ILO Convention 169 and warn that this creates risks and legal uncertainty in forest concession contracts.

There is no legal obligation to conduct FPIC in forest management projects in Brazil. However, this also implies risks that the processes of negotiation, information and assignment of rights carried out with indigenous and traditional communities in management units are not carried out with the necessary robustness to comply with the requirements of ILO Convention 169.

Risk Conclusion

Brazil does not have legislation governing FPIC related to forestry activities. As it is an analysis of the risk of non-compliance with current legislation, this criterion was considered not applicable.

1.14.3. Risk designation and specification

Not applicable.

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are right to use certain forest related resources or practice traditional activities, as well as benefit sharing, which may involve forest lands. Land and land management rights related to indigenous/traditional peoples' rights are covered under 1.1.

1.15.1. Applicable laws and regulations

- Constitution of the Federative Republic of Brazil - 1988. Chapter I - Clause 5 (XXII - Ownership of land). *Constituição da República Federativa do Brasil - 1988. Capítulo I - Cláusula 5 (XXII - Propriedade da terra); Capítulo VIII (índios)*. Available at: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm
- Decree 4887/2003. Regulates the procedure for identification, recognition, delimitation, demarcation, and titling of lands occupied by remnants of quilombo communities. *Decreto 4887/2003. Regulamenta o procedimento para identificação, reconhecimento, delimitação, demarcação e titulação das terras ocupadas por remanescentes das comunidades dos quilombos*. Available at http://www.planalto.gov.br/ccivil_03/decreto/2003/d4887.htm
- Decree no. 5,051/2004 – Promulgates ILO Convention no. 169 on tribal and indigenous population. *Decreto no. 5.051/2004 – Promulga a Convenção da OIT no. 169 sobre a população tribal e indígena*. http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/decreto/d5051.htm
- Decree 10,088/2019 - Classifies the promulgation of conventions and recommendations of the international labour organization - ILO. *Decreto 10.088/2019 - Dispõem sobre a promulgação de convenções e recomendações da organização internacional do trabalho - OIT*. Available at: https://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/d10088.htm#art5
- Normative Ruling INCRA 57/2009 - Regulates the procedure for identification, recognition, delimitation, marking, preparation of the deed and registration of lands occupied by the remnants of quilombola communities. Clause 24. *Instrução normativa INCRA 57/2009 - Regulamenta o procedimento para identificação, reconhecimento, delimitação, marcação, preparação da escritura e registro das terras ocupadas pelos remanescentes das comunidades quilombolas. Cláusula 24*. Available at: <http://www.palmares.gov.br/wp-content/uploads/2010/11/legis12.pdf>
- Decree 1,775 / 1996 - Regulates the demarcation of indigenous lands. *Decreto 1.775 / 1996 - Regulamenta a demarcação de terras indígenas*. Available at: http://www.planalto.gov.br/ccivil_03/decreto/D1775.htm
- Decree 4,887/2003 - Regulates the procedure for identification, recognition, delimitation, marking, preparation of the deed and registration of land occupied by the remnants of quilombola communities, pursuant to article 68 of the Transitory Constitutional Provisions Act. *Decreto 4.887/2003 - Regulamenta o procedimento de identificação, reconhecimento, delimitação, marcação, preparação da escritura e registro das terras ocupadas pelos remanescentes das comunidades quilombolas, nos termos do artigo 68 do Ato das Disposições Constitucionais Transitórias*. Available at: http://www.planalto.gov.br/ccivil_03/Decreto/2003/D4887.htm
- Law 6,001/1973 - Statute of the Indian (X). Title III. *Lei 6.001/1973 - Estatuto do Índio (X). Título III*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l6001.htm
- Law 11,284/2006 - Public Forest Management Law. Article 6; 11;17;21. - Lei 11.284/2006 - Lei de Gestão de Florestas Públicas. Art 6; 11;17;21. Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm
- Decree 6063/2007 - Regulates Law 6001/1973 on the Management of Public Forests. Arts.14-16;18. - Decreto 6.063/2007. *Regulamenta a Lei 6.001/1973 de Gestão de*

Florestas Públicas. Arts. 14-16;18. Available at:
http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/Decreto/d6063.htm

1.15.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*)
- FUNAI (National Indigenous Peoples' Foundation - *Fundação Nacional do Índio*).
- FCP (Palmares Cultural Foundation - *Fundação Cultural Palmares*).
- IPHAN (National Institute of Historical and Artistic Heritage - *Instituto Nacional do Patrimônio Histórico e Artístico*).
- INCRA (National Institute of Colonization and Agricultural Reform - *Instituto Nacional de Colonização e Reforma Agropecuária*)

1.15.3. Legally required documents or records

- In cases of forest management in areas near Indigenous Reserves, Environmental License issued by IBAMA and endorsed by the legally competent bodies (FUNAI, FCP, IPHAN) - Nos casos de manejo florestal em áreas próximas a Reservas Indígenas, Licença Ambiental emitida pelo IBAMA e endossada pelos órgãos legalmente competentes (FUNAI, FCP, IPHAN)

1.15.4. Sources of information

Government sources

- FUNAI - Modalidades de Terras Indígenas, Available at: <https://www.gov.br/funai/pt-br>
- Ministério do Meio Ambiente (MMA) - Povos e Comunidades Tradicionais. Available at: <http://www.mma.gov.br/desenvolvimento-rural/terras-ind%C3%ADgenas,-povos-ecomunidades-tradicionais>
- Fundação Cultural Palmares - Comunidades Quilombolas. Available at: <https://www.palmares.gov.br/wp-content/uploads/2015/07/quadro-geral-por-estados-e-regioes-15-06-2021.pdf>

Non-Government sources

- Comissão pró-Índio em São Paulo (2021). Available at: <http://www.cpisp.org.br/>
- Comissão Pastoral da Terra (2021). Available at: <https://www.cptnacional.org.br/>
- Instituto Socioambiental (2021) - Mapeamento das terras indígenas e suas situações jurídicas. Available at: <https://terrasindigenas.org.br/>
- Especial Socioambiental (2021). Available at: https://especiais.socioambiental.org/inst/esp/consulta_previa/index7397.html?q=o-que-e
- Imazon Visor- Desmatamento na Amazônia Legal. Inclui mapas de terra indígenas e Quilombos. Available at: <https://amazongeo.org.br/#/> .

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.15.5. Risk determination

Overview of Legal Requirements

In Brazil, traditional peoples are defined as indigenous, but also include quilombolas, who receive the same legal rights as indigenous communities. The Palmares Foundation indicates that, today, there are 3,475 quilombola communities distributed across all regions of the country. The Instituto Socioambiental mapped 724 Indigenous Lands. Within this set, 487 are homologated and regularized, i.e., they have already been acquired by the Union or donated by third parties. The remainder is in the process of identification or declaration. In total, there are more than 110 million hectares of indigenous lands in Brazil.

Law No. 6,001/1973 of the Statute of the Indigenous People regulates the legal status of Indigenous People or aborigines and indigenous communities, with the aim of preserving their culture and integrating them, progressively and harmoniously, into national society. The Indigenous People statute provides for the use of natural resources (art. 22), which includes forest resources, activities essential to their subsistence or economically useful (art. 23, art. 24), recognition of the right to land (art. 25, Art. 32. Art. 33), right to enjoyment and use of natural resources and assets on their lands (art. 26), and provisions on indigenous heritage assets, including land and exclusive usufruct of natural resources and all existing utilities on their lands (Art. 39).

Article 231 of the Federal Constitution establishes that the lands traditionally occupied by indigenous peoples are inalienable and in their permanent possession, therefore, such populations have the exclusive right to use existing resources in the soil, rivers, and lakes. Clause 68 of the Temporary Constitutional Provisions Act (ADCT, the acronym in Portuguese) establishes in its text that "*the remnants of quilombola communities, who are occupying their lands, will have the definitive possession of these lands recognized, and it is up to the State to issue them the respective deeds*". Through these mechanisms, the right to land tenure by indigenous communities is recognized.

The interministerial administrative decree of the Ministry of the Environment 419/2011 provides that, when applying for an environmental license for activities around indigenous or quilombola lands, the applicant must inform IBAMA of this fact, so that IBAMA can consult the entities involved. It may be necessary to prepare an EIA/RIMA (Environmental Impact Study and Report) after public consultation.

Regarding the scope of forest concessions in public forests, Law no. 11,284/2006 and its Regulatory Decree No. 6,063/2007 establish that, prior to the implementation of forest concessions, public forests occupied or used by local communities will be identified for the destination of these communities through the creation of extractive reserves and sustainable development reserves (in accordance with Law no. 9,985/2000), the creation of forest settlement projects and other forms of supplying forests to traditional peoples. Law no. 9,985/2000 defines the concept of Extractive Reserve as an area used by traditional populations who use the available resources for their subsistence. These areas aim to preserve the traditional way of life and culture of these populations. The PAOF (Annual Forest Allocation Plan) for forest concessions must provide for restricted use areas for local communities. Products for

traditional and subsistence use by local communities will be excluded from the purpose of the forest concession.

Description of Risk

The disorderly process of land occupation that has taken place in Brazil - as well as the bureaucracy involved in the process of homologation of indigenous and quilombola lands - has resulted in a situation in which many traditional communities are 'isolated' in large areas and lacking defined titles. The demand from these communities for access to and ownership of areas traditionally necessary for their survival has generated conflicts over land use in Brazil. Although there is legislation that describes the requirement to consult entities related to the indigenous community - in cases where the enterprise is close to or uses indigenous or quilombola lands - the large number, diversity, and dispersion of traditional communities in Brazil leads to a low level of compliance of that legislation. Even in the case of the scope of forest plantations in Brazil, although the main endeavours are in more consolidated border areas and, therefore, less prone to conflicts of ownership and use with traditional communities, we understand that they involve similar risks, mainly in the regions of expansion of forest plantations in the Northeast of the country.

Public forest concessions, instituted based on Federal Law 11,284/2006, were developed through a process in which public forests to be allocated undergo a set of technical studies aimed at determining the existence or use of resources by traditional communities. In general, this process, in addition to conducting public consultations during the tendering of management units, constitutes an improved step to prevent customary rights from being violated by concessions or by the subsequent conduct of forest management. Although questions may arise from traditional communities claiming rights over areas submitted to bidding, the governance environment and the technical studies carried out before the establishment of concessions constitute a step forward to respect customary claims. The experts interviewed commented that, even so, in forest concessions, there is a risk related to the rights of surrounding communities to access the forest for the collection of products and natural resources being affected. In these cases, the concessionaire and the competent bodies must discuss with the communities the conditions of access to the forest, in order to respect customary rights. However, this condition may depend on the concessionaire's initiative and proactivity in resolving such issues, with a significant risk, therefore, mainly in the Brazilian Amazon, which is home to a large number of peoples and traditional communities.

The risks associated with the violation of customary rights in forest planting activities have been related to recurrent cases of illegal land tenure across the country, however, experts consulted in this update considered that such risks exist only for new expanding frontiers, while most plantations in Brazil (more than 80% of planted areas) are located in consolidated borders, where these rights are heard and mainly resolved. However, they warn that there is also a rapid growth of forest plantations in recent frontiers of expansion, especially in the MATOPIBA region, an acronym that represents the states of Maranhão, Tocantins, Piauí and Bahia; in addition to eastern Pará, which has a significant number of local communities.

In general, there is a lack of information about the application of laws related to the rights of traditional and indigenous peoples. However, cases of disrespect for traditional land use rights and cases of violence against indigenous people are frequent throughout the country. For this

reason, the precautionary approach was applied to this indicator, especially considering that the assessment applies to the entire Brazilian territory, and not just to the land use boundaries that area already consolidated.

Risk Conclusion

This criterion, therefore, is considered a specified risk, both for natural forests (private areas and concessions) and for plantations.

It is important to point out that this risk can still be considered low in planted forests located in the main timber-producing enterprises in the consolidated frontiers of forest plantations, but due to the reservations arising from growing risks in the new expansion frontiers, the entire scope of planted forests was pointed out as a specified risk.

1.15.6. Risk designation and specification

Specified risk for plantations and forest management in natural forests (private areas and forest concessions).

Risks relate to non-compliance with existing laws and regulations on traditional and indigenous communities due to confusing and bureaucratic procedures and the large number, diversity, and dispersed nature of traditional communities.

1.15.7. Control measures and verifiers

Review and verify documents:

Traditional communities must be known and/or mapped in the timber supply districts and, when potentially affected by forest management activities, these communities must be consulted in advance:

- Checking the maps of the forest management and cultivation areas of the enterprises and other available information, to see if there is any overlap with the surrounding areas of territories occupied by populations, such as indigenous lands, extractive reserves. This can be verified using data from official sources such as FUNAI, Palmares Cultural Foundation, Secretariat of Culture, IPHAN, local associations, among others;
- Observe if there are consultations with interested parties carried out in a regular and transparent way by these enterprises.

Consult:

Survey of information indicating the existence of conflict or not, for example:

- Search the reports of civil society entities (ISA, Pastoral da Terra, Greenpeace, among others) for evidence of endeavours that have caused a history of customary conflicts with communities in Brazil. In addition, consult with stakeholders locally to find out if there are existing conflicts in the region where the forest management unit or plantation is located.

Verify onsite:

In case of signs of conflict, onsite verifications will be carried out with the affected communities:

- In conflict areas stakeholder consultation should confirm that customary rights are observed during harvesting activities.
- Grievance channels regarding the protection of customary rights and dialogue with companies must be created and known by traditional communities and representative associations.

TRADE AND TRANSPORT

1.16. Classification of species, quantities and, 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).

16.1. Applicable laws and regulations

- CONAMA Resolution 411/2009. Inspection procedures for industries that consume or transform forest timber products and by-products of native origin. *Resolução Conama 411/2009. Procedimentos de fiscalização das indústrias que consomem ou transformam produtos e subprodutos da madeira florestal de origem nativa*. Available at: https://servicos.ibama.gov.br/phocadownload/legislacao/resolucao_conama_411.pdf
- SINIEF Adjustment 09/2012 -National Economic and Tax Information System. Second Clause II. *AJUSTE SINIEF 09/2012 - Sistema Nacional de Informações Econômicas e Fiscais. Cláusula Segunda II*. Available at: https://www.confaz.fazenda.gov.br/legislacao/ajustes/2012/AJ_009_12
- SINIEF Adjustment 12/2009 - Amends the SINIEF Adjustment 11/10, authorizing the federal units identified to institute an Electronic Tax Receipt issued through the Electronic Tax Receipt Authentication and Transmission System - CF-e-SAT. *Ajuste SINIEF 12/2009 - Altera o Ajuste SINIEF 11/10, autorizando as unidades federadas que identifica a instituir Cupom Fiscal Eletrônico emitido por meio do Sistema de Autenticação e Transmissão de Cupom Fiscal Eletrônico - CF-e-SAT*. Available at https://www.confaz.fazenda.gov.br/legislacao/ajustes/2012/AJ_009_12
- SINIEF Adjustment 46/2021 - Amends SINIEF Adjustment No. 7/09, which authorizes federal units to issue a Single Invoice and Rural Producer Invoice by electronic means of data on A4 paper format. *Ajuste SINIEF 46/2021 - Altera o Ajuste SINIEF no. 7/09, que autoriza as unidades federadas a emitir Nota Fiscal Avulsa e de Produtor Rural por meio eletrônico de dados em papel formato A4*. Available at <https://www.confaz.fazenda.gov.br/legislacao/ajustes/2021/ajuste-sinief-46-21>
- IN (Normative Ruling) Ibama 09/2016 – Partially amends IN 21/2014. *IN Ibama 09/2016 – Altera parcialmente a IN 21/2014*. Available at <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/IN0009-121216.pdf>
- IN (Normative Ruling) Ibama 21/2014 - Establishes Sinaflor (National Forest Product Origin Control System). *IN Ibama 21/2014 - Institui o Sinaflor (Sistema Nacional de Controle de Origem dos Produtos Florestais)*. Available at <http://www.ibama.gov.br/phocadownload/sinaflor/2018/2018-06-13-Ibama-IN-IBAMA-21-24-12-2014-SINAFLO-DOF-compilada.pdf>

- Decree 6,759/2009 - Classifies the administration of customs activities and the inspection, control, and taxation of foreign trade operations. *Decreto 6.759/2009 - Dispõe sobre a administração das atividades aduaneiras e a fiscalização, controle e tributação das operações de comércio exterior*. Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/Decreto/d6759.htm
- Federal Law 12,651/2012 – Brazilian Forest Code. Institutes the Forest Origin Document. *Lei Federal 12.651/2012 – Código Florestal Brasileiro. Institui o Documento de Origem Florestal*. Available at http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm

1.16.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*)
- Brazilian Federal Revenue Office - *Delegacia da Receita Federal do Brasil*
- State Revenue Office - *Delegacia da Receita Estadual*

1.16.3. Legally required documents or records

- DOF (Forest Origin Document - *Documento de Origem Florestal*)
- IBAMA Regularity Certificate – *Certificado de Regularidade IBAMA*. Available at: https://servicos.ibama.gov.br/ctf/publico/certificado_regularidade_consulta.php

1.16.4. Sources of information

Government sources

- Secretaria da Fazenda - Nota Fiscal Eletrônica. Available at: <http://www.nfe.fazenda.gov.br/portal/listaSubMenu.aspx?Id=33ol5hhSYZk>
- IBAMA - Documento de Origem Florestal - DOF. Available at: <https://servicos.ibama.gov.br/index.php/licencas/documento-de-origem-florestaldof>
- SFB - Fortalecimento do Setor Florestal no Brasil - 2013. Available at: [http://www.florestal.gov.br/index.php?option=com_k2&view=item&task=download & id = 166](http://www.florestal.gov.br/index.php?option=com_k2&view=item&task=download&id=166)

Non-Government sources

- Greenpeace (2014). Relatório de denúncia de 2014. Greenpeace Brasil. Available at: <http://www.greenpeace.org/brasil/pt/Noticias/Madeira-ilegal-naAmazonia-lavou-ficou-legal/>
- Greenpeace (2018) – Árvores imaginárias, destruição real: como a fraude no licenciamento e extração ilegal de ipê estão causando danos irreversíveis à Floresta Amazônica. Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImagariasDestruicaoReal.pdf
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>

- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.16.5. Risk determination

Overview of Legal Requirements

The Brazilian Forest Code (Federal Law 12,651/2012) defines in Article 35 the need to control the origin of forest products and by-products originating from native forests, which must be done through an integrated national system with the collaboration of the Brazilian states.

The SFMP, according to CONAMA Resolution no. 406/2009, must have all species with commercial value correctly mapped, classified and measured before harvesting. After that, the harvested volume must be recorded.

Controlling the origin of timber, charcoal and other forest products or by-products includes a national system that integrates data from different federated entities, coordinated, supervised and regulated by the competent federal agency within SISNAMA.

All events involving the transport of timber, firewood, charcoal and other forest products of species originating from natural forests must be accompanied by a DOF (Document of Forest Origin). The DOF must accompany the timber, together with the invoice, from the forest to the final destination, including final processing or export, as well as throughout the storage period. The DOF system was conceived by IBAMA in 2006 (IBAMA 112/06) and helps track volumes of native species between companies, thus allowing the identification of illegal timber transport. DOF is a computerized timber control system. It must contain information on the origin of the timber, species, type of product, quantity and value of the cargo, as well as the detailed transport route. Products and by-products must be accompanied by the relevant DOF from the woodyard of origin to the customs terminal.

For the issuance of the DOF, the individual or legal entity responsible for the harvest must be in good standing with IBAMA, which can be verified through the certification of good standing in the Technical Forest Register.

According to Normative Ruling No. 112/2006, the following products are exempt from presenting a DOF: (a) woody material from plantations, orchards or pruning of urban trees; (b) by-products that, by their nature, are already finished, packaged, manufactured and intended for final use, such as doors, windows, furniture, wooden handles for various uses, frames, linings, finishing for linings and boxes, various types of boards or other objects with similar regional denominations; (c) cellulose and resin; (d) chips and other residues from the processing and industrialization of wood, sawdust, pallets, briquettes; leaves from planted trees, straw and palm fiber, coconut bark and charcoal, charcoal briquettes, shoring and wood used in construction sites, wood used in general, reuse of wood from fences and houses; (e) packaged charcoal from the retail trade; (f) bamboo (*Bambusa vulgaris*) and related species; (g) shrub vegetation planted for any purpose; (h) ornamental, medicinal and aromatic plants, seedlings, roots, bulbs, vines and leaves of species not included in the CITES list of threatened species. There is no DOF requirement for plantations of exotic species.

Seeking to modernize the system and better control forest products, IBAMA created, through Normative Ruling 21, of December 24, 2014, the National Forest Origin Control System (Sinaflor), integrating the DOF, the Environmental Registration System Rural (Sicar) and the Environmental Declaratory Act (ADA), as well as harvest authorizations issued by environmental agencies. As a result, IBAMA is responsible for managing a single database of

authorized sources. Sinaflor is being implemented gradually in each state and has been mandatory since January 2018. Finally, CONAMA resolution 411 of 2009 discusses the inspection of industries that consume forest products. Monitoring includes DOF compliance and proper classification of species and quantities used in the production line.

Description of Risk

Changes to the quantity or value of goods on tax documents in Brazil is a known means of tax evasion, as taxes are generally levied on the basis of the company's profit. In Brazil, there are no differentiated rates for different timber species. However, in some states, the most valuable timber species have an established minimum price. In these cases, the change of species in the tax documents can be used as a way to take advantage of a price below the minimum, generating less taxes.

In the case of inspection by the competent environmental agency, inspectors verify that the volume of timber transported and timber in stock correspond to the balances and transfers informed by the DOF system, thus identifying possible flows of illegal timber. In case of assessment by the environmental agency, the companies involved may have their activities banned. However, there is a vast body of evidence that demonstrates the possibility of document fraud being generated through the DOF system, which allows illegal practices in the marketing and transport of timber, including the classification of products, species, and volumes.

For timber from natural forests, there are methods to generate credits that can hide illegal timber transfers, including changing species, material type or volumes. Other ways of defrauding the system include corruption in the bodies that control credits (making it possible to generate credit without physically receiving the timber), and the use of a different conversion factor, so that there will be outstanding credits in the system to cover the illegal timber. Investigations by regulatory bodies (IBAMA), federal police or NGOs revealed fraud and failures in the system, as recently described in the Greenpeace report (2018). As Greenpeace (2018) points out, fraud in forest inventories is the first step towards illegal logging. This makes it possible to overestimate the amount of timber in a management area, generating false credits. Timber harvested illegally based on these credits is sold on the market as legal timber. In addition, the risks related to corruption must be accounted for according to the indexes of the perception of corruption, which is high in Brazil (IPC 2021=38/100).

Although the DOF system contains, in short, a series of weaknesses that allow operators to defraud species, volumes and products, forest concessions in the Amazon have been developed with an additional requirement in terms of forest control represented by the SCC (Chain of Custody System). In addition to the third-party checks that are conducted on concessions over periods of a maximum of three years, such a system reinforces control through the DOF and substantially reduces the risks linked to production fraud.

Risk Conclusion

The risk of incorrect classification of species, quantity or quality of timber products can be considered specific for the logging of private natural forests due to the fragility of the DOF system and the high degree of perception of corruption in Brazil.

In the case of plantations, the risks of fraud related to the classification of species, products and volumes can be considered as significantly lower. Exotic species are not included in the

DOF system (except in charcoal production). There are cases of plantations of native species where the DOF applies, but the planting of native species for sawmills in Brazil is insignificant. Changing species details on tax documents does not have much advantage in these cases; therefore, this is considered a low risk to plantations.

The forest concessions, on the other hand, are covered by improved level of control over forest production, therefore we judge the production of these areas as low risk in this regard.

1.16.6. Risk designation and specification

Low risk for Plantations and Public Natural Forests (Concessions).

Specified risk for the logging of Private Natural Forests. There is a risk, in this case, of incorrect classification of species, quantity or quality of timber products due to the fragility of the DOF system and the high degree of perceived corruption in Brazil.

1.16.7. Control measures and verifiers

Mitigate the risk of incorrect classification of species, quantity, or quality of timber products due to the fragility of the DOF system and the high degree of corruption perception in Brazil (Private Natural Forests):

Review and verify documents:

- Timber from native species is accompanied by the DOF.
- All information about species, quantities and products are correctly indicated in sales documents (invoices), transport documents (DOF or Forest Waybill - GF), customs declarations and other legally required documents (DOF export or export waybills). Inquiries about the electronic invoices (NF-e) can be made at <http://www.nfe.fazenda.gov.br/portal/principal.aspx>
- Check that the logging systems for field logging are accurate in relation to the species and volumes actually logged, and correspond consistently with the DOF waybills being issued, AUTEF / AUTEX and Invoice.

Consult:

- The timber supplier does not have its activities embargoed by environmental agencies. The environmental embargoes by companies can be consulted through the website <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>
- Consultation with local experts to ensure that forest inventories (volumes allowed in the AUTEX) are in line with usual density of valuable species in this forest region.

Verify onsite:

Others:

- Independent onsite verification to avoid contamination of logs and to assess the consistency of the companies' management systems with regard to correct classification and consistent reporting of species, quantities and/or quality of products is the only effective measure to minimize such risks. This includes companies with chain of custody systems in place, and independently verified on a regular basis.

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

- IBAMA Resolution 411/2009. Inspection procedures for industries that consume or transform forest timber products and by-products of native origin. *Resolução IBAMA 411/2009. Procedimentos de fiscalização das indústrias que consomem ou transformam produtos e subprodutos da madeira florestal de origem nativa*. Available at: https://servicos.ibama.gov.br/phocadownload/legislacao/resolucao_conama_411.pdf
- IBAMA Ordinance 253/2006 – Establishes the Forest Origin Document (DOF, the acronym in Portuguese). *Portaria IBAMA 253/2006 – Institui o documento de Origem Florestal (DOF)*. Available at: <https://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=1&pagina=92&data=21/08/2006>
- IN (Normative Ruling) Ibama 21/2014 - Establishes Sinaflor (National Forest Product Origin Control System). *IN Ibama 21/2014 - Institui o Sinaflor (Sistema Nacional de Controle de Origem dos Produtos Florestais)*. Available at <http://www.ibama.gov.br/phocadownload/sinaflor/2018/2018-06-13-Ibama-IN-IBAMA-21-24-12-2014-SINAFLOD-DOF-compilada.pdf>
- IN (Normative Ruling) Ibama 09/2016 – Partially amends IN 21/2014. *IN Ibama 09/2016 – Altera parcialmente a IN 21/2014*. Available at <http://www.ibama.gov.br/sophia/cnia/legislacao/IBAMA/IN0009-121216.pdf>
- Law 8,846/1994 - Deals with the issuance of tax documents and the arbitration of the minimum income for taxation and other measures. *Lei 8.846/1994 - Dispõe sobre a emissão de documentos fiscais e o arbitramento da receita mínima para a tributação e dá outras providências*. Available at: http://www.planalto.gov.br/ccivil_03/leis/L8846.htm
- SINIEF A djustment 07/2005 - National System of Economic and Tax Information - Creates the Electronic Invoice and the DANFE. First clause. *SINIEF Ajuste 07/2005 - Sistema Nacional de Informações Econômicas e Fiscais - Cria a Nota Fiscal Eletrônica e o DANFE. Primeira cláusula*. Available at: http://www1.fazenda.gov.br/confaz/confaz/ajustes/2005/AJ_007_05.htm
- Instrução normativa IBAMA 15/2011, on procedures for the export of timber products and by-products of native species from natural or planted forests. Arts.1-2; 4-6;10. *Instrução normativa IBAMA 15/2011, on procedures for the export of timber products and by-products of native species from natural or planted forests. Arts.1-2; 4-6;10*. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&force=1&legislacao=124870>
- Normative Ruling 13/2018. Modifies paragraphs 1 and 2 of art. 2 of IBAMA Normative Ruling No. 15/2011. *Instrução normativa 13/2018. Modifica os parágrafos 1º e 2º do art. 2º da Instrução Normativa IBAMA No. 15/2011*. Available at:

https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/11981818/do1-2018-04-26-instrucao-normativa-n-13-de-24-de-abril-de-2018-11981814

- IBAMA Normative Ruling 21/2013 - National DOF (Forest Origin Document) and DOF for export, import. *Instrução Normativa IBAMA 21/2013 - DOF nacional e DOF para exportação, importação*. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&force=1&legislacao=131488>

1.17.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*
- Brazilian Federal Revenue Office - *Delegacia da Receita Federal do Brasil*
- State Revenue Office - *Delegacia da Receita Estadual*

1.17.3. Legally required documents or records

- CNPJ (Legal Entity Taxpayer ID) Card - *Cartão CNPJ*
- Sales invoices and receipts, including and preferably those in electronic format (NF-e/DANFE). Inquiries regarding the NF-e can be made at <http://www.nfe.fazenda.gov.br/portal/principal.aspx> - *Notas de venda (invoices) e notas fiscais, incluindo e preferencialmente as de formato eletrônico (NF-e/DANFE). As consultas às NF-e podem ser feitas em* <http://www.nfe.fazenda.gov.br/portal/principal.aspx>
- DOF/GF
- IBAMA Regularity Certificate - *Certificado de Regularidade IBAMA*

1.17.4. Sources of information

Government sources

- IBAMA - Documento de Origem Florestal - DOF. Available at: <http://www.ibama.gov.br/flora-e-madeira/dof/o-que-e-dof>

Non-Government sources

- FGV (2015) - Índice de Percepção de Conformidade Legal - IPCL Brasil Fundação Getúlio Vargas, pp. 1-37. Available at: <http://bibliotecadigital.fgv.br/dspace/handle/10438/14133>
- Greenpeace (2018) – Árvores imaginárias, destruição real: como a fraude no licenciamento e extração ilegal de ipê estão causando danos irreversíveis à Floresta Amazônica. Available at: https://storage.googleapis.com/planet4-brasil-stateless/2018/03/Relatorio_ArvoresImagariasDestruicaoReal.pdf
- Greenpeace (2017) – Blood-Stained Timber: rural violence and the theft of Amazon timber (2017). Available at: https://www.greenpeace.org.br/hubfs/Greenpeace_BloodStainedTimber_2017.pdf

- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.17.5. Risk determination

Overview of Legal Requirements

In the Brazilian domestic market, the invoice is the main mandatory official document that legalizes the sale of a product and that must accompany this product during transport. Currently, the vast majority of companies use the electronic invoice, and in these cases the physical document that accompanies the product is the DANFE (Auxiliary Document of the Electronic Invoice) which contains the same information.

For export, the invoice is the document that transfers legal ownership of the product. The bill of lading is the transport document that will accompany the goods during export. Invoices are national documents, therefore, they are retained by customs.

As previously mentioned (indicator 1.16), logs and processed timber from native species in natural forests must always be accompanied by the DOF (Document of Forest Origin) during transport, marketing, storage and export, including the production chain from forest to the final destination of the product. The buyer can verify the consistency of the information in the DOF on an online site with the associated DOF number.

IBAMA NR 21/2013 created the DOF for export, which must accompany the goods from the exporter's yard to customs.

Description of Risk

For timber sourced from natural forests, operators along the chain have developed methods to generate credits that can mask illegal timber transfers, including changing species, products, or volume. Other ways of defrauding the system include corruption in the bodies that control credits, making it possible to generate credit without physically receiving the timber, and the use of an irregular conversion factor that generates pending credits in the system to cover illegal timber. The waybills and other transport documents, in these cases, are defrauded to cover up illegal logging. A special case worth noting is the logging of timber from natural forests in the Amazon. One of the mechanisms used in illegal logging is the circulation of more than one load of timber using the same transport document. This subterfuge is done with the objective of selling a larger amount of timber than was originally allowed by the exploration authorization. Brazil can be considered a country with a high perception of corruption. The IPCL (Legal Compliance Perception Index) in Brazil in 2020 was 38 (on a scale of 0 to 100 where 100 is good). This means that there is a strong perception that Brazil is a corrupt country.

The report 'Imaginary Trees, Real Destruction', by Greenpeace (2018), presents information on how the fragility of inspections of the companies' chain of custody allows illegal timber – harvested based on credits generated by false forest inventories – to reach the market. In addition, the 'Blood-Stained Timber' report, by Greenpeace (2017) shows that timber extracted from areas of violence against the rural and traditional population reaches the international market, demonstrating once again that enforcement in the production chain, especially in the transport is insufficient.

In planted forests, the risks associated with this criterion are, in general, significantly lower. There are no restrictions on the export of exotic timber, and the DOF/GF is not mandatory in these cases. Invoices are a well-established instrument in Brazil and, although there are sales without invoices, they do not represent a significant value in the planted timber market. However, there are no guarantees that invoices for transported timber cannot accompany irregularly harvested timber – as in the case of plantations in Legal Reserves, Permanently Protected Areas, compliance with environmental requirements or even stolen timber. In areas under strong pressure, as is the case of new frontiers of forest plantations, invasions and theft of timber in the post-harvest stage has been reported, where the harvested timber remains under piles on the side of the road for about 90 days. For this reason, following the precautionary principle, we consider this item as a specified risk.

The forest concessions, on the other hand, were designed to operate at an improved level of control over forest production and, therefore, we judge the production of these areas as low risk in this regard.

Risk Conclusion

Under the precautionary principle, we classify planted forests as specified risk to cover cases of timber theft and other irregularities that may occur at the point of origin of the transport.

For private natural forests, we classified this criterion as specified risk in view of the mandatory use of DOF system transport documents accompanying timber products and considering that such systems are susceptible to document fraud in an effort to legitimize illegal logging. There is a risk of selling native timber without the DOF/GF or accompanied by such documents with altered data with the intention of confusing the tracking systems implemented by the government. This includes using the same timber transport waybill already used for other timber transport, to cover up the transport of illegally sourced timber.

Due to the greater control of production and the chain of custody of the timber produced in forest concessions in the Amazon so far, we understand that this source of supply offers low risk in this regard.

1.17.6. Risk designation and specification

Low risk for public natural forests (concessions).

Specified risk for the logging of private natural forests:

- Risks of contamination of production chains by illegally harvested timber, through document fraud in control documents (DOF/GF transport documents) or invoices issued.

Specified risk for the logging of forest plantations:

- Risk, although not present in all regions of the country, of theft of timber, even exotic species, that may be transported through the issuance of fraudulent invoices.

1.17.7. Control measures and verifiers

To mitigate the risk of contamination of production chains by illegally harvested timber, through document fraud in control documents (DOF/GF transport documents) or invoices issued in Private Natural Forests:

Review and verify documents:

- All required sales and transport documents exist and are documented (invoice accompanied by DOF or GF in the Brazilian domestic market; for export, invoice (NF-e and DANFE) correctly specifying the species and volumes)
- Documents relating to transport, trade or export are clearly linked to the specific materials in question.

Consult:

- Verify the information in the DOF on the official site:
https://servicos.ibama.gov.br/ctf/modulos/dof/consulta_dof.php

Others:

More robust control systems are seen as the only solution to resolve the issue of illegal logging in the Amazon. However, production traceability systems can be implemented, together with independent verifications, in the search for the mitigation of this problem. In general, independently verified enterprises (such as concessions and certified enterprises), in addition to production chains that have implemented chains of custody, are the only ones that present lower risks related to compliance with this requirement.

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

- Decree 6,759/2009 - Classifies the administration of customs activities and the inspection, control, and taxation of foreign trade operations. *Decreto 6.759/2009 - Dispõe sobre a administração das atividades aduaneiras e a fiscalização, controle e tributação das operações de comércio exterior.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/Decreto/d6759.htm
- Law 5,172/1966 CTN - National Tax Code. Section II and clauses 173 and 175. *Lei 5.172/1966 CTN - Código Tributário Nacional. Seção II e cláusulas 173 e 175.* Available at: https://www.planalto.gov.br/ccivil_03/leis/l5172.htm
- Decree 3,607/2000 - Licensing for the import and export of CITES species. *Decreto 3.607/2000 - Licenciamento para importação e exportação de espécies da CITES.* Available at: https://www.planalto.gov.br/ccivil_03/Decreto/d3607.htm

- Normative Ruling 13/2018. Procedures for the export of timber forest products and by-products of native origin. *Instrução normativa 13/2018. Procedimentos para a exportação de produtos e subprodutos florestais madeireiros de origem nativa*. Available at: https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/11981818/do1-2018-04-26-instrucao-normativa-n-13-de-24-de-abril-de-2018-11981814
- Law 9,430/1996 - Transfer pricing. Section V - Transfer Pricing. *Lei 9.430/1996 - Preços de transferência. Seção V - preços de transferência*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9430.htm
- Federal Revenue Normative Ruling 1,312/2012 - Transfer pricing. *Instrução Normativa da Receita Federal 1.312/2012 - Preços de transferência*. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=39257>
- Normative Ruling of the FEDERAL Revenue Service 1,037/2010 - Tax Haven. *Instrução Normativa da Receita FEDERAL 1.037/2010 - Paraíso Fiscal*. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=16002&visao=compilado>

1.18.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*)
- Brazilian Federal Revenue Office - *Delegacia da Receita Federal do Brasil*
- State Revenue Office - *Delegacia da Receita Estadual*

1.18.3. Legally required documents or records

- Invoices and receipts, including those in electronic format (NF-e and DANFE) - *Faturas (invoices) e notas fiscais, incluindo as de formato eletrônico (NF-e and DANFE)*
- Export DOF - *DOF de exportação*

1.18.4. Sources of information

Government sources

- Receita Federal - Preços de transferência. Available at: <http://www.receita.fazenda.gov.br/Legislacao/ins/2012/in13122012.htm>

Non-Government sources

- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.18.5. Risk determination

Overview of Legal Requirements

Law 9,430/1996 and RFB NR 1312/2012 rule the definition of prices in import and export activities, in order to avoid different prices from those actually practiced in transfer operations between headquarters subsidiaries in different countries.

Meanwhile, RFB Normative Ruling No. 1,037 of 2010 lists countries with special taxes or privileged tax regimes. Decree no. 6,759 of 2009 regulates customs activities, discussing the monitoring, control, and taxation of foreign trade operations.

Description of Risk

For a Brazilian company to export its products, it must be registered with the Federal Revenue as an exporter and, therefore, must comply with several legal requirements. Normally, export mechanisms are demanding, well controlled and well supervised. There may be instances of corruption, but these are not significant enough to make this a specific risk.

Furthermore, there are few Brazilian companies that have a structure that includes companies associated abroad and organized in holding companies. This situation tends to reduce the risk and probability of the existence of associated companies in tax havens.

Risk Conclusion

Classified as low risk for all assessed scopes.

1.18.6. Risk designation and specification

Low risk for Private Natural Forests, Plantations and Public Natural Forests (Concessions).

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Decree 6,759/2009 - Classifies the administration of customs activities and the inspection, control, and taxation of foreign trade operations. *Decreto 6.759/2009 - Dispõe sobre a administração das atividades aduaneiras e a fiscalização, controle e tributação das operações de comércio exterior. Arts. 557, 703, 86.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/Decreto/d6759.htm
- Instrução normativa IBAMA 15/2011, on procedures for the export of timber products and by-products of native species from natural or planted forests. Arts.1-2; 4-6;10. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&force=1&legislacao=124870>

- Normative Ruling 13/2018. Modifies paragraphs 1 and 2 of art. 2 of IBAMA Normative Ruling No. 15/2011. *Instrução normativa No.13/2018. Modifica os parágrafos 1º e 2º do art. 2º da Instrução Normativa IBAMA No. 15/2011.* Available at: https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/11981818/do1-2018-04-26-instrucao-normativa-n-13-de-24-de-abril-de-2018-11981814
- Normative Ruling 77/2005 - Regulates the export of timber. *Instrução normativa 77/2005 - Regulamenta exportação de madeira.* Available at: https://snif.florestal.gov.br/images/pdf/legislacao/normativas/in_ibama_77_2005.pdf
- Law 8,171/1991 - Agrarian Policy. Clauses 102 and 103 - Damage to the soil (Erosion). *Lei 8171/1991 - Política agrícola, danos no solo (Erosão). Arts 102 e103.* Available at: http://www.planalto.gov.br/ccivil_03/leis/l8171.htm
- Decree 24,114/1934 - Approves the regulation for the health protection of vegetation. Clause 47. *Decreto 24.114/1934 - Aprova o regulamento de defesa da vegetação sanitária. Cláusula 47.* Available at: https://www.planalto.gov.br/ccivil_03/Decreto/1930-1949/D24114.htm
- Decree 5,741/2006 - Classifies the Unified Agricultural Sanitation Assistance System, and other measures. Chapter III, Section VIII and Chapter VI, Section IV. *Decreto 5.741/2006 - Dispõe sobre o Sistema Único de Assistência ao Saneamento Agropecuário, e dá outras providências. Capítulo III, Seção VIII e Capítulo VI, Seção IV.* Available at: https://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5741.htm
- Decree 5,759/2006 - Promulgates the text of the International Plant Protection Convention (IPPC), approved at the 29th Conference of the United Nations Organization for Food and Agriculture - FAO, on November 17, 1997. Clause V. *Decreto 5.759/2006 - Promulga o texto da Convenção Internacional para a Proteção da Vegetação (CIVP), aprovado no 29º Conferência da Organização das Nações Unidas para Agricultura e Nutrição - FAO, em 17 de novembro de 1997. Cláusula V.* Available at: http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/Decreto/D5759.htm
- Normative Ruling MAPA 55/2007 - Approves the Technical Standard for the use of the Phytosanitary Certificate of Origin - CFO (the acronym in Portuguese) and the Consolidated Phytosanitary Certificate of Origin. Annex I. *Instrução normativa MAPA 55/2007 - Aprova a Norma Técnica para a utilização do Certificado de Origem Fitossanitária - CFO e o Certificado de Origem Fitossanitária Consolidado. Anexo I.* Available at: <https://www.gov.br/agricultura/pt-br/assuntos/inspecao/produtos-vegetal/arquivos/instrucao-normativa-no-55-de-18-de-novembro-de-2009.pdf/view>
- SINIEF Adjustment 09/2012 - Indication of NCM (Nomenclature Common to Mercosul) in the tax document. - AJUSTE SINIEF 09/2012. *Indicação de NCM no documento fiscal.* Available at: https://www.confaz.fazenda.gov.br/legislacao/ajustes/2012/AJ_009_12
- Normative Ruling SRF 28/1994. Provides for the shipment of goods destined for export through customs. *Instrução Normativa SRF 28/1994. Dispõe sobre o embarque de mercadorias destinadas à exportação pela alfândega.* Available at

<http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=13448#:~:text=Art.,seja%2C%20de%20retorno%20ao%20exterior.>

- Decree 23/2011 Regulates foreign trade operations. Chapter IV. *Decreto 23/2011 Regulamenta as operações de comércio exterior. Capítulo IV*. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=13448>
- Normative Ruling MMA 21/2014. Establishes Sinaflor (National Forest Product Origin Control System). *Instrução Normativa MMA 21/2014. Estabelece o Sinaflor (Sistema Nacional de Controle de Origem dos produtos Florestais)*. Available at <http://www.ibama.gov.br/phocadownload/sinaflor/2018/2018-06-13-Ibama-IN-IBAMA-21-24-12-2014-SINAFLO-DOF-compilada.pdf>
- Normative Ruling RFB 1984/2020. Provides for the qualification of goods declarants to act in foreign trade and of individuals responsible for carrying out acts in foreign trade systems on their behalf, as well as the accreditation of their representatives to practice activities related to the customs clearance of goods and other users of foreign trade systems that act on their behalf. *Instrução Normativa RFB 1984/2020. Dispõe sobre a habilitação de declarantes de mercadorias para atuarem no comércio exterior e de pessoas físicas responsáveis pela prática de atos nos sistemas de comércio exterior em seu nome, bem como sobre o credenciamento de seus representantes para a prática de atividades relacionadas ao despacho aduaneiro de mercadorias e dos demais usuários dos sistemas de comércio exterior que atuam em seu nome*. Available at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=113361>
- Normative Ruling Ibama 8/2022. Establishes the procedures for authorizing the export of timber products and by-products of native species from natural or planted forests, aiming to complement, regarding the export control of native timber loads within the scope of Ibama, Normative Ruling No. December 2014, Normative Ruling No. 17, of December 1, 2021, and Ordinance No. 8, of January 3, 2022. *Instrução Normativa Ibama 8/2022. Estabelece os procedimentos para autorização de exportação de produtos e subprodutos madeireiros de espécies nativas oriundos de florestas naturais ou plantadas, visando a complementar, relativamente ao controle de exportação de cargas de madeira nativa no âmbito do Ibama, a Instrução Normativa no. 21, de 24 de dezembro de 2014, a Instrução Normativa no. 17, de 1º de dezembro de 2021, e a Portaria no. 8, de 3 de janeiro de 2022*. Available at <https://www.in.gov.br/web/dou/-/instrucao-normativa-n-8-de-25-de-marco-de-2022-388699763>
- Siscomex Ordinance 19/2019. Provides for the issuance of licenses, authorizations, certificates, and other public export documents through the Single Foreign Trade Portal of the Integrated Foreign Trade System - SISCOMEX. *Portaria Siscomex 19/2019. Dispõe sobre a emissão de licenças, autorizações, certificados e outros documentos públicos de exportação por meio do Portal Único de Comércio Exterior do Sistema Integrado de Comércio Exterior - SISCOMEX*. Available at <https://www.in.gov.br/en/web/dou/-/portaria-n-19-de-2-de-julho-de-2019-187162504>

1.19.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais)
- Brazilian Federal Revenue Office - Delegacia da Receita Federal do Brasil State Revenue Office - Delegacia da Receita Estadual

1.19.3. Legally required documents or records

- DOF/Forest Waybill/DOF Export (in Brazilian territory) - *DOF/Guia Florestal/Exportação DOF (em território brasileiro)*
- IBAMA export authorization - *Autorização de exportação do IBAMA*
- Registration in SISCOMEX (Integrated Foreign Trade System) - *Cadastro no SISCOMEX (Sistema Integrado de Comércio Exterior)*
- Invoices and receipts, including those in electronic format (NF-e and DANFE) - *Faturas (invoices) e notas fiscais, incluindo as de formato eletrônico (NF-e and DANFE)*
- CFO (Certificate of Phytosanitary Origin - *Certificado de Origem Fitossanitária*)
- CFOC (Consolidated Certificate of Phytosanitary Origin - *Certificado de Origem Fitossanitária Consolidado*)
- Single Export Declaration - *Declaração Única de Exportação*
Note: The Single Export Declaration must include the SISCOMEX number, and is issued by the local customs office. -A Declaração Única de Exportação deve incluir número do SISCOMEX, e é emitido pela estância aduaneira local.
- Sales contract (optional) - *Contrato de vendas (opcional)*
- Packing list - *Lista de embalagem*
- Bill of Lading (Bill of Lading/CRT/AWB/TIF) - *Conhecimento de Embarque (Conhecimento de Embarque/CRT/AWB/TIF)*

1.19.4. Sources of information

Government sources

- IBAMA - Exportação e Importação de Fauna, Partes, Produtos e Material Biológico (Exportação e Importação de Fauna, Peças, Produtos e Material Biológico). Available at: www.ibama.gov.br/areas-tematicas-faunasilvestre/exportacao-e-importacao-de-fauna-partes-produtos-e-material-biologico
- IBAMA - Licença para importação ou exportação de flora e fauna - CITES e não CITES (Licença para importação ou exportação de flora e fauna CITES e não CITES). Available at: <https://servicos.ibama.gov.br/index.php/licencas/importacaoexportacao-de-flora-ef fauna-cites-e-nao-cites>

Non-Government sources

- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.19.5. Risk determination

Overview of Legal Requirements

Exports in Brazil are regulated by the Brazilian Federal Revenue Service (RFB, the acronym in Portuguese) through the online system SISCOMEX (Integrated Foreign Trade System). For a company to have access to exports, a sequence of documents must be presented to the Federal Revenue Service. RFB Normative Ruling 1,984/2020 provides for the authorization of declarations of goods in foreign trade and customs clearance of goods at the Special Secretariat of the Brazilian Federal Revenue Service (RFB).

The SISCOMEX system is accessed through a valid digital certificate issued by a certifying authority that is part of the Brazilian Public Key Infrastructure (ICP-Brasil/PKI Brasil). To access foreign trade systems, users must be in a "regular" registration situation with their CPF (taxpayer) identification number. RFB Normative Ruling 1,288/2012, article 14, presents the reasons that may lead to the suspension of registration in SISCOMEX, with such restrictions reducing the possibility of a given company having legal problems associated with the export of its products.

The Brazilian Forest Code (Law no. 12.651/2012) requires a license for the export of live plants and forest products from natural forests. IBAMA Normative Ruling No. 15/2011 (modified by Normative Ruling 13/2018) provides for procedures for the export of timber and timber products from native species from natural or planted forests. This rule states that the export of charcoal from native species will depend on IBAMA's export authorization. The export authorization must be carried out through the IBAMA license issuing service for the import, export and re-export of specimens, products and by-products of the Brazilian wild fauna and flora, and exotic fauna and flora, whether or not included in CITES, available on IBAMA's website on the Internet, in the section "Services > Licenses" (<http://www.ibama.gov.br/licencas-servicos>). The export of roundwood from natural forests is prohibited (IBAMA NR 15/11, Clause 6).

To request the export authorization, the interested party must submit a series of documents to IBAMA, which manages the customs bonded warehouse, for inspection and clearance purposes (art4), including: (i) copy of the Export Registration - RE of the Foreign Trade System - SISCOMEX; (ii) registration in the category of exporter in the Federal Technical Register; (iii) copy of the tax document (invoice or receipts); (iv) packing list for the goods; (v) authorization for the transport of forest products adopted by the competent environmental agency; (vi) certificate or license for the species listed in the annexes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES; (vii) export dispatch. In addition to the documents mentioned above, specific products (I - round wood; II - sawn wood over 250 mm; III - charcoal; IV - industrial wood waste; V - firewood from native species) must be exported with a declaration from the Directorate for the Use of Biodiversity and Forests, and a set of additional documents are required for export (art5).

Normative Ruling No. 21/2014 which provides for the National System for the Control of Origin of Forest Products (SINAFLO, the acronym in Portuguese) establishes that native forest products intended for export must be accompanied by an Export DOF from the yard of origin to the customs terminal of destination of export, where the customs clearance will be processed. At the time of issuance, the internationalized customs and boarding terminal must be indicated, as well as the complete address of the importer in the country of destination of the cargo. The Export DOF or similar state transport document (GF, Forest Waybill) will be issued by the holder of the forest product without the need for registration of the offer, nor the

approval of a specific yard at the place of internationalization. The arrival of the cargo at the customs terminal, or at the warehouse, must be informed in the DOF system, using the document's control code, including those declared using their own forest flow control system. Export documents always contain the product code exported in compliance with the harmonized system. In the case of Mercosur companies, the system used is the CMN (Common Mercosur Nomenclature). These codes provide unique product coding around the world.

There has recently been a setback in these procedures since, in 2020, IBAMA, by order of the Minister of the Environment, cancelled the mandatory issue of the export license, a situation that was only resolved in May 2021 by order of the Federal Supreme Court. With the advent of NR 8/2022, these issues are resolved.

Description of Risk

Considering that the registration in SISCOMEX indicates that the company has legal export status and that the most structured companies have the right to export, the risk of export occurring with official procedures in disagreement with customs regulations is defined as low.

Risk Conclusion

The risk is considered low for the three evaluated scopes.

1.19.6. Risk designation and specification

Low risk for private natural forests, plantations and public natural forests (concessions).

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

- Normative Ruling IBAMA 15/2011, on procedures for the export of timber products and by-products of native species from natural or planted forests. Arts.1-2; 4-6;10. - Instrução normativa IBAMA 15/2011, on procedures for the export of timber products and by-products of native species from natural or planted forests. Arts.1-2; 4-6;10. Available at: <https://www.ibama.gov.br/component/legislacao/?view=legislacao&force=1&legislacao=124870>
- Normative Ruling 13/2018. Modifies paragraphs 1 and 2 of art. 2 of IBAMA Normative Ruling No. 15/2011. - Instrução normativa 13/2018. Modifica os parágrafos 1º e 2º do art. 2º da Instrução Normativa IBAMA No. 15/2011. Available at: https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/11981818/do1-2018-04-26-instrucao-normativa-n-13-de-24-de-abril-de-2018-11981814

- Decree 3,607/2000 - Licensing for the import and export of CITES species. - Decreto 3.607/2000 - Licenciamento para importação e exportação de espécies da CITES. Available at: https://www.planalto.gov.br/ccivil_03/decreto/d3607.htm
- Ordinance MMA 561/2021- Species in danger of extinction in the Brazilian flora. - Portaria MMA 561/2021- Espécies em perigo de extinção na flora brasileira. Available at: <https://www.in.gov.br/en/web/dou/-/portaria-mma-n-561-de-15-de-dezembro-de-2021-367747322>
- Normative Ruling 01/2021 - Procedures for assessing the risk of extinction of Brazilian flora species. - Instrução normativa 01/2021 - Procedimentos para a avaliação do risco de extinção das espécies da flora brasileira. Available at: <https://www.in.gov.br/en/web/dou/-/instrucao-normativa-n-1-de-10-de-dezembro-de-2021-366859283>
- Decree 4,722/2003 - Establishes criteria for exploration of mahogany. Available at: www.planalto.gov.br/ccivil_03/decreto/2003/d4722.htm - Decreto 4.722/2003 - Estabelece critérios para exploração do mogno (mahogany). Available at: www.planalto.gov.br/ccivil_03/decreto/2003/d4722.htm
- Normative Ruling Ibama 8/2022. Establishes the procedures for authorizing the export of timber products and by-products of native species from natural or planted forests, aiming to complement, regarding the export control of native timber loads within the scope of Ibama, Normative Ruling No. December 2014, Normative Ruling No. 17, of December 1, 2021, and Ordinance No. 8, of January 3, 2022. - Instrução Normativa Ibama 8/2022. Estabelece os procedimentos para autorização de exportação de produtos e subprodutos madeireiros de espécies nativas oriundos de florestas naturais ou plantadas, visando a complementar, relativamente ao controle de exportação de cargas de madeira nativa no âmbito do Ibama, a Instrução Normativa no. 21, de 24 de dezembro de 2014, a Instrução Normativa no. 17, de 1º de dezembro de 2021, e a Portaria no. 8, de 3 de janeiro de 2022. Available at <https://www.in.gov.br/web/dou/-/instrucao-normativa-n-8-de-25-de-marco-de-2022-388699763>
- Siscomex Ordinance 19/2019. Provides for the issuance of licenses, authorizations, certificates, and other public export documents through the Single Foreign Trade Portal of the Integrated Foreign Trade System - SISCOMEX. - Portaria Siscomex 19/2019. Dispõe sobre a emissão de licenças, autorizações, certificados e outros documentos públicos de exportação por meio do Portal Único de Comércio Exterior do Sistema Integrado de Comércio Exterior - SISCOMEX. Available at <https://www.in.gov.br/en/web/dou/-/portaria-n-19-de-2-de-julho-de-2019-187162504>
- Normative Ruling 04/2020 - Instrução Normativa 04/2020. Available at <https://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=20/08/2020&jornal=515&pagina=90>
- CITES (I). Flora attachment. Available at: <https://cites.org/eng/app/appendices.php>
- Ordinance MMA 443/2014. Recognizes as endangered species of the Brazilian flora those listed in the "Official National List of Flora Species Threatened with Extinction". - Portaria MMA 443/2014. Reconhece como espécies da flora brasileira ameaçadas de extinção aquelas constantes da "Lista Nacional Oficial de Espécies da Flora Ameaçadas de

Extinção". Available at http://cncflora.jbrj.gov.br/portal/static/pdf/portaria_mma_443_2014.pdf

- Ordinance MMA 561/2021. Establishes the list of endangered native species, as an incentive for their use in methods of restoring native vegetation in degraded or modified areas. - Portaria MMA 561/2021. Institui a lista de espécies nativas ameaçadas de extinção, como incentivo ao uso em métodos de recomposição de vegetação nativa em áreas degradadas ou alteradas. Available at <https://www.in.gov.br/en/web/dou/-/portaria-mma-n-561-de-15-de-dezembro-de-2021-367747322>

1.20.2. Legal authority

- SISNAMA (Federal Executive Bodies: IBAMA and ICMBio; State and Municipal Environmental Bodies) - *Órgãos Executivos Federais: IBAMA e ICMBio; Órgãos Ambientais Estaduais e Municipais*
- Research Institute of the Botanical Garden of Rio de Janeiro (JBRJ) - *Instituto de Pesquisas do Jardim Botânico do Rio de Janeiro - JBRJ*

1.20.3. Legally required documents or records

- CITES License or Certificate issued by IBAMA - *Licença CITES ou Certificado emitido pelo IBAMA*

1.20.4. Sources of information

Government sources

- IBAMA - Exportação e Importação de Fauna, Partes, Produtos e Material Biológico (Exportação e Importação de Fauna, Peças, Produtos e Material Biológico). Available at: www.ibama.gov.br/areas-tematicas-faunasilvestre/exportacao-e-importacao-de-fauna-partes-produtos-e-material-biologico
- IBAMA - Licença para importação ou exportação de flora e fauna - CITES e não CITES Available at: <https://servicos.ibama.gov.br/index.php/licencas/importacaoexportacao-de-flora-ef fauna-cites-e-nao-cites>
- IBAMA - Ibama implanta novo módulo DOF para controle de exportação da madeira Available at: <http://www.ibama.gov.br/publicadas/ibama-implanta-novomodulo-dof-para-controle-de-exportacao-de-madeira>

Non-Government sources

- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.20.5. Risk determination

Overview of Legal Requirements

Brazil has a large number of laws that regulate the protection, logging, commercialization and export of species protected by CITES. Decree 3607/2000 regulates the procedures for exporting and importing species registered under CITES. Establishes procedures for the export, import and re-export of any specimen of a species included in CITES Appendix I, II and III. In general, it requires a CITES license to export, import or re-export, depending on the case.

IBAMA is the body responsible for issuing CITES licenses. The system provided by the agency requires registration of the activities of exporters of flora, certification of good standing by IBAMA and an Export License for the species issued by the IBAMA system. Such Export Licenses can only be issued after a report from the scientific authority (Institute of the Botanical Garden of Rio de Janeiro) attesting that the export will not affect the survival of the species. After verification by IBAMA that an export license has been issued for the recipient, the purchase is considered legal (MMA NR 1/2021). IBAMA is in an effort to modernize the platform aimed at granting export licenses for CITES species through the Pau-Brasil system, integrated with the Sinaflor+/DOF control system.

Some of the main Brazilian forest species commercially favourable and protected by CITES are mahogany (*Swietenia macrophylla*), registered in Appendix II of CITES, and Cedarwood (*Cedrela odorata*) registered in Appendix III. Both species originate from the Amazon biome. Due to the ecological weaknesses of the species and the problems encountered in its logging regarding illegal logging, there is currently a broad debate in Brazil for the inclusion of Ipê species (*Handroanthus sp.*) in Annex II of the Convention. Vulnerable timber species with restrictions for logging in Brazil are also formally regulated through Ordinances MMA 443/2014 and MMA 561/2021.

There has recently been a setback in these procedures since, in 2020, IBAMA, by order of the Minister of the Environment, cancelled the mandatory issue of the export license, including for officially vulnerable species or those listed in CITES, a situation that was only resolved in May 2021 by order of the Federal Supreme Court. Many entrepreneurs in the forestry sector claimed that the timber exported during this period of suspension of the export license encountered difficulties in regularization with buyers and international customs authorities. With the advent of NR 8/2022, these issues are resolved from a normative point of view.

Description of Risk

There is, definitely, a risk of commercialization of timber illegally extracted at its origin for the valuable timber species of the Amazon, as is the case of mahogany (*Swietenia macrophylla*), cedarwood (*Cedrela odorata*) and even ipê (*Handroanthus sp.*), the latter not yet officially part of the CITES lists. For mahogany, a scandal was recorded in Brazil in 2002, involving the seizure by IBAMA of timber illegally extracted from protected areas by a group of actors referred to by the media as the "mahogany mafia". The trade of timber products originating from species listed on CITES has dropped sharply since the inclusion of such species, and it is often an argument by forestry entrepreneurs that this inclusion can do more harm than good, as it alienates international buyers from these products, but not necessarily cease illegal logging activities. The relative ease with which illegally exploited timber manages to enter markets through mechanisms associated with document fraud in official control systems is also documented.

Thus, although there is great control for the issuance of export licenses, with the exception of a brief period in the recent past as described above, the evidence demonstrates that this control is not effective in ensuring that extracted timber, especially from valuable species, have not originated from supply chains where CITES legislation has been satisfactorily complied with. This risk is lower for logging operations operating in public forests under concessions, since control systems, traceability, and forest inventories are independently verified every three

years. This risk is also lower for forest plantations, currently heavily based on the silviculture of species that are exotic to Brazil.

Risk Conclusion

The risk is considered specified for timber from private natural forests, and low for forest plantations and public natural forests.

1.20.6. Risk designation and specification

Low risk for Plantations and Public Natural Forests (Concessions).

Specified risk for the logging of Private Natural Forests. The risks are as follows:

- Risk of illegal logging of CITES species.
- Risk that the regulation related to harvesting of CITES species are not complied with.
- Risk of trade without or misuse of/fraud with CITES permit

1.20.7. Control measures and verifiers

To mitigate the risk of lack of effective control to ensure that traded timber originates from forests and supply chains where legislation and CITES requirements have been complied with in private natural forests:

Verify onsite:

Independent onsite verification remains the most effective method of verifying compliance with the legality of logging CITES species. Field visits should verify that:

- The Management Plan contains densities of valuable species that are consistent with regional averages, and in the field it is possible to verify the existence of such trees or the stumps generated by their logging.
- All information about species, quantities, products, etc. are correctly indicated in the documents for the sale and transport of timber from its origin.
- Field logging systems are accurate with regard to the species and volumes effectively logged, and consistently correspond to the DOF guides being issued.
- The plants responsible for processing wood are able to convincingly demonstrate their conversion rates by species and by product class, and there are documentary records of the conversion being practiced. In addition, there is formal approval from a state environmental agency (Oema) regarding the yield coefficient being used in the unit in question.

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

Not applicable. Brazil does not have legislation governing the obligation of due diligence; therefore this category is not applicable.

1.21.2. Risk determination

Overview of Legal Requirements

There is still no legislation in Brazil at the national or even subnational level that requires market operators and wood buyers to follow a systematic roadmap of due care in their timber purchases associated with risk assessment. It is worth noting, however, the initiative of the state of São Paulo called CadMadeira. In short, the program was institutionalized through State Decree 53,047/2008, and establishes a register of native timber suppliers in the state of São Paulo in order to demonstrate legal compliance (basically the operation of the DOF system) in order to guide public purchases and purchases by entities of direct and indirect administration in the state. Although it is still far from imposing requirements that could resemble a due care process, it is the first institutionalized Brazilian initiative specifically concerned with the origin of timber products originating in the Amazon. The CadMadeira decree was at the time of reviewing this risk assessment in the process of being updated.

Description of Risk

There are no specific institutionalized legislation for due care processes by market operators and tropical timber buyers in the country. As discussed throughout this assessment, the risks associated with the legality of Brazilian wood, especially that originating in the Amazon, are serious, and lead us to believe that such risks are even more present in the absence of such requirements. There is a voluntary movement, however, led by some enterprises concerned with differentiating their supply practices based on legality and sustainability.

Risk Conclusion

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

LEGALITY IN TIMBER PROCESSING

1.22. Legal Registration of business

Legislation regulating the registration of business and approval of scope of business and processing. The risk is that companies are operating without being in conformance with legal requirements with regards to legal obligations on business registration (business/sawmill license, operation visas, tax payment cards, approvals, etc.).

1.22.1. Applicable laws and regulations

- Normative Ruling IBAMA 6/2013 – Institutes the Federal Technical Register of Potentially Polluting Activities and Users of Environmental Resources. *Instrução Normativa IBAMA 6/2013 – Institui o Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Ambientais*. Available at: <https://www.gov.br/ibama/pt-br/centrais-de-conteudo/ibama-in-6-2013-compilada-in-11-2018-pdf>
- IBAMA Normative Ruling 12/2018 - Establishes the Regulation for the Eligibility of Individuals and Legal Entities in the Federal Technical Register of Potentially Polluting Activities and Users of Environmental Resources. *Instrução Normativa IBAMA 12/ 2018 - Institui o Regulamento de Enquadramento de pessoas físicas e jurídicas no Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Ambientais*. Available at: <http://www.ibama.gov.br/phocadownload/ctf/2018/Ibama-IN-12-2018.pdf>
- Environmental licensing at the municipal level, which requires an ART (Note of technical responsibility - Anotação do responsável técnico) from the technical manager, CTF (Federal Technical Registration at Ibama – Cadastro Técnico Federal no Ibama) and, in most states, specific environmental records for the operation of sawmills and other timber processing units.
- Normative Ruling Ibama 13/2021. Regulates the obligation to register in the Federal Technical Register of Potentially Polluting Activities and Users of Environmental Resources. *Instrução Normativa Ibama 13/2021. Regulamenta a obrigação de inscrição no Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Ambientais*.

1.22.2. Legal authority

- Ibama – Brazilian Institute for the Environment and Renewable Natural Resources - *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*
- Oemas – State environmental organizations - *Organizações estaduais de Meio Ambiente*
- Municipal environmental organizations - *Organização municipais de Meio Ambiente*

1.22.3. Legally required documents or records

- Federal Technical Register of Potentially Polluting Activities and/or Users of Environmental Resources (CTF/APP). - *Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e/ou Utilizadoras de Recursos Ambientais (CTF/APP)*. Available at: <http://www.ibama.gov.br/cadastros/ctf/ctf-app>

- Specific state registrations for the operation of sawmills and other wood processing units - *Cadastrros estaduais específicos para a operação de serrarias e demais unidades de processamento de madeira*
- Operating license (OL) for sawmills and timber processing units - *Licença de Operação (LO) para serrarias e unidades de processamento de madeira*

1.22.4. Sources of information

Government sources

- Cadastro Técnico Federal do Ibama. Available at <http://www.ibama.gov.br/cadastro-tecnico-federal-ctf>

1.22.5. Risk determination

Overview of Legal Requirements

From a legal and tax point of view, all companies incorporated in Brazil need to have a CNPJ (National Register of Legal Entities) and a CNAE (National Register of Economic Activities), which must correspond to the company's branch of economic activity and objectives. From an environmental point of view, Brazilian legislation also regulates that companies that carry out activities with a potential environmental and polluting impact (such as logging companies, sawmills, wood processing plants) must be registered and subject to inspection in the Federal Technical Register of Potentially Polluting Activities and/or Users of Environmental Resources (CTF/APP) (IBAMA NR 06/2013 and IBAMA NR 12/2018).

At the state level, timber companies also have to obtain a license to operate their activities from a state environmental agency (Oema), subject to specific legislation for each state. The maintenance of these licenses at different federal levels over time is subject to compliance with different requirements, including the payment of taxes and fees for maintaining certificates, as well as the absence of embargoes and environmental fines.

Description of Risk

Considering the enterprises responsible for handling and processing wood, there are known cases of manoeuvres carried out by companies (inadequate CTFs, inadequate CNAEs, operation without an operating license) that can be adopted, especially by smaller companies, to avoid paying taxes or simply due to lack of knowledge of all the necessary legal procedures.

In the Amazon, it is a relatively common practice for 'ghost' companies to exist (which have a national register, but do not maintain regular activities) that are created to allow specific operations that could not be carried out in the name of the official company that may have federal or state pending issues.

The group of experts consulted consider these situations to be much more common in the Amazon and in the north of the country than companies located in the south. Since both the chains linked to planted exotic species and native species are complex and often pass through a large number of links until the final destinations, based on the precautionary principle, we consider that there are specified risks linked to all three source types evaluated.

Risk Conclusion

The risk is considered specified for the three source types.

1.22.6. Risk designation and specification

Specified risk for timber from plantations, public natural forests (concessions) and private natural forests.

1.22.7. Control measures and verifiers

Review and verify documents:

Federal technical registration of companies, operating licenses for industries, state registrations when required.

Consult:

- Consultation on environmental fines and embargoes of companies along the timber processing and transport links, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>
- Consultation of the federal technical records of the companies along the processing links. Available at: <http://www.ibama.gov.br/cadastrros/ctf/ctf-app>
- Observe whether the CNAEs of the companies along the processing links are consistent with what is established by law. The CNAEs can be consulted at <https://cnae.ibge.gov.br/?view=estrutura>

Verify onsite:

- Verification of company records and analysis of the consistency of activities that it is legally registered to carry out in the country.
- Independent field and desk checks remain the most effective method of verifying compliance with the requirements linked to this criterion. In particular, legal checks could be used to assess aspects the company's compliance with tax and labour law, as well as the existence of liabilities in its activities, economic classifications and compliance with environmental requirements enforced by IBAMA and Oemas.

1.23. Environmental requirements for processing

Legislation regulating environmental requirements for the timber processing industry, such as air quality, water and waste-water management, use of chemicals, and other requirements relevant for the environment and eco-system services.

1.23.1. Applicable laws and regulations

- National Solid Waste Policy (2010) - Defines the guidelines relating to the integrated management and administration of solid waste, including hazardous waste, the responsibilities of generators and public authorities, and the applicable economic instruments. *Política Nacional de Resíduos Sólidos (2010) - Dispõe sobre as diretrizes*

relativas à gestão integrada e ao gerenciamento de resíduos sólidos, incluídos os perigosos, às responsabilidades dos geradores e do poder público e aos instrumentos econômicos aplicáveis. Available at: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12305.htm

- Ordinance No. 2914, of December 12, 2011. Defines procedures for controlling and monitoring the quality of water for human consumption and its potability standard. *Portaria no. 2.914, de 12 de dezembro de 2011. Dispõe sobre os procedimentos de controle e de vigilância da qualidade da água para consumo humano e seu padrão de potabilidade.* Available at: https://bvsms.saude.gov.br/bvs/saudelegis/gm/2011/prt2914_12_12_2011.html
- Environmental licensing at the municipal level, which requires an ART (Note of technical responsibility) from the technical manager, CTF (Federal Technical Registration at Ibama) and, in most states, specific environmental records for the operation of sawmills and other timber processing units. *Licenciamento ambiental ao nível municipal, o que requer ART do responsável técnico (Anotação de responsabilidade técnica), CTF (Cadastro Técnico Federal no Ibama) e, na maioria dos estados, cadastros ambientais específicos para a operação das serrarias e demais unidades de processamento de madeira.*
- Normative Ruling Ibama 13/2021. Regulates the obligation to register in the Federal Technical Register of Potentially Polluting Activities and Users of Environmental Resources. *Instrução Normativa Ibama 13/2021. Regulamenta a obrigação de inscrição no Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Ambientais.*

1.23.2. Legal authority

- Ibama – Brazilian Institute for the Environment and Renewable Natural Resources - *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*
- Oemas – State environmental organizations - *Organizações estaduais de Meio Ambiente*
- Municipal environmental organizations - *Organização municipais de Meio Ambiente*

1.23.3. Legally required documents or records

- CTF (Federal Technical Registry) and/or specific state registrations for the operation of sawmills and other timber processing units – *(Cadastro Técnico Federal) e/ou cadastros estaduais específicos para a operação de serrarias e demais unidades de processamento de madeira*
- Operating license (OL) for sawmills and other timber processing units - *Licença de operação das serrarias e demais unidades de processamento de madeira*

1.23.4. Sources of information

Government sources

- Uso de resíduos da indústria de papel e celulose em plantios florestais: aspectos técnicos e legais [recurso eletrônico] / Shizuo Maeda ... [et al.]. Dados eletrônicos - Colombo : Embrapa Florestas, 2015. (Documentos / Embrapa Florestas, ISSN 1980-3958 ; 291)

- Cadastro Técnico Federal do Ibama. Available at <http://www.ibama.gov.br/cadastro-tecnico-federal-ctf>

Non-Government Sources

- Associação Brasileira De Normas Técnicas. Nbr 10.004: resíduos sólidos: classificação. Rio de Janeiro, 2004a.
- Schneider, V. E.; Peresin, D.; Trentin, A. C.; Bortolin, T. A.; Sambuichi, R. H. R. Diagnóstico dos resíduos orgânicos do setor agrossilvopastoril e agroindústrias associadas: relatório de pesquisa. Brasília, DF: IPEA, 2012. Available at: . Acesso em: 22 set. 2015.

1.23.5. Risk determination

Overview of Legal Requirements

As in most industrial activities, the processes involved in forest production generate waste (SCHNEIDER et al., 2012). The residues associated with the processing of wood for the generation of sawn wood are categorically different from the residues from the processing of the cellulose paper industry, for which forest plantations are significantly intended. In addition to the wood residues produced in the sawmills and other processing units, there are also requirements related to the handling of chemical products, fuels, and packaging.

There are, in Brazil, requirements for wood processing units that may present variations depending on the size and scale of production of the companies, but in general a federal technical register of potentially polluting activities of the wood processing companies is required, frequently accompanied by registrations at the state level. In addition to these requirements, at the municipal level, the wood processing units need to acquire the operating license for the development of their activities. Such licenses need to be accompanied by plans developed by qualified professionals who address environmental issues, including the management of waste produced.

Often in rural areas or remote from urban centres there are specific requirements for the grant of the use of groundwater, including drinking water that will be offered to the workers of the wood processing unit.

Description of Risk

In terms of environmental risks related to the activity of wood processing units in Brazil, perhaps the main point of concern resides in pulp and paper factories, mainly due to the volume of waste generated and chemicals used throughout the process. It is estimated that pulp and paper mills generate an amount of waste of approximately 48 t for every 100 t of pulp produced, i.e., they generate 48% of waste in their production process (EMBRAPA Florestas, 2015). Waste is classified as Class II (non-hazardous) and Class I (hazardous) (ABNT, 2014). For comparison purposes, processing for lumber generates mostly Class II waste. The residues generated in the processing of wood for pulp extraction are classified in Class I and II. However, it is also true that pulp production companies in Brazil are among the largest in dimension and investment scale in the Brazilian forest industry, being highly regulated and inspected by the competent authorities.

Although waste from the wood processing industry can be considered as not very dangerous, especially in the Amazon, the large volume of industrial waste produced is a point of concern, especially in the main production centres in the region. Considering that the average yield of

wood processing at sawmills in the Amazon is around 40%, at least 60% of the logs brought to these manufacturing units is converted into waste. Despite this point of attention, in a large part of the region the regional entities of the Environment have increased the effort in the sense of guaranteeing the fulfilment of the national policy of solid residues in the companies, which is helped by the fact that in many regions of the Amazon today industrial residues are seen as economically viable products to sell in view of the growing demand for biomass for energy generation or for drying grains.

Risk Conclusion

Considering that, in relation to the main point of attention in this criterion, wood processing residues are not considered very dangerous from an environmental point of view, and that there is a relatively robust effort in Brazil to comply with applicable environmental legislation, we consider the three scopes analysed in this report as low risk.

1.23.6. Risk designation and specification

The risk is considered low for timber from private natural forests, forest plantations and public natural forests.

1.23.7. Control measures and verifiers

The risk is considered low, but the following can be implemented if a company will want to have an additional level of assurance:

Review and verify documents:

- Valid operating license for the wood processing units and federal technical registration of these companies, as well as any existing reports and studies for the issuance of such licenses.

Consult:

- Possible occurrence of environmental violations and embargoes by these companies with Ibama
(<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>)

1.24. Processing requirements

Legislation regulation processing of the timber processing industry, such as transformation process thresholds, location of processing, conformance of processing equipment, processing quota, etc.).

1.24.1. Applicable laws and regulations

- CONAMA Resolution 411/2009. Defines procedures for inspecting industries that consume or transform timber forest products and by-products of native origin, as well as the respective nomenclature standards and volumetric yield coefficients, including charcoal and sawmill waste. *Resolução Conama 411/2009. Dispõe sobre procedimentos para inspeção de indústrias consumidoras ou transformadoras de produtos e subprodutos florestais madeireiros de origem nativa, bem como os respectivos padrões de*

nomenclatura e coeficientes de rendimento volumétricos, inclusive carvão vegetal e resíduos de serraria. Available at: <https://www.legisweb.com.br/legislacao/?id=111070>

- CONAMA Resolution 497/2020. Amends Resolution No. 411, of May 6, 2009, which defines procedures for inspecting industries that consume or transform timber forest products and by-products of native origin, as well as the respective nomenclature standards and volumetric yield coefficients, including charcoal and sawmill waste. *Resolução Conama 497/2020. Altera a Resolução no. 411, de 6 de maio de 2009, que dispõe sobre procedimentos para inspeção de indústrias consumidoras ou transformadoras de produtos e subprodutos florestais madeireiros de origem nativa, bem como os respectivos padrões de nomenclatura e coeficientes de rendimento volumétricos, inclusive carvão vegetal e resíduos de serraria.* Available at: <https://www.in.gov.br/en/web/dou/-/resolucao-n-497-de-19-de-agosto-de-2020-273217612>
- Normative Ruling IBAMA 21/2014. Establishes Sinaflor. *Instrução Normativa IBAMA 21/2014. Institui o Sinaflor.* Available at: <http://www.ibama.gov.br/sinaflor>

1.24.2. Legal authority

- Ibama (Brazilian Institute for the Environment and Renewable Natural Resources - *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*)
- Oemas (State environmental organizations - *Organizações estaduais de Meio Ambiente*)

1.24.3. Legally required documents or records

- DOF (Forest Origin Document) and invoices, including electronic versions (NF-e and DANFE) – DOF (*Documento de origem florestal*) e notas fiscais, incluindo as versões eletrônicas (NF-e e DANFE)

1.24.4. Sources of information

Non-Government sources

- Acertando o Alvo 4 : Panorama Atual e Tendências para Mercados Sustentáveis de Madeira da Amazônia. Marco W. Lentini; Marcelo H. M. Bezerra ; André S. Dias; Aline T. Bernardes; Andreia A. Erdmann. Piracicaba, Estado de São Paulo: Imaflora, 2022

1.24.5. Risk determination

Overview of Legal Requirements

Sawmills and other wood processing units based on the use of native species in Brazil originating from natural forests need to demonstrate that the volumetric yield coefficients (CRVs, the acronym in Portuguese) of the industry follow the average rates imposed by regulation (highlighting CONAMA Resolution 497/2020). As an example, the conversion of wood into logs or logs into sawn wood cannot exceed the limit of 35% of the original volume. There are other specific coefficients for converting different inputs into different outputs. It is also optional for wood processing companies to carry out technical studies to elect CRVs different from those established by law for a specific configuration of species used, input and product generated (for example, conversion of ipê logs into sawn products for civil construction). The volumes of inputs and products generated must be consistent with the CRV and that can be

demonstrated through the electronic accounts of DOFs/GFs and with the invoices issued by these companies. For wood generated from forest plantations, especially from exotic species, the only document that is required for the accounting of the products generated are the invoices issued by the company. In all these cases, no specific traceability system that connects the volume of inputs and outputs is required by law.

Description of Risk

Studies conducted by civil society (e.g., Lentini et al. 2022) have shown that the average efficiency of converting logwood to sawn products from the Amazon rarely exceeds the 35% threshold, which in a more general scenario would demonstrate consistency with the resolutions established for the CRVs of the sawmills in the Amazon. However, due to the lack of mandatory chain of custody and production traceability systems, in addition to the lack of specific regulations that imposes a minimum management system for sawmills, there is a great risk of contamination of illegal timber in the production chains. Often, timber companies in the Amazon rely on the CRV (established by law or through technical studies approved by forest control entities) to intentionally bring timber of illegal origin into their production chains, giving the products an air of legality, as such products are accompanied by DOF/GF and invoices.

In the case of timber originating from forest plantations of exotic species, due to the lack of requirements in relation to yield coefficients, there is a risk, albeit small, that inputs originating from events such as timber theft may enter the production chains, consistent with what was discussed in criterion 1.17.

Risk Conclusion

We consider that timber from natural forests in the Amazon (both in private areas and in concessions in public areas) presents a specified risk. In the second case, although there is a mandatory chain-of-custody system in the concessions operated at the federal level (called SCC), this system does not monitor the roundwood produced from the first wood processing link. Timber produced from forest plantations, using the precautionary principle, was also considered as a specified risk, due to the existing risk of being related to illegally extracted input events such as timber theft events.

1.24.6. Risk designation and specification

Specified risk for the three forestry scopes assessed in this report.

1.24.7. Control measures and verifiers

Review and verify documents:

- Review and accounting of DOFs/GFs issued to verify declared yield coefficients.

Consult:

- Possible occurrence of environmental violations and embargoes by these companies with Ibama
(<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>)

Verify onsite:

- Verification by independent entities to measure the actual CRVs of timber companies in converting inputs into outputs. In practice, only a robust chain of custody/traceability systems could better cover this problem.

1.25. Health and Safety in the timber processing sector

Legally required personnel protection equipment for persons involved in the timber processing sector. The health and safety requirements that shall be considered relating to the processing/factory (not office work, or other activities less related to the actual processing). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of workers at significant risk at any step of the primary and secondary processing.

1.25.1. Applicable laws and regulations

- Administrative Resolution 3,158, of 05/18/1971 Ministry of Labour and Employment (MTE) - Creates the Inspection Book - *Resolução Administrativa 3.158, de 18/05/1971 MTE - Cria o Livro de Fiscalização*
- Administrative Decision 3,214, OF JUNE 8, 1978 - "Approves the Regulatory Norm - RN- of Chapter V, Title II, of the Consolidation of Labour Laws, relating to Occupational Safety and Medicine" - *Decisão Administrativa 3.214, DE 8 DE JUNHO DE 1978 - "Aprova a Norma Regulamentadora - NR - do Capítulo V, Título II, da Consolidação das Leis do Trabalho, relativa à Segurança e Medicina do Trabalho"*
- Regulatory Standard 01 - General Provisions - *Norma Regulamentadora 01 - Disposições Gerais.*
- Regulatory Standard 02 - Prior Inspections - *Norma Regulamentadora 02 - Inspeções Prévias*
- Regulatory Standard 03 - Embargo or Exclusion - *Norma Regulamentadora 03 - Embargo ou Interdição*
- Regulatory Standard 04 - Specialized Services in Safety Engineering and Occupational Medicine - *Norma Regulamentadora 04 - Serviços Especializados em Engenharia de Segurança e em Medicina do Trabalho*
- Regulatory Standard 05 - Internal Accident Prevention Committee - *Norma Regulamentadora 05 - Comitê Interno de Prevenção de Acidentes*
- Regulatory Standard 06 - Regulatory Standard 6 - Personal Protective Equipment - PPE - *Norma Regulamentadora 06 - Equipamentos de Proteção Individual - EPI*
- Regulatory Standard 07 - Occupational Health Medical Control Programs - *Norma Regulamentadora 07 - Programas de Controle Médico de Saúde Ocupacional*
- Regulatory Standard 09 - Environmental Risk Control Programs - *Norma Regulamentadora 09 - Programas de Controle de Riscos Ambientais*
- Regulatory Standard 11 - Transport, Handling, Storage and Treatment of Materials - *Norma Regulamentadora 11 - Transporte, Manuseio, Armazenamento e Manipulação de Materiais*

- Regulatory Standard 12 - Occupational Safety of Machinery and Equipment - *Norma Regulamentadora 12 - Segurança do Trabalho de Máquinas e Equipamentos*
- Regulatory Standard 16 - Dangerous Activities and Operations - *Norma Regulamentadora 16 - Atividades e Operações Perigosas*
- Regulatory Standard 20 - Safety and Health at Work with Flammable and Combustibles - *Norma Regulamentadora 20 - Segurança e Saúde no Trabalho com Inflamáveis e Combustíveis*
- Regulatory Standard 21 - Work in an External Environment - *Norma Regulamentadora 21 - Trabalho em Ambiente Externo*
- Regulatory Standard 23 - Fire Protection - *Norma Regulamentadora 23 - Proteção Contra Incêndios*
- Regulatory Standard 26 - Safety Signs - *Norma Regulamentadora 26 - Sinalização de Seguran*

1.25.2. Legal authority

- MTE (Ministry of Labour and Employment - *Ministério do Trabalho e Emprego*)
- DRT (Regional Police Station for Labour Issues - *Agência Regional do Trabalho*)
- MPT (Public Prosecutor's Office for Labour Issues - *Ministério Público do Trabalho*)

1.25.3. Legally required documents or records

- PPRA (Environmental Risk Prevention Program - *Programa de Prevenção de Riscos Ambientais*)
- PCMSO (Occupational Health Medical Control Program - *Programa de Controle Médico de Saúde Ocupacional*)
- CIPA/CIPATR Minutes - *Atas da CIPA/CIPATR*
- Ministry of Labour Inspection Book - *Livro de Inspeção do Ministério do Trabalho*
- Proof of Delivery of PPE (Personal Protective Equipment) - *Comprovante de Entrega de EPI (Equipamento de Proteção Individual)*
- ASO (Occupational Health Certificate - *Atestado de Saúde Ocupacional*)
- Proof of OHS training (for different functions and operations in timber processing plants) - *Prova de treinamento SSO (para diferentes funções e operações nas unidades de processamento de madeira)*

1.25.4. Sources of information

Government sources

- Ministério Público do Trabalho. Ministério Público do Trabalho. Available at: <http://portal.mpt.gov.br/>
- Ministério do Trabalho e Emprego. Available at: <http://portal.mte.gov.br/legislacao/normas-regulamentadoras-1.htm>

- Portal da Inspeção do Trabalho – Painele de Informações e Estatísticas da Inspeção do Trabalho no Brasil. Available at: <https://sit.trabalho.gov.br/radar/>

Non-Government sources

- Organização Internacional do Trabalho (OIT). Available at: <http://www.oitbrasil.org.br/content/seguran-e-sa-de-no-trabalho-florestal-c-digo-depr-ticas>
- Reporterbrasil.org.br (nd). O que é trabalho escravo (Lista Negra de Trabalho Escravo). ONG Repórter Brasil. Available at: <http://reporterbrasil.org.br/trabalhoescravo/>
- FSC Controlled Wood National Risk Assessment Brazil. (V1-0). Available at: <https://fsc.org/en/document-centre/documents/resource/285>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.25.5. Risk determination

Overview of Legal Requirements

The Ministry of Labour and Employment (MTE) is the body responsible for monitoring and regulating health and safety at work. The Regulatory Standards of the Ministry of Labour and Employment require adequate health and safety conditions at work. In total, there are 36 rules in force. There is a wide range of Regulatory Norms (RN), the most applicable to the industry linked to the primary and secondary links of wood processing is RN 12, which deals with the safety of workers in the use of machinery and equipment. Such undertakings are also required by regulations to establish and formally implement occupational health and environmental risk programs, with the support and periodic evaluation of professionals linked to the areas of occupational medicine and occupational safety. The Administrative Decision of the MTE no. 3,158 of 1971 addresses the requirement for a labour inspection book, which is a standardized document that must be kept by all companies, so that labour inspectors can use it in order to keep all the notes detected in the company. The Ministry of Labour and Employment, through the Labour Inspection Secretariat, provides an online system for providing Electronic Bills of Labour Debts (CEDT, the acronym in Portuguese) (Ordinance No. 1421/2014) that allows interested parties to issue and authenticate certificates related to the existence of labour claims against specific corporate entities.

Description of Risk

Timber processing is a high-risk activity, due to the constant use of machines and saws, the need for repetitive movements, with excessive weightlifting, which implies ergonomic risks, in addition to the risk of fire. Work with planted exotic species may also involve the use of chemicals and exposure of workers to wood preservatives, such as arsenic, chromium, copper, zinc, and fluorine. Although these risks are inherent to the industry in general, the sector must use equipment that offers less danger, with the mandatory use of protections on saws and equipment, in addition to the use of safety equipment (PPE) and team training.

Furthermore, especially in the Amazon, the forestry sector has a very low level of professionalization and most workers learned to work hands-on, without professional guidance.

This fact, added to a persistent culture that treats the issue of health and safety at work as of minor importance, results in a large number of workers exposed to risks beyond legal limits.

Inspections by the Ministry of Labour and Employment have resulted in countless companies sued for lack of minimum health and safety conditions at work, as well as for irregularities associated with the hiring and compensation of workers. The 'Blacklist of Slave Labour', drawn up by the Ministry of Labour and Employment and widely publicized by the NGO Repórter Brasil, lists 590 companies, of which at least 37 are directly linked to forest activities. Despite these fines, inspection is not enough to ensure a significant reduction in the occurrence of irregularities. It is also important to consider that there are also ineffective control efforts on the part of environmental agencies with regard to the handling of chemical products, mainly in small primary and secondary timber processing units.

Risk Conclusion

Due to the wide existence of small timber processing units linked to the primary and secondary processing of these products, making it difficult for effective actions by enforcement agencies in relation to this criterion, we consider it as a specified risk for the three forest scopes investigated in this report.

1.25.6. Risk designation and specification

Specified risk for the three source types assessed.

1.25.7. Control measures and verifiers

Review and verify documents:

Consultation of the basic documentation of companies in relation to health and safety at work (PPRA, PCMSO, CIPA/CIPATR minutes, Ministry of Labour Inspection book, proof of delivery of PPE, ASOs, proof of OHS training).

This basic list may include service providers that also perform functions in the timber processing units as outsourced workers in the production chain (e.g., wood treatment, packaging, product drying, etc.). Ideally, this list of requirements should be checked through independent verifications along the links of the production chain, even if on a sample basis.

A set of labour certificates can be accessed remotely through online portals that demonstrate whether the companies in question have pending issues that have been identified by inspections by official agencies. However, this is not a secure resource at the moment due to the high risk of corruption in Brazil, in addition to the decrease in resources directed to command-and-control actions by the government in recent years.

Consult:

- List of slave/slave-like labour. Available at https://www.gov.br/trabalho-e-previdencia/pt-br/composicao/orgaos-especificos/secretaria-de-trabalho/inspecao/areas-de-atuacao/cadastro_de_empregadores.pdf

Verify onsite:

Independent checks to verify compliance with regulations relating to occupational health and safety protection. Field visits should verify that:

- All safety and health supplements and regulations are followed and all necessary safety equipment is used.
- Occupational health and safety requirements are observed by all personnel involved in harvesting activities.
- Depending on the size and scale of the enterprise, there are formal programs for occupational health and prevention of occupational environmental risks that are satisfactorily implemented.
- Interviews with employees and contractors confirm that legally required protective equipment is provided by the organization at no cost to the forest worker.

1.26. Legal employment in the timber processing sector

Legal requirements for employment of personnel involved in the timber processing sector 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 non-compliance 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.

1.26.1. Applicable laws and regulations

- Decree 5,452/1943 Approves the Consolidation of Labour Laws – CLT (the acronym in Portuguese). *Decreto 5.452/1943 Aprova a Consolidação das Leis do Trabalho - CLT*. Available at: http://www.planalto.gov.br/ccivil_03/Decretolei/Del5452compilado.htm
- Decree 3,048/1999 - Regulates Social Security. Chapter I. *Decreto 3.048/1999 - Regulamenta a Previdência Social. Capítulo I*. Available at: http://www.planalto.gov.br/ccivil_03/Decreto/D3048.htm
- Normative Ruling RFB 971/2009 - provides for the social security taxation rules on the collection of social contributions. Clause 8. *Instrução normativa RFB 971/2009 - dispõe sobre as regras de tributação da previdência sobre a arrecadação das contribuições sociais. Cláusula 8*. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=15937>
- Law 8212/1991 - provides for the organization of Social Security, creates the Financing Plan and makes other provisions. Clause 11. *Lei 8212/1991 - dispõe sobre a organização da Previdência Social, cria o Plano de Financiamento e dá outras providências. Cláusula 11*. Available at: http://www.planalto.gov.br/ccivil_03/leis/l8212cons.htm
- Law 605/1949 - Compensation for Weekly Rest. *Lei 605/1949 - Compensação por Descanso Semanal*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l0605.htm

- Law 3,030/1956 - Discount for Supply of Food. *Lei 3.030/1956 - Desconto por Fornecimento de Alimentos*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l3030.htm
 - Law 4,090/1962 – Christmas Bonus. *Lei 4.090/1962 - Bonificação de Natal*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4090.htm
 - Law 4,749/1965 – 13th-month bonus (in Brazil). *Lei 4.749/1965 - 13º Salário*. Available at: http://www.planalto.gov.br/ccivil_03/LEIS/L4749.htm
 - Law 5,889/1973 - Rural Work. *Lei 5.889/1973 - Trabalho Rural*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l5889.htm
 - Law 7,418/1985 - Transportation Voucher. *Lei 7.418/1985 – Vale Transporte*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l7418.htm
 - Law 8,036/1990 – FGTS (Severance Indemnity Fund) Law. *Lei 8.036/1990 - Lei do FGTS*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l8036consol.htm
 - Law 9,601/1998 - Hour Bank and Contract for Specific Period. -*Lei 9.601/1998 - Banco de Horas e Contrato por Prazo Específico*. Available at: http://www.planalto.gov.br/ccivil_03/LEIS/L9601.htm
 - Law 10,101/2000 - Profit Sharing. *Lei 10.101/2000 - Participação nos Lucros*. Available at: https://www.planalto.gov.br/ccivil_03/leis/l10101.htm
 - Law 10,820/2003 - Deduction of Instalments from Payroll. *Lei 10.820/2003 - Desconto do Parcelamento em Folha de Pagamento*. Available at: https://www.planalto.gov.br/ccivil_03/Leis/2003/L10.820.htm
 - Resolution 425/2010 - Characterization of Family Rural Business. - Resolução 425/2010 - Caracterização de Empresa Rural Familiar .Available at: <http://www.ibama.gov.br/sophia/cnia/legislacao/CONAMA/RE0425-250510.PDF>
 - Law 4,266/1963 – Family Salary - Lei 4.266/1963 - Salário Família. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4266.htm
 - Law 4,725/1965 – Collective Agreements - Lei 4.725/1965 - Acordos Coletivos. Available at: https://www.planalto.gov.br/ccivil_03/leis/1950-1969/l4725.htm
 - Law 4,923/1965 – Working hours - Lei 4.923/1965 - Horário de Trabalho. Available at: https://www.planalto.gov.br/ccivil_03/leis/l4923.htm
 - Law 7,783/1989 – Strikes - Lei 7.783/1989 - Greves. Available at: https://www.planalto.gov.br/ccivil_03/leis/l7783.htm
- Law 8,900/1994 - Unemployment Compensation. - Lei 8.900/1994 - Compensação de Desemprego. Available at: http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13134.htm#art6iii
- Law 9,029/1995 - Work Admission - Lei 9.029/1995 - Admissão ao Trabalho. Available at: http://www.planalto.gov.br/ccivil_03/leis/l9029.htm
 - Law 9,029/1995 – Vacation - Lei 9.093/1995 - Férias. Available at: http://www.planalto.gov.br/ccivil_03/leis/l9093.htm

- Law 10,097/2000 - Child Labour (Ban on Child Labour) - For Consolidation purposes, the age of fourteen to eighteen is considered a minor. - Lei 10.097/2000 - Trabalho Infantil (Proibição do Trabalho Infantil) - Considera-se menor para fins de Consolidação a idade de quatorze a dezoito anos. Available at: www.planalto.gov.br/ccivil_03/leis/l10097.htm

1.26.2. Legal authority

- Brazilian Revenue Service - *Receita Federal do Brasil*
- MTE (Ministry of Labour and Employment - *Ministério do Trabalho e Emprego*)
- TST (- *Tribunal Superior do Trabalho*)
- TRT (Regional Labour Court - *Tribunal Regional do Trabalho*)
- DRT (Regional Police Station for Labour Issues - *Delegacia Regional do Trabalho*)
- MPT (Public Prosecutor's Office for Labour Issues - *Ministério Público do Trabalho*)
- CET (Caixa Econômica Federal bank - *Caixa Econômica Federal*)
- INSS (National Social Security Institute - *Instituto Nacional do Seguro Social*)

1.26.3. Legally required documents or records

- CAGED Declaration - General Registry of the Employed and Unemployed - *Declaração CAGED - Cadastro Geral de Empregados e Desempregados*
- CNDT (Labour Debt Clearance Certificate - *Certidão Negativa de Débito Trabalhista*)
- Labour Lawsuit Clearance Certificate - *Certidão Negativa de Ações Trabalhistas*
- CRF (FGTS (Severance Indemnity Fund) Certificate of Good Standing - *Certificado de Regularidade do FGTS (Fundo Garantidor do Tempo de Serviço)*)
- CND (Clearance Certificate of Debts with the Federal Revenue Service - INSS (National Social Security Institute) - *Certidão Negativa de Débitos perante a Receita Federal - INSS (Instituto Nacional do Seguro Social)*)
- Salary Receipt or Proof of Deposit in Current Account - *Recibo de Salário ou Comprovante de Depósito em Conta Corrente*
- Employment and Social Security Card - *Carteira de Trabalho e Previdência Social*

1.26.4. Sources of information

Government sources

- Ministério do Trabalho e Emprego (MTE). Available at: <https://granulito.mte.gov.br/portalcaged/paginas/home/home.xhtml>
- Caixa Econômica Federal. Available at: <https://www.sifge.caixa.gov.br/Cidadao/Governo/Asp/crf.asp>
- Portal de Legislação do Governo Federal. Available at: <https://legislacao.presidencia.gov.br/>

- Cadastro de empregadores que submeteram trabalhadores a condições análogas à escravidão. Available at: http://portal.mte.gov.br/trab_escravo/portaria-do-mte-cria-cadastro-de-empresas-e-empregados-autuados-por-exploracao-do-trabalho-escravo.htm
- Portal da Inspeção do Trabalho – Painel de Informações e Estatísticas da Inspeção do Trabalho no Brasil. Available at: <https://sit.trabalho.gov.br/radar/>

Non-Government sources

- Tribunal Superior do Trabalho (TST). Available at: www.tst.jus.br/certidao
- Portal Amazônia – Trabalho escravo na Amazônia Brasileira. Available at: <http://www.portalamazonia.com.br/editoria/economia/amazonia-concentra-mais-dametade-de-empresas-com-trabalho-escravo-no-brasil/>
- Repórter Brasil (2016) – Lista Suja do Trabalho Escravo. Available at: <http://reporterbrasil.org.br/>
- Projeto de Indicadores de Governança Mundial. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>
- TimberLex (FAO). Brazil. Available at: <https://timberlex.apps.fao.org/>

1.26.5. Risk determination

Overview of Legal Requirements

Brazil has a broad legal framework related to the legality of employment. Decree-Law 5,452/1943 (Consolidation of Labour Laws or CLT, the acronym in Portuguese) is the main guideline in this matter. This Law includes conditions that ensure basic labour rights such as maximum working hours, periods of paid leave and rest, minimum age, child and female labour, minimum wage, compensation, unionization, and other matters. As for the minimum age for employment, the law stipulates that it is prohibited to hire employees younger than 16 years old, except when hiring apprentices 14 years old or older.

This Law stipulates that all workers must be registered by the employing company (Art41). The worker's registration guarantees rights such as the FGTS Severance Indemnity Fund (cumulative amount that can be withdrawn with the termination of the employee, expiration of the contract, or the worker's retirement) and support from the INSS (National Social Security Institute), which is converted as a pension after retirement or various benefits in cases such as sick leave, disability, or death. To make this structure viable, the employer pays the government a monthly contribution proportional to the salary of the registered employee.

Law 7998/1990 regulates unemployment insurance, which is compensation granted by the government to workers who are unemployed without just cause after having completed at least six months of formal employment. This benefit lasts for four months.

Description of Risk

In general, forestry workers in Brazil have low levels of education and are often unaware of their labour rights. Inspections carried out by the Ministry of Labour and Employment are insufficient to ensure compliance with legislation, especially in the more remote regions, especially the Amazon. The results obtained in inspections, such as the slave labour list,

demonstrate that there are serious problems in the sector. Among the 590 companies fined by the Ministry of Labour and Employment for work analogous to slavery, 37 cases related to forest management were registered. In general, labour laws are not respected in the forest sector in Brazil. This is borne out by the 'Rule of Law' index of around 50 (on a scale of 0 to 100 where 100 is good) established by the World Bank (www.govindicators.org). Finally, larger and better organized forestry companies, although they tend to follow labour legislation more rigorously with regard to their own workers, often fail to demand the same requirements from third party service providers in the management unit, which has been continually demonstrated in independent assessment reports of the requirements for forest certification.

Risk Conclusion

Due to the high probability of workers in the timber industry having their labour rights at least partially ignored, this criterion is considered as a specified risk for all scopes evaluated. Even the largest timber processing companies, which are highly supervised for the full compliance of such requirements with their own workers, may indirectly fail to ensure the workers of contracted third parties have the same rights respected.

1.26.6. Risk designation and specification

Specified risk for all source types assessed.

1.26.7. Control measures and verifiers

Review and verify documents:

- Check the documents and labour certificates of the companies, including any subcontractors, such as the CAGED declaration, Clearance Certificate of Labour Debt, Clearance Certificate of Labour Claims, FGTS Regularity Certificate, Clearance Certificate of Debts before the Federal Revenue - INSS, receipts of salaries or proof of deposit in current account (including deposits made to the INSS and FGTS), work cards.

Consult:

- List of slave/slave-like labour. Available at: https://www.gov.br/trabalho-e-previdencia/pt-br/composicao/orgaos-especificos/secretaria-de-trabalho/inspecao/areas-de-atuacao/cadastro_de_empregadores.pdf

Verify onsite:

Independent onsite verifications continue to be the most effective method of checking compliance with labour regulations. Field visits should verify that:

- All workers are hired in compliance with regulations and the required contracts and evidence are in place, including specification of roles and tasks, hours of work per week, breaks and vacations, wages and benefits, conditions of transport and food at work, and non-existence of payments not covered by the respective labour taxes (extra compensation beyond payroll).

- Persons involved in the processing activity are covered by mandatory life insurance, in addition to enrolment in the official social security system (INSS) and in the severance indemnity fund (FGTS).
- Persons involved in processing activities must have qualification certificates required for the role they perform.
- At least the legally established minimum wages must be paid to the personnel involved in the activities. Wages must be paid and officially declared by the employer in compliance with legal requirements for the personnel involved.
- Minimum age must be observed for all personnel involved. The minimum age must be observed for all personnel engaged in hazardous work.
- The company must not employ unregistered workers, whether on probation or receiving government unemployment benefits.

Annex I. Timber source types

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

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

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

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

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issues 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 BRAZIL | | | | | |
|-------------------------------|-------------------------------------------------------|-------------------|-------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Forest type | Legal Land Classification | Ownership | Management regime | License / Permit Type | Description of source type |
| Private Natural Forests | Forest Management in Natural Forests in Private Areas | Private companies | Private companies | AUTEF/AUTEX (Forest Logging Authorization) | Forest Management in Natural Forests in Private Areas. Timber from natural forests in private areas can only be exploited through an AUTEF/AUTEX (Forest Logging Authorization), issued through a Sustainable Forest Management Plan and Annual Operational Plan approved by state environmental agencies. Marketing and transport must be accompanied by the DOF (Document of Forest Origin) or GF (Forest Waybill), duly accompanied by the sales invoice. |
| Planted Forests | Planted Forests | Private companies | Private companies | Logging licenses are not required in most cases | Planted Forests. Although there may be variations, especially when considering the planting of native species, forest plantations do not require granting or licensing efforts by the State. Some states, however, require an environmental license for managing plantations, in addition to rural licensing and the Environmental Declaratory Act (ADA). The management of forest plantations, however, can also entail legality risks with regard to compliance with the Brazilian Forest Code (Law 12651/2012) at the level of the rural properties on which the plantations were established. Marketing and transport must be accompanied by sales invoices. |
| Public Natural | Management of Forests under Concession | Private companies | Private companies | AUTEF/AUTEX (Forest Logging Authorization) | Management of Forests under Concession. In addition to the norms regarding the management of natural forests in private areas, regulatory and |

| | | | | | |
|-------------------------|--|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Forests (concession) | | | | | <p>legal compliance aspects include compliance of the forest management being carried out to the concession with the contract signed with the managing body (at the federal level, for example, the Brazilian Forest Service). In addition to the obligation to adopt forest management practices, the contracts have clauses that dictate the need to maintain technical, administrative and financial qualification conditions at the time the concession was granted. There is also an obligation, by law, to carry out independent forest audits in periods of up to 3 years, in addition to the adoption of the Brazilian Forest Service's Chain of Custody System.</p> |
|-------------------------|--|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



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