

Timber Legality Risk Assessment India

Version 1.1 | May 2017



COUNTRY RISK
ASSESSMENTS



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This risk assessment has been developed by NEPCon with support from the LIFE programme of the European Union, UK aid from the UK government and FSC™.



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This material has been funded by the UK aid from the UK government; however the views expressed do not necessarily reflect the UK government’s official policies.

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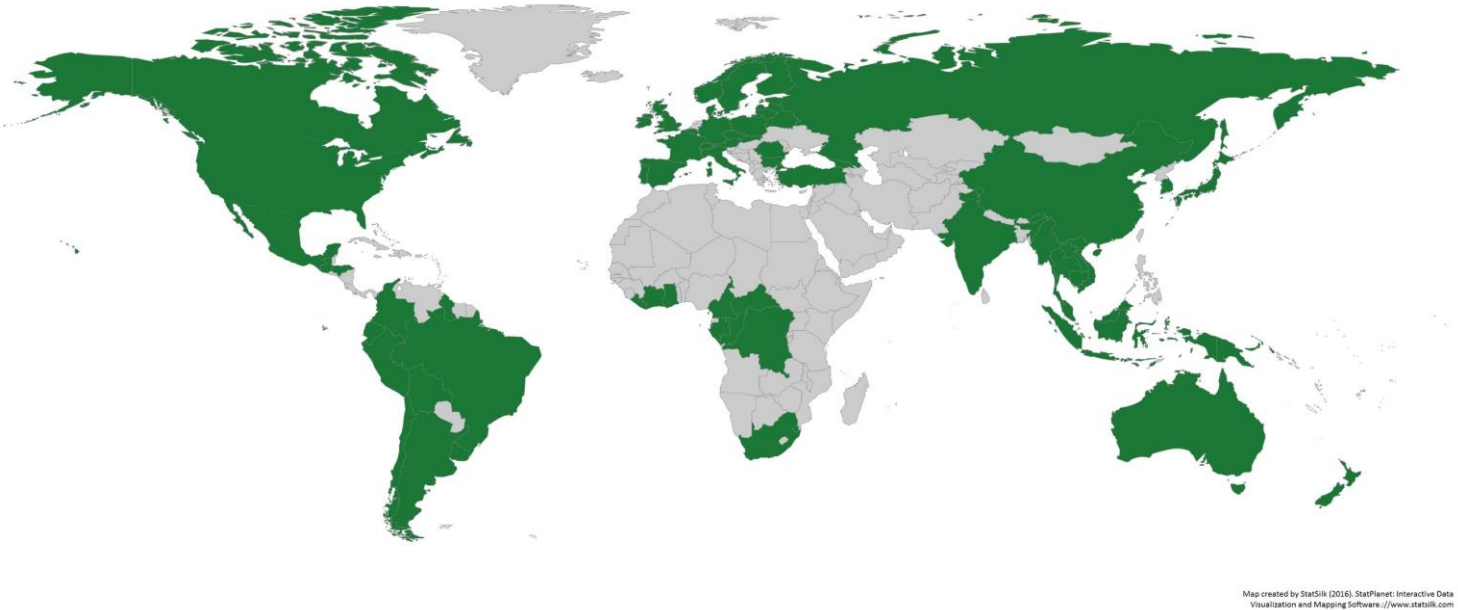
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A. Introduction

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

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



Map created by StatSilk (2016). StatPlanet: Interactive Data Visualization and Mapping Software.//www.stat silk.com

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

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

B. Overview of legality risks

Timber Risk Score: 21 / 100 in 2017

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

- Specified risk for 15 sub-categories.
- Low risk for 4 sub-categories.
- No legal requirements for 3 sub-categories.

The Timber Risk Score for India is 18 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, timber harvesting activities and trade and transport.

For **Legal Rights to Harvest**, there is a risk of:

- Non-recognition and violation of forest dwellers rights (Sub-category 1.1).
- Forest encroachment and illegal logging conducted on land not under the legal tenure of loggers due to among others corruption among government officials (1.1).
- Timber harvesting without a permit, or over harvesting on permitted volumes (1.4).

For **Taxes and Fees**, there is a risk of:

- Private businesses not paying the correct royalties and harvesting fees (1.5).
- Widespread VAT evasion and corruption in the implementation of VAT laws (1.6).
- Risk of non-declaration/under-reporting of incomes and profits, and likewise incidence of corruption among tax authorities (1.7).

For **Timber Harvesting Activities**, there is risk of:

- Illegal harvesting occurring within protected areas (1.9).
- Risk of protected species being illegally harvesting due to the prevalence of illicit logging and corruption among government officials (1.9).
- Risk that labour laws are violated (e.g. non-payment of minimum wages, use of child labour and incidences of bonded labour), the risk mostly relates to private forest companies (1.10 and 1.11).

Regarding **third parties' rights**, there is a risk that customary law and indigenous people's rights are violated (1.15) Risk that customary, traditional and indigenous rights are not recognized and violated, and a risk that local communities are not appropriately involved in the decision-making processes in context of forest management activities.

For **Trade and Transport**, there is a risk of:

- Incorrect specification (e.g. species, quantity and quality) of forest products to evade taxes and transit fees among others because of collusion with forest officials (1.16).
- Illegal issuance of trade and transport documents has been due to the high prevalence of corruption (1.19).
- Inadequate screening of illegal timber at customs, due to frequent seizures of wood exported illegally from India, including CITES species and a risk of illegal import and export of timber from CITES species (1.19 and 1.20).

Timber source types and risks

There are two main timber source types found in India, timber grown in government reserved forests and timber grown in plantations. Within these two high level source types, there are a two further source types. Knowing the "source type" that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all source types and found the risks differ between the source types.

<p>Government Reserved Forests/ Unclassed Forests</p>	<p>Timber from Government Reserved Forests/ Unclassed Forests (can be natural forests, plantations, degraded areas or barren land), managed either solely by the State Forest Department or jointly by the State Forest Department and local communities through Joint Forest Management Committees (JFMCs). May only be <u>harvested</u> by Forest Department. Forest Working Plans (Forest Management Prescriptions as per the National Working Plan Code for a period of ten years) must be in place, and consignments must be accompanied by a transit pass which details the origin and destination of the consignment.</p>
<p>Private plantations</p>	<p>Timber from private plantations, including block plantations, agroforestry plantations or farm forestry plantations, industrial plantations etc. Permits are required from Forest Department or local panchayats (local elected representative bodies) as per harvesting rules for specific species. A harvest permission letter from Forest Department/ local government (panchayat) head is required, but the requirement for a transit pass is optional as per transit rules. In cases where the transit pass requirement is waived, substitute documents such as Agricultural Produce Market Committee (APMC) tax receipts are considered as legal documents.</p>

This matrix summarizes the findings of the timber legality risk assessment set out in this report. The key legality risks identified in this report relate to:

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

C. Overview of the forest sector in India

Most of the natural forests in India are state-owned and managed. Such forests in India are legally recognized through government notifications based on the Indian Forest Act, 1927 (IFA) and the Wildlife Protection Act, 1972 (WPA). The forests are classified as unclassed, Reserved Forests (as notified under IFA 1927) and Wildlife Sanctuaries or National Parks (notified under WPA, 1972) and, for very sensitive ecosystems, Biosphere Reserves under the Man and Biosphere Programme. Commercial extraction of forest produce is not allowed from Protected Areas (under WPA 1972) and Biosphere Reserves. Since the National Forest Policy, 1988, the government has encouraged Trees Outside Forests mainly in the form of agroforestry plantations on private lands to substitute for the vastly degraded natural forests.

The Joint Forest Management Program which was conceived through the National Forest Policy, 1988, and the recently legislated Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) has encouraged more participation from forest-dependent communities to protect and rejuvenate the degraded natural forests as well as recognize the traditional rights of forest dwellers to the resources from state forests.

As per the latest assessment (State of Forest Report 2013 by Forest Survey of India), about 3.3% of the total geographical area of the country (about 3 million hectares) is made up of agroforestry plantations, mostly on private lands. More than 12 million hectares of degraded natural forests have been brought under Joint Forest Management resulting in perceptible improvement in forest protection and forest productivity.

To ensure scientific felling operations, the Supreme Court of India has directed (*Godavarman vs Union of India*, 1996) that no felling operations in government forests will be carried out without scientific management plans (Working Plans) prescribed as per the National Working Plan Code. In the case of plantations on private land, management plans are mandatory. However, as per individual states' harvesting rules, the forest department has specified certain species for which a harvest permit is required to be obtained by FMU owners from the local village administration (panchayat) or local forest officer (Deputy Conservator of Forests).

Nationally across India, the transport of forest produce from government forests is accompanied by a transit pass, a document that details the origin and destination of the consignment along with the fees paid to the Forest Department. In some cases, for specific species grown on agricultural and privately owned lands, the requirement for a transit pass has been waived (only for movement within a state). In such cases, the receipt of taxes paid to the local Agriculture Produce Market Committee (APMC) is considered a legal document of transit. The Supreme Court as per its above order has also directed wood-based industries involved in saw-milling activities to obtain the relevant license from the Forest Department.

The Report of High Level Committee to review various acts administered by the Ministry of Environment, Forests and Climate Change, Government of India, published in November, 2014 (http://envfor.nic.in/sites/default/files/press-releases/Final_Report_of_HLC.pdf) has provided a number of recommendations which, if adopted, may influence forest governance in the country as well as affect the findings of the criteria for legality. Some of the relevant recommendations are as follows:

- i) Define forests in the forest laws as opposed to current Supreme Court interpretation of the definition of forest as per the dictionary meaning
- ii) Exclude farm forestry and agroforestry plantations from the definition of forests and outside the purview of the Forest Department
- iii) Transparent and streamlined process of providing clearances for diversion of forest land and enhancing the requirement for Compensatory Afforestation in cases of loss of forestland
- iv) Harmonization of the Wildlife Protection Act, 1972, schedule with CITES
- v) Provide statutory nature of Wildlife Management Plans in the Wildlife Protection Act, 1972
- vi) Delineation and demarcation of eco-sensitive zones with emphasis on using GIS tools
- vii) Recognition in the relevant laws of cultural traditions linked to forests.

During the evaluation of risk, the Transparency International Corruption Perception Index (CPI) has been used. India has a current score of 38, which places it at a global ranking of 85 out of 175 countries. This is considered to be a relatively low score that warrants caution related to corruption in the forest sector too. In addition, the World Bank (WB) Worldwide Governance Indicators show that India also here scores relatively low. Especially in the control of Corruption indicator, India scores relatively low. It is therefore generally assumed that India is a country with a high level of corruption. Other FSC sources of information listed in the FSC-PRO-60-002a V1-0 EN have only been used where referred to in the risk description directly.

Additional sources:

- Chatham House, 2014, Illegal wood import and re-export: The scale of problem and the response in Thailand, South Korea and India, https://indicators.chathamhouse.org/sites/files/reports/Lawson_Thailand_SK_India_PP_2014_0%281%29_0.pdf
- FAO, 2015, Global Forest Resources Assessment 2015 – India, <http://www.fao.org/documents/card/en/c/da3ccc0b-3a2b-4291-ba4a-44d7a297da14/>
- Forestlegality.org, 2016, Logging and Export Bans, <http://www.forestlegality.org/content/logging-and-export-bans>
- Forestlegality.org, 2016, Risk Tool, <http://www.forestlegality.org/risk-tool>
- ITTO, 2015, *Biennial review and assessment of the world timber situation 2013-2014*, http://www.itto.int/annual_review/

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

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

1.1.1. Applicable laws and regulations

- Land Registration Act, 1908
- The Joint Forest Management Program initiated as per the National Forest Policy, 1988, and on the basis of Government of India circular (order) dated 1 June 1990 is a forest management policy initiative that promotes involvement of forest-dependent communities in managing Government-owned forests and has been integrated into the forest management practices of the country.
- Indian Forest Act (1927). Available at: <http://envfor.nic.in/legis/forest/forest4.html> [Accessed 21 December 2016]
- Wildlife Protection Act (1972). Available at: <http://envfor.nic.in/legis/wildlife/wildlife1.html> [Accessed 21 December 2016]

Rights of the traditional forest dwellers within Government forests:

- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act)
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 recognizes the tenure rights of traditional forest dwellers.

1.1.2. Legal authority

- State forest Department (for management of government forests, natural forest)
- Land Revenue Department (for land registration and classification)
- Village Panchayat (local elected representative body (generally a dispute resolution body))

1.1.3. Legally required documents or records

Government forests:

The legality of land tenure regarding Government forests is available through periodic government notifications (gazettes) and the area of forests is mentioned in the Forest Working Plans. All Government-related information is available and can be verified at respective forest departments and forest depots.

Private lands:

The land ownership records (e.g. khasra/ khatauni) are legal documents of record; a Village Panchayat Head or Revenue Officer can verify the legality of land ownership. Each land owner is given a land ownership document (patta) that contains the details of allocated land including disputed status, if any. In many states such land records are digitized and available online.

1.1.4. Sources of information

Government of India Order on JFM:

- Circular concerning Joint Forest Management (1990). Available at: <http://www.ielrc.org/content/e9004.pdf> [Accessed 21 December 2016]

State Forest Department websites:

- Department of Forests & Wildlife Preservation, Punjab (n.d.). *Website*. [online]. Available at: www.pbforests.gov.in [Accessed 21 December 2016]
- Haryana Forest Department (n.d.). *Website*. [online]. Available at: <http://www.haryanaforest.gov.in/> [Accessed 21 December 2016]
- Himachal Pradesh Forest Department (n.d.). *Website*. [online]. Available at: <http://hpforest.nic.in/> [Accessed 21 December 2016]
- Forest & Wildlife Department of Uttar Pradesh (n.d.). *Website*. [online]. Available at: <http://upforest.gov.in/> [Accessed 21 December 2016]
- The Forest department of Rajasthan (n.d.). *Website*. [online]. Available at: <http://www.forest.rajasthan.gov.in/content/raj/forest/en/home.html>
- Mpforest.gov.in (n.d.). *Website*. [online]. Available at: http://mpforest.gov.in/HO_Outer/Frm_ScreenReader_H.aspx [Accessed 21 December 2016]
- Principal Chief Conservator of Forest & Head of the Forest Force [Hoff] (n.d.). *Website*. [online]. Available at: <https://forests.gujarat.gov.in/> [Accessed 21 December 2016]
- Maharashtra Forest Department (n.d.). *Website*. [online]. Available at: http://mahaforest.nic.in/index.php?lang_eng_mar=Eng [Accessed 21 December 2016]
- Environment and Forest Department of Bihar (n.d.). *Website*. [online]. Available at: <http://forest.bih.nic.in/> [Accessed 21 December 2016]
- Forest, Environment and Climate Change Department of Jharkhand (n.d.). *Website*. [online]. Available at: <http://forest.jharkhand.gov.in/> [Accessed 21 December 2016]
- West Bengal Forest Department (n.d.). *Website*. [online]. Available at: <http://www.westbengalforest.gov.in/> [Accessed 21 December 2016]
- Department of Environment and Forests of Assam (n.d.). *Website*. [online]. Available at: <http://assamforest.in/common/index.php> [Accessed 21 December 2016]
- Department of Forest and Environment of Odisha (n.d.). *Website*. [online]. Available at: http://www.odisha.gov.in/forest_environment/index.htm [Accessed 21 December 2016]

- Environment, Forests, Science and Technology Department (n.d.). *Website*. [online]. Available at: <http://www.forests.ap.gov.in/> [Accessed 21 December 2016]
- Karnataka Forest Department (n.d.). *Website*. [online]. Available at: <http://aranya.gov.in/Home.aspx> [Accessed 21 December 2016]
- Kerala Forests and Wildlife Department (n.d.). *Website*. [online]. Available at: <http://www.forest.kerala.gov.in/> [Accessed 21 December 2016]
- Tamil Nadu Forest Department (n.d.). *Website*. [online]. Available at: <http://www.forests.tn.nic.in/> [Accessed 21 December 2016]

For private land records:

- Jamabandi.nic.in (n.d.). *Website of Haryana Land Records*. [online]. Available at: <http://jamabandi.nic.in/> [Accessed 21 December 2016]
- <http://admis.hp.nic.in/lrc/>
- Bhulekh.up.nic.in (n.d.). *Bhulekh Land Records*. [online]. National Informatics Centre (NIC). Available at: <http://bhulekh.up.nic.in/> [Accessed 21 December 2016]
- Apnakhata.raj.nic.in (n.d.). Rajasthan Land records. [online]. National Informatics Centre (NIC). Available at: <http://apnakhata.raj.nic.in/Home.aspx> [Accessed 21 December 2016]
- Landrecords.mp.gov.in (n.d.). *Land records*. [online]. Available at: <http://www.landrecords.mp.gov.in/> [Accessed 21 December 2016]
- Revenue Department of Gujarat (n.d.). *Website*. [online]. Available at: <http://revenuedepartment.gujarat.gov.in/index.asp> [Accessed 21 December 2016]
- mahabhulekh.maharashtra.gov.in (n.d.). *Land records of Bhulekh*. [online]. Available at: <https://mahabhulekh.maharashtra.gov.in/> [Accessed 21 December 2016]
- irc.bih.nic.in (n.d.). *Website*. [online]. Revenue Department of Chhattisgarh. Available at: <http://lrc.bih.nic.in/RoR.aspx> [Accessed 21 December 2016]
- Land & Land Reforms Department, Government of West Bengal (n.d.). *Website*. [online]. Available at: [http://banglarbhumi.gov.in/banglarbhumi/\(S\(z5orpxlz2unm4byswwqhf4bo\)\)/asp%20pages/home.aspx](http://banglarbhumi.gov.in/banglarbhumi/(S(z5orpxlz2unm4byswwqhf4bo))/asp%20pages/home.aspx) [Accessed 22 December 2016]
- Bhulekh.ori.nic.in (n.d.). *Land Records Web Portal*. [online]. Available at: <http://bhulekh.ori.nic.in/RoRView.aspx> [Accessed 22 December 2016]

1.1.5. Risk determination

Overview of Legal Requirements

Government forests in India are classified as unclassified forests (notified as government forests as per the Indian Forest Act, 1927 but not yet classified), Reserved Forests (as per Indian Forest Act, 1927, Chapter II) and Protected Areas (Wildlife Sanctuaries and National Parks as per the Wildlife Protection Act, 1972, Chapter IV). Management rights of all such forests primarily rest with the State Forest Department. In some Reserved Forest areas, management is jointly carried out by the State forest departments and communities under the

Joint Forest Management Program. Commercial extraction of forest produce from Protected Areas is prohibited.

The land tenure and management rights rest solely with the landowners. The registration of such land is carried out as per the Registration Act, 1908 with the land holding size restricted as per Agricultural Land Reforms Acts of respective states. The produce from private lands is the sole property of the owner.

The ownership and management of natural forests in India lies mostly with the State governments. In some states in North East India, the forests are community-owned but managed by the Forest Department. The process of land acquisition for 'notified government forests' e.g. Reserved Forests, Wildlife Sanctuaries and National Parks involves public notification regarding proposed acquisition, public hearings and settlement of land ownership cases as per the Indian Forest Act, 1927 and Wildlife Protection Act, 1972, thus providing transparency in the entire process.

Land tenure with respect to private lands is well-defined in India. The ancestral and traditional rights to land are recognized in India as per the State Land Ceilings Act (Agriculture Land Ceiling Act). The Act also aims for re-distribution of land among landless individuals with traditional rights but no legal title over such land. The legal right to land is described in the Land Registration Act, 1908. Today most of the States make available online the records of land titles. Any dispute regarding ownership is recorded in the khasra/ khatauni (land record documents).

Description of Risk

The potential risks considered under this category are as follows:

- i) Non-recognition and deprivation of rights of traditional forest dwellers
- ii) Encroachment on forest land
- iii) Private land disputes and the mechanism of resolution

Encroachment on forest land in India has been widespread. An area of about 1.5 million hectares of forest land is recognized as encroached upon (as per parliament question press release in 2011). The government has recognized this phenomenon for quite some time and has brought out a set of guidelines as per the Forest Conservation Act, 1980, for systematic settlement of claims and avoidance of arbitrary recognition of encroachers. Traditional forest settlements inside Reserved Forests too have been granted revenue status to recognize the tenure rights of the people living in such areas. The Joint Forest Management Program (JFM), initiated as part of the National Forest Policy of 1988, has recognized the importance of local communities who are dependent on forest resources participating to protect and manage the forests they rely on. Through JFM Committees, which include both Government forest as well as local community representatives, about 30% of the natural forests in India are included in the JFM Program, where local communities (25% of whom are tribal) have a stake in protecting and managing the forests they are dependent upon. Further, with the legislation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) and Rules, 2008, the traditional rights of forest dwellers who were considered as encroachers and squatters under the colonial era forest laws have been recognized and the process of formal recognition of their rights is being implemented.

The management rights of private lands rest solely with the landowners. Any dispute over private land ownership is traditionally settled by the village elders with the consent of the affected parties. In some cases, however, judicial recourse is taken to resolve disputes. Dispute resolution mechanisms for private land ownership are thus available at the community as well as judicial level.

Risk Conclusion

The natural forests in India are mostly owned by the Government. There has been a paradigm shift in the way the forests are managed in that the rights of forest dwellers and the importance of community involvement in forest management have been recognized, legislated for and practiced. Hence the risk of encroachment on forests and disruption of forest management practices have been mitigated to a great extent – as the rights of the forest dwellers and forest-dependent communities have been legally recognized and they have been made stakeholders in forest management activities. However, there is evidence that illegal logging is conducted on land not under the legal tenure of loggers and it is therefore concluded that the risk is specified.

1.1.6. Risk designation and specification

Specified risk

1.1.7. Control measures and verifiers

- Land records and ownership documents
- Records of rights to government forests as provided to private persons
- Public notifications showing government ownership of forests

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

- Envfor.nic.in (n.d.). *Forest Conservation Act 1980*. [online]. Available at: <http://envfor.nic.in/legis/forest/forest2.html> [Accessed 22 December 2016]

As per the Forest Conservation (FCA) Act, 1980 and following the Supreme Court order on Godavarman vs Union of India order, concession licenses to private companies for Government-owned forests have been discontinued as they constitute a diversion of forest land.

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

- Banajata.org (n.d.). *Discontinuity of Concession licenses*. [online]. Available at: <http://www.banajata.org/pdf/ntfp-profile/OR-Bamboo.pdf> [Accessed 22 December 2016]
- Thehindu.com (n.d.). Forest Leases a Violation of Forest Conservation Act, 1980. [online]. *The Hindu*. Available at: <http://www.thehindu.com/todays-paper/tp-national/tp-kerala/government-annuls-renewal-of-forest-land-lease/article3174043.ece>
- Judis.nic.in (n.d.). Supreme Court Order in Godavarman vs Union of India Order, 1996. [online]. Available at: <http://judis.nic.in/supremecourt/imgs1.aspx?filename=14617> [Accessed 22 December 2016]

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

N/A

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

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

1.3.1. Applicable laws and regulations

Government forest:

- Ministry of Environment and Forests [MoEF] (2014). The National Working Plan Code – For Sustainable Management of Forests and Biodiversity in India, 2014. [online]. (Details on the management strategy of a forest division for a ten-year period). New Delhi: Ministry of Environment and Forests Government of India. Available at: <http://fri.icfre.gov.in/UserFiles/File/rsm/NWPCode%202014%20pdf.pdf> [Accessed 22 December 2016]
- Supreme Court Order in Godavarman vs Union of India Order, 1996. (No forest management practices can be carried out in Government forests without approved Forest Working Plans). Available at: <http://judis.nic.in/supremecourt/imgs1.aspx?filename=14617> [Accessed 22 December 2016]

- Ministry of Environment and Forests [MoEF] (2009). *Order on annual plan of operations under Working Plan*. [online]. Available at: http://www.moef.nic.in/sites/default/files/fc_prescription.pdf [Accessed 22 December 2016]

Private forest:

- No Working Plans are applicable to private forest plantations.

1.3.2. Legal authority

- Forest Department
- Ministry of Environment and Forests
- Government of India
- Supreme Court Monitoring Committee

1.3.3. Legally required documents or records

- Forest Working Plans, micro-plans for forests under Joint Forest Management Committees.

1.3.4. Sources of information

Divisional Working Plans:

- Department of Forests & Wildlife Preservation, Punjab (n.d.). *Website*. [online]. Available at: www.pbforests.gov.in [Accessed 21 December 2016]
- Himachal Pradesh Forest Department (n.d.). *Website*. [online]. Available at: <http://hpforest.nic.in/> [Accessed 21 December 2016]
- Haryana Forest Department (n.d.). *Website*. [online]. Available at: <http://www.haryanaforest.gov.in/> [Accessed 21 December 2016]
- Forest & Wildlife Department of Uttar Pradesh (n.d.). *Website*. [online]. Available at: <http://upforest.gov.in/> [Accessed 21 December 2016]
- The Forest department of Rajasthan (n.d.). *Website*. [online]. Available at: <http://www.forest.rajasthan.gov.in/content/raj/forest/en/home.html>
- Mpforest.gov.in (n.d.). *Website*. [online]. Available at: http://mpforest.gov.in/HO_Outer/Frm_ScreenReader_H.aspx [Accessed 21 December 2016]
- Principal Chief Conservator of Forest & Head of the Forest Force [Hoff] (n.d.). *Website*. [online]. Available at: <https://forests.gujarat.gov.in/> [Accessed 21 December 2016]
- Maharashtra Forest Department (n.d.). *Website*. [online]. Available at: http://mahaforest.nic.in/index.php?lang_eng_mar=Eng [Accessed 21 December 2016]
- Environment and Forest Department of Bihar (n.d.). *Website*. [online]. Available at: <http://forest.bih.nic.in/> [Accessed 21 December 2016]
- Forest, Environment and Climate Change Department of Jharkhand (n.d.). *Website*. [online]. Available at: <http://forest.jharkhand.gov.in/> [Accessed 21 December 2016]

- West Bengal Forest Department (n.d.). *Website*. [online]. Available at: <http://www.westbengalforest.gov.in/> [Accessed 21 December 2016]
- Department of Environment and Forests of Assam (n.d.). *Website*. [online]. Available at: <http://assamforest.in/common/index.php> [Accessed 21 December 2016]
- Department of Forest and Environment of Odisha (n.d.). *Website*. [online]. Available at: http://www.odisha.gov.in/forest_environment/index.htm [Accessed 21 December 2016]
- Environment, Forests, Science and Technology Department (n.d.). *Website*. [online]. Available at: <http://www.forests.ap.gov.in/> [Accessed 21 December 2016]
- Karnataka Forest Department (n.d.). *Website*. [online]. Available at: <http://aranya.gov.in/Home.aspx> [Accessed 21 December 2016]
- Kerala Forests and Wildlife Department (n.d.). *Website*. [online]. Available at: <http://www.forest.kerala.gov.in/> [Accessed 21 December 2016]
- Tamil Nadu Forest Department (n.d.). *Website*. [online]. Available at: <http://www.forests.tn.nic.in/> [Accessed 21 December 2016]

1.3.5. Risk determination

Overview of Legal Requirements

No Working Plans are applicable to private forest plantations.

As per Supreme Court Order (Godavarman vs Union of India), no forest management practices can be carried out in Government forests without approved Forest Working Plans. Forest Working Plans, formulated by specially designated officers of the Forest Department (Working Plan Officer, i.e. WPO as per the National Working Plan Code), details the management strategy of a forest division for a ten year period and executed as per the Forest Working Plan for each forest division (administrative unit). The Forest Working Plans stipulate the areas of harvest, conservation, regeneration and rehabilitation (in the case of degraded forests), Joint Forest Management, etc. For Government forests, harvest is carried out either by the Government Forest Department or by forest development corporations or contractors appointed by them as per the approved Forest Working Plans.

Description of Risk

The potential risks considered under the category are as follows:

- i) Absence of Forest Working Plans for sustainable harvest planning
- ii) Failure of implementation of Forest Working Plans

The Forest Working Plans are implemented by the State forest departments and the implementation is monitored by the Supreme Court of India-appointed monitoring committee. Currently, Forest Working Plans are kept up-to-date with harvesting activities carried out according to the Working Plan recommendations only. The annual plan of operations (including any deviations from the Working Plan prescriptions as a result of unavoidable events) is approved in advance by the Ministry of Environment and Forests (MoEF) as per its order in 2009 (http://www.moef.nic.in/sites/default/files/fc_prescription.pdf). Forest operations are not allowed without such a plan (e.g. <http://angul.nic.in/forest.htm>

and

<http://timesofindia.indiatimes.com/city/nagpur/Forestry-work-comes-to-halt-as-18-forest-divisions-go-without-plans/articleshow/34505077.cms>).

No such harvest planning requirements are applicable to private FMU owners.

Due to bureaucratic and judicial oversight and stringent implementation, unauthorized deviations from approved Working Plans are rare and attract penalties in the form of suspended forest operations. The Supreme Court of India has set a high standard for judicial activism (refer:

http://awsassets.wwfindia.org/downloads/indias_forests_and_the_judiciary_2.pdf). In addition, the judiciary is effective in acting as a balance to Government powers with a high score of 0.67 related to its credible process of judicial review (refer 2014 World Justice Project Rules of Law report (http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf)).

Private plantations, which form about 80% of the supply of furniture and pulpwood in India, (see <http://sa.indiaenvironmentportal.org.in/files/Agroforestry%20potential.pdf>) do not require any formal forest management plans for harvesting and maintenance.

Risk Conclusion

For the above reasons, the risk is categorized as low.

1.3.6. Risk designation and specification

Low risk

Plantations: N/A

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

The process and criteria of issuing harvest permits is specified in the respective State Harvesting rules.

- Applicable State Harvesting rules: The Punjab Land Preservation (CHOS) Act, 1900 Punjab Act II of 1900. Available at: <http://www.pbforests.gov.in/Pdfs/policies/PUNJAB%20LAND%20PRESERVATION%20Act%201900.pdf>
- Himachal Pradesh Forest (Timber Distribution to the Right Holders) Rules, 2013. Available at: <http://hpforest.nic.in/pages/display/ZjY0ZjZiNGY2NXM=-actsrules>
- The Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976. Available at: <http://www.lawsofindia.org/statelaw/1606/TheUttarPradeshProtectionofTreesinRuralandHillAreasAct1976.html>
- Rajasthan Forest Act 1953. Available at: <http://rajforest.nic.in/writereaddata/Raj%20Forest%20Act%201953.pdf>
- The Madhya Pradesh Van Upaj Adhyadesh 1969. Available at: <http://www.mpforest.org/pdf/Van%20Upaj%20Adhinyam.pdf>
- Bombay Forest Rules 1942
- The Maharashtra Felling of trees (Regulation) Act 1964
- Bihar Private Forest Act 1947
- The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and The West Bengal Protected Forest Rules
- Assam Forest Regulation 1891. Available at: <http://assamforest.in/actsRules/assamForestRegulation1891.pdf>
- THE ORISSA FOREST (AMENDMENT) ACT, 1982. . Available at: http://www.odisha.gov.in/forest_environment/Forest_Act/pdf/Acts/OFAA_1982.pdf
- THE ANDHRA PRADESH FOREST ACT, 1967
- Karnataka Forest Rules, 1969
- THE KERALA RESTRICTION ON CUTTING AND DESTRUCTION OF VALUABLE TREES RULES, 1974 and and The Kerala Preservation of Trees Act, 1986. Available at: <http://www.forest.kerala.gov.in/images/flash/gazette71014.pdf>
- The Tamil Nadu Forest Act 1882. Available at: http://www.forests.tn.nic.in/Legislations/r_tmtr.html

The rules are applied by respective State Forest Departments.

1.4.2. Legal authority

Government forest:

Supreme Court Monitoring Committee oversees the implementation of working plan prescriptions.

Private lands:

Harvesting permission for defined species needing permit is granted by Government forest officer (Deputy Conservator of Forests) or local elected representative (panchayat).

1.4.3. Legally required documents or records

Government forests:

Auction documents, allotment letters and payment records to the Government

Private lands:

Harvesting permits in cases of specified species

1.4.4. Sources of information

- Ministry of Environment and Forests (2009). *FAO India Forestry Outlook Study - Working Paper No. APFSOS II/WP/2009/06*. [online]. Available at: www.fao.org/docrep/014/am251e/am251e00.pdf

1.4.5. Risk determination

Overview of Legal Requirements

For Government forests, harvest is carried out either by the Government Forest Department or by forest development corporations and – in some cases – the harvesting permits (termed working permits) are sometimes provided to private parties on the basis of auctions conducted by State forest departments or State forest corporations, wherein designated stands (termed coupes) as described in the auction documents are harvested by the private party winning the auction, although the harvesting activity is overseen by the Forest Department. The harvesting is done on the basis of the approved Working Plan. The auction process is made transparent with the State forest development corporations specifying the location of harvest, the woodlots to be harvested and other information in publicly available media e.g. websites (http://www.fdcn.nic.in/latest_auctions_fdcn_ltd.htm).

For private plantations, harvesting permits are issued by local Government representatives or forest department officials for species as defined in the harvesting rules. The harvesting rules also mention the species – originating from private lands - that do not require harvest permits. For private lands, the harvesting rules of each respective state specify the harvesting permits required for specific species and species that are exempt from any harvesting permits.

Description of Risk

The potential risks considered under the category are as follows:

- i) Illegal felling
- ii) Corruption in connection of the issuing of harvesting permits

The harvesting rules governing the issue of harvesting permits are well defined for each State. The auction documents for harvesting permits define the specific coupes for harvest to prevent any additional areas being subjected to illegal harvesting. Copies of the harvest permits issued by the Forest Department – relating to extraction of trees from private lands – are enclosed along with the consignments of harvested timber to certify the legality of the harvested produce. Forest check-gates have been established on major routes to check illegally harvested wood including wood harvested without the required permits. However, despite regular seizures of illegally harvested timber by the Forest Department, the FAO India Forestry Outlook Study, 2009 estimates that the annual quantum of illegally harvested logs in India is in the range of 2 million cubic meters. Given the high level of corruption prevalent in Indian

Government institutions (Corruption Perception Index 2014 Score of 38), the enforcement of harvesting-related rules and regulations in a free and transparent manner in the country is suspect.

Risk Conclusion

Given a number of factors – including the quantum of illegal wood in circulation (mostly for economically important species), the high perception of corruption, the risk of timber harvesting without a permit or in excess of the permitted amount – this criterion can be considered as specified risk. However, for species from agroforestry sources that have been exempted from any harvesting permits as per the existing State harvesting rules, the criterion has been classified as low risk.

1.4.6. Risk designation and specification

- Specified Risk
- For species from agro forestry sources not requiring harvesting permits: Low Risk

1.4.7. Control measures and verifiers

- Harvesting permits, auction documents, allotment letters and payment records shall exist.
- Checking the basis of harvest from relevant Forest Division Working Plans in the case of Government forests
- Harvest permits issued by Forest Department in the case of specific agroforestry species
- Government orders showing species that have been exempt from harvest permits in the case of agroforestry sources
- Harvesting limits shall be clearly defined based on maps and quantities.
- Authorities shall confirm the validity of harvesting permit.
- Stakeholder consultation shall confirm that the harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority.
- Field inspection shall confirm that harvesting takes place within limits specified in the harvesting permit.
- Field inspection shall confirm that information regarding area, species, volumes and other detail given in the harvesting permit is correct and within the limits prescribed in the legislation

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

- Indian Forest Act, 1927 (Chapter VII)
- (Royalties are collected from specified species as per State harvesting and forest transit rules)
- The harvesting rules are State specific. Applicable harvesting rules (per Chapter VI of Indian Forest Act, 1927) based on which royalties and harvesting fees are charged:
- THE PUNJAB LAND PRESERVATION (CHOS) ACT, 1900 Punjab Act II of 1900. Available at: <http://www.pbforests.gov.in/Pdfs/policies/PUNJAB%20LAND%20PRESERVATION%20Act%201900.pdf>
- Himachal Pradesh Forest (Timber Distribution to the Right Holders) Rules, 2013. Available at: <http://hpforest.nic.in/pages/display/ZjY0ZjZiNGY2NXM=-actsrules>
- The Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976. Available at: <http://www.lawsofindia.org/statelaw/1606/TheUttarPradeshProtectionofTreesinRuralandHillAreasAct1976.html>
- Rajasthan Forest Act 1953. Available at: <http://rajforest.nic.in/writereaddata/Raj%20Forest%20Act%201953.pdf>
- The Madhya Pradesh Van Upaj Adhyadesh 1969. Available at: <http://www.mpforest.org/pdf/Van%20Upaj%20Adhinyam.pdf> (Madhya Pradesh)
- Bombay Forest Rules 1942
- The Maharashtra Felling of trees (Regulation) Act 1964. Available at: http://www.mahaforest.nic.in/act_rule.php?aid=1
- Bihar Private Forest Act 1947
- The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and The West Bengal Protected Forest Rules. Available at: <http://wbxpress.com/wp-content/uploads/2013/06/Compendium-Forest-Acts-Rules-Orders.pdf>
- Assam Forest Regulation 1891. Available at: <http://assamforest.in/actsRules/assamForestRegulation1891.pdf>
- THE ORISSA FOREST (AMENDMENT) ACT, 1982. Available at: http://www.odisha.gov.in/forest_environment/Forest_Act/pdf/Acts/OFAA_1982.pdf
- THE ANDHRA PRADESH FOREST ACT, 1967. Available at: http://forest.ap.nic.in/apforest_act_1967.pdf

- Karnataka Forest Rules, 1969
- THE KERALA RESTRICTION ON CUTTING AND DESTRUCTION OF VALUABLE TREES RULES, 1974. Available at: <http://www.forest.kerala.gov.in/images/flash/gazette71014.pdf>
- The Kerala Preservation of Trees Act, 1986. Available at: <http://www.forest.kerala.gov.in/images/legislations/Kerala%20Restriction%20Cutting%20Valuable%20trees%201974.pdf>
- The Tamil Nadu Forest Act 1882. Available at: http://www.forests.tn.nic.in/Legislations/r_tmtr.html
- The rules are applied by respective State Forest Departments
- (Applicable Transit Rules based on Chapter VII of Indian Forest Act, 1927: Punjab Land Preservation Act, 1900)
- Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978
- Uttar Pradesh Transit of Timber and other Forest Produce Rules
- Rajasthan Forest (Produce Transit) Rules, 1957
- Madhya Pradesh Van Upaj Adhiniyam, 1969
- Bombay Forest Rules, 1942
- Madhya Pradesh Van Upaj Adhiniyam, 1969
- Bihar Private Forest Act, 1947
- Jharkhand Forest Transit Rules, 2004
- West Bengal Forest Produce Transit Rules, 1959
- Assam Forest Regulations, 1891
- Orissa Timber and Other Forest Produce Transit Rules, 1980
- Andhra Pradesh Forest Act 1967
- Karnataka Forest Rules, 1969
- Kerala Forest Produce Transit Rules, 1975
- Tamil Nadu Timber Transit Rules, 1968
- Mandi Samiti tax (as per State APMC Act governing Agriculture Produce Market Committee) for species harvested from agroforestry sources.

1.5.2. Legal authority

- State Forest Department is the legal authority regarding collection of royalties and transit fees as specified in the regulations.
- Mandi Samitis (Agriculture Produce Market Committees) collect fees from farmers for species of agroforestry origins.

1.5.3. Legally required documents or records

- Royalty and fees receipts from Forest Departments
- Tax receipts from Mandi Samities (i.e. Agriculture Produce Marketing Committees or APMCs).

1.5.4. Sources of information

- The Telegraph (2014). *Glare on tax evasion*. Available at: www.telegraphindia.com/1140505/jsp/jharkhand/story_18306743.jsp
- Mathur, G. (2002). Xxx. [online]. *India Kanoon*. Available at: <http://indiankanoon.org/doc/316626/> [Accessed 3 January 2017]
- Mandiboard (n.d.). *Website*. [online]. Punjab State Agricultural Marketing Board. [online]. Available at: www.mandiboard.nic.in [Accessed 3 January 2017]
- Hsamb.gov.in (n.d.). *Website*. [online]. Haryana State Agricultural Marketing Board. Available at: www.hsamb.gov.in [Accessed 3 January 2017]
- Upmandiparishad (n.d.). *Website*. [online]. Uttar Pradesh State Agricultural Produce Markets Board. Available at: www.upmandiparishad.in [Accessed 3 January 2017]
- Rsamb (n.d.). *Website*. [online]. Rajasthan State Agricultural Marketing Board. Available at: www.rsamb.rajasthan.gov.in [Accessed 3 January 2017]
- Mpmmandiboard.org (n.d.). *Website*. [online]. Madhya Pradesh State Agricultural Marketing Board (Mandi Board). Available at: www.mpmmandiboard.org [Accessed 3 January 2017]
- Agri.gujarat.gov.in (n.d.). *Website*. [online]. Gujarat State Agricultural Marketing Board. Available at: www.agri.gujarat.gov.in [Accessed 3 January 2017]
- Msamb.com (n.d.). *Website*. [online]. Maharashtra State Agricultural Marketing Board. Available at: www.msamb.com [Accessed January 2017]
- Samb.cg.gov.in (n.d.). *Website*. [online]. Raipur Chhattisgarh State Agricultural Marketing Board. Available at: www.samb.cg.gov.in [Accessed 3 January 2017]
- jsamb.nic.in (n.d.). *Website*. [online]. Jharkhand State Agricultural Marketing Board. Available at: www.jsamb.nic.in [Accessed January 2017]
- asamb.in (n.d.). *Website*. [online]. Assam State Agricultural Marketing Board. Available at: www.asamb.in [Accessed 3 January 2017]
- osamboard.org (n.d.). *Website*. [online]. Osam State Agricultural Marketing Board. Available at: www.osamboard.org [Accessed 3 January 2017]
- market.ap.nic.in (n.d.). *Website*. [online]. Agricultural Marketing Department, Government of Andhra Pradesh. Available at: www.market.ap.nic.in [Accessed 3 January 2017]
- krishimaratavahini.kar.nic.in (n.d.). *Website*. [online]. Karnataka State Agricultural Marketing Board. Available at: www.krishimaratavahini.kar.nic.in [Accessed 3 January 2017]
- <http://www.tnagmark.tn.nic.in/default.htm> (Tamil Nadu)

1.5.5. Risk determination

Overview of Legal Requirements

The royalties for forest produce are well-defined in respective states. The harvesting rules in respective states specify the species to which harvesting fees apply and the species that are exempted. Such fees are collected by the Forest Department when issuing a harvest permit on private land; or on government forest land where a harvest permit has been given to a private party through auction by the Government forest development corporation. For species classified as agricultural produce (for wood coming from agroforestry activities), the Mandi Samiti tax as per the APMC Act is levied as well as harvesting fees – as specified in the harvesting rules.

Description of Risk

The potential risks considered under the category are as follows:

- i) High incidence of corruption in implementing the harvesting rules and collecting harvesting fees; and illegal wood trade
- ii) Evasion of APMC taxes

The State harvesting rules clearly specify the requirement for harvesting fees, classification of species for harvesting fees etc. The copy of the receipt for harvesting fees (relating to specified species) and APMC fees (in the case of agroforestry species) is enclosed along with the timber consignments during transit to demonstrate legality of forest produce. However, despite regular seizures of illegally harvested timber by the Forest Department, the FAO India Forestry Outlook Study, 2009 estimates that the annual quantum of illegally harvested logs in India is in the range of 2 million cubic metres. There have also been various instances of evasion of Mandi Samiti taxes (www.telegraphindia.com/1140505/jsp/jharkhand/story_18306743.jsp) although in some cases there has been prosecution and penalties applied (<http://indiankanoon.org/doc/316626/>).

Risk conclusion

Given a number of factors – including the quantum of illegal wood in circulation (mostly for economically important species), the high perception of corruption, the risk of timber harvesting without permits or in excess of the permitted amount - this criterion can be considered as specified risk. However, for species which are exempted royalties or Mandi Samiti (i.e. APMC tax) and Government harvesting operations that do not require any royalty payment, this criterion can be considered as low risk.

1.5.6. Risk designation and specification

- Specified Risk
- For species exempted royalties and harvesting fees and APMC taxes, harvested by forest department which is exempted from royalties: Low Risk

1.5.7. Control measures and verifiers

- Receipts shall exist for payments of harvesting-related royalties, taxes, harvesting fees and other charges.
- Volumes, species and qualities given in sales and transport documents shall match the paid fees.
- Classification of species, volumes and qualities shall match the royalties and fees paid.
- APMC receipts from Mandi Samities shall correspond to harvested material where applicable (agroforestry products)

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

- Central Sales Tax Act, 1956 (In case of inter-state purchases) Available at: <http://comtax.up.nic.in/central%20sales%20tax/CENTRALSALESTAXACT1956.htm>
- Value Added Tax Act (In case of intra-state purchases)

Applicable State Value Added Tax Acts:

- Punjab Value Added Tax Act, 2005
- Haryana Value Added Tax Act, 2005
- Himachal Pradesh Value Added Tax Act, 2005
- Uttar Pradesh Value Added Tax Act, 2008
- Rajasthan Value Added Tax Act, 2003
- Madhya Pradesh Value Added Tax (amendment) Act, 2011
- Gujarat Value Added Tax Act, 2006
- Maharashtra Value Added Tax Act, 2003
- The Chhattisgarh Value Added Sales Tax Act, 2003
- Bihar Vat Act, 2005
- Jharkhand Value Added Tax Act, 2003
- West Bengal Value Added Tax (Amendment) Act, 2014
- Assam Value Added Tax Act, 2003
- Orissa Value Added Tax (Amendment) Act, 2003
- Andhra Pradesh Value Added Tax Act, 2005
- Karnataka Value Added Tax Act, 2003
- Kerala Value Added Tax Act, 2003
- Tamil Nadu Value Added Tax Act, 2006)

1.6.2. Legal authority

- The State Commercial Tax Department,
- Registrar of Companies

1.6.3. Legally required documents or records

- Relevant invoices showing payment of prescribed sales tax rates

1.6.4. Sources of information

State commercial tax department websites:

- www.pextax.com (Punjab)
- www.haryanatax.com (Haryana)
- www.hptax.gov.in (Himachal Pradesh)
- <http://comtax.up.nic.in/> (Uttar Pradesh)
- www.rajtax.gov.in (Rajasthan)
- www.mptax.mp.gov.in (Madhya Pradesh)
- www.commercialtax.gujarat.gov.in (Gujarat)
- www.mahavat.gov.in (Maharashtra)
- www.comtax.cg.nic.in (Chhattisgarh)
- www.biharcommercialtax.gov.in (Bihar)
- www.jharkhandcomtax.gov.in (Jharkhand)
- <http://wbcomtax.nic.in/> (West Bengal)
- www.tax.assam.gov.in (Assam)
- <https://odishatax.gov.in> (Odisha)
- www.apct.gov.in (Andhra Pradesh)
- www.vat.kar.nic.in (Karnataka)
- www.keralataxes.gov.in (Kerala)
- www.tnvat.gov.in (Tamil Nadu)
- <http://dor.gov.in/> (Central Revenue Department)
- Controller and Auditor General of India (CAG) (2010): Implementation of Value Added Tax in India. Available at: http://www.cag.gov.in/sites/default/files/publication_files/SRA-value-added-tax.pdf. New Delhi, June 2010
- Dailypioneer.com (2013). Corruption Rampant in Sales Tax Dept, Claims activist. [online]. *The Pioneer*. Available at: www.dailypioneer.com/state-editions/lucknow/corruption-rampant-in-sales-tax-dept-claims-activist.html [Accessed 3 January 2017]

1.6.5. Risk determination

Overview of Legal Requirements

Value Added Tax is levied on the sale of products where value adding occurs to raw materials. Value added tax is governed by the Value Added Tax Act (in the case of intra-state purchases). When such products are sold across state boundaries, Central Sales Tax (CST) is levied, governed by the Central Sales Tax Act (in the case of inter-state purchases).

For commercial establishments, a unique Tax Deduction Account Number (TAN) and Permanent Account Number (PAN) are provided by the Income Tax Department. No tax is credited and no business activity is possible without these. The company has to be registered with the Registrar of Companies as per The Companies Act, 2013.

The VAT schedule of individual States defines the rate of taxation based on classification of products. The same can be checked from invoice details so as to confirm the payment of taxes due. For inter-state purchases, the Central Sales Tax rates are applicable and are applied uniformly across the country. The taxes paid are listed in the invoices for legal purposes and can be checked.

Description of Risk

The potential risks considered under the category are as follows:

- i) Mis-classification of goods
- ii) Tax evasion and high incidence of corruption among tax authorities

The VAT Act and Rules are defined for each State and handled by a dedicated sales tax department. The Act and Rules are universally applicable and reportable for each sales transaction. However, VAT evasion in India is widespread as described in the Comptroller and Auditor General of India (CAG) Report

(http://www.saiindia.gov.in/english/home/Our_Products/Other_Reports/Study_Reports/SRA-value-added-tax.pdf).

The perception of corruption for India is high (CPI 2014 score of 38) and there is reportedly wide-spread corruption in the Sales Tax Department, responsible for implementation of VAT Act and Rules (e.g. www.dailypioneer.com/state-editions/lucknow/corruption-rampant-in-sales-tax-dept-claims-activist.html).

Risk conclusion

Given the high incidence of tax evasion and corruption in implementation of VAT laws, the risk relating to evasion and non-payment of VAT and related taxes can be considered as Specified Risk.

1.6.6. Risk designation and specification

Specified risk.

1.6.7. Control measures and verifiers

- Sales documents shall include applicable sales taxes.
- Receipts for payment sales taxes shall exist.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.

- Sales prices shall be in line with market prices.
- Authorities shall confirm that operations are up-to-date regarding payment of applicable sales taxes.
- The taxes paid are in line with the relevant VAT schedule of classification of goods and applicable VAT rates
- Records of VAT paid and filed with the sales tax authorities
- Receipts for payment of sales taxes shall exist.
- PAN and TAN shall be valid.

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

Government forest:

N/A. The income from timber sale from government forests is considered as government revenue and no income tax is levied on such revenue.

Private forest:

Income Tax Act 1961, Section 1 to 10 (not applicable in case of income from farm products i.e. agroforestry in case of income from timber sales)

1.7.2. Legal authority

- Income Tax Department

1.7.3. Legally required documents or records

- Income Tax Return and Balance Sheets

1.7.4. Sources of information

- Income Tax Department (n.d.). *Website*. [online]. Income Tax Department, Government of India. Available at: <http://www.incometaxindia.gov.in/Pages/default.aspx> [Accessed 22 December 2016]

Tax evasion in India:

- Dhara, T. & C. Thomas (2011). In India, Tax Evasion Is a National Sport – Uncollected taxes come to \$314 billion annually. *Bloomberg*. [online]. Available at: <http://www.businessweek.com/magazine/in-india-tax-evasion-is-a-national-sport-07282011.html> [Accessed 22 December 2016]
- Xxx (n.d.). India Sees Growth Imperiled with Greek-Like Tax Evasion. *Bloomberg*. [online]. Available at: <http://www.bloomberg.com/news/2011-07-18/india-government-sees-growth-imperiled-with-rising-greek-like-tax-evasion.html> [Accessed 22 December 2016]

Under Reporting of income:

- Ghosh, P. (2013). How Many People in India Pay Income Tax? Hardly Anyone. *International Business Times*. [online]. Available at: <http://www.ibtimes.com/how-many-people-india-pay-income-tax-hardly-anyone-1294887> [Accessed 22 December 2016]

World Banks Worldwide Governance Indicator:

- World Bank (n.d.). *Worldwide Governance Indicators*. [online]. Info.worldbank.org. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports> [Accessed 22 December 2016]
- Transparency International (n.d.). *Country Profiles: India*. [online]. Transparency. Available at: <http://www.transparency.org/country#IND> [Accessed 22 December 2016]

1.7.5. Risk determination

Overview of Legal Requirements

In relation to sale of timber by private parties and resulting profit, the private parties are liable to pay taxes depending on the nature of the party (income tax for individuals, corporate tax for companies etc. as per the Income Tax Act, 1961). However, income from farmlands is exempt from any taxes in India. Hence, farmers making a profit from sale of timber from agroforestry plantations are not liable for any income tax.

The income tax paid can be checked from corporate balance sheets and publicly available Income Tax Returns or those available for review from the Registrar of Companies.

Description of Risk

The potential risks considered under the category are as follows:

- i) Non-declaration/ under-declaration of income, and evasion of income tax
- ii) High incidence of corruption among tax authorities

Income Tax is collected by a dedicated Income Tax department and is universally applicable for non-farm incomes. However, it is difficult to ascertain the correct tax payments made by individuals and smaller firms without thoroughly checking their accounts and the income tax returns filed by them with the Income Tax authority. Tax evasion is rampant (see <http://www.businessweek.com/magazine/in-india-tax-evasion-is-a-national-sport-07282011.html> and <http://www.bloomberg.com/news/2011-07-18/india-government-sees-growth-imperiled-with-rising-greek-like-tax-evasion.html>) as is under-reporting of income (<http://www.ibtimes.com/how-many-people-india-pay-income-tax-hardly-anyone-1294887>).

The perception of corruption for India is very high. According to the World Bank Worldwide Governance Indicator, India has scored 52.6% in ranking for the rule of law and, in relation to control of corruption, India was ranked 34.9% in 2013 (a fall from 43.4% over a ten-year period). The CPI of India is 38 as of 2014 (below the threshold of 50) and there is reportedly wide-spread corruption among tax officials.

Risk Conclusion

Given the high incidence of income tax evasion and prevalent corruption, the risk regarding non-payment of Income tax and related profit taxes can be considered as Specified Risk.

1.7.6. Risk designation and specification

-
- Specified risk for private plantations
 - Government forest: N/A
 - Farm plantation: N/A (as farm income is exempted from taxation)

1.7.7. Control measures and verifiers

- Consultation with financial authority to verify that all required income and profit taxes have been paid

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

Government forest:

National Working Plan Code, 2014. Available at: <http://www.moef.nic.in/content/national-working-plan-code-2014>

Private Forest:

No harvesting code is legally binding on private landholders

1.8.2. Legal authority

- The State Forest Departments, in some cases local panchayats (elected village representative bodies)

1.8.3. Legally required documents or records

Government forest:

Working Plans

1.8.4. Sources of Information

State Forest Divisional Working Plans:

- www.pbforests.gov.in (Punjab)
- www.haryanaforest.gov.in (Haryana)
- www.hpforest.nic.in (Himachal Pradesh)
- www.forest.up.nic.in (Uttar Pradesh)
- www.rajforest.nic.in (Rajasthan)
- www.mpforest.org (Madhya Pradesh)
- www.gujaratforest.org (Gujarat)
- www.mahaforest.nic.in (Maharashtra)
- www.cgforest.com (Chhattisgarh)
- www.forest.bih.nic.in (Bihar)
- www.jharkhandforest.com (Jharkhand)
- www.westbengalforest.gov.in (West Bengal)

- www.assamforest.in (Assam)
- http://www.odisha.gov.in/forest_environment/index.htm (Odisha)
- www.forest.ap.nic.in (Andhra Pradesh)
- www.aranya.gov.in (Aranya)
- www.forest.kerala.gov.in (Kerala)
- www.forests.tn.nic.in (Tamil Nadu)

1.8.5. Risk determination

Overview of Legal Requirements

The scope and schedule of harvesting in government forests is governed by Approved Forest Working Plans (for Government forests only). The Working Plans include the harvesting methods to be applied, available growing stock for sustainable harvest, extraction of non-timber forest products (NTFPs) as well as other forest management activities. The guidelines for developing Working Plans are developed and codified in the National Working Plan Code, 2014.

In the case of private landholders, the harvesting is regulated by individual State harvesting rules, which specify the species that are exempted from any harvesting regulations and species for which permission to harvest is required from the State forest department or local government.

Description of Risk

The potential risk considered under the category is as follows:

i) Lack of enforcement of Working Plans

The Forest Working Plans are implemented by the State Forest Departments. The Supreme Court through its monitoring committee has devised a mechanism for monitoring the implementation of the Working Plan prescriptions. The Supreme Court of India has ordered all harvesting in Government forests to be as per approved Forest Working Plans (<http://judis.nic.in/supremecourt/imgs1.aspx?filename=14617>). Forest Divisions with no approved Working Plans are not permitted to carry out any commercial forest management practices. Any violation of such order is considered as contempt of court. The Supreme Court has taken action against such violations, as in the case of violations in Goa (<http://supremecourtofindia.nic.in/outtoday/41437.pdf>). In addition, the Ministry of Environment and Forests has its own monitoring unit that performs on-site audits focusing on implementation of Forest Working Plans.

Risk Conclusion

Due to bureaucratic and judicial oversight and stringent implementation, unauthorized deviations from approved Working Plans are rare and attract penalties in the form of suspended forest operations. The Supreme Court of India has set a high standard for judicial activism (refer http://awsassets.wwfindia.org/downloads/indias_forests_and_the_judiciary_2.pdf). In addition, the judiciary is effective in acting as a balance to Government powers with a high score of 0.67 related to its credible process of judicial review (refer 2014 World Justice Project

Rules of Law report

(http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf).

Private plantations, which form about 80% of the supply of furniture and pulpwood in India (see <http://sa.indiaenvironmentportal.org.in/files/Agroforestry%20potential.pdf>) do not require any formal forest management plans for harvesting and maintenance. For this reason, the risk can be categorized as low.

1.8.6. Risk designation and specification

- Low Risk
- N/A for private plantations

1.8.7. Control measures and verifiers

N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

- Wildlife Protection Act, 1972 (Chapter IV and Schedules). Available at: <http://envfor.nic.in/legis/wildlife/wildlife1.html>
- Indian Forest Act, 1927 (Chapter IV). Available at: <http://envfor.nic.in/legis/forest/forest4>
- The Forest Conservation Act, 1980 (Section 2). Available at: <http://envfor.nic.in/legis/forest/forest2.html>
- State harvesting rules based on Chapter VI of Indian Forest Act, 1927
- THE PUNJAB LAND PRESERVATION (CHOS) ACT, 1900 Punjab Act II of 1900.
- Himachal Pradesh Forest (Timber Distribution to the Right Holders) Rules, 2013
- The Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976
- Rajasthan Forest Act 1953
- The Madhya Pradesh Van Upaj Adhyadesh 1969
- Bombay Forest Rules 1942
- The Maharashtra Felling of trees (Regulation) Act 1964
- Bihar Private Forest Act 1947
- The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and The West Bengal Protected Forest Rules
- Assam Forest Regulation 1891

- THE ORISSA FOREST (AMENDMENT) ACT, 1982
- THE ANDHRA PRADESH FOREST ACT, 1967
- Karnataka Forest Rules, 1969
- THE KERALA RESTRICTION ON CUTTING AND DESTRUCTION OF VALUABLE TREES RULES, 1974 and The Kerala Preservation of Trees Act, 1986
- The Tamil Nadu Forest Act 188

1.9.2. Legal authority

- State Forest Departments

1.9.3. Legally required documents or records

- Government notifications regarding protected areas
- In keeping with the State harvesting policies, for some selected species, written permission (harvesting permit) is required for harvesting of designated species even for private lands.

1.9.4. Sources of Information

- Centre on Wildlife & Protected Areas [ENVIS] (n.d.). *Website*. [online]. Available at: <http://wiienviis.nic.in/> [Accessed 22 December 2016]
- Downtoearth.org.in (n.d.). *Website*. [online]. Available at: <http://www.downtoearth.org.in/dte/userfiles/images/Koyna%20Petition%20in%20CEC.pdf>
- infochangeindia.org/environment/news/sc-raps-karnataka-forest-dept-over-illegal-activities-in-bhimgad-sanctuary.html

State harvesting rules (where protected species can be found):

- <http://www.pbforests.gov.in/Pdfs/policies/PUNJAB%20LAND%20PRESERVATION%20Act%201900.pdf> (Punjab)
- <http://hpforest.nic.in/pages/display/ZjY0ZjZiNGY2NXM=-actsrules> (Himachal Pradesh)
- <http://www.lawsofindia.org/statelaw/1606/TheUttarPradeshProtectionofTreesinRuralandHillAreasAct1976.html> (Uttar Pradesh)
- <http://rajforest.nic.in/writereaddata/Raj%20Forest%20Act%201953.pdf> (Rajasthan)
- <http://www.mpforest.org/pdf/Van%20Upaj%20Adhinyam.pdf> (Madhya Pradesh)
- http://www.mahaforest.nic.in/act_rule.php?aid=1 (Maharashtra)
- <http://wbxpress.com/wp-content/uploads/2013/06/Compendium-Forest-Acts-Rules-Orders.pdf> (West Bengal)
- <http://assamforest.in/actsRules/assamForestRegulation1891.pdf> (Assam)
- http://www.odisha.gov.in/forest_environment/Forest_Act/pdf/Acts/OFAA_1982.pdf (Odisha)
- http://forest.ap.nic.in/apforest_act_1967.pdf (Andhra Pradesh)
- https://164.100.133.59/aranya/downloads/KF_Rules_1969.pdf (Aranya)

- <http://www.forest.kerala.gov.in/images/legislations/Kerala%20Restriction%20Cutting%20Valuable%20trees%201974.pdf> (Kerala)
- <http://www.forest.kerala.gov.in/images/flash/gazette71014.pdf> (Kerala)
- http://www.forests.tn.nic.in/Legislations/r_tmtr.html (Tamil Nadu)

1.9.5. Risk determination

Overview of Legal Requirements

The Protected Area network in India is well-documented, Government-owned and managed, and the legal requirements – as documented in the Wildlife Protection Act, 1972 – are recognized and implemented across the country. Protected areas in India are classified as Wildlife Sanctuaries and National Parks depending on the level of protection. In the protected areas such as Wildlife Sanctuaries and National Parks, the commercial extraction of forest produce is prohibited. Some species are protected in respective states to the extent that harvesting permits are also required for them from private lands.

Description of Risk

The potential risks considered under the category are as follows:

- i) Violation of exclusive protection zones within Protected Areas through harvesting activities
- ii) Unauthorized trade in protected species

The Protected Area Network in India is well-defined, with notifications made under the Wildlife Protection Act, 1972. The Wildlife Protection Act, 1972 (Chapter IV) defines the restrictions in place for access or entry or any activity pertaining to protected areas within Forest Management Units. Despite this, core areas and buffer zones in Protected Areas are often violated (<http://www.thehindu.com/todays-paper/tp-features/tp-sundaymagazine/the-story-of-the-other-one-per-cent/article3876028.ece>). Diversion of Protected Areas is regulated by the Forest Conservation Act, 1980 and is strictly controlled by Supreme Court appointed Empowered Committee. There have been incidences of illegal felling within Protected Areas; however, a major issue is the extraction by local communities of NTFP and firewood from Protected Areas (<http://www.ecologyandsociety.org/vol16/iss3/art10/> and <http://www.fao.org/docrep/ARTICLE/WFC/XII/0742-A1.HTM> and <http://www.downtoearth.org.in/dte/userfiles/images/Koyna%20Petition%20in%20CEC.pdf>). Any violation of Protected Areas is dealt with by the Central Empowered Committee and the newly constituted National Green Tribunal. There is thus an overarching legal framework for protection of Protected Areas, overseen by the judiciary.

Wildlife India has made good progress in delineation of the Protected Area network across the country and maintaining their integrity as per the 5th National Report submitted by India under the Convention on Biological Diversity (<http://www.cbd.int/doc/world/in/in-nr-05-en.pdf>; refer pages 24–28 particularly for Protected Areas). The species protected in individual States for their social and religious importance (e.g. fruit-bearing trees in Uttar Pradesh, *Acacia nilotica* in Rajasthan, *Madhuca indica* trees etc.) are rarely felled. Species of commercial importance can be harvested with approval from local administration or forest officials. However, given the prevalence of illicit felling and corruption among government officials, there is substantial risk of protected species being felled illegally.

Risk Conclusion

Protected Areas are well-defined and the laws governing such areas are implemented in India. However, there is substantial risk of protected species being felled illegally. For this reason, the risk of violation of protected areas and species can be considered as specified risk.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- Verify from purchase documents the origin of the wood to ensure that it is not sourced from Protected Areas
- In the case of timber from Government forests, ensure that the wood is not sourced from Protected Areas
- In the case of protected species, verify specific permission letters as required by State harvesting rules

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

- The National Working Plan Code, 2014. Available at:
<http://fri.icfre.gov.in/UserFiles/File/rsm/NWPCode%202014%20pdf.pdf>

EIA is not applicable in India for forest activities. The National Working Plan Code, 2014 includes best practice for environment conservation under Eco development Plan guidelines (Annexure VI), which are included in the Forest Working Plans. However, this is not legislation. The Guidelines are implemented as part of the Forest Working Plan. Such activities are not applicable to any private plantations.

1.10.2. Legal authority

- Government Forest Departments monitored by Supreme Court appointed Monitoring Committee.

1.10.3. Legally required documents or records

- Working Plans of Forest Departments

1.10.4. Sources of information

Approved Working Plan Databases of Forest Departments (forest department websites):

- www.pbforests.gov.in (Punjab)
- www.haryanaforest.gov.in (Haryana)
- www.hpforest.nic.in (Himachal Pradesh)
- www.forest.up.nic.in (Uttar Pradesh)
- www.rajforest.nic.in (Rajasthan)
- www.mpforest.org (Madhya Pradesh)
- www.gujaratforest.org (Gujarat)
- www.mahaforest.nic.in (Maharashtra)
- www.cgforest.com (Chhattisgarh)
- www.forest.bih.nic.in (Bihar)
- www.jharkhandforest.com (Jharkhand)
- www.westbengalforest.gov.in (West Bengal)
- www.assamforest.in (Assam)
- http://www.odisha.gov.in/forest_environment/index.htm (Odisha)
- www.forest.ap.nic.in (Andhra Pradesh)
- www.aranya.gov.in (Aranya)
- www.forest.kerala.gov.in (Kerala)
- www.forests.tn.nic.in (Tamil Nadu)
- Guidelines for Declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries - reg. (2012). Available at:
www.ercindia.org/files/otherresource/Eco%20sensitive%20zone%20Declaration%20-%20MoEF%20OM%2031.12.2012.pdf

1.10.5. Risk determination

Overview of Legal Requirements

(applicable only for Government forests)

The management of Government forests in India is planned and executed as per Forest Working Plan for each forest division (administrative unit). The Forest Working Plans are written on the basis of the latest version of the National Working Plan Code. The National Working Plan Code, 2014, provides guidelines for Eco development Plans including such aspects as soil and water conservation, establishment of buffer zones etc.

Description of Risk

The potential risks considered under the category are as follows:

- i) Absence of Forest Working Plans for sustainable harvest planning
- ii) Failure in Implementation of Forest Working Plans

The Forest Working Plans are implemented by the State forest departments and the implementation is monitored by the Supreme Court of India-appointed monitoring committee. As per Supreme Court Order (Godavarman vs Union of India), no forest management practices can be carried out in Government forests without approved Forest Working Plans. Hence Forest Working Plans are kept up-to-date and harvesting activities are carried out according to the Working Plan recommendations only. The annual plan of operations (including any deviations from the Working Plan prescriptions as a result of unavoidable events) is approved in advance by the Ministry of Environment and Forests (MoEF) as per its order in 2009. Forest operations are not allowed without such plan (e.g. <http://angul.nic.in/forest.htm> and <http://timesofindia.indiatimes.com/city/nagpur/Forestry-work-comes-to-halt-as-18-forest-divisions-go-without-plans/articleshow/34505077.cms>).

The Government of India has recently undertaken the process of demarcation of eco-sensitive zonation around Protected Areas, the process of which is still being implemented by the State governments (see www.ercindia.org/files/otherresource/Eco%20sensitive%20zone%20Declaration%20-%20MoEF%20OM%2031.12.2012.pdf).

Risk Conclusion

Due to bureaucratic and judicial oversight and stringent implementation, unauthorized deviations from approved Working Plans are rare and attract penalties in the form of suspended forest operations. The Supreme Court of India has set a high standard for judicial activism (refer: http://www.supremecourtfindia.nic.in/speeches/speeches_2009/judicial_activism_tcd_dublin_14-10-09.pdf) and is a credible organization.

Private plantations, which form about 80% of the supply of furniture and pulpwood in India, do not require any formal Forest Management Plan for harvesting and maintenance. For this reasons, the risk can be categorized as low.

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

In case of government forests, check implementation of Working Plan recommendations

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

- The Plantation Labor Act, 1951: Adopted separately by State governments to ensure health and safety. Only applicable to Government forests and privately owned industrial plantations.
- Individual farm land - Individual farmers, such as agroforestry farmers, are outside the scope of such acts and hence health and safety laws in this case are not applicable.

1.11.2. Legal authority

- Government forest: Government forest Department for forest operations.
- Privately owned Industrial plantation overseen by Labor Commissioner as specified in respective States.
- Private agroforestry and farm-forestry plantations: N/A

1.11.3. Legally required documents or records

- Records with Government Labor Department, e.g. non-employment of child labor, access to Government health care schemes, maternity leave and safety of women laborers etc.

1.11.4. Sources of information

- http://business.gov.in/legal_aspects/plantation_act.php
- Ministry of Labor & Employment (2008). *Report on the working of the Labor Act, 1951 During the year 2008*. [online]. Labor Bureau. Available at: http://labourbureau.nic.in/Report_Plant_Act_2008.pdf [Accessed 22 December 2016]

1.11.5. Risk determination

Overview of Legal Requirements

(applicable only to government forests and private industrial plantations)

The health and safety provisions of workers engaged in industrial plantations are governed by the Plantation Labor Act and its State-specific adaptations. Its provisions are widely recognized and accepted as standard industry practice and overseen by the Labor Department. The State Forest Department implements the Act for its forest operations including areas under Joint Forest Management, where the provisions are implemented by the Government. In cases where private contractors are given harvesting rights, the operation is overseen by the Forest Department to ensure compliance with applicable laws. Private farm forestry in India is generally of small scale due to the restrictions in land-holding size. Such plantations are owned and managed by individual farmers and are not included under the Act.

Description of Risk

The potential risk considered under the category is as follows:

- i) Non-implementation of Indian Plantation Labor Act provisions.

The large-scale forest areas in India are owned and managed by the Government Forest Department. Due to the land ceiling rules, private plantations are not of industrial scale in India. There are rarely any instances of Government departments violating labor laws in India

(see <http://labour.gov.in/upload/uploadfiles/files/Reports/annualreprt.pdf>). There are statistics available in relation to occupational hazards in industries in India (<http://dgfasli.nic.in/info1.htm>) but no focused statistics on the plantation sector as such. In case of forest management operations in farmers' fields, such activities are outside the purview of the Plantation Labor Act and not monitored by any external agency.

Risk Conclusion

Due to direct government management of natural forest activities, the risk of violation of the relevant labor legislation is considered to be low.

1.11.6. Risk designation and specification

- Low Risk for government forests
- N/A for agroforestry activities by individual farmers

1.11.7. Control measures and verifiers

- All safety and health regulations shall be followed and all required safety equipment shall be used
- Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities.
- Interviews with staff and contractors shall confirm that legally required protective equipment is required/provided by the organisation.
- All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable)
- Country specific: records for compliance of provisions as per the Plantation Labor Act, 1951

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

- indiacode.nic.in (n.d.). *Acts*. [online]. India Code – Legislative Department. Available at: <http://indiacode.nic.in/> [Accessed 22 December 2016]
- The Minimum Wages Act, 1948 (to ensure minimum mandated wages are paid to the laborers). Available at: http://pblabour.gov.in/pdf/acts_rules/minimum_wages_act_1948.pdf
- The Child Labor Act, 1986 (for prohibition of employing child labor below 14 years of age and identification of hazardous industries). Available at: <http://clc.gov.in/Acts/shtm/chla.php>

- The Bonded Labor System (Abolition) Act, 1976 (to ensure people are not employed under duress). Available at: http://pblabour.gov.in/pdf/rti/rti_chapter18.pdf
- The Plantation Labor Act, 1951 (Applicable for industrial plantations only to ensure health and safety). Available at: http://business.gov.in/legal_aspects/plantation_act.php
<http://www.dol.gov/ilab/reports/child-labor/india.htm>
- National Rural Employment Guarantee Act. Available at: www.nrega.nic.in

1.12.2. Legal authority

- The State Government (Labor Department).
- Panchayati Raj Department for Implementation of National Rural Employment Guarantee Act.

1.12.3. Legally required documents or records

- The latest notification regarding Minimum Wages, State-specific provisions of plantation Labor Act as made by the State labour departments etc.

1.12.4. Sources of information

Non-Government sources

- Bonded labor in India. Available at: <https://www.du.edu/korbel/hrhw/researchdigest/slavery/india.pdf> and http://nhrc.nic.in/Documents/SPEECH_2012_10_25.pdf

1.12.5. Risk determination

Overview of Legal Requirements

The minimum wage is well-defined in India as per the Minimum Wages Act, 1948. The minimum wage is defined for rural and urban areas on the basis of cost of living, which varies from state to state. The Child Labor (Prevention) Act, 1986, outlines the laws against engagement of children as labor. The Bonded Labor Act is implemented to ensure people are not employed under duress.

Description of Risk

The potential risks considered under the category are as follows:

- i) Non-payment of minimum wages
- ii) Involvement of child labor in forest management activities
- iii) Incidences of bonded labor

The nation-wide implementation of the National Rural Employment Guarantee Act has ensured that laborers in villages receive at least the minimum wage. Due to the specialized nature of work, the harvesting laborers are generally paid a higher rate than the minimum wage. The problem of child labor in India is as much a social problem as it is a legal issue and the Government is confronting the problem with legislation such as the Child Labor (Prevention) Act, 1986 and social measures including the universal education program. Child labor in India is widespread across sectors (<http://www.dol.gov/ilab/reports/child-labor/india.htm>) and the

application of law seems to be ineffective at least in the private sector given the prevalence of the phenomenon. Bonded labor too has been persistent in India despite long-term efforts of the Government (<https://www.du.edu/korbel/hrhw/researchdigest/slavery/india.pdf> and http://nhrc.nic.in/Documents/SPEECH_2012_10_25.pdf).

However, there is no record of child labor or bonded labor being appointed in Government-operated activities as there is stringent control over recruitment norms and application of age restrictions. Salary payment in the case of Government institutions is transparent and as per mandated salary structure. Existing labor unions too play an important role in ensuring that labor rights are being followed in Government departments.

Risk Conclusion

The labor involved in forest management activities is specialized and justifies payment greater than the mandated minimum wage. However, despite efforts by the Government and non-government agencies, there is widespread prevalence of child labor and bonded labor in India; and the presence of such in the case of forest management activities in private plantation areas cannot be ruled out without an on-site inspection. Reviews of labor reports and monitoring by labor unions leads to the conclusion that labor laws are being followed in Government forests, but not in private forests. The category is therefore classified as specified risk in the case of private plantations and low risk for Government forests.

1.12.6. Risk designation and specification

- Specified risk for private forests and harvesting by private parties in Government forests.
- Low risk in case of Government forests where a Government Department Is undertaking harvesting operations.

1.12.7. Control measures and verifiers

- All workers are employed according to the regulations and required contracts are in place
- Persons involved in harvesting activities shall be covered by obligatory insurances.
- Persons involved in harvesting activities shall hold required certificates of competence for the function they carry out.
- At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
- Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in hazardous work.
- Stakeholders shall confirm that forced or compulsory labor is not involved in harvesting activities.

THIRD PARTIES' RIGHTS

1.13 Customary rights

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

1.13.1. Applicable laws and regulations

- The Indian Forest Act, 1927 (Chapter II and Chapter III). Available at: <http://envfor.nic.in/legis/forest/forest4Wildlife>
- Wildlife Protection Act, 1972 (Chapter IIIA and IV). Available at: <http://envfor.nic.in/legis/wildlife/wildlife1.html>
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) (Chapter II and III)
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008
- The National Forest Policy, 1988 (related to Joint Forest Management)
- The above laws are applicable to government forests only. The rights of private plantations and agroforestry produce rests with the land owners.

Forest Rights Act. Available at:

- <http://www.fra.org.in/>,
- <http://www.forestrightsact.com/>,
- <http://forestrights.nic.in/>,
- www.moef.nic.in/sites/default/files/Document1_3.pdf
- <http://infochangeindia.org/environment/community-forests-of-orissa/what-difference-has-the-forest-rights-act-made.html>

1.13.2. Legal authority

- The Forest Department
- Local panchayat (elected village level representatives)

1.13.3. Legally required documents or records

Forest Department notifications regarding Joint Forest Management Committees, patta (i.e. land-ownership documents) issued to forest dwellers by the Government under the Forest Rights Act, traditional rights granted to communities by Government in Government forests.

1.13.4. Sources of information

N/A

1.13.5. Risk determination

Overview of Legal Requirements

The Joint Forest Management Program (JFM) initiated as part of the National Forest Policy of 1988, has recognized the customary rights of local communities dependent on forest resources. Further, with the legislation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) and Rules, 2008, the traditional rights of forest dwellers have been recognized and the process of formal recognition of their rights is being implemented. Such issues do not exist in the case of privately owned plantations.

Description of Risk

The potential risk considered under the category is as follows:

i) Denial of customary rights of communities in forest management activities

There has been a change in the concept of forest management in India since the National Forest Policy, 1988, in that it has become more inclusive to accommodate the rights of communities in the hitherto exclusive domain of State-owned forests, managed and protected by the Government. The Joint Forest Management (JFM) Program and the Forest Rights Act have facilitated recognition and empowerment of the forest-dependent communities in India, allowing them to have a meaningful stake in the forest management activities of State forest departments. The JFM Program (www.moef.nic.in/sites/default/files/Document1_3.pdf) and Forest Rights Act and Rules (<http://infochangeindia.org/environment/community-forests-of-orissa/what-difference-has-the-forest-rights-act-made.html>) have been widely implemented in India.

Risk Conclusion

The Government of India along with State forest departments have recognized the customary rights and role of traditional communities in Government forest protection through the Joint Forest Management Program. However, the wider issue of traditional rights of communities over forest produce is only now being legally recognized through the Forest Rights Act and it is still too early to determine whether the Act has been successfully implemented. Hence, the risk related to recognition of customary rights in the context of forest management activities is determined as specified risk.

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Chapter II , III and IV)
- The Indian Forest Act, 1927 (Chapter II, III). Available at: <http://envfor.nic.in/legis/forest/forest4>
- Wildlife Protection Act, 1972 (Chapter IV). Available at: <http://envfor.nic.in/legis/wildlife/wildlife1.html>
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) (Chapter IV)
- Land Acquisition 2013 Act. Available at: www.indiacode.nic.in/acts-in-pdf/302013.pdf

Forest Rights Act:

- <http://www.fra.org.in/>
- <http://www.forestrightsact.com/>
- <http://forestrights.nic.in/>

1.14.2. Legal authority

- The Forest Department,
- Local panchayat (elected village level representatives) for implementation of Indian Forest Act and Wildlife Protection Act provisions
- Rehabilitation and Resettlement Authority constituted under the new Land Acquisition Act, 2013 and Ministry of Tribal Affairs for implementation of provisions of the Forest Rights Act.

1.14.3. Legally required documents or records

- Public Notices issued by government agencies in local media,
- Records of public consultations.

1.14.4. Sources of information

Recent Supreme Court of India judgement on Vedanta Mines:

- Jebaraj, P. (2013). Court directs gram sabhas to take a call in Vedanta 's mining project. *The Hindu*. [online]. Last updated November 5th 2016. Available at: <http://www.thehindu.com/news/national/other-states/court-directs-gram-sabhas-to-take-a-call-on-vedantas-mining-project/article4629659.ece> [Accessed 22 December 2016]

1.14.5. Risk determination

Overview of Legal Requirements

(applicable to Government forest areas)

The new Land Acquisition Act, 2013, the existing Indian Forest Act, 1927 and Wildlife Protection Act, 1972, incorporate extensive and well-defined mechanisms to apprise affected communities and families regarding any land acquisition measures for forestry activities (in

case of Indian Forest Act, 1927); or displacement of communities due to declaration of forest areas as Wildlife Sanctuaries or National Parks (Wildlife Protection Act, 1972, which also regulates forest produce extraction from within Wildlife Sanctuaries and National Parks).

Description of Risk

The potential risks considered under the category are as follows:

- i) Lack of participation of affected communities in decision-making processes related to forest management activities and
- ii) Denial of customary rights of communities in forest management activities as a result of lack of information or mis-information

The concept of free, prior and informed consent is institutionalized in the Indian Forest Act, 1927 and Wildlife Protection Act, 1972, which have provisions for public notification regarding plans for declaration of reserved forests or Wildlife Sanctuaries – and resolution of all cases before final notification is issued. In a recent judgement (<http://www.thehindu.com/news/national/other-states/court-directs-gram-sabhas-to-take-a-call-on-vedantas-mining-project/article4629659.ece>), the Supreme Court empowered the local elected village council as per the Forest Rights Act to consent to any activities related to the forests on which the local communities were dependent for their livelihoods. The principle of free, prior and informed consent (<http://www.livemint.com/Opinion/d5q0MD1tKT4c417hJxN0FJ/Development-and-Adivasi-rights.html>) is now being implemented in India. However, it is still to be universally implemented and in the spirit of the principle, especially for traditional forest dwellers (<http://14for2014.com/one.html> and <http://www.greenpeace.org/india/Global/india/report/Countering-coal.pdf>). This risk is classified as low risk in the case of private plantations and agroforestry activities.

Risk Conclusion

On the basis of recent legislation and judicial activism regarding ensuring free, prior and informed consent from local communities regarding any activities that may affect their livelihood vis-à-vis the forests, the issue has been increasingly acknowledged in India. However, as stated above, there is a long history in India of neglecting traditional and indigenous rights, and this category must therefore be considered a specified risk.

1.14.6. Risk designation and specification

- Specified Risk
- In case of private plantations and agroforestry activities owned by small farmers: Low Risk

1.14.7. Control measures and verifiers

- Where applicable, prior and informed consent has been given by stakeholders.
- Interviews with all stakeholders to verify that this has been agreed between the management and all applicable stakeholders.

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

Government forest:

- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) (Chapter II). Available at: <http://www.forestrightsact.com/>
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008
- The Indian Forest Act, 1927 (Chapters II, III and IV). Available at: <http://envfor.nic.in/legis/forest/forest4>
- Forest Rights Act website India. Available at: <http://www.fra.org.in/>

Private forest:

- The laws are applicable only for Government-owned forest lands and not for trees on private land

1.15.2. Legal authority

- Ministry of Environment and Forests (MoEF),
- Local panchayats (elected village level representatives)

1.15.3. Legally required documents or records

Government forests:

Details regarding allocation of forest lands to forest dwellers are advised by the Government in official notification. Allotees are issued patta (i.e. land-ownership documents) by the Government.

1.15.4. Sources of information

N/A

1.15.5. Risk determination

Overview of Legal Requirements

The rights of forest dwellers have been formally recognized in India through the legislation Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (commonly called Forest Rights Act) and Rules, 2008.

Description of Risk

The legislation pertaining especially to the rights of traditional forest dwellers has recently been put in place and is in the process of being implemented across States. The individual State rules and modalities, and synergies with existing forest legislation, are still being worked out and in some cases clarified by the Supreme Court.

Risk Conclusion

Despite that legislation on traditional peoples rights are in place, it is too early to analyze the effectiveness with which the law is being implemented. Hence, the risk of this category is being assessed as specified.

1.15.6. Risk designation and specification

Specified risk

1.15.7. Control measures and verifiers

- Stakeholder consultation shall confirm that indigenous peoples' established rights are not being violated.

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

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

1.16.1. Applicable laws and regulations

- State Forest Produce Transit Rules
- Applicable harvesting rules based on Chapter VII of Indian Forest Act, 1927
- Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978
- Uttar Pradesh Transit of Timber and other Forest Produce Rules, 1978
- Rajasthan forest (produce transit) Rules, 1957
- Madhya Pradesh Van Upaj Adhiniyam, 1969
- Bombay Forest Rules, 1942
- Bihar Private Forest Act, 1947
- Jharkhand Timber and other Forest Produce Transit Rules, 2004
- West Bengal Forest Produce Transit Rules, 1959
- Assam Forest Regulations, 1891
- Orissa Timber and Other Forest Produce Transit Rules, 1980
- Andhra Pradesh forest transit rules, 1970
- Karnataka Forest Rules, 1969
- Kerala Forest Produce Transit Rules, 1975
- Tamil Nadu Timber Transit Rules, 1968)
- Value Added Tax (Respective Schedules) and Central Sales Tax, (Applicable State Value Added Tax Acts: Punjab Value Added Tax Act, 2005)
- Haryana Value Added Tax Act, 2005
- Himachal Pradesh Value Added Tax Act, 2005
- Uttar Pradesh Value Added Tax Act, 2008
- Rajasthan Value Added Tax Act, 2003
- Madhya Pradesh Value Added Tax (Amendment) Act, 2011

- Gujarat Value Added Tax Act, 2006
- Maharashtra Value Added Tax Act, 2003
- The Chhattisgarh Value Added Sales Tax Act, 2003
- Bihar Vat Act, 2005
- Jharkhand Value Added Tax Act, 2003
- West Bengal Value Added Tax (Amendment) Act, 2014
- Assam Value Added Tax Act, 2003
- Orissa Value Added Tax (Amendment) Act, 2003
- Andhra Pradesh Value Added Tax Act, 2005
- Karnataka Value Added Tax Act, 2003
- Kerala Value Added Tax Act, 2003
- Tamil Nadu Value Added Tax Act, 2006)
- Entry Tax and Control (if applicable for entry of goods into a state)

1.16.2. Legal authority

- State Forest Departments (responsible for implementation of State Forest Transit Rules)
- Sales Tax Department (responsible for collection of VAT and CST).

1.16.3. Legally required documents or records

- Forest Department Transit Fees Receipts,
- VAT/ CST forms submitted
- Transit passes are documents issued universally in India by State forest departments for transit of wood from one place to another detailing the classification and quantity of wood being transported, the origin and destination of wood, vehicle details, route of transport, the despatcher and the recipient. Without the pass, timber consignments are deemed illegal unless other-wise mentioned in the State transit rules.

1.16.4. Sources of information

Case Studies on Frauds in Value:

- Added Tax:
http://saiindia.gov.in/english/home/Public_Folder/Training/Case%20Study%20&%20Reading%20Material/Case%20Studies/Participant%20Note.pdf
- Upadhyay, V. (2014). Forest dept sends notice to stone crushing firms over nonpayment of taxes. *The Times of India*, [online]. Available at:
<http://timesofindia.indiatimes.com/city/dehradun/Forest-dept-sends-notice-to-stone-crushing-firms-over-nonpayment-of-taxes/articleshow/44841158.cms> [Accessed 23 December 2016]
- Senapati, S. G. C. (2011). *Contribution of Vigilance Police for conservation and protection of Forest wealth in Odisha and successful investigation and prosecution of vigilance cases*

against important persons. [online]. Odisha Vigilance. Available at:
<http://odishavigilance.gov.in/Pub%20File/Chapter-3.pdf> [Accessed 23 December 2016]

State Forest Transit Rules:

- <http://www.pbforests.gov.in/Pdfs/policies/PUNJAB%20LAND%20PRESERVATION%20Act%201900.pdf> (Punjab)
- <http://hpforest.nic.in/files/transit%20rules.pdf> (Himichal Pradesh)
- http://forest.up.nic.in/ac_1978.pdf (Uttar Pradesh)
- [http://www.rajforest.nic.in/downloads/act_rules/rajasthan_forest\(produce_transit\)rules,1957.pdf](http://www.rajforest.nic.in/downloads/act_rules/rajasthan_forest(produce_transit)rules,1957.pdf) (Rajasthan)
- http://www.mahaforest.nic.in/act_rule.php?aid=1 (Maharashtra)
- <http://www.mpforest.org/pdf/Van%20Upaj%20Adhiniyam.pdf> (Madhya Pradesh)
- <http://www.ielrc.org/content/e4701.pdf> (Bihar)
- <http://india.gov.in/jharkhand-timber-and-other-forest-produce-regulation-transport-rules-2004> (Jharkhand)
- http://www.westbengalforest.gov.in/pdf/transit_rules.pdf (West Bengal)
- <http://assamforest.in/actsRules/assamForestRegulation1891.pdf> (Assam)
- http://www.odisha.gov.in/forest_environment/Forest_Act/pdf/Rules/6TOTAOFTR_1980.pdf (Odisha)
- http://forest.ap.nic.in/ap_forest_laws.htm (Andhra Pradesh)
- https://164.100.133.59/aranya/downloads/KF_Rules_1969.pdf (Aranya)
- <http://www.forest.kerala.gov.in/images/pdf/kfptr.pdf> (Kerala)
- http://www.forests.tn.nic.in/Legislations/r_tmtr.html (Tamil Nadu)

1.16.5. Risk determination

Overview of Legal Requirements

The transit rules, fees and exemptions as defined in the respective State forest transit rules and periodic government notifications; and classification of goods as per the VAT Act are well-defined and shall be followed for all commercial transactions. The same can be checked through relevant receipts.

Description of Risk

The potential risks considered under the category are as follows:

- i) Incorrect classification of goods
- ii) Evasion of transit fees

The species-specific transit fees are defined by periodic Government notifications and State transit rules and are thus well-defined and transparent. The same applies to product classification under the VAT and CST Acts. However, there is significant tax evasion occurring in India including methods such as the incorrect classification of goods
(http://saiindia.gov.in/english/home/Public_Folder/Training/Case%20Study%20&%20Reading)

[%20Material/Case%20Studies/Participant%20Note.pdf](#)). Given the scale of illicit felling of timber in India, it can be concluded that there are corresponding incidences of evasion of payment of forest transit fees.

The perception of corruption for India is very high (CPI 2014 score of 38). There are reported incidences of evasion of forest transit fees as a result of collusion of a section of forest officials (<http://timesofindia.indiatimes.com/city/dehradun/Forest-dept-sends-notice-to-stone-crushing-firms-over-nonpayment-of-taxes/articleshow/44841158.cms>, <http://odishavigilance.gov.in/Pub%20File/Chapter-3.pdf>, page 4).

Risk Conclusion

In the light of evidence regarding rampant tax evasion through incorrect declaration, as well as evasion of transit fees in collusion with corrupt government personnel, the risk relating to incorrect classification of species, quantities, and qualities of forest produce being transported can be classified as specified risk.

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents
- Evidence shall be provided upon request (photographs of labelling)
- Physical control where it should be verified that the present material equals what has been invoiced and marked

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

- Central Motor Vehicles Act, 1988 (Chapters II, IV and V) and State rules implemented under the Motor Vehicles Act. Available at: <https://delhitrafficpolice.nic.in/wp-content/uploads/2014/11/motor-vehicles-act-1988.pdf>
- Tax Information Network (TIN) Unique Number and TAN (Tax Deduction and Collection Account Number) issued by Income Tax Department.
 - www.tin-nsdl.com/tin-facilities.php
 - <http://incometaxindia.gov.in/>
 - <http://morth.nic.in/>
 - <http://www.transportindia.org/>

- Value Added Tax/ Central Sales Tax Registration by the Sales Tax Department under the VAT Act/ Central Sales Tax Act (Chapter III) Available at: <http://comtax.up.nic.in/central%20sales%20tax/CENTRALSALESTAXACT1956.htm>
- Mandi Samiti tax (as per Agriculture Produce Marketing Regulation Act, governing Agriculture Produce Market Committee) for species harvested from agroforestry sources. Related links: AMPC Acts and Rules (refer State Websites). Available at:
 - Kumud, J. (2014). Glare on Tax evasion. *The Telegraph*, Calcutta India. [online]. Available at: www.telegraphindia.com/1140505/jsp/jharkhand/story_18306743.jsp [Accessed 3 January]
 - www.mandiboard.nic.in (Punjab)
 - www.hsamb.gov.in (Haryana)
 - www.hpsamb.nic.in (Himichal Pradesh)
 - www.upmandiparishad.in (Uttar Pradesh)
 - www.rsamb.rajasthan.gov.in (Rajasthan)
 - www.mpmmandiboard.org (Madhya Pradesh)
 - www.agri.gujarat.gov.in (Gujarat)
 - www.msamb.com (Maharashtra)
 - www.samb.cg.gov.in (Chhattisgarh)
 - www.jsamb.nic.in (Jharkhand)
 - www.wbagrimarketingboard.gov.in (West Bengal)
 - www.asamb.in (Assam)
 - www.osamboard.org (Odisha)
 - www.market.ap.nic.in (Andhra Pradesh)
 - www.krishimaratavahini.kar.nic.in (Karnataka)
 - <http://www.tnagmark.tn.nic.in/default.htm> (Tamil Nadu)
- Transit passes issued by the State forest departments under the respective transit rules:
 - Applicable Transit Rules based on Chapter VII of Indian Forest Act, 1927: Punjab Land Preservation Act, 1900. <http://www.pbforests.gov.in/Pdfs/policies/PUNJAB%20LAND%20PRESERVATION%20Act%201900.pdf> (Punjab)
 - Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978. <http://hpforest.nic.in/files/transit%20rules.pdf> (Himichal Pradesh)
 - Uttar Pradesh Transit of Timber and other Forest Produce Rules. http://forest.up.nic.in/ac_1978.pdf (Uttar Pradesh)

- Rajasthan Forest (Produce Transit) Rules, 1957.
[http://www.rajforest.nic.in/downloads/act_rules/rajasthan_forest\(produce_transit\)rules_1957.pdf](http://www.rajforest.nic.in/downloads/act_rules/rajasthan_forest(produce_transit)rules_1957.pdf) (Rajasthan)
- Madhya Pradesh Van Upaj Adhiniyam, 1969.
http://www.mahaforest.nic.in/act_rule.php?aid=1 (Maharashtra)
- Bombay Forest Rules, 1942
- Madhya Pradesh Van Upaj Adhiniyam, 1969.
<http://www.mpforest.org/pdf/Van%20Upaj%20Adhiniyam.pdf> (Madhya Pradesh)
- Bihar Private Forest Act, 1947
- Jharkhand Forest Transit Rules, 2004. <http://india.gov.in/jharkhand-timber-and-other-forest-produce-regulation-transport-rules-2004> (Jharkhand)
- West Bengal Forest Produce Transit Rules, 1959.
http://www.westbengalforest.gov.in/pdf/transit_rules.pdf (West Bengal)
- Assam Forest Regulations, 1891.
<http://assamforest.in/actsRules/assamForestRegulation1891.pdf> (Assam)
- Orissa Timber and Other Forest Produce Transit Rules, 1980.
http://www.odisha.gov.in/forest_environment/Forest_Act/pdf/Rules/6TOTAOFTR_1980.pdf (Odisha)
- Andhra Pradesh Forest Act 1967. http://forest.ap.nic.in/ap_forest_laws.htm (Andhra Pradesh)
- Karnataka Forest Rules, 1969.
https://164.100.133.59/aranya/downloads/KF_Rules_1969.pdf (Aranya)
- Kerala Forest Produce Transit Rules, 1975.
<http://www.forest.kerala.gov.in/images/pdf/kfptr.pdf> (Kerala)
- Tamil Nadu Timber Transit Rules, 1968.
http://www.forests.tn.nic.in/Legislations/r_tmtr.html (Tamil Nadu)

1.17.2. Legal authority

- State Transport Department for implementation of Motor Vehicles Act provisions
- Income Tax Department (for issuance of TIN)
- Sale Tax Department
- State Forest Department (for issuance of forest transit pass)
- Mandi Samitis (i.e Agriculture Produce Market Committee) for collection of tax on agroforestry produce

1.17.3. Legally required documents or records

- Commercial license issued by the transport department
- Unique TIN issued by Income Tax Department
- Sales Tax Registration and tax payment

- Forest Transit pass and fees paid for forest produce originating from government forest land or species requiring transit pass as per State Forest Transit Rules
- Mandi Samiti tax receipts for agroforestry produce

1.17.4. Sources of information

Sales Tax related links. State commercial tax department websites. Available at:

- www.pextax.com (Punjab)
- www.haryanatax.com (Haryana)
- www.hptax.gov.in (Himichal Pradesh)
- <http://comtax.up.nic.in/> (Uttar Pradesh)
- www.rajtax.gov.in (Rajasthan)
- www.mptax.mp.gov.in (Madhya Pradesh)
- www.commercialtax.gujarat.gov.in (Gujarat)
- www.mahavat.gov.in (Maharashtra)
- www.comtax.cg.nic.in (Chhattisgarh)
- www.biharcommercialtax.gov.in (Bihar)
- www.jharkhandcomtax.gov.in (Jharkhand)
- <http://wbcomtax.nic.in/> (West Bengal)
- www.tax.assam.gov.in (Assam)
- <https://odishatax.gov.in> (Odisha)
- www.apct.gov.in (Andhra Pradesh)
- www.vat.kar.nic.in (Karnataka)
- www.keralataxes.gov.in (Kerala)
- www.tnvat.gov.in (Tamil Nadu)
- <http://dor.gov.in/> (Central Revenue Department)
- Controller and Auditor General of India (CAG) (2010): Implementation of Value Added Tax in India. Available at: http://www.cag.gov.in/sites/default/files/publication_files/SRA-value-added-tax.pdf. New Delhi, June 2010
- Dailypioneer.com (2013). Corruption Rampant in Sales Tax Dept, Claims activist. [online]. *The Pioneer*. Available at: www.dailypioneer.com/state-editions/lucknow/corruption-rampant-in-sales-tax-dept-claims-activist.html [Accessed 3 January 2017]

1.17.5. Risk determination

Overview of Legal Requirements

Commercial licensing of vehicles is universally followed in India. Without a TIN number, no valid commercial invoice can be raised, without which goods cannot be transported from one place to another. No business is possible in India without sales tax registration. The invoices of

sales carry the details of sales, product classifications and taxes paid. Similarly, transit passes are universally used throughout India for transport of forest products from one part of the country to another, if otherwise not mentioned in the harvesting rules. If an agriculture product is not exempt (including agroforestry produce), Mandi Samiti has to be paid, i.e. Agriculture Produce Marketing Committee-levied taxes. The details of these documents accompany forest produce during transit and transportation. The details are readily verified against the goods transported.

Description of Risk

The potential risks considered under the category are as follows:

- i) Mis-reporting of tonnage and mixing of timber from unknown sources during transport
- ii) Incorrect classification of produce to evade tax
- iii) Evasion of Mandi Samiti-levied taxes
- iv) Incorrect transit pass details issued by the Forest Department

During transportation of forest produce in India, the consignment is accompanied by multiple documents e.g. invoices, transit passes or Mandi Samiti tax receipts etc., which are issued independently by different Government departments. Hence, it is very difficult in relation to transport of timber to forge all sets of documents without such discrepancy being noted or detected. In addition, the issuing authority has in place a mechanism to check the documentation through a network of check-gates where the documentation is checked during transit of the wood. However, given the high incidence of corruption (CPI of 38 in 2014), there is always a risk of fraud in relation to any one of the documents.

Risk Conclusion

The practice of enclosing commercial and forest department documents along with each consignment and also the practice by the issuing authority of checking the documents at check-gates during transit of wood helps minimize the risk of manipulation and mixing of materials during transport. However, given the high prevalence of corruption in Government departments, the risk of irregularities in the issuing of such permits has been designated as specified risk.

1.17.6. Risk designation and specification

Specified risk

1.17.7. Control measures and verifiers

- Requirements related to transport means (e.g. trucks) shall always be followed.
- Species and product types shall be traded legally.
- Required trade permits shall exist and be documented.
- All required transport documents shall exist and be documented.
- Volume, species and qualities shall be classified according to legal requirements.
- Documents related to transportation, trade or export shall be clearly linked to the specific material in question.

- The vehicle commercial license shall be in place.
- Excise forms and other such legal documentation shall be in place.
- Details of species and the quantity transported to be documented in the legal receipts.

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

- Sections 92 to 92F of Income Tax Act, 1961; Rules 10A to 10TG of Income Tax Rules, 1962; Circular No. 12 of 23 August 2001; Circular No. 14 of 24 December 2001; Circular No. 06/2013 dated 29 June 2013; and Administrative Guidelines of 20 May 2003. Available at: www.law.incometaxindia.gov.in

1.18.2. Legal authority

- Income Tax Department (Transfer Pricing Officer)

1.18.3. Legally required documents or records

- Form 3 CEB under Section 92E of Income Tax Act (1961) duly submitted by organization in time after verification by qualified chartered accountant and acknowledgement of receipt of the same by Income Tax department.

1.18.4. Sources of information

Enforcement of Transfer Pricing in India:

- http://www.quanteraglobal.com/wp-content/uploads/2014/04/QG_Transfer-pricing-in-India_14May2014.pdf
- Ficci.com (2012). *Transfer pricing provisions – Specified Domestic Transactions* (Power Point Presentation). [online]. Federation of Indian Chambers of commerce and Industry. Available at: www.ficci.com/events/21132/ISP/Presentation-on-Domesti-TransferPricing.pdf [Accessed 3 January 2017]
- Ey.com (2013). *Navigating the choppy waters of international tax - 2013 Global Transfer Pricing Survey*. [online]. Available at: [www.ey.com/Publication/vwLUAssets/EY-2013_Global_Transfer_Pricing_Survey/\\$FILE/EY-2013-GTP-Survey.pdf](http://www.ey.com/Publication/vwLUAssets/EY-2013_Global_Transfer_Pricing_Survey/$FILE/EY-2013-GTP-Survey.pdf) [Accessed 3 January 2017]
- Oecd.org (2011). *Multi-Country Analysis of existing transfer pricing simplification measures*. [online]. OECD (Organisation for economic co-operation and development). Available at: <http://www.oecd.org/ctp/transfer-pricing/48131481.pdf> [Accessed 3 January 2017]

1.18.5. Risk determination

Overview of Legal Requirements

The transfer pricing mechanism related to offshore trading is governed by relevant sections of the Income Tax Act, 1961.

Description of Risk

The potential risk considered under the category is as follows:

- i) Mis-stating of transfer pricing to evade taxation

Risk related to tax avoidance in international transactions have been recognized and dealt with through legal measures undertaken by the Government of India. Following a recent Supreme Court judgement, the transfer pricing regulations have been extended to domestic transactions (termed specified domestic transactions). As per a FICCI report (www.ficci.com/events/21132/ISP/Presentation-on-Domesti-TransferPricing.pdf), India has some of the toughest transfer pricing regulations among Asia-Pacific countries. The focus on enforcement of transfer pricing in India is strong and the penalties relating to violations are quite high (refer http://www.quanteraglobal.com/wp-content/uploads/2014/04/QG_Transfer-pricing-in-India_14May2014.pdf and [www.ey.com/Publication/vwLUAssets/EY-2013_Global_Transfer_Pricing_Survey/\\$FILE/EY-2013-GTP-Survey.pdf](http://www.ey.com/Publication/vwLUAssets/EY-2013_Global_Transfer_Pricing_Survey/$FILE/EY-2013-GTP-Survey.pdf)). India has quite an effective mechanism to curb tax evasion related to transfer pricing (<http://www.oecd.org/ctp/transfer-pricing/48131481.pdf>).

Risk Conclusion

In the light of its stringent implementation of a transfer pricing mechanism as discussed above, the risk of artificial transfer pricing in India is low.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

- Relevant income tax records as submitted by the organization to the tax authorities.

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Updated Export Policy Schedule-2 (ITC HS 2012) (Goods restricted for export and require licenses; or are banned from export. All materials not mentioned in the Schedule can be exported freely without any license)
- Import Policy Schedule I (ITC HS 2012) (Chapters 44, 47, 48). (If not mentioned in the Import Schedule, the material can be imported without any license)
- International Standards for Phyto Sanitary Measures (IPSM), (Solid wood imports and other such imports are governed)

1.19.2. Legal authority

- i) Central Board of Excise and Customs
 - ii) Director General Foreign Trade
 - iii) Directorate of Plant Protection, Quarantine & Storage (DPPQ&S) under the Department of Agriculture and Cooperation (DAC)
- Directorate of Excise and Customs. (N.B. ITC: Indian Trade Clarifications; HS: Harmonized System of coding)

1.19.3. Legally required documents or records

- Ayat Niryat Form (ANF) i.e. Import-Export Form submitted to DGFT (for restricted items only)

1.19.4. Sources of information

- Central Board on Excise and Customs. Website available at: <http://www.cbec.gov.in/>
- Director General Foreign Trade. Website available at: <http://www.dgft.gov.in/>,
- International Standards for Phyto Sanitary Measures (IPSM). Available at: www.plantquarantineindia.org
- Illegal origin of timber imported by India. Available at: http://www.chathamhouse.org/sites/files/chathamhouse/home/chatham/public_html/sites/default/files/20140400IllegalWoodThailandSKIndiaLawson.pdf
- Export and Import Policy Schedule. Available at: [http://dgft.gov.in/Exim/2000/NOT/itc\(hs\)/Eschedule2.pdf](http://dgft.gov.in/Exim/2000/NOT/itc(hs)/Eschedule2.pdf) (for Export Policy Schedule), and [http://dgft.gov.in/Exim/2000/NOT/itc\(hs\)/Columndescription.pdf](http://dgft.gov.in/Exim/2000/NOT/itc(hs)/Columndescription.pdf) (for Import Policy Schedule)

1.19.5. Risk determination

Overview of Legal Requirements

The export and import of timber and related items is regulated in India as per the Export-Import Policy, 2012, which is well-publicized and followed universally for foreign trade between India and other countries. Export of timber in the form of logs and billets is banned from India; whereas sawn timber can only be exported if it has been imported into India as logs (refer Export-Import policy, 2012) and such export is allowed only through designated ports.

Description of Risk

The potential risks that have been identified for this category are as follows:

- i) Export of forest products in violation with existing policies
- ii) Export of products using illegally felled timber

The export and import restrictions relating to specific items are well-defined and categorized in the Import-Export Policy. But there have been frequent seizures of wood exported illegally from India

(http://bsienvi.nic.in/News/The%20Times%20of%20India_21.5.2014_Ships%20with%2040t)

[%20red%20sanders%20to%20return.pdf](#), <http://www.scmp.com/news/hong-kong/article/1544450/100-fold-rise-seizures-illegal-red-gold-timber>, and <http://www.bbs.bt/news/?p=29246>). As per trade estimates, (http://www.chathamhouse.org/sites/files/chathamhouse/home/chatham/public_html/sites/default/files/20140400IllegalWoodThailandSKIndiaLawson.pdf), India is mainly exporting finished products like furniture and handcraft items made of wood of indigenous species; India is not generally involved in the export of logs. Given the widespread occurrence of illegal felling in the country, there is always a likelihood that timber from illegal sources could be channeled into products meant for exports.

Risk Conclusion

The frequent seizure of illegal timber originating from India makes it a prerogative to scrutinize each consignment to ascertain its legality and origin. Hence the risk of inadequate screening of illegal timber at customs can be considered as specified risk.

1.19.6. Risk designation and specification

Specified risk

1.19.7. Control measures and verifiers

- Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).

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

- Updated Export Policy Schedule-2 (ITC HS 2012) (APPENDIX 2) specifies the regulations related to export of CITES species. Similarly Import Policy Schedule I specifies the species related to import of CITES species.

1.20.2. Legal authority

- Director General Foreign Trade
- CITES Management Authority of India (under Ministry of Environment and Forests)
- Wildlife Crime Control Bureau

1.20.3. Legally required documents or records

- Ayat Niryat Form (ANF) i.e. Import-Export Form submitted to DGFT

1.20.4. Sources of information

- Export Policy Schedule. Available at:
- [http://dgft.gov.in/Exim/2000/NOT/itc\(hs\)/Eschedule2.pdf](http://dgft.gov.in/Exim/2000/NOT/itc(hs)/Eschedule2.pdf) (for Export Policy Schedule)
- Wildlife Crime Control Bureau. Website available at: www.wccb.gov.in

- ASEAN Wildlife Enforcement Network. Website available at: www.asean-wen.org
- CITES Management Authority of India, CITES, S.C. Dey. Global Tiger Forum, Chapter 10.
- Sharma, R. (2014). Chinese Timber Mafia Gets a New Red Sanders Route. *The New Indian Express*. [online]. Available at: <http://www.newindianexpress.com/thesundaystandard/Chinese-Timber-Mafia-Gets-a-New-Red-Sanders-Route/2014/01/12/article1995456.ece> [Accessed 3 January 2017]

1.20.5. Risk determination

Overview of Legal Requirements

India is a signatory to the CITES Convention. Updated Export Policy Schedule-2 (ITC HS 2012) specifies the regulations related to export of CITES species. Similarly Import Policy Schedule I specifies the species related to import of CITES species.

Description of Risk

The potential risk which has been identified for this category is as follows:

- i) Illegal import and export of timber from CITES species

India is presently well equipped with Wildlife Crime Control Bureau (WCCB) and CITES Cell, with the expertise to support Customs officers in cases of false declarations. Indian law enforcement authorities have been recognized for their efforts by the CITES Secretariat (www.asean-wen.org). However, there have been cases of seizure of CITES species (Red Sanders; <http://www.newindianexpress.com/thesundaystandard/Chinese-Timber-Mafia-Gets-a-New-Red-Sanders-Route/2014/01/12/article1995456.ece>), and there is still a risk that the illegal trade in CITES species will continue; with Customs houses still lacking technical knowledge to intercept many such shipments (http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20140507AnalysisTradeCITESTaxaFerriss.pdf).

Risk Conclusion

The CITES guidelines in India are stringently applied and dedicated institutions are in place implement the regulations. However, risk still exists with respect to continued illegal trade in CITES species due to collusion and lack of technical knowledge of Customs agencies. Hence the risk related to export of CITES species can be defined as specified risk.

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- All cross-border trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by the Director General Foreign Trade for export-import.

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

N/A

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

N/A

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

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

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

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

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

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

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Government Reserved Forests/ Unclassed Forests	National level	Government Reserved Forests/ Unclassed Forests Government forests in India may refer to natural forests, plantations, degraded areas or barren land but are referred to as Government Forest Areas nonetheless.	Government		<p><u>License/Permit type:</u> Harvested only by Forest Department.</p> <p><u>License Requirements:</u> Forest Working Plans (Forest Management Prescriptions as per the National Working Plan Code for a period of ten years).</p> <p><u>Clarification:</u> The consignment is always accompanied by a transit pass which details the origin and destination of the consignment. The Government Forests in India are managed either solely by the State Forest Department or jointly by the State Forest Department and local communities through Joint Forest Management Committees (JFMCs). The JFMCs were initiated to encourage involvement of communities in forest management.</p>	Government Reserved Forests/ Unclassed Forests

Private plantations	National level	Private plantations include block plantations, agroforestry plantations or farm forestry plantations, industrial plantations etc. promoted by private individuals or organizations.	Private	Private	<p><u>License/Permit type:</u> Permits required from Forest Department or local panchayats (local elected representative bodies) as per harvesting rules for specific species</p> <p><u>License Requirements:</u> Harvest permission letter from Forest Department/ local government (panchayat) head.</p> <p><u>Clarification:</u> The state-specific harvest rules specify the species that are exempt and those that require harvest permission. The requirement for a transit pass is optional as per transit rules. In cases where the transit pass requirement is waived, substitute documents such as Agricultural Produce Market Committee (APMC) tax receipts are considered as legal documents.</p>	Private plantation
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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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