



NEPCon  
LegalSource™ Standard  
*Version 2.0*

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## A Introduction

This LegalSource™ Standard ('the Standard') describes the requirements for an Organisation to establish and implement a Due Diligence System (DDS) to manage the risks of harvesting or sourcing illegal timber and timber products.

The LegalSource Standard requires Organisations to:

1. make a public commitment to producing or sourcing legal forest products, as well as develop and implement a related quality system;
2. have access to information about its production or supply of forest products, which is detailed enough to enable effective risk evaluation and mitigation in relation to producing or sourcing illegal forest products;
3. conduct risk assessments for products within the scope of their Statement of Conformance and identify areas where risk exists of illegal activities;
4. mitigate any specified risks; and,
5. monitor the efficiency of the DDS and risk mitigation actions.

Organisations that are evaluated by NEPCon as meeting the requirements of this Standard can be issued with a NEPCon LegalSource Certificate, entitling them to trade the products covered by the certification as 'LegalSource™ Certified'.

In the context of the LegalSource programme, certification refers to the evaluation and approval of a DDS, against the requirements of this Standard. The LegalSource certification shall not be considered a guarantee of legality of the materials covered by the scope, but a certification that a system is in place to implement due diligence to manage the risk of illegal forest products being produced, traded or transported.

Organisations may choose to include only some of the products they are handling within the scope of their LegalSource certified DDS, in which case LegalSource claims can be made only in relation to the products included within the scope of the evaluation.

This Standard can be used by Organisations to help them comply with legal due diligence and due care requirements, such as those established by the European Union, the United States or Australia. In such cases, the scope of the LegalSource certified DDS must include all material subject to the laws.

### Public comments

NEPCon invites interested parties to submit comments on this Standard, to the contact listed on page 2. Comments received outside of the public consultation period will be considered during the next revision of the Standard.

### Note on the use of this Standard

All aspects of this Standard are considered to be normative, including the scope, standard effective date, references, terms and definitions, requirements, notes, tables and annexes, unless otherwise stated. The *Guidance* (right hand column of the standard text) and any additional guidance to the Standard are not normative.

## B Scope

This Standard is applicable to Organisations seeking to reduce risks of producing, processing or trading forest products that have been illegally harvested or traded.

The Standard can be applied in two ways as follows:

1. To evaluate due diligence systems for forest product supply chains (including direct suppliers, sub-suppliers and forest sources).
2. To evaluate legal compliance of forest operations or forest processing industries.

The Standard contains the following sections:

- **Due Diligence System (DDS) Requirements** includes the quality management and due diligence requirements.
- **Annex 1** contains a forest legality assessment framework that can be used to assess risk, or to evaluate legal non-compliance, at the forest level.
- **Annex 2** describes requirements to evaluate risk, or to evaluate legal non-compliance, in the supply chain.

The LegalSource standard is supported by other standards applicable in certain cases, and shall be applied where necessary.

Main standard	Supporting normative standards and requirements
LegalSource Standard (LS-02)	LegalSource Certification and Claims Procedures (LS-15) NEPCon Certification System Evaluation Standard (LS-18) NEPCon Generic Chain of Custody Standard (NC-STD-01) NEPCon Generic Group and Multi-Site Standard (NC-STD-02)

The LegalSource Standard defines the types of legislation applicable to harvest and trade of forest products. This definition is intended to meet international requirements such as those adopted in the EU Timber Regulation, the US Lacey Act and the Australian Illegal Logging Prohibition Act. The following list outlines the scope of applicable legislation adopted in this Standard (see Annex 1 for details):

- 1. Legal rights to harvest**
  - 1.1 Land tenure and management rights
  - 1.2 Concession licenses
  - 1.3 Management and harvesting planning
  - 1.4 Harvesting permits
- 2. Taxes and fees**
  - 2.1 Payment of taxes, royalties and harvesting fees
  - 2.2 Value-added taxes and other sales taxes
- 3. Timber harvesting activities**
  - 3.1 Timber harvesting regulations
  - 3.2 Protected Sites and species
  - 3.3 Environmental requirements
  - 3.4 Health and safety
  - 3.5 Legal employment
- 4. Third parties' rights**
  - 4.1 Customary rights
  - 4.2 Free, Prior and Informed Consent (FPIC)
  - 4.3 Indigenous and traditional peoples' rights
- 5. Trade and transport**
  - 5.1 Classification of species, quantities and qualities
  - 5.2 Trade and transport
  - 5.2 Offshore trading and transfer pricing
  - 5.4 Customs regulations
  - 5.5 CITES

## C Standard effective date

Version 1.0 of the LegalSource Standard was approved by NEPCon on 8 February 2013, following stakeholder consultation carried out in accordance with the ISEAL Guidelines<sup>1</sup>.

This version 2.0 of the LegalSource Standard is developed based on Version 1.0 and has been approved and published as of the date on page 2.

The Standard effective date (the date when companies will be audited according to the Standard) is six months after the publication date.

The Standard will be updated periodically – and at least every five years – and will replace previous versions from the date of publishing.

## D References

- Amendments to the Lacey Act 2008 from H.R.2419, Sec. 8204 (Lacey Act)
- Commission Delegated Regulation (EU) No 363/2012 of 23.2.2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010
- Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010
- European Commission - Guidance Document for the EU Timber Regulation.  
[http://ec.europa.eu/environment/forests/timber\\_regulation.htm](http://ec.europa.eu/environment/forests/timber_regulation.htm) Commission Notice of 12.02.2016.
- FSC-STD-40-005 (V2-1) EN FSC™ Standard for Company Evaluation of FSC Controlled Wood
- Illegal Logging Prohibition Act 2012 (Australia) and associated explanatory memorandum and the Illegal Logging Prohibition Amendment Regulation 2013 and associated explanatory memorandum.
- ISEAL Credibility Principles v1.0
- ISEAL Glossary of Terms, Version 1, January 2015
- ISEAL Standard Setting Code v6 December 2014
- ISEAL Assurance Code Version 1.0
- ISO 19011:2011 Guidelines for auditing management systems
- NEPCon Due Diligence Tools: <http://www.nepcon.org/DDS>
- Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (EU Timber Regulation or EUTR)

## E Glossary

**Certification Body:** Third party Organisation that performs conformance assessment to requirements of this Standard.

**Certification Scheme:** 3<sup>rd</sup> party scheme providing assurance of conformance to a normative standard.

**Competent Authority:** The body within EU Member States responsible for the application of the EU Timber Regulation in their own jurisdiction.<sup>2</sup>

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<sup>1</sup> ISEAL Standard Setting Code v6 December 2014

<sup>2</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market ('EU Timber Regulation' or 'EUTR'), Art. 7

**Conflict timber:** Organisations such as Global Witness use the term *conflict timber* to describe the harvesting or trade of forest products used to fund parties engaged in *armed conflicts* resulting in serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law.<sup>3</sup>

**Control measure:** An action that the organisation shall take in order to mitigate the risk of sourcing material from unacceptable sources.

**Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES):**<sup>4</sup> A multilateral treaty that aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

**Corruption Perceptions Index (CPI):** A global index of the perceived level of corruption in individual countries. The index has been developed by Transparency International.<sup>5</sup>

**Due diligence:** In the context of this Standard, due diligence is considered to define the actions taken by Organisations to reduce the risk of sourcing illegally harvested wood and wood-based material. A general definition of the term is “the care that a reasonable person exercises to avoid harm to other persons or their property”.<sup>6</sup>

**Due Diligence System (DDS):** A set of steps or actions taken to ensure that due diligence is exercised. The due diligence system may consist of written guidelines and procedures that describe the due diligence process in detail.

**Forest Management Enterprise (FME):** An Organisation or other single legal entity engaged in forest management. The forest management enterprise may be responsible for forest management over one or more forest management units.<sup>7</sup>

**Forest Management Unit (FMU):** A clearly defined forest area with mapped boundaries, managed by a single managerial body, to a set of explicit objectives that are expressed in a self-contained multi-year management plan.<sup>8</sup>

**Forest products:** Any forest product or material that an Organisation handles. This includes round wood, lumber, processed wood-based intermediate and final products, pulp, paper, non-timber forest products, etc.

**Global Forest Registry:** An online tool with information on the risk status for individual countries related to the five FSC Controlled Wood categories.<sup>9</sup>

**Low risk:** A conclusion, following a risk assessment, that there is negligible or insignificant risk that illegal material is sourced or traded in a supply chain. Risk mitigation actions are not required for forest products with low risk designation. Low risk equates to “negligible risk” as defined in the EUTR.<sup>10</sup> The EUTR *Guidance Document* states that “negligible risk should be understood to apply to a supply when, following full assessment of both the product-specific and the general information no cause for concern can be discerned.”<sup>11</sup>

**Negligible risk:** See *low risk*.

**Non-conformance:** Any failure to meet the threshold requirement(s) of a requirement.

**Organisation:** Individual, company or legal entity responsible for meeting the requirements of this Standard. In the case of group or multi-Site evaluation, one certificate is issued to several entities that operate under the administration and control of a Central Office.

**Origin:** The geographic source of forest materials, which at a minimum must specify the country of harvest, and where applicable, sub-national region or forest where the timber was harvested.

<sup>3</sup> Alexandra Pardal, Campaign Leader, Global Witness. ‘Conflict timber and the EU’s FLEGT programme: the case of Central African Republic.’ (Presentation given at EU FLEGT week conference, Brussels 18 March 2015)

<sup>4</sup> <http://www.cites.org/Sites/default/files/eng/disc/CITES-Convention-EN.pdf>

<sup>5</sup> <http://www.transparency.org/country>

<sup>6</sup> Definition from Merriam Webster. <http://www.merriam-webster.com/dictionary/due%20diligence>

<sup>7</sup> Definition adopted from *FSC-STD-01-002 FSC Glossary of Terms*

<sup>8</sup> Definition adopted from *FSC-STD-01-002 FSC Glossary of Terms*

<sup>9</sup> <http://www.globalforestregistry.org>

<sup>10</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (‘EU Timber Regulation’ or ‘EUTR’), Art. 6(1)(c).

<sup>11</sup> European Commission, *Guidance Document for the EU Timber Regulation* (September 2013) <<http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>>, p 5.

**Post-consumer reclaimed material:** Material that is reclaimed from a consumer or commercial product that has been used for its intended purpose by individuals, households or by commercial, industrial and institutional facilities in their role as end-users of the product, and would otherwise have been discarded as waste. This definition therefore excludes material that is reclaimed from a process of secondary manufacture or further downstream industry, in which the material has not been intentionally produced, is unfit for end-use and may or may not be capable of being re-used on-Site in the same manufacturing process that generated it.

**Publicly available information:** Information that has been published or broadcast for public consumption, is available on request to the public, is accessible on-line or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer, is made available at a meeting open to the public, or is obtained by visiting a place or attending an event that is open to the public.

**Records:** Written or stored information. Records may mean copies of documents, or information stored digitally with information on systems and data collected, that can be used to show compliance with standard requirements.

**Species:** A group of living organisms consisting of similar individuals capable of exchanging genes or interbreeding. The species is the principal natural taxonomic unit, ranking below a genus. The common and (where applicable) full scientific name is required for all species included within the scope of the DDS.

**Specified risk:** A conclusion, following a risk assessment, that there is risk that illegal forest products may be sourced or enter the supply chain. Risk mitigation is required. Specified risk equates to the scenario provided in Article 6(1)(c) of the EU Regulation "except where the risk identified in course of the risk assessment procedures [...] is negligible ...".

**Substantiated complaint:** A grievance or objection raised against an Organisation in regards to its LegalSource Certification, due diligence system or timber legality risk, which is accompanied by or is found to be established by proof or competent, verifiable, evidence.

**Sub-supplier:** Any entities further up the supply chain that are supplying material to the suppliers or other sub-suppliers.

**Supplier:** The entity that supplies material to the certified Organisation.

**Supply chain:** The route of forest products and entities that take legal ownership of the forest products from the forest – where the material is harvested – to the Organisation that takes final ownership of the material.

## F Acronyms

<b>AILPA</b>	Australia Illegal Logging Prohibition Act
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>CoC</b>	Chain of Custody
<b>CPI</b>	Corruption Perceptions Index
<b>DDS</b>	Due Diligence System
<b>EU</b>	European Union
<b>EUTR</b>	EU Timber Regulation
<b>FME</b>	Forest Management Enterprise
<b>FMU</b>	Forest Management Unit
<b>FSC™</b>	Forest Stewardship Council™
<b>PEFC</b>	Programme for the Endorsement of Forest Certification Schemes

# Due Diligence System (DDS) Requirements

## Normative Requirements:

## Guidance:

### 1. Legal sourcing commitment

- 1.1 The Organisation shall have a policy stating its commitment to producing and/or sourcing responsibly, by avoiding the use of forest products that have been harvested, traded or processed in violation of applicable national legislation and ratified international treaties.

The policy shall be:

- 1.1.1 written;
  - 1.1.2 publicly available; and,
  - 1.1.3 endorsed at the executive level.
- 1.2 The Organisation shall ensure the policy is implemented.

The interpretation of “publicly available” depends on the size and set-up of the Organisation. Smaller Organisations that do not have a web site, at a minimum, should readily provide the policy upon request. If an Organisation has a web site, the commitment should be available on that web site.

Executive level refers to the highest level of authority in the Organisation. This provides assurance that the commitment is representative of the whole Organisation.

The LegalSource Standard requirements apply only to material that the Organisation has included in the scope of its DDS.

### 2. Responsibilities and competence

- 2.1 The Organisation shall appoint a person or position as having overall responsibility for conformance with all applicable requirements of this Standard.

- 2.2 The appointed person/position shall have sufficient authority and resources to ensure that requirements are met.

- 2.3 The Organisation shall designate individual responsibilities for all applicable elements of this Standard.

- 2.4 All relevant staff shall demonstrate awareness of, and competence in implementing, the Organisation’s procedures relevant to fulfilling this Standard.

This requirement does not relate to the legal responsibility or liability of that person for compliance with the EUTR, Lacey Act, Australian Illegal Logging Prohibition Act (AILPA) or other legality regulations. It relates only to the ability of the appointed position to be able to efficiently ensure conformance to the due diligence requirements.

Where relevant, responsibilities can be designated to specific positions with different tasks related to implementation.

### 3. Documented procedures

- 3.1 The Organisation shall have written procedures covering all applicable elements of this Standard.
- 3.2 The Organisation shall ensure that records demonstrating conformance with this Standard are maintained and available to auditors.

- 3.3 All relevant records shall be retained for a minimum of five (5) years.

## 4. Quality control and performance monitoring

- 4.1 The Organisation shall review its due diligence system at a minimum annually, in order to address any weaknesses.

**NOTE:** Internal monitoring shall cover internal entities and group members/sites (where applicable), as well as for any suppliers and sub-suppliers.

- 4.1.1 All non-conformances and corrective actions identified shall be documented.
- 4.1.2 Organisation shall ensure that all non-conformances are addressed and corrected in a timely manner.
- 4.1.3 Organisation shall make all reports of monitoring available to the Certification Body.

- 4.2 The Organisation shall discontinue relationships with suppliers in cases of major or continuous violations of the requirements of this Standard, including:

- 4.2.1 excluding supply and/or suppliers from its sourcing or production where significant and/or continuous non-compliance is identified; and,
- 4.2.2 ensuring that material is not sourced from the supply chain or area in question until risks have been mitigated.

- 4.3 The Organisation shall have and implement a complaints procedure to address substantiated complaints related to the production or sourcing of material, including:

- 4.3.1 assessment of evidence provided in the complaint within two (2) weeks of its receipt;
- 4.3.2 in cases where evidence is considered relevant, implementation of appropriate corrective actions; and,
- 4.3.3 maintenance of records of all complaints received and actions taken.

Internal monitoring is important for the Organisation-wide implementation of DDS. It should be underlined that evaluation of the DDS should be carried out as needed to secure risk management.

**NOTE:** An Organisation's internal monitoring is a separate process from any third-party evaluation.

The complexity and scope of internal monitoring should correspond to the size and complexity of the Organisation and supply chains.

Non-conformances can be identified by the Organisation itself, during internal monitoring, or may be those identified by the Certification Body during audits. In any case the Organisation should ensure a process to take relevant corrective measures and address root cause issues.

There are no universal thresholds determining when the evidence or risk of legal violations is significant enough to warrant discontinuing a relationship. However, if the Organisation discovers that legal violations are not immediately and properly addressed, it shall suspend or discontinue purchasing from that supplier.

A substantiated complaint is a complaint brought to the attention of the Organisation or the certifier that is accompanied by verifiable evidence.

- 4.4 Where the Organisation identifies that products have been placed on the market and/or sold prior to risk being mitigated, the Organisation shall:
- 4.4.1 immediately cease to sell any remaining products held in stock;
  - 4.4.2 identify all relevant buyers, and advise those customers in writing within three (3) business days and maintain records of that advice;
  - 4.4.3 analyse causes and implement measures to prevent re-occurrence;
  - 4.4.4 notify the Certification Body; and,
  - 4.4.5 mitigate the causes and allow the Certification Body to evaluate actions taken.

It is important that procedures are in place and implemented in case products with specified risk are placed on the market.

## 5. Scope of the Due Diligence System (DDS)

- 5.1 The Organisation shall define and document the products within the scope of its DDS, in terms of:
- origin;
  - species;
  - supply chains; and,
  - dates of entry to and exit from the scope for each product.
- 5.2 The Organisation shall ensure that materials included within the scope of the DDS are not mixed with materials that are excluded from the scope of the DDS.

Defining the scope of the DDS is necessary to gain an overview of the products, material, suppliers and sources that are included in the evaluation. The LegalSource Standard will be applied only to material that is included in the evaluation scope. The Organisation may choose to include only some of the material it handles in the scope; however additional requirements will then apply. LegalSource claims can be made only about material covered by the scope of certification. It should be clear to both the Organisation and the Certification Body what material is within scope and what material is not.

For manufacturers/processors, this includes segregation of both input materials and products sold, as well as maintenance of production records to enable traceability of input materials within the scope of the DDS, throughout the manufacturing process.

## 6. Access to information

- 6.1 The Organisation shall have and maintain the following information about products included within the scope of its DDS:
- 6.1.1 the type of product;
  - 6.1.2 the common and scientific name of tree species
  - 6.1.3 quantity of material produced or purchased and sold;

Means a description that indicates the nature of the product.

The species of trees included in the material/product shall be unambiguously identified. This may be by trade name where only one species is covered by that trade name. Where a trade name may cover several different species (e.g. Oak), the species name needs to be identified using

- 6.1.4 the country of origin and, where necessary, the sub-national region of harvest or the concession of harvest;
- 6.1.5 name and location of origin or supplier from where the Organisation has sourced material;
- 6.1.6 name and address of buyers to which the Organisation has supplied products; and,
- 6.1.7 the certification/verification status of the material.
- the scientific genus and/or species names; e.g. European beech is of the genus *Fagus* and the species *sylvatica* – *Fagus sylvatica*.
- Quantity may be expressed in different units depending on the type of material. For example, weight, volume, pieces, etc.
- If the risk assessment warrants it, for example, where risk may differ across different geographical regions within a country, the sub-national or concession level details should also be documented (see 6.2).
- The supplier here means only the direct supplier. In cases where the risk assessment indicates elevated levels of risk, the level of detail needed about the supply chain will increase.
- If the buyer is a private customer buying materials from a retailer, the retailer is not required to record the name and address of the buyer.
- Although certification or legality verification does not automatically demonstrate proof of legality, it can play a very significant role in indicating legal harvest of materials.
- 6.2 The Organisation shall have access to information about the products to a level that allows it to:
- 6.2.1 conclude that input materials originate from forest sources or supply chains with low risk of legal violations or that potential risks have already been mitigated; OR
- 6.2.2 effectively identify, specify and mitigate risks of producing or receiving illegally harvested, traded or transported material.
- Information about the forest of harvest and supply chain of the product should be detailed enough either to (a) allow an objective and justifiable conclusion of low risk to be made, or (b) identify risks and implement meaningful risk mitigation actions. There is no universal threshold for the level of detail required; rather, the level of detail should be based on an individual evaluation of each supply chain.
- The information requirements increase with risk because meaningful risk mitigation measures can be taken only if the full supply chain and origin are known.
- In this instance documentation and information should be detailed and verifiable to a level that allows an objective conclusion about risk. This may be documented evidence that material originates from an area with verified low risk rating or an area with no or very limited indications of illegal harvesting.
- Where a low risk conclusion cannot be made, information and documentation should be collected and analysed in order to provide a clear picture of the risks present for the specific supply chain.
- Changes to supply chains or the origin of material may change the risk profile of the

6.3 The Organisation shall ensure that all information listed under requirement 6.1 of this standard is kept up to date.

6.3.1 The Organisation shall ensure that suppliers notify the Organisation of changes to supply chains prior to these changes being made.

6.4 The Organisation shall ensure access to information about the origin and supply chain of materials, by:

6.4.1 informing suppliers about its publicly available policy (see 1.1) and relevant elements of this Standard, and, where relevant, request that suppliers provide the information to their sub-suppliers through the supply chain;

6.4.2 where applicable, acquire consent from suppliers to allow the Organisation and/or external auditors to conduct audits for the purpose of verifying compliance with this Standard; and

6.4.3 where relevant, identify a representative of each supplier who will be responsible for compliance with applicable elements of this Standard.

product. Therefore, the Organisation should take proactive steps to ensure that they always have up to date information about the origin or supply chains before such changes are implemented.

It is suggested that requirements are made formally (e.g. via purchase orders or contracts) between buyer and seller that the seller provides this information as required.

It is important to note that this requirement is not relevant in cases where low risk is concluded. It is not necessary to inform all suppliers about due diligence system or require consent for auditing if there are no potential risks to mitigate.

It may not be possible for the Organisation to communicate and work directly with all entities in its supply chain. To manage this, it is acceptable for the Organisation to communicate clearly and have agreements in place with its direct suppliers, who in turn commit to communicating clearly with their suppliers, and so forth. This is normally stated in a signed, legally enforceable agreement between the Organisation and its supplier.

Even if no supplier audits are planned, the need to take risk mitigation actions may change over time. Examples include if sub-suppliers or sourcing regions change. It is therefore advisable to always have this requirement included in the agreement with all direct suppliers, except for suppliers that can be confirmed to only provide supply from sources covered by a certification scheme that has been evaluated to meet all requirements of this Standard.

## 7. Risk assessment

7.1 The Organisation shall not source nor produce wood from countries with sanctions imposed on timber imports or exports by the UN Security Council or the EU Council.

Trade with countries with UN Security Council or EU Council sanctions on timber exports is considered to be a violation of international treaties and therefore considered a threat to international peace and security.

7.2 The Organisation shall not source nor produce wood from countries or sub-national regions with prevalence of armed conflicts for which conflict timber may be a risk.

The purpose of excluding timber from countries with armed conflict is to avoid 'conflict timber'. Conflict timber may originate from whole countries, or sub-national regions of a country. It may be

- 7.3 The Organisation shall assess and specify the level of risk of illegal forest products being produced or entering the supply chain, including the following issues:

**NOTE:** The Organisation shall ensure that risk assessment is conducted for all the Organisations own entities as well as all supply chains within the scope of the DDS.

- 7.3.1 risk of legal violations related to forest harvesting activities;

**NOTE:** Use Annex 1 to specify risks where applicable.

- 7.3.2 risk of legal violations in relation to trade and transport of the products; and

**NOTE:** Use Annex 2 to specify risks where applicable.

- 7.3.3 risk that the material is mixed with material of illegal or unknown origin somewhere during transport, processing or storage.

- 7.4 The Organisation shall assess relevant forest source or supply chain information to ensure that:

- 7.4.1 information is relevant to indicate legality and ensure compliance with this standard;

possible that certain areas of a country contain risk of timber be used to fund armed conflict, and others not.

The risk assessment process will in many cases take place through an iterative process where each iteration provides added layers of detail, until a firm conclusion can be reached. The process may start by identifying the general level of risk from a sourcing country or area (using generally available information such as the CPI, or information about illegal harvesting). The next step may be to further specify risks using more detailed information such as is available in the Global Forest Registry, as well as applying the risk assessment more specifically to individual supply chains and species.

The country of origin is normally the first general level of the risk assessment that can be used to identify where further risk specification should be carried out.

**NOTE:** Detailed risk evaluations exist for some countries within the FSC Controlled Wood framework. The results are available on the Global Forest Registry ([www.globalforestregistry.org](http://www.globalforestregistry.org)) and NEPCon's webpage [www.nepcon.org](http://www.nepcon.org).

Even if material is from legally harvested forests, there may be illegal activities in the supply chain relating to its trade, transport or processing.

The types of material being handled and the risk of mixing shall be evaluated throughout the supply chain, in order to assess the risk that material of unknown or illegal origin is mixed into the supply chain.

Where risks are specified relating to the species or origins of the material, DNA, Isotopic or fibre analysis may be applied to support verification of information

To access the NEPCon due diligence guidelines, please visit [www.nepcon.org/DDS](http://www.nepcon.org/DDS)

The use of documents and other information is a key part of the risk assessment. However, it is key that the information contained in such documents are related to the products or material and can be validated.

Information should be accessible at relevant levels in the supply chain and cover relevant needs for information and documentation. It is not the intention that

<p>7.4.2 information is valid and verifiable; and,</p>	<p>documents shall be collected without a specific relevance to ensuring due diligence.</p>
<p>7.4.3 information can be related to the relevant product or supply chain.</p>	<p>Organisation should verify that information is valid (not falsified or outdated). This may include to evaluate the validity of different types of documents and the information they contain.</p>
<p>7.5 Where an Organisation uses third-party certification systems, it shall ensure that the system provides assurance of low risk of illegal harvest, trade and transport and mixing (see requirement 7.3).</p>	<p>A key aspect of information management is to ensure that information (and documents) from the supply chain or the forest area can be related to the actual products or supply chains in question. There should be evidence that information and documents are linked to the products.</p>
<p>7.5.1 The Organisation shall make a record of the evaluation of the certification system.</p>	<p>It is required that the Organisation evaluates the certification or verification scheme that is used, with regards to its ability to cover relevant legal requirements, as well as the system's ability to providing an appropriate level of supply chain control and quality assurance. Where significant gaps in the certification system have been identified these should be mitigated.</p>
<p>7.5.2 Any gaps or risks identified in the evaluation of the certification system shall be mitigated (refer to section 8).</p>	<p>NEPCon has developed a framework for evaluating certification systems (LS-18 LegalSource Certification System Evaluation Framework) that can be used for this activity.</p>
<p>7.6 Where a certification system is used, following an Organisation's conclusion that it fulfils the requirements as per 7.5, the Organisation shall also:</p>	<p>Certification cannot automatically be considered proof that the material is low risk. The scope, validity, and integrity of certification claims have to be evaluated to assure that the specific system can effectively ensure that all applicable legislation has been met or that the risk of violation of applicable legislation is low. It is also important to ensure that the material received is in fact covered by the certification system.</p>
<p>7.6.1 confirm that all information required by the specific system has been gathered for each certified product; and</p>	<p>Certification scope and validity may be verified by checking against the relevant databases, such as <a href="http://info.fsc.org">info.fsc.org</a> and <a href="http://www.pefc.org">www.pefc.org</a>.</p>
<p>7.6.2 ensure the information related to the certification claim is valid and accurate.</p>	<p>The description of risk needs to be justified and described using clear arguments for the findings.</p>
<p>7.7 The Organisation shall document the risk assessment process and provide justification for the degree of risk specified for each individual origin or supply chain.</p>	<p>For low risk sources, Organisations are not required to undertake any risk mitigation measures and the material can be considered to be in conformance with the LegalSource Standard.</p>
<p>7.8 The risk assessment shall determine the level of risk as either <i>low risk</i> or <i>specified risk</i>.</p>	

- 7.9 The risk assessments shall be reviewed at least annually and revised whenever changes occur that alter the risk characteristics.

Where risks cannot be classified as low, they shall be concluded as specified risk. The specification of risk shall be carried out in a way that allows the Organisation to effectively mitigate those risks (according to requirements in Section 8).

Organisations using this Standard to demonstrate compliance with the EUTR should be aware that *low risk* equates to *negligible risk*.

This also relates to requirement 6.3, which requires suppliers Organisation to ensure that suppliers notify the Organisation when there are changes in the supply chain. In these instances, the Organisation should review its risk assessment and verify that the existing risk findings are still justified or change if necessary.

## 8. Risk mitigation

- 8.1 The Organisation shall develop and implement efficient and justified measures for mitigating any specified risks for any of the categories in 7.3.1, 7.3.2 or 7.3.3 and shall take the following actions, where applicable:
- 8.1.1 For specified risk of legal violations related to forest harvesting activities in the country or area of harvest, the Organisation shall ensure compliance with the relevant requirements in Annex 1.
  - 8.1.2 For specified risk of legal violations in relation to transport and trade of the products, including declaration and classification of the material for Customs, the Organisation shall ensure compliance with relevant requirements of Annex 2.
  - 8.1.3 For specified risk of the material being mixed or substituted with other material of illegal or unknown origin somewhere during transport, processing or storage, the Organisation shall ensure appropriate controls.
- 8.2 The Organisation shall document and justify the effectiveness of risk mitigation measures.

Risk mitigation shall address specified risks. The more detailed the risk assessment is, the easier it will be to identify appropriate risk mitigation measures.

Specified risks at forest level will often require on-Site verification and possibly changes to the management of the forest, where issues pertaining to legality are identified during the on-Site verification.

Legal violations may relate to the legal trade, transport of processing of material, and may require changes in these operations to ensure legal compliance.

For this requirement, the Organisation may use the NEPCon Generic Chain of Custody standard to assure that control procedure is implemented correctly.

Fibre testing, DNA and isotope testing to identify species and origin should be considered as potential tools to verify material claims, and can thus be used to mitigate this type of risk.

When risk mitigation measures have been implemented, the Organisation shall be able to evaluate their effectiveness and describe how these measures have mitigated the specified risks.

8.3 The Organisation shall not produce, process, trade or transport forest products under the scope of its due diligence system if:

8.3.1 the origin is unknown; or

8.3.2 a conclusion of specified risk of illegal harvesting or trade has been made and for which insufficient risk mitigation action has been applied.

This requirement aims at ensuring that material with unknown origin or material with high risk of illegal harvesting or trade is not being used by the Organisation without appropriate risk mitigation. Materials with specified risk of illegal trade or harvest may only be included in the DDS scope once the risks have been effectively mitigated.

## 9. LegalSource Certification claims

9.1 For products that are covered by the scope of the LegalSource certification, the Organisation may make a product-related certification claim on sales and transport documents.

Allows business-to-business communications about the certified nature of material via accompanying documentation.

9.2 When making a LegalSource claim, the Organisation shall include its LegalSource certification number on the related sales documentation.

In order to assure that the receiver of materials will have a clear indication of the status of the claims, the certification number of the Organisation shall be printed on related sales documentation, such as invoices, delivery notes and packing lists.

9.3 The Organisation shall not make on-product LegalSource claims or labels.

No information about the certified status should be placed on the material itself at any time, except for the sole purpose of segregating the certified material from non-certified to avoid mixing.

9.4 The Organisation may make general promotional claims about its LegalSource conformance status.

9.5 The Organisation shall only make promotional claims that are accompanied by a clear description of the scope of its LegalSource DDS.

A scope description is only required if the Organisation has not included all products in the scope of its LegalSource certification.

9.6 The Organisation shall submit all claims related to the LegalSource program to the Certification Body for review and approval prior to use.

## Annex 1: Forest Legality Assessment Framework for forest management and timber harvesting

The forest legality assessment framework found below contains a list of legal categories that cover relevant types of applicable legislation related to timber harvesting and forest management. The framework is generic and shall be adapted to the actual legislation in place. In case there are no legal requirements for a category, it shall not be applicable. The framework can be used as a tool to evaluate the risk that timber has been illegally harvested, as well as to evaluate legal compliance of timber harvesting and forest management operations.

The forest legality assessment framework table can therefore be used in three distinct ways:

1. **Risk Assessment of legal harvesting:** To assess and specify the risk that timber **harvesting** activities are conducted in accordance with applicable legislation within a country, region or specified geographical area. The risk assessment approach is applicable to organisations that source forest products and implement a DDS to manage the risk of sourcing forest products that have been illegally harvested, traded or transported. The methodology for conducting a forest legality assessment is described within the NEPCon DDS tools (DD-09 and DD-10), which can be downloaded from the NEPCon website: <http://www.nepcon.org/DDS>.
2. **Compliance Assessment of timber harvest and trade:** To assess **legal compliance of specific harvest activities** related to the supply of timber into a specified supply chain against defined legal categories. This approach to legality verification may be used when an evaluation of specific harvest activities is needed to assure legal compliance for specific supplies of timber. In these circumstances, the results of the risk assessment can be applied and focus given to those sub-categories of the framework that have been assessed as Specified Risk.
3. **Compliance Assessment of Forest Management Enterprise:** To assess actual **legal compliance of a forest management operation**, not limited to harvesting activities. This approach to legality verification shall be used when forest managers seek certification of their conformance against the legal categories included in the table below to obtain a FME-level LegalSource certification. In these circumstances, the results of the risk assessment may also be applied and focus given to those sub-categories of the framework that have been assessed as Specified Risk.

For some countries, the risk assessment has already been undertaken within the FSC Controlled Wood process and published on the Global Forest Registry ([www.globalforestregistry.org](http://www.globalforestregistry.org)).

Legality categories and sub-categories	Verifiers	Guidance
1. Legal rights to harvest	<b>General requirement:</b> The legal status of the FME shall be clearly defined and its boundaries delineated. The legal right to operate has been legally obtained and includes legal right to operate and to harvest timber from within the defined FMU.	
1.1 Land tenure and management rights	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• The Land registry shall confirm ownership and validity of property deed.</li> <li>• Tax authorities shall confirm valid tax registration.</li> <li>• The business register shall confirm valid business licenses to operate within the jurisdiction.</li> <li>• In areas with land ownership conflicts, consultation with neighbours, local</li> </ul>	<p>The focus of this category is relevant legislation covering land tenure rights, as well as management rights that include the use of legal methods to obtain tenure rights and management rights. The legislation also covers legal business registration and tax registration, including relevant legally required licenses.</p> <p>Risk may be encountered where land tenure or management rights have not been issued according to prevailing regulations, or the process of issuing land tenure and management rights has involved corruption.</p>

	<p>communities and others shall confirm that land tenure rights are clear.</p> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that registration of FME has been granted following legally prescribed processes.</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 FMUs.</li> <li>• Inspections of harvesting Sites shall confirm that harvesting takes place within property limits (including felling, transport and log landings).</li> </ul>	<p>The intent of this sub-category is to assure that any land tenure and management rights have been issued according to the legislation.</p>
<p>1.2 Concession licenses</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• A valid concession license agreement shall exist.</li> <li>• Evidence that proper legal procedures shall be followed to obtain concession licenses.</li> <li>• The process of obtaining concessions shall follow an open and transparent process based on clear criteria and be confined to eligible Organisations.</li> <li>• Independent stakeholder consultation shall confirm that legal procedures have been followed to obtain concession licenses.</li> </ul>	<p>The focus of this category is legislation regulating procedures for issuing concession licenses, including use of legal methods to obtain concession licenses.</p> <p>Bribery, corruption and nepotism are well-known issues associated with concession licenses.</p> <p>The intent of this sub-category is to avoid situations where Organisations are obtaining concession licenses via illegal means such as bribery, or where Organisations or entities that are not eligible to hold such rights do so via illegal means.</p> <p>When evaluating the risk in this sub-category, identify situations where due process has not been followed. In those instances, the concession rights can be considered as issued on an illegal basis.</p> <p>The level of corruption in the country, or sub-national region of harvest, is considered to be a significant factor when considering the likelihood of a concession license being illegally issued. Therefore, corruption indicators (CPI) should be considered when evaluating risks.</p>
<p>1.3 Management and harvesting planning</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Approved forest management plans shall exist for the FMU where the harvesting is taking place.</li> <li>• Forest management plans shall contain all legally required information and procedures.</li> <li>• Annual operating or harvesting plans shall be in place and approved by legally competent authorities.</li> <li>• Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.</li> </ul>	<p>The focus here is any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by Competent Authorities (taking into consideration the risk of corruption).</p> <p>The key risk factor is a poor-quality management plan resulting in overharvesting or environmental damage.</p> <p>The risk that the required management planning documents are not in place or not approved by competent authorities should also be considered.</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>• If legally required, plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement.</li> <li>• If legally required, harvesting restrictions shall be identified in management plans and maps.</li> <li>• Harvesting inventories shall be conducted according to legal requirements.</li> <li>• Field verifications shall indicate that the requirements described in the management/harvesting plans are adhered to in the field.</li> <li>• Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process.</li> <li>• The contents of the management plan shall be technically sound and consistent in meeting legal requirements.</li> </ul>	
<p>1.4 Harvesting permits</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Harvesting permits (license or similar legal document governing the harvesting of forest resources) shall exist.</li> <li>• Harvesting limits shall be clearly defined based on maps and quantities.</li> <li>• Authorities shall confirm the validity of the harvesting permit.</li> <li>• Stakeholder consultation shall confirm that the harvesting permit has been issued – according to the relevant laws and regulations – by the legally designated Competent Authority.</li> <li>• Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.</li> <li>• Field inspection shall confirm that information regarding area, species, volumes and other details provided in the harvesting permit are correct and within limits prescribed in the legislation.</li> <li>• Field inspection shall confirm that all harvesting restrictions given in the harvesting permit are observed such as buffer zones, protected trees, placement of logging trails, etc.</li> </ul>	<p>The focus of this category is legislation regulating the issuing of harvesting permits, licenses or other legal documents required for specific harvesting operations, including the use of legal methods to obtain the permit.</p> <p>The intent of this sub-category is to avoid situations where harvesting permits have not been issued, were obtained via illegal means such as bribery, or were issued for areas or species not eligible for harvesting.</p> <p>Bribery is a well-known issue in some jurisdictions in connection with the issuing of harvesting permits. Bribery can be used to obtain harvesting permits for areas and species that should not be harvested according to the legislation (e.g. protected areas, areas that do not fulfil requirements of minimum age or diameter, species that cannot be harvested etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators (CPI) should therefore be considered when evaluating risks.</p>
<p><b>2. Taxes and fees</b></p>	<p><b>General requirement:</b> The FME shall fulfil requirements in relation to all obligatory taxes, fees and/or royalty payments associated with maintaining the legal right to harvest and permitted harvesting volumes.</p>	
<p>2.1 Payment of taxes, royalties and harvesting fees</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Evidence shall exist for payments of harvesting-related royalties, taxes, harvesting fees, area taxes and other charges.</li> <li>• Volumes, species and qualities given in sales and transport documents shall match the fees and royalties paid.</li> </ul>	<p>Consideration should be given to legislation covering payment of all legally required forest harvesting-specific fees such as royalties, stumpage fees and other volume-based fees; as well as payments of the fees based on correct classification of quantities, qualities and species.</p> <p>Other taxes related to the maintenance of the legal rights to harvest and manage the forest</p>

	<ul style="list-style-type: none"> <li>• Organisation shall be current with all applicable taxes and fees related to the maintenance of the right to harvest/manage the forest.</li> <li>• Authorities shall confirm that the operation has paid all applicable fees.</li> </ul>	<p>should also be considered (e.g. area-based taxes).</p> <p>Incorrect classification of forest products is a well-known issue, often combined with bribery of officials in charge of controlling the classification.</p>
2.2 Value-added taxes and other sales taxes	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Sales documents shall include applicable sales taxes.</li> <li>• Evidence for payment of sales taxes shall exist.</li> <li>• Volumes, species and qualities given in sales and transport documents shall match the fees paid.</li> <li>• Sales prices shall be in line with market prices.</li> <li>• Harvested species, volume and qualities shall match the sales documents.</li> <li>• Authorities shall confirm that the operation is up-to-date in payment of applicable sales taxes.</li> </ul>	<p>This relates to legislation covering different types of sales taxes that apply to the material being sold, including selling material as growing forest (standing stock sales).</p> <p>Tax avoidance can occur by selling products without official sales documents or selling products far below the market price combined with unofficial payments.</p>
<b>3. Timber harvesting activities</b>	<p><b>General requirement:</b> The FME shall operate in conformance with legal requirements relating to the harvesting and in-forest processing of forest products. Management plans and annual operating plans – as required by law – shall exist, contain accurate information and be adequately implemented.</p>	
3.1 Timber harvesting regulations	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Harvesting shall be conducted within the authorised boundaries of the FMU.</li> <li>• Harvesting shall not take place in areas where harvesting is legally prohibited.</li> <li>• Tree species or selected trees found within the FMU of which felling is prohibited shall be listed in operational plans.</li> <li>• Harvesting restrictions shall be observed in the field.</li> <li>• Tree species or selected trees found within the FMU for which felling is prohibited shall be protected from harvest or damage.</li> <li>• Volumes harvested shall comply with legally approved levels.</li> </ul> <p><b>Forest management verifiers (relevant only to evaluation of FMEs)</b></p> <ul style="list-style-type: none"> <li>• Forest management activities shall be conducted in accordance with approved plans and legislation.</li> </ul>	<p>This section covers legal requirements for harvesting techniques and technology, including selective cutting, shelter wood regeneration, reduced impact logging, clear felling, transport of timber from felling Sites and seasonal limitations, etc.</p> <p>Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.</p> <p>Identifying trees in the field may include tree marking of trees not allowed for harvesting, or only marking of protected species/trees.</p> <p>Related to forest management (relevant only for forest management compliance evaluation) this criterion covers legal requirements for forest management, in addition to issues directly related to harvesting.</p>
3.2 Protected Sites and species	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• If required by the legislation, all legally protected areas (including species habitats) shall be included in the management plan or related documentation.</li> <li>• Legally established procedures for surveying, managing and protecting</li> </ul>	<p>This category covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats.</p> <p>Note that protected areas may include nature reserves as well as protected cultural sites, including sites with historical monuments</p>

	<p>endangered or threatened species within the management unit shall be followed.</p> <ul style="list-style-type: none"> <li>Regulations relating to protected areas, set-aside areas, protected species and hunting shall be observed.</li> </ul>	<p>The intent of this category is to avoid the risk of harvesting within protected Sites or areas as well as illegal harvest of protected species.</p> <p>For FMUs this issue shall relate to all forest management activities.</p>
<p>3.3 Environmental requirements</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>If legally required, Environmental and/or Social Impact Assessments shall be in place and approved by the legally Competent Authority.</li> <li>Requirements for environmental monitoring shall be observed.</li> <li>Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, slope gradient limitations, retained trees, seasonal restrictions, etc.</li> </ul> <p><b>Forest management verifiers (relevant only to evaluation of FMEs)</b></p> <ul style="list-style-type: none"> <li>Environmental requirements related to forest management and plantation establishment such as legal requirements for road construction, management of watercourses, use of fire, use of chemicals, fuel use and storage, limitations of conversion etc. shall be adhered to.</li> </ul>	<p>This requirement covers legislation related to environmental impact assessment in connection with harvesting or forest management, acceptable levels of damage or disturbance of soil resources, establishment of buffer zones (e.g. along watercourses, open areas, breeding Sites), maintenance of retained trees on felling Sites, seasonal limitations on harvesting, and environmental requirements for forest machinery.</p> <p>Risks in this category should be identified where systematic and/or large-scale non-compliance with legally required environmental protection measures are evident to an extent that threatens the forest resources or other environmental values.</p>
<p>3.4 Health and safety</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>Occupational health and safety requirements shall be observed by all personnel involved in forest management/harvesting activities.</li> <li>Interviews with staff and contractors shall confirm that legally required protective equipment is required/provided by the Organisation.</li> <li>Evidence of legally required training and certifications</li> </ul>	<p>The focus of this category is legally required personal protective equipment for persons involved in harvesting (or forest management) activities, use of safe felling and transport practices, establishment of protection zones around harvesting Sites, safety requirements relating to machinery used, and legal and safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or activities other than actual forest management).</p> <p>The intent of this category is to identify cases where health and safety regulations are being ignored to a degree that puts the health and safety of forest workers at significant risk throughout the forest operation.</p>
<p>3.5 Legal employment</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>If legally required, persons involved in forest management/harvesting activities shall be employed under a formal contract.</li> <li>Persons involved in forest management/harvesting activities shall be covered by obligatory insurances.</li> <li>Persons involved in forest management/harvesting activities shall hold required certificates of competency for the function(s) they carry out.</li> <li>At least the legally established minimum salaries shall be paid for personnel involved in forest management/harvesting activities.</li> <li>Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in forest management/harvesting activities.</li> </ul>	<p>The focus of this category is legal obligations relating to employment of personnel involved in harvesting (or forest management) activities including the requirement for contracts and working permits, obligatory insurances, certificates of competency and other training requirements. Furthermore, the points cover compliance with minimum working age stipulations (including for hazardous work), legislation against discrimination and forced and compulsory labour; and freedom of association.</p> <p>The intent is to enable identification of systematic or large-scale non-compliance with labour and/or employment rules and regulations. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, under-age or illegal labour.</p>

	<ul style="list-style-type: none"> <li>• Minimum age shall be observed for all personnel involved in forest management/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 occurring in forest management/harvesting activities.</li> </ul>	
<b>4. Third parties' rights</b>	<b>General requirement:</b> Legally recognised customary rights shall be taken into account in the management of forest resources	
4.1 Customary rights	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that customary rights are observed during forest management/harvesting activities.</li> </ul>	The focus here is legislation covering customary rights relevant to forest management/harvesting activities including requirements relating to sharing of benefits and tenure rights.
4.2 Free, Prior and Informed Consent (FPIC)	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that legal requirements related to Free, Prior and Informed Consent were observed where third parties' rights were relinquished to a third party.</li> </ul>	This category covers legislation relating to Free, Prior and Informed Consent (FPIC) – in connection with transfer of forest management rights and customary rights to the Organisation in charge of the forest management/harvesting operation. Transfer of the harvesting rights by the owner is done using free will (not forced) prior to the harvest, with full knowledge of the consequences of the decision. Some legislation may not specifically mention FPIC, but have other, similar, legislation in place with the same intent.
4.3 Indigenous and traditional peoples' rights	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that Indigenous/traditional peoples' established rights are not violated in relation to forest management/harvesting activities.</li> </ul>	The focus here is legislation that regulates the rights of indigenous people as far as those rights relate to forestry activities. Possible aspects to consider are land tenure; and the right to use certain forest-related resources or practice traditional activities, where these may involve forest lands.
<b>5. Trade and transport</b>	<b>General requirement:</b> The FME shall adhere to applicable transport, trade, import or export regulations, procedures and restrictions.	
5.1 Classification of species, quantities, and qualities	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, Customs declarations and other legally required documents.</li> </ul>	<p>This category relates to legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method of reducing/avoiding payment of legally prescribed taxes and fees.</p> <p>The threshold at which material or products should be considered illegal should be established based on the risk that material is traded under false statements of species, quantities or qualities. This could cover cases where this type of false classification is implemented to avoid payment of royalties or taxes – or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI&lt;50).</p>
5.2 Trade and transport	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>• Species and product types shall be legally traded.</li> </ul>	<p>All required trading and transport permits shall exist and be documented.</p> <p>These documents include legally required removal passes, waybills and other documents</p>

	<ul style="list-style-type: none"> <li>• Required trade permits shall exist and be documented.</li> <li>• All required transport documents shall exist and be documented.</li> <li>• Volume, species and qualities shall be classified according to legal requirements.</li> <li>• Documents related to transportation, trade or export shall be clearly linked to the specific material in question.</li> </ul>	<p>permitting the removal of timber from the harvesting Site.</p> <p>In countries with high levels of corruption, these documents are often faked or obtained using bribery.</p> <p>In cases of illegal logging, transport documents from Sites other than the actual harvesting Site are often provided as fake proof of legality of the harvested material.</p>
<p>5.3 Offshore trading and transfer pricing</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as 'tax havens'.</li> <li>• There shall be no illegal manipulation in relation to the transfer pricing.</li> </ul>	<p>This category relates to legislation regulating offshore trading.</p> <p>Offshore trading with related companies placed in tax havens – combined with artificial transfer prices – is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest.</p> <p>Many countries have established legislation covering transfer pricing and offshore trading.</p> <p>When products are sold out of the country for prices that are significantly lower than market value, and then sold at market prices to the next entity in the supply chain, it is usually a clear indicator of money laundering or tax evasion. Commonly, the products are not physically transferred to the trading company.</p>
<p>5.4 Customs regulations</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (type, Customs code, species, quantities, qualities, etc.).</li> <li>• All required import and exports permits shall be in place.</li> <li>• Evidence of payment of custom fees/charges</li> </ul>	<p>Relevant here is Customs legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).</p>
<p>5.5 CITES</p>	<p><b>Examples of verifiers:</b></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>The focus of this category is the requirement for CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).</p>

## Annex 2: Legal compliance in the supply chain

This Annex contains the requirements for specifying the risk of illegal activities in the supply chain as well as verifiers for evaluating conformance to applicable legislation by processing and trade entities. The criteria can be used for specification of risk and subsequent risk mitigation in the supply chain.

Legality categories and sub-categories	Verifiers	Guidance
<b>1. Legal registration</b>	<b>General requirement:</b> The Organisation shall be legally registered and licensed as a business and approved by the relevant authorities to conduct the defined business activities as required by law.	
1.1 Legal registration shall be in place	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>The Organisation shall have in place valid and appropriate business licenses and registrations.</li> <li>The Organisation shall be legally allowed to carry out commercial activity as relevant to the processing or transport of forest products.</li> </ul>	Legislation covering the registration of businesses to carry out processing or trade of forest products for commercial purposes.
<b>2. Taxes and fees</b>	<b>General requirement:</b> The Organisation shall fulfil requirements in relation to all obligatory taxes, fees and/or royalty payments associated with maintaining the legal right to operate.	
2.1 Payment of taxes, royalties and fees	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>Evidence shall exist for payments of harvesting-related royalties, taxes, fees and other charges.</li> <li>Volumes, species and qualities given in sales and transport documents shall match the fees and royalties paid.</li> <li>Organisation shall be current with all applicable taxes and fees related to the maintenance of the right to operate.</li> </ul> <p>Authorities shall confirm that the organisation has paid all applicable fees.</p>	<p>Consideration should be given to legislation covering payment of all legally required taxes and fees.</p> <p>Incorrect classification of forest products is a well-known issue, often combined with bribery of officials in charge of controlling the classification.</p>
2.2 Value-added taxes and other sales taxes	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>Sales documents shall include applicable sales taxes.</li> <li>Evidence for payment of sales taxes shall exist.</li> <li>Volumes, species and qualities given in sales and transport documents shall match the fees paid.</li> <li>Sales prices shall be in line with market prices.</li> <li>Harvested species, volume and qualities shall match the sales documents.</li> </ul> <p>Authorities shall confirm that the organisation is up-to-date in payment of applicable sales taxes.</p>	<p>This relates to legislation covering different types of sales taxes that apply to the material being sold.</p> <p>Tax avoidance can occur by selling products without official sales documents or selling products far below the market price combined with unofficial payments.</p>
<b>3. Trade and transport</b>	<b>General requirement:</b> The Organisation shall adhere to applicable regulations, procedures	

	and restrictions relating to transport, trade, import or export.	
3.1 Classification of species, quantities and qualities	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, customs declarations and other legally required documents.</li> </ul>	<p>Legislation regulating how material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method of reducing/avoiding payment of legally prescribed taxes and fees.</p> <p>The threshold at which material or products should be considered illegal should be established based on the risk that material is traded under false statements of species, quantities or qualities. This could cover cases where this type of false classification is implemented to avoid payment of royalties or taxes – or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI&lt;50).</p>
3.2 Trade and transport	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Species and product types shall be legally traded.</li> <li>• Required trade permits shall exist and be documented.</li> <li>• All required transport documents shall exist and be documented.</li> <li>• Volume, species and qualities shall be classified according to legal requirements.</li> <li>• Documents related to transportation, trade or export shall be clearly linked to the specific material in question.</li> </ul>	<p>All required trading and transport permits shall exist and be documented.</p> <p>These documents include legally required removal passes, waybills and other transport documents permitting the transport of timber.</p> <p>In countries with high levels of corruption (low CPI score), these documents are often faked or obtained using bribery.</p> <p>In cases of illegal logging, transport documents from Sites other than the actual harvesting Site are often provided as fake proof of legality of the harvested material.</p>
3.3 Offshore trading and transfer pricing	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as 'tax havens'.</li> <li>• There shall be no illegal manipulation in relation to transfer pricing.</li> </ul>	<p>Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens – combined with artificial transfer prices – is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest. This is considered an important method to generate funds that can be used to pay bribes to the forest operation and personnel involved in the harvesting operation.</p> <p>Many countries have established legislation covering transfer pricing and offshore trading. When products are sold out of the country for prices that are significantly lower than market value and then sold to next link in the supply chain for market prices, it is usually a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.</p>
3.4 Customs regulations	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (type, Customs code, species, quantities, qualities, etc.).</li> <li>• All required import and exports permits shall be in place.</li> </ul>	<p>Customs legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species), and phytosanitary certificates.</p>
3.5 CITES	<p><b>Examples of verifiers:</b></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</li> </ul>	<p>CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).</p>

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	competent authorities (CITES Management Authorities).	
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## About NEPCon

NEPCon (Nature Economy and People Connected) is an international non-profit organisation that works to build capacity and commitment for mainstreaming sustainability. For over 20 years, we have worked to foster sustainable land use and responsible trade in forest commodities. We do this through innovation projects and through sustainability services.

We are accredited certifiers for sustainability schemes such as FSC™, PEFC, and SBP. We offer Chain of Custody certification according to the SAN / Rainforest Alliance standard. We also certify to our own LegalSource Standard and Carbon Footprint Management standards. A self-managing division of NEPCon promotes and delivers our certification services. Surplus from certification activities supports the development on NEPCon's non-profit activities.

NEPCon is recognised by the EU as a Monitoring Organisation under the EU Timber Regulation.

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# NEPCon Update

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