



Version 1.0 | 13 December 2021

Viet Nam Risk Mitigation Guide

Timber



LIFE - Support EUTR II - LIFE18 GIE/DK/000763



This tool has been developed by Preferred by Nature with support from the LIFE programme of the European Union and Voices for Mekong Forests. Donors are not responsible for any claims or views presented in this material.



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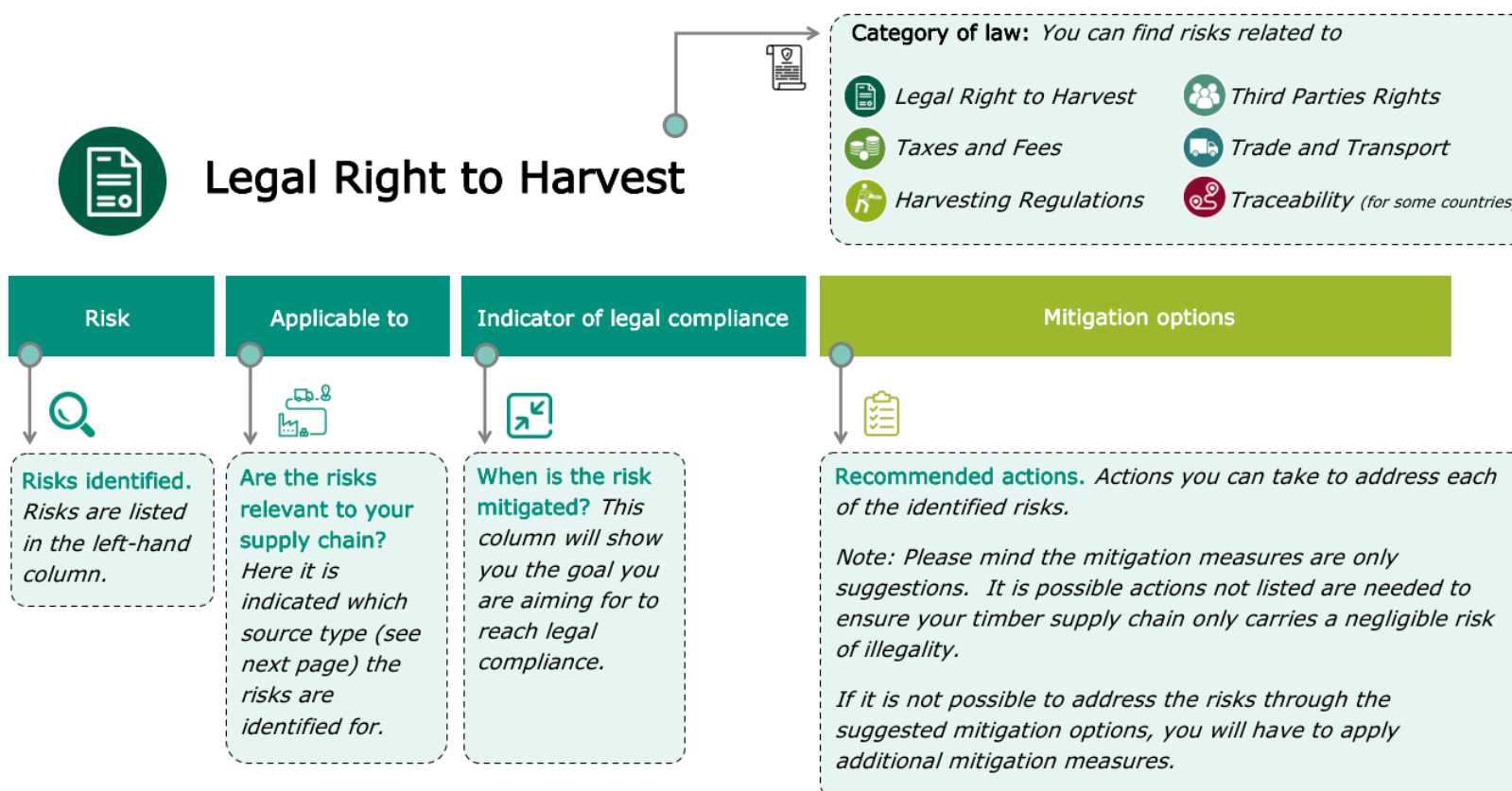


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Viet Nam Forestry Risk Mitigation Guide

This guide provides a series of mitigation options to assure low risk of illegality of timber harvested in Viet Nam. Please refer to the full Timber Legality Risk assessment for Vietnam for more details on the applicable legislation and the elements leading to the risk determination.





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Timber Source Types

To understand what risks are relevant for your supply chain, you will first need to identify the origin of your timber. In general, it is often helpful to know not only the country of origin, but also other information about the origin, such as legal ownership, management regime, forest classification and permits in order to select the Timber Source Type(s) that applies to your supply chain. Identifying the right Timber Source Type is important to detail which risks are related to your supply chain and your timber products and how you can mitigate them

Definitions used for Timber Source Types in Viet Nam:

Plantation

Timber from plantation forests:

- State-owned
- Private company owned (local or international)
- Individuals/Households owned



Legal Rights to Harvest

Risk	Applicable to	Indicator of legal compliance	Mitigation options
<p>Risk that required land-use right certificate or proof of legal right to harvest the forest is lacking (1.1).</p>	<p>All source types (except rubberwood)</p>	<p>The forest owner should physically possess the Land-use right certificate or equivalent documents to demonstrate their land-use right to the land.</p>	<p>Review documents and verify</p> <p>The land-use right certificate or other equivalent documents should cover the actual area and be signed off by the Local Authority. The name of the forest owner on the land-use right document should correspond with other documents such as business license, invoice, packing list of forest products.</p> <p>The following documents are required:</p> <ul style="list-style-type: none"> • Decision on land allocation (before 15/10/1993) • Decision on land allocation, forest allocation (from 15/10/1993 to 1/7/2004) • Land use rights certificate (Red Book) (from 15/10/1993 to date) • Decision on land allocation (from 15/10/1993 to date) • Decision on land leasing (from 15/10/1993 to date) • Decision on forest allocation together with land allocation, land leasing (from 2010 to date) • Decision on forest allocation • Forestry book* • One of the types of papers on land use rights as stipulated in Article 100 Land Law 2013* • Confirmation of the Commune People's Committee that land is currently used and free to dispute subject to the cases regulated in Article 101 Land Law 2013* • Forest protection contracts with other holders* <p><i>* Do not apply to organizations</i></p>

<p>Risk of disputes/conflicts over the forest between State Forest Companies and local communities (1.1).</p>	<p>All source types (except rubberwood)</p>	<p>Land rights and title shall be clearly identified and recognised by stakeholders and shall not overlap.</p>	<p>Consultation Verify whether there are conflicting land-use claims to a forest area, stakeholder consultation on the ground should be carried out. This should include discussions with local communities and the Local Authorities such as:</p> <ul style="list-style-type: none"> • Department of Agriculture and Rural Development (DARD) • Forest Protection Department (FPD) District People's Committee
<p>Risk of forest allocation and contracting to wrong contractors, using forest land for inappropriate purposes (1.2).</p>	<p>All source types</p>	<p>Forest land shall not be used for other purposes than forestry.</p>	<p>Review and verify documents</p> <ul style="list-style-type: none"> • Contract for forest protection and development - between protection forest management board or State Forest Companies and households or individuals. Check for information of the contractor and contracted, as well as information on the rights and responsibilities of each party. <p>Consultation</p> <ul style="list-style-type: none"> • Consultation with the local community may confirm that the forest was leased to the right contractors, and they have been correctly managing that forest as per its main purpose.
<p>Risk of lack of equity, transparency, and accountability, leading to long delays and corrupt practices in the forest contracting process (1.2).</p>	<p>All source types</p>	<p>Forest lease contract or Contract for forest protection and development shall be signed following legal requirements.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • Forest lease contract or Contract for forest protection and development <p>Consult onsite (Detecting corruption and the payment of bribes can be extremely challenging, thus, onsite consultation is recommended to address this risk)</p> <ul style="list-style-type: none"> • Consult local community to confirm that the contracting process was transparent and equitable
<p>Risk that land measurements and borders are not included in the lease contracts (1.2).</p>	<p>All source types</p>	<p>Land measurements and borders shall be included in the lease contracts.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • Contract for forest protection and development between Protection Forest Management Board (or State Forest Companies) and households/individuals. The contract should include information on land location, measurements, and borders.
<p>Risk of lack of Sustainable Forest Management Plan and approval by the</p>	<p>State-owned and private company-owned plantation</p>	<p>Forest owner shall have a Sustainable Forest Management Plan which</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • Verify that the Sustainable Forest Management Plan and the required approval are as followed:

<p>appropriate authority (1.3).</p>	<p>N/A for rubberwood</p>	<p>is approved by the legal authority.</p>	<ul style="list-style-type: none"> Private company-owned plantations who invest their own money to establish plantations: no approval required For other organizational forest owners (State-owned or private company owned plantations which were invested in by State's funds): Provincial People's Committee shall approve
<p>Risk that the forest owner does not implement the Sustainable Forest Management Plan, even if such is in place (1.3, 1.10)</p>	<p>State-owned and privately company-owned plantation N/A for rubberwood</p>	<p>Sustainable Forest Management Plan shall be implemented as legally required.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> Request the report on the results of the implementation of their SFM plan, which is submitted to the District Department of Agriculture and Rural Development before 10th December annually. This document can be obtained from the forest owner <p>Consult</p> <ul style="list-style-type: none"> Consult with the District Department of Agriculture and Rural Development on the compliance of the forest owner with the reporting responsibility <p>Onsite verification</p> <ul style="list-style-type: none"> Consider conducting on-site evaluation at the forest level to verify legal compliance in implementing the SFM plan of forest owner.
<p>Risk that harvest dossier is not in place for the harvest of plantations established with the State's funds (1.4).</p>	<p>All source types, if state-funded</p>	<p>Harvest dossier shall be in place for State-funded plantations.</p>	<p>Clarify with the forest owner about the source of investment funds for their forest because the risk applies to state-funded plantations only.</p> <p>Review documents and verify</p> <p>The forest owner shall have the required harvest dossier. The information on forest owner, location, species, quantities, and quality between the harvest plan and the packing list of forest products should be tallied. Required documents are:</p> <p><i>Main harvesting of wood from planted forests whose ownership is represented by the State:</i></p> <ul style="list-style-type: none"> Harvesting Plan prepared by forest owner or harvesting entities (Form No. 08, Circular 27/2018/TT-BNNPTNT) to be submitted to the authority that has approved the budget funds for forest planting for its decision and local forest protection authority for information and monitoring.

- Packing list by the forest product owner (form No.01/ Circular 27/2018/TT-BNNPTNT)

Salvage collection of wood from planted forests whose ownership is represented by the State, the dossier includes:

- A report on location, area, and volume of forest products to be harvested (form No.07, Circular 27/2018/TT-BNNPTNT) prepared by the forest owner to be submitted to the authority that has approved the budget funds for forest planting for its decision and local forest protection authority for information and monitoring.
- Packing list by the forest product owner (form No.01/ Circular 27/2018/TT-BNNPTNT)

Harvesting of rubber wood in VRG or state-own enterprises:

- Approved harvest plan called "Decision on Rubber plantation liquidation."

Consultation

- Consultation with the local Forest Protection authority may confirm the validity of the information that the forest owner provided.



Taxes and Fees

Risk	Applicable to	Indicator of legal compliance	Mitigation options
<p>Risk that tax is evaded by minimizing taxable income compared to actual income through reducing revenue or increasing costs or both when making tax declarations (1.7)</p>	<p>State-owned and private company owned plantation</p>	<p>Income and profit taxes shall be paid according to legal requirements.</p>	<p>Review documents and online databases</p> <ul style="list-style-type: none"> Check that the organization does not have any export tax debt, late payments to due dates at Viet Nam Custom website: https://www.customs.gov.vn/Lists/CongKhaiThongTin/ViewDetails.aspx?ID=38 The link is only in Vietnamese. This link lets you access the list of businesses that have export tax debt or late payments by provinces. Therefore, it is necessary to know the border gate through which the company exported the goods, to consult the list of that correspondent province. Obtain the necessary proof of payment of taxes: This could be an annual income tax declaration form or receipts for payment of corporate income taxes. Check if the organization is on the list of “High tax risk enterprises” on the General Department of Taxation website: http://tracuuhoadon.gdt.gov.vn/dnrrvp.html. These enterprises have to continuously use special e-invoices with verification codes for 12 months to be monitored by the Tax authority. If the enterprise is on the list, consultation with the local tax authority is recommended. <p>Consult</p> <ul style="list-style-type: none"> Consult with local Tax Departments to confirm that the organization is up to date in tax payment. The contact details of the local Tax department can be found on their correspondent website.



Timber Harvesting Activities

Risk	Applicable to	Indicator of legal compliance	Mitigation options
<p>Risk that timber in the protected area is illegally harvested and enters the commercial supply chain (1.9).</p>	<p>All source types</p>	<p>Timber is not originating from protected areas.</p>	<p>Conduct non-linear supply chain mapping to ensure timber is not originating from protected areas (please read more about supply chain mapping in the Risk Assessment 1.22. Supply chain transparency and traceability).</p> <p>Review document and verify: Require supporting documents from the forest level. The document required depend on the supply chain.</p> <p>Use online databases: Confirm the authenticity of following documents and permits used to verify the supply chain:</p> <ul style="list-style-type: none"> • Business Registration Certificates of enterprises along the supply chain to confirm their legal operation (https://dichvuthongtin.dkkd.gov.vn/inf/default.aspx); • VAT invoices (for e-invoice) to confirm their validity (http://www.tracuhoadon.gdt.gov.vn/main.html) <p>Conduct targeted timber testing: Timber test samples of purchased material to identify the species or origin of timber and verify that timber purchased corresponds to the harvesting permit or authorisation required. See Preferred by Natures Thematic article No 1 on Timber Testing Techniques.</p> <p>Onsite verification:</p>

			<ul style="list-style-type: none"> Conduct verification audits of upstream suppliers, which may include forest level audits - check critical control points in the supply chain, CoC system or due diligence system.
Risk that forests owners do not have or have not implemented a Fire prevention and fighting plan (1.10).	All source types	Fire prevention and fighting plan shall be in place and implemented.	<p>Onsite verification</p> <ul style="list-style-type: none"> Check if the State-owned and private company-owned plantation/individual/household has a fire prevention and fighting plan. Check legal compliance with other environmental protection requirements.
<p>Risk that health and safety requirements are not followed (1.11)</p> <ul style="list-style-type: none"> safe working procedures and measures are not in place; employers do not provide health and safety training for employees; workers are without personal protective equipment or unqualified; personal protective equipment is not used; insurance for occupational accidents and occupational diseases is not 	All source types	Health and safety requirements shall be followed.	<p>Review documents and verify</p> <p><i>For workers with labour contract:</i></p> <ul style="list-style-type: none"> Check whether the plan for occupational safety and hygiene, fire prevention and fighting plan prepared by the employer (SFMP for State-owned and private company owned plantation) are available. OH&S training record, safety cards to verify completed H&S training, Personal Protective Equipment provided list – ensure procedures (mentioned in the plan for occupational safety and hygiene, fire prevention and fighting plan) are implemented and being adhered to. The insurance for occupational accidents and occupational diseases <p><i>For workers without labour contract (in case of freelance work/work less than one month):</i></p> <ul style="list-style-type: none"> Safety cards (to verify completed H&S training), PPE used (during onsite verification) <p>Consult</p> <ul style="list-style-type: none"> Consult the relevant Department of Labour, Invalids and Social Affairs for the results of annual inspections for the company. <p>Onsite verification</p> <ul style="list-style-type: none"> On-site verification of operational activities to ensure the PPE and training requirements are being complied with in practice.

obtained for workers			
<p>Risk that legal employment requirements are not followed related to (1.12):</p> <ul style="list-style-type: none"> - labour contract for the workers when work exceeds 1 month; - lack of insurances, - trade union fee for workers; - child labour; - overtime work 	All source types	Legal requirements for employment shall be followed.	<p>Onsite verification:</p> <ul style="list-style-type: none"> • Verify the existence of documented labour contracts for jobs that have a duration of over one month • Observe if child labour is used in forest operations <p>Consult</p> <ul style="list-style-type: none"> • Consult with Department of Labour, War invalids and Social affairs if illegal employment, child labour has been found during inspections. <p>Review documents and verify</p> <ul style="list-style-type: none"> • Verify the employee list to confirm child labour is not used • Inspect timesheets to see if the overtime work is following the lawful requirements <ul style="list-style-type: none"> ○ Normal working hours shall not exceed 08 hours/day or 48 hours/week. ○ Overtime working hours do not exceed 50% of the normal working hours in 1 day; ○ in case of weekly work, the total normal working hours plus overtime working hours shall not exceed 12 hours in 1 day and 40 hours in 1 month. ○ The total overtime working hours do not exceed 200 hours in 1 year ○ overtime shall not exceed 300 hours in 1 year • Check that a labour contract or a verbal agreement is in place. If a verbal agreement applies (only for work less than 1 month), the following is not applicable: Payroll of employing agency demonstrating the payment amount for monthly social insurance, health insurance, unemployment insurance, Insurance for occupational accidents and diseases, trade union fee.



Trade and Transport

Risk	Applicable to	Indicator of legal compliance	Mitigation options
<p>Risk of incorrect quantities on the packing list (1.16, 1.17)</p>	<p>State and private company owned plantation and the supply chain</p> <p>Note: if sourcing <i>directly</i> from Household/individual-owned plantation the risk is low risk</p>	<p>Quantity shall be correctly listed in the Packing list.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • Check quantities/volume, species on the packing lists, sale invoices and forest product origin dossier and the consistency of information these documents. • Check the inspection minutes (if any) by the local Forest Protection Department whether any violation of incorrect quantities found. <p>Consult</p> <ul style="list-style-type: none"> • Consult the local Forest Protection Department, to ascertain the existence of forest violations related to the transportation of forestry products.
<p>Risk of offshore trading and transfer pricing, especially related to trade with Foreign Direct Investment (FDI) enterprises from tax heaven countries (1.18).</p>	<p>The State and private company owned plantation and the supply chain</p> <p>Note: if sourcing <i>directly</i> from Household/individual-owned plantation the risk is low risk</p>	<p>Values of related-party transactions shall be adjusted according to independent transactions to declare tax so that taxable income is not decreased.</p>	<p>Review documents and verify</p> <p><i>The enterprises have entered into an Advanced Pricing Agreement (APA):</i></p> <ul style="list-style-type: none"> • Check the signed Advanced Pricing Agreement (APA) <p><i>The enterprise does not have an Advanced Pricing Agreement (APA):</i></p> <ul style="list-style-type: none"> • Determine if the organisation has any affiliates/subsidiaries in tax havens and has invoiced these entities concerning wood products. • Ascertain if the organization is in the list of “High tax risk enterprises” on the General Department of Taxation website http://tracuuhoadon.gdt.gov.vn/dnrrvp.html. These enterprises have to continuously use special e-invoices with verification codes for 12 months to be monitored by the Tax authority. If the enterprise is on the list, make sure they provide valid e-voices by checking on the website: http://tracuuhoadon.gdt.gov.vn/main.html

			<ul style="list-style-type: none"> Review the documents listed in Decree 132/2020/NĐ-CP: <ul style="list-style-type: none"> Annual declaration of related party transactions (Appendix 1 of Decree 132/2020/NĐ-CP) A local file and master file (Appendix 2 and 3 of Decree 132/2020/NĐ-CP) Country-by-country reporting (Appendix 4 of Decree 132/2020/NĐ-CP) Verify if: <ul style="list-style-type: none"> Any related parties with the companies in the tax haven countries; Any transaction was made to these related parties Check transactions to verify that there is no sign of TP (the selling price is significantly lower than the arm length price to the related parties) Review the inspection minutes by the Departments of Taxation and Sub-departments of Taxation, if any, to verify if; <ul style="list-style-type: none"> any TP transaction was made and detected by Departments of Taxation Departments of Taxation detected any other related information to TP activities <p>Consult</p> <ul style="list-style-type: none"> Consult with the Departments of Taxation and Sub-departments of Taxation on the transfer pricing violation to verify if any TP transaction was made and found out by Departments of Taxation any other related information to TP activities found out by Departments of Taxation.
<p>Risk of illegal import of timber from Laos and Cambodia (1.19).</p> <p>If no legally imported the logs there is a risk of timber being illegally harvested in the country of origin.</p>	<p>Imported timber from Laos and Cambodia.</p>	<p>Timber shall be imported in Viet Nam following legal requirements.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> Check all the relevant importing documents and customs declarations and the consistency of these documents. Products shall be correctly classified (type, HS code, species, quantities, etc.). All cross-border trade of CITES-listed species shall be documented and accompanied by required certificates issued by competent authorities (CITES Management Authorities). Note that there is a risk that permits have been obtained fraudulently. See sub-category 1.20 below).

<p>Lack of fulfilment of the administration procedures for planting and harvesting CITES species. (1.20)</p>	<p>Plantations</p>	<p>CITES species shall be planted and harvested from plantations only following legal requirements.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • Check for a valid Facility Code issued by Provincial FPD. • The plantation also must have the following documents: <ul style="list-style-type: none"> ○ A Planting (raising) plan according to Form no. 07; ○ A Planting (raising) logbook according to Form no. 17 provided in the Decree 06/2019/NĐ-CP. <p>All information in the plan and in the logbook must correctly correspond with other documents and the nature of the species, including species name, product descriptions, volumes, and qualities.</p> <ul style="list-style-type: none"> • Verify that the harvesting plan according to Form No.01 provided in the Decree 06/2019/NĐ-CP, is signed by forest owner. <p>Verify the existence of the CITES export permit and validate the information on the document. Check date of issue and validity. The effective period of the export or re-export permit is 6 months and 12 months for the import permit</p> <p>Consult</p> <ul style="list-style-type: none"> • Consult with the Provincial/District FPD to: <ul style="list-style-type: none"> ○ cross-check if any violations of planting and harvesting has occurred. ○ Verify if the forest owners/harvesters have notified the harvesting to the provincial-level state management agency in forestry before harvesting. <p>Import CITES species</p> <ul style="list-style-type: none"> • 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). Note that there is a risk that permits have been obtained fraudulently.
<p>Risk of Illegal CITES species harvest from the natural forest (1.20)</p>	<p>Natural forest</p>	<p>CITES species shall be harvested from natural forest only following legal requirements.</p>	<p>Review documents and verify</p> <ul style="list-style-type: none"> • The harvesting plan according to Form No.01 provided in the Decree 06/2019/NĐ-CP, is signed by forest owner. • Verify the existence of the CITES export permit and validate the information on the document. Check the date of issue and validity: the valid period of the export

			<p>or re-export permit is six (6) months; and twelve (12) months for the import permit.</p> <p>Consult</p> <ul style="list-style-type: none"> Consult with the Provincial/District FPD to: <ul style="list-style-type: none"> cross-check if any violations of planting and harvesting has occurred. Verify if the forest owners/harvesters have notified the harvesting to the provincial-level state management agency in forestry before harvesting.
Risk that due diligence requirements are not complied with (1.21)	Imported timber	Imported timber shall be covered by due diligence as required by law	<p>Review documents and verify:</p> <ul style="list-style-type: none"> Evidence of legality from supplier country: <ul style="list-style-type: none"> CITES permit (is applicable) FLEGT license (if applicable) Check that a Self-declaration on timber imports is in place in cases where no CITES permit or/and FLEGT License are covering the product (Form no. 03 according to Decree 102/2020/ND-CP).



Supply Chain Transparency and Traceability

Risk	Applicable to	Indicator of legal compliance	Mitigation options
<p>High complexity of timber supply chain from Viet Nam (1.22)</p> <p>The Forest Product Entry and Exit Book are not completed</p>	All source types	Origin, species, and transport route shall be declared correctly	<p>Review documents and verify</p> <ul style="list-style-type: none"> Check the Forest Product Entry and Exit Book of the supply chain entities, to ensure it is completed comprehensively Conduct non-linear supply chain mapping in order to verify the origin of the wood-based product;

comprehensively
(1.22)

Low traceability
system in the supply
chain (1.22)

- Review the Declaration of imported timber origin (Form No. 03 in Appendix I of Decree 102/2020/ND-CP) in order to verify the origin of the wood-based product

Use online databases to confirm the authenticity of documents and permits throughout the supply chain:

- Business Registration Certificates (<https://dichvuthongtin.dkkd.gov.vn/inf/default.aspx>);
- VAT invoices (<http://www.tracuuhoadon.gdt.gov.vn/main.html>),
- Quarantine (phytosanitary) certificates

Timber testing

- Test samples of purchased material to identify the species and/or origin of timber and verify that timber purchased corresponds to the harvesting permit or authorisation required. See [Preferred by Natures Thematic article No 1](#) on Timber Testing Techniques.

Onsite verification

- Conduct on-site audits of upstream suppliers. Check critical control points in the supply chain, CoC system or due diligence system.

About LIFE Legal Wood

[LIFE Legal Wood](#) is an initiative that aims at supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The initiative is funded by the LIFE Programme of the European Union.



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