



Madera



Aceite de  
palma



Carne de  
vacuno



Soja

## Cómo utilizar el Sourcing Hub de NEPCon dentro de un procedimiento de diligencia debida

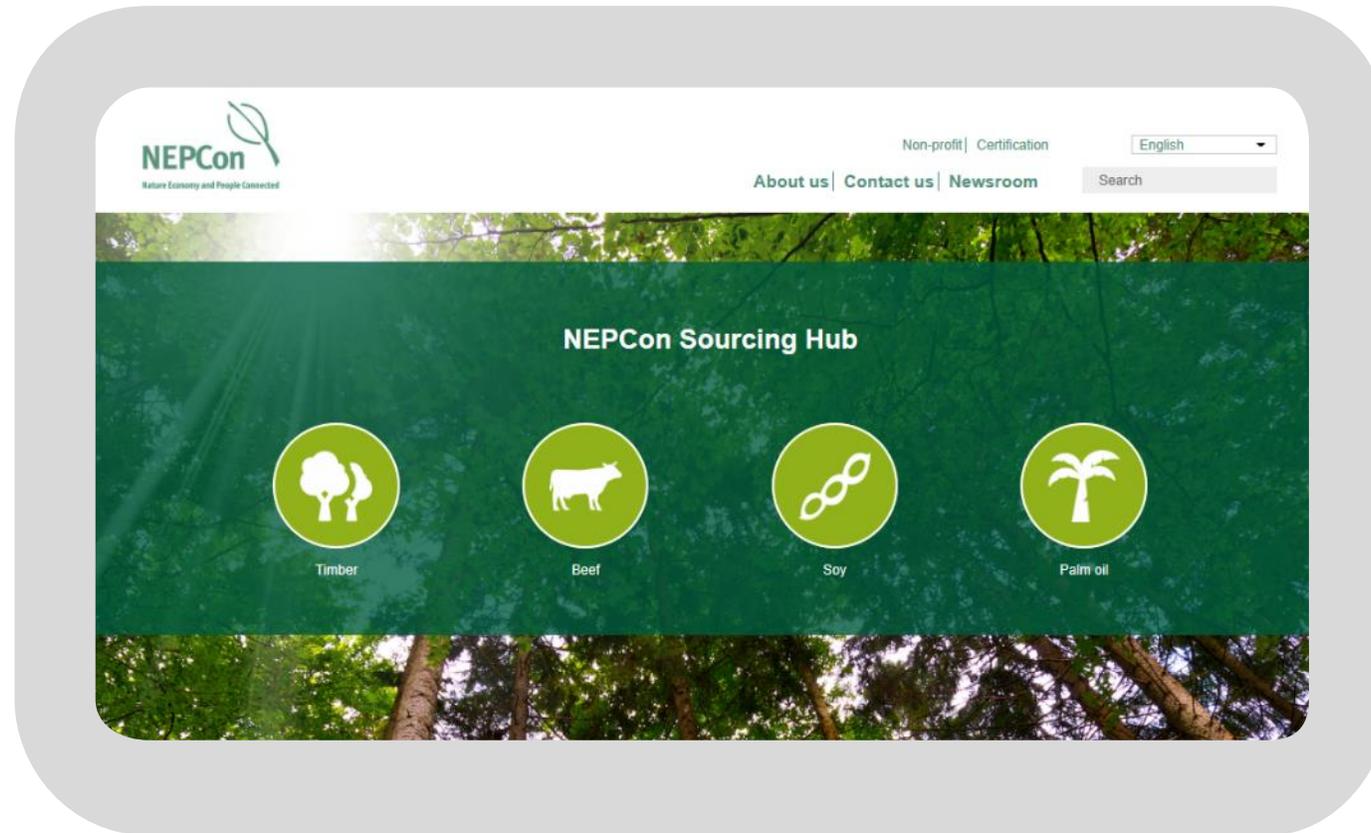


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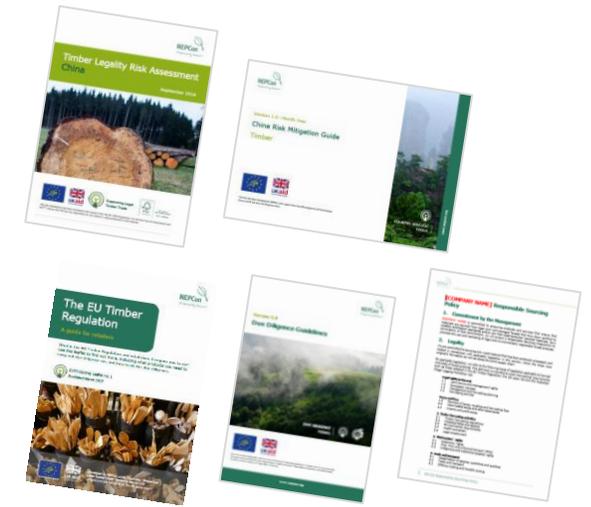
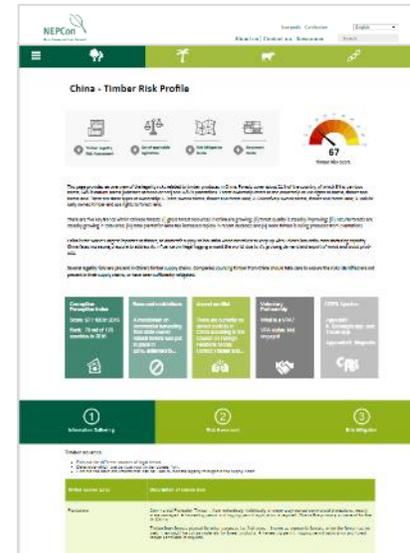
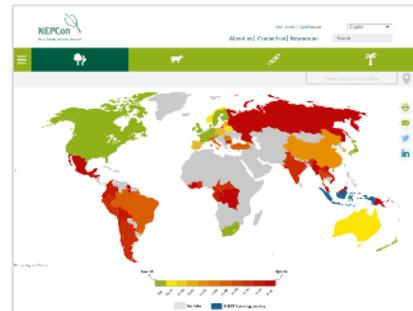
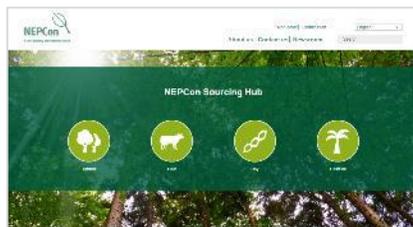
- Evaluaciones de riesgo
- Herramientas para establecer un sistema de diligencia debida
- Herramientas específicas por país en el *sourcing hub*
- Otras guías

# Publicado en agosto de 2017... v1.0



[www.nepcon.org/sourcinghub](http://www.nepcon.org/sourcinghub)

# Todo lo que necesita para la diligencia debida en un mismo sitio



1

2

3

4

**SELECCIONE** la materia prima

**ACCEDA** a un mapa general de los riesgos relacionados con el abastecimiento  
+  
**SELECCIONE** un país para ver información detallada

**VEA** información detallada sobre los riesgos del país (por ejemplo: los riesgos relacionados con cada tipo de producción forestal...)

**EXPLORE** un conjunto de directrices sobre el país y herramientas de diligencia debida para mitigar los riesgos

## Directrices específicas para cada país



**Evaluación completa del riesgo relacionado con la legalidad** de cada uno de los 62 países



**Resumen de las leyes relevantes en cada país en la Lista de legislación en vigor**



**Guía de mitigación de riesgos** que le ayudará a mitigar los riesgos en la cadena de suministro y qué hacer al respecto en cada país proveedor



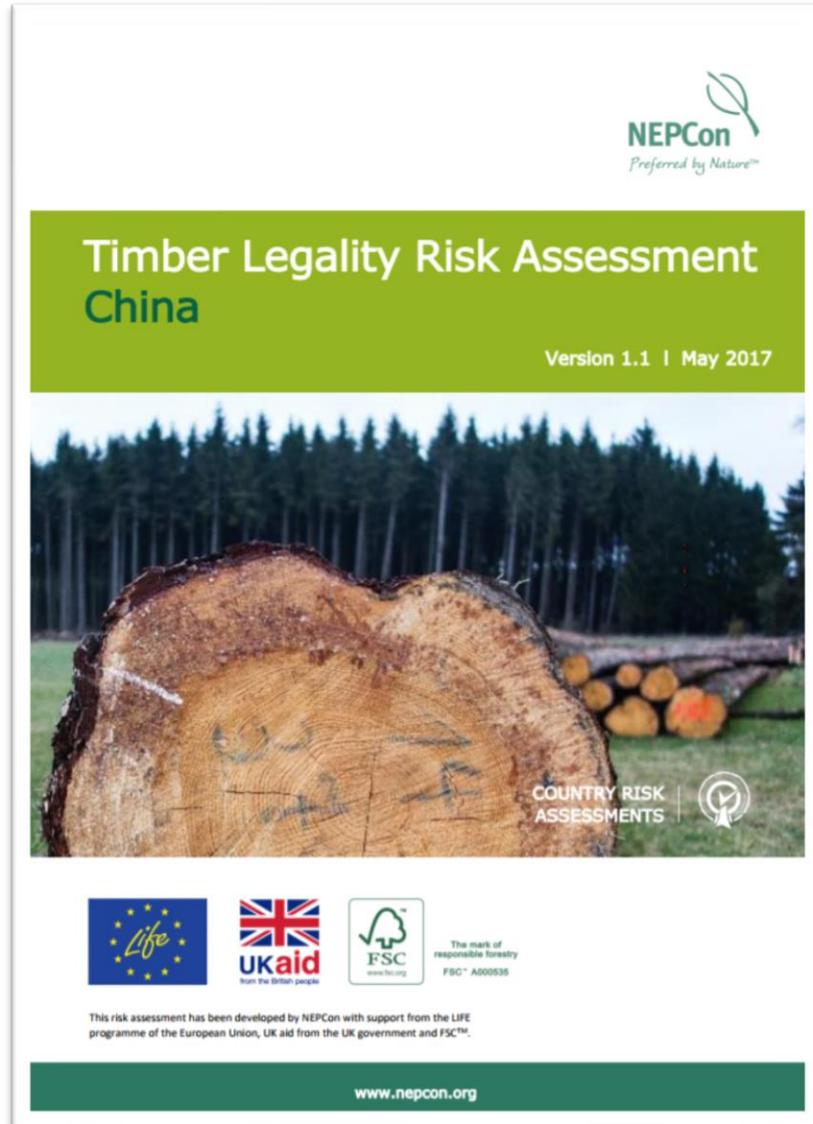
**Guía de documentación** que le ayudará a determinar con exactitud qué tipo de documentos debe exigir a los proveedores, la apariencia que deben tener los mismos y cómo comprobar su autenticidad

## Herramientas de Diligencia Debida



- Cartas a proveedores
- Directrices/procedimientos para la Diligencia Debida
- Plantilla de gestión del proveedor
- Listado para la verificación y especificación de riesgos
- Plantilla de política
- Plantilla de información sobre el proveedor
- etc.

# Evaluaciones de riesgo...



El núcleo del *Hub*

## Vistazo general del sector

### Recabar información



Tipos de fuentes de suministro en el país que le ayudarán a identificar las fuentes de suministro de madera legales en el país



Vistazo general de las especies que acarrean un riesgo para ayudarle a reducir los riesgos en la cadena de suministro



Documentos clave que podrían indicar que la madera proveniente del país es legal



## Evaluación de riesgo

Resumen de los principales riesgos relacionados con la legalidad que afectan a las cadenas de suministro de la madera del país



Derechos legales de aprovechamiento to



Impuestos y tasas



Actividades de aprovechamiento forestal



Derechos de terceros



Transporte y comercio



Trazabilidad

## Mitigación de riesgos

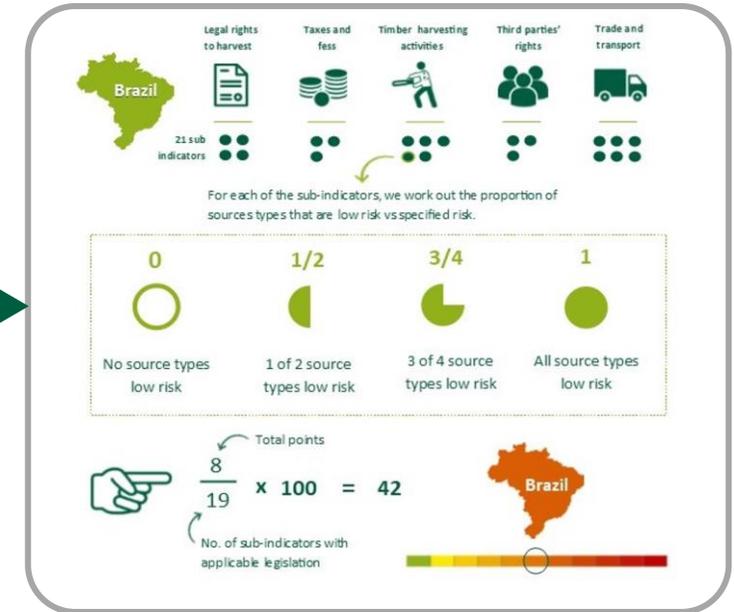
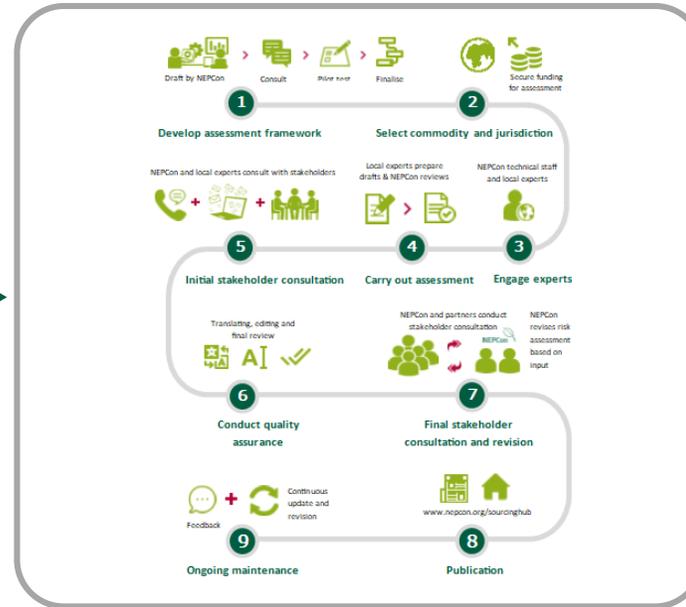
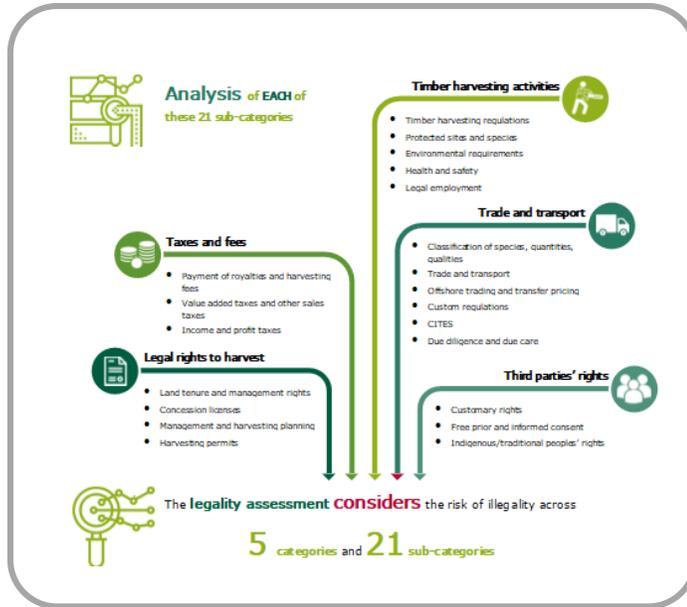


Instrucciones claras para mitigar los riesgos identificados en un país específico



Exhaustivas Guía de mitigación de riesgos y Guía de documentación

# Evaluaciones de riesgo- proceso de desarrollo



**DESARROLLO**  
del marco de evaluación de riesgo para cada materia prima, por ejemplo, mediante el establecimiento de (sub)categorías

**LLEVAR A CABO**  
evaluaciones de riesgo  
+  
**CONCLUIR**  
el riesgo que existe en cada una de las subcategorías

**CALCULAR**  
la puntuación de cada país  
+  
**EL COLOR QUE LE CORRESPONDE**  
en el mapa

**Exhaustivo...**

## Categoría de legalidad

## Subcategoría de legalidad



### Derechos legales de aprovechamiento

- Derechos de tenencia y de gestión de la tierra
- Licencias de concesión
- Planificación de la gestión y del aprovechamiento
- Permisos de aprovechamiento



1. ¿Qué exige la legislación?
2. ¿Cuál es la autoridad gubernamental responsable de la aplicación de esa ley/leyes?
3. ¿Qué documentos legales se exigen?
4. ¿Qué riesgo hay de que la ley no se cumpla?
5. ¿Qué medidas de mitigación de riesgos se pueden adoptar para reducir el riesgo?
6. Fuentes de información.

- Pago de derechos y tasas de aprovechamiento
- Impuestos sobre el valor añadido y otros impuestos sobre la venta
- Impuestos sobre la renta y los beneficios

- Normativa sobre el aprovechamiento forestal
- Especies y sitios protegidos
- Requisitos medioambientales
- Riesgos laborales
- Empleo legal



### Derechos de terceros

- Derechos consuetudinarios
- Consentimiento libre, previo e informado
- Derechos de los pueblos indígenas



### Transporte y comercio

- Clasificación de especies, cantidades, calidades
- Transporte y comercio
- Comercio extraterritorial y precios de transferencia
- Normativas aduaneras
- CITES

# Fuentes de información para evaluaciones de riesgo

Experiencia sobre el terreno e informes

tanto nuestros como de terceros

Resúmenes públicos de auditorías de certificación



Consultas con las partes interesadas

Opiniones de expertos

Documentación procesal y de justicia

Informes estadísticos nacionales

Informes gubernamentales sobre el cumplimiento de la ley

Índice de Percepción de la Corrupción de Transparency International

Chatham House – Tala ilegal (*Illegal Logging*)

INTERPOL

Indicadores mundiales de buen gobierno del Banco Mundial (*WGI*)

Proceso del Reglamento FLEGT de la UE

Forest Legality Alliance

Perfiles regionales por país de ELDIS

**Fuentes diversas**

# ¿Cómo podemos determinar si el riesgo es bajo o especificado?

## Se consideran de riesgo bajo

Aquellos problemas que son:

- Temporales
- Poco habituales o no sistemáticos
- Limitados en su capacidad de impacto
- Controlados de forma eficaz mediante la supervisión y la aplicación de la ley por parte de agencias gubernamentales eficientes y eficaces

## Se consideran de riesgo especificado

Aquellos problemas que:

- Afectan a un área amplia o causan daños significativos o continúan durante un periodo de tiempo largo.
- Indican una aplicación del sistema jurídico ausente o fallida.
- No son corregidos o abordados de forma adecuada una vez identificados.
- Tienen un impacto negativo importante sobre la sociedad, la producción de productos forestales y otros servicios, el ecosistema forestal y las personas que se ven afectadas de forma directa o indirecta por las actividades forestales.

# Un Sistema de Diligencia Debida

# 1. Gestión de calidad

# 1. Gestión de calidad

El Sourcing Hub contiene gran cantidad de información sobre cómo poner en marcha su Sistema de Diligencia Debida (SDD)

El Sistema de Diligencia Debida de NEPCon incluye varias **plantillas** que se pueden utilizar para garantizar que los sistemas y procedimientos se desarrollan y ponen en práctica de forma efectiva.

En el Sourcing Hub se puede descargar todas las **herramientas y plantillas** que necesita para poner en marcha un sistema de diligencia debida en su empresa.



The screenshot shows a webpage with a green header containing a hamburger menu icon, a tree icon, a cow icon, a chain link icon, and a palm tree icon. The main content area has the title "What is due diligence?" and a paragraph of text. On the right side, there are three social media icons: an envelope, a Twitter bird, and the LinkedIn logo.

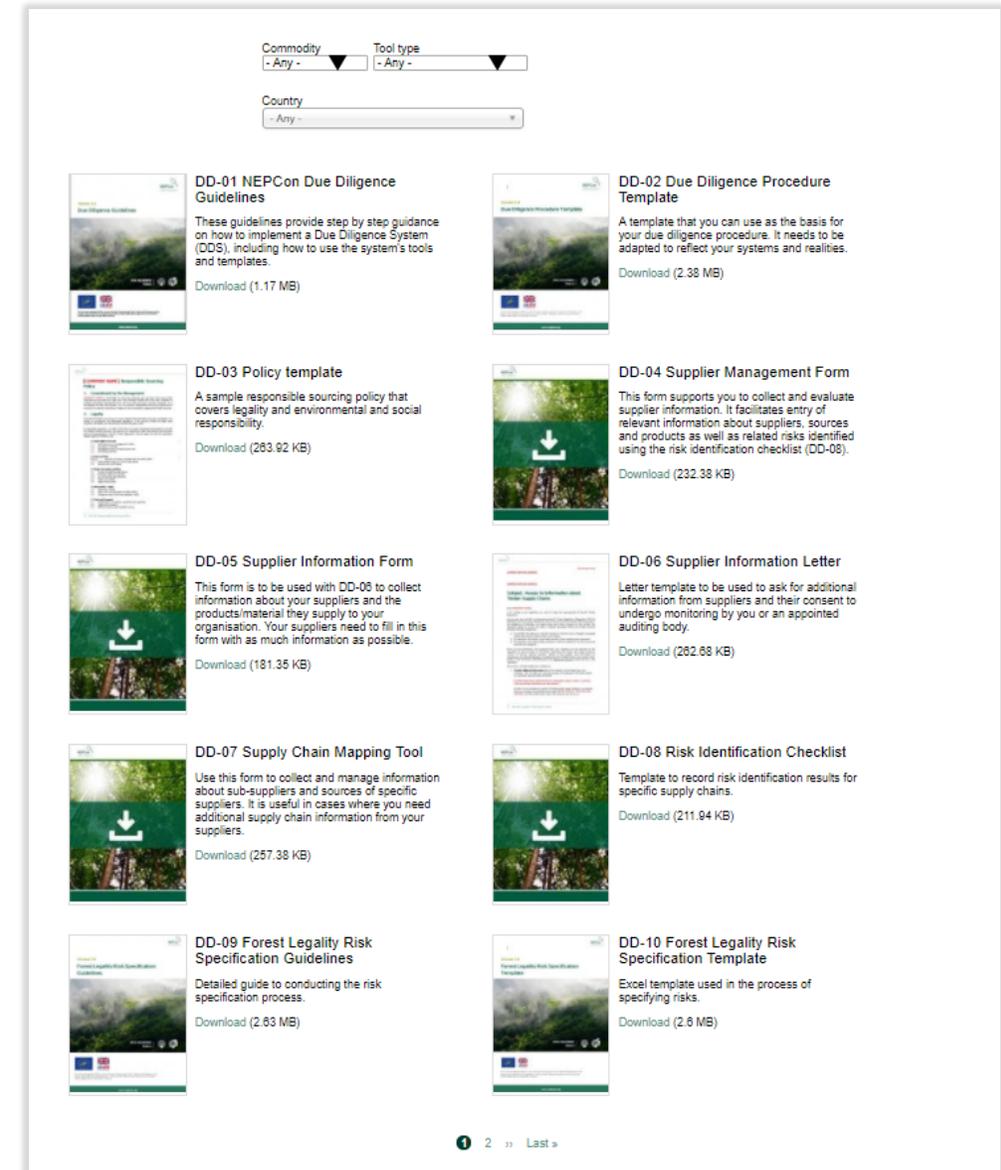
**What is due diligence?**

'Due diligence' means taking reasonable care to avoid a negative outcome. In the case of the commodities we look at here:

For **timber**, we mean minimising the risk that you are placing timber on the market that was harvested, transported or traded illegally in its country of harvest. We have adopted this definition because this is what the EU Timber Regulation requires companies that place timber on the market in the EU to do.

# 1. Gestión de calidad

- Descargue en el Sourcing Hub el sistema completo de Diligencia Debida de NEPCon.
- <http://beta.nepcon.org/sourcinghub/info/what-due-diligence>



The screenshot displays a web interface for downloading documents. At the top, there are filters for 'Commodity' (set to '- Any -'), 'Tool type' (set to '- Any -'), and 'Country' (set to '- Any -'). Below the filters, a grid of 10 document cards is shown, each with a thumbnail image, a title, a brief description, and a download link with the file size.

ID	Title	Description	Download Link
DD-01	NEPCon Due Diligence Guidelines	These guidelines provide step by step guidance on how to implement a Due Diligence System (DDS), including how to use the system's tools and templates.	Download (1.17 MB)
DD-02	Due Diligence Procedure Template	A template that you can use as the basis for your due diligence procedure. It needs to be adapted to reflect your systems and realities.	Download (2.38 MB)
DD-03	Policy template	A sample responsible sourcing policy that covers legality and environmental and social responsibility.	Download (263.92 KB)
DD-04	Supplier Management Form	This form supports you to collect and evaluate supplier information. It facilitates entry of relevant information about suppliers, sources and products as well as related risks identified using the risk identification checklist (DD-08).	Download (232.38 KB)
DD-05	Supplier Information Form	This form is to be used with DD-06 to collect information about your suppliers and the products/material they supply to your organisation. Your suppliers need to fill in this form with as much information as possible.	Download (181.35 KB)
DD-06	Supplier Information Letter	Letter template to be used to ask for additional information from suppliers and their consent to undergo monitoring by you or an appointed auditing body.	Download (262.68 KB)
DD-07	Supply Chain Mapping Tool	Use this form to collect and manage information about sub-suppliers and sources of specific suppliers. It is useful in cases where you need additional supply chain information from your suppliers.	Download (257.38 KB)
DD-08	Risk Identification Checklist	Template to record risk identification results for specific supply chains.	Download (211.94 KB)
DD-09	Forest Legality Risk Specification Guidelines	Detailed guide to conducting the risk specification process.	Download (2.83 MB)
DD-10	Forest Legality Risk Specification Template	Excel template used in the process of specifying risks.	Download (2.6 MB)

At the bottom right of the interface, there are navigation controls: a page number '1', a '2' indicating the current page, and a 'Last' button with a right-pointing arrow.

# 1. Gestión de calidad



NEPCon  
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Version 3.0  
Due Diligence Guidelines

DUE DILIGENCE TOOLS

Life  
UKaid  
From the British people

This tool has been developed by NEPCon as a 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.

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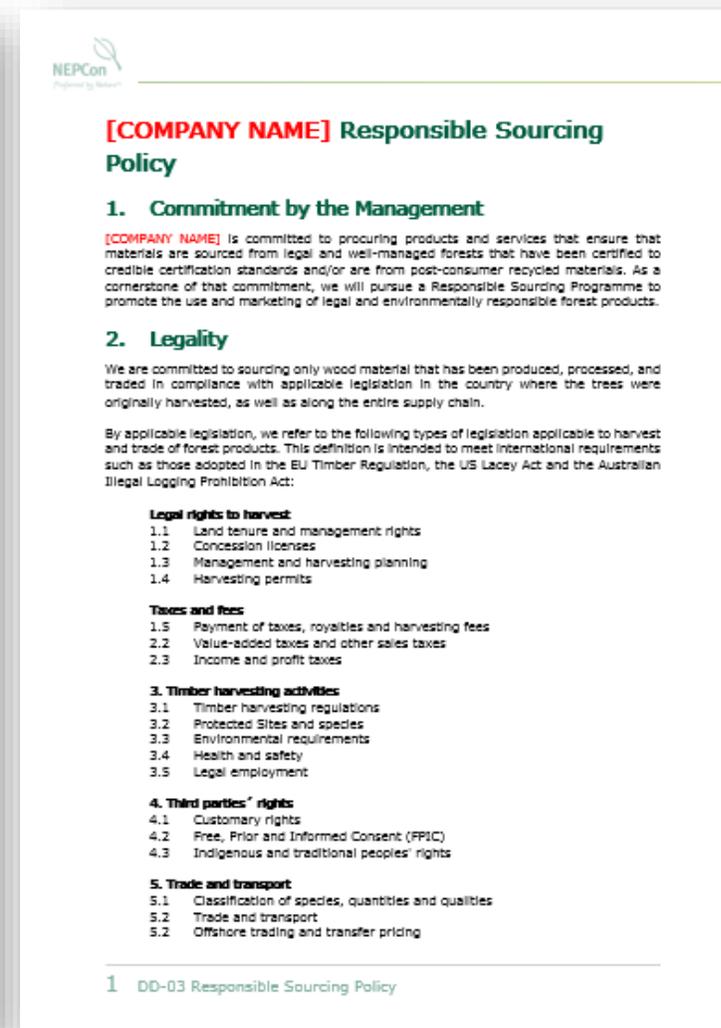
Version 2.0  
Due Diligence Procedure Template

DUE DILIGENCE TOOLS

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**[COMPANY NAME] Responsible Sourcing Policy**

**1. Commitment by the Management**

[COMPANY NAME] is committed to procuring products and services that ensure that materials are sourced from legal and well-managed forests that have been certified to credible certification standards and/or are from post-consumer recycled materials. As a cornerstone of that commitment, we will pursue a Responsible Sourcing Programme to promote the use and marketing of legal and environmentally responsible forest products.

**2. Legality**

We are committed to sourcing only wood material that has been produced, processed, and traded in compliance with applicable legislation in the country where the trees were originally harvested, as well as along the entire supply chain.

By applicable legislation, we refer to the following 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:

**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

**Taxes and fees**

- 1.5 Payment of taxes, royalties and harvesting fees
- 2.2 Value-added taxes and other sales taxes
- 2.3 Income and profit 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

1 DD-03 Responsible Sourcing Policy

## 2. Recabar información

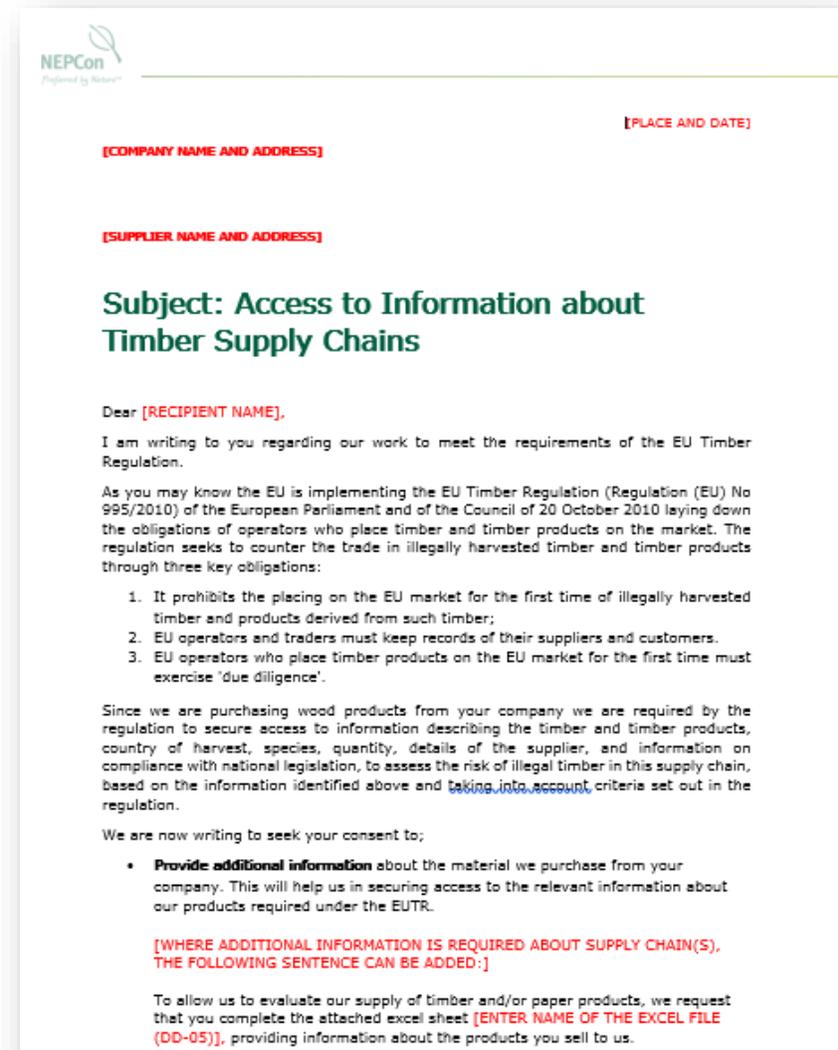
## 2. Recabar información

Informar a los  
proveedores de los  
requisitos de diligencia  
debida y solicitar  
información sobre la  
cadena de suministro  
(DD-06)



## 2. Recabar información

- Para informar a los proveedores de la información que se necesita
- Para solicitar información sobre cadenas de suministro
- Formulario de conformidad para garantizar el acceso a pruebas, auditorías & análisis de los materiales



NEPCon  
Prepared by NEPCON

[PLACE AND DATE]

[COMPANY NAME AND ADDRESS]

[SUPPLIER NAME AND ADDRESS]

**Subject: Access to Information about Timber Supply Chains**

Dear [RECIPIENT NAME],

I am writing to you regarding our work to meet the requirements of the EU Timber Regulation.

As you may know the EU is implementing the EU Timber Regulation (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. The regulation seeks to counter the trade in illegally harvested timber and timber products through three key obligations:

1. It prohibits the placing on the EU market for the first time of illegally harvested timber and products derived from such timber;
2. EU operators and traders must keep records of their suppliers and customers.
3. EU operators who place timber products on the EU market for the first time must exercise 'due diligence'.

Since we are purchasing wood products from your company we are required by the regulation to secure access to information describing the timber and timber products, country of harvest, species, quantity, details of the supplier, and information on compliance with national legislation, to assess the risk of illegal timber in this supply chain, based on the information identified above and taking into account criteria set out in the regulation.

We are now writing to seek your consent to:

- **Provide additional information** about the material we purchase from your company. This will help us in securing access to the relevant information about our products required under the EUTR.

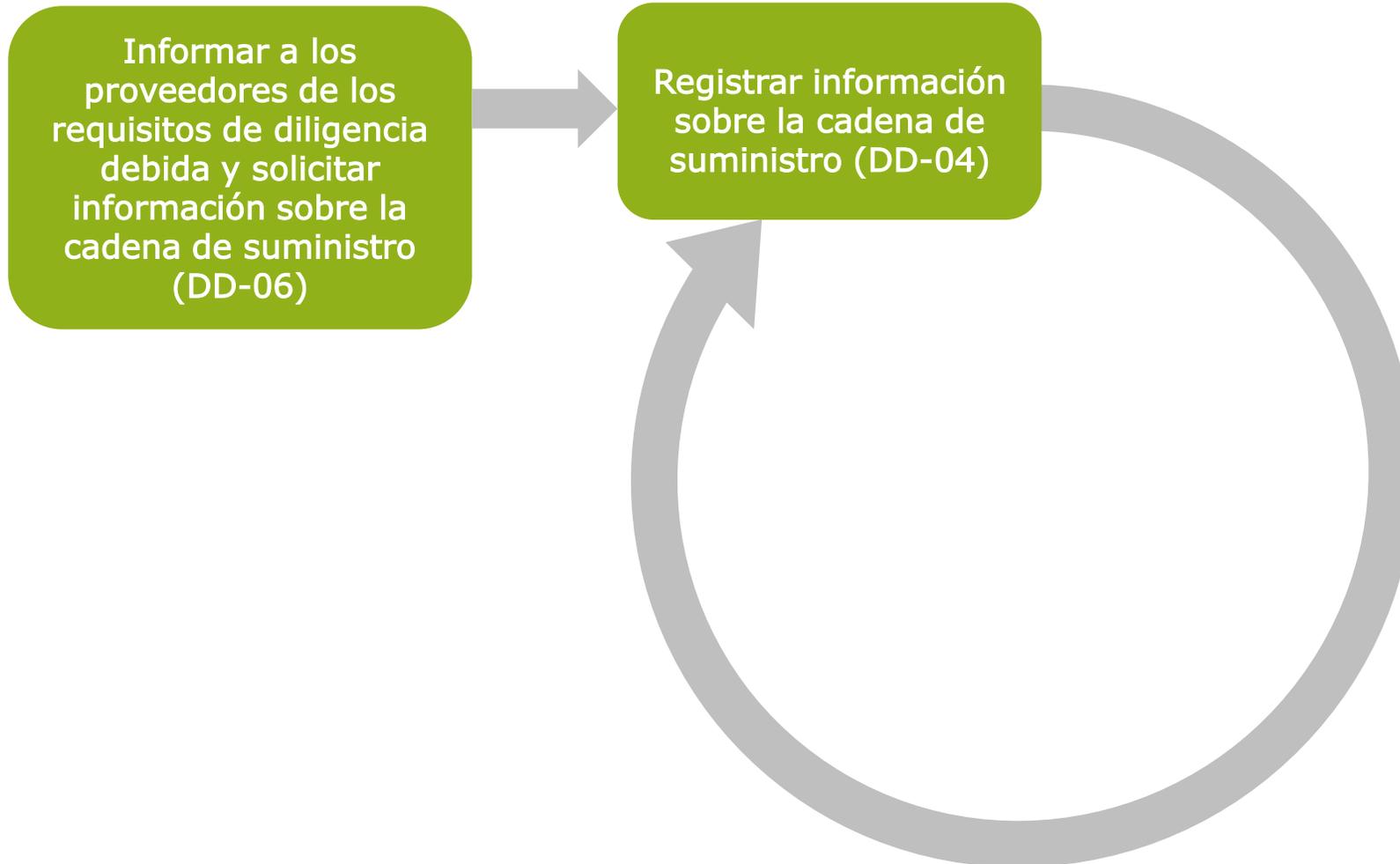
[WHERE ADDITIONAL INFORMATION IS REQUIRED ABOUT SUPPLY CHAIN(S), THE FOLLOWING SENTENCE CAN BE ADDED:]

To allow us to evaluate our supply of timber and/or paper products, we request that you complete the attached excel sheet [ENTER NAME OF THE EXCEL FILE (DD-05)], providing information about the products you sell to us.



Carta para recabar información del proveedor (DD-06)

## 2. Recabar información



## 2. Recabar información

- Documento de base en Excel
- Para el registro sistemático de toda la información sobre proveedores & cadena de suministro
- Facilita la identificación de lagunas informativas
- Documentación de las conclusiones sobre el riesgo

### [ORGANISATION NAME] Supply Chain Overview

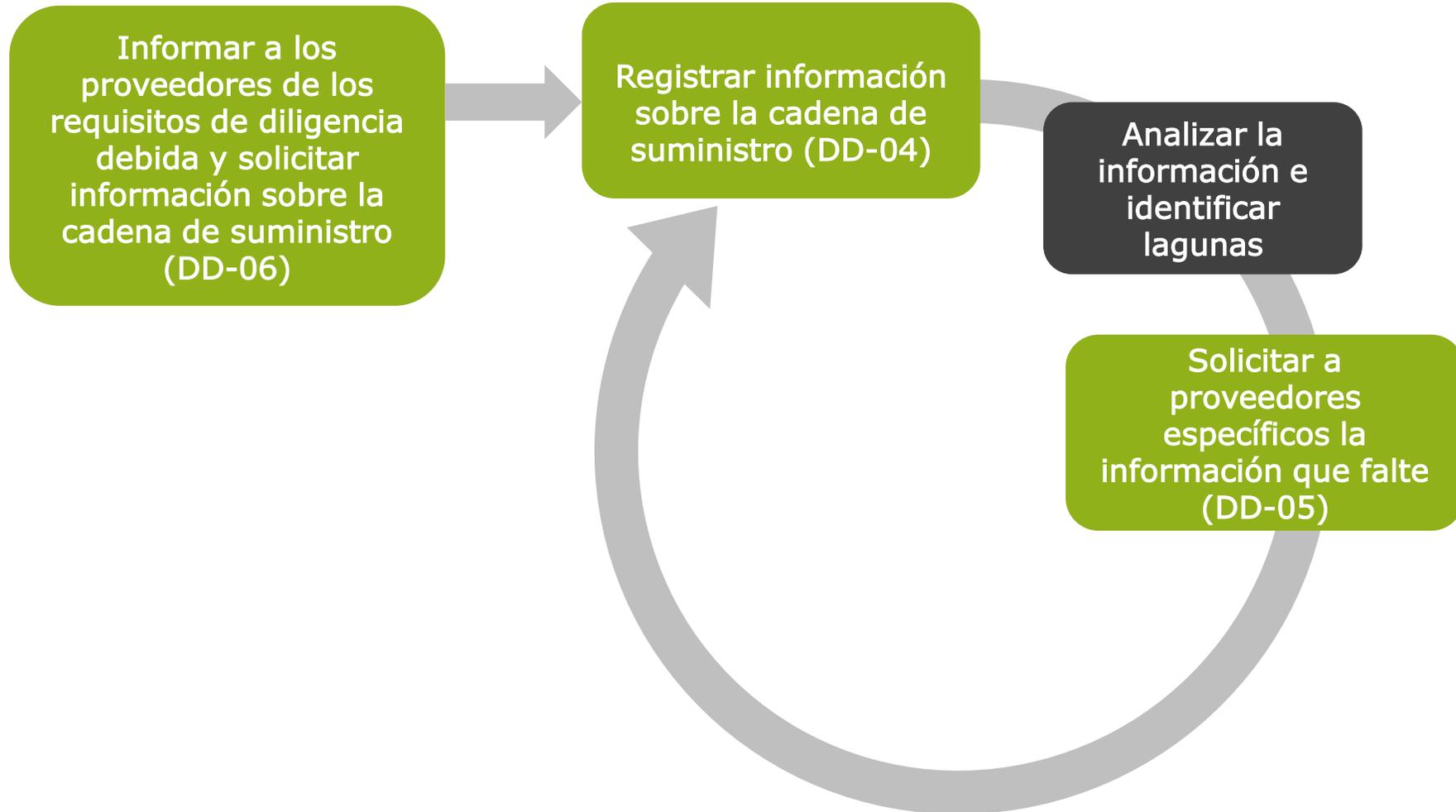
This document is the principal record for cataloguing supply chain information from all suppliers and recording risk assessment and mitigation actions as part of the [ORGANISATION NAME] due diligence system.

1. Supplier information					2. Product information								3. Material Origin				
Supplier ID	Supplier name	Supplier country	SUPPLIER verification/certification	Certification code	Product ID	Product description	EU Product Group	PRODUCT verification / certification	Component or single material	Component description	Species (scientific name)	Species (trade name)	Volume	Country of harvest	Sub-national region of harvest (if known)	Harvest concession (if known)	...
Enter the name or ID of the first tier supplier.	Enter the name of supplier	Enter the country in which the supplier is based	Select the type of certification/verification applicable to the SUPPLIER.	Enter the certification code of the supplier	Enter the product ID	Enter the description of the product or component. This should contain information that can identify the product.	Select the relevant EU customs product code, if applicable.	Select the type of certification/verification applicable to the PRODUCT, if applicable.	If more than one component is used per product, please indicate this by selecting "component" and go to the "COMPONENT PRODUCTS" tab.	If a component product, note the type of component in each line.	Enter the scientific name of the species.	Enter the trade name of the species.	Enter the volume purchased during the last 12 months	Enter the country of HARVEST of the material.	Enter information about the region of harvest, if known.	Enter location of harvest, if known.	Do you have access to information about the supply chain products?

Page 1

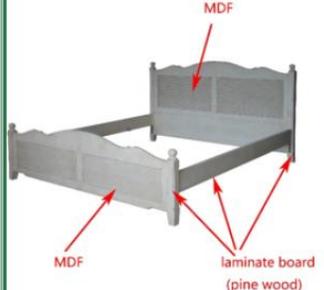


## 2. Recabar información



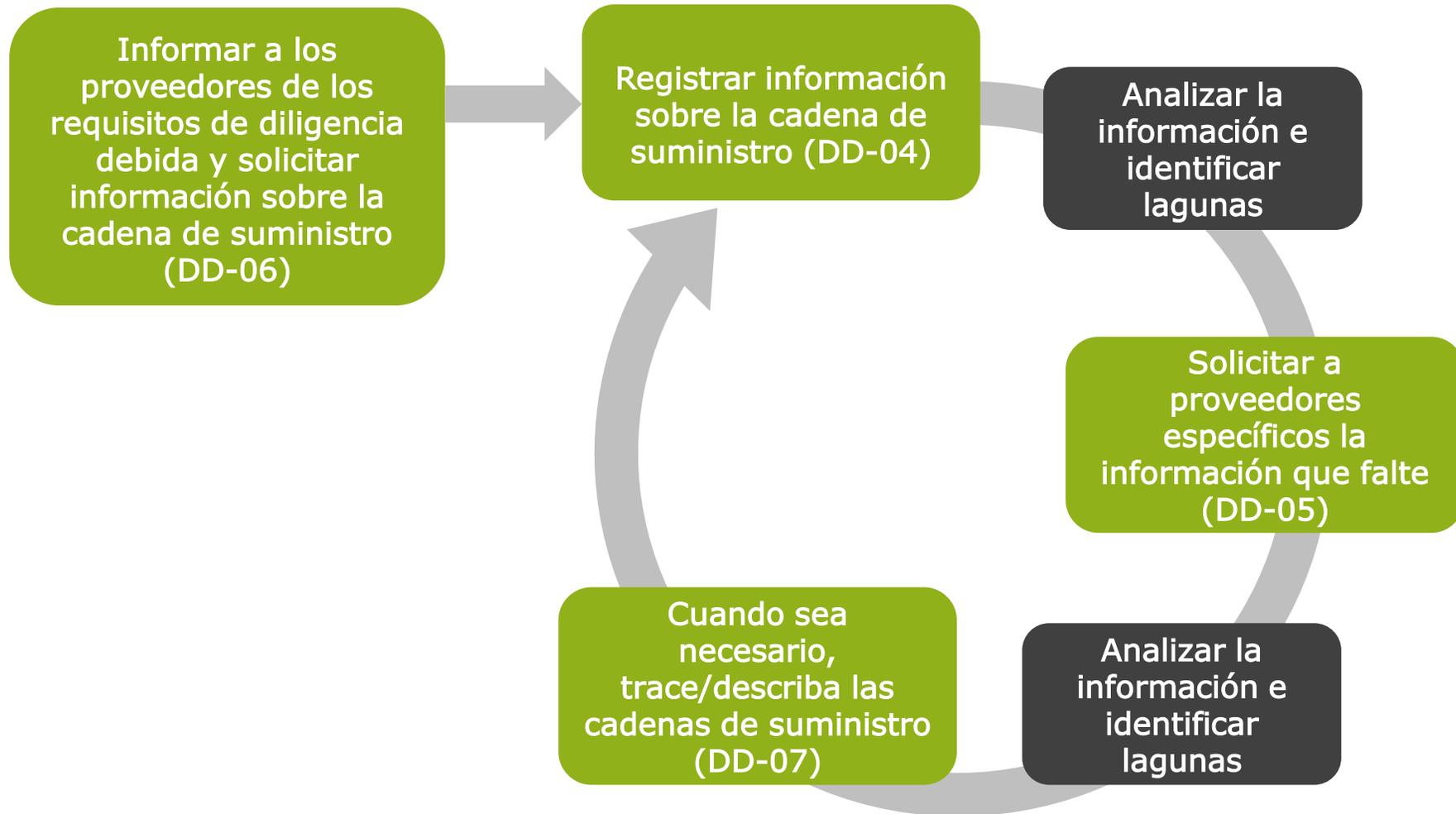
## 2. Recabar información

- Recabar la información que falte sobre algún proveedor específico
- Le proporciona al proveedor una idea general de la información actual para que quede claro qué lagunas existen
- El proveedor completa la ficha y devuelve la información que falta & pruebas que demuestren su veracidad

1. Product Information						2. Information about origin			4. Agreement on materials included?	
Product type/description	EU Product Group	PRODUCT verification / certification	Component or single material	Species (scientific name)	Species (trade name)	Country of harvest (if known)	Sub-national region of harvest (if known)	Harvest concession (if known)	Image	NEPCon Comments
10194021	9403 30, 940...		Component	1. Cunninghamia lanceolata, 2. MDF[Eucalyptus, pinus, and other mixed woods], 3. Plywood[Populus spp., plywood with Pinus spp veneer]	1. China Fir 2. Eucalyptus species, Pine species, other unknown species 3. Pine specie(s) + Poplar specie(s)	China		1. FIR FROM GUIZHOU PROVINCE 2. MDF FROM FUJIAN PROVINCE 3. LAMINATE BOARD PLYWOOD FROM GUANGXI PROVINCE		1. No Cunninghamia lanceolata in the image.



## 2. Recabar información

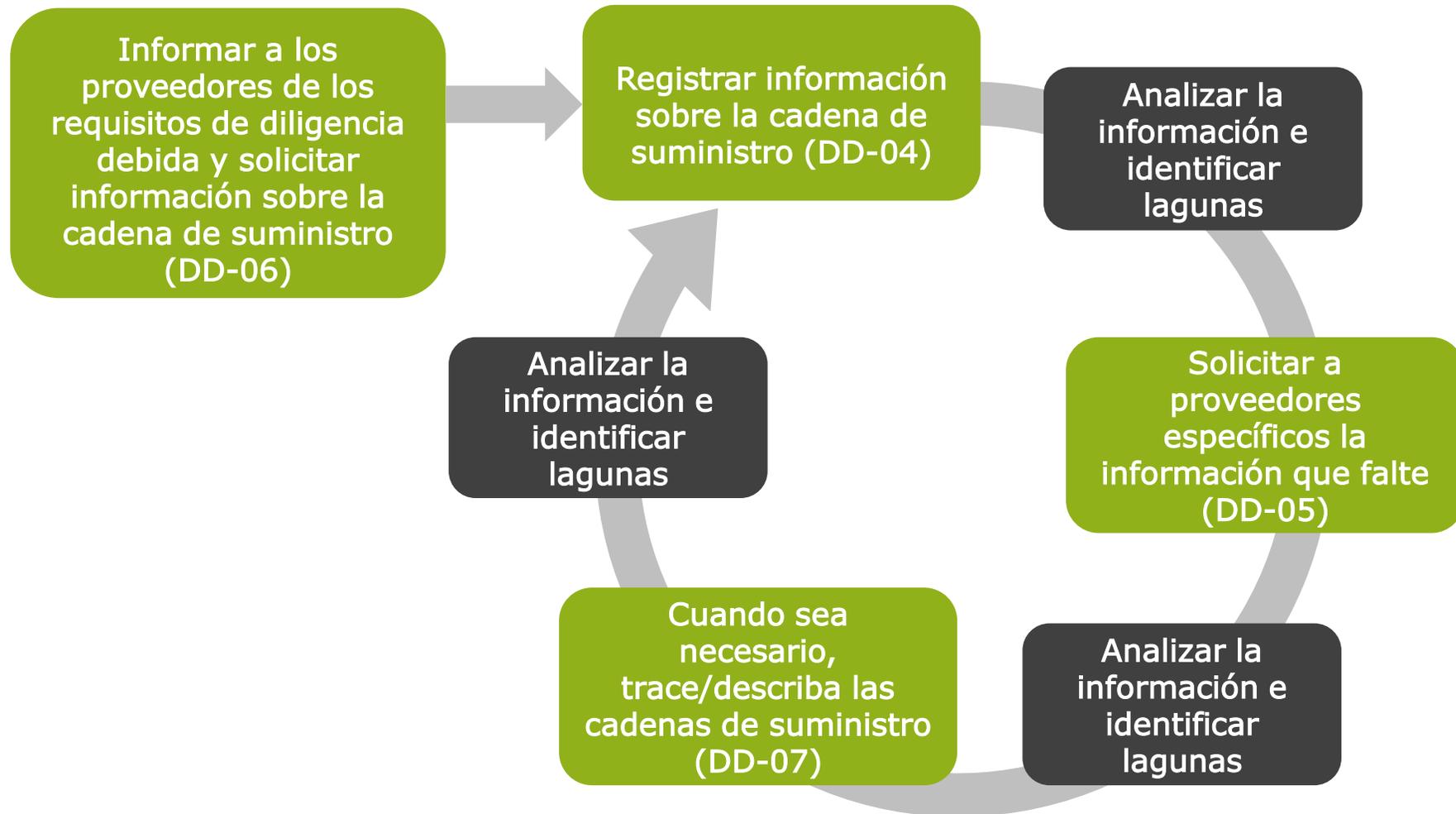


## 2. Recabar información

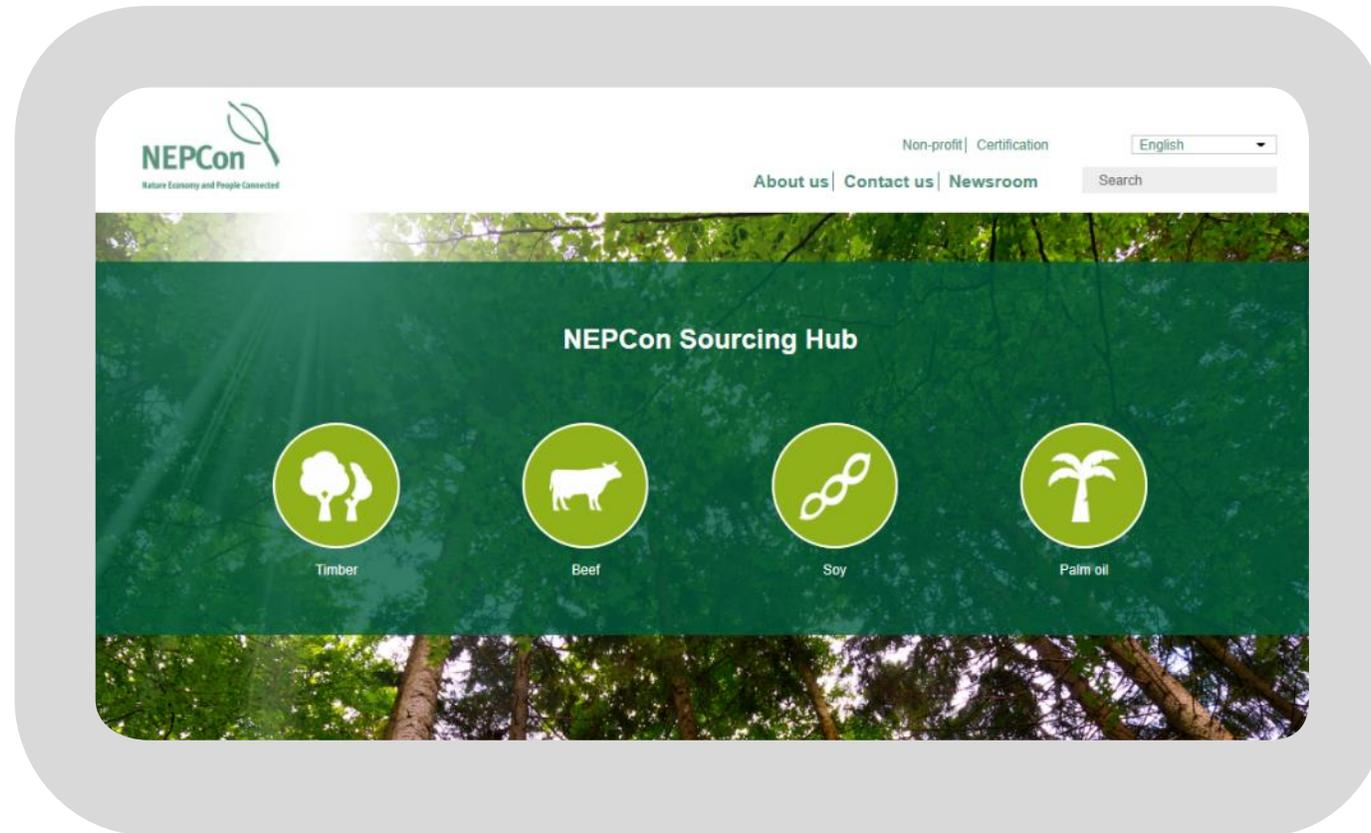
- Cuando sea necesario, trace/describa las cadenas de suministro hasta el origen
- Se puede introducir información sobre cada uno de los proveedores que operan en las primeras etapas de la cadena
- Entre otros datos: razón social, dirección, tipo de empresa, certificación

Material/Product:									
ID:									
Supply Chain Detail									
Tier	Supplier Name	Type of entity	Material Type	Species (scientific name)	Material certification (if applicable)	Certification code of supplier (if applicable)	Location	Contact information	Supporting Documentation
See GUIDE tab	Enter the name of the supplier.	Enter the type of entity for supplier. (primary manufacturer, secondary manufacturer, forest manager, trader, etc.)	Enter the material type. (logs, sawn timber, planed timber, veneer, plywood, MDF, chips, etc.)	Enter the names of the species in each product	Enter the type of certification/verification, if applicable.	Enter the certification code for the applicable certification.	Enter the location (country, region, address) of the supplier.	Enter relevant contact details for the supplier. (contact person, email, telephone)	List documentation (or other information) to support the information
Supply Chain Example									
1	Components Ltd	Secondary Manufacturing	Furniture parts	Quercus mongolica	No	N/A	Vietnam		#1 Supply contract with components factory (price information covered) #2 Invoices and delivery notes for supply of sawn timber
2	Sawmills Ltd	Sawmill	Sawn Timber	Quercus mongolica	No	N/A	China, Jilin		#1 Business registration of sawn mill #2 Supply contract with forest #3 Invoices and delivery notes for supply of sawn timber #4 Transport licences
2	Forestry Inc	Forest Enterprise	Logs	Quercus mongolica	No	N/A	Russia		#1 Invoices (price information covered) to Sawmill #2 Transport licences #3 Harvest licences #4 Assessment Management Plan

## 2. Recabar información

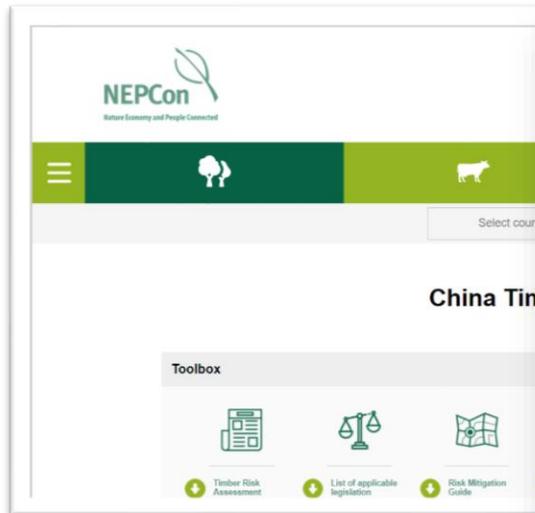


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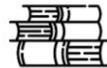
[www.nepcon.org/sourcinghub](http://www.nepcon.org/sourcinghub)

... y se puede descargar la **Guía de documentación** para obtener más información:



Version 1.0 | April 2017

## China Document Guide



This publication has been developed with support from the LIFE programme of the European Union and UK aid from the UK government.

### Example of forest tenure certificate

森林、林木、林地状况登记表 No 1

林地所有权 权利人 森林或林木 所有权权利人	林地使用权 权利人 森林或林木 使用权权利人		
坐落 <b>Location</b>		小班	
小地名	林班	小班	
面积 <b>Area</b>	主要树种 <b>Main species</b>		
株数	林种 <b>Forest type</b>		
林地使用期 <b>Valid period</b>	终止日期		
四至 <b>GPS location</b>			
注 记:			
填证机关 经办人: 负责人:			
年 月 日 年 月 日			

Name of the holder: [Redacted]

根据《中华人民共和国森林法》规定，本证中森林、林木、林地所有权或者使用权，业经登记，合法权益受法律保护。

特发此证

Seal of issuing authority: [Redacted]

发证机关(印): [Redacted]

年 月 日: [Redacted]

Issuing time: [Redacted]

# 3. Evaluación de riesgo

## 2. Evaluación de riesgo

- Al completar el paso anterior, usted se aseguró del acceso a información sobre sus cadenas de suministro.
- Ahora puede evaluar el riesgo asociado a esos productos.

1

Information Gathering

2

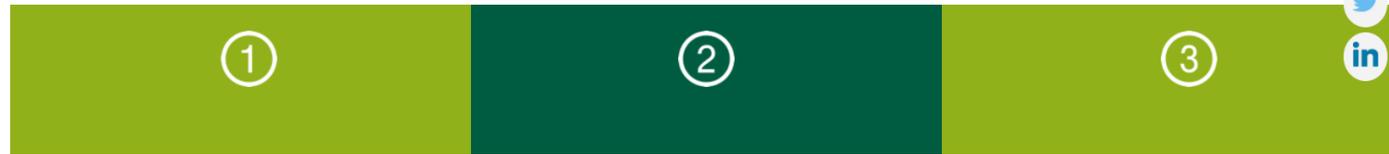
Risk Assessment

3

Risk Mitigation

## 2. Evaluación de riesgo

En la pestaña *Evaluación de riesgo* (2) hay una lista general de los riesgos identificados a nivel nacional. Se dividen en cinco áreas jurídicas que son relevantes para la aplicación del Reglamento EUTR:



### Risk assessment summary

#### Legal rights to harvest



- Risk of lack of registration and tenure certificates (applicable only to collective forest plantation only)
- Risk of conflicts in relation to land rent (applicable only to collective forest plantation only)
- Risk of lack of management plans and failure to meet the requirements for drafting management plans (applicable on to state-owned forest management enterprises)
- Risk of harvesting without permit and unlawful issuing of harvesting permit

#### Taxes and fees



- Risk that value-added taxes (VAT) are not paid appropriately

#### Timber harvesting activities



- Risk of lack of use of safety equipment
- Risk of lack of employment contracts
- Risk of lack of social security payments

#### Trade and transport



- Mis-/under reporting on customs declarations

#### Tracability



- Risk of false declaration of origin
- Risk of timber mixing in production and trade

## B. Overview of timber legality risks in China

**Timber Risk Score:** 73 / 100 in 2017

This report contains an evaluation of the risk of illegality in China for five categories and 21 sub-categories of law. We found:

- **Specified risk for 5 sub-categories.**
- **Low risk for 13 sub-categories.**
- **No legal requirements for 3 sub-categories.**

The Timber Risk Score for China is 73 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, timber harvesting activities and trade and transport.

For **Legal Rights to Harvest**, there is a risk of:

- A lack of registration and tenure certificates (applicable only to collective forest plantation only) (Sub-category 1.1)
- Conflicts in relation to land rent (applicable only to collective forest plantation only) (1.1.)
- A lack management plans and failure to meet the requirements for drafting management plans (applicable on to state-owned forest management enterprises) (1.3)
- Harvesting without permit and unlawful issuing of harvesting permit and the (1.4)

For **Taxes and Fees**, there is a risk that that value-added taxes (VAT) are not paid according to law (1.6).

For **Timber Harvesting Activities**, there is risk that:

- Safety equipment is not used in harvesting activities (1.11)
- Employment contracts are not in place for all employees (1.12)
- Social security payments are not up to date for all employees

For **Trade and Transport**, there is a risk of miss-/under reporting on customs declarations, exacerbated by the issues related to corruption and poor governance (1.19).

### Timber source types and risks

There are three timber source types found in China. Knowing the "source type" that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all source types and found the risks differ between them.

<b>Plantation Forest</b>	Commercial Plantation Timber – from collectively, individually or corporately owned commercial plantations, mostly state managed. A harvesting permit and logging permit application is required. <b>The is the primary source of timber in China.</b>
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This matrix summarises the findings of the timber legality risk assessment set out in this report.

Legal Category	Sub-Category	Source Type		
		Natural forest	Plantation forest	Bamboo forest
Legal rights to harvest	1.1 Land tenure and management rights	Low	Specified	Low
	1.2 Concession licenses	N/A	N/A	N/A
	1.3 Management and harvesting planning	Specified	Specified	Specified
	1.4 Harvesting permits	Specified	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Low	Low	Low
	1.6 Value added taxes and other sales taxes	Low	Low	Low
	1.7 Income and profit taxes	Low	Low	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Low	Low	Low
	1.9 Protected sites and species	Low	Low	Low
	1.10 Environmental requirements	Low	Low	Low
	1.11 Health and safety	Specified	Specified	Specified
	1.12 Legal employment	Specified	Specified	Specified
Third parties' rights	1.13 Customary rights	Low	Low	Low
	1.14 Free prior and informed consent	N/A	N/A	N/A
	1.15 Indigenous/traditional peoples rights	Low	Low	Low
Trade and transport	1.16 Classification of species, quantities, qualities	Low	Low	Low
	1.17 Trade and transport	Low	Low	Low
	1.18 Offshore trading and transfer pricing	Low	Low	Low
	1.19 Custom regulations			
	1.20 CITES	Low	Low	Low
Diligence/due care procedures	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A	N/A

## D. Legality Risk Assessment

### LEGAL RIGHTS TO HARVEST

#### 1.1. 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.*

##### 1.1.1. Applicable laws and regulations

- 1) Constitution of the People's Republic of China dated 4<sup>th</sup> of December 1982 - Article 5-23 & 26. Available at: [http://www.npc.gov.cn/npc/xinwen/node\\_505.htm](http://www.npc.gov.cn/npc/xinwen/node_505.htm)
- 2) General Principle of Civil Law of the People's Republic of China dated 12<sup>th</sup> of April 1986 - Article 80-83. Available at: [http://www.npc.gov.cn/wxzl/wxzl/2000-12/06/content\\_4470.htm](http://www.npc.gov.cn/wxzl/wxzl/2000-12/06/content_4470.htm)
- 3) Law of the People's Republic of China on the Contracting of Rural Land ("Rural Land Contracting Law") dated 29<sup>th</sup> of August 2002 - Article 2 & 23. Available at: <http://en.pkulaw.cn/display.aspx?cgid=41762&lib=law>
- 4) Property Law of the People's Republic of China ("Property Law") dated 16<sup>th</sup> of March 2007 - Article 124, 125 & 127. Available at: <http://en.pkulaw.cn/display.aspx?cgid=89386&lib=law>
- 5) Forest Law of the People's Republic of China ("Forest Law") dated 20<sup>th</sup> September 1984, 1998 Amendment. Revised 27<sup>th</sup> of August 2009 - Article 3. Available at: <http://en.pkulaw.cn/display.aspx?cgid=20095&lib=law>
- 6) Regulation on the Implementation of the Forestry Law of the People's Republic of China [Revised], dated 29<sup>th</sup> January 2000 - Article 15, 34. Available at: <http://www.forestry.gov.cn/main/3950/content-459869.html>
- 7) Processing Measures for the Disputes of Forest Trees and Forest Land Tenure and Ownership dated 14<sup>th</sup> October 1996 - Article 2. Available at: <http://www.forestry.gov.cn/main/3951/content-204759.html>
- 8) Administration Measures for Forest and Forestland Tenure Registration dated 31<sup>st</sup> December 2000 - Article 3-9. Available at: <http://www.forestry.gov.cn/main/3951/content-204744.html>
- 9) Law of the People's Republic of China on the Mediation and Arbitration of Rural Land Contract Disputes dated 1<sup>st</sup> January 2010 - Article 2-6. Available at: <http://www.forestry.gov.cn/main/24/content-204668.html>
- 10) Company Law of the People's Republic of China (2005 Revision) dated 1<sup>st</sup> January 2006 - Article 6-9. Available at:

<http://wenku.baidu.com/link?url=rkIYkWRxwQBLXhGrPRie6q73Ns0fxTfa8Ed6YpN3ujsiDQ5pRXKD3WAqNe3nHctvkkx-V4rMQ95qpywjRanHwewDrrFSs67bAffZWpGPh17>

- 11) Taxation Registration Administration Measure dated 1<sup>st</sup> February 2004 - Chapter 1 & 2. Available at: [http://www.gov.cn/gongbao/content/2004/content\\_62924.htm](http://www.gov.cn/gongbao/content/2004/content_62924.htm)
- 12) Regulations Governing Examination and Approval of Occupation and Requisition of Forest Land dated 4<sup>th</sup> January 2001. Available at: [http://www.gov.cn/gongbao/content/2002/content\\_61894.htm](http://www.gov.cn/gongbao/content/2002/content_61894.htm)
- 13) Land management law of P. R. China dated 25<sup>th</sup> of June 1986 and revised 28<sup>th</sup> of August 2004. Available at: <http://www.china.com.cn/chinese/law/647616.htm>

All the provinces shall apply the laws listed above but may still take different approaches to ensure the right of land tenure and management.

##### 1.1.2. Legal authority

- State Forestry Administration and forest bureaus at different levels are responsible for the laws about forest, forest trees and forest land.
- State Administration of Taxation is responsible for Taxation, Registration, Administration and Measure.
- State Administration for Industry and Commerce is responsible for Company Law.

##### 1.1.3. Legally required documents or records

Numbers below refers to the numbers in section 1.1.1.

- 8) Administration Measures for Forest and Forestland Tenure Registration dated 31<sup>st</sup> December 2000 - Article 3-9:
  - Forest Tree and Forest Land Tenure Certificate (Forest Tenure Certificate)
- 10) Company Law of the People's Republic of China (2005 Revision) dated 1<sup>st</sup> January 2006 - Article 6-9:
  - For companies leasing forest land for forest management: Forest land contract in addition to the above certificate.
  - Business Registration Certificate, only applicable for companies mentioned above
- 11) Taxation Registration Administration Measure dated 1<sup>st</sup> February 2004 - Chapter 1 and 2:
  - Tax Registration Certificate, applicable only for companies

##### 1.1.4. Sources of Information

- 1) Chatham House. Available at: <http://www.illegal-logging.info/>;
- 2) ELDIS regional and country profiles. Available at: <http://www.eldis.org>;
- 3) Environmental Investigation Agency. Available at: <http://www.eia-international.org>;

- 2) Greenpeace (2005). *Investigation on APP's Hainan Project*. Greenpeace, pp. 1-8. Available at: <http://www.greenpeace.org/eastasia/Global/eastasia/publications/reports/forests/2005/investigation-app-hainan-project.pdf> [Accessed 22 Sep. 2015]
- 3) Blog.sina.com.cn (N.Y.). *Report on Foreign Forest Companies*. [online]. Ren. Available at: [http://blog.sina.com.cn/s/blog\\_436698a40100f0p6.html](http://blog.sina.com.cn/s/blog_436698a40100f0p6.html) [Accessed 15 July 2015]
- 4) Ping, L. (2014). *Large-Scale Land Acquisition: Field Findings and Recommendations*. Washington, DC: Rights and Resources Initiative, pp. 3-37. Available at: <http://www.rightsandresources.org/publication/large-scale-land-acquisition-for-app-forest-plantations-field-findings-and-recommendations/> [Accessed 3 November 2015]
- 5) Ping, L. and Xiaobei, W. (2014). *Forest Land Acquisition by Stora Enso in South China: Status, Issues, and Recommendations*. Washington, DC: Rights and Resources Initiative, pp. 3-45. Available at: <http://www.rightsandresources.org/publication/forest-land-acquisition-by-stora-enso-in-south-china-status-issues-and-recommendations/> [Accessed 3 November 2015]
- 6) Kram, M., Bedford, C., Durnin, M., Luo, Y., Rokpelnis, K., Roth, B., Smith, N., Wang, Y., Yu, G., Yu, Q., and Zhao, X. (2012). *Protecting China's Biodiversity: A Guide to Land Use, Land Tenure, and Land Protection Tools*. (N. Smith, Ed.) Beijing: The Nature Conservancy. Available at: <http://www.nature.org/media/china/chinabook-wholebook-lowres.pdf>
- 7) zgxcfx.com. (2013). *Forest tenure disputes and its reasons during collective forest tenure reform*. [online]. Available at: [www.zgxcfx.com/Article/53458.html](http://www.zgxcfx.com/Article/53458.html)
- 8) forestry.gov.cn. (2012). *Forest tenure certificate issued for forest on non-forestry land in Sinan County, Guizhou*. [online]. Forestry website for China. Available at: <http://www.forestry.gov.cn/portal/main/s/102/content-567294.html>
- 9) Transparency.org. (2014). *Corruption by Country/Territory: Corruption Perceptions Index 2014 for China*. [online]. Transparency International. Available at: <http://www.transparency.org/country/#CHN>
- 10) The World Bank. (2014). *Worldwide Governance Indicators for China: Country Data Report for China, 1996-2014*. [online]. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>

#### 1.1.5. Risk determination

##### Overview of legal requirements

The Constitution, General Principle of Civil Law, and the Forestry Law of China provide that forest resources are owned by the State except for those owned by collectives according to laws. There are three forms of ownership to forest, timber and forest land:

- (i) State-owned forest, timber and forest land;
- (ii) Collectively owned forest, timber and forest land; as well as

included in forestry land subject to planning. This could be considered a potential risk. However, these non-forestry lands are included within land use rights certificates, which can serve as evidence that the certificate holder owns the use right of land and the right to use the resources on the land. At any rate, to safeguard the interests of farmers, China now allows the issuing of forest tenure certificates for forest on non-forestry land, and some cities or provinces have been implementing the policy.

#### Risk Conclusion

Based on the available information, the risk in this category has been generally assessed as Low at the country level. However, also based on the available information, risks in some southern provinces in China persist and can be assessed as Specified, including: Hainan, Yunnan and Guangdong. The risks are reflected in two aspects: 1) some collective forests are not registered or issued with forest tenure certificates; and 2) harvesting on non-forestry land.

#### 1.1.6. Risk designation and specification

Low risk:

China

Specified risk:

Commercial Plantations in some areas in Hainan, Yunnan, Guangdong and possibly other provinces within the Southern Collective Forest Region (Hunan, Jiangxi, Fujian, Zhejiang, Hubei).

#### 1.1.7. Control measures and verifiers

- Harvesting permit may be used to confirm the ownership or tenure.
- In areas with land tenure conflicts: Consultation with neighbors, local communities and other stakeholders shall confirm that land tenure rights are clear and - where applicable - lease of the land has been agreed by all the land owners.
- Contractors shall have a valid forest land contract signed by all land tenure owners involved in the area.
- Contractors leasing forest land shall hold the forest tenure certificate (or similar document) to show the tenure transfer registration.
- Stakeholder consultation shall confirm that the 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.
- Valid business registration documents (Business Registration Certificate and Tax Registration Certificate) shall exist for companies.

#### 1.2. Concession licenses

*Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to*

## 2. Evaluación de riesgo

### Otras herramientas que facilitan el proceso de evaluación de riesgo:

- El Anexo 2 de la **DD-01** Guía de Diligencia Debida incluye una introducción al proceso de identificación de riesgos.
- La **DD-08** Plantilla de lista de comprobación para la identificación de riesgos es una plantilla que sirve para llevar a cabo la identificación de los riesgos asociados a cadenas de suministro específicas.
- Registre la conclusión relativa al riesgo en la **Plantilla de gestión del proveedor DD-04** para dar una idea general del riesgo que existe en cada una de las cadenas de suministro.
- Se puede utilizar la **Herramienta para trazar/describir cadenas de suministro DD-07** para almacenar información detallada sobre la cadena de suministro.
- El Anexo 3 de la **Guía de Diligencia Debida DD-01** le servirá de ayuda para entender cómo debe especificar los riesgos
- La **Lista de comprobación para evaluar sistemas de certificación DD-13** sirve para registrar la evaluación del sistema de certificación.

# 4. Mitigación de riesgos

# 4. Mitigación de riesgos



Version 1.0 | May 2017

## China Risk Mitigation Guide

### Timber



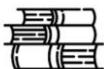
This tool has been developed by NEPCon with support from the LIFE programme of the European Union and UK aid from the UK government.



### Customs Regulations

Risk	Applicable to	Indicator of legal compliance	Potential mitigation actions	How to verify legal compliance (verifier)
Mis-/ under reporting on customs declarations	All timber sources	Products shall be correctly classified (type, HS customs code, species, quantities, etc.).	<b>Review and verify documents</b> Check information on all import/ export documentation (including Customs Declaration Registration Approval Certificate and phytosanitary certificate (where applicable)) and verify that information corresponds to material received.	Find relevant key document examples in the <a href="#">China Document Guide</a> <ul style="list-style-type: none"> <li>• Customs Declaration Registration Approval Certificate</li> <li>• Phytosanitary certificate (where applicable)</li> </ul>

# 4. Mitigación de riesgos



## Example 14: Customs declaration registration approval certificate for customs declaration company

(Registration form of external trade proprietor)

**Applicable to:** Forest entities who export timber to other countries

**Purpose and content of document:** All entities that have import and export business should register at Ministry of Commerce of China to obtain the right to import and export. The registration form shows that the holder has the right to legally import and export. The contents of the registration certificate are: name of the entity (both English and Chinese names), address, organisation code, contact information, business registration code etc.

**Holder of document:** Forest entities exporting timber to other countries

**Document issued by:** Ministry of Commerce

**Signature/Seal required by:** Local branches of Ministry of Commerce

**Key considerations when checking the document:**

- Is the name the same as on the business registration certificate?
- Is the business registration code the same as that appearing on the business registration certificate?
- Is the information in the custom registration system:

## Example of Customs declaration registration approval certificate for customs declaration company

Customs Declaration Registration Approval Certificate  
对外贸易经营者备案登记表

备案登记表编号: 00841088 进出口企业代码: 1100100009512

经营者中文名称	Company name		
经营者英文名称			
组织机构代码	100009512	经营者类型 (由备案登记机关填写)	国有企业
住所			
经营场所(中文)			
经营场所(英文)			
联系电话	59518667	联系传真	59518636
邮政编码	100861	电子邮箱	zhuk@csemc.com
工商登记注册日期	1999-9-22	工商登记注册号	<b>Business registration code</b>

依法办理工商登记的企业还须填写以下内容

企业法定代表人姓名	周文明	有效证件号	450403194408280919
注册资金	贰仟零肆拾玖万元	(折美元)	

依法办理工商登记的外国(地区)企业或个体工商户(独资经营者)还须填写以下内容

企业法定代表人/个体工商户负责人姓名		有效证件号	
企业资产/个人财产		(折美元)	

备注  
英文名称变更, 旧证号: 00621165

填表前请认真阅读背面的条款, 并由企业法定代表人或个体工商户负责人签字、盖章。

Seal of issuing authority  
2010年12月21日



**Página del país**



**Evaluación de riesgo**



**Guía de mitigación de riesgos**



**Lista de comprobación de documentos**



**Lista de leyes en vigor sobre la materia**

**China, Honduras, Liberia**

*Ya disponible*

*Ya disponible*

*Ya disponible*

*Ya disponible*

*Ya disponible*

**Gana y República Democrática del Congo**

*Ya disponible*

*Ya disponible*

*Ya disponible*

*Ya disponible*

**Otros 57 países**

*Ya disponible*

*Ya disponible*

*Próximamente*

*Próximamente*





## The EU Timber Regulation

A guide on managing good relations with your suppliers

Are you required to carry out due diligence on the timber products you buy? Use this leaflet to find out how to get all the information you need from your suppliers while also maintaining good relations with them.



EUTR Guiding Leaflet no. 2  
Published May 2017

## The EU Timber Regulation

A guide for retailers

What is the EU Timber Regulation and what does it require? Use this leaflet to find out more, including what products you need to carry out due diligence on, and how to do the due diligence.



EUTR Guiding Leaflet no. 1  
Published March 2017



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## Fake Documents

How to spot them and what to do about them



Thematic article series no. 2  
Published July 2017



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# The End

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