

Timber Legality Risk Assessment Ireland

Version 1.3 | November 2019



COUNTRY RISK
ASSESSMENTS



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The original document of FSC can be accessed here <https://ic.fsc.org/en/document-center>.

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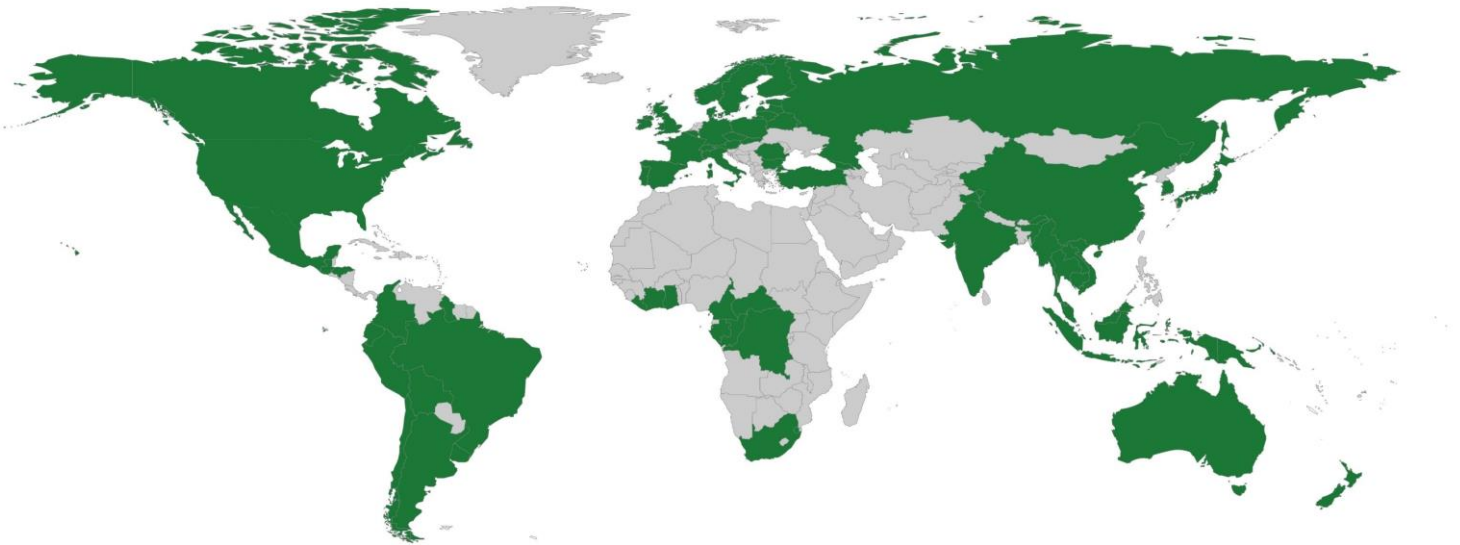
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A. Introduction

This Timber Legality Risk Assessment for Ireland 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 Statistik (2016). StatPlanet: Interactive Data Visualization and Mapping Software. //www.statistik.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 uses an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on the [NEPCon Sourcing Hub](#).

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You can see the countries with approved risk assessment in the FSC document: [FSC-PRO-60-002b V2-0 List of FSC approved Controlled Wood documents](#).

All FSC Risk Assessments can be downloaded in the [FSC Document Centre](#).

This risk assessment was prepared by NEPCo between 2015 and 2019 as follows:

Draft prepared by NEPCo:	December 2014
FSC Stakeholder consultation:	March 2017
FSC approval date:	18 May 2017
FSC CW effective date:	19 November 2017

NEPCo originally published the Timber Legality Risk Assessment for Ireland in August 2017.

The following indicators has been updated since the first release:

1.3 (Management and harvesting planning)	Updated findings by clarifying legal requirements – no change in risk designation – Continued low risk	November 2019
1.4 (Harvesting permits)		
1.6 (Value added taxes and other sales taxes)		
1.8 (Timber harvesting regulations)		
1.9 (Protected sites and species)		
1.10 (Environmental requirements)		
1.11 (Health and safety)		
1.17 (Trade and transport)		
1.21 (Legislation requiring due diligence/due care procedures):		

1.7 (Income and profit taxes):	Updated finding. Changed from low risk to not applicable.	November 2019
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Overview of legality risks

Timber Risk Score: 100 / 100 in 2019

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

- Low risk for 14 sub-categories.
- No legal requirements for 7 sub-categories.

Timber source types and risks

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

Woodlands - HCV	Woodlands mainly of broadleaves and areas of high conservation value. State-owned and managed by NPWS.
Woodlands - production forest	Mixed woodlands with some level of management over long periods
Woodland - amenity forest	Amenity Woodlands and trees in urban areas.
Old Plantations	Large plantations dominate on a wide variety of sites. State-owned production forest, managed by State forestry company Coillte.
New plantations	Farm-owned production forest plantations, managed by farmers, forestry consultants and contractors with advice from Forest Service. Average size is 9 ha. Nearly all have been established to best practice and the new guidelines required by the Forest Service for grant aid.
Mix of new and old plantations	Quality timber production forest that is a mix of both old and new plantations, managed by corporations with a strong management emphasis on quality timber production

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

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

B. Overview of the forest sector in Ireland

At the start of the 20th century, forest cover in Ireland was very low and estimated at just over 1% (125,200 hectares) in 1908. It fell even lower during the period 1914 -1918. Much of the forests were planted by estate landlords during the late 1700s and early 1800s. A state led programme of planting raised the level of forestry to circa 7% by the 1980s. Since 1981, EU and state grant aided schemes have helped increase the forested area to 770,020 hectares or 11% of land area by the year 2017. (DAFM, 2019). In 1987, an estimated 20,000 hectares of State lands and forests, which had hitherto been managed primarily for amenity and wildlife conservation purposes, were transferred to the Office of Public Works now called the National Parks and Wildlife Service. In January 1989, under the Forestry Act 1988, the Government established a new State body, Coillte Teoranta, to manage the State's commercial forests. Ownership of the remaining forests and lands (estimated 375,000 ha) was transferred to the new company.

Forestry ownership is in three main categories; 391,357 ha in Public ownership (50.8%), 268,100 ha in Private (grant aided) (34.8%) and 110,563 ha in private (other)(14.4%) ownership. Approximately 58,000 ha are in protected forest areas.

Nearly three-quarters 71% of the national forest estate is predominantly conifer, comprised mainly of commercial timber species (Spruce 55%, Pine 11%) but also including some native species such as Yew and Scots Pine. The remaining of the forest estate is predominantly broadleaf and mixed forest, of which approximately half is comprised of native broadleaf species such as Oak, Ash, Birch, Hazel, Alder etc. (DAFM, 2019),

The Forest Service of the Department of Agriculture, Food & Marine is the main authority for forestry matters which are legislated for under the Forestry Acts of 1946-2014. The Forestry Act 2014 sets out the legislation governing the felling of trees, the licences required, offences and penalties for breaches of the legislation, etc. The Forest Service of the Department of Agriculture, Food and the Marine (DAFM) must operate policy and procedures in relation to tree felling which are underpinned by the provisions of the Act. A felling licence granted by the Minister for Agriculture, Food & the Marine provides authority under the Forestry Act 2014 to fell or otherwise remove a tree or trees and to thin a forest for silvicultural reasons. A tree felling licence issued to clearfell a forest area, normally carries a re-planting requirement.

The principal set of regulations giving further effect to the Forestry Act 2014 are the Forestry Regulations 2017 (S.I. No. 191 of 2017). The Felling and Reforestation Policy document aims to provide a consolidated source of information on the legal and regulatory framework relating to tree felling.

In certain instances Felling Licence applications are circulated to various Government agencies such as the Forest Parks & Wildlife Service, National Monuments Service, Inland Fisheries Ireland and Local Authorities. These bodies comment and recommend appropriate conditions to attach to a Felling Licence in relation to Legislation in their respective areas in so far as they impact on harvesting operations such as: The Wildlife Acts 1976 – 2000; Environmental Protection Agency Act 1992; Water Pollution Acts 1977- 1990; Fisheries Acts 1959-1999, Inland Fisheries Act 2010; Safety, Health and Welfare at Work Act 1989; Occupiers' Liability Act 1995; Roads Act 1993; Roads Transport Acts 1932 – 1999; European Union (Vehicle Testing) regulations 1991; Road Traffic (Construction, Equipment and Use of Vehicles)

regulations 1963 – 2000; Waste Management Act 1996; Litter pollution Act 1997; Planning And Development) Acts 2000-2011.

Following the granting of a Felling Licence, DAFM is responsible for monitoring that timber harvesting is in compliance with the conditions of the Felling Licence. Application forms (Felling Licences) and samples of completed Application forms are available at <https://www.agriculture.gov.ie/forests-service/tree-felling/tree-felling/>

The previous act of 1946, under which Felling Licenses were issued, has been repealed in full. There are now only 3 Acts relevant to Forestry in Ireland, they are: 1988, 2009 and 2014, the latter being the most relevant one.

DAFM (2019). Forest Statistics Ireland 2019. Department of Agriculture, Food and the Marine Available at: <https://www.agriculture.gov.ie/media/migration/forestry/forests-service-general-information/Forest-Statistics-Ireland-280519.pdf>

C. 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

- Registration of Title Acts 1964 & 1997
- Landlord and Tenant Act 1978 - 1987
- Land and Conveyancing Law reform Act 2009, section 35
- Act for registration of easements (rights of way, fishing and hunting rights) 2011 of Civil Law (miscellaneous Provisions)
- Land Registration Rules 2012-2013
- There are two separate systems for recording transactions to property in Ireland:
 - (a) The registration of title system (Land Registry) which provides a state guaranteed title to property; and
 - (b) the registration of deeds system (Registry of Deeds) which records the priority of the registered deeds and conveyances. A title is the ownership of a property and a deed is a document in writing which affects property. Both systems are operated under the Property Registration Authority (PRAI).
- Companies Act 1963 - 2013, Part 2 of 1963 - for incorporation of companies, section 8 and registration of business names Section 22
- Finance Bills; Stamp Duties Consolidation Act 1999.

1.1.2. Legal authority

- Property Registration Authority (PRAI);
- Companies Registration Office.
- C. Revenue Commissioners (Department of Finance).

1.1.3. Legally required documents or records

- Title Document
- Deed Document

- Folio (Title) Number
- Registry map.
- Samples of folios and maps at <http://www.prai.ie/land-registry-services/>
- CRO Certificate For incorporated companies and business names <http://www.cro.ie/ena/cro-certificates.aspx>
- Annual returns (CRO)
- Tax Clearance Certificate

1.1.4. Sources of information

Government sources

- prai.ie (N.Y.). *Official Website of Property Registration Authority*. [online]. Available at: www.prai.ie
- prai.ie (N.Y.). *Land Registry Services*. [online]. Webpage of PRA. Available at: <http://www.prai.ie/land-registry-services/>
- prai.ie (N.Y.). *How do I obtain a copy of a folio and/or map?* [online]. Webpage of PRA. Available at: <http://www.prai.ie/faqs/how-do-i-obtain-a-copy-of-a-folio-andor-map-3/>
- prai.ie (N.Y.). *Frequently Asked Questions*. [online]. Webpage of PRA. Available at: www.prai.ie/faqs-2/
- fionafoley.ie (N.Y.). *Land Registration and Compulsory Registration of Title*. [online]. Foley Turnbull SOLICITORS. Available at: <http://www.fionafoley.ie/land-registration-and-compulsory-registration-of-title/>
- cro.ie (N.Y.). *Company Registration*. [online]. Companies registration office. Available at: www.cro.ie/Registration/Company/
- cro.ie (N.Y.). *Business Name Registration*. [online]. Companies registration office. Available at: www.cro.ie/Registration/Business-Name
- revenue.ie (N.Y.). *Registering for Tax*. [online]. Revenue – Irish Tax and Customs. Available at: <http://www.revenue.ie/en/business/running/registering-tax.html#section4>
- cro.ie (N.Y.). *CRO Certificates*. [online]. Companies registration office. Available at: <http://www.cro.ie/ena/cro-certificates.aspx>
- revenue.ie (N.Y.). *Tax Clearance*. [online]. Revenue – Irish Tax and Customs. Available at: <http://www.revenue.ie/en/business/running/tax-clearance.html>

Non-Government sources

- Transparency International (2018). *Corruption Perceptions Index* [online]. Available at: <https://www.transparency.org/country/IRL>

1.1.5. Risk determination

Description of risk

Information regarding Land ownership, business and tax is easily available in Ireland. Ireland has a very well developed, extensive and modernised system of land registration compared to

international standards. The compulsory registration of all titles in the Land Registry commenced, on a phased, basis in the 1960s and was extended to all counties on 1st June 2011. Over 93% of the land in Ireland is registered with the Property Registration Authority representing 90% of Titles. Folios and maps constitute public records and are publicly available and copies can be obtained at a small fee. State owned enterprises manage 53% of forest lands while 34% is privately owned and grant aided by the State /EU. The balance (13%) is also privately owned. Business and trade names must be registered with the Company Registrations Office and annual returns submitted which are available publicly. Tax Clearance certificates, VAT registration numbers are publicly available and must be produced by companies on request.

The Corruption Perceptions Index for Ireland is 73 out of 100 (2018).

Risk Conclusion

There are no significant issues that would constitute for specified risk.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

- N/A

1.2. Concession licenses

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

1.2.1. Applicable laws and regulations

Not applicable. Concession Licences are not used in Ireland.

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

- According to Act 1988 There are no specific legal requirements for management planning under the existing legislation apart from the State company Coillte.
- The Forestry Act 2014, is used under Section 24 (Powers of Authorised Officers), Part 6 (Specific functions of Minister to add conditions attaching to a tree Felling Licences).
- Forestry Act 1988, Section 14 (Requirement for State owned forest company to submit annual plans).
- Code of Best Forest Practice - Although not legally binding, adherence by all is expected and compulsory for those seeking Forestry grants.
- Felling and Reforestation Policy - provide a consolidated source of information on the legal and regulatory framework relating to tree felling. Information on the felling licence application process is also described. Finally, where the permanent removal of trees is envisaged, Forest Service policy is outlined for different tree removal scenarios.

1.3.2. Legal authority

- Department of Agriculture, Food and Marine

1.3.3. Legally required documents or records

- Tree Felling licence.

1.3.4. Sources of information

Government sources

- *irishstatutebook.ie* (N.Y.). Forestry Act 2014. [online]. ISB. Available at: <http://www.irishstatutebook.ie/eli/2014/act/31/enacted/en/pdf> *irishstatutebook.ie* (N.Y.). Forestry Act 1988. [online]. ISB. Available at: <http://www.irishstatutebook.ie/1988/en/act/pub/0026/index.html>
- agriculture.gov.ie (N.Y.). *Code of Best Forestry Practice*. [online]. ISB. Available at: <http://www.agriculture.gov.ie/forests-service/publications/code-of-best-forestry-practice/>
- agriculture.gov.ie (N.Y.). *Felling and Reforestation Policy*. [online]. Webpage of Department of Agriculture, Food and the Marine. Available at: <https://www.agriculture.gov.ie/media/migration/forestry/tree-felling/Felling-Reforestation-Policy-May-2017-250517.pdf>
- agriculture.gov.ie (N.Y.). Felling. [online]. Webpage of Department of Agriculture, Food and the Marine. Available at: <https://www.agriculture.gov.ie/forests-service/tree-felling/tree-felling>
- *agriculture.gov.ie* (N.Y.). Code of Best Forestry Practice. [online]. ISB. Available at: <http://www.agriculture.gov.ie/forests-service/publications/code-of-best-forestry-practice/>
- agriculture.gov.ie (N.Y.). *Felling and Reforestation Policy*. [online]. Webpage of Department of Agriculture, Food and the Marine. Available at: <https://www.agriculture.gov.ie/media/migration/forestry/tree-felling/Felling-Reforestation-Policy-May-2017-250517.pdf>

1.3.5. Risk determination

Overview of Legal Requirements

Under section 11 of the 1946 Forestry Act, the Minister is given the power to survey any land for the purposes of the Act. The first National forest inventory was carried out in 2006-2008 and the most recent in 2012. The State owned forest company (Coillte Teo) is required to submit annual plans for the sale of lands and harvesting and sale of timber for approval by the Minister under Section 14, Forestry Act 1988. This is in addition to the requirements of Felling licences under section 37 of the Forestry Act 1946.

A General Felling Licence is issued to larger harvesting operations where detailed management plans are in place and cover a longer period. Individual tree felling or smaller groups of trees are normally granted under Limited Felling Licence (LFL) for which information is required as to the area, number of trees, species with appropriate maps and cover a shorter period. Currently, there is no legislation that requires other individuals or companies to conduct forest inventories or have management plans.

Under the Forestry Act 2014, the Minister has powers, under section 10, to require forest owners to submit a management plan.

Description of Risk

A code of Best Forestry Practice and suite of environmental guidelines to ensure implementation of SFM (sustainable forest management) were produced by the Government in 2000 covering all aspects of forest operations. The forest industry is expected to adhere to the Code and guidelines, as this is condition on all felling licences issued.

Risk Conclusion

The risk is considered low.

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

- NA

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

- Forestry Act 2014, Section 6 – Grant a licence for the felling or otherwise removing of a tree or trees and the thinning of a forest..
- Forestry Regulations 2017 (S.I. No. 191 of 2017).
- Local Government Act 1963 (Planning & Development). Section 45.
- Planning and Development Act 2000 (Part X111) - A Tree Preservation Order (TPO) can be made if it appears to the planning authority to be desirable and appropriate in the interest of amenity or the environment.

1.4.2. Legal authority

- Department of Agriculture, Food and Marine)
- Local Planning Authorities.

1.4.3. Legally required documents or records

- Tree Felling Licence (TFL)
- Tree Preservation Order (TPO)
- Application forms (Felling Licences) and samples of completed Application forms are available at <https://www.agriculture.gov.ie/forests-service/tree-felling/tree-felling/>

1.4.4. Sources of information

Government sources

- agriculture.gov.ie (N.Y.). *Code of Best Forestry Practice*. [online]. Webpage of Department of Agriculture, Food and the Marine. Available at: <http://www.agriculture.gov.ie/forests-service/publications/code-of-best-forestry-practice/>
- agriculture.gov.ie (N.Y.). *Felling*. [online]. Webpage of Department of Agriculture, Food and the Marine. Available at: <http://www.agriculture.gov.ie/forests-service/tree-felling/tree-felling/>
- Forestry Regulations 2017 (S.I. No. 191 of 2017). Webpage of Department of Agriculture, Food and the Marine. Available at: <http://www.irishstatutebook.ie/eli/2017/si/191/made/en/print>
- archive-ie.com (N.Y.). *Webpage of FingalCOCO.ie*. [online]. Web directory, archive. Available at: http://archive-ie.com/ie/f/fingalcoco.ie/2012-05-17_12080_84/Tree_Preservation_Orders_Felling_Licences_Fingal_County_Council/

Non-Government sources

- Transparency International (2018). *Corruption Perceptions Index* [online]. Available at: <https://www.transparency.org/country/IRL>

1.4.5. Risk determination

Overview of Legal Requirements

While many forestry operations are exempt from the requirement to obtain planning permission, key activities such as afforestation, forest road construction and the aerial fertilisation of forests require, by law, a licence from the Minister for Agriculture, Food & the Marine. The felling of trees is also an activity that may require a licence, in the form of a Tree felling licence. The legislative provisions governing such licences and obligations are set out in the Forestry Act 2014 and accompanying Forestry Regulations 2017. It is important to also note that certain tree felling activities are exempted from the need to obtain a felling licence (See below).

A felling licence granted by the Minister for Agriculture, Food & the Marine provides authority under the Forestry Act 2014 to fell or otherwise remove a tree or trees and to thin a forest for silvicultural reasons. Information on the felling licence application process is described in the Forestry Act.

Under the Forestry Act 2014, there are certain situations where the felling of a tree is exempted from the need to obtain a felling licence (e.g. within 30 metres of a building but excluding any building built after the trees were planted). Section 19 of the Forestry Act 2014 details situations where the felling of a tree is exempted — see Appendix A for extract. Note that, while some trees are exempted from the need to obtain a felling licence, the Forest Service must still be notified that felling is to take place, and it will decide if the trees in question are exempted. Within the Forestry Act 2014, these scenarios are identified by the use of the text “in the opinion of the Minister”.

Tree Preservation Orders (TPOs) can be made by a Local Planning Authority if it appears to be desirable and appropriate in the interest of amenity or the environment. A TPO can apply to a tree, trees, group of trees or woodland. The principle effect of a TPO is to prohibit the cutting down, topping, lopping or wilful destruction of trees without the planning authority’s consent. The order can also require the owner and occupier of the land subject to the order to enter into an agreement with the planning authority to ensure the proper management of the tree, trees or woodland.

Description of Risk

The following table details the area of licences issued in the last 10 years.

Year	Thinning area (ha)	Clearfell area (ha)	Total area (ha)
2010	10,996	14,016	25,012
2011	15,725	122,064	137,789
2012	3,493	13,390	16,883
2013	6,564	15,450	22,014
2014	12,012	16,014	28,026
2015	11,583	16,916	28,498
2016	9,780	154,397	164,176
2017	10,113	26,977	37,091
2018	14,157	25,688	39,845

In 2013, there were 100 reports of illegal felling. All the reports are investigated by DAFM and a decision is made following completion of the investigation whether to proceed with a legal prosecution. It is FD policy to initiate legal proceedings provided there is sufficient evidence

for a successful prosecution and both State and private foresters can be prosecuted. Roughly 10% of reported cases end in prosecution. A large number of the reports usually relate to a small number or isolated trees being felled on (non- forestry) land. The felling of larger areas of forestry without a FL is less common although it has happened (typical 2ha - 4 ha). Larger areas 10ha + have occurred in the past mainly on State lands and were usually due to error.

The Corruption Perceptions Index for Ireland is 73 (2018).

Risk Conclusion

There are no significant issues that would constitute a specified risk.

1.4.6. Risk designation and specification

Low risk

1.4.7. Control measures and verifiers

- N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

The indicator is not applicable. There is no legislation covering royalties and harvesting fees.

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

- Taxes Consolidation Act 1995. Sections: 530(a) – 530(v), (Primary leg).
- Income Tax and Corporation Tax Regulations 2011 (S.I. No. 651 of 2011)
- Regulations 2012 (S.I. No. 576 of 2012) and Regulations 20143 (S.I No. 412 of 2013)
- All for the registration of Contracts on line by principal contractors.
- Finance Act 1969
- Value Added Tax Consolidation Act 2010. Sections: 46(1) - Schedule 3 Para 10(1) (e), Schedule 5 Para 10 (1) (b).
- Finance Bills 2000 -2019.

1.6.2. Legal authority

- Revenue Commissioners
- Department of Finance

1.6.3. Legally required documents or records

- VAT Registration number
- Sales Invoice

1.6.4. Sources of information

- woodland.ie (N.Y.). *Taxation*. [online]. Web page of Woodland. Available at: http://www.woodland.ie/incentives_taxation.htm
- limerickandtipperarywoodlandowners.ie (N.Y.). *Tax/PRSI*. [online]. Web page of Limerick and Tipperary Woodland Owners Ltd. Available at: <http://www.limerickandtipperarywoodlandowners.ie/tax---prsi.html>
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1.6.5. Risk determination

Description of Risk

In Budget 2016 forestry was removed from the High Earners income restriction along with the reference to S.232 from Schedule 25B of the Taxes Consolidated Act (as amended).

Commercial forestry is exempt from VAT payment. The sale of timber from both clear felling and selective logging is exempt from VAT . However, if the grower reclaims VAT on any inputs, they are then required to charge VAT on sales of timber.

Risk Conclusion

There are no significant issues that would constitute a specified risk

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

- Finance Act 1969 (section 18)
- Finance Act 2006 (section 17)
- Finance Act 2007
- Finance Act 2010

1.7.2. Legal authority

- Revenue Commissioners
- Department of Finance

1.7.3. Legally required documents or records

- Tax Returns
- Annual returns (CRO)

1.7.4. Sources of information

Government sources

- woodland.ie (N.Y.). *Taxation*. [online]. Web page of Woodland. Available at: http://www.woodland.ie/incentives_taxation.htm
- limerickandtipperarywoodlandowners.ie (N.Y.). Tax/PRSI. [online]. Web page of Limerick and Tipperary Woodland Owners Ltd. Available at: <http://www.limerickandtipperarywoodlandowners.ie/tax---prsi.html>

1.7.5. Risk determination

Not applicable.

The profits or gains arising from the occupation of woodlands in Ireland by an individual or company, managed on a commercial basis and with a view to the realisation of profits, shall not be taken into account for any purpose of the Income Tax Acts (Section 18, Finance Act 1969). This means that the sale of forest harvestings is all exempt from Income tax.

The sale of trees is exempt from stamp duty, but the sale of the underlying land is not.

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

- The Forestry Acts 2014 are used by way of Felling License approval and annual planning to control these areas.
- Applications for a Tree Felling Licence applications are prepared in accordance with the following:
 - Felling and Reforestation Policy document.
 - The Code of Best Forest Practice and suite of environmental guidelines.

1.8.2. Legal authority

- Department of Agriculture, Food and Marine

1.8.3. Legally required documents or records

- Tree Felling licences.

1.8.4. Sources of Information

Government sources

- agriculture.gov.ie (N.Y.). *Code of Best Forestry Practice*. [online]. Web page of the Department of Agriculture, Food and the Marine. Available at: <http://www.agriculture.gov.ie/forests-service/publications/code-of-best-forestry-practice/>
- agriculture.gov.ie (N.Y.). *Environmental Guidelines*. [online]. Web page of the Department of Agriculture, Food and the Marine. Available at: <https://www.agriculture.gov.ie/forests-service/environmental-information/>
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- agriculture.gov.ie (N.Y.). *Tree Sales Agreement - A Template for the sale of Standing Timber* <https://www.agriculture.gov.ie/media/migration/forestry/tree-felling/TreeSalesAgreementTemplate060417.pdf>

- coillte.ie (N.Y.). *Wood*. [online]. Web page of Coillte, State forestry company. Available at: http://www.coillte.ie/coillteforest/log_sales/timber_production/timber_production_policy/
- itga.ie (N.Y.). *Official website of Irish Timber Growers Association*. [online]. ITGA. Available at: <http://www.itga.ie/>
- Interview with R. Lowe, Coillte Teo
- Interview with J. Hurley, Forest Consultant and Harvesting Management Specialist.

1.8.5. Risk determination

Overview of Legal Requirements

All aspects of Timber removals from the state owned Coillte Teo forests are subject to a Code of Practice produced in 2010. The code covers a mandatory Timber Removals Permit System which utilises a regulated automatic weighbridge system at authorised sawmills/locations. It also sets out the requirements for haulage operators including vehicles type, access routes, weights etc. In the private sector, a *Tree Sales Agreement - A Template for the sale of Standing Timber*, is in place for private forest owners.

Description of Risk

Coillte's policy is to harvest the optimum, sustainable yield of timber from its forests having regard to the protection of other forest values and to the requirements of its customers. Annual harvest plans are submitted to the Department for approval. Coillte, like all others, is also subject to the Felling Licence requirements.

A similar system for control of Timber removals has been developed by The Irish Timber Growers Association (ITGA) who are recognised as the national representative body for private woodlands owners. The system, Timber Sales Dispatch System (TSDS) is based on, and similar to the Coillte system. The Department of Agriculture, Food and the Marine effectively uses the Felling Licence system to "approve" individual harvest management plans which are expected to be prepared in compliance with the Code for Best Forest Practice and Felling & Reforestation Policy.

Risk Conclusion

There are no significant issues that would constitute a specified risk

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

- N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

- Wildlife Acts 1976 - 2000
- National Monuments Acts 1930 -2004.
- Forestry Act 2014

1.9.2. Legal authority

- National Parks and Wildlife Service
- Department of Agriculture, Food and the Marine

1.9.3. Legally required documents or records

- Tree Felling licence
- Management Plans
- Harvest site maps

1.9.4. Sources of Information

Government sources

- npws.ie (N.Y.). *National Parks in Ireland*. [online]. National Parks & Wildlife Service. Available at: <http://www.npws.ie/nationalparks/>
- coillte.ie (N.Y.). Official website of State Forestry Company Coillte. [online]. Available at: <http://www.coillte.ie/aboutcoillte/recreation/>
- npws.ie (N.Y.). *Natural Heritage Areas (NHA)*. [online]. National Parks & Wildlife Service. Available at: <https://www.npws.ie/protected-sites/nha>
- npws.ie (N.Y.). *Special Areas of Conservation (SAC)*. [online]. National Parks & Wildlife Service. Available at: <http://www.npws.ie/protectedsites/specialareasofconservationsac/>
- npws.ie (N.Y.). *Special Protected Areas (SPA)*. [online]. National Parks & Wildlife Service. Available at: <http://www.npws.ie/protectedsites/specialprotectionareasspa/>
- archaeology.ie (N.Y.). *Monument Protection*. [online]. Available at: <https://www.archaeology.ie/monument-protection>
- Interview with R. Whelan, National Parks & Wildlife Service

1.9.5. Risk determination

Description of Risk

There are 6 National Parks (as per IUCN definition) under the control of the National Parks and Wildlife Service. In addition, Coillte operates 10 Parks and 150 recreational sites across the country. The basic designation for wildlife is the Natural Heritage Area (NHA). This is an

area considered important for the habitats present or which holds species of plants and animals whose habitat needs protection. In addition, there are proposed NHAs (pNHAs), which were published on a non-statutory basis in 1995, but have not since been statutorily proposed or designated. Prior to statutory designation, pNHAs are subject to limited protection.

The areas chosen as SACs (Special Areas of Conservation) are protected on the legal basis of the EU Habitats Directive, transposed into Irish law in the 1976 Wildlife Act as amended in 1998 and 2005. Conservation Management plans are in place for most SACs and the plans are updated on line on the NPWS website.

One of the key protective measures under this European legislation is the requirement under Article 6(3) and 6(4) of the Habitats Directive to apply an appropriate assessment procedure, to consider any possible impact on the conservation objectives of a Natura 2000 site that might arise from a plan or project, before a decision is taken whether or not to allow that plan or project to proceed.

Ireland is required under the terms of the EU Birds Directive (2009/147/EC) to designate Special Protection Areas (SPAs) for the protection of endangered species of wild birds. The National Monument Service is responsible for the protection of monuments. The Record of Monuments and Places (RMP) is the most widely applying provision of the National Monuments Acts.

As the public authority responsible for assessing applications for consent, grant approval and licences relating to various forestry activities, DAFM is required to apply an appropriate assessment procedure in accordance with the Birds & Habitats Regulations 2011. This procedure comprises an initial screening and where required, the appropriate assessment itself. In cases where the screening identifies that there is a possibility of the project having an effect on a Natura site, the applicant is required to submit a Natura Impact Statement (NIS). The NIS examines the nature of the possible impact and sets out proposed mitigation measures. On receipt of this document, the DAFM undertakes an appropriate assessment, before arriving at a decision regarding consent, grant approval or licensing. The NPWS (National Parks and Wildlife Service) are a major part of the consultative process for the issuing of a tree felling licence and recommend conditions for attaching to FLs in regard to their respective areas. Where a harvesting operation falls within such areas, the felling is closely monitored to ensure compliance with the license conditions.

Risk Conclusion

There are no significant issues that would constitute a specified risk

1.9.6. Risk designation and specification

Low risk

1.9.7. Control measures and verifiers

- N/A

1.10. Environmental requirements

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

1.10.1. Applicable laws and regulations

- Forestry Act 2014
- Forestry Act 1988
- Protection of Environment Act 2003
- Waste Management Act 1996
- Water Pollution Acts 1977- 1990
- Fisheries Acts 1959-1999
- Inland Fisheries Act 2010
- European Communities (Aerial Fertilization)(Forestry) S.I No. 125 of 2012;
- European Communities Environmental Objectives (Surface Waters) Regulations S.I.272 of 2009.
- Forestry Regulations 2017 (S.I.191 of 2017)

1.10.2. Legal authority

- Forest Service (Department of Agriculture, Food and Marine)
- Environmental Protection Agency
- Department of Environment, Community and Local Government

1.10.3. Legally required documents or records

- Tree Felling licences
- Management plans
- Harvest site maps

1.10.4. Sources of information

Government sources

- agriculture.gov.ie (N.Y.). *Environmental Information*. [online]. Available at: <http://www.agriculture.gov.ie/forests-service/environmentalinformation/>
- agricultura.gov.ie (N.Y.). *Forestry and Water quality guidelines*. [online]. Available at: http://www.agriculture.gov.ie/media/migration/forestry/publications/water_quality.pdf

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- agricultura.gov.ie (N.Y.). *Forest Biodiversity guidelines*. [online]. Available at: <http://www.agriculture.gov.ie/media/migration/forestry/publications/biodiversity.pdf>
- agricultura.gov.ie (N.Y.). *Forest Harvesting and the Environmental guidelines*. [online]. Available at: <http://www.agriculture.gov.ie/media/migration/forestry/publications/harvesting.pdf>
- agricultura.gov.ie (N.Y.). *Forest Protection guidelines*. [online]. Available at: <http://www.agriculture.gov.ie/media/migration/forestry/publications/fsFPG.pdf>
- coillte.ie (N.Y.). *Public goods*. [online]. Web page of State forestry Company Coillte. Available at: <http://www.coillte.ie/coillteforest/environment/>
- agricultura.gov.ie (N.Y.). *Environmental report on the forest policy review*. [online]. Available at: <http://www.agriculture.gov.ie/media/migration/forestry/publicconsultation/forestpolicyreview/SEAForestPolicyReviewJune2013.pdf>
- agricultura.gov.ie (N.Y.). *Forestry Publications*. [online]. Web page of Department of Agriculture, Food and the Marine. Available at: <http://www.agriculture.gov.ie/forests-service/publications/>

1.10.5. Risk determination

Description of Risk

The EIA Directive (Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014) requires that certain types of development, including afforestation and forest road works, must be assessed to determine the likely environmental effect of the development, before a licence can be granted.

The licensing system operated by the Department of Agriculture, Food and the Marine, as set out in the Forestry Regulations 2017 (S.I.191 of 2017), provides for an environmental impact assessment (EIA) to be carried out in certain cases. An EIA is mandatory for initial afforestation involving an area of 50 hectares or more, and for forest road works involving a length of 2,000 metres or more. Applications for such projects must be accompanied by an environmental impact statement (EIS), to enable the Department to undertake the EIA. An EIS is an environmental impact assessment report satisfying the requirements of Article 5.1 of the EU Directive and prepared by competent experts. The information to be contained in an EIS is set out in Schedule 4 of the Regulations.

In addition, the Forestry Regulations 2017 provide that all proposed afforestation and forest road works below the above mandatory thresholds must be screened for EIA, to consider whether or not significant effects on the environment are likely. This consideration must take into account criteria involving the characteristic of the project, its location, and the type and characteristics of the potential impact, as set out in Schedule 3 of the Regulations. Where it is deemed that a proposed sub-threshold development is likely to have significant effects on the

environment and should therefore be subject to an EIA, the Department requires the applicant (the proponent of the plan) to submit an EIS to enable the EIA to be undertaken.

Under the Forestry Regulations 2017, when assessing an application for licensing (with or without grant support) for a regulated forest activity, DAFM undertakes a detailed assessment of the project and (inter alia) its potential impact on the environment, to ensure that any licence issued is in keeping with the principles of SFM and the protection of the environment, including water. This entails a combination of field inspection and GIS-based desk assessment by the Department's Forestry Inspectors, internal referral to a professional Ecologist and Archaeologist, screening for appropriate assessment and environmental impact assessment, public consultation, referral to various statutory consultees, and an appeals system. Any activity that is subsequently licensed must adhere to the Code of Best Forest Practice – Ireland, a suite of mandatory environmental 'guidelines' and requirements relating to (inter alia) water quality, biodiversity and harvesting, and all relevant scheme requirements. In particular areas, other specific procedures, protocols and requirements may also apply, such as the Acid Sensitivity Protocol or the Forestry & FPM Requirements. Finally, project specific conditions are typically attached to any licence issued. DAFM undertakes various post-utilisation checks to ensure that all conditions attached to a particular licence have been satisfied. Failure in this regard can result in various steps being taken, such as penalties, professional sanctions and legal recourse.

Risk Conclusion

There are no significant issues or information available that would constitute a specified risk

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

- N/A

1.11. Health and safety

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

1.11.1. Applicable laws and regulations

- Safety Health and Welfare of Work Act (No.10) 2005 (Part 2 chapters 1,2&3, Parts 3 & 4)
- Code of Practice for Managing Health and Safety in Forestry Operation (Part 6, Chapter 1, Sections 60 & 61 of Safety, Health and Welfare at Work Act 2005)
- Chemical Acts 2008-2010, The main purpose of the 2008 and 2010 Acts is to facilitate the administration and enforcement of certain EU Regulations concerning chemicals.
- These Regulations include the:

- Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation (No. 1907/2006)
- Classification, Labelling and Packaging of Substances and Mixtures (CLP) Regulation (No. 1272/2008)
- Rotterdam Regulation (No. 689/2008) concerning the export and import of dangerous chemicals under the Rotterdam Convention and the
- Detergents Regulation (No. 648/2004).

1.11.2. Legal authority

- Health and Safety Authority

1.11.3. Legally required documents or records

- Hazard and Risk Assessment Statement (Section 19 of H,S&W Act of 2005)
- Safety Statement (Section 20 of H,S & W Act 2005)
- Compliance with General Principles of Prevention (Schedule 3 of H,S & W Act 2005)

1.11.4. Sources of information

Government sources

- Irishstatutebook.ie (2005). *Safety, Health and Welfare at Work Act 2005*. [online]. Available at: <http://www.irishstatutebook.ie/2005/en/act/pub/0010/index.html>
- hsa.ie (N.Y.). *Code of Practice for Managing Safety and Health in Forestry. Operations*. [online]. Health and Safety Authority. Available at: http://www.hsa.ie/eng/Publications_and_Forms/Publications/Agriculture_and_Forestry/Code_of_Practice_for_Managing_Safety_and_Health_in_Forestry_Operations.html
- hsa.ie (N.Y.). *Information on the Health and Safety responsibilities of Forest Land Owners and Managers who intend to fell their trees*. [online]. Health and Safety Authority. Available at: http://www.hsa.ie/eng/Publications_and_Forms/Publications/Agriculture_and_Forestry/Forestry_Information_Sheet.pdf
- hsa.ie (N.Y.). *Fatal Workplace Injuries*. [online]. Health and Safety Authority. Available at: http://www.hsa.ie/eng/Topics/Statistics/Fatal_Injury/#sthash.iecGsYCA.dpuf
- hsa.ie (N.Y.). *Non-fatal workplace injuries and illnesses*. [online]. Available at: http://www.hsa.ie/eng/Topics/Statistics/Non-Fatal_Injury_and_Illness/#sthash.mb9LDYH0.dpuf
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- statcentral.ie (N.Y.). *The portal to Ireland's official Statistics*. [online]. Official web page. Available at: <http://www.statcentral.ie/>

- statcentral.ie (N.Y.). *Fatal workplace injuries*. [online]. The portal to Ireland's official Statistics. Available at: <http://www.statcentral.ie/viewStat.asp?id=82>
- statcentral.ie (N.Y.). *Non-fatal Workplace Injuries*. [online]. The portal to Ireland's official Statistics. Available at: <http://www.statcentral.ie/viewStat.asp?id=83>
- hsa.ie (N.Y.). *Infographics – Achievements and Activities 2013*. [online]. Health and Safety Authority. Available at: [http://www.hsa.ie/eng/Topics/Statistics/Infographics/Achievements Activities 2013](http://www.hsa.ie/eng/Topics/Statistics/Infographics/Achievements_Activities_2013)
- hsa.ie (N.Y.). [http://www.hsa.ie/eng/Topics/Statistics/Infographics/Injury Illness and Fatality Statistics 2012-2013/](http://www.hsa.ie/eng/Topics/Statistics/Infographics/Injury_Illness_and_Fatality_Statistics_2012-2013/)

1.11.5. Risk determination

Overview of Legal Requirements

Health and safety regulations are clearly defined in legislation and are enforced by the Health and Safety Inspectorate. A specific Code of Practice for Forestry Operations has been produced under section 60 of the 2005 Act and although non-binding is admissible in criminal proceedings if the Code of Practice is not adhered to (Section 61 of 2005 Act). The law requires that, during the planning and carrying out of forestry operations, a number of safety and health duties be fulfilled, including:

- Preparing written risk assessments
- Setting out safe working procedures
- Ensuring operators are competent
- Selecting suitable equipment for the job
- Supervising and monitoring the work

Description of Risk

Over the 5 year period 2009 to 2013 a total of 9 persons have suffered a fatal accident arising from the use of chainsaws or tree felling work activities. The Teagasc National Farm Survey indicates that about 6.5% of all injuries, in the Agriculture & Forestry sector, are chainsaw or wood related indicating that approximately 120 serious injuries occur each year. The current statistics published by the Irish Health and Safety authority report the following incidents in the forestry sector:

- 5 Fatal workplace injuries in the forestry economic sector 2008-2014
- 29 injuries (any days lost) per 1000 workers in the agriculture, fisheries and forestry sector 2012 (CSO)
- 2,967 inspections and investigations in the agriculture, fisheries and forestry sector in 2013. Of these, 35% were given written advice and 10% resulted in enforcement action.

According to the statistics, agriculture (excluding forestry), fishing and construction are the most hazardous sectors in Ireland.

Risk Conclusion

There are no records of violations of the applicable legislation that would constitute for specified risk.

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

- N/A

1.12. Legal employment

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

1.12.1. Applicable laws and regulations

- Unfair Dismissals Act 1993
- Terms of Employment Act 1994
- Protection of Young Persons (Employment) Act 1996
- National Minimum Wage Act 2000
- Organisation of Working Time (Records, Prescribed form and Exemptions) Regulations 2001
- Protection of Employees (Fixed Term) Act 2003
- Equality Act 2004
- Protection of Employment (Temporary Agency Work) Act 2012
- Income Tax Employments Consolidated Regulations 2001
- Taxes Consolidation Act 1997 (530A-530V), Income Tax and Corporation Tax (Relevant Contracts Tax) Regulations S.I.651/2011, 576/2012 &412/2012.

1.12.2. Legal authority

- Department of Jobs, Employment and Innovation.
- Revenue Commissioners
- Department of Social Protection

1.12.3. Legally required documents or records

- Contract and Terms & conditions of employment.

1.12.4. Sources of information

Government sources

- citizensinformation.ie (N.Y.). *Employers' obligations and employees' rights*. [online]. Citizens Information. Available at: http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/employment_rights_and_duties/employer_obligations.html
- ibec.ie (N.Y.). Employer services. [online]. Ibec for Irish Businesses. Available at: <http://www.ibec.ie/IBEC/ES.nsf/vPages/Home~employer-services?OpenDocument>

1.12.5. Risk determination

Description of Risk

There is strong legal employment laws in Ireland governing contract of employment, employment records, minimum wage, working hours, leave, disciplinary procedures, Tax and social insurance deductions , health & Safety and discipline and unfair dismissals procedures.

There are a number of industrial relations institutions to deal with labour disputes such as the Labour Relations Commission; the Rights Commissioner Service, the Labour Court, Employment Appeals Tribunal and the Equality Tribunal.

Risk Conclusion

There are no significant issues that would constitute for specified risk.

1.12.6. Risk designation and specification

Low Risk

1.12.7. Control measures and verifiers

- N/A

THIRD PARTIES' RIGHTS

1.13 Customary rights

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

1.13.1. Applicable laws and regulations

- There is no specific law relevant to Forest harvesting activities relating to this criteria.
- Article 40.3.2 of The Irish Constitution 1937 gives the right of the property owner to unfettered use of the property.
- The following legislation allows for the registration of Easements & profits a pendre e.g. Rights of Way (prescription):
 - Registration of Title Act 1964 section 49A
 - The Land and Conveyancing Law Reform Act 2009 section 35.1 & 38b. as amended
 - Civil Law (Miscellaneous Provisions) Act 2011
 - Registration of deeds and Title Act 2006 (No.12).

1.13.2. Legal authority

- Property Registration Authority for registering Easements e.g. Rights of Way

1.13.3. Legally required documents or records

- Registered Deed, registered map.
- Folio and folio map

1.13.4. Sources of information

Government sources

- prai.ie (N.Y.). *Disclaimer*. [online]. Available at: <http://www.prai.ie/registration-of-easements-and-profits-a-prendre-acquired-by-prescription-under-section-49a/>
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- irishstatutebook.ie (N.Y.). *Constitution of Ireland*. [online]. e ISB. Available at: <http://www.irishstatutebook.ie/en/constitution/index.html#article43>
- irishstatutebook.ie (N.Y.). *Registration of Title Act, 1964*. [online]. e ISB. Available at: <http://www.irishstatutebook.ie/1964/en/act/pub/0016/index.html>.
- irishstatutebook.ie (N.Y.). *Land And Conveyancing Law Reform Act 2009*. [online]. e ISB. Available at: <http://www.irishstatutebook.ie/2009/en/act/pub/0027/sec0035.html#sec35>

1.13.5. Risk determination

Description of Risk

There is no legal traditional right of access to land in Ireland. Article 40.3.2 of The Constitution of 1937 copper-fastened the right of the property owner to unfettered use of the property. This means a land owner can refuse access to his property. The bulk of private forests were only planted since the 1980s and would have no customary rights in regard to harvesting other than pre existing customary recreational walking on the land or hunting /fishing. Rights of Ways exists in some cases where access of passage is given to cross someone's land to access other land which is often "landlocked". There are two types of ROWs, one which is documented and registered in the Property Registration Authority and the other "prescriptive" RoW which is obtained through use over a sustained period of time.

Recent legislation requires/allows for the registration of prescriptive ROWs by 2021. Judgement on these ROWs can also be made through the courts. Ireland has operated an "Open access" policy for recreational users to all in state forests and this has continued under the forests operated by Coillte Teoranta and the National Parks and Wildlife service. Visitors may not damage or remove anything from a forest and are expected to observe the environmental code for users. Coillte seeks to provide low-impact non-motorised recreation to the general public and other specialist activities under special permit.

Risk Conclusion

There are no significant issues that would constitute for specified risk.

1.13.6. Risk designation and specification

Low risk

1.13.7. Control measures and verifiers

- N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

Not applicable.

In 1987, an estimated 20,000 hectares of State lands and forests were transferred to the Office of Public Works now called the National Parks and Wildlife Service. In January 1989, under the Forestry Act 1988, the Government established a new State body, Coillte Teoranta, to manage the State's commercial forests. Ownership of the remaining forests and lands (estimated 375,000 ha) was transferred to the new company. There is no opportunity to transfer forest management rights away from these entities, therefore this category is not applicable.

For private forests, there are no restrictions or requirements in Irish legislation in connection with the transfer of forest management rights or with regards to free, prior and informed consent.

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

Not applicable. There are no indigenous people living in Ireland according to the U.N. definition).

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

Not applicable. Currently, there is no specific forestry legislation relating to this criterion.

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

- There are no laws specific to the transporting of wood from forests. There are the general requirements of the Road Transport Act 2011 in relation to vehicle condition, roadworthiness and legal weights.
- Guidance document to provide the driver and vehicle operator with the relevant information to enable them to comply with technical and safety aspects of timber transport *Round Timber Transport - Guidelines for Hauliers and Drivers*

1.17.2. Legal authority

- Road Safety Authority, Garda Siochana (Police)

1.17.3. Legally required documents or records

- Road Haulage Operators Licence. Timber Removals Permit for all removals from State forests.

1.17.4. Sources of information

Government sources

- rsa.ie (N.Y.). Road haulage enforcement. [online]. Road Safe Authority. Available at: <http://www.rsa.ie/en/RSA/Professional-Drivers/Owners-and-managers/Road-haulage-enforcement/>

- *itga.ie (2010). Model Timber Sales Dispatch System for Private Timber Growers. [online]. Irish Timber Growers Association. Available at: <http://www.itga.ie/docs/MTSSApril2010.pdf>*
- *Road Haulage of Round Timber – Code of Practice <https://www.coillte.ie/media/2017/02/Road-Haulage-of-Round-Timber-Code-of-Practice.pdf>*
- *Managing Timber Transport - Good Practice Guide. 2014. <https://www.coillte.ie/media/2017/02/Managing-Timber-Transport-Good-Practice-Guide-Volume-1-2014-1.pdf>*
- *Forest Industry Transport Group. 2017. Round Timber Transport - Guidelines for Hauliers and Drivers <https://www.agriculture.gov.ie/media/migration/forestry/publications/FinalDraftFITGLoadSecuringManual190717.pdf>*

1.17.5. Risk determination

Description of Risk

All aspects of Timber removals from the state owned Coillte Teo, forests are subject to a Code of Practice produced in 2010. The code covers a mandatory Timber Removals Permit System (TRPS) which utilises a regulated automatic weighbridge system at authorised sawmills/locations. Timber permits can be inspected within the forest by Coillte staff and by the Garda Síochána (Police) outside the forest. For non-state wood removals, many sawmills and forest harvesting companies operate a permit system as part of the sales contract. The Irish Timber Growers Association (ITGA) produced a model for use by private growers in regard to timber removals. This system aims to provide vendors and their agents with a straightforward, standardised protocol with detailed step by step procedures to assist in accountability for timber removals and haulage for standing and roadside sales. The system is similar to the TPRS system used in state forests.

Risk Conclusion

There are no specific issue that would constitute a specified risk.

1.17.6. Risk designation and specification

Low Risk

1.17.7. Control measures and verifiers

- N/A

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. 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

- Taxes Consolidation Act, 1997 - Part 35A, Section 835A to Section 835H, of the 1997 Taxes Consolidation Act (Part 35A)
- Finance Act 2010 section 42

1.18.2. Legal authority

- Revenue Commissioners, Department of Finance

1.18.3. Legally required documents or records

- Tax returns and company accounts. In order to demonstrate compliance with the TP rules, Irish tax law requires companies falling within the TP regime to have available documentation that would reasonably be required to determine whether the income has been computed at arms length

1.18.4. Sources of information

Government sources

- irishstatutebook.ie (N.Y.). *Taxes consolidation act, 1997*. [online]. e ISB. Available at: <http://www.irishstatutebook.ie/pdf/1997/en.act.1997.0039.pdf>
- irishstatutebook.ie (N.Y.). Finance Act 2010. [online]. e ISB. Available at: <http://www.irishstatutebook.ie/pdf/2010/en.act.2010.0005.pdf>

Non-Government sources

- pwc.com (2012). *International transfer pricing 2012*. [online]. PWC. http://download.pwc.com/ie/pubs/2012_international_transfer_pricing.pdf
- matheson.com (N.Y.). *Transfer pricing*. [online]. Matheson Webpage. Available at: <http://www.matheson.com/legal-services/transfer-pricing>
- kpmg.com (N.Y.). *Insights (Ireland)*. [online]. KPMG Webpage. Available at: <http://www.kpmg.com/ie/en/issuesandinsights/articlespublications/pages/transfer-pricing-faq.aspx>

1.18.5. Risk determination

Overview of Legal Requirements

New laws on Transfer Pricing came into effect in 2010 for trading transactions between associated persons. The main features of the legislation is that it recognizes the arm's length principle as set out by the OECD in Article 9 of the OECD Model Tax Convention and the OECD Guidelines on Transfer Pricing; and the application of the arm's length principle where trading profits are understated for Irish tax purposes. The new laws do not apply to SMEs (small, medium enterprises up to certain staffing and turnover levels) who continue to operate under the old rules. The principle of arm's length already pre-existed the new Finance Act 2010 in Irish tax legislation. For example, section 81 Taxes Consolidation Act 1997 (TCA) dictates that a tax deduction is only available for an expense wholly or exclusively laid out or expended for the purposes of the trade of the company. While the

arm's length principle is not referred to in Section 81, Revenue are in effect to adjust the price paid for goods and services for tax purposes and deny a deduction if appropriate.

There are also various provisions in Irish tax legislation which require the application of market value pricing to transactions between connected parties. These are generally included as anti-avoidance provisions and disposals of assets between connected persons. Case law has also provided some guidance on the application of arm's length principles. The most relevant case in this regard is *Belville Holdings v Cronin* [1985] IR 465. Transfer pricing provisions could also be found in the manufacturing relief provisions of TCA 1997.

Description of Risk

The Irish tax authorities do not have a dedicated transfer pricing unit. When transfer pricing issues have arisen, resources have been drawn from international tax specialists or the Large Cases Division of the Irish tax authorities. Going forward, only authorized officers designated in writing by the Irish tax authorities may make enquiries in relation to transfer pricing. The Irish tax authorities have yet to clarify who will be authorized officers, but they are expected to be inspectors within the Large Cases Division of the Irish tax authorities.

According to PriceWaterhouseCooper "There are not considered to be particular related party transactions or industry sectors that could be regarded as facing a higher-than-normal risk of a transfer pricing enquiry from the Irish tax authorities. To some extent, Irish taxpayers could be considered (indirectly) to be at a higher risk of a transfer pricing review should overseas tax authorities, which have developed extensive transfer pricing regulations, focus their attention on transactions or industries that include overseas affiliates of an Irish taxpayer."

Risk Conclusion

There is no specific issue that would constitute a specified risk.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

- N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Finance Act 2011 Section 54
- Customs Act 1956 as amended by the Finances Acts 2010 & 2011 (Penalties).
- Council Regulation No. 2913/92
- Commission Regulation No. 2454/93 (Exports)

1.19.2. Legal authority

- Revenue, Irish Tax and Customs

1.19.3. Legally required documents or records

- Invoices
- Value declaration form
- Proof of origin documents
- Bills of lading
- Import & export licenses

1.19.4. Sources of information

Government sources

- revenue.ie (2016). *A Guide to Customs Import Procedures*. [online]. Revenue – Irish Tax and Customs. Available at: www.revenue.ie/en/customs/leaflets/import-procedures-guide.pdf
- revenue.ie (2016). *A Guide to Customs Export Procedures*. [online]. Revenue – Irish Tax and Customs. Available at: www.revenue.ie/en/customs/leaflets/export-procedures-guide.pdf
- revenue.ie (N.Y.). *Importing and Exporting*. [online]. Web page of Revenue – Irish Tax and Customs. Available at: <http://www.revenue.ie/en/customs/businesses/importing/>
- Revenue Commissioners Classifications of Goods
<http://www.revenue.ie/en/customs/businesses/importing/classification-of-goods.html>
- revenue.ie (N.Y.). *Automated Entry Processing (AEP)*. [online]. Web page of Revenue – Irish Tax and Customs. Available at: <http://www.revenue.ie/en/customs/businesses/importing/automated-entry-processing-aep-dti.html>

1.19.5. Risk determination

Description of Risk

Ireland is a member of the EU and Common EU Customs Tariff. The automation of Customs import and export procedures was introduced nationally in April 1991 by the launch of Revenue's Automated Entry Processing (AEP) system. Since then this system has been responsible for the validation, processing, duty accounting and clearance of customs declarations. The system also checks updated data format, calculations, validations, preferential rates, prohibitions/restrictions and verifies that sufficient credit is available in the Trader's account. However, due to the introduction, by European Regulation, of a harmonised and codified Single Administrative Document (SAD) along with new pre-arrival and pre-departure summary declarations it was necessary to redevelop the AEP system. The redevelopment project embraced modern technologies, allowed Traders direct access to AEP via the Revenue Online Service (ROS) and provided greater scope for flexibility and trader facilitations.

Risk Conclusion

There are no significant issues that would constitute for specified risk.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

- N/A

1.20. CITES

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

1.20.1. Applicable laws and regulations

- Wildlife Acts 1976 (Section 53a) - 2000 Section 58;

1.20.2. Legal authority

- National Parks and Wildlife Service
- Customs Service.

1.20.3. Legally required documents or records

- CITES export and import permits and CITES certificates enabling intra EU trade
- Registration documents

1.20.4. Sources of information

Government sources

- revenue.ie (N.Y.). *Prohibitions and Restrictions*. [online]. Web page of Revenue – Irish Tax and Customs. Available at: <http://www.revenue.ie/en/customs/prohibitions-restrictions/index.html>
- npws.ie (N.Y.). *Licences*. [online]. National Parks and Wildlife Service. Available at: <http://www.npws.ie/licences/importexporttrade/>
- Interview with K. Callaghan, NPWS.
- Interview with C. Dillon, Customs Service.

1.20.5. Risk determination

Description of Risk

No cites species currently grown in Ireland.

Customs Enforcement Authorities and NPWS Inspectors are responsible for enforcement of CITES requirements, NPWS also is responsible for licencing including timber products from protected species. Only one CITES licence for import into Ireland was issued in the last 5 years. (Callaghan NPWS). Both authorities liaise regularly with other countries on CITES issues.

Risk Conclusion

There are no significant issues that would constitute for specified risk.

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

- N/A

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

- S.I. No. 316/2014 - European Union (Timber and Timber Products) (Placing on the Market)
- Regulations 2014 (section 4) which gave effect to the European Union Timber Regulations 995/2010.
- Commission Delegated Regulation (EU) No. 363/2012, Article 4
- Commission Implementing Regulation (EU) No. 607/2012, Articles 3 & 5

1.21.2. Legal authority

Department of Agriculture, Food and Marine

1.21.3. Legally required documents or records

- In accordance with the EUTR, operators are required to have in place a due diligence system providing access to information relating to the timber. Operators must assess and where relevant mitigate risk.

1.21.4. Sources of information

Government sources

- ec.europa.eu (N.Y.). Timber Regulation. [online]. Web page of European Commission. Available at: http://ec.europa.eu/environment/forests/timber_regulation.html
- wood.ie (N.Y.). *EU Timber Regulation*. [online]. Wood Marketing Federation. Available at: <http://www.wood.ie/news-events/briefing-on-eu-timber-regulation/>
- wood.ie (N.Y.). *Student wood awards*. [online]. Available at: <http://www.wood.ie/?cat=4>

- irishstatutebook.ie. Forestry Act. [online]. Webpage of Irish Statute Book, Government of Ireland. Available at: <http://www.irishstatutebook.ie/eli/2014/act/31/enacted/en/html>
- Interview with N. O'Halloran, IFDP Unit, Department of Agriculture (2014)
- Interview with G. Cassidy, Forest Service, Department of Agriculture (2014)
- Interview with F. Moore, Head of Forest Sector Development Division, Department of Agriculture (2019)
- Interview with C. Fitzpatrick, International Forestry Policy Officer, Department of Agriculture (2019).

Non-Government sources

- Justforests.org (2013). *EU Timber Regulation (EUTR) put to the test*. [online]. Web page of Just Forests. Available at: <http://www.justforests.org/news/eu-timber-regulation-put-to-the-test>

1.21.5. Risk determination

Overview of Legal Requirements

Ireland adopted the EU Timber Regulations (EUTR) in March 2013. The Department of Agriculture, Food and the Marine is the Competent Authority with overview and enforcement responsibilities of the regulation. Enforcement measures taken by the Competent Authority as a result of its inspection programme include issuance of a Compliance Notice to a non-compliant Operator preventing further transport of timber products and prohibiting import of EUTR-applicable commodities (N Halloran, Dept' of Agriculture). In 2014 the Forestry Act was enacted repealing the 1946 Forest Act "to make better provision in relation to forestry, to provide for the development and promotion of forestry to maximises the economic, environmental and social value of forests within the principles of sustainable forest management,...and to make further provision for the giving effect to acts of the institutions of the European Union by regulation made by that Minister in respect of forestry" (Irish Statute Book). The act requires forest felling licence and desk-based assessment to be conducted before felling takes place.

Description of Risk

There are a large number of private forest owners, the vast bulk of who are agricultural farmers with no forestry background or experience. Because of the lack of forestry experience and lack of harvesting equipment, the owners often employ Forest Management companies of which there is a limited number. This reduces the risk in regard to EUTR requirements as the management companies are deemed the Operator under the EUTR and makes monitoring by the Competent Authority easier.

National legislation has been developed for the EUTR, and has been approved, The competent authority (CA) is active in awareness raising and engagement through EUTR workshops, site visits, and letters highlighting due diligence requirements. Significant forest trend analysis has also been conducted for the national forest inventory (C, Fitzpatrick, Department of Agriculture). The department has three employees focusing on the EUTR and twenty forest level inspectors covering the EUTR among other environmental, social, and economic regulations. Coordination with other relevant departments occurs in relation to harvesting and law enforcement (F. Moore, Department of Agriculture).

There is still a risk that companies operate without a due diligence system in place in Ireland. However, since low risk has been found in sub-categories 1.1- 1.20, it is concluded that the potential impact will be limited both in impact on the ground and in scale for Irish forestry. As a consequence, the risk has been concluded to be low.

Risk Conclusion

This indicator has been evaluated as low risk.

1.21.6. Risk designation and specification

Low risk

1.21.7. Control measures and verifiers

- N/A

D. Timber source types

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

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

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

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

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

TIMBER SOURCE TYPES IN IRELAND

Forest type	Region/ Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Woodlands	Nationw ide	High conservation value forest	State	Managed by NPWS	Tree Felling Licences, Management and harvest Plans	Woodlands mainly of broadleaves and areas of high conservation value
	Nation- wide	Production forest	State/ private	Managed by State forestry company Coillte /Private Estates and contractors		Mixed woodlands with some level of management over long periods
		Amenity forest	Urban	Managed by County Councils		Amenity Woodlands and trees in urban areas
Old Plantations		Production forest	State owned	Managed by State forestry company Coillte		Large size plantations dominate on a wide variety of sites, Coillte.
New plantations		Production forest	Farm owned	Managed by farmers, forestry consultants and contractors with advice from Forest Service		An average size is 9 ha. Nearly all have been established to best practice and the new guidelines required by the Forest Service for grant aid.
Mix of new and old plantations		Quality timber production forest	Corporati- on owned	Managed by corporations		A mix of both old and new plantations with a strong management emphasis on quality timber production



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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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