

Timber Legality Risk Assessment Japan

Version 1.3 | June 2018



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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A. Introduction

This Timber Legality Risk Assessment for Japan 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.

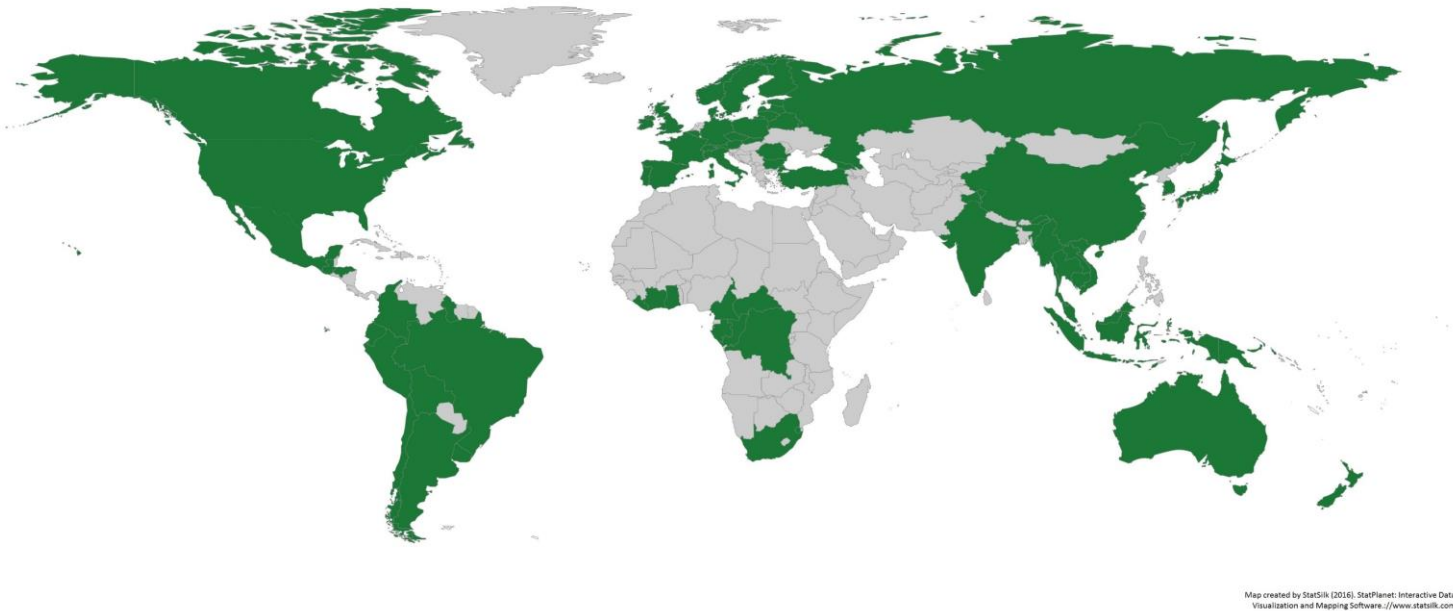


Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

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 the [NEPCon Sourcing Hub](#).

For risk assessment conducted according to the FSC-STD-40-005, ONLY entries (or information) that have been formally reviewed and approved by FSC and are marked as such can be considered conclusive and may be used by FSC candidate or certified companies in risk assessments and will meet the FSC standards without further verification.

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 NEPCon between 2014 and 2018 as follows:

Draft prepared by NEPCon:	December 2014.
Stakeholder consultation	August-October 2017
Final approval by FSC:	27 June 2018

FSC CW effective date: 27 June 2018

NEPCo originally published the Timber Legality Risk Assessment for Japan in August 2017. Since then, minor amendments to the Assessment have been made, the risk designation for one sub-category (1.15) has been amended to designated specified risk for one of Japan's eight regions.

Overview of legality risks

Timber Risk Score: 99 / 100 in 2017

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

- Specified risk for one region out of eight, for 1 sub-categories.
- Low risk for 17 sub-categories.
- No legal requirements for 4 sub-categories.

The Timber Risk Score for Japan is 100 out of 100, and no legality risks have been identified in this report.

This table summarises the findings of the timber legality risk assessment by source type.

Legal Category	Sub-Category	Source Type
		All forest
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	Low
	1.6 Value added taxes and other sales taxes	Low
	1.7 Income and profit taxes	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Low
	1.9 Protected sites and species	Low
	1.10 Environmental requirements	Low
	1.11 Health and safety	Low
	1.12 Legal employment	Low
Third parties' rights	1.13 Customary rights	Low
	1.14 Free prior and informed consent	N/A
	1.15 Indigenous/traditional peoples rights	Specified risk: Hokkaido Low risk: other areas
Trade and transport	1.16 Classification of species, quantities, qualities	Low
	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	N/A
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B. Overview of the forest sector in Japan

Forestry in Japan consists mostly of conifer plantation forest containing primarily *Cryptomeria japonica*, *Chamaecyparis obtusa* and *Larix kaempferi*. Forestry Operations in broadleaf forest (hardwood forest) is not as active except for limited production of pulp wood and nursery logs for cultivating mushrooms in areas such as Hokkaido and Tohoku Region. Forests cover 66% of Japan's land and 40% of the forest is conifer plantation. Broadleaf forest with high conservation values exist in remote mountains and highlands. Forests in remote area and highlands are mainly owned by the national government and had gone through large scale clear felling in the past during and after the World War II until high economic growth period of Japan. In the present days, the remaining broadleaf forests consisting mainly of *Fagus crenata* are protected under legal control such as Natural Parks Act, Nature Conservation Act and Forestry Agency Forest Reserve System. Of the Japanese forest: 30% is state owned forest, 10% is owned by local government, 60% is owned privately by enterprises and individuals. The average size of a private forest is a few hectares.

Management plans based on Forest Act are made on voluntary basis, but are required if a forest owner wants to receive government supports such as subsidies. It is made for five years as one period. Forest Management Plans are normally approved by municipal mayors or by prefectural mayors if the forest lies across more than one city, or approved by the Minister of Forestry Agency if the forest lies across more than one prefecture. In order to fell standing trees in private or municipal owned forest subject to regional forest planning, forest owners etc. must submit a written notice of harvesting and post-logging silviculture to the head of municipalities in advance. The harvesting notice shows, amongst other things: the location of the forest; area to be logged; harvesting method; harvesting age; method of reforestation after the logging; operation period; tree species. This provision is kept throughout Japan, and a notice of forest harvesting is required for any harvesting operations, whether it is commercial use or not.

According to the forest development permit system, development of a forests other than state forest of 1 ha or more involving conversion to other land uses can be permitted by prefectural governors only when the project enhances stability of people's lives or promotes the healthy development of the region, including aspects such as environmental preservation or prevention of landslides. Forestland Development Permit Request form is permitted by prefectural mayors. After harvesting operation, an administrative officer of prefectural office inspects the forest to check if the operation was in line with the approved forest management plan such as checking the forest borders, thinning percentages and whether the forest is regenerated as planned. In case of any breach, an order for improvement or administrative instruction are issued.

Sources of information

The list of sources provided in FSC-PRO-60-002a, section 3.3.3 has been reviewed for relevance in regards to the national legality risk assessment of Japan. The following sources have been used:

- a) Chatham House: <http://www.illegal-logging.info/>;
- b) EU FLEGT process:
http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm;
- c) Government reports and assessments of compliance with related laws and regulations;

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- d) Independent reports and assessments of compliance with related laws and regulations
 - e) Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
 - f) Stakeholder and expert consultation outcomes from NRA development processes;
 - g) Transparency International Corruption Perceptions Index:
http://www.transparency.org/policy_research/surveys_indices/cpi;
 - h) World Bank Worldwide Governance Indicators:
<http://data.worldbank.org/datacatalog/worldwide-governance-indicators>;
 - i) In cases where other sources of information are not available, consultations with experts within the area were conducted.

Where relevant, they have been specifically referenced under "Sources of Information" for each applicable sub-category.

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

- Civil Code (Established on April 27, 1896), Article 92, 206, 207, 263 to 269.
- Real Property Registration Act Established in 189), Article 1 and 27.
- Commercial Registration Act (Act No. 125 of 1963)
- Forestry Cooperative Act (Act No. 36 of 1978)
- Local Autonomy Act (Act No. 67 of 1947) Article 238
- Act Concerning Revision of Rights for Common-Forest Use (Act No. 126 of 1966)
- Act Concerning Utilization of National Forest Land (Act No. 246 of 1951)
- Act on Utilization of National Forests (Act No. 108 of 1971)
- Act on Special Measures concerning Shared Forest (Act No. 57 of 1958)
- Compulsory Purchase of Land Act (Act No. 219 of 1951).

1.1.2. Legal authority

- Ministry of Justice
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Internal Affairs and Communications
- Ministry of Land, Infrastructure, Transport and Tourism

1.1.3. Legally required documents or records

- Register of Preservation of Ownership

1.1.4. Sources of information

- Civil Code
<http://law.e-gov.go.jp/htmldata/M29/M29HO089.html>
- Real Property Registration Act
<http://law.e-gov.go.jp/htmldata/H16/H16HO123.html>

- Commercial Registration Act:
<http://law.e-gov.go.jp/htmldata/S38/S38HO125.html>
- Forestry Cooperative Act:
<http://law.e-gov.go.jp/htmldata/S53/S53HO036.html>
- Local Autonomy Act:
<http://law.e-gov.go.jp/htmldata/S22/S22HO067.html>
- Act Concerning Revision of Rights for Common-Forest Use:
<http://law.e-gov.go.jp/htmldata/S41/S41HO126.html>
- Act Concerning Utilization of National Forest Land:
<http://law.e-gov.go.jp/htmldata/S26/S26HO246.html>
- Act on Utilization of National Forests:
<http://law.e-gov.go.jp/htmldata/S46/S46HO108.html>
- Act on Special Measures concerning Shared Forest:
<http://law.e-gov.go.jp/htmldata/S33/S33HO057.html>
- Compulsory Purchase of Land Act :
<http://law.e-gov.go.jp/htmldata/S26/S26HO219.html>
- Outline of the first proceedings of civil suits
http://www.courts.go.jp/vcms_lf/20522003.pdf

1.1.5. Risk determination

Description of risk

Accuracy of land registration is gradually increasing with the progress of the national land survey that delineates ownership, but it has not been completed for small owners of mountains or forests. National land survey had been completed for 44% of the forested area by the end of fiscal year 2014. For the rest of 66% of the forest area, when forest management operations are carried out, the boundaries with adjacent land are confirmed and there are rarely mistakes, such as harvesting from other people's land. There are few complaints and boundary disputes, and the issues are not at the level to cause social problems, thus the risk can be considered low.

According to the "Outline of the first proceedings of civil suits" developed by Supreme Court of Japan, total number of number of cases in 2012 was 168,230 of which 425 was about land boarder. Most of these cases were related to residential area and so the number of cases related to forested areas is even smaller

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licenses

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

1.2.1. Applicable laws and regulations

N/A. There is no Forest concession licensing system in Japan

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

The indicator does not apply. There is currently no Forest concession licensing system in Japan.

Note for future review and revision of the NRA: There is information about proposal of introducing the concept of concession in Hokkaido as a way of engagement between the Ainu Peoples and the local public authorities. Details are not clear at the moment

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

- Forest Act (Established on June 26, 1951) Article 11
- Forestry Cooperative Act (Established on May 1, 1973)
- Forest and Forestry Basic Act (Act No. 161 of 1964)
- Act Concerning Utilization of National Forest Land (Act No. 246 of 1951)

1.3.2. Legal authority

- Ministry of Agriculture, Forestry and Fisheries

1.3.3. Legally required documents or records

- Forest Management Plan,
- Forest Management Outsourcing Contract,
- Harvesting Notice

1.3.4. Sources of information

Government sources

- Forest Act
<http://law.e-gov.go.jp/htmldata/S26/S26HO249.html>
- Forestry Cooperative Act
<http://law.e-gov.go.jp/htmldata/S53/S53HO036.html>
- Forest and Forestry Basic Act:
<http://law.e-gov.go.jp/htmldata/S39/S39HO161.html>
- 2016 Annual Report on Trends in Forests and Forestry
<http://www.rinya.maff.go.jp/j/kikaku/hakusyo/28hakusyo/zenbun.html>

1.3.5. Risk determination

Overview of Legal Requirements

A forest management plan is made in accordance with the application and procedure provided in the Article 11 of the Forest Act, and is implemented by forest owners, forestry cooperative or private harvesting enterprises that have contractual relationship with forest owners.

The management plan is made for five years as one period, and includes silvicultural planning as well as harvesting planning.

The economic situation of Japanese forestry is so severe that one cannot stay commercially viable without receiving subsidies. The approved forest management plan is very often a condition for receiving subsidies so that a lot of entities are developing and implementing the forest management plan.

According to the 2016 Annual Report on Trends in Forests and Forestry issued by the Forestry Agency, as of March 2016, 5.18 million ha of forests were covered by the forest management plan which is approximately a half of the area of plantation forests in Japan.

There are two types of forest management plan. One is "Personal Plan" and the other is "Territory Plan (consists of Forest compartment plan and Designated regional plan)". Former is only allowed for forest managers whose forest size is 100 ha or more. The manager can make a plan specifically for his/her own forest. Latter is based on more than a half of a (or series of adjacent) forest compartment(s) (Forest compartment plan) or more than 30 ha of area designated by municipal mayor (Designated regional plan).

More than a half of Japanese private forest owners who owns more than 1 ha of forest owns less than 3 ha of forest. As the average size of forest owned by Japanese private forest owners are so small, they cannot make the Personal plan. Therefore Forest Owner's Cooperatives develops a common forest management plan (territory plan) collectively for numbers of small forest owners.

If a harvesting plan has not been conducted, a harvesting notice must be submitted within 90-30 days prior to felling. This notice of harvest will have to include the specifications for the particular harvest, such as felling age, volume, etc.

Description of Risk

The authorities are conducting very rigorous monitoring after the thinning/harvesting operation and subsidies will not be received without the approval and control of the local government. According to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanness.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

- Forest Act (Established on June 26, 1951) - Article 11, Forest Management Plan.
- Forestland Development Permission System established as Article 10-2 of Forest Act in 1951.
- Environmental Impact Assessment Act (Established on June 13, 1997.)
- Act on Special Measures concerning Assurance of Stable Supply of Timber (Act No. 47 of 1996)
- Act on Special Measures concerning Advancement of Implementation of Forest Thinning, etc. (Act No. 32 of 2008)

1.4.2. Legal authority

- Ministry of Agriculture, Forestry and Fisheries
- Ministry of the Environment"

1.4.3. Legally required documents or records

- Harvesting notice,
- Environmental Impact Assessment Report

1.4.4. Sources of information

Government sources

- Forest Act
<http://law.e-gov.go.jp/htmldata/S26/S26HO249.html>
- Forestland Development Permission System
http://www.rinya.maff.go.jp/j/tisan/tisan/con_4.html
- Environmental Impact Assessment Act
<http://law.e-gov.go.jp/htmldata/H09/H09HO081.html>
- Prosecution statistics 2015 >Processing status and acceptance of criminal cases>Crime category

<http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001157683>

- Act on Special Measures concerning Assurance of Stable Supply of Timber:
<http://law.e-gov.go.jp/htmldata/H08/H08HO047.html>
- Act on Special Measures concerning Advancement of Implementation of Forest Thinning, etc:
<http://law.e-gov.go.jp/htmldata/H20/H20HO032.html>

1.4.5. Risk determination

Overview of Legal Requirements

Article 10-8 of the Forest Act stipulates that "In order to fell standing trees in private- or municipal- owned forest subject to regional forest planning, forest owners etc. must submit to the head of municipalities in advance a written notice of logging and post-logging silviculture which shows the location of the forest, area to be logged, harvesting method, harvesting age, method of reforestation after the logging, operation period, tree species and other matters prescribed by Ordinance of the Ministry of Agriculture, Forestry and Fisheries, based on the procedure specified by the Ministry. This provision applies throughout Japan, and notice of forest harvesting is required for any harvesting operations, whether it is commercial use or not.

When a forest manager has an approved management plan, the notice of harvest must be submitted within 30 days of the date of final harvesting operation mentioned in the management plan. As the management plan has already been approved this allows for the notice of harvest to be submitted after the harvest. Monitoring will take place after harvesting. If no management plan exist a harvesting notice has to be submitted 90-30 days prior to harvesting. This allows for the local authority to approve harvesting prior to harvesting. Monitoring of whether the logging has been conducted in accordance to the harvesting notice will be conducted after harvesting.

Description of Risk

According to prosecution statistics, in 2015 there has only been about 33 reported cases of violation of Forest Act. Since there are about 20,000 reported harvestings, the violation only occurs less than in 0.2% of the case. These violations include cases like steeling logs and setting fire, so cases of lack of harvesting notification, or insufficient harvesting notice, or not following the harvesting notice/management plan is considered to be happening even less frequently.

According to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanness.

The control of the Japanese authorities is considered well implemented. Hence, this indicator is considered low risk.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.4.6. Risk designation and specification

Low risk

1.4.7. Control measures and verifiers

N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

- Act Concerning Utilization of National Forest Land, (Established on June 23, 1951), Article 1-3.

1.5.2. Legal authority

- Act Concerning Utilization of National Forest Land is managed by Ministry of Agriculture, Forestry and Fisheries

1.5.3. Legally required documents or records

- Sales contract,
- Financial statements.
- Eligible criteria of bidders in case bidding is limited to specific bidders.

1.5.4. Sources of information

Government sources

- Act Concerning Utilization of National Forest Land
<http://law.e-gov.go.jp/htmldata/S26/S26HO246.html>

1.5.5. Risk determination

Overview of Legal Requirements

The right to harvest standing trees on public lands are allocated through public bidding. Before the bidding, a yield survey is conducted by the state officer or by an organization designated by the Minister of Agriculture, Forestry and Fisheries. Harvesting method can be decided by the outsourcer (land owner) based on operation regulations in the Forest Act or prefectural regulations.

The bidding process takes place with all interested parties attending a physical meeting and bids are delivered into boxes. The bids are disclosed at the meeting, securing transparency within the attendances of the meeting. These processes are strictly monitored by the authorities and reviews are made of single documents. The bids are based on species, age, quality, elevation and amount of volume

Description of Risk

The monitoring in the forest sector has been strengthened due to a collusive bidding taking place in 2007 related to forest road construction with the involvement of government

agencies. This was followed by closing down the implicated agency (Green Resources Agency) and stricter monitoring.

According to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanness. From these scores, it is shown that the legislation system of Japan is well functioning and hence the risk for this indicator is considered low

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.5.6. Risk designation and specification

Low risk

1.5.7. Control measures and verifiers

N/A

1.6. Value added taxes and other sales taxes

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

1.6.1. Applicable laws and regulations

- Consumption Tax Act (Established on December 30, 1988), Article 1, 5 and 28.

1.6.2. Legal authority

- Ministry of Finance - National Tax Agency

1.6.3. Legally required documents or records

- Sales contract,
- Estimate (Quote)
- Delivery note
- Invoice

1.6.4. Sources of information

Government sources

- Consumption Tax Act 1988. Available at: <http://law.e-gov.go.jp/htmlldata/S63/S63HO108.html>

1.6.5. Risk determination

Overview of Legal Requirements

There is a tax imposed on consumption. In Japan, it is the general term for "consumption tax prescribed in the Consumption Tax Law" and "local consumption tax prescribed in the Local Tax Law" combined. The consumption tax is imposed on virtually all tangible (which has physical entity) and intangible (which has no physical entity such as fee) goods and services. While legally manufacturers and merchants are specified as the direct tax payer, but in fact the cost is passed on to the final consumer. As such, the consumption tax is imposed and tax shall be paid for sales of wood product as well as commission of forestry work, etc

Description of Risk

In Japan, it is almost impossible to evade the consumption tax on commerce as it is collected automatically as system a digital system, thus stating the risk to be low.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.6.6. Risk designation and specification

Low risk

1.6.7. 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

- Income Tax Act (Established on March 31, 1965), Article 238
- Corporation Tax Act (Established on March 31, 1968), Article 159

1.7.2. Legal authority

- Ministry of Finance - National Tax Agency

1.7.3. Legally required documents or records

- Tax return form

1.7.4. Sources of information

Government sources

- Income Tax Act
<http://law.e-gov.go.jp/htmldata/S40/S40HO033.html>

- Corporation Tax Act
<http://law.e-gov.go.jp/htmldata/S40/S40HO034.html>

1.7.5. Risk determination

Overview of Legal Requirements

The Article 5 of the Income Tax Act states that "a resident (including resident foreigners) shall be liable to pay income tax pursuant to this Act." The Article 22 states "The tax base for the income tax imposed on a resident shall be the amount of gross income, retirement income and timber income." As such, the tax is imposed on all the income coming from the forestry operations. In addition, according to Article 4, 21 and 22 of the Corporate Tax Act, "If the resident is a corporation, the tax is imposed on operating income of each business year in accordance with the rules." Similar to the Consumption Tax, it is difficult to evade the corporate tax, and such behavior is punished as anti-societal behavior by law.

Description of Risk

As Japanese forestry was developing in the 1980s, fraud was commonly found at the log market leading to more rigorous monitoring by regional taxation bureau. Hence forestry became one of the industries difficult to make fraud. Considering this fact, as well as the comments from stakeholders, this indicator is considered low risk.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

- Forest Act (Established on June 26, 1951.) - Article 11, Forest Management Plan.
- Forestland Development Permission System established as Article 10-2 of Forest Act in 1951.
- Forest Road provision (Established on April 1, 1975), Paragraph 1, 2 and 3.
- Ordinance for Enforcement of Forest Act (Government Ordinance No. 276 of 1946)
- Forest Act Enforcement Rule (Ordinance of Ministry of Agriculture, Forestry and Fisheries No. 54 of 1946)
- Natural Parks Act (Act No. 161 of 1957)
- Act on Special Measures concerning Assurance of Stable Supply of Timber (Act No. 47 of 1996)
- Act on Special Measures concerning Advancement of Implementation of Forest Thinning, etc. (Act No. 32 of 2008)

1.8.2. Legal authority

- Ministry of Agriculture, Forestry and Fisheries

1.8.3. Legally required documents or records

- Forest Management Plan,
- Forest Management Outsourcing Contract,
- Harvesting Notice

1.8.4. Sources of Information

Government sources

- Forest Act
<http://law.e-gov.go.jp/htldata/S26/S26HO249.html>
- Forestland Development Permission System
http://www.rinya.maff.go.jp/j/tisan/tisan/con_4.html

- Forest Road provision
<http://www.rinya.maff.go.jp/j/seibi/sagyoudo/pdf/kitei.pdf#search>
- Ordinance for Enforcement of Forest Act:
<http://law.e-gov.go.jp/htmldata/S26/S26SE276.html>
- Forest Act Enforcement Rule : <http://law.e-gov.go.jp/htmldata/S26/S26F00601000054.html>
- Natural Parks Act :
<http://law.e-gov.go.jp/htmldata/S32/S32HO161.html>
- Act on Special Measures concerning Assurance of Stable Supply of Timber :
<http://law.e-gov.go.jp/htmldata/H08/H08HO047.html>
- Act on Special Measures concerning Advancement of Implementation of Forest Thinning, etc:
<http://law.e-gov.go.jp/htmldata/H20/H20HO032.html>

1.8.5. Risk determination

Overview of Legal Requirements

It is mandatory for forest owners etc. to submit a notification of harvesting and post-harvest replanting before conducting harvesting of standing trees in forests. This is regulated in Article 10 of Forest Law. A harvesting plan or harvesting notice will only be approved when in compliance with the legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site etc. Any harvesting that harms the environment or may induce disaster is prohibited. Felling age is also regulated by the regional forest plans and the municipal forest management plans. The Act mandates reforestation after clear-cutting and the forest road provisions provides for design standards.

There is no law that directly regulates the transportation method or seasonal harvest restriction. The local authority conducts both regular and irregular control of the harvesting sites. If the legal requirements regarding harvesting techniques and technology is not being followed in spite of an approved management plan or harvesting notice operation is instructed to be stopped

Description of Risk

Approximately a half of Japanese forests are designated as "Conservation Forest" under Article 25 of the Forest Act. The conservation forests are designated in order to achieve the public benefit by restricting the forestry activities. There are 17 types of conservation forests depending on the main purpose. When the forest is designated as conservation forests, the owner is provided with many tax breaks as well as opportunities for receiving subsidies regarding silviculture. In order to harvest trees in these conservation forests, the manager has to submit notification to (for thinning etc.) or gain approval (for clear fell etc) from the prefectural governor. The Forest Act article 38 specifies supervisory orders in case of any breach.

2015 there has only been about 33 reported cases of violation of Forest Act. Since there are about 20,000 reported harvestings, the violation only occurs less than in 0.2% of the case. From the prosecution statistics it is not stipulated to what percentage is directly related to regulations on timber harvesting is not being followed. However, this percentage will be much less than 0.2% of all harvesting being conducted. All harvesting sites are visited by forest authorities after harvest.

Since the Japanese forest lies in the mountains, any harvested area is easily observed from a distance so that anyone can notice any harvesting operations. This means supervising authorities such as Prefecture, City, Town and Village officers can also easily observe any changes to the surrounding environment. This makes the monitoring more effective. Furthermore, according to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanness. The monitoring of thinned/harvested sites by the supervising authorities are well implemented. Hence this indicator is considered low risk.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A

1.9. Protected sites and species

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

1.9.1. Applicable laws and regulations

- Natural Parks Act (Established on June 1, 1957), Article 20 and 21.
- Nature Conservation Act (Established on June 22, 1972), Article 12 and 14.
- Forestry Agency Forest Reserve System
- Act on Protection of Cultural Properties (Established on May 30, 1950), Article 109.
- Wildlife Protection and Proper Hunting Act (Established on July 12, 2002.), Article 29.
- Act on Conservation of Endangered Species of Wild Fauna and Flora (Established on June 5, 1992), Article 1 and 10.
- Landscapes Act (Established on June 18, 2004. Last amended on June 27, 2014), Article 28 to 35.

- Convention Concerning the Protection of the World Cultural and Natural Heritage
- Ramsar Convention
- Landscapes Act (Act 110 of 2004) Article 28-35
- Convention for the Protection of Migratory Birds (Japan-US, Japan-Russian Federation, Japan-Australia, Japan-China)

1.9.2. Legal authority

- Ministry of the Environment
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Land, Infrastructure, Transport and Tourism
- Ministry of Foreign Affairs of Japan

1.9.3. Legally required documents or records

N/A

1.9.4. Sources of Information

- Conrad Totman. 1998. The Green Archipelago: Forestry in Pre-industrial Japan. Ohio University Press.
<http://www.ohioswallow.com/book/The+Green+Archipelago>
- Forestry Agency. Forest and Forestry White Paper 2015.
<http://www.rinya.maff.go.jp/j/kikaku/hakusyo/27hakusyo/index.html>
- Natural Parks Act
<http://law.e-gov.go.jp/htmldata/S32/S32HO161.html>
- Nature Conservation Act
<http://law.e-gov.go.jp/htmldata/S47/S47HO085.html>
- Forestry Agency Forest Reserve System
http://www.rinya.maff.go.jp/j/kokuyu_rinya/sizen_kankyo/hogorin.html
- Act on Protection of Cultural Properties
<http://law.e-gov.go.jp/htmldata/S25/S25HO214.html>
- Protection and Control of Wild Birds and Mammals and Hunting Management Law
<http://law.e-gov.go.jp/htmldata/H14/H14HO088.html>
- Act on Conservation of Endangered Species and Wild Fauna and Flora
<http://law.e-gov.go.jp/htmldata/H04/H04HO075.html>
- Landscapes Act
<http://law.e-gov.go.jp/htmldata/H16/H16HO110.html>

- Ministry of the Environment: A website introducing the Red Data Book
http://www.biodic.go.jp/rdb/rdb_f.html
- Controlled Wood National Risk Assessment of Japan.
 (FSC-CW-RA-017-JP):
<https://ic.fsc.org/en/document-center/id/132>
- Ministry of the Environment: Annual Report on the Environment, the Sound Material-Cycle Society and the Biodiversity in Japan
<http://www.env.go.jp/en/wpaper/2013/index.html>
- Present vegetation map created by the Ministry of the Environment
 (http://www.biodic.go.jp/vg_map/vg_html/jp/html/vg_map_frm.html)
- Maps of protected areas under Natural Park Law and other laws.
- (GIS data provided by the National Land Information Division, National Spatial Planning and Regional Policy Bureau, Ministry of Land, Infrastructure, Transport and Tourism of Japan):
<http://nlftp.mlit.go.jp/ksj/gmlold/meta/ksjshpgml-A10.html>
- The Nature Conservation Society of Japan. 2013. "Protected Area Atlas of Japan".
https://store.shopping.yahoo.co.jp/shizenmon/mxjy1civrkn.html?sc_i=shp_pc_search_itemlist_shsr_title
- Landscapes Act:
<http://law.e-gov.go.jp/htmldata/H16/H16HO110.html>
- Ministry of the Environment : A webpage on Convention for the Protection of Migratory Birds: <https://www.env.go.jp/nature/kisho/global/migratory.html>About Ramsar Sites (Ministry of the Environment):
<https://www.env.go.jp/nature/ramsar/conv/2-1.html>
- World Natural Heritage in Japan (Ministry of the Environment):
<http://www.env.go.jp/nature/isan/worldheritage/info/index.html>
- Transparency International: Corruption Perceptions Index:
<https://www.transparency.org/research/cpi/overview>

1.9.5. Risk determination

Overview of Legal Requirements

Historically there has been a great pressure on the forest resources of Japan, but initiatives to prevent forest deterioration were established during the Edo era (1603 to 1868) - the "Tomeyama" system, which prohibited local people from using the forest resources in the designated forest area. As a result, many remote forests had been conserved. In Meiji Era (from 1868), these remote forests were managed by the national government as state forests. As safeguards, Forest Reserve System (1915), National Park Act (1931) and Act on Preservation of Historical Landmark, Scenic Spot and Natural Memorial (1919) were established to implement protection policy of precious nature. On

the other hand, during the World War II, both private and public forests were heavily exploited to meet the timber demand of the state. After the World War II, Japanese Government rolled out the "Productivity Enhancement Plan", and "Timber Production Increase Plan" for the state forests and established conifer plantation in the disturbed cutover areas to restore disturbed land and to meet the increasing timber demands. During the high economic growth period of Japan (1960 to 1970s), large scale harvesting of natural forests took place to meet the demand of wood and growing needs for development. Even in state forests, harvesting 2 to 3 times of the growth and conversion into plantation in remote areas with poor productivity and forestry efficiency took place. Considering such history, it cannot be said that valuable nature has been effectively protected in the modern Japanese history.

However, after these period, as import of timber was liberalized, cheap import wood started to flow into Japan rapidly with great volume, decreasing the domestic wood share in the market. In 1950s, the self-sufficiency rate of wood in Japan was 90% whereas in 2002, it dropped to 18.8%. Subsequently, plantation with low profitability were left unmanaged. At the same time, environmental awareness started to rise due to serious environmental problems and severe natural disaster which made forest's ecosystem service a hot topic. People also shifted their energy use away from fuel woods, significantly reducing the pressure on forest resources. As a result, forest management in Japan started focus on the ecosystem services.

Sharp decline of fuel woods uses dramatically changed lives of people in forested areas. Population in rural areas decreased significantly and so as the number of people involved in forestry. Insufficient number of workers in forestry industry has made it hard to maintain plantation up to now. On the other hand, as the re-orientation of policy towards ecosystem services has led to smaller harvesting area size, expansion of protected areas expanded, designation of areas under protective regulation proceeded to strengthen the overall aspect of forest conservation.

Many of forests with high level of naturalness are protected by Natural Park Law, Natural Conservation Law, Wildlife Protection and Hunting Law, Protected forest System of the National Forest, Law for the Protection of Cultural Properties. Altogether, 72,057.40km² of land (19.33% of the national land) are protected by these laws. Other administrative safeguards include Act on Conservation of Endangered Species of Wild Fauna and Flora, The Forest Act, and Landscapes Act as well as local laws designating prefectural natural conservation zones, which altogether provides protection and conservation measures for the value of the forests including its cultural property, biodiversity, disaster prevention, and landscape. For large scale development, environmental impact assessment is required according to Environmental Impact Assessment Act to restrict or control the development.

Description of Risk

In these areas, forest activities are controlled according to their designation classes (e.g. Special Protection Zones of National Parks). In order to monitor, state government officers with police authority and local officers of Ministry of the Environment called "rangers" have the role to patrol frequently in his/her responsible area to check presence of any illegal activities. While there are criticisms that there are not enough rangers, their monitoring activities contribute to detection of trespassing and waste dumping etc.

Areas with restrictions are delineated on various maps so that anyone who is considering to conduct forestry activities can easily see the boundaries of the protected areas and there has been no major reporting on illegal harvesting taking place within the protected areas. In recent years, harvesting costs have been quite high compared with the revenue gained from selling timber. Many forest owners have given up managing their forests. Therefore, the incentive for felling trees illegally in restricted areas is considered low.

Regarding the Ramsar Sites, Japan has set an original criterion for designation which is to make sure the site is protected under regulations of national laws (Natural Parks Act, Protection and Control of Wild Birds and Mammals and Hunting Management Law, etc.) for many years to come. As a result, most of Japanese Ramsar sites are covered by Special Protection Areas of wildlife sanctuary or Special protection zones/Special zones under Natural Parks Act so that these sites are protected.

Regarding the UNESCO World Natural Heritage, in the designated areas, it is required for public authorities in charge of nature protection to cooperate with local organizations and experts to manage the areas appropriately with scientific approach. Therefore, establishment and management of Local Liaison Committee and Scientific Committee to develop management plans is needed. There is no specific law for conserving heritage sites, however, the state government is making sure that these sites are covered by systems that they can directly manage such as National Parks, Nature Conservation Areas, Forest Ecosystem Protection Areas and Natural Monuments based on Act on Protection of Cultural Properties. Currently there are four Natural Heritage sites in Japan and they are all covered by either National Parks or Natural Habitat Protection Area or both: Ogasawara Islands covered by Ogasawara National Park and Minami Ioto Nature Conservation Areas; Shirakami-Sanchi covered by Shirakami-Sanchi Nature Conservation Area; Shiretoko covered by Shiretoko National Park and Onnebetsudake Nature Conservation Area, Yakushima covered by Yakushima National Park and Yakushima Nature Conservation Area.

According to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanness. From these scores, it is shown that the legislation system of Japan is well functioning

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.9.6. Risk designation and specification

Low risk

1.9.7. Control measures and verifiers

N/A

1.10. Environmental requirements

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

1.10.1. Applicable laws and regulations

- Environmental Impact Assessment Act (Established on June 13, 1997), Article 1.
- Forest Act (Established on June 26, 1951), Article 10-2 and 25.
- Forest Act enforcement ordinance annex 3 about EIA of forest road (Established on March 31, 2008)
- Basic Act on Biodiversity (Act No. 58 of 2008)
- Invasive Alien Species Act (Act No. 78 of 2004)
- Agricultural Chemicals Control Act (Act No. 82 of 1948)
- River Act (Act No. 167 of 1964)
- Act on Special Measures concerning Improvement of Public Health Function of Forests (Act No. 71 of 1989)
- Forest Pest Control Act (Act No. 53 of 1950)
- Act on the Conservation and Sustainable Use of Biological Diversity through Regulations on the Use of Living Modified Organisms (Act No. 97 of 2003)
- Forestry Seeds and Seedlings Act (Act No. 89 of 1970)
- Basic Environment Act (Act No. 91 of 1993)
- Forest Road Rules (Notification of Forestry Agency No. 107, April 1, 1973)
- Convention on Biological Diversity (including Cartagena Protocol and Nagoya Protocol)
- Stockholm Convention on Persistent Organic Pollutant

1.10.2. Legal authority

- Ministry of the Environment
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Land, Infrastructure, Transport and Tourism

1.10.3. Legally required documents or records

- Environmental Impact Assessment Report,
- Forest Management Plan,
- Harvesting Notice

1.10.4. Sources of information

- Environmental Impact Assessment Act
<http://www.env.go.jp/policy/assess/>
- Forest Act
<http://law.e-gov.go.jp/htmldata/S26/S26HO249.html>
- Forest Act enforcement ordinance annex 3 about EIA of forest road
<http://law.e-gov.go.jp/htmldata/H20/H20F17001000024.html>
- Basic Act on Biodiversity: <http://law.e-gov.go.jp/htmldata/H20/H20HO058.html>
- Invasive Alien Species Act: <http://law.e-gov.go.jp/htmldata/H16/H16HO078.html>
- Agricultural Chemicals Control Act: <http://law.e-gov.go.jp/htmldata/S23/S23HO082.html>
- River Act: <http://law.e-gov.go.jp/htmldata/S39/S39HO167.html>
- Act on Special Measures concerning Improvement of Public Health Function of Forests:
http://law.e-gov.go.jp/cgi-bin/idxselect.cgi?IDX_OPT=3&H_NAME=&H_NAME_YOMI=%82%A0&H_RYAKU=1&H_CTG=1&H_YOMI_GUN=1&H_CTG_GUN=1&H_NO_GENGO=H&H_NO_YEAR=01&H_NO_TYPE=2&H_FILE_NAME=H01HO071
- Forest Pest Control Act: <http://law.e-gov.go.jp/htmldata/S25/S25HO053.html>
- Act on the Conservation and Sustainable Use of Biological Diversity through Regulations on the Use of Living Modified Organisms: <http://law.e-gov.go.jp/htmldata/H15/H15HO097.html>
- Forestry Seeds and Seedlings Act: <http://law.e-gov.go.jp/htmldata/S45/S45HO089.html>
- Basic Environment Act: <http://law.e-gov.go.jp/htmldata/H05/H05HO091.html>
- Forest Road Rules (Notification of Forestry Agency No. 107, April 1, 1973):
<http://www.rinya.maff.go.jp/j/seibi/sagyoudo/pdf/kitei.pdf#search=%27%E6%9E%97%E9%81%93%E8%A6%8F%E7%A8%8B%27>

1.10.5. Risk determination

Overview of Legal Requirements

The superior law on environmental protection is the Environmental Impact Assessment Act, but it is only applicable to relatively large projects. The act is not applied in many cases of forest harvesting (less than 5 ha on average in Japan) or logging road construction, which can affect the environment. With regards to environmental impact from forestry operation, the Forest Act provides for a harvesting regulations that “harvesting area shall be in the area where there is no risk of inducing disaster to the downstream with consideration of slope degree, soil characteristics and the water drainage etc., so there will not be an impact on surrounding houses and roads. Clear-cutting shall

not be conducted in the area of steep slope or unstable soil to prevent soil erosion. After harvesting, efforts shall be made to restore the forest by planned reforestation etc.”

Description of Risk

There is no law providing for the establishment of buffer zones and restriction of the machinery use.

With regards to environmental impact in forestry, these days commercial thinning is prioritized to minimize the cost of forest management and there is very little clear-cutting. The concentration of road in mountainous area with the slope exceeding 35 degrees is low; 15m/ha on average. There has not been any report of severe environmental impact from harvesting or road construction.

Localized heavy rain due to recent climate change has been causing landslides, such as deep-seated landslide in greater severity, threatening the lives and property of residents. This is not a problem caused by forestry, but is brought by unprecedented rainfall due to the climate change. Japan has experienced environmental pollutions in the past and is hit by various natural disasters such as volcanic action, earthquake, Tsunami and typhoon frequently. Therefore, the people’s environmental awareness is high and it is reflected in the legal framework to protect the environment as a measure to prevent natural disasters.

Environmental requirements are also included in the forest management plan or harvesting permit, which are required for every forest manager. The environmental requirements are well monitored and there have been no major issues reported on environmental infringements, thus the risk is considered to be low.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

N/A

1.11. Health and safety

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

1.11.1. Applicable laws and regulations

- Industrial Safety and Health Act (established on June 8. 1972), Article 1, 10, 14, 24 and 59.

- Labor Standards Act (Established on April 7, 1947), Article 11, 75.
- Workers' Accident Compensation Insurance Act (Established on April 7, 1947), Article 1.
- Ordinance on Industrial Safety and Health (Ordinance of the Ministry of Labour No. 32 of 1972)
- Agricultural Chemicals Control Act (Established on July 1, 1948), Article 1, 11 and 12.
- Ministerial Ordinance to Provide for Standards to be Complied by Agricultural Chemical Users (Established on March 7, 2003), Article 1 and 2.
- Ordinance for Enforcement of Agricultural Chemicals Control Act (Ordinance of the Ministry of Agriculture and Forestry No. 21 of 1951)
- Act on Prevention of Radiation Hazards due to Radioisotopes, etc. (Act No. 167 of June 10, 1957)
- Regulation on Prevention of Ionizing Radiation Hazards (Ministry of Labour Order No. 41 of September 30, 1972)
- Ordinance on Prevention of Ionizing Radiation in relating to works etc. to decontaminate the soil etc. contaminated by radioactive materials generated by the Great East Japan Earthquake (Ministry of Health, Labour and Welfare Ordinance No. 152 of 2011)
- ILO Convention No. 115 (Radiation Protection Convention)

1.11.2. Legal authority

- Ministry of Health, Labour and Welfare
- Ministry of Agriculture, Forestry and Fisheries

1.11.3. Legally required documents or records

- Workers' Accident Compensation Insurance subscription form,
- Claims form for medical compensation benefit,
- Claims form for medical compensation expense,
- Claims form for compensation benefits for absence from work

1.11.4. Sources of information

Government sources

- The International Labour Organization. Health and Safety in Forestry Work.
http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/normativeinstrument/wcms_107793.pdf
- Information System on International Labour Standards. Ratification by Country.
<http://www.ilo.org/dyn/normlex/en/f?p=1000:11001:::NO:::>
- Industrial Safety and Health Act

<http://law.e-gov.go.jp/htmldata/S47/S47HO057.html>

- Labor Standards Act

<http://law.e-gov.go.jp/htmldata/S22/S22HO049.html>

- Workers' Accident Compensation Insurance Act

<http://law.e-gov.go.jp/htmldata/S22/S22HO050.html>

- Agricultural Chemicals Control Act

<http://law.e-gov.go.jp/htmldata/S23/S23HO082.html>

- Ministerial Ordinance to Provide for Standards to be Complied by Agricultural Chemical Users

- <http://law.e-gov.go.jp/htmldata/H15/H15F17002003005.html>

- Ordinance on Industrial Safety and Health

<http://www.jaish.gr.jp/anzen/hor/hombun/hor1-2/hor1-2-220-1-0.htm>

- Japan International Center of Occupational Health and Safety.

<http://www.jniosh.go.jp/icpro/jicosh-old/japanese/country/japan/index.html>

- Website of Ministry of Agriculture, Forestry and Fisheries
(http://www.maff.go.jp/j/nouyaku/n_sizai/houritu_ghan.html).

- This site provides all cases of violation of Agricultural Chemicals Control Act.

- Ordinance for Enforcement of Agricultural Chemicals Control Act: <http://law.e-gov.go.jp/htmldata/S26/S26F00601000021.html>

- Ordinance on Prevention of Ionizing Radiation in relating to works etc. to decontaminate the soil etc. contaminated by radioactive materials generated by the Great East Japan Earthquake (known as: Ordinance on Ionizing Radiation Decontamination) <http://law.e-gov.go.jp/htmldata/H23/H23F19001000152.html>

- Fukushima Prefecture Forest Maintenance Division. Guideline on discharge of logged trees from private forests in Fukushima Prefecture, December 17, 2014.

- Fukushima Prefecture Timber Cooperative Association. "Lumber from Fukushima Prefecture Undergo Voluntary Inspection on Radiation Dose." Letter to the Press.

1.11.5. Risk determination

Overview of Legal Requirements

Out of 10 ILO conventions related to the ILO's "Safety and health in forestry work" (ILO No. 81, 119, 127, 129, 135, 138, 148, 155, 161,170), the Japanese government has ratified three conventions.

Regarding the laws and regulations concerning the safety standards in forestry work, Industrial Safety and Health Act prescribes the nature of management system and training method to prevent industrial accidents, while the Labor Standards Act provides for obligation for victims of industrial accident to rest. Workers' Accident Compensation Insurance Act requires providing insurance benefits to victims of industrial accidents. Organizations that operates forestry business are required to comply with the above three

laws. Unless they implement measures from prevention of industrial accidents to assistance for victims to return to work, organizations will receive penalties including increased amount of worker's accident insurance and disapproval of forestry business from the authority. In addition, the Forestry Agency implements "Green Employment" system to train new employees and implements safety training of 8-10 months a year in the first three years from the recruitment. The agency also aims to prevent accidents by establishing "Revised Ordinance on Industrial Safety and Health relating to wood transport machinery, etc." to adapt to aging of forestry workers and increasing performance of forestry machinery and to reduce the number of industrial accidents.

Description of Risk

In addition, special trainings on safety and high-performance machinery from the prefectural government have been increasing in the field of forestry. In December 2013, a special training for operating Vehicle-based forestry machineries (such as forwarder, processor, harvester, swing-yarder and tower-yarder) became mandatory under the revised Ordinance on Industrial Safety and Health. Efforts have been made in the form of self-risk assessment (using safety checklist), risk prediction meeting, getting qualification for operating machinery based on regulations, safety equipment provision, and investigation of the cause and implementing prevention measures in case of accident. Despite such regulations and efforts, the number of accidents in forestry has shifted from decreasing to flat or slightly increasing trend. It is characterized by increase of accidents related to elderly workers, high-performance machines, harvesting or summer heat stroke and bees. The administration and organizations are focusing on such accidents to strengthen the accident prevention system. Between 2008 and 2012, the fatality in forestry was 37-59 with annual average of 44, which accounts for 2.5-3.0% of the whole industry.

"Agricultural Chemicals Control Act", "Ministerial Ordinance to Provide for Standards to be Complied by Agricultural Chemical Users" and "Ordinance on Industrial Safety and Health" provides for the safe handling of chemicals used in forestry, such as herbicides and rodenticides. In Japan, the use of chemical is limited in the field of forestry to begin with. Examples of chemical use include pesticide for withered red pine and use of rodenticides in larch plantations in Hokkaido. Repellents for deer and hares are in limited use. As use of pesticide against Red Pine withering and use of rodenticide in Hokkaido are both limited to specific areas at present, use of chemicals in the forestry section is minimal. There were four cases of violations of Agricultural Chemicals Control Act in 2008, of which none was in the forestry sector.

The Labor Standard Inspection Office under the Ministry of Health, Labour and Welfare visits companies. Even though the Labor Standard Inspection Office is not specifically specialized in forestry operations, the announced and unannounced inspections are in place to ensure safety of work places in forestry industries too. Based on the results of the inspection, the Labor Standard Inspection Office can issue Corrective Action Request with deadlines for identified breaches.

The control by the authorities are considered efficiently implemented. The government support through the Green Employment programme as referred to above and the forest sector experiences a low level of accidents.

Until recently, Japanese forestry never needed to care about measures against nuclear radiation. However, due to the radiation leakage from Fukushima Daiichi Nuclear Power Plant's incident caused by

Great East Japan Earthquake on March 11, 2011, areas around the power plant were affected by radiation. In order for to evacuated people to return their home as soon as possible, prompt reduction of impact of radiation in these affected area became an important task and so decontamination has been promoted by the government. Ordinance on Ionizing Radiation Decontamination, developed to promoted decontamination, was revised in July 2012 to add target activities to include specific non-decontaminating operations (including forest management such as harvesting evergreen trees) carried out in an environment with average spatial radiation dose rate of $2.5\mu\text{Sv/h}$ or more in "Special area for decontamination" and "Important area for monitoring radiation". Hence forestry workers working in these areas in such environment are now obliged to have safety management and training against radiation exposure. In response to the revision of the ordinance, Forestry Agency developed "Points to consider as measures to prevent radiation exposure during operations in forests (Q&A)". Additionally, the Forestry Agency provides entities operating in these affected areas with training and radiation dosimetry devices.

In Fukushima Prefecture, the core area for this issue, "Policy on extraction of harvested wood from private forests in Fukushima" has been developed to call for avoiding any activities in areas with air dose rate over $2.5\mu\text{Sv/h}$. It also calls for limiting harvesting activities to areas with $0.5\mu\text{Sv/h}$ at maximum. In areas exceeding $0.5\mu\text{Sv/h}$, radiation level of barks must be measured on sampling basis and harvesting and extraction is only permitted when the radiation level is $6,400\text{Bq/Kg}$ or lower.

Forestry in these areas is still in its recovery phase. Ministry of the Environment in cooperation with Forestry Agency are carrying out various monitoring and demonstration experiment in order to recover forest and forestry there.

As the area has global attention and high national interest in terms of radiation issues, government (including Health, Labour and Welfare Ministry, Ministry of the Environment, Forestry Agency) is committed to monitor and supervise the area. The forestry is still in its recovery phase. Hence the risk of wood harvesting in these areas violating the Ordinance on Ionizing Radiation Decontamination is considered low.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

N/A

1.12. Legal employment

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

1.12.1. Applicable laws and regulations

- Industrial Safety and Health Act (established on June 8, 1972. Last amended on June 24, 2011)
- Labor Standards Act (Established on April 7, 1947)
- Labor Union Act (Established on June 1, 1949)
- Labor Contract Act (Act No. 128 of 2007)
- Minimum Wage Act (Act No. 137 of April 15, 1959)
- Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (Act No. 113 of 1972)
- Basic Act for Persons with Disabilities (Act No. 84 of May 21, 1970)
- Act on Employment Promotion etc. of Persons with Disabilities (Act No. 123 of 1960)
- Health Insurance Act (Act No. 70 of 1922)
- Industrial Accident Compensation Insurance Act (Act No. 50 of 1947)
- Act on the Collection, etc. of Insurance Premiums of Labor Insurance (Act No. 84 of 1969)
- Employees' Pension Insurance Act (Act No. 115 of 1954)
- Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors (Act No. 120 of 1956)
- Act on Promoting the Resolution of Individual Labor-Related Disputes (Act No. 112 of July 11, 2001)
- Act on Special Measures for Improvement of Working Hours Arrangements (Act No. 90 of July 2, 1992)
- Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act No. 76 of May 15, 1991)
- Act on the Succession to Labor Contracts upon Company Split (Act No. 103 of May 31, 2000)
- Act on Ensuring Wage Payment (Act No. 34 of May 27, 1976)

- Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (Act No. 88 of July 5, 1985)
- Act on Improvement, etc. of Employment Management for Part-Time Workers (Act No. 76 of June 18, 1993)
- The Act on Promotion of Women's Participation and Advancement in the Workplace (Act No. 64 of 2015)

1.12.2. Legal authority

- Ministry of Health, Labour and Welfare

1.12.3. Legally required documents or records

- Employment contract

1.12.4. Sources of information

- Industrial Safety and Health Act
<http://law.e-gov.go.jp/htmldata/S47/S47HO057.html>
- Labor Standards Act
<http://law.e-gov.go.jp/htmldata/S22/S22HO049.html>
- Labor Union Act
<http://law.e-gov.go.jp/htmldata/S24/S24HO174.html>
- Labor Contract Act: <http://law.e-gov.go.jp/htmldata/H19/H19HO128.html>
- Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment: <http://law.e-gov.go.jp/htmldata/S47/S47HO113.html>
- Act on Employment Promotion etc. of Persons with Disabilities: <http://law.e-gov.go.jp/htmldata/S35/S35HO123.html>
- Health Insurance Act: <http://law.e-gov.go.jp/htmldata/T11/T11HO070.html>
- Industrial Accident Compensation Insurance Act : <http://law.e-gov.go.jp/htmldata/S22/S22HO050.html>
- Employment Insurance Act: <http://law.e-gov.go.jp/htmldata/S49/S49HO116.html>
- Act on the Collection, etc. of Insurance Premiums of Labor Insurance: <http://law.e-gov.go.jp/htmldata/S44/S44HO084.html>
- Employees' Pension Insurance Act: <http://law.e-gov.go.jp/htmldata/S29/S29HO115.html>
- Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors: <http://law.e-gov.go.jp/htmldata/S31/S31HO120.html>
- Labor Union Basic Survey 2015:
<http://www.mhlw.go.jp/toukei/itiran/roudou/roushi/kiso/15/>

1.12.5. Risk determination

Overview of Legal Requirements

Article 59 of the Industrial Safety and Health Act provides for safety training as “the employer shall, when a new worker is employed, give the said worker education for safety and/or health concerning work operations in which the worker is to be engaged, as provided for by the Ordinance of the Ministry of Health, Labor and Welfare.” The Labor Standards Act stipulates establishing the minimum standard of working conditions and providing treatment exceeding the standard. Article 3 (equal treatment without discrimination), Article 4 (principle of equal wages for men and women), Article 5 (prohibition of forced labor), Article 14 (contract period), Article 56 (minimum age), Article 75 (medical compensation), Article 76 (compensation for absence from work) corresponds to this. In addition, the Labor Union aims to improve the status of workers by promoting that the workers stand in equal footing in negotiations with the employers, and recognize the right of workers to voluntarily organize labor unions, to associate, and to collectively negotiate.

Description of Risk

Although it is not directly affecting the risk of legality, it is worth noting that percentage of employees belonging to a labor union varies largely among different industries. According to the Labor Union Basic Survey 2015 of Health, Labour and Welfare Ministry, agriculture, forestry and fisheries industry showed the lowest percentage of 2.0%.

The Labor Standards Act require all the worker’s, and forestry organizations be adhering to these laws and is found to be well implemented.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.12.6. Risk designation and specification

Low risk

1.12.7. Control measures and verifiers

N/A

THIRD PARTIES' RIGHTS

1.13 Customary rights

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

1.13.1. Applicable laws and regulations

- Act on Advancement of Modernization of Rights in Relation to Forests Subject to Rights of Common (Established on July 9, 1966. Last amended on May 2, 2011), Article 1-4, 19.
- Article 1-4 states that the Japanese customary rights are removed.
- Private forests: Civil Code (Act No. 89 of 1896) Article 92, 263, 294
- State forests: Act Concerning Utilization of National Forest Land (Act No. 246 of 1951) Article 18-24
- Public forests: Local Autonomy Act (Act No. 67 of 1947) Article 238-6

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

- Act on Advancement of Modernization of Rights in Relation to Forests Subject to Rights of Common
<http://law.e-gov.go.jp/htmldata/S41/S41HO126.html>
- Nakatsugawa City's website
<http://www.city.nakatsugawa.gifu.jp/>
- Civil Code: <http://law.e-gov.go.jp/htmldata/M29/M29HO089.html>
- Act Concerning Utilization of National Forest Land: <http://law.e-gov.go.jp/htmldata/S26/S26HO246.html>
- Local Autonomy Act: <http://law.e-gov.go.jp/htmldata/S22/S22HO067.html>

1.13.5. Risk determination

Overview of Legal Requirements

Traditionally in Japan, there have been "common land" or "common forest". The common land is the customary area where forest, field or fishing ground are managed jointly and residents of a specified area jointly hold the use right (called commonage).

Under the modern "ownership" concept, ownership of forests were gradually made clear and specific. These common lands were recognized as commonage under Civil Code for private forests, customary use right of common property under Local Autonomy Act for

public forests and common forests under Act Concerning Utilization of National Forest Land for state forests.

Description of Risk

However, the government recognized commonage as a feudalistic law system which is a barrier to improving productivity of agriculture and forestry. As such Act on Advancement of Modernization of Rights in Relation to Forests Subject to Rights of Common was established in 1966 to improve productivity of agriculture and forestry. By applying this law, commonage is lost and ownership of a forest becomes clear. In 1960, there were approximately 200 million ha of common forests. As the application of law gradually takes place, the area of common forests decreased to 90 million ha in 1980.

Today there are still common lands in many places in Japan. However, their importance has been diminishing due to modernized life style of people. In the past these forests were important sources of thatching materials, fuel woods and construction materials, but the use of these materials from common land is very limited today. Today court cases in respect to commonage is almost always regarding the development of common land such as building an industrial waste disposal facilities, nuclear power plant or resort facilities. In these cases, the point of issue is caused by disagreement among commonage owners .

Consultation to a researcher on commonage also revealed that issues regarding commonage in recent years only happen when external pressure such as development is put on the common land and cases regarding forest resource use is very rare. According to the Forestry Agency, there is no court case in respect to customary use of resources in the state forests in recent years.

Since the economic value and utility value of common forest have declined due to modernized life-style of people, awareness of commonage has also declined. Generally this clause is considered low risk.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.13.6. Risk designation and specification

Low

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

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

1.14.1. Applicable laws and regulations

The United Nations Declaration on the Rights of Indigenous Peoples (2007)

Convention on Biological Diversity COP10 Nagoya Protocol (2010)

N/A.

Rights of community is limited to those specified in 1.13. Official forest management rights are only held by forest owners and outsourced enterprises.

There is no legislation in Japan covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organization in charge of the harvesting operation

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples’ rights

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

1.15.1. Applicable laws and regulations

- Act on the Promotion of Ainu Culture, and Dissemination and Enlightenment of Knowledge about Ainu Tradition, etc. (Established on May 14, 1997), Article 1 to 5.
- Act on Protection of Cultural Properties (Act 214 of 1950) Chapter 1 General Provisions, Article 109, 134
- International Bill of Human Rights International Covenant on Civil and Political Rights Article 26 and 27.
- Constitution of Japan Clause 2 of Article 98.
- International Convention on the Elimination of All Forms of Racial Discrimination (1969) General Recommendation on Indigenous peoples 23 (1997, CERD).
- The United Nations Declaration on the Rights of Indigenous Peoples (2007)

1.15.2. Legal authority

- Ministry of Land, Infrastructure, Transport and Tourism
- Ministry of Education, Culture, Sports, Science and Technology
- The article 5 of the Act mentions that the responsibility lies both in the Minister of Land, Infrastructure, Transport and Tourism and
- Minister of Education, Culture, Sports, Science and Technology.

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

- Act on the Promotion of Ainu Culture, and Dissemination and Enlightenment of Knowledge about Ainu Tradition, etc.
<http://law.e-gov.go.jp/htmldata/H09/H09HO052.html>
- CW NRA of Japan
- Court precedents of Nibudani Dam case:
<http://www.geocities.co.jp/HeartLand-Suzuran/5596/>
- Court precedents of Ainu peoples' common property.
<http://www.dogyousei.gr.jp/ainu/kousaihanketu.doc>
- Act on Protection of Cultural Properties: <http://law.e-gov.go.jp/htmldata/S25/S25HO214.html>

1.15.5. Risk determination

Overview of Legal Requirements

Act on the Promotion of Ainu Culture stipulates that it was enacted “to realize a society in which the pride of Ainu people as an ethnic group is respected by promoting the measures for the Ainu culture and dissemination and enlightenment of knowledge of the people about Ainu tradition, etc.” The content of this act is limited to promotion of Ainu Culture and does not cover the contents of the UN declaration, including provision about tenure and right to self-determination of indigenous peoples. However, from the cultural standpoint, the wood use for Ainu’s traditional sacred land and festivals is considered to be covered by this act. Based on this act, state forests and public forests of local governments are providing forest resources upon request from Ainu people. Areas with special importance for Ainu people are designated as “Pirikanoka” (Meaning beautiful shape) which is a national scenic beauty and protected under the framework of Act on Protection of Cultural Properties. The government of Hokkaido, where the Ainu people live is managing a database of repository and ruins of Ainu people to call for protection.

Description of Risk

Regarding a court case related to the rights of Ainu Peoples, there was a case called “Nibutani Dam Trial” which was about Ainu Peoples claiming unacceptable development and destruction of Ainu Peoples’ sacred land. At the time of the trial, Ainu Peoples was not recognized officially as indigenous people by Japanese government, however, the decision

of Sapporo District Court recognized Ainu Peoples as indigenous people and concluded that dam construction is illegal as it severely impact the culture of Ainu Peoples.

After the Sapporo District Court decision on Nibutani Dam case, there has been several other court cases involving Ainu peoples such as the cases in relation to common properties and returning of remains of Ainu peoples collected for research purpose. While neither of them involves infringement of rights by forestry, but the forest land in Hokkaido utilized for forestry were originally the land that Ainu peoples historically used for livelihood. The lands were once all nationalized and later some of them have been sold off to the private sector. Such change of ownership was done without the consent of the indigenous Ainu Peoples.

The rights of Ainu Peoples are not necessarily stipulated in the law even after the official recognition of them as indigenous people. However, International Covenants on Human Rights which Japan has ratified recognizes the rights of minority people and there is also a case like Nibutani Dam decision where the court recognizes the rights of Ainu peoples. Still, as represented by the Nibutani Dam Tribunal, it cannot be said that the risk of violation of the rights is low.

Act on the Promotion of Ainu Culture mentions "Prefectures provided for in the Cabinet Order (Hokkaido is designated pursuant to the "Cabinet Order providing for the prefecture under paragraph 1 of Article 6 of the Act on the Promotion of Ainu Culture, and Dissemination and Enlightenment of Knowledge about Ainu Tradition, etc.") shall provide the basic plan concerning the measures to ensure the Promotion, etc. of Ainu Culture in accordance with the basic policy." Hence this act is only applied in Hokkaido and therefore, the risk of violating this Act in other areas is low.

Following risk control measures should be taken in Hokkaido:

1. Are there any indigenous people (IP) present in the area of concern?

If IP cannot clearly be identified, contact the Ainu Association whether there are any IP present. Or take the opinion of at least one expert on IP rights in Japan. (regarding the qualifications of the expert refer to Annex C in the CW standard)

2. Evaluate whether there are any ongoing legal conflicts/cases regarding the rights of Ainu people in the area of concern by contacting the Ainu Association or an expert.

3. If there are any ongoing conflicts, take FPIC from the Ainu people of that area, before undertaking forest management activities. FPIC can be taken regardless of presence of ongoing conflicts.

Risk Conclusion

Specified risk: Hokkaido

Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

Low risk: Other areas

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.15.6. Risk designation and specification

Specified risk: Hokkaido

Low risk: Other areas

1.15.7. Control measures and verifiers

Recommended control measures in Hokkaido:

1. Are there any indigenous people (IP) present in the area of concern? If IP cannot clearly be identified, contact the Ainu Association whether there are any IP present. Or take the opinion of at least one expert on IP rights in Japan. (regarding the qualifications of the expert refer to Annex C in the CW standard)
2. Evaluate whether there are any ongoing legal conflicts/cases regarding the rights of Ainu people in the area of concern by contacting the Ainu Association or an expert.
3. If there are any ongoing conflicts, take FPIC from the Ainu people of that area, before undertaking forest management activities. FPIC can be taken regardless of presence of ongoing conflicts

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

- Commercial Code (Established on March 9, 1899), Article 526.

1.16.2. Legal authority

- Commercial code is managed by Ministry of Internal Affairs and Communications

1.16.3. Legally required documents or records

- Sales contract,
- Financial statements.
- Japanese Agricultural Standard (JAS) certificate

1.16.4. Sources of information

Government sources

- Commercial Code
<http://law.e-gov.go.jp/htmldata/M32/M32HO048.html>

1.16.5. Risk determination

Overview of Legal Requirements

The Commercial Code provides for sales and trading business practices in general (Article 1 Section 1). Also, transaction of products such as logs from forestry is covered by the Commercial Code. The Code provides for control of fraud in commercial trade. The primary producers including the Forestry Cooperatives submit a felling notice based on the forest management plan and make plot survey before felling. Harvested volume is verified by the prefectural government after harvest prior to payment of subsidy provision to the forest owner. Internal audits of organizations, external audits by the authority and the National Tax Agency altogether has been functioning well to control illegal transaction with severe penalty for fraud. All companies are subjected to the audit by national tax agency or tax offices. National tax agency audits large companies and tax offices audit smaller companies. Through samples transaction documents including information on classification and species are controlled to see if there is any fraud. This is checked against the tax. i.e. income tax, VAT, accession tax etc. On average large companies are audited every 3 to 4 years. Small companies are audited every 10 years on average.

The standard prescribed by the Act on Standardization and Proper Labeling of Agricultural and Forest Products is generally called JAS standards and it aims to improve product identification as well as value of products by labelling species, size and grading on wood products (Article 2). The standard is voluntary, but is widely used on the log market. It provides the standard of quality (including forms, size, weight or conditions of packaging) of logs and wood product as well as standards of labelling (including names and origin) of quality. Therefore, organizations holding JAS certification needs to be audited regularly by an accredited organization. This system functions as an additional control system to avoid fraud in wood or wood products (Article 23-2). Under consultation with stakeholders there has been no reports of any case of abuse of the JAS system. A report by Forestry Agency from 2011, shows that the percentage of JAS certified sawmills are about 10% and JAS certified plywood factories are about 80%. A slight increase in 10 years.

It is common practice to use the log market when selling logs. Information such as harvested forest, species, volume, size, quantity, grade and so on are recorded so that they are highly traceable. These requirements must be applied by all companies.

Description of Risk

As Japanese forestry was developing in the 1980s fraud was commonly found at the log market leading to more rigorous monitoring by regional taxation bureau. Hence the forestry became one of the industries difficult to make fraud.

As a voluntary system to enhance the accuracy of information regarding species, quantity and quality, there is a standard prescribed by the Act on Standardization and Proper Labeling of Agricultural and Forest Products is generally called the JAS standard and it aims to improve product identification as well as value of products by labeling species, size and grading on wood products (Article 2). It provides the standard of quality (including forms, size, weight or conditions of packaging) of logs and wood product as well as standards of labeling (including names and origin) of quality. Therefore, organizations holding JAS certification needs to be audited regularly by an accredited organization. This system functions as an additional control system to avoid fraud in wood or wood products (Article 23-2). A report by Forestry Agency from 2011, shows that the percentage of JAS certified sawmills are about 10% and JAS certified plywood factories are about 80%. A slight increase in 10 years but there is still a challenge for expanding JAS certification among sawmills.

The corruption level in Japan is considered low, with Japan having a CPI of 75 (higher than the threshold of 50).

There are no indications or evidence that infringements are occurring frequently.

Generally, in Japan, this indicator is considered low

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities..

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- Customs Act (Established on April 2, 1954), Article 1, 29, 30 and 67-2.
- Motor Truck Transportation Business Act (Established on December 19, 1989), Article 3 and 4.
- Motor Truck Transportation Business Safety Regulation (Established on July 30, 1990), Article 3, 4, and 5.
- Consigned Freight Forwarding Business Act (Established on June 1, 1949), Article 30, 31 and 32.
- Outline for Quarantine of Imported Wood (Established on November 22, 1951), Article 1 and 2.
- Road Transportation Act (Act No. 183 of 1951)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora

1.17.2. Legal authority

- Ministry of Finance
- Ministry of Land, Infrastructure, Transport and Tourism

1.17.3. Legally required documents or records

- Bill of entry
- Customs declaration
- Quarantine certificate
- Cargo transportation plan

1.17.4. Sources of information

Government sources

- Customs Act
<http://law.e-gov.go.jp/htmldata/S29/S29HO061.html>
- Motor Truck Transportation Business Act

<http://www.houko.com/00/01/H01/083.HTM>

- Motor Truck Transportation Business Safety Regulation
<http://hourei.hounavi.jp/hourei/H02/H02F03901000022.php>
- Consigned Freight Forwarding Business Act
<http://law.e-gov.go.jp/htmldata/S24/S24HO187.html>
- Outline for Quarantine of Imported Wood
www.pps.go.jp/law_active/Notification/basis/8/55/html/55.html
- Road Transportation Act:
<http://law.e-gov.go.jp/htmldata/S26/S26HO183.html>

1.17.5. Risk determination

Overview of Legal Requirements

Import/export: The Customs Act defines the necessary matters to ensure proper processing of the customs procedures about tariff setting, payment, collection, refund as well as export and import of goods and refund. Cargo exporters or importers shall declare the necessary information such as product name, quantity and price of the applicable products to the Customs director in the bonded area in pursuant to the provisions of a Cabinet Order. Outline for Quarantine of Imported Wood provides for quarantine of plants and microorganisms that are brought together with imported wood and it monitors the introduction of invasive organisms from abroad. Based on these laws, proper trade of wood and wood products has been promoted and legal compliance of wood transport and safety has been enforced. The monitoring system for international trade is being strengthened to control illegal trade.

Description of Risk

Japan: Internally in Japan only delivery slip is following the timber from the forest operation.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

N/A

1.18. Offshore trading and transfer pricing

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

1.18.1. Applicable laws and regulations

- Customs Act (Established on April 2, 1954), Article 1, 29, 30, 67 and 108.
- Foreign Exchange and Foreign Trade Act (Established on December 1, 1949), Article 1, 5, 17 and 18.
- Act on Special Measures Concerning Taxation (Act no. 26 of 1956), Articles 66-4 and 68-88
- The National Tax Agency's (NTA) interpretation and guidance for the application of the transfer pricing rules are set out in the related ASMT Basic Circulars, dated 8 September 2000 (the 8 September 2000 Circular), 1 June 2001 (the 1 June 2001 Circular), and 25 June 2001 (the 25 June 2001 Circular).

1.18.2. Legal authority

- Ministry of Finance

1.18.3. Legally required documents or records

- Bill of entry
- Customs declaration
- Remittance detail

1.18.4. Sources of information

- Customs Act
<http://law.e-gov.go.jp/htmldata/S29/S29HO061.html>
- Foreign Exchange and Foreign Trade Act
<http://law.e-gov.go.jp/htmldata/S24/S24HO228.html>
- 5-year Summary of violation of the Foreign Exchange Act in export and import
<http://www.sigma-support.com/category/1278178.html#TOPICS1>
- Original news of violation of the Foreign Exchange Act in export and import
<http://www.meti.go.jp/press/index.html>
<http://www.eoi-tax.org/jurisdictions/JP#agreements>
- PricewaterhouseCoopers LLP 2012:

http://download.pwc.com/ie/pubs/2012_international_transfer_pricing.pdf

<http://www.eoi-tax.org/jurisdictions/JP#agreements>

1.18.5. Risk determination

Overview of Legal Requirements

The international tax standard, developed by OECD and supported by the UN and the G20, provides for full exchange of information on request in all tax matters without regard to a domestic tax interest requirement or bank secrecy for tax purposes. Currently all 30 OECD member countries, including Japan have endorsed and agreed to implement the international tax standard. Furthermore, all offshore financial centres accept the standard. Japan has been actively part of developing the OECD Guidelines for multinational enterprises and the revision hereof. In practice the OECD Guidelines are interpreted and implemented within the framework of Japan's own transfer pricing legislation. Foreign Exchange and Foreign Trade Act provides for international trade and transfer pricing.

Companies operating in Japan are required to complete and return an annual corporation tax return. As part of this details of the taxpayer's foreign affiliated parties and any transactions with those parties, including disclosure of the transfer pricing methodology adopted for each transaction. A review

of this form, in conjunction with the company's financial statements and a review of the company's results, may lead the tax authorities to select a company for audit.

Japan has signed 8 Tax Information Exchange Agreements (TIEAs) with jurisdictions of offshore financial centres and are signatories to 1 multilateral mechanism, Convention on Mutual Administrative Assistance in Tax Matters (<http://www.eoi-tax.org/jurisdictions/JP#agreements>).

Description of Risk

Japan is considered to be progressive on the practice of transfer pricing, and the Japanese tax authorities have excessive experience and focus on the policing transfer pricing regime. Several significant tax assessments based on transfer pricing adjustments have gotten public attention. (PricewaterhouseCoopers LLP 2012).

According to Transparency International, Japan ranks 18th out of 168 countries in Corruption Perceptions Index with a score of 75 in 2015 and 4th out of 28 countries in Bribe Payers Index with a score of 8.6 in 2011, demonstrating political cleanliness. The control of the Japanese authorities is considered well implemented.

No indications of any significant violations are present regarding offshore trading and transfer pricing in Japan and this the indicator is considered low

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

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

1.19.1. Applicable laws and regulations

- Customs Act (Established on April 2, 1954), Article 1, 29, 30, 67 and 108..

1.19.2. Legal authority

- Ministry of Finance

1.19.3. Legally required documents or records

- Bill of entry
- Customs declaration

1.19.4. Sources of information

Government sources

- Customs Act 1954. Available at: <http://law.e-gov.go.jp/htmlldata/S29/S29HO061.html>

1.19.5. Risk determination

Overview of Legal Requirements

The Customs Act defines the necessary matters to ensure proper processing of the customs procedures about tariff setting, payment, collection, refund as well as export and import of goods and refund. Cargo exporters shall declare the necessary information such as product name, quantity and price of the applicable products to the Customs director in the bonded area in pursuant to the provisions of a Cabinet Order. A permit must be obtained for cargo to be exported through necessary inspection. After such processes the permit of export can be issued. Export of wood and wood products is also subject to the inspection in the bonded area in a public harbor. If there is a self-owned wharf, it is possible to establish bonded facilities there. There are mirror requirements for the import of timber and timber products to Japan

Description of Risk

With regard to customs inspections, there has been increasing cases leading to serious incident such as illegal drugs and infectious diseases. As such, the rigor of inspection has been increasing and false declaration is not passed easily.

Risk Conclusion

Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

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

1.20.1. Applicable laws and regulations

- Convention on International Trade in Endangered Species of Wild Fauna and Flora
- About Export Permission of Endangered Species of Wild Fauna and Flora (Japan has signed on November 4, 1980)
- Foreign Exchange and Foreign Trade Act (Act No. 228 of December 1, 1949) Article 55-10.
- Export Trade Control Order (Cabinet Order No. 378 of December 1, 1949)
- Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of June 5, 1992)

1.20.2. Legal authority

- Ministry of Economy, Trade and Industry
- Ministry of the Environment

1.20.3. Legally required documents or records

- Export permit

1.20.4. Sources of information

Non-Government sources

- Japan.go.jp, (N.Y). CITES. [online] Available at:
http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/cites/

1.20.5. Risk determination

Description of Risk

No woody species produced in Japan are listed in the CITES lists and the risk is therefore considered low.

Risk Conclusion

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

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

N/A

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

- Act on Promotion of Use and Distribution of Legally-Harvested Wood and Wood Products (Act no. 48 of 2016).
- Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities (Act No. 100 of May 31, 2000)

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A)

1.21.4. Sources of information

Government sources

N/A

1.21.5. Risk determination

Overview of Legal Requirements

Neither of the acts above obligate due diligence. Therefore precisely speaking, there are not applicable laws in this context.

Description of Risk

N/A

Risk Conclusion

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 Japan** 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 JAPAN						
Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
All types	National	N/A	N/A	N/A	Harvesting notice, Forestland Development Permit Request form, Forest Management Plan	Harvesting notice is regulated in Article 10 of the Forest Act and one needs to obtain permission from municipal mayors. Forestland Development Permit Request form is permitted by prefectural mayors. Forest Management Plan is approved by normally municipal mayors or by prefectural mayors in case the forest lies across more than one city or approved by the Minister of Forestry Agency in case the forest lies across more than one prefecture.



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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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