



# Timber Legality Risk Dashboard: Ukraine

Drafted as of: September 2021

Ukraine's political context, including policies, institutional governance, and management of forests is rapidly evolving. Most information available to international audiences related to illegal activities in the forest sector has been driven by high profile investigations released in 2018 and 2020 by the NGO Earthsight. This includes allegations of illegal timber entering FSC-certified timber supply chains. FSC strongly denies Earthsight's findings, while Earthsight and several Ukrainian NGOs stand by their claims. This dashboard provides a summary of arguments made on both sides and links to additional information provided so interested parties can assess the risks when making sourcing decisions related to timber from Ukraine.

## SUMMARY OF LEGALITY RISKS

**Risk Score:** 68.6 (Higher-Risk<sup>a</sup>)<sup>1</sup>

**Conflict State:** NO<sup>b</sup>

**Log and Sawwood Export Restriction:** YES<sup>2</sup>

**Import Regulation in Effect:** NO

- Fraud and corruption have been historically a pervasive problem impacting the forest sector and the full timber supply chain from harvest to export.
- Reported rates of illegal logging in Ukraine vary considerably, reflecting the distinction between wood theft/illegal logging without papers and illegal logging with papers.
- High-profile investigations released in 2018 and 2020 by the NGO Earthsight report illegal logging associated with FSC- certified timber in Ukraine. FSC strongly denies Earthsight's findings.
- Enforcement remains limited in capacity.
- EU Member States have issued high alert warnings for illegal timber from Ukraine.
- The political and legal context is evolving which makes the timber legality context fluid.

## TRADE PROFILE OF FOREST PRODUCTS<sup>c, d, 3, 4</sup>

**Total Imports (2019):** \$1.32 billion

**Total Exports (2019):** \$2.17 billion.

\$1.41 (65.1%) exported to "regulated markets"<sup>e</sup>

## SUMMARY OF HIGHEST PRODUCT-LEVEL RISKS

**Exports - Top Products Exported to the US by 2019 Value<sup>5</sup>**

- Flooring, Moulding & Strips (HS4409)
- Plywood (HS4412)
- Joinery Products (HS4418)
- Sawnwood (HS4407)
- Wood Furniture - Kitchen (HS940340)
- Veneer (HS4408)
- Wood Furniture - Seating (HS940161 & HS940169)
- Wood Furniture - Other (HS940360)
- Paper (HS48)
- Tools (HS4417)

## Summary of Highest Product-Level Risks (continued)

Ukraine has banned the export of logs (HS4403) and sawnwood (HS4407) of ten valuable tree species since 2005.<sup>6,7,8</sup> In 2015, Ukraine passed a new law establishing a 10-year moratorium on all log exports (except for pine) beginning on November 1, 2015, and a subsequent 10-year moratorium on pine log exports beginning on January 1, 2017.<sup>9,10</sup> Despite the widespread coverage of these laws, Ukrainian companies have continued to export logs through various means, such as loopholes or deliberate misinterpretations of the law.<sup>11,12,13</sup> For example, valuable logs were being deliberately cut less than 2 meters so as to meet the definition of “fuel wood” (HS4401), which, unlike logs, remains legal for export.<sup>14,15</sup> In December 2020, an EU-requested arbitration panel ruled that the Ukrainian unprocessed wood export ban introduced in 2015 is in breach of the EU-Ukraine Association Agreement, which explicitly forbids export prohibitions. However, the ruling did find that the 2005 export ban for ten specific wood species could be partially justified under plant life protection exceptions. The panel ruling means that Ukraine must swiftly remove its 2015 export ban on all unprocessed wood, but the export ban for the ten specific species still holds.<sup>16</sup>

## SUMMARY OF HIGHEST SPECIES-LEVEL RISKS

Illegal logging and trade affect many timber species, but highly valuable - often rare and endangered - species that are protected under harvest and/or trade regulations are a key target and at an elevated risk for illegality. The following species are either currently, or have recently, been protected in Ukraine.

The following species cannot be exported as logs or sawnwood:<sup>17,18,19,20</sup>

- **Locust/false acacia** (*Robinia* spp.)
- **Checker Tree** (*Sorbus torminalis*)
- **Cherry Tree** (*Prunus cerasus*)
- **Pear Tree** (*Pyrus* spp.)
- **Walnut Tree** (*Juglans* spp.)
- **Chestnut Tree** (*Castanea* spp.)
- **Common Yew** (*Taxus baccata*)
- **Wild or sweet cherry** (*Prunus avium*)
- **Sycamore** (*Acer pseudoplatanus*)
- **Juniper** (*Juniperus* spp.)

Ukraine publishes an extensive list<sup>21</sup> of threatened or endangered timber species that are prohibited from logging or exploitation<sup>22,23</sup> in the Red Book of Ukraine. The Red Book was last updated in 2009.<sup>24,25</sup> Thus, any species listed in the Red Book labeled as sourced from Ukraine would be illegal.

Species with reported incidents of illegal logging:

- **Beech**<sup>26,27</sup>
- **Oak**<sup>28,29</sup>
- **Pine**<sup>30,31,32</sup>
- **Spruce**<sup>33,34</sup>

The Forest Code of Ukraine prohibits all types of timber harvesting or felling in virgin, quasi-virgin or natural forests, signifying that all natural forest species should be considered high-risk.<sup>35</sup> While robust third party certification can be considered as a tool to help mitigate high-risk sourcing contexts, independent forest surveys have uncovered reported fraud and instances of illegal logging in FSC-certified concessions in Ukraine.<sup>36,37</sup>

## FORESTRY SECTOR

**Forested Area:** 9.7 million ha<sup>38</sup> (14.5% protected)<sup>39</sup>

**Deforestation Rate:** -0.15% annually (net reforestation)<sup>40</sup>

**Forest Management (as of 2015):**<sup>41</sup>

- 16 ha privately-owned (0%)
- 9.66 million ha publicly-owned (100%)

**Certified Forests:**

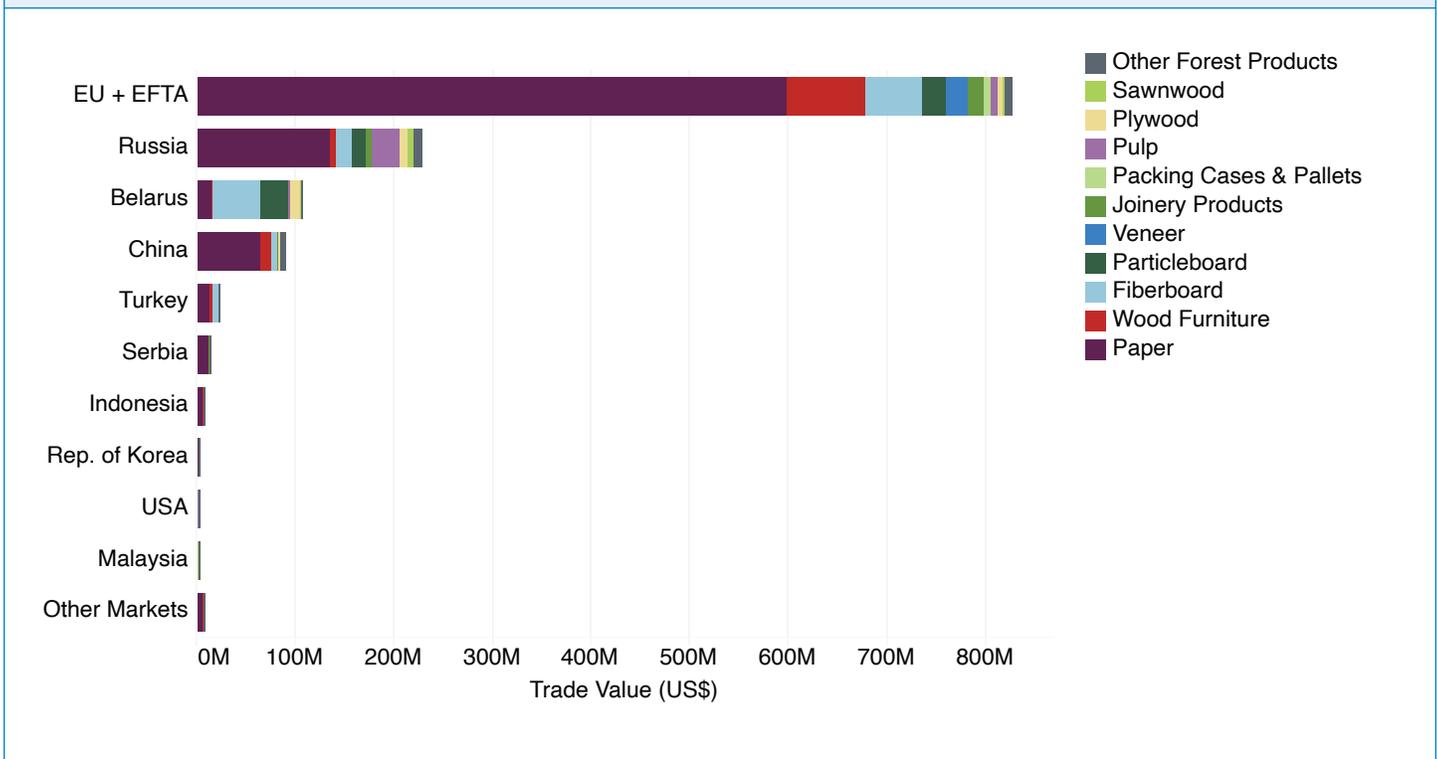
- FSC Certification: 4.15 million ha (2019)<sup>42</sup>

**Domestic Production:**<sup>43</sup>

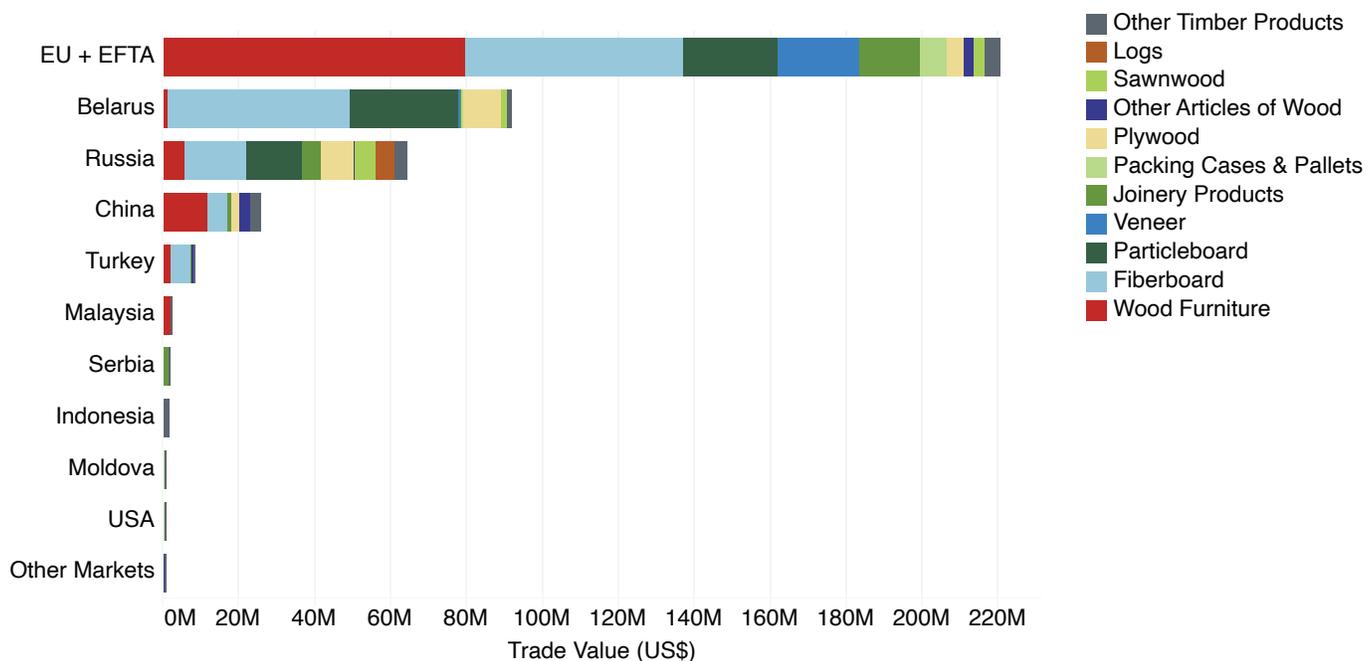
- Logs: 9.30 million m<sup>3</sup> (2019)
- Wood Fuel: 8.58 million m<sup>3</sup> (2019)

- Sawnwood: 3.90 million m<sup>3</sup> (2019)
- Paper: 2.68 million tonnes (2019)
- Particleboard: 2.39 million m<sup>3</sup> (2019)
- Wood Chips (Fuel-Wood): 2.09 million m<sup>3</sup> (2019)
- Wood Pellets: 1.05 million tonnes (2019)
- Fibreboard: 474 thousand m<sup>3</sup> (2019)
- Veneer: 188 thousand m<sup>3</sup> (2019)
- Plywood: 177 thousand m<sup>3</sup> (2019)
- Charcoal: 173 thousand tonnes (2019)

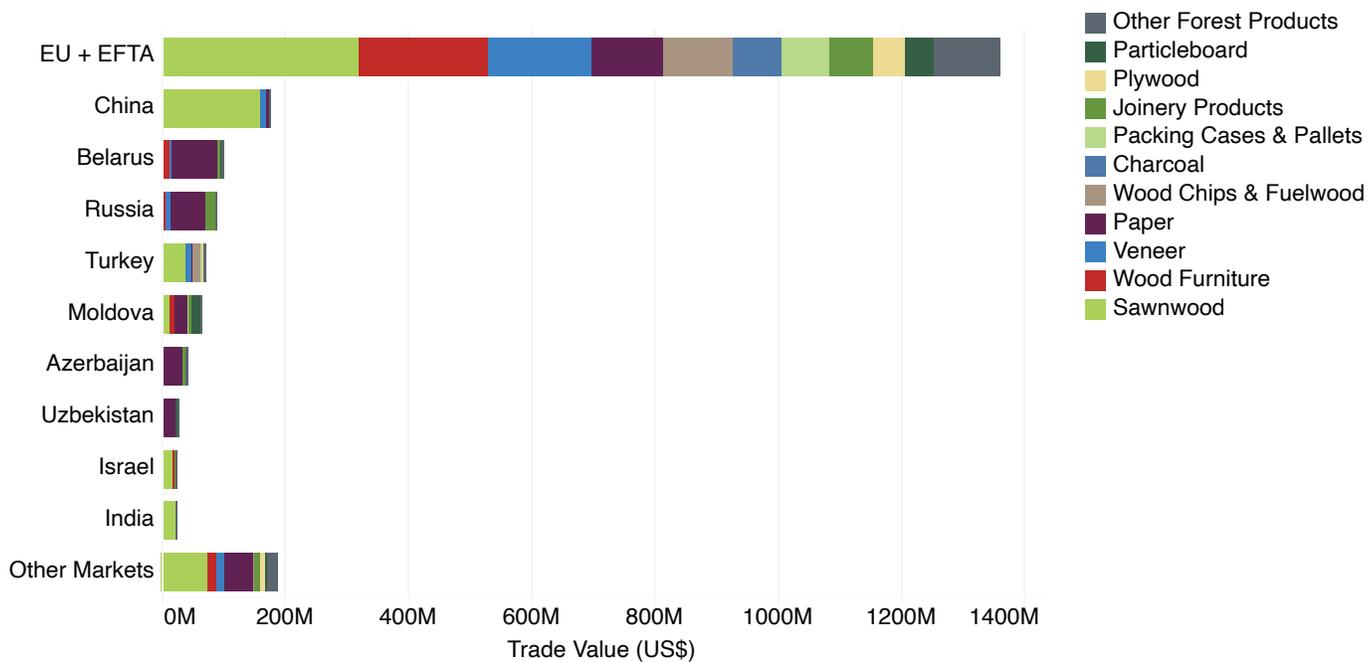
### UKRAINE'S TOP SOURCE MARKETS FOR FOREST PRODUCTS BY VALUE (2019)<sup>F,44</sup>



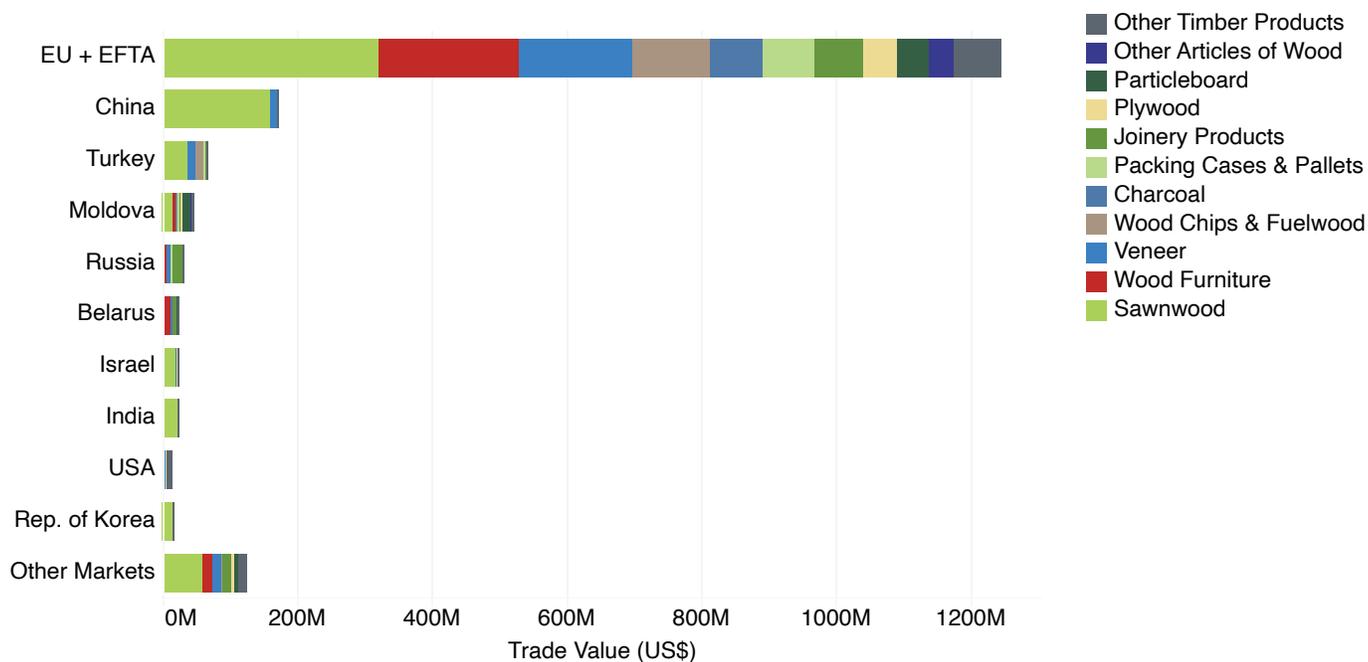
### UKRAINE'S TOP SOURCE MARKETS FOR TIMBER PRODUCTS BY VALUE (2019)<sup>45</sup>



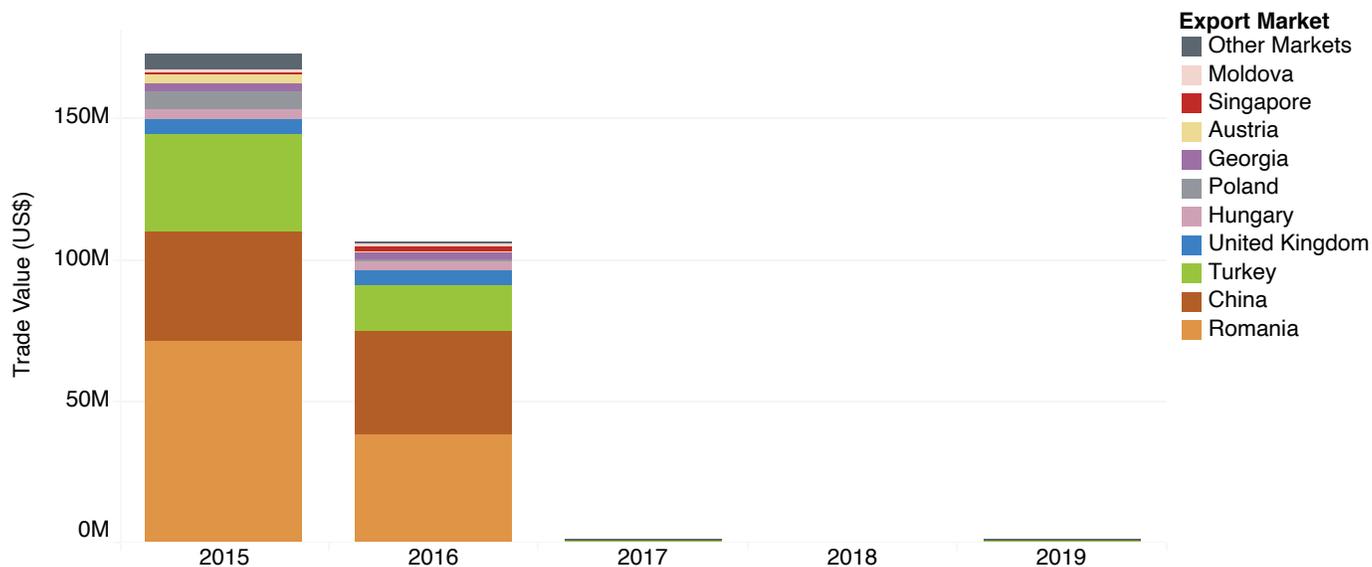
### UKRAINE'S TOP DESTINATION MARKETS FOR FOREST PRODUCTS BY VALUE (2019)<sup>46</sup>



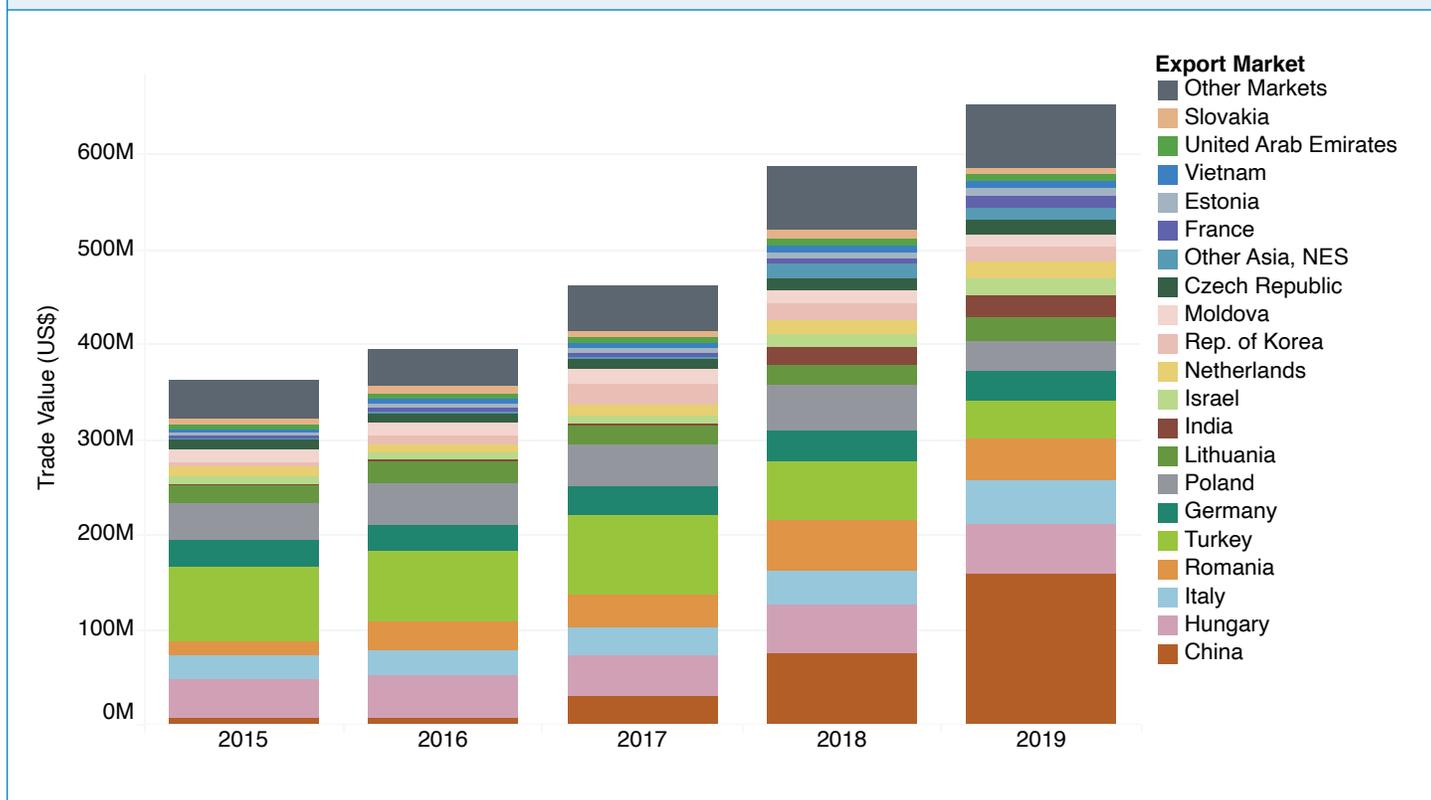
### UKRAINE'S TOP DESTINATION MARKETS FOR TIMBER PRODUCTS BY VALUE (2019)<sup>47</sup>



### EXPORTS OF LOGS (HS4403) WHICH MAY FALL UNDER LOG EXPORT RESTRICTIONS<sup>48</sup> (2015 - 2019)<sup>49</sup>



## EXPORTS OF SAWWOOD (HS 4407) WHICH MAY FALL UNDER AN EXPORT RESTRICTION<sup>50</sup> (2015 - 2019)<sup>51</sup>



## TIMBER LEGALITY

Ukraine's total forest area is 10.4 million ha or 15.9 percent of the country.<sup>52</sup> Around half the total area is planted forest.<sup>53,54</sup> The majority of timber is supplied by the regions in and around the Carpathian mountain range in the south-west of the country, and Polissia in the north.<sup>55</sup> Around 38 percent of the forest area is considered for commercial use, 33 percent is protected, 15 percent is considered for recreational use and 14 percent is natural reserves, forests used for scientific, historical, and cultural purposes.<sup>56</sup>

Coniferous forests account for around 42 percent of the country's forested area and are predominantly composed of scots pine (*Pinus sylvestris*). Hardwood broadleaf forests account for a further 43 percent and are mostly comprised of pedunculate oak (*Quercus robur*), Norway spruce (*Picea abies*), European beech (*Fagus sylvatica*) as well as silver birch (*Betula pendula*), black alder (*Alnus glutinosa*), European ash (*Fraxinus excelsior*), European hornbeam (*Carpinus betulus*), and silver fir (*Abies alba*).<sup>57</sup> The majority of the country's pine stock is distributed across the northern regions (Polissia), while beech and spruce grow in the west, concentrated in and around the Carpathian mountain range. Oak grows in small pockets throughout Ukraine.<sup>58</sup>

In general, reports indicate that there is an elevated risk of illegal timber from the eastern part of Ukraine where there is a high risk of conflict timber, military actions, and unclear borders.<sup>59</sup> Western Ukraine contains mountain forests with a number of national parks, several of them still not registered and without proper protection, suggesting an elevated risk that timber could be illegally logged in protected areas.<sup>60</sup>

- **Fraud and corruption have been historically a pervasive problem impacting the forest sector and the full timber supply chain from harvest to export.**

Historically, Ukraine has seen widespread corruption in the government. Between 2011 and 2014, tens of millions of dollars in bribes were paid into offshore accounts belonging to Viktor Sivets, a former head of Ukraine's State Forest Resource Agency (SFRA), so that foreign companies would be granted access to Ukrainian wood. A subsidiary of one of the largest European wood processors remains under investigation for having paid significant bribes in this scandal.<sup>61</sup>

Ukraine is ranked 117 out of 198 countries on Transparency International's Corruption Perception Index in 2020,<sup>62</sup> with the government itself admitting that currently, it is a difficult period for forestry in Ukraine.<sup>63</sup> The current period has been characterized as the struggle between reformers, who want to overhaul the entire governance system, and beneficiaries of the old system and structures, who aim to preserve the status quo. Many general reform initiatives launched between 2014 and 2016 are still being implemented and some reforms have stalled.

The Managing Director of the European Bank for Reconstruction and Development noted in 2017 that it is impossible to operate in Ukraine without paying bribes,<sup>64</sup> with reports suggesting that failure to move forward with reform was not from the absence of legislation, 'but the lack of genuine political will to tackle systemic and high-level corruption'.<sup>65</sup>

Virtually all forests in Ukraine are state-owned, with 87 percent state forest and 13 percent communal forest.<sup>66</sup> Management of forests and timber resources have, historically, been particularly susceptible to corruption. More recently, reports suggest that the government that came into power in 2020 is moving ahead on critical reforms in different sectors to strengthen the foundations for development and growth.<sup>67</sup> Timber is the most valuable natural resource for Ukraine after coal, oil, and natural gas.<sup>68</sup> The Ministry for Environmental Protection and Natural Resources of Ukraine (MEPNR), established in 2020, is responsible for forest policy while the SFRA provides a supervision function.<sup>69,70</sup> The SFRA implements state policy through subordinate regional forestry departments and their State Forest Enterprises (SFEs) for around 73 percent of forests in Ukraine.<sup>71</sup> There have historically been concerns regarding conflict of interest due to policy, management, and enforcement mandates all being concentrated, although efforts have been underway to increase the role of the new MEPNR as well as local authorities. Indeed, the World Bank notes that frequent political changes, the lack of recognition for the importance of the sector, and limited resources have de facto left the SFRA to shoulder all the responsibilities of the sector, leaving it open to criticisms of conflict of interest.<sup>72</sup> Dedicated forest enterprises of other ministries and local/regional level authorities are charged with managing the remaining 27 percent of forests in Ukraine.<sup>73</sup> The best available information on the nature and extent of forests relates mostly therefore to the 73 percent of forest that lie under the coordination of SFRA, while not as much is known about forests subordinated to other entities.<sup>74</sup> Sales of unprocessed timber by other forest users (accounting for 27 percent of forest land) remain outside the legal environment, although it is hoped that recent regulations requiring the central registration of all timber sales will address this issue.<sup>75</sup>

Much of the logging in Ukraine has been carried out by the government, through the SFEs.<sup>76</sup> The proportions of logging carried out by private corporations versus SFEs is not known. This institutional set-up contains inherent conflict of interests and is prone to corruption.<sup>77</sup>

In its 2018 report, Earthsight found corruption to be pervasive, extending from the lowest-level forest ranger to national forestry chiefs, with illegality permeating the supply chain from harvest to export.<sup>78</sup> Earthsight's analysis of court records in 2017 and 2018 revealed numerous investigations filed in Ukrainian courts against SFEs for forging documents, receiving bribes from timber companies, and causing losses to state revenues by illegally undervaluing timber at auctions. There remain criminal corruption investigations relating to two of the three largest timber producing regions.<sup>79,80</sup>

Reports also suggest the direct involvement of politicians in efforts to prevent enforcement and protect illegal operators. An investigation by Austrian news outlet Addendum reported in 2019 that a member of the Ukrainian parliament tried to stop a police raid of an illegally operating company, including intimidating officials.<sup>81</sup> Meanwhile, a chief forestry figure in eastern Ukraine was arrested in 2018 after reportedly facilitating the illegal clearing of state oak forests with "a black-market value of more than €3 million after he was caught offering \$100,000 in cash to a special agent to stop the case against him".<sup>82</sup> Violence and intimidation have also been widely reported against journalists and NGOs monitoring illegal logging and corruption in Ukraine.<sup>83</sup>

- **Reported rates of illegal logging in Ukraine vary considerably, reflecting the distinction between wood theft/illegal logging without papers and illegal logging with papers.**

### ***Illegal logging without papers***

Illegal logging without papers is also known as wood theft in Ukraine and involves felling of trees without the necessary permits and other relevant legal documents. Official government figures suggest that wood theft accounts for just 0.1 percent of the total timber harvested.<sup>84</sup> In 2016, illegal logging/wood theft was reported by the government as having reached almost 28,000 cubic meters of roundwood, but rates decreased in 2017 and 2018. Recent SFRA data indicate that around 110,000 cubic meters of illegal timber was detected in 2019 in two oblasts (regions) as a result of intensive checks. This was an increase of more than six times from 2018.<sup>85</sup>

## **Illegal logging with papers**

Most of the illegal logging with papers relates to widespread corruption which has reportedly enabled unjustified sanitary cutting, use of fake origin certificates and under-declarations of weights, species, and value at customs. Earthsight and journalists report that rates of illegal logging are much higher precisely because illegal logging with papers happens on a much bigger scale than wood theft, which is monitored and recorded by the government.<sup>86</sup> Rates of illegal logging with papers are therefore estimated to be between 5 and 30 percent of the total timber harvested.<sup>87</sup> Earthsight has estimated that 40 percent of the timber exported from the Ukraine to the EU may have been logged or traded illegally.<sup>88</sup>

### *1. Sanitary logging*

Earthsight's exposés suggest that a significant proportion of illegally felled timber originating from Ukraine is mostly in the form of 'sanitary felling', justified as needed to prevent the spread of disease but which often leads to more or younger trees being cut than would otherwise.<sup>89,90</sup> Essentially, this means that sanitary felling is being carried out illegally where it is not needed, or when the requirements for sanitary logging are not met.<sup>91</sup> Based on government figures, the amount of timber harvested under sanitary logging in the Ukrainian Carpathians in 2016 was greater than the amount cut under the preplanned Annual Allowable Cut (AAC) accounting for nearly 47 percent of the total timber harvested that year.<sup>92</sup> Sanitary felling consistently accounts for around 30 to 40 percent of the total timber harvested.<sup>93</sup> Sanitary felling is prohibited within protected areas, natural reserves and around nesting areas for birds listed in the Red Book of Ukraine,<sup>94</sup> but sanitary cutting reportedly has taken place in such prohibited areas.<sup>95</sup>

Historically, there have been different procedures applied for sanitary felling. For harvest from final felling, the Regional Departments of the SFRA issued felling licenses. For sanitary felling, the forest user itself has issued the felling license. Depending on the ownership structure, this is often the SFEs and local authorities as well as the small percentage of private forest owners.<sup>96</sup> As such, the SFEs have had the authority to issue logging permits for themselves.<sup>97</sup> In 2016, amendments to sanitary rules were introduced by the Cabinet of Ministers. Overall, these amendments introduced more stringent procedures for approval of sanitary felling, including introducing a requirement to have a special commission approve sanitary clear felling.<sup>98</sup> However, Earthsight found unjustified sanitary felling when investigating 18 logging sites across four of the largest timber producing provinces in 2017. In this field study, Earthsight found that between 67 and 78 percent of sanitary felling was unjustified and therefore illegal. Earthsight report that SFEs were harvesting more than double the amount of timber via sanitary felling than they were logging under their management plans in 2017.<sup>99</sup> The Free Svydovets Group recently reported that Yasinianske and Brusturianske SFEs in the Carpathians were found to have at least a dozen logging sites in 2020 where healthy trees were cut under the pretense of sanitary logging, suggesting that illegal sanitary felling has continued.<sup>100</sup>

### *2. Illegal sawmills*

While some reports indicate that there are around 12,000 sawmills in Ukraine that are not legally registered,<sup>101</sup> some local experts suggest that these figures are overestimated.<sup>102</sup> Non-registered sawmills/companies have reportedly not been paying the required fees and taxes, and are not able to participate in wood auctions. This means that the timber that such illegally registered sawmills can purchase is either illegally logged or logged with a sanitary felling license. Reports suggest that such sawmills are not able to export timber or by-products, as the Certificate of Origin is missing.<sup>103</sup>

### *3. Illegal export*

In 2019, the EU requested the establishment of an arbitration panel with regard to Ukraine's 2005 and 2015 export bans of unprocessed timber, claiming that the export restrictions are protectionist and contradict the EU-Ukraine Association Agreement as to a prohibition on exports.<sup>104</sup> In 2020, the arbitration panel ruled that the Ukrainian 2015 export ban on all unprocessed wood is in breach of the EU-Ukraine Association Agreement, which explicitly forbids export prohibitions.

The ruling also found that the export ban limited to ten specific wood species introduced in 2005 could be partially justified under plant life protection exceptions. This panel ruling means that Ukraine must swiftly remove its 2015 export ban on all unprocessed wood, but the species-specific 2005 export ban can remain.

Historically, the State Fiscal Service of Ukraine (SFSU), responsible for tax and border checks, has reported widespread problems with illegal export of logs and sawnwood which have been mis-declared as 'fuel wood'.<sup>105</sup> This has only worsened since the temporary export bans on logs and sawnwood were implemented in 2015 and 2017. The SFSU has indicated that SFEs are involved in around 90 percent of these cases of illegal export.<sup>106</sup> Since 2017, unprocessed timber of all species is prohibited for export unless the length of any wood exported as fuelwood is under two meters.<sup>107</sup> On January 1st, 2019 a new law was enacted that increased the level of penalties; illegal exporters of timber can now face up to 10 years imprisonment.<sup>108</sup>

- **High-profile investigations released in 2018 and 2020 by the NGO Earthsight report illegal logging associated with FSC-certified timber in Ukraine. FSC strongly denies Earthsight's findings.**

The only certification scheme currently active in Ukraine is the Forest Stewardship Council (FSC), covering roughly 4.15 million ha of forests.<sup>109</sup> As of August 1, 2020, around 45 percent of the total area of forest lands in Ukraine were certified in accordance with FSC forest management and chain of custody certification.<sup>110</sup>

Earthsight released two reports on their investigations into illegal logging and associated trade in Ukraine, one in 2018 and another in 2020. These reports found that illegal timber harvested in Ukraine has entered FSC-certified supply chains and been sold internationally to buyers such as IKEA.

Specifically, Earthsight's series of investigations allege that FSC failed to detect significant breaches to the logging regulations across Ukraine.<sup>111</sup> Field checks of 149 sites over 18 months conducted for WWF Germany also reportedly found some illegal sanitary felling in FSC-certified forests.<sup>112</sup> Earthsight has since found, in 2020, that many SFEs have remained certified despite their top officials being the subject of ongoing investigations into serious criminal corruption.<sup>113</sup>

FSC has strongly refuted Earthsights' findings, as well as the methodology.

Following Earthsight's allegations in 2018, Assurance Services International (ASI) conducted in-depth compliance assessments and found that the allegations against the Ukrainian government, private companies, and the FSC system were "not unfounded", but ASI ultimately concluded that all FSC auditors' findings in Ukraine were in line with accreditation and certification requirements and so could not verify Earthsight's findings.<sup>114</sup> IKEA also conducted an independent audit in response to both of Earthsight's investigations but did not find any signs that illegally harvested timber had entered their supply chains.<sup>115</sup>

In addition to conducting audits, FSC has taken a number of steps to address issues raised by Earthsight and others. A new FSC forest management standard for Ukraine came into effect in March 2020 with significant improvements in FSC's ability to detect or prevent illegality and corruption in FSC-certified forests. The newly launched standard includes an indicator requiring the systematic assessment of corruption risks related to all activities by certificate holders.<sup>116</sup> The new standards also suggest that auditors *can* check court registers and media reports and write to law enforcement agencies for relevant information, but many decisions around whether potential transgressions should lead to suspension are left to the discretion of the auditor.<sup>117</sup>

In February 2019, seven Ukrainian businesses were stripped of their certificates by FSC, when it was discovered they had been selling non-certified wood as "FSC certified" by taking advantage of a weakness in the FSC Chain of Custody system.<sup>118</sup> FSC also conducted an in-depth investigation into its charcoal supply chain in Ukraine. This resulted in the suspension of 11 certificates, and termination of 9 certificates.<sup>119</sup>

The evidence and situation in Ukraine has become further politicized following the EU request of an arbitration panel with regard to Ukraine's 2005 and 2015 export bans of unprocessed timber, under the EU-Ukraine Association Agreement. In written submissions to the arbitration panel in 2020, both the government of Ukraine and the EU used Earthsight evidence in varying ways to support their claim on whether the Ukrainian export bans amounted to economic protectionism under the EU-Ukraine Association Agreement. It is ultimately up to individual companies to assess the risks when making sourcing decisions related to Ukraine.

- **Enforcement remains limited in capacity.**

The State Environmental Inspectorate of Ukraine (SEIU) is charged with ensuring compliance with Ukraine's forestry laws. However, most enforcement is carried out by the State Forest Guard which has a law enforcement status and are entitled to carry a weapon.<sup>120</sup> In practice, however, the State Forest Guard is an administrative status that applies to staff of SFRA and its enterprises at different levels. On average, it has been reported that one member of the State Forest Guard is in charge of patrolling around 1,000 ha of forest land.<sup>121</sup>

A major challenge in enforcement has been that the State Forest Guard is in charge of detecting illegal logging (wood theft) committed by private individuals or criminal groups.<sup>122</sup> Given the extent of reported illegal logging 'with papers' (violation of felling permits) that involves corruption of public sector employees and forgery, together with 'illegal' forest management, and the fact that Ukrainian law only allows for sanctions against individuals, SFEs cannot be fined for violating forest law. In 2017, 900 forest enterprises were inspected with 3,400 violations detected.<sup>123</sup> The SEIU records that the majority of these violations were committed by SFEs.<sup>124</sup> In practice, this has meant that forest inspections are superficial, with very limited penalties ever applied.<sup>125</sup>

The difficulty in detecting, reporting and resolving illegal logging cases is demonstrated by the fact that of the 2,276 cases reported for criminal investigation in 2017, court decisions were handed out only in 15 percent of the cases, which, though better than in 2016 (9 percent), still does not send a strong message for deterrence.<sup>126</sup> To a large extent, the spread of illegal logging in the southern and eastern regions of Ukraine is reportedly facilitated by the lack of budgetary funding to finance the work of state forest protection workers, which prompts them to leave their jobs and, as a result, large forest areas are left unattended.<sup>127</sup>

- **EU Member States have issued high alert warnings for illegal timber from Ukraine.**

The EU Member States, through the EU Timber Regulation (EUTR) Expert Group, have developed a common enforcement position related to timber sourced from Ukraine, publishing some specific risk assessment and mitigation guidelines which are up to date as of December 2020. This position followed expert missions to the Ukraine in 2017 and 2018 to study the problems in the Ukrainian forestry sector. The common enforcement position specifically concludes that under the EU Timber Regulation, "sourcing timber and wood based products from Ukraine is connected with high risk of sourcing products being in breach with applicable legislation in the country". Specifically, the EU concluded that "neither official documents including certificates of origin nor the electronic timber tracking system relying on them will alone be sufficient to minimise risk of sourcing timber in contravention of the applicable legislation in Ukraine. Nor may FSC or other private third part verification schemes stand alone as risk mitigation measures to be able to reach negligible risk." Ultimately, the EU position is clear that "if it is not possible to carry out adequate risk mitigation measures or if the risk of corruption and illegality associated with timber shipments is still non-negligible despite taking the appropriate steps, operators should refrain from placing the timber and products thereof on the EU market".<sup>128</sup>

- **The political and legal context is evolving which makes the timber legality context fluid.**

Following Earthsight's report in 2018 and concerns raised by the European Commission and the EUTR Expert Group, the government of Ukraine has made some attempts to improve the situation. In 2018, Ukraine increased the fines for illegal logging, while in December 2019, a Resolution of the Cabinet of Ministers of Ukraine introduced a mandatory electronic accounting system for all forestry users in Ukraine, which reportedly allows for full monitoring. Reports indicate that 100 percent of forest management units under the direct authority of SFRA are using the Electronic Wood Accounting system.<sup>129</sup> In 2018, about 18 million cubic meters of roundwood was covered by this system.<sup>130</sup> As of 17 February 2020, the number of forest users connected to the system amounted to 503 out of total 805 forest users.<sup>131</sup>

The SFRA of Ukraine, through its State Enterprise Forestry Innovative Analytical Centre, launched a website in 2020 to improve data transparency for the timber sector. The website allows users to see:

- a. the register of certificates of origin of timber and sawn wood;
- b. the register of felling tickets;
- c. the auction portal, where timber is traded;
- d. the uniform state electronic timber accounting system.<sup>132</sup>

Since February 2020, forest enterprises with an annual net income of more than 10 million Ukrainian Hryvnia (UAH) (approx. \$340,000) have been obliged to sell all their timber through the electronic auction system. Previously, a large proportion of timber was sold by auction, but unsold lots were later sold by negotiation, often for export.<sup>133</sup> In addition, a new phone-based, crowd-sourcing system, 'Forest in the smartphone', has been recently rolled out. It allows anyone with a smartphone to verify whether timber was harvested legally by checking the felling tickets.<sup>134,135</sup> In November 2020, it was announced that the SFRA and the Security Service of Ukraine (SBU) will now formally cooperate on addressing illegal timber trafficking, illegal sawmills, sale of timber abroad, and forgery of documents for the sale and transportation of timber.<sup>136</sup> At the same time, the frequency with which regulations have changed, and the reported lack of transparency has led to bureaucratic confusion and institutional redundancy which has made forest policy and management rules difficult to follow and implement, leaving room for arbitrary decisions and corruption.<sup>137</sup>

## REPORTS & ADDITIONAL RESOURCES

Forest Trends has compiled a list of relevant reports and additional online tools to complement this country report. The full list is available at Forest Trends' IDAT homepage: <https://www.forest-trends.org/fptf-idat-home/>

### Key resources:

1. Boke, Stella, Janez Zafran, Tokač Janez, and Jeremy Wall. 2018. "EU Technical Assistance and Information Exchange (TAIEX) Expert Mission Report. Reform of Forest Governance in Ukraine." European Commission. Accessed November 20, 2020. [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eu\\_taiex\\_mission\\_report\\_january\\_2018\\_public.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eu_taiex_mission_report_january_2018_public.pdf). [Boke et al., 2018].
2. Earthsight. 2018. "Complicit in Corruption. How billion-dollar firms and EU governments are failing Ukraine's forests." Earthsight.
3. Earthsight. 2020. "Flatpäcked Förests-IKEA's illegal timber problem and the flawed green label behind it." Earthsight.
4. Austrian Traders, Sawmilling, Paper and Board Companies. *Whitepaper EUTR Implementation Ukraine V1-0*. Vienna: WKO, 2020.

## METHODOLOGY & TERMINOLOGY NOTES

<sup>a</sup> Risk scores reflect Preferred by Nature's Timber Risk Assessment which measures the risk of illegality occurring in 21 areas of law relevant to timber legality, as well as Forest Trends' national governance scores which provides an average relative governance and corruption risk score for 211 countries globally. Preferred by Nature's scores have been flipped to ensure compatibility with Forest Trends' national governance scores, where higher scores are associated with greater governance and corruption challenges. An average of both the Preferred by Nature and Forest Trends scores has been calculated for 66 countries where both are available as of 2021. For all other countries, the risk score reflects Forest Trends' national governance scores. Countries scoring less than 25 are considered "Lower-Risk," countries scoring between 25 and 50 are "Medium-Risk" and countries scoring above 50 are "Higher-Risk." It is important to note that it is possible to source illegal wood from a well-governed, "Lower-Risk" state and it is also possible to source legal wood from a "Higher-Risk" country. As such, the risk scores can only give an indication of the likely level of illegal logging in a country and ultimately speaks to the risk that corruption and poor governance undermines rule of law in the forest sector.

<sup>b</sup> Although since 2014, an open conflict has been prevalent in eastern Ukraine. There is a risk that the income from wood and wood-based products from the regions of Crimea, Luhansk and Donetsk could benefit one of the conflict parties.

<sup>c</sup> The term "forest products" is used to refer to timber products (including furniture) plus pulp and paper. It covers products classified in the Combined Nomenclature under Chapters 44, 47, 48 and furniture products under Chapter 94. While the term "forest products" is often used more broadly to cover non-timber and non-wood products such as mushrooms, botanicals, and wildlife, "forest products" is used to refer to timber products plus pulp and paper in this dashboard.

<sup>d</sup> Except where otherwise specified, all trade statistics and chart data is sourced from UN Comtrade, compiled and analyzed by Forest Trends.

<sup>e</sup> Regulated markets reflect countries and jurisdictions that have developed operational measures to restrict the import of illegal timber. As of 2021, this included the U.S., Member States of the European Union (as well as the United Kingdom, Iceland, Liechtenstein, Norway and Switzerland), Australia, Canada, Colombia, Indonesia, Japan, Malaysia, South Korea, and Vietnam. Some measures are more comprehensive in scope, implementation, and enforcement than others.

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*The Dashboards have been compiled from publicly available information sources to support risk assessments on the legality of timber products entering international supply chains. The Dashboards are for educational and informational purposes only. The Dashboards have been drafted with input from the Environmental Investigation Agency (EIA) and are subject to external peer review. The Dashboards will be updated periodically based on newly available information.*

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