



# **Centralized National Risk Assessment for Guatemala**

**FSC-CNRA-GT V1-0 EN**

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## Risk assessments that have been finalized for Guatemala

<b>Controlled Wood categories</b>		<b>Risk assessment completed?</b>
1	Illegally harvested wood	YES
2	Wood harvested in violation of traditional and human rights	YES
3	Wood from forests where high conservation values are threatened by management activities	YES
4	Wood from forests being converted to plantations or non-forest use	YES
5	Wood from forests in which genetically modified trees are planted	YES

## Risk designations in finalized risk assessments for Guatemala

Indicator	Risk designation (including functional scale when relevant)
Controlled wood category 1: Illegally harvested wood	
1.1	Specified risk
1.2	Low risk
1.3	Specified risk
1.4	Specified risk
1.5	Specified risk
1.6	Specified risk
1.7	Specified risk
1.8	Specified risk
1.9	Specified risk
1.10	Specified risk
1.11	Specified risk
1.12	Specified risk
1.13	N/A
1.14	N/A
1.15	Specified risk
1.16	Specified risk
1.17	Specified risk
1.18	N/A
1.19	Specified risk
1.20	Specified risk
1.21	N/A
Controlled wood category 2: Wood harvested in violation of traditional and human rights	
2.1	Low risk
2.2	Specified risk
2.3	Specified risk
Controlled wood category 3: Wood from forests where high conservation values are threatened by management activities	
3.0	Low risk
3.1	Specified risk
3.2	Specified risk
3.3	Specified risk
3.4	Specified risk
3.5	Specified risk
3.6	Specified risk
Controlled wood category 4: Wood from forests being converted to plantations or non-forest use	
4.1	Specified risk
Controlled wood category 5: Wood from forests in which genetically modified trees are planted	
5.1	Low risk

# Risk assessments

## Controlled wood category 1: Illegally harvested wood

### Overview

According to the Forest Coverage Map of Guatemala (2012) (see source listed below point e)), approximately 3,711,366 ha of the nation's inland territory is forested; 51.9% of this total is located in protected areas. In addition, of the total existing forest, 25.52% is made up of broadleaf species (located in the northern part of the country, in Petén Department — principally in the Maya Biosphere Reserve — MBR), 2.76% is made up of coniferous species (located in the western region of the country—Quiché, Huehuetenango, Totonicapán and San Marcos Departments), 0.63% is forest plantations (pine, *Tectona grandis*, and *Gmelina arborea*, among others) and the remaining percentage is made up of other types of forests (mixed and mangroves).

All forest activities are divided administratively between two institutions: The National Forest Institute (Instituto Nacional de Bosques — INAB) and the National Council for Protected Areas (Consejo Nacional de Áreas Protegidas — CONAP) (source: consultation competent authorities).

Most of the forests not in protected areas are privately or municipally owned, whereas in protected areas (especially in the categories of national park management and multiple-use zones) are State-owned. Forest permits are categorised into those for harvesting in protected areas and unprotected areas (source: consultation with competent authorities).

In the case of permits in protected areas, the authority for CONAP's actions is the Law on Protected Areas (Ley de Áreas Protegidas) (Decree 4-89 and its regulations – government resolution 759-90 – based on Article 64 of the Political Constitution of the Republic). For this purpose, there is a Manual for Forest Administration, which establishes as a requirement the presentation of a management plan and an environmental assessment document (if applicable), as well as legal documents for the applicant and the landholding. This manual establishes the following types of commercial harvesting: forest management plans for natural forests, forest health and/or salvaging plans, plans for logging and recovery by a change in land use, projects for forest establishment and/or plans for forest harvesting in agroforest systems, as well as plans for management of seed sources (sources: Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos) and consultation with competent authorities).

CONAP regulates authorisation of forest permits based on the volume requested (for larger volumes, the authorisation must be the responsibility of its national council, and for smaller volumes an authorisation may be granted by its technical coordinating offices or regional offices). In protected areas, there are also modalities for authorising non-commercial uses (family consumption, road maintenance, and scientific purposes, among others). Everything related to the authorisation of Non-Timber Forest Products is the responsibility of CONAP at the national level (inside or outside protected areas).

Taking management of broadleaf forests as an example, where FSC Forest Certification is required by the relevant contracts, specifically in the Multiple Use Zone (Zona de Uso Múltiple – ZUM) of the Maya Biosphere Reserve (Reserva de la Biosfera Maya – RBM) in northern Guatemala, nine community forest and

two industrial concessions have been in existence since the year 2000. (This certification is required as of the third year and must be maintained throughout the term of the contract, which is for 25 years). The total area represented by these concessions amounts to 485,210 ha and in 2014 the total area of certified forest was 464,875 ha (Global Forest Watch, 2016). This process is administered by CONAP (in the forest-industry phase); however, INAB regulates everything related to transportation of timber through an instrument known as the Electronic Information System for Forest Enterprises (Sistema Electrónico de Información de Empresas Forestales – SEINEF).

In zones outside protected areas, management of forest resources is the responsibility of the National Forest Institute (Instituto Nacional de Bosques), which conducts its activities under the regulations for Legislative Decree 101-96 (Forestry Law) (Decreto Legislativo 101-96-Ley Forestal) and Articles 64, 97 and 119 of the Political Constitution of the Republic, principally in the area of Permits and Plans for Management and Harvesting of Forest Products, which are regulated specifically in Title V, Chapter I (forest harvesting and management). INAB issues permits for harvesting forest products under management plans authorised by the institution, which are divided principally into two groups (coniferous and deciduous). Every management plan is authorised by the Regional Director, depending on his or her jurisdiction, and subsequently authorisation of Annual Operating Plans may be given by the relevant Sub-Regional Director. (In contrast to CONAP, in these cases there is total decentralisation.) (source: Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and Its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos) and consultation with competent authorities).

Permits exist for:

- Forest management plans,
- Forest health programmes (trees affected by pests or diseases or for their containment and propagation),
- Salvage plans (forest products affected by any natural phenomena),
- Changes in land use, and
- Scientific purposes.

Other management plans are also authorised by INAB, including those for forest plantations (for timber, energy, seed production, and forest restoration purposes), for management of agroforest systems, for management of protected forests, which, except for protected forests, are exempt from forest licensing.

INAB divides management plan categories into Coniferous (with formats for less than 5 ha, up to 15 ha, and larger than 45 ha – with increasing complexity as the area increases) and Deciduous (with formats for fewer than 45 ha and more than 45 ha—following the logic of complexity and area) (source: Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and Its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos) and consultation with competent authorities).

Further, in Guatemala the exportation of roundwood/logs of more than 11 cm in diameter, is prohibited by law, unless it comes from voluntary plantations that have been properly registered. Ban does not apply to furniture and processed products made from wood. Guatemala established a national red list of trees to protect in 2006. The 81 species in Category One are banned from export and commercial uses (different sources: Forest Legality Initiative, 2016; Vivero et al. 2006. The Red List of Trees of Guatemala; Korinek et al. 2011).

Finally, regarding zoning and the types of forests present in Guatemala, the MBR with the largest proportion of managed broadleaf forests is located in the northern part of Petén; there are also some *Tectona grandis* and *Gmelina arborea* forest plantations (that are fairly large) located in this department, whereas those located in the Verapaces Region (Alta and Baja Verapaz, Quiché) are principally pine forests and plantations owned by medium and smallholders. Those in the High Plateau Area (known as the Altiplano) are mainly small remnants of forests and plantations covering smaller areas (source: Forest Coverage Map of Guatemala (2012)).

The list of sources established in FSC-PRO-60-002a, section 3.3.3, was reviewed to determine its relevance with regard to the risk assessment of the national legal situation in Guatemala. The following sources were used:

- a) Government reports and assessments of compliance with related laws and regulations;
- b) Public summaries of FSC forest management certification reports published at [info.fsc.org](http://info.fsc.org) (information on legal areas where non-compliances have been identified during the certification process that are likely to be common among non-certified operations);
- c) Stakeholder and expert consultation outcomes from NRA development processes (\*the list of experts consulted during the month of April 2016 and February 2018 is maintained by FSC International (consulted experts prefer to remain anonymous), including the name of the expert consulted, emails, address, job title, organisation, area of expertise, contact and meeting time/date)
- d) Transparency International Corruption Perceptions Index: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi);
- e) National Institute of Forests; National Council of Protected Areas; University of the Valley of Guatemala and Rafael Landívar University, 2012: Forest Coverage Map of Guatemala: <http://www.uvg.edu.gt/investigacion/ceab/cea/doc/informe-cobertura-forestal-2010.pdf>
- f) Global Forest Watch, 2016: Tree cover lost: <http://www.globalforestwatch.org/country/GTM>
- g) Forest Legality Initiative, 2016: Logging and Export Bans: <http://www.forestlegality.org/content/logging-and-export-bans>
- h) Vivero et al. 2006. The Red List of Trees of Guatemala: <http://www2.ecolex.org/server2.php/libcat/docs/LI/MON-080203.pdf>
- i) Korinek et al. 2011 OECD Trade Policy Studies, The Economic Impact of Export Restrictions on Raw Material: <http://heinonline.org/HOL/LandingPage?handle=hein.kluwer/jwt0045&div=14&id=&page=>

In cases where other sources of information were not available, consultations with experts within the area were conducted.

Where relevant, these sources have been specifically referenced under “Sources of Information” for each sub-category.

The remaining sources were found not to be relevant for the legality risk assessment for Guatemala:

- a) Chatham House: <http://www.illegal-logging.info/>;
- b) ELDIS regional and country profiles: <http://www.eldis.org>;
- c) Environmental Investigation Agency: <http://www.eia-international.org>;
- d) EU FLEGT process: [http://ec.europa.eu/comm/development/body/theme/forest/initiative/index\\_en.htm](http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm);
- e) Forest Legality Alliance: <http://www.forestlegality.org/>;

- f) Independent reports and assessments of compliance with related laws and regulations, e.g., the Royal Institute of International Affairs: <http://www.illegallogging.org>;
- g) Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
- h) Public summaries of FSC forest management certification reports published at [info.fsc.org](http://info.fsc.org) (information on legal areas where non-compliances have been identified during the certification process that are likely to be common for non-certified operations);
- i) Public summaries of other 3rd party forest legality certification/verification systems;
- j) Stakeholder and expert consultation outcomes from NRA development processes;
- k) Telapak (for Indonesia): <http://www.telapak.org>; [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi);
- l) World Bank Worldwide Governance Indicators: <http://data.worldbank.org/datacatalog/worldwide-governance-indicators>;

### Sources of legal timber in Guatemala

Forest classification type	Permit/license type	Main license requirements (Forest Management plan, harvest plan or similar?)	Clarification
Natural forest, forest plantation, or agroforest system in a protected area	Permit for harvesting and trading wild timber flora products in protected areas (granted by CONAP)	<p><b>Legal documents to be submitted:</b> application; legalised photocopy of personal identification document for the legal representative or title holder; current concession contract (for concessions) or general property registration for landholdings; municipal certification for small land owners, and; legalised photocopy of forest manager's registration.</p> <p><b>Technical documents to be submitted:</b> forest management plan (or Annual Operating Plan if the plan has been approved and prepared by the regent); plan for thinning plantations, in addition to; the Environmental Document.</p>	<p><b>For a concession:</b> This mechanism applies only in the Multiple Use Zone of the Maya Biosphere Reserve (<i>Zona de Uso Múltiple de la Reserva de la Biosfera Maya</i>). Under it, management plans are approved for a 40-year cycle (on average) and Annual Operating Plans are authorised every year.</p> <p><b>For a private landholding:</b> The Environmental Document is regulated by the Ministry of the Environment and based on volume; can be an Environmental Impact Assessment or an Initial Environmental Form.</p> <p><b>For a land owner:</b> who regularly applies for the PINPEP (<i>Programa de incentivos forestales para poseedores</i>)</p>

			<p><i>de pequeñas extensiones de tierra de vocación forestal o agroforestal</i>) (Forest Incentive Program for Smallholders of land of forest or agroforestry) incentive mechanism, is not required to prove the formal property of the land.</p> <p>Management categories in protected areas to which this applies are: Multiple Use Zones, Buffer Zones, and Private Reserves.</p> <p>Permits are granted by CONAP.</p>
Natural forest, forest plantation or agroforest system outside a protected area.	Forest permit (granted by INAB)	<p><b>Legal documents to be submitted:</b> Application; General Property Registry; map of the landholding; photocopy of PID; registration of person preparing the plans and forest manager's registration.</p> <p><b>Technical documents to be submitted:</b> Management plan.</p>	<p>This category applies to municipal areas or private landholdings. The average area of these units is 45 to 500 ha.</p> <p>Permits are granted by INAB.</p>

## Risk assessment

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
<b>Legal rights to harvest</b>			
<p>1.1 Land tenure and management rights</p>	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by Legislative Resolution No. 18-93 dated 17 November 1993). Date of Publication: 31 May 1985.</p> <ul style="list-style-type: none"> <li>• Title II – Human Rights, Chapter 1 – Individual Rights, Article 39, Private Property (Derechos Humanos, Capítulo I – Derechos Individuales, Artículo 39. Propiedad Privada).</li> <li>• Second Section, Culture, Article 64 – Natural heritage (Sección Segunda, Cultura, Artículo 64.- Patrimonio natural).</li> <li>• Third Section, Indigenous Communities, Article 67 – Protection of indigenous agricultural lands and cooperatives, Article 68 – Land for indigenous communities (Sección tercera, Comunidades indígenas, Artículo 67.- Protección a las tierras y las cooperativas agrícolas indígenas, Artículo 68.- Tierras para comunidades indígenas).</li> <li>• Tenth Section, Economic and Social Regime. Article 119 Obligations of the State. (Sección Décima, Régimen económico y social. Artículo 119.- Obligaciones del Estado): <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>• CONAP. 2013. Monitoring Governability of the Maya Biosphere Reserve (Monitoreo de la Gobernabilidad de la Reserva de la Biosfera Maya). Access on 23 February 2016 at: <a href="http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf">http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>• Observatorio del Gasto Social. 2008. Land tenure and agrarian conflicts in Guatemala. (La tenencia de la tierra y la conflictividad agraria en Guatemala) Accessed on 21 February 2016 at: <a href="http://www.congcoop.org.gt/images/Estudio_de_Tierra.pdf">http://www.congcoop.org.gt/images/Estudio_de_Tierra.pdf</a></li> <li>• Lucas Eguizábal, H.D. 2005. “The legal basis of the constitutional action of injunction against general registration of real property, as a protective measure for private property” (“La procedencia de la acción constitucional de amparo en contra del registrador general de la propiedad inmueble, como medio de protección a la propiedad privada”). School of Legal and Social Sciences (Facultad de ciencias jurídicas y sociales) USAC. Accessed on 21 February 2016 at: <a href="http://biblioteca.usac.edu.gt/tesis/04/04_6092.pdf">http://biblioteca.usac.edu.gt/tesis/04/04_6092.pdf</a></li> <li>• Forgery of Land Titles (Falsificación de títulos de propiedad). Emisoras Unidas. 13/05/2013. Accessed</li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as ‘specified risk’.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993)</p> <p>The Constitution states that private property is guaranteed as an inherent right of human beings. According to the law, any person may dispose freely of his or her goods.</p> <p>The State guarantees exercise of this right and must create the conditions to facilitate the owner’s use and enjoyment of his or her goods in such a way as to achieve individual progress and national development for the benefit of all Guatemalans (Art. 39). In addition, Art. 119 (Obligations of the State) (Obligaciones del Estado) states, in point j), that rural development programmes must be actively promoted in order to increase and diversify national production based on the principle of private property and protection of the family patrimony. Farmers and artisans</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>2. Decree-Law 4-89 on Protected Areas. (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations. Date of publication: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Regulations for the Law on Protected Areas, Chapter III, Concessions for Harvesting and Management of Renewable Natural Resources, Article 37, Concessions. (Capítulo III, Concesiones de Aprovechamiento y Manejo de Recursos Naturales Renovables, Artículo 37. Concesiones).</li> <li>Chapter I, On the structure of protected Areas, Article 109. Private Property Areas (Capítulo I, De la conformación de las áreas protegidas, Artículo 10. Áreas en Propiedad Privada): <a href="http://www.conap.gob.gt/phocadownload/Centro.Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro.Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li> </ul> <p>3. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and Its appendices. Date of Publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter II, Authorisation of Harvesting of Wild Timber Flora in Protected Areas. Section “A”: Requirements for submitting applications for authorisation of management plans for commercial purposes (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos. Capítulo II, Autorización de Aprovechamientos de Flora Silvestre Maderable dentro de Áreas Protegidas. Sección “A”: requisitos para presentar solicitudes de autorización de planes de manejo con fines comerciales):</li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p>	<p>on 21 February 2016 at: <a href="http://noticias.emisorasunidas.com/etiquetas/falsificacion-titulos-propiedad">http://noticias.emisorasunidas.com/etiquetas/falsificacion-titulos-propiedad</a></p> <ul style="list-style-type: none"> <li>FAO-Banco Mundial. 2012. Assessment of the impact of timber harvesting rights for standing timber and other fees on forest management in Guatemala (Evaluación del impacto del cobro por derechos de aprovechamiento de madera en pie y otras tasas sobre el manejo forestal en GUATEMALA) Accessed on 03 May 2016 at: <a href="http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf">http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf</a></li> <li>Transparency International Corruption Perception Index 2016. Accessed on 30 March 2017 at: <a href="http://www.transparency.org/news/feature/corruption_perceptions_index_2016">http://www.transparency.org/news/feature/corruption_perceptions_index_2016</a></li> </ul> <p>Interviews with experts: Interviews with various experts in the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to have a better understanding of the applicable legislation, the current situation and the risks associated with land tenure and management rights.</p>	<p>must be given technical and economic assistance.</p> <p>Specifically, in the area of property, the Constitution establishes protection of indigenous lands and agricultural cooperatives. The lands of indigenous communities, cooperatives, or any other forms of communal or collective tenure of agrarian property, as well as the family patrimony and low-cost housing, shall be given special protection by the State, credit assistance, and preferential credit and technical assistance to guarantee their possession and development, in order to ensure a better quality of life for all inhabitants. Indigenous communities and other holders of lands that belong to them historically and that they have traditionally managed in a special way, shall maintain that system (Art. 67); further, the lands of indigenous communities shall be supported through special programmes and appropriate legislation. The State shall provide government lands to indigenous communities that need them for their development (Art. 68).</p> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and Its appendices. (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>In Chapter II, the Resolution establishes among the requirements for presenting</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal). Date of publication: 31 October 1996.</p> <p>Title III, On Concessions. Single chapter on Forest Concessions. Article 31. Specific Prohibitions. (Título III, De las Concesiones. Capítulo Único de las Concesiones Forestales. Artículo 31. Prohibiciones específicas): <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></p> <p>5. Resolution 01.43.2005, Regulations for the Forest Law. (Resolución 01.43.2005 Reglamento de la Ley Forestal), Date of Publication: 06 December 2005.</p> <ul style="list-style-type: none"> <li>• CHAPTER II, Land Use Article 3. Application for declaration of lands for forest use (items b and c) (CAPITULO II, Uso de la Tierra Artículo 3. Solicitud para la declaratoria de tierras de vocación forestal (numeral b y c)).</li> <li>• CHAPTER V, Forest Protection, Article 30, Forest health permits or salvaging permits (item a). Article 36, Permits for change of land use (item b) (CAPITULO V, Protección Forestal, Artículo 30, Licencia de saneamiento o licencia de salvamento (numeral a). Artículo 36, Licencias para cambio de uso (numeral b)).</li> <li>• CHAPTER VI, Forest harvesting, management and industrialization, Article 40, Permits for forest harvesting (item b) (CAPITULO VI, Aprovechamiento, manejo e industrialización forestal, Artículo 40, Licencias de aprovechamiento forestal (numeral b)):</li> </ul> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>• All government institutions in Guatemala, and especially the judiciary. Considering that the Constitution is the legal</li> </ul>		<p>applications for authorisation of forest harvesting in protected areas, and in its Section “A”, item c), that the user must submit certification of registration of ownership of the real property covered by the application with the corresponding map. The certification must have been obtained within a period of no more than three months before the date of its presentation.</p> <p>If the real property has not been recorded in the property registry, the applicant must submit:</p> <ol style="list-style-type: none"> <li>a) Certification issued by a competent municipal authority verifying possession of the real property and, if applicable, testimony in a public deed confirming possession, or</li> <li>b) A legalised photocopy of the testimony of the lease contract for the real property covered by the application for forest management.</li> </ol> <p>In addition, in protected areas, the Manual for Forest Administration establishes, in its second chapter, section “A”, that persons applying for authorisation of commercial management plans must submit a certification of registration of the real property covered by the application with the corresponding map. (The certification must have been issued within a period of no more than three months before the date of its presentation.)</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>foundation in Guatemala, all institutions are bound to enforce it, and especially the judiciary. Point 1. <a href="http://www.oj.gob.gt/">http://www.oj.gob.gt/</a></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP). Handles everything related to forest establishment, management and harvesting in the various management categories in protected areas. Points 2 and 3. <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National Forest Institute (Instituto Nacional de Bosques – INAB). Handles everything related to forest establishment, management, harvesting and incentives and oversight of forest enterprises. Points 4 and 5. <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <p>In protected areas:</p> <ul style="list-style-type: none"> <li>Community or industrial forest concession: the document which represents the right to exercise management rights is the current Concession Contract (Ley de Áreas Protegidas y su reglamento - Law on Protected Areas and its regulations).</li> <li>For cases of harvesting on private landholdings: certification by the Real Property Registry (which shows the landholding number, page and book) with the corresponding map. If a registration does not exist, is the following documents must be presented (Manual para la Administración Forestal en Áreas Protegidas y sus Anexos - Manual for Forest Administration in Protected Areas and its appendices): <ul style="list-style-type: none"> <li>a) Certification issued by the competent municipal authority verifying possession of the real property and, if applicable, written testimony in public deed showing such possession, or</li> </ul> </li> </ul>		<p>3. Decree 101-9 Forest Law (Decree 101-96 Ley Forestal)</p> <p>Article 31 (Specific Prohibitions) of the Forest Law establishes that lands granted under a concession may not in any case be the object, on the part of the concessionaires, of supplementary titling, usurpation or any other measure or procedure for attempting to acquire ownership thereof.</p> <p>4. Resolution 01.43.2005 Regulations for the Forest Law</p> <p>Through the Regulations for the Forest Law, INAB establishes that for lands to be qualified for forest use and to obtain the corresponding declaration, the owner must submit an application to the INAB offices corresponding to the jurisdiction of the area to be declared, to include (among other items):</p> <ol style="list-style-type: none"> <li>Document verifying ownership; if a certification from the Property Registry does not exist, another legally valid document will be accepted;</li> <li>Topographic map showing the area expressed in hectares, boundaries, access and other data about the property (Article 3).</li> </ol> <p>In addition, Article 30 (Forest health permit or salvaging permit – item a), Article 36 (Permits for change of land use – item b), and Article 40 (Permits for Forest Harvesting – item b), require that a</p>

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	<p>b) Legalised photocopy of the testimony of the lease contract for the real property covered by the application for forest management.</p> <ul style="list-style-type: none"> <li>In the case of small landholders (reforestation or SAF): a municipal certification issued by the competent municipal mayor (Manual para la Administración Forestal en Áreas Protegidas y sus Anexos - Manual for Forest Administration in Protected Areas and its appendices).</li> </ul> <p>Outside of protected areas:</p> <ul style="list-style-type: none"> <li>In the case of municipal or State-owned lands: the document submitted is verification of a concession for forest management (Ley Forestal y su reglamento - Forest Law and its regulations).</li> <li>In the case of private landholdings: the general property registration is requested (Ley Forestal y su reglamento - Forest Law and its regulations).</li> <li>In the case of landholders: the official document is represented by a certification issued by the competent municipal mayor (Ley Forestal - Forest Law).</li> </ul>		<p>document that verifies ownership (property title) and also certification of registration of the property and the corresponding map be submitted.</p> <p>Title to land is the principal legal basis for authorisation of commercial management plans in Guatemala. This applies outside protected areas, as specified in Articles 30, 36 and 40 of the Forest Law Regulations. In order to obtain the right of land tenure it is necessary to manage the corresponding documentation and obtain the title of property through the General Property Registry. Once the title has been obtained, the legislation and the preparation of the technical documentation are followed.</p> <p>Description of risk Several of the officials interviewed indicated that there is little possibility that management plans based on a “false general property registration” would be approved because it is very easy for the government agencies in charge of such approvals (CONAP and INAB) to verify through the property registry the information submitted to them as support for approval of a management plan in a determined area. The risk of illegality is more associated with national and collective lands (where there are problems of clarity and about who represents them — collective land owners) (based on interviews with officials from competents authorities).</p>

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			<p>One interviewee reflected that at present there are some processes for regularising land tenure that have not been concluded (no one is in charge), so there is a higher likelihood of finding illegal timber, and there may be invasions of national and collective lands (since the lands appear to be abandoned). Since there is no reliable cadastral land register, the government may show some weakness in exercising its ownership of the lands. In addition, according to comments from some stakeholders, part of the illegal timber in circulation comes mainly from zones that have been invaded, areas where land is bought from municipalities by landholders, or which may be in protected areas.</p> <p>Internationally, in the Transparency Corruption Index Guatemala is positioned 136 of 176 (<a href="http://www.transparency.org/research/cpi/overview">http://www.transparency.org/research/cpi/overview</a>), affecting different departments on the forestry sector.</p> <p>According to interviews with stakeholders, there are cases of usufructs having been given to communities in municipal communal farms (ejidos), but, following changes of administration in municipal councils or mayoralties, these usufructs have been transferred to private landholders, resulting in disputes that unfortunately end in logging being used as a way to devalue the forest. (This is the case in the Biotza Nature Reserve in San José, Petén.)</p>

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			<p>Another aspect reflected in the interviews and report as “Forgery of Land Titles” (see source on the left column) indicates the possibility that legal documents and real property titles may be used to apply for a permit for one landholding, but in fact the logging then occurs on some other landholding. This problem is also linked to the fact that there is no finalised cadastral land register for the whole country and that there are latent problems with regard to boundaries.</p> <p>There are also serious problems stemming from the establishment of the Guatemalan System of Protected Areas and the establishment of large reserve areas, since these did not take into account the presence of communities established prior to the declaration of those protected areas. (This occurs mainly in national parks.)</p> <p>According to Governability Monitoring in the MBR (Monitoreo de la Gobernabilidad en la RBM), a report by CONAP (2013), in these zones, lack of governability is common, as is harvesting of natural resources and the sale of land. (These practices are common in the Maya Biosphere Reserve (Reserva de la Biosfera Maya), especially in the Laguna de Tigre and Sierra del Lacandon National Parks.)</p> <p>Further, an interviewee local to the MBR reflected that there are systematic problems in the General Property Registry (Registro General de la Propiedad), where</p>

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			<p>property titles have been forged; there have even been property sales processed solely in documents (corruption), and in these processes the real owners lose their properties. (This was the case of the Carmelita Route in the MBR for example).</p> <p>Considering the above points, it is important to accept that there is a specified risk for this indicator.</p>
<p>1.2 Concessions on licenses</p>	<p><b>Applicable laws and regulations</b></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations. Date of publication: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Law on Protected Areas, Chapter II, On management of protected areas, Article 19 Concessions (Ley de Áreas Protegidas, Capítulo II, Del manejo de las áreas protegidas, Artículo 19 Concesiones).</li> <li>Regulations for the Law on Protected Areas, Title III, Chapter I, Concessions, Article 27, Approval, Article 28, Areas under CONAP's administration (Ley de Áreas Protegidas, Título III Concesiones, Capítulo I, Artículo 27, Aprobación, Artículo 28, Áreas bajo la administración del CONAP).</li> <li>Regulations for the Law on Protected Areas, Chapter III, Concessions for Harvesting and Management of renewable Natural Resources, Article 37, Concessions (Ley de Áreas Protegidas,</li> </ul>	<p>Government sources:</p> <ul style="list-style-type: none"> <li>Rules for granting concessions for harvesting and management of renewable natural resources in the Multiple-Use Zone of the Biosphere Reserve (Normas para el otorgamiento de Concesiones de aprovechamiento y manejo de Recursos Naturales Renovables en la Zona de Uso Múltiple de la Reserva de la Biosfera). Accessed on 22 February 2016 at: <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/datos-abiertos/category/217-art-10-numeral-16-contratos-licencias-o-concesiones-para-el-usufructo-o-explotacion-de-bienes-del-estado.html?download=1897:normaconcesiones">http://www.conap.gob.gt/index.php/servicios-en-linea/datos-abiertos/category/217-art-10-numeral-16-contratos-licencias-o-concesiones-para-el-usufructo-o-explotacion-de-bienes-del-estado.html?download=1897:normaconcesiones</a></li> <li>CONAP 2002. Policy framework for concessions for integral management of natural resources in protected areas in Petén (Política marco de concesiones para el manejo integral de recursos naturales en áreas protegidas de Petén). Accessed on 22 February 2016 at: <a href="http://pdf.usaid.gov/pdf_docs/Pnacx145.pdf">http://pdf.usaid.gov/pdf_docs/Pnacx145.pdf</a></li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as low risk.</p> <p>Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree-Law 4-89 On Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations.</p> <p>CONAP may grant leases or harvesting concessions in the protected areas that it administers, provided that the corresponding master plan establishes this and clearly allows it, and CONAP must enter into the corresponding concession contracts (Art. 19 of the Law on Protected Areas). With regard to their approval, Art. 27 of the regulations states that: "Granting concessions in legally declared protected areas of SIGAP requires CONAP's approval, and must follow the rules for use</p>

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	<p>Capítulo III, Concesiones de Aprovechamiento y Manejo de Recursos Naturales Renovables, Artículo 37, Concesiones).</p> <ul style="list-style-type: none"> <li>Title IV, On the executive organism in charge of application of this law, Chapter I, On the National Council for Protected Areas and its Executive Secretariat, Article 69 (Amended by Article 18 of Decree 110-96 by the Congress of the Republic) CONAP's faculties, item f. (Título IV, Del órgano de dirección y encargado de la aplicación de esta ley, Capítulo I Del Consejo Nacional de Áreas protegidas y su secretaría ejecutiva, Artículo 69. (Reformado por el Artículo 18 del Decreto 110-96 del Congreso de la República). Atribuciones del CONAP Inciso f.):  <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>2. Decree 101-96 Forest Law. (Decreto 101-96 Ley Forestal) Date of publication: 31 October 1996.</p> <ul style="list-style-type: none"> <li>Title I General Provisions, Chapter I Purpose and general policies, Article 3.- Sustainable Harvesting (Título I Disposiciones Generales, Capítulo I Objeto y políticas generales, Artículo 3.- Aprovechamiento sostenible).</li> <li>Title II, On the executive organism in charge of application of this law, Chapter I, General Provisions, Article 6, item e (Título II Del órgano de dirección y encargado de la aplicación de esta ley, Capítulo I Disposiciones Generales, Artículo 6, Inciso e).</li> <li>Chapter II, Organization of the Institute, Article 14, item g (Capítulo II, Organización del Instituto, Artículo 14, Inciso g).</li> </ul>	<ul style="list-style-type: none"> <li>CONAP. 2013. Monitoring Governability of the Maya Biosphere Reserve (Monitoreo de la Gobernabilidad de la Reserva de la Biosfera Maya). Access on 23 February 2016 at: <a href="http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf">http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Girón Rivas, CR. 2009. Legal analysis of the procedure for granting forest concession in Guatemala (Análisis legal del procedimiento para otorgar concesiones forestales en Guatemala). School of Legal and Social Sciences (Facultad de Ciencias Jurídicas y Sociales). USAC. Accessed on 22 February 2016 at: <a href="http://biblioteca.usac.edu.gt/tesis/04/04_7895.pdf">http://biblioteca.usac.edu.gt/tesis/04/04_7895.pdf</a></li> <li>Gálvez Ruano, J. 2012. Forest concessions in Petén (Concesiones forestales en Petén). Accessed on 22 February 2016 at: <a href="https://www.plazapublica.com.gt/content/concesiones-forestales-en-peten">https://www.plazapublica.com.gt/content/concesiones-forestales-en-peten</a></li> <li>Alianza Mesoamericana. 2015. Forest concessions in Guatemala, international emblematic experience (Concesiones Forestales de Guatemala, experiencia emblemática Internacional). Accessed on 22 February 2016 at: <a href="http://www.alianzamesoamericana.org/concesiones-forestales-de-guatemala-experiencia-emblematica-internacional/">http://www.alianzamesoamericana.org/concesiones-forestales-de-guatemala-experiencia-emblematica-internacional/</a></li> </ul>	<p>established by the management category and approved plans." Article 28 states that in legally declared protected areas under its administration located on national lands, CONAP may grant concessions, provided that the management category for the area and its master plan allow and clearly state the intended activities.</p> <p>In order to grant concessions for the harvesting and management of wild flora, forest resources, and forestation or reforestation in legally declared protected areas under its administration, CONAP shall seek technical assistance from an appropriate government or private agency in order to identify, sectorise, or contract for appraisal of the resources susceptible to this activity (Art. 37 of the regulations for the Law on Protected Areas (Ley de Áreas Protegidas).</p> <p>2. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal)</p> <p>The Forest Law states that rights to sustainable harvesting of forest resources, including timber, seeds, resins, gums and other non-timber products, may be granted by concessions if the forests are on national, municipal, communal lands or those of autonomous or decentralised entities; or by licences in the case of lands that are private property, covered by forests. Concessions and licenses for harvesting forest resources in protected areas shall be granted exclusively by the</p>

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	<ul style="list-style-type: none"> <li>Title III, On Concessions, Single chapter, Forest concessions, Articles 26 to 33 (Título III De las concesiones, Capítulo único Concesiones forestales, Artículo 26 al 33): <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></li> <li>3. Resolution 01.43.2005 Regulations for the Forest Law. Date of publication: 06 December 2005.</li> <li>Chapter IV Forest Concessions, Articles 12 to 29: <a href="http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf">http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas —CONAP). Handles everything related to forest establishment, management and harvesting in the various categories of protected areas. Point 1: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National Forest Institute (Instituto Nacional de Bosques — INAB). Handles everything related to forest establishment, management, harvesting and incentives and oversight of forest enterprises. Points 2 and 3: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p>1.2.3. Legally required documents or records</p> <p>(Documents or records formally required that can be used to indicate legality) Identification of applicable laws and regulations are additional to the CNRA template</p>	<p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with the granting of concession licenses.</p> <p>Email correspondence between writers of the assessment and the engineering department in charge of INAB's National Forest Registry.</p> <p>Interview with ACOFOP: Asociación de Comunidades Forestales de Petén (Association of Forest Communities of Petén): <a href="http://www.acofop.org/">http://www.acofop.org/</a></p>	<p>National Council on Protected Areas under the relevant contracts, in accordance with the Law on Protected Areas and other applicable rules (Art. 3). This clearly establishes that there is separation of administration and authorisation of forest operations inside and outside protected areas.</p> <p>However, outside protected areas it is possible to grant, deny, supervise, extend and cancel the use of forest concessions and permits for forest harvesting projects, as stated in item e) of Article 6 of the Forest Law. INAB's executive board is empowered to authorise the purchase of real and personal property, assets, and contracts for construction works and services, in accordance with the Law on Government Contracting (Ley de Contrataciones del Estado), as well as to grant, deny, extend, or cancel forest concessions (Art. 14, item g).</p> <p>INAB may give two categories of government lands: a) Forested areas and b) Non-forested areas (Art. 26). Art. 27 states, regarding concessions in forested areas, that INAB may grant concessions for forested areas to Guatemalan citizens, either individuals or legal persons, for the purpose of conducting sustainable forest management. For this, there must necessarily be a Management Plan for the corresponding area. And Art. 28 states, regarding concessions in non-forested areas, that INAB may grant lands for forest</p>

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	<p><b>Legally required documents or records</b></p> <p>For CONAP:</p> <ol style="list-style-type: none"> <li>a) Show an appropriate level of organisation as an association or as community committees;</li> <li>b) Verify by means of a written document signed by the municipal mayor for that jurisdiction that certifies: <ol style="list-style-type: none"> <li>1. that the community exists;</li> <li>2. that the majority of its members live in it continuously;</li> <li>3. that there is an Executive Board for the organization that represents it; and</li> <li>4. any additional indication that may be pertinent in order for the concession being applied for to meet its objectives without negatively affecting third parties;</li> </ol> </li> <li>c) Legalised photocopy of the by-laws and first testimony of the duly justified deed of its constitution, or any other document to verify its degree of organisation and representation;</li> <li>d) Legalised photocopy of the documents that verify the legal representation exercised and if applicable; legalised photocopy of the representative's residency identification card;</li> <li>e) Representation of the management plan's proposed technique or profile;</li> <li>f) The concrete offer expressed in quetzals; and</li> <li>g) Technical support from an accompanying NGO that is duly recognised by CONAP).</li> </ol> <p>For INAB:</p> <p>Concession contract. The concession contract must include at least:</p> <ol style="list-style-type: none"> <li>a) The general personal identification requirements for the concessionaire and the Forest Manager, in accordance with the Law on Government Contracting;</li> <li>b) Identification of the resolution by the Executive Board that awarded the concession;</li> <li>c) Identification data for the property covered by the concession;</li> </ol>		<p>use that are not forested as a concession to Guatemalan citizens, either individuals or legal persons, for the purpose of having these areas reforested by artificial or natural regeneration. Any government agency, whatever its nature, is required to inform INAB about any areas under its jurisdiction, and after forest use has been established but still unforested, INAB may grant concessions for them to be reforested and for sustainable harvesting from them, provided that the type of property allows this procedure. The procedure for concessions of the areas to which this article refers is subject to the prohibitions contained in Article 31 of this law.</p> <p>Article 30 describes the conditions and characteristics under which concessions are granted:</p> <ul style="list-style-type: none"> <li>• Specific prohibitions: Lands given in a concession may not in any case be the object, on the part of concessionaires, of supplementary titling, usurpation, or any other means or procedure attempting to acquire them as property (Art. 31).</li> <li>• Registration of concessions: Concessions must be registered in the books set up for this purpose by INAB and must be recorded in the corresponding Property Registry (Art. 32).</li> <li>• Payment for the concession: A concession granted in the unforested area category shall pay twelve per cent (12%) of the value of the standing timber on the plantation established at the time of</li> </ul>

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	<p>d) Description of the concession, including the place, village, municipality, area to be included in the concession, date on which the work should begin and end according to the management plan, term covered by the concession;</p> <p>e) Schedule of general activities during the term of the concession;</p> <p>f) Commitments regarding forest harvesting, silviculture and protective measures that must be taken during the term of the concession;</p> <p>g) Prices and payment mode, form, and terms for the products to be harvested;</p> <p>h) Appointment of the Forest Manager proposed by the concessionaire, establishing the professional responsibilities assumed in solidarity;</p> <p>i) Form in which adjustments and modifications to the Management Plan will be resolved;</p> <p>j) Description of the type of guarantee constituted to ensure compliance with the contractual obligations, as established in Articles 30 and 56 of the Forest Law and decisions by the Executive Board. If a bond, the value of the standing timber should be calculated, to be adjudicated, according to the operating plan for the next five-year period coming up; and</p> <p>k) Articles 22 to 26 of these Regulations and the duly approved Management Plan form a part of the contract.</p> <p>Annual evaluation. INAB and the Forest Manager are required to conduct annual controls and evaluations of the operation jointly in order to verify the continued life and proper application of the duly authorised approved or modified Management Plan.</p> <p>Registration of the concession. The concession contract must be registered in INAB's books and in the corresponding Property Registry.</p>		<p>harvest, in accordance with Article 74 of the current law. This amount will be allocated, with fifty per cent (50%) going to the municipality or municipalities in the jurisdiction as specific funds for forest control and vigilance. The other fifty per cent (50%) shall be placed in INAB's Privative Forest Fund. The cost of awarding the concession shall not be different from that established in this article (Art. 33).</p> <p>3. Resolution 01.43.2005 Regulations for the Forest Law</p> <p>In Articles 12 to 19, Chapter IV (Forest Concessions) (Concesiones forestales) of the Resolution details the concession process. Some important articles are:</p> <p>Article 12: Identification of areas to be granted as concessions. INAB, in coordination with the municipalities and other government agencies, shall identify the areas of government property that are eligible to be granted as concessions for forest management. Once the area has been determined, the municipality or government agency in charge of its care or administration shall issue a resolution in which authorisation is given to enter into an agreement with INAB for the concession.</p> <p>Article 15: Public offer. After signing the agreement referred to in Article 12 of these Regulations, INAB's Executive Board shall issue a resolution inviting participation in a</p>

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			<p>public offer, which must contain, as a minimum:</p> <ul style="list-style-type: none"> <li>a) The specific place in the area to be submitted to the concession process;</li> <li>b) Who administers it or the authority under which it falls, as the case may be;</li> <li>c) The resolution authorising the concession;</li> <li>d) The size of the area covered by the concession;</li> <li>e) The registration of the property;</li> <li>f) The scope of the concession;</li> <li>g) The objectives of the concession;</li> <li>h) The characteristics of the concession;</li> <li>i) The duration of the concession;</li> <li>j) The conditions for participating, in accordance with Article 30 of Legislative Decree 101-96; and</li> <li>k) The commitments to be acquired by the interested party with regard to carrying out silvicultural practices and any protective measures that must be implemented or adopted.</li> </ul> <p>Article 21: Concession contract. The concession contract must include at least:</p> <ul style="list-style-type: none"> <li>a) The general personal identification requirements of the concessionaire and the Forest Manager, in accordance with the Law on Government Contracting;</li> <li>a) Identification of the resolution by the Executive Board that awarded the concession;</li> <li>b) Identification data for the property covered by the concession;</li> </ul>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>c) A description of the concession, including the place, village, municipality, area to be included in the concession, dates on which the work should begin and end according to the management plan, and the term covered by the concession;</p> <p>d) The schedule of general activities during the term of the concession;</p> <p>e) The commitments regarding forest harvesting, silviculture and protective measures that must be adopted during the term of the concession;</p> <p>f) Prices and payment mode, form, and terms for the products to be harvested;</p> <p>g) The appointment of the Forest Manager proposed by the concessionaire, establishing the professional responsibilities assumed in solidarity;</p> <p>h) The manner in which adjustments and modifications to the Management Plan will be resolved;</p> <p>i) A description of the type of guarantee constituted to ensure compliance with the contractual obligations, as established in Articles 30 and 56 of the Forest Law and decisions by the Executive Board. If a bond, the value of the standing timber should be calculated, to be adjudicated, according to the operating plan for the next five-year period to be implemented; and</p> <p>j) Articles 22 to 26 of these Regulations and the duly approved Management Plan form a part of the contract.</p> <p>Description of risk</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>In the case of Guatemala, a great deal is known about community and industrial forest concessions in the Multiple Use Zone (Zona de Uso Múltiple – ZUM) in the Maya Biosphere Reserve (Reserva de la Biosfera Maya – RBM) (in territory administered by CONAP). However, very little is known about concessions on government or municipal lands granted by INAB, in spite of the fact that there is ample clarity about its application in the Forest Law and its regulations.</p> <p>There are publications by several NGOs that describe the concession process in the hands of communities in the MBR as having been successful. These publications include: Alianza Mesoamericana. 2015. Forest Concessions in Guatemala, international emblematic experience (Concesiones Forestales de Guatemala, experiencia emblemática Internacional), and Gálvez Ruano, J. 2012. Forest concessions in Petén (Concesiones forestales en Petén), and propose it as a model scheme for other regions. At present there are nine communities and two industrial concessions in the MBR, all of which have FSC forest certification (<a href="http://www.info.fsc.org/">http://www.info.fsc.org/</a>), and have been established for periods of 25 years (on average, they began their contracts in the year 2000).</p> <p>On the other hand, to date outside of protected areas there have been no</p>

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			<p>concessions granted on municipalities or on government lands (email correspondence with the engineering department in charge of INAB's National Forest Registry).</p> <p>It is also important to mention that the ZUM-MBR concessioning process is a participative process that is the object of several consultations. According to a statement by ACOFOP, since 1994, when the first community forest concession (known as San Miguel La Palotada) was established, the process has been systematised and an opportunity has been given to accede to the forest concessioning process to communities that were located in the zone (and had been there for a long time before it was declared to be a protected area). At present there are three concessions with a resident population (Carmelita, Cruce a La Colorada and Uaxactún) and another six communities without a resident population but that have shown that they have a relationship with their forests (especially for harvesting non-timber products). The whole concession process took about a decade of negotiations and justification (1992-2002), has a legal foundation, and technically has shown proper management of the forest (including a very low occurrence of forest fires or illegal logging (report of Governability Monitoring (Monitoreo de la gobernabilidad) in the Maya Biosphere Reserve, CONAP, 2013). Finally, it has been mentioned, during interviews with</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>governmental and non governmental experts, that several government institutions, NGOs, and projects have participated in and are acquainted with the concession process.</p> <p>It is also necessary to mention that interviews conducted with people who are acquainted with the concession process in the MBR, indicate some risks, among them political changes in Guatemala, that strongly require attention because of the possibility that they represent a change in the conservation strategy in that reserve. Another aspect is that, on average, between 15 and 25 years of the contract have gone by and challenges are foreseen for obtaining an extension. Nevertheless, an active process is maintained and the balance is positive, both for timber and non-timber forest management, as well as for conservation of the zone.</p> <p>Therefore, both inside and outside protected areas, the risk of non-compliance with the legal requirements for obtaining a concession license is minimal (low risk).</p>
1.3 Management and harvesting planning	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993). Date of Publication: 31 May 1985.</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>• CONAP. 2012. Manual for Forest Administration in Protected Areas (Manual para Administración Forestal en Áreas Protegidas). Accessed on 22 February 2016 at: <a href="http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20para%20la%20admon%20ftal%20en%20ap.pdf">http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20para%20la%20admon%20ftal%20en%20ap.pdf</a></li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>Title II – Human Rights, Chapter 1 – Individual Rights, Article 28 (Título II Derechos Humanos, Capítulo I Derechos Individuales, Artículo 28).</li> <li>Twelfth Section, Economic and Social Regime Articles 125 and 126 (Sección Décima, Régimen económico y social, Artículos 125 y 126): <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>2. Decree-Law 4-89 On Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations. Date of publication: 10 January 1989. • Law on Protected Areas, Chapter III On rational harvesting of wild flora and fauna, Chapter I, Harvesting wild flora and fauna. Articles 34 and 35. (Ley de Áreas Protegidas, Capítulo III del aprovechamiento racional de flora y fauna silvestre, Capítulo I, aprovechamiento de flora y fauna silvestre. Artículos 34 y 35): <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></p> <p>3. Resolution 07-21-2011 Approval of the Manual for Forest Management in Protected Areas and Its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Section “E” Planning Sustainable Forest Management (Sección “E” Planificación del Manejo Forestal Sostenible): <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul>	<ul style="list-style-type: none"> <li>Technical Considerations and Proposed Rules for Forest Management for Conservation of the Soil and Water (Consideraciones Técnicas y Propuesta de Normas de Manejo Forestal para la Conservación de Suelo y Agua). INAB. Accessed on 22 February 2016 at: <a href="http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf">http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>FAO. 2002. Current Status of Information about Forest Management (Estado actual de la información sobre manejo forestal). Accessed on 22 February 2016 at: <a href="http://www.fao.org/docrep/006/ad402s/AD402s08.htm">http://www.fao.org/docrep/006/ad402s/AD402s08.htm</a></li> <li>FAO. Current Situation and Trends in the Forest Sector (Situación actual y tendencias del sector forestal). Accessed on 22 February 2016 at: <a href="http://www.fao.org/docrep/007/j3029s/j3029s07.htm">http://www.fao.org/docrep/007/j3029s/j3029s07.htm</a></li> </ul> <p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with tenure, management and harvesting planning.</p>	<p>Overview of Legal Requirements</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993) The procedure for applying for a forest management plan has its foundation in Guatemala’s political constitution, through Art. 28 (right to petition).</p> <p>Subsequently, Art. 125 has to do with the exploitation of non-renewable natural resources and indicates that technical, rational exploitation of hydrocarbons, minerals and other non-renewable resources is declared to be of public utility and necessity. In addition, reforestation of the country and conservation of forests is declared to be of national urgency and in the social interest. Exploitation of all these resources shall be exclusively by Guatemalans, either individuals or legal persons. Forests and vegetation on the banks of rivers and lakes and adjacent to water sources shall receive special protection (Art. 126).</p> <p>2. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations</p> <p>On its part, in its protected areas, CONAP takes Article 76 as the basis for issuing licences, which indicates that the issuance of licenses for harvesting, hunting, sports fishing, shipping, commercial tenure,</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal). Date of publication: 31 October 1996. • Title I General provisions. Purpose and general policies, Articles 1 – 6 (Título I Disposiciones generales Objeto y políticas generales, Artículos 1-6).</p> <ul style="list-style-type: none"> <li>• Title V On forest harvesting, management and industrialization, Chapter I Forest harvesting and management Articles 48, 59, 50, 51, 55, 56 (Título V Del aprovechamiento, manejo e industrialización forestal, Capítulo I Aprovechamiento y manejo del bosque), Artículos 48, 49, 50, 51, 55, 56).</li> <li>• Chapter II Obligations and projects for forest repopulation, Articles 67, 68 and 70 (Capítulo II Obligaciones y proyectos de repoblación forestal, Artículos 67, 68, 70).</li> <li>• Chapter I Cutting Rights, Article 87 (Capítulo I Derecho de corta, Artículo 87).</li> <li>• Chapter II On forest registration and statistics, Article 88 (Capítulo II Del registro y la estadística forestal Artículo 88).</li> <li>• Chapter II On forest criminal offenses, Article 97 (Capítulo II De los delitos forestales Artículo 97: <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></li> </ul> <p>5. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal). Date of publication: 06 December 2005. • Chapter VI Harvesting, management and industrialization, Articles 40, 41, 47, 48, 49, 50, 51, 52, 55, 56 (Capítulo VI Aprovechamiento, manejo e industrialización, Artículo 40, 41, 47, 48, 49, 50, 51, 52, 55, 56):</p>		<p>management, exporting and trading wild flora and fauna products falls to the National Council for Protected Areas. All licences or permits issued by CONAP are considered to be personal and non-transferrable.</p> <p>3. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and Its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>This manual establishes the following levels of planning for sustainable forest management:</p> <ol style="list-style-type: none"> <li>a) National Planning;</li> <li>b) Forest Management Plan (Plan de Manejo Forestal – PMF), and;</li> <li>c) Annual Operating Plans – AOP (Planes Operativos Anuales – POA).</li> </ol> <p>In addition, in forest concessions in the Maya Biosphere Reserve (Reserva de la Biosfera Maya – RBM), Five-Year Plans included in the Updating of General Management Plans shall be applied for medium-term forest management planning and must be based on the concept of regulation of cutting.</p> <p>In addition, detailed charts are given in order to define the criteria for management</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><a href="http://theredddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf">http://theredddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>All Guatemalan government institutions, especially the judiciary. Inasmuch as the Constitution is the legal foundation in Guatemala, all institutions are bound to comply with it and especially the judiciary. Point 1: <a href="http://www.oj.gob.gt/">http://www.oj.gob.gt/</a></li> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP). Handles everything related to forest establishment, management and harvesting in the various management categories in protected areas. Points 2 and 3: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National Forest Institute (Instituto Nacional de Bosques – INAB). Handles everything related to forest establishment, management, harvesting and incentives and oversight of forest enterprises. Points 4 and 5: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <p>For CONAP, the following legal documentation is required in order to opt for harvesting management and planning (Manual para la Administración Forestal en Áreas Protegidas y sus Anexos - Manual for Forest Management in Protected Areas and Its appendices):</p> <ul style="list-style-type: none"> <li>The application;</li> </ul>		<p>of mature forests and of low-productivity forests with conifer and mixed species, as well as regulation criteria, formulas and scenarios for Allowable Annual Cutting (Technical AAC) (Corta Anual Permissible – CAP Técnico).</p> <p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal)</p> <p>Arts. 1 to 6 of this decree set out the fundamental aspects of Forest Management Plans. Later, in Art. 49, the license is described: A licence shall be the authorisation for implementation of the Management Plan. Any forest harvesting of timber or other timber products, except for family consumption or from voluntary plantations and voluntarily planted agroforest plantations, may be done only with a licence that will be granted by INAB in the period indicated in the previous article. Art. 50 indicates that an application for forest harvesting shall be adjusted, insofar as possible, to the provisions of the Civil and Mercantile Procedures Code (Código Procesal Civil y Mercantil) but will not be admitted if it is not accompanied by a Management Plan and if it does not meet the technical requirements established in the regulations.</p> <p>Art. 51 deals with the technician who is responsible for the preparation of the Management Plan in accordance with the nature and size of the harvest.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>• A legalised photocopy of the personal identification document of the legal representative or owner;</li> <li>• The current concession contract (for concessions), or the general property registration for landholdings (forests or plantations);</li> <li>• Municipal certification for small landholders, and;</li> <li>• A legalised photocopy of the forest manager's registration (in addition to the management plan and environmental document).</li> </ul> <p>For INAB, the following legal documentation is required in order to opt for harvesting management and planning (Ley Forestal y su reglamento - Forest Law and its regulation):</p> <ul style="list-style-type: none"> <li>• The application,</li> <li>• The General Property Registration,</li> <li>• A map of the landholding,</li> <li>• A photocopy of the DPI,</li> <li>• The registration of the person preparing the plans and the forest manager's registration (in addition to the management plan).</li> </ul>		<p>Other articles (67, 68 and 70) establish the mechanisms for forest repopulation derived from the management plan. Now, with regard to the fee for the forest licence (Art. 87), the Decree establishes that any persons to whom a licence for forest harvesting is granted shall pay an amount equivalent to ten per cent of the value of the standing timber, which must be paid at the time that the licence is authorised.</p> <p>Finally, Art. 97 establishes that failure to comply with the Forest Management Plan is a criminal offense.</p> <p>5. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>For INAB, forest harvesting licences (Art. 40) are the authorisation for forest harvesting, whether or not for commercial purposes, whose objectives are to implement the Forest Management Plans, whether for scientific, production, protection, health or salvaging purposes. Licenses shall be granted, when it is proper to do so, by INAB through the Manager or Regional Directors in the various forested regions of the country. The licence application files shall be presented at INAB's sub-regional offices.</p> <p>Regarding the duration of Forest Management Plans (Art 47), the Forest Management Plan shall be for a minimum term of five years, during which period the</p>

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			<p>cutting and harvesting activities and compliance with the commitments for forest repopulation and protection shall occur. In cases in which cutting and harvesting take longer than five years, it will be necessary for the Forest Management Plan for harvesting to be updated every five years.</p> <p>The annual operating plan (Art. 48) shall be the document for execution, monitoring and annual supervision of the approved Forest Management Plan, and shall contain information in accordance with the instructions issued by INAB.</p> <p>Other articles refer to modifications to Forest Management Plans and specifications for forest management and regeneration (Arts. 51 and 52).</p> <p>Description of risk According to FAO (Current situation and trends in the forest sector in Guatemala (Situación actual y tendencias en el sector forestal en Guatemala): <a href="http://www.fao.org/docrep/007/j3029s/j3029s07.htm">http://www.fao.org/docrep/007/j3029s/j3029s07.htm</a>), major efforts have been made to support management of natural forests, oriented principally toward generation of support instruments, including: development of simplified models for management of conifers and manuals for sustainable forest management. Both INAB and CONAP have clearly-established forest planning instruments (both for broadleaf and coniferous forests), and</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>there are variations applied to the area under management. However, in CONAP'S opinion (source: interview with experts from CONAP), the Forest Management Plan as such, the cost of its preparation and subsequent implementation, are objects of resistance on the part of forest users interested in simple logging.</p> <p>FAO also states (Status of Forest Information in Guatemala (Estado de la información forestal en Guatemala) 2002: <a href="http://www.fao.org/docrep/006/ad402s/AD402s08.htm">http://www.fao.org/docrep/006/ad402s/AD402s08.htm</a>), regarding Forest Management Plans ('How are they prepared, applied and implemented?'), that these have been seen as a requirement that the legislation includes, prior to achieving approvals for harvesting forest products found in the forests. In this regard, many plans tend to reflect only the presently harvestable products, without considering technical aspects that properly guide interventions in forests. The lack of evidence of rational, sustainable harvesting processes for forest resources in Guatemala led to efforts to achieve a viable utilisation model for the country being refocused.</p> <p>Therefore, inside or outside protected areas, the risk of proceeding with the required management planning documents is that they are not always of the expected technical quality, especially because they are looked on as a legal requirement</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>(source: expert interviews and knowledge of experts who do the assessment)</p> <p>Some comments by expert interviewees in this field suggest that “many management plans are made for officials instead of making them for the landowners or for sustainability”, and on this subject they refer fundamentally to financial sustainability (especially in forests with a low timber load). This information was provided by professional staff with experience in forest planning from FAO and INAB.</p> <p>Based on expert consultation, and knowledge of experts who develop the assessment, it is felt that the capacity of government institutions is insufficient to monitor the actions requested by them. This is the case for EIAs (Environmental Impact Studies) (Estudios de Impacto Ambiental), which are a document that reflects many mitigation measures that are not carried out in practice and are not supervised by the agency in charge.</p> <p>Finally, it was indicated that in large protected zones (such as the MBR in Petén), follow-up and monitoring of forest concessions (both community and industrial) have been achieved; however, on private landholdings located in the Buffer Zone in that reserve, the financial capacity is still lacking to establish more</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			efficient monitoring mechanisms (based on interviews from the CONAF officials).
1.4 Harvesting permits	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993). Date of Publication: 31 May 1985.</p> <ul style="list-style-type: none"> <li>Tenth Section Economic and Social Regime, Articles 125 and 126 (Sección Décima Régimen económico y social, Artículos 125 y 126): <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>2. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations. Publication date: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Law on Protected Areas, Title III, On rational harvesting of wild flora and fauna, Chapter I, Harvesting of wild flora and fauna, Article 33, Harvesting, Article 35, Authorisation (Ley de Áreas Protegidas, Título III Del aprovechamiento racional de la flora y fauna silvestre Capítulo I Aprovechamiento de la flora y fauna silvestre Artículo 33. Aprovechamiento, Artículo 35. Autorización).</li> <li>Regulations for the Law on Protected Areas, Title IV, Chapter I, Harvesting of wildlife, Article 47, Hunting capture, cutting and gathering, Article 48, Application requirements (Reglamento de la Ley de Áreas Protegidas, Título IV Capítulo I Aprovechamiento de vida silvestre Artículo 47. Caza, captura, corte y recolecta,</li> </ul>	<p>Government sources:</p> <ul style="list-style-type: none"> <li>INAB. 2010. Inter-institutional action plan for the prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en Guatemala). Accessed on 22 February 2016 at: <a href="http://www.marn.gob.gt/Multimedios/436.pdf">http://www.marn.gob.gt/Multimedios/436.pdf</a></li> <li>CONAP. 2012. Manual for Forest Administration in Protected Areas (Manual para la administración forestal en áreas protegidas). Accessed on 22 February 2016 at: <a href="http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20para%20la%20admon%20ftal%20en%20ap.pdf">http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20para%20la%20admon%20ftal%20en%20ap.pdf</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Asociación Balam. 2013. Diagnosis of the current status of illegal logging in southern Petén (Diagnóstico sobre el estado actual de la tala ilegal en el sur de Petén). This is currently not available online. It can be provided by email on request (<a href="mailto:dtrujillo@asociacionbalam.org">dtrujillo@asociacionbalam.org</a>).</li> <li>IARNA. 2009. Characterisation of the chain of timber products in the municipalities of Tecpán Guatemala, Chimaltenango and San Juan Sacatepéquez, Guatemala (Caracterización de la cadena productiva</li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993)</p> <p>Art. 125 of the political constitution of the republic deals with exploitation of non-renewable natural resources and declares that technical, rational exploitation of hydrocarbons, minerals, and other non-renewable natural resources is of public utility and necessity. The State shall establish and promote appropriate conditions for their exploration, exploitation and trading. In addition, reforestation of the country and conservation of forests is declared to be of national urgency and social interest. The law shall determine the form and requirements for rational exploitation of forest resources and their renewal, including resins, gums, uncultivated wild plant products and other similar products, and shall encourage their industrialisation. Exploitation of all these</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>Artículo 48. Requisitos de solicitud):  <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></p> <p>3. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of Publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter II, Requirements for submission of applications for authorisation of harvesting wild timber flora in protected areas. (Capítulo II Requisitos para presentar solicitudes de autorización de aprovechamiento de flora silvestre maderable dentro de áreas protegidas).</li> <li>Chapter III, Guidelines for authorisation of management, harvesting and transportation of wild timber flora (Capítulo III Lineamientos para la autorización de manejo, aprovechamiento y transporte de flora silvestre maderable):  <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p><b>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTAGIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</b></p> <p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal) Date of Publication: 31 October 1996.</p> <ul style="list-style-type: none"> <li>Title I General Provisions, Purpose and general policies Articles 1-6 (Título I Disposiciones generales, Objeto y políticas generales, Artículos 1 – 6).</li> <li>Title V On forest harvesting, management and industrialisation, Chapter I Forest Harvesting and Management,</li> </ul>	<p>de la madera en los municipios de Tecpán Guatemala, Chimaltenango y San Juan Sacatepéquez, Guatemala). Accessed on 22 February 2016 at:  <a href="http://biblio3.url.edu.gt/IARNA/SERIETECNINCA/34.PDF">http://biblio3.url.edu.gt/IARNA/SERIETECNINCA/34.PDF</a></p> <ul style="list-style-type: none"> <li>FAO. 2002. Current status of information about forest management (Estado actual de la información sobre manejo forestal). Accessed on 22 February 2016 at:  <a href="http://www.fao.org/docrep/006/ad402s/AD402s08.htm">http://www.fao.org/docrep/006/ad402s/AD402s08.htm</a></li> <li>FAO. Current situation and trends in the forest sector (Situación actual y tendencias del sector forestal). Accessed on 22 February 2016 at:  <a href="http://www.fao.org/docrep/007/j3029s/j3029s07.htm">http://www.fao.org/docrep/007/j3029s/j3029s07.htm</a></li> <li>Transparency International Corruption Perception Index 2016. Accessed on 30 March 2017 at:  <a href="http://www.transparency.org/news/feature/corruption_perceptions_index_2016">http://www.transparency.org/news/feature/corruption_perceptions_index_2016</a></li> </ul> <p>Interviews with experts:  Interviews with various experts in the month of April 2016 and February 2018, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with harvesting permits.</p>	<p>resources shall be exclusively by Guatemalans, either individuals or legal persons. Forests and vegetation on the banks of rivers and lakes and adjacent to sources of water shall be given special protection (Art. 126).</p> <p>2. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) and its regulations</p> <p>Forest harvesting in protected areas is based on Arts. 33 and 35, which indicate that, for the purposes of this law, harvesting of flora and fauna is understood to be any action of seeking, gathering, removing, reproducing, capturing or killing examples of plants or wildlife, as the case may be. For harvesting of wild products protected by this law, its regulations and related laws, any interested party must have an authorisation issued by CONAP. These articles also indicate that hunting, capturing, cutting and gathering specimens, parts and derivatives of wild flora and fauna require a licence issued by CONAP's Executive Secretariat. When it is desired to carry out any of these activities in a protected area, the approval of the agency that administers it must be obtained and the activity must have been expressly approved in the corresponding master and operating plans (Art. 47).</p> <p>3. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>Articles 48, 49, 50, 51, 55, and 56 (Título V Del aprovechamiento, manejo e industrialización forestal, Capítulo I Aprovechamiento y manejo del bosque, Artículos 48, 49, 50, 51, 55, 56).</p> <ul style="list-style-type: none"> <li>Chapter II Obligations and projects for forest repopulation Articles 67, 68, and 70 (Capítulo II Obligaciones y proyectos de repoblación forestal Artículos 67, 68, 70).</li> <li>Chapter I Cutting rights Article 87 Forest harvesting licence fee (Capítulo I Derecho de corta Artículo 87 Monto de la licencia para aprovechamiento forestal).</li> <li>Chapter II On forest registration and statistics Article 88 Forest harvesting and sustained management, Article 52 Forest Manager (Capítulo II Del registro y la estadística forestal Artículo 88 Aprovechamientos y manejo sostenido del bosque, Artículo 52 El Regente Forestal): <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></li> </ul> <p>5. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal) Date of Publication: 06 December 2005.</p> <ul style="list-style-type: none"> <li>Chapter VI, Harvesting, management and industrialisation Articles 40, 41, 47, 48, 49, 50, 51, 52, 55, and 56 (Capítulo VI, Aprovechamiento, manejo e industrialización Artículos 40, 41, 47, 48, 49, 50, 51, 52, 55, 56): <a href="http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf">http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>All government institutions in Guatemala, and especially the judiciary. Considering that the Constitution is the legal</li> </ul>		<p>(Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>The manual for forest administration establishes the requirements for submitting applications for authorisation of management plans for commercial purposes.</p> <p>In Chapter II, the Resolution establishes among the requirements for presenting applications for authorisation of forest harvesting in protected areas, and in its Section “A”, item c), that the user must submit certification of registration of ownership of the real property covered by the application with the corresponding map. The certification must have been obtained within a period of no more than three months before the date of its presentation.</p> <p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal)</p> <p>The initial articles (1 to 6) describe Forest Management Plans; subsequently, Art. 49 describes the licence: A harvesting licence (licencia forestal o de cosecha) shall be the authorisation for implementation of the Management Plan. Any forest harvesting of timber or other timber products, except for family consumption or from voluntary plantations and agroforest systems planted voluntarily, may be done only with a licence issued by INAB. It will be</p>

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	<p>foundation in Guatemala, all institutions are bound to enforce it and especially the judiciary. Point 1. <a href="http://www.oj.gob.gt/">http://www.oj.gob.gt/</a></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP). Handles everything related to forest establishment, management and harvesting in the various management categories in protected areas. Points 2 and 3. <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National Forest Institute (Instituto Nacional de Bosques – INAB). Handles everything related to forest establishment, management, harvesting and incentives and oversight of forest enterprises. Points 4 and 5. <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>For CONAP: Licence to harvest and market wild flora timber products in protected areas (Ley Forestal y su reglamento- Forest law and its regulation).</li> <li>For INAB: Forest licence (Ley Forestal y su reglamento- Forest law and its regulation).</li> </ul> <p>The Manual for Forest Administration in Protected Areas establishes the requirements for submitting applications for authorisation of management plans for commercial purposes.</p> <p><b>LEGAL DOCUMENTATION</b></p> <p>a) The user must submit an application which clearly describes the objective(s) of the activity to be performed, giving the applicant's exact address for receiving notices, their telephone number, fax number and/or email address.</p> <p>b) A legalised photocopy of the residency card or personal identification of the applicant or legal representative and a legalised copy of the document verifying duly registered representation, if that is the case.</p>		<p>exclusively for the owner or legitimate possessor of the land or forest area in question and it shall be under his responsibility and vigilance for the period required by the Management Plan, according to the regulations. Art. 50 states that a forest harvesting application shall adjust, insofar as applicable, to the provisions of the Civil and Commercial Procedures Code, but shall not be admitted if it is not accompanied by a Management Plan and if it does not comply with the technical requirements established in the regulations. INAB must decide on the Management Plan submitted within a period of sixty (60) days from administrative admission of the licence application. After admitting the licence application, INAB will have a maximum period of sixty (60) days to approve or disapprove it.</p> <p>Now, with regard to the forest harvesting license fee (Art. 87), it has been established that any person to whom a forest harvesting licence is granted shall pay an amount equivalent to ten per cent of the value of the standing timber, which must be paid in cash at the time the licence is authorised.</p> <p>5. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>For INAB, forest harvesting licences (Art. 40) are the authorisations for forest</p>

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	<p>c) Certification of registration of the real property covered by the application with the corresponding map. The certification must have been obtained within a period of no more than three months from the date of its presentation.</p> <p>d) If the property has not been recorded in the property registry, the applicant must present:</p> <p>i. Certification issued by the competent municipal authority verifying possession of the real property and, if applicable, testimony in public deed confirming possession or,</p> <p>ii. A legalised photocopy of the testimony of the lease contract for the property covered by the application for forest management.</p> <p>e) A legalised photocopy of the certification of registration in CONAP's National Registry of Forest Managers for the person responsible for providing technical assistance in preparation of the proposal and implementation of the management plan.</p> <p>f) A legalised photocopy of the forest manager's residency card or personal identification document.</p> <p><b>TECHNICAL DOCUMENTATION</b></p> <p>a) Submit application for authorisation based on the applicable form, depending on the project's commercial objectives or forest management plan, which must be prepared by a forest manager who has been duly registered in CONAP's National Registry of Forest Managers, based on the technical guidelines contained in this manual (participation by a manager is waived for applications for authorisation of projects for reforestation and/or establishment of agroforest systems smaller than 5 hectares).</p> <p>b) For applications for authorisation of change of land use in areas with forest coverage greater than 1 hectare, a Study of Use of Soil Capacity must be presented, prepared based on the methodology established by the National Forest Institute.</p> <p>c) For all applications for approval of commercial projects and forest management plans, an Environmental Assessment Document must be presented, as required in the Ministry of the Environment and Natural Resource's "Restrictive List of Projects, Construction Works, Industries or Activities".</p>		<p>harvesting, whether for commercial purposes or not, that have as their objective the implementation of Forest Management Plans, whether for scientific, production, protection, forest health or salvaging. Such licenses shall be granted by INAB, when proper, through the Manager of Regional Directors, in the various forest regions of the country. The licence application files shall be presented at INAB's sub-regional offices, and shall include the following documentation:</p> <p>a) An application that contains, as a minimum, the property owner's general personal data, place for receiving notices, the application in concrete terms and a duly authenticated signature;</p> <p>b) Certification of the Property Registry verifying ownership of the property, indicating the annotations and liens that it contains. If the property is not recorded in the Registry, another legal document verifying the property may be accepted; and</p> <p>c) The Forest Management Plan.</p> <p>The term of the licence shall be established by INAB for a period that guarantees implementation of effective measures in the Forest Management Plan and the meeting of the commitments that the licence implies. The license shall be issued for a period of no less than five years.</p>

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	<p>d) For approved Forest Management Plans to be put into operation, following issuance of the corresponding forest licence, the user must submit an Annual Operating Plan. (This applies to management plans that provide for more than one annual harvesting.)</p>		<p>Description of risk  Internationally, in the Transparency Corruption Index Guatemala is positioned 136 of 176. According to the action plan for the prevention and reduction of illegal logging in Guatemala (<a href="http://www.marn.gob.gt/Multimedios/436.pdf">http://www.marn.gob.gt/Multimedios/436.pdf</a>), illegal harvesting creates forest deterioration in environmental terms and leads to a lack of respect for the current laws and authorities, contributing to ungovernability. Illegal harvesting is also unfair competition for legal sources. That study also indicates that more than 95% of the flow of forest products in the country occurs on the margins of the law. Estimates by the Integrated Forest Count (Cuenta Integrada del Bosque) indicate that 76% of this volume is firewood and 24% timber.</p> <p>The study (action plan for the prevention and reduction of illegal logging in Guatemala) also mentions that the increase in the levels of uncontrolled traffic in forest products is consistent with a) a lack of institutional capacity to control deforestation in forested areas, b) a lack of effective controls in transportation of forest products; c) a lack of an effective system for issuing permits for transportation of forest products; d) harvesting and traffic of timber under the cover of distortions in the use of permits for family harvesting of forest products, and; e) a lack of an effective system of control for volumes of timber processed in forest industries.</p>

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			<p>For its part, Asociación Balam (Diagnosis of the current status of illegal logging in southern Petén (Diagnóstico sobre el estado actual de la tala ilegal en el sur de Petén)) reports that in the southern part of Petén Department (San Luis, Poptún and Dolores), 98% of the timber shipped is illegal. The Institute of Agriculture, Natural Resources and the Environment (Instituto de Agricultura, Recursos Naturales y Ambiente – IARNA) of Rafael Landívar University, in a report on characterization of the timber production chain in the municipalities of Tecpán Guatemala, Chimaltenango and San Juan Sacatepéquez, indicates that, according to stakeholders in the forest sector, among the mechanisms used to convert an illicit product into a licit one are: i) direct contracts with DIPRONAa, ii) falsification of documents (licences and shipping tickets), and iii) reuse of shipping notes.</p> <p>FAO indicates that in Guatemala there are no exact figures, but that estimates have been made that illegal logging for the purpose of timber production represents from 30 to 50 per cent of the volume of commercial timber harvested yearly.</p> <p>As such, based on the previous statements, the risk of illegal logging occurring both inside and outside protected areas is high.</p> <p>As one of the experts interviewed commented: “On some occasions, users prefer to show an over-volume in shipping documents, in order to avoid paying fines</p>

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			<p>or bribes to institutions that are in charge of control on the highways, such as DIPRONA or PNC.” Others stated that there is a “lack of institutional capacity for monitoring all movements of forest transportation in Guatemala, so the responsibility lies in the hands of the manager and owner of the landholding.” Others reflected that in protected areas, since there is a shortage of personnel available in the institutions, the times that go by for approval of management plans are lengthy, which creates a big risk that the legal processes will be skipped. Finally, it was indicated that there have been proven cases of corruption in government institutions, note that the persons responsible for this have been dismissed and no judicial process opened against them.</p> <p>In conclusion, it is indicated that most of the illegal forestry is carried out without any authorization for its development. Based on expert consultation, it has been detected that a minority develops unlawful use, using false documentation or obtaining real authorizations using bribery as a means of obtaining.</p>
<b>Taxes and fees</b>			
1.5 Payment of royalties and harvesting fees	<b>Applicable laws and regulations</b>  CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS	Government sources: <ul style="list-style-type: none"> <li>• INAB. 2010. Inter-institutional action plan for the prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en Guatemala). Accessed on 22 February</li> </ul>	Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>1. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter VI Guidelines for administration of guarantees of forest recovery in protected areas (Capítulo VI Lineamientos para la administración de garantías de recuperación forestal en áreas protegidas).</li> <li>Chapter VII Guidelines for estimating the value of standing timber (Capítulo VII Lineamientos para la estimación del valor de la madera en pie): <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>2. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal). Date of publication: 31 October 1996.</p> <ul style="list-style-type: none"> <li>Title VIII On the taxation, control and statistics regime Chapter I Cutting rights. ARTICLE 87 Fee for forest harvesting licence (Título VIII Del régimen impositivo, control y estadística, Capítulo I Derecho de corta, ARTICULO 87 Monto de la licencia para aprovechamiento forestal): <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></li> </ul> <p>3. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal). Date of publication: 06 December 2005.</p> <ul style="list-style-type: none"> <li>Chapter VI Harvesting, management and industrialisation ARTICLE 56 Guarantees for forest repopulation (CAPITULO VI</li> </ul>	<p>2016 at: <a href="http://www.marn.gob.gt/Multimedios/436.pdf">http://www.marn.gob.gt/Multimedios/436.pdf</a></p> <p>Non-Government sources:</p> <ul style="list-style-type: none"> <li>FAO-World Bank. 2012. Evaluation of the impact of collection of fees for harvesting standing timber and other fees on forest management in Guatemala (Evaluación del impacto del cobro por derechos de aprovechamiento de madera en pie y otras tasas sobre el manejo forestal en Guatemala). Accessed on 03 May 2016 at: <a href="http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf">http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf</a></li> <li>IARNA- Instituto de Agricultura, Recursos Naturales y Ambiente- Institute of Agriculture, Natural Resources and Environment- Rafael Landívar University. 2009. Integrated Forest Account (CIB) - System of Integrated Environmental and Economic Accounting of Guatemala: (Cuenta Integrada del Bosque (CIB)- Sistema de Contabilidad Ambiental y Económica Integrada de Guatemala): <a href="https://www.url.edu.gt/publicacionesurl/FileCS.ashx?Id=40425">https://www.url.edu.gt/publicacionesurl/FileCS.ashx?Id=40425</a></li> <li>World Bank. 2011. Guatemala - Pilot program for supervision and control of forest industries in Guatemala Final Report. Washington, DC: World Bank. <a href="http://documents.worldbank.org/curated/en/398211469672211385/Informe-finale">http://documents.worldbank.org/curated/en/398211469672211385/Informe-finale</a></li> </ul>	<p>Overview of legal requirements</p> <p>1. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>The value of standing timber will be established by CONAP according to an evaluation of the market price and the environmental services that the trees provide in protected areas. Periodic updates must be approved by CONAP's Council and published in the Official Gazette.</p> <p>To estimate the yield in firewood, logs and woodchips per tree, the following percentages shall be used for coniferous species: a) logs = 80%, b) firewood = 10%, and c) woodchips = 10%. For broadleaf species, the percentages to be applied are: a) logs = 80%; b) firewood (branches) = 20%.</p> <p>In broadleaf forests, the amount to be paid as a fee on the value of the standing timber and for guarantees of compliance with the commitments to recovery must be estimated annually based on the commercial census data and the annual operating plan approved by CONAP.</p> <p>In mixed and coniferous forests, the amount to be paid as a fee on the value of the standing timber and for guarantees of</p>

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	<p>Aprovechamiento, manejo e industrialización ARTÍCULO 56. Garantías para la repoblación forestal):  <a href="http://theredddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf">http://theredddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf</a></p> <p><b>Legal Authority</b></p> <p>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): for the purposes of the administration and collection of taxes on fees for harvesting, the basis of this authority is established in the Forest Law and its regulations.</p> <p>(Fees collected by CONAP with regard to harvesting are: permit rights, intrinsic value of the standing timber, and surety bond covering the commitment to forest repopulation. Subsequently, in the transportation phase, payment is made for the corresponding shipping waybills. All of the amounts collected by CONAP go into a specific account in the institution’s restrictive funds.)</p> <p>National Forest Institute (Instituto Nacional de Bosques – INAB): basically collects the same fees as CONAP; however, they go into a different account (which is an INAB account).</p> <p><b>Legally required documents or records</b></p> <p>For the National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): payment certification voucher issued on General Accounting Comptroller’s Office Form 63-A2 in the name of CONAP, in addition to presentation of certification of payment of a surety bond policy for reforestation commitment.</p> <p>For the National Forest Institute (Instituto Nacional de Bosques – INAB): payment certification voucher issued on General Accounting</p>	<p>Interviews with experts:  Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with tenure and payment of rights and fees for harvesting.</p>	<p>compliance with the commitments to recovery must be established based on the forest Management Plan approved by CONAP.</p> <p>This will only be modified if the current fee schedule changes following authorisation of a new annual operating plan.</p> <p>2. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal)</p> <p>According to Art. 87 (Fee for forest harvesting licence) (Monto de la licencia para aprovechamiento forestal), any person to whom a forest harvesting licence is granted shall pay an amount equivalent to ten per cent of the value of the standing timber, which must be paid in cash at the time the licence is authorised.</p> <p>Fifty per cent of the amount collected shall be transferred to the municipalities in which the harvested forests are located; this amount shall be allocated specifically to forest control and vigilance; the remaining fifty percent shall be placed in the Restrictive Forest Fund.</p> <p>This payment is waived for forest products coming from:</p> <ol style="list-style-type: none"> <li>a) Plantations registered with INAB that were not established due to reforestation obligations and agroforest systems; and</li> <li>b) Forests that have been managed according to a Management Plan approved by INAB and that have complied with all of</li> </ol>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>Comptroller's Office Form 63-A2 in the name of INAB, in addition to presentation of certification of payment of a surety bond policy for reforestation commitment.</p>		<p>the commitments established in the licence. INAB shall publish the value of the standing timber annually in the Official Gazette and that value shall take effect from the first of September of each year.</p> <p>3. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>The regulations for the Forest Law indicate (Art. 56), regarding guarantees for forest repopulation, that the following may be accepted as guarantees of forest repopulation:</p> <p>a) Surety bond: Compliance with forest repopulation may be guaranteed by a surety bond issued in favour of INAB.</p> <p>b) Cash deposit: Any person required to guarantee forest repopulation may do so by making a deposit in favour of INAB in cash in a bank in the system. INAB will only return the amount deposited to the interested party after the corresponding release has been given.</p> <p>c) Mortgage: Any user who wishes to guarantee compliance with the forest repopulation obligation with a mortgage must submit the following documentation:</p> <p>a. An express application;</p> <p>b. Certification issued by the property registry;</p> <p>c. Appraisal performed by an authorised appraiser; and</p> <p>d. A summary completed in accordance with the model prepared by INAB's legal adviser;</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>e. During the effective term of the licence, the mortgaged real property may be replaced by another that in INAB's opinion has the same or better conditions and characteristics, in accordance with the above.</p> <p>d) Fiduciary guarantee: The user may guarantee compliance with the forest repopulation obligations with a solidary or joint fiduciary guarantee in a private document with authenticated signature or in public deed, depending on the area covered by the intervention.</p> <p>e) Government bonds: Compliance with forest repopulation obligations may be guaranteed by a deposit of government bonds for a nominal value that is at least equal to the value of forest repopulation.</p> <p>For voluntary plantations registered in the National Forest Registry in which there is a failure to comply with the repopulation commitment, the plantation given as a guarantee will be considered obligatory plantation.</p> <p>In every case, with the exception of surety bonds and government bonds, the guarantee shall cover, as a minimum, one hundred and ten percent (110%) of the cost of forest repopulation, which includes the establishment and maintenance phases, and must be for a minimum of four years.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>Taxes generated by forest operations in Guatemala are directly related to the following three aspects:</p> <ul style="list-style-type: none"> <li>a) Payment of the intrinsic value of the timber (10% of the value of the standing timber). A different fee schedule is used for INAB and CONAP; In addition, payments of intrinsic value vary between species.</li> <li>b) Payment for issuance of a forest licence (applies only to CONAP);</li> <li>c) Payment for issuance of shipping waybills or forest shipping tickets; and</li> <li>d) Payment for guarantee of recovery of forest coverage (reforestation or management of natural regeneration). Various modalities are applied.</li> </ul> <p>FAO-World Bank (2012), indicate that the two institutions in charge of collecting fees for standing timber are CONAP and INAB. In the last five years, CONAP has received between Quetzals 1.2 million and Q1.4 million, which represented 3% of its budget.</p> <p>Description of risk Both the INAB and CONAP procedures establish that the respective fees must be paid prior to issuance of a licence and transportation documents. In addition, field verifications are made to check the forest species to be harvested, and these species are also verified during oversight of sawmills and forest transportation.</p>

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			<p>Based on expert comments, payment of harvesting rights and fees is a procedure that is considered to be controlled by the institutions.</p> <p>Experts from CONAP and INAB, who were interviewed consider that the fees to be paid are not high enough to affect the profitability of forest operations, and thus loss of profits cannot be used as an excuse to justify illegalities. It is also important to mention that there are several internal controls in the institutions for the procedures of payment of forest taxes and that even the General Accounting Controller can audit these payments, which reduces the risk of falling into illegalities. In addition, the interviews carried to governmental and non-governmental sources out reflect that in this aspect there is no risk as such.</p> <p>However, according to INAB (2010), more than 95% of the flow of forest products in the country occurs on the margins of the law. Estimates by the Integrated Forest Count (Cuenta Integrada del Bosque) indicate that 76% of this volume is firewood and 24% timber. So that means that 95% of the flow of forest products in the country did not pay taxes and fees. On the other hand, a study done by World Bank (Pilot program for supervision and control of forest industries in Guatemala) conclude that in Guatemala, the loss of the forest cover due to illegal forest activities, has an impact on the loss of goods and services</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>for society, undermining the tax revenue, and adversely affecting the competitiveness of forestry companies that obtain their raw materials from licit uses. This study identified 496 forestry companies that were not registered, and therefore operating illegally (World Bank, 2011).</p> <p>It should be mentioned that, logically, any timber involved in an attempted illegal sale or that enters sawmills (for washing) has not had its associated harvesting rights and fees paid.</p> <p>Based on the fact that not enough evidences are available to verify law enforcement for this indicator, precautionary approach was applied and the whole country has been designated specified risk for this indicator.</p>
1.6 Value added taxes and other sales taxes	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Decree-Law 27.92 Law on Value Added Tax (Ley 27-92. Ley del Impuesto al Valor Agregado). Date of publication: 09 April 1992: <a href="http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html">http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html</a></p> <p>2. Governmental Resolution 5-2013. Regulations for the Law on Added Value Tax (Acuerdo Gubernativo 5-2013 Reglamento de la Ley del Impuesto al Valor Agregado). Date of publication: 04 January 2013: <a href="http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html">http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html</a></p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>Estimate of productivity, efficiency and non-compliance with payment of the Added Value Tax (VAT) in Guatemala (Estimación de la productividad, eficiencia e incumplimiento del pago del Impuesto al Valor Agregado (IVA) en Guatemala). 2014. SAT: Accessed on 23 February 2016 at: <a href="http://portal.sat.gob.gt/sitio/index.php/estadisticas/47-estadisticas-tributarias/7897-analisis-y-estudios-tributarios.html">http://portal.sat.gob.gt/sitio/index.php/estadisticas/47-estadisticas-tributarias/7897-analisis-y-estudios-tributarios.html</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Prensa Libre. 2015. Tax evasion of VAT was 36% in 2014 (Evasión tributaria</li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree-Law 27-92 Law on Added Value Tax – VAT (Decreto Ley 27-92. Ley del Impuesto al Valor Agregado – IVA)</p> <p>The tax established in this law must be paid (Art. 4) on:</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita). Date of publication: 11 April 2014.</p> <ul style="list-style-type: none"> <li>Article 7. Special considerations (Artículo 7. Consideraciones especiales): <a href="http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <p>The Tax Administration Superintendency (Superintendencia de Administración Tributaria --SAT) is in charge of verifying issuance of the respective invoices at the national level.</p> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>Issuance of accounting invoices for trading timber products (Reglamento para el transporte de productos forestales y su procedencia lícita- Regulation for the transport of forest products and their legal provenance).</li> <li>Declaration of the taxes corresponding to SAT (Ley del Impuesto al Valor Agregado- Law of Value Added Tax).</li> </ul>	<p>del IVA fue 36% en 2014) Accessed on 23 February 2016 at: <a href="http://www.prensalibre.com/economia/evasion-tributaria-del-iva-fue-36-en-2014">http://www.prensalibre.com/economia/evasion-tributaria-del-iva-fue-36-en-2014</a></p> <ul style="list-style-type: none"> <li>Prensa Libre. 2015. ICEFI states that evasion of VAT and Income Tax (ISR) exceeds 40% (ICEFI asegura que evasión del IVA e ISR supera el 40%). Accessed on 23 February 2016 at: <a href="http://www.prensalibre.com/presentan-plan-para-rescatar-a-la-sat-tras-fraude-fiscal">http://www.prensalibre.com/presentan-plan-para-rescatar-a-la-sat-tras-fraude-fiscal</a></li> <li>UICN – EFI. Analysis of international trade in timber products and its administrative governance (Análisis del comercio internacional de productos de madera y su gobernanza administrativa). 2014. Accessed on 05 May 2016 at: <a href="http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf">http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf</a></li> </ul> <p>World Bank. 2011. Guatemala - Pilot program for supervision and control of forest industries in Guatemala Final Report. Washington, DC: World Bank. <a href="http://documents.worldbank.org/curated/en/398211469672211385/Informe-finale">http://documents.worldbank.org/curated/en/398211469672211385/Informe-finale</a></p> <p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with Added Value Tax (VAT) and other sales taxes.</p>	<p>1) The sale or transfer of goods (including timber) or for services provided;</p> <p>2) Importations (applies to timber).</p> <p>In this regard, the tax base on sales shall be the price of the operation less any discounts granted in accordance with commercial practices.</p> <p>In Guatemala, invoicing for the sale of timber processed in sawmills is mandatory.</p> <p>2. Governmental Resolution 5-2013 Regulations for the Law on Added Value Tax (Acuerdo Gubernativo 5-2013. Reglamento de la Ley del Impuesto al Valor Agregado)</p> <p>The purpose of these regulations is to establish rules for application of the provisions of the Law on Added Value Tax and matters related to administrative collection of this tax, as well as procedures to facilitate its collection and control (Art. 1).</p> <p>It applies in the case of timber, considered to be goods; and according to Article number 3 item 1) of the law, VAT is not assessed on deliveries of goods on consignment made by one seller to another seller, so long as the consignee does not sell or transfer or donate the goods received on consignment.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita)</p> <p>The Forest Law does not contain anything related specifically to authorisation of a timber product (nor is there any specification in its regulations), but there are specific regulations for forest transportation. However, both INAB and CONAP are of the opinion that the regulations and proper payment of VAT are an SAT responsibility.</p> <p>In its Art. 7, the law establishes the special considerations under which other mechanisms are given for forest transportation, and explains in item b) any invoice authorised by the Tax Administration Superintendency for forest products from forest enterprises the volume of which is less than one cubic metre.</p> <p>Description of risk Fiscally, in Guatemala, an invoice must be issued for any product sold (although an invoice does not necessarily have to figure for transportation of the product) (based on legal requirements and interviews with competent authorities). Officially (report: Estimate of productivity, efficiency and non-compliance with payment of the Added Value Tax (VAT) in</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>Guatemala), SAT indicates the following for the year 2014: In Guatemala, the estimate of non-compliance with payment of the Added Value Tax—VAT shows that it is perhaps the most important one in the tax system, since during the period covered by the study (2015) the average relative importance of this tax was 48.1%.</p> <p>For the year 2014, evasion of VAT amounted to 36% as reported by Prensa Libre and could amount to Q11 billion that the tax authorities did not collect in that year. Another journalistic source states that evasion normally amounts to 30% (Siglo 21).</p> <p>On the other hand, a study done by World Bank (Pilot program for supervision and control of forest industries in Guatemala) conclude that in Guatemala, the loss of the forest cover due to illegal forest activities, has an impact on the loss of goods and services for society, undermining the tax revenue, and adversely affecting the competitiveness of forestry companies that obtain their raw materials from licit uses. This study identified 496 forestry companies that were not registered, and therefore operating illegally (World Bank, 2011).</p> <p>When timber is shipped, a shipping ticket from the company is usually used, often avoiding the issuance of an invoice (on which VAT must be paid) (based on interviews with experts). As the data issued</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>by official and non-official sources show, the risk of this illegal act being committed is high.</p> <p>Although there are no detailed reports about the matters described above, a group of experts was consulted (on 6, 7 and 8 April 2016), and they indicated that companies that are registered and legal do comply with the rules. However, in a country with high levels of government corruption, there is mistrust on the part of most business owners (including those in the forest industry) about the tax system (VAT and others), so mechanisms are identified to avoid paying (failing to issue invoices or issuing them with understated figures, for example). Finally, the interviewees indicated that with the implementation of the Electronic Information System for Forest Enterprises (Sistema Electrónico de Información de Empresas Forestales – SEINEF), registration of enterprises has improved somewhat, having increased from 1,200 to approximately 2,000 enterprises registered; this is a good effort to gradually achieve proper regulation and promote payment of taxes. Nevertheless, the risk that VAT will be evaded in Guatemala is high and this situation applies both inside and outside protected areas.</p>
1.7 Income and profit taxes	<b>Applicable laws and regulations</b>  GENERAL LEGISLATION	Government sources: • Current Situation of Income Tax, Tax expense, Non-Compliance and Perspectives (Impuesto Sobre la Renta	Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>1. Decree 26-92 Income Tax Law and reconciled regulations (governmental resolution 206-2004) (Decreto 26-92. Ley del impuesto sobre la renta y reglamento concordado (acuerdo gubernativo 206-2004)). Date of publication: 22 July 2004: <a href="http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/620-ley-de-isr-y-reglamento-concordado.html">http://portal.sat.gob.gt/sitio/index.php/component/docman/doc_download/620-ley-de-isr-y-reglamento-concordado.html</a></p> <p>2. Decree number 10-2012 Law to Update Taxes (Decreto número 10-2012. Ley de actualización tributaria). Date of publication: 16 February 2012: <a href="http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html">http://portal.sat.gob.gt/sitio/index.php/leyes/impuestos/leyes-y-reglamentos.html</a></p> <p><b>Legal Authority</b></p> <p>The Superintendency of Tax Administration (SAT) is in charge of verifying issuance of the corresponding invoices at the national level. <a href="http://portal.sat.gob.gt/sitio/">http://portal.sat.gob.gt/sitio/</a></p> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>• Issuance of accounting invoices for trading timber products (Reglamento para el transporte de productos forestales y su procedencia lícita- Regulations for transportation of forest products and their legal origin).</li> <li>• Declaration of the corresponding taxes to SAT (Ley del impuesto sobre la renta y reglamento concordado- Income Tax Law and reconciled regulations).</li> </ul>	<p>Situación Actual, Gasto Tributario, Incumplimiento y Perspectivas). 2011. Accessed on 23 February 2016 at: <a href="http://portal.sat.gob.gt/sitio/index.php/leyes/doc_download/2996-gt-isr.html">http://portal.sat.gob.gt/sitio/index.php/leyes/doc_download/2996-gt-isr.html</a></p> <p>Non-Government sources:</p> <ul style="list-style-type: none"> <li>• Prensa Libre. 2015. ICEFI states that evasion of VAT and Income Tax (ISR) exceeds 40% (ICEFI asegura que evasión del IVA e ISR supera el 40%). Accessed on 23 February 2016 at: <a href="http://www.prensalibre.com/presentan-plan-para-rescatar-a-la-sat-tras-fraude-fiscal">http://www.prensalibre.com/presentan-plan-para-rescatar-a-la-sat-tras-fraude-fiscal</a></li> </ul> <p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with taxes on income and profits.</p>	<p>by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree number 10-2012 Law to update taxes (Decreto número 10-2012. Ley de actualización tributaria):</p> <p>A tax is decreed on all income obtained by individuals and legal persons, entities or estates that are specified in this law, whether they are citizens or foreigners, residents or non-residents in this country, whether domiciled or not in this country. The tax is generated every time that taxable income is produced and is determined in accordance with the provision of this law (Art. 1).</p> <p>The following types of income obtained by passive subjects are taxed, according to their sources:</p> <ol style="list-style-type: none"> <li>1. Income from profit-making activities;</li> <li>2. Income from work;</li> <li>3. Income from capital and earnings from capital.</li> </ol> <p>Without prejudice to the general provisions, the regulations corresponding to each income category are established and the tax is to be paid separately in accordance with each of the titles of this law. Income obtained by non-resident taxpayers is taxed in accordance with the categories</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>indicated in this article and the provisions contained in Title V of this law (Art. 2).</p> <p>Considering that Art. 3 (scope of application) indicates that income obtained throughout all of the nation's territory is subject to the tax, and is defined in accordance with what is set forth in the Political Constitution of the Republic of Guatemala, as well as income from capital obtained abroad by residents of Guatemala, as indicated in Art. 3, its applicability to trade in timber is clear.</p> <p>Description of risk  In Guatemala, income tax (ISR) applies to trade in timber. The risk profile relating to ISR is very similar to that for VAT, since when an accounting invoice is issued both taxes must be paid. The situation explained in the previous indicator (VAT), in which it is permissible to use the invoice as the transportation document when the volume to be transported, generated in a forest industry, is less than one cubic metre, also applies to ISR. Over one cubic metre, it is necessary to use the enterprise's shipping note as the transportation document (based on expert consulted).</p> <p>Therefore, the risk occurs with non-issuance of invoices when timber is traded, by which both taxes are evaded (VAT and ISR). There is no interinstitutional coordination (corroborated by stakeholders) to put INAB on the same line</p>

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			<p>(through its oversight of forests), because it is governed by different legislation.</p> <p>One of the tools that was useful in increasing collection in 2010 was a favourable decision by the Constitutionality Court in favour of the Tax Administration to require externally-audited financial statements from taxpayers under this regime.</p> <p>The whole subject of (ISR) will be discussed later in connection with industrialisation of timber from natural forests (both inside and outside protected areas); nonetheless, it is important to mention that voluntary plantations are exempt and can export roundwood without applying income tax (ISR).</p> <p>Recent journalistic reports indicate that up to 67% of income tax owing in Guatemala is evaded (source: Siglo 21, 2014). Considering the evasion disclosed officially and by journalistic sources, the risk that income tax will be evaded is considered to be high. In addition, the interviewed experts in Guatemala agree with the opinion that evasion of taxes such as VAT and ISR is very common.</p>
<b>Timber harvesting activities</b>			
1.8 Timber harvesting	<b>Applicable laws and regulations</b>	Government sources • INAB. 2014. Annual Report (Memoria de Labores) Accessed on 23 February 2016 at:	Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or

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regulations	<p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>1. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its Appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter II Requirements for submitting applications for authorisation of harvesting of wild timber flora in protected areas (Commercial Forest Management Plans – Authorisation for Non-Commercial Forest Harvesting) (Capítulo II Requisitos para presentar solicitudes de autorización de aprovechamientos de flora silvestre maderable dentro de áreas protegidas (Planes de Manejo Forestal Comercial - Autorización para Aprovechamiento Forestal no Comercial)): <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>4. Resolution 01-43-2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal). Date of Publication: 06 December 2005.</p> <ul style="list-style-type: none"> <li>Chapter VI Harvesting, management and industrialisation (Capítulo VI Aprovechamiento, manejo e industrialización), Articles 40 to 55: <a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf</a></li> </ul> <p>5. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin. (Resolución</p>	<p><a href="http://www.inab.gob.gt/Documentos/Publicaciones/Memoria_de_Labores_2014.pdf">http://www.inab.gob.gt/Documentos/Publicaciones/Memoria_de_Labores_2014.pdf</a></p> <ul style="list-style-type: none"> <li>INAB. 2010. Interinstitutional action plan for prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en Guatemala). Accessed on 22 February 2016 at: <a href="http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx">http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx</a></li> <li>INAB. 2016. Manual of Criteria and parameters - Probosque (Manual de Criterios y parámetros – Probosque) Accessed on 18 January 2018 at: <a href="http://186.151.231.170/inab/images/descargas/formatosprobosques/Manual%20de%20Criterios%20y%20Par%20C3%A1metros%20-%20PROBOSQUE%20-.pdf">http://186.151.231.170/inab/images/descargas/formatosprobosques/Manual%20de%20Criterios%20y%20Par%20C3%A1metros%20-%20PROBOSQUE%20-.pdf</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>FAO. 2002. Current status of information about forest management (Estado actual de la información sobre manejo forestal). Accessed on 22 February 2016 at: <a href="http://www.fao.org/docrep/006/ad402s/AD402s08.htm">http://www.fao.org/docrep/006/ad402s/AD402s08.htm</a></li> <li>INAB, CONESFORGUA, IARNA-URL, FAO. 2015. Diagnosis and analysis of illegality in harvesting and trading forest products in Guatemala (Diagnóstico y análisis sobre la ilegalidad en el aprovechamiento y comercialización de productos forestales en Guatemala). (Document prepared by César Augusto</li> </ul>	<p>are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>In Chapter II (Authorisation of Harvestings of Wild Timber Flora in Protected Areas) (Autorización de Aprovechamientos de Flora Silvestre Maderable dentro de Áreas Protegidas), this resolution establishes, among the requirements for submitting applications for authorisation of harvesting of wild timber flora in protected areas, and in section “A”, requirements for submitting applications for authorisation of forest management plans for commercial purposes, item c), this resolution establishes that: certification of registration of ownership of the real property covered by the application shall be provided with its corresponding map. The certification must have been obtained within a period of no more than three months before the date of its presentation. If the real property does not have a registration in the property registry, the applicant must submit:</p> <p>a) Certification issued by the competent municipal authority that confirms possession of the real property and, if applicable, testimony in public deed in which possession is confirmed, or,</p>

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	<p>No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita) - describes the actions following forest harvesting outside of protected areas. Date of publication: 11 April 2014:  <a href="http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf</a></p> <p>6. Technical Considerations and Proposed Forest Management Rules for Conservation of Soil and Water. (Consideraciones Técnicas y Propuesta de Normas de Manejo Forestal para la Conservación de Suelo y Agua). Date of publication: 2013. Describes the technical aspects to be considered at the time of forest harvesting (especially for protection of the soil and water):  <a href="http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf">http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf</a></p> <p>7. Resolution No. JD 03.31.2014 Regulations for the forest incentives programme (Resolución No. JD 03.31.2014 Reglamento del programa de incentivos forestales). Describes the way in which the law on forest incentives will be applied, payment amounts, and incentive categories, among others. Date of publication: 26 September 2014:  <a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20PINFOR.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20PINFOR.pdf</a></p> <p>8. Resolution No. JD 03.43.2005 Regulations for forest managers (Resolución No. JD 03.43.2005 Reglamento para regentes forestales). Date of publication: 06 December 2005:  <a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_Regentes_Forestales.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_Regentes_Forestales.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): Handles everything related to forest</li> </ul>	<p>Sandoval García, within the framework of the project: “Strengthening governance as a function of the Interinstitutional Plan of Action for the Prevention and Reduction of Illegal Logging in Guatemala and socialization of the country’s opportunities to participate in the initiative on international forest legality Guatemala” (Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional Guatemala – FLEGT) UE FAO FLEGT / CONESFORGUA / INAB. Accessed on 22 February 2016 at:  <a href="http://www.academia.edu/15233258/Diagnostico_de_tala_ilegal_en_Guatemala">http://www.academia.edu/15233258/Diagnostico_de_tala_ilegal_en_Guatemala</a></p> <ul style="list-style-type: none"> <li>INAB, CONESFORGUA, IARNA-URL, FAO. 2015. Identification of the principal limitations and opportunities for participating in international legality schemes (Identificación de las principales limitantes y oportunidades de participar en esquemas de legalidad internacional). (Document prepared by César Augusto Sandoval García, within the framework of the project: “Strengthening governance as a function of the Interinstitutional Plan of Action for the Prevention and Reduction of Illegal Logging in Guatemala and socialization of the country’s opportunities to participate in the initiative on international forest legality Guatemala” (Fortalecimiento de la gobernanza en</li> </ul>	<p>b) A legalised photocopy of testimony of the lease contract for the real property covered by the application for forest management.</p> <p>2. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>For INAB, forest harvesting licences (Art. 40) are the authorisations for harvesting a forest, whether or not for commercial purposes, whose objective is to implement forest management plans, either for scientific, production, protection, health or salvaging purposes. These licences shall be granted by INAB, when appropriate, through the Manager of Regional Directors, in the country’s different forest regions.</p> <p>When the Forest Management Plan is approved, INAB will issue a forest harvesting licence to the user which must contain the information required in the licence form approved by INAB (Art. 41).</p> <p>Finally, Art. 43 deals with cancellation of licences and the associated procedure (Art. 44), as well as the process for finalising licences (Art. 45).</p> <p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita)</p>

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	<p>establishment, management and harvesting in the various management categories in protected areas. Point 1. <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></p> <ul style="list-style-type: none"> <li>National Forest Institute (Instituto Nacional de Bosques – INAB): Handles everything related to forest establishment, management, harvesting and incentives and oversight of forest enterprises. Points 2 to 6. <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>For CONAP: Forest management plan adhering to the respective rules, depending on the area and initial environmental form (subsequent to the management plan, an Annual Operating Plan--AOP (Plan Operativo Anual—POA) must be submitted); harvesting and trading licence for wild timber for products in protected areas is issued.</li> <li>For INAB: Forest management plan (depending on the area applied for); in addition, once the management plan has been authorised, an Annual Operative Plan (Plan Operativo Anual--POA) is required. Finally, the Forest Licence is granted.</li> </ul>	<p>función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional (-FLEGTI). Guatemala, UE FAO FLEGT / CONESFORGUA / INAB.</p> <p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation, and the risks associated with the rules for forest harvesting.</p>	<p>This resolution describes the rules for the various types of forest harvesting outside protected areas:</p> <ul style="list-style-type: none"> <li>Art. 31. Licence for forest health.</li> <li>Art. 32. Licence for salvaging.</li> <li>Art. 33. Licence for salvaging in case of a forest fire.</li> <li>Art. 36. Licences for change of use.</li> </ul> <p>4. Technical Considerations and Proposed Forest Management Rules for Conservation of Soil and Water</p> <p>This technical manual describes the principal matters related to:</p> <ul style="list-style-type: none"> <li>Forest protection zones around bodies of water;</li> <li>Rules to define a protection zone around a body of water;</li> <li>The criteria for forest management and soil and water conservation practices outside of forest protection zones for bodies of water; and</li> <li>Rules for forest management and soil and water conservation outside protection zones for bodies of water.</li> </ul> <p>This is for general application in zones not protected by INAB.</p> <p>The INAB develop a Manual with Criteria, and parameters to consider depending on the type of forest (source: INAB 2016).</p> <p>On the source, it can be found the description of criteria for each type of</p>

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			<p>forest: forest plantation, agroforestry system, management natural forest.</p> <p>Example is: Minimum cutting diameter (DMC) will depend on the species and its justification technique. The minimum diameter of measurement will be a function of the species of interest, the market and the commercial objective of the use. (other criteria can be found on the link of source of information listed above).</p> <p>5. Resolution No. JD 03.43.2005 Regulations for forest managers (Resolución No. JD 03.43.2005 Reglamento para regentes forestales)</p> <p>The purpose of these regulations is to establish the rules for Forest Managers' technical, administrative and legal activities, defining their duties, rights and obligations in order to ensure their proper participation in forest activities within the framework of Legislative Decree number 101-96, Forest Law (Art. 1).</p> <p>The Forest Law establishes categories of Managers depending on the nature and size of the harvesting (Art. 3).</p> <p>The duties and obligations of the Forest Manager are:</p> <p>a) Preparation and signing of the Annual Operating Plans covered in the respective Forest Management Plans approved by INAB;</p>

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			<p>b) Directing and verifying performance of the forest activities covered in the Forest Management Plans and/or Annual Operating Plans approved by INAB;</p> <p>c) Using the forms, rules and procedures approved and disseminated by INAB; and</p> <p>d) Preparation and presentation of modifications to the Forest Management Plans and/or Annual Operating Plans and other forest studies approved by INAB, among others (Art. 4).</p> <p>Description of risk In accordance with the action plan for the prevention and reduction of illegal logging in Guatemala (source listed on the previous column), it has been established that illegal harvesting causes environmental deterioration of forests, and leads to disrespect for the current laws and authorities, thus contributing to non-governability.</p> <p>INAB, CONESFORGUA, IARNA-URL and FAO (Diagnosis and analysis of illegality in harvesting and trading forest products in Guatemala (Diagnóstico y análisis sobre la ilegalidad en el aprovechamiento y comercialización de productos forestales en Guatemala) indicate, with regard to application of environmental justice in Guatemala, that the weak application of environmental regulations is linked to a lack of knowledge about the administrative and judicial processes established. Some</p>

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			<p>limitations preventing prosecutions that result in a sentence lie in the Judicial Organism (JO) itself, attributed to ignorance of the environmental legislation on the part of judges and the high turnover of Justices of the Peace, judges of the first instance and sentencing judges. In addition, the authors themselves, in their document "Identification of the principal limitations and opportunities for participating in international legality schemes" (Identificación de las principales limitantes y oportunidades de participar en esquemas de legalidad internacional), indicate that it is necessary to know in advance the willingness of the public sector, civil society and the private sector to become involved in a dialogue on forest legislation and rules that would allow them to propose profound changes directed towards certainty about the legality of timber produced in Guatemala.</p> <p>Some of the experts consulted said that the rules for harvesting are often seen as difficulties by people who are interested in carrying out forest management initiatives (they are seen as bureaucratic, not very accessible, and overly complex, both technically and legally). Further, it is the opinion of such would-be timber harvesters that the timetaken by government institutions to approving management plans is too long (especially in the case of CONAP, considering that it requires an environmental document that in turn must be reviewed by the Ministry of the</p>

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			<p>Environment and Natural Resources-MARN).</p> <p>Given the increase in the levels of uncontrolled traffic in forest products, it is consistent with a lack of institutional capacities (a generally held opinion in the interviews with INAB and CONAP employees) to directly control deforestation at forest sites. From this it can be deduced that there is an excess of bureaucracy involved in proceeding with forest management and harvesting. This becomes a disincentive for people interested in using the forest management authorisation mechanisms, especially in protected areas.</p>
1.9 Protected sites and species	<p><b>Applicable laws and regulations</b></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) Date of publication: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Title II On conservation of wild flora and fauna and their habitat Chapter I On the structure of protected areas Article 8 Management category (Título II De la conservación de la flora y fauna silvestre y de su hábitat Capítulo I De la conformación de las áreas protegidas Artículo 8. Categoría de manejo) Chapter III Conservation of wild flora and fauna, Article 23, Endangered flora and fauna (Capítulo III Conservación de la flora y fauna silvestre, Artículo 23. Flora y fauna amenazadas).</li> </ul>	<p>Government sources:</p> <ul style="list-style-type: none"> <li>INAB. 2010. Interinstitutional action plan for the prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en Guatemala). Accessed on 22 February 2016 at: <a href="http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx">http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx</a></li> <li>CONAP. 2013. Monitoring Governability of the Maya Biosphere Reserve (Monitoreo de la Gobernabilidad de la Reserva de la Biosfera Maya). Access on 23 February 2016 at: <a href="http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf">http://www.conap.gob.gt/images/doc/Informe_Gobernabilidad%20RBM_20150406.pdf</a></li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements:</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas)</p> <p>For optimal administration and management, protected areas are classified as: national parks, biotopes, biosphere reserves, multiple-use reserves, forest reserves, biologic reserves, springs, resource reserves, natural monuments, cultural monuments, scenic routes and</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>• Chapter III Conservation of wild flora and fauna, Article 24 List of endangered species. Article 23 Exportation of endangered species. Article 27 Regulation of endangered species (Capítulo III Conservación de la flora y fauna silvestre, Artículo 24. Listado de especies amenazadas, Artículo 23. Exportación de especies amenazadas, Artículo 27. Regulación de especies amenazadas).</li>   <li>• Title V On violations and sanctions Chapter I Misdemeanours and criminal offenses. Article 82 (Amended by Article 26 of Decree 110-96 by the Congress of the Republic) Illegal traffic in flora and fauna. (Título V De las infracciones y sanciones Capítulo I Faltas y delitos. ARTICULO 82. (Reformado por el Artículo 26 del Decreto 110-96 del Congreso de la República). Tráfico ilegal de flora y fauna): <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li>   <li>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011. Technical guidelines for sustainable forest managements: <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li>   <li>The manual is designed to set the rules for forest management (commercial and non-commercial) that takes place in all protected areas in Guatemala. It is organised into six chapters.</li>   <li>3. Law on Protection and Improvement of the Environment (Ley de Protección y Mejoramiento del Medio Ambiente). Date of publication: 05 December 1986.</li>   <li>• Title I, General objectives and scope of application of the law. Chapter I, Fundamental principles. Article 8 (Título I, objetivos</li> </ul>	<ul style="list-style-type: none"> <li>• List of endangered species in Guatemala—LEA and List of species of wild flora and fauna—CITES—in Guatemala (Lista de especies amenazadas de Guatemala –LEA- y listado de especies de flora y fauna silvestre --CITES de Guatemala). CONAP. 2009. Accessed on 23 February 2016 at: <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/27-flora.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/27-flora.html</a></li>   <li>• INAB-CONAP. 2012. Notice of launching of the Technical Report on the Forest Map by Forest Type and Sub-Type (Noticia del lanzamiento del Informe Técnico del Mapa Forestal por Tipo y Subtipo de Bosque). Accessed on 23 February 2016 at: <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/noticias/748-presentan-en-guatemala-mapa-de-cobertura-forestal-2012.html">http://www.conap.gob.gt/index.php/servicios-en-linea/noticias/748-presentan-en-guatemala-mapa-de-cobertura-forestal-2012.html</a></li>   <li>Non-Government sources: <ul style="list-style-type: none"> <li>• Asociación Balam. 2013. Diagnosis of the current status of illegal logging in southern Petén (Diagnóstico sobre el estado actual de la tala ilegal en el sur de Petén). Currently not available online; available on request by email to <a href="mailto:dtujillo@asociacionbalam.org">dtujillo@asociacionbalam.org</a></li> <li>• INAB, CONESFORGUA, IARNA-URL, FAO. 2015. Diagnosis and analysis of illegality in harvesting and trading forest products in Guatemala (Diagnóstico y</li> </ul> </li> </ul>	<p>roads, marine parks, regional parks, historic parks, wildlife refuges, natural recreational areas, private nature reserves, and others that may be established in the future with similar purposes, which will be integrated into the Guatemalan System of Protected Areas.</p> <p>Art. 23 indicates that it is considered urgent and a national necessity to rescue species of flora and fauna in danger of extinction or threatened and to protect endemic species, and Art. 24 indicates that the National Council for Protected Areas (CONAP) shall prepare an annual list of wild species of fauna and flora that are in danger of extinction in Guatemala.</p> <p>Regarding sanctions, Art. 82 (amended by Article 26 and Decree 110-96 by the Congress of the Republic) establishes that a penalty of five to ten years imprisonment and a fine of ten thousand to twenty thousand quetzals will be imposed on anyone who illegally transports, trades, markets or exports live or dead specimens, parts or derivatives from products of wild flora and fauna in danger of extinction, as well as endemic species and those included in the list of species in danger of extinction published by CONAP.</p> <p>In order to grant concessions for the harvesting and management of wild flora, forest resources, and forestation or reforestation in legally declared protected areas under its administration, CONAP</p>

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	<p>generales y ámbito de aplicación de la ley; Capítulo I, principios fundamentales. Artículo 8) Amended by Congressional Decree Number 1-93):  <a href="http://www.vertic.org/media/National%20Legislation/Guatemala/GT_Ley_Proteccion_Medio_Ambiente_68_86.pdf">http://www.vertic.org/media/National%20Legislation/Guatemala/GT_Ley_Proteccion_Medio_Ambiente_68_86.pdf</a></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>4. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal) Date of publication: 31 October 1996.</p> <ul style="list-style-type: none"> <li>Title I General provisions, Purpose and general policies Article 2. Application and enforcement of the law (Título I Disposiciones generales, Objeto y políticas generales Artículo 2. Aplicación y observancia de la ley).</li> <li>Chapter II On forest criminal offenses Article 99. Logging protected species of trees (Capítulo II De los delitos forestales Artículo 99. Tala de árboles de especies protegidas).</li> <li>Title X Transitory and derogatory provisions Single chapter, Article 109. Validity of licences granted previously (Título X Disposiciones transitorias y derogatorias Capítulo único, Artículo 109. Validez de las licencias otorgadas con anterioridad):  <a href="http://www.inab.gob.gt/Documentos/Legislacion/ley_forestal.PDF">http://www.inab.gob.gt/Documentos/Legislacion/ley_forestal.PDF</a></li> </ul> <p>5. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal), Date of publication 06 December 2005.</p> <ul style="list-style-type: none"> <li>Chapter II Land Use, Article 8. Administration of Protected Areas and other areas under INAB'S responsibility (Capítulo II Uso de la tierra, Artículo 8. Administración de las Áreas Protegidas y otras áreas bajo la responsabilidad del INAB).</li> </ul>	<p>análisis sobre la ilegalidad en el aprovechamiento y comercialización de productos forestales en Guatemala) (Document prepared by César Augusto Sandoval García, within the framework of the project: "Strengthening governance as a function of the Interinstitutional Action Plan for the Prevention and Reduction of Illegal Logging in Guatemala and socialization of the country's opportunities to participate in the international initiative on forest legality)" ("Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional--FLEGT)". Guatemala, UE FAO FLEGT / CONESFORGUA / INAB. Accessed on 22 February 2016 at:  <a href="http://www.academia.edu/15233258/Diagn%C3%B3stico_de_tala_ilegal_en_Guatemala">http://www.academia.edu/15233258/Diagn%C3%B3stico_de_tala_ilegal_en_Guatemala</a></p> <ul style="list-style-type: none"> <li>Prensa libre. Traffic in precious woods in Petén (Tráfico de maderas preciosas en Petén) August 2015:  <a href="http://www.prensalibre.com/guatemala/peten/persiste-traffic-de-maderas-preciosas">http://www.prensalibre.com/guatemala/peten/persiste-traffic-de-maderas-preciosas</a></li> <li>Prensa libre- Rosewood confiscated in Escuintla (Incautan rosul en Escuintla) October 2015:  <a href="http://www.prensalibre.com/guatemala/escuintla/roseto-secuestrado-en-escuintla">http://www.prensalibre.com/guatemala/escuintla/roseto-secuestrado-en-escuintla</a></li> </ul>	<p>shall seek technical assistance from an appropriate government or private agency in order to identify, sectorise, or contract for appraisal of the resources susceptible to this activity (Art. 37 of the regulations for the Law on Protected Areas (Ley de Áreas Protegidas).</p> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices. (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>The manual is designed to establish the rules for forest management (commercial and non-commercial) that takes place in all protected areas in Guatemala. In it, the technical rules for carrying out forest management in the various types of protected areas that exist in Guatemala (management categories) are given in detail, and in it establishes protection of protected species that are included in specific lists; CONAP's red list, for example, which shows species of flora and fauna in danger of extinction, CITES, protection with a legal basis (this is the true for sapodilla, (Manilkara zaporta – chicle), and others defined by forest management users. (Formats are given in the manual for preparing Management Plans and in these spaces are provided specifically for defining species to be protected.)</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>• Chapter VI Forest harvesting, management and industrialisation Article 53. Harvesting for family consumption (Capítulo VI Aprovechamiento, manejo e industrialización forestal Artículo 53. Aprovechamiento para consumo familiar): <a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf</a></p> <p><b>Legal Authority</b></p> <p>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): handles everything related to forest establishment, management and harvesting in the various management categories for protected areas. Points 1-2: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></p> <p>Ministry of the Environment and Natural Resources (Ministerio de Ambiente y Recursos Naturales – MARN): handles everything related to the presentation and development of environmental documents that accompany forest management plans in protected areas. Point 3: <a href="http://www.marn.gob.gt/">http://www.marn.gob.gt/</a></p> <p>National Forest Institute (Instituto Nacional de Bosques – INAB): handles everything related to Forest establishment, management, harvesting, incentives and oversight of forest enterprises. Points 4 and 5: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></p> <p><b>Legally required documents or records</b></p> <p>To be submitted to the National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): Forest Management Plans and AOP in which reference is made to location</p>	<p>uintla/decomisan-madera-ilegal-valorada-en-q2-millones-500-mil</p> <p>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with protected species and areas.</p>	<p>In Chapter II, the Resolution establishes among the requirements for presenting applications for authorisation of forest harvesting in protected areas, and in its Section “A”, item c), that the user must submit certification of registration of ownership of the real property covered by the application with the corresponding map. The certification must have been obtained within a period of no more than three months before the date of its presentation.</p> <p>3. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal)</p> <p>Art. 3 establishes that concessions and licences for harvesting forest resources in protected areas are granted exclusively by the National Council for Protected Areas through the corresponding contracts in accordance with the Law on Protected Areas and other applicable rules. In addition, Art. 99 (logging of protected species of trees) indicates that anyone who logs, harvests, debarks, cuts, rings or removes the crown of species of trees that are protected and in decline towards extinction that are contained in the international agreements to which Guatemala is a party and that are included in the legally approved national lists shall be sanctioned as follows according to the volume of timber affected:</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>in the protected area and protection of protected species. <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></p> <p>To be submitted to the National Forest Institute (Instituto Nacional de Bosques – INAB): The proposed Forest Management Plan must highlight the possibility of harvesting species protected by law (normally management plans include a list of mitigation measures that describe, when applicable, special zones in the territory— wetlands, archaeological sites and others). <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></p>		<p>a) From one to five hundred cubic metres of standing timber (1 to 500), a fine of from four hundred to ten thousand quetzals (Q400.00 to Q10,000.00).</p> <p>b) From five hundred and one cubic metres (501) of standing timber or more, from one to five (1 to 5) years imprisonment without parole and a fine from ten thousand to fifty thousand quetzals (Q10,000.00 to Q50,000.00).</p> <p>An exception is made for trees established by artificial regeneration.</p> <p>4. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>Art. 8 (Administration of Protected Areas and other areas under INAB's charge (Administración de las Áreas Protegidas y otras áreas bajo la responsabilidad del INAB)) establishes that in order to administer and manage protected areas and other areas that are administered by INAB, INAB may enter into agreements for joint administration with individuals or legal persons, which shall be approved by the Executive Board. In addition, Art. 53 (harvesting for family consumption) item d) establishes that the interested party assumes a commitment while carrying out the harvesting to safeguard the water sources and protected species, if any, within the limits indicated by INAB.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>5. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by legislative resolution No. 18-93 dated 17 November 1993)</p> <p>The Constitution establishes that conservation, protection and improvement of the Nation's natural heritage shall be declared to be in the Nation's interests. The State shall promote the creation of national parks, reserves and nature refuges, which are inalienable. A law shall guarantee their protection and that of the fauna and flora that exist in them (Art. 64). Description of risk</p> <p>According to the Forest Coverage Map of Guatemala (2012), approximately 3,711,366 hectares are forested (34 % of the nation's inland territory). Of this total, 51.9% is located in a protected area. In addition, the forests with the highest presence of commercial timber species, and therefore in a better state of conservation, are located in natural reserves (protected areas), which can be seen by comparing the present forest coverage with the map of the Guatemalan System of Protected Areas.</p> <p>The experts who were consulted have no doubts that the protected areas are generating a high percentage of logging of protected species (especially mahogany, cedar, rosewood, Jobillo wood (<i>Astronium Graveolens</i>) and others with a high</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>commercial value). They also added that the protected areas are very vulnerable to invasions and usurpation, so the State does not have the capacity to protect them.</p> <p>As to specific species, in recent years, attention has been drawn to the case of rosewood (<i>Dalbergia</i> sp.), in which there has been heavy trafficking to foreign countries. In this specific case, documents for similar species (manchiche – <i>Lonchocarpus castilloi</i> – for example) have been used in order to move it within the country and bring it to the point of exportation (see journalistic sources of information for the year 2015 in Petén and Escuintla).</p> <p>In addition, Asociación Balam reports that in the southern part of Petén Department (San Luis, Poptún and Dolores), 98% of the timber transported is illegal and comes mainly from the Chiqibul Mayas Montañas Biosphere Reserve (a protected area close to Belize). Outside the protected areas, illegal logging takes place mainly of species used as an energy source (firewood) and is normally of unprotected species.</p> <p>The risk of illegal harvesting of timber in protected areas and of protected species is therefore considered to be high.</p>
1.10 Environmental	<b>Applicable laws and regulations</b>	Government sources Ministry of the Environment and Natural Resources (Ministerio de Ambiente y	Risk conclusion This indicator has been evaluated as specified risk.

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
requirements	<p>CURRENT LEGISLATION</p> <p>GENERAL LESISLATION</p> <p>1. Decree number 68-86, Law on Protection and Improvement of the Environmental (Decreto número 68-86. Ley de protección y mejoramiento del medio ambiente). Date of publication: 05 December 1986.</p> <ul style="list-style-type: none"> <li>Regulates environmental impacts – for forest operations, there is a taxative list which classifies what type of environmental document is applicable (environmental impact assessment, initial environmental form, and environmental diagnosis, among others): <a href="http://www.vertic.org/media/National%20Legislation/Guatemala/GT_Ley_Proteccion_Medio_Ambiente_68_86.pdf">http://www.vertic.org/media/National%20Legislation/Guatemala/GT_Ley_Proteccion_Medio_Ambiente_68_86.pdf</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FOREST, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS</p> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Technical guidelines for sustainable forest management, Section “S” requirements for submitting applications for authorisation of forest management plans for commercial purposes.</li> <li>Technical documentation: This specifies the cases in which the files must be accompanied by an environmental document (initial environmental form or environmental impact assessment): <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul>	<p>Recursos Naturales) Work Memorandum. Accessed on 22 February 2016 at: <a href="http://www.marn.gob.gt/Multimedios/2745.pdf">http://www.marn.gob.gt/Multimedios/2745.pdf</a></p> <p>Non-Government sources: IARNA-URL. 2012. Environmental Profile of Guatemala 2010—2012 (Perfil Ambiental de Guatemala 2010 – 2012). Institute of Agriculture, Natural Resources and Environment of the Rafael Landívar University (Instituto de Agricultura, Recursos Naturales y Ambiente de la Universidad Rafael Landívar) (IARNA-URL) . Accessed on 25 March 2016 at: <a href="http://www.mineduc.gob.gt/portal/contenido/menu_lateral/programas/seminario/docs/13/PERFIL%20AMBIENTAL%20GUATEMALA%202010%202012.pdf">http://www.mineduc.gob.gt/portal/contenido/menu_lateral/programas/seminario/docs/13/PERFIL%20AMBIENTAL%20GUATEMALA%202010%202012.pdf</a></p> <p>Interviews with experts: Interviews with various experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with environmental requirements.</p>	<p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree number 68-86 Law on protection and improvement of the Environment (Decreto número 68-86. Ley de protección y mejoramiento del medio ambiente) Art. 8 (Amended by Decree of Congress Number 1-93) states that for any project, construction work, industry or any other activity which, because of its characteristics, could result in deterioration of natural resources, either renewable or not, or the environment, or bring about harmful or noticeable changes in the landscape and cultural resources that are a part of the nation’s heritage, it will be necessary before its execution to have an environmental impact assessment made by technicians in this field approved by the Environmental Commission. Any official who fails to demand the Environmental Impact study in accordance with this article will be personally responsible for failure to perform his or her duties, and also any private individual who fails to comply with this environmental impact study will be sanctioned with a fine of Q5,000.00 to Q100,000.00. In case this requirement is not met within a period of six months of assessment of the fine, the business will be closed until it is met.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>CURRENT LEGISLATION FOR NATURAL FOREST, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>3. Technical considerations and Proposed Forest Management Rules for Conservation of Soil and Water. Date of publication: 2013:  <a href="http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf">http://www.inab.gob.gt/Documentos/Manuales/MANEJOF.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>Ministry of the Environment and Natural Resources (Ministerio de Ambiente y Recursos Naturales – MARN): the government agency (ministry) that reviews everything related to environmental impact. Its forest link applies specifically to operations in protected areas and the document that must be submitted is dependent on their management category. Point 1: <a href="http://www.marn.gob.gt/">http://www.marn.gob.gt/</a></li> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): CONAP’s legislation establishes the need to submit an environmental document in order to be able to apply for harvesting. This environmental document is sent to MARN for its approval (prior to issuing the licence) Point 2: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National Forest Institute (Instituto Nacional de Bosques – INAB): the only case in which an environmental document must be submitted (outside of protected areas) is for authorisation of changes of land use. Point 3: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul>		<p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>In the manual for forest administration, various requirements are established for submitting applications for authorisation of management plans for commercial purposes, and the following figures among the technical aspects: “item f) For all applications for approval of Commercial Forest Management Projects and Plans, the environmental assessment document must be presented as required to the Ministry of the Environment and Natural Resources” (Taxative List of Projects, Construction Works, Industries or Activities).</p> <p>3. Technical Considerations and Proposed Rules for Forest Management for Conservation of Soil and Water</p> <p>The technical manual belongs to INAB (and applies outside protected areas). It contains forest protection zones around bodies of water and the criteria for forest management and practices for conservation of soil and water outside the forest protection zones for bodies of water.</p> <p>Description of risk  MARN’s annual report 2015, specifically the report by the Directorate of Legal</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>• For the Ministry of the Environment and Natural Resources (Ministerio de Ambiente y Recursos Naturales – MARN): resolution on approval of the environmental document submitted (environmental impact assessment or initial environmental form, among others).</li> <li>• For the National Council on Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): licence for harvesting and trading wild flora timber products in protected areas.</li> <li>• For the National Florets Institute (Instituto Nacional de Bosques – INAB): forest licence.</li> </ul>		<p>Compliance, indicates that, in compliance with the Law on Protection and Improvement of the Environment, Decree 68-86, Article 30 and Article 16 (item d) of Governmental Resolution number 50-2015 (Internal Organic Regulations for the Ministry) (Reglamento Orgánico Interno del Ministerio), in the year 2015 it received, and attended with due diligence to, a total of 1,787 environmental complaints. Of this total, 868 decisions have been issued and notified containing a sanction (a fine) and/or the obligation to present the environmental document previously approved by the Ministry.</p> <p>Several experts consulted on this point expressed the opinion that there are violations of to do with the implementation of environmental requirements; only very basic management of environmental impacts is practised. Only management units that have a forest certification (as is the case in the ZUM-RBM) take into account the environmental requirements (protection of water sources, management of chemical products, protection of the soil, and use of heavy machinery in forest operations, among others). The rest of the country implements only generalities, since they are not certified and because very little monitoring is done by the government agencies in charge of following up such matters). This situation is due especially to the fact that environmental requirements in protected areas are only a requirement because the oversight institution (MARN)</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>does not have the capacity to monitor their implementation in the field. Outside protected areas, preparation of an EIA is required only for a change in land use.</p> <p>Unfortunately, there is no specific information for forests. However, on consulting technical personnel from INAB and CONAP, it appears that there is a high level of non-compliance with the environmental rules, especially because most operations are illicit and it is thus not possible to gather accurate information on them.</p>
1.11 Health and safety	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by Legislation Resolution No. 18-93 dated 17 November 1993). Date of publication: 31 May 1985.</p> <ul style="list-style-type: none"> <li>• Chapter II Social Rights, Section One, Family Article 51, Protection of minors and the elderly (Capítulo II Derechos sociales, Sección primera, Familia Artículo 51. - Protección a menores y ancianos).</li> <li>• Section Three Indigenous Communities Article 69 Movement of workers and their protection (Sección tercera Comunidades indígenas Artículo 69.- Traslación de trabajadores y su protección).</li> <li>• Section Seven Health, safety and social welfare Article 93. Right to health. Article 94 Obligation of the State on health and social welfare. (Sección séptima Salud, seguridad y asistencia</li> </ul>	<p>Government sources None found.</p> <p>Non-Government sources:</p> <ul style="list-style-type: none"> <li>• FAO. Current situation and trends in the forest sector (Situación actual y tendencias del sector forestal). Accessed on 22 February 2016 at: <a href="http://www.fao.org/docrep/007/j3029s/j3029s07.htm">http://www.fao.org/docrep/007/j3029s/j3029s07.htm</a></li> </ul> <p>Interviews with experts: Interviews with various experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with safety and health.</p>	<p>Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements: 1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala (Amended by Legislative Resolution No. 18-93 dated 17 November 1993)</p> <p>The Constitution indicates that the State shall protect the physical, mental and moral health of minors and the elderly. It shall guarantee their right to food, health, education and safety and social welfare (Art. 52 – Protection of minors and the elderly (Art. 51 – Protección a menores y</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>social Artículo 93.- Derecho a la salud, Artículo 94.- Obligación del Estado, sobre salud y asistencia social):  <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></p> <p>2. Decree Number 1441. Guatemalan Labour Code (Decreto Número 1441. Código del trabajo de Guatemala). Date of publication: 29 April 1971.</p> <ul style="list-style-type: none"> <li>Title Five Health and safety on the job. Single chapter Health and safety on the job. Article 197. Minimum mandatory obligations for the employer. (Título Quinto Higiene y seguridad en el trabajo, Capítulo único Higiene y seguridad en el trabajo, Artículo 197. Medidas mínimas obligatorias para el empleador).</li> <li>Article 201. Unhealthy and hazardous jobs, installations and industries (Artículo 201. Labores, instalaciones e industriales insalubres y peligrosas):  <a href="http://www.ilo.org/dyn/travail/docs/2072/CODIGO_DE_TRABAJO_DE_GUATEMALA_SEPT2011.pdf">http://www.ilo.org/dyn/travail/docs/2072/CODIGO_DE_TRABAJO_DE_GUATEMALA_SEPT2011.pdf</a></li> </ul> <p>3. Governmental Resolution 229-2014, (Acuerdo Gubernativo 229-2014). Date of publication: 23 July 2014.</p> <ul style="list-style-type: none"> <li>This resolution specifies the obligations of the employer, the worker, and the minimum necessary conditions of occupational health and safety on the job. In total, there are 559 articles referring to means of protection, obligations and specifications for different types of work performed in Guatemala and the aspects to be taken into consideration in regulating occupational health and safety (however, none of them deals specifically with forests):  <a href="http://www.igssgt.org/ley_acceso_info/pdf/pdf2014/inciso6/acdo_229_2014.pdf">http://www.igssgt.org/ley_acceso_info/pdf/pdf2014/inciso6/acdo_229_2014.pdf</a></li> </ul>		<p>ancianos). In addition, Art. 90 (right to health) states that being in good health is a fundamental human right, with no discrimination whatsoever, and that the State shall guard the health and social welfare of all its inhabitants. Through its institutions, it shall carry out actions for the prevention, promotion, recovery, rehabilitation, coordination, and relevant complementary actions, in order to provide complete physical, mental and social wellbeing for them (Art. 94).</p> <p>2. Decree Number 1441 Guatemalan Labour Code (Decreto Número 1441. Código del trabajo de Guatemala)</p> <p>This decree establishes, as the minimum mandatory measures to be taken by the employer (Art. 197, item g), that all employers are required to adopt the necessary precautions to effectively protect the lives, safety and health of workers during their work. For this purpose, employers must adopt measures intended to warn the worker of any hazards to their health and safety associated with their work.</p> <p>This decree also indicates that unhealthy work, installations or industries are those that, because of their nature, or due to the materials used, produced, or released or due to solid, liquid or gaseous residues, can create conditions capable of threatening or damaging the health of workers. Hazardous work, installations or</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social – MINTRAB): <a href="http://www.mintrabajo.gob.gt/">http://www.mintrabajo.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>For the Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social– MINTRAB): the regulations on occupational health and safety are generic and apply to all labour categories in Guatemala. There is no specific section on forestry (covered under farming and industry provisions): <a href="http://www.mintrabajo.gob.gt/">http://www.mintrabajo.gob.gt/</a></li> </ul>		<p>industries are those that harm or can harm immediately and seriously the lives of workers, either because of their nature, or because of the materials used, produced or released, or solid, liquid or gaseous residues; or by storage of toxic, corrosive, inflammable or explosive substances in any form. The regulations shall determine which jobs are unhealthy, which are hazardous, and the substances of which production is prohibited or restricted or subject to certain requirements, and, in general, all the rules that these activities must follow (Art. 201).</p> <p>3. Governmental resolution 229-2014 Occupational health and safety regulations (Acuerdo Gubernativo 229-2014. Reglamento de salud y seguridad ocupacional)</p> <p>The purpose of this resolution is to regulate general occupational health and safety conditions in which workers for private employers, the State, municipalities and autonomous institutions perform their work, for the purpose of protecting their lives, health and safety while they provide their services (Art. 1).</p> <p>Every employer or its representative (Art. 4), intermediary or contractor must adopt occupational health and safety measures and put them into practice in the work place, in order to protect the lives, health and safety of their workers, especially with regard to:</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>a) Work operations and processes;  b) Supplying and maintaining their personal protection equipment;  c) Buildings, installations and environmental conditions; and  d) Installation and maintenance of barriers, protections, and emergency systems for machinery, equipment and installations.</p> <p>Description of risk  Unfortunately, in Guatemala there are no official or extra-official reports about job health and safety conditions in forestry; however, most forest operations (especially those that have no link to forest certification processes) fail to comply with the minimum measures established to protect workers' safety and health (drawn from opinions of interviewees).</p> <p>Health and safety regulations are in effect, but their implementation is still far off, and even more so the capacity to monitor their enforcement. According to the experts consulted, labour contracts that govern forest operations (which is fundamental) are violated, and this triggers a series of other legal and labour violations. Initiatives by companies to comply with occupational safety measures are just beginning and most of them avoid basic procedures such as registering their employees in the Guatemalan Social Security System (IGSS). Once again, forest management initiatives in natural forests and certified plantations are the only ones that make an</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>effort to keep this subject active and to include basic safety measures for their workers. (It is important to mention that the certification standard requires this specifically.)</p> <p>It is also necessary to take into account the opinions of other experts that forest activities can be considered high risk, considering that forestry involves operating heavy machinery (skidders, band tractors and forklifts, among others) and power saws in the field, and sawmills in industry.</p> <p>In the field it is common to see equipment being used, such as power saws, without the necessary measures for their safe use being taken (in spite of the fact that this is covered in the official regulations established by Decree 229-2014).</p>
1.12 Legal employem ent	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Decree Number 1441. Guatemalan Labour Code (Decreto Número 1441. Código del trabajo de Guatemala). Date of publication: 29 April 1971.</p> <ul style="list-style-type: none"> <li>• Title One Single Chapter General Provisions. (Título primero Capítulo único Disposiciones Generales).</li> <li>• Article 2. Employer. Definition (Artículo 2. Empleador. Definición).</li> </ul>	<p>Government sources None found.</p> <p>Non-Government sources:</p> <ul style="list-style-type: none"> <li>• Velásquez Ochoa, W.I. 2006. Written individual labour contract and the legal consequences when there is none (Contrato individual de trabajo escrito y sus consecuencias jurídicas al no realizarlo). Law School, USAC. (Facultad de Derecho. USAC). Accessed on 22 February 2016 at: <a href="http://biblioteca.usac.edu.gt/tesis/04/04_5709.pdf">http://biblioteca.usac.edu.gt/tesis/04/04_5709.pdf</a></li> <li>• CODECA. 2013. Labour situation of agricultural workers in Guatemala</li> </ul>	<p>Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements 1. Decree Number 1441 Guatemalan Labour Code (Decreto Número 1441. Código del trabajo de Guatemala).</p> <p>This decree states that discrimination on the basis of race, religion, political beliefs or economic situation is prohibited in social</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>• Article 2. Worker. Definition (Artículo 2. Trabajador. Definición).</li> <li>• Article 2. Freedom to work (Artículo 2. Libertad de trabajo).</li> <li>• Article 14. Principle of equality (Artículo 14. Principio de igualdad).</li> <li>• Article 22. Inclusion of guarantees and minimum rights. (Artículo 22. Inclusión de garantías y derechos mínimos).</li> <li>• Article 25. Types of individual contracts (Artículo 25. Clases de contrato individual).</li> <li>• Article 28. Written contract. Formalities (Artículo 28. Contrato escrito. Formalidades).</li> <li>• Article 150. Authorisation of the IGT: exceptional cases (minors) (Artículo 150. Autorización de la IGT: casos excepcionales (menores de edad)).</li> <li>• Attachment: List of International Labour Organization agreements ratified by Guatemala, classified by subjects</li> <li>• Article 10. Prohibition of forced labour: <a href="http://www.ilo.org/dyn/travail/docs/2072/CODIGO_DE_TRABAJO_DE_GUATEMALA_SEPT2011.pdf">http://www.ilo.org/dyn/travail/docs/2072/CODIGO_DE_TRABAJO_DE_GUATEMALA_SEPT2011.pdf</a></li> </ul> <p>2. Decree 295 Organic law on the Guatemalan Social Security Institute (Decreto 295. Ley orgánica del instituto guatemalteco de seguridad social) Date of publication: 30 October 1946</p> <ul style="list-style-type: none"> <li>• Chapter III, Field of application; Article 27: <a href="http://www.igssgt.org/ley_acceso_info/pdf/1LeyOrganica295.pdf">http://www.igssgt.org/ley_acceso_info/pdf/1LeyOrganica295.pdf</a></li> </ul>	<p>(Situación laboral de trabajadores/as agrícolas en Guatemala). Accessed on 22 February 2016 at: <a href="http://www.albedrio.org/htm/documentos/CODECASituacionLaboral.pdf">http://www.albedrio.org/htm/documentos/CODECASituacionLaboral.pdf</a></p> <p>Interviews with experts: Interviews with various experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with legal employment.</p>	<p>welfare, educational, cultural, entertainment or commercial establishments that function for the use or benefit of workers in companies or workplaces that are private property or in those that the State creates for workers in general. The access that workers may have to the establishments referred to in this article may not be conditional upon the amount of their wages nor the importance of the positions they hold (Art. 14 bis).</p> <p>The Decree also establishes that it should be understood that all individual labour contracts include at least the guarantees and rights granted to workers by the Constitution, this Code, its regulations and other labour or social welfare laws (Art. 22).</p> <p>It also indicates (Art. 25) that individual labour contracts may be:</p> <ol style="list-style-type: none"> <li>a) For an indefinite period of time, when a termination date is not specified;</li> <li>b) For a fixed term, when a date for its termination is specified or when the occurrence of some happening or circumstance is foreseen, such as the conclusion of a construction works project that will necessarily bring the labour relationship to an end (in this second case, the worker's activity that is the reason for the contract should be taken into account, and not the result of the construction works project); and</li> <li>c) For a given construction works project, when the price of the worker's</li> </ol>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social – MINTRAB): <a href="http://www.mintrabajo.gob.gt/">http://www.mintrabajo.gob.gt/</a></li> <li>Guatemalan Social Security Institute (Instituto Guatemalteco de seguridad social – IGSS): <a href="http://www.igssgt.org/">http://www.igssgt.org/</a></li> </ul> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>For the Ministry of Labour and Social Welfare: labour contracts, wage book. (Ministerio de Trabajo y Previsión Social: Establecimiento de contratos laborales, libro de salarios).</li> <li>For the Guatemalan Social Security Institute: confirmations of payment to the IGSS, the IGSS organisational table, IGSS carnet for workers.</li> </ul>		<p>services is adjusted globally or on a fixed-sum basis, from the start of the work until its conclusion, taking into account the results of the work, that is, the work performed. Even if the worker receives advance payments on account of the work performed or to be performed, the individual labour contract must be understood to be for a given job performed, always provided that the conditions indicated in the previous paragraph are met.</p> <p>The Decree also deals, in Article 147, with the work of women and minors, indicating that the work of women and minors must be appropriate, especially to their age, conditions or physical status and intellectual and moral development. In addition, Article 148 prohibits: working in places that are unhealthy or hazardous for men, women or minors; night-time work and overtime work for minors; daytime work for minors in bars or other similar establishments in which alcoholic beverages are sold, and work for minors under the age of fourteen.</p> <p>Further, Article 116 indicates that the actual normal daytime working day may not be longer than eight hours per day, nor exceed a total of forty-eight hours per week. The normal length for night-time work may not be more than six hours per day, nor exceed a total of thirty-six hours per week.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>Actual working time is the time that the worker remains at the orders of the employer. Daytime work is work performed between six o'clock a.m. and six o'clock p.m. on the same day. Night-time work is work performed between six o'clock p.m. and six o'clock a.m. of the following day. For the exclusive purpose of payment of wages, normal weekly daytime work shall be forty-five hours per week. An exception to this provision is made for agricultural and livestock workers and those in companies where fewer than ten people are working, whose normal weekly daytime work shall be forty-eight hours of actual work, or a shorter period under circumstances more favourable for the worker. This exception should not be extended to agricultural enterprises where five hundred or more workers are employed.</p> <p>2. Decree 295 Organic Law for the Guatemalan Social Security Institute (Decreto 295. Ley orgánica del instituto guatemalteco de seguridad social)</p> <p>This decree indicates that all inhabitants of Guatemala that are an active part of the process of production of articles or services are required to contribute to maintaining the Social Security system in proportion to their income, and have the right to receive benefits for themselves or their family members who depend on them economically, to the extent and of the quality of said benefits that are compatible</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>with the minimum protection that social interest and stability require should be granted to them (Art. 27).</p> <p>Description of risk The fundamental basis of the risk observed in Guatemala is the non-existence of labour contracts. According to Velásquez Ochoa (2006), failures to enter proper labour contract with workers shows that the principle of protection for the worker is being violated, in spite of the fact that said principle is one of the most specific and fundamental to the country's labour laws. Similarly, the principle of good faith and trust, which is implicit in the law, is violated. Velásquez Ochoa also indicates that the failure to create a contract, in most cases, is due to the greed of one of the parties and the ignorance and desperation of the other.</p> <p>CODECA (2013), discusses the following matters in its report on the agricultural labour situation in Guatemala:</p> <ol style="list-style-type: none"> <li>1. Verbal contracts and violation of rights. (76% of contracts are verbal and that 92% do not have personal protection equipment.)</li> <li>2. That the eight-hour working day is an unknown privilege.</li> <li>3. Arbitrary tasks and labour exploitation.</li> <li>4. That many overtime hours are not remunerated.</li> <li>5. That vacations, as well as year-end bonuses, are almost non-existent.</li> </ol>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>6. The lack of a minimum wage.</p> <p>7. That Bonus 14 is unknown. (It was established in Decree 42-92 by the Congress of the Republic of Guatemala, known as the Yearly Bonus Law for Workers in the Private and Public Sectors, and represents one additional month's salary per year.)</p> <p>8. Absence of unskilled labourers from Social Security.</p> <p>9. That women work more, but always earn less.</p> <p>10. That there is no right to maternity leave on farms.</p> <p>11. That children of school age go to work on farms.</p> <p>Although the CODECA study is specific to agricultural work, it describes the normal situation throughout rural areas in Guatemala.</p>
<b>Third parties' rights</b>			
<p>1.13 Customary rights</p>	<p><b>Applicable laws and regulations</b></p> <p>In the Political Constitution of the Republic, no reference is made to customary rights as such; instead, the Constitution establishes the concept of indigenous populations, as is described in its Arts. 66 to 69.</p> <p>There is no specific law on customary rights, so this indicator does not apply in this document; it will be reviewed in category 2 of FSC Controlled Wood, below.</p> <p>GENERAL LEGISLATION</p>	<p>Government sources None found.</p> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>• Pérez García. C.E. 2007. Customary Indigenous Law in the Ch'orti' area in the Municipality of Jocotán, in Chiquimula Department. (El Derecho consuetudinario indígena en el área Ch'orti', del municipio de Jocotán, del departamento de Chiquimula). Law School (Facultad de Derecho). USAC. Accessed on 22 February 2016 at:</li> </ul>	<p>Risk conclusion N/A</p> <p>This does not apply since there is no specific law; however, it is pertinent to note that at present there is a conflict about the very concept of customary law.</p> <p>Overview of Legal Requirements</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) (Amended by Legislative Resolution No. 18-93 dated 17 November 1993)</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala). (Amended by Legislative Resolution No. 18-93 dated 17 November 1993). Date of publication: 31 May 1985.</p> <ul style="list-style-type: none"> <li>• Section Three – Indigenous communities (Sección tercera Comunidades indígenas).</li> <li>• Article 66. Protection of ethnic groups (Protección a grupos étnicos).</li> <li>• Article 67. Protection of indigenous lands and agricultural cooperatives (Protección a las tierras y las cooperativas agrícolas indígenas).</li> <li>• Article 68. Lands for indigenous communities (Tierras para comunidades indígenas).</li> <li>• Article 69. Movement of workers and their protection (Traslación de trabajadores y su protección): <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>• Congress of the Republic of Guatemala: in charge of general legislative matters and, with the executive branch, supports compliance with the Political Constitution of the Republic: <a href="http://www.congreso.gob.gt/index.php">http://www.congreso.gob.gt/index.php</a></li> <li>• Office of the Attorney General for the Nation: the agency in charge of representing and defending the interests of the State of Guatemala: <a href="http://www.pgn.gob.gt/">http://www.pgn.gob.gt/</a></li> </ul>	<p><a href="http://biblioteca.usac.edu.gt/tesis/04/04_6960.pdf">http://biblioteca.usac.edu.gt/tesis/04/04_6960.pdf</a></p> <ul style="list-style-type: none"> <li>• Yrigoyen Fajardo. R. 1999. Indigenous law in Guatemala (El Derecho indígena en Guatemala). OEA. Accessed on 22 February 2016 at: <a href="http://derechoambientalumg.blogspot.com/2012/06/derecho-consuetudinario.html">http://derechoambientalumg.blogspot.com/2012/06/derecho-consuetudinario.html</a></li> <li>• Sieder. R. 1996. Customary law and democratic transition in Guatemala (Derecho consuetudinario y transición democrática en Guatemala). FLACSO. Accessed on 22 February 2016 at: <a href="http://racheluk.domain.com/wp-content/uploads/2012/08/Sieder-derecho-consuetudinario1.pdf">http://racheluk.domain.com/wp-content/uploads/2012/08/Sieder-derecho-consuetudinario1.pdf</a></li> </ul>	<p>No reference is made in the political Constitution of the Republic to customary rights as such; instead, the Constitution addresses the subject of indigenous populations, as described in its Arts. 66 to 69:</p> <ul style="list-style-type: none"> <li>• Article 66. Protection for ethnic groups. Guatemala is made up of various ethnic groups, including indigenous groups of Mayan ancestry. The State recognises, respects and promotes their ways of life, customs, traditions, forms of social organisation, the wearing of indigenous garments by men and women, and their languages and dialects.</li> <li>• Article 67. Protection for indigenous lands and agricultural cooperatives (Protección a las tierras y las cooperativas agrícolas indígenas). The lands of cooperatives, indigenous communities or any other forms of communal or collective tenure of agrarian property, as well as family patrimonies, and low-cost housing shall receive special protection, credit assistance and preferential techniques from the State to guarantee their possession and development, so as to ensure a better quality of life for all inhabitants. Indigenous and other communities that have lands that historically belong to them and that they have traditionally administered in a special way shall maintain the system.</li> </ul>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><b>Legally required documents or records</b></p> <p>N/A</p>		<ul style="list-style-type: none"> <li>• Article 68. Lands for indigenous communities (Tierras para comunidades indígenas). Through special programmes and adequate legislation, the State shall provide government lands to the indigenous communities that need them for their development.</li> <li>• Article 69. Movement of workers and their protection (Traslación de trabajadores y su protección). Any work activities that involve movement of workers outside their communities shall be the object of protection and legislation to ensure adequate health, safety and social welfare conditions and that prevent payment of wages not in keeping with the law, the disintegration of those communities and, in general, any discriminatory treatment.</li> </ul> <p>Description of risk  Failure to respect the customary rights of populations that have acquired them over time is an issue that creates constant conflict and confusion in Guatemala. For many years, agrarian reforms and the issue of equitable distribution of land have caused any amount of differences and have even led to a civil war.  All aspects of the political Constitution of the Republic that conclude in acquired rights, especially for indigenous peoples, are subject to debate, and this has created not only a lack of social stability, but also a serious deterioration of natural resources.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>According to the experts consulted, invasions of protected areas are still being justified based on claims of customary rights, and with this comes a process of changes in land use and conflicts which show how necessary it is to possess land for cultivation.</p> <p>In a specific case, Pérez García (2007) describes how Ch'orti' indigenous customary law in the Municipality of Jocotán, Chiquimula, in its application and implementation, does not violate the country's official justice system, but rather minimises the number of court filings; in order to resolve their conflicts, the parties voluntarily submit to the system.</p> <p>According to Yrigoyen Fajardo (1999), the survival and legitimacy of indigenous regulatory systems reveals that such systems are necessary for the population, both materially and symbolically. This means that: a) the State's justice system is not efficient or culturally adequate for indigenous peoples, and b) the indigenous systems respond better to their social needs and their cultural world.</p> <p>This opens up a whole discussion on the inadequate approach to cultural differences in the application of all aspects of the law, including forest matters.</p> <p>Sieder (1996) suggests that customary law in Guatemala is probably best understood as a series of rules and practices that vary</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>within and between different communities with the same ethnolinguistic origin.</p> <p>Unfortunately, there is no information on customary law in Guatemala concerning forests. The closest cases are related to community forest concessions in the MBR granted to communities settled prior to declaration of the protected area (Carmelita and Uaxactún). In the rest of the country, INAB has not reported any process of concessions to indigenous or non-indigenous communities. This is in spite of the fact that Article 67 of the political Constitution of the Republic (protection for indigenous lands and agricultural cooperatives) states that the lands of indigenous cooperatives, communities or any other forms of communal or collective tenure of agrarian property, as well as family patrimonies and low-cost housing, shall receive special protection from the State.</p>
1.14 Free prior and informed consent	<p><b>Applicable laws and regulations</b></p> <p>Guatemala has no specific legislation on free prior and informed consent, therefore, this indicator is not applicable.</p> <p><b>Legal Authority</b></p> <p>N/A</p> <p><b>Legally required documents or records</b></p> <p>N/A</p>	N/A	N/A

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
1.15 Indigenous peoples rights	<p><b>Applicable laws and regulations</b></p> <p>GENERAL LEGISLATION</p> <p>1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala). (Amended by Legislative Resolution No. 18-93 dated 17 November 1993). Date of publication: 31 May 1985.</p> <ul style="list-style-type: none"> <li>Section Three Indigenous communities (Sección tercera Comunidades indígenas).</li> <li>Article 66. Protection of ethnic groups (Protección a grupos étnicos).</li> <li>Article 67. Protection of indigenous lands and agricultural cooperatives (Protección a las tierras y las cooperativas agrícolas indígenas).</li> <li>Article 68. Lands for indigenous communities (Tierras para comunidades indígenas).</li> <li>Article 69. Movement of workers and their protection (Traslación de trabajadores y su protección): <a href="http://www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf">www.oas.org/juridico/mla/sp/gtm/sp_gtm-int-text-const.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>Congress of the Republic of Guatemala: in charge of general legislative matters and, with the executive branch, supports compliance with the Political Constitution of the Republic: <a href="http://www.congreso.gob.gt/index.php">http://www.congreso.gob.gt/index.php</a></li> </ul>	<p>Government sources None.</p> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Yrigoyen Fajardo. R. 1999. Indigenous Law in Guatemala (El Derecho indígena en Guatemala). OAS. Accessed on 22 February 2016 at: <a href="http://derechoambientalumg.blogspot.com/2012/06/derecho-consuetudinario.html">http://derechoambientalumg.blogspot.com/2012/06/derecho-consuetudinario.html</a></li> <li>Porrás Castejón, G. SF. Rights of Indigenous Peoples in Guatemalan Legislation (Derechos de los Pueblos Indígenas en la legislación guatemalteca). Accessed on 22 February 2016 at: <a href="https://www.scribd.com/document/207131563/Los-Derechos-de-Los-Indigenas-a-La-Salud">https://www.scribd.com/document/207131563/Los-Derechos-de-Los-Indigenas-a-La-Salud</a></li> <li>Instituto Interuniversitario de Iberoamérica. 2005. Governance Profile of Guatemala (Perfil de Gobernabilidad de Guatemala). Accessed on 4 December 2017 at: <a href="https://books.google.fr/books?id=xOPVWuDTjBoC&amp;pg=PA21&amp;lpg=PA21&amp;dq=desproporcion+en+la+distribucion+de+la+tierra+guatemala&amp;source=bl&amp;ots=cMj-PFQsnx&amp;sig=tHy6hPQ90P5MH6iZwMV_tKjxDfE&amp;hl=es&amp;sa=X&amp;ved=0ahUKEwiHhb-yvDXAhUM2hoKHZfRAZIQ6AEINjAF#v=onepage&amp;q=desproporcion%20en%20la%20distribucion%20de%20a%20tierra%20guatemala&amp;f=false">https://books.google.fr/books?id=xOPVWuDTjBoC&amp;pg=PA21&amp;lpg=PA21&amp;dq=desproporcion+en+la+distribucion+de+la+tierra+guatemala&amp;source=bl&amp;ots=cMj-PFQsnx&amp;sig=tHy6hPQ90P5MH6iZwMV_tKjxDfE&amp;hl=es&amp;sa=X&amp;ved=0ahUKEwiHhb-yvDXAhUM2hoKHZfRAZIQ6AEINjAF#v=onepage&amp;q=desproporcion%20en%20la%20distribucion%20de%20a%20tierra%20guatemala&amp;f=false</a></li> </ul>	<p>Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements 1. Constitution of the Republic of Guatemala (Constitución de la República de Guatemala) Amended by Legislative Resolution No. 18-93 dated 17 November 1993)</p> <p>No reference is made in the political Constitution of the Republic to customary rights as such; instead, the Constitution addresses the subject of indigenous populations, as described in its Arts. 66 to 69:</p> <ul style="list-style-type: none"> <li>Article 66. Protection for ethnic groups. Guatemala is made up of various ethnic groups, including indigenous groups of Mayan ancestry. The State recognises, respects and promotes their ways of life, customs, traditions, forms of social organisation, the wearing of indigenous garments by men and women, and their languages and dialects.</li> <li>Article 67. Protection for indigenous lands and agricultural cooperatives (Protección a las tierras y las cooperativas agrícolas indígenas). The lands of cooperatives, indigenous communities or any other forms of communal or collective tenure of agrarian</li> </ul>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>Office of the Attorney General for the Nation: the agency in charge of representing and defending the interests of the State of Guatemala: <a href="http://www.pgn.gob.gt/">http://www.pgn.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <p>N/A</p>	<ul style="list-style-type: none"> <li>PNUD /Programa Maya. 2016. Agreement on Identity and Rights of Indigenous Peoples: Progress and Challenges: 20 years after the signing of the Peace Accords (Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas: Avances y Desafíos: a 20 años de la firma de los Acuerdos de Paz). Accessed on 4 December 2017 at: <a href="http://onu.org.gt/wp-content/uploads/2017/03/AIDPI-Informe-final-PDF.pdf">http://onu.org.gt/wp-content/uploads/2017/03/AIDPI-Informe-final-PDF.pdf</a></li> </ul> <p>Interviews with experts: Interviews with various experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with the rights of Guatemala’s indigenous peoples.</p>	<p>property, as well as family patrimonies, and low-cost housing shall receive special protection, credit assistance and preferential techniques from the State to guarantee their possession and development, so as to ensure a better quality of life for all inhabitants. Indigenous and other communities that have lands that historically belong to them and that they have traditionally administered in a special way shall maintain the system.</p> <ul style="list-style-type: none"> <li>Article 68. Lands for indigenous communities (Tierras para comunidades indígenas). Through special programmes and adequate legislation, the State shall provide government lands to the indigenous communities that need them for their development.</li> <li>Article 69. Movement of workers and their protection (Traslación de trabajadores y su protección). Any work activities that involve movement of workers outside their communities shall be the object of protection and legislation to ensure adequate health, safety and social welfare conditions and that prevent payment of wages not in keeping with the law, the disintegration of those communities and, in general, any discriminatory treatment.</li> </ul> <p>Description of risk Today, indigenous people make up more than half of Guatemala’s total population, about 6 million. The Agreement on Identity and Rights of Indigenous Peoples (AIDPI), signed in 1995, recognizes that the</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>Guatemalan nation has a multiethnic, pluricultural and multilingual character.</p> <p>No information was found on indigenous/traditional peoples' law with regard to forests, in spite of the fact that the political Constitution of the Republic deals explicitly with indigenous/traditional law (source listed on the previous column: Indigenous Law in Guatemala – Rights of Indigenous Peoples in Guatemalan Legislation (El Derecho indígena en Guatemala - Derechos de los Pueblos Indígenas en la legislación guatemalteca), cited above).</p> <p>However, there is clear evidence that there is a high risk of disrespect for indigenous/traditional law throughout Guatemala (based on the sources: Yrigoyen Fajardo. R. 1999. Indigenous Law in Guatemala and confirmed by expert consultations).</p> <p>There is a major debate on distribution of land, and it is even more intense in the case of indigenous peoples (source: Instituto Interuniversitario de Iberoamérica- Governance Profile of Guatemala and expert consultation). The subject of invasions is still latent, and with regard to natural resources, the most affected areas are those protected by law, as they are looked on as government lands (belonging to everyone) (based on expert consultations).</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			However, there protections embedded in the constitution (protection of ethnic groups, protection of indigenous lands and agricultural cooperatives, land for indigenous communities, the movement of workers and protection, among others), which are being violated, using other criteria and even other laws (source: PNUD/Programa Maya. Agreement on Identity and Rights of Indigenous Peoples: Progress and Challenges 2016, expert consultation and knowledge of experts who develop the risk assessment).
<b>Trade and transport</b>			
1.16 Classifica tion of species, quantities , qualities	<p><b>Applicable laws and regulations</b></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTME IN PROTECTED AREAS</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas). Date of publication 10 January 1989.</p> <ul style="list-style-type: none"> <li>Chapter IV On transportation and trade (Capítulo IV Del transporte y comercialización), Article 66 Transportation (Artículo 66 Transporte), Article 67 Shipping waybill (Artículo 67.- Guía de transporte), Article 68 Commercial exportation licences and trade (Artículo 68. Permisos de exportación comercial y comercialización): <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li> </ul> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>INAB. 2010. Interinstitutional action plan for the prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en Guatemala). Accessed on 22 February 2016 at: <a href="http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx">http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Prensa Libre. 2015. Traffic in precious woods continues. (Persiste tráfico de maderas preciosas) . Accessed on 22 February 2016 at: <a href="http://www.prensalibre.com/guatemala/peten/persiste-trafico-de-maderas-preciosas">http://www.prensalibre.com/guatemala/peten/persiste-trafico-de-maderas-preciosas</a></li> <li>Asociación Balam. 2013. Diagnosis of the current status of illegal logging in southern Petén (Diagnóstico sobre el estado actual de la tala ilegal en</li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas)</p> <p>Art. 67 specifies that the shipping waybill is the official document that certifies the legal origin of specimens, parts or derivatives of wild flora and fauna. The shipping waybill must:</p> <p>a) Be issued on safety paper, printed in a series of ten thousand (10,000) units, with each series identified with one letter of the alphabet;</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter II Requirements for submitting applications for authorisation of wild timber flora in protected areas (Capítulo II Requisitos para presentar solicitudes de autorización de aprovechamiento de flora silvestre maderable dentro de áreas protegidas).</li> <li>Chapter III Guidelines for authorisation of harvesting and transportation of wild timber flora (Capítulo III Lineamientos para la autorización de manejo, aprovechamiento y transporte de flora silvestre maderable): <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS OUTSIDE OF PROTECTED AREAS</p> <p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita). Date of publication: 11 April 2014: <a href="http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf</a></p> <p>4. Practical guide for cubing timber (Guía práctica para la cubicación de la madera) Date of publication: June 2004: <a href="http://www.inab.gob.gt/Documentos/Manuales/cubicacion.pdf">http://www.inab.gob.gt/Documentos/Manuales/cubicacion.pdf</a></p> <p>5. Resolution No. 03.43.2005 Regulations for forest managers (Resolución 03.43.2005. Reglamento del regentes forestales). Date of publication: 06 December 2005:</p>	<p>el sur de Petén). Not available online; provided on request by email to <a href="mailto:dtujillo@asociacionbalam.org">dtujillo@asociacionbalam.org</a></p> <ul style="list-style-type: none"> <li>INAB, CONESFORGUA, IARNA-URL, FAO. 2015. Diagnosis and analysis of illegality in harvesting and trading forest products in Guatemala (Diagnóstico y análisis sobre la ilegalidad en el aprovechamiento y comercialización de productos forestales en Guatemala) (Document prepared by César Augusto Sandoval García, within the framework of the project: “Strengthening governance as a function of the Interinstitutional action Plan for the Prevention and Reduction of Illegal Logging in Guatemala and socialization of the country’s opportunities to participate in international forest legality initiative”) (“Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional” – FLEGT). Guatemala, UE FAO FLEGT / CONESFORGUA / INAB. Accessed on 22 February 2016 at: <a href="http://www.academia.edu/15233258/Diagn%C3%B3stico_de_tala_ilegal_en_Guatemala">http://www.academia.edu/15233258/Diagn%C3%B3stico_de_tala_ilegal_en_Guatemala</a></li> </ul> <p>Interviews with experts: Interviews with several experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the</p>	<p>b) Indicate the period in effect, with a term that may not be less than three nor more than ten days;</p> <p>c) Contain a clear description of the legal documentation of origin of which it is the consequence and forms a part;</p> <p>d) Specify the quantities and volumes authorised in text and numbers;</p> <p>e) Indicate the scientific name, as well as the common name, of the specimens, parts or derivatives;</p> <p>f) Indicate the place of origin and destination; and</p> <p>g) Be signed, original and copies, by CONAP’s Executive Secretary, the person who is substituting for him/her or the regional delegates.</p> <p>Note especially item d): the forest species being transported must be identified.</p> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>Section C of the Resolution (Guidelines for issuance of shipping waybills for wild timber flora) (lineamientos para la emisión de guías de transporte de flora silvestre maderable) establishes that shipping waybills for wild timber flora shall be issued by CONAP delegations in the jurisdiction where the Forest Management Plan is implemented. In cases where, because of</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_Regentes_Forestales.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_Regentes_Forestales.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): handles everything related to transportation of forest products from protected areas (only as regards the waybill, from the forest to the industrial enterprise); does not participate in anything related to invoicing timber. After the timber enters the sawmill, CONAP becomes involved once more at the point of exportation when processing the CITES certification process. Points 5 and 6: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National forest Institute (Instituto Nacional de Bosques – INAB): handles everything related to transportation of forest products outside of protected areas. Included in INAB’s rules is verification of transportation from the industrial enterprise to the final destination (through a shipping ticket from the enterprise). INAB is also empowered to supervise sawmills and verify species, amounts and qualities that enter and leave (including yield factors). Recently (2014), INAB implemented the Electronic Information System for Forest Enterprises (Sistema Electrónico de Información de Empresas Forestales – SEINEF). Points 7 to 9: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></li> </ul> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>For the National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): shipping waybill for wild timber (forest – sawmill). Through its forest department, CONAP is charged with issuance of these waybills in the field (verifying species, amounts and qualities to be transported).</li> </ul>	<p>current situation and the risks associated with the classification of species, amounts and qualities.</p>	<p>mechanical breakdowns, the product transported is stranded, issuance of a new waybill may be delegated to the closest CONAP office, provided that this is justified and coordinated with the CONAP delegation in charge of supervising and monitoring the Forest Management Plan for the area that the product comes from. Any movement of forest timber products originating inside protected areas must be covered with its respective shipping waybill for wild timber flora.</p> <p>The waybills must specify the common name and the scientific name of the forest species transported and must be issued by officials of CONAP (to fully verify what is being transported).</p> <p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita)</p> <p>Art. 8 establishes that a shipping ticket, corresponding to a licence must specify the total volume transported in cubic metres, which is shown in numbers and text and the actual remainder in cubic metres (item a.9).</p> <p>4. Resolution 03.43.2005 Regulations for forest managers (Resolución 03.43.2005. Reglamento de regentes forestales)</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>For the National Forest Institute (Instituto Nacional de Bosques – INAB): forest shipping ticket (forest – sawmill), which is issued by the licence holder. For both documents, INAB has the authority to verify amounts and qualities of the species transported.</li> </ul>		<p>One of the duties and obligations of the Forest Manager is: l) Keeping the holder of the forest harvesting licence informed and involved in the performance of the various activities that are scheduled and carried out; this includes the volumes and remainders for each authorised species.</p> <p>Description of risk  The Interinstitutional Plan for the Prevention and Reduction of Illegal Logging in Guatemala (Plan Interinstitucional para prevención y reducción de la tala ilegal en Guatemala) states that timber trafficking occurs, among other causes, because of a lack of effective controls on transportation of forest products and because of a lack of an effective system for issuing permits to transport products. Asociación Balam states that, with regard to illegal timber logging chains in southern Petén, the illegal product is “legalised” after it reaches the municipal urban area, using for this purpose documents (“papers”) of other authorised harvestings or shipping tickets from companies or lumberyards.</p> <p>INAB, CONESFORGUA, IARNA-URL and FAO, in their diagnosis of illegality in harvesting and trade, state that there are multiple ways in which illegalities are committed, including by transportation of a species that is similar to another, as well as by understatement of volumes.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>Some of the experts consulted described a well-known practice on the part of users who avoid problems with the authorities on the highway by showing an average volume in their shipping documents. It is known, too, that documents are sometimes forged, and that shipping tickets are used more than once (especially in places where the authorities have little or no presence on the highways).</p> <p>Trafficking in species such as rosewood (<i>Dalbergia</i> sp), from Alta Verapaz and Petén, exported based on documents for another species known locally as Manchiche (<i>Lonchocarpus castilloi</i>), has also been observed (written communications with experts). The above is given because these species are listed on the List of Threatened Species (LEA) of the CONAP (Index II), and its authorization is complicated (only authorized with management plan and the densities are so low that it is not easy to guarantee the sustainability). In addition, these species are already very scarce in its natural state in the broad-leaved forests of northern Guatemala (where it was traditionally found). This practice turns out to be a systematic violation.</p>
1.17 Trade and transport	<p><b>Applicable laws and regulations</b></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEMS IN PROTECTED AREAS.</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>• INAB. 2010. Interinstitutional action plan for the prevention and reduction of illegal logging in Guatemala (Plan de acción interinstitucional para la prevención y reducción de la tala ilegal en</li> </ul>	<p>Risk conclusion</p> <p>This indicator has been evaluated as specified risk.</p> <p>Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas) Date of Publication: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Chapter IV On transportation and trade, Article 66. Transportation, Article 67. Shipping waybill, Article 68. Commercial export permits and trade (Capítulo IV Del transporte y comercialización, Artículo 66. Transporte, Artículo 67.- Guía de transporte, Artículo 68. Permisos de exportación comercial y comercialización):  <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li> </ul> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Chapter II Requirements for submitting applications for authorisation of harvesting wild timber flora in protected areas (Capítulo II Requisitos para presentar solicitudes de autorización de aprovechamiento de flora silvestre maderable dentro de áreas protegidas).</li> <li>Chapter II Guidelines for authorisation of management, harvesting and transportation of wild timber flora (Capítulo III Lineamientos para la autorización de manejo, aprovechamiento y transporte de flora silvestre maderable):  <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SSTEMS OUTSIDE OF PROTECED AREAS</p>	<p>Guatemala). Accessed on 22 February 2016 at:  <a href="http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx">http://www.inab.gob.gt/Paginas%20web/plandeaccion.aspx</a></p> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>Asociación Balam. 2013. Diagnosis of the current status of illegal logging in southern Petén (Diagnóstico sobre el estado actual de la tala ilegal en el sur de Petén). Not available online; available on request by email to <a href="mailto:dtujillo@asociacionbalam.org">dtujillo@asociacionbalam.org</a></li> <li>Romero del Cid, S.E. 2011. Legal Analysis of the limitations faced by the National Forest Institute—INAB—in promoting criminal prosecution against illegal logging of trees in Santa Rosa Department (Análisis jurídico de las limitaciones que enfrenta el Instituto Nacional de Bosques –INAB- para promover la persecución penal en contra de la tala ilegal de árboles en el departamento de Santa Rosa). USAC. Accessed on 23 February 2016 at:  <a href="http://biblioteca.usac.edu.gt/tesis/04/04_9011.pdf">http://biblioteca.usac.edu.gt/tesis/04/04_9011.pdf</a></li> <li>INAB, CONESFORGUA, IARNA-URL, FAO. 2015. Diagnosis and analysis of illegality in harvesting and trading forest products in Guatemala (Diagnóstico y análisis sobre la ilegalidad en el aprovechamiento y comercialización de productos forestales en Guatemala) (Document prepared by César Augusto Sandoval García, within the framework of the project: “Strengthening governance as</li> </ul>	<p>are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements</p> <p>1. Decree-Law 4-89 Law on Protected Areas (Decreto Ley 4-89 Ley de Áreas Protegidas)</p> <p>The relevant articles indicate that anyone who wishes to engage in transporting specimens, parts, and derivatives of wild flora must have, for each shipment, a shipping waybill issued by CONAP’S Executive Secretariat or its regional delegations at the expense of the interested party. In addition, Article 67 establishes that the shipping waybill is the official document that certifies the legal origin of specimens, parts or derivatives of wild flora. In item d) of this decree, it is stipulated that the authorised quantities and volumes shall be specified in text and numbers.</p> <p>2. Resolution 07-21-2011 Approval of the Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos)</p> <p>Shipping waybills for wild timber flora shall be issued by CONAP delegations in the jurisdiction where the Forest Management Plan is implemented. In cases where, because of mechanical breakdowns, the product being transported is stranded,</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p>3. Resolution No. JD 03.12.2014 Regulations for transportation of forest products and their legal origin (Resolución No. JD 03.12.2014 Reglamento para el transporte de productos forestales y su procedencia lícita). Date of publication 11 April 2014:  <a href="http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/REGLAMENTO_TRANSPORTE.pdf</a></p> <p>4. Practical guide for cubing timber (Guía práctica para la cubicación de la madera) Date of publication: June 2004:  <a href="http://www.inab.gob.gt/Documentos/Manuales/cubicacion.pdf">http://www.inab.gob.gt/Documentos/Manuales/cubicacion.pdf</a></p> <p>5. Resolution 03.43.2005 Regulations for forest managers (Resolución 03.43.2005. Reglamento del regentes forestales). Date of publication: 06 December 2005:  <a href="http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_es_Forestales.pdf">http://www.inab.gob.gt/Documentos/Reglamentos/Reglamento_es_Forestales.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): handles everything related to transportation of forest products from protected areas (only as regards the waybill, from the forest to the industrial enterprise); does not participate in anything related to invoicing timber. After the timber enters the sawmill, CONAP becomes involved once more at the point of exportation when processing the CITES certification process. Points 5 and 6: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></li> <li>National forest Institute (Instituto Nacional de Bosques – INAB): handles everything related to transportation of forest products outside of protected areas. Included in INAB’s rules is verification of transportation from the industrial enterprise to the final destination (through a shipping ticket from the enterprise). INAB is also empowered to supervise sawmills and verify species,</li> </ul>	<p>a function of the Interinstitutional Action Plan for the Prevention and Reduction of Illegal Logging in Guatemala and socialization of the country’s opportunities to participate in international forest legality initiative”) (“Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional” – FLEGT)). Guatemala, UE FAO FLEGT / CONESFORGUA / INAB. Accessed on 22 February 2016 at:  <a href="http://www.academia.edu/15233258/Diagnostico_de_tala_ilegal_en_Guatemala">http://www.academia.edu/15233258/Diagnostico_de_tala_ilegal_en_Guatemala</a></p> <ul style="list-style-type: none"> <li>UICN-IARNA. 2015. Diagnosis of the system for verification of forest legality and its effect on competitiveness of legal timber business in Guatemala. (Diagnóstico del sistema de verificación de la legalidad forestal y su efecto en la competitividad de los negocios de madera legal en Guatemala). Not yet available online.</li> <li>UICN-EFI. 2014. Analysis of international trade in timber products and its administrative governance, Central American Region and the Dominican Republic (Análisis del comercio internacional de productos de madera y su gobernanza administrativa, Región de América Central y la República Dominicana) 2000-2011. Accessed on 23 April 2016 at:</li> </ul>	<p>issuance of a new waybill may be delegated to the closest CONAP office, provided that this is justified and coordinated with the CONAP delegation in charge of supervising and monitoring the forest management plan for the area that the product comes from.</p> <p>Any movement of forest timber products originating inside protected areas must be covered with the respective shipping waybill for transportation of wild timber flora. In the case of products from NON-COMMERCIAL harvestings, the shipping waybill should be issued with the proper notation that the product comes from a non-commercial harvesting, specifying in comments the type of non-commercial harvesting and that it cannot be traded.</p> <p>Transportation of non-commercial forest products is allowed only within protected areas and in their areas of influence, and must not go beyond the boundaries of the territorial scope of the CONAP delegation where the credential was issued.</p> <p>Description of risk  In Guatemala, it is permissible to use the invoice as a shipping document when the volume, produced in a forest industry, to be transported is less than one cubic metre. Above one cubic metre, it is necessary to use the company’s shipping ticket as the shipping document, which is verified on the highway by various security institutions.</p>

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	<p>amounts and qualities that enter and leave (including yield factors). Recently (2014), INAB implemented the Electronic Information System for Forest Enterprises (Sistema Electrónico de Información de Empresas Forestales – SEINEF). Points 7 to 9: <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a></p> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>National Council for Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): shipping waybill for wild timber (forest – sawmill). Through its forest department, CONAP is charged with issuance of these waybills in the field (verifying species, amounts and qualities to be transported).</li> <li>National Forest Institute (Instituto Nacional de Bosques – INAB): Forest shipping ticket (forest–sawmill), which is issued by the licence holder; enterprise shipping ticket, which is generated by an electronic system known as SEINEF and with this document, transportation of processed products is established from the sawmill to the final destination. For both documents, INAB has the authority to verify amounts and qualities of the transported species.</li> </ul>	<p><a href="http://cmsdata.iucn.org/downloads/analysis_del_comercio_internacional_version_digital.pdf">http://cmsdata.iucn.org/downloads/analysis_del_comercio_internacional_version_digital.pdf</a></p> <ul style="list-style-type: none"> <li>FAO/Banco Mundial. 2012. Sectorial Studies: Evaluation of the impact of collection for standing timber exploitation rights and other fees on forest management in Guatemala (Estudios Sectoriales: Evaluación del impacto del cobro por derechos de aprovechamiento de madera en pie y otras tasas sobre el manejo forestal en Guatemala). Accessed on 4 December 2017 at: <a href="http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf">http://www.fao.org/fileadmin/templates/tci/pdf/GUATEMALACompleteLOW.pdf</a></li> </ul> <p>Interviews with experts: Interviews with several experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with trade and transportation.</p>	<p>According to UICN-IARNA (2015), based on data from the National Statistical Institute and the Bank of Guatemala (Instituto Nacional de Estadística and Banco de Guatemala), 96% forest products moved are harvested with no control, representing approximately 33 million cubic metres annually as of 2010. This gives a sense of the magnitude of the impact on transportation and trade for the nation. UICN-IARNA also indicate that it is necessary to differentiate the forms of illegality of forest activities throughout the nation; based on that accounting, it is possible to separate the modality established in the high plains area (altiplano) of Guatemala (illegal night-time transportation, lack of control booths, theft of natural resources, misuse of shipping documents, and reuse of shipping tickets), from that in Petén, where the two major focal points for illegalities are in the MRB and in southern Petén (where 65% of violations occur) within the case of the reservation, this activity is focused more on precious woods that end up being exported, using documents for other operations, or else which end up in the hands of carpenters' workshops for the manufacture of furniture (for domestic trade).</p> <p>The Interinstitutional Plan for the Prevention and Reduction of Illegal Logging in Guatemala, (Plan Interinstitucional para prevención y reducción de la tala ilegal en Guatemala),</p>

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			<p>specifies that gaps have been identified in the current rules, such as the regulations for transportation of forest products and the procedures for supervision of forest industries, where the former allow improper use of transportation documents and the latter allow the use of invoices to show the origin of forest products. These instruments do not encourage adequate registration, monitoring or cross-control of the information on forest—sawmill activities, because by not being regulated and being issued by the forest enterprises, even by companies that are not registered in the National Forest Registry, the control process is not viable. In addition, UICN-EFI (2014) indicates that “in the economic sphere, illegal logging and trade generate, on the one hand, unfair competition between formal and informal markets, which results in a devaluation of the timber resource; and on the other, they generate losses for the local and national governments in the form of tax revenues.”</p> <p>Finally, Balam (2013), UICN-IARNA (2015) and INAB (2010), also support the view that transportation of timber is vulnerable to illegalities based on forged or misused documents.</p> <p>Internationally, in the Transparency Corruption Index Guatemala is positioned 136 of 176.</p> <p>Corruption imposes additional costs on producers. In many cases bribes must be paid even when transporters have their</p>

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			papers in order, which becomes an additional fixed expense. This situation has forced producers who prefer illegal logging. The Government of Guatemala is making efforts to avoid corruption in different public sectors, there have been important advances but the process is slow and requires long-term policies (source: FAO/Banco Mundial. Sectorial Studies: Evaluation of the impact of collection for standing timber exploitation rights and other fees on forest management in Guatemala).
1.18 Offshore trading and transfer pricing	<p><b>Applicable laws and regulations</b></p> <p>Guatemala has no specific legislation for offshore trading or for transfer prices in the forest sector, therefore, this indicator is not applicable.</p> <p>The President of the Republic of Guatemala, Jimmy Morales, deposited on 09/06/2017 Guatemala's instrument of ratification for the Convention on Mutual Administrative Assistance in Tax Matters ("the Convention") with the OECD's Secretary-General, Angel Gurría, therewith underlining his country's strong commitment to greater transparency and international co-operation in tax matters.</p> <p>The Convention have entered into force for Guatemala on 1 October 2017.</p> <p>It is still early to be able to assess the implementation.</p> <p><b>Legal Authority</b></p> <p>N/A</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>OECD news 09/06/2017: Guatemala strengthens international tax co-operation – ratifies the Convention on Mutual Administrative Assistance in Tax Matters. Accessed on 4 December 2017 at: <a href="http://www.oecd.org/ctp/exchange-of-tax-information/guatemala-strengthens-international-tax-co-operation-ratifies-the-convention-on-mutual-administrative-assistance-in-tax-matters.htm">http://www.oecd.org/ctp/exchange-of-tax-information/guatemala-strengthens-international-tax-co-operation-ratifies-the-convention-on-mutual-administrative-assistance-in-tax-matters.htm</a></li> </ul> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>UICN-IARNA. 2015. Diagnosis of the system for verification of forest legality and its effect on competitiveness of legal timber business in Guatemala. (Diagnóstico del sistema de verificación de la legalidad forestal y su efecto en la competitividad de los negocios de madera legal en Guatemala). Not yet available online.</li> </ul>	N/A

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<p><b>Legally required documents or records</b></p> <p>N/A</p>	<ul style="list-style-type: none"> <li>UICN-EFI. 2014. Analysis of international trade in timber products and its administrative governance, Central American Region and the Dominican Republic (Análisis del comercio internacional de productos de madera y su gobernanza administrativa, Región de América Central y la República Dominicana) 2000-2011. Accessed on 23 April 2016 at: <a href="http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf">http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf</a></li> </ul>	
1.19 Custom regulations	<p><b>Applicable laws and regulations</b></p> <p>1. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal) Date of publication: 31 October 1996</p> <ul style="list-style-type: none"> <li>It defines, as one of its objectives, “supporting, promoting and encouraging public and private investment in forest activities in order to increase production, trading, diversification, industrialisation and conservation of forest resources.”</li> <li>Chapter II On forest industry Article 65. Prohibitions on exports and exemptions. Article 88. National Forest Registry. d) Persons who engage in exportation or importation of forest products, whatever their status. (Capítulo II De la industria forestal, Artículo 65. Prohibiciones de exportación y exenciones, Artículo 88. Registro Nacional Forestal. d) Las personas que realicen actividades de exportación o importación de productos forestales, cualquiera sea su estado).</li> <li>On forest criminal offenses. (De los delitos forestales)</li> <li>Article 100 Exportation of timber of prohibited dimensions (Artículo 100. Exportación de madera en dimensiones prohibidas):</li> </ul>	<p>Government sources None.</p> <p>Non-Government sources</p> <ul style="list-style-type: none"> <li>UICN-EFI. 2014. Analysis of international trade in timber products and its administrative governance, Central American Region and the Dominican Republic (Análisis del comercio internacional de productos de madera y su gobernanza administrativa, Región de América Central y la República Dominicana) 2000-2011. Accessed on 23 April 2016 at: <a href="http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf">http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf</a></li> </ul> <p>Interviews with experts: Interviews with various experts during April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the</p>	<p>Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements 1. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal) Art. 65 establishes that it is prohibited to export roundwood logs or worked timber or sawn wood with a diameter greater than eleven centimetres, no matter of what length or width.</p> <p>The following are exempt from this prohibition:</p> <p>a) Posts, pilots, sleepers and blocks impregnated under pressure;</p>

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	<p><a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></p> <p><b>Legal Authority</b></p> <ul style="list-style-type: none"> <li>National Forest Institute (Instituto Nacional de Bosques – INAB): responsible for regulating exportation of timber in Guatemala.</li> <li>Superintendency of Tax Administration (Superintendencia de Administración Tributaria – SAT): responsible for administering the Guatemalan customs system and, for this purpose, a special section has been created regarding customs matters for the various auxiliaries and users of Guatemalan customs.</li> <li>Ministry of Agriculture, Livestock Production and Food (Ministerio de Agricultura, Ganadería y Alimentación – MAGA): in charge of ensuring that the products in a load have the corresponding permits and meet the technical and phytosanitary specifications required by Guatemala for exportation and importation.</li> </ul> <p><b>Legally required documents or records</b></p> <p>Documents for exportation:</p> <ul style="list-style-type: none"> <li>Invoice; Packing list; Certificate of origin; Insurance certificate; Phytosanitary and health certificates; Shipping documents.</li> </ul> <p>Requirements for exporting forest products:</p> <p>The INAB delegate at the single contact point shall provide a form that must be filled out with the following information:</p>	<p>current situation and the risks associated with customs regulations.</p>	<p>b) Products from duly registered plantations, including voluntary agroforest plantations;</p> <p>c) Products from planted forests registered in INAB, with the corresponding certificate;</p> <p>d) Parts of furniture and pieces of wood that have added value.</p> <p>Art. 88 states that, for the purpose of taking a census of lands covered with forests and with a forest vocation, as well as to exercise statistical control of technical and economic activities in this field, the National Forest Registry is created, under INAB, in which the following shall be registered, by the government or at the request of the interested party, as the case may be:</p> <p>d) Any persons who engage in activities involving the exportation or importation of forest products, whatever their status may be.</p> <p>Finally, Art. 100 establishes that anyone who exports timber of species, forms or dimensions that contravene the provisions in Article 65, and that does not come from voluntary plantations, will be sanctioned with imprisonment of three to six years (3 to 6) and a fine equivalent to the value of the exported timber, as reported by the Institute, in accordance with market prices.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>• Exporter's data (name or corporate name, INAB registration number, domicile for receiving notices, signature and stamp);</li> <li>• Data of the product to be exported (species, volume in board feet and cubic metres);</li> <li>• Destination data (country, customs office, address);</li> <li>• Sales invoice – the document required to show the volume, species and type of product traded and that will serve to guarantee that what is exported corresponds to what was ordered;</li> <li>• A list of products to be exported, must contain: <ul style="list-style-type: none"> <li>o Product dimensions by species (width, length, thickness);</li> <li>o Product volume;</li> <li>o Classification of the quality of the timber by species;</li> <li>o Documents that cover the legal origin of the products to be exported. These documents must not have been authorised more than six months before their use, but if this time period is exceeded, it must be shown in the yard that the product belongs to the documentation presented, with justification for its having remained in storage (which requires inspection by INAB personnel).</li> </ul> </li> <li>• Payment of Q30.00</li> </ul>		<p>2. Decree 14-2013 National Customs Law (Decreto 14-2013. Ley nacional de Aduanas)</p> <p>This law is intended to develop and systematise the customs rules with regard to administrative violations, in order that they can be applied in a simplified fashion that will allow the taxpayer to have more knowledge of them and will facilitate the National Customs Service's procedures.</p> <p>Description of risk Although there is no official or unofficial information available, there is a high risk that exportation of timber from an illegal origin will occur. According to comments received from experts, some of the risks are: that other species will be included in export containers; that timber will be exported by using the "plastic" code; that timber species included in CITES (such as rosewood) will be exported; and that supporting documentation from companies that operate legally to export timber from the same species harvested illegally (UICN-IARNA 2015) will be used, among others. There are even sources that consider "that illegality and corruption in the forest sector may cover the whole sector, from harvesting and transportation through industrialisation and trading forest products" (UICN-EFI, 2014). It is well known that Guatemala is going through a customs crisis; there is evidence of systematic customs fraud which has implicated national presidents (trial</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
1.20 CITES	<p><b>Applicable laws and regulations</b></p> <p>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFOREST SYSTEM INSIDE AND OUTSIDE PROTECTED AREAS</p> <p>1. Decree-Law 4-89 Law on Protected Areas and its regulations (Decreto Ley 4-89 Ley de Áreas Protegidas y su reglamento). Date of publication: 10 January 1989.</p> <ul style="list-style-type: none"> <li>Title IV On the executive body responsible for application of this law. Chapter I. Article 73 CITES authority Título IV Del órgano de dirección y encargado de la aplicación de ésta ley. Capítulo I. Artículo 73. Autoridad CITES).</li> <li>Title VI Chapter I Management. Article 91. Scientific authorities (Título VI. Capítulo I Administración. Artículo 91. Autoridades científicas): <a href="http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf">http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf</a></li> </ul> <p>2. CONAP Resolution 01-27-2013 Manual on Procedures for International Trade in Timber Flora included in Appendices II and III of the Convention on International Trade in Threatened Species of Wild Fauna and Flora (Resolución del CONAP 01-27-2013. Manual de Procedimientos para el Comercio Internacional de Flora Maderable incluida en los Apéndices II y III de la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres). Date of publication: 20 November 2013.</p>	<p>Government sources</p> <ul style="list-style-type: none"> <li>CITES Information. CONAP. Accessed on 22 February 2016 at: <a href="http://www.conap.gob.gt/index.php/diversidad-biologica/cites.html">http://www.conap.gob.gt/index.php/diversidad-biologica/cites.html</a></li> <li>There is a database that records the CITES permits granted: <a href="http://168.234.196.102:81/citespub/CITES/ShowCITESTablePage.aspx">http://168.234.196.102:81/citespub/CITES/ShowCITESTablePage.aspx</a></li> </ul> <p>Non-Government sources:</p> <ul style="list-style-type: none"> <li>FAO-INAB-CONESFORGUA. 2015. Progress Report. Strengthening governance as a function of the Interinstitutional Action Plan for the Prevention and Reduction of Illegal Logging in Guatemala. (Informe de avance. Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala). Not yet available online.</li> <li>UICN-EFI. 2014. Analysis of international trade in timber products and its administrative governance, Central American Region and the Dominican Republic (Análisis del comercio internacional de productos de madera y su gobernanza administrativa, Región de América Central y la República Dominicana) 2000-2011. Accessed on 23 April 2016 at:</li> </ul>	<p>underway). This places the subject of compliance with customs regulations for exportation of timber and other products in the indicator of specified risk.</p> <p>Risk conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</p> <p>Overview of Legal Requirements 1. Decree-Law 4-89 Law on Protected Areas and its regulations (Decreto Ley 4-89 Ley de Áreas Protegidas y su reglamento).</p> <p>This law establishes that the lists of species of flora and fauna in Appendices I and II of the Convention on International Trade in Threatened Species of Wild Flora and Fauna, Decree 63-79 of the Congress of the Republic, as approved by the contracting parties, are considered to be official for Guatemala, except for express reservations by the Guatemalan management authority for the convention. Any modifications, additions, deletions, reservations or changes shall be published in the Official Gazette (Art. 25).</p> <p>This law establishes, in Art. 73, that the Executive Secretary is the management authority for the CITES convention. The</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
	<ul style="list-style-type: none"> <li>This manual, which is organised by chapters, describes the procedure for permits and certificates, registration as a CITES trading enterprise, expansion and/or updating of registration, and exportation of timber flora included in Appendices II and III of CITES, among other subjects:  <a href="http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20de%20comercio%20flora%20maderable%20cites_nv.pdf">http://www.sifgua.org.gt/Documentos/Reglamentos/manual%20de%20comercio%20flora%20maderable%20cites_nv.pdf</a></li> </ul> <p><b>Legal Authority</b></p> <p>National Council on Protected Areas (Consejo Nacional de Áreas Protegidas – CONAP): the CITES authority for Guatemala (both inside and outside protected areas). In addition, CONAP represents both the scientific authority and the management authority for all of Guatemala: <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a></p> <p><b>Legally required documents or records</b></p> <ul style="list-style-type: none"> <li>CITES certificate (if applicable) issued by CONAP.</li> </ul>	<p><a href="http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf">http://cmsdata.iucn.org/downloads/analisis_del_comercio_internacional_version_digital.pdf</a></p> <p>Interviews with experts:  Interviews with several experts during April 2016 and February 2018, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with regard to CITES species.</p>	<p>Executive Secretary is empowered to designate the scientific authorities that he or she deems pertinent and mechanisms that will improve the convention’s functioning.</p> <p>In addition, Art. 91 states that the Executive Secretary may make appointments of scientific authorities for the CITES convention, and may appoint an authority in regions where he or she deems it advisable.</p> <p>According to CONAP’s Procedures Manual for International Trade in Timber Flora included in Appendices II and III of the Convention on International Trade in Threatened Species of Wild Fauna and Flora – CITES, the procedure for obtaining a CITES certificate is:</p> <ol style="list-style-type: none"> <li>Presentation of application for issuance of a CITES export permit at CONAP’s single contact point.</li> <li>Transfer of the application to the Forest Management Department.</li> <li>Evaluation of the application for issuance of the CITES export permit.</li> <li>In order to make the evaluation, the following analyses should be made: <ul style="list-style-type: none"> <li>Analysis of the technical documentation submitted that supports the export application.</li> </ul> </li> <li>Preparation of the technical ruling that guarantees that the product to be exported comes from non-harmful sustainable media.</li> </ol>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>6. Review of the ruling to guarantee that the product to be exported comes from non-harmful, sustainable media.</p> <p>7. Signature on the CITES export permit by the Management Authority.</p> <p>8. Completion of the process.</p> <p>The requirements are:</p> <p>a) The application form for an export, import or re-export permit for timber flora included in the CITES Appendices must be filled out;</p> <p>b) A simple copy of the personal identification document – PID – of the owner or legal representative of the enterprise registered in CONAP that is making the application must be provided.</p> <p>c) The individual or collective legal persons must have proved their registration in the National Forest Registry.</p> <p>d) A simple copy of the resolution approving sawing and/or re-sawing yield percentage per species must be provided.</p> <p>e) A packing list of shipping list that shows, at minimum, the type of product, dimensions, and volumes per species and/or bundles, quality grades according to the NHLA International Classification Standard and other characteristics at CONAP'S discretion must be provided.</p> <p>f) A copy of the sawing invoice when this is done in a forest industry that is not part of the trading company applying for exportation must be provided.</p> <p>g) A copy of the invoice issued to the final destination must be provided, which shows, in addition to the sales volume,</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>qualities of the timber according to the NHLA international classification standards, total sales price and other particular characteristics.</p> <p>h) Users who export timber from Management Units or landholdings that are not their own property must submit special documentation.</p> <p>Description of risk  In order to obtain a CITES certificate to export species included in that list, it is necessary to carry out various procedures with the responsible institution which, in Guatemala, is CONAP. In this regard, obtaining a CITES certificate is the final step for exportation and in the previous steps of the process it will have been necessary to comply with all of the relevant legislation in applying for forest harvesting, transportation and processing. As is explained in CONAP's CITES Procedures Manual (2013), after authorisation of the certificate, the user proceeds with an application for physical inspection of the shipment (this can be done at the port or in the plant), by which a technical expert from CONAP will verify the amount, type and species exported. A seal will then be placed on the shipment. The CONAP technician is to be accompanied by the enterprise's legal representative and also must document the following with photographs:</p> <p>a) The empty container;  b) The code for the container and the dray;</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>c) The product load;  d) The closing of the container;  e) The placement of seals; and  f) The seals after they have been placed.</p> <p>Finally, the CONAP technician will prepare a report of his inspection.</p> <p>According to comments received from experts, some of the risks are: that timber species included in CITES (such as rosewood) will be exported; and that supporting documentation from companies that operate legally to export timber from the same species harvested illegally (UICN-IARNA 2015) will be used, among others. There are even sources that consider “that illegality and corruption in the forest sector may cover the whole sector, from harvesting and transportation through industrialisation and trading forest products” (UICN-EFI, 2014).</p> <p>Based on expert consultation, the field verification (inspection) is very important however, in most cases the verification is not done, in part due to lack of time/ressources from the CONAP.</p> <p>Also, it has been detected that is usual that the CONAP give empty transport guides to users (companies) to fill them, with the risk to use the same several times. There are no procedures/regulations on this.</p> <p>In addition, CONAP keeps information related to all processes for issuing CITES certificates and communications with the</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
			<p>importing countries (through its management authority) on its web page. Transparency of the CITES procedures established by the competent authority is done through the website/data base where any certificate can be found (<a href="http://168.234.196.102:81/citespub/CITES/ShowCITESTablePage.aspx">http://168.234.196.102:81/citespub/CITES/ShowCITESTablePage.aspx</a>).</p> <p>UICN-EFI (2014), found that for the year 2011, at the national level, all of the countries in the region (Central America and the Dominican Republic) except for Guatemala, showed deficiencies with regard to the availability of CITES export information. (It is possible that the rules and procedures established by CONAP in the process for issuing CITES certificates are generating improvements in the mechanism.)</p> <p>Experts commented that procedures established by the competent authority for CITES in Guatemala are an example for other countries. However, the problem detected is more related with the lack of field verification of CITES information certificates, and the lack of procedures related with fulfillment of transport guides by users (companies) to fill them, without any control from CONAP.</p> <p>On the basis of these arguments and the opinions expressed by the experts consulted, as well as using the precautionary approach, the indicator has been raised as specified risk.</p>

Indicator	Applicable laws and regulations, legal Authority, & legally required documents or records	Sources of Information	Risk designation and determination
<b>Diligence/due care procedures</b>			
1.21 Legislation requiring due diligence/due care procedures	<p><b>Applicable laws and regulations</b></p> <p>Guatemala does not have any legislation on due diligence.</p> <p><b>Legal Authority</b></p> <p>N/A</p> <p><b>Legally required documents or records</b></p> <p>N/A</p>	N/A	N/A

### Recommended control measures

The recommended control measures here are only indicative in nature, and are not mandatory. Organizations shall evaluate and devise appropriate control measures to mitigate the risks identified in this risk assessment as applicable.

Indicator	Recommended control measures
1.1 Land tenure and management rights	<p>Generic</p> <ul style="list-style-type: none"> <li>• Tax authorities shall confirm valid tax registration.</li> <li>• Stakeholder consultation shall confirm that legal status of the operation or rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operations.</li> <li>• The management contract or other agreements with the owner shall indicate clear management rights.</li> <li>• Valid business registration documents shall exist.</li> <li>• The issuance of legal rights and registration shall be subject to public disclosure prior to commencement of any activities within SU.</li> <li>• Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify the legality of the General Property Registration submitted with the application for authorisation of commercial management plans. (This is done by consulting the General Property Registry (Registro General de la Propiedad), which may be done electronically, by telephone or by personal consultation.)</li> <li>• Consult the General Property Registry (Registro General de la Propiedad) (verification of the landholding, page and book) to confirm ownership and validity of property deed.</li> <li>• Request the most recent possible property registrations.</li> <li>• Consult neighbours and communities adjacent to the property for which application is being made in order to verify the identity of the owner of the real property and identify any potential conflicts over land use.</li> <li>• When inspections are made, the boundaries of the landholding must be verified.</li> </ul>

Indicator	Recommended control measures
1.2 Concession licenses	N/A
1.3 Management and harvesting planning	<p>Generic</p> <ul style="list-style-type: none"> <li>• The contents of the operating and harvesting plans shall be consistent with approved Forest Management Plans.</li> <li>• Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.</li> <li>• Harvesting restrictions shall be identified in management plan and maps if legally required.</li> <li>• Harvesting inventories shall be conducted according to legal requirements.</li> <li>• Field verifications shall indicate that the contents of the harvesting plans are being adhered to in the field.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify that there is a Management Plan approved by the competent authority.</li> <li>• Verify that a Forest Manager who is duly registered in INAB and/or CONAP as the person responsible for preparing the management plan has been appointed.</li> <li>• Verify that there is an Annual Operating Plan duly approved by the competent authority and contain information and procedures in accordance with all legal requirements.</li> <li>• Review documentation reflecting the process of authorisation of the Management Plan and/or AOP, including technical field reports.</li> <li>• Review payments of the corresponding fees that support the approved volume and species.</li> <li>• Review maps that show the areas under management, boundaries and other geographic references.</li> <li>• Review commitment to recovery that has been legally established between the owner of the landholding and the State.</li> </ul>
1.4 Harvesting permits	<p>Generic</p> <ul style="list-style-type: none"> <li>• Harvesting limits shall be clearly defined based on maps and quantities.</li> <li>• Stakeholder consultation shall confirm that harvesting permits have been issued according to the relevant laws and regulations by the legally designated competent authority.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify the existence of a current Forest Licence (in the case of harvestings authorised by INAB) or a licence for harvesting and trading wild flora timber products in protected areas (in the case of harvestings authorised by CONAP). Authorities shall confirm the validity of harvesting permits</li> <li>• Verify the existence of a formally constructed file in CONAP or INAB that shows the authorisation process on which the endorsement for issuance of a licence is based.</li> <li>• Verify payment of forest taxes, as part of the authorisation of the forest licence.</li> <li>• In the field, verify the volumes, species and location of the forest harvesting, in accordance with the licence granted.</li> <li>• In the field, verify the process of acquisition and issuance of shipping waybills (in the case of authorisation by CONAP) or forest shipping tickets (in the case of authorisation by INAB).</li> <li>• Verify that the responsibilities of the forest managers (regente) such as monitoring harvesting activities, for example, are properly conducted.</li> <li>• Visit the institutions in charge of authorising licences in order to verify the existence of technical reports that disclose the activities before, during and after harvesting.</li> </ul>
1.5 Payment of royalties and harvesting fees	<ul style="list-style-type: none"> <li>• Receipts shall exist for payments of harvesting-related royalties, taxes, harvesting fees and other charges.</li> <li>• Volumes, species and qualities given in sales and transport documents shall match the fees paid.</li> <li>• Classification of species, volumes and qualities shall match the royalties and fees paid.</li> </ul>

Indicator	Recommended control measures
1.6 Value added taxes and other sales taxes	<p>Generic</p> <ul style="list-style-type: none"> <li>• Sales prices shall be in line with market prices.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify that the user has issued current accounting invoices, including applicable sales taxes.</li> <li>• Verify timber species, volumes and prices (depending on qualities) shown in the accounting invoice.</li> <li>• Verify monthly, quarterly and annual payment of VAT to SAT (depending on the regime in which the user is registered).</li> <li>• Cross-check between duplicates of invoices issued and the report submitted to SAT.</li> <li>• Cross-check between issuance by the enterprise of accounting invoices and shipping tickets (they should coincide with regard to species and volumes shown).</li> <li>• Verify the quarterly report submitted to INAB (in which the enterprise's daily movements are verified) with issuance of accounting invoices.</li> <li>• Consult the VAT declaration made to SAT electronically.</li> <li>• Visit the SAT reference office to learn details related to payment of VAT or assessment of fines.</li> <li>• Review payment of tax on the intrinsic value of timber to the oversight institutions (INAB or CONAP).</li> </ul>
1.7 Income and profit taxes	<p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify that the user has issued current accounting invoices.</li> <li>• Verify timber species, volumes and prices (depending on qualities) shown in the accounting invoice.</li> <li>• Verify monthly, quarterly or end-of-year payment of income tax (ISR) to SAT (depending on the regime in which the user is registered).</li> <li>• Cross-check between duplicates of invoices issued and the report submitted to SAT.</li> <li>• Cross-check between issuance of accounting invoices and the enterprise's shipping tickets (they should coincide with regard to the species and volumes shown).</li> <li>• Verify the quarterly report submitted to INAB (in which the enterprise's daily movements are verified) with issuance of accounting invoices.</li> <li>•</li> <li>• Visit SAT's reference office to learn the details related to payment of income tax (ISR) or assessment of fines.</li> <li>• Review payment of the tax on the intrinsic value of the timber to the oversight institutions (INAB or CONAP).</li> </ul>
1.8 Timber harvesting regulations	<p>Generic</p> <ul style="list-style-type: none"> <li>• Tree species or selected trees found within the SU for which felling is prohibited shall be listed in operational plans.</li> <li>• Tree species or selected trees found within the SU for which felling is prohibited shall be marked in the field.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Harvesting must be done within the boundaries of the management unit and applied to the properly authorised species.</li> <li>• In order to learn the level of respect for implementation of the Management Plan, especially with regard to minimum cutting diameters, species, volumes, seed trees, trees for future harvest and protected species, verify in the field.</li> <li>• Verify transportation waybills and reports by the forest manager in order to compare authorised and transported volumes per species.</li> <li>• Review maps for the location of the management unit, the AOP and other geographic references.</li> <li>• Verify the current status of the forest licence, as well as the transportation waybills.</li> </ul>

Indicator	Recommended control measures
	<ul style="list-style-type: none"> <li>• Make visits to the forest oversight institutions (INAB and CONAP) in order to learn the level of development of the Management Plan and the truth as to compliance with it. In addition, this would serve to learn about the existence of technical reports or complaints about poor management of the units being managed.</li> <li>• Verify the role of the forest manager in implementation of the Management Plan and transportation.</li> </ul>
1.9 Protected sites and species	<p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify authorisation of the environmental document, authorised by the Ministry of the Environment and Natural Resources (Ministerio de Ambiente y Recursos Naturales – MARN) for cases of forest management in protected areas. (This also applies to change in land use outside protected areas.)</li> <li>• Verify that all forest harvesting authorised in a protected area is endorsed by CONAP through its Manual for Forest Administration in Protected Areas.</li> <li>• Ensure that all forest harvesting in protected areas uses a shipping waybill for wild timber flora as the transportation document.</li> <li>• In the field, verify the location of the harvesting and its relation to an eligible management category in protected areas. Also verify the degree of protection of water sources and archaeological sites.</li> <li>• Visit CONAP's reference office to learn the degree of respect for rules for the protection of species protected by CITES or a national list (such as the List of Endangered Species of Flora and Fauna in Guatemala – LEA).</li> <li>• Verify the licence for harvesting and trading wild timber flora products in protected areas, in order to learn the authorised species, their volumes and the effective term of the document.</li> <li>• Compare the CITES list and the LEA list with regard to authorised licences.</li> </ul>
1.10 Environmental requirements	<p>Country Specific</p> <ul style="list-style-type: none"> <li>• Ensure compliance with protective measures for soil, water and forests established in the management plan.</li> <li>• Ensure compliance with the measures established by the environmental document for cases of forest harvesting in eligible management categories in protected areas.</li> <li>• In the field, verify protective measures for water sources, soil erosion, use of chemical products, transportation in the right seasons and other necessary environmental measures.</li> <li>• Review reports issued by the competent institutions in forest matters in order to learn the degree of compliance with environmental protection measures.</li> <li>• Review reports issued by the forest manager regarding the degree of implementation of the Forest Management, in order to ensure the implementation of the management plan and the respect of the environmental measures included on.</li> <li>• Visit the MARN office in the region where the management plan operates in order to learn whether there are complaints about environmental impact by the authorities or neighbours.</li> <li>• Verify preventive measures implemented by the personnel who operate the management plan with regard to mitigation of environmental impacts.</li> <li>• In the office and in the field, verify protection zones established in the Management Plan (forests, riverbanks, cultural protection zones, and nesting sites, among others).</li> </ul>
1.11 Health and safety	<p>Generic</p> <ul style="list-style-type: none"> <li>• Interviews with staff and contractors shall confirm that legally required protection equipment is provided and its use mandated by the organisation.</li> <li>• All requirements for the prevention of air and water pollution shall be followed and verified through pollution monitoring reports (when applicable).</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Enforce the legal principles governing health and safety.</li> </ul>

Indicator	Recommended control measures
	<ul style="list-style-type: none"> <li>• Technical and operational personnel should implement personal protection measures and the use of safety equipment depending on the work they perform.</li> <li>• Anybody involved in forest harvesting and/or transportation work should be acquainted with measures for the protection of health and safety on the job, as well as identification of high risk zones and highly hazardous chemical products.</li> <li>• Field visits are recommended in order to verify implementation of the use of personal protection equipment and measures for preventing work-related accidents.</li> <li>• Visit oversight institutions (such as IGSS), in order to learn whether the personnel involved in forest operations receive the appropriate benefits.</li> <li>• Verify worker training in health and safety mechanisms, and also in duly approved health and safety regulations.</li> </ul>
1.12 Legal employment	<p>Generic</p> <ul style="list-style-type: none"> <li>• Minimum age shall be observed for all personnel involved in harvesting activities.</li> <li>• Minimum age shall be observed for all personnel involved in hazardous work.</li> <li>• Stakeholders shall confirm that forced or compulsory labour is not involved in harvesting activities.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify that labour contracts between the employer and the employee comply with the rules established by law.</li> <li>• Verify the existence of a carnet issued by the IGSS to beneficiaries of this insurance mechanism; else identify private mechanisms that comply with the legal rules for workers.</li> <li>• Verify workers' freedom to organise and to exercise their rights.</li> <li>• Conduct interviews in the field in order to learn the ranges of wages of operators and check these against the corresponding legislation (minimum wage), and visit the offices of the Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social) in order to verify the existence of any complaints or lawsuits that have been entered.</li> <li>• In the field, verify the level of knowledge among operators about the existence of labour rights.</li> </ul>
1.13 Customary rights	N/A
1.14 Free prior and informed consent	N/A
1.15 Indigenous peoples rights	<p>Country Specific</p> <ul style="list-style-type: none"> <li>• Consult stakeholders on indigenous lands used for forestry. Include indigenous leaders as stakeholders. Consultation shall confirm that indigenous peoples' established rights are not being violated.</li> <li>• Visit the office of the Attorney General of the Nation and/or Human Rights, where information about disputes over indigenous lands used for forestry with forest coverage can be located.</li> <li>• Visit the forest oversight institutions to learn the status of applications for forest harvesting on indigenous lands where customary rights are claimed.</li> </ul>
1.16 Classification of species, quantities, qualities	<p>Generic</p> <ul style="list-style-type: none"> <li>• Evidence shall be provided upon request (photographs of labelling).</li> <li>• There shall be physical control in which it shall be verified that the present material equals what has been invoiced and marked.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Correctly classify products according to species, quantities, qualities, etc. in sales documents, customs declarations, shipping documents and other documents required by law. Special emphasis should be given to the export process where it has been possible to ship out a protected species based on documentation for another unprotected species with which the timber has a certain degree of similarity.</li> </ul>

Indicator	Recommended control measures
	<ul style="list-style-type: none"> <li>• Visit the offices of INAB, which is the institution in charge of the oversight process for sawmills, in order to verify existing and traded volumes in accordance with the licences approved for a given industrial enterprise, and also in order to verify findings uncovered by the institution for a given enterprise.</li> <li>• Verify quarterly reports required by INAB under the mechanism of the Electronic Information System for Forest Enterprises (SEINEF), in order to link them with the volumes entering and leaving the companies by species.</li> <li>• Verify the existence of timber sales contracts in which the volumes and species included are specified.</li> </ul>
1.17 Trade and transport	<p>Generic</p> <ul style="list-style-type: none"> <li>• Species and product types shall be traded legally.</li> <li>• Documents related to transportation, trade or export shall be clearly linked to the product in question.</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Verify legal and technical documentation in forest enterprises in accordance with the requirements established by INAB, especially in regard to the Electronic Information System on Forest Enterprises (Sistema Electrónico de Información de Empresas Forestales – SEINEF), and report on issuance of enterprise shipping tickets, invoices and other necessary documents.</li> <li>• Review shipping waybills (CONAP) and/or forest shipping tickets (INAB) issued in accordance with volumes and species based on the forest licences. In addition, verify the industrial enterprise’s reports where the material entering under the various forest licences is specified.</li> <li>• Review the quarterly report issued by the industrial enterprise, in which the reports of products entering and leaving the industry are shown.</li> <li>• Verify issuance of invoices for the sale of products, specifying volumes, species and quality traded.</li> </ul>
1.18 Offshore trading and transfer pricing	N/A
1.19 Custom regulations	<p>Generic</p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• Review export and import licenses, which must be based on a file that meets the national legal requirements.</li> <li>• Verify supporting documentation that is the basis for obtaining an export licence (certificate of shipment inspection, shipping inspection ticket, CITES certificate – when applicable – and invoice, among others).</li> <li>• Visit INAB’s single contact point for timber exports, where all export licences and their respective supporting documentation are located, in order to verify species, volumes and export prices.</li> <li>• Verify payment of taxes linked to the export process.</li> </ul>
1.20 CITES	<p>Generic</p> <ul style="list-style-type: none"> <li>• All cross border-trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).</li> </ul> <p>Country Specific</p> <ul style="list-style-type: none"> <li>• <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/manejo-forestal/permisos-certificados-cites-flora-maderable.html">http://www.conap.gob.gt/index.php/servicios-en-linea/manejo-forestal/permisos-certificados-cites-flora-maderable.html</a> (CONAP link to publish CITES timber permits on line).</li> </ul>
1.21 Legislation requiring due diligence/due care procedures	N/A

## Controlled wood category 2: Wood harvested in violation of traditional and human rights

### Risk assessment

Indicator	Sources of Information	Functional scale	Risk designation and determination
2.1. The forest sector is not associated with violent armed conflict, including that which threatens national or regional security and/or linked to military control.	See detailed analysis below.	Country	Risk determination: Low risk  Justification: All low risk thresholds (1, 2, 3, 4 and 5) are met. None of the specified risk thresholds are met.
2.2. Labour rights are respected including rights as specified in ILO Fundamental Principles and Rights at work.	See detailed analysis below.	Country	Risk determination: Specified risk  Justification: Specified risk threshold 14 and 15 apply.
2.3. The rights of Indigenous and Traditional Peoples are upheld.	See detailed analysis below.	Country	Risk determination: Specified risk  Justification: Specified risk thresholds 23, 24 and 26 apply.

### Recommended control measures

The recommended control measures here are only indicative in nature, and are not mandatory. Organizations shall evaluate and devise appropriate control measures to mitigate the risks identified in this risk assessment as applicable.

Indicator	Recommended control measures
2.1	N/A
2.2	Clear evidence that the Organization has policies in place that guarantee core labour rights.
2.3	(1) Clear evidence that a forest operation is not taking place in traditional territories of indigenous or traditional peoples. Or, (2) Clear evidence that the FMU is managed by the governance structures of indigenous or traditional peoples, Or, (3) Clear evidence that the involved indigenous or traditional peoples have freely ceded their territorial and/or use rights in an agreement or settlement with the government, Or (4) an (FPIC) agreement with the involved indigenous or traditional peoples with customary forest rights in the forest management unit, after a fair, transparent, cultural appropriate and inclusive procedure.

## Detailed analysis

Sources of information	Evidence	Scale of risk assessment	Risk indication <sup>1</sup>
<b>Context</b> (the following are indicators that help to contextualize the information from other sources) <ul style="list-style-type: none"> <li>Searching for data on: level of corruption, governance, lawlessness, fragility of the State, freedom of journalism, freedom of speech, peace, human rights, armed or violent conflicts by or in the country, etc.</li> </ul>			
World Bank: Worldwide Governance Indicators - the WGI report aggregate and individual governance indicators for 215 countries (most recently for 1996–2012), for six dimensions of governance: Voice and Accountability; Political Stability and Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law; Control of Corruption <a href="http://info.worldbank.org/governance/wgi/index.aspx#home">http://info.worldbank.org/governance/wgi/index.aspx#home</a>	<a href="http://info.worldbank.org/governance/wgi/index.aspx#reports">http://info.worldbank.org/governance/wgi/index.aspx#reports</a> In 2014 (latest available year) Guatemala scores between 24 (for Political Stability and Absence of Violence/Terrorism) and 48 (Regulatory Quality) for five of the six indicators on the percentile rank among all countries. The indicator (for Rule of Law) is the lowest score with 14. The scores range from 0 (lowest rank) to 100 (highest rank) with higher values corresponding to better outcomes.	Country	
World Bank Harmonized List of Fragile Situations: <a href="http://siteresources.worldbank.org/EXTLICUS/Resources/511777-1269623894864/Fragile_Situations_List_FY11_%28Oct_19_2010%29.pdf">http://siteresources.worldbank.org/EXTLICUS/Resources/511777-1269623894864/Fragile_Situations_List_FY11_%28Oct_19_2010%29.pdf</a>	Guatemala does not feature on this list.	Country	
Committee to Protect Journalists: Impunity Index CPJ's Impunity Index calculates the number of unsolved journalist murders as a percentage of each country's population. For this index, CPJ examines each year journalist murders that occurred in the past 10 years, and that remain unsolved. Only those nations with five or more unsolved cases are included on this index.	<a href="http://cpj.org/reports/2014/04/impunity-index-getting-away-with-murder.php">http://cpj.org/reports/2014/04/impunity-index-getting-away-with-murder.php</a> Guatemala does not feature on this list.  <a href="https://cpj.org/killed/americas/guatemala/">https://cpj.org/killed/americas/guatemala/</a> However, CPJ reports that 23 journalists were murdered in Guatemala since 1992 (6 motive confirmed, 17 motive unconfirmed).	Country	
Carleton University: Country Indicators for Foreign Policy: the Failed and Fragile States project of Carleton University examines state fragility using a combination of structural data and current event monitoring <a href="http://www4.carleton.ca/cifp/ffs.htm">http://www4.carleton.ca/cifp/ffs.htm</a>	<a href="https://carleton.ca/cifp/wp-content/uploads/State-Fragility-Map.pdf">https://carleton.ca/cifp/wp-content/uploads/State-Fragility-Map.pdf</a> Guatemala scores 'medium' on the State fragility map 2011.	Country	

<sup>1</sup> A risk indication is provided for each source analyzed, except in the first part that addresses the general country context as that is not a risk indicator. A cumulative risk assessment for each risk indicator is provided in the row with the conclusion on each risk indicator, based on all the sources analyzed and evidence found.

<p>Human Rights Watch: <a href="http://www.hrw.org">http://www.hrw.org</a></p>	<p><a href="https://www.hrw.org/sites/default/files/wr2015_web.pdf">https://www.hrw.org/sites/default/files/wr2015_web.pdf</a>  <i>Human Rights Watch World Report 2015</i>  "Guatemala  Former Guatemalan leader Efraín Ríos Montt was found guilty in May 2013 of genocide and crimes against humanity, the first time that any head of state has been convicted of genocide in a national court. The ruling was overturned on procedural grounds days later, however, and a new trial is scheduled for early 2015.  The Attorney General's Office has also made progress on other prominent human rights cases, but <b>impunity remains pervasive</b>. In May, then-Attorney General Claudia Paz y Paz, recognized for her advances in reforming the country's prosecutorial system, was removed from office by the Constitutional Court seven months before her term was due to end.  The mandate of the United Nations-backed International Commission Against Impunity in Guatemala (CICIG), which since 2007 has supported efforts to investigate and prosecute organized crime, will end in September 2015. President Otto Pérez Molina has said that this will be the commission's final term.  <b>Public Security and the Criminal Justice System</b>  <b>Powerful criminal organizations engage in widespread acts of violence and extortion. Rampant corruption within the justice system, combined with intimidation and inefficient procedures, contribute to high levels of impunity. Frustrated with the lack of criminal enforcement, some communities have resorted to vigilantism.</b> According to the human rights ombudsman, 49 people were killed by lynching in 2013, more than twice the number in 2012.  Despite these problems, prosecutors have made progress in cases of violent crime, as well as torture, extrajudicial killings, and corruption—due in large part to the work of former Attorney General Claudia Paz y Paz, as well as the support of CICIG.  In February, nine members of the Zetas Cartel were convicted for the massacre of 27 farmhands during a dispute over drug trafficking routes in the Petén region. The gang members were sentenced to a total of over 100 years in jail.  In September, former army officer Byron Lima Oliva, imprisoned since 2006 for his role in the 1998 murder of Bishop Juan José Gerardi, was charged with running a criminal network in the prison. At least seven other people were implicated in the case, including the national prison director, Sergio Camargo. The investigation was initiated in 2013 by CICIG, in collaboration with the Attorney General's Office.  Progress in holding perpetrators of serious abuses to account has been undercut by the dilatory strategy of defense lawyers, including the abuse of amparo protection appeals, leading to the postponement of trials by months or even years.  <b>Attacks on Human Rights Defenders, Journalists, and Trade Unionists</b></p>	<p>Country</p>	
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Acts of violence and intimidation against trade unionists endanger freedom of assembly and association and the right to organize and bargain collectively. Fifty-three trade unionists were killed between 2007 and 2013, according to the International Trade Union Conference.

Journalists, especially those covering corruption and drug trafficking, also face threats, attacks, and legal intimidation. In November 2013, President Otto Pérez Molina and Vice President Roxanna Baldetti filed charges against José Rubén Zamora, editor of *El Periodico*, after the newspaper published articles referring to alleged links between the administration and organized crime. In February, a judge barred Zamora from leaving the country pending investigation of the allegations. The president subsequently dropped the charges; the vice president said she would as well, but at time of writing had not done so.

In April, the Guatemalan opposition party LIDER brought charges against the magazine *ContraPoder* after the latter incorrectly claimed that letters of support to the leader of the opposition had been fabricated. Criminal charges have been filed against the organization, despite a public retraction of statements and an apology by the magazine.”

<https://www.hrw.org/news/2008/05/04/universal-periodic-review-guatemala>

*Universal Periodic Review of Guatemala*

*Human Rights Watch's Submission to the Human Rights Council*

“The country continues to face high levels of violence associated with both electoral politics and common crime. Guatemala’s weak and corrupt law enforcement institutions have proven incapable of containing the powerful organized crime groups that, among other things, are believed responsible for continuing attacks on human rights defenders.

**Confronting Past Abuses**

Guatemala continues to suffer the effects of an internal armed conflict that ended in 1996. A truth commission sponsored by the United Nations estimated that as many as 200,000 people were killed during the 36-year war and attributed the vast majority of the killings to government forces.

Guatemalans seeking accountability for these abuses face daunting obstacles. The prosecutors and investigators who handle these cases receive grossly inadequate training and resources. The army and other state institutions fail to cooperate fully with investigations into abuses committed by current or former members. The police do not provide adequate protection to judges, prosecutors, and witnesses involved in politically sensitive cases.

Of the 626 massacres documented by the truth commission, only two cases have been successfully prosecuted in the Guatemalan courts. In 1999, a Guatemalan court sentenced three former civil defense patrol members to prison for the murders of two of the 177 civilians massacred in Rio Negro in 1982. In addition, in October 2005, the Supreme Court of Justice upheld the

2004 sentencing of a lieutenant and 13 soldiers to 40 years in prison for the 1995 Xaman massacre in which 11 civilians were killed.

By contrast, the prosecution of former military officers allegedly responsible for the 1982 Dos Erres massacre, in which at least 162 people died, and the trial of six other civil defense patrol members, alleged to be complicit in the Rio Negro massacres, have been held up for years by dilatory defense motions. The few other convictions obtained in human rights cases have come at considerable cost. In the case of Myrna Mack, an anthropologist who was assassinated in 1990, it took more than a decade to obtain the conviction of an army colonel, Valencia Osorio, for his role in orchestrating the killing. During that time, a police investigator who gathered incriminating evidence was murdered, and two other investigators—as well as three witnesses—received threats and fled the country. Osorio, meanwhile, escaped police custody and has not served his sentence.

The record of Guatemala's Constitutional Court in promoting accountability for human rights crimes has been mixed. On the positive side, it ruled in April 2007 to uphold a lower courts' sentencing of Army Colonel Byron Disrael Lima Estrada, Captain Byron Lima Oliva, and priest Mario Orantes Nájera to 20 years in prison on charges of being accomplices in the 1998 murder of Bishop Juan Gerardi Conedera, who had led the Archbishop's Human Rights Office. More recently, however, the Court ruled in December 2007 that several former army officers could not be extradited to Spain to face charges in Spanish courts for acts of alleged genocide committed in Guatemala in the 1980s. Guatemala has taken important steps toward making official records available for human rights investigations. The July 2005 discovery of approximately 70 to 80 million documents of the disbanded National Police, including files on Guatemalans who were murdered and "disappeared" during the armed conflict, could play a key role in the prosecution of those who committed human rights violations during the conflict. In July 2007, a Guatemalan appellate court ordered the declassification of military documents from the 1980s. These documents may also provide crucial evidence for use in future human rights trials.

Yet there is no legal framework in place to ensure adequate long-term management and to regulate public access to these files.

**Public Security**

Impunity remains a chronic problem with common crimes as well. According to the National Civilian Police, 5,885 people were murdered in 2006. This is the highest number of murders reported in the last 10 years. The Guatemalan Human Rights Ombudsman's Office estimates that convictions are only obtained in approximately 6 percent of all criminal cases; the conviction rate drops to less than 3 percent in cases involving murders of women and children. On February 19, 2007, three Salvadoran representatives from the Central American Parliament and their driver were murdered near Guatemala City. On February 22, four Guatemalan policemen were arrested as suspects in the

	<p>crime, but were murdered several days later while in prison awaiting legal proceedings. At this writing, no trial date had been set for the suspects arrested in either of these two cases.</p> <p>Frustration with the lack of justice in Guatemala has undoubtedly contributed to acts of vigilantism in the last several years. Public lynching is a common problem, with 40 lynching cases reported between January and August 2007. The majority of lynching victims were suspected of having committed a crime, but there have also been lynching cases in the past few years which were motivated by other factors, such as disputes over land or water.</p> <p>(..)</p> <p><b>Human Rights Defenders</b></p> <p>Attacks and threats against human rights defenders remain commonplace. In February 2007, for example, an employee of the Center for Legal Action in Human Rights (Centro para la Accion Legal en Derechos Humanos, CALDH) was briefly kidnapped and several other members of CALDH's legal team received written and oral threats in connection with their work for the organization. Members of the Guatemalan Foundation for Forensic Anthropology (Fundacion de Antropologia Forense de Guatemala, FAFG) continued to receive death threats in 2007 in connection with their work exhuming bodies buried in clandestine cemeteries throughout the country.</p> <p>Others involved in human rights prosecutions are also routinely threatened or attacked, including justice officials, forensic experts, plaintiffs, and witnesses. Journalists, labor activists, and others who have denounced abuses by the authorities are also subject to violence and intimidation. Guatemalan human rights organizations report that 158 such acts of violence or intimidation were reported between January and August 2007.</p> <p>There is widespread consensus among local and international observers that the people responsible for these acts of violence and intimidation are affiliated with private, secretive, and illegally armed networks or organizations, commonly referred to in Guatemala as "clandestine groups." These groups appear to have links to both government officials and organized crime—which give them access to considerable political and economic resources. The Guatemalan justice system, which has little ability even to contain common crime, has so far proven no match for this powerful and dangerous threat to the rule of law."</p>		
<p>US AID: <a href="http://www.usaid.gov">www.usaid.gov</a>  Search on website for [country] + 'human rights' 'conflicts' 'conflict timber'</p>	<p><a href="https://results.usaid.gov/guatemala/democracy-and-governance/rule-law-and-human-rights#fy2014">https://results.usaid.gov/guatemala/democracy-and-governance/rule-law-and-human-rights#fy2014</a>  <i>Dollars to result</i>  "USAID's efforts in this area are focused on strengthening security and justice sector institutions and reducing impunity. More specifically, USAID provides technical assistance and training to justice sector institutions to improve prosecution and adjudication of high impact crimes such as organized crime, violence against women, kidnappings, narcotics-related crimes, and trafficking-</p>	<p>Country</p>	

in-persons, among others. USAID efforts also focus on supporting the implementation of police reform.“

<https://www.usaid.gov/guatemala/democracy-and-governance>

*CITIZEN SECURITY*

*“Situation Analysis*

Guatemala’s 36-year internal armed conflict was the longest, most violent conflict in Central America and resulted in more than 200,000 casualties and rampant violations of human rights. The signing of the Peace Accords in December 1996 brought the conflict to an official end and marked the emergence of a civil society sector that strongly advocates for needed reforms. Still, the country’s democracy remains fragile and some governmental institutions are weak. Furthermore, democracy and rule of law are threatened due to limited state capacity to control violence and crime, which have reached historically high levels over the past decade.

Guatemala is a transit country for the trafficking of humans, drugs, arms, and contraband. As other drug routes are disrupted, traffickers take advantage of the country’s geographic proximity to Mexico and land routes to the United States. Additionally, youth gangs have grown and are responsible for a large share of violent crime in urban areas.

Recent surveys have found that over 60% of Guatemalans believe that insecurity is the most significant problem facing the country. Homicide rates have remained above 34 per 100,000 for the past decade and 33% of households (43% in urban areas) were victims of crime in 2012.”

<https://www.usaid.gov/guatemala/environment>

*ENVIRONMENT*

*Situation Analysis*

“Environmental issues are critical in Guatemala because of the country’s vast natural resources. Guatemala is one of the most ecologically diverse nations on the planet, with 14 different eco-regions and great biological and cultural diversity. Four million hectares of sub-tropical forest are found in Guatemala, 70% of which are located within natural protected areas like the Maya Biosphere Reserve in the department of Petén and the Sierra de Las Minas Biosphere Reserve in the eastern region of the country. The forested area comprised of northern Guatemala, Belize, and southern Mexico is the largest in Mesoamerica and the second largest contiguous forest in the Americas after the Amazon. These areas however, as well as other parts of Guatemala, face threats related to habitat loss, deforestation, over-exploitation of natural resources, and environmental contamination.

Many of the country’s poor environmental conditions are linked to challenges in enforcing and complying with existing environmental laws. This jeopardizes the future of small and medium-scale rural producers that depend on the

	<p>management and protection of biodiversity and natural resources for their economic livelihoods.</p> <p>In addition to these threats, Guatemala is one of the most vulnerable countries to the impacts of climate change which disproportionately affect rural indigenous farmers and exacerbate poor land management practices.”</p>		
<p>Global Witness: <a href="http://www.globalwitness.org">www.globalwitness.org</a> Search on website for [country] + ‘human rights’ ‘conflicts’ ‘conflict timber’.</p>	<p><a href="https://www.globalwitness.org/en/archive/major-breakthrough-fight-end-illegal-logging-interpol-arrests-200-across-12-countries/">https://www.globalwitness.org/en/archive/major-breakthrough-fight-end-illegal-logging-interpol-arrests-200-across-12-countries/</a> <i>“MAJOR BREAKTHROUGH IN FIGHT TO END ILLEGAL LOGGING AS INTERPOL ARRESTS 200 ACROSS 12 COUNTRIES</i> Global Witness welcomes Interpol’s announcement that it has arrested nearly 200 people and <b>seized around US\$8 million worth of illegal timber in a major international crackdown on illegal logging and timber trafficking in Central and South America.</b> This is a significant breakthrough in efforts to control a deadly trade valued at up to US\$100billion, which is destroying the forests the planet needs to survive and leaving the people who live in them stranded. The Interpol investigation called “Operation Leaf”, covered 12 countries and lasted three months in late 2012. <b>It brought together law enforcement agencies to combat forestry crime in</b> Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, <b>Guatemala</b>, Honduras, Paraguay, Peru, and Venezuela. The investigation pointed to the social impacts of the illegal logging, highlighting damaging impacts on forest-dependent communities and increases in murders and corruption as criminal groups move into remote forest areas.”</p> <p><a href="https://www.globalwitness.org/en/archive/commitments-improved-transparency-forest-sector-must-be-acted/">https://www.globalwitness.org/en/archive/commitments-improved-transparency-forest-sector-must-be-acted/</a> <i>COMMITMENTS TO IMPROVED TRANSPARENCY IN THE FOREST SECTOR MUST BE ACTED ON</i> “Marking the end of the Year of the Forest, the Annual Transparency Report published by a coalition of NGOs working across Europe, Africa and Latin America <b>assesses the amount of information available to citizens in seven forest-rich tropical countries</b> (Cameroon, the Democratic Republic of Congo, Ecuador, Ghana, <b>Guatemala</b>, Liberia and Peru). <b>The report includes measures of how governments deal with threats from mining and agricultural plantations, the way in which deals are done and whether forest-dependent communities have enough say over how their forests are being managed. It finds that governmental commitments to improve transparency in the forest sector are not being acted on. Governments have announced a range of commitments to improve transparency over forest sector management.</b> These include: better and earlier public consultation, public disclosure of key documents, and support to small landowners to protect their forests. In addition, four of the seven forest-rich countries covered in the report now have Freedom of Information laws that include commitments to providing information on forest sector management. <b>Worryingly however, very few of these commitments are</b></p>	Country	

	<p>being acted on and in the case of the freedom of information laws, not one forest authority is meeting its obligations.</p> <p>“These additional commitments currently amount to no more than statements of intent,” said David Young, forest campaigner at Global Witness. <b>“More and better information must be published immediately. Until this happens, forest-dependent communities cannot know whether their forests are being managed in their interests, or those of a select few.”</b>”</p>		
<p>WWF  <a href="http://wwf.panda.org/about_our_earth/about_forests/deforestation/forest_illegal_logging/">http://wwf.panda.org/about_our_earth/about_forests/deforestation/forest_illegal_logging/</a></p>	<p>Guatemala does not feature on this site.</p>	Country	
<p>Chattam House Illegal Logging Indicators Country Report Card  <a href="http://www.illegal-logging.info">http://www.illegal-logging.info</a></p>	<p><a href="http://www.illegal-logging.info/content/deforestation-wreaks-havoc-guatemala%E2%80%99s-caribbean-region">http://www.illegal-logging.info/content/deforestation-wreaks-havoc-guatemala%E2%80%99s-caribbean-region</a>  <i>Deforestation wreaks havoc in Guatemala’s Caribbean region</i>  <i>IPSNews, 17-12-2012</i></p> <p>“Guatemala City - “Many tourists come to this area for bird watching, but the terrible deforestation is leading to the disappearance of so much of our flora and fauna. The cleared land is used for cattle ranching,” said Haroldo Figueroa, who works as a guide in nature reserves along Guatemala’s Caribbean coast.</p> <p>The statistics bear him out. The province of Izabal along Guatemala’s northeast Caribbean coast is one of the areas with the highest deforestation rates in the country, according to two government studies on forests, covering the 1991-2001 and 2006-2010 periods.</p> <p>Forests in that province shrank from 373,000 hectares in the 1991-1993 period to just over 264,000 hectares in 2010, according to the two studies carried out by the National Institute of Forests and the National Council on Protected Areas, with the support of two private universities: Valle de Guatemala and the Jesuit-run Rafael Landívar.</p> <p><b>“Deforestation is caused by people or landowners who don’t take into account the consequences that it has on global warming, fishing and tourism,” Figueroa told IPS. “And whoever has money can do whatever they want here.”</b></p> <p>There are 12 nature reserves in Guatemala’s Caribbean coastal region, which local communities depend on for their survival because of the water, firewood, fish, wild fruits and nuts, and opportunities for tourism business activities provided by the jungle areas.</p> <p>One of the protected areas is Punta de Manabique, declared a wildlife refuge by Congress in 2005. It is home to innumerable species of coral, fish, crustaceans, shellfish, birds, and mammals.</p> <p>The 43-km Dulce River runs through the 151,878-hectare refuge, which is one of the most important coastal marine wetland systems in Central America.</p> <p>Since 1955, the Dulce River National Park has been a sanctuary for species like the manatee – a large aquatic herbivorous marine mammal also known as the sea cow. The Chocón Machacas Protected Biotope was created within the</p>	Caribbean region	

	<p>park to protect one of the last remaining habitats of the endangered Caribbean manatee (<i>Trichechus manatus</i>).</p> <p>The 47,500-hectare Cerro San Gil Protected Spring Reserve, whose 19 rivers supply more than 50,000 people in surrounding communities with water, is also found in the province of Izabal.</p> <p>But deforestation is a major problem in the province, and is hurting the livelihoods of local communities.</p> <p>According to the most recent data, from the 2011 National Survey on Living Conditions, 54 percent of Guatemala's 15 million people are poor, and 13 percent are extremely poor, mainly in rural indigenous areas.</p> <p><b>"The loss of these resources is irreparable for the country in terms of production, because these forests offer environmental goods and services, such as water, that are vital to the population,"</b> activist Walter Chávez with the Foundation for Ecodevelopment and Conservation, a local NGO, told IPS.</p> <p><b>The widespread, uncontrolled felling of trees</b> also aggravates the threat to local populations posed by extreme weather events."</p> <p>(..)</p> <p>"Meanwhile, the agricultural frontier continues to expand."</p>		
<p>Transparency International Corruption Perceptions Index <a href="http://www.transparency.org">www.transparency.org</a></p>	<p><a href="https://www.transparency.org/news/feature/corruption_perceptions_index_2016">https://www.transparency.org/news/feature/corruption_perceptions_index_2016</a></p> <p><b>In 2016 (latest available year), Guatemala was ranked number 136 (out of 176) with a score of 28.</b> (A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 - 100, where 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean)</p>	Country	
<p>Amnesty International Annual Report: The state of the world's human rights -information on key human rights issues, including: freedom of expression; international justice; corporate accountability; the death penalty; and reproductive rights <a href="http://www.amnesty.org">www.amnesty.org</a></p>	<p><a href="https://www.amnesty.org/en/documents/pol10/0001/2015/en/">https://www.amnesty.org/en/documents/pol10/0001/2015/en/</a> (Chapter on Guatemala, p. 166-167)</p> <p><b>Background</b></p> <p>"Street gangs and drug trafficking cartels contributed to a precarious public security situation. The authorities reported over 5,000 homicides committed during the year.</p> <p>In June, the former National Director of Police, Erwin Sperisen, was convicted in Switzerland for his role in the extrajudicial execution of seven unarmed prisoners during a police operation in the El Pavón prison in 2006.</p> <p><b>Violence Against Women And Girls</b></p> <p>Local human rights organizations reported over 500 killings of women during the year.</p> <p>In May the Inter-American Court of Human Rights ruled against Guatemala in the case of María Isabel Franco, who was sexually assaulted, tortured and murdered in 2001, at the age of 15. The Court concluded that Guatemala had acted in a discriminatory manner due to María Isabel's gender, and that in the context of pervasive violence against women, the authorities had not acted promptly when María Isabel's mother alerted the police of her daughter's disappearance.</p>	Country	

	<p><b>Impunity</b></p> <p>The right to truth, justice and reparation for victims of crimes against humanity during the internal armed conflict (1960 to 1996) remained a concern. Former President Efraín Ríos Montt was convicted in May 2013 of committing genocide and crimes against humanity against members of Maya-Ixil Indigenous community during his presidency. The Constitutional Court overturned his conviction 10 days later on a technicality. He had yet to be retried by the end of 2014.</p> <p>In February, the Attorney General's term was cut short by the Constitutional Court. There were concerns that her removal was the result of her role in ensuring that former President Ríos Montt was brought to trial, and her commitment to investigate human rights violations that occurred during the internal armed conflict.</p> <p>In May, Congress passed a non-binding resolution stating that genocide had not occurred during the internal armed conflict. The resolution directly contradicted a 1999 UN investigation which concluded that genocide, war crimes and crimes against humanity had occurred during the internal armed conflict, in which 200,000 people were killed and 45,000 people were forcibly disappeared. <b>Over 80% of those killed and disappeared were of Indigenous Maya ethnicity.</b></p> <p>In July, Fermín Solano Barrillas, a former member of the armed opposition during the internal armed conflict, was sentenced to 90 years in prison for directing the massacre of 22 people in 1988, in El Aguacate, Chimaltenango department.</p> <p><b>Land Disputes</b></p> <p><b>Fearing impacts on their livelihoods, communities continued to oppose existing and proposed hydroelectric and mining projects, and protested against the lack of consultation around these projects.</b></p> <p><b>In May 2013, in response to this opposition, the government proposed a moratorium on the issuing of new mining licences. Yet concerns remained that the proposed legislation to approve mining licences fell short of international standards and did not address Indigenous and rural communities' concerns around lack of consultation and free, prior and informed consent.</b></p> <p>In May, local activists occupying a mining site in San José del Golfo, Guatemala department, were forcibly removed by the police. The Office of UN High Commissioner for Human Rights expressed concern at the use of excessive force by the security forces during their removal.</p> <p><b>In June, local communities protested against the proposed construction of the Xalalá hydroelectric dam in Alta Verapaz and Quiché departments. In August, three people from the community of Monte Olivo, Alta Verapaz department were killed. They were reportedly shot by police officers during the forced eviction of a community opposed to the construction of a hydroelectric project in the area. By the end of the year nobody had been held to account for their deaths.</b></p>		
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	<p><b>Human Rights Defenders</b>  <b>Attacks, threats and intimidation against human rights defenders and journalists continued during the year.</b>  In August, Gustavo Illescas, a journalist with the Independent Media Centre in Guatemala, was threatened after he reported on police violence during the forced eviction in Monte Olivo (see above). A colleague was detained by masked men and told to convey a threatening message to Gustavo Illescas. The colleague was also beaten and sexually assaulted. By the end of the year nobody had been held to account for his ill-treatment or for the threats against Gustavo Illescas.“</p>		
<p>Freedom House  <a href="http://www.freedomhouse.org/">http://www.freedomhouse.org/</a></p>	<p><a href="https://freedomhouse.org/report/freedom-world/freedom-world-2017">https://freedomhouse.org/report/freedom-world/freedom-world-2017</a>The status of Guatemala in the World Freedom map 2017 is ‘Partly free’.  <a href="https://freedomhouse.org/report/freedom-net/freedom-net-2017">https://freedomhouse.org/report/freedom-net/freedom-net-2017</a>The status of Guatemala regarding the Freedom on the Net is not assessed.  <a href="https://freedomhouse.org/report/freedom-press/freedom-press-2017">https://freedomhouse.org/report/freedom-press/freedom-press-2017</a>The status of Guatemala on the Freedom of the Press map 2017 is ‘Partly free’.</p> <p><a href="https://freedomhouse.org/report/freedom-world/2015/guatemala">https://freedomhouse.org/report/freedom-world/2015/guatemala</a>  <i>Guatemala</i>  “OVERVIEW  After recent improvement, the Guatemalan criminal justice system suffered several reversals in 2014. The term for respected Attorney General Claudia Paz y Paz was questionably curtailed by seven months, and Yassmin Barrios, the judge who presided over the 2013 genocide trial against former general Efraín Ríos Montt, was suspended and fined. There were also irregularities in the selection of Supreme Court and appellate court justices.  <b>Violence and threats continue against members of the media and human rights defenders.</b> Ongoing allegations of corruption plague President Otto Pérez Molina and Vice President Roxana Baldetti Elías. Social and land conflicts go on, including surrounding the Santa Rita hydroelectric dam and a cement plant in Pajoques.</p> <p>POLITICAL RIGHTS AND CIVIL LIBERTIES:  Political Rights: 24 / 40  A. Electoral Process: 9 / 12  The constitution stipulates a four-year presidential term and prohibits reelection. Members of the 158-seat, unicameral Congress of the Republic are elected to four-year terms. In 2011 parliamentary elections, the Patriotic Party (PP) captured 56 seats and National Unity for Hope won 48 seats; nine other parties took the remaining 54 seats. The PP’s Otto Peréz Molina defeated Manuel Baldizón of the Renewed Democratic Liberty (LIDER) party in a November presidential runoff with 54 percent of the vote. <b>The elections were generally considered free and fair despite accompanying violence, though electoral observers reported irregularities including intimidation, vote buying,</b></p>	<p>Country</p>	

	<p>and the burning of ballots and electoral boxes. The electoral authority, the Supreme Electoral Tribunal (TSE), was criticized for its slow transmission of election results.</p> <p>B. Political Pluralism and Participation: 10 / 16 Elections take place within a highly fragmented and fluid multiparty system. The TSE has suspended 11 political parties for organizing campaign activities in anticipation of the 2015 elections. After the PP violated election laws by holding an early rally to announce its 2015 presidential candidate in September 2014, the TSE ordered its suspension for six months and removal of Vice President Baldetti from her post as secretary general of the party. <b>The government uses the military to maintain internal security, despite restrictions imposed by the 1996 peace accord.</b> <b>Although they comprise 44 percent of the population, members of indigenous communities hold only 12 percent of congressional seats. The indigenous population has a more significant representation at the local government level.</b></p> <p>C. Functioning of Government: 5 / 12 Although a Law against Corruption was passed in 2012, only three cases had made it to the courts as of September 2014. <b>Guatemala was ranked 115 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index. According to a recent Latin American Public Opinion Project (LAPOP) study, in 2014 approximately 20 percent of respondents reported that they were victims of corruption."</b></p> <p>"Civil Liberties: 31 / 60 (-1)</p> <p>D. Freedom of Expression and Belief: 12 / 16 While the constitution protects freedom of speech, journalists often face threats <b>and practice self-censorship when covering drug trafficking, corruption, organized crime, and human rights violations. Threats come from public officials, drug traffickers, individuals aligned with companies operating in indigenous communities, and local security forces.</b> <b>The constitution guarantees religious freedom. However, indigenous communities have faced discrimination for openly practicing the Mayan religion.</b></p> <p>E. Associational and Organizational Rights: 6 / 12 The constitution guarantees freedom of assembly, though police frequently threaten force and have at times used violence against protesters. In September 2014, citizens organized protests nationwide in favor of the passage of a comprehensive rural development law. An ensuing confrontation with officials led to five protesters injured; two others were arrested. <b>Guatemala is home to a vigorous labor movement, but workers are frequently denied the right to organize and face mass firings and blacklisting, especially in export-processing zones. Trade union members are also subject to intimidation, violence, and murder, particularly in rural areas during land disputes. According to the International Trade Union Confederation,</b></p>		
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	<p>Guatemala is the most dangerous country in the world for trade unionists. In September, the U.S. trade representative requested that an arbitration panel meet to determine whether Guatemala has broken its commitment to protect workers. If found guilty, the country could be fined up to \$15 million annually or could be denied trade benefits.</p> <p>F. Rule of Law: 5 / 16 (-1)</p> <p>Witnesses and judicial-sector workers continue to be threatened and, in some cases, murdered. According to a 2013 report from the CICIG, impunity levels have decreased from 93 percent to 70 percent since the commission's inception in 2007. A June 2014 study by the Chile-based Centro de Estudios de Justicia de las Americas recognized improvements in the Public Ministry's criminal prosecution system, including an increase in the number of cases resolved without going to trial and greater levels of accountability and transparency. During the first six months of the year, more than 8,000 sentences for violent crimes were issued, many for crimes against women. Police continue to be accused of torture, extortion, kidnapping, extrajudicial killings, and drug-related crimes, although several notable prosecutions took place in 2014. Four police officers were arrested in September for their connection to a kidnapping network.</p> <p>Indigenous communities suffer from especially high rates of poverty, illiteracy, and infant mortality. Indigenous women are particularly marginalized. Discrimination against the Mayan community is a major concern. In August 2013, Pérez announced the creation of a cabinet position dedicated to indigenous peoples.</p> <p>G. Personal Autonomy and Individual Rights: 8 / 16</p> <p>Guatemala has one of the highest rates of child labor in the Americas. The government does not fully comply with the minimum standards for eliminating trafficking, but according to the U.S. State Department it is making efforts to do so, including launching a program to provide specialized services for trafficking victims. The kidnapping of children for illegal adoption remains a concern, as does the trafficking of women and children for labor and sexual slavery.”</p>		
<p>Reporters without Borders: Press Freedom Index</p> <p><a href="https://rsf.org/en">https://rsf.org/en</a></p>	<p><a href="https://rsf.org/en/ranking/2017">https://rsf.org/en/ranking/2017</a></p> <p>2017 World Press Freedom Index</p> <p>“Guatemala is ranked #118 out 180 counties in the 2017 World Press Freedom Index with a score of 39,33.</p> <p><a href="https://rsf.org/en/quatemala">https://rsf.org/en/quatemala</a></p> <p>After President Otto Pérez Molina’s resignation in a corruption scandal, Jimmy Morales’ election in January 2016 raised hopes in Guatemala. The country nonetheless continues to suffer from organized crime and impunity, which makes honest journalism a difficult task. Exposing corruption and embezzlement involving politicians and government officials can lead to threats and physical violence. Journalists are often murdered, and as a result Guatemala continues to be one of the Western Hemisphere’s most dangerous</p>	<p>Country</p>	

	countries for the media. A Program for the Protection of Journalists was supposed to have been launched in 2016 but the project has been postponed.		
Fund for Peace - Fragile States Index - the Fund for Peace is a US-based non-profit research and educational organization that works to prevent violent conflict and promote security. The Fragile States Index is an annual ranking, first published in 2005 with the name Failed States Index, of 178 nations based on their levels of stability and capacity <a href="http://fsi.fundforpeace.org/">http://fsi.fundforpeace.org/</a>	<i>Fragile States Index 2017.</i> <a href="http://fundforpeace.org/fsi/country-data/">http://fundforpeace.org/fsi/country-data/</a> In 2017 (latest available year) <b>Guatemala is ranked 57 out of 178</b> countries on the Fragile State Index (no. 1 being the most fragile state). This ranks Guatemala in the category ' <b>High Warning</b> '.	Country	
The Global Peace Index. Published by the Institute for Economics & Peace, This index is the world's leading measure of national peacefulness. It ranks 163 nations according to their absence of violence. It's made up of 23 indicators, ranging from a nation's level of military expenditure to its relations with neighbouring countries and the level of respect for human rights. Source: The Guardian: <a href="http://economicsandpeace.org/research/iep-indices-data/global-peace-index">http://economicsandpeace.org/research/iep-indices-data/global-peace-index</a>	<a href="http://visionofhumanity.org/app/uploads/2017/06/GPI17-Report.pdf">http://visionofhumanity.org/app/uploads/2017/06/GPI17-Report.pdf</a> <i>2017 Global Peace Index</i> <b>Guatemala is ranked number 117 out of the 163 countries in the Global Peace Index 2017</b> with a GPI Score of 2.245. The <b>State of Peace in Guatemala</b> is classified as <i>medium</i> .	Country	
<b>Additional sources of information</b> (These sources were partly found by Googling the terms '[country]', 'timber', 'conflict', 'illegal logging')	<b>Evidence</b>	<b>Scale of risk assessment</b>	<b>Risk indication</b>
Global Witness. Making the Forest Sector Transparent Annual Transparency Report. <a href="http://www.foresttransparency.info/">http://www.foresttransparency.info/</a>	<a href="http://www.foresttransparency.info/guatemala/2012/themes/17/126/Information%20on%20Forest%20Law">http://www.foresttransparency.info/guatemala/2012/themes/17/126/Information on Forest Law</a> "Guatemala's Forest Legislation and its regulations, together with the law on Protected Areas and the Law on Protection and Improvement of the Environment set out the offences and infractions against forest regulations and their specific penalties. Article 89 of the forest law states that the penalties for forest offences will be applied according to Chapter II, Title VI of Book I of the Penal Code, <b>and in accordance with the terms of the Penal Procedure Code, although this does not mean that details of the offenders and their offences must be published.</b> However, the Ministry of the Interior is obliged by the Law on Access to Public information to publish reports, although there is no specific section for this purpose. The Public Prosecutor for Crimes against the environment is the body responsible for implementing criminal proceedings and directing investigation into crimes of public action, while the Nature Protection Division (DIPRONA) is a unit of the National Civil Police responsible for surveillance of natural assets in national territory. As with the previous report, no information has been found on the website of the Ministry of the Interior, the Judiciary or the INAB; access can be gained, however, via applications in the framework of the Law on Access to Public information, and according to the stipulations of the Civil Code in cases currently being tried.	Country	

	<p>A study carried out by the Rafael Landivar University concluded that in Guatemala 95% of forest operations are illegal. It also states that the causes of this illegality are the "...high demand for forest products, procedures which do not promote incorporation into legal management and the existence of a market in illegal products. Added to this is the poor ability of the institutions to supervise licit activities and punish illicit activities." (1)</p> <p>On this point, the Inter-Institutional Plan for the Prevention and Reduction of Illegal Logging is an initiative of the National Forests Institute (INAB) designed to reduce illegal logging. The Inter-Institutional Committee on Illegal Logging is coordinating with the Judiciary, the Public Prosecutor, DIPRONA and the Ministry of the Interior, amongst others. There are, however, considerable challenges, not least the situation of DIPRONA, which only has a presence in eleven departments in the country, out of a total of 22. <b>This means that there is no institutional capacity to deal holistically with the problem of forest infractions.</b>"</p>		
<p>PROFOR  <a href="http://www.profor.info/">http://www.profor.info/</a></p>	<p><a href="http://www.profor.info/node/2013">http://www.profor.info/node/2013</a>  <i>Auditing Timber Supply to the Forest Industry in Guatemala. Last updated: 11.09.2011</i>  <i>"Challenge</i>  According to the analytical studies of the Institute of Incidencia at the Rafael Landivar University, illegal logging in Guatemala represents about 30-50 percent of the annual harvested timber. Based on the analysis of the Integrated Accounting on Forest Products from the Cuenta con Ambiente project, legal timber is estimated to make up only five percent, while illegal logging represents 95 percent of the total traded timber. In 2008, IARNA (Agricultural, Natural Resources and Environmental Institute, Guatemala) in its forest products flows analyses documented that 89 percent of the harvested timber in selected areas was basically uncontrolled timber.  Since 2004, INAB, the forest sector authority agency of Guatemala, and CONAP, the National Protected Area Council, have been involved in implementing activities to prevent and combat illegal logging in forestlands and protected areas."</p>	<p>Country</p>	
<p>Different sources regarding the civil war from the recent past and the current situation regarding the weak governance in Guatemala.</p>	<p>Countless sources can be found that support the evidence about the civil war from the recent past and the current situation regarding the weak governance in Guatemala.</p> <p>For example:  <a href="http://news.bbc.co.uk/2/hi/americas/country_profiles/1215811.stm">http://news.bbc.co.uk/2/hi/americas/country_profiles/1215811.stm</a>  "2012 July - Dozens are injured, including the ministers of the interior and education, in police clashes in Guatemala City with teacher trainers protesting against having to spend more time studying for the qualifications."</p>	<p>Country</p>	

	<p><a href="http://www.ijmonitor.org/2015/11/impunity-still-the-rule-for-grave-crimes-committed-during-guatemalas-civil-war/">http://www.ijmonitor.org/2015/11/impunity-still-the-rule-for-grave-crimes-committed-during-guatemalas-civil-war/</a></p> <p>“However, 2015 has seen remarkably little progress on cases related to grave crimes committed during Guatemala’s internal conflict, for which impunity still seems to be the rule. So far this year, no new case related to conflict-related crimes has been presented in the courts.”</p>		
<p>From national CW RA: Draft prepared by NEPCon, for guidance only. Last update 8th December 2011</p> <p>Info on illegal logging</p>	<p>“1.1 Evidence of enforcement of logging related laws in the district: Unspecified risk Justification: Not evaluated since criteria 1.4 already determines "unspecified risk" Source: -“</p> <p>“1.2 There is evidence in the district demonstrating the legality of harvests and wood purchases that includes robust and effective system for granting licenses and harvest permits: Unspecified risk Justification: Not evaluated since criteria 1.4 already determines "unspecified risk" Source: -“</p> <p>“1.3 There is little or no evidence or reporting of illegal harvesting in the district of origin: Unspecified risk Justification: Not evaluated since criteria 1.4 already determines "unspecified risk" Source: -“</p> <p>“1.4 There is a low perception of corruption related to the granting or issuing of harvesting permits and other areas of law enforcement related to harvesting and wood trade: Unspecified risk Justification: According to FSC directive (FSC-DIR-40-005) this indicator can be considered low risk only if the Corruption Perception Index (CPI) for the given country is equal to or above 50. According to the latest (2014) evaluation results from Transparency International, the CPI for this country is BELOW 50. The indicator is thus considered as unspecified risk (resulting the whole category 1 to be of unspecified risk status). Exact CPI values for all countries and more information about the survey can be found at <a href="http://www.transparency.org/cpi2014/">http://www.transparency.org/cpi2014/</a>. Source: Transparency International maintains regularly updated information on perceptions of corruption at the national level (<a href="http://www.transparency.org/">http://www.transparency.org/</a>)”</p>	Country	
<p><b>Conclusion on country context:</b> Guatemala scores low to medium on almost all indicators reviewed in this section on the country context, such as in relation to press freedom, peace, governance and absence of corruption. Human rights issues include: little progress in ending impunity for past serious human rights violations; lawlessness combined with a high level of crime, often linked to drugs and drugs trafficking; abuses by security forces; violation of the rights of the Maya indigenous peoples, attacks, threats and intimidation against human rights defenders and journalists; and violations of the associational and organizational rights. There is evidence of high rates of illegal logging.</p>		Country	

Until 1996, Guatemala was a conflict region with a civil war that also affected the forested regions of the country. Nowadays, it is still in a peace building processes, with the flaws already mentioned.			
<b>Indicator 2.1. The forest sector is not associated with violent armed conflict, including that which threatens national or regional security and/or linked to military control.</b>			
<b>Guidance</b>			
<ul style="list-style-type: none"> <li>• Is the country covered by a UN security ban on exporting timber?</li> <li>• Is the country covered by any other international ban on timber export?</li> <li>• Are there individuals or entities involved in the forest sector that are facing UN sanctions?</li> </ul>			
Compendium of United Nations Security Council Sanctions Lists: <a href="https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/consolidated.pdf">https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/consolidated.pdf</a>	There is <b>no UN Security Council ban on timber exports</b> from Guatemala.  Guatemala is not covered by any other international ban on timber export.	Country	Low risk
US AID: <a href="http://www.usaid.gov">www.usaid.gov</a>	There are <b>no individuals or entities involved in the forest sector in Guatemala that are facing UN sanctions.</b>		
Global Witness: <a href="http://www.globalwitness.org">www.globalwitness.org</a>			
From national CW RA Draft prepared by NEPCon, for guidance only. Last update 8th December 2011	<b>"2.1 There is no UN Security Council ban on timber exports from the country concerned: Low risk</b> Justification: There is no UN Security Council export ban in the country. Source: Global Witness <a href="http://www.globalwitness.org/pages/en/forests.html">http://www.globalwitness.org/pages/en/forests.html</a> "	Country	Low risk
<b>Guidance</b>			
<ul style="list-style-type: none"> <li>• Is the country a source of conflict timber? If so, is it at the country level or only an issue in specific regions? If so – which regions?</li> <li>• Is the conflict timber related to specific entities? If so, which entities or types of entities?</li> </ul>			
US AID: <a href="http://www.usaid.gov">www.usaid.gov</a>  Conflict Timber is defined by US AID as: - conflict financed or sustained through the harvest and sale of timber (Type 1), - conflict emerging as a result of competition over timber or other forest resources (Type 2) Also check overlap with indicator 2.3	<b>No information found that indicates a specified risk</b> after searching Guatemala + 'conflict timber'.	Country	Low risk
<a href="http://www.globalwitness.org/campaigns/environment/forests">www.globalwitness.org/campaigns/environment/forests</a>	<b>No information found that indicates a specified risk</b> after searching Guatemala + 'conflict timber'.	Country	Low risk
Human Rights Watch: <a href="http://www.hrw.org/">http://www.hrw.org/</a>	<b>No information found that indicates a specified risk</b> after searching Guatemala + 'conflict timber'.	Country	Low risk
World Resources Institute: Governance of Forests Initiative Indicator Framework (Version 1) <a href="http://pdf.wri.org/working_papers/gfi_tenure_indicators_sep09.pdf">http://pdf.wri.org/working_papers/gfi_tenure_indicators_sep09.pdf</a> Now: PROFOR: <a href="http://www.profor.info">www.profor.info</a>	<a href="http://www.profor.info/node/1998">http://www.profor.info/node/1998</a>  This work resulted in a publication: Assessing and Monitoring Forest Governance: A user's guide to a diagnostic tool (available on this page) published by PROFOR in June 2012. <b>This tool has not yet been applied to Guatemala.</b>	Country	Low risk

<p>Amnesty International Annual Report: The state of the world's human rights -information on key human rights issues, including: freedom of expression; international justice; corporate accountability; the death penalty; and reproductive rights  <a href="http://www.amnesty.org">http://www.amnesty.org</a></p>	<p><a href="https://www.amnesty.org/en/documents/pol10/0001/2015/en/">https://www.amnesty.org/en/documents/pol10/0001/2015/en/</a>  This document contains no information that indicates a specified risk in relation to conflict timber.</p>	Country	Low risk
<p>World Bank: Worldwide Governance Indicators - the WGI report aggregate and individual governance indicators for 213 economies, for six dimensions of governance: Voice and Accountability; Political Stability and Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law; Control of Corruption  <a href="http://info.worldbank.org/governance/wgi/index.aspx#home">http://info.worldbank.org/governance/wgi/index.aspx#home</a>  Use indicator 'Political stability and Absence of violence' specific for indicator 2.1</p>	<p><a href="http://info.worldbank.org/governance/wgi/index.aspx#reports">http://info.worldbank.org/governance/wgi/index.aspx#reports</a>  In 2016 (latest available year) Guatemala scores 26.19 on the indicator <b>political stability and absence of violence</b> on the percentile rank among all countries (ranges from 0 (lowest) to 100 (highest rank) with higher values corresponding to better outcomes.</p>	Country	Specified risk on political instability and violence
<p>Greenpeace: <a href="http://www.greenpeace.org">www.greenpeace.org</a>  Search for 'conflict timber [country]'</p>	<p>No information found that indicates a specified risk after searching Guatemala + 'conflict timber'.</p>	Country	Low risk
<p>CIFOR: <a href="http://www.cifor.org/">http://www.cifor.org/</a></p>	<p><a href="http://www.cifor.org/publications/Corporate/FactSheet/forests_conflict.htm">http://www.cifor.org/publications/Corporate/FactSheet/forests_conflict.htm</a>  [no date available]</p> <p><b>Forests and conflict</b></p> <p>Illegal forestry activities and poor governance in tropical forested regions are two factors which can encourage violent conflict. Widespread violence in turn makes forestry and conservation policies in forested areas less effective.</p> <p><b>The scope of the problem</b></p> <p>There are <b>currently violent conflicts in forested regions</b> in Colombia, Côte D'Ivoire, Democratic Republic of the Congo, India, Indonesia, Liberia, Mexico, Myanmar, Nepal, Philippines, Sierra Leone, Solomon Islands, Sudan, and Uganda.</p> <p>In the past twenty years there have also been violent conflicts in the forested regions of Angola, Burundi, Cambodia, Central African Republic, <b>Guatemala</b>, Mozambique, Nicaragua, Peru, Republic of Congo, Rwanda, and Surinam. Together these countries account for about 40 percent of the world's tropical forest and over half of all tropical forest outside Brazil.</p> <p><b>Timber incomes have financed violent conflict</b> in Cambodia, Democratic Republic of Congo, Indonesia, Liberia, Myanmar, Sierre Leone, and other</p>	Country	Low risk

	countries. While Illicit drugs are widespread in the forested regions of Bolivia, Colombia, Laos, Myanmar, and Peru.”		
Google the terms '[country]' and one of following terms or in combination 'conflict timber', 'illegal logging'	For "illegal logging" see Context section above.  No information found that indicates a specified risk after searching Guatemala + 'conflict timber'	Country	Low risk
From national CW RA Draft prepared by NEPCon, for guidance only. Last update 8th December 2011	“2.2 The country or district is not designated a source of conflict timber (e.g. USAID Type 1 conflict timber): Low risk Justification: The country is not associated with or designated as source of conflict timber according to latest available research. Source: Conflict Timber: Dimensions of the Problem in Asia and Africa Volume I Synthesis Report (available at www.usaid.gov)”	Country	Low risk
<b>Conclusion on indicator 2.1:</b> Although information was found about illegal logging in Guatemala and information was also found regarding armed conflicts in the past (see Context section) and violent conflicts about land in the present (see Context section and section on indicator 2.3 below), no recent information (last five years) on conflict timber in Guatemala was found.  <b>The following low risk thresholds apply:</b> (1) The area under assessment is not a source of conflict timber <sup>2</sup> ; AND (2) The country is not covered by a UN security ban on exporting timber; AND (3) The country is not covered by any other international ban on timber export; AND (4) Operators in the area under assessment are not involved in conflict timber supply/trade; AND (5) Other available evidence does not challenge 'low risk' designation.		Country	Low risk
<b>Indicator 2.2. Labour rights are respected including rights as specified in ILO Fundamental Principles and Rights at work.</b>  <b>Guidance</b> <ul style="list-style-type: none"> <li>• Are the social rights covered by the relevant legislation and enforced in the country or area concerned? (refer to category 1)</li> <li>• Are rights like freedom of association and collective bargaining upheld?</li> <li>• Is there evidence confirming absence of compulsory and/or forced labour?</li> <li>• Is there evidence confirming absence of discrimination in respect of employment and/or occupation, and/or gender?</li> <li>• Is there evidence confirming absence of child labour?</li> <li>• Is the country signatory to the relevant ILO Conventions?</li> <li>• Is there evidence that any groups (including women) feel adequately protected related to the rights mentioned above?</li> <li>• Are any violations of labour rights limited to specific sectors?</li> </ul>			
<b>general sources from FSC-PRO-60-002a V1-0 EN</b>	<b>information found and specific sources</b>	<b>scale of risk assessment</b>	<b>risk indication</b>
Status of ratification of fundamental ILO conventions: <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:11001:0::NO::">http://www.ilo.org/dyn/normlex/en/f?p=1000:11001:0::NO::</a>	<a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102667">http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102667</a>		

<sup>2</sup> “Conflict timber” limited to include “timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict or its representatives, either to perpetuate conflict or take advantage of conflict situations for personal gain - conflict timber is not necessarily illegal (see FSC-PRO-60-002a).





	<p>Committee again notes that, in the context of Cases Nos 2445, 2540, 2609, 2768 and 2978, the CFA notes with deep concern that <b>the allegations are extremely serious and include numerous murders (58 murders have been examined so far by the CFA since 2004) and acts of violence against trade union leaders and members, in a climate of persistent impunity.</b></p> <p>The Committee notes that the Guatemalan trade union federations indicated to the ILO mission that: (i) <b>there is no significant progress in the investigations into acts of violence against trade unionists reported to the ILO;</b> (ii) <b>the situation of impunity with regard to the murders of trade unionists;</b> (iii) <b>the launch of the effective criminal prosecution of crimes against trade unionists, which had been discussed from 2013 onwards and agreed upon by the trade union committee and the Chief Public Prosecutor, has not taken place;</b> (iv) <b>the trade unions have not been called upon at any stage of the criminal proceedings relating to the murders of trade unionists, nor have they been able to appear as complainants in those proceedings;</b> (v) the Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists in Guatemala, presented by the Ministry of the Interior in August 2014, does not mention trade unionists or trade union activities; (vi) on several occasions the Ministry of the Interior announced the launch of a hotline for reporting crimes against trade unionists but this has never become operational; and (vii) the CICIG report on the murders of 58 trade union officials and members brought to the attention of the ILO bears witness to the impunity that exists in Guatemala.</p> <p>The Committee notes <b>with deep concern</b> that, according to the information provided to the mission by the Autonomous Popular Trade Union Movement of Guatemala and the Coordinating Committee of the Global Unions in Guatemala, <b>16 trade unionists were murdered between 2 January 2013 and 20 August 2014.</b> The Committee notes that the Public Prosecutor's Office informed the mission that all the cases are being investigated, that an arrest warrant exists with regard to one of them and that an arrest warrant is being requested in relation to another.</p> <p>The Committee notes the Government's statement that it is taking all possible measures to combat violence and impunity and that it refers in particular to the following:" (..)</p> <p><i>"While taking due note certain measures taken by the authorities to improve the effectiveness of the investigations into the murders of trade union officials and members (strengthening of the Special Investigation Unit for Crimes against Trade Unionists, coordination between the various ministries and public institutions), the Committee strongly urges the Government to continue making every effort to: (i) investigate all acts of violence against trade union officials and members, including those reported in 2013 and 2014, with a view to apportioning responsibility and punishing the perpetrators, taking the victims' trade union activities fully into consideration in the investigations; and (ii) provide prompt and effective protection for trade union officials and members</i></p>	Country	Specified risk for freedom of association
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	<p><i>who are at risk. The Committee requests the Government to continue providing information on all the measures taken and the results achieved in this respect. Articles 2 and 3 of the Convention.</i></p> <p><b>Legislative issues.</b> <i>The Committee recalls that it has been asking the Government for many years to take steps to amend the following legislative provisions:</i></p> <ul style="list-style-type: none"> <li>-section 215(c) of the Labour Code, which establishes the requirement for 50 per cent plus one of those working in the sector, in order to be able to establish sectoral trade unions;</li> <li>-sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity, to be able to be elected as a trade union leader;</li> <li>-section 241 of the Labour Code, under the terms of which, to be legal, strikes should be called by a majority of the workers and not by the majority of those casting votes; section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and specifies other obstacles to the right to strike; and sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises.”</li> </ul> <p><i>(..) “In view of the above information, the Committee expresses the strong hope that the National Congress will adopt as soon as possible the legislative reforms requested by the Committee. The Committee requests the Government to provide information in this respect.”</i></p> <p><b>“Application of the Convention in practice.</b> The Committee <i>welcomes the establishment of the Committee for the Settlement of Disputes in the area of Freedom of Association and Collective Bargaining</i>, which was set up in the context of implementation of the roadmap with the assistance of the Special Representative of the ILO Director-General in Guatemala. <i>The Committee trusts that this body, which is of a tripartite nature and is directed by an independent mediator, will contribute towards settling the numerous cases of violation of the Convention reported by the trade union organizations.”</i></p> <p><b>“Registration of trade union organizations.</b> The Committee notes the <i>recurrent observations from the trade union organizations regarding obstacles to trade union registration.</i> The Committee notes in particular: (i) objections to the labour administration’s practice of referring to the employer the list of founders of the trade union which is being established in order to verify that they belong to the enterprise; and (ii) reports of numerous cases in which registration is denied because the union membership includes public employees on precarious contracts. <i>The Committee requests the Government to ensure that the aforementioned practices in the registration process are</i></p>	Country	Specified risk for freedom of association
	<p><b>“Registration of trade union organizations.</b> The Committee notes the <i>recurrent observations from the trade union organizations regarding obstacles to trade union registration.</i> The Committee notes in particular: (i) objections to the labour administration’s practice of referring to the employer the list of founders of the trade union which is being established in order to verify that they belong to the enterprise; and (ii) reports of numerous cases in which registration is denied because the union membership includes public employees on precarious contracts. <i>The Committee requests the Government to ensure that the aforementioned practices in the registration process are</i></p>	Country	Specified risk for freedom of association



	<p>processing unlawful dismissals of trade union officers through normal legal channels, which means that reinstatement is only effective when it has been confirmed by the Appeals Court, a procedure which can take years. Moreover, the Committee notes the statement by CACIF that 98 per cent of labour courts in the country have a system of oral proceedings which has speeded up hearings. The Committee further notes that the Government provides general statistics on the length of labour court cases but does not supply specific data on the length of proceedings for acts of anti-union discrimination and, in particular, it does not indicate the average time taken for a reinstatement to be ordered and implemented. Lastly, the Committee observes that several cases are pending before the Committee on Freedom of Association relating to the situation of many workers dismissed on trade union grounds who have been waiting years for reinstatement orders handed down by the first instance court to be examined by the Appeals Court. <i>In view of the above situation and the undertakings made by the Government in the context of the “roadmap”, the Committee, while noting the steps being taken to speed up the system of labour justice, requests the Government to take the necessary steps to significantly reduce the time taken by the justice system to effect reinstatements. The Committee requests the Government to provide information on any developments in this respect.</i></p> <p>The Committee also recalls that it has been asking the Government for many years to take the necessary steps to put an end to the widespread non-compliance with orders for the reinstatement of dismissed trade unionists and that this request forms part of the conclusions of the ILO high-level tripartite mission conducted in 2013. In this respect, the Committee notes the Government’s indications that: (i) Agreement No. 26-2012 establishes the verification unit in the judiciary for monitoring compliance with all labour court rulings; (ii) General Instruction No. 05-2013 of the Chief Public Prosecutor provides for criminal prosecution of contempt of court in relation to non-compliance with labour court rulings; (iii) a total of 663 reinstatements were effected in 2014, compared with 60 in 2010; and (iv) 477 cases of refusal to comply with labour court rulings were examined by the Public Prosecutor’s Office, 53 of them were transferred to the courts, resulting in three convictions, while a hearing date has to be fixed for 33 cases. In addition, the Committee notes that: (i) CACIF commends the work of the reinstatement verification unit and the adoption of special judicial proceedings for labour cases; (ii) the trade union federations point out that <b>Ministry of Labour statistics show that 277 final reinstatement orders have not been implemented and that in the other 402 cases the reinstated workers have not been paid their outstanding wages.</b> <i>In view of the above, while duly noting the initiatives taken to tackle non-compliance with rulings ordering the reinstatement of dismissed trade unionists, the Committee requests the Government to significantly increase resources to effectively eliminate these defects and ensure compliance with</i></p>	Country	Specified risk for right to organise
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	<p><i>judicial decisions. The Committee requests the Government to provide information on any developments in this respect and on the results achieved.”</i></p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3138778:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3138778:NO</a></p> <p><i>Observation (CEACR) - adopted 2013, published 103rd ILC session (2014) Equal Remuneration Convention, 1951 (No. 100) - Guatemala</i></p> <p><i>“The Committee notes the observations of the General Confederation of Workers of Guatemala (CGTG) dated 30 August 2013, according to which women receive lower pay in the coffee sector. The Committee asks the Government to provide its comments on this matter.</i></p> <p><b>Gender pay gap.</b> The Committee observes that <b>the Government has not sent any statistical information that would make it possible to identify the current gender pay gap.</b> The Committee recalls that pay differentials remain one of the most persistent forms of inequality between women and men and that collecting, analysing and disseminating this information is important in identifying and addressing inequality in remuneration. <i>The Committee asks the Government to provide up-to-date statistical information on pay levels for men and women in the various economic sectors of activity, and occupational categories, to enable it to evaluate progress made.”</i></p> <p><b>Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.</b> The Committee notes that the Government reiterates the fact that article 102(c) of the Constitution provides for equal pay for equal work performed under the same conditions and with equal efficiency and seniority. Section 89 of the Labour Code provides for equal pay for equal work performed in the same posts and under equal conditions of efficiency and seniority within the same enterprise. The Committee notes that the principles established in the Constitution and the Labour Code are more restrictive than the principle established in the Convention, which refers to “work of equal value”. The concept of “work of equal value” lies at the heart of the fundamental right of equal remuneration for men and women and the promotion of equality. The concept is also fundamental to tackling occupational sex segregation in the labour market, as it permits a broad scope of comparison, including, but going beyond, equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work of an entirely different nature which is nevertheless of equal value. With regard to tackling occupational segregation, application of the Convention’s principle is not limited to comparisons between men and women in the same establishment or enterprise. It allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers (see General Survey on fundamental Conventions, 2012, paragraphs 673, 697–699). <i>The Committee urges the Government to take</i></p>	<p>Country</p> <p>-</p> <p>Country</p>	<p>-</p> <p>Specified risk on</p>
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	<p><i>steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee encourages the Government to seek technical assistance from the Office in this regard.”</i></p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084540:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084540:NO</a></p> <p><i>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Abolition of Forced Labour Convention, 1957 (No. 105) - Guatemala</i></p> <p>“Article 1(a), (c) and (d) of the Convention. <b>Penal sanctions involving compulsory labour imposed for expressing opposition to the established economic and social order, for breaches of labour discipline and for participation in strikes.</b> In its previous comments, the Committee requested the Government to take the appropriate measures to amend sections 419, 390(2) and 430 of the Penal Code, given that, under these provisions, prison sentences involving compulsory labour (under section 47 of the Penal Code) can be imposed, in breach of the Convention, as a means of labour discipline or for participation in a strike. Under section 419 of the Penal Code, “any public servant or employee who fails or refuses to carry out, or delays carrying out, any duty pertaining to his position or office, shall be punished with imprisonment of from one to three years”; according to section 390(2), “anyone committing an act intended to paralyze or disrupt an enterprise that contributes to the economic development of the country shall be punished with imprisonment of from one to five years”; and finally, section 430 stipulates that “public servants, public employees and other employees or members of the staff of public service enterprises who collectively abandon their jobs, work or service, shall be punished with imprisonment of from six months to two years. The penalties shall be doubled where such stoppage harms the public interest, and in the case of leaders, promoters or organizers of a collective stoppage”. The Committee noted in particular that, although proposals to amend sections 390(2) and 430 of the Penal Code had been drafted with ILO technical assistance by the Tripartite Commission appointed in 2008 to examine the legislative reforms to be made in follow-up to the Committee’s comments, no legislative reforms had been made and no bill had been submitted to Congress.</p> <p>The Committee notes that, according to information submitted by the Government to supplement its report on 5 November 2012, the Government indicates that there is no legislative initiative before Congress to amend the provisions of the Penal Code referred to by the Committee in so far as these provisions do not usually penalize strike action or breaches of labour discipline but rather events that undermine social order – and, in view of their repercussions, also sometimes social peace. The Committee notes that the Government submitted, as an example, a legal ruling based on section 419 of the Penal Code for a case of embezzlement of public funds by a local authority.</p>	<p>gender wage discrimination</p>
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	<p>The Committee also notes that, in its observations, the MSICG underlines the State's lack of political will to follow through with the necessary legislative reforms. According to the MSICG, the Government has been making formal announcements for many years about the agreements reached in various committees, the drafting of bills, and the strengthening of the Tripartite Commission or the recourse to ILO technical assistance, without any of these announcements actually resulting in the adoption of the necessary reforms. The MSICG also refers to other provisions in the Penal Code which give a very wide interpretation of the elements constituting an offence, so that actions considered normal in the context of a social protest, a strike or any other demonstration by civil society could be covered by this definition (sections 256 and 391 of the Penal Code concerning unlawful appropriation of property (usurpación) and the definition of terrorism). <b>The trade union believes that any legal provisions that criminalize social protests on the basis of offences that have been very broadly defined, excludes an environment conducive to the exercise of freedom of association; consequently, given the considerable restrictions imposed on the right to strike, exercising freedom of association runs the risk of trade union activities being penalized.</b></p> <p>The Committee recalls that it has been making comments on the need to amend sections 419, 390(2) and 430 of the Penal Code for more than 30 years and that the Government has, on several occasions, given the assurance that the penal legislation will be brought into conformity with the Convention, the last time being in the context of the work of the Tripartite Commission appointed in 2008 to examine the legislative reforms to be made in follow-up to the comments of the Committee. It <b>regrets</b> to note that the Government no longer refers to its intention to review the abovementioned provisions and recalls that, in the context of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it is also calling for the amendment of sections 390(2) and 430 of the Penal Code.</p> <p><b>Consequently, the Committee urges the Government to adopt the necessary measures with a view to amending or repealing the provisions in sections 419, 390(2) and 430 of the Penal Code, to ensure that nobody who peacefully participated in a strike or breached labour discipline may be penalized by a prison sentence involving compulsory prison labour. The Committee also requests the Government to send information on the observations made by the MSICG on the criminalization of social protests and trade union activities.</b></p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3138774:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3138774:NO</a>  <i>Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014) Discrimination (Employment and Occupation) Convention, 1958 (No. 111) - Guatemala</i></p> <p><b>This document contains no information that indicates a specified risk in relation to discrimination.</b></p>	Country	Specified risk for right to organise
		Country	Low risk on discrimination

	<p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084641:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084641:NO</a></p> <p><i>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Minimum Age Convention, 1973 (No. 138) - Guatemala</i></p> <p>“Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice. In its previous comments, the Committee noted the statistics on child labour in Guatemala and expressed <b>concern at the number and situation of children under 14 years of age who work</b>. It noted the development by the Government, in collaboration with ILO–IPEC, of a “roadmap” to ensure that Guatemala is a country free from child labour and its worst forms, as well as the results of the programme Mi Familia Progresá. It also observed that <b>the Committee on the Rights of the Child</b>, in its concluding observations of 25 October 2010, <b>regretted that the implementation of the various initiatives to address violations of children’s rights was insufficient and suffered from a lack of adequate evaluation due to institutional weaknesses and the inadequate allocation of resources (CRC/C/GTM/CO/3-4, paragraph 19). In these circumstances, the Committee urged the Government to intensify its efforts to ensure the progressive elimination of child labour, including through strengthening the labour inspectorate.</b>”</p> <p>(..) “However, the Committee notes the statistics of the Understanding Children’s Work project, based on the 2011 results of the National Study of Living Conditions in Guatemala (ENCOVI), according to which <b>13.4 per cent of children between 7 and 14 years of age are engaged in economic activity</b> (8.4 per cent of girls and 18 per cent of boys in this age group). Of these children, 39.4 per cent are exclusively working, whereas 17.3 per cent are working and attending school. <b>The agricultural sector is the branch of economic activity with the most child workers (68.3 per cent)</b>, followed by services (18.3 per cent) and manufacturing (12 per cent). <b>The 2010 UNICEF statistics indicate that 21 per cent of children between the ages of 5 and 14 are working.</b></p> <p><i>While noting the measures taken by the Government, the Committee expresses concern at the large number of children who work and who are below the minimum age for admission to employment or work, and again urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests the Government to take practical measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, taking into account its important role for the purpose of monitoring the implementation of the minimum age for employment. (..)</i>”</p> <p>“Article 3(1). <b>Minimum age for admission to hazardous work</b>. In its previous comments, the Committee noted that section 148(a) of the Labour Code prohibits work by minors in unhealthy and dangerous workplaces. However, it observed that the Labour Code does not define the term “minor” and that it is therefore impossible to determine the minimum age from which a minor may</p>	Country	Specified risk on child labour
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be admitted to perform hazardous work. In this respect, it noted that section 4 of the draft reform of the Labour Code (Initiative No. 4205) envisaged the revision of section 148(a) so as to prohibit the engagement of young persons under 18 years of age in various types of hazardous work. The Committee also noted that section 32 of Government Agreement No. 112-2006 of 7 March 2005 issuing Regulations on the protection of children and young persons at work prohibits work by children and young persons under 18 years of age in various types of hazardous work.

The Committee notes Government Agreement 250-2006 regulating the application of ILO Convention No. 182, which in section 7 provides a detailed list of the types of hazardous work prohibited for children under 18 years of age. The Committee also notes the official statement by the labour inspectorate, which while recalling ILO Convention No. 138 and section 148 of the Labour Code, declares the prohibition of any employment or work which is likely to jeopardize the health, safety and morals of persons under 18 years of age, and contains a detailed list of types of employment which, due to their nature or condition, are considered hazardous for minors. Yet, the Committee notes that the Government's report contains no information about the draft reform of the Labour Code.

*In order to ensure that the law is unambiguous on this point, the Committee requests the Government to take the necessary steps to harmonize the provisions of the Labour Code with Agreement No. 112-2006, Agreement No. 250-2006 and the declaration of the labour inspectorate. To this end, the Committee expresses the firm hope that the draft reform of the Labour Code will be adopted in the very near future so that the national legislation is in conformity with the Convention on this point. It again requests the Government to provide information on the progress achieved in this regard."*

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*Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013) Worst Forms of Child Labour Convention, 1999 (No. 182) - Guatemala*

"4. **Indigenous children.** In its previous comments, the Committee noted the results of the ILO-IPEC activities on child labour among indigenous peoples. It also noted that the CRC, in its concluding observations of 25 October 2010, indicated that the extreme poverty rate is particularly high among the indigenous population and that indigenous young persons are more likely to be the victims of sexual and economic exploitation (CRC/C/GTM/CO/3-4, paragraph 40). The CRC also noted that the measures taken by Guatemala were not sufficient to eliminate the structural obstacles preventing children belonging to these communities from exercising their full rights. The Committee notes with regret that the Government's report again does not contain any information on the measures adopted by the Government to protect the children of indigenous peoples from the worst forms of child labour. *Observing*

	<p><i>that the children of indigenous peoples are frequently victims of exploitation, which takes on very varied forms, and are at risk of being engaged in the worst forms of child labour, the Committee reiterates its request to the Government to take immediate and time-bound measures to protect these children from the worst forms of child labour. It again requests the Government to provide information on the measures adopted and the results achieved."</i></p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084791:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084791:NO</a>  <i>Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Worst Forms of Child Labour Convention, 1999 (No. 182) - Guatemala</i>  <b>This document contains no information that indicates a specified risk.. Most of the issues discussed and concerns expressed are regarding trafficking of children for sexual exploitation.</b></p>	Country	Specified risk on child labour
<p>ILO Declaration on Fundamental Principles and Rights at Work. Country reports.  <a href="http://www.ilo.org/declaration/lang--en/index.htm">http://www.ilo.org/declaration/lang--en/index.htm</a>  Source of several reports. Search for 'racial discrimination', 'child labour', 'forced labour', 'gender equality', 'freedom of association'</p> <p>Amongst others use, if applicable:  <a href="http://www.ilo.org/global/publications/books/WCMS_324678/lang--en/index.htm">http://www.ilo.org/global/publications/books/WCMS_324678/lang--en/index.htm</a>  <i>Global Wage Report 2014/15</i>  "The Global Wage Report 2014/15 analyses the evolution of real wages around the world, giving a unique picture of wage trends and relative purchasing power globally and by region."</p> <p><a href="http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_178415.pdf">http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_178415.pdf</a>  <i>Equality and non-discrimination at work in East and South-East Asia – Guide (2011)</i></p>	<p><a href="file:///C:/Users/Gebruiker/Downloads/Guatemala.Web.pdf">file:///C:/Users/Gebruiker/Downloads/Guatemala.Web.pdf</a>  GUATEMALA; CHILD LABOUR DATA COUNTRY; BRIEF. ILO, 2008  <b>"Children's activities</b>  Results from the child labour module of the Living Standard Management Study Survey (SIMPOC, 2000) indicate that <b>21.0 per cent (0.34 million) of boys and 11.0 per cent (0.18 million) of girls aged 5-14 work. Overall, 16.1 per cent (0.52 million) of children in that age group are engaged in economic activity. Approximately 6.3 per cent (0.20 million) of children participate in the labour force without attending school. The percentage is higher for boys (7.8 per cent) than for girls (4.7 per cent). Children in rural areas are more likely to work without attending school</b> than those in urban areas (7.8 per cent vs. 3.5 per cent). The gender gap between working children who do not attend school is much higher in rural areas (4.4 percentage points, i.e. boys: 9.9 per cent vs. girls: 5.5 per cent) than in urban areas (0.4 percentage points, i.e. boys: 3.7 per cent vs. girls: 3.3 per cent)."  <b>"Characteristics and conditions of child labour</b>  Among working children 5-14 years, <b>approximately three out of every five are employed in the agricultural sector</b>, 14.0 per cent are employed in the industrial sector and the remaining 23.4 per cent work in services. This breakdown by industry is also consistent among working children 5-9 years and 10-14 years. Girls are more likely than boys to be employed in the services sector (39.9 vs. 15.0 per cent) and less likely to be employed in agriculture (40.2 vs. 74.1 per cent).  <b>An overwhelming percentage of working children 5-14 years are employed as unpaid family workers</b> (68.9 per cent in the case of boys and 67.6 per cent in the case of girls). Girls have a higher probability than boys to work as daily or domestic workers (17.3 per cent vs. 11.8 per cent), while boys are more likely to receive remuneration for their work than girls. Boys and girls are equally likely to work as self-employees."</p>	Country	Specified risk on child labour

	<p><a href="http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/instructionalmaterial/wcms_110200.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/instructionalmaterial/wcms_110200.pdf</a>  <i>Tackling hazardous child labour in agriculture</i>  <i>Guidance on policy and practice. ILO 2006</i></p> <p>““Agriculture” covers different types of farming activities, such as crop production, horticultural/fruit production, livestock raising, livestock-food preparation, forestry activities, fish farming, and insect raising. It also includes many other associated activities: the primary processing and packaging of agricultural and animal products, crop storage, pest management, irrigation, construction and domestic tasks (carrying of water, fuel-wood, etc.), as well as the use and maintenance of machinery, equipment, appliances, tools and agricultural installations. It can include any process, operation, transport or storage directly related to agricultural production. This should be considered as a working definition of agriculture and not exclusive”</p> <p>“A United States Department of Labor report on child labour [40] found that in Guatemala and Honduras, children as young as 6 years helped their parents during the coffee planting and harvesting seasons.”</p> <p>“According to the study, children (aged 12-14) comprise perhaps 30 per cent of internal migrants within Guatemala working on coffee, sugar cane, cardamom and cotton plantations. They do the same work as adults and are paid half as much.”</p> <p><a href="http://www.ilo.org/global/topics/forced-labour/projects/WCMS_320413/lang--en/index.htm">http://www.ilo.org/global/topics/forced-labour/projects/WCMS_320413/lang--en/index.htm</a>  <i>Project: Action to prevent and prosecute human trafficking in Guatemala</i>  <i>Project period: 1 October 2012 – 30 Septemeber 2014</i></p> <p><b>Background</b>  Guatemala has taken significant steps to address trafficking in persons (TIP), in particular through the enactment of a Decree modifying the Penal Code (February 2009). However, this new legal framework is not yet well known, nor is it sufficiently enforced at central and local levels. Identified or prosecuted TIP cases are extremely few, and the victim assistance system is weak. This proposal aims to address these gaps in Guatemala’s current response to TIP. It will enhance the institutional capacities of key stakeholders to enforce the new TIP legal framework, through a victim-centered approach, providing protection and assistance to victims of TIP and forced labor and to those groups most vulnerable to exploitation, especially indigenous peoples. In the past, major campaigns on the prevention of trafficking for sexual exploitation have been carried out in the country. This project will instead focus on trafficking for labor exploitation, based on the demonstrated need for programs in this area. The current proposal is fully in line with J/TIP priorities regarding training for law enforcement officers and enhancing victim services.</p>	Country	Specified risk on child labour
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	<p>Guatemala is a country of origin, transit and destination for TIP. Internal trafficking for forced labor exists mainly in agriculture and in domestic service, in particular in the regions close to the Mexican border and in the highland (Altiplano) region. The indigenous population is particularly vulnerable to situations of labor exploitation and forced labor. Guatemala's health and social indicators are very low, especially regarding indigenous peoples (60% of the population). According to the International Work Group for Indigenous Affairs (IWGIA), "The situation of indigenous peoples changed little during 2010: 73% are poor (as opposed to 35% of the non-indigenous population), and 26% are extremely poor." This, combined with their limited access to land, renders rural inhabitants extremely dependent on their employers and thus vulnerable to abusive working conditions. According to a recent ILO survey conducted in four departments, an estimated 35,800 households had at least one adult victim of forced labor, and 21,400 had at least one child victim. Overall, almost one in four households was affected by forced labor of one or more of its members. Most forced labor was found in the agricultural sector.</p> <p>Many migrant seasonal workers are victims of internal TIP. They are recruited through intermediaries at their place of origin, mostly in the Western Altiplano, in the San Marcos area. Some intermediaries are professionals, working in compliance with the law. Others are illegal, recruiting workers through a form of bonded labor. The "enganche" or "habilitación" is the advance payment made to the workers to indebt them to the employer, and is used to maintain them on farms in the tropical and coastal areas. Male workers often migrate with family members who may work without being paid. Employers tend to recruit small groups of workers for short periods, in order to avoid any possibility for workers to organize to claim their rights. In addition, according to the national law, a contract becomes formal only after two months, so employers often give contracts less than this time limit. If workers want to work for a longer period, they might be compelled by the employer to use ID documents from someone else, or to move to another farm belonging to the same family or company, in order to circumvent the law.</p> <p>The project responds to a strong demand from local partners for technical assistance from the ILO in this field. (..)"</p> <p><a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_126028.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_126028.pdf</a>  <i>Monitoring indigenous and tribal peoples' rights through ILO Conventions  A compilation of ILO supervisory bodies' comments 2009-2010  PART II - A selection of comments by the supervisory bodies (2009-2010)  GUATEMALA  Discrimination (Employment and Occupation) Convention, 1958 (No. 111)  Excerpt from: Observation, CEACR 2009/80th Session</i></p>	<p>Country, especially in the regions close to the Mexican border and in the highland (Altiplano) region</p>	<p>Specified risk on forced and child labour</p>
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	<p>legislation, requested by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in reference to the Criminal Code and the Labour Code. In this context, the Parliamentary Labour Commission held two working sessions in October and November 2014 with the trade union confederations and the employer sector respectively. Employer sector members expressed the need to continue with the study, review and sustainability of the recommendations of the experts, while the representatives of the union confederations are in agreement with all of the CEACR recommendations and have voiced the need to make other amendments to the Labour Code in order to take full account of the comments raised. (Response from) <b>The Autonomous Popular Trade Union Movement and the Global Unions of Guatemala</b></p> <p>23. The trade union confederations indicated that no bill had been submitted to bring national legislation into line with the ILO recommendations.”</p> <p>“Point 6. Labour inspection: Legislative reforms to enable the general labour inspectorate to fulfil its mandate of effectively ensuring the application of labour legislation.”</p> <p>“Point 7. In order to strengthen the rule of law in Guatemala, it is important and urgent that the rulings of the labour courts are observed and executed.”</p> <p>“Point 8. It is necessary to take measures to strengthen state institutions, including the Ministry of Labour and Social Welfare, the Public Prosecutor’s Office, the Specialized Human Rights Unit of the Ministry of the Interior, the judiciary, the legislature, the Human Rights Ombudsman, as well as the social partners, in the areas of freedom of association and collective bargaining, and in matters related to social dialogue.”</p> <p>“Point 9. A major awareness-raising campaign on freedom of association, the right to work and the right of workers and employers to organize should be launched throughout the country.”</p> <p><a href="http://www.ilo.org/wcmstp5/groups/public/---dgreports/---gender/documents/briefingnote/wcms_410196.pdf">http://www.ilo.org/wcmstp5/groups/public/---dgreports/---gender/documents/briefingnote/wcms_410196.pdf</a>  PAY EQUITY A KEY DRIVER OF GENDER EQUALITY, ILO  Table on page 2, <i>Countries with less than 20 per cent gender wage gap, ILO, Latest years, shows Guatemals with the second smallest gender pay gap of all countries: 2.5%.</i></p> <p><a href="http://www.ilo.org/global/publications/books/WCMS_324678/lang--en/index.htm">http://www.ilo.org/global/publications/books/WCMS_324678/lang--en/index.htm</a>  <i>Global Wage Report 2014/15</i>  Guatemala does not feature in this report.</p>	Country	Low risk on gender wage discrimination
ILO Child Labour Country Dashboard: <a href="http://www.ilo.org/ipecc/Regionsandcountries/lang--en/index.htm">http://www.ilo.org/ipecc/Regionsandcountries/lang--en/index.htm</a>	No additional recent information found that indicates a specified risk for child labour in Guatemala.	-	-
ILO Helpdesk for Business on International Labour Standards:	No additional information found that indicates a specified risk for labour rights in Guatemala.	-	-

<a href="http://www.ilo.org/empent/areas/business-helpdesk/lang--en/index.htm">http://www.ilo.org/empent/areas/business-helpdesk/lang--en/index.htm</a>			
Global March Against Child Labour: <a href="http://www.globalmarch.org/">http://www.globalmarch.org/</a>	No information found that indicates a specified risk for child labour in Guatemala.	-	-
Office of the United Nations High Commissioner for Human Rights (OHCHR), Committee on Rights of the Child: <a href="http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx">http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx</a>	<p><a href="http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGTM%2fCO%2f3-4&amp;Lang=en">http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGTM%2fCO%2f3-4&amp;Lang=en</a>  <i>Convention on the Rights of the Child; 25 October 2010  Committee on the Rights of the Child  Consideration of reports submitted by States Parties under article 44 of the Convention  Concluding observations: Guatemala</i></p> <p><b>“Economic exploitation including child labour</b>  88. While taking note of the State party efforts to address the economic exploitation of children, <b>the Committee remains concerned that the global financial crisis has had a negative impact on children in the State party</b>, and families have sought new survival strategies <b>such as the involvement of children in hazardous work and/or migration and trafficking for labour exploitation purposes</b>. It also reiterates its concern about the disparity between the legal minimum age for admission to employment (14 years) and the age for the end of compulsory education (15 years).”</p> <p><a href="http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/100/33/PDF/G1310033.pdf?OpenElement">http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/100/33/PDF/G1310033.pdf?OpenElement</a>  <i>UN Human Rights Council  Report of the Working Group on the Universal Periodic Review  Guatemala; 31 December 2012</i></p> <p><b>Presentation by the State under review</b>  “30. <b>Guatemala stated that legislation, policies and institutional mechanisms had been harmonized to eliminate the worst forms of child labour, which had been criminalized. Regulations to ILO Convention No. 182 were currently in force</b> and the National Commission to Eliminate Child Labour was developing guidelines to enrol children into schools and incorporate their families into social programmes.”</p> <p><b>Interactive dialogue and responses by the State under review</b>  “96. The <b>United States of America</b> was (...). <b>Remaining concerns included the worst forms of child labour</b>, labour law administration and enforcement deficiencies and the safety of members of vulnerable groups. It made recommendations.”</p> <p><b>II. Conclusions and/or recommendations</b>  ” 99.17. <b>Strengthen its efforts to eradicate child labour</b>, improving coordination among the numerous national institutions dealing with the rights of the child (Italy);”  ” 99.83. Adopt necessary and effective measures to <b>eradicate child labor</b> in the framework of social and poverty reduction programmes (Costa Rica);”</p>	Country	Specified risk on child labour

<p>Committee on the Elimination of Discrimination against Women  <a href="http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx">http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx</a>          (Use the link to 'Key documents' on the left hand side. Go to "observations' and search for country.) (Refer to CW Cat. 1)          Or:          Right top select country click on CEDAW treaty, click on latest reporting period and select concluding observations</p>	<p><a href="http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGUA%2fCO%2f7&amp;Lang=en">http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGUA%2fCO%2f7&amp;Lang=en</a>  <i>Concluding observations of the Committee on the Elimination of Discrimination against Women: Guatemala. 12 February 2009</i>          "13. The Committee notes the initiatives of the State party to modify discriminatory laws, but is concerned <b>that several provisions that discriminate against women in the Labour, Civil and Criminal Codes have not yet been eliminated.</b>"          "29. <b>The Committee is concerned at the overall disadvantaged situation of women in the labour market, as shown by the significant wage gap between women and men</b> and the critical situation of women's labour rights in the maquiladora industries, in particular the lack of access to social security, long working hours and exposure to sexual harassment. It is also concerned at the precarious situation and lack of protection available for women domestic workers and women workers in the informal and agricultural sectors."          "31. <b>The Committee is seriously concerned at the persistence of child labour in the State party</b>, the lack of detailed information provided by the State party on the extent of this phenomenon and its implications for children's individual development and enjoyment of their right to education and health care, especially for girls."</p>	<p>Country</p> <p>Country</p>	<p>Specified risk on discrimination of women at work, esp. wage</p> <p>Specified risk on child labour</p>
<p>Human Rights Watch: <a href="http://www.hrw.org/">http://www.hrw.org/</a></p>	<p><a href="https://www.hrw.org/sites/default/files/wr2015_web.pdf">https://www.hrw.org/sites/default/files/wr2015_web.pdf</a>  <i>Human Rights Watch World Report 2015</i>          Guatemala  <b>"Attacks on Human Rights Defenders, Journalists, and Trade Unionists</b>          Attacks and threats against human rights defenders are common, significantly hampering human rights work in the country. <b>Acts of violence and intimidation against trade unionists endanger freedom of assembly and association and the right to organize and bargain collectively. Fifty-three trade unionists were killed between 2007 and 2013, according to the International Trade Union Conference.</b>"</p>	<p>Country</p>	<p>Specified risk for freedom of association</p>
<p>Child Labour Index 2014 produced by Maplecroft.  <a href="http://maplecroft.com/portfolio/new-analysis/2013/10/15/child-labour-risks-increase-china-and-russia-most-progress-shown-south-america-maplecroft-index/">http://maplecroft.com/portfolio/new-analysis/2013/10/15/child-labour-risks-increase-china-and-russia-most-progress-shown-south-america-maplecroft-index/</a></p>	<p><b>Guatemala scores 'extreme risk' on the Child Labour Index 2014</b></p>	<p>Country</p>	<p>Specified risk on child labour</p>
<p><a href="http://www.verite.org/Commodities/Timber">http://www.verite.org/Commodities/Timber</a>           (useful, specific on timber)</p>	<p><b>Guatemala does not feature on this website.</b></p>	<p>Country</p>	<p>Low risk on forced labour in forestry sector</p>
<p>The ITUC Global Rights Index ranks 139 countries against 97 internationally recognised indicators to assess where workers' rights are best protected, in law and in practice. The Survey provides information on violations of the rights to freedom of association, collective bargaining and strike as defined by ILO</p>	<p><a href="https://www.ituc-csi.org/IMG/pdf/survey_ra_2017_eng-1.pdf">https://www.ituc-csi.org/IMG/pdf/survey_ra_2017_eng-1.pdf</a>  <b>Guatemala is classified in the category 5: "No guarantee of rights"</b>          • Countries with the rating of 5 are the worst countries in the world to work in. While the legislation may spell out certain rights workers have effectively no</p>	<p>Country</p>	<p>Specified risk for freedom of association, collective</p>

<p>Conventions, in particular ILO Convention Nos. 87 and 98 as well as jurisprudence developed by the ILO supervisory mechanisms.  <a href="http://www.ituc-csi.org/new-ituc-global-rights-index-the?lang=en">http://www.ituc-csi.org/new-ituc-global-rights-index-the?lang=en</a></p>	<p>access to these rights and are therefore exposed to autocratic regimes and unfair labour practices. (p. 15)</p>		<p>bargaining and strike.</p>																																										
<p>Gender wage gap (in OECD countries)  <a href="http://www.oecd.org/gender/data/genderwagegap.htm">http://www.oecd.org/gender/data/genderwagegap.htm</a></p>	<p>Not applicable.</p>	<p>-</p>	<p>-</p>																																										
<p>World Economic Forum: Global Gender Gap Index 2017  <a href="http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/">http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/</a>Search for country rankings for the adjusted and the unadjusted pay gap</p>	<p><a href="http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/#economy=GTM">http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/#economy=GTM</a>  <i>Global Gender Gap Index 2017.</i>  <b>Guatemala ranks no. 110 out of 144 countries</b> with a score of 0.667 (The highest possible score is 1 (equality) and the lowest possible score is 0 (inequality)).</p> <p>On the <b>more specific sub-index on Economic participation and opportunity</b> Guatemala ranks no. 101 with a score of 0.626.</p> <p>Within that index, the most specific and relevant indicator is the <b>Wage equality for similar work</b>. Here <b>Guatemala ranks no. 105 (of 144 included countries) with a score of 0.566.</b></p>	<p>Country</p>	<p>Specified risk for gender wage discrimination</p>																																										
<p>Google the terms '[country]' and one of following terms 'violation of labour rights', 'child labour', 'forced labour', 'slave labour', 'discrimination', 'gender pay/wage gap, 'violation of labour union rights' 'violation of freedom of association and collective bargaining'</p>	<p><a href="http://www.iadb.org/res/publications/pubfiles/pubwp-641.pdf">http://www.iadb.org/res/publications/pubfiles/pubwp-641.pdf</a>  <i>Inter-American Development Bank, 2008</i>  <i>Gender and Ethnic Wage Gaps in Guatemala from a Matching Comparisons Perspective</i>          "The characteristics of labor markets in Latin America evidence that not only ethnic, but also gender wage gaps are noticeable at the beginning of the twenty-first century. Wage gaps along these two dimensions in Guatemala are among the highest of those seen in the Latin American region."</p> <table border="1"> <thead> <tr> <th></th> <th>Gender</th> <th>Ethnicity</th> </tr> </thead> <tbody> <tr> <td>Argentina (2005)</td> <td>2.0%</td> <td>-</td> </tr> <tr> <td>Bolivia (2002)</td> <td>6.7%</td> <td>38.2%</td> </tr> <tr> <td>Brazil (2003)</td> <td>19.6%</td> <td>88.1%</td> </tr> <tr> <td>Chile (2003)</td> <td>12.9%</td> <td>51.8%</td> </tr> <tr> <td>Colombia (2003)</td> <td>8.0%</td> <td>-</td> </tr> <tr> <td>Costa Rica (2004)</td> <td>-6.2%</td> <td>-</td> </tr> <tr> <td>Dominican Republic (2003)</td> <td>12.0%</td> <td>-</td> </tr> <tr> <td>El Salvador (2002)</td> <td>18.1%</td> <td>-</td> </tr> <tr> <td><b>Guatemala (2002)</b></td> <td><b>27.3%</b></td> <td><b>98.9%</b></td> </tr> <tr> <td>Honduras (2003)</td> <td>-6.2%</td> <td>-</td> </tr> <tr> <td>Mexico (2002)</td> <td>9.9%</td> <td>-</td> </tr> <tr> <td>Nicaragua (2001)</td> <td>3.8%</td> <td>-</td> </tr> <tr> <td>Panama (2003)</td> <td>-2.8%</td> <td>-</td> </tr> </tbody> </table>		Gender	Ethnicity	Argentina (2005)	2.0%	-	Bolivia (2002)	6.7%	38.2%	Brazil (2003)	19.6%	88.1%	Chile (2003)	12.9%	51.8%	Colombia (2003)	8.0%	-	Costa Rica (2004)	-6.2%	-	Dominican Republic (2003)	12.0%	-	El Salvador (2002)	18.1%	-	<b>Guatemala (2002)</b>	<b>27.3%</b>	<b>98.9%</b>	Honduras (2003)	-6.2%	-	Mexico (2002)	9.9%	-	Nicaragua (2001)	3.8%	-	Panama (2003)	-2.8%	-	<p>Country</p>	<p>Specified risk for gender wage discrimination and ethnic wage discrimination</p>
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	<p>reduced along the wage distribution, it is still persistent and significantly higher at the lower tail of the distribution. Results should be interpreted with caution since potential selection bias and workers unobserved characteristics may influence the measure of discrimination.”</p> <p><b>United States Department of Labor</b>  <a href="http://www.dol.gov/ilab/reports/child-labor/guatemala.htm">http://www.dol.gov/ilab/reports/child-labor/guatemala.htm</a>  <b>“Guatemala. 2014 Findings on the Worst Forms of Child Labor: Moderate Advancement</b>  <b>In 2014, Guatemala made a moderate advancement in efforts to eliminate the worst forms of child labor.</b> The Government signed the Alliance for Prosperity in the Northern Triangle, a development initiative that includes among its many goals increasing educational and vocational training opportunities for youth and combatting human trafficking. The Government also implemented the Public Policy on Human Trafficking and Comprehensive Protection of Victims (2014 — 2024), establishing government-run shelters for victims of human trafficking. The Secretariat Against Sexual Violence, Exploitation, and Trafficking in Persons’ (SVET) budget reached \$2 million, the highest in its history. Also, for the first time in Guatemala, six individuals were prosecuted by the Public Ministry and convicted of trafficking for labor purposes. <b>However, children in Guatemala are engaged in child labor, including in agriculture and in the worst forms of child labor,</b> including in commercial sexual exploitation sometimes as a result of human trafficking. The lack of government resources, inability of the labor inspectorate to impose fines, and inadequate judicial enforcement of court orders remain key challenges for enforcement efforts to combat the worst forms of child labor. The Government delayed payments to recipients from the conditional cash transfer program, Mi Bono Seguro, and there is a lack of social programs targeting sectors in which children are known to engage in exploitative labor, such as domestic work and <b>agriculture</b>, as well as other sectors.”</p> <p><a href="http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/guatemala.pdf">http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/guatemala.pdf</a>  The report from the above mentioned link shows in table 2 the “Sector and Activity of Children’s Work”. <b>“Timber” is mentioned as one of the activities.</b> But with a footnote (as about one-third of the activities): “Evidence of this activity is limited and/or the extent of the problem is unknown.”  “Guatemalan law is not fully consistent with international standards regarding child labor.”  “The Government has <b>established institutional mechanisms for the enforcement of laws and regulations on child labor, including its worst forms (Table 5).</b>”  <b>“Law enforcement agencies in Guatemala took actions to combat child labor, including its worst forms.”</b></p>	Country	Specified risk on child labour
		Country	Specified risk on child labour
		Country	Low risk on child labour
		Country	Low risk on child labour



	<p>Guatemalan workers' rights activists are facing. His death raises fears for the safety of other trade unionists in the country", said Guadalupe Marengo, Amnesty International's Deputy Director for Americas. "The Guatemalan authorities must carry out a thorough and impartial investigation into his murder, with the results made public and those responsible brought to justice", she added. "Trade unionists must be provided with appropriate protection in order to carry out their work in an environment free from reprisals, threats and intimidation," she added. <b>Guatemalan trade unionists have faced a spate of threats, attacks and killings in recent years.</b> In March 2008, Miguel Ángel Ramirez Enríquez, one of the founders of southern Guatemala's banana workers' union, SITRABANSUR (Sindicato de Trabajadores Bananeros del Sur), was killed in the village of El Semillero in the southern province of Escuintla. Other members of SITRABANSUR's executive committee were intimidated. In October 2010, Mateo Lopez, Secretary General of a local branch of the Health Trade Union in Catarina, San Marcos, was shot five times."</p>		
<p>From national CW RA Draft prepared by NEPCon, for guidance only. Last update 8th December 2011</p>	<p><b>"2.3 There is no evidence of child labor or violation of ILO Fundamental Principles and Rights at work taking place in forest areas in the district Concerned: Unspecified risk</b> Justification: ILO report claims that evidence of child labour exists for this country. Source: Global Child labor trends 2000 to 2004. ILO (International Labour Office)."</p>	<p>Country</p>	<p>Specified risk on child labour</p>
<p><b>Conclusion on Indicator 2.2:</b></p> <ul style="list-style-type: none"> <li>Guatemala is signatory to the relevant ILO Conventions and the social rights are in principle covered by the relevant legislation. But the laws are not fully consistent with international standards. This goes for the issue rights to freedom of association and collective bargaining and to a lesser extent for child labor, forced labour and discrimination. In addition, enforcement of existing laws is inadequate for all these issues. (refer to category 1)</li> <li>Rights to freedom of association and collective bargaining are not upheld. There is evidence that Guatemala is one of the worst countries in the world for workers and regarding the protection for workers' rights. Guatemala is home to a vigorous labor movement, but workers are frequently denied the right to organize and face mass firings and blacklisting, especially in export-processing zones. Trade union members are also subject to intimidation, violence, and murder, particularly in rural areas during land disputes. There are allegations of serious acts of violence against trade union officials and members, including numerous murders (there are examinations of 58 murders since 2004), and the related situation of impunity. Violations of labour rights are not limited to specific sectors.</li> <li>There is evidence confirming child labour. Different statics mention between 13.4% and 21% of children between the ages of 5 and 14 are working. According to Freedom House, Guatemala has one of the highest rates of child labour in the Americas. Of the numerous sources mentioning the issue of child labour, two sources explicitly say that the agricultural sector is the branch of economic activity with the most child workers (68.3 % according to one source). "Agriculture" covers different types of farming activities, and includes forestry activities or timber. The children of indigenous peoples are frequently victims of exploitation, which takes on very varied forms, and are at risk of being engaged in the worst forms of child labour.</li> <li>There is also evidence for compulsory and/or forced labour in Guatemala and that this phenomenon is on the constant increase, although there is less evidence than for child labour. According to the ILO, there is a new legal framework but that is not yet well known, nor is it sufficiently enforced at central and local levels. The Guatemalan Government states that, for reasons linked to its history and geographical location, Guatemala is a source, transit and destination country for victims of trafficking, especially with a view to their sexual and economic</li> </ul>		<p>Country</p>	<p>Specified risk for all labour rights in this indicator</p>

<p>exploitation. Those cases identified reveal the involvement of organized criminal networks, which have ramifications for a number of countries in the region. There is evidence that country-internal trafficking for forced labour exists mainly in agriculture and in domestic service, in particular in the regions close to the Mexican border and in the highland (Altiplano) region. The indigenous population is particularly vulnerable to situations of labour exploitation and forced labour. There is no specific evidence for the use in the forestry sector, although the above information leads to the conclusion that this is certainly a specified risk.</p> <ul style="list-style-type: none"> <li>• There is evidence of discrimination of women and of indigenous peoples in Guatemala. Although one source reports that Guatemala has the second smallest gender pay gap of all countries, with only 2.5%, all other sources show that wage gaps are remarkably high in Guatemala, favoring males and the non-indigenous. The ethnic income gap is between 68% and 98%. About half of the wage gaps in Guatemala is the result of discrimination of women and/or indigenous people. Wage gaps are larger in rural areas and its unexplained parts are proportionately higher in such areas.</li> </ul> <p><b>The following specified risk thresholds apply:</b>  (14) The applicable legislation for the area under assessment contradicts indicator requirement(s);  AND  (15) There is substantial evidence of widespread violation of key provisions of the ILO Fundamental Principles and Rights at work.</p>		
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<p><b>Indicator 2.3. The rights of Indigenous and Traditional Peoples are upheld.</b></p> <p><b>Guidance:</b></p> <ul style="list-style-type: none"> <li>• Are there Indigenous Peoples (IP), and/or Traditional Peoples (TP) present in the area under assessment?</li> <li>• Are the regulations included in the ILO Convention 169 and is UNDRIP enforced in the area concerned? (refer to category 1)</li> <li>• Is there evidence of violations of legal and customary rights of IP/TP?</li> <li>• Are there any conflicts of substantial magnitude [footnote 6] pertaining to the rights of Indigenous and/or Traditional Peoples and/or local communities with traditional rights?</li> <li>• Are there any recognized laws and/or regulations and/or processes in place to resolve conflicts of substantial magnitude pertaining to TP or IP rights and/or communities with traditional rights?</li> <li>• What evidence can demonstrate the enforcement of the laws and regulations identified above? (refer to category 1)</li> <li>• Is the conflict resolution broadly accepted by affected stakeholders as being fair and equitable?</li> </ul>
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general sources from FSC-PRO-60-002a V1-0 EN	information found and specific sources	scale of risk assessment	risk indication
ILO Core Conventions Database <a href="http://www.ilo.org/ilolex/english/docs/declworld.htm">http://www.ilo.org/ilolex/english/docs/declworld.htm</a> - ILO Convention 169	<a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COU_NTRY_ID:102667">http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COU_NTRY_ID:102667</a> Guatemala has ratified ILO Convention 169 and its status “in force”.  <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_126028.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_126028.pdf</a> <i>Monitoring indigenous and tribal peoples’ rights through ILO Conventions            A compilation of ILO supervisory bodies’ comments 2009-2010            PART II - A selection of comments by the supervisory bodies (2009-2010)            GUATEMALA            Indigenous and Tribal Peoples Convention, 1989 (No. 169)            Observation, CEACR 2009/80th Session</i>	Country	Low risk



	<p><i>(iii) immediately suspend the alleged activities while such dialogue is being held and assess, in cooperation with the peoples concerned, the social, spiritual, cultural and environmental impact of the envisaged activities and the extent to which the interests of indigenous peoples would be prejudiced, in accordance with Articles 7 and 15 of the Convention. Please provide detailed information on the measures adopted regarding these matters.”</i></p> <p>“Articles 14 and 20. <b>Land and wages.</b> In its previous observation, the Committee noted that the communication referred to above indicated that <b>the rights to lands recognized in the Convention were being violated and mentioned the following cases: Finca Termal Xauch, Finca Sataña Saquimo and Finca Secacnab Guaquitim.</b> It added that <b>indigenous peoples are not recognized as the traditional occupants and that, having been employed on their own lands, their wages were not paid and they were violently removed and their ranches burned.</b> With reference to the June 2007 report of the Governing Body (GB.299/6/1), the Committee recalled that, although the regularization of lands takes time, indigenous peoples should not be adversely affected by the duration of this process and it requested the Government to adopt transitional measures in order to protect the land rights referred to in Article 14 of the Convention and to provide detailed information on the wages due.” (..)</p> <p>“Articles 2 and 33. <b>Coordinated and systematic action with the participation of indigenous peoples.</b> (..) <i>While the Committee understands that ensuring full application of the Convention is a continuing process, it notes that the information provided does not appear to suggest that the Government’s action is either coordinated or systematic, nor does it show the existence of agencies or mechanisms that would allow indigenous peoples to participate effectively in the development and implementation of such action. The Committee therefore urges the Government, in cooperation with the peoples concerned, to take the measures and establish the mechanisms provided for in Articles 2 and 33, which should allow for coordinated and systematic action to implement the Convention, and to provide detailed information in this respect.”</i></p> <p>“<b>Legislation on consultation and participation.</b> For several years, the Committee has been following the issue of the establishment of institutional mechanisms for consultation and participation as envisaged by the Convention. The Committee notes that in its most recent report, the Government refers to a draft General Act on the rights of indigenous peoples of Guatemala (registered as No. 40-47), which was tabled in the Plenary of the Congress on 11 August 2009 and is awaiting the opinion of the Committee on Legislation and Constitutional Matters and the Committee on Indigenous</p>	Country	Specified risk for IP rights (land, discrimination, violence)
	<p>“Articles 2 and 33. <b>Coordinated and systematic action with the participation of indigenous peoples.</b> (..) <i>While the Committee understands that ensuring full application of the Convention is a continuing process, it notes that the information provided does not appear to suggest that the Government’s action is either coordinated or systematic, nor does it show the existence of agencies or mechanisms that would allow indigenous peoples to participate effectively in the development and implementation of such action. The Committee therefore urges the Government, in cooperation with the peoples concerned, to take the measures and establish the mechanisms provided for in Articles 2 and 33, which should allow for coordinated and systematic action to implement the Convention, and to provide detailed information in this respect.”</i></p>	Country	Specified risk for IP rights (inadequate mechanism for participation )
	<p>“<b>Legislation on consultation and participation.</b> For several years, the Committee has been following the issue of the establishment of institutional mechanisms for consultation and participation as envisaged by the Convention. The Committee notes that in its most recent report, the Government refers to a draft General Act on the rights of indigenous peoples of Guatemala (registered as No. 40-47), which was tabled in the Plenary of the Congress on 11 August 2009 and is awaiting the opinion of the Committee on Legislation and Constitutional Matters and the Committee on Indigenous</p>	Country	Specified risk for right to FPIC

	<p>Peoples. Reference is also made to the Bill on the consultation of indigenous peoples (registered as No. 36-84), which was tabled in the Plenary of the Congress on 25 July 2007 and is still awaiting the opinion of the Committee on Legislation and Constitutional Matters and the Committee on the Economy and External Trade. The Committee also understands that there is another Bill on consultation, under No. 40-51, which received a favourable opinion in the Committee on Indigenous Peoples on 27 September 2009. It further notes that the Ministry of Energy and Mining refers to a third legislative initiative on the subject, under No. 34-13. The Committee also notes that, in accordance with section 26 of the Act respecting urban and rural development councils (Decree No. 11-2002), “until the Act is issued governing the consultation of indigenous peoples, the consultations with the Maya, Xinca and Garífuna peoples on development measures promoted by the executive authorities and which directly affect these peoples may be held through their representatives in the development councils”.</p> <p>In its previous comments, the Committee noted that, according to the Government, the Highlevel Committee of the Ministry of Energy and Mines submitted a proposal to amend the Mining Act to the President of the Republic, focusing on “information, participation and consultation of the peoples concerned”. The Committee notes that, according to the Government’s report, this draft has not been transmitted to the Legislative Department, which is consequently unaware of its contents.</p> <p>The Committee recalls that it has been following these matters since the ratification of the Convention; that the lack of appropriate consultation mechanisms was the subject of a report and recommendations by the Governing Body in response to a representation; that on various occasions it has examined comments by trade unions on serious situations relating to the lack of consultation and the exploitation of natural resources; and that in 2005 it noted the fact that the Office of the Human Rights Ombudsperson had expressed concern about the award by the Government, without prior consultation, of 395 exploration and exploitation permits. The Committee also refers to its 2008 general observation on the application of the Convention, in which it considered it important that governments, with the participation of indigenous and tribal peoples, as a matter of priority, establish appropriate consultation mechanisms with the representative institutions of those peoples. The Committee expresses its concern at the lack of measures to this end. In its previous comments, the Committee noted that the Bill on consultation would be finalized shortly and that a High-level Committee was working on amendments for the inclusion of prior consultation in the mining legislation. However, regrettably no progress appears to have been made concerning these initiatives. Moreover, legislative initiatives appear to have multiplied in a seemingly uncoordinated manner. While the Committee understands that measures to ensure consultation and participation take time, it emphasizes that the steps required in the short, medium and long term need to be clearly</p>		
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	independence; here they are rich in social and natural resources. But where they have joined – voluntarily or through circumstances beyond their control – the mainstream economy, without access to resources or land, they suffer disproportionately from the many health problems associated with poverty, including TB, water-borne diarrhoeal diseases, malaria and pneumonia.		
Human Rights Watch: <a href="http://www.hrw.org/">http://www.hrw.org/</a>	See relevant sections of HRW's <i>Human Rights Watch World Report 2015</i> and of the <i>Periodic Review of Guatemala</i> in the context section above. Indigenous peoples are not mentioned.	Country	-
Amnesty International <a href="http://amnesty.org">http://amnesty.org</a>	<p><a href="https://www.amnesty.org/en/documents/pol10/0001/2015/en/">https://www.amnesty.org/en/documents/pol10/0001/2015/en/</a> (Chapter on) Guatemala, p. 166-167</p> <p><b>Impunity</b> (..) "In May, Congress passed a non-binding resolution stating that genocide had not occurred during the internal armed conflict. The resolution directly contradicted a 1999 UN investigation which concluded that genocide, war crimes and crimes against humanity had occurred during the internal armed conflict, in which 200,000 people were killed and 45,000 people were forcibly disappeared. Over 80% of those killed and disappeared were of Indigenous Maya ethnicity."</p> <p><b>"Land Disputes</b> Fearing impacts on their livelihoods, communities continued to oppose existing and proposed hydroelectric and mining projects, and protested against the lack of consultation around these projects. In May 2013, in response to this opposition, the government proposed a moratorium on the issuing of new mining licences. Yet concerns remained that the proposed legislation to approve mining licences fell short of international standards and did not address Indigenous and rural communities' concerns around lack of consultation and free, prior and informed consent. (..)"</p> <p><a href="https://www.amnesty.org/en/latest/news/2012/03/human-rights-guatemala-under-scrutiny-un/">https://www.amnesty.org/en/latest/news/2012/03/human-rights-guatemala-under-scrutiny-un/</a> <i>Human rights in Guatemala under scrutiny by UN; 16 March 2012</i> "Recent progress on justice for crimes of the past must be matched with action on current abuses if human rights are to be a reality in Guatemala, Amnesty International said ahead of the country's appearance in front of a UN human rights body. The United Nations (UN) Human Rights Committee in New York will evaluate Guatemala's human rights performance on 19 and 20 March. Amnesty International presented the Committee with a shadow report looking at some of the main human rights issues facing people in the country – including the lack of justice for abuses committed during the country's internal armed conflict, the alarming levels of killings of women, the cases of threats and attacks against human rights activists plus discrimination against indigenous communities. "In recent years, we have seen some progress for human rights in Guatemala, particularly when it comes to bringing to justice</p>	Country  Country  Country	Specified risk for IP rights  Specified risk for right to FPIC  Specified risk for IP rights

	<p>some of those responsible for the abuses committed during the internal armed conflict,” said Sebastian Elgueta, Guatemala researcher at Amnesty International. “It is essential that cases of past crimes continue to be brought, to show that Guatemala is serious about dealing with the horrors of the past.”</p> <p>“Unfortunately, we’ve also seen that abuses committed against the most marginalized groups in Guatemala, including women and Indigenous Peoples, continue and human rights defenders remain under attack.” Over the past two years Amnesty International has seen progress in terms of investigations and prosecutions on cases of human rights abuses committed during the country’s internal armed conflict, including the partial declassification of military archives. However, the military have yet to grant access to archives of the period when most abuses took place, obstructing investigations and prosecutions of tens of thousands of cases of human rights violations. Amnesty International also found alarming levels of violence against women. According to official figures, 631 women were sexually abused and violently killed in 2011 – 5,700 in the past 10 years. Very few cases are investigated and almost none result in a conviction. A number of laws have been passed aimed at the protection of women but resources to implement them fully have not been put in place. In 2011, local organizations also documented more than 400 cases of attacks and intimidation against human rights defenders – including journalists and trade unionists. Indigenous Peoples across Guatemala continue to suffer discrimination – including by not being properly consulted when development projects are planned on their lands.”</p> <p><a href="https://www.amnesty.org/en/latest/news/2012/10/guatemala-after-massacre-real-dialogue-must-follow-investigation-and-prosecutions/">https://www.amnesty.org/en/latest/news/2012/10/guatemala-after-massacre-real-dialogue-must-follow-investigation-and-prosecutions/</a></p> <p><i>Guatemala: After massacre, real dialogue must follow investigation and prosecutions; 26 October 2012</i></p> <p>“Proper consultation with Indigenous Peoples, rural workers and civil society groups is the only way the Guatemalan authorities can prevent a deadly pattern of violence erupting at protests, Amnesty International said today. The call follows this week’s meeting between President Otto Pérez Molina and Maya Ki’che’ Indigenous leaders from Totonicapán, 150km north-west of the capital, in the aftermath of seven people being shot dead and more than 30 injured when security forces responded to a protest along the Pan-American highway outside the town earlier this month. An army colonel and eight soldiers are currently facing trial in Guatemala City on charges linked to the killings. “While it’s a positive step that the investigation is proceeding into the tragic killings in Totonicapán, this tragedy could have been averted if the President’s dialogue with the region’s residents had happened earlier,” said Sebastian Elgueta, Guatemala Researcher at Amnesty International. “Failing to carry out proper consultations with those affected by legislation and development projects is a recipe for disaster, and ongoing consultation is necessary to avoid social conflicts erupting into violence in the future. ”In April 2012, the United</p>	Country	Specified risk for IP rights and right to FPIC
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	<p>families, campesino activists and Indigenous rights organizations all took part, with more and more people joining the trek south each day. The march, part of a campaign for a solution to the country's ongoing problem of land disputes and forced evictions, ended at the Plaza de la Constitution in Guatemala City on Tuesday. "Indigenous peoples in rural parts of Guatemala are particularly vulnerable in the context of land disputes and subsequent forced evictions," said Sebastian Elgueta of Amnesty International. The evictions, which are carried out by the police and the army, often happen with very little warning and regularly fail to meet international standards. The security forces often burn down families' homes and possessions during forced evictions, leaving families with only the clothes they are wearing. "The new government of Otto Perez Molina must show that it is serious about tackling this huge problem. The guidelines for prosecutors on forced evictions, issued by the Attorney General in 2011, must be implemented in order to comply with national and international human rights law. The government should also establish a moratorium on forced evictions and reform the law to prioritise the rights of the most vulnerable in a land dispute" Disputes over land in Guatemala are common and often arise between Indigenous rural communities and large landowners. The country's legal system often prioritises the interests of the large landowners and sides with them over the human rights of rural workers. As a result, hundreds of families are affected by forced evictions every year, totalling thousands of people left homeless and without recourse to adequate shelter. In January 2012 the Representative of the UN High Commission for Human Rights in Guatemala noted that from 2008-2012 114 forced evictions had been registered. In March 2011, around 2,500 Indigenous People from the Valle del Polochic, Alta Verapaz were evicted in the context of a dispute over land ownership with a local company. A community member, Antonio Beb Ac, was killed and two others were injured during the eviction. In the following months, two more community members were killed and a further six were injured. In August the state refused to fully implement the request from the Inter-American Commission on Human Rights to provide protection and humanitarian aid to the communities. In 2011 Amnesty International campaigned on the case demanding access to adequate shelter, clean water, food and health care for those who were evicted."</p>		
<p>The Indigenous World <a href="http://www.iwgia.org/regions">http://www.iwgia.org/regions</a></p>	<p><a href="https://www.iwgia.org/images/publications/0716_THE_INDIGENOUS_ORLD_2015_eb.pdf">https://www.iwgia.org/images/publications/0716_THE_INDIGENOUS_ORLD_2015_eb.pdf</a>  <i>The Indigenous World 2015</i>  <i>Chapter on Guatemala (pages 80-88)</i>          "The more than 6 million indigenous inhabitants (60% of the country's total population), are made up of the indigenous peoples: Achi', Akateco, Awakateco, Chalchiteco, Ch'orti', Chuj, Itza', Ixil, Jacalteco, Kaqchikel, K'iche', Mam, Mopan, Poqomam, Poqomchi', Q'anjob'al, Q'eqchi', Sakapulteco, Sipakapense, Tektiteko, Tz'utujil, Uspanteko, Xinka and Garifuna. The</p>	<p>Country</p>	<p>Specified risk for IP rights</p>

	<p>indigenous population continue to lag behind the non-indigenous population in social statistics: they are 2.8 times poorer and have 13 years' less life expectancy; meanwhile, only 5% of university students are indigenous. The human development report from 2008 indicates that 73% of the indigenous population are poor (as opposed to 35% of the non-indigenous population), and 26% are extremely poor. Even so, indigenous participation in the country's economy as a whole accounts for 61.7% of output, as opposed to 57.1% for the non-indigenous population.</p> <p>Guatemala voted in favour of the UN Declaration on Rights of Indigenous Peoples in 2007 and ratified ILO Convention 169 in 1996." (p. 80)</p> <p>"2014 showed no progress with regard to the inclusion and recognition of indigenous peoples' rights into government decision-making on laws, public policies and specific support programmes. Any progress made has come about through the struggle of the social movements, who have had to mobilise international mechanisms and spaces to enforce their rights." (p. 80)</p> <p><b>"Little progress in legislation or public policies</b></p> <p>No new laws were approved on indigenous peoples by Congress in 2014, although at least 10 proposals have been submitted to this body in recent years. The intended Law on Rural Development remains shelved despite constant protests by the social, peasant and indigenous sectors. There was also no progress on public policies specifically for indigenous peoples.</p> <p>The only step taken by this government was the creation of an Indigenous Peoples and Interculturality Office on 31 March 2014. This has been defined as a consultative and deliberating body reporting to the President of the Republic with the aim of coordinating the actions and policies of all public bodies, through the President, to ensure their cultural relevance. In addition, it is intended to discuss and formulate proposals for political, legal, administrative and budgetary reforms as well as proposals for the country's politico-administrative division, within the concept of national unity and territorial integrity, with the aim of bringing the structure of the state institutions into line with the cultural, ethnic and linguistic diversity of the peoples living on the national territory.</p> <p>The creation of this office was, however, questioned by indigenous peoples' representatives as they consider it unrepresentative and of insufficient capacity to negotiate with and influence the government system. There has been no news of its achievements or actions since it was established. It should be noted that the only indigenous minister in this body was removed from post after an intense media campaign against him, which various analysts considered to be racist and discriminatory.</p> <p>The government also launched its Agrarian Policy at the end of the year, which is intended to establish objectives, strategies and instruments aimed at facilitating and extending access to land, resolving conflicts, providing legal as-</p>	Country	Specified risk for IP rights
		Country	Low risk for IP rights

surances and security and access to other productive assets, in order to address the country's land problems. This may offer an opportunity to indigenous peoples because part of this instrument is based on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, issued by the UN Food and Agriculture Organization (FAO) in 2012.

These FAO guidelines advocate recognising traditional or customary land-holding systems as practised by indigenous peoples. In this regard, the Agrarian Policy may offer an opportunity for resolving the historical land conflicts caused by the constant dispossessions suffered by the country's indigenous peoples." (p. 80-82)

**"Revocation of the "Monsanto Law"**

In a rushed process, Congress approved the Law on Protection of Plant Varieties, popularly known as the Monsanto Law, referring to one of the world's leading producers of seed and agricultural inputs. This law protects the rights of those who modify plant species for the purpose of improving their genetic potential. No other law has engendered so much popular rejection in recent years, nor managed to achieve the coordination of such wide sectors of Guatemalan society. Social protest right across the country led Congress to revoke the law, as it was in clear violation of legitimate rights to food and, above all, to traditional knowledge of local seeds, particularly maize, for which Guatemala is one of the centres of origin. The indigenous peoples have been legitimately involved in building the genetic diversity of this plant and the ancestral knowledge that exists in its regard." (p. 81-82)

**"Legal claims for violations of rights**

*Case of genocide*

The historic 80-year sentence passed on former President General Ríos Montt on 10 May 2013 following the court's ruling of genocide was rapidly overturned by the Constitutional Court on 20 May, claiming procedural errors (see The Indigenous World 2014). The trial itself was merely postponed, however, with a retrial due to commence on 5 January 2015. The social organisations have thus remained active in this regard, particularly in terms of opposing the media campaign launched by pro-military actors aimed at throwing the case out completely. By the end of the year, everything pointed to the retrial going ahead as planned.

*Case of the burning of the Spanish Embassy*

The trial of Pedro García Arredond opened on 2 October. This was the main defendant accused of storming and setting fire to the Spanish Embassy on 31 January 1980, when he was Head of Sixth Command of the former National Police. There was a huge media sensation around this case, as it was the first to bring to trial officers from the state security services who had perpetrated

	<p>acts of repression against the civilian population during the internal armed conflict. <b>Thirty-seven people died during the embassy fire, most of them indigenous individuals from Quiché department</b>, including Sr. Vicente Menchú, father of Nobel Peace Prize winner, Rigoberta Menchú, who was there to report on the repression being suffered by that department's indigenous population at the hands of the armed forces. <b>The defence team unsuccessfully tried to prevent the opening of the trial, citing the right to amnesty established in the Peace Agreements signed in 1996, which effectively provides an amnesty to members of groups involved in the internal war but not those involved in crimes against humanity. After an intense hearing in which testimonies were heard from eye witnesses and related actors, including embassy officials from that time, the court finally sentenced the accused to 90 years in prison, in addition to the previous 70 years imposed on him for the murder of a university student.</b></p> <p><i>Chixoy case</i></p> <p><b>The 33 indigenous communities of the Maya Achi' people, 440 of whom were massacred and the rest involuntarily displaced during the construction of the Chixoy hydroelectric plant, the largest in the country and built at the start of the 1980s, finally obtained assurance that they would receive compensation from the state. It has been a long struggle and they encountered many difficulties in the beginning due to the surviving population's fear and because the national courts had ruled against their claim.</b> The families therefore decided to approach the Inter-American Commission on Human Rights where they obtained a favourable ruling requiring the Guatemalan state to pay compensation. The government and Coordinating Body of Communities Affected by the Construction of the Hydroelectric Plant (Coordinadora de Comunidades Afectadas por la Construcción de la Hidroeléctrica) established a Reparations Plan in 2010 which includes: a cash payment of US\$154.5 million to be paid within a 15-year period, the construction of 445 houses, an official apology from the President of Guatemala, community access to documents in the Historic Archives of the National Police, an integrated management plan for the Chixoy Basin and projects for infrastructure, basic education, health and development, all things these communities have lacked for many years, ever since losing their lands.</p> <p><b>Despite this agreement, the government has shown little desire to implement its provisions. In 2014, President Otto Pérez publicly stated that Guatemala was a sovereign country and thus not obliged to comply with the rulings of international bodies.</b> However, the Consolidated Appropriations Act 2014, passed by the US Congress, requires the US directors of the World Bank and Inter-American Development Bank to report to the Appropriations Committees on fulfilment of the Plan for the Reparation of Damages Suffered by Communities Affected by the Construction of the Chixoy Hydroelectric Plant in Guatemala, <b>and this was sufficient to get the President to sign a Plan to</b></p>	Country	Specified risk for IP rights
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	<p>provide compensation to the Maya Achi' people from Baja Verapaz department, given that the support received from both the United States government and the international organisations was at risk. This demonstrates yet again that the Guatemalan state only addresses indigenous demands when it feels that its economic benefits are being threatened and not because it has taken any public commitment to recognise indigenous peoples' rights. It also highlights the fact that local courts have no political desire to respond favourably to these demands, for which reason the international bodies have to be approached.</p> <p><i>Chuarrancho case</i> The Constitutional Court finally ruled in favour of the indigenous community of Chuarrancho in the municipality of the same name, Guatemala department, some 40 kms north of the capital. In 1897, this community recorded its name on the title for its communal lands in the General Property Register but, in 2001, the local mayor asked for the title to be transferred to the name of Chuarrancho municipality. This was without the consent of the community and a licence was subsequently granted to a private company for the construction of a hydroelectric plant. The indigenous peoples took a case against the officials of the General Property Register to court and finally managed to obtain the return of the title to their communal lands. This case sets an interesting precedent on which to base demands for recognition of the right to indigenous lands and territories which, throughout history, has been violated. Many of the indigenous peoples' ancestral lands have been unlawfully recorded in the names of private owners and municipalities." (p. 83-85)</p> <p><b>"Extractive industries: moratorium and repression</b> The moratorium on mining licences proposed by President Otto Pérez as a strategy for avoiding serious social conflict has proved to be mere lip service as no current licence has been suspended and the proposal has never been discussed in Congress, which is the only body with the power to establish a moratorium on current laws. In contrast, the government has continued to support the implementation of current extractive projects, above all making the security forces available to companies when required to suppress popular protests. On 19 September, violence between the staff of a cement factory and members of the Maya Kaqchikel community of San Juan Sacatepéquez in Guatemala department, 25 km north of the capital, resulted in 11 deaths. The local people have been categorically rejecting the installation of the cement factory on their ancestral territory, undertaken without any consultation, for several years now but the government has merely supported the company and repressed the population. <b>One of the government's favourite options has been to declare a so-called "State of Emergency" in areas of conflict, thereby limiting constitutional guarantees of the local population's right to freedom of</b></p>	Country	Specified risk for IP rights
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movement, assembly and organisation with the aim of ensuring the security of the extractive industries' investments and criminalising the resistance movements. Back in 2011, in the report on his visit to Guatemala, the UN Special Rapporteur on the rights of indigenous peoples warned that the presence of extractive industries on indigenous territories was becoming a source of serious conflict and division between the communities. For its part, the Indigenous Ch'orti' Council, in Chiquimula department, denounced the arrest of two of its leaders, accused of crimes they had not committed, due to their active opposition to the construction of the El Orégano hydroelectric project on the Jupilingo River, in the indigenous territory of the Maya Ch'orti' people. This project was able to go ahead due to the illegal and deceitful sale of communal lands, supported by Jocotán municipality without any consultation. In this same regard, the government authorities have continued to close community radio stations around the country, at the request of the large communications companies and as a strategy for eliminating alternative forms of broadcasting, particularly those fighting for indigenous rights." (p. 85-86)

**"Indigenous peoples and the forthcoming elections**

With an eye to the general elections due to take place in September 2015, various entities are promoting the greater inclusion and participation of indigenous peoples, not only as voters but also as candidates. In the past, indigenous representation in parliament has barely reached 10%, with indigenous women not even making up 2% of the deputies. Even these deputies follow traditional party lines and do not necessarily propound the proposals of the indigenous peoples. It is important to note that, despite forming a majority of the population, Guatemala has never had an indigenous president nor a political proposal that might unify the indigenous sector. In contrast, it is more common to find councils with indigenous representatives in municipalities that have an indigenous majority.

In order to overcome this poor representation in political spaces, a number of social organisations have therefore formed a largely indigenous electoral proposal known as Democratic Revolutionary Convergence (Convergencia Revolucionaria Democrática), which seeks to unify popular aspirations that have long been excluded or manipulated by the traditional political parties. On 5 April, indigenous leaders from across the country elected the new members of the National High Council of Ancestral Authorities, which works for the social, political and cultural coordination and rebuilding of the peoples and supports the territorial defence movements." (p. 86-87)

**"Firm steps towards restitution of rights to lands and territories**

After decades of legal struggles, and at great cost and sacrifice, including the murder of many of their leaders, a number of communities from the Maya Q'eqchi' people have now taken firm steps to recover the lands and territories

	<p>taken from them unlawfully. Through the National Council for Protected Areas, the Land Fund and the Ministry of Agrarian Affairs, the Guatemalan state has finally recognised the rights of six indigenous communities living in the vicinity of protected areas. Other cases are progressing through the Constitutional Court, for example the claim of a Q'eqchi' community that lost its land to a palm oil-producing company. This was with the connivance of the General Property Register as this company's rights were registered in violation of the indigenous community's legitimate title. Similar demands are being made in other parts of the country, and it is hoped that, gradually, a body of case law will be established that can support the return of lands to their legitimate indigenous owners.</p> <p>The return of the land title to the Chuarrancho indigenous community, mentioned above, sets a precedent on which other demands for ancestral rights to lands and territories can be based. This community recently managed to re-establish its system of traditional authorities with the aim of consolidating forms of government that will be able to guarantee the enjoyment of its territorial rights in the future." (p. 87)</p> <p>"On 5 August 2014, the Commission took the case of Members of the Village of Chichupac and Neighbouring Communities, Municipality of Rabinal vs. Guatemala, to the Inter-American Court. This involves massacres, extrajudicial executions, torture, forced disappearances and rape of members of the village of Chichupac and neighbouring communities, municipality of Rabinal, perpetrated as part of the operations carried out by the National Army and its collaborators during the internal armed conflict in Guatemala. The Commission determined that the events in this case were part of the genocide perpetrated against the Mayan indigenous people in Guatemala. The Commission also emphasised that "more than three decades have passed since the events of this case; more than two decades have passed since the first complaint was filed, and yet no one has been made to answer for these crimes".</p> <p>This case is with the Inter-American Court, pending public hearing." (p. 554-555)</p>	Country	Specified risk for IP rights
<p>United Nations Special Rapporteur on the rights of indigenous peoples  <a href="http://www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoplesindex.aspx">http://www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoplesindex.aspx</a></p>	<p>The last country report on Guatemala from the Special Rapporteur dates from 2002, which is considered to be too outdated.</p> <p><a href="http://unsr.vtaulicorpuz.org/site/images/docs/special/2010-special-a-hrc-15-37-add-8-guatemala-preliminary-note-en.pdf">http://unsr.vtaulicorpuz.org/site/images/docs/special/2010-special-a-hrc-15-37-add-8-guatemala-preliminary-note-en.pdf</a>  <i>Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya Addendum; A/HRC/15/37/Add.8; 8 July 2010</i>  <i>Preliminary note on the application of the principle of consultation with indigenous peoples in Guatemala and the case of the Marlin mine*</i></p>	Country	-

	<p>“II. The impact of natural resource investment and development projects on the indigenous peoples</p> <p>5. During his visit the Special Rapporteur noticed that the business activities under way in the traditional territories of the indigenous peoples of Guatemala have generated a highly unstable atmosphere of social conflict, a situation recognized not only by the affected peoples but also by the public authorities, civil society and the companies themselves. It seems that this situation has not only had harmful repercussions on the indigenous peoples and communities but has also made it difficult for the Government and for business people themselves to promote investment and economic development in Guatemala. The situation calls for decisive and urgent action by the public authorities to avert the risk of the country becoming ungovernable.</p> <p>6. The conflicts currently surrounding the projects involving investment in or development of natural resources in indigenous territories, at least all those directly witnessed by the Special Rapporteur, seem to follow a similar pattern. In the Special Rapporteur’s opinion, the pattern stems from two fundamental issues.</p> <p>7. The first issue is the manifest conflict concerning the consultations that ought to precede the approval of such projects. The lack of an applicable legislative and institutional framework has led to consultation processes which are, to say the least, inadequate in terms of the international standards applicable to the rights of indigenous peoples. The question of consultations has a number of implications above and beyond those relating to specific projects. For many indigenous communities, failure to consult is associated with an intergenerational impression of invasion, marginalization and dispossession and a continuous sense of exclusion from and lack of involvement in decisions affecting them.</p> <p>8. A second basic issue, which seems to have been somewhat neglected in the present debate, is the current regime governing the recognition and protection of the rights of the indigenous peoples of Guatemala to their lands, territories and natural resources. The high degree of legal insecurity as regards land ownership, the lack of collective titles to property in many if not the vast majority of cases, as well as the ongoing consequences of land dispossession during the internal armed conflict, are factors that have a bearing on the present disputes concerning projects involving investment in or development of natural resources, and that are frequently implicit in the requests for consultations.</p> <p>9. During his visit the Special Rapporteur heard allegations from different authorities and representatives of indigenous communities concerning the impact of extractive projects on their daily lives, including: the contamination of rivers; the drying-up of wells; illnesses affecting infants; deaths of livestock; harassment of, attacks on and even killings of community leaders; enforced removals; damage to and demolition of houses; and horrendous cases of rape and sexual abuse of women. These allegations suggest that responsibility lies</p>	Country	Specified risk for IP rights, right to land, FPIC
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with the security forces and also with private companies or other private groups allegedly associated with the companies. They are serious allegations on which it would be inappropriate for the Special Rapporteur to comment for the time being. They will be raised in due course before the competent authorities in the context of the Human Rights Council proceedings. The Special Rapporteur also received worrying allegations to the effect that the projects have led to social disturbances and serious conflicts between communities and even between families.

10. He is also concerned about information concerning judicial action taken against members of indigenous communities who engaged in acts of social protest against companies' activities. The Special Rapporteur notes in this connection the speed with which such proceedings were conducted, compared with the apparent lack of response to community demands for the prosecution of violations of their rights. This could be interpreted as a sign of discrimination in access to justice.

11. The existence of legitimate demands on the part of the indigenous peoples is undeniable. These demands are founded not only on Guatemala's international human rights obligations but also on elementary considerations of humanity, given the impact of the projects on their ancestral lands. There is obviously a considerable degree of opposition among the indigenous peoples to mining and other extractive industry projects. Their opposition is understandable in the light of the repeatedly reiterated perception that such projects invariably have a negative impact, damaging the land on which the affected communities have always lived and fuelling conflict between communities. On this point, the Special Rapporteur would simply like to convey the content of some of the slogans that he managed to read during the mass meetings he attended in San Juan Sacatepéquez and Huehuetenango. One read "No to mining; we want peace" and another read "I am a Mam and care for my village. All mining contaminates."

12. At the same time, the Special Rapporteur has received comments from some authorities and members of indigenous communities concerning the benefits that have accrued to them in their daily lives from business ventures in the areas in which they live. These views may be based on legitimate positions which should, ideally, be shared by the other people living in the neighbourhood of such ventures. The projects should yield benefits and not just entail undesirable consequences for the persons concerned."

"III. The duty to consult

14. The Special Rapporteur's visit to Guatemala was motivated by the receipt of numerous communications concerning an alleged failure to consult prior to the approval of some of the main extractive projects that have been authorized or are currently being implemented, such as the Marlin mine run by the Montana-Goldcorp company in the Department of San Marcos or the Progreso cement works project in the Department of San Juan Sacatepéquez.

	<p>15. The Special Rapporteur has noted the existence of a high degree of ambiguity or even confusion regarding the content and scope of the State's duty to consult indigenous peoples, in accordance with the international standards that are binding on Guatemala.</p> <p>16. The Special Rapporteur has received allegations to the effect that the State has repeatedly granted licences for the building of infrastructure or for natural resource prospecting or exploitation in indigenous territories without undertaking the necessary consultations. Moreover, all parties agree that there is currently no legislative framework regulating the conduct of the consultation procedure in the Guatemalan legal order.</p> <p>17. The lack of an internal legal order governing the implementation of the consultation procedure has given rise to a response in some cases by the companies themselves. While the companies' efforts to compensate for the lack of formal procedures is commendable, such procedures have been manifestly inadequate. The Special Rapporteur wishes to point out that, given the obligation of due diligence incumbent on them with respect to indigenous rights, companies cannot and should not conduct consultation procedures as an alternative to the obligations in that regard incumbent on the competent authorities, without the latter's active involvement and without their direct supervision. Moreover, it should be borne in mind that the consultation always involves an active dialogue that does not come to an end after the initial round of proceedings, but should constitute an ongoing dialogue based not just on goodwill but on full respect for indigenous peoples' rights in respect of projects that affect their traditional territories."</p> <p>"20. (...) The rejectionist position of most communities in which consultations have taken place reflects both the absence of consent and the lack of a proper consultation procedure (...)."</p>		
<p>UN Human Rights Council Universal Periodic Review  <a href="http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx">http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx</a></p>	<p><a href="http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&amp;docid=50f91f3a2&amp;skip=0&amp;publisher=UNHRC&amp;coi=GTM&amp;querysi=elimination%20of%20racial&amp;searchin=fulltext&amp;sort=date">http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&amp;docid=50f91f3a2&amp;skip=0&amp;publisher=UNHRC&amp;coi=GTM&amp;querysi=elimination%20of%20racial&amp;searchin=fulltext&amp;sort=date</a></p> <p><i>Report of the Working Group on the Universal Periodic Review Guatemala; 31 December 2012</i></p> <p><b>II. Conclusions and/or recommendations</b></p> <p>"99. The recommendations formulated during the interactive dialogue/listed below have been examined by and enjoy the support of Guatemala:"</p> <p>"99.11 Adopt legislation concerning indigenous people based on international standards (Hungary);"</p> <p>"99.94. Take steps to ensure access to safe drinking water for all the indigenous communities (Slovenia);</p> <p>99.95. Increase the coverage and accessibility of medical services for women, with a special focus on the needs of indigenous women and women in rural areas (Liechtenstein);</p> <p>99.96. Take further steps to improve the quality and accessibility to health</p>	<p>Country</p>	<p>Specified risk for IP rights</p>

	<p>care facilities and services in rural communities (Sri Lanka);”</p> <p>“99.103. Maintain actions and policies that address the situation of its indigenous peoples (Trinidad and Tobago);</p> <p>99.104. Continue to move forward in the execution of projects aimed at protecting women, specifically indigenous women (Bolivia (Plurinational State of));</p> <p>99.105. Ensure the highest standards for the protection of indigenous peoples in order to eliminate the remaining structural inequalities that continue to have an adverse impact on indigenous peoples (Bolivia (Plurinational State of));</p> <p>99.106. Undertake a dialogue process with indigenous peoples to seek an appropriate consultation mechanism regarding the adoption of measures affecting indigenous peoples (Costa Rica);</p> <p>99.107. Systematically continue the positive efforts undertaken regarding the rights of indigenous peoples (Greece);</p> <p>99.108. Continue its efforts to facilitate and promote indigenous peoples’ access to education, sanitation, property, and public positions (Holy See);</p> <p>99.109. Adopt national legislation to fully implement the ILO Convention No. 169 on indigenous and tribal peoples. Particular focus should be put on the indigenous peoples’ right to be consulted at all levels of decision-making, in policy, legislative, administrative and development processes affecting them.(Norway);</p> <p>99.110. Continue its efforts aimed at regulating the consultation process so that public policies reflect the effective participation of indigenous peoples in its implementation (Paraguay);</p> <p>99.111. Continue efforts aimed at establishing and implementing a consultation mechanism with indigenous peoples, in accordance with national and international legislation (Peru);”</p> <p>“100. The recommendations formulated during the interactive dialogue/listed below were noted by Guatemala. The views of Guatemala on the recommendations noted are included in an addendum to the report of the Working Group, A/HRC/22/8/Add.1)”</p> <p>” 100.9. Adopt a legal instrument to protect the rights of the indigenous population especially in cases of land disputes and mining development (Republic of Korea);”</p> <p>” 100.14. Ensure effective and independent investigations into all reports of extrajudicial executions and ensure that reports of killings, threats, attacks and acts of intimidation against human rights defenders and journalists are thoroughly and promptly investigated and those responsible brought to justice (Australia);</p> <p>100.15. Implement effective protective measures as well as immediate, independent and systematic investigations of abuses perpetrated against human rights defenders (Switzerland);</p> <p>100.16. Continue to build on the successes achieved to date to improve access to the justice system and increase efforts to build national capacity in</p>		
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	<p>bringing about accountability such as the convictions related to the 1982 Dos Erres massacre (Canada);</p> <p>100.17. Investigate and prosecute all crimes against humanity as well as cases of torture and disappearances in order to bring the perpetrators to justice (Germany);</p> <p>100.18. Adopt and implement necessary legislation for the protection of human rights defenders in Guatemala, while acknowledging the efforts made in this area, but requesting to continue implementing legislation in that respect (Spain);</p> <p>100.19. Take measures to improve the participation of all stakeholders, with a focus on women and indigenous people in decision making processes that could have an impact on future development of rural communities (Canada);</p> <p>100.20. Thoroughly implement legislation and develop procedures involving civil society to ensure the protection of indigenous people, especially in the context of land disputes and forced evictions (Austria)</p> <p>100.21. Protecting indigenous populations against mining companies and make them play a part in decision making (Iraq);</p> <p>100.22. Implement a legislative framework for an appropriate and meaningful consultation procedure that will ensure genuine, free and informed consent of indigenous peoples in land disputes, as set out in the United Nations Declaration on Indigenous Peoples Rights (Ireland);</p> <p>100.23. Safeguard legitimate rights of individuals belonging to indigenous communities in relation to land disputes, in particular in rural areas, reforming eviction procedures to comply with international standards (Slovakia);</p> <p>100.24. Guarantee effective consultations with communities that might be affected by development projects and exploitation of natural resources (Slovenia);</p> <p>100.25. Reform the Mining Law to guarantee indigenous peoples' right to their land, territories and natural resources (Norway);</p> <p>100.26. Full participation of indigenous peoples in decision making concerning them, and that they are consulted during the planning and implementation of major economic projects (Switzerland);</p> <p>100.27. Develop a process, trusted by the public, for regular community government consultations regarding concerns of indigenous peoples and local community groups, including construction of infrastructure and other projects on their lands (United States of America);</p> <p><a href="http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&amp;docid=506d5a472&amp;skip=0&amp;publisher=UNHRC&amp;coi=GT&amp;querysi=elimination%20of%20racial&amp;searchin=fulltext&amp;sort=date">http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&amp;docid=506d5a472&amp;skip=0&amp;publisher=UNHRC&amp;coi=GT&amp;querysi=elimination%20of%20racial&amp;searchin=fulltext&amp;sort=date</a></p> <p><i>Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; Guatemala; 25 July 2012</i></p>	Country	Specified risk for IP
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	<p>“C. <i>Implementation of international human rights obligations, taking into account applicable international humanitarian law</i></p> <p>1. <i>Equality and non-discrimination</i></p> <p>23. According to JS13, discrimination against women remained rampant.<sup>30</sup> In particular, indigenous women continued to face discrimination because of their gender, indigenous identity, poverty and marginal social status.<sup>31</sup>”</p> <p>“25. JS6 noted that appropriate legislation concerning indigenous peoples based on international standards has not yet been enacted and that they continue to be the victims of de facto discrimination.<sup>33</sup></p> <p>26. JS6 indicated that, according to the Human Rights Office of the Archbishopric, <i>access to land in Guatemala is extremely unequal</i>; 80 per cent of cultivable land is in the hands of 8 per cent of commercial farmers, and 92 per cent of farmers cultivate only 22 per cent of the land.<sup>34</sup>”</p> <p>“30. JS9 noted that <i>agents working for private security companies were triple that of the workforce of both the NCP and the Army</i> and, despite reforms, most companies had not been formally legalized. JS9 expressed concern that <i>private security companies working to protect private interests in rural areas were most likely to act outside of the law, intimidating and threatening in particular the human rights defenders</i>.<sup>48</sup></p> <p>31. JS12 recommended implementing a policy of arms control and monitoring the activities of private security companies.<sup>49</sup> JS4 recommended repealing General Order No. 11-99 of the National Civil Police which establishes local security bodies that undermine the State’s duty to guarantee security and create conditions conducive to impunity.<sup>50</sup>”</p> <p>“60. JS9 stated that <i>HRDs continued to face death threats, physical attacks, killings and other forms of violence, mostly carried out by clandestine security organizations and illegal groups</i>.<sup>96</sup> JS9 remarked that women HRDs were particularly vulnerable.<sup>97</sup> Few attacks against HRDs were investigated and even fewer resulted in convictions.<sup>98</sup> JS9 noted that the national programme of protection of HRDs at risk was not implemented.<sup>99</sup> According to JS6, <i>the worsening situation of human rights defenders was directly related to the failure to address land conflicts and the repressive policy pursued against indigenous communities who object to the use of their natural resources without prior consultation</i>.<sup>100</sup></p> <p>62. PBI noted that defenders of economic, social and cultural rights were particularly vulnerable and that there had been an increase in negative publicity against them.<sup>102</sup></p> <p>63. AI considered that the framework for the protection of HRDs was not adequate, withno structured process for the identification and protection of HRDs at risk.<sup>103</sup> According toArticle 19, criminal defamation was used by officials to hinder journalistic dissent.<sup>104</sup>”</p> <p>“73. JS14 indicated that most domestic workers are indigenous women and that only 7.5 per cent have received any primary schooling. Their working days are long, they are not paid the minimum wage and their working conditions are</p>	<p>rights, right to land and FPIC</p>
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	<p>inadequate. They are subjected to abuse and to physical and psychological violence.117”</p> <p>“103. According to AI, <b>indigenous peoples in rural areas were particularly vulnerable in the context of land disputes and forced evictions. The policy and legal framework prioritized the interests of large landowners over the rights of rural workers.</b> AI stated that the 2011 Attorney General’s guidelines on eviction procedures provided a useful structure towards safeguarding human rights in the context of land disputes if they were properly implemented and accompanied by other legal and policy reforms.153</p> <p>104. According to JS4, the mechanisms in place to promote access to land and to support the production plans of indigenous peoples are inadequate154 and the budget allocated to FONTIERRAS has failed to meet the demands of the poorest families.155 JS12 added that there are no legal procedures for imposing restrictions on the accumulation of land and ensuring its redistribution.156</p> <p>105. AI stated that <b>indigenous peoples’ rights were also violated in the context of extractive industries and large infrastructure projects, and that the process to obtain the free, prior and informed consent of affected communities rarely resulted in a genuine process.</b>157 ICJ noted that <b>the State had failed to develop procedures for the implementation of agreements reached with affected communities.</b> It added that in the case of “megaprojects”, Guatemala usually responded to indigenous peoples’ objections with repression.158</p> <p>106. JS6 stated that Guatemala <b>ignored the 57 community consultations</b> that had been conducted and that the State, through the Constitutional Court, had violated the right to consultation, declaring consultations valid but “non-binding”, and that it continued issuing licences in respect of indigenous territories.159</p> <p>107. JS12 recommended that a consultation procedure consistent with international standards should be guaranteed.160 JS14 recommended that the integrated rural development law should be enacted and the respective policy implemented.161 JS12 also recommended that further steps should be taken to implement the Peace Agreements relating to the agrarian question.162”</p>		
<p>UN Human Rights Committee  <a href="http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx">http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx</a>  search for country  Also check: UN Committee on the Elimination of All Forms of Racial Discrimination  <a href="http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx">http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx</a></p>	<p><a href="http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGTM%2fCO%2f3&amp;Lang=en">http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGTM%2fCO%2f3&amp;Lang=en</a>  <b>International Covenant on Civil and Political Rights; 19 April 2012</b>  <i>Consideration of reports submitted by States parties under article 40 of the Covenant. Concluding observations of the Human Rights Committee. Guatemala.</i>  “10. The Committee is concerned at <b>the continuing de facto exclusion of indigenous and Afro-descendent workers in all areas</b>, including land ownership, access to basic services, labour conditions, access to the formal economy and justice, participation in decision-making forums and State institutions and representation in the media and in the public debate. The Committee regrets the lack of appropriate criminalization of acts of</p>	<p>Country</p>	<p>Specified risk for IP rights</p>

	<p>discrimination and xenophobia suffered by indigenous and Afro-descendent persons, as a result of which the crime of discrimination applies only to acts that impede or hinder the exercise of a legally constituted right (arts. 3, 26 and 27).</p> <p><i>The State party should continue its efforts to eradicate stereotypes and discrimination against indigenous and Afro-descendent persons by, inter alia, carrying out more education campaigns to promote tolerance and respect for diversity. The State party should adopt measures to promote equal opportunity and access to services through appropriate efforts to resolve existing inequalities. Lastly, the State party should amend article 202 bis of the Criminal Code to ensure the investigation of acts of racial discrimination, the prosecution and punishment of the perpetrators, and adequate compensation for the victims so that it is not necessary to establish that those acts impede or hinder the exercise of one or more rights in order to constitute an offence.</i></p> <p>“22. The Committee is concerned at the very high levels of violence against and attacks on human rights defenders. Although it welcomes the restoration of the Unit for the Analysis of Attacks against Human Rights Defenders in January 2012, the Committee regrets that the Unit has still not been able to begin its activities. The Committee also regrets the lack of sufficient protection mechanisms for human rights defenders, as well as recent campaigns to undermine the initiatives of civil society organizations (arts. 6 and 7).</p> <p><i>The State party should publicly acknowledge the contribution of human rights defenders to justice and democracy. It should also take immediate measures to provide effective protection for defenders whose lives and security are endangered by their professional activities and also to support the immediate, effective and impartial investigation of threats, attacks and assassinations of human rights defenders, and to prosecute and punish the perpetrators. The State party should provide the Unit for the Analysis of Attacks against Human Rights Defenders with the human and material resources that it needs to carry out its functions and to ensure the participation at the highest level of State institutions with decision-making power.</i></p> <p>“26. The Committee is concerned at the existing limitations on access to justice owing to the inadequate geographical coverage of the judicial system and to the prevalence of a monocultural vision within that system. The Committee also regrets the lack of interpreters to meet the needs of indigenous persons (arts. 14 and 27).</p> <p><i>The State party should take the necessary measures to facilitate the access of all persons to justice in their own language by adopting effective policies to recruit bilingual officials, creating the necessary number of interpreter posts, providing adequate training to professionals so that they can discharge their functions and constantly evaluating the quality of service in all regions of the country. In addition, the State party should implement specific training programmes for legal officials responsible for representing the judiciary in indigenous areas.</i></p>		
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	<p>27. While recognizing the measures taken by the State party, such as the 2009–2012 Programme for the Development of Indigenous Peoples and the constitutional reforms of 2001 designed to ensure respect for indigenous rights, <b>the Committee regrets that indigenous peoples are not effectively consulted by the State party during decision-making processes that affect their rights</b> (arts. 2, 25 and 27).</p> <p><i>The State party should comply with its international commitment to carry out prior and informed consultations with indigenous peoples for all decisions relating to projects that affect their rights, in accordance with article 27 of the Covenant. The State party should also recognize and take due account of all decisions taken by indigenous peoples during such consultations.”</i></p> <p><a href="https://digitallibrary.un.org/record/821426/files/CERD_C_GTM_CO_14-15-EN.pdf">https://digitallibrary.un.org/record/821426/files/CERD_C_GTM_CO_14-15-EN.pdf</a></p> <p><i>International Convention on the Elimination of All Forms of Racial Discrimination. 12 June 2015 Committee on the <b>Elimination of Racial Discrimination</b>. Concluding observations on the combined fourteenth and fifteenth periodic reports of Guatemala.</i></p> <p><b>“Legal framework</b></p> <p>9. The Committee notes with concern the gaps in implementation of the Agreement on Identity and Rights of Indigenous Peoples, one of the 12 peace agreements, and in this regard underscores the importance of structural reforms. <b>The Committee takes note of the State party’s commitment to amending the Constitution as necessary to formally recognize indigenous peoples and their languages, religious beliefs, justice systems and other issues covered in the Agreement.</b> The Committee continues to view with concern the stalled deliberations and delay in the approval by the Congress of draft legislation on consultation with indigenous peoples (draft bill 4051), indigenous jurisdiction (draft bill 3946), integral rural development (draft bill 4084), sacred sites (draft bill 3835), bilingual, multicultural and intercultural education (draft bill 3913), community radio broadcasting (draft bill 4087), a national reparations programme (draft bill 3551), amendment of the Political Parties and Electoral Act (draft bill 4783) and amendment of the Mining Act (draft bill 4945). The Committee is concerned that this draft legislation has been pending in the Congress for over a decade.</p> <p><i>The Committee recommends that draft legislation on combating racial discrimination and promoting the rights of indigenous peoples be given priority in the legislative agenda for urgent debate and adoption, in consultation with the indigenous population. The Committee also recommends making the structural reforms needed for full implementation of the Agreement on Identity and Rights of Indigenous Peoples, including the necessary reforms to the Constitution, and giving consideration to the possibility of establishing specific joint boards with the indigenous population for this purpose.”</i></p>	Country	Specified risk for IP rights
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	<p>(..) <b>“Free, prior and informed consent</b></p> <p>11. <b>The Committee is concerned by the highly conflictual situations surrounding the awarding of licences or authorizations for hydroelectric projects, the exploitation of natural resources and single-cropping on lands and territories belonging to indigenous peoples or traditionally occupied by them.</b></p> <p>12. <b>The Committee notes with concern that these concessions were granted without respecting the indigenous peoples’ right to be consulted.</b> The Committee notes that, under article 46 of the Constitution, which gives the International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries pre-eminence over internal law, that right should be respected even in the absence of any national legislative framework. The Committee notes that consultation is mandatory both when the natural resources belong to indigenous peoples and when the State has reserved to itself the ownership of underground resources, as set forth in article 6 and article 15, paragraph 2, of ILO Convention No. 169. The Committee notes with interest the judgements handed down by the Constitutional Court in the San Juan Cotzal and San Juan Sacatepéquez cases, in which it ordered that such consultations be conducted.</p> <p>13. <b>The Committee takes note of the information provided on collective ownership. It notes with concern, however, that the legal framework governing land, territories and natural resources has not been adopted, despite the observation by the Special Rapporteur on the rights of indigenous peoples that the legal protection currently provided does not meet international standards.</b> The Committee is thus concerned about the scant protection afforded to indigenous peoples, inasmuch as the State party continues to allow lands traditionally owned by indigenous peoples to be taken from them without consultation.</p> <p>14. <b>The Committee is further concerned by the acts of violence that occurred during the protests triggered by the concession of those projects and it is concerned by the State party’s response in declaring a state of emergency (art. 5, para. (d) (v)).</b></p> <p><i>The Committee underscores the impact produced by not observing the right to consultation and the right to land in these conflicts. Accordingly, and pursuant to its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee:</i></p> <p><i>(a) Reiterates its recommendation on the right to consultation (CERD/C/GTM/CO/12-13, para. 11), and urges the State party to devise practical ways of consulting with indigenous populations through the institutions representing them. The Committee notes that only in exceptional cases may indigenous populations be moved and resettled and that the consent of the population in question is necessary in those cases;</i></p> <p><i>(b) Recommends the adoption, in consultation with indigenous peoples, of a national legal framework to govern the right to consultation. The Committee</i></p>		
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	<p>recommends as well updating the existing legal framework, including the Mining Act, the Environmental Protection and Enhancement Act and the Regulations on the Assessment of Environmental Impact Studies;</p> <p>(c) Recommends strengthening the round-table dialogues with a view to ensuring compliance with signed agreements, and recommends a temporary moratorium on the granting of new licences for such projects until consultation mechanisms are in place;</p> <p>(d) Recommends prompt implementation of court decisions, such as the ones handed down in the San Juan Cotzal and San Juan Sacatepéquez cases;</p> <p>(e) Urges the State party to recognize the right of indigenous peoples to lands and territories by creating an appropriate legal framework in consultation with the indigenous population;</p> <p>(f) Recommends fully safeguarding the free exercise of the right to protest, taking all necessary action to protect protesters and investigating any attacks against them. Special mention is made of the need to implement fully the Private Security Services Act (Decree 52-2010).”</p> <p><b>“Human rights defenders</b></p> <p>15. The Committee is greatly concerned by the persistent attacks and threats against human rights defenders and journalists in general and against indigenous defenders and journalists in particular.”</p>		
<p>Intercontinental Cry <a href="http://intercontinentalcry.org/">http://intercontinentalcry.org/</a></p>	<p><a href="http://www.scribd.com/doc/216154458/Indigenous-Struggles-2013">http://www.scribd.com/doc/216154458/Indigenous-Struggles-2013</a></p> <p><i>Indigenous struggles 2013. Dispatches from the fourth world.</i></p> <p>“Leaders from Agua Caliente, a community of Maya Q’eqchi Peoples from Guatemala, traveled to Washington, D.C., to raise awareness about a harmful nickel mine planned in their indigenous territories. The mining company behind the proposed project, Compania Guatelmateca de Niquel, a subsidiary of the Solway Investment Group, has already used threats and violence against Agua Caliente and surrounding communities. <b>In one case, the son of Rodrigo Tot (one of the Q’eqchi delegates) was killed, it is believed, as an act of retribution for the family’s public opposition to the mine.</b>”</p> <p>“Hudbay, meanwhile, continues to face serious charges in another Canadian court room. A group of Maya villagers from Guatemala are suing the company for serious human rights abuses that took place prior to the company’s purchase of the fenix project. The villagers believe that Hudbay inherited liability for the crimes that were committed by employees of Skye Resources, <b>including murder of a community leader and the gang rape of several Maya women.</b>”</p> <p>“In Guatemala, the Canadian mining company Tahoe Resources received a mining license for its Escobal <b>mining project despite ongoing violence against Indigenous Peoples, including the unresolved kidnapping of four Xinca Leaders, one of whom was brutally murdered.</b> More criminal acts were carried</p>	<p>Agua Caliente</p> <p>Area of the fenix project</p> <p>Area of the Escobal mining project</p>	<p>Specified risk for IP rights</p> <p>Specified risk for IP rights</p> <p>Specified risk for IP rights</p>

	<p>out on the same day the license was issued: Three shots were fired at the offices of the Center for Legal, Environmental and Social Action (CALAS) while its director was inside. A lawyer from this same organization also discovered that his home had been raided. The lawyer insisted that it was a direct message from the mining company, because, “we have participated in the entire legal process against the mine and are accompanying the consultations that are taking place in the communities.””</p> <p>“Guatemala’s Public Ministry revealed wiretapping evidence that identified a <b>Tahoe Resources security chief giving direct orders to assassinate indigenous opponents of the Escobal mining project.</b> For months, Tahoe Resources claimed to have no part whatsoever in the murders and kidnappings of Xinca community members who were working to stop the Escobal silver mine. Days after the revelation, a second Tahoe employee was implicated in the violence.”</p> <p>“A series of ongoing attacks on the Q’eqchi community of Saquimo Setaña, Cobán, Guatemala, were reported by The Guatemala Solidarity Project. <b>The criminal acts -- including arson, physical attacks on community members and the arrest of community leaders under false charges -- were allegedly ordered by a person who claims to be the rightful heir of Saquimo Setaña’s land.</b> The woman in question was also able to get an eviction order issued against the community.”</p>	Saquimo Setaña, Cobán	Specified risk for IP rights
<p>Forest Peoples Programme: <a href="http://www.forestpeoples.org">www.forestpeoples.org</a> FPP’s focus is on Africa, Asia/Pacific and South and Central America.</p>	<p>There is a country-link on Guatemala on this website: <a href="http://www.forestpeoples.org/en/resources?Publications%5B0%5D=language%3Aen&amp;Publications%5B1%5D=region%3A363">http://www.forestpeoples.org/en/resources?Publications%5B0%5D=language%3Aen&amp;Publications%5B1%5D=region%3A363</a></p> <p><a href="http://www.forestpeoples.org/topics/rights-land-natural-resources/news/2012/12/guest-article-union-verapacense-de-organizaciones">http://www.forestpeoples.org/topics/rights-land-natural-resources/news/2012/12/guest-article-union-verapacense-de-organizaciones</a> <i>GUEST ARTICLE from Unión Verapacense de Organizaciones Campesinas (UVOC), Guatemala: Land conflicts and the struggle for rights in Guatemala. 10 December 2012</i></p> <p>“In common with many other countries in Latin America, Guatemala suffers from a highly unequal “bimodal” distribution of land. More than half of the land in the country is covered by private land estates owned by either families and individuals or by mining, logging, agribusiness and plantation companies. In contrast, smallholdings amount to one fifth of the land area and are occupied by peasants and small farmers who make up 80% of the population. Indigenous peoples are the customary owners of land throughout the country, but in many cases do not have legal demarcation nor titles to their ancestral territories. <b>Despite promises to recognise indigenous peoples’ and peasant farmers’ land rights,</b> made in the 1996 Peace Accords and in stagnant proposals for agrarian reforms, <b>little has been done to secure the land rights of indigenous peoples and local communities.</b>[[i]”</p>	Country	Specified risk for IP rights (structural and case-specific)

	<p><b>“History of land grabbing and dispossession</b>  Many of the large private estates in the country today have their origins in State land policies of the nineteenth century under which the government sold vast swathes of forest and fertile land to foreign investors seeking land to grow and export coffee. Land sales were made over the heads of indigenous peoples and peasant farmers living off the land, who then found themselves obligated to give their labour to the new rural overlords for minimal or no pay in return for access to small plots of land for subsistence and housing.  In many cases families bonded to rural estates never received title to their lands and still endure insecure tenure and face the constant threat of eviction from their homes and farms. Families and communities struggling for legal recognition, trying to secure land to grow food, are often subjected to intimidation and human rights abuses at the hands of henchmen working for powerful landowners and companies. The lack of access to fertile land means that more than 6000 rural communities across Guatemala suffer from high levels of malnutrition and lack food security.[ii]”</p> <p><b>National policies and land conflicts</b>  (..) “Ineffective and unjust land policies and weak redistribution mechanisms have led to an increasing number of land disputes with over 1000 land conflicts affecting more than 20,000 rural families. As more and more land is sold off to companies, peasant communities and landless families are increasingly desperate and hungry. Faced with ineffective legal remedies, many rural communities have had no choice but to occupy private estate lands in order to survive.”</p> <p><b>The struggle of the 20th of October Community</b>  “One such case is that of 700 indigenous families of Qeqchi origin who, on 20th October 2011, began occupying a large plantation in Cahabon, Alta Verapaz (North East Guatemala) owned by the logging company Interforest S.A. This commercial forestry site exports timber products to Asia and is certified to sell carbon credits, yet communities complain that their issues and grievances have not been properly recognised by the company or the state.[iii]”</p>		
Society for Threatened Peoples: <a href="http://www.gfbv.de/index.php?change_lang=english">http://www.gfbv.de/index.php?change_lang=english</a>	All publications referring to rights of indigenous peoples in Guatemala on this website are in German language. It does confirm, however, the presence of indigenous peoples in Guatemala.	Country	IP presence
Regional human rights courts and commissions: - Inter-American Court of Human Rights <a href="http://www.corteidh.or.cr/index.php/en">http://www.corteidh.or.cr/index.php/en</a> - Inter-American Commission on Human Rights <a href="http://www.oas.org/en/iachr/">http://www.oas.org/en/iachr/</a> <a href="http://www.oas.org/en/iachr/indigenous/">http://www.oas.org/en/iachr/indigenous/</a> - African Commission on Human and Peoples' Rights - African Court on Human and Peoples' Rights	<a href="http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=en">http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=en</a> The Inter-American Court of Human Rights has 145 English documents on its website - Decisions and judgments, Provisional Measures, Compliance with Judgment or Advisory opinions – published between 1991 and 2015. A few of the decisions and judgments are already referred to as important landmarks by other sources mentioned above.  <a href="http://search.oas.org/en/iachr/default.aspx?k=guatemala+indigenous&amp;s=CIDH">http://search.oas.org/en/iachr/default.aspx?k=guatemala+indigenous&amp;s=CIDH</a>	-	-

<p>- <a href="#">European Court of Human Rights</a></p>	<p>The website of the Inter-American Commission on Human Rights shows 6656 hits when searching for “Guatemala” and “indigenous”.</p>		
<p>Data provided by National Indigenous Peoples’, Traditional Peoples organizations</p>	<p>Several sources reported elsewhere in this analysis for indicator 2.3 also include positions, claims or statements from civil society organizations in Guatemala and/or IP organizations.</p> <p>A relevant source in this regard is the document from the UN OHCHR was analysed: <i>Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; Guatemala; 25 July 2012</i></p> <p><a href="http://www.refworld.org/country,,UNHRC,,GTM,,506d5a472,0.html">http://www.refworld.org/country,,UNHRC,,GTM,,506d5a472,0.html</a></p> <p>This UN document reports about positions and proposals from a large number of very different types of civil society organizations, local, regional, national and international and with different backgrounds such as indigenous, local communities, mothers, or human rights.</p> <p>Most of these organizations made <i>Joint Statements (JS)</i> as a group. The endnotes of this document shows all organizations joining these 17 Joint Statements. For example, JS2 represents 10 organizations, mostly from mothers, JS3 represents 5 organizations, of which FIAN and Via Campesina, JS4 represents 17 local community organizations.</p> <p><b>No additional data found.</b></p>	-	-
<p>Data provided by Governmental institutions in charge of Indigenous Peoples affairs</p>	<p><a href="http://www.refworld.org/country,,UNHRC,,GTM,,506d5a472,0.html">http://www.refworld.org/country,,UNHRC,,GTM,,506d5a472,0.html</a></p> <p><b>UN Office of the High Commissioner for Human Rights (OHCHR)</b></p> <p><i>Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; Guatemala; 25 July 2012</i></p> <p><b>“1. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles</b></p> <p><b>A. Background and framework</b></p> <p>1. According to the Guatemalan Human Rights Advocate, Guatemala is required, on ratifying international instruments, to take the necessary steps to align its legislation and institutions with the instruments concerned, to ensure their implementation and to allocate the requisite budgetary funds.2</p> <p><b>B. Implementation of international human rights obligations, taking into account applicable international humanitarian law</b></p> <p>2. According to the Advocate, the party that won the presidential elections disseminated the idea of reactivating the death penalty during the campaign, a position that is contrary to UPR recommendation No. 14.3 As a result of its high homicide rates, Guatemala is ranked as one of the most violent countries in the world. Between 2007 and 2011 a total of 30,212 homicides were</p>		

	<p>recorded; 83 per cent of the homicides were committed with firearms, the vast majority of which were unregistered. Deaths by lynching have also been on the increase. <b>The Advocate considers that a fundamental restructuring of the justice system is required, since in 2008 less than 2 per cent of homicides led to a conviction. The crime networks involved in drug trafficking have a major impact on the homicide rate and thwart the State's ability to provide security.</b><sup>4</sup> (...) "6. Commenting on the UPR recommendations concerning human rights defenders, the Advocate reported that they continue to be victims of attacks, which do not give rise to criminal investigations. Such impunity constitutes an impediment to his activities.<sup>11</sup></p> <p>7. With regard to security, the Advocate indicated that there was about 1 National Civil Police officer in 2011 for every 3,000 inhabitants. <b>There were four times as many private agents as public-service officers and most of the agents operated without any State control;</b> there was an 80.6 per cent shortage of police staff. Furthermore, more forceful joint operations by the National Civil Police and the army had been undertaken in 2012.<sup>12</sup>"</p> <p>(..) "10. With regard to UPR recommendations 10–12 and 39 concerning the rights of indigenous peoples, he indicated that they recorded the worst poverty, food, education, health and employment indices. In 2011, the Advocate received 377 complaints of possible violations of their rights, usually involving discrimination and problems associated with land tenure.<sup>15</sup>"</p> <p><a href="http://www.refworld.org/country,,UNHRC,,GTM,,50f91f3a2,0.html">http://www.refworld.org/country,,UNHRC,,GTM,,50f91f3a2,0.html</a>  <i>Report of the Working Group on the Universal Periodic Review  Guatemala; 31 December 2012</i></p> <p><b>A. Presentation by the State under review</b></p> <p>(..) "6. Guatemala stated that the State's review required awareness of what the State was and where it came from. Guatemala was in its initial phase of building a democratic State based on the rule of law. Even though Guatemala had been independent for 191 years, transitional democracy had started only 27 years previously and the armed conflict that had lasted 36 years had ended only 16 years previously.</p> <p>7. <b>Guatemala was satisfied with the important achievements made during the short period of 16 years of peace and democracy, despite its lack of tradition, experience and democratic institutions. It was experiencing its longest period of democracy."</b></p> <p>(..) "17. Pursuant to Decree No. 40-2000, <b>the Army supported the civil security forces in preventing and combating the organized criminal organizations and delinquency, according to security needs and when the means of the public security forces were considered insufficient.</b> In 2015, an additional 10,000 police officers were expected to be employed."</p> <p>(..) "23. Guatemala stated that, further to the reform of 1994, the Public Prosecutor's Office was responsible for criminal investigations and prosecutions. <b>Taking into account the historical levels of violence and impunity,</b></p>	<p>Country</p> <p>Country</p> <p>Country</p>	<p>Specified risk for IP rights</p> <p>Specified risk for IP rights</p> <p>Specified risk for IP rights</p>
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	<p>the following priorities had been identified: (a) crimes against the right to life; (b) violence against women (25 per cent of all complaints); (c) organized crime; and (d) corruption. (..)"</p> <p>(..) "26. The Public Prosecutor's Office had honoured its commitment to double the number of interpreters in indigenous languages. At that time, Guatemala had 40 Maya interpreters in place, a number which would progressively increase."</p> <p>(..) "34. Guatemala concluded indicating that the Ministry of Social Development supported the enjoyment of indigenous rights, by extending the participation of indigenous peoples in social programmes and assisting them in strengthening their identity; and that development plans were being carried out in regions such as El Polochic.</p> <p>35. Guatemala stated that, through the National Policy of Promotion and Integral Development, and its Plan of Equality of Opportunities (2008–2023) Guatemala gave priority to the implementation of the rights of Maya, Garifuna, Xinca and mestizo women. It referred to actions taken to protect and promote the rights of women such as: (a) the Lands Fund and the Secretary of Agrarian Affairs working together to respond to the women requests to access to land and housing; (b) the concept of peasant economy being incorporated into the policy of rural integral development, for which peasant women were a priority – in that regard, actions have been taken with the banking institutions; (c) the gender and ethnic dimensions being taking into account when designing the budget structure; and (d) the creation of a specific cabinet for women, headed by the VicePresident."</p> <p><b>B. Interactive dialogue and responses by the State under review</b></p> <p>(..) "97. In closing remarks, Guatemala gave thanks for the received recommendations that were in accordance with governmental policies and stated that therefore Guatemala accepted the majority thereof. A reply had been given to most of the questions posed in the preliminary interventions of the delegation, as well as in the document transmitted to the States replying to their advanced questions.</p> <p>98. It highlighted that:</p> <p>(a) In order to legally regulate consultation with the indigenous peoples, in conformity with ILO Convention No. 169, the Cabinet of the Government had received ILO representatives and high officials of the Government of Peru – which was the only country having a law and rules in that regard. Guatemala expected that its regulatory law would be enacted soon;</p> <p>(b) Since 2001, there had not been any death penalty sentences, and there was a de facto moratorium to death penalty;</p> <p>(c) Regarding judicial cases related to the armed conflict, the Superior Courts of Guatemala should settle the debate over the interpretation about the exceptions and scope of the Amnesty, agreed during the peace negotiation in 1996, with the participation of the United Nations;</p>	Country	-
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	(d) Regarding the recent events that had occurred in Totonicapán, where eight persons had been killed, a judicial process had been initiated and the Government was working with the Public Prosecutor's Office and the Judiciary in order to carry out an impartial investigation."	Totonicapán	-
Data provided by National NGOs; NGO documentation of cases of IP and TP conflicts (historic or ongoing)	Data from National NGOs and/or CSOs already presented elsewhere in this section, including cases of conflicts. Those do not include cases of conflicts with the forestry sector. No additional data of cases found.	-	-
National land bureau tenure records, maps, titles and registration (Google)	Not found.	-	-
Relevant census data	<a href="http://www.ine.gob.gt">http://www.ine.gob.gt</a> Website of the National Institute of Statistics (INE): No census data available in English.  Wikipedia quotes the INE presenting the following data: "Guatemala is a highly diverse country, populated by a variety of ethnic, cultural, racial, and linguistic groups. According to the 2010 Census conducted by the National Institute of Statistics (INE), about 41.5% of the population is Mestizo (also known as Ladino), reflecting mixed indigenous and European heritage. A similar proportion of Guatemalans (41%) are of full Amerindian ancestry, which is among one of the largest percentage in Latin America, behind only Peru and Bolivia. Most indigenous Guatemalans are of the Maya people, namely K'iche' (11.0% of the total population), Q'eqchi (8.3%), Kaqchikel (7.8%), Mam (5.2%), and "other Mayan" (7.6%). Less than 1% are indigenous non-Mayan."	Country	IP presence
- Evidence of participation in decision making; (See info on implementing ILO 169 and protests against new laws) - Evidence of IPs refusing to participate (e.g. on the basis of an unfair process, etc.); (See info on implementing ILO 169 and protests against new laws)	In the sections above, plenty of evidence is presented that the legal framework for participation is insufficient to protect the rights of IPs and that in practice the rights to FPIC and/or consultation is not being upheld when projects are being developed on IP's lands and/or that impact IP's rights.	Country	Specified risk for IP rights
National/regional records of claims on lands, negotiations in progress or concluded etc.	Cases reported above mention a number of specific claims on land others give general information about such claims by IPs or IP organisations. No records were found with detailed overviews or summaries of all such claims.	Country	Specified risk for IP rights
Cases of IP and TP conflicts (historic or ongoing). Data about land use conflicts, and disputes (historical / outstanding grievances and legal disputes)	See evidence of cases of conflicts about land, IP rights, use rights and other rights presented in the documents from several organisations above.	Country	Specified risk for IP rights
Social Responsibility Contracts ( <i>Cahier des Charges</i> ) established according to FPIC (Free Prior Informed Consent) principles where available	Not applicable.	-	-
Google the terms '[country]' and one of following terms 'indigenous peoples organizations', 'traditional peoples organizations', 'land registration office', 'land office', 'indigenous peoples', 'traditional peoples', '[name of IPs]', 'indigenous peoples+conflict', 'indigenous peoples+land rights'	<a href="https://www.culturalsurvival.org/publications/cultural-survival-quarterly/human-rights-violations-guatemala-hearing-indigenous-voices">https://www.culturalsurvival.org/publications/cultural-survival-quarterly/human-rights-violations-guatemala-hearing-indigenous-voices</a> <b>Cultural Survival</b> <i>Human Rights Violations in Guatemala: Hearing Indigenous Voices</i>	Country	Specified risk for IP rights

“On March 13, 2012, thousands of Indigenous people gathered in the chilly highland town of Totonicapan, Guatemala, milling into the town’s soccer stadium to await the arrival of the United Nations (UN) High Commissioner for Human Rights, Navi Pillay, during her official visit to the country. The day of the month marked Noj, is designated as a day of wisdom according to the Mayan calendar. Old American school buses repurposed as public transportation in Guatemala came barreling into the town earlier that morning, carrying passengers from all points in the country.

Indigenous Peoples came from the desert of Chiquimula, the rainforest of Peten, the Cuchumatán mountains along the border of Mexico, the steamy Caribbean coast of Isabal, and the rolling hills of the Verapaces. In a country with roads that wrap around mountain after mountain, bus travel can take over four hours to cover a distance that is 30 miles as the crow flies. To arrive by the meeting’s start at nine in the morning, many had to madrugar, leaving their homes as early as the busses started running—two o’clock in the morning. The thousands of people who traveled long hours and the tangible urgency in their voices made two truths apparent that morning: the ubiquity of human rights violations occurring across Guatemala at this moment, and the Indigenous populations’ understanding and faith in human rights mechanisms as tools for righting the wrongs they are experiencing.

Pillay was visiting Guatemala in preparation of Guatemala’s Universal Periodic Review, a mechanism of the UN Human Rights Council through which member countries periodically review another country’s human rights performance. She was in Totonicapan to listen to the testimonies of Indigenous Peoples confronting human rights violations. Sitting among a panel of human rights officials, on a stage constructed for the occasion, a banner was cast below her stating, “Reconstructing a good life in the new Baqtun era—No more concessions or mega-projects.”

During four hours of testimonies from traditional Indigenous authorities, leaders of community groups, non-profits, and traditional spiritual guides denounced the forced relocation from their traditional lands, the abuses of transnational companies, remilitarization of communities under the regime of the new President Otto Perez Molina, former general during Guatemala’s civil war, the growing criminalization of Indigenous activists fighting unauthorized development, and the exclusion, marginalization, and discrimination from the State of Guatemala to which they continue to be subjected. Each presenter had just five minutes at the microphone to convey in as concise a way as possible all the suffering to which their community has been subjected before the red light flashed indicating that their turn had ended.

The common thread among each of these presentations was the recognition of the irony and injustice their communities face after documents like the UN Declaration on the Rights of Indigenous Peoples and the International Labor Organization’s Convention 169 have been ratified by the State of Guatemala. “Despite these international mechanisms, the State continues to violate our

	<p>human rights, and the discrimination and racism of the State is allowed to flourish within the dynamic of globalization and neo-liberalism,” stated one presenter at the introduction to his speech. A representative of the Achi community began his intervention: “There is a greeting in the Mayan language of Achi, that means ‘be happy of heart.’ Today, we are not happy in our hearts.”</p> <p>(..) “Another issue repeated again and again among Indigenous activists that morning was the relentless strategy by the government to criminalize grassroots organizing among activists vocal against transnational companies and the interests of big business. A woman from the Ixil region of Quiche declared, “We want to announce that we are not criminals nor terrorists for defending our land. Guatemala has converted to a state of repression, with impunity for the rich and a racist justice system. They accuse us of bioterrorism, opposition to development, and homicide.”</p>		
<b>Additional general sources for 2.3</b>	<b>Additional specific sources</b>	<b>scale of risk assessment</b>	<b>risk indication</b>
ILO	<p><a href="http://www.ilo.org/indigenous/Activitiesbyregion/LatinAmerica/Guatemala/lang--en/index.htm">http://www.ilo.org/indigenous/Activitiesbyregion/LatinAmerica/Guatemala/lang--en/index.htm</a></p> <p><i>Guatemala</i></p> <p>“As far as a legal framework goes, the 1985 Constitution recognises, respects and protects the cultural diversity, languages, culture and customs of ethnic groups and indigenous communities, but does not, however, recognise them as peoples.”</p>	Country	Specified risk for IP rights
From national CW RA Draft prepared by NEPCon, for guidance only. Last update 8th December 2011	<p>“2.4 There are recognized and equitable processes in place to resolve conflicts of substantial magnitude pertaining to traditional rights including use rights, cultural interests or traditional cultural identity in the district concerned: Unspecified risk Justification: Due to lack of sufficient information at this point in time, the country has been classified as unspecified risk area according to precautionary approach. “</p> <p>“2.5 There is no evidence of violation of the ILO Convention 169 on Indigenous and Tribal Peoples taking place in the forest areas in the district concerned: Unspecified risk Justification: Due to lack of sufficient information at this point in time, the country has been classified as unspecified risk area according to precautionary approach. “</p>	Country	(No data)
<b>Conclusion on Indicator 2.3:</b>		Country	Specified risk
<ul style="list-style-type: none"> <li>According to Guatemala’s National Institute of Statistics (INE) about 41% of Guatemalans are of “full Amerindian ancestry”, which is considered to fulfill the definition of Indigenous Peoples. This is among one of the largest percentages in Latin America.</li> </ul>			

INE says that most indigenous Guatemalans are of the Maya people, namely K'iche' (11.0% of the total population), Q'eqchi (8.3%), Kaqchikel (7.8%), Mam (5.2%), and "other Mayan" (7.6%). Less than 1% are indigenous non-Mayan. The UN OHCHR recognizes Guatemala as a multi-ethnic, pluricultural and multilingual society and says that around 50% of the population of 12 million belong to the Maya, Xinca or Garífuna indigenous peoples. The *Indigenous World* document considers that 60% of the country's total population are made up of the indigenous peoples. This source distinguishes between the following IPs: Achi', Akateco, Awakateco, Chalchiteco, Ch'orti', Chuj, Itza', Ixil, Jacalteco, Kaqchikel, K'iche', Mam, Mopan, Poqomam, Poqomchi', Q'anjob'al, Q'eqchi', Saka-pulteco, Sipakapense, Tektiteko, Tz'utujil, Uspanteko, Xinka and Garífuna.

- Guatemala ratified ILO Convention 169 and endorsed UNDRIP. The Constitutional Court of Guatemala has adopted ILO Convention 169 on indigenous and tribal peoples into the country's Constitution. The ILO Committee's however have rather negative comments on Guatemala's policies and practices and all relevant aspects, especially the situation of land rights, recognition of indigenous peoples, the right to consultation and emphasizes cases of violence in the mining and the agricultural sectors.
- Nevertheless, and despite promises to recognise indigenous peoples' and peasant farmers' land rights, little has been done to secure the land rights of indigenous peoples and local communities. Many of the indigenous peoples' ancestral lands have been unlawfully recorded in the names of private owners and municipalities. Guatemala also has a lack of an applicable legislative and institutional framework regarding consultation processes in case of business developments affecting indigenous peoples' lives and rights. There is clear evidence that this legislation is, to say the least, inadequate in terms of the international standards applicable to the rights of indigenous peoples. There is also evidence that new legislation put forward by the Guatemalan government not only fails to address widespread concerns among indigenous and rural communities about a lack of consultation, but includes measures that may exacerbate existing tensions. According to IWGIA, the moratorium on mining licences proposed by President Otto Pérez as a strategy for avoiding serious social conflict has proved to be mere lip service as no current licence has been suspended and the proposal has never been discussed in Congress, which is the only body with the power to establish a moratorium on current laws. There is also evidence that the government has declared a so-called "State of Emergency" in areas of conflict, thereby limiting constitutional guarantees of the local population's right to freedom of movement, assembly and organisation with the aim of ensuring the security of the extractive industries' investments and criminalising the resistance movements.
- There are a few positive steps regarding legislation or public policies.
  - The government created an Indigenous Peoples and Interculturality Office on 31 March 2014. This has been defined as a consultative and deliberating body reporting to the President of the Republic with the aim of coordinating the actions and policies of all public bodies, through the President, to ensure their cultural relevance. The creation of this office was, however, questioned by indigenous peoples' representatives as they consider it unrepresentative and of insufficient capacity to negotiate with and influence the government system. There has been no news of its achievements or actions since it was established.
  - After decades of legal struggles, and at great cost and sacrifice, including the murder of many of their leaders, a number of communities from the Maya Q'eqchi' people have now taken firm steps to recover the lands and territories taken from them unlawfully. Through the National Council for Protected Areas, the Land Fund and the Ministry of Agrarian Affairs, the Guatemalan state has finally recognised the rights of six indigenous communities living in the vicinity of protected areas. Other cases are progressing through the Constitutional Court, for example the claim of a Q'eqchi' community that lost its land to a palm oil-producing company.
  - The Constitutional Court finally ruled in favour of the indigenous community of Chuarrancho in the municipality of the same name, Guatemala department, some 40 kms north of the capital. In 1897, this community recorded its name on the title for its communal lands in the General Property Register but, in 2001, the local mayor asked for the title to be transferred to the name

of Chuarrancho municipality. This was without the consent of the community and a licence was subsequently granted to a private company for the construction of a hydroelectric plant. The indigenous peoples took a case against the officials to court and finally managed to obtain the return of the title to their communal lands. This case sets an interesting precedent on which to base demands for recognition of the right to indigenous lands and territories which, throughout history, has been violated.

- There is significant evidence of violations of legal and customary rights of IPs. Business activities underway in the traditional territories of the indigenous peoples of Guatemala have generated a highly unstable atmosphere of social conflict. There is numerous evidence of conflicts surrounding the projects involving investment in or development of natural resources in indigenous territories. These seem to follow a similar pattern. First, there is a conflict concerning the consultations that ought to precede the approval of such projects. The lack of an applicable legislative and institutional framework has led to consultation processes which are inadequate to protect the rights of indigenous peoples, such as land rights and customary use rights. Above and beyond implications relating to specific projects, according to the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, “for many indigenous communities, failure to consult is associated with an intergenerational impression of invasion, marginalization and dispossession and a continuous sense of exclusion from and lack of involvement in decisions affecting them”. Second, the current regime governing the recognition and protection of the rights of the indigenous peoples of Guatemala to their lands, territories and natural resources is weak. This creates a high degree of legal insecurity as regards land ownership, and the lack of collective titles to property in many if not the vast majority of cases. In addition, the ongoing consequences of land dispossession during the internal armed conflict, is also a factor that has a bearing on the present disputes.  
Fearing impacts on their livelihoods, communities continued to oppose existing and proposed projects, and protested against the lack of consultation around these projects. Projects mentioned most are hydroelectric and mining projects and to a lesser extent mono-culture agricultural crops, such as palm oil.  
Amnesty International summarizes many cases for which evidence could be found in a formal UN consultation: “Indigenous peoples in rural parts of Guatemala are particularly vulnerable in the context of land disputes and subsequent forced evictions. The evictions, which are carried out by the police and the army, often happen with very little warning and regularly fail to meet international standards. The security forces often burn down families’ homes and possessions during forced evictions, leaving families with only the clothes they are wearing.” As a result, hundreds of families are affected by forced evictions every year.  
In addition, human rights work in the country is significantly hampered through attacks and threats against human rights defenders. These are common throughout the country and related to all kinds of human rights work. Human Rights Watch: “There is widespread consensus among local and international observers that the people responsible for these acts of violence and intimidation are affiliated with private, secretive, and illegally armed networks or organizations, commonly referred to in Guatemala as “clandestine groups”.”
- All the above, lead to the conclusion that there are conflicts of substantial magnitude<sup>3</sup> pertaining to the rights of Indigenous and/or Traditional Peoples and/or local communities with traditional rights. Cases are reported of juridical and political struggle, demonstration, land disputes and forces using violence including murders.

<sup>3</sup> For the purpose of the Indicator 2.3, a conflict of substantial magnitude is a conflict which involves one or more of the following:

- a) Gross violation of the legal or customary rights of indigenous or traditional peoples;
- b) Significant negative impact that is irreversible or that cannot be mitigated;
- c) A significant number of instances of physical violence against indigenous or traditional peoples;
- d) A significant number of instances of destruction of property;
- e) Presence of military bodies;
- f) Systematic acts of intimidation against indigenous or traditional peoples.

Guidance:

- There are no recognized laws and/or regulations and/or processes in place to resolve conflicts of substantial magnitude pertaining to TP or IP rights and/or communities with traditional rights. Indigenous peoples, CSOs, NGOs and international institutions all criticize Guatemala's weak regulations and practices regarding this issue.

**The following specified risk thresholds apply, based on the evidence:**

(23) The presence of IP and/or TP is confirmed or likely within the area. The applicable legislation for the area under assessment contradicts indicator requirement(s) (refer to 2.2.6); AND

(24) Substantial evidence of widespread violation of IP/TP rights exists; AND

(26) There is evidence of conflict(s) of substantial magnitude pertaining to the rights of IP and/or TP. Laws and regulations and/or other legally established processes do not exist that serve to resolve conflicts in the area concerned, or, such processes exist but are not recognized by affected stakeholders as being fair and equitable. Note under threshold No 20 applies.

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In the identification of conflicts of substantial magnitude one must also be aware of possible parallel activities of other sectors than the forest sector that also impact the rights of indigenous/traditional peoples and that there can be a cumulative impact. This cumulative impact can lead to a 'gross violation of indigenous peoples' rights' or 'irreversible consequences' but the extent of the contribution of forest management operations needs to be assessed. The substance and magnitude of conflicts shall be determined through NRA development process according to national/regional conditions. NRA shall provide definition of such conflicts.

## Controlled Wood Category 3: Wood from forests in which high conservation values are threatened by management activities

### Overview

Guatemala is a small country in Central America which borders with Mexico to the north and west, the Pacific Ocean to the southwest, Belize, the Caribbean Sea and Honduras to the east, and El Salvador to the southeast. The total area of the country is almost 11 million hectares. Guatemala has an exceptionally high level of biological diversity and endemism: it has 7 biomes, over 9,000 known species of plants and animals (mammals, reptiles and birds), and 13% of all species are endemic with a high proportion of endemic flora. Guatemala is a signatory to the Convention on Biological Diversity, CITES and RAMSAR.

Forests in Guatemala cover 3.63 million hectares, about 34% of the country's total area as stated in the National Forest Map (Mapa de Cobertura Forestal – GIMBOT 2012). There are 5 main types of forests:

- Broadleaf Forest
- Coniferous Forest
- Mixed Forest
- Dry Forest
- Mangrove

The **Broadleaf Forest**, typical of the Petén region (the lowlands in the north of Guatemala), is the largest by extent covering an area of 2.7 million hectares, equivalent to 25.5% of the total area of the country. The **Coniferous Forest**, dominated by pines, covers 298,982 hectares, equivalent to 2.7% of the total area of the country. The **Mixed Forest** covers an area of 522,028 hectares, equivalent to 4.84% of the total area of the country. The **Dry Forest** is an ecosystem characterized by trees and shrubs with a short rainy season and a longer dry season. This ecosystem is rare with a large proportion of endemic species. The **Mangroves** are trees and shrubs that grow in coastal saline water<sup>4</sup>.

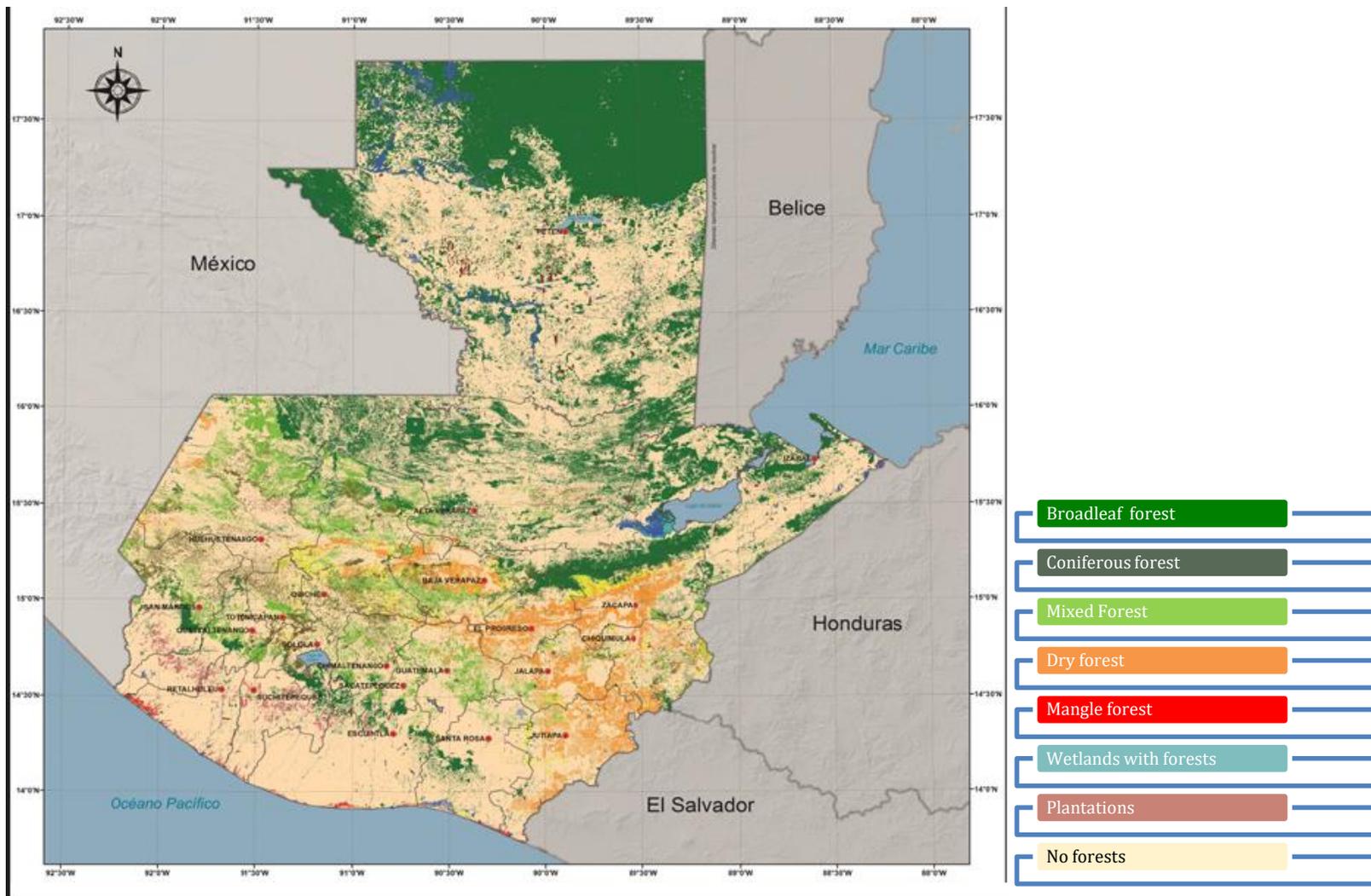
The country's forests are publicly and privately owned. Publicly owned forests account for approximately 58% of the forest area, while privately owned forests account for 38% with the balance not classified<sup>5</sup>. The publicly owned forests are under the management of the national government, municipal governments or local communities.

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<sup>4</sup> Instituto Nacional de Bosques. 2015. Informe de Labores; and INAB/CONAP. 2015. Mapa de Cobertura Forestal por Tipo y Subtipo de Bosque para la República de Guatemala, Informe Técnico 2012.

<sup>5</sup> FAO 2004. Evaluación de los Recursos Forestales - Inventario Nacional 2002-2003. Guatemala

Map 1. Forest cover in Guatemala by forest type (Source: INAB/CONAP: Mapa de Cobertura Forestal 2012. Scale: 1:25,000)



The forests in Guatemala are under the responsibility of two government agencies:

- The National Council for Protected Areas (CONAP) responsible for the forests within the protected areas;
- The National Forestry Institute (INAB), responsible for the forests outside the protected areas.

The CONAP issues concessions to local communities for the harvesting of wood as well as non-timber forest products (e.g. essential oils and rubber) within protected areas. These concessions are required to have third party certification. There are six FSC certificates, most of them group certificates<sup>6</sup>.

The INAB develops and implements forest policies, provides technical assistance and has two programs of incentives for private forest producers and owners, and small land occupiers (with no title). The Program for Forestry Incentives (PINFOR) is a long standing program (started in 1998) that provides support and incentives for plantation establishment, as well as for natural forest management. The Government has launched a new incentives program called ProBosque, to replace PINFOR which expires in 2016. The incentives in this new program have a broader coverage including agroforestry systems, plantations for energy (biomass), forest management for conservation/protection, and for environmental services. The Incentive Program for Small-scale Possessors of Forest or Agroforest Lands (PINPEP) initiated in 2010 is an important program as it provides incentives and support to small occupiers of land with no title. Through these incentives and support, INAB controls and monitors forestry activities. From 1998 to 2012 the area planted under PINFOR was 112,341.92 hectares, and the area of natural forest management was 216,235.38 hectares.

Illegal wood supplies dwarf the legal wood supply throughout the country. According to a market study, legal timber production from forest licenses for 2013 was 326,289 m<sup>3</sup> with 48% going for firewood and 45% for sawlogs (the rest were small diameter logs). From a geographical point of view, the production under the licensing system is concentrated in Region IV (Southeast) where it accounts for 25% of total production, while in Region VII (Northwest) it accounts for just 20%, in Region II (Las Verapaces) for 16%, and in Region III (Northeast) it accounts for only 7% (see Table 1 below)<sup>7</sup>. In the same year production from regions in which no licenses have been issued exceeded 1.3 million m<sup>3</sup>, with firewood accounting for 55%, and only 10% for sawlogs. It is important to note that about 88% of the volume of CITES-listed timber species harvested and exported (*Swietenia* spp. and *Cedrela* spp.) come from the FSC-certified concessions issued by CONAP in the Multiple Use Zone of the Maya Biosphere Reserve in the Petén area. Guatemala exported on average 5,948.83 m<sup>3</sup> / year of mahogany and cedar<sup>8</sup>. Sawmills and warehouses are distributed in all forest regions, but with a strong concentration in Guatemala City (Region I), Las Verapaces (Region II), and Chimaltenango (Region V).

## Protected Areas

According to the 2003 National Forest Inventory there are 1,643,137 hectares of forest within protected areas. The forests within the protected areas system represent 52% of the forests in Guatemala<sup>9</sup>.

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<sup>6</sup> Luis Pereira - personal communication

<sup>7</sup> CONESFORGUA. 2014 – Estudio Exploratorio del Mercado: Mercado Forestal de Guatemala

<sup>8</sup> Universidad Rafael Landívar. 2015. Identificación de las Principales Limitantes y Oportunidades de participar en Esquemas de Legalidad Internacional, prepared by Ing. Julio Sandoval

<sup>9</sup> Universidad Rafael Landívar. 2015. Identificación de las Principales Limitantes y Oportunidades de participar en Esquemas de Legalidad Internacional, prepared by Ing. Julio Sandoval

The Mayan Biosphere Reserve (RBM) is the largest reserve with a core protected area of 817,260 hectares and additional areas where limited harvesting activities are permitted. It totals over 2 million hectares divided into three main zones:

- A core zone of strict protection (817,260 hectares) comprised of a number of National Parks where only scientific studies and low impact tourism are allowed;
- a Multiple Use Zone (ZUM) totaling 802,675 hectares. It is the area connecting the National Parks where only sustainable extractive activities with low impact on soil are permitted;
- the Buffer Zone is a band of 15 km along the south border of the RBM<sup>10</sup>

The main forest type in the RBM is lowland broadleaf forest. It is from the RBM that most of the exports of *Swietenia* spp. and *Cedrela* spp. originate.

Another important reserve is the Biosphere Reserve Sierra de las Minas (RBSM). This reserve encompasses 242,642 hectares and is located in the northeast region of the country. The RBSM is part of a mountain range extending from east to west. The top elevation is 3,015 meters above sea level. This mountain range has critical hydrological importance since 63 rivers originate in its cloud forests. The water that originates in the Sierra Las Minas is used for irrigation of the many agro-industries in the valley of the Motagua River. In addition, 8 municipalities in the Sierra Las Minas are dependent on its water for distribution of drinking water to the local populations.

The main forest types in the RBSM are broadleaf forest, conifer forest (including *Pinus* spp. and Pinabete (*Abies guatemalensis*) and cloud forest. Historically the areas adjacent to the biosphere reserves have a high rate of tree cover loss.

### **Forests outside Protected Areas**

The forests outside Protected Areas represent 48% of the total forest cover in Guatemala and they are under the responsibility of the Forestry National Institute (INAB). The INAB uses a system of incentives to control and monitor forestry activities. As noted above, PINFOR supports both plantations and natural forests management. In 2010, the PINPEP started to provide incentives to small producers that occupy land but have no title for it.

The Guatemalan government has initiated a series of political actions and strategies to reduce illegal logging and deforestation. While some of the steps taken are very positive, recent reports still show a high degree of illegality and deforestation taking place in Guatemala.

### **Threats to HCVs**

The main threats posed by forest management to HCVs are illegal or informal harvesting in natural forests and the conversion of natural forests into agricultural land or forest plantations. According to studies conducted by the Government of Guatemala for the period 2006 – 2010, it was estimated that

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<sup>10</sup> CONAP. 2015. Plan Maestro Reserva de la Biosfera Maya

legally registered harvesting represents only 4.2% of all wood harvested<sup>11</sup>. The remaining 95.8% comes either from illegal sources or informal, unregistered sources, as the harvesting of wood for non-commercial or household use and from agroforestry systems (e.g. the harvesting of shade trees in coffee plantations) does not require registration. According to the national forest inventory, 73% of the harvesting of wood is from unlicensed sources for subsistence purposes<sup>12</sup>.

There is evidence that informal and illegal logging is leading to over-exploitation of both timber and non-timber products<sup>13</sup>. For example, the informal *Chamaedorea* or xate palm industry generates approximately US \$2 million annually and the harvesting is carried out principally in the Petén. The leaves of the palm are indiscriminately harvested and are sold in bunches, regardless of the quantity or quality of leaves. This lack of incentive for quality leaves in the harvesting of xate is reducing native populations, impacting harvesting sites, and generating secondary impacts on local biodiversity, since many of the xate collectors hunt wildlife species for animal protein while in their xate collection camps. Another example is the Pinabete fir, an endangered conifer species endemic to Chiapas and Guatemala, which is becoming rare in Guatemala. The aromatic branches of this species are over-exploited during the Christmas season to make Christmas trees. The over-exploitation of wildlife species, such as the endangered Scarlet macaw, can also drastically reduce populations, affecting the survival viability of these species. Macaw nestlings are taken from their tree cavity nests prior to fledging and are sold on the local market in the Peten.

The loss of forest cover for the same 2006-2010 period reached 146,112 hectares (a rate of almost 40 thousand hectares/year). The areas of critical concern in terms of illegal logging/deforestation include:

Petén (Mayan Biosphere Reserve), with a loss of 124,611 hectares;  
Izabal (near Sierra Las Minas Biosphere Reserve), with a loss of 21,372 hectares;  
Chiquimula with a loss of 10,063 hectares  
Baja Verapaz, with a loss of 7,107 hectares;  
Santa Rosa with a loss of 4,472 hectares; and  
Zacapa with a loss of 1,953 hectares<sup>14</sup>.

Shifting agriculture in small land patches is one significant cause of deforestation. The short-term impacts of shifting agriculture, usually caused by local communities, include fragmentation of undisturbed forest patches, local species extinction, and a change in species composition and abundance. The land is cultivated for a few years until low production and yields drive farmers to abandon these land parcels in favour of other native forest stands. Shifting agriculture in Guatemala has been largely documented for the Petén, Izabal and Alta Verapaz provinces. This deforestation has promoted the development of anthropogenic bush land and grassland ecosystems. Forest and grassland fires have become another element favoring natural habitat destruction and fragmentation, and therefore, a factor that threatens HCVs in Guatemala. These fires are originated by different causes, among them the practice of logging

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<sup>11</sup> Universidad Rafael Landívar & IARNA Plan de Acción Interinstitucional para la Prevención de la Tala Ilegal en Guatemala (Actualizado – 2015)

<sup>12</sup> Departamento de Montes – FAO. 2004. Evaluación de los recursos Forestales – Inventario Nacional 2002-2003 Guatemala

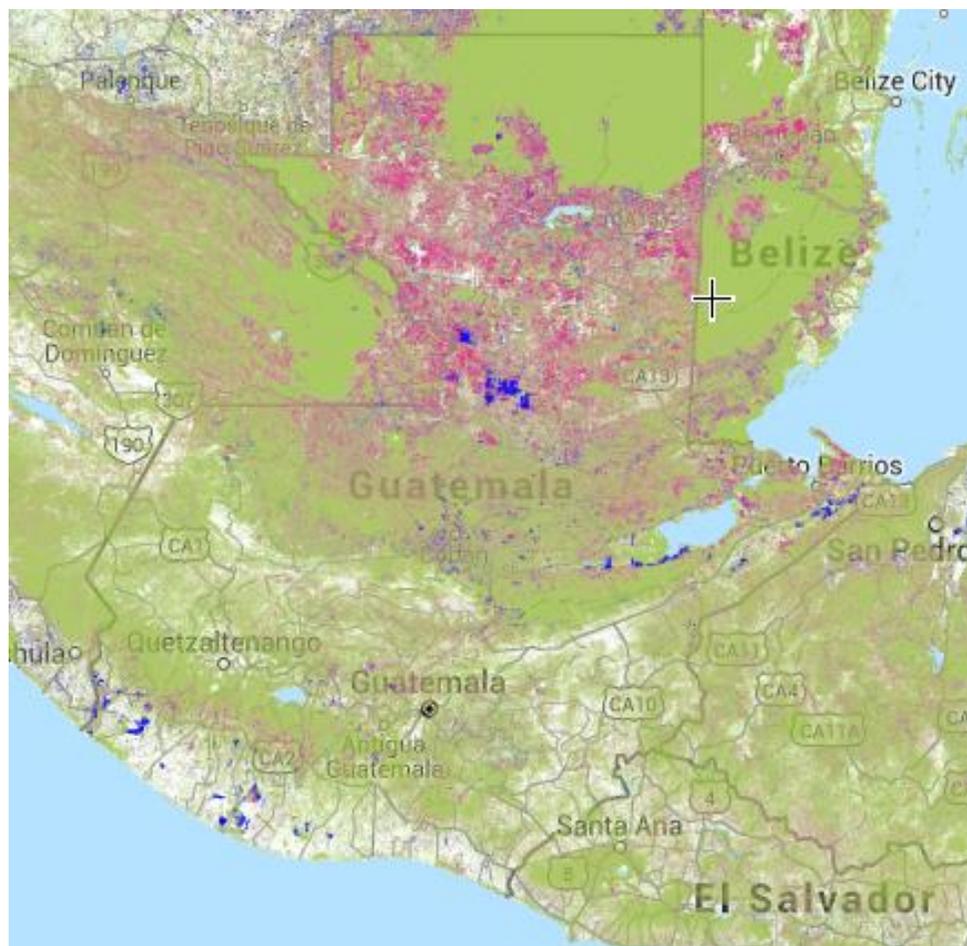
<sup>13</sup> Guatemala Biodiversity and Tropical Forest Assessment, USAID 2002/3 ([http://pdf.usaid.gov/pdf\\_docs/Pnadf213.pdf](http://pdf.usaid.gov/pdf_docs/Pnadf213.pdf) )

<sup>14</sup> Universidad Rafael Landívar, Universidad del Valle, CONAP, INAB, et al. Dinámica de la Cobertura Forestal 2006-2010

and subsequent drying out of leaf litter and forest understorey, slash and burn agriculture, intentional fires, hunting, and non-timber forest product harvesting activities. Permanent changes to natural landscapes are also driven by large scale agricultural colonists who clear forests for pasture and agriculture. This has been carried out principally along the Pacific coast and in the northern part of the country.

The PINFOR system that provides incentives for plantations does not allow for conversion, and plantations are less likely to contain HCVs than natural forest. However, some HCVs may persist in plantations and given the weak government controls on plantation management threats to HCVs remain.

Map 2. Forest Change (Source: Global Forest Watch <http://www.globalforestwatch.org/map/5/13.68/-90.82/ALL/grayscale/loss,forestgain?tab=countries-tab&begin=2001-01-01&end=2015-01-01&threshold=30>).



The red areas illustrate tree cover loss (deforestation and degradation) and the blue areas illustrate tree cover gains.

## Experts consulted

	Name	Organization	Area of expertise (category/sub-category)
1	Luis Pereira	CONESFORGUA	FSC Forest certification
2	Alvaro Samayoa	INAB (National Institute of Forestry)	Forestry, Forest Production and Trade
3	Carolina Cocón	CONAP	Forest/rural Communities

A workshop was organized in Guatemala on June 16, 2016 to discuss HCVs. The following is the list of participants:

	Name	
1	Luis Pereira	CONESFORGUA (National Council for Sustainable Forest Management Standards in Guatemala)
2	Alvaro Samayoa	INAB (National Institute of Forestry)
3	Selvin Santico	ANAM (Municipalities' Association)
4	Mario Alberto Méndez	Faculty of Agriculture USAC
5	Edgar de la Cruz	DIPRONA (Civil Police)
6	Fernando Castro	CONAP (National Commission Protected Areas)
7	Adrian Galvez	CONAP (National Commission Protected Areas)
8	Carolina Cocón	CONAP (National Commission Protected Areas)
9	Luis Góngora	ACOFOP (Forestry Communities – El Petén)
10	Eusebio Tomas	ANCFG
11	Oscar Córdón	INAB (National Institute of Forestry)
12	Ebel Salas	INAB (National Institute of Forestry)
13	Francisco Figueroa	INAB (National Institute of Forestry)
14	Marvin Cano	DIPRONA (Civil Police)
15	R. Marroquin	DIPRONA (Civil Police)

## Risk assessment

Indicator	Sources of Information	HCV occurrence and threat assessment	Functional scale	Risk designation and determination
<p>3.0 Data available are sufficient for: a) Determination of HCV presence for each HCV, AND b) The assessment of the threats to HCVs from forest management activities.</p>	<p>All</p>	<p>Whilst no national level HCV assessments have been carried out in Guatemala, and georeferenced data sets that can be used as HCV proxies are limited, Guatemala lies within an area of globally outstanding biodiversity value (the Mesoamerica biodiversity hotspot) and there is sufficient information and data available on forest cover and species and habitat distribution to draw conclusions about the likelihood of HCV presence and distribution in areas of forest management activity. To maximise access to relevant data, an expert workshop was held to solicit information. With each of the HCV categories below the relevant literature is mentioned.</p> <p>There is also limited data available that documents forest management impacts on HCVs or in areas used as HCV proxies. However, sufficient general information and data is available on potential forest management impacts and levels of monitoring and control of forest management activities across the country to draw conclusions about the threats to HCVs from these activities in the country. See introduction text above and literature list below. With each of the HCV categories below the relevant literature is mentioned.</p>	<p>Country</p>	<p><b>Low risk</b></p> <p>Thresholds (1) and (2) are met: Data available are sufficient for determining HCV presence within the area under assessment; AND Data available are sufficient for assessing threats to HCVs caused by forest management activities.</p>
<p>3.1 HCV 1</p>	<p>1; 2; 3; 4; 5; 6; 7; 8; 9;10; 11; 12; 14; 16; 17, 20; 21; 22; 23</p>	<p><b>Occurrence of HCV1</b></p> <p>The Mesoamerica Hotspot includes most of Central America and the whole of Guatemala. According to the CITES database for the Mesoamerican Hotspot there are: 2,941 endemic plant species, 3 endemic threatened Birds 29 endemic threatened mammals 7 extinct species</p> <p>There are six Biosphere Reserves that include a high degree of endemism and provide habitat to a large</p>	<p>Country</p>	<p><b>Specified risk</b></p> <p>Threshold (8) is met: HCV 1 is identified and/or its occurrence is likely in the area under assessment and it is threatened by management activities.</p>

		<p>number of species in IUCN's Red List of Threatened species, including CITES tree species such as <i>Swietenia macrophylla</i> (mahogany), <i>Swietenia humilis</i> (mahogany of the south coast), <i>Cedrela odorata</i> (cedar), <i>Dalbergia retusa</i> (Cocolobo) and <i>Dalbergia stevensonii</i> (Rosul).</p> <p>However, areas of HCV1 are not restricted to the Biosphere Reserves. Birdlife have identified 21 Important Bird Areas and three Endemic Bird Areas in the country that together cover the vast majority of the land area. Extensive surveys of other (non-bird) taxa do not exist, but it is highly likely that forests containing HCV 1 across other taxa of flora and fauna occur across the country.</p> <p><b>Threat assessment</b> Major threats posed to HCV 1 by forest management and land use linked to the production of timber and fuelwood in the country include:</p> <ul style="list-style-type: none"> <li>-High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier and, to a lesser extent, forest plantations and infrastructure development. For instance, there is cattle ranching and expansion of sugar and palm oil plantation in the buffer zone of the Mayan Biosphere Reserve particularly in the southwest area of the Petén in the municipality of Sayaxché and in the National Park Laguna del Tigre.</li> <li>- High rates of informal and illegal logging in natural forests. Very prominent in the Buffer Zones of the Biosphere Reserves (Petén and Sierra Las Minas) where the rate of deforestation reaches 5.5%/year. In addition, timber harvesting is a key factor in the deforestation in the Motagua Valley in the south portion of Sierras las Minas.</li> <li>-Weak government controls over plantation forest management activities.</li> </ul> <p>According to studies conducted by the Government of Guatemala for the period 2006 – 2010, it was estimated</p>		
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		<p>that legally registered harvesting represents only 4.2% of all wood harvested (4). The remaining 95.8% comes either from illegal sources or informal, unregistered sources, as the harvesting of wood for non-commercial or household use and from agroforestry systems (e.g. the harvesting of shade trees in coffee plantations) does not require registration. According to the national forest inventory, 73% of the harvesting of wood is from unlicensed sources for subsistence purposes (4).</p> <p>There is evidence that informal and illegal logging is leading to over-exploitation of both timber and non-timber products. For example, the informal Chamaedorea or xate palm industry generates approximately US \$2 million annually and the harvesting is carried out principally in the Petén. The leaves of the palm are indiscriminately harvested and are sold in bunches, regardless of the quantity or quality of leaves. This lack of incentive for quality leaves in the harvesting of xate is reducing native populations, impacting harvesting sites, and generating secondary impacts on local biodiversity, since many of the xate collectors hunt wildlife species for animal protein while in their xate collection camps. Another example is the Pinabete fir, an endangered conifer species endemic to Chiapas and Guatemala, which is becoming rare in Guatemala. The aromatic branches of this species are over-exploited during the Christmas season to make Christmas trees. The over-exploitation of wildlife species, such as the endangered Scarlet macaw, can also drastically reduce populations, affecting the survival viability of these species. Macaw nestlings are taken from their tree cavity nests prior to fledging and are sold on the local market in the Petén.</p> <p>The loss of forest cover for the same 2006-2010 period reached 146,112 hectares (a rate of almost 40 thousand hectares/year). The areas of critical concern in terms of illegal logging/deforestation include (4):</p>		
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		<p>Petén (Mayan Biosphere Reserve), with a loss of 124,611 hectares;  Izabal (near Sierra Las Minas Biosphere Reserve), with a loss of 21,372 hectares;  Chiquimula with a loss of 10,063 hectares  Baja Verapaz, with a loss of 7,107 hectares;  Santa Rosa with a loss of 4,472 hectares; and  Zacapa with a loss of 1,953 hectares.</p> <p>Shifting agriculture in small land patches is another significant cause of deforestation. The short-term impacts of shifting agriculture, usually caused by local communities, include fragmentation of undisturbed forest patches, local species extinction, and a change in species composition and abundance. The land is cultivated for a few years until low production and yields drive farmers to abandon these land parcels in favour of other native forest stands. Shifting agriculture in Guatemala has been largely documented for the Petén, Izabal and Alta Verapaz provinces. This deforestation has promoted the development of anthropogenic bush land and grassland ecosystems.</p> <p>Forest and grassland fires have become another element favoring natural habitat destruction and fragmentation, and therefore, a factor that threatens HCVs in Guatemala. These fires are originated by different causes, among them the practice of logging and subsequent drying out of leaf litter and forest understorey, slash and burn agriculture, intentional fires, hunting, and non-timber forest product harvesting activities. Permanent changes to natural landscapes are also driven by large scale agricultural colonists who clear forests for pasture and agriculture. This has been carried out principally along the Pacific coast and in the northern part of the country.</p> <p>The PINFOR system that provides incentives for plantations does not allow for conversion, and plantations are less likely to contain HCVs than natural</p>		
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		<p>forest. However, some HCVs may persist in plantations and given the weak government controls on plantation management threats to HCVs remain.</p> <p>Therefore, the risk that timber entering domestic and international supply chains originates from forests in which HCV 1 areas are threatened is high.</p> <p><b>Applicable to all functional scales?</b> Laws and regulations in Guatemala provide insufficient protection for HCV1 across all production forests except for the community forestry concessions within national parks which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.</p>		
3.2 HCV 2	1; 2; 3; 4; 5; 6; 7; 8; 10; 11; 12; 14; 16, 20, 21, 22, 23	<p><b>Occurrence of HCV 2</b> The Mayan Biosphere Reserve (approx. 814,000 ha) and the Sierra Las Minas Biosphere Reserve (approximately 240,000 ha) are the two most significant forest landscapes in the country. The Mayan Biosphere Reserve is included in the Intact Forest Landscapes database. Also, the Sierra del Acandón National Park is included as a Degraded Intact Forest Landscape.</p> <p><b>Threat assessment</b> All of these three areas are under significant pressure. Major threats posed by forest management and land use linked to the production of timber and fuelwood, in the country include: -High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier particularly in the buffer Zone of the Reserva Maya El Petén), Forest fires as a result of slash and burn subsistence agriculture are also important source of</p>	Country	<p><b>Specified risk</b></p> <p>Threshold (12) is met: HCV 2 is identified and/or its occurrence is likely in the area under assessment, and it is threatened by management activities.</p>

		<p>degradation and deforestation in the buffer zone of Sierras Las Minas.</p> <p>- High rates of informal and illegal logging in natural forests. In the southern portion of Sierra Las Minas in the Motagua Valley, timber harvesting is an important factor in the degradation, and deforestation.</p> <p>-Weak government controls over plantation forest management activities.</p> <p><b>Applicable to all functional scales?</b> Laws and regulations in Guatemala provide insufficient protection for HCV2 areas except for the community forestry concessions within the intact landscapes which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.</p>		
3.3 HCV 3	1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 12; 14; 16; 18; 19; 20; 21; 22; 23	<p><b>Occurrence of HCV 3</b></p> <p>With the information available it is possible to identify two key HCV 3 areas:</p> <p>- The Tropical and Subtropical Moist Broadleaf Forest It is the typical forest of the Petén region (the lowlands in the north of Guatemala) and it covers an area of 2.7 million hectares. WWF has identified six ecoregions under this broad forest type, all of which occur within Guatemala:</p> <ul style="list-style-type: none"> <li>• Central American Atlantic moist forests</li> <li>• Central American montane forests</li> <li>• Chiapas montane forests</li> <li>• Petén-Veracruz moist forests</li> <li>• Sierra Madre de Chiapas moist forest</li> <li>• Yucatán moist forests</li> </ul> <p>-The Tropical and Subtropical Dry Broadleaf Forest</p>	Country	<p><b>Specified Risk</b></p> <p>Threshold (17) is met: HCV 3 is identified and/or its occurrence is likely in the area under assessment and it is threatened by forest management activities</p>

		<p>It is an ecosystem characterized by trees and shrubs with a short rainy season and a longer dry season. This ecosystem is rare with a large proportion of endemic species.</p> <p>The Central American Dry Forest Ecoregion stretches from the Pacific Coast of southwestern Mexico (southern Chiapas), through Guatemala, El Salvador, Honduras and Nicaragua to northwestern Costa Rica. The dry forest previously formed a continuous strip in lowland and premontane areas from 0-800 m elevation. This is now a totally fragmented ecoregion, represented in less than 2% of the original habitat.</p> <p><b>Threat assessment</b>  These two forest ecosystems are under significant pressure. Major threats posed by forest management and land use linked to the production of timber and fuelwood in the country include:</p> <ul style="list-style-type: none"> <li>-High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier and, to a lesser extent, forest plantations and infrastructure development.</li> <li>- High rates of informal and illegal logging in natural forests.</li> <li>-Weak government controls over plantation forest management activities.</li> </ul> <p>Buffer Zones of the Biosphere Reserves are very affected with high rates of deforestation as a result of a combination of factors (forest harvesting, subsistence agriculture, and the expansion of the agriculture frontier.</p> <p><b>Applicable to all functional scales?</b>  Laws and regulations in Guatemala provide insufficient protection for HCV3 across all production forests except for the community forestry concessions within national parks which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest</p>		
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		management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.		
3.4 HCV 4	1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 12; 14; 16; 22; 23	<p><b>Occurrence of HCV 4</b> With the information available two areas can be identified as critical for this HCV category:</p> <ul style="list-style-type: none"> <li>-The Sierra Las Minas Biosphere Reserve plays a very important role in the provision of water resource for the agricultural lands downstream as well as a supply of drinking water to some municipalities.</li> <li>-The chain of volcanoes and associated montane forest that includes Atitlan, Acatenango, Fuego, and Agua, in the south of Guatemala is where the rivers flowing to the Pacific originate.</li> </ul> <p><b>Threat assessment</b> These areas are under significant pressure. Major threats posed by forest management and land use linked to the production of timber and fuelwood in the country include:</p> <ul style="list-style-type: none"> <li>-High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier and, to a lesser extent, forest plantations and infrastructure development</li> <li>- High rates of informal and illegal logging in natural forests. Slash and burn subsistence agriculture in Sierra Las Minas buffer zone and forest harvesting are important factors for the high deforestation rates.</li> <li>- Weak government controls over plantation forest management activities.</li> </ul> <p><b>Applicable to all functional scales?</b> Laws and regulations in Guatemala provide insufficient protection for HCV4 across all production forests except for the community forestry concessions within national</p>	Country	<p><b>Specified risk</b></p> <p>Threshold (22) is met: HCV 4 is identified and/or its occurrence is likely in the area under assessment and it is threatened by management activities.</p>

		<p>parks which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.</p>		
3.5 HCV 5	7; 8; 13; 15	<p><b>Occurrence of HCV 5</b>  Water resources critical to communities: The Sierra Las Minas Biosphere Reserve plays a very important role in the provision of water resource for the agricultural lands downstream as well as a supply of drinking water to some municipalities.</p> <p>The chain of volcanoes and associated montane forest that includes Atitlan, Acatenango, Fuego, and Agua, in the south of Guatemala is where the rivers flowing to the Pacific originate.</p> <p>In addition to the importance of these montane forests for watershed conservation, they are also critical water resources for the communities in the area and downstream. Also rural and indigenous communities depend on the forest for both wood and NTFPs for subsistence use.</p> <p><b>Threat assessment</b>  Rural communities are distributed throughout the country and subsistence wood and NTFP collection is seriously affected by the forest production chain in many locations. An analysis of vulnerable communities living within deforestation hotspots in the country published in 2015 identified more than 1500 such communities with a combined population of nearly 900,000 people. These communities are those that are highly dependent on forests for subsistence use (e.g., for products such as fuelwood, construction timber, medicinal and food plants). The study identified 8 deforestation 'fronts'</p>	Country	<p><b>Specified risk</b></p> <p>Threshold (26) is met:  HCV 5 is identified and/or its occurrence is likely in the area under assessment and it is threatened by management activities.</p>

		<p>(defined as deforested areas in excess of 25,000 ha) and 187 deforestation 'focal points' (identified as areas over 500 ha but less than 25,000 ha in extent) widely scattered across the country,</p> <p>Major threats posed by forest management and land use linked to the production of timber and fuelwood in the country include:</p> <ul style="list-style-type: none"> <li>-High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier and, to a lesser extent, forest plantations and infrastructure development.</li> <li>- High rates of informal and illegal logging in natural forests.</li> <li>- Weak government controls over plantation forest management activities.</li> </ul> <p><b>Applicable to all functional scales?</b> Laws and regulations in Guatemala provide insufficient protection for HCV5 across all production forests except for the community forestry concessions within national parks which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.</p>		
3.6 HCV 6	13; 15	<p><b>Occurrence of HCV 6</b> Mayans have inhabited Mesoamerica including Guatemala for centuries. There are archeological sites in Mexico, Guatemala, Belize, and El Salvador. In Guatemala, Pre-Columbian cultures were distributed throughout the country. These cultures valued the forest as a source of food but also as spiritual places. Archeological sites occur through forests in the country and indigenous communities continue to live in or closely associated with forests. As there is no comprehensive</p>	Country	<p><b>Specified risk</b></p> <p>Threshold (30) is met: HCV 6 is identified and/or its occurrence is likely in the area under assessment and it is threatened by management activities.</p>

		<p>documentation of archeological sites and forests of importance to indigenous communities, forest cover is the only available proxy for HCV 6.</p> <p><b>Threat assessment</b>  It is required by law to inform the Institute of Anthropology and History if elements of Pre-Columbian cultures are discovered. However, not all sites are recorded and protection is often ineffective. Major threats posed by forest management and land use linked to the production of timber and fuelwood in the country include:  -High rate of deforestation leading to habitat destruction and fragmentation due to expansion of the agricultural frontier and, to a lesser extent, forest plantations and infrastructure development.  - High rates of informal and illegal logging in natural forests.  - Weak government controls over plantation forest management activities.</p> <p><b>Applicable to all functional scales?</b>  Laws and regulations in Guatemala provide insufficient protection for HCV 6 across all production forests except for the community forestry concessions within national parks which are all required to be FSC certified. Therefore, no distinction is made between functional scales for non-FSC certified forests, as forest management in all non-FSC certified sources, whether plantations or natural forests, inside or outside protected areas, present similar threats. Thus, no separate conclusions on risk by functional scale are drawn.</p>		
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**Recommended Control Measures**

Indicator	Recommended control measures
3.0	Intentionally left blank – Organizations shall evaluate and devise appropriate control measures to mitigate the risks identified in this risk assessment as applicable.
3.1 HCV 1	
3.2 HCV 2	

3.3 HCV 3	
3.4 HCV 4	
3.5 HCV 5	
3.6 HCV 6	

## Information sources

No.	Source of information	Relevant HCV category and indicator
1	Instituto Nacional de Bosques. 2016. Informe de Labores 2015. <a href="http://186.151.231.170/inab/images/memoriadelabores/Informe%20de%20Labores%20INAB%202015.pdf">http://186.151.231.170/inab/images/memoriadelabores/Informe%20de%20Labores%20INAB%202015.pdf</a>	HCV1, HCV2, HCV3, HCV4
2	INAB/CONAP. 2015. Mapa de Cobertura Forestal por Tipo y Subtipo de Bosque, 2012 Guatemala. Informe Técnico. 26 pp.	HCV1, HCV2, HCV3, HCV4
3	INAB, CONESFORGUA, IARNA-URL, FAO. 2015. <b>Identificación de las principales limitantes y oportunidades de participar en esquemas de legalidad internacional.</b> (Documento preparado por César Augusto Sandoval García, dentro del marco del proyecto: "Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en iniciativa de legalidad forestal internacional (FLEGT)). Guatemala, UE FAO FLEGT / CONESFORGUA / INAB. 21 p.	HCV1, HCV2, HCV3, HCV4
4	INAB, CONESFORGUA, IARNA-URL, FAO. 2015. <b>Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala actualizado –evaluación y propuesta-</b> . Documento preparado en el marco del proyecto: "Fortalecimiento de la gobernanza en función al Plan de Acción Interinstitucional para la Prevención y Reducción de la Tala Ilegal en Guatemala y socialización de las oportunidades del país en participar en esquemas de legalidad forestal internacional (FLEGT)". Guatemala, UE FAO FLEGT / CONESFORGUA / INAB. 57 p.	HCV1, HCV2, HCV3, HCV4
5	Universidad Rafael Landívar, Universidad del Valle, CONAP, INAB. 2012. Mapa de la Cobertura Forestal de Guatemala y Dinámica de la Cobertura Forestal 2006-2010. <a href="http://www.sifgua.org.gt/Cobertura.aspx">http://www.sifgua.org.gt/Cobertura.aspx</a>	HCV1, HCV2, HCV3, HCV4
6	CONAP. 2015. Master Plan Mayan Biosphere Reserve – Updated December 2015	HCV1, HCV2
7	Defensores de la Naturaleza/CONAP. 2010. Master Plan Sierra Las Minas Biosphere Reserve – IV Update, 2010-2014	HCV1, HCV2, HCV3, HCV4, HCV5
8	National Council on Protected Areas (CONAP in Spanish): <a href="http://www.conap.gob.gt/">http://www.conap.gob.gt/</a>	HCV1, HCV2, HCV3, HCV4, HCV5
9	National Forest Institute (INAB in Spanish): <a href="http://www.inab.gob.gt/">http://www.inab.gob.gt/</a>	HCV1, HCV3, HCV4
10	CITES Database: <a href="http://checklist.cites.org/#/en">http://checklist.cites.org/#/en</a>	HCV1, HCV2, HCV3, HCV4
11	The IUCN Red List of Threatened species: <a href="http://www.iucnredlist.org/">http://www.iucnredlist.org/</a>	HCV1, HCV2, HCV3, HCV4

12	Critical Ecosystem Partnership Fund (Hotspots): <a href="http://www.cepf.net/resources/hotspots/North-and-Central-America/Pages/Mesoamerica.aspx">http://www.cepf.net/resources/hotspots/North-and-Central-America/Pages/Mesoamerica.aspx</a>	HCV1, HCV2, HCV3, HCV4
13	Transparency International <a href="http://www.transparency.org/cpi2013/results">http://www.transparency.org/cpi2013/results</a>	HCV5, HCV6
14	CONESFORGUA. 2014. Estudio Exploratorio del Mercado Forestal de Guatemala. Prepared by Nelson Loy	HCV1, HCV2, HCV3, HCV4
15	CONESFORGUA. 2016. Presentación preparada por CONESFORGUA:- Análisis de vulnerabilidad de las comunidades vinculadas a las cadenas productivas identificadas	HCV5, HCV6
16	Departamento de Montes – FAO. 2004. Evaluación de los recursos Forestales – Inventario Nacional 2002-2003 Guatemala	HCV1, HCV2, HCV3, HCV4
17	Birdlife Country Database – Guatemala. <a href="http://datazone.birdlife.org/country/guatemala/species">http://datazone.birdlife.org/country/guatemala/species</a>	HCV 1
18	WWF Dry Forest Ecoregion. <a href="https://www.worldwildlife.org/ecoregions/nt0209">https://www.worldwildlife.org/ecoregions/nt0209</a>	HCV 3
19	Guatemala Biodiversity and Tropical Forest Assessment, USAID 2002/3 ( <a href="http://pdf.usaid.gov/pdf_docs/Pnadf213.pdf">http://pdf.usaid.gov/pdf_docs/Pnadf213.pdf</a> )	HCV 3
20	Mongabay – LATAM 2016: <a href="https://es.mongabay.com/2016/07/exitos-y-muchos-retos-en-la-reserva-de-la-biosfera-maya-en-guatemala/">https://es.mongabay.com/2016/07/exitos-y-muchos-retos-en-la-reserva-de-la-biosfera-maya-en-guatemala/</a>	HCV1, HCV2, HCV3
21	Wildlife Conservation Society: <a href="https://guatemala.wcs.org/en-us/Wild-Places/NP-Laguna-del-Tigre.aspx">https://guatemala.wcs.org/en-us/Wild-Places/NP-Laguna-del-Tigre.aspx</a>	HCV1, HCV2, HCV3
22	Parks Watch: <a href="http://www.parkswatch.org/parkprofiles/pdf/snbr_spa.pdf">http://www.parkswatch.org/parkprofiles/pdf/snbr_spa.pdf</a>	HCV1, HCV2, HCV3, HCV4
23	Prensa Libre: <a href="http://www.prensalibre.com/guatemala/alta-verapaz/buscan-conservar-la-sierra-de-las-minas">http://www.prensalibre.com/guatemala/alta-verapaz/buscan-conservar-la-sierra-de-las-minas</a>	HCV1, HCV2, HCV3, HCV4

## Controlled wood category 4: Wood from forests being converted to plantations or non-forest use

### Risk assessment

Indicator	Source of information	Functional scale	Risk designation and determination
4.1	<p>Legislation</p> <p>Legislation relevant to the conversion of natural forests to plantations or non-forest use.</p> <p><b>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFORESTRY SYSTEM IN PROTECTED AREAS</b></p> <p>1. Resolution 07-21-2011 Approval of Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Date of publication: 16 November 2011.</p> <ul style="list-style-type: none"> <li>Section “H” Guidelines for authorisation of harvesting plans due to change of use of land (Sección “H” Lineamientos para la autorización de planes de aprovechamiento por cambio de uso de la tierra):  <a href="http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html">http://www.conap.gob.gt/index.php/servicios-en-linea/centro-de-documentacion/descarga-de-documentos/category/60-forestal.html</a></li> </ul> <p><b>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFORESTRY SYSTEMS OUTSIDE OF PROTECTED AREAS</b></p> <p>2. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal), Date of publication: 31</p>	-	<p><b>Assessment based on legality</b></p> <p>Content of law</p> <p><b>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFORESTRY SYSTEMS IN PROTECTED AREAS</b></p> <p>1. Resolution 07-21-2011 Approval of Manual for Forest Administration in Protected Areas and its appendices (Resolución 07-21-2011 Aprobación del Manual para la Administración Forestal en Áreas Protegidas y sus Anexos). Section “H” Guidelines for authorisation of harvesting plans for change of use of land (Sección “H” Lineamientos para la autorización de planes de aprovechamiento por cambio de uso de la tierra)</p> <p>Applications for change of use of land must be analysed by performing the activities shown in the flowchart for commercial Forest Management Plans. For all areas with forest coverage that are greater than one hectare in size for which there is a proposed change of use to a non-forest coverage, the interested party must submit for approval a Study of Capacity for Land Use prepared by a technician or professional manager duly registered with CONAP. It’s important to note that this legislation is also covering conversion of natural forest to plantation.</p> <p>The technical criteria for evaluation of the capacity for land use shall be those established by the methodology for lands in the Republic of Guatemala known as “Classification of Lands by Use Capacity” of the National Forest Institute (Instituto Nacional de Bosques – INAB).</p> <p>The criteria used to establish guarantees of recovery of forest resources required because of a change in land use shall be the same as those applied to licences authorised for commercial forest management. It’s mandatory to reforest the same area that is going to be converted/changed of use (even if it’s plantation). The commitment to forest recovery acquired due to a change in land use must be implemented on a site located inside the protected area where the change in use occurred; if there is no area for such purposes inside the protected area, this commitment may be met in areas away from the protected area based on the criteria of connectivity, or in another SIGAP-protected area.</p>

<p>October 1996. Article 35 Protection of Mangroves (Artículo 35. Protección del mangle): <a href="http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf">http://www.mem.gob.gt/wp-content/uploads/2015/06/15._Ley_Forestal_Decreto_101_96.pdf</a></p> <p>3. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal). Date of publication: 06 December 2005.</p> <ul style="list-style-type: none"> <li>Article 36. Licences for change of use (Artículo 36. Licencias para cambio de uso): <a href="http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf">http://thereddesk.org/sites/default/files/reglamento_de_la_ley_forestal.pdf</a></li> </ul> <p>Sources</p> <ul style="list-style-type: none"> <li>INAB, CONAP, UVG and URL. 2012. Map of Forest Coverage in Guatemala 2010 and Dynamics of Forest Coverage 2006-2010 (Mapa de Cobertura Forestal de Guatemala 2010 y Dinámica de la Cobertura Forestal 2006-2010). Accessed on 06 March 2018 at: <a href="http://www.uvg.edu.gt/investigacion/ceab/cea/doc/informe-cobertura-forestal-2010.pdf">http://www.uvg.edu.gt/investigacion/ceab/cea/doc/informe-cobertura-forestal-2010.pdf</a></li> <li>IARNA-URL. 2009. Environmental Profile of Guatemala 2008-2009: Critical environmental signals and their relationship to development (Perfil Ambiental de Guatemala 2008-2009: Las señales ambientales críticas y su relación con el desarrollo). Accessed on 06 March 2018 at: <a href="https://www.url.edu.gt/publicacionesurl/FileCS.ashx?id=41026">https://www.url.edu.gt/publicacionesurl/FileCS.ashx?id=41026</a></li> <li>IARNA-URL. 2012. Environmental Profile of Guatemala 2010-2012: Local vulnerability and increasing building of risk (Perfil Ambiental de Guatemala 2010-2012:</li> </ul>	<p>In order to authorise changes in land use, consideration should be given to what is established in the current Master Plan and/or legislative decree of declaration of protected area, the management documents for protected areas and biological diversity, the additional technical information that complements the analysis, the “Taxative List of Projects, Construction Works, Industries or Activities” defined by the corresponding environmental impact analysis document, and the processes of harmonization established between CONAP and MARN.</p> <p>Changes in land use (included conversion to plantation) may not be authorised in areas that show the presence of species of flora or fauna that are protected by national legislation or international agreements, or in places classified as cultural sites.</p> <p>Changes of land use are only permitted outside highlands, or heads of hydrographic basins or areas of hydro discharge (springs). This same limitation applies to areas defined as protection areas (gallery forests). For the establishment of agricultural projects in protected areas, changes of land use will be allowed in units with continuous forest coverage of no more than five hectares.</p> <p>For changes in land use for urban purposes, even if there is no forest coverage on the land proposed for the project, a minimum of 40% of the total urbanised area must be left as an area with forest coverage.</p> <p><b>CURRENT LEGISLATION FOR NATURAL FORESTS, PLANTATIONS AND AGROFORESTRY SYSTEMS OUTSIDE OF PROTECTED AREAS</b></p> <p><i>(Changes in land use include conversion to plantation)</i></p> <p>2. Decree 101-96 Forest Law (Decreto 101-96 Ley Forestal). Article 35. Protection for Mangroves (ARTICULO 35. Protección del mangle)</p> <p>Protection, conservation and restoration of mangrove forests is declared to be in the country's national interest. Harvesting trees from these ecosystems shall be covered by special regulations developed by INAB within a period of no more than one year after approval of this law. Changes of land use in these ecosystems is prohibited. Restoration of mangroves shall be supported by a law for special protection.</p> <p>3. Resolution 01.43.2005 Regulations for the Forest Law (Resolución 01.43.2005 Reglamento de la Ley Forestal)</p> <p>Article 36. Licences for change of use (ARTICULO 36. Licencias para cambio de uso): for any change of use of a forest operation to non-forest uses (land use change from forest to non-</p>
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<p>Vulnerabilidad local y creciente construcción de riesgo). Accessed on 06 March 2018 at: <a href="https://www.url.edu.gt/publicacionesurl/FileCS.ashx?Id=40177">https://www.url.edu.gt/publicacionesurl/FileCS.ashx?Id=40177</a></p> <ul style="list-style-type: none"> <li>• FAO (2014): Global Forest Resources Assessment 2015 – Country Report, Guatemala. Rome. Accessed on 06 March 2018 at: <a href="http://www.fao.org/3/a-az228s.pdf">http://www.fao.org/3/a-az228s.pdf</a></li> </ul> <p>Interviews with experts: Interviews with various experts (INAB, CONAP, FAO, UVG, among others) during the month of April 2016 and February 2018, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, the current situation and the risks associated with the conversion matter.</p>			<p>forest-ex. agriculture, livestock), INAB shall authorise, when proper, harvesting and change of land use licences, for which the interested party must submit:</p> <ol style="list-style-type: none"> <li>Application containing, at minimum, the landowner's general data, domicile for receiving notices, application letter and his or her duly authenticated signature;</li> <li>Certification from the Property Registry that confirms ownership of the property, indicating the annotations and liens that it contains. If the property is not registered in the Property Registry, another legally valid document may be accepted;</li> <li>Harvesting plan that contains, at minimum, the following information: location, areas to be involved and volumes of species to be harvested;</li> <li>Feasibility study or justification for the project and agreement of the owners when it is an infrastructure project of collective interest;</li> <li>Study of capacity for land use based on what is established in Chapter II of these Regulations; and</li> <li>Confirmation of approval of the environmental impact study.</li> </ol> <p>If the change of use was from forest to agricultural, the interested party must submit, in addition to the contents of the above items, an Agricultural Management Plan, in accordance with Article 45 of the Forest Law.</p> <p>Because of their importance in the process of hydro intake and recharge, INAB should not authorise a harvesting and change of land use licence in the upper reaches of hydrographic basins covered with forests.</p> <p>At its own election, the interested party may make a payment to the Restrictive Forest Fund or may reforest an area equal to the transformed area. If the interested party opts for payment to the Restrictive Forest Fund, it must pay an amount equivalent to the cost of reforestation of the area that is subject to change of coverage, which amount shall be established annually by INAB. If, as a second option, the interested party opts to do reforestation, it must be equal in area to the area transformed and must be done in the same municipality or department.</p> <p><b>Enforcement of legislation</b> With the data shown in the previous sections, it can be established that the great majority of changes of land use or conversion from forest to non-forest uses (land use change from forest to non-forest-ex. agriculture, livestock) in Guatemala are illegal.</p> <p>The State does not have the capacity to control changes in land use; even though applicable legislation exists (both inside and outside protected areas) there is no adequate control of the levels of transformation of forests to other uses (source of information: INAB-CONAP-UVG-URL (Guatemala's forest conversion map) and expert consultation).</p>
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Is it possible to conclude that the spatial threshold can be met by assessing the enforcement of legislation?

I.e. Does the law prohibit conversion to the outcomes in the indicator? Yes or No?

No, the applicable legislation is not sufficient to assess this indicator with the legally-based thresholds

**Assessment based on spatial data**

Is it possible to conclude that the spatial threshold (0.02% or 5000 ha) is met?

Various sources confirm that Guatemala cannot be considered in the 'low risk' category, because the conversion of forests to other uses (especially agriculture) greatly exceeds the acceptable threshold. For example, IARNA-URL, in describing Guatemala's Environmental Profile (2008-2009), states that:

It is estimated that forest coverage in the year 1950 was 6,973,924 ha. Taking this figure as a baseline, the rate of change of coverage was 84% in the year 1975, 77% in the year 1985, 68% in the year 1995 and 58% in the year 2005. During those years, absolute deforestation varied between 60,000 and 70,000 ha/year, a cumulative loss of 2,958,826 ha of forest. With the increase in population, the availability of forests per inhabitant has been substantially reduced, from 2.22 ha to 0.39 ha (data show the hectares of forest available per inhabitant in Guatemala in 2005). The rate of deforestation is high and leads to a loss of forest stock close to 1.5% per year. Deforestation increased exponentially since 1970 as a result of the qualification and colonization of new territories, as well as the demand for food from a growing population.

According to INAB, CONAP, UVG and URL (2012), forest cover of Guatemala in 2006 was approximately 3,868,708, equivalent to 35.5% of national territory. In comparison, forest cover in the year 2010 was 3,722,595, representing 34.2% of the country. Loss of forest cover during this period was 500,219 ha, while forest gain 354,107 ha. The net annual loss was 146,112 ha, equivalent to 38,597 ha/year (taking into consideration that the period was 3.79 years).

Furthermore, according to the Global Forest Resources Assessment 2015 for Guatemala prepared by FAO, the forest area decreased by 235,000 ha between the years 2010 and 2015 (from 3,590,000 ha to 3,355,000 ha), with an annual change rate of 47,000 ha/year. There is no clear data available about how much natural forest was converted to plantations or non-forest uses, but the naturally regenerated forest area increased between 2010 and 2015 (58,000 ha), and the primary forest decreased (293,000 ha). Data about planted forest doesn't differentiate between reforestation and afforestation. Planted forests increased in 53,000 ha in the period 2010-2015 (from 132,000 ha in 2010 and 185,000 ha in 2015), which represents an annual change rate of 10,600 ha/year.

			<p>According to the spatial data provided above, conversion of natural forests to plantations or non-forest use in the area under assessment is above the threshold of 0.02% or 5000 hectares' average net annual loss.</p> <p><b>Risk designation</b></p> <p>Specified risk. Threshold (4) is met: There is more than 5000 ha net average annual loss or there is more than 0.02% net average annual loss of natural forest in the assessment area in the past 5 years.</p>
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**Recommended control measures**

Intentionally left blank - Organizations shall evaluate and devise appropriate control measures to mitigate the risks identified in this risk assessment as applicable.

## Controlled wood category 5: Wood from forests in which genetically modified trees are planted

### Risk assessment

Indicator	Sources of information	Functional scale	Risk designation and determination
5.1	<p>Some sources of information are listed below that justify the near total lack of information regarding the use of genetically modified organisms in Guatemala:</p> <ul style="list-style-type: none"> <li>Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> <li>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>	-	<p>Low risk Threshold (2) and is met: There is no commercial use of GMO (tree) species in the area under assessment, AND Threshold (3) is met; Other available evidence does not challenge a 'low risk' designation.</p> <p>Article on Transgenic crops in Guatemala: The objective of this article is to continue with the debate and continue to expand the little information that is still available in the country, to respond to the emergence of such genetically modified organisms in Guatemala, within a weak legal and institutional framework, as well as to propose if these can be an alternative, a threat or only respond to transnational interests for their use, production and cultivation (focus only on agriculture crops species and no mention on trees forest).</p> <p>And the report Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala, show the present and status of the "Cartagena Protocol". No mention any forest use for genetically modified organism.</p>

	GMO Context Question	Answer	Sources of Information (list sources if different types of information, such as reports, laws, regulations, articles, web pages news articles etc.).
1	Is there any legislation covering GMO (trees)?	No, there is no legislation covering GMOs for forest trees in Guatemala. Interviews with experts confirmed this. Guatemala has signed the Cartagena Protocol, however no mention of forest use of any genetically modified trees.	<ul style="list-style-type: none"> <li>• Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>• Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> <li>• Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>
2	Does applicable legislation for the area under assessment include a ban on commercial use of GMO (trees)?	N/A	<ul style="list-style-type: none"> <li>• Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>• Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> <li>• Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>
3	Is there evidence of unauthorised use of GM trees?	No, review of different sources on internet didn't provide any evidence of unauthorised use of GM trees. Also, consultation to CONAP and INAB confirm this.	<ul style="list-style-type: none"> <li>• Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>• Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> </ul>

			<ul style="list-style-type: none"> <li>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>
4	Is there any commercial use of GM trees in the country or region?	No, review of different sources on internet didn't provide any evidence of commercial use of GM trees in Guatemala. Also, consultation to CONAP and INAB confirm this.	<ul style="list-style-type: none"> <li>Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> <li>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>
5	Are there any trials of GM trees in the country or region?	No, review of different sources on internet didn't provide any evidence of trials of GM trees in Guatemala. Also, consultation to CONAP and INAB confirm this.	<ul style="list-style-type: none"> <li>Article on Transgenic crops in Guatemala (Artículo sobre Cultivos transgénicos en Guatemala) 2014: <a href="http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala">http://fausac.usac.edu.gt/GPublica/index.php/Cultivos_transg%C3%A9nicos_en_Guatemala</a></li> <li>Biosafety and Genetically Modified Organisms – GMOs: Implementing the Cartagena Protocol in Guatemala (Bioseguridad y Organismos Genéticamente Modificados – OGM's: Implementación del Protocolo de Cartagena en Guatemala) June 2010: <a href="http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf">http://www.bchguatemala.gob.gt/Members/Esolorzano/documentos/CONAP%20folleto%20bioseguridad%20completo-vf.pdf</a></li> <li>Interviews with experts: Interviews with various experts during the month of April 2016, both in Guatemala City and in Petén, helped the authors of this report to better understand the applicable legislation, current situation and the risks associated with GMOs.</li> </ul>
6	Are licenses required for commercial use of GM trees?	N/A	
7	Are there any licenses issued for GM trees relevant to the area under assessment? (If so, in what	N/A	

	regions, for what species and to which entities?		
8	What GM 'species' are used?	N/A	
9	Can it be clearly determined in which MUs the GM trees are used?	N/A	

**Recommended control measures**

N/A