

Annex to 25th EUTR/FLEGTR Expert Group Meeting

12. September 2019

Updated conclusions on

Brazil

Due Diligence: some recommended risk assessment and mitigation measures

These conclusions are based on an article written by researchers of the Universities of Sao Paulo, Sao Carlo and Oregon State, and published on Science Advances [<http://advances.sciencemag.org/content/4/8/eaat1192>] and other recent information such as court cases, [NGO reports](#) and news articles.

Risk assessment:

The said reports and articles indicate that the volume of timber available for cutting in Forest Management Areas (AMFs) in the Amazon Basin, in particular with regard to Ipê (but also to other high value timber such as Massuranduba and Angelim vermelho), is often based on incorrect factual information (overestimated tree/cubic meters densities or fictitious trees). These overestimations are particularly frequent in AMFs (Área de Manejo Florestal) neighbouring protected and/or community managed areas¹. As government officials are involved in the process of signing of on forest inventories and issuing licences, the corruption perception index for Brazil, indicating an overall medium to high risk of corruption, should be taken into account.

Moreover, recent court cases reveal direct links between illegal timber harvesting and violent crimes against members of communities using the forests for subsistence, aimed at driving them off the land or discourage them to invoke their rights.² There are also records of slave like labour³ conditions related to timber harvest, which, while not directly affecting the legality of the timber harvest, as such, reflect a risk of illegality as regards duties related to timber harvesting and trade legislation concerning the forest sector within the meaning of Article 2 (h) of the EUTR, and increase the risk of corruption.

These cases has been reported for the Brazilian Amazon basin, in particular from the states of Rondônia, Pará, Mato Grosso and, more recently, the sparsely populated and for the most part strictly protected state of Amazonas. Overall, also the corruption perception index for Brazil, indicating an overall medium to high risk of corruption, should be taken into account.

Insofar as imports of species harvested in natural forests in the Brazilian Amazon basin are concerned, the expert group therefore stresses that operators should generally consider the level of risk of illegality as not negligible unless adequate risk mitigation measures have been taken that demonstrably reduce the level of risk to a negligible level.

Conclusion:

¹ The reports and the article reach this conclusion by comparing data on natural tree densities in the Amazonian rain forest, official data of inventories and data from the RADAM project, on the one hand (<http://www4.fsanet.com.br/revista/index.php/fsa/article/view/1182/1065>), with the self-declarations used in the licensing process on the State of Pará, on the other hand.

² [2 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>

³ Inspeção do trabalho, <http://agenciabrasil.ebc.com.br/sites/default/files/atoms/files/cadastro-de-empregadores-2019.pdf>, last updated on 04/01/2019; specific news on individual companies since then also to be considered.

The following factors increase the risk of illegal timber harvest:

- high value timber species, in particular Ipê; timber from AMFs in the states of Rondônia, Pará, Mato Grosso or Amazonas and/or from AMFs bordering with protected areas and/or indigenous territories;
- overestimation of certain species on AUTEX/AUTEF documents;
- timber from any regions, where land grabbing and violent crime have been linked to illegal timber harvesting⁴;
- the vicinity of nature protected areas;
- records on suppliers of illegal practices related to timber harvest⁵.

Risk mitigation:

To mitigate the risk of illegally harvested timber entering the EU market to a negligible level, due diligence should specifically include an **independent factual verification** of the reliability of the determination of available timber volumes in AMFs as well as on the integrity of the operator's supply chain.

For that purpose, entities offering independent verification should demonstrate to have appropriate level of resources as well as the adequate scientific competence and professional expertise, and demonstrate that they or their experts are not in a situation of conflicts of interest. In addition, their verification should be based on proven methodologies, such as the one approved by [IBAMA/EMBRAPA](#). These methods should include on-site visits and cannot solely consist of document verification.

To mitigate the risk of illegality to a negligible level, Independent third-party verification should be complemented by further mitigation measures, as relevant in view of the specific risk(s) of illegality detected, including, for example:

1. Giving preference to suppliers using a closed supply chain and sourcing logs from single sources;
2. Carrying out additional scrutiny of documents: in addition to requiring forestry guides (GF1 and GF3) and DOF exportation documents, operators should check that the appropriate conversion values are used and that the ratio between cubic meters of timber/tree density per hectare is consistent with scientific data related to the relevant species.
3. Using publicly available satellite images to confirm that the forest area included in an AMF had not already been exploited before the start of the concession or has effectively been exploited during the concession⁶.
4. Verifying the “*Romaneio*” (the number and volume attributed to a log entering a sawmill) and the volume of processed timber made with this log, in view of ensuring that the ratio between the two volumes corresponds to objective parameters;
5. Unless the risk of illegality within the meaning of Article 2 (h) of the EUTR can be positively excluded for the specific shipment(s), avoiding sourcing timber from:
 - a. areas and companies embargoed by [IBAMA](#);

⁴ Information on land grabbing and violent crime is publicly available via reports of local social organisation (Comissão Pastoral da Terra - CPT and Comissão Indigenista Missionária - CIMI).

⁵ E.g. companies appearing on the list, published and periodically updated by the Brazilian Ministerio do trabalho – inspeção do trabalho (Ministry of Labour and Employment) denouncing slavery like labour conditions: <http://trabalho.gov.br/fiscalizacao-combate-trabalho-escravo>. Last update: April 2018: http://trabalho.gov.br/images/Documentos/SIT/CADASTRO_DE_EMPREGADORES_2018-08-27_publicacao_semestral_ordinaria_DETRAE_abril-2018.pdf.

⁶ E.g. by using free Landsat 8 data: <https://landsat.usgs.gov/landsat-data-access>. Guidance on how to use the data here: https://www.youtube.com/watch?v=w4ZzqX5_W0o

- b. companies whose suppliers are located in areas affected by social conflicts related to tenure rights and to the use of forest resources, in general;
- c. companies with a track record of criminal activities, which increase the risk of illegality related to timber harvesting and trade legislation concerning the forest sector within the meaning of Article 2 (h) of the EUTR, and increase the risk of corruption.

Furthermore, in regions where access to the forest is reported to be made impossible by the (concession) owners or due to violent crime, independent verification on the ground cannot be guaranteed by any verification body.

If it is not possible to carry out necessary risk mitigation measures or if the risk of illegality is still non-negligible, operators should refrain from putting the timber on the EU market.