

Annex to Conclusions on Ukraine, 9 December 2020

This annex provides aspects and possible risk mitigation measures to be taken into consideration when sourcing timber and wood-based products from Ukraine. The annex is not an exhaustive list of issues to be taken into consideration since the individual situation of EU operators do vary as so do their supply chains and associated risk.

The list below are examples of areas to be taken into account depending of the specific situation of the operator

- The level of corruption and illegality related to timber production and exports in Ukraine is very high. Corruption and bribery of state officials are common
- Mismatches of paper versions of felling tickets and versions published online (www.ukrforest.com)
- Timber harvested in protected, recreational and protection forests (forest categories 1, 2 and 3, respectively)
- Sanitary felling of any timber species
- Lack of adequate forest control and inspection
- Purchase of high-value timber species as listed in the Country Overview, especially when originating from sanitary felling
- Mixing of timber along the supply chain and as such “laundering” illegal timber
- Changing amounts and qualities along the supply chain
- Additional agreements to contracts of timber bought at auctions issued on the same day which allow the contractual partners to deliver other quantities, qualities and description of goods than agreed before
- Court records¹ [More footnotes] and other publicly available information like press articles (examples^{2,3}), and other sources of information listing possible illegalities, wrongdoings, court cases or corruption on behalf of the supplier and its senior officials (if SFE or government entity) or owners (if a private company) (translation by web browser). There is also an online database of inspections⁴ done by the state (also concerning the forestry and timber-processing sector)

¹ <https://court.opendatobot.ua/#/>

² <https://www.openforest.org.ua>

³ <https://detectives.org.ua/eng/archive/>

⁴ <https://inspections.gov.ua/>

- Use of letterbox companies for tax evasion
- Misclassification of higher value timber as lower value/technological firewood sold at auctions where the responsible for the auction is paid unofficially by the buyer who gets the real high quality timber at a low quality timber price
- With regard to the log export ban, the risk of mismatches of Ukrainian export declarations and EU import declarations circumventing the export ban

The list below are possible measures to be taken into account in Risk Mitigation

Due to the risk of corruption, official government-issued documentation cannot alone mitigate risk and ensure EUTR compliance. Additional further steps should be taken to verify the authenticity of the documents versus the situation on the ground. To mitigate the risk of illegality to a negligible level, all actual risks need to be identified and addressed adequately. Risk mitigation measures may include, for example:

- If there are ongoing court cases against officials of SFEs (or other forest enterprises) at regional or national level, or if such suppliers or their officials were convicted of illegal logging or corruption during the last three years, imports of timber from these sources should be classified as high-risk. Imports from such SFEs and regions should be suspended until the case is settled and/or until the operator has determined (wording from Article 5 in 607/2012) that the case does not constitute a non-negligible risk.
- When checking documentary evidence for individual shipments verify if the information on documents correspond to the product. Check if the product type or quality corresponds to the harvesting type and method, volume and quality, log assortments described in the documents. These should be considered red flags when, for example, commercially valuable timber comes from forests with restrictions on commercial logging, good quality timber is derived from technological firewood, or the ‘useful outcome’ (calculation when logs converted into sawn timber) is an obvious theoretical calculation ‘on paper’, not a believable outcome which can be produced from the logs. Such information can be acquired from documents like felling tickets, transport documents or consignment notes, certificates of origin.
- Logging areas may be found on the SFRAU webpage <https://www.ukrforest.com/check>. Check that the logging documents reference to the logging areas, and that longitude and latitude of the logging areas correspond with satellite images of woodland leaving no doubt that no logging has occurred outside the legally gazette boundaries. Check the logging areas from satellite images – do they back-up the information given on official logging and transport documents?
- pro-actively check Ukrainian press articles, court records, and other sources for any information suggestive of possible illegality, wrongdoing, court cases or corruption.

- Avoid timber from sanitary logging to be mixed into your lot if the end use is not for firewood. Proper documentation of sanitary logging is almost impossible. Therefore it is recommended to use different types of available information to verify the need and justification of sanitary logging e.g. photo documentation of the area before and after harvest, use of local NGOs to verify a plausible need for preventive measures including sanitary logging. Without some kind of independent documentation of the need for sanitary logging there is a high risk of sourcing illegally harvested timber with fraudulent documents, regardless of the timber species concerned. Specific attention should be paid to high-value timber species originating from sanitary logging for which widespread calamities are not reported.
- Independent audits where a minimum of all risks from the above listed topics in this Annex are included including field visits and interviews with suppliers, civil society and/or (local) NGOs carried out in line with the Guidance Document on Risk Mitigation². Furthermore, in regions where access to the forest is reported to be made impossible by the (concession) owners or due to violent crime, independent verification on the ground cannot be guaranteed by any verification body.
- Self-conducted audits where a minimum of all risks from the above listed topics in this Annex are included and carried out in line with the Guidance Document on Risk Mitigation².
- Sourcing FSC chain of custody certified products after validation of the certification as well as assistance from trustworthy NGO's finding legally managed forest districts. Furthermore, certification or other third-party verification must follow the description in Regulation No 607/2012 Article 4 and be in compliance with the Commission Notice of 12.2.2016 section 6, The Role of third-part-verification schemes in risk assessment and risk mitigation (https://ec.europa.eu/environment/forests/timber_regulation.htm).
- Analysis of timber species and/or origin, if information provided is doubtful.
- Consideration to whom and where payments for the timber products are sent and for which services are being paid for. To reduce the risk of tax evasion ensure that contracts with SFEs for sale of timber are directly with the SFE itself or is made directly into the official bank account in Ukraine. If payment is not transferred to a Ukrainian account then check for what reasons this is not the case.

Conclusion

If it is not possible to carry out adequate risk mitigation measures or if the risk of corruption and illegality associated with timber shipments is still non-negligible despite taking the appropriate steps, operators should refrain from placing the timber and products thereof on the EU market.