

Timber Legality Risk Assessment Thailand

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COUNTRY RISK
ASSESSMENTS



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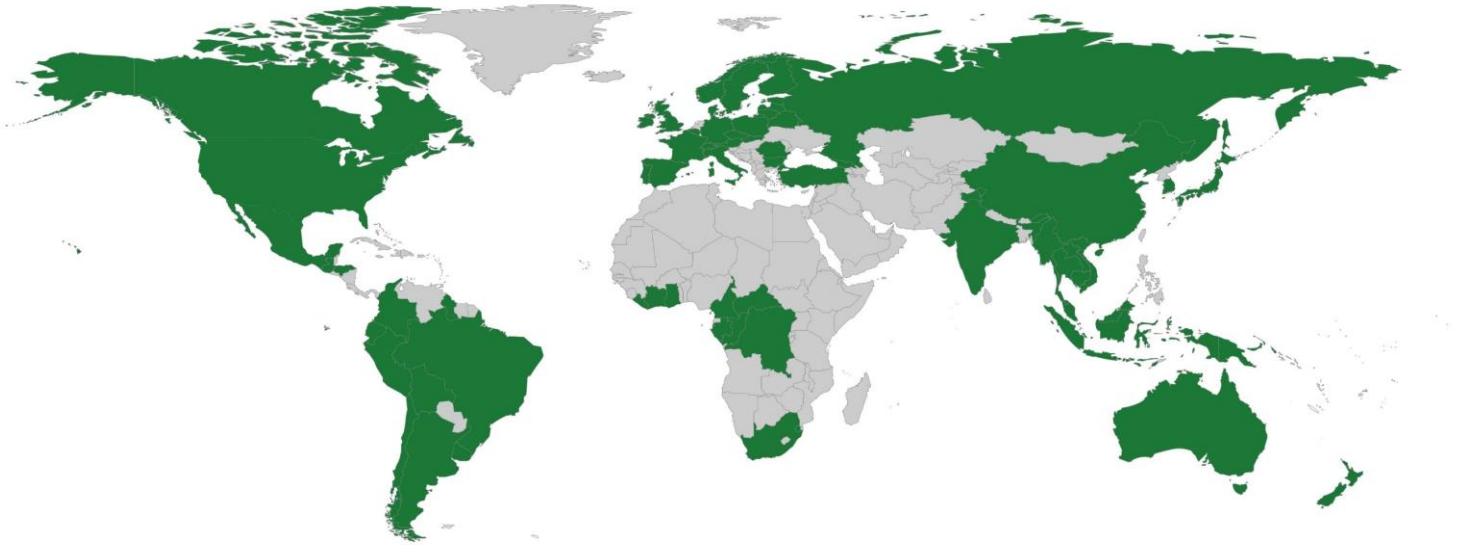
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A. Introduction

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

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



Map created by StatSiik (2016). StatPlanet: Interactive Data Visualization and Mapping Software.://www.statSiik.com

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

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

B. Overview of legality risks

Timber Risk Score: 28 / 100 in 2017

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

- **Specified risk for 11 sub-categories.**
- **Low risk for 6 sub-categories.**
- **No legal requirements for 4 sub-categories.**

The Timber Risk Score for Thailand is 28 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, timber harvesting activities, and trade and transport.

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

- Unclear tenure rights results in illegal encroachment (1.1)
- Land documents are issued illegally (1.1)
- Legal requirements for forest management planning in licensed plantation in NFRs are not adhered to, particularly when the boundary of the plantation is not clearly demarcated, or when the transfer of plantation/forest management rights is not transparent (1.3)
- Harvesting is conducted without a permit (1.4)

For **Timber Harvesting Activities**, there is a risk that:

- Chainsaws are sold and/or used without the legally required permit (National Forest Reserves only) (1.8).
- Protected areas and species are illegally logged (1.9).
- Occupational health and safety regulations are violated (1.11).
- The legal rights of workers are violated (e.g. through human trafficking, forced labour, debt bondage, child labour, illegal wages, and extortion) (1.12).

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

- Species, quantities and qualities of timber are incorrectly specified during trade and transport (1.16).
- Illegally sourced timber and wood products from outside the country enter the supply chain and are re-exported (1.17).
- Transport documents and trading permits are falsified or obtained through bribery (1.17).
- Illegally harvested CITES-species enter the supply chain and/or are smuggled out of the country and imported back into the country (1.19, 1.20)

Timber source types and risks

There are eight timber source types found in Thailand. Knowing the "source type" that timber originates from is useful because different source types can be subject to different

applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all five of these source types and found that if legislation is in place for the specific source type, the risk is the same.

**State-owned
Registered Plantations
in National Forest
Reserves**

Registered Plantations under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015) in National Forest Reserves. State-owned forest that may be managed by the state, state-owned enterprise, individuals, or corporations.

Plantation operators register the plantation with Royal Forest Department. Once approved, *Plantation Certificate Sor Por 3* is issued to the plantation operator.

Before harvesting, the plantation operator must obtain the following documents:

- Certificate of Seal Registration (Sor Por 8),
- Certificate of Seal (Sor Por 9)
- Certificate of Cutting/Felling Notification (Sor Por 13) (must accompany the timber during transport)
- Plantation Timber Packing List (Sor Por 15) (must accompany the timber during transport)

Plantation registration and relevant documents apply to all registered plantations.

**State-owned
Registered Plantations
outside National Forest
Reserves**

Registered Plantations under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015) outside National Forest Reserves. State-owned forest that may be managed by the state, state-owned enterprise, individuals, or corporations.

The same plantation registration process and relevant documents from *State-owned Registered Plantations in National Forest Reserves* apply.

**Privately-owned
Registered Plantations**

Registered Plantations under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015) outside National Forest Reserves. Privately-owned forest on private land, managed by individuals or corporations.

The same plantation registration process and relevant documents from *State-owned Registered Plantations in National Forest Reserves* apply.

**Plantations in National
Forest Reserve**

State-owned plantations (not registered under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015)) in National Forest Reserves. May be managed by the state, state-owned enterprise, individuals, or corporations.

	<p>Permission related to access:</p> <ul style="list-style-type: none"> • Plantation License (Por Sor 31) • Plantation License (Sor Tor Khor 1 Kor) • Plantation exceeding 160 ha requires Ministerial Authorisation <p>Permission (and documents) related to harvesting depends on the species.</p>
Plantations outside National Forest Reserve	<p>State-owned plantations (not registered under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015)) outside National Forest Reserves. May be managed by the state, state-owned enterprise, individuals, or corporations.</p> <p>Permission related to access:</p> <ul style="list-style-type: none"> • Forest Utilization License <p>Permission (and documents) related to harvesting depends on the species.</p>
Plantations and natural forests on private land	<p>Plantations and natural forests on private land, managed by individuals and corporations.</p> <p>Permission related to harvesting and others:</p> <ul style="list-style-type: none"> • Teak (<i>Tectona grandis</i>), yang (<i>Dipterocarpus alatus</i>), and rosewood (<i>Dalbergia</i> spp.): Harvesting permit, processing permit, trading permit, removal pass • All other species: no legal requirement <p>Plantations are not registered under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015).</p>
Forest (as defined in Section 4.1 of the Forest Act) in National Forest Reserve	<p>State-owned forest in National Forest Reserves, managed by the state, state-owned enterprise, individuals, or corporations.</p> <p>Permission and documents related to harvesting vary by species.</p>
Forest (as defined in Section 4.1 of the Forest Act) outside National Forest Reserve	<p>State-owned forest outside National Forest Reserves, managed by the state, state-owned enterprise, individuals, corporations.</p> <p>Permission and documents related to harvesting vary by species.</p>

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

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

C. Overview of the forest sector in Thailand

Introduction

The Royal Forest Department (RFD) of Thailand estimates that between 2013 and 2014 the forest cover in Thailand was 102 million rai (16.36 million ha), or 31.62% of the national territory (52 million ha). This estimate was based on satellite data. The definition of forest cover used in the survey is "land with a tree canopy cover an equivalent of 3.125 rai (0.5 ha) or larger, including surrounding natural grass and rocks". The definition "excludes eucalyptus plantations, or trees planted primarily for non-timber use such as agroforestry systems, fruit orchards, rubber and palm plantations" (RFD, 2014:2). The densest forest lands lie in the northern region (6.2 million ha) and the western region (3.2 million ha).

Ownership and use of the forest resource

The Forest Act B.E. 2484 (1941)'s section 4.1 defines forest as "land which has not been taken up or acquired by any other means under the Land Code". Forestry laws apply to any piece of land that is not private property, or where no person has possessory rights. Under the law, 'forest' is a legal territory that can include, but does not limit to, natural forests, tree plantations, nature strips, roadside verges, farmland, and land reform areas occupied by farmers but not yet received titles. All forest resources on such territories, naturally grown and planted timber included, belong to the state. For example, when a person is granted the permission to establish a plantation on forest land, they may still be required to obtain a harvesting permit as the law recognizes planted timber as a forest resource. Similarly, a tree plantation farmer whose land has not yet received title may require a permit to harvest the trees on their land.

In Thailand, land is classified into **private land** and **public** or **government land**. The Land Code B.E. 2497 (1954) defines different types of documents depending on whether the owner can claim occupancy, utilization, or legal possession of the land. Ownership can be separated from use rights. Usufruct certificates have been given to households that were living and continue to live in National Forest Reserves before those reserves were demarcated.

The Forest Act defines "restricted species" in section 6, 7 and 8. These sections prescribe that harvesting restricted timber species in a forest requires permission. The restricted species are declared in The Royal Decree on Restricted Timber Species B.E. 2530 (1987) and the Royal Decree on Restricted Forest Products B.E. 2530 (1987). In National Forest Reserves (NFRs), harvesting all species requires permission. Felling of trees in protected areas is prohibited.

The Royal Forest Department oversees permission related to timber harvesting, transporting, processing and trading. It manages National Forest Reserves and Permanent Forest Estates. The Department of National Parks, Wildlife and Plant Conservation oversees approvals related to protected areas and protected species, including import/export of CITES species. The Department of Marine and Coastal Resources manages mangroves. All three of these government departments are under the Ministry of Natural Resources and Environment.

Forest classification types and their distribution

The Royal Forest Department (RFD) manages 73.77 million rai (11.8 million ha) of forest lands, which consist of National Forest Reserves (63.26 million rai or 10.12 million ha) and Permanent Forest Estates outside NFRs (10.52 million rai or 1.68 million ha). The Department of National Parks, Wildlife and Plant Conservation (DNP) manages national parks, wildlife sanctuaries, watersheds, and other protected areas; some of which overlap the boundaries of National Forest Reserves. The Forest Land Management Bureau, under the RFD, classifies the classification of forest land (RFD, 2013:36):

- i. National Forest Reserves: 1,221 National Forest Reserves, covering 143.93 million rai (23 million ha) in total. Note that this figure includes the protected areas in (ii) and (iii);
- ii. National Parks: as of June 2012 there are 127 National Parks, covering 38.86 million rai (6.22 million ha) in total. Note that parts of these National Parks overlap NFR boundaries;
- iii. Wildlife Sanctuaries: as of November 2009 there are 58 Wildlife Sanctuaries, covering 22.85 million rai (3.66 million ha) in total. Note that parts of these Wildlife Sanctuaries overlap NFR boundaries;
- iv. Area of National Parks and Wildlife Sanctuaries that overlaps the boundary of the National Forest Reserve: 48.07 million rai (7.69 million ha);
- v. Area of degraded forests in NFRs allocated to Agricultural Land Reform Office, Ministry of Agriculture: 32.59 million rai (5.22 million ha);
- vi. Permanent Forest Estate outside National Forest Reserves: 10.52 million rai (1.68 million ha);

In 1992, the Cabinet Resolutions 10 March B.E. 2535 (1992) and 17 March B.E. 2535 (1992) divided the national forest reserve estate into 3 zones. Division and mapping were done using infrared satellite imagery.

1. Conservation Forest Zone (Zone C): covers existing protected forest areas declared in the royal decrees and cabinet resolutions (wildlife sanctuaries, national parks, watershed classification 1, mangrove conservation areas). Some of this area remains occupied by permanent agriculture, shifting cultivation, and associated human settlements.
2. Economic Forest Zone (Zone E): was set aside for buffer zones, commercial tree plantations, mining, and other economic development activities. Some of these lands are in degraded forest areas.
3. Agricultural Zone (Zone A): is a portion of the national forest reserve deemed suitable for agriculture. These areas are being allocated to farmers by the Agricultural Land Reform Office (ALRO). Transfer for land from the national forest reserve to ALRO is accompanied by transfer of management responsibility (ICEM 2003).

Thailand has several types of Protected Areas declared by various legislative instruments. National parks and wildlife sanctuaries comprise the majority of the areas protected. They have been declared by royal decrees, as are marine national parks and no-hunting areas. Other types of PAs are declared by: i) ministerial declarations (forest park,

botanical garden, arboretum); ii) cabinet resolutions (watershed classification 1 & 2, mangrove conservation areas, other environmentally protected areas); and iii) international recognition processes (World Heritage, RAMSAR Site, Biosphere Reserve, ASEAN Heritage). Regarding legal status, the World Heritage and ASEAN Heritage sites are either wildlife sanctuaries or national parks. Eight out of ten RAMSAR Sites are protected areas (FAO 2009:21).

Forest Management permit or license types (legal sources of timber)

There are two sources of domestic timber in Thailand: planted timber and natural forest. The majority of domestic timber in the country is sourced from plantations. The volume of legally produced logs from natural forest in Thailand is small. Official statistics record no timber production from natural forest areas, though it is believed that small volumes may become available through legal conversion (Heuch 2012:20, 30). In addition, confiscated illegal logs are sold by the Forest Industry Organization (FIO), a state enterprise. Logging concessions are no longer allowed in the country. This is largely due to 1989 legislation that terminates all logging concessions in terrestrial forests. On 14 January B.E. 2532 (1989), the Cabinet issued a Royal Decree to amend the Forest Act which effectively terminated all logging concessions in the forests designated as protected areas. The Cabinet Resolution dated 17 January B.E. 2532 (1989) terminated all logging concessions in terrestrial forests. The Royal Decree, however, still allows the felling of trees in forest plantations, and allows the clearing of forests for infrastructure projects (Sadoff 1992).

PRIVATE LAND

Timber grown on private land is considered to be the private property of the owner and is not under the jurisdiction of forestry law. A person can start a plantation, and harvest, transport, process and trade timber grown on private land without permission. However, permission related to harvesting, transporting, processing and trading of teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.) are legally required under the Forest Act. According to section 7 of the Forest Act, these woods are under nationwide restrictions.

PUBLIC LAND

On public land, a harvesting permit is required for all restricted species, regardless of whether they are planted or from a natural forest. Restricted species are declared in The Royal Decree on Restricted Timber Species B.E. 2530 (1987) and the Royal Decree on Restricted Forest Products B.E. 2530 (1987) where they are classified into two categories: 'A' and 'B'. Section 3 of the Forest Act specifies that harvesting of 'Category A restricted species' require an RFD-issued permit, while harvesting of 'Category B restricted species' requires ministerial authorisation.

In a forest classified as National Forest Reserve (NFR), a harvesting permit is required for all species, whether they are planted or from a natural forest.

Applications for establishing forest or tree plantations in a National Forest Reserve are reviewed by the RFD and approved by the Ministry of Natural Resources and Environment. Licenses are granted only for areas determined to be degraded forest. Applications for plantations exceeding 160 ha require cabinet approval per section 20 of the National Forest Reserves Act (amended 2016).

A royalty is applied to all timber generated from public land, with an exception made for non-restricted species grown in a forest outside the NFRs. However, a forest checkpoint fee will be collected at the first checkpoint for timber in this category.

REGISTERED FOREST PLANTATION

Between 1992 and 2015, commercial plantations growing restricted species were allowed to register under the Forest Plantation Act B.E. 2535 (1992). In 2015, the Forest Plantation Act was amended to allow plantations growing 58 timber species specified in the Annex to register under the Forest Plantation Act (No. 2) B.E. 2558 (2015).

Plantation estates can be on private or public land, including land in NFRs for which there is official land documentation to prove occupancy, leasehold, concession, or use rights. Licensed operators can be individuals, businesses (such as cooperatives or limited companies), state agencies, or state-owned enterprises (such as the Forest Industry Organisation).

How timber harvesting is regulated

LEGISLATION AND AUTHORITY:

The Forest Act B.E. 2484 (1941), the National Forest Reserves Act B.E. 2507 (1964), the Forest Plantation Act B.E. 2535 (1992), the Forest Plantation Act (No. 2) B.E. 2558 (2015) and the Electric Chainsaw Act B.E. 2545 (2002) are the main legislative instruments that govern the commercial exploitation of forest resources. The Royal Forest Department (Ministry of Natural Resources and Environment) is the main authority responsible for compliance in the timber industry through its headquarters in Bangkok, while its provincial offices, provincial offices of natural resource and environment under the Ministry of Natural Resources and Environment, as well as its district offices and provincial halls (under the Ministry of the Interior) are responsible for granting permission outside Bangkok.

The Forest Act B.E. 2484 (1941) outlines procedures related to harvesting permission on public land, private land, and plantations that are not registered under The Forest Plantation Acts B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015). The Forest Plantation Acts outline procedures related to harvesting permission on registered plantations.

According to the Forest Act B.E. 2484 (1951), a harvesting permit is required for:

- i. National Forest Reserves (NFRs): all species;
- ii. Public land (excluding NFRs and Protected Areas): restricted species;
- iii. Private land: teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.).

Royalty is applied to timber generated from:

- i. National Forest Reserves (NFRs): all species;
- ii. Public land (excluding NFRs and Protected Areas): restricted species;
- iii. Private land: teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.) harvested for commercial purpose.

Sections 25 and 26 of the Forest Act B.E. 2484 (1951) specify that a royalty is not required for non-restricted species on public land outside NFRs. However, when the timber is transported through a forest checkpoint, a fee will be collected as per the Minister's order, unless the timber is for a non-commercial purpose.

Ministerial Regulation B.E. 2555 on the Description of Electric Chainsaws, by virtue of the Electric Chainsaw Act, requires importers, manufacturers, traders, owners, and operators of electric chainsaws over one horsepower to apply for a licence. Harvesting using electric chainsaws over one horsepower must be performed by a licence holder.

PERMISSION SYSTEM FOR RESTRICTED SPECIES:

Section 6 of the Forest Act classifies restricted species into two categories:

- Harvesting of Category (A) species from a forest requires permission;
- Category (B) timber species are considered rare species of which logging is prohibited, unless the person holds a ministerial authorisation.

Restricted species are declared in the Royal Decree on Restricted Timber Species B.E. 2530 and the Royal Decree on Restricted Forest Products B.E. 2530, by virtue of the Forest Act. Section 7 of the Forest Act imposes nationwide restrictions on teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.). These timber species require permission to harvest, process, trade, and transport, even when the timber is grown on private land.

Sections 9, 25, 29 of the Forest Act impose royalty and forest maintenance fees for all restricted timber and restricted non-timber forest products harvested from a forest (public land and NFRs). All timber and forest products generated from registered plantations under the Forest Plantation Acts are exempted from royalty and forest maintenance fees.

Ministerial Regulations No. 19, 24, 26, and 29, by virtue of the Forest Act, regulate the harvesting and transportation of timber and forest products.

PERMISSION SYSTEM FOR REGISTERED PLANTATIONS UNDER FOREST PLANTATION ACTS

Plantation certificate (Por Sor 3) holders follow a permission system under sections 9, 11, and 12 of the Forest Plantation Act B.E. 2535, and sections 9, 10, 11, 14, and 14/1 of the Forest Plantation Act (No. 2) B.E. 2558. Before leaving a plantation, timber from a registered plantation is marked by the private seal of the plantation operator. The transportation operator must be in possession of the Plantation Timber Packing List, along with a copy of a Certificate of Cutting/Felling.

Before harvesting the timber, the plantation operator must:

- i) Register their private seal (proof: Seal Registration Sor Por 8 and Seal Certificate Sor Por 9);
- ii) Submit Notification of cutting/felling (proof: Certificate of Cutting/Felling Notification Sor Por 13); and
- iii) Register the plantation timber packing list (proof: Plantation Timber Packing List Sor Por 15).

Transportation Operators must be in possession of the following documents when they transport round logs, sawn wood, and forest products generated from registered plantations: Plantation Timber Packing List (Sor Por 15), and a copy of a Certificate of Cutting/Felling Notification (Sor Por 13).

PERMISSION SYSTEM FOR ALL OTHER SOURCES:

The authority responsible for issuance of a transport document is the Forest Checkpoint Bureau under the Royal Forest Department. The RFD has set up 39 forest checkpoints nationwide, 38 of which are referred to as 'Category 1' checkpoints, are located in 38 outer provinces, and operate 24 hours. The Bangkok forest checkpoint is referred to as a 'Category 2' checkpoint and has four operating branches in the city that are open during office hours.

For logs or forest products harvested from public land outside registered plantations, operators are required to pay a royalty and forest maintenance fees. Once the fees are collected, a receipt is issued, and each and every item will be marked with the royalty seal, the personal seal of the officer, the sequential number, and the year. Before transport, the transportation operators must obtain a Removal Pass. The officer will verify the timber mark, proof of royalty collection, proof of forest checkpoint fee payment (in case of Non-restricted timber where a harvesting permit and royalty are not required), the sale receipt (in case of timber sold by state agencies). In the case of imported timber and forest products, the officer will verify the timber mark, the import duty receipt, the packing list/bill of lading, the invoice, and the Certificate of Origin and/or export licence from the exporting country. After verification, the officer will mark each and every item of the shipment with their personal seal as proof of inspection. In the event that this cannot be performed, written notification on the packing list accompanying the consignment is required. The packing list carries information on the type/species, the quantity and volume, and the number on each log, as well as the officer's seal.

Each lorry that carries timber and forest products must be in possession of a transport document, which will be verified at forest checkpoints. Removal Passes can be re-issued at a forest checkpoint if the original removal pass has expired. Other types of transport documents are issued by licensed sawmills, licensed timber traders, district chiefs, or provincial governors. On the back of the transport document is a packing list. A record of royalty payment, where applicable, is attached to the transport document.

Under Clause 3 of Ministerial Regulation No. 26 (B.E. 2528) on the Transportation of Timber or Forest Products, by virtue of the Forest Act (Fifth Revision B.E. 2518), transport documents are valid for a specific time and locality, but the period of validity cannot exceed 30 days.

A transportation operator must notify a forest checkpoint within five days of arriving at the locality. Under Clause 16 of the RFD Regulation on the Transportation of Timber and Forest Products B.E. 2552, forest checkpoint officials will verify the documentation, and ensure that the transport document is still valid and that the royalty has been fully and correctly paid. Upon verification they will sample check a minimum of 20% of the load. Once verified, Forest Checkpoint officials will place their personal seal on the sample items (but not necessarily every item in the load), and sign off the transport document.

If the transport document has expired, Ministerial Regulation No. 26 (B.E. 2528) on the Transportation of Timber or Forest Products requires that forest checkpoint officials issue a new Removal Pass, and use their discretion to determine the expiry date up to a maximum of 30 days from the date of issue.

TIMBER PROCESSING AND TRADING PERMISSION SYSTEM:

Primary processing facilities and timber suppliers require a licence to operate. A person who processes restricted wood products for commercial purposes also requires a licence. Processing and Trading Operators' licences are issued by the RFD for one year, and are renewable. The law requires that all logs entering primary processing or trading facilities be recorded in the facility's inventory system (specifying type/species, volume, quantity, timber mark, and origin). Primary processing facilities are required to verify the load and documentation before they enter the facilities. They are required to keep three log books containing information on i) round logs received, ii) sawn timber dispatched, and iii) an overall inventory of the operation. These records must be submitted to the authority when the operator applies for licence renewal.

Under the Announcement of the Royal Forest Department on Authorizing Licensed Processing and Trading Operators to Issue Sawn Timber Certificates dated 10 January 2003, licensed operators are authorised to issue two types of transport documents, Sawn Timber Certificates and Restricted Wood Product Certificates, to accompany each consignment as they are dispatched from their facilities. These certificates are usually valid for 24 hours from the time of issue. Transport documents for rubberwood and 13 other plantation species are valid for seven days. Licensed operators are required to register their Sawn Timber Certificate and Restricted Wood Product Certificate books with the RFD, and the signatures and stamps of competent officers must be placed in each book before use. The Sawn Timber Certificate and Restricted Wood Product Certificate contain the type/species, size, quantity, volume, and timber mark. Licensed operators must keep two carbon copies of the certificate that they issue. The first copy must be kept on-site for a minimum of two years, and the second copy must be collected and submitted to the licensing authority once a month.

Under the Forest Act, the legislation specific to timber processing and trading permission system is: Ministerial Regulation No. 25 (B.E. 2519), and Ministerial Decrees No. 11 (B.E. 2525), 13(B.E. 2525), 18 (B.E. 2532).

Additional sources:

- FAO, 2015. Global Forest Resources Assessment 2015 – Thailand, <http://www.fao.org/documents/card/en/c/8ea99764-2825-4d13-9b69-bc66f4400b45/>
- Lawson, S. 2014. Illegal wood import and re-export: The scale of problem and the response in Thailand, South Korea and India. Chatham House. https://indicators.chathamhouse.org/sites/files/reports/Lawson_Thailand_SK_India_P_2014_0%281%29_0.pdf

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

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

1.1.1. Applicable laws and regulations

Land tenure:

- Land Code B.E. 2497 (1954, 1999) – land legislation, and identifies various tenure types, including ownership and use rights. Land Code B.E. 2497 (1954). Accessed 19 May 2016 at <http://faolex.fao.org/docs/pdf/tha33176.pdf> Land Code B.E. 2497 (amended 1999). Accessed 19 May 2016 at <https://www.samuiforsale.com/law-texts/law-text-land-code-act-1954.html>
- Ratchaphatsadu Land (State Land) Act B.E. 2518. Accessed 15 June 2016 at http://www.codi.or.th/downloads/laws/law/land_law-9.pdf;
- The Cooperatives Act B.E. 2552 (amended 2010). Accessed 15 June 2016 at http://www.parliament.go.th/ewtadmin/ewt/elaw_parcy/download/article/article_20110916140748.pdf;
- Land Allocation Act B.E. 2511 (1968). Accessed 25 April 2016 at [http://web.krisdika.go.th/data/outsitedata/outside21/file/Allotment_of_Land_for_Living_Act_BE_2511_\(1968\).pdf](http://web.krisdika.go.th/data/outsitedata/outside21/file/Allotment_of_Land_for_Living_Act_BE_2511_(1968).pdf)
- Land Allocation Act (No. 2) B.E. 2558 (2015). Accessed 15 June 2016 at http://library2.parliament.go.th/giventake/content_nla2557/law92-250958-15.pdf
- Land Consolidation for Agriculture Act B.E. 2517 (1974). Accessed 15 June 2016 at http://kromchol.rid.go.th/fad/fad_ext/Regulatione/The%20Agricultural%20Land%20Act%202517.pdf;
- Agricultural Land Reform Act B.E. 2518 (1975) – Articles 4, 34; Accessed 25 April 2016 at <http://www.krisdika.go.th/wps/wcm/connect/91acda004d38ff059ff59f90ff96f963/AGRICULTURAL+LAND+REFORM+ACT+B.E.+2518+%281975%29.pdf?MOD=AJPERES&CACHEID=91acda004d38ff059ff59f90ff96f963>
- The Land Development Act (2008) Section 9. Accessed 19 May 2016 at http://www.ddd.go.th/web_act/Menu3/Menu3-01.pdf
- Land Readjustment Act (2004). Accessed 19 May 2016 at http://thailaws.com/law/t_laws/tlaw0140_2.pdf

Management rights:

- The Forest Act B.E. 2484 (1941), (amended 2014). Accessed 19 May 2016 at <http://www.fio.co.th/institution/human/download/580714-1.pdf>
- The National Forest Reserves Act B.E. 2507 (1964) regulates logging in National Forest Reserves; Section 16 (2) grants occupancy rights and allows conversion of land within National Forest Reserves designated as deteriorated forest to be forest or tree plantation between 5 and 30 year period. Timber from this plantation is exempted from royalties and forest conservation fee;
 - National Forest Reserves Act B.E. 2507 (1964). Accessed 25 April 2016 at http://www2.austlii.edu.au/~graham/AsianLII/Thai_Translation/National%20Reserve%20Forest%20Act.pdf
 - National Forest Reserves Act B.E. 2507 (in Thai). Accessed 19 May 2016 at <http://portal.dnp.go.th/DNP/FileSystem/download?uuid=188000d3-7cf7-40a6-acf7-084562da32cb.pdf>
 - The Second National Forest Reserves Act B.E. 2522. Accessed 19 May 2016 at [http://www.fisheries.go.th/mf-emdec/mainweb/fisherylaw/lawfiles/done/พระราชบัญญัติป่าสงวนแห่งชาติ \(ฉบับที่ 2\) พ.ศ. 2522.pdf](http://www.fisheries.go.th/mf-emdec/mainweb/fisherylaw/lawfiles/done/พระราชบัญญัติป่าสงวนแห่งชาติ (ฉบับที่ 2) พ.ศ. 2522.pdf)
 - The Third National Forest Reserves Act B.E. 2528. Accessed 19 May 2016 at [http://www.fisheries.go.th/mf-emdec/mainweb/fisherylaw/lawfiles/done/พระราชบัญญัติป่าสงวนแห่งชาติ \(ฉบับที่ 3\) พ.ศ. 2528.pdf](http://www.fisheries.go.th/mf-emdec/mainweb/fisherylaw/lawfiles/done/พระราชบัญญัติป่าสงวนแห่งชาติ (ฉบับที่ 3) พ.ศ. 2528.pdf)
 - The Fourth National Forest Reserves Act B.E. 2559 (2016). Accessed 28 May 2016 at <http://www.ratchakitcha.soc.go.th/DATA/PDF/2559/A/046/12.PDF>
- Forest Plantation Act B.E. 2535 (1992). Accessed 19 May 2016 at http://thailaws.com/law/t_laws/tlaw0055.pdf / <http://extwprlegs1.fao.org/docs/pdf/tha70240.pdf>
- The Second Forest Plantation Act B.E. 2558 (2015) regulate the registration of commercial forest plantation of 58 species only (*Section 3*); timber and forest products from the plantations are exempted from royalties; *Section 4* outlines six types of land tenure eligible to be registered as a forest plantation.
- Ministerial Regulation on the Request and Permission to Utilize Forest Estate B.E. 2558, clause 5.5, 9, 12, 17, 23, 24
- Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005), by virtue of section 20 of National Forest Reserves Act B.E. 2507 amended by National Forest Reserves Act (No.3) B.E. 2528 (1985). Accessed 19 May 2016 at [http://www.forest.go.th/chiangrai_2/images/stories/file/7\(4\)/Matra7\(4\)-2-015.pdf](http://www.forest.go.th/chiangrai_2/images/stories/file/7(4)/Matra7(4)-2-015.pdf)
- Ministerial Regulation No. 1106 (B.E. 2528) on the Logging in National Forest Reserve, in Royal Forest Department Handbook on Permission related to Timber and Forest Product (2008), pp. 24-26. Accessed 5 June 2016 at <http://www2.suratthani.go.th/onre/download/233.pdf>

Operator:

- Business Registration Act B.E.2499. Accessed 25 April 2016 at - http://www.dbd.go.th/dbdweb_en/ewt_dl_link.php?nid=4013
- The Revenue Code. Accessed 25 April 2016 at <https://www.samuiforsale.com/law-texts/the-thailand-revenue-code.html>
- Cooperative Act B.E. 2542 (1999) Accessed 2 June 2016 at http://thailaws.com/law/t_laws/tlaw0378.pdf

Processing:

- Factory Act BE 2535 (1992). Accessed 25 April 2016 at http://thailaws.com/law/t_laws/tlaw0100.pdf
- Ministerial Regulation No. 25 (B.E. 2519) on the Processing and Possession of Sawn Timber, by virtue of Sections 48 and 58 of the Fifth Forest Act B.E. 2518 and Section 75 of the Forest Act B.E. 2484. Accessed 28 April 2016 at <http://www2.suratthani.go.th/onre/download/136.pdf>
- Ministerial Decree No. 11 (B.E. 2525) on the Control of Rubberwood Processing Facility using Mechanical Equipment, by virtue of Sections 48 and 58 of the Fifth Forest Act B.E. 2518. Accessed 19 May 2016 at <http://www2.suratthani.go.th/onre/download/138.pdf>
- Royal Forest Department Announcement on Assigning Competent officers responsible for Permission of Commercial Timber Processing, Sawmill, and Trading Facility, dated 13 February B.E. 2522. Accessed 28 April 2016 at <http://new.forest.go.th/industry/wp-content/uploads/sites/12/2014/07/32.pdf>

Restricted species:

- Royal Decree on Restricted Timber Species B.E. 2530 dated 26 October 1987. Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Accessed 28 April 2016 at <http://forestinfo.forest.go.th/Content/file/forest2530.pdf>
- Royal Decree on Restricted Forest Product Species B.E. 2530 dated 26 October 1987. Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Accessed 28 April 2016 at http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&qid=239&Itemid=

1.1.2. Legal authority

Ministry of Interior:

- *The Department of Lands* operates through a system of provincial and district land offices. Responsible for registering landholdings, issuing land titles and land-use certificates, and conducting cadastral surveys.
- *The Department of Public Welfare* implements land settlement projects that allocate public land to farmers.

- *Tambon (local government) Administration Organisations and District Offices* in rural areas and *municipalities* in urban areas have responsibility for managing local land-use issues and upgrading settlements.

Ministry of Agriculture and Cooperatives:

- *The Agricultural Land Reform Office (ALRO)* is responsible for allocating land to farmers pursuant to the Agricultural Land Reform Act
- *The Land Development Department* is responsible for macro and land-use planning and classifying land for development purposes.
- *The Cooperative Department* is responsible for registering plantation farmers cooperative.

Ministry of Natural Resources and the Environment:

- *The Royal Forest Department* and its provincial offices – oversees permission in the harvesting, transport, processing, manufacturing and trade.

Ministry of Commerce and its provincial offices:

- *The Department of Business Development* is responsible for business registration.

Ministry of Finance:

- *The Revenue Department* is responsible for tax file number application and VAT registration.

Ministry of Industry:

- *The Department of Industrial Works* is responsible for approving factory licences.

1.1.3. Legally required documents or records

Plantations (private land and public land):

- Forest Plantation Act B.E. 2535 (1992) and The Second Forest Plantation Act B.E. 2558 (2015):
 - Plantation Certificate (Sor Por 3)

According to Section 4 of the *Forest Plantation Act (No. 2) B.E. 2558*, an estate eligible to register as a forest plantation with the RFD must fall into one of these categories:

1. Landholding under Land Code B.E. 2497 (1954, 1999):
 - 1.1. Freehold title deeds (NS-4; NS-4 Kor; NS-4 Khor; NS-4 Ngor; NS-4 Chor);
 - 1.2. Map title deeds (*chanod paen ti*);
 - 1.3. Temporary occupancy title deeds (*chanod tra chong*);
 - 1.4. Temporary occupancy deed stamped "utilisation" (*tra chong*);
 - 1.5. Exploitation Testimonial Certificate (NS-3K) and Certificate of Use (NS-3)
2. Landholding under Land Consolidation for Agriculture Act B.E. 2517 (1974) and Land Allocation for Livelihood Act B.E. 2511 (1968):
 - 2.1. Official certificate in line with the Land Consolidation for Agriculture Act;

- 2.2. *Nikomsangtonang* Utilisation Certificate (Nor Kor 3);
- 2.3. Cooperative Settlement Utilisation Certificate (Kor Sor Nor 5);
3. Landholding under Agricultural Land Reform Act B.E. 2518 (1975):
 - 3.1. Certificates of Rights to Farm (SPK 4-01; SPK 4-01 Kor; SPK 4-01 Khor);
 - 3.2. Lease Agreement;
 - 3.3. Lease-Purchase Agreement;
 - 3.4. Land Compensation Agreement;
4. Landholding under National Forest Reserves Act B.E. 2507 (1964):
 - 4.1. Usufruct Permit (STK 1 Khor; STK 2 Kor) according to Section 16 duo (2) – these are renewable 10-year leaseholds to smallholders who occupy land in National Forest Reserves between 3.2 ha and 5.6 ha and wish to convert land into forest or tree plantation of no less than 25 trees per 0.16 ha;
 - 4.2. Plantation License (Por Sor 31) according to Section 20, the RFD can approve conversion of degraded forest within the boundary of National Forest Reserves into forest or tree plantation under 320 ha for a renewable 30 year period;
 - 4.3. Authorisation to make use of a “logging ban area”, if the proposed plantation area is in the area designated as ‘logging ban area’ declared by the military or the office of the prime minister
5. Estate with Forest Plantation License in line with the Forest Act B.E. 2484 (1941);
6. Estate used as a forest plantation by a government agency, state enterprise, or other state agency (title deeds, utilisation certificate, or proof of use rights);

Operator:

1. Business Registration Act B.E. 2499 (1956)
 - 1.1. Business Registration
2. Forest Act B.E. 2484, B.E. 2518, B.E. 2541 Sections 47-53
 - 2.1. Timber Mechanical Processing Facility’s License
 - 2.2. Timber Manual Processing Facility’s License
 - 2.3. Sawn Timber Trading Facility’s License
 - 2.4. Restricted Wood Product Trader’s License
3. Factory Act B.E. 2535 (1992)
 - 3.1. Factory licence (for sawmill/manufacturing plant with machinery five horsepower and over
4. Cooperative Act B.E. 2542 (1999)
 - 4.1. Cooperative Registration

Tax registration:

1. The Revenue Code

1.1. Tax file number

1.2. VAT registration (optional; required if annual business revenue exceeds 1.8 million baht)

1.1.4. Sources of information

Government sources

Land tenure:

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- Ministry of Natural Resources and Environment (MNRE) (2015). *Framework on Resolving Forest Encroachment* [online]. Presentation for a meeting on new policy to address forest encroachment (Rubberwood cutting), 20-22 May 2015. Available at http://oops.mnre.go.th/ewt_dl_link.php?nid=309 [Accessed 30 June 2016]
- Department of National Parks, Wildlife and Plant Conservation (DNP). *Cabinet Resolutions pertaining to watershed management in protected areas* [online]. Available at: <http://www.dnp.go.th/watershed/gov1.htm> [Accessed 30 June 2016]
- Royal Thai Army – Types of Land Tenure in Thailand. Available at: http://www.army1.rta.mi.th/army1_logistics/logistics/หนังสือแสดงเอกสารสิทธิ์ที่ดินประเภทต่างๆ.pdf [Accessed 24 April 2016]
- Royal Forest Department (RFD) (2008). *Handbook on Timber and Forest Product Permission* [online]. Timber and Forest Products Permission Division, Permission Bureau. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 22 June 2016]
- nam.dol.go.th (N.Y.) *Get to Know Land Certificates* [online]. Department of Lands. Available at: <http://nam.dol.go.th/Pages/มารู้จักเอกสารสิทธิ์เกี่ยวกับที่ดิน.aspx> [Accessed 30 June 2016]

Management rights:

- fio.co.th (N.Y.) *Notification of the National Council for Peace and Order No. 106/2557 on the Revision of Forest Act dated 21 July 2014* [online]. Available at: <http://www.fio.co.th/institution/human/download/580714-1.pdf> [Accessed 19 May 2016]
- Royal Forest Department (N.Y.) *Handbook on Implementing the Forest Plantation Act B.E. 2535 (1992)* [online]. Available at: http://www.forest.go.th/private/index.php?option=com_docman&task=doc_download&gid=133&Itemid=491&lang=th [Accessed 25 April 2016]
- *Forest Plantation Registration Form Sor Por 1*. Available at: http://easyweb.mnre.go.th/ewt/nongkhai/ewt_dl_link.php?nid=85 [Accessed 19 May 2016]

Operator:

- Ministry of Commerce (2016). *Guideline on business registration according to Business Registration Act B.E. 2499 (1956)* [online]. Department of Business Development. Available at: http://www.dbd.go.th/dbdweb_en/ewt_news.php?nid=3974 [Accessed 25 April 2016]
- Royal Forest Department (N.Y.) *Handbook for Operators on Sawmill License Application* [online]. Available at: <http://new.forest.go.th/industry/wp-content/uploads/sites/12/2014/07/32.pdf> [Accessed 28 April 2016]
- Royal Forest Department (N.Y.) *Handbook for Officials on Wood Industry* [online]. Available at: <http://new.forest.go.th/industry/wp-content/uploads/sites/12/2014/07/43.pdf> [Accessed 28 April 2016]
- Royal Forest Department (N.Y.) *Guideline on Wood and Forest Products Licensing* [online]. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 28 April 2016]
- Prachatai Online (2014) *National Council for Peace and Order No. 64/2557 on Suppressing and Ending Forest Encroachment* [online]. Published 15th June 2014. Available at: <http://prachatai.com/journal/2014/06/54015> [Accessed 28 June 2016]
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- fao.org (N.Y.) *The development of forest plantations in Thailand*. Available at: <http://www.fao.org/docrep/007/ae535e/ae535e0d.htm> [Accessed 28 April 2016]
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- Manager Online (2015) *287 rai (45 ha) of Rubber Plantations in Pissanulok Province Forcibly Felled by Forestry Officials* [online]. Published 30 May 2015 Available at: <http://www.manager.co.th/Local/ViewNews.aspx?NewsID=9580000061428> [Accessed 28 April 2016]
- thaipublica.org (2014) *Views from Plantation Farmers on the amended Forest Plantation Act* [online]. Published 26 November 2014. Available at: <http://thaipublica.org/2014/11/commercial-reserved-forest-act-1992/> [Accessed 17 June 2016]

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- Barney, Keith (2005). *At the Supply Edge: Thailand's Forest Policies, Plantation Sector, and Commodity Export Links with China* [online] Published in: *China and Forest Trade in the Asia-Pacific Region: Implications for Forests and Livelihoods*. Forest Trends. Available at: http://www.forest-trends.org/documents/files/doc_141.pdf [Accessed 30 June 2016]
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1.1.5. Risk determination

Overview of legal requirements

In Thailand, land is classified into private land and public land. The Forest Act B.E. 2484 (1941) states that forest estates and forest resources are owned by the State. In reality, a 'forest' recognized under the law may not be a natural forest, as Section 4.1 of the Forest Act B.E. 2484 (1941) defines 'forest' as land that has not been legally acquired by any person under the Land Code B.E. 2497 (1954). Furthermore, as the National Forest Reserves Act B.E. 2507 (1964) was passed, various areas around the country have been declared as forest reserves. Local communities were not required to approve the proposed demarcation. In the mid 1980s, it was estimated that a fifth of the land officially designated as forest reserve was permanently occupied and cultivated by farmers ([Giné 2005](#)). As such, the legal definition of forest expanded to cover the land demarcated on a map as forest reserve.

The Land Code B.E. 2497 (1954) contains procedures for the issuance of documents recognizing title to land in non-forest areas and the maintenance of the land register. It defines different types of documents depending on whether the owner can claim occupancy, utilization, or legal possession of the land, e.g. full legal title (NS-4), Certificate of Use (NS-3) and "Exploitation Testimonial" (NS-3K). A full legal title (NS-4) enables the owner to sell, transfer and legally mortgage the land. Both the NS-3 and NS-3K enable legal transfer by sale or will. There are other documents defined in the Code that support ownership. The NS-2 document is a "Preemptive Certificate" which authorizes temporary occupation of the land. It does not allow legal transfer of the land except by inheritance, and cannot be used as collateral.

National forest reserves, protected areas and land reform areas are classified as public land. About 60% of all public land is forest land ([Giné 2005](#)). In the 1980s, the Royal Forest Department (RFD) introduced a program to recognize the rights of farmers inside forests, with a "Usufruct License" (STK) that could be renewed if the land had been continuously cultivated. The STK certificate program ended in the 1990s when the degraded forests were transferred to the Agricultural Land Reform Office (ALRO), an agency established under the The Agricultural Land Reform Act B.E. 2518 (1975), for redistribution of land for farming and residential uses. Legislation covering land tenure and management rights are reviewed below.

Private land:

Land with an official document recognized by the Land Code B.E. 2497 (1954) is not considered 'forest' under the Forest Act B.E. 2484 (1941). Timber on private land, whether naturally grown or planted, is considered private property of the owner and is not under the jurisdiction of forestry law. However, according to section 7 of the Forest Act B.E. 2484 (1941), teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and

rosewood (*Dalbergia* spp.) are placed under nationwide restriction. A person is required to comply with sections 11-42 of the Act when it comes to harvesting, transporting, processing, or trading these species from private land. Essentially, this means a person can freely grow trees of any species on private land, but is required to obtain permission to harvest, remove, process, and trade these three restricted species. *Ministerial Regulation No. 24 (B.E. 2518) on Restricted Timber Harvesting* outlines harvesting rules for all restricted timber on private land and public land.

Registered plantation under forest plantation act:

The Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015) allow private and state operators to register their plantations with the Royal Forest Department. To be eligible for registration, applicants must meet the species and landholding requirements. No plantation management plan is required. Successful applicants receive Plantation Certificate *Sor Por 3*.

In terms of species requirements, under the Forest Plantation Act B.E. 2535 (1992), only plantations that were growing restricted species were allowed to register. From 2015, with the Forest Plantation Act (No. 2) B.E.2558 (2015), the species requirement has changed; only plantations that grow one or more of the 58 timber species listed in the Annex are allowed to apply.

In terms of landholding requirements, the applicant must be in possession of a land document to demonstrate land ownership, possessory rights, occupancy rights, leasehold, plantation licence, or use rights. Plantation estates can be located on private land or public land, including in National Forest Reserve (NFR) areas.

Section 4 of the Forest Plantation Act (No. 2) B.E. 2558 outlines the types of landholding eligible to register:

- a) Land with ownership title or a certificate for utilisation under the Land Code;
- b) Land with an official certificate that such land may be registered for ownership title or certificate for utilisation under the Land Code based on the fact that it is possessed and utilised under the Law on Land Consolidation for Agriculture or the Law on Land Allocation for Livelihood;
- c) Land within a land reform area under the Law on Land Reform for Agriculture. In this case, evidence of permission, hire or hire-purchase, transfer, or inheritance is required;
- d) Land which is permitted under the National Forest Reserves Act to be utilised and dwelt on, reforested, or perennial plant plantation in an improved area of a National Forest Reserve, or to-be-improved land, forest plantation, or perennial plant plantation in a degraded forest;
- e) Land permitted by forestry law to be licensed as forest plantation;
- f) Land used for forest plantation by a government agency, state enterprise, or other state agency.

The Royal Forest Department (RFD), under the Ministry of Natural Resources and Environment, is the legal authority responsible for enforcement of and compliance with

these Acts. For plantations outside Bangkok, the RFD assigns local and regional offices of the Ministry of Natural Resources and Environment as competent authorities.

Licensed plantation in national forest reserve estate (NFR):

The government permits settlement and occupation in a national forest reserve estate (NFR), as well as forest or tree plantations to be established in degraded forest areas of the NFR. An ever-evolving series of legislation has outlined the criteria for plantation establishment, land occupation and management rights in NFRs. The latest amendment to the National Forest Reserves Act B.E. 2507 (1964), called the National Forest Reserves Act (No. 4) B.E. 2559 (2016), was passed in 2016. Discussion with RFD officials revealed that the subsidiary regulations are being updated (as of November 2016) to reflect the changes made in the amendment of the new Act. One of the relevant changes is in section 11 of the National Forest Reserves Act (No. 4) B.E. 2559 (2016), stipulating that a plantation estate exceeding 160 ha shall be authorized by the cabinet. Another change is the introduction of the "National Committee to Oversee Utilization in National Forest Reserves," under section 13/2. The national committee has the authority to determine the criteria and conditions for permission related to land use or settlement in a national forest reserve estate, and for permission related to the establishment of a forest or tree plantation in degraded forest area of the NFR. Furthermore, a new committee at provincial level called a "Provincial Committee to Regulate and Conserve National Forest Reserves" is to be set up in every province where national forest reserves are situated. The provincial committee is to implement policy directives given by the RFD Director-General.

In the *Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005)*, by virtue of Section 20 of the National Forest Reserves (No. 3) B.E. 2528 (1985), a plantation licence (***Por Sor 31 Plantation License***) is obtained through the Royal Forest Department. The plantation size is limited to 320 ha per operator. A plantation operator applying for a permit over an area of degraded forest exceeding 16 ha is required to submit a project document including details of start time, objective, goal and costs.

In 1985, the *National Forest Reserves Act B.E. 2507 (1964)* was amended to add a provision concerning the grant of usufruct rights in degraded restricted forest. *Section 6* granted temporary occupation rights on areas of up to 3.2 ha to a household living in degraded forest for a period of five years but for no more than 30 years in total. With the permission of the RFD, a resident may establish a forest plantation or tree plantation of up to 5.6 ha per household. The household for a period of 10 year.

The criteria for determining when forest is degraded is outlined under clause 9 of the *Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005)*:

- The area is not a conservation forest classified as 'Watershed Classification 1A' according to the Cabinet Resolutions dated 28 May B.E. 2528, 21 October B.E. 2529, 12 July B.E. 2531, 7 May B.E. 2532, 19 May B.E. 2534 and 21 February B.E. 2538;

- The area is not in dispute with local communities and nearby communities, and the project must be approved by the local council or the elected Tambon Administration Organisation;
- The area meets the criteria of a 'degraded forest' outlined in clause 4 of the Regulation:
 - All or part of the area is in National Forest Reserve and has little valuable vegetation left (valuable species determined by RFD), and is unlikely to regenerate by itself;
 - The forest contains less than 20 two-metre shrubs or taller per rai (equivalent 0.16 ha); OR
 - The forest contains less than eight trees with a diameter of between 50 and 100 centimetres per rai (measured at 130 cm above the ground); OR
 - The forest contains the equivalent of less than two trees with a diameter exceeding 100 centimetres per rai (measured at 130 cm above the ground); OR
 - The forest has the flora listed in (1), (2), and (3) combined and a total of less than 16 trees or shrubs per rai.

Licensed plantation in a forest or on public land outside national forest reserves:

Under clause 5.5, 9, 12, 17, 23, 24 of the *Ministerial Regulation on the Request and Permission to Utilize Forest Estate B.E. 2558 (2015) (RFD)*, a forest regeneration project or a forest plantation can be established in a forest or public land under a 30 year lease, with approval from the Royal Forest Department.

Processing and trading:

Processing and trading facilities require a processing licence, trading licence, factory licence, business registration, a tax file number, and may require VAT registration. An individual (i.e. not a business operator) may apply for a short-term licence to process timber. The law requires that all logs entering primary processing or trading facilities must be accompanied by proof of legality, and that each consignment must be recorded in the facility's inventory system (specifying volume, quantity, quality, and origin). Processing facilities are required to check the origin of logs before they enter the facilities. They are to keep three log books containing information on i) round logs stored, ii) round logs processed, and iii) the overall inventory of the operation.

In a facility operated by machinery with five horsepower or more, the operator requires a factory licence issued by the Department of Industrial Works (Ministry of Industry), and must abide by the Factory Act B.E. 2535. All registered businesses are required to pay personal income tax and corporate income tax in accordance with the Revenue Code. A business with annual income exceeding 1.8 million baht is required to file VAT registration.

Description of risk

Consultations with various experts revealed the complex situation of land tenure and management rights in Thailand. The RFD officials consulted thought that the Thai forestry laws seem adequate. This risk assessment agrees that the laws are adequate for

established, well-to-do business operators. Upon careful review and discussions with civil society organisations, the opposite view emerges: the laws are outdated, inconsistent, inadequate, and discriminatory against small and medium enterprises. Discussion with a civil society organisation representing small-scale tree farmers, with over 300,000 members managing at least 150 million trees nationwide, revealed serious and longstanding obstacles faced by smallholders.

Two areas of risk have been identified related to land tenure and management rights:

1. Illegal encroachment; and
2. Illegally issued land documents

The biggest contributors to these risks are inconsistent and inadequate laws and widespread corruption among public officials. These issues are interlinked and inseparable.

1. Illegal encroachment

- There is a considerable disconnect between official policies and local land use realities, and risks may be related to unclear tenure rights. Many areas declared as legal forest land are not actually populated with trees, but rather consist of smallholder agricultural plots. Furthermore, not all types of legal forest (NFRs, PAs, and un-demarcated forest) have been mapped or demarcated on the ground. About 20% of the country's rural villages are located within NFRs, and some 10-15 million people are living within NFRs (Fujita 2003; Leblond 2010; Hirsch 1990; FAO 2009:27, in [Woods et al. 2011](#):11-15).

2. Illegally issued land documents

- There are reports of widespread and systematic corruption among public officials involved in land document issuance, registration of plantations, and harvesting approval of i) registered plantation timber, and ii) timber grown on private land (non-registered plantations). Wealthy or well-connected individuals can bribe officials to issue land documents. Smallholders without proper land documents are prevented from accessing resources and tenure rights. Corruption involved in the issuance of land title (NS-4), and Certificate of Use (NS-3), and illegal harvesting of timber generated from land with Exploitation Testimonial (NS-3K). NS-3 or NS-3K land titles, have been recognised by the Government authority ([RFD 2008](#):313).
- Discussion with civil society organisations revealed that it is all too common that tree farmers are expected to pay a "fee" to officers, which is not required by law, if they 'want things to run smoothly and in a timely manner'. Failure to do so could result in significant delay of approval (either to do with plantation registration or harvesting permission). This delay could last years.
- According to Transparency International ([TI](#)), in 2015, Thailand scored 38/100 on the Corruption Perceptions Index (with 0 being highly corrupt) and ranks 76th out of 168 countries. The country scores 61.50 on the Press Freedom Index, and ranked close to the bottom (137th out of 179 countries) in 2011-2012. Given the lack of press freedom, it is likely that there is widespread corruption left undocumented.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.1.6. Risk designation and specification

Specified risk for all sources.

1.1.7. Control measures and verifiers

1. Illegal encroachment

- Inspections of harvesting sites shall confirm that harvesting takes place within property limits (including felling, transport and log loadings).
- Stakeholder consultation shall confirm that the legal status of the operation, or the rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operations.

2. Illegality in the issuance of property rights

- Stakeholder consultation shall confirm that land allocations have been granted following legally prescribed processes.
- In areas with land ownership conflicts, consultation with neighbours, local communities, and others shall confirm that land tenure rights are clear.

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

Concession licences:

- The Forest Act B.E. 2484 (1941), *Section 63* specifies that the government has the power to grant logging concessions in a forest. Accessed 18 June 2016 at <http://www.fio.co.th/institution/human/download/580714-1.pdf>

Termination of concessions:

- Cabinet Resolution 17 January B.E. 2532 on the Termination of All Logging Concessions with the exception of Logging Concessions in Mangroves. Accessed 18 June 2016 at [http://www.forest.go.th/service/images/stories/file/service_center\(Matra7&9\)/Matra9\(7\)/9-71-041.pdf](http://www.forest.go.th/service/images/stories/file/service_center(Matra7&9)/Matra9(7)/9-71-041.pdf)

- Cabinet Resolution 13 August B.E. 2539 (1996) on the Termination of Logging Concessions in Mangrove Forests. Accessed 18 June 2016 at <http://dmcr2014.dmcr.go.th/Resolution/wp-content/uploads/2012/02/24...130839.pdf>

1.2.2. Legal authority

- The Royal Forest Department, the Ministry of Natural Resources and Environment
- The Department of Marine and Coastal Resources, the Ministry of Natural Resources and Environment

1.2.3. Legally required documents or records

- N/A

1.2.4. Sources of information

Government sources

- The Secretariat of the Cabinet (2007). Policy, Measure, Mangrove Forest between B.E. 2523-2549.
- Royal Forest Department (N.Y.). *History of Mangrove Reforestation in Thailand* [online]. Ministry of Natural Resources and Environment. Available at: http://www.forest.go.th/index.php?option=com_content&view=article&id=318 [Accessed 18 June 2016]
- Ministry of Natural Resources and Environment (2013). *Office of Natural Resource and Environment Policy and Planning* [online]. Second Edition, January 2013, Pp. 155 and 169. Available at: http://www.onep.go.th/information/images/pdf/97_33.pdf [Accessed 9 May 2016]
- chm-thai.onep.go.th (2000) *Cabinet Resolution 22 August B.E. 2543 (2000)* [online]. Cabinet Resolutions related to Protected Areas. Available at: <http://chm-thai.onep.go.th/chm/PA/law/agree%20minister.html> [Accessed 27 November 2016]
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- Department of Marine and Coastal Resources (DMCR) (N.Y.). Frequently Asked Questions. [online]. Available at: <http://www.dmcr.go.th/faq.php> [Accessed 18 June 2016]
- Department of Marine and Coastal Resources (DMCR) (N.Y.). *Master Plan on Mangrove Management in Thailand*. Available at: http://www.dmcr.go.th/download/New2_29_01.pdf [Accessed 24 November 2016]

Non-Government sources

- Sinthipong, U. (2012). Legal Measure for the Management of Mangrove Forest [online]. *Law Journal, Naresuan University, Vol 5, No. 1, pp. 49-64*. Available at: http://webbase.law.nu.ac.th/lawnujournal/journal/journal5_1/udomsak.pdf [Accessed 18 June 2016]

- FAO (2001). *Impacts and effectiveness of logging bans in natural forests in Thailand - Lakanavichian, Sureeratna* [online]. Available at: <http://www.fao.org/docrep/003/x6967e/x6967e09.htm> [Accessed 18 April 2016]
- dailynews.co.th (N.Y.) *Director-General of RFD in press conference* [online]. Available at: <http://www.dailynews.co.th/politics/347965> [Accessed 18 April 2016]
- Sudtongkong, C. & Webb, E. L. (2008). Outcomes of State- vs. Community-Based Mangrove Management in Southern Thailand [online]. *Ecology and Society* 13(2):27. Available at: <https://www.ecologyandsociety.org/vol13/iss2/art27/> [Accessed 18 April 2016]
- Mangroves for the Future (2011). *Thailand National Strategy and Action Plan 2011-2013* [online]. Available at: <https://www.mangrovesforthefuture.org/assets/Repository/Documents/MFF-Thailand-NSAP.pdf> [Accessed 18 April 2016]
- Makarabhirom, Pearmsak (2002). *Constraints on People's Participation In Forest Management in Thailand* [online]. Kyoto Review of South East Asia. Available at: <http://kyotoreview.org/issue-2-disaster-and-rehabilitation/constraints-on-peoples-participation-in-forest-management-in-thailand/> [Accessed 27 May 2016]
- Thailand Research Fund (TRF) (2010). *Mangrove in Thailand* [online]. Knowledge Management for National Marine Interests Project, Available at: <http://www.mkh.in.th/index.php/2010-03-22-18-04-43/2010-03-25-13-46-26> [Accessed 18 June 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.2.5. Risk determination

Overview of Legal Requirements

Section 63 of the Forest Act B.E. 2484 (1941) specifies that the government has the power to grant concessions to harvest timber or forest product in a forest. In practice, logging concessions no longer exist. The cabinet resolution of 17 January B.E. 2532 (1989) terminated all logging concessions with the exception of logging concessions in mangroves. Although the cabinet resolution of 13 August B.E. 2539 (1996) terminated all logging concessions in mangroves, the cabinet resolution of 22 August B.E. 2543 (2000) allowed pre-existing logging concessions in mangroves to continue until expiry. According to the latest official data released by the Department of Marine and Coastal Resources, all logging concessions in mangrove forests have expired as of 2002 ([DM CR:7](#)).

Description of risk

There is no facility or legal instrument similar to a logging concession in Thailand. Conversations with relevant authorities (the Royal Forest Department and the Department of Marine and Coastal Resources) confirmed that they have not issued a single logging concession since 1989. No timber or forest products, including charcoal, are derived from logging concessions. The risk for this category has been designated as 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.

1.2.6. Risk designation and specification

Low risk for all sources.

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

Licensed plantations in national forest reserves:

- National Forest Reserves Act (No. 3) B.E. 2528 (1985), Section 15, 20. Accessed 25 April 2016 at http://www2.austlii.edu.au/~graham/AsianLII/Thai_Translation/National%20Reserve%20Forest%20Act.pdf
- Ministerial Regulation No. 1106 B.E. 2528 (1985) on the Logging in National Forest Reserve, Clause 6. Accessed 15 May 2016 at <http://61.19.241.70/rkj/uploadword/691400.doc>
- Ministerial Regulation No. 24 on Restricted Timber Harvesting B.E. 2518 (1975), by virtue of the Forest Act B.E. 2484 <http://law.longdo.com/law/372/sub23710>
- Royal Forest Department Regulation on Logging Permission in National Forest Reserve B.E. 2529, in Royal Forest Department Handbook on Permission related to Timber and Forest Product (2008), pp. 60-63. Accessed 5 June 2016 at <http://www2.suratthani.go.th/onre/download/233.pdf>
- Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005), Clause 11, 15, by virtue of section 20 of National Forest Reserves Act B.E. 2507 amended by National Forest Reserves Act (No.3) B.E. 2528 (1985). Accessed 19 May 2016 at [http://www.forest.go.th/chiangrai_2/images/stories/file/7\(4\)/Matra7\(4\)-2-015.pdf](http://www.forest.go.th/chiangrai_2/images/stories/file/7(4)/Matra7(4)-2-015.pdf)

1.3.2. Legal authority

- Ministry of Natural Resources and Environment:
 - Permission Bureau, Royal Forest Department in Bangkok
 - Provincial offices of the Ministry of Natural Resources and Environment

- Forest resource management offices in the provinces

1.3.3. Legally required documents or records

Licensed plantations in national forest reserves:

- Approved annual operating plan
- Plantation Annual Management Report *Por Sor 32*
- Maps showing harvesting areas
- Harvesting inventories

1.3.4. Sources of information

Non-Government sources

- Manager Online (2007). *FIO gets defensive over alleged logging of 'Hin Lom Forest' in Surin Province* [online]. Published 9 August 2007. Available at: <http://www.manager.co.th/Local/ViewNews.aspx?NewsID=950000093346> [Accessed 29 November 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.3.5. Risk determination

Overview of Legal Requirements

Legal requirements for management planning only apply to plantations in National Forest Reserves:

- In National Forest Reserves, before a licence for a new plantation is approved, the authority will conduct a forest inspection to assess the type of forest, the conditions (which must fit the description of a degraded forest), and will conduct a species count/type in a sample plot of no less than 5% of the plantation's total size. The field inspection officer will conduct a forest inventory for trees that are 50cm in diameter or greater (measured at 1.5 metres above the ground). Following this, the officer will verify whether the location is in an area designated as 'declared' under the logging ban (1989) or in a protected area.
- Approved annual operating plan: as a condition of the licence to operate a plantation in National Forest Reserves, item 11 of the condition and terms of the *Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2015)*, requires the licence holder to submit an annual operating plan to a competent authority for approval at least 6 months before the operation commences.
- Annual report: item 15 of the condition and terms requires the licence holder to submit a Plantation Annual Management Report *Por Sor 32*. The annual report must contain inventories and information about the management of the plantations over the previous year. This is to be submitted to the local competent authority within 60 days of the year-end operation, and the local authority must submit it to the Royal Forest Department within 30 days of receipt of the report. The annual report is to

contain information on plot size, species, quantity, survival rate, demarcation, maintenance, weeding, path building and maintenance, pest control, and fire breaks.

- Maps showing harvesting areas and harvesting inventories: clause 6 of *Ministerial Regulation No. 1106 B.E. 2528 (1985) on the Logging in National Forest Reserve* and *Ministerial Regulation No. 24 on Restricted Timber Harvesting B.E. 2518 (1975)* outline harvesting practices in National Forest Reserves. Licensed plantation operators are required to submit a map showing harvesting areas to a competent agency when they request permission to harvest timber from the plantations.

Description of Risk

- Even though an annual operating plan is required for licensed plantations in National Forest Reserves, the required content and procedures are not clearly outlined or defined in the law. Maps showing harvesting areas and harvesting inventories are required when applying for harvesting permission for plantations in National Forest Reserves. Conversations with officials from the Royal Forest Department revealed that they are not aware of forest management planning legal requirements. There is no publicly available information or literature discussing forest management planning in Thailand. It is not clear whether field inspection is performed by the authority prior to the approval of harvesting permits. There is no evidence that this policy is well implemented.
- This ambiguity, and weak legal requirement, may be a risk factor for this indicator, particularly when the boundary of the plantation is not clearly demarcated, or when the transfer of plantation/forest management rights is not transparent. There are cases in which the plantation harvesting activities of the Forest Industry Organisation (FIO) have been questioned by local communities ([Manager Online](#)). In 2007, villagers in Surin Province filed a complaint that the FIO had illegally logged conservation plantation forest, while the FIO claimed that the area was largely degraded and had been classified as National Forest Reserve Zone E (economic), the management rights of which were transferred from the Royal Forest Department. The FIO further argued that they had notified local leaders in the community prior to the harvesting operation.

Risk Conclusion

This indicator has been evaluated as specified risk for licensed plantations in National Forest Reserves. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

N/A for other categories.

1.3.6. Risk designation and specification

Specified risk for licensed plantations in National Forest Reserves.

N/A for other sources.

1.3.7. Control measures and verifiers

- Approved annual operating plans shall exist where the harvesting takes place in National Forest Reserves.

- Stakeholder consultation shall indicate that harvesting planning has been approved according to legally prescribed process.
- Approved harvesting plans shall be in place and approved by competent authorities.
- Field verifications shall indicate that the contents of the harvesting plans are adhered to in the field.

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

Registered plantation under the forest plantation act:

- Forest Plantation Act B.E. 2535 (1992) – Sections 11 and 12 outline the permission process for harvesting of timber and non-timber forest products in registered plantations. Available at: http://thailaws.com/law/t_laws/tlaw0055.pdf / <http://extwprlegs1.fao.org/docs/pdf/tha70240.pdf>

National forest reserve:

- National Forest Reserves Act B.E. 2507 (1964) (Amended 1985), Section 15. Accessed 25 April 2016 at http://www2.austlii.edu.au/~graham/AsianLII/Thai_Translation/National%20Reserve%20Forest%20Act.pdf
- National Forest Reserves Act (No. 4) B.E. 2559 (2016). Accessed 28 May 2016 at <http://www.ratchakitcha.soc.go.th/DATA/PDF/2559/A/046/12.PDF>
- Ministerial Regulation No. 1106 B.E. 2528 on the Logging in National Forest Reserve by virtue of Sections 5, 15, 21, 22, 23 of National Forest Reserve B.E. 2507. Accessed 15 May 2016 at <http://61.19.241.70/rkj/uploadword/691400.doc>
- Royal Forest Department Regulation on Logging Permission in National Forest Reserve B.E. 2529, in Royal Forest Department Handbook on Permission related to Timber and Forest Product (2008), pp. 60-63. Accessed 5 June 2016 at <http://www2.suratthani.go.th/onre/download/233.pdf>
- Royal Forest Department's Memo Tor Sor 1602.2/11687-1168 dated 29 January B.E. 2557 (2014) on the Implementation Guideline on Logging in National Forest Reserve (referred to in the public's handbook on logging permission in National Forest

Reserve). Accessed 27 November 2016 at
<http://phuket.mnre.go.th/download/tc/การอนุญาตทำไม้ภายในเขตป่าสงวนแห่งชาติ.pdf>

Private land and public land:

- The Forest Act B.E. 2484 (1941), Sections 11-18, 54
- Ministerial Regulation on the Request and Permission to Utilize Forest Estate B.E. 2558 (2015), by virtue of Section 54 Paragraph 2 and Section 58 Paragraph 1 of Forest Act B.E. 2484 (1941) (Fifth Revision B.E. 2518) and Section 75 Paragraph 1 of Forest Act B.E. 2484 (1941). Accessed 30 November 2016 at
<http://forprod.forest.go.th/forprod/IT/laws/2558>
[กฎกระทรวงการขออนุญาตและการอนุญาต.PDF](#)
- Ministerial Regulation No. 24 (B.E. 2518) on Restricted Timber Harvesting, in Royal Forest Department Handbook on Permission related to Timber and Forest Products, 2008, pp. 21-22. Accessed 5 June 2016 at
<http://www2.suratthani.go.th/onre/download/233.pdf>
- Ministerial Order No. 17 (B.E. 2530) on the Permission of Teak and Yang Timber on Private Land, in Royal Forest Department Handbook on Permission related to Timber and Forest Product, 2008, pp. 35-36. Accessed 5 June 2016 at
<http://www2.suratthani.go.th/onre/download/233.pdf>
- Leader of National Council for Peace and Order's Order No. 31/2559 on the Amendment of the Forest Act dated 21 June B.E. 2559 (2016). Accessed 30 November 2016 at http://library2.parliament.go.th/giventake/content_ncpo/ncpo-head-order31-2559.pdf
- Royal Forest Department memo Kor Sor 0704.3/540 dated 23 January B.E. 2546 (2003). Accessed 30 November 2016 at
[http://www.forest.go.th/permission/forestfarm30/farm/web/images/stories/file/nontimber/4\(201-216\).pdf](http://www.forest.go.th/permission/forestfarm30/farm/web/images/stories/file/nontimber/4(201-216).pdf) (pp. 10-11)
- Royal Forest Department memo Tor Sor 1602.3/1197 dated 21 January B.E. 2551 (2008). Accessed 30 November 2016 at
[http://www.forest.go.th/permission/forestfarm30/farm/web/images/stories/file/nontimber/10_2\(523-563\).pdf](http://www.forest.go.th/permission/forestfarm30/farm/web/images/stories/file/nontimber/10_2(523-563).pdf) (pp. 33-34)

Restricted species:

- Royal Decree on Restricted Timber Species B.E. 2530 (1987). Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Accessed 28 April 2016 at <http://forestinfo.forest.go.th/Content/file/forest2530.pdf>
- Royal Decree on Restricted Forest Product Species B.E. 2530 (1987). Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Accessed 28 April 2016 at
http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&qid=239&Itemid=

1.4.2. Legal authority

- Royal Forest Department, and its provincial offices

- District Chief and Provincial Governor

1.4.3. Legally required documents or records

Public land outside national forest reserves:

- Category (A) restricted species: Harvesting permit
- Category (B) restricted species: Ministerial Authorisation
- Non-restricted species: No permission required
- Forest clearance: Permission from RFD

National forest reserve:

- Category (A) restricted species: Harvesting permit
- Category (B) restricted species: Ministerial Authorisation
- Non-restricted species: Harvesting permit Por Sor 2

Registered plantation under forest plantation act:

- Seal Registration *Sor Por 8*
- Seal Certificate *Sor Por 9*
- Certificate of Cutting/Felling Notification *Sor Por 13*
- Plantation Timber Packing List *Sor Por 15*

Private land:

- Teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.): Harvesting permit
- The rest of Category (A) restricted species: No permission required
- Category (B) restricted species: No permission required
- Non-restricted species: No permission required

Forest conversion:

- Permission from RFD

1.4.4. Sources of information

Government sources

- Surathani Provincial Natural Resource and Environment Office (N.Y). *Logging Permission in National Forest Reserve* [online]. Information booklet. Available at: http://www2.suratthani.go.th/onre/download/คู่มือ_ส่วนทรัพยากรธรรมชาติ/16.pdf [Accessed 16 June 2016]
- Royal Forest Department (RFD) (2014). *Table 12: Statistics of forest offenses in 2014* [online]. Forest Protection and Fire Control Bureau. Available at: <http://forestinfo.forest.go.th/Content/file/stat2557/Table%2012.pdf> [Accessed 16 June 2016]

Non-Government sources

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- Thairath Online (2016). *Trees were cut down in a wrong plot! Forestry worker accused of illegal cutting 37 teak logs from the villager's plantation* [online]. Published 8 September 2016. Available at: <http://www.thairath.co.th/content/716360> [Accessed 30 November 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.4.5. Risk determination

Overview of Legal Requirements

The Forest Act B.E. 2484 (1941) and its subsidiary legislation require companies/individuals to obtain a harvesting permit from a provincial forestry authority where the timber is located. Legal requirement for a permit depends on the species and the legal territory where they are grown. As the Forest Act B.E. 2484 (1941) was originally written for the extraction of forest resources in a natural forest, it does not make the distinction between naturally grown and planted timber on a territory considered a forest as defined in section 4.1 of the law. Tree plantations on public land, unless they are registered under the Forest Plantation Act B.E. 2535 (1992), are required to comply with harvesting permission outlined in the Forest Act. Similarly, tree plantations on a National Forest Reserve estate, unless they are registered under the Forest Plantation Act B.E. 2535 (1992), are required to comply with harvesting permission outlined in the National Forest Reserves Act B.E. 2507 (1964).

Section 6 of the The Forest Act B.E. 2484 (1941) divides restricted timber species into Category A and Category B. Category A contains 158 restricted species. Category B contains 13 restricted species. Category B species are considered protected species, and are not permitted to be logged in a forest unless an exception is made by Ministerial Authorisation. The list of restricted species can be found in the Royal Decree on Restricted Timber Species B.E. 2530 (1987).

The Royal Forest Department (Ministry of Natural Resources and Environment) is the main authority responsible for permission in Bangkok, while its provincial forestry offices

and local administration at district offices and provincial halls (Ministry of Interior) are responsible for permission outside Bangkok.

Public land outside national forest reserves:

Under The Forest Act B.E. 2484 (1941), harvesting permission is required for all restricted species, whether naturally grown or planted, on the public land considered a 'forest' as defined in section 4.1 of the Act. The list of Thailand's restricted species is contained in Royal Decree on Restricted Timber Species B.E. 2530 (1987) and Royal Decree on Restricted Forest Product Species B.E. 2530 (1987). Moreover, harvesting Category B restricted species require ministerial authorisation.

No permission is required for non-restricted timber harvesting for household consumption. However, forest clearance (of non-restricted species) requires permission according to the Royal Forest Department memo Kor Sor 0704.3/540 dated 23 January B.E. 2546 (2003), and the Royal Forest Department memo Tor Sor 1602.3/1197 dated 21 January B.E. 2551 (2008).

National forest reserves:

Under National Forest Reserves Act B.E. 2507 (1964), harvesting permission is required for all timber species, whether naturally grown or planted, on a National Forest Reserve estate. The procedures for obtaining a harvesting permit for restricted species are prescribed in *Ministerial Regulation No. 24 (B.E. 2518) on Restricted Timber Harvesting*. The procedures for obtaining a harvesting permit for non-restricted species in National Forest Reserve are prescribed in *Ministerial Regulation No. 1106 (B.E. 2528) on Logging in National Forest Reserves* (verifier: Harvesting permit Por Sor 2).

Registered plantations:

Under the The Forest Plantation Act B.E. 2535, and The Forest Plantation Act (No. 2) B.E. 2558 (2015), the plantations registered under the Acts (*Por Sor 3 Plantation Certificate* holders) are required to obtain a Certificate of Cutting/Felling Notification. The plantation operator shall follow the harvesting permission procedures prescribed in sections 9, 11 and 12 of the Forest Plantation Act B.E. 2535, and sections 9, 10, 11, 14 and 14/1 of the Forest Plantation Act (No. 2) B.E. 2558:

- i) Register their private seal with the authority (verification: *Seal Registration Sor Por 8* and *Seal Certificate Sor Por 9*) before marking them on the timber;
- ii) Submit notification of cutting/felling to the authority (verification: *Certificate of Cutting/Felling Notification Sor Por 13*);
- iii) Register a plantation timber packing list (verification: *Plantation Timber Packing List Sor Por 15*).

Private land:

Section 7 of the *Forest Act B.E. 2484 (1941)* prescribe nationwide restriction on 3 species from the Royal Decree on Restricted Timber Species B.E. 2530 (1987). These species are teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.). Harvesting permission is required for these species even when they are grown on private land, whether naturally grown or planted. The guideline for obtaining a

harvesting permit is laid out in *Ministerial Regulation No. 24 (B.E. 2518) on Restricted Timber Harvesting*. For all other species, no permission is required.

Forest conversion:

On 10 August 2015, a new legislation was passed to prescribe the guidelines for forest conversion: *Ministerial Regulation on the Request and Permission to Utilize Forest Estate B.E. 2558 (2015)*. In the legislation, “utilization” is defined as an act of mining, petroleum exploration, shelter or agriculture, afforestation or forest plantation, use as rest area, use as livestock grazing, use as religious site, use as research and study, and use by government agencies.

Clause 12 of the regulation prescribes the criteria of forest land permitted for conversion:

- i) The area is deemed unfit for ‘prime forest’;
- ii) The area is not deemed suitable for preserving as a wildlife habitat; or
- iii) The area does not overlap the boundary of the forest prohibited for utilisation declared by the Cabinet.

Only the Forest Industry Organisation (FIO) is permitted to harvest and sell timber from forest land permitted for conversion. Under clause 24 of the regulation, the licence holder must notify the Royal Forest Department (RFD) should forest clearance be required, and that only the FIO is allowed to fell and remove logs in accordance with the RFD regulations.

Description of Risk

There is some evidence that supervision and monitoring of harvesting operations is inconsistent. According to a report by EFI, the volume of legally produced logs from natural forest is remarkably small ([Heuch et al 2012:21](#)). Most of the timber exported comes from domestic plantations which are at a lower risk of being illegal ([Chatham House](#)). Discussions with RFD officials suggests that the risk related to illegal issuing of harvesting permission is low from the authority’s point of view, as timber harvesting in National Forest Reserves is only approved in designated areas permitted for utilisation (such as for infrastructure), and for licensed plantations. For plantations, risk may arise when a contractor fells trees outside the boundary of the permitted area; for example, in September 2016, an FIO-hired contractor illegally cut down 37 teak trees from a villager’s plantation ([Thairath](#)). The FIO claimed that it hired a contractor to harvest the logs from an FIO plantation, and that the contractor was given a map with GPS coordinates, but since the two plantations were separated by a road, the contractor might have made a mistake. There is little evidence that this is a common occurrence, with only a few reported cases. Based on an EFI report, in Thailand “there is no evidence of this being a systematic threat of widespread illegality” (Heuch et al 2012:21).

There may be risks related to harvesting being carried out without a permit. Within Thailand, illegal logging and illegal encroachment remain a serious issue. Between October 2014 and September 2015, there were 4,248 offences related to illegal logging, and 3,607 offences related to illegal encroachment, covering 23,500 ha. In the same year, the volume of confiscated round logs and sawn timber was 7,731 cubic metres ([RFD](#)).

Risk Conclusion

Although law enforcement seems effective, illegal logging and illegal encroachment remains a serious issue. This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

Specified risk for all sources.

1.4.7. Control measures and verifiers

- Field visits to verify that maps are in compliance with reality
- Harvesting permits shall exist.
- Harvesting limits shall be clearly defined based on maps and quantities.
- Authorities shall confirm the validity of harvesting permit.
- Stakeholder consultation shall confirm that harvesting permit has been issued according to the laws and regulations by the legally designated competent authority.
- Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.
- Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

- Royal Forest Department Regulation on the Calculation, Sealing, Collection of Royalty for Timber, Firewood Logs or Charcoal Logs B.E. 2510 (1967), Clause 14.

Forest act:

- Forest Act B.E. 2484 (amended 2014), Sections 9, 14, 15, 25, 26 set procedures for royalty and other fees for timber and forest product generated from public land, private land, and exemption; Annex in the Act outlines permit and licence fees. <http://www.fio.co.th/institution/human/download/580714-1.pdf>
- Ministerial Regulation No. 23 on Fees B.E. 2518 (1975), by virtue of Forest Act B.E. 2484 <http://www2.suratthani.go.th/onre/download/233.pdf>
- Leader of National Council for Peace and Order's Order No. 31/2559 on the Amendment of the Forest Act dated 21 June B.E. 2559 (2016). Accessed 30 November 2016 at http://library2.parliament.go.th/giventake/content_ncpo/ncpo-head-order31-2559.pdf

National forest reserves act:

- National Forest Reserves Act B.E. 2507 (1964) [http://www2.austlii.edu.au/~graham/AsianLII/Thai Translation/National%20Reserve%20Forest%20Act.pdf](http://www2.austlii.edu.au/~graham/AsianLII/Thai%20Translation/National%20Reserve%20Forest%20Act.pdf)
- National Forest Reserves Act (No. 4) B.E. 2559 (2016)'s Annex provides updated rates for royalty and other fees. <http://www.ratchakitcha.soc.go.th/DATA/PDF/2559/A/046/12.PDF>
- Ministerial Regulation No. 1221 on Fees, Royalty and Forest Maintenance Fee B.E. 2531 (1988) – Clause 3 outlines fees for timber generated from National Forest Reserve <http://www2.suratthani.go.th/onre/download/309.PDF>
- Ministerial Regulation No. 26 on the Transport of Timber or Forest Product B.E. 2528 (1985), issued under the Forest Act B.E. 2484, Clause 2. Accessed 5 May 2016 at <http://new.forest.go.th/checkpoint/wp-content/uploads/sites/30/2015/09/00004.pdf>
- Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005), by virtue of section 20 of National Forest Reserves Act B.E. 2507 amended by National Forest Reserves Act (No.3) B.E. 2528 (1985). Clause 14 [http://www.forest.go.th/chiangrai_2/images/stories/file/7\(4\)/Matra7\(4\)-2-015.pdf](http://www.forest.go.th/chiangrai_2/images/stories/file/7(4)/Matra7(4)-2-015.pdf)

- Royal Forest Department Regulations on the Transport of Timber and Forest Product B.E. 2552 (2009), Clause 16. Accessed 8 May 2016 at http://www.forest.go.th/forest_checkpoint/images/stories/1212.pdf

Forest plantation act:

- Forest Plantation Act (No. 2) B.E. 2558 (2015) Section 14 and 14/1 exempted timber and forest products harvested from registered plantations from royalty and forest maintenance fees.

1.5.2. Legal authority

- Royal Forest Department
- District or Provincial Administrative Offices

1.5.3. Legally required documents or records

- Receipt issued by RFD or local administrative offices at district or provincial levels.
- Packing list (quantity, species and volume) with record of royalty payment
- Harvesting permit with record of royalty payment made by the competent officer
- Record of royalty exemption

1.5.4. Sources of information

Government sources

- Royal Forest Department (2008) *Regulation on the Calculation, Sealing, Collection of Royalty for Timber, Firewood Logs or Charcoal Logs* [online]. B.E. 2510, in Royal Forest Department Handbook on Permission related to Timber and Forest Product, 2008, pp. 42-46, 2008. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 5 June 2016]
- Forest Industry Organisation Plantations (2012). *Guideline and Legal Requirements on Royalty Payment related to Harvesting Timber and Forest Product (latex)* [online]. Office of Research and Development and Information. Available at: <http://www.fio.co.th/South/law/9/946.pdf> [Accessed 30 June 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.5.5. Risk determination

Overview of Legal Requirements

A royalty must be paid for all species that require a harvesting permit, except for timber grown on private land. In a new law passed by the leader of the National Council for Peace and Order, Order No. 31/2559 on the Amendment of the Forest Act dated 21 June B.E. 2559 (2016), the royalty requirement for certain restricted species grown on private is lifted. In short, an operator must pay royalty for harvesting:

- i) All timber grown in National Forest Reserves (note that timber grown on registered plantations under the Forest Plantation Act are exempted);
- ii) Restricted species grown on public land outside NFRs.

The calculation of royalties is based on the species, quantity, and volume. All timber generated from registered plantations under the Forest Plantation Act, whether on public land or private land, are exempted from royalties.

For timber that does not legally require harvesting permission, a forest checkpoint fee will be collected when the timber is transported through the first forest checkpoint. According to sections 25 and 26 of the *Forest Act*, a transportation operator must pay a fee for transporting Non-restricted timber generated from public land (outside NFRs) through the first forest checkpoint, unless the timber is for personal use. This fee is not referred to as royalty, but is called a forest checkpoint fee.

Records of royalty collection:

Records of royalty payments must be submitted when applying for a Removal Pass or other transport documents. Royalty collection records must be presented at forest checkpoints, sawmills, and/or processing and trading facilities, in the form of a royalty seal marked on timber, a receipt, or record of payment specified in a packing list, transport document, or Sawn Timber Certificate. Forest checkpoint officials sample check (at least 20% of each vehicle load) and ensure that the royalty has been fully and correctly paid (Clause 16, RFD Regulation of transport of Timber and Forest Products, BE 2552).

Royal Forest Department Regulation on the Calculation, Sealing, Collection of Royalty for Timber, Firewood Logs or Charcoal Logs B.E. 2510, by virtue of the *Forest Act B.E 2484*, sets procedures for the competent officer to verify the harvesting permit, timber marks, species, and quantity before calculating the royalty based on the quantity, species, and/or volume (in case of firewood and charcoal). The collection of the royalty takes place after the operator notifies the authority that the harvesting has been performed. The competent officer visits the harvesting site to verify evidence of cutting/felling. After inspection, the officer will mark the timber with a hauling seal, their personal seal, a sequential number, and the year. The officer records details into the packing list, and reports to the provincial authority. The packing list and Sawn Timber Certificate shall be produced in the format required by the RFD, detailing the quality, quantity, volume, timber mark, origin of the timber, and recording the collection of the royalty. The operator must transport the timber to the storage facility specified in the permit, where the competent officer will inspect the timber, verify the packing list and harvesting permit, and collect the royalty and forest maintenance fee accordingly. Upon payment, the officer will issue a payment receipt attached to the packing list, and mark the timber with a royalty seal.

Description of Risk

Considering that royalties are collected when a harvesting permit is issued, and that no record of misconduct related to timber royalties has been made public, the risk for this category is 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.

1.5.6. Risk designation and specification

Low risk for all sources.

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

- The Revenue Department: Value Added Taxes. Accessed 5 June 2016 at <http://www.rd.go.th/publish/6043.0.html>

1.6.2. Legal authority

- Ministry of Finance
 - Revenue Department – responsible for registering VAT for person or entity; if the business is situated in Bangkok, the registration must be submitted to Area Revenue Offices, or the Area Revenue Branch Offices if it is situated outside Bangkok, or wherever its headquarters is situated.
 - Tax Incentives Bureau, Customs Department.

1.6.3. Legally required documents or records

- Tax Invoice
- VAT Registration Form VAT 01 (required for businesses with annual income 1.8 million baht and over)

1.6.4. Sources of information

Government sources

- [thaiembassy.org](http://www.thaiembassy.org) (2014) *Chapter 2: Taxation in Thailand* [online]. Business Guide to Thailand. Available at: <http://www.thaiembassy.org/dakar/contents/files/business-20150617-174649-498796.pdf> [Accessed 5 June 2016]

Non-Government sources

- Deloitte (2015). *Taxation and Investment in Thailand 2015*. Available at: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-thailandguide-2017.pdf> [Accessed 5 June 2016]
- Transparency International (N.Y.). *Thailand Corruption Measurement Tools* [online]. Available at: <https://www.transparency.org/country/#THA> [Accessed 18 June 2016].

- Worldwide Governance Indicators (N.Y). *Country Data Report for Thailand 1996-2014* [online]. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#home> [Accessed 18 June 2016]
- Thaipublica (2015). *C9 Revenue official fired, involved in 3 billion baht worth VAT scandal* [online]. Thai Publica, 14 May 2015. Available at: <http://thaipublica.org/2015/05/refund-vat-8/> [Accessed 27 November 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.6.5. Risk determination

Overview of Legal Requirements

In Thailand, the Revenue Code regulates income and value added taxes (VAT). There is no specific legislation covering sales taxes on profits derived from sale of timber and forest products and harvesting activities.

VAT is a sales tax on each stage of production and distribution. Any person or entity with annual turnover exceeding 1.8 million baht is subject to VAT. Those eligible must register to be a VAT-registered person or entity. Timber, wood and wood-related products are not exempt from VAT and are subject to a VAT of 7%. The time of supply of goods or services determines when a registered person should account for VAT. The time of supply is usually deemed to be the time of delivery, when ownership of goods is transferred, when payment is made, or when a tax invoice is issued.

For import, the time of supply is the earliest time at which import duty is paid, a guarantee is put up, a guarantor is arranged for, or a bill of lading is issued. An importer is subject to VAT no matter whether they are a registered person or not. VAT will be collected by the Customs Department at the time goods are imported.

For export, the time of supply is the earliest time at which export duty is paid, a guarantee is put up, a guarantor is arranged for, a bill of lading is issued, goods are sent from Thailand to an export processing zone, or goods are exported from a bonded warehouse.

A VAT-registered person or entity is required to issue tax invoices every time transactions are made, showing details of the nature and value of the goods sold or the services provided, and also the amount of VAT due. A tax invoice is used as evidence for claiming an input tax credit. The tax invoice must contain at least the following elements:

- The words "tax invoice" in a prominent place,
- The name, address and tax identification number of the issuer,
- The name and address of the purchaser or customers,
- The serial numbers of the tax invoice and tax invoice books (if applicable),
- A description, value and quantity of goods or services;
- The amount of VAT chargeable, and

The date of issuance.

Description of Risk

The revenue code described above provides a comprehensive legal framework, including a verification system pertaining to payment of all VAT on all commodities in Thailand. No publicly available record can be found of illegal avoidance of sales tax in the forestry industry. The risk for this category is 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.

1.6.6. Risk designation and specification

Low risk for all sources.

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

- The Revenue Code, Chapter 3 Income Tax Sections 38-76. Available at <https://www.samuiforsale.com/law-texts/the-thailand-revenue-code.html>

1.7.2. Legal authority

- Revenue Department

1.7.3. Legally required documents or records

Person:

- Certificate of Status of Taxable Person
- Personal Income Tax: Income Tax Return (Forms PIT 90, or PIT 91 or PIT 93) and Invoice issued by the Revenue Department

Business:

- Statement on the Tax Status of the Business
- Corporate Income Tax: Company Tax Returns (Form CIT 50), Tax Prepayment (Form CIT 51), and Invoice issued by the Revenue Department

1.7.4. Sources of information

Government sources

- rd.go.th (2004). *The Revenue Code* [online]. Available at: <http://www.rd.go.th/publish/37693.0.html> [Accessed 5 June 2016]

- rd.go.th (N.Y.). *Revenue Department: Personal Income Tax*. [online]. Available at: <http://www.rd.go.th/publish/6045.0.html> [Accessed 5 June 2016]
- rd.go.th (N.Y.). *Revenue Department: Corporate Income Tax*. [online]. Available at: <http://www.rd.go.th/publish/6044.0.html> [Accessed 5 June 2016]
- rd.go.th (N.Y.). *Revenue Department: Income Tax Payment Certificate* [online]. Available at: <http://www.rd.go.th/publish/21977.0.html> [Accessed 5 June 2016]
- rd.go.th (N.Y.). *Revenue Department: Certificate of Status of Taxable Person* [online]. Available at: <http://www.rd.go.th/publish/21980.0.html> [Accessed 5 June 2016]
- rd.go.th (N.Y.). *Revenue Department: Statement on the Tax Status of the Business* [online]. Available at: <http://www.rd.go.th/publish/21979.0.html> [Accessed 5 June 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.7.5. Risk determination

Overview of Legal Requirements

In Thailand, there is no specific legislation regulating income and profit taxes on profits derived from the sale of timber and forest products, and from harvesting activities. As of 2014, the Revenue Code specifies the rates for personal income and corporate income as follows:

- Personal Income Tax rates apply to taxable income above 150,000 baht, then a minimum of 5% for net income not exceeding 300,000 baht and a maximum of 35% for net income exceeding 4 million baht.
- Corporate Income Tax is a direct tax levied on a juristic company or partnership carrying out business in Thailand or overseas but deriving certain types of income from Thailand. The rate of Corporate Income Tax in Thailand is 20% on net profit (as of the 2015 accounting period). However, the rates vary depending on the type of taxpayer. For example, a small company (referring to any company with paid-up capital of less than 5 million baht at the end of each accounting period) with a net profit from 150,000 to 3 million baht pays a 15% rate. A small company with a net profit over 3 million baht pays a 20% rate.

Description of Risk

No publicly available data was found during this research to suggest that income tax avoidance by individuals or corporations in the forestry sector and timber industry represents a significant risk.

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.

1.7.6. Risk designation and specification

Low risk for all sources.

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 operator:

- Royal Forest Department Regulation on the Logging Permission in National Forest Reserve B.E. 2529 (1986), Clause 7, 9. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf>
- Royal Forest Department Regulation on Bamboo Harvesting Permission in National Forest Reserve B.E. 2529 (1986), Clause 8, 10(2). Available at: <http://www2.suratthani.go.th/onre/download/233.pdf>

Chainsaw operator:

- Electric Chainsaw Act B.E. 2545 (2002). Available at: <http://www.thailawforum.com/electrical-saw-act-english-translation/>
- Ministerial Regulation on the Description of Electric Chainsaw and its Parts, B.E. 2555 (2012), by virtue of the Electric Chainsaw Act.

1.8.2. Legal authority

- Royal Forest Department, Ministry of Environment and Natural Resource and their regional and provincial offices
- District Chief and Provincial Governor, Ministry of Interior

1.8.3. Legally required documents or records

Applicable law:

- License to operate or own electric chainsaw with 1 horsepower or over (*Electric Chainsaw Operator License Lor Sor 3*)
- License to manufacture electric chainsaw with 1 horsepower or over (*Electric Chainsaw Manufacturer License Lor Sor 5*)
- License to import electric chainsaw with 1 horsepower or over (*Electric Chainsaw Importer License Lor Sor 7*)
- License to operate a business of repairing electric chainsaw with 1 horsepower or over (*Electric Chainsaw Repair License for Business Lor Sor 17*)

- Permit to operate chainsaw in a different location for Licensed Electric Chainsaw Operator/Owner (*Electric Chainsaw Temporary Relocation Permit Lor Sor 13*)

1.8.4. Sources of Information

Government sources

- Ministerial Regulation No. 1106 B.E. 2528 on the Logging in National Forest Reserve by virtue of National Forest Reserve B.E. 2507, Clause 6. Available at: <http://61.19.241.70/rkj/uploadword/691400.doc>
- Ministry of Agriculture and Cooperative (N.Y). Ministerial Regulation No. 1106 B.E. 2528 on the Logging in National Forest Reserve by virtue of Sections 5, 15, 21, 22, 23 of National Forest Reserve B.E. 2507 [online]. Available at: <http://61.19.241.70/rkj/uploadword/691400.doc> [Accessed 15 May 2016]
- Royal Forest Department (2008). *Regulation on the Logging Permission in National Forest Reserve B.E. 2529 (1986)* [online]. Royal Forest Department Handbook on Permission related to Timber and Forest Product, pp. 60-63. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 5 June 2016]
- Royal Forest Department (2008). *Regulation on Bamboo Harvesting Permission in National Forest Reserve B.E. 2529 (1986)* [online]. Royal Forest Department Handbook on Permission related to Timber and Forest Product, pp. 64-66. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 5 June 2016]
- thailawforum.com (2002). *Electric Chainsaw Act B.E. 2545*. [online]. Available at: <http://www.thailawforum.com/electrical-saw-act-english-translation/> [Accessed 18 May 2016]
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- Royal Forest Department (2008). *Letter Urgent Tor Sor 1602.3/1197 dated 21 January B.E. 2551* [online]. Signed by Deputy Director-General Somsak Nethirangsriwatchara, Acting Director-General of Royal Forest Department. In Handbook on Permission related to Timber and Forest Product, pp. 501-503. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 5 June 2016]

Non-Government sources

- INN News (2014). *13 illegal chainsaws confiscated in Klong Thom* [online]. Published 3 November 2014. Available at: <http://news.sanook.com/1693409/> [Accessed 5 December 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.8.5. Risk determination

Overview of Legal Requirements

There are no regulatory requirements related to approval of harvest plans prior to operations commencing. The *Royal Forest Department Regulation on Logging Permission in National Forest Reserve B.E. 2529 (1986)* and the *Royal Forest Department Regulation on Bamboo Harvesting Permission in National Forest Reserve B.E. 2529 (1986)* are the only two regulations related to harvesting practices, and they are only applicable to activities in National Forest Reserves. No such laws apply to plantations or land outside National Forest Reserves. To harvest Non-restricted timber and bamboo in National Forest Reserve, the licensed operator must follow harvesting rules outlined in the legislation, and any other conditions specified in the harvesting permit issued by the competent officer and authorised by the RFD Director-General. Felling must be performed such that the height of the stump is no more than half the circumference at the point at which the tree is cut, but must not exceed one metre from the ground.

Once a year, the RFD performs forest surveys on available Non-restricted timber for Harvesting permits. A Competent officer uses their personal seal to mark Non-restricted timber with a diameter exceeding 100 centimetres (measured at 130 cm from the ground):

- For Non-restricted timber with a diameter between 46 and 99 cm, the survey method uses sampling to calculate the quantity and volume according to RFD guidelines. Non-commercial harvesting for domestic use or charity is given priority.
- For trees with a diameter between 46 and 99 cm, the limit is 100 trees per operator. An operator who wishes to harvest more than 100 trees but fewer than 200 trees requires the authorisation of the provincial governorisation.
- For trees with a diameter exceeding 100 cm, the limit is 25 trees per operator. Operators who wish to harvest more than 25 trees but fewer than 50 trees require the authorisation of the provincial governorisation.
- For bamboo, the harvesting limit is 500 plants per operator. An operator who wishes to harvest more than 500 trees but fewer than 1000 trees requires the authorisation of the provincial governorisation.
- An operator that wishes to harvest more than the maximum requires authorisation from the RFD.

The *Electric Chainsaw Act B.E. 2545* and *Ministerial Regulation B.E. 2555 on the Description of Electric Chainsaws* by virtue of the *Electric Chainsaw Act*, requires the operator, owner, importer, and manufacturer of electric chainsaws with one horsepower or over, and a guide bar with a length of 30.48 cm or over, to apply for a licence from the RFD. A person must also meet the character qualification set by the regulation.

Description of Risk

The applicable regulations were intended for commercial harvesting operations in natural forest. Legal requirements for harvesting practices, techniques, and technology are hardly enforced as logging concessions were terminated in 1989, and mangroves concessions have all expired. In practice, permission to harvest in National Forest Reserves is currently granted only for planted timber. Bamboo harvesting is no longer allowed for commercial operations, as stated in the Royal Forest Department memo *Tor*

Sor 1602.3/1197, dated 21 January B.E. 2551 (2008), signed by Acting Director-General of the RFD. In the memo, the RFD denied a request by the Forest Industry Organisation to commercially harvest bamboo grown in FIO-planted forests in National Forest Reserves, citing the government's conservation policy, global warming, and outdated regulations as the reasons for the rejection of bamboo harvesting in NFRs. The RFD circulated the letter to provincial governors all over the country, requesting compliance with the new policy to withhold permission for commercial harvesting of bamboo in National Forest Reserves nationwide. However, the RFD also stated in the letter that local villagers are still permitted to harvest bamboo for domestic/household consumption, as per Clause 3 of *Ministerial Regulation No. 1106 (B.E. 2528)*. There are no legally binding codes on bamboo harvesting practices for domestic/household consumption.

There are no legal requirements on operation design, harvesting operation practices, health and safety, post-harvest rehabilitation, etc.

The only enforceable law is the *Chainsaw Act*, which is designed to monitor chainsaw ownership in order to prevent illegal logging.

Due to the absence of a harvest plan requirement, and the absence of a monitoring mechanism for harvesting operations, the only risk may be related to the enforcement of and compliance with the *Chainsaw Act*. There is no information regarding enforcement in the harvesting operation, and very little information regarding enforcement outside harvesting operation. Recently, the authorities have reportedly confiscated 13 chainsaws sold in a market in Bangkok due to lack of permits ([INN](#)).

Risk Conclusion

This category has been assessed as Specified Risk for harvesting in National Forest Reserves, and Not Applicable on private land and public land outside National Forest Reserves. In the absence of regulations there can be no violations.

1.8.6. Risk designation and specification

Specified risk for National Forest Reserves.

N/A for private land and public land outside National Forest Reserves.

1.8.7. Control measures and verifiers

- Persons involved in harvesting activities shall hold required chainsaw licences for the function they carry out.

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

Protected sites:

- Wild Animal Preservation and Protection Act B.E. 2535
http://thailaws.com/law/t_laws/tlaw0317.pdf
- The Fourth National Forest Reserves Act B.E. 2559 (2016)
- National Park Act B.E. 2504 (1961)
http://www2.austlii.edu.au/~graham/AsianLII/Thai_Translation/National%20Park%20Act.pdf
- Royal Decree on the Amendment of National Park Act B.E. 2504 B.E. 2532 (1989). Accessed 31 May 2016 at [http://www.fisheries.go.th/พระราชบัญญัติอุทยานแห่งชาติ\(ฉบับที่0.2&\)พระราชกำหนดแก้ไขเพิ่มเติมพระราชบัญญัติอุทยานแห่งชาติ พ.ศ. 2504 พ.ศ. 2532.pdf](http://www.fisheries.go.th/พระราชบัญญัติอุทยานแห่งชาติ(ฉบับที่0.2&)พระราชกำหนดแก้ไขเพิ่มเติมพระราชบัญญัติอุทยานแห่งชาติ พ.ศ. 2504 พ.ศ. 2532.pdf)
- Enhancement and Conservation of the National Environmental Quality Act B.E. 2535
http://www.pcd.go.th/info_serv/en_reg_envi.html

Restricted species:

- Forest Act B.E. 2484, (amended 2014), Sections 6, 7
<http://www.fio.co.th/institution/human/download/580714-1.pdf>
- Ministerial Regulation No. 19 on Harvesting Restricted Forest Product B.E. 2517, by virtue of Forest Act B.E. 2484
- Ministerial Regulation No. 24 on Restricted Timber Harvesting B.E. 2518, by virtue of the Forest Act B.E. 2484. Available at: <http://law.longdo.com/law/372/sub23710>
- Royal Decree on Restricted Timber Species B.E. 2530 (1987) by virtue of Forest Act B.E. 2484 (Fifth Revision B.E. 2518), Clause 7. Available at: <http://forestinfo.forest.go.th/Content/file/forest2530.pdf>
- Royal Decree on Restricted Forest Product Species B.E. 2530 (1987) by virtue of Forest Act B.E. 2484, Clauses 27, 28. Available at: http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&gid=239&Itemid=

1.9.2. Legal authority

- Ministry of Natural Resources and Environment:
 - Department of National Parks, Wildlife and Plant Conservation
 - Royal Forest Department
 - Office of Natural Resources and Environmental Policy and Planning (ONEP)
- National Forest Reserve Utilisation Appraisal Committee (under The Fourth National Forest Reserves Act B.E. 2559)

1.9.3. Legally required documents or records

Public land:

Restricted timber species category A

- Harvesting permit

Restricted timber species category B

- Ministerial Authorisation

Restricted forest product

- Harvesting permit

Private land:

Six restricted TIMBER SPECIES CATEGORY A UNDER SECTION 7 OF FOREST ACT

- Harvesting permit

1.9.4. Sources of Information

Government sources

Protected sites:

- Ministry of Natural Resources and Environment (2014). *Laws on Forestry and Forest Resource Conservation* [online] Published 30 October 2014. Available at: <http://mahasarakham.mnre.go.th/msk/index.php/16-2014-10-30-04-55-30/35-2014-10-30-06-47-04> [Accessed 26 May 2016]
- Office of Natural Resource and Environment Policy and Planning (2009). *Protected Areas in Thailand* [online]. Biological Diversity Division. Available at: http://chm-thai.onep.go.th/chm/protected/protected_thai.htm# [Accessed 26 May 2016]

Protected species:

- Royal Forest Department (N.Y.) Ministerial Regulation No. 19 on Harvesting Restricted Forest Product B.E. 2517 [online]. Handbook on Permission related to Timber and Forest Product, 2008, pp. 11-16. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf> [Accessed 5 June 2016]
- forestinfo.forest.go.th (1987). *Royal Decree on Restricted Timber Species B.E. 2530 dated 26 October 1987* [online]. Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Available at: <http://forestinfo.forest.go.th/Content/file/forest2530.pdf> [Accessed 28 April 2016]
- forest.go.th (1987). *Royal Decree on Restricted Forest Product Species B.E. 2530 dated 26 October 1987* [online]. Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Available at: http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&gid=239&Itemid= [Accessed 28 April 2016]
- Department of National Parks, Wildlife and Plant Conservation (DNP) (2015). *Special Taskforce to Tackle Illegal Rosewood Logging in Tub Lan National Park and Pang Sri Da National Park* [online]. Budget Year B.E. 2558 Phase 1. Available at: http://www.dnp.go.th/info_protect/แบบแผนผล AO 1-4 ประชม 8 กพ 58/แผนไม้พะยุงทับลานและปางสีดา 5 ธ.ค.57.pdf [Accessed 22 June 2016]
- Royal Forest Department (?) *Regulation on the Issuance of Certificate of Timber, Wood Product and Charcoal for Export B.E. 2552 (2009)* [online]. Available at: http://www.dbd.go.th/dbdweb_en/ewt_dl_link.php?nid=3947 [Accessed 29 April 2016]
- Department of National Parks, Wildlife and Plant Conservation (DNP) (2016). *Draft results of preventative measures and addressing the problems of corruption involved*

in the illegal logging and trading of rosewood. [online]. Available at: http://www.dnp.go.th/info_protect/ร่างสรปผลการดำเนินการเกี่ยวกับมาตรการป้องกันและแก้ไขปัญหาการทุจริต.docx [Accessed 25 July 2016]

Non-Government sources

- UNESCO State of Conservation (2016). *Dong Phrayayen-Khao Yai Forest Complex (Thailand)* [online]. Available at: <http://whc.unesco.org/en/soc/3467/> [Accessed 18 June 2016]
- Lakanavichian, S. (2001). *Impacts and Effectiveness of Logging Bans in Natural Forests: Thailand* [online]. Forests out of Bounds: Impacts and Effectiveness of Logging Bans in Natural Forests in Asia-Pacific. Bangkok: FAO. Available at: <http://www.fao.org/docrep/003/x6967e/x6967e09.htm> [Accessed 18 June 2016]
- duediligencetimber.eu (2016). Due Diligence Timber – Thailand [online]. Available at: <http://www.duediligencetimber.eu/Thailand.htm> [Accessed 18 June 2016]
- chrislang.org (2003). *SmartWood's certification of the Forest Industry Organisation - FIO's history* [online]. Available at: <https://chrislang.org/2003/08/28/smartwoods-certification-of-the-forest-industry-organisation-fios-history/#illegal> [Accessed 18 June 2016]
- World Rainforest Movement (WRM) (2001). *Forest Stewardship Council (FSC) certifies Thailand's chief logging agency* [online]. WRM Bulletin No 48, July 2001. Available at: <http://wrm.org.uy/oldsite/bulletin/48/Thailand.html> [Accessed 18 June 2016]
- FAO (2009). *Thailand Forestry Outlook Study* [online]. Bangkok: FAO Regional Office for Asia and the Pacific. Available at: <http://www.fao.org/docrep/014/am617e/am617e00.pdf> [Accessed 18 June 2016]
- Nation TV (2016). *Bird Conservation Society Concerned the Plight of Endangered Birds in possession to elevate the Status of the Rich* [online]. Available at: <http://www.nationtv.tv/main/content/social/378505518/> [Accessed 5 December 2016]
- Environmental Investigating Society (EIA) (2013). *Corruption, Bloodshed and Death – the Curse of Rosewood* [online]. Available at: <https://eia-international.org/corruption-bloodshed-and-death-the-curse-of-rosewood> [Accessed 5 December 2016]
- Voice TV (2011). *Khao Yai Thieng Case: History* [online]. Available at: <http://news.voicetv.co.th/thailand/16905.html> [Accessed 5 December 2016]
- Environmental Investigating Society (EIA) (2012). *Rosewood Robbery: The Case for Thailand to List Rosewood on CITES* [online]. Available at: <http://www.eia-international.org/wp-content/uploads/Rosewood-Robbery.pdf> [Accessed 5 December 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.9.5. Risk determination

Overview of Legal Requirements

Protected areas:

Harvesting, hunting, fishing, land occupation, mining and quarrying are not permitted in Protected Areas (PAs). There are several types of protected areas, declared by various legislative instruments at various times. National parks and wildlife sanctuaries, established by royal decree, comprise the majority of PAs (19% of the total area of the country). Marine national parks and no-hunting areas are also established by royal decree. Other types of PAs are established by: i) ministerial declarations (forest park, botanical garden, arboretum); ii) cabinet resolutions (watershed classification 1 and 2, conservation mangrove, natural conservation area); and iii) international recognitions (World or ASEAN Heritage, as Ramsar Sites, or as Biosphere Reserves). In terms of their legal status, the World Heritage and ASEAN Heritage sites are either wildlife sanctuaries or national parks. Eight out of ten Ramsar Sites are protected areas ([FAO 2009:21](#)).

The Office of Natural Resources and Environmental Policy and Planning, under the Ministry of Natural Resources and Environment, has classified Protected Areas in Thailand into 12 categories ([ONEP](#)):

1. National Parks
2. Wildlife Sanctuaries
3. Forest Parks
4. No-Hunting Areas
5. Botanical Gardens
6. Arboreta
7. Biosphere Reserves
8. World Heritage sites
9. Watershed Classification 1 sites
10. Conservation Mangrove Forests
11. Natural Conservation Areas
12. RAMSAR Sites

As of 2002, Thailand has 227 Protected Areas totaling 11.3 million hectares, under the control of the Department of National Parks of the Ministry of Natural Resources and the Environment.

Protected species:

Section 6 of the *Forest Act* classifies **restricted timber** species into Category A (158 species) and Category B (13 species), listed in the *Royal Decree on Restricted Timber Species B.E. 2530*. Harvesting, transporting, and trading Category A timber species from a forest requires permission, and only standing timber marked by a seal of a competent officer is allowed to be logged. Category B timber species are described as rare species that are prohibited from logging from a forest unless a person holds a ministerial authorisation.

On private land, restricted species are not controlled, however, permission is required for harvesting, processing, transporting, and trading teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.), as specified in section 7 of the *Forest Act* (amended 2014):

Under section 29 of the *Forest Act*, a permit is required to harvest **restricted forest products**. There are 18 restricted forest products declared in the *Royal Decree on Restricted Forest Products B.E. 2530*, including at least 27 species, such as *Orchidaceae* (wild orchid), *Dracaena loureiri* Gagnep., copals, *Aquilaria malaccensis* (agarwood), *Mansonia gagei* Drumm, *Caesalpinia sappan* Linn., charcoal of all species, *Corypha Umbraculifera*, oil from *Dipterocarpus alatus*, *Nephrolepis* spp., *Calamus* spp., and the bark of 10 species.

Commercial harvesting of any volume of restricted forest products requires permission, but harvesting for domestic consumption not exceeding the specified volume in the *Forest Act BE 2484 (amended 2014)* does not require permission.

Description of Risk

Thailand's protected area system is relatively well managed and resourced in terms of management effort when compared with many other protected area systems in South East Asia (ICEM, 2003). As felling and harvesting of timber is strictly illegal in protected areas, the risks regarding potential impact of forest management activities in protected areas mainly relate to illegal logging and illegal encroachment. Despite a nationwide logging ban and protected area networks, Thailand's remaining forests are increasingly threatened by pervasive illegal logging, and the major driver of this crime is the rosewood trade ([EIA](#)). The Thai government has made significant efforts to address illegal logging. It recognises that the laundering of rosewood from natural forest is a problem, and is developing a national inventory of rosewood in natural forests ([DNP 2016:7-8](#)). In 2014, the *Forest Act* was amended to include *Dalbergia* spp. as a restricted species nationwide. Harvesting, processing, transporting and in trading *Dalbergia* spp. requires a permit. Thailand has had some success with finding illegal timber and prosecuting those responsible (including forest authorities) through conventional policing activities (EFI, 2012: 62). Although the Thai authorities are determined to combat illegal logging and encroachment with increased funding from the government ([EIA](#)), the laws are not consistently enforced. Most of the arrests made have been of poor villagers, with a few low-level local public officials, while the rich or powerful are not prosecuted. It is no secret that influential individuals in Thailand own properties located in protected areas, or are in possession of protected flora and fauna ([NationTV](#), [VoiceTV](#)). Thai government recognizes that protected areas are under threat due to illegally encroachment and illegal logging ([DNP 2015](#)).

- The Department of National Parks, Wildlife and Plant Conservation has published data showing 3,953 cases of illegal logging and harvesting in 2014, 2,553 of which involved rosewood. The volume of confiscated timber reported was 8,307 cubic metres. The most popular illegally logged species is rosewood. There were 2,553 arrests for illegal rosewood logging in 49 protected areas (national parks, wildlife sanctuaries, non-hunting areas, forest parks, and arboreta), with 1,824 cubic metres confiscated, worth 912,000,000 baht. ([DNP:19-20](#))

- Illegal logging is reportedly higher in the north of Thailand ([Lakanavichian 2001](#)), and in Phrae Province in particular, due to the fact that forest cover is higher, and the remaining forests contain high value teak species.
- Laundering of timber logged illegally in Thailand was once common practice – either by transporting the timber into a neighbouring country and returning it from that country, or by falsely asserting that the timber is from the neighbouring country ([Duediligencetimber](#)). This kind of illegal activity has led to a number of high profile logging scandals, such as the case of Salween Wildlife Sanctuary. Thousands of valuable teak trees had been felled in the Sanctuary and National Park, floated across the Salween River into Burma, and then re-imported into Thailand stamped as legitimate Burmese timber. Members of the police, the military and the Forestry Department were implicated, and were jailed in 2005 for bribery. In the recent years, the government has tightened control over crossborder trade on round logs. Imported logs must be accompanied by export permit and sealed with hammer mark. The Thai government recognises that illegally logged rosewood (*Dalbergia* spp.) from Thai forests being smuggled across the border to neighbouring countries and imported back into Thailand is a serious threat that needs to be addressed urgently, and is seeking cooperation with the governments of neighbouring countries ([DNP 2016:17](#)).
- Siam rosewood (*Dalbergia cochinchinensis*) is a species that has recently been listed in CITES Appendix II, and is a key species that drives illegal logging in Thailand (see 1.20, CITES). There were 14 people reportedly shot and killed along the border between Thailand and Cambodia allegedly for illegal logging of Rosewood, and this has raised tension between the two countries ([Duediligencetimber](#)).
- Illegal rosewood logging has been recognised and taken seriously by the Thai authorities, but it is not clear how they will address bureaucratic corruption. According to a document released by the Department of National Parks, Wildlife and Plant Conservation (DNP), a Special Taskforce was set up in 2015 to tackle illegal rosewood logging in two national parks: Tub Lan National Park and Pang Sri Da National Park. The taskforce is jointly operated by the protected area authority, the military, the police and the Ministry of Interior, and mainly aims to suppress the illegal activities carried out by smugglers, including Cambodians, wealthy individuals and local villagers.
- Thailand's Forest Industry Organization (FIO) is responsible for auctioning illegally logged timber. Between 1990 and 1999, the FIO profited by over \$65 million from the sale of confiscated timber. In the past, the FIO has attracted much controversy. For example, in 1994, the FIO faced charges of illegal logging after police found logs in a protected forest area in Thailand and discovered that the wood belonged to the FIO. The amount of logs imported from Myanmar appeared to exceed a quota agreed to between the FIO and the military dictatorship in Burma. In February 1998, Thai Senator Meechai Ruchupan announced that the FIO was partly to blame for the destruction of forests in the Salween area. Meechai argued that the FIO's auctioning of seized logs simply encouraged further illegal felling, since operators could buy back the timber at auction, after which the timber becomes legal (World Rainforest

Movement 2001). There is no record of this kind of illegal transfer of timber from Myanmar happening since then.

Illegal encroachment continues in Thailand, and rosewood continues to face high pressure from illegal harvesting in protected areas where this high value species still grows. There is limited evidence that any other timber species are at significant risk of entering the supply chain, particularly given the small volumes reported in official records. As there have been reported cases of illegal encroachment, corruption, and illegal logging, the risk for this category has been assessed as specified

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk for all sources.

1.9.7. Control measures and verifiers

- Certification of Timber, Wood Products and Charcoal for Export shall exist.
- Authorities shall confirm the validity of harvesting permits, Removal Passes, and Sawn Timber Certificates.

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

Ecosystem:

- Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005), by virtue of section 20 of National Forest Reserves Act B.E. 2507 amended by National Forest Reserves Act (No.3) B.E. 2528 (1985). Clauses 4, 6, 8, 9, 15, 17. Available at: [http://www.forest.go.th/chiangrai_2/images/stories/file/7\(4\)/Matra7\(4\)-2-015.pdf](http://www.forest.go.th/chiangrai_2/images/stories/file/7(4)/Matra7(4)-2-015.pdf)

Hazardous Substances:

- Hazardous Substance Act B.E. 2535 (1992). Available at: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=68793&p_classification=14

- Announcement of Ministry of Industry on Storage Hazardous Substance B.E. 2551 (2008). Available at: https://www.jetro.go.jp/ext_images/thailand/pdf/06MOI_Noti_Storage_of_HS_2551.pdf
- Announcement of Department of Industry Works on Storage Hazardous Substance Handbook B.E. 2550 (2007). https://www.jetro.go.jp/thailand/e_survey/hazardousact.html#diwnoti

1.10.2. Legal authority

- Royal Forest Department, and their provincial offices (Ministry of Natural Resources and Environment)

1.10.3. Legally required documents or records

Applicable laws (1):

- Plantation License Por Sor 31
- Cabinet Authorisation (exceeding 160 ha)
- Plantation Performance Annual Report Por Sor 32
- Project Document

Applicable laws (2)-(4):

- Hazardous Substances Annual Report

1.10.4. Sources of information

Government sources

- Pollution Control Department (PCD) (2015). *The Second Africa-Asia Inter-Regional Expert Meeting on Environmental Enforcement: Ensuring Compliance and Enforcement through Partnership* [online]. Thailand Powerpoint Presentation 1-4 December 2015, Kunming, China. Available at: <http://www.unep.org/delc/Portals/119/documents/thailand-country-presentation.pdf> [Accessed 6 December 2016]

Non-Government sources

- Thai EU-FlegT Secretariat Office (2016). *Gaps-Issues Annex, TEFSO, Bangkok, Thailand* [online]. Available at: <http://tefso.org/download/legality-definition-doc-en/ECC005-Gap-Issues-Annex-V2-1.3.2016-EN.pdf>
- USAID/AECEN (2004). *Environmental Compliance and Enforcement in Thailand: Rapid Assessment (Draft)* [online]. Available at: http://www.aecen.org/sites/default/files/TH_Assessmemt.pdf [Access 7 December 2016]
- Transparency International (N.Y.). *Thailand Corruption Measurement Tools*. Available at: <https://www.transparency.org/country/#THA> [Accessed 18 June 2016]
- Expert consultation conducted by NEPCoN between April and November 2016

1.10.5. Risk determination

Overview of Legal Requirements

Plantations are permitted in National Forest Reserves under section 20 of the *National Forest Reserves Act*. The law is enforced and monitored by the Royal Forest Department (RFD) through the *Royal Forest Department Regulation on the Permission to Establish Forest Plantation or Tree Plantation in National Forest Reserves B.E. 2548 (2005)*. The regulation requires licensed plantation operators to perform weed control at least twice a year, as well as fire protection, pest control, and plant disease prevention. These requirements are not applicable to forests or plantations outside National Forest Reserves.

Processing facilities require a factory licence, and shall submit reports to the agencies competent in monitoring hazardous substances, air and water quality,

Applicable laws (1) - Licensed plantation operators shall submit an Annual Management Report (form Por Sor 32) to the RFD detailing weed control, fire protection, pest control, and plant disease prevention activities. Applications for licence renewal require field inspection by a competent officer. The competent officer submits the inspection report to the Provincial Governor for consideration, who will forward the application to the RFD Director-General for approval.

Applicable laws (2)-(4) - Hazardous Substances Annual Report

A processing operator in possession of a Department of Industrial Works Hazardous Substance Possession Permit must submit a Hazardous Substances Annual Report and comply with the Department of Industrial Works Hazardous Substance Handbook.

Description of Risk

In Thailand, there are no regulatory requirements for protection of environmental values affected by harvesting and forest machinery, such as soil erosion and sedimentation, nor for post-harvest rehabilitation. There are no regulatory requirements specifically for the use of pesticides and other chemicals in forests, plantations, or in agriculture

Risk Conclusion

This indicator has been evaluated as low risk for plantations within National Forest Reserves. 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.

This indicator has been evaluated as not applicable for public land outside of reserved forests and private land due to an absence of laws imposing environmental regulation in these areas.

1.10.6. Risk designation and specification

Low risk for plantations within National Forest Reserves.

Not applicable for private land and public land outside of National Forest Reserves.

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

- Labour Protection Act B.E. 2541 (1998) – Sections 92-107
http://www.labour.go.th/th%20/doc/law/labour_protection_2541_new.pdf
- Occupational Safety, Health and Environment Act B.E. 2554 (2011), Section 8, 14, 22, 34 <http://www.fio.co.th/p/document/safetyfio/law5.pdf>
- Ministerial Regulation on the Weight Limit for Loads to be Lifted by Employees B.E. 2547 (2003), by virtue of Labour Protection Act B.E. 2541 <http://un-act.org/wp-content/uploads/2015/11/Labour-Ministerial-to-Protect-Agricultural-Workers-B.E.-2557-2014-TH.pdf>
- Ministerial Regulation on Labour Protection in Agricultural Work B.E. 2557 (2014), by virtue of Labour Protection Act (English)
http://www.labour.go.th/en/attachments/article/338/Ministerial_Regulation_Concerning_Labour_Protection_in_Agricultural_Work_BE2557.pdf (Thai)
<http://www.labour.go.th/th/attachments/article/23970/23970.pdf>
- Ministerial Regulation on Safety, Health and Environmental Standards in Work related to Heat, Light, and Noise B.E. 2559 (2016), Clause 13, 14, 15, 16, 17
<http://www.ratchakitcha.soc.go.th/DATA/PDF/2559/A/091/48.PDF>
- Ministerial Regulation on the Guidelines of Staff Health Checks and Submission of Results to Labour Inspection Officer B.E. 2547 (2004).
<http://medinfo2.psu.ac.th/commed/occmmed/images/TIS18001/tisp4/law%20safety/images/law/Health/Rule%20check-up47.pdf>
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1.11.2. Legal authority

- Bureau of Occupational Safety and Health, Department of Labour Protection and Welfare, Ministry of Labour

- Bureau of Occupational and Environmental Diseases, Department of Disease Control, Ministry of Public Health

1.11.3. Legally required documents or records

Applicable law (2):

- Occupational Safety, Health and Environment Report, verified and certified by Licensed Person determined by a ministerial regulation
- Worker's manual (only in the work deemed at risk)
- Injury, Illness, Death Report to Licensed Safety Inspector

Applicable law (5):

- Records of staff training on Personal Protective Equipment
- Analysis report of working condition related to heat, light and noise in the workplace.

Applicable law (6)-(9):

- Health check records held by employer
- Personal health book held by staff
- Abnormality or Illness Report submitted to Labour Inspection Officer

1.11.4. Sources of information

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1.11.5. Risk determination

Overview of Legal Requirements

In Thailand, there is no specific law concerning occupational safety and health in forest operations, though there are general requirements for personnel protection equipment for employees. Bureau of Occupational Safety and Health, in the Department of Labour Protection and Welfare, under the Ministry of Labour, is the main authority responsible for enforcement, compliance and monitoring. Ministry of Public Health is responsible for providing occupational health services covering occupational disease surveillance, prevent and control factors causing sickness and injury at works. The occupational health programs are overseen by the Bureau of Occupational and Environmental Diseases under the Department of Disease Control. Thailand has ratified two ILO conventions related to occupational safety and health: Maximum Weight Convention 1967 and Promotional Framework for Occupational Safety and Health Convention 2006. However, the Promotional Framework for Occupational Safety and Health Convention 2006 has not been enforced (as of February 2017) ([ILO](#)).

Applicable laws (1) (2) (3):

- The employer is responsible for preparing an Occupational Safety, Health and Environment Report, verified and certified by a Licensed Person determined by ministerial regulation, and is then submitted to the Department of Labour Protection and Welfare for verification by an officer.
- There are general occupational safety and health requirements concerning personnel protection equipment in section 22 of the *Occupational Safety, Health and Environment Act 2011*, as well as weight limits for loads to be carried by employees. However, the law does not specify the type of workplace, nor enforcement procedures.
- The law imposes duties upon employers as well as contractors and subcontractors. Since plantations use contractors for harvesting activities, it is worth noting that the Act clearly defines the duties of employers ranging from the primary subcontractor and subcontractors of higher levels to all superior subcontractors throughout the chain to jointly arrange the workplace to ensure safe working conditions.

Applicable law (4):

- The law recognises forestry work as a form of agricultural work. The Department of Labour Protection and Welfare (2015) defines forestry work in Clause 3.2 as work that involves cutting, chopping, felling, trimming, sawing, chipping, pulling, digging, hauling timber in a forest, work in a forest plantation, and work involving the harvesting of forest products.
- While there are no specific safety and health guidelines for workers in forest operations, forest workers are covered under general health and safety provisions of national law and regulations.

Applicable law (5):

- Clause 13 of the regulation requires the employer to give training on the use and storage of Personal Protective Equipment to the employees. Records of the training shall be kept at the premises ready for inspection.

- Clause 14 requires the employer to perform, or hire licensed inspectors to perform, checks and analysis of working conditions related to heat, light, and noise in the workplace. The analysis report shall be kept at the premise ready for inspection.
- Clause 15 requires the employer to submit an analysis report in a format determined by the Director-General to the competent agency within 30 days of inspection. A copy of the report shall be kept at the premises.
- Clause 16, the employer shall be responsible for the delivery of staff health checks in accordance with the *Occupational Safety, Health and Environment Act B.E. 2554 (2011)*.

Applicable laws (6)-(9):

- The *Ministerial Regulation on the Guidelines of Staff Health Checks and Submission of Results to Labour Inspection Officer B.E. 2547 (2004)* requires the employer to deliver health checks to staff in high risk work. Clause 2(1) identifies that working with hazardous substances is considered high risk work. The *Announcement of Ministry of Labour on the Identification of Hazardous Substances and Employee Health Check Requirement B.E. 2552 (2009)* determines the types of hazardous substances with which employees work that will necessitate health checks.
- Clauses 5-7 of the *Ministerial Regulation on the Guidelines of Staff Health Checks and Submission of Results to Labour Inspection Officer B.E. 2547* requires a medical professional to record the results of the staff health checks in the staff member's personal health book. The employer shall store the records of staff health checks at the premises ready for inspection by a Labour Inspection Officer. Clause 8 requires the employer to notify staff of the medical results within three days in the event of abnormalities being found, or seven days in the event of normal results. Clause 9 requires the employer to submit an Abnormality or Illness Report to the Labour Inspection Officer where applicable.

Description of Risk

There is no publicly available information pertaining to violations or non-compliance of occupational safety and health regulations in the Thai forestry sector specifically. However, cases of non-compliance and violations of occupational health and safety regulations in other industries have been reported. International Labour Organization reported that in 1996, over 57% of the workplaces in Thailand inspected by the safety labour inspectors (7,051 out of 12,325 establishments) have been found to violate the OHS laws and regulations. Major categories of violations were fire safety, electricity safety, employees' work safety, and machine safety. In these instances, the most common action was to provide advice and warnings to employers. Only 106 cases were prosecuted. None of the inspections, however, was carried out in agriculture, forestry and fishing industry ([ILO](#)). Informal workers and migrant workers are among the most vulnerable groups.

A report by US Department of Commerce indicated that in 2015, 55.9% of the labour force worked in the informal sector with limited protection under labour laws and the social security system. The majority of those in the informal sector worked in agriculture (56%). There have been cases of employers failing to comply with Thai labor laws when hiring migrant workers. The International Labour Organization (ILO) estimated that

Thailand has approximately 4.5 million migrant workers. Violations include long/irregular working hours; failure to provide sick leave or annual leave; and failure to fulfill other contractual benefits such as providing free uniforms and protective gear ([ITA 2016](#)). Workers in Thai shrimp industry have been reportedly found working in dangerous and unsanitary working conditions. Serious violations of Thai law and international human rights standards at a large shrimp processing factory have been reported. Cases of ineffective audits have been reported, where managers selected the workers to be interviewed by the labour inspectors and instructed them on how to answer questions ([ILRF](#)).

Thailand's National Statistical Office (NSO) estimated that most agricultural workers (over 93%) were employed in the informal sector. In 2015, there were between 13.6 and 16.7 million workers in Thailand engaged in agriculture, which includes the agriculture, forestry and fishing industries ([NSO 2015](#) , [Kaewboonchoo 2015](#)). Agricultural workers are partially protected under the *Ministerial Regulation on Labour Protection in Agricultural Work B.E. 2557 (2014)*. An academic study ([Kaewboonchoo 2015](#)) found that there is little regulation and enforcement of the safe use or application of pesticides in agricultural work.

In a 2012 survey by NSO, it was found that 24.59 million people worked as informal labourers, and 61.4% of these were in the agricultural sector. The survey also found that safety and health issues were among the most serious problems facing Thai workers, with 3.3 million workers reportedly having problems with chemical usage (54.8%), machinery and equipment (28.6%), and unsafe working conditions for hearing or sight (7.7%) ([2012:12](#)). Among the survey of informal labourers, 4.82 million workers reportedly had some injuries or accidents in 2011. According to a report by the Bureau of Occupational Safety and Health, between 2003 and 2011 there were approximately 10,000 cases of occupational accidents or diseases in the forest and wood industry alone, ranging from 4,500 to 14,000 ([2012:10](#)). The number of reported cases has steadily decreased, with 14,000 cases reported in 2003 and 4,471 cases reported in 2011.

Thailand has no standards concerning the safety and health of workers in forest operations. In a dissertation on harvesting operations in eucalyptus plantations in Thailand, it was found that workers using small machinery in harvesting, such as chainsaws, is preferred by plantation owners (as opposed to heavy machinery operated by a skilled operator) as it is relatively inexpensive. However, safety is an issue, as accident rates for this method tend to be higher compared to other methods (FESA 2010, in [Manavakun 2014:22](#)). The author observed during a field trip that forest workers often work too closely to each other, which could result in accidents.

The Thai authorities have recently begun to recognise and develop occupational safety and health standards, and legal requirements, although these are far from comprehensive, especially when it comes to enforcement. The Ministry of Labour reported that, in 2011, the Department of Labour Protection and Welfare conducted 18,946 OH&S inspections in 17,039 establishments throughout the country. Of this number, 15,230 establishments (90%) complied with OH&S laws ([2012:44](#)). It did not state, however, how many of those establishments were in the forestry sector.

A report to the International Labour Organisation by the Department of Labour Protection and Welfare (2015: 8) indicates that the situation overall in Thailand related to occupational accident and injury rates and fatalities is improving, showing a reduction between 2002 and 2014.

There is some evidence that some operators are taking stronger steps to address OH&S issues in the plantation sector. For example, the rubber industry in Thailand has taken steps to provide better protection (conditions and insurance) for both formal and informal rubber workers in Thailand (Arphorn et al, 2010).

Although no publicly available information can be found on non-compliance and violations in the forestry sector specifically, approximately 10,000 annual cases of occupational accidents or diseases have been reported in the forest and wood industry between 2003 and 2011. Enforcement of occupational safety and health regulations seems inconsistent. Evidence indicates that the forestry sector has some work ahead of it to improve OH&S for workers. Although official statistics from Thailand's Department of Labour Protection and Welfare (2015: 8) demonstrate that the overall rates of occupational injury and accidents are decreasing, it remains unclear if this trend is reflected in the forestry sector. This indicator has been evaluated as specified risk.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.11.6. Risk designation and specification

Specified risk for all sources.

1.11.7. Control measures and verifiers

- Records shall be kept of staff training on Personal Protective Equipment.
- Visits shall be made to the organisation to see the implementation of safety training and implementation of health and safety procedures. Interviews shall be conducted with staff to ensure they are aware of procedures and have attended training.
- Field visits shall be made to observe the use of safety equipment by the workers.
- Occupational Safety, Health and Environmental Reports shall be verified and certified by a Licensed Person determined by a ministerial regulation.
- Analysis of reports on working conditions related to heat, light and noise in the workplace shall be conducted.
- Workers shall have their personal health book signed by a medical doctor.
- Visits shall be made to staff health checks to ensure that medical assessments meet the standards required by the law.

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

- Civil and Commercial Code of Thailand – Sections 575-586 (Hire of Services - between the employer and employee); Sections 587-607 (Hire of Work - between a contractor, sub-contractor and employee). Available at: <https://www.samuiforsale.com/law-texts/thailand-civil-code-part-1.html>
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- Announcement of Department of Labour Protection and Welfare Regarding the Preparation of a Work Rule by an Employer 2015. <http://www.labour.go.th/en/>
- Labour Relations Act B.E. 2518 (1975) Available at: http://www.mol.go.th/sites/default/files/images/other/labourRelation2518_en.pdf
- Social Security Act B.E. 2533 (1990), Section 34, 36. Available at: <http://www.ilo.org/dyn/travail/docs/1017/Social%20Security%20Act%20BE%202533%201990.pdf>
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- Announcement of State Enterprise Labour Relations on Commission's Minimum Standards of Employment Conditions in State Enterprises, Article 53, 55, 58
- Ministerial Regulation on Labour Protection in Agricultural Work B.E. 2557 (2014), Clause 3, 4. Available at: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=103611

1.12.2. Legal authority

- Department of Labour Protection and Welfare, Ministry of Labour
- Office of Foreign Workers Administration, Ministry of Labour

1.12.3. Legally required documents or records

Applicable law (1):

- Employment Contract (can be verbal or written)

Applicable law (2) (3):

- Letter of Acknowledgement from the Department of Labour Protection and Welfare (for employment of a person 15-18 years)
- Conditions of Employment (for employment of a person 15-18 years)
- Work Rules (workplace > 10 employees)
- Employee Register (workplace > 10 employees)
- Record of Payment of Wages, Overtime Pay, Holiday Pay, verified by employee's signature (workplace > 10 employees)

Applicable laws (2) (9):

- Annual Employment and Working Condition Declaration Form (workplace > 10 employees)
- Employee's register

Applicable law (4):

- Statement specifying the names of insured employees, wages, and other information in accordance with the form prescribed by the Secretary-General submitted to Social Security Office
- Social Security Certificate of Registration (for employer)
- Social Security Card (for employee)

Applicable laws (5) (6):

- Work permit (for foreign workers)
- Residence Permit (Tor.Mo.15, Tor.Mo.16, Tor.Mo.17) for foreign workers

Applicable laws (7) (8):

- Agreement on Conditions of Employment

1.12.4. Sources of information

Government sources

- Office of Labour Protection, Department of Labour Protection and Welfare (2015). *Official's Handbook on Labour Inspection for Preventing and Solving Forced Labour and Bonded Labour* [online]. Available at: <http://www.labour.go.th/th/attachments/article/30479/30479-1.pdf> [Accessed 7 December 2016]
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- Expert consultation conducted by NEPCon between April and November 2016

1.12.5. Risk determination

Overview of Legal Requirements

Applicable law (9) - employees are listed in an employment register for each workplace; employers must keep a record of payment for all workers; all workplaces can be inspected by Labour Department officials; workers have the right to file a complaint to inspection officers when they are not paid; a workers' welfare fund shall be established.

The *Ministerial Regulation on Labour Protection for Agricultural Work B.E. 2557 (2014)* protects the rights of workers in a workplace with one worker or more working on a casual, seasonal, or sub-contract basis. Clause 3.2 clearly states that forestry work is considered to be agricultural labour, and includes cutting, felling, skidding, sawing, pulling, digging, hauling of timber in forests, plantation, and harvesting of forest products. This regulation covers minimum requirements on: minimum wage, equal wages for men and women, sick leave, overtime, access to/provision of clean drinking water, the right to take employers to civil and criminal court. Seasonal and/or casual workers employed in the forestry sector would be covered under this Regulation. For those employed on a full-time basis, they are protected by the *Labour Protection Act B.E. 2541*.

Applicable law (1) - Employment Contract (can be verbal or written)

Legally, an employment contract is not required to be in writing. Section 575 of the *Civil and Commercial Code of Thailand* specifies that an employment contract may be verbal

or written. There is no data concerning the practice of employment contracts in the forestry sector.

Applicable law (2) (3) - Letter of Acknowledgement from the Department of Labour Protection and Welfare (for employment of a person 15-18 years); Conditions of Employment (for employment of a person 15-18 years); Work Rules (workplace > 10 employees); Employee Register (workplace > 10 employees); and Record of Payment of Wages and Overtime verified by employee's signature (workplace > 10 employees)

Thailand guarantees a Basic Minimum Wage nationwide, and a Minimum Wage Rate specific to each locality. The Minimum Wage Rate shall not be less than the Basic Minimum Wage prescribed by the Wage Committee. Minimum Wage Rates are regulated by Ministerial Regulations. The Act also sets the minimum working age as 15 years. An operator employing children between the ages of 16 and 18 must notify the Department of Labour Protection and Welfare within 15 days of their employment. In response to this notification, the Department must issue a Letter of Acknowledgement, which the operator must keep on site.

In a workplace hiring 10 employees or more, the operator must prepare the workplace's "Work Rules" to indicate the rights and duties of the employer and the employees, and conditions of working hours, holidays, overtime, payment of salaries, leave, discipline, complaints, termination of employment, and compensation. A copy of this document must be sent to the Director-General of the Department of Labour Protection and Welfare or to a competent officer for review and approval. The same operator must prepare an Employee Register and have it ready for inspection by the Labour Inspection Officer during working hours. The Employee Register must contain the following employee information: name, sex, nationality, date of birth, date of commencement, position or job duties, wage and benefits, date of expiry of employment. The same operator must also keep a record of payment of wages and overtime, signed by the employee, as evidence. This includes records of bank transfers. There is no such legal requirement for an operator with fewer than 10 employees.

The law states that a Labour Inspection Officer and assigned experts may visit a workplace (section 139-142) to inspect working and employment conditions and health and safety, to question workers, and to verify compliance. However, it does not specify when or how often this inspection is to take place.

Applicable law (2) - Annual Employment and Working Condition Declaration Form (workplace > 10 employees)

An employer of 10 or more persons is required to submit, electronically or by mail, an Employment and Working Condition Declaration Form to the Director-General or the assigned officer in January of every year. An operator who fails to do so shall be subject to a fine.

Applicable law (4) - Working Condition Agreement (workplace > 20 employees)

Under the Labour Relations Act, a workplace hiring 20 employees or more must produce a Working Condition Agreement that covers, but is not limited to, the conditions of employment, working hours, wages, benefits, termination of employment, and the petition procedure.

Applicable law (5) - statement specifying the names of insured employees, their wages, and other information in accordance with the form prescribed by the Secretary-General, submitted to the Social Security Office; a Social Security Certificate of Registration for employers; a Social Security Card for employees.

An operator who employs workers aged 15-60 shall submit a statement specifying the name of insured persons, wage rates, and other information in accordance with the form prescribed by the Secretary-General of the Social Security Office, to the Social Security Office within 30 days of the date on which the employee becomes an insured person. The Office shall issue a Social Security Certificate of Registration to the employer, and a social security card to the employee.

Applicable laws (6) - Work Permit (for foreign workers); Residence Permit (for foreign workers)

An operator employing foreign workers shall ensure that they hold work permits. The Labour Inspection Officer is responsible for monitoring and regulating employment conditions.

Applicable laws (7) (8) - Agreement on Conditions of Employment

A state enterprise operator (such as the FIO) and employees of that state enterprise are required to agree on employment conditions at intervals of no more than three years. Once the state enterprise operator and the employees have agreed on the conditions of employment, the State Labour Relations Committee shall verify that the agreement meets the minimum standards specified in the *Announcement of State Enterprise Labour Relations on Commission's Minimum Standards of Employment Conditions in State Enterprises*.

Description of Risk

Risk of noncompliance to minimum wage:

There have been reports of workers receiving less than the minimum wage, particularly in rural provinces. The minimum wage and social security system does not apply to workers in the informal sector and seasonal types of work, such as agriculture. Most noncompliant employers were small enterprises with fewer than 50 workers. Labor protections also apply to undocumented workers, but many employers did not provide minimum wage to unskilled and semiskilled undocumented migrant workers ([ITA](#)).

Risk of employer's noncompliance for migrant workers:

Migrants make up around 10 per cent of Thailand's workforce and are employed in a variety of sectors, including construction, agriculture, manufacturing, fishing, and domestic work. In some sectors, such as seafood processing, they represent around 90 per cent of the workforce. In 2010, Human Rights Watch (HRW) found evidence of widespread violations of the rights of migrant workers from Burma, Cambodia, and Laos. Many types of abuses are either embedded in the laws and local regulations, or are perpetrated by officials, as in cases of extortion by the police. Noncitizen migrant workers, whether registered or undocumented, do not have the right to form unions or serve as union officials. HRW found many serious abuses of migrants' rights in the workplace. Furthermore, workers complained of forced overtime, lack of holidays, poor wages, dangerous working conditions, and unexplained and illegal deductions from their

salary. Although the Thai Constitution guarantees basic human rights, and Thailand is party to the major human rights treaties, which provide that non-citizens are entitled to the same rights as citizens, except for political rights, the government has done little to ensure that basic rights are extended to migrant workers ([HRW 2010](#)). Information on the involvement of migrant labourers in the plantation sector is difficult to find. Rising rubber prices in the 1990s have increased the number of Burmese migrants engaged in the industry (Migrant News 1994).

Risks of forced labour and bonded labour:

Forced labour and human trafficking are significant problems in Thailand. The government has made some efforts to improve the situation, but the state apparatus has often been found to be complicit in such crimes. A 2011 report by ITUC found that the laws do not effectively protect migrant workers, ethnic minority groups, or stateless people from forced labour and human trafficking ([ITUC 2011](#)). Thailand ratified ILO Convention No. 29, the Forced Labour Convention, in 1969, and ILO Convention No. 105, the Abolition of Forced Labour Convention, in 1962. Forced labour is prohibited under the Constitution, and by the *Anti-Trafficking in Persons Act*. However, forced labour is still widespread. According to the US Department of State, a significant portion of labour trafficking victims within Thailand are exploited in commercial fishing, the seafood industry, the garment industry, factories, and domestic work, and there are reports of corrupt officials facilitating smuggling ([U.S.](#)). No specific information has been found on the forestry sector, however given how widespread nature of the issue in the country, it cannot be assumed that forestry is without risk of forced labour. The 2014 Trafficking in Persons Report has downgraded Thailand from Tier 2 to Tier 3, the lowest ranking, reserved for countries whose governments do not fully comply with the minimum standards of the *Trafficking Victims Protection Act* (TVPA) and are not making significant efforts to do so ([U.S.](#)). There is no specific legislation against forced and compulsory labour in Thailand. Offences related to forced labour and bonded labour may, however, be prosecuted under Thailand's *Penal Code* and *Labour Protection Act* ([Ministry of Labour](#)).

Risk of child labour:

Although the law sets a minimum working age, child labour remains a problem; underage workers have been found in agriculture and the seafood industry ([ITUC 2011](#)). The government is taking a number of measures to address the problem, but there have been few prosecutions ([ILO 2015](#)). A research project on child labour in the Thai fishing/shrimp industry also uncovered other non-fisheries industry related occurrences of child labour, such as in agriculture (rubber plantations, farming). Both Thai and migrant children were found, and boys and girls are equally affected (ILO, 2016). The US Department of Labor's Bureau of International Labor Affairs (2012) also found 'limited evidence that children face dangerous working conditions in the production of rubber, roses, and oranges'.

Corruption is a common problem in Thailand. According to Transparency International's 2016 Corruption Perceptions Index, Thailand is ranked 76th of the 168 countries assessed, and received a corruption index score of 38.

Risks relating to collective bargaining and access to union membership:

Agricultural workers and factory workers in Thailand have long been struggling to bargain collectively. Employers make use of many anti-union practices against union members in order to limit union membership and activities. Thailand has not ratified the ILO conventions on trade union rights and discrimination ([ITUC 2011](#)). Workers on a casual or sub-contract basis, as well as migrant labourers, face discrimination and unfair employment conditions ([voicelabour 2015](#)).

Risk Conclusion

Although no publicly available information can be found on non-compliance and violations specifically in the forestry sector, Thailand faces a widespread problem in labour exploitation. Human trafficking, forced labour, debt bondage, child labour, noncompliance on wage, and extortion by Thai authorities have been extensively reported. Enforcement of labour laws and regulations seems inconsistent.

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk for all sources.

1.12.7. Control measures and verifiers

- Letter of Acknowledgement from the Department of Labour Protection and Welfare shall exist in a workplace that employs any person aged 15-18.
- Conditions of Employment shall exist in a workplace that employs any person aged 15-18 years.
- Work Rules shall exist in a workplace that has more than 10 employees.
- An Employee Register shall exist in a workplace that has more than 10 employees.
- A Record of Payment of Wages, Overtime Pay, Holiday Pay, verified by employee's signature, shall exist in a workplace that has more than 10 employees.
- An Agreement on Conditions of Employment shall exist for a state enterprise (e.g. the FIOisation).
- The employer shall have a Social Security Certificate of Registration issued by the Social Security Office.
- Workers shall have a Social Security card.
- Interview shall be conducted with staff to determine that there is no illegality in terms of overtime, holidays, social security, contracts, salaries, working conditions, etc. Translators may be required for migrant workers. These interviews shall be conducted without the presence of the police.
- Foreign workers shall have a work permit and/or a resident permit.

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

N/A

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

Government sources

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<http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=69941>
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- Leblond, Jean-Philippe (2010). *Population Displacement and Forest Management in Thailand* [online]. ChATSEA Working Paper no. 8, March 2010. Available at: <http://www.newmandala.org/wp-content/uploads/2010/06/ChATSEA-WP-8-Leblond.pdf> [Accessed 12 December 2016 at]
- Expert consultation conducted by NEPCon between April and November 2016

1.13.5. Risk determination

Overview of Legal Requirements

The Thai government does not recognise customary rights in relation to forestry activities. The government recognises the existence of ethnic groups, but has adopted pro-assimilation policies since the founding of the Thai nation-state, and has centralised forest resource management to the point of excluding indigenous peoples' rights. Indigenous and non-indigenous peoples that live in the forest are usually viewed as a threat instead of as custodians of the forest. Civil society and a small group of local forestry officials have jointly established a co-management approach, for example, the RFD's registration of community forests, but co-management is still localised to small areas, where local forestry officials have good relationships with local communities.

A long-standing 'draft' Community forestry bill has not yet been passed into law. In the meantime, customary rights are not guaranteed. Forest communities' access to forest resources, particularly those in protected areas, whether for domestic or commercial use, depends on the relationship between local forestry officials and local communities, which can vary significantly from one area to another.

Description of Risk

An estimated 10 million forest-dwelling and rural communities are dependent on about 2.6 million hectares of forests for subsistence uses and traditional and customary lifestyles as of 2005 (ITTO). Rural communities that reside in forests designated as National Forest Reserves, national parks and other protected areas are the most vulnerable. Protected areas may overlap the boundary of National Forest Reserves. They may also overlap forests occupied and used by traditional communities, creating ongoing

tension and unresolved conflicts. In the latter case, these people have become illegal occupants and illegal encroachers.

The Department of National Parks has estimated that as of 2007 there are 555,000 individuals (139,000 households) with land holdings inside protected areas classified as national parks, wildlife sanctuaries, and non-hunting areas (R-PIN 2008:12). However, section 16 of the *National Park Act* prohibits land-holding and harvesting of forest resources in national parks. There have been cases of arrests, incarceration, forced eviction and other violations by forestry and national park officials (AIPP 2012:31). One of the most recent cases was the forced relocation of Karen indigenous peoples from Kaeng Krachan National Park in May-July 2011. The *National Park Act* does not allow occupancy within parks, despite of the existence of evidence that an indigenous peoples' settlement has existed long before the demarcation of the protected area.

A consistent theme emerging from research on Thailand's forests relates to community perceptions that local forest resources have been taken over by the state (eg Vandergeest,1996; Roth, 2004). Vandergeest (1999: 7) asserts that following the RFD's rapid expansion of protected areas to control territory and increase budgetary allocations from the central government, 'most protected areas in Thailand are surrounded or partially occupied by a local population who feel that their legitimate property rights have been appropriated'.

There is currently no law in Thailand that guarantees customary rights to access forest resources. However, many rural communities in Thailand continue to lobby for their customary use rights of forest areas to be legally recognised. After almost two decades of campaigning, this has yet to happen. Local people continue to be evicted from areas where they claim to have customary rights that pre-date the establishment of protected forest areas ([Leblond 2010](#)). While customary rights are recognised in some areas, they are still not guaranteed to all. As of 2012, the RFD has approved the registration of 7,756 community forests covering 510,000 ha. Civil society organisations have compiled a list of 9,123 community forests covering 1.26 million ha nationwide ([RECOFTC 2012](#)). Of these, 1,510 are located in protected areas covering 530,000 ha. No data confirms whether any of these community forests are registered or recognised by the authorities. Thailand does not recognise customary law. As of mid-2016, there is no legislation related to commercial logging/harvesting of timber generated in community forests. Verification of legal timber from community forests would follow the procedures of the *Forest Act*.

There may also be an issue in some areas where FIO teak and eucalypt plantations were established during the 1960s–80s. While this issue remains largely undocumented, expert consultation (Expert consultation conducted by NEPCon between April and November 2016) has identified examples in north-east Thailand where local people were evicted to make way for these plantations – and where local people now work as labourers in said plantations. Further research on this issue is required to more clearly define the amount of timber entering the supply chain from these plantations.

Risk Conclusion

N/A for all sources.

There is no law that guarantees customary rights to use timber and non-timber forest products without clear legal documents that grant legal ownership to the land (i.e. private land).

1.13.6. Risk designation and specification

N/A

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

N/A

In Thailand, there is no law covering "free prior and informed consent".

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 for all sources.

All forests in Thailand that are not privately owned are owned by the State.

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

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

Non-Government sources

- Premsrirat, S. et al. (2004). *Ethnolinguistic Maps of Thailand* [online]. Bangkok: Office of the National Culture Commission. Available at: <http://asiapacific.anu.edu.au/newmandala/wp-content/uploads/2015/05/Thailand-Ethnolinguistic-Maps.pdf> [Accessed 8 June 2016]
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- Expert consultation conducted by NEPCon between April and November 2016

1.15.5. Risk determination

Overview of Legal Requirements

In Thailand, there is no legislation to protect the rights of indigenous/traditional people in forestry activities.

Description of Risk

In Thailand, a high proportion of indigenous people live in and around forest areas, particularly in the north of the country. Traditional rights associated with forest resources are not guaranteed by any law. There is widespread violation of the rights of indigenous people (e.g. evictions/forced relocations due to the demarcation of protected areas; tenure insecurity; farmland taken away by the authorities). Although Thailand is one of

the most ethnically and linguistically diverse places in the world, the Thai government does not guarantee the rights of indigenous or traditional peoples. The Thai government refers to indigenous peoples, as well as immigrants who do not assimilate, as “ethnic minorities”. The government recognises the existence of ethnic minority groups, but has adopted pro-assimilation policies since the founding of the Thai nation-state, and has centralised forest resource management to the point of the exclusion of indigenous peoples’ rights.

The Ministry of Social Development and Human Security estimates that there are 6,100,000 persons in the country identified as indigenous (9.68% of the nation’s population). They belong to 56 ethnic groups and reside in 67 provinces. There are 12 ethnic groups living in the highland/mountainous regions. Their livelihood is mainly dependent on forest ecosystems and highland agriculture.

Indigenous communities that reside in forest estates designated as national parks and other protected areas are the most vulnerable group. Many individuals have been arrested for collecting non-wood forest products or cutting wood for domestic consumption. The Department of National Parks has estimated that as of 2007 there are 555,000 individuals (139,000 households) with land holdings inside the protected areas classified as national parks, wildlife sanctuaries, and non-hunting areas (R-PIN 2008:12). As section 16 of the *National Park Act* prohibits land-holding and harvesting of forest resources in national parks, there have been cases of arrests, incarceration, forced eviction, and other violations by forestry and national park officials (AIPP 2012:31). One of the most recent cases is the forced relocation of Karen indigenous peoples from Kaeng Krachan National Park in May-July 2011. The *National Park Act* does not allow occupancy within parks, despite of the existence of evidence that an indigenous peoples’ settlement has existed long before the demarcation of protected areas.

Land claims by the Royal Forest Department (RFD) for an intensive reforestation programme, starting in the late ‘80s and early ‘90s have substantially increased tenure insecurity for indigenous people living in forest areas, resulting in forced relocation and loss of cultivated land.

Risk Conclusion

Not applicable for all sources.

Based on available information, traditional rights are not covered under the law.

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

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

Timber from registered forest plantation:

- Forest Plantation Act B.E. 2535 (1992), Section 13, Annex of plantation species. Available at: http://thailaws.com/law/t_laws/tlaw0055.pdf / <http://extwprlegs1.fao.org/docs/pdf/tha70240.pdf>
- Forest Plantation Act (No. 2) B.E. 2558 (2015), Section 14/1.
- Royal Forest Department Regulation on the Issuance of Certificate of Cutting/Felling Notification, Storage of Certificate, Packing List, and Proof of Legality from Forest Plantation B.E. 2535, by virtue of the Forest Plantation Act B.E. 2535, Clause 5, 9

Restricted species:

- Royal Decree on Restricted Timber Species B.E. 2530 dated 26 October 1987. Available at: <http://forestinfo.forest.go.th/Content/file/forest2530.pdf>
- Royal Decree on Restricted Forest Product Species B.E. 2530 dated 26 October 1987. Available at: http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&qid=239&Itemid=
- Ministerial Regulation No. 27 B.E. 2530 issued under the Forest Act B.E. 2484 on the Trade and Commercial Possession of Wood Products from Restricted Species

Sawn timber from primary processing or trading facility:

- The Forest Act B.E. 2484 (1941), Section 6, 7, 9. Available at: <http://www.fio.co.th/institution/human/download/580714-1.pdf>
- Ministerial Regulation No. 25 on Ministerial Regulation No. 25 on the Processing and Possession of Sawn Timber B.E. 2519 (1976), by virtue of the Forest Act B.E. 2484, Clause 6, 7, 8. Available at: <http://www2.suratthani.go.th/onre/download/136.pdf>
- Ministerial Regulation No. 26 on the Transport of Timber or Forest Product B.E. 2528 (1985), issued under the Forest Act B.E. 2484, Clause 2, 3
- Royal Forest Department Regulation on the Transport of Timber and Forest Product B.E. 2552 (2009), Clause 8, 9, 10, 12, 16
- Ministerial Decree No. 11 on the Control of Rubberwood Processing by Mechanical Process B.E. 2525, Clause 4, 5

- Ministerial Decree No. 15 on the Control of Wood Products made of Restricted Timber Species B.E. 2526
- Ministerial Decree No. 18 on the Control of Timber Processing B.E. 2532, Clause 3, 8, 9
- Ministerial Decree No. 19 on the Control of Timber Processing B.E. 2539
- Announcement of Royal Forest Department on Authorizing Licensed Operators of Mechanized Sawmill for Rubberwood or Timber Trading Facility to Issue Sawn Timber Certificate dated 23 January B.E. 2546, Clause 2-5
- Announcement of Royal Forest Department on Authorizing Licensed Operators of Sawmill and Timber Trading Facility to Issue Sawn Timber Certificate dated 10 January B.E. 2546
- Letter Kor Sor 0702.3/537 dated 23 January B.E. 2546 on Announcement of Royal Forest Department on Authorizing Licensed Operators of Mechanized Sawmill for Rubberwood or Trading Facility to Issue Sawn Timber Certificate
- Letter Kor Sor 0704.02/9702 dated 4 April B.E. 2539 on the Mechanical Processing Facility to produce Sawn Timber or Woodchips from 13 plantation timber species (Azadirachta excelsa, Eucalyptus, Casuarina equisetifolia, Casuarina junghuhniana, Acacia auriculiformis, Acacia mangium, Leucaena leucocephala, Coco nucifera, Tamarindus indica, Baccaurea ramiflora, Bouea macrophylla, Samanea saman, Borassus flabellifer)

1.16.2. Legal authority

Transport documents:

- Forest Checkpoint Bureau, Royal Forest Department in Bangkok
- Forest Checkpoints, in Bangkok and outer provinces
- District Chief and Provincial Governor, in outer provinces (Ministry of Interior)

Processing and trading operator's license:

- Permission Bureau, Royal Forest Department, in Bangkok (Ministry of Natural Resources and Environment)
- Provincial offices of Natural Resource and Environment Management, in outer provinces (Ministry of Natural Resources and Environment)
- Provincial offices of Forest Resource Management, in outer provinces (Ministry of Natural Resources and Environment)

1.16.3. Legally required documents or records

Transportation operator

Applicable law (1) - (3):

- Certificate of Cutting/Felling Notification *Sor Por 13*
- Plantation Timber Packing List *Sor Por 15*

- Timber mark/tag, clearly marked by the Licensed Entrepreneur's registered seal

Applicable law (4)-(17):

- Removal Pass with Packing List
- White-form Sawn Timber Certificate with Packing List
- Yellow-form Sawn Timber Certificate with Packing List
- Restricted Wood Product Certificate with Packing list
- Timber mark/tag/seal, clearly marked on the timber by the authority
- Attachments: Record of Royalty Collection, Tariff receipt

Processing and trading operator

Applicable law (8), (13) - (18):

- Mechanical Processing Facility's License
- Manual Processing Facility's License
- Sawn Timber Trading Facility's License
- Restricted Wood Product Trader's License
- Commercial Timber Processing's Permit with Packing List
- Non-commercial Timber Processing's Permit with Packing List

1.16.4. Sources of information

Government sources

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- forest.go.th (N.Y.). *Royal Decree on Restricted Forest Product Species B.E. 2530 dated 26 October 1987* [online]. Published in Government Gazette Vol. 104 Section 220 dated 2 November 1987. Available at: http://www.forest.go.th/forestry_law/index.php?option=com_docman&task=doc_download&gid=239&Itemid= [Accessed 28 April 2016]
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- suratthani.go.th (N.Y.). *Ministerial Regulation No. 27 B.E. 2530 issued under the Forest Act B.E. 2484 on the Trade and Commercial Possession of Wood Products from Restricted Species* [online]. Available at: <http://www2.suratthani.go.th/onre/download/140.pdf> [Accessed 28 April 2016]
- mnre.go.th (N.Y.). *Forest Plantation Act B.E. 2558 (Second Revision) (2015)* [online]. Available at: http://www.mnre.go.th/ewt_dl_link.php?nid=4950 [Accessed 28 April 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.16.5. Risk determination

Overview of Legal Requirements

Timber from registered forest plantation:

The Licensed Entrepreneur is required to register their private seal with the authority, to prepare a book of packing lists according to the format prescribed by the RFD (Plantation Timber Packing List *Sor Por 15*), and to register the book with the competent officer in their province. The packing list carries information on the species, quantity, size, volume, seal or tag, and individual sequential number of the log.

Following harvesting, the operator must ensure that all round logs, sawn timber, wood products, or other parts of the tree, are marked or tagged with the private seal of the Licensed Entrepreneur, along with the number, in sequential order beginning from 1, and the year. All logs and timber must be measured for length and circumference, of which a record is kept in the packing list.

The Transportation Operator must be in possession of the Plantation Timber Packing List *Sor Por 15*, and a copy of the Certificate of Cutting/Felling Notification *Sor Por 13*. Forest products harvested from plantations can be transported and traded under the same rules and procedures as timber from plantations. Section 13 of the *Forest Plantation Act (No. 2) B.E. 2558* states that forest product harvesting permission shall be enforced in the form of an Announcement with approval from the Minister (section 14/1 of the *Forest Plantation Act B.E. 2558*). However, as of mid-2016 there is no legal requirement for such a permit.

All round logs, timber, and forest products from plantations must be marked with the private seal of the Licensed Entrepreneur before they leave the harvesting site.

Timber from other sources:

For timber from other sources: (i) all species from NFR; (ii) restricted species from forest outside NFR; and (iii) Teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.) grown on private land, a transport document with a packing list is required for each lorry load. The operator must notify the authority to inspect the harvesting site, collect the royalty, and issue a Removal Pass. The Removal Pass must be accompanied by a record of royalty collection. The document carries information on the type/species, size, volume, seal or mark on the logs, the sequential number on the logs,

and the rate of royalty paid. Before logs or forest products leave the operation, each and every item must have been marked, either with the authority's personal seal or a removal seal, along with the number and year. In the event that this cannot be done, a written Announcement on the packing list is required. The packing list carries information on the type/species, size, quantity, volume, and timber mark.

For sawn timber and wood products dispatched from processing or trading facilities, a White-form Sawn Timber Certificate is issued on-site by the licensed processing or trading operator, valid up to 24 hours. On the back page, the Sawn Timber Certificate carries a record of the type/species, quantity, size, volume, and seal or mark. A Yellow-form Sawn Timber Certificate is issued solely for sawn timber and wood chips dispatched from a mechanical processing facility licensed to process rubberwood and 13 plantation timber species, and is valid for up to 7 days. Restricted Wood Product traders are required to issue a Restricted Wood Product Certificate, which is valid for up to 2 days. On the back of these Certificates is a packing list that records the type/species, size, quantity, volume, and timber mark.

For imported timber or imported forest products, a forest checkpoint will issue a Removal Pass upon verifying the import tariff (receipt) and/or customs clearance; packing list/bill of lading; invoice; Certificate of Origin, and/or export licence from the exporting country.

Description of Risk

Thailand has a score of 38/100 and is 76th of the 168 countries assessed in Transparency International's 2015 Corruption Perceptions Index (CPI). With regard to worldwide governance indicators, Thailand scored as follows in 2014 (on a scale of 1 to 100%): Government Effectiveness 65.9%; Regulatory Quality 62%; Rule of Law 51.4%; Control of corruption 42.3%.

Thailand's CPI relating to control of corruption is well below 50, suggesting a high perception of corruption. There is no publicly available information to quantify systematic non-compliance or illegality in this category. Further research is needed on the transparency of the forest checkpoint issuance and monitoring system.

Risk Conclusion

This risk for this category has been evaluated as specified as there is not enough information to conclude as low risk.

1.16.6. Risk designation and specification

Specified risk for all sources.

1.16.7. Control measures and verifiers

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

1.17. Trade and transport

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

1.17.1. Applicable laws and regulations

Transport document

Timber from registered plantation:

- Forest Plantation Act B.E. 2535 (1992), Section 13, 21. Available at: http://thailaws.com/law/t_laws/tlaw0055.pdf / <http://extwprlegs1.fao.org/docs/pdf/tha70240.pdf>
- Forest Plantation Act (No. 2) B.E. 2558 (2015), Section 10, 14/1.
- Royal Forest Department Regulation on the Transportation of Log, Sawn Timber, or Product generated from Forest Plantation B.E. 2535 (1992) issued under the Forest Plantation Act 1992, Clause 13
- Royal Forest Department Regulation on the Issuance of Certificate of Cutting/Felling Notification, Storage of Certificate, Packing List, and Proof of Legality from Timber harvested from Forest Plantation B.E. 2535 issued under the Forest Plantation Act B.E. 2535, Clause 11, 15, 16 and 21.

Non-restricted timber leaving a forest outside NFR:

- Letter Kor Sor 0704.3/540 dated 23 January 2003, signed by Director-General of Royal Forest Department

All species from private land:

- Letter Sor Ror 0203/14622 dated 25 August B.E. 2522 (1979), signed by the Secretariat of the Cabinet
- Letter Kor Sor 0704(3)/Wor 36952 dated 9 December B.E. 2530 (1987), signed by Deputy Director-General, acting Director-General of Royal Forest Department, Clause 1.3
- Letter Kor Sor 0704(3)/4244 dated 16 February B.E. 2530 (1987), signed by Deputy Permanent Secretary, acting Permanent Secretary of Ministry of Agriculture and Cooperatives

Private land planted Teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.):

- Letter Kor Sor 0704 (3)/Wor 36952 dated 9 December 1987, signed by Deputy Director-General, acting Director-General of Royal Forest Department, Clause 2

Timber from all other sources:

- Ministerial Decree No. 17 on the Permission of Teak and Yang on Private Land B.E. 2530. Available at: <http://www2.suratthani.go.th/onre/download/233.pdf>

- Forest Act B.E. 2484 (amended 2014), Section 38-42, 48, 53. Available at: <http://www.fio.co.th/institution/human/download/580714-1.pdf>
- Ministerial Regulation No. 26 on the Transport of Timber or Forest Product B.E. 2528 (1985), issued under the Forest Act B.E. 2484, Clause 3
- Royal Forest Department Regulation on the Transport of Timber and Forest Product B.E. 2552 (2009), Clause 8, 9, 6
- Ministerial Regulation No. 25 on the Processing and Possession of Sawn Timber B.E. 2519 (1976), by virtue of the Forest Act B.E. 2484, Clause 8. Available at: <http://www2.suratthani.go.th/onre/download/136.pdf>
- Ministerial Regulation No. 27 on the Trading or Possession for commercial purpose of Restricted Wood Products B.E. 2530 (1987), Clause 6

Trading permit and transport document from primary processing or trading facility:

- Forest Act B.E. 2484 (amended 2014), Section 48-53. Available at: <http://www.fio.co.th/institution/human/download/580714-1.pdf>
- Ministerial Regulation No. 25 on Ministerial Regulation No. 25 on the Processing and Possession of Sawn Timber B.E. 2519 (1976), by virtue of the Forest Act B.E. 2484, Clause 6, 7, 8. Available at: <http://www2.suratthani.go.th/onre/download/136.pdf>
- Ministerial Decree No. 18 on the Control of Timber Processing B.E. 2532, Clause 8, 9
- Ministerial Decree No. 19 on the Control of Timber Processing B.E. 2539
- Ministerial Decree No. 11 on the Control of Rubberwood Processing Facility using Mechanical Equipment B.E. 2525, issued under the Fifth Forest Act B.E. 2518 Sections 48 and 58
- Ministerial Regulation No. 27 on the Trade and Commercial Possession of Wood Products derived from Restricted Timber Species B.E. 2530 (1987), issued under the Forest Act B.E. 2484
- Announcement of Royal Forest Department on Authorizing Licensed Operators of Mechanized Sawmill for Rubberwood or Timber Trading Facility to Issue Sawn Timber Certificate dated 23 January B.E. 2546, Clause 2-5
- Announcement of Royal Forest Department on Authorizing Licensed Operators of Sawmill and Timber Trading Facility to Issue Sawn Timber Certificate dated 10 January B.E. 2546
- Letter Kor Sor 0702.3/537 dated 23 January B.E. 2546 on Announcement of Royal Forest Department on Authorizing Licensed Operators of Mechanized Sawmill for Rubberwood or Trading Facility to Issue Sawn Timber Certificate

1.17.2. Legal authority

Transport documents:

- Forest Checkpoint Bureau, Royal Forest Department in Bangkok
- Forest Checkpoints, in Bangkok and outer provinces
- District Chief and Provincial Governor, in outer provinces (Ministry of Interior)

Processing and trading operator's license:

- Permission Bureau, Royal Forest Department, in Bangkok (Ministry of Natural Resources and Environment)
- Provincial offices of Natural Resource and Environment Management, in outer provinces (Ministry of Natural Resources and Environment)
- Provincial offices of Forest Resource Management, in outer provinces (Ministry of Natural Resources and Environment)

1.17.3. Legally required documents or records

Timber from registered plantation

Applicable law (1) - (4):

- Certificate of Cutting/Felling Notification *Sor Por 13*
- Plantation Timber Packing List *Sor Por 15*
- Timber mark/tag, clearly marked by the Licensed Entrepreneur's registered seal

Timber from all other sources:

- Public land (all species)
- Private land (3 restricted species: teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia spp.*))
- Imported (all species)

Applicable law (5), (9)-(14):

- Removal Pass
- Packing list
- Timber mark/tag, clearly marked on the logs
- Attachments: Record of Royalty Collection, Tariff receipt

All other timber generated from private land

Applicable law (6)-(8):

- Certificate of Timber from Private Land

Timber leaving primary processing and trading facilities

Applicable law (10) - (27):

- White-form Sawn Timber Certificate with Packing List
- Yellow-form Sawn Timber Certificate with Packing List
- Restricted Wood Product Certificate with Packing list
- Timber mark/tag/seal, clearly marked on the timber
- Attachments: Record of Royalty Collection, Tariff receipt

1.17.4. Sources of information

Government sources

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- Royal Forest Department (2015). *Table 12: Statistics of Forest Offenses in 2015* [online]. Available at: <http://forestinfo.forest.go.th/Content/file/stat2558/Table%2012.pdf> [Accessed 8 December 2016]

Transport document (timber from public land):

- new.forest.go.th (N.Y.) *Ministerial Regulation No. 26 on the Transport of Timber or Forest Product (B.E. 2528), issued under the Forest Act B.E. 2484* [online]. Available at: <http://new.forest.go.th/checkpoint/wp-content/uploads/sites/30/2015/09/00004.pdf> [Accessed 5 May 2016]
- Royal Forest Department (N.Y.). *Regulations on the Transport of Timber and Forest Product (B.E. 2552)* [online]. Available at: <http://www.fio.co.th/south/law/1/1.8.pdf> [Accessed 8 May 2016]
- Royal Forest Department (N.Y.). *Regulation on the Transport of Wood or Forest Product B.E. 2552 (2009)* [online]. Available at: http://www.forest.go.th/forest_checkpoint/images/stories/1212.pdf [Accessed 28 April 2016]
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- Royal Forest Department (N.Y.). *Handbook for Licensed Sawmill Operator* [online]. Available at: <http://new.forest.go.th/industry/wp-content/uploads/sites/12/2014/07/32.pdf> [Accessed 4 June 2016]

Timber processing and trading permits:

- fio.co.th (2014). *Forest Act B.E. 2484 (amended 2014)* [online]. Available at: <http://www.fio.co.th/institution/human/download/580714-1.pdf> [Accessed 19 May 2016]
- suratthani.go.th (N.Y.) *Ministerial Regulation No. 25 on the Processing and Possession of Timber B.E. 2519 (1976), issued under the Forest Act B.E. 2484* [online]. Available at: <http://www2.suratthani.go.th/onre/download/136.pdf> [Accessed 28 April 2016]
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(1987) [online]. Available at: <http://www2.suratthani.go.th/onre/download/140.pdf> [Accessed 28 April 2016]

- forest.go.th (N.Y.) *Handbook for the Operator on the Permission of Trade and Commercial Possession of Wood Products made of Restricted Species* [online]. Available at: at http://new.forest.go.th/permission/wp-content/uploads/sites/2/2014/07/km_permis52_pradit.pdf [Accessed 29 April 2016]
- suratthani.go.th (N.Y.) *Ministerial Decree No. 11 on the Control of Rubberwood Processing Facility using Mechanical Equipment B.E. 2525, issued under the Forest Act B.E. 2484* [online]. Available at: <http://www2.suratthani.go.th/onre/download/138.pdf> [Accessed 19 May 2016]
- Sa-adnak, R.(n.d.). *Licenses in the Timber Industry* [online]. Workshop Presentation. Available at: http://www.forest.go.th/check_wood/images/stories/file/wood_industry_license.pdf [Accessed 13 June 2016]
- Nutanong, M., Taenpan, R. (N.Y.). *Licenses for Timber, Wood Products, and Charcoal generated from Forest Industry* [online]. Workshop Presentation. Available at: http://www.forest.go.th/check_wood/images/stories/file/NSW%20workshop%20materials/Timber%20industry.pdf [Accessed 13 June 2016]

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- Transparency International (TI) (2015). *Corruption Perception Index 2015* [online]. Available at: https://www.iaca.int/images/news/2016/Corruption_Perceptions_Index_2015_report.pdf [Accessed 22 July 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.17.5. Risk determination

Overview of Legal Requirements

Timber from registered plantation:

The Operator ensures that all round logs, sawn timber, wood products, or other parts of the tree, are clearly marked or tagged, with the private seal of the Licensed Entrepreneur who has been registered with the authority. The **timber mark** shall also include the number, in sequential order beginning from 1, and the B.E. year. The Operator ensures that all logs' length and circumference are measured and correctly entered into the Packing List. The Transportation Operator must be in possession of a copy of the Certificate of Cutting/Felling Notification Sor Por 13 and the Plantation Timber Packing List Sor Por 15. The packing list contains species, quantity, size, volume, seal or tag, and individual sequential number of each log. Timber and forest products from registered plantations are exempt from royalties, thus there is no requirement that royalty collection be recorded.

Timber from all other sources - public land: all species, private land: teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.); and imported

Under section 7 of the Forest Act (amended 2014), and Clause 12 of the Royal Forest Department Regulation on the Transport of Timber and Forest Product B.E. 2552 (2009), a transport document with a packing list is required for each lorry load of timber and forest products leaving a harvesting site on public land, as well as for teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.) grown on private land. An operator notifies the district chief in their locality, and submits proof of land ownership (in case of private land), record of harvesting permit (if applicable), a map showing the location of the harvesting site, and a packing list stating species and quantity.

The district chief verifies the documents and proof of land ownership with the Department of Land (in the case of private land). The district chief informs the Provincial Governor's office where a forestry officer of level 5 or higher is sent out to inspect the timber and the harvesting site. The officer checks the packing list, ensures that the site is not in an NFR or protected area, or in a steep area, and ensures that harvesting does not risk erosion or landslide. Once the application is approved, the officer uses their

personal seal to affix a **timber mark** on each item (of timber or forest product), along with the sequential number, year, and removal seal. In the event that affixation or marking cannot be performed, a written announcement on the timber/forest product inventory accompanying the consignment is required.

A **Removal Pass** signed by the district chief or the Provincial Governor is issued to the operator. On the back of the Removal Pass is a **packing list**. The transportation operator must carry the Removal Pass and the verified packing list. The Removal Pass is valid from the harvesting site to the first forest checkpoint. All approvals must be reported to the RFD.

With regard to imported timber or imported forest products, a forest checkpoint will issue a **Removal Pass** upon verifying the tariff receipt and/or customs clearance; packing list/bill of lading; invoice; Certificate of Origin, and/or the export licence from the exporting country.

Timber leaving primary processing and trading facilities:

With regard to sawn timber and wood products dispatched from processing or trading facilities, a **White-form Sawn Timber Certificate** is issued on-site by the licensed processing or trading operators and is valid for up to 24 hours. On the back page, the Sawn Timber Certificate carries a record of the type/species, quantity, size, volume, and of the seal or mark. A **Yellow-form Sawn Timber Certificate** is issued solely for sawn timber and wood chips dispatched from a mechanical processing facility licensed to process rubberwood and 13 plantation timber species, and is valid for up to 7 days. Licensed restricted wood product traders shall issue a **Restricted Wood Product Certificate**, which is valid for up to 2 days. On the back of the Certificates is a **packing list** recording the type/species, size, quantity, volume, and the timber mark.

Timber arriving and leaving forest checkpoint with expired transport documents:

The authority responsible for the issuance of transport documents is the Forest Checkpoint Bureau under the Royal Forest Department. The RFD has set up 39 forest checkpoints nationwide, 38 of which are referred to as 'Category 1' checkpoints and are located in the 38 outer provinces. These operate 24 hours a day. The Bangkok forest checkpoint is referred to as belonging to 'Category 2', and has 4 operating branches in the city that are open during office hours.

When a transportation operator enters a forest checkpoint territory they must present a transport document with a packing list to the official on-site within five days. A Removal Pass may have an attachment that is a record of royalty collection, and this carries information on the type/species, size, volume, seal or mark on the logs, the sequential numbers on the logs, and the rate of royalty.

Under Clause 16 of the RFD Regulation on the Transportation of Timber and Forest Products B.E. 2552, forest checkpoint officials will verify the documents, see if the transport document is still valid, and whether or not the royalty has been fully and correctly paid. If it is, they will sample check a minimum of 20% of the load. If the royalty has not been fully collected, the remainder will be collected. Once verified, Forest Checkpoint officials will stamp their personal seal and a removal seal on the sample items (i.e. not necessarily every item in the load), and sign the transport document.

If the original transport document has expired, Ministerial Regulation No. 26 (B.E. 2528) on the Transportation of Timber or Forest Products, by virtue of the Forest Act (Vol. 5 B.E. 2518) requires that forest checkpoint officials issue a new **Removal Pass**, and use their discretion to determine the expiry date, up to a maximum of 30 days from the date of issue.

Processing and trading operator:

All logs and timber products entering facilities must be recorded in the facility's inventory system (specifying size, volume, quantity, quality, and timber mark). Timber processing facilities are required to check the origin of logs before they enter the facilities. They are to keep 3 log books containing records of i) round logs stored, ii) processed timber, and iii) overall inventory of the operation. They must also produce a book of annual operations including figures of timber receipts, processed timber, dispatches, and the current stock. The RFD sets up the monitoring system by checking the aforementioned documents when a Licensed Operator submits a licence renewal application.

Licensed Operators shall issue a **Sawn Timber Certificate** and a **Restricted Wood Product Certificate**, with a packing list, to accompany each consignment as they are dispatched. These certificates expire within 24 hours of the time of issue, or within up to 7 days in the case of rubberwood and plantation timber products. The sawmill operator is required to register the book of certificates with the authority before use. The certificate book cover must show the signatures and seals of competent officers, stamped by the RFD. The sawmill operator is to keep two carbon copies of each certificate that they issue. The first copy is to be kept at the facility for a minimum of two years, and the second copy is to be collected, compiled and submitted to the licensing authority once a month.

Description of Risk

- There is a risk of illegally sourced timber and wood products from outside the country entering the supply chain. According to a Chatham House report ([Chatham House](#)), Thailand is among the most important destinations for timber and wood product exports from some of the countries in the region most badly affected by illegal logging, and thus is among the world's principle importers of illegally sourced timber and wood products. Chatham House estimates that, between 2000 and 2012, an average of 1.7 million cubic metres of illegally sourced timber and wood products were imported into Thailand. In a 2013 study, it was assessed that about one fifth of Thailand's wood imports had been illegally sourced ([Chatham House](#)).
- There is a risk of illegally sourced wood from within the country entering the supply chain and/or being smuggled out of the country. Within Thailand, illegal logging and illegal encroachment remain a serious issue. Between October 2014 and September 2015, there were 4,248 offences related to illegal logging, and 3,607 offences related to illegal encroachment, covering 23,500 ha. In the same year, the volume of confiscated round logs and sawn timber was 7,731 cubic metres ([RFD](#)). Illegally cut wood being smuggled out of the country is a serious problem, particularly luxury timber such as rosewood ([Nuwer 2016](#)). While the volume of illegally sourced wood from within Thailand remains unknown, there is still a risk that illegal timber could enter the supply chain.

- There is a risk of transport documents and trading permits being falsified or obtained through bribery. There have been media reports of illegal wood being transported and accompanied by falsified trading permits and transport documents ([Manager Online](#)). Processing facilities have also been found to be complicit, such as by willingly processing illegal wood, or by being in possession of illegal wood ([Channel 3](#)). Corruption and bribery has been recognised by the authorities in the issuance of transport documents. In letter Kor Sor 0713/4947 dated 18 March B.E. 2525 (1982) signed by the Director-General of the Royal Forest Department, cases of corruption and bribery involved in the transport document issuance, and in the collection of other fees, were brought up to the Office of the Public Sector Anti-Corruption Commission by rubberwood farmers and private operators of timber species other than *Tectona grandis* and *Dipterocapus alatus* ([RFD 2008:301-302](#)). Extortion by law enforcement officials has been reported in cases related to the transport of restricted timber ([Meechai Thailand](#)).
- Thailand has a high perception of corruption, scoring 38/100 according to the 2015 Corruption Perceptions Index (CPI) by Transparency International ([TI](#)).

Given the risks of illegally sourced wood being imported, as well as of illegally logged wood within the country entering the supply chain, and the risks of transport documents and trading permits being falsified or obtained through bribery, the risk for this category has been assessed as SPECIFIED.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.17.6. Risk designation and specification

Specified risk for all sources.

1.17.7. Control measures and verifiers

- For timber and wood products from registered plantations, a Certificate of Cutting/Felling Notification *Sor Por 13* shall exist.
- For timber and wood products from registered plantations, a Plantation Timber Packing List *Sor Por 15* shall exist.
- For timber and wood products from registered plantations, a timber mark/tag/seal shall be clearly marked by the Licensed Entrepreneur's registered seal.
- For timber and wood products from other sources, transport documents (removal pass, packing list) shall have signatures from the authorities, with proof of receipt of royalties and tariffs.
- For wood products made from restricted species, a Restricted Wood Product Certificate with Packing list shall exist.
- For timber and wood products leaving processing and/or trading facilities, a Sawn Timber Certificate with a packing list shall exist.

- A physical check shall be done of the timber mark/tag/seal on all timber grown in National Forest Reserves (NFRs), on restricted timber grown elsewhere on public land, and on teak (*Tectona grandis*), yang (*Dipterocarpus alatus*), and rosewood (*Dalbergia* spp.) grown on private land.

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

- [Revenue Departmental Instruction No. Por.113/2545 on Corporate Income Tax - Determination of Transfer Price based on the Market Price](#)
- Revenue Code, Section 65 *Bis* (4), (7), Section 65 *Ter* (13), (14) and (15). Accessed 20 July 2016 at <http://www.rd.go.th/publish/37748.0.html>
- The Amendment of Revenue Code Act (No. 41) B.E. 2559 (2016). http://www.rd.go.th/publish/fileadmin/user_upload/kormor/newlaw/prb41.pdf

1.18.2. Legal authority

- Revenue Department, Ministry of Finance

1.18.3. Legally required documents or records

1.18.4. Sources of information

Government sources

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1.18.5. Risk determination

Overview of Legal Requirements

There is currently no specific law regulating offshore trading and transfer pricing. However, there is a general requirement under the Revenue Code that companies follow the "arm's-length" principle. As of 2016, sections 65 *Bis* (4, 7) and 65 *Ter* (3, 14, 15) of the *Revenue Code* may be used by officers of the Revenue Department to assess revenues and expenses related to transfer pricing. In 2016, the Revenue Code

Amendment Act (No. 41) was gazetted and puts into effect to enhance tax evasion provisions in the Revenue Code for tax refund fraud and non-filing of tax returns.

In 2002, the Revenue Department issued transfer pricing guidelines in the form of *Departmental Instruction No. Por.113/2545 on Corporate Income Tax - Determination of Transfer Price based on the Market Price*. It provides Revenue officers with a guideline to review the taxpayers' transfer prices for compliance with the arm's-length principle. The purpose of the guidelines is to assist taxpayers in setting arm's-length prices for their transactions with related parties. The instruction is in line with the "Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations" issued by the Organisation for Economic Cooperation and Development ([Booklet](#) and [Guidelines](#)).

Taxpayers are required to disclose transfer pricing related documents within 150 days from the year-end closing date, the same deadline as corporate income tax returns. In order to ensure compliance, the Revenue Department regularly conducts business operation visits/tax investigations to review comprehensive tax audits. During an operation visit/tax investigation, transfer pricing may be reviewed ([PWC](#)).

Description of Risk

While there are no specific transfer pricing provisions under the law, there is a general requirement under the Revenue Code that companies follow the "arm's length" principle. The government has detailed specific company actions that are more likely to lead to an audit, including one branch of an enterprise consistently reporting profit loss, suspicious fluctuations between profit and loss in a subsidiary company, lower profit margin than is reflected in the market, and a profit drop after a tax holiday ([ASEAN Briefing](#)). In 2015, there has been a substantial increasing in transfer pricing investigation activity by the Revenue Department. Transfer pricing audits have now been transferred to 50 general audit teams, who continue to actively perform transfer pricing investigations. In addition to the normal selection of targets, the Revenue Department investigates competitors within the same industry sector and group companies within the supply chain, as well as cross border related-party transactions ([PWC](#)). There is evidence of enforcement, such as business operation visits/tax investigations and comprehensive audits by revenue officers, and the recent prosecution of the multinational company and its subsidiary in Thailand. In 2016 and 2017 Thai prosecutors have reportedly charged the Thailand subsidiary of Philip Morris International Inc. with tax evasion for allegedly under-declaring the value of cigarettes imported from the Philippines and Indonesia ([WSJ](#), [WSJ](#), [ST](#)).

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.

1.18.6. Risk designation and specification

Low risk for all sources.

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 product classification and tariff:

- Customs Act B.E. 2469 (amended 2005), Section 3, 10. Accessed 14 June 2016 at http://www.customs.go.th/wps/wcm/connect/14026c8a-44db-49a9-9095-7d8eedfd5d13/Customs_Act_2469.pdf?MOD=AJPERES
- Export and Import of Goods Act B.E. 2522 (1979), Section 5-7. Accessed 14 June 2016 at <http://www.wipo.int/edocs/lexdocs/laws/en/th/th025en.pdf>
- The Customs Tariff Decree B.E. 2530 (amended 2014), Section 4. Accessed 14 June 2016 at <http://igtfcustoms.go.th/igtfc/uploads%5Cfiles%5CInformation%5CCBB1EN%5CGENERAL%20PROVISION%202530%20UPDATE%202548%20-%20EN%5CGENERAL%20PROVISION%202530%20UPDATE%202548%20-%20EN.pdf>

Export:

- Announcement of Ministry of Commerce on the Requirement of Permission to Export Timber B.E. 2555 (2012). Accessed 14 June 2016 at http://www.dft.go.th/Portals/0/Legal/NotMoc_Wood_11042555@25550501-1704565400.pdf
- Announcement of Ministry of Commerce on the Permission to Export Charcoal B.E. 2549 (2006). Accessed 1 May 2016 at http://www.forest.go.th/check_wood/forestfarm11/farm/web/images/stories/f3.pdf.
- Rule of Ministry of Commerce on the Criteria, Methods and Conditions for Exporting Timber and Sawn Timber B.E. 2549 (2006). Accessed 29 April 2016 at http://www.forest.go.th/forest_checkpoint/images/stories/wood%20and%20veneer%20export%2049.pdf.
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- Royal Forest Department Regulation on the Issuance of Certificate of Timber, Wood Product and Charcoal for Export B.E. 2552 (2009). Accessed 29 April 2016 at <http://taxclinic.mof.go.th/upload/iblock/b59/b59a0cd7a219623bc3a8facaec116b4d.pdf>
- Cabinet Resolution 25 August B.E. 2535 (1992) on the Permission to Export Imported Timber. Accessed 15 June 2016 at http://www.cabinet.soc.go.th/soc/Program2-3.jsp?top_serl=55800&key_word=&owner_dep=&meet_date_dd=25&meet_date_mm=08&meet_date_yyyy=2535&doc_id1=&doc_id2=&meet_date_dd2=&meet_date_mm2=&meet_date_yyyy2=

- Announcement of Ministry of Commerce on the Issuance of Certificate of Origin according to International Trade Agreement and International Trade Practices B.E. 2548 (2005). Accessed 15 June 2016 at <http://www.dft.go.th/Portals/0/Legal/246@25540321-1043103117.doc>

1.19.2. Legal authority

- Ministry of Commerce
 - Bureau of Foreign Trade Services, Department of Foreign Trade, in Bangkok and its 6 regional offices in Thailand.
 - Provincial commercial affairs offices, Ministry of Commerce, in outer provinces
- Ministry of Finance
 - Customs Department, in Bangkok and its immigration and border checkpoints in outer provinces
- Ministry of Natural Resources and the Environment
 - Forest Checkpoints in Bangkok and outer provinces
 - Permission Bureau, Royal Forest Department in Bangkok
 - Provincial Forest Resource Management Office, in outer provinces
 - Provincial Forest Resource Coordinating Office, in outer provinces

1.19.3. Legally required documents or records

Export:

- Export permit
- Cabinet authorisation (for re-export)
- Trade documents, e.g. invoice, packing list, quotation, air waybill, bill of lading, truck receipt.
- Removal Pass, RFD-issued Certificate of Charcoal from Private Land, or other transport documents
- Timber mark on logs
- RFD-issued Certificates of timber and sawn timber, wood product and charcoal
- Foreign Transaction Form (form Tor.Thor.1) where the FOB value of exported goods exceeds 500,000 baht
- Certificate of Origin (voluntary)
- Import/export registration ID issued by Department of Foreign Trade
- Export Declaration
- Payment receipt

1.19.4. Sources of information

Government sources

Export:

- Permission Bureau, Royal Forest Department (2013). *Handbook on Issuance of Certificate of Wood, Wood Product, and Charcoal for Export* [online]. Available at: <http://forestinfo.forest.go.th/Content/file/manualanddoc/02.pdf> [Accessed 29 April 2016]
- Bureau of Foreign Trade Services (N.Y.). *Presentation on How to Apply for Certificate of Origin for Exported Goods* [online]. Available at: http://www.dft.go.th/Portals/0/ContentManagement/Document_Mod784/6หนังสือรับรองฯ ของฝ่าย ได้สิทธิ คุณอรุณี@25550313-1436591860.pdf
- Department of International Trade Promotion, Ministry of Commerce (N.Y.). *Handbook on Export of Wood and Sawn Timber* [online]. Available at: http://onestopservice.ditp.go.th/download/export/ex_5-5.pdf [Accessed 29 April 2016]
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- Department of International Trade Promotion, Ministry of Commerce, (2005). *Procedures, Documentation and Legislations for Charcoal Exporters* [online]. Available at: http://onestopservice.ditp.go.th/download/export/ex_11-2.pdf [Accessed 29 April 2016]
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- Department of International Trade Promotion, Ministry of Commerce, (2005). *Procedures, Documentation and Legislations for Wood Product Exporters* [online]. Available at: http://onestopservice.ditp.go.th/download/export/ex_24-18.pdf [Accessed 29 April 2016]
- Department of National Parks, Wildlife and Plant Conservation (DNP) (2016). *Draft results of preventative measures and addressing the problems of corruption in the illegal logging and trading of rosewood* [online]. Available at: http://www.dnp.go.th/info_protect/ร่างสรุปผลการดำเนินการเกี่ยวกับมาตรการป้องกันและแก้ไขปัญหาการทุจริต.docx [Accessed 25 July 2016]

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- Environmental Investigation Agency (EIA) (2013). *International Protection for Siam Rosewood Begins* [online]. Published 11 June 2013. Available at: <https://eia-international.org/international-protection-for-siam-rosewood-begins> [Accessed 8 December 2016]
- Expert consultation conducted by NEPCon between April and November 2016

1.19.5. Risk determination

Overview of Legal Requirements

Export of **charcoal**, **round logs**, and **sawn timber** of all species requires an export permit. Export of bamboo, Thai bamboo (*Thyrsostachys siamensis*), palms, roots, vines, veneer, vegetation, sawdust, wood chips, pieces, chunks, pellets, or the like, does not require permission. An **export permit** is obtained by submitting proof of legality to the Department of Foreign Trade.

Proof of legality includes **RFD-issued certificates** for charcoal, round logs or sawn timber issued specifically for each consignment, as well as a **Removal Pass**, and an **RFD-issued Certificate of Charcoal from Private Land** (prohibited species are **teak** and **yang**).

Furniture and wood products made of restricted species must be accompanied by a **Certificate of Restricted Wood Product**. If a Certificate of Origin is required, exporters can

apply for a Certificate of Origin at the Department of Foreign Trade and can submit supporting documents: transport documents, invoices, bills of lading or air waybills, packing lists, and export permits (if required).

Customs procedures:

Upon obtaining an export permit and Certificate of Origin, a person or registered business is required to file for an import/export registration ID, and an Export Declaration, and to submit supporting documents (invoice, packing list, export permit). Customs officers check the documents and collect export duties and taxes (if applicable). The exporter submits payment receipts and a verified Declaration to the warehouse. Customs officers inspect every shipment, record the results electronically, and then release the cargo.

Charcoal:

Under the *Announcement of the Ministry of Commerce on the Permission to Export Charcoal B.E. 2549 dated 17 March 2006*, the export of charcoal requires an **export permit**. Charcoal made of non-timber material (such as coconut husks, bamboo, and fruit peelings), charcoal powder, and charcoal briquettes do not require permission.

The *Ministerial Regulation on the Documents or Evidence accompanying Charcoal Export B.E. 2549 of Ministry of Commerce dated 17 March 2006* and the *Royal Forest Department Regulations on the Certification of Wood, Wood Products and Charcoal for Export B.E. 2552* outline the requirements for application for an export permit. The exporter must submit an **invoice**, quotation or other trade documents, and one of the following: a **Removal Pass**, an **RFD-issued Certificate of Charcoal from Private land** (in the event that charcoal is generated from private land where a removal pass is not applicable), or other transport documents issued by the authority.

Round logs and sawnwood:

According to the *Rule of the Ministry of Commerce on the Criteria, Methods and Conditions for Exporting Timber and Sawn Timber B.E. 2549 (2006)* only round logs and sawn timber of the following species and quantities are allowed to be exported:

- Rubberwood
 - Unlimited quantity.
- Pine
 - Quantity as specified in a certificate issued by the Royal Forest Department;
 - Pine timber harvested from conversion;
 - Pine timber harvested from thinning activities on RFD plantations;
 - *Casuarina junghuhniana* Miq. harvested from private land.
- Plantation species:
 - The private sector is only allowed to export logs and sawnwood from two plantation species: **eucalyptus** spp. and ***Acacia mangium Willd.***;
 - **Teak** can only be exported by the FIO;

- The quantity specified in a certificate issued by the Royal Forest Department or competent officers.
- To apply for an **export permit**, an exporter must submit the following documents:
 - A **Certificate** issued by Royal Forest Department;
 - An **invoice**, quotation, or other trade documents;
 - A **removal pass**, or other transport documents.

Re-export:

There is a restriction placed on the re-export of logs and sawn timber. *Cabinet Resolution 25 August B.E. 2535 (1992)* states that re-export of imported round logs and sawn timber requires approval from cabinet on a case-by-case basis.

Export tariff:

In Thailand, all exported goods are exempted from export tariffs, except logs, firewood, and sawn timber items according to section 81 of the *Revenue Code*:

- The rate of export tariff for logs and sawn timber is 40% of cost value;
- The rate of export tariff for wood products that cannot be further processed is 10% of cost value;
- The rate of export tariff for other wood products is 20% of cost value.

Description of Risk

- The law controls the movement of round logs and sawnwood from entry points (e.g. border crossings) to temporary storage facilities such as customs warehouses (before they are transported to processing/trading facilities within Thailand). Inspection is jointly performed by customs and RFD officers. There is no conclusive data to indicate that the law is enforced effectively. The Thai government recognises that illegally logged rosewood (*Dalbergia* spp.) from Thai forests being smuggled across the border to neighbouring countries and imported back into Thailand is a serious threat that needs to be addressed urgently, and is seeking cooperation with the governments of neighbouring countries ([DNP](#)).
- Given the breadth of illegal rosewood logging in Thailand, and the escalating demand in overseas markets, there is considerable risk of illegal rosewood leaving the country. Thailand is among the countries experiencing rampant illegal rosewood exports ([EIA](#)). According to customs procedures, Thai customs officials and competent officers from the Department of Agriculture verify documentation and perform inspections of products. Rosewood (*Dalbergia* spp.) is a restricted species, and is also listed in Appendix II of CITES. Chatham House has reported that the implementation of CITES listings for timber species is poor. While a number of countries have reported exports or re-exports of CITES-listed timber and wood products to Thailand in the last few years, in almost no case did Thailand record such shipments on arrival, as they should have if the systems were operating properly ([Lawson 2014:11](#)). Regarding enforcement, Chatham House could not find any record of seizures of illegal wood imports by Thailand. The lack of seizures suggests

that relatively little effort is currently being made to enforce CITES controls on timber imports ([Lawson 2014](#):11-12), making compliance and enforcement questionable.

- Based on Transparency International's Corruption Perceptions Index ([TI 2015](#)), Thailand has a serious corruption problem, with a score of 38/100 and a ranking of 76th of 168 countries.

Risk Conclusion

Due to the risks of illegal wood leaving the country, and questionable enforcement and compliance of Customs officials, as well as a high perception of corruption, the risk for this category has been assessed as SPECIFIED for *Dalbergia* spp. and CITES-listed species. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

This indicator has been evaluated as low risk for other species.

1.19.6. Risk designation and specification

Specified risk for *Dalbergia* spp. and CITES-listed species.

Low risk for other species.

1.19.7. Control measures and verifiers

- Export permits shall exist for CITES-listed species.
- Wood products made of restricted species shall have a Restricted Wood Product Certificate as proof of legality.
- Trade documents, e.g. invoice, packing list, quotation, air waybill, bill of lading, truck receipt, shall exist as proof of legality.
- Removal Passes, RFD-issued Certificates of Charcoal from Private Land, or other transport documents shall be correctly classified.
- Certificates of Origin, although voluntary, can be used as a verifier in combination with trade and transport documents.

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

- Plant Act B.E. 2518 (amended 1992), Section 29 tris. Accessed 18 June 2016 at http://www.mnre.go.th/ewt_dl_link.php?nid=5979
- Wild Animal Preservation and Protection Act B.E. 2535 (1992). Accessed 18 June 2016 at [http://citesdnp.org/pdf_right/พระราชบัญญัติสงวนและคุ้มครองสัตว์ป่า พ.ศ. 2535 \(อังกฤษ\).pdf](http://citesdnp.org/pdf_right/พระราชบัญญัติสงวนและคุ้มครองสัตว์ป่า พ.ศ. 2535 (อังกฤษ).pdf)
- Wild Animal Preservation and Protection Act (No. 3) B.E. 2557. Accessed 18 June 2016 at [http://citesdnp.org/pdf/พระราชบัญญัติสงวนและคุ้มครองสัตว์ป่า\(ฉบับที่ ๓\)พ.ศ.๒๕๕๗.pdf](http://citesdnp.org/pdf/พระราชบัญญัติสงวนและคุ้มครองสัตว์ป่า(ฉบับที่ ๓)พ.ศ.๒๕๕๗.pdf)

- Announcement of Ministry of Agriculture and Cooperatives on Protected Flora according to Plant Act B.E. 2518 (amended 2012), by virtue of Section 5 of Plant Act B.E. 2518 and Section 29 bis of Plant Act (No. 2) B.E. 2535. Accessed 18 June 2016 at <http://www.doa.go.th/ard/FileUpload/export/1.4.3.2%20QAMOA/QAMOAEX13T.pdf>

1.20.2. Legal authority

Fauna management and enforcement:

- Department of National Parks, Wildlife and Plant Conservation, Ministry of Natural Resources and Environment
 - CITES office
 - Division of Wild Fauna and Flora Protection

Flora management and enforcement:

- Department of Agriculture, Ministry of Agriculture and Cooperatives
 - International Trade of Plant under Conventions, Plant Varieties Protection Division

Fish and aquatic fauna management and enforcement:

- Department of Fisheries, Ministry of Agriculture and Cooperatives
 - Bureau of Fisheries Administration and Management
 - Fisheries Resources Conservation Division

Enforcement:

- Customs Department, Ministry of Finance
 - Land Enforcement Sub-division, Investigation and Suppression Bureau
- Natural Resources and Environmental Crimes Suppression Division, Royal Thai Police Bureau, *Ministry* of Interior

1.20.3. Legally required documents or records

CITES-related permit issuance

Fauna:

- CITES permit of specimen of protected species
- CITES permit of specimen of non-protected species
- Certificate of non-CITES Aquatic fauna

Flora:

- CITES permit
- Registration of Nursery that produce CITES species

Customs:

- Import permit obtained by providing proof of legality:

- Export permit issued by the government of the exporting country
- Phytosanitary Certificate issued by the government of exporting countries (for imports from Austria, Belgium, Denmark, Canada, Germany, Italy, Luxemburge, Netherlands, Republic of Korea, Singapore, Sweden, Switzerland)
- Certificate of Origin (CITES Appendix III species)
- Certificate issued by the government of the exporting country (for imports from non-member countries)
- Export permit
- Transit permit (also known as re-export permit)

1.20.4. Sources of information

Government sources

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- Plant Varieties Protection Division, Department of Agriculture (N,Y.). *Procedures for imports of protected plant species*. [online]. Available at: http://www.doa.go.th/pvp/index.php?option=com_content&view=article&id=68&Itemid=39 [Accessed 19 June 2016 at]
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- CITES. *Convention on International Trade in Endangered Species of Wild Fauna and Flora – Thailand’s Management Authorities competent to grant permits*. [online]. Available at: <https://cites.org/eng/cms/index.php/component/cp/country/TH> [Accessed 18 June 2016]
- CITES *Biennial Report - Thailand*. [online]. Available at: <https://cites.org/sites/default/files/reports/13-14Thailand.pdf> [Accessed 18 June 2016]
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1.20.5. Risk determination

Overview of Legal Requirements

- Under section 29 of the *Plant Act B.E. 2518* (amended 1992), import or export of

protected flora and its specimens requires permission from the Director-General of the Department of Agriculture. As Thailand ratified CITES in 1983, imports, exports and transits of CITES species require permits and proof of legality. Verification of documents and inspection of products is performed by customs officials and competent officers from the Department of Agriculture. *Announcement of Ministry of Agriculture and Cooperatives on Protected Flora according to Plant Act B.E. 2518 (amended 2012)* declares protected plant species in Appendices I, II, and III. Appendix I has 100 species, Appendix II has 82 species, and Appendix III has 13 species.

- Under the *Customs Law* section 29, import or export of CITES species without a permit is a violation.
- The genus *Aquilaria* (agarwood) is listed in Appendix II of CITES. Thailand has three species of agarwood that are affected – *Aquilaria crassna* Pierre ex Lecomte, *Aquilaria malaccensis* Lamk, and *Aquilaria subintegra* Ding Hou. In 2013, Siamese rosewood (*Dalbergia cochinchinensis*) was listed in Appendix II.
- The following tree species are found in natural forest in Thailand and are covered by CITES (Appendix I, II, or III):
 - *Rauvolfia serpentina*
 - *Diospyros ferrea*
 - *Diospyros vera*
 - *Dalbergia cochinchinensis* (Siamese Rosewood known, called *mai payoong in Thai*)
 - *Aquilaria malaccensis*
 - *Aquilaria subintegra*
- Thailand has divided the responsibility of management and enforcement authorities competent to grant permits between the Department of Agriculture (DoA), the Department of Fisheries (DoF), and the Department of National Parks, Wildlife and Plant Conservation (DNP). The DoA is responsible for flora. The DoF is responsible for fish and other aquatic fauna. The DNP is responsible for fauna. Additionally, there are two more enforcement authorities: The Customs Department and The Royal Thai Police ([CITES](#)).

Description of Risk

- The main CITES species of concern for Thailand is *Dalbergia cochinchinensis* (Siamese rosewood). There is a risk of illegally cut trees being smuggled out of the country ([Nuwer 2016](#)). Rosewood smuggling from Thailand is complex, although common patterns exist. Rosewood is often smuggled into neighbouring countries such as Laos and Cambodia and transported on to Vietnam, where it can be shipped to key end-user markets, principally China. Illegal rosewood is also shipped from Thai ports, notably Laem Chabang in Chonburi province, or is transported from the northern province of Chiang Rai up the Mekong into China. Fraudulent paperwork regularly ensures containers of illegal rosewood are waved through ports. Thai police officers have been implicated in illegal operations in, and smuggling from, Thailand's

forests ([EIA](#)). According to the World Wildlife Crime Report by the UN Office on Drugs and Crime, 35% of all wildlife seizures between 2005 and 2014 were of rosewood ([EIA](#)).

- Several reported cases of corrupt Thai police and forestry officers being involved in the illegal logging and smuggling of rosewood have been in the news. Suspects of illegal smuggling have reported bribing officials. ([ThaiCh8](#), [Thairath](#))
- Illegal rosewood logging has been recognised and is taken seriously by the Thai authorities. But it is not clear how they will address corruption within the bureaucracy. According to a document released by the Department of National Parks, Wildlife and Plant Conservation (DNP), a Special Taskforce was set up in 2015 to tackle illegal rosewood logging in two national parks: Tub Lan National Park and Pang Sri Da National Park. The taskforce is jointly operated by the protected area authority, the military, the police and the Ministry of Interior, and mainly aims to suppress the illegal activities carried out by smugglers, including Cambodian nationals, wealthy individuals, and local villagers. The project document shows that between 2011 and 2012, there were 1,067 cases of illegal rosewood logging/smuggling. During that period, the authorities have confiscated 4,726 round logs and 5,035 sawnwood items, amounting to 821,790 cubic metres. In comparison, illegal agarwood logging is smaller in scale. The authorities have confiscated 1,369 kg of illegal Agarwood chips, and only 7 round logs ([DNP](#)).
- The illegal trading, import and export of rosewood is taken seriously by Thailand's CITES Management Authority for Flora. Thailand has proposed to amend the annotation to the listings of *Dalbergia cochinchinensis* to include all major parts and derivatives of the tree. There is high demand for many different forms of *Dalbergia spp.* A large portion of the trade in *Dalbergia spp.* is currently in the form of secondary processed products, particularly furniture. Increasingly large volumes of illegal Siamese rosewood (*D. cochinchinensis*) are found to be traded in this way ([CITES 2016](#)).
- As of 2016, the Royal Forest Department is the only verifying authority of legal timber and wood products in Thailand. The absence of the Royal Forest Department from the management and enforcement of CITES may contribute to ongoing problems with regard to the import/export of illegally sourced wood and wood products. During a phone interview with the author, a senior RFD officer working at the Bangkok Forest Checkpoint claimed that the illegal import and export of CITES timber species has not been at all common in recent years. However, according to the CoP17Prop.53 document ([CITES 2016](#)), since the Appendix II listing in March 2013, a large shipment of timber has been intercepted while being exported illegally from Thailand. Between October 2012 and September 2014, there were 4,386 cases relating to the illegal trade of *D. cochinchinensis* with a quantity of 2,974 cubic metres. These seizures reflect the large scale of the illegal trade in *D. cochinchinensis*. Furthermore, as a Certificate of Origin or export permits are only required for the import of logs, sawn timber and wood products from neighbouring countries sharing a border with Thailand, this leaves a traceability and legality gap for timber products from all other countries.

- Chatham House has reported that although Thailand claims to provide sufficient training to customs officers to enable them to enforce CITES controls on listed timber species, official trade reports to CITES suggest that implementation of CITES listings for timber species is poor. While a number of countries have reported the export or re-export of CITES-listed timber and wood products to Thailand in the last few years, in almost no case have the authorities recorded such shipments on arrival, as they should have if the systems were operating properly ([Lawson 2014:11](#)). With regard to enforcement, Chatham House could not find any record of seizures of illegal wood imports by Thailand. The lack of seizures suggests that relatively little effort is currently being made to enforce CITES controls on timber imports ([Lawson 2014:11-12](#)).

The risk for this category has been assessed as SPECIFIED, as there are risks of illegally sourced wood from within the country entering the supply chain, of illegally cut wood being smuggled out of the country; this is coupled with weak implementation of CITES species, and a high perception of corruption.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.20.6. Risk designation and specification

Specified risk for all sources.

1.20.7. Control measures and verifiers

- CITES permits, and export permits shall exist for the following species:
 - Rauvolfia serpentina*
 - Diospyros ferrea*
 - Diospyros vera*
 - Dalbergia cochinchinensis*
 - Aquilaria malaccensis*
 - Aquilaria subintegra*
 - Gyrinops spp.*

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

Thailand has no legislation governing the obligation of due diligence, therefore the risk assessment for this category is not applicable.

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

N/A

1.21.6. Risk designation and specification

N/A for all sources.

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Thailand** 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 THAILAND

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Registered Plantations under the Forest Plantation Act B.E. 2535 (1992) and the Forest Plantation Act (No. 2) B.E. 2558 (2015)	Nationwide	National Forest Reserve	State	State, state-owned enterprise, individuals, corporations	Permission related to access: Plantation operators register the plantation with Royal Forest Department. Once approved, <i>Plantation Certificate Sor Por 3</i> is issued to the plantation operator.	<u>Legal timber species:</u> Restricted species as per the Forest Plantation Act B.E. 2535 (1992) 58 species as per the Annex of Forest Plantation Act (No. 2) B.E. 2558 (2015) RFD approves commercial plantations in an area determined to be degraded forest. Licensed Entrepreneur follows harvesting procedures under Forest Plantation Act. <u>Plantation Certificate:</u> Sor Por 3
		Forest outside National Forest Reserve and Protected Area	State	State, state-owned enterprise, individuals, corporations	Permission related to harvesting and others: Before harvesting, the plantation operator must obtain the following documents: <ul style="list-style-type: none"> • Certificate of Seal Registration (Sor Por 8), • Certificate of Seal (Sor Por 9) 	<u>Legal timber species:</u> Restricted species as per the Forest Plantation Act B.E. 2535 (1992) 58 species as per the Annex of Forest Plantation Act (No. 2) B.E. 2558 (2015) Licensed Entrepreneur follows harvesting procedures under Forest Plantation Act. <u>Plantation Certificate:</u> Sor Por 3
		Private land	Private	Individuals, corporations	<ul style="list-style-type: none"> • Certificate of Cutting/Felling Notification (Sor Por 13) • Plantation Timber Packing List (Sor Por 15) 	<u>Legal timber species:</u> Restricted species as per the Forest Plantation Act B.E. 2535 (1992) 58 species as per the Annex of Forest Plantation Act (No. 2) B.E. 2558 (2015) Licensed Entrepreneur follows harvesting procedures under Forest Plantation Act.

			Documents (3) and (4) must accompany the timber during transport.	<u>Plantation Certificate</u> : Sor Por 3
Plantations	National Forest Reserve	State	State, state-owned enterprise, individuals, corporations <ul style="list-style-type: none"> • Permission related to access: <ul style="list-style-type: none"> • Plantation License (Por Sor 31) • Plantation License (Sor Tor Khor 1 Kor) • Plantation exceeding 160 ha requires Ministerial Authorisation • Permission related to harvesting and others: <ul style="list-style-type: none"> • Restricted timber species Category A: harvesting permit, processing permit, trading permit, removal pass • Restricted timber species Category B: Ministerial Authorisation; processing permit, trading permit, removal pass • All non-restricted species: Harvesting permit, removal pass 	<u>Legal timber species</u> : all species. All species require harvesting permit. RFD approves commercial plantation in an area determined to be degraded forest. <u>Plantation Licenses</u> : <i>Por Sor 31</i> , and <i>STK 1 Khor</i>
	Forest outside National Forest Reserve and	State	State, state-owned enterprise, individuals, corporations <ul style="list-style-type: none"> • Permission related to access: <ul style="list-style-type: none"> • Forest Utilization License • Permission related to harvesting and others: 	<u>Legal timber species</u> : all species Restricted species: Harvesting Permit and Removal Pass Non-restricted species: only Removal Pass. No document legally required for harvesting.

	Protected Area			<ul style="list-style-type: none"> Restricted timber species Category A: harvesting permit, processing permit, trading permit, removal pass Restricted timber species Category B: Ministerial Authorisation; processing permit, trading permit, removal pass 	Licensed plantation: Under <i>Ministerial Regulation B.E. 2558 (2515) on the Application and Permission of Forest Use</i> : Plantation licence is issued by RFD for a 30 year period (<i>Clause 17</i>); RFD has discretion to approve plantation in an area deemed not classified as prime forest, and not suitable for preservation as wildlife habitat (<i>Clause 12</i>).
Private land (Note: can contain both plantations and natural forests)		Private	Individuals, corporations	<p>Permission related to harvesting and others:</p> <ul style="list-style-type: none"> Teak (<i>Tectona grandis</i>), yang (<i>Dipterocarpus alatus</i>), and rosewood (<i>Dalbergia spp.</i>): Harvesting permit, processing permit, trading permit, removal pass <p>All other species: no legal requirement</p>	<p><u>Legal timber species</u>: all species.</p> <p>Timber generated from private land is considered private property and does not require permission to cut or fell unless it is teak (<i>Tectona grandis</i>), yang (<i>Dipterocarpus alatus</i>), or rosewood (<i>Dalbergia spp.</i>), as specified under Section 7 of the <i>Forest Act B.E. 2484 (amended 2014)</i>.</p> <p>Teak (<i>Tectona grandis</i>), yang (<i>Dipterocarpus alatus</i>), and rosewood (<i>Dalbergia spp.</i>): Harvesting Permit and Removal Pass</p> <p>All other species: No documents legally required for harvesting and transportation.</p>
Forest (as defined in Section 4.1 of the Forest Act)	National Forest Reserve	State	State, state-owned enterprise, individuals, corporations	<p>Permission related to harvesting and others:</p> <ul style="list-style-type: none"> Non-restricted timber species: Por Sor 2 Harvesting permit Restricted timber species Category A: harvesting permit, processing permit, trading permit, removal pass 	<p><u>Legal timber species</u>: all species.</p> <p>Section 6 of the the Forest Act B.E. 2484 (1951) divides restricted timber species into Category A and Category B. Category B species are more restricted than Category A and are not allowed to be logged unless an exception is made by Ministerial Authorisation.</p> <p>Restricted timber Category A: Harvesting Permit and Removal Pass</p>

				Restricted timber species Category B: Ministerial Authorisation; processing permit, trading permit, removal pass	Restricted timber Category B: Ministerial Authorisation and Removal Pass All other timber species: Harvesting Permit issued under <i>Ministerial Regulation No. 1106 B.E. 2528</i> , by virtue of <i>National Forest Reserves Act</i> ; and Removal Pass
	Forest outside National Forest Reserve and Protected Area	State	State, state-owned enterprise, individuals, corporations	Permission related to harvesting and others: <ul style="list-style-type: none"> • Restricted timber species Category A: harvesting permit, processing permit, trading permit, removal pass • Restricted timber species Category B: Ministerial Authorisation; processing permit, trading permit, removal pass Non-restricted timber species: Harvesting permit required for forest clearance; Removal pass.	<u>Legal timber species</u> : all species. Restricted timber Category A: Harvesting Permit and Removal Pass Restricted timber Category B: Ministerial Authorisation and Removal Pass All other timber species: harvesting permission is not required. They are subject to a fee when transported through forest checkpoint, under section 25 and 26 of the Forest Act.



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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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