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Forest Legality Risk

Specification Template

**Version 1.0**

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Dibujo en blanco y negro

Descripción generada automáticamente con confianza mediaDibujo en blanco y negro

Descripción generada automáticamente con confianza media



This tool has been developed by Preferred by Nature (formerly NEPCon) as part of the project “Supporting Legal Timber” funded by the LIFE programme of the European Union and UK aid from the UK government, as well as the project “Responsible Sourcing of Soy, Palm Oil and Cattle” funded by DANIDA, Ministry of Foreign Affairs of Denmark

**Template**

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| Forma  Descripción generada automáticamente con confianza media | Preferred by Nature has adopted an “Open Source” policy to share what we develop to advance sustainability. This work is published under the [Creative Commons Attribution Share-Alike 3.0 license](http://creativecommons.org/licenses/by/3.0/). Permission is hereby granted, free of charge, to any person obtaining a copy of this document, to deal in the document without restriction, including without limitation the rights to use, copy, modify, merge, publish, and/or distribute copies of the document, subject to the following conditions:   * The above copyright notice and this permission notice shall be included in all copies or substantial portions of the document. We would appreciate receiving a copy of any modified version. * You must credit Preferred by Nature and include a visible link to our website [www.preferredbynature.org](http://www.preferredbynature.org).   The European Commission support for the production of this publication does not constitute endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.  This material has been funded by the UK aid from the UK government; however, the views expressed do not necessarily reflect the UK government’s official policies.  DANIDA, Ministry of Foreign Affairs of Denmark has supported the development of this material, however DANIDA is not responsible for any views or claims presented in this material. |
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Forest Legality Risk Assessment

<COUNTRY>

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# Overview of the Forest Sector in <COUNTRY>

**NOTE: All text in coloured green is for guidance purposes only. It should be deleted from the final version of the risk assessment. DO NOT DELETE ANY OF THE EXISTING TEXT IN BLACK.**

PROVIDE AN OVERVIEW OF THE LAWS RELATING TO TIMBER HARVESTING IN APPROX 500 WORDS.

This section should include high level information, in plain English (not legal language) that relates to the following:

* LIST FOREST CLASSIFICATION TYPES and their distribution (e.g. permanent forest estate, protected forest area etc....)
* DESCRIBE ownership of the forest resource (public or private ownership)
* PROVIDE OVERVIEW of forest management permit or licence types (legal sources of timber)
* DESCRIBE HOW timber harvesting and transport is regulated, including the name of the governing legislation and, in brief, what is required.
* IDENTIFY AUTHORITY responsible for monitoring timber harvesting, and in brief how this is done.

The following sources have been used: (NOTE: add and delete as appropriate)

1. Chatham House: <http://www.illegal-logging.info/>;
2. ELDIS regional and country profiles: [http://www.eldis.org](http://www.nepcon.org);
3. Environmental Investigation Agency: [http://www.eia-international.org](https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf);
4. EU FLEGT process: [http://ec.europa.eu/comm/development/body/theme/forest/initiative/index\_en.htm](http://www.citethisforme.com/harvard-referencing);
5. Forest Legality Alliance: <http://www.forestlegality.org/>;
6. Government reports and assessments of compliance with related laws and regulations;
7. Independent reports and assessments of compliance with related laws and regulations, e.g., the Royal Institute of International Affairs: http://www.illegallogging.org;
8. Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
9. Justice tribunal records;
10. Public summaries of FSC forest management certification reports published at info.fsc.org (information on legal areas where non-compliances have been identified during the certification process that are likely to be common for non-certified operations);
11. Public summaries of other 3rd party forest legality certification/verification systems;
12. Stakeholder and expert consultation outcomes from NRA development processes;
13. Telapak (for Indonesia): [http://www.telapak.org](http://www.nepcon.org/projects/support-EUTR);
14. Transparency International Corruption Perceptions Index: [http://www.transparency.org/policy\_research/surveys\_indices/cpi](http://www.citethisforme.com/harvard-referencing);
15. World Bank Worldwide Governance Indicators: [http://data.worldbank.org/datacatalog/worldwide-governance-indicators](mailto:info@nepcon.org);
16. In cases where other sources of information are not available, consultations with experts within the area shall be conducted.

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

# Outline of Timber Sources Types

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Timber source types in <COUNTRY>** | | | | | | |
| **Forest type** (type of forest found in the country. E.g. natural forest, semi-natural forest, plantations etc.) | **Region/Area** (potential geographical subdivision where major differences are relevant) | **Legal Land Classification** (the classification of the land such as permanent forest reserve, farm land, protected area classes etc.) | **Ownership** (legal ownership of the land) | **Management regime** (indication of different types of forest or tree management rights such as, private, communal, state, provincial government etc.) | **Licence / Permit Type**  (Permit type e.g. concession licence harvest permit, artisanal permit, etc.) | **Description of source type** (based on an evaluation of the different attributes evaluated assign a suitable name for different types of timber sources with similar risks) |
| Natural Forest |  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| Plantation Forest |  |  |  |  |  |  |
|  |  |  |  |  |  |
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# Forest Legality Specification

|  |
| --- |
| **Legal rights to harvest** |
| **Land tenure and management rights**  *Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.* |
| * + 1. Applicable laws and regulations        - Full legal title, and reference to relevant Chapter, Section or Clause as appropriate        - Hyperlink to Applicable legislation (in English where available)   For example:  • **Land Law 2013** -Law No. 45/2013/QH13(‘New Land Law’) - Article 32, 33, 34, 35, 48, 49, 50 and 51 [http://www.itpc.gov.vn/investors/how\_to\_invest/law/Law\_on\_land/mldocument\_view/?set\_language=en](http://creativecommons.org/licenses/by/3.0/?set_language=en)  • **Decree 45/2014 / ND-CP** dated 15 May 2014 on land use levy collection - [http://thuvienphapluat.vn/archive/Nghi-dinh-43-2014-ND-CP-huong-dan-thi-hanh-Luat-Dat-dai-vb230680.aspx](http://www.eldis.org) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance)  For example:   * Ministry of Agriculture and Rural Development (MARD). * Ministry of Environment and Resources * Local Authorities |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality)  For example:  For households (one of the following)  • Land use right certificate (red book).  • Decision on land allocation.  • One of the types of papers on land use rights as required in Clause 1, Article 50 Land Law 2003  For Organisations, in addition to one of the above, business registration certificate |
| * + 1. Sources of Information   (Sources of information used to describe, identify and evaluate risk, such as reports, laws, regulations, articles, web pages news articles etc.).  **Use Harvard Referencing Style: Last name, First Initial. (Year published). Title. City: Publisher, Page(s). See more at** [**http://www.citethisforme.com/harvard-referencing#harvard-reference-list**](http://www.citethisforme.com/harvard-referencing#harvard-reference-list) **and** [**https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf**](http://www.nepcon.org/projects/support-EUTR)  **Government sources**  List all government sources of information used to describe, identify and evaluate risk. Also, include sources not directly cited which may be useful for the reader to further understand this category. All sources MUST be fully cited. For example:   * Molisa.gov.vn, (2016). *Statistics on the number of people caught in occupational accidents* (note that at the time of viewing the statistics were not displaying). [online] Ministry of Labour, Invalids and Social Affairs (MOLISA). Available at: [http://www.molisa.gov.vn/en/Pages/Home.asp](http://www.citethisforme.com/harvard-referencing). [Accessed 28 June 2016].   **Non-Government sources**  List all non-government sources of information used to describe, identify and evaluate risk. Also, include sources not directly cited which may be useful for the reader to further understand this category. All sources MUST be fully cited. For example:   * Transparency.org, (2015). Transparency International's Corruption Perception Index 2015 - Vietnam. [online] Transparency International. Available at: [http://www.transparency.org/country/#VNM](http://www.transparency.org/policy_research/surveys_indices/cpi#VNM). [Accessed 28 June 2016]. * Saunders, J. (2014). Trade in Illegal Timber - The Response in Vietnam - A Chatham House Assessment. Chatham House London – Energy, Environment and Resources – Research Paper, [online]. Available at: [http://www.illegal-logging.info/sites/default/files/CHHJ2362\_Vietnam\_Logging\_Research\_Paper\_FINAL.pdf](https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf). [Accessed 28 June 2016]. |
| * + 1. Risk Determination   (Description, threshold and justification: Describe the risk evaluation considerations and sources of information)  **NOTE: Please retain the headings**  **Overview of Legal Requirements**  Please provide a summary of the legal requirements for this category, for example:  The Land Law of 2003 governs the powers and responsibilities of the State since it is the representative of the public land for the people. Forests and forestland in Vietnam are managed by the government. The government allocates use rights for forest production and protection to eight different user groups. According to the Forest Protection Department of Ministry of Agriculture and Rural Development (MARD), the key forest user groups as of December 2009 are:   1. State owned companies (SFC) currently manage around 2 million ha of forest, 77% of which (1.55 million ha) are natural forest, and the remaining 23% are plantation forest. 2. Management boards of protected areas (MBs) belonging to the state currently manage more than 4.3 million ha, primarily special use and protection forests for protection and conservation purposes. 3. Individual households manage about 3.28million ha, 59% of which (1.96million ha) are natural forest, and the remaining 41% are plantation. More than 1 million households are involved in these programmes; many have received land use certificates with clear rights and duty to the land and forests, but not all. 4. Commune People Committee (CPC) manage around 2.4 million ha, most of which (2 million ha) are natural forests. 5. Community and mass organisations such as farmer unions, women and youth groups, manage approximately 850,000 ha of forest, 87% of which are natural forest. None of the community and most of mass organisations have received land use certificates, thus their rights to the land have not been formalised. (Xuan and Canby, 2011).   **Description of risk**  Please provide a details overview of the risks for this category. References to information, such as journal articles, NGO reports, or government information should be included to support the descriptions. All references to sources must be fully cited.  For example:   * The process for obtaining licences for production and business, forest planting activities and forest harvesting is very complex and there is a lack of transparency (Saunders, 2014). * There are frequently issues with areas of land allocated to State Enterprises who do not have the capacity to administer this land. In these instances, local communities commence using the land, planting trees or crops, for example, then issues of ownership arise when the state attempts to reclaim the land a at a later date. Households and individuals encroached and used the unused land and forest that belongs to organisations. This has caused long disputes, and the outcome was usually in favour of the encroachers. * The 2011 EFI Baseline Study of Vietnam raised issued with land tenure in Vietnam. The report states that 'large areas of production forest have been allocated to individual households, state forest companies, and local communities. However, many of them have not been granted land use certificates thus their legal status to the land has not been formalized thus constraining them from entering into economic transactions related to land.' (Xuan and Canby, 2011). * Forest Trends (2013) raised concerns about illegal logging in Vietnam, stating that 'illegal practices ... reflect a combination of factors, a key one being the lack of tenure rights given to local people living near forests containing valuable timber, thus legally excluding them from forest benefits including those from timber.' * Recent media reports state that 70-80% of complaints in to the government from citizens relate to the field of land allocations. e.g. Tien Lang enforcement case or văn Giang (Hưng yên) Duong Nội (Hanoi) (http://vtc.vn/toan-canh-vu-cuong-che-tien-lang-chan-dong-ca-nuoc.59-0.html). * According to Transparency International’s 2014 Corruption Perceptions Index, which measures perceived levels of public sector corruption in countries around the world using a score of 0-100 (where 0 is highly corrupt and 100 is completely clean). Vietnam is ranked 116th out of 177 countries assessed. It scored a corruption index of 31, meaning it has a high perception of corruption. Vietnam has performed consistently poorly on Transparency International’s Corruption Perception Index. Although in 2012, Vietnam ranked 123 out of 176 countries. (FLA, 2015).   **Risk conclusion**  This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  Or (delete as appropriate)  This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   'Low risk' thresholds:  (1) Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the 'authorities and/or by the relevant entities.  'Specified risk' thresholds:  (2) Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.  Low risk  or  Specified risk  delete as appropriate |
| * + 1. Control measures and verifiers   Please provide details of the measures that could be taken to determine whether the specified risk is present in a particular supply chain. The control measures and verifiers should be practical steps that an external person (for example, a purchaser of timber in Europe) could take to mitigate this risk in their supply. The control measures should be as detailed and prescriptive as possible.  **Examples of control measures and verifiers -** *Include as appropriate*   * Land registry shall confirm ownership and validity of property deed. * Tax authorities shall confirm valid tax registration. * The business register shall confirm valid business licenses to operate within the jurisdiction. * In areas with land ownership conflicts, consultation with neighbours, local communities and others shall confirm that land tenure rights are clear. * Stakeholder consultation shall confirm that registration of FME has been granted following legally prescribed processes * 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. * The management contract or other agreements with the owner shall indicate clear management rights. * Valid business registration documents shall exist. * The issuance of legal rights and registration shall be subject to public disclosure prior to commencement of any activities within FMUs. * Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).   For example:   * Every household or State Enterprise should physically possess the Redbook to demonstrate their land-use right to the land. The Redbook should cover the correct area. The Redbook shows the area of land covered and are approved and signed off by the Local Authority. * If the Redbook was issued prior to 2000, the land measurements and borders may not be included. Although the pre-2000 Redbooks are still legal proof of land-use rights, care should be taken when relying on them as proof of land use rights as there is an increased risk of conflicting land-use rights where the borders are uncertain. * A forest owner must pay for a copy of the Redbook, so there are instances where small landowners or households cannot afford to pay for their Redbook, and it is kept in the District Office. In these cases, the forest owner should still have a 'Decision' from the District Staff which shows they have a Redbook for that land. * The local tax department will have the records of land tax receipts. * To 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 the Local Authorities. |
| **Concession licenses**  *Legislation regulating procedures for the issuing of forest concession licences, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in* *connection with concession licences. The intent of this indicator is to avoid risk related to situations where organisations are obtaining concession licences via illegal means such as bribery, or where organisations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality) |
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| * + 1. Risk Determination   (Description, threshold and justification: Describe the risk evaluation considerations and sources of information)  **Overview of Legal Requirements**  **Description of risk**  **Risk conclusion**  This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  Or (delete as appropriate)  This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Proper legal procedures for obtaining concession licences shall be followed. * Valid concession license agreements shall exist. * The process of obtaining concession shall follow an open and transparent process based on clear criteria and be confined to eligible organisations. * Independent stakeholder consultation shall confirm that legal procedures for obtaining concession licenses have been followed. |
| **Management and harvesting planning**  *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. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Maps showing harvesting areas (in compliance with the harvesting plan) * Document review: approved harvesting plan and management plan * Field visits to verify that the contractors have a Timber Extraction Contract * Approved forest management plans shall exist for the FMU where the harvesting is taking place. * Forest management plans shall contain all legally required information and procedures. * Annual operating or harvesting plans shall be in place and approved by legally competent authorities. * Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements. * The contents of the operating and harvesting plans shall be consistent with approved forest management plans. * Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required. * Harvesting restrictions shall be identified in management plan and maps if legally required. * Harvesting inventories shall be conducted according to legal requirements. * Field verifications shall indicate that the contents of the harvesting plans are adhered to in the field. * Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process. |
| **Harvesting permits**  *Legislation regulating the issuing of harvesting permits, licences or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree 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 should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality) |
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| * + 1. Risk Determination   (Description, threshold and justification: Describe the risk evaluation considerations and sources of information)  **Overview of Legal Requirements**  **Description of risk**  **Risk conclusion**  This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  Or (delete as appropriate)  This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Field visits to verify that maps are in compliance with reality. * Harvesting permits (licence or similar legal document governing the harvesting of forest resources) shall exist. * Harvesting limits shall be clearly defined based on maps and quantities. * Authorities shall confirm the validity of harvesting permit. * Stakeholder consultation shall confirm that harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority. * Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit. * Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation   •  •  •  •  • |
| **Taxes and fees** |
| **Payment of royalties and harvesting fees**  *Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other* *volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
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| * + 1. Risk Determination   (Description, threshold and justification: Describe the risk evaluation considerations and sources of information)  **Overview of Legal Requirements**  **Description of risk**  **Risk conclusion**  This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  Or (delete as appropriate)  This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Receipts shall exist for payments of harvesting related royalties, taxes, harvesting fees and other charges. * Volumes, species and qualities given in sales and transport documents shall match the paid fees. * Classification of species, volumes and qualities shall match the royalties and fees paid.   •  •  •  •  • |
| **Value added taxes and other sales taxes**  *Legislation covering different types of sales taxes which apply to the material* *being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality) |
| * + 1. Sources of Information   (Sources of information used to describe, identify and evaluate risk, such as reports, laws, regulations, articles, web pages news articles etc.).  Use Harvard Referencing Style: Last name, First Initial. (Year published). Title. City: Publisher, Page(s). See more at [http://www.citethisforme.com/harvard-referencing#harvard-reference-list](http://www.nepcon.org#harvard-reference-list) and [https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf](http://www.citethisforme.com/harvard-referencing)  **Government sources**  **Non-Government sources** |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Sales documents shall include applicable sales taxes. * Receipts for payment sales taxes shall exist. * Volumes, species and qualities given in sales and transport documents shall match the fees paid. * Sales prices shall be in line with market prices. * Harvested species, volume and qualities shall match the sales documents. * Authorities shall confirm that operation is up to date in payment of applicable sales taxes. * Consultation with financial authority to verify that all required income and profit taxes have been paid.   •  •  •  • |
| **Income and profit taxes**  *Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Consultation with financial authority to verify that all required income and profit taxes have been paid |
| **Timber harvesting activities** |
| **Timber harvesting regulations**  *Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. 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.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Harvesting shall be conducted within the authorised boundaries of the FMU. * Harvesting shall not take place in areas where harvesting is legally prohibited. * Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans. * Harvesting restrictions shall be observed in the field. * Tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field |
| **Protected sites and species**  *International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.* |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation. * Legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed. * Nature protection regulations such as protected areas, set-aside areas, protected species and hunting |
| **Environmental requirements**  *National and sub national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.* |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Environmental and/or Social Impact Assessments shall be in place and approved by the legally competent authority if legally required. * Requirements for environmental monitoring shall be observed. * Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc. |
| **Health and safety**  *Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required 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 other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.* |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * All safety and health regulations shall be followed and all required safety equipment shall be used * Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities. * Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organisation. * All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable) |
| **Legal employment**  *Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * All workers are employed according to the regulation and required contracts are in place * Persons involved in harvesting activities shall be covered by obligatory insurances. * Persons involved in harvesting activities shall hold required certificates of competence for the function they carry out. * At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities. * Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities. * Minimum age shall be observed for all personnel involved in harvesting activities. * Minimum age shall be observed for all personnel involved in hazardous work. * Stakeholders shall confirm that forced or compulsory labour is not involved in harvesting activities. |
| **Third parties’ rights** |
| **Customary rights**  *Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Stakeholder consultation shall confirm that customary rights are observed during harvesting activities. |
| **Free prior and informed consent**  *Legislation covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.* |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Where applicable a prior and informed consent have been made with stakeholders. * Interviews with all stakeholders to verify that this have been agreed between the management and all applicable stakeholders. |
| **Indigenous/traditional peoples’ rights**  *Legislation that regulates the rights of indigenous/traditional people as far as it’s related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Stakeholder consultation shall confirm that indigenous peoples’ established rights are not being violated |
| **Trade and transport** |
| **Classification of species, quantities, qualities**  *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 to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done 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<50).* |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents. * Evidence shall be provided upon request (photographs of labelling). * Physical control where it should be verified that the present material equals what has been invoices and marked. |
| **Trade and transport**  *All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.* |
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| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Requirements related to transport means (e.g. trucks) shall always be followed. * Species and product types shall be traded legally. * Required trade permits shall exist and be documented. * All required transport documents shall exist and be documented. * Volume, species and qualities shall be classified according to legal requirements. * Documents related to transportation, trade or export shall be clearly linked to the specific material in question. |
| **Offshore trading and transfer pricing**  *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 and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.* |
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| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality) |
| * + 1. Sources of Information   (Sources of information used to describe, identify and evaluate risk, such as reports, laws, regulations, articles, web pages news articles etc.).  Use Harvard Referencing Style: Last name, First Initial. (Year published). Title. City: Publisher, Page(s). See more at <http://www.citethisforme.com/harvard-referencing#harvard-reference-list> and [https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf](http://www.citethisforme.com/harvard-referencing)  **Government sources**  **Non-Government sources** |
| * + 1. Risk Determination   (Description, threshold and justification: Describe the risk evaluation considerations and sources of information)  **Overview of Legal Requirements**  **Description of risk**  **Risk conclusion**  This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  Or (delete as appropriate)  This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as “tax havens”. * There shall be no illegal manipulation in relation to the transfer pricing. |
| **Custom regulations**  *Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
| * + 1. Legally required documents or records   (Documents or records formally required that can be used to indicate legality) |
| * + 1. Sources of Information   (Sources of information used to describe, identify and evaluate risk, such as reports, laws, regulations, articles, web pages news articles etc.).  Use Harvard Referencing Style: Last name, First Initial. (Year published). Title. City: Publisher, Page(s). See more at <http://www.citethisforme.com/harvard-referencing#harvard-reference-list> and [https://portal.solent.ac.uk/library/help/factsheets/resources/referencing-law-harvard.pdf](http://www.itpc.gov.vn/investors/how_to_invest/law/Law_on_land/mldocument_view/)  **Government sources**  **Non-Government sources** |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.). * All required import and exports permits shall be in place. |
| **CITES**  *CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).* |
| * + 1. Applicable laws and regulations * Full legal title, and reference to relevant Chapter, Section or Clause as appropriate * Hyperlink to Applicable legislation (in English where available) |
| * + 1. Legal Authority   (Relevant competent authority responsible for legal compliance) |
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| * + 1. Risk designation (´specified risk´ or ´low risk´) and specification (if applicable)   Low risk  Or (delete as appropriate)  Specified risk |
| * + 1. Control measures and verifiers   **Examples of control measures and verifiers -** *Include as appropriate*   * 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). |

# Expert Consultation

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Name | Email | Address | Job title | Organisation | Area of expertise (category/sub-category) | Contact made | Meeting time/date |
| 1. |  |  |  |  |  |  |  |  |
| 2. |  |  |  |  |  |  |  |  |
| 3. |  |  |  |  |  |  |  |  |
| 4. |  |  |  |  |  |  |  |  |
| 5. |  |  |  |  |  |  |  |  |
| etc. |  |  |  |  |  |  |  |  |



Preferred by Nature (formerly known as NEPCon) is an international non-profit organisation working to support better land management and business practices that benefit people, nature and the climate in 100+ countries.

We engage in development projects and initiatives that drive and support nature conservation and sustainable land management, responsible trade of forest and climate impact commodities around the world.

These activities range from donor-financed, international projects, to capacity building, demonstration of new and innovative approaches, and self-financed non-profit activities.

Supporting Legal timber Trade is a joint project run by Preferred by Nature (formerly NEPCon) with the aim of supporting timber-related companies in Europe with knowledge, tools, and training in the requirements of the EU Timber Regulation. Knowing your timer´s origin is not only good for the forests, but good for business. The joint projects is funded by the EU LIFE programme and UK aid from the UK government.



##### Supporting Legal Timber Trade

#### About

Responsible Sourcing of Soy, Cattle and Palm Oil is a project aimed at creating awareness and capacity among Danish companies to minimise risks of social and environmental problems connected to sourcing palm oil, soy, and cattle from developing countries. The project is run by Preferred by Nature (formerly NEPCon) and funded by DANIDA, Ministry of Foreign Affairs of Denmark.

##### Responsible Sourcing of Soy, Cattle and Palm Oil

#### About

[www.preferredbynature.org](http://www.preferredbynature.org)| [www.eutr.info](http://www.eutr.info/)