



Timber



Palm Oil



Beef



Soy

How to use the NEPCon Sourcing Hub in a due diligence process

Autumn 2017

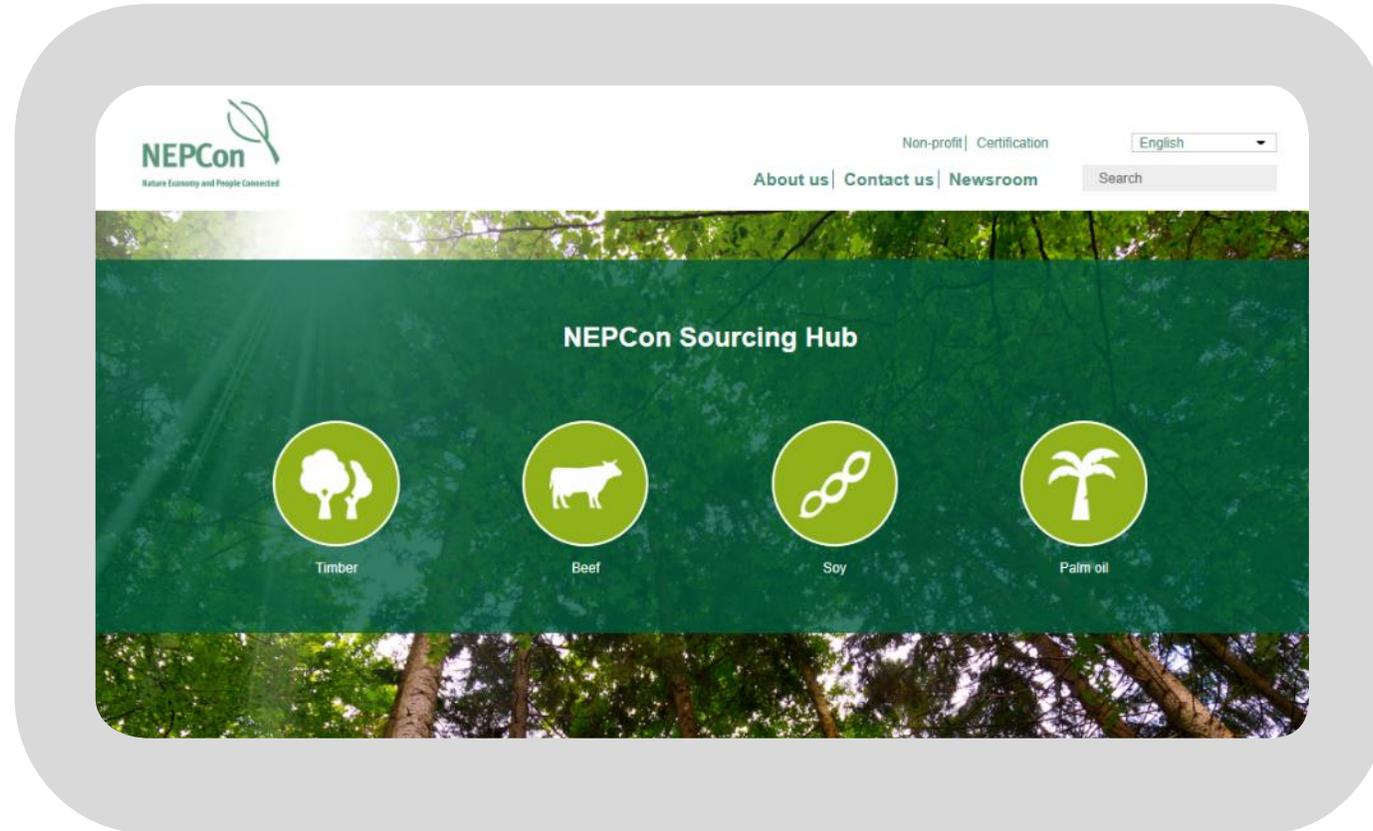


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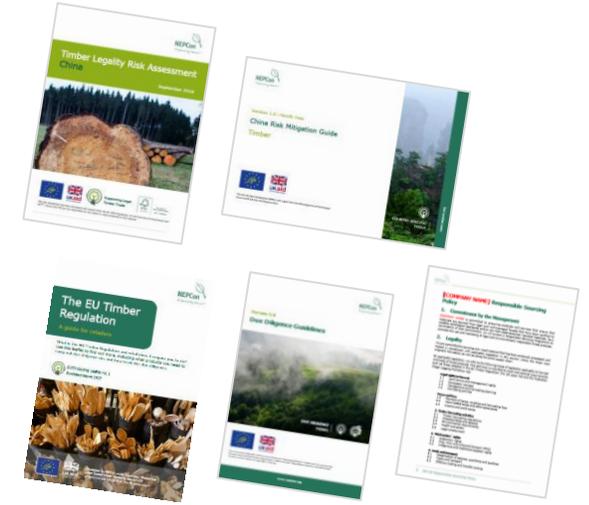
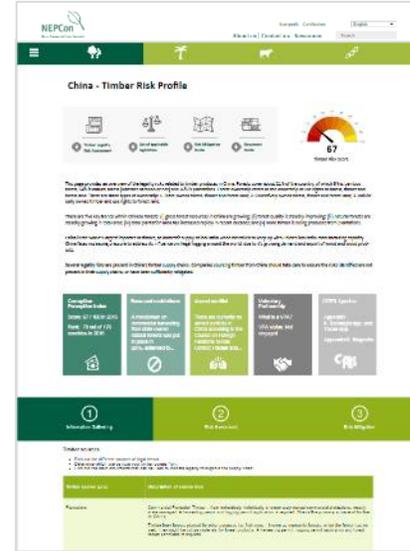
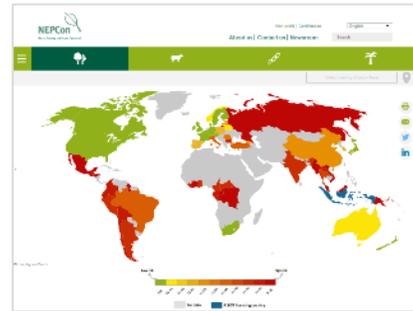
- **Risk Assessments**
- **Tools for establishing a due diligence system**
- **Country specific tools on the sourcing hub**
- **Other guides**

Launched August 2017... v1.0



www.nepcon.org/sourcinghub

Everything you need for due diligence in one place



1

SELECT
commodity

2

ACCESS
an overview map of
sourcing risks
+
SELECT
country for details

3

VIEW
country detailed risk data
(e.g. risks related to each
type of forest
production...)

4

EXPLORE
a suite of country
guidance and due
diligence tools to
mitigate the risks

Country specific guidance



Full Timber Legality Risk Assessment for all 62 countries



An overview of the relevant laws in a country from the **List Applicable Legislation**



Risk Mitigation guide to help identify the risks in the supply chain and what to do about them for a supply country



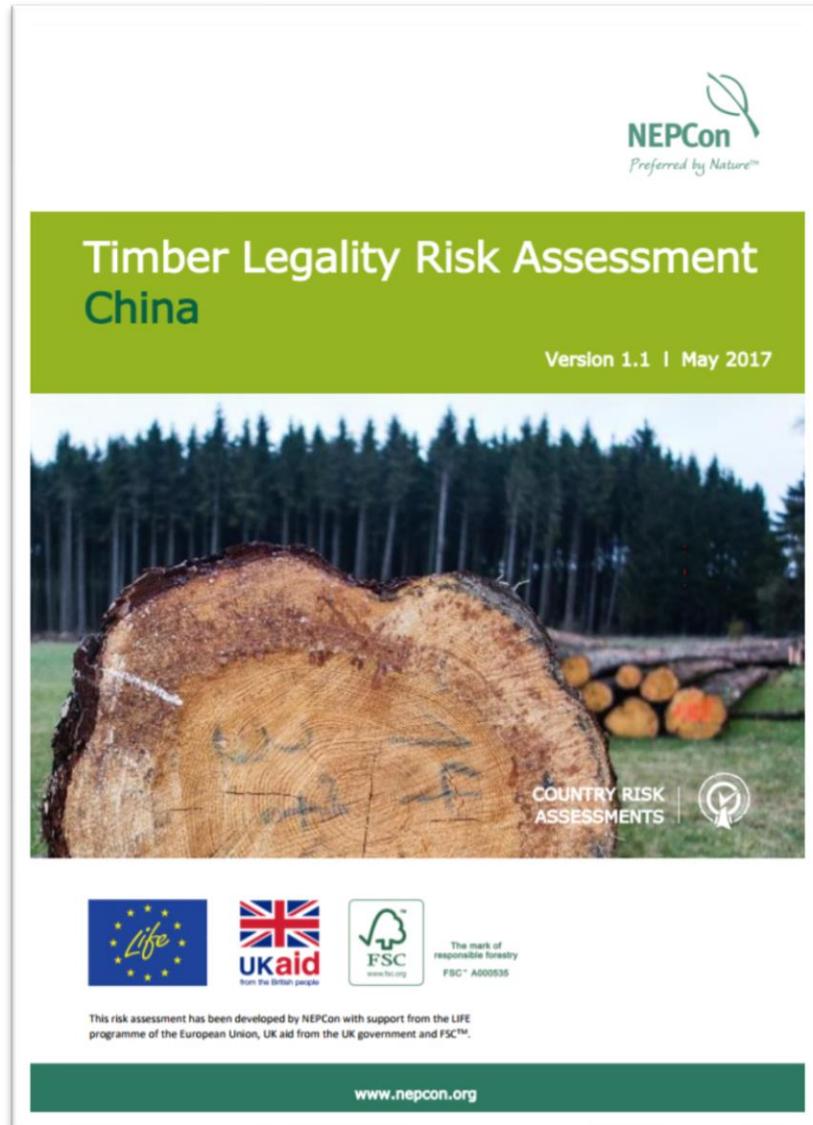
Document Guide to help determine exactly what type of documents to request from the suppliers, what they should look like and how to verify their authenticity

Due Diligence tools



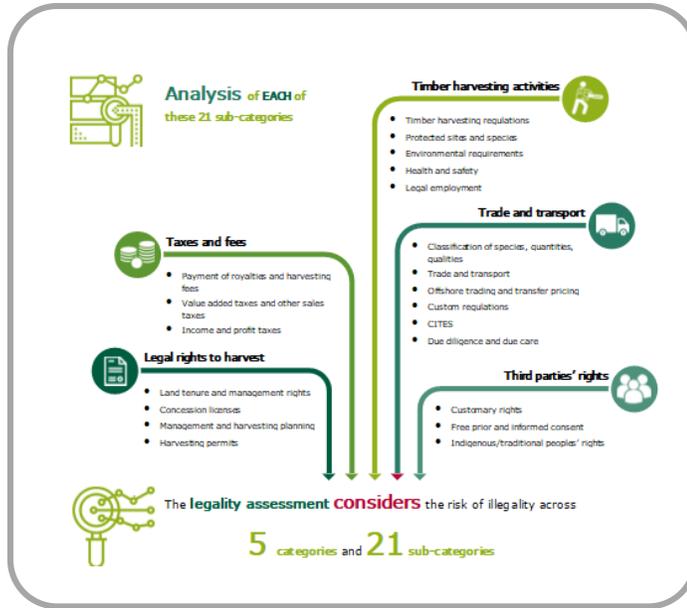
- Supplier Letters
- Due Diligence Guidelines
- Supplier Managing Form
- Risk Checklists
- Policy template
- Supplier Information Form
- etc.

Risk assessments...

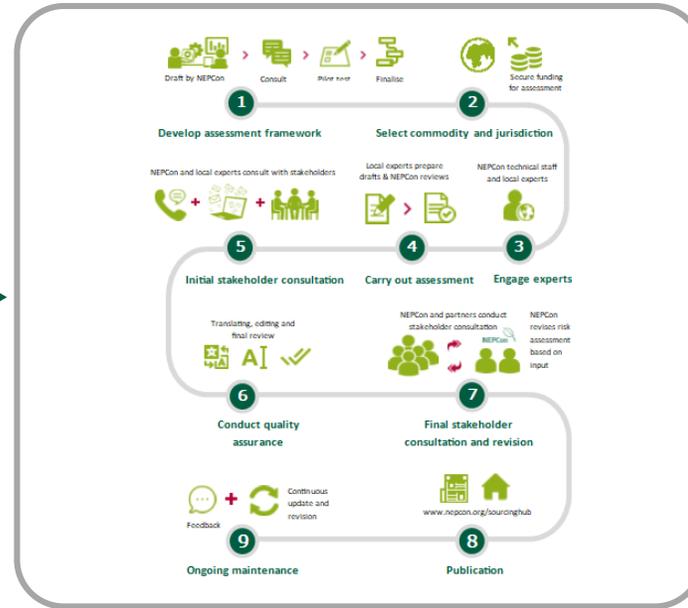


The heart of the Hub

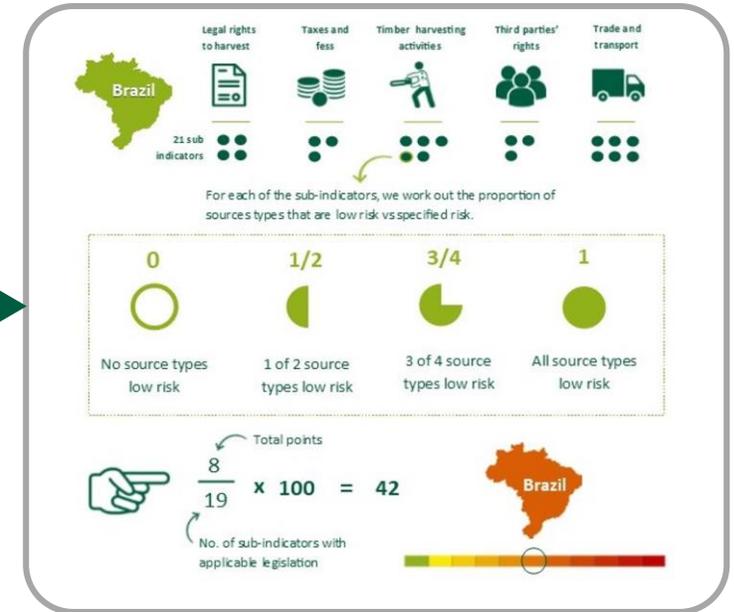
Risk assessments – development process



DEVELOP
the risk assessment framework for the commodity, e.g. defining (sub)categories



CONDUCT
risk assessments
+
CONCLUDE
the risk for each of the sub-categories



CALCULATE
the score for each country
+
COLOUR CODE
in the map

Comprehensive...

Legality category

Legality Sub-Category



Legal rights
to harvest

- Land tenure and management rights
- Concession licenses
- Management and harvesting planning
- Harvesting permits



Taxes & fees

- Payment of royalties and harvesting fees
- Value added taxes and other sales taxes
- Income and profit taxes

1. What does the law require?
2. Who is the government authority responsible for that law/s?
3. What are legal documents required?
4. What are the risks that the law is not complied with?
5. What risk mitigation actions can be taken to reduce the risk?
6. Sources of information

- Timber harvesting regulations
- Protected sites and species
- Environmental requirements
- Health and safety
- Legal employment

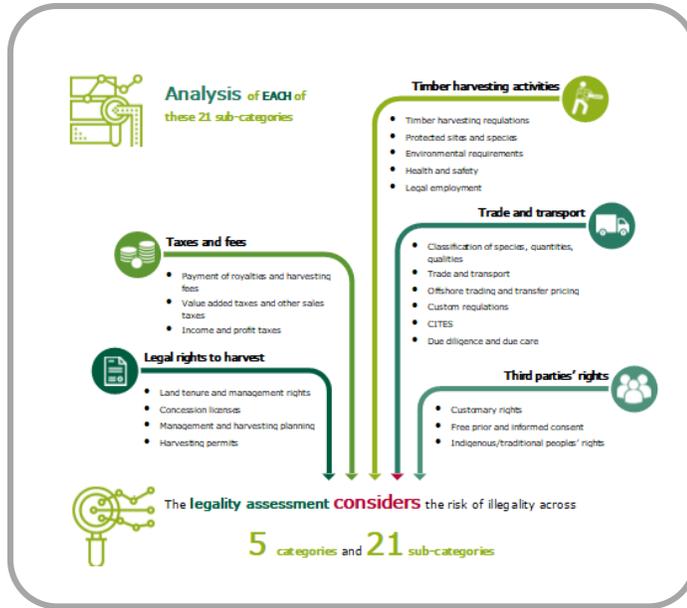
- Customary rights
- Free, Prior and Informed Consent
- Indigenous peoples rights



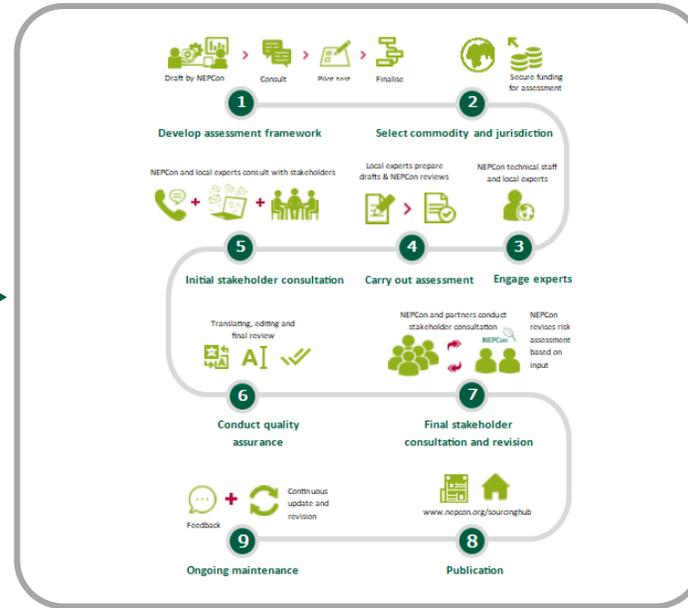
Trade & transport

- Classification of species, quantities, qualities
- Trade and transport
- Offshore trading and transfer pricing
- Custom regulations
- CITES

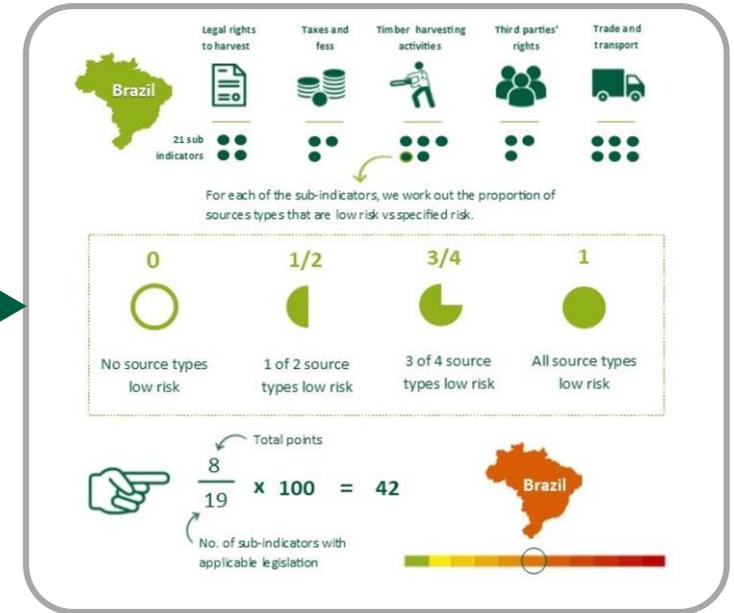
Risk assessments – development process



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the risk assessment framework for the commodity, e.g. defining (sub)categories



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risk assessments
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the risk for each of the sub-categories



CALCULATE
the score for each country
+
COLOUR CODE
in the map

Comprehensive...

Data sources for risk assessments



How do we determine low or specified risk?

Considered low risk

Problems that are:

- Temporary
- Unusual or non-systematic
- Limited in their impact
- Effectively controlled by monitoring and enforcement by efficient and effective government agencies

Considered specified risk

Problems that:

- Affects a wide area and/or causes significant damage and/or continues over a long period of time.
- Indicates the absence or break down of enforcement of the legal system.
- Is not corrected or adequately responded to when identified.
- Has a significant negative impact on society, the production of forest products and other services, the forest ecosystem and the people directly and indirectly affected by forest operations.

A Due Diligence System

1. Quality management

1. Quality management

The Sourcing Hub contains extensive information about how to set up your due diligence system (DDS).

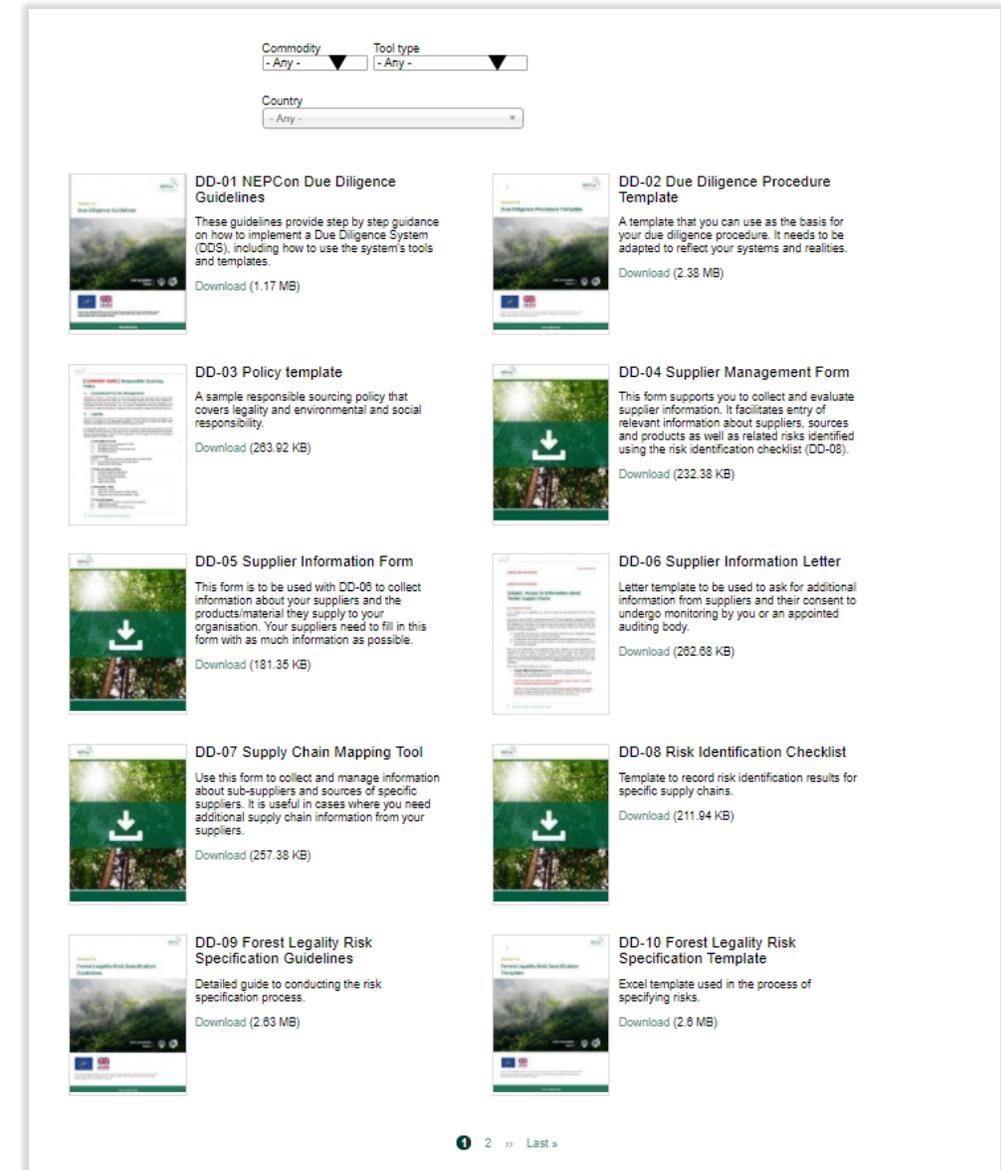
The NEPCon DDS includes several **templates** that may be used to ensure that systems and procedures are developed and implemented effectively.

You can download all the **tools** and **templates** you need to set up a due diligence system in your business on the Sourcing Hub.



1. Quality management

- Download the full NEPCon Due Diligence system on the Sourcing Hub
- <http://beta.nepcon.org/sourcing-hub/info/what-due-diligence>



The screenshot displays a web interface for downloading NEPCon Due Diligence 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' button with the file size.

ID	Title	Description	Download Size
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.	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.	2.38 MB
DD-03	Policy template	A sample responsible sourcing policy that covers legality and environmental and social responsibility.	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).	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.	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.	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.	257.38 KB
DD-08	Risk Identification Checklist	Template to record risk identification results for specific supply chains.	211.94 KB
DD-09	Forest Legality Risk Specification Guidelines	Detailed guide to conducting the risk specification process.	2.83 MB
DD-10	Forest Legality Risk Specification Template	Excel template used in the process of specifying risks.	2.6 MB

At the bottom right of the interface, there is a pagination control showing '1 2 » Last »'.

1. Quality management



NEPCon
Preferred by Nature™

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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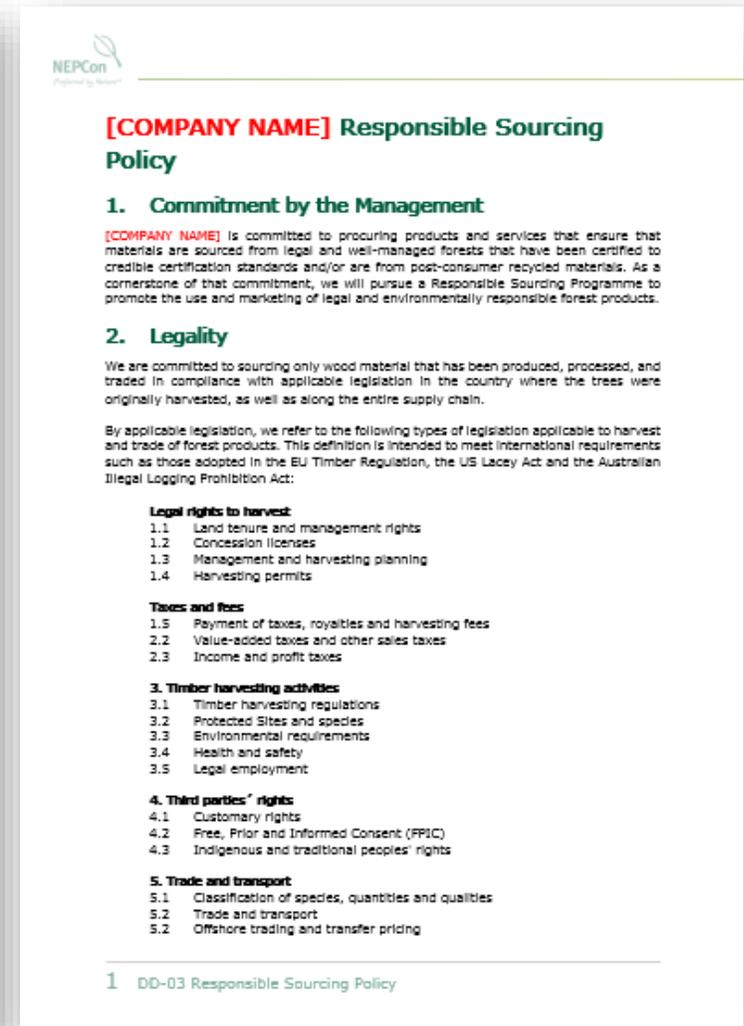
Version 2.0
Due Diligence Procedure Template

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. Information gathering

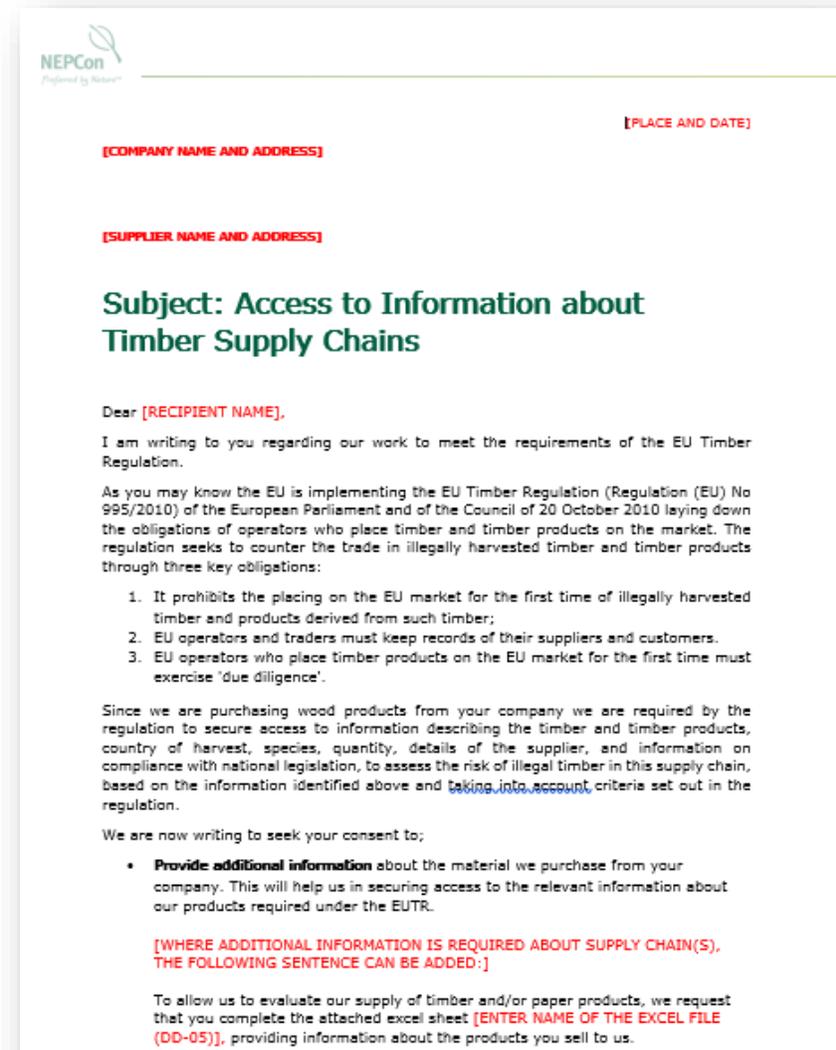
2. Information gathering

Inform suppliers of DD requirements & request supply chain info (DD-06)



2. Information gathering

- For informing suppliers of information needs
- For requesting information about supply chains
- Consent form to secure access to evidence, audits & testing materials



NEPCon
Prepared by Natures

[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:

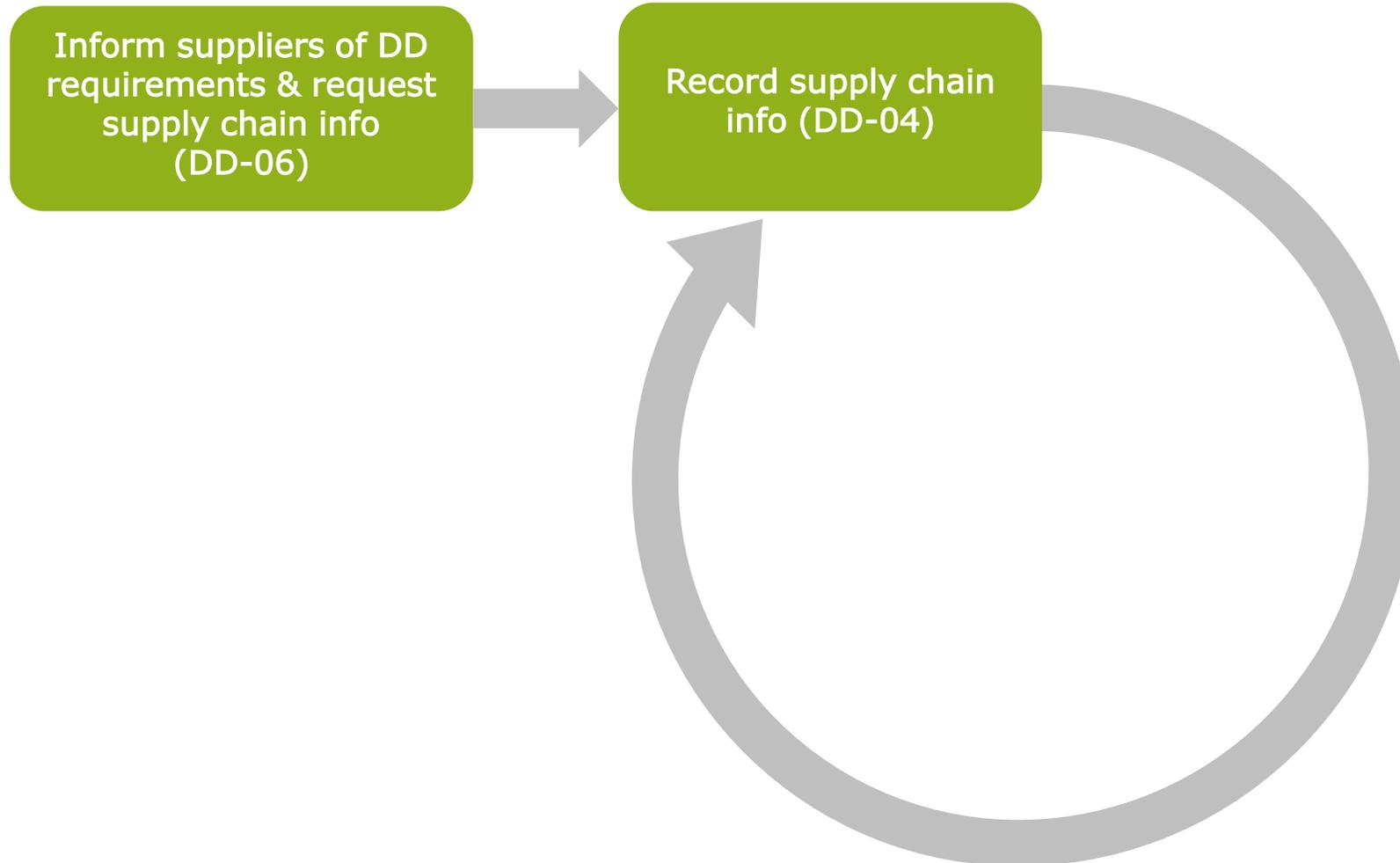
- **Provide additional information** about the material we purchase from your company. This will help us in securing access to the relevant information about our products required under the EUTR.

[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.



2. Information gathering



2. Information gathering

- Excel master document
- For systematic recording of all suppliers & supply chain information
- Helps identify gaps in information
- Document risk conclusions

[ORGANISATION NAME] Supply Chain Overview

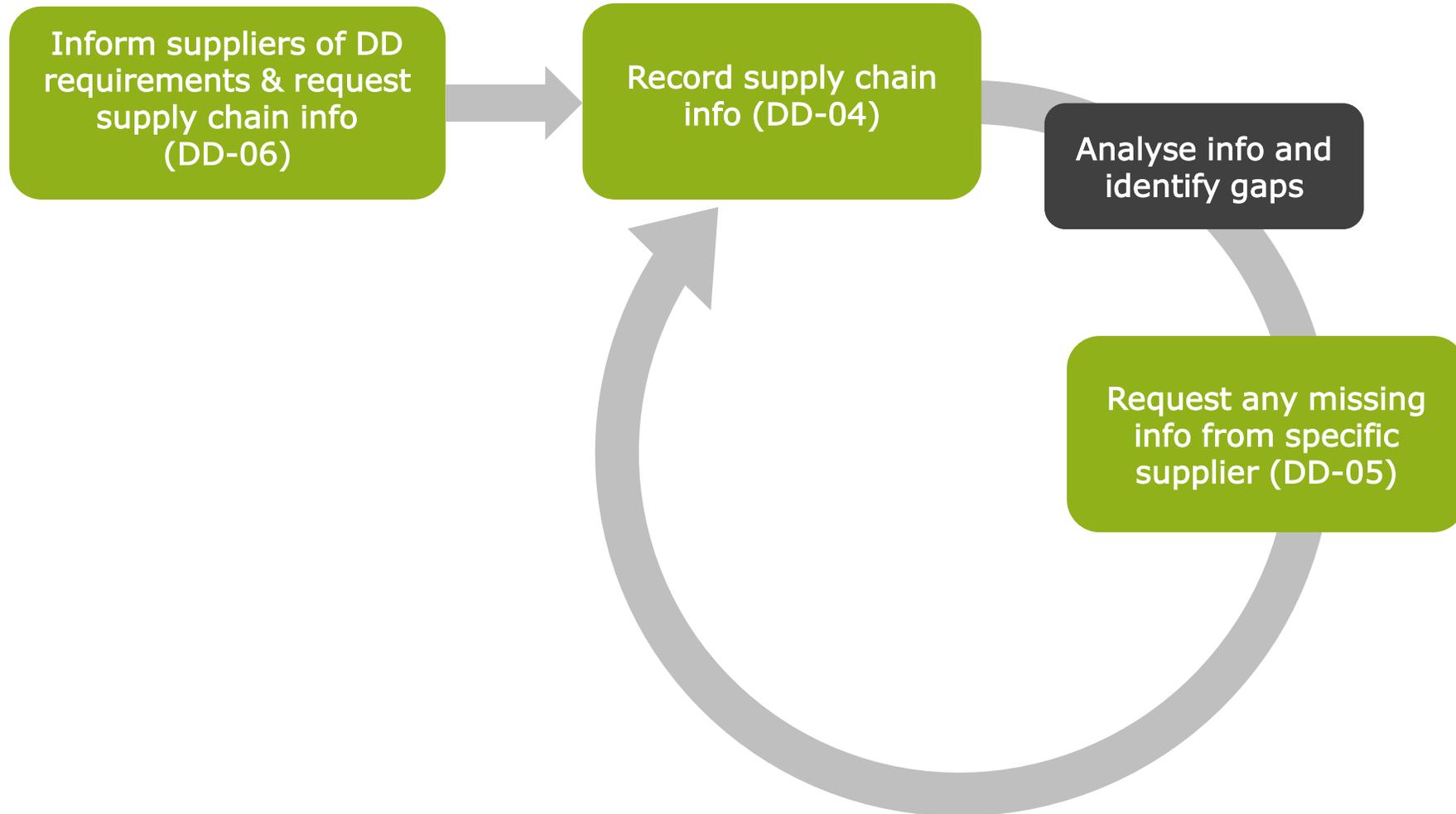
This document is the principal record for cataloguing supply chain information from all suppliers and recording risk assessment and mitigation actions as part of the [ORGANISATION NAME] due diligence system.

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)	Site information
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

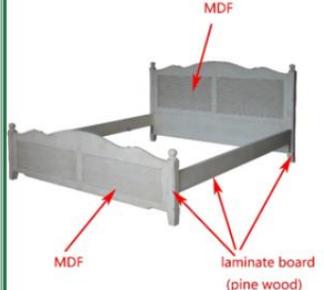


2. Information gathering



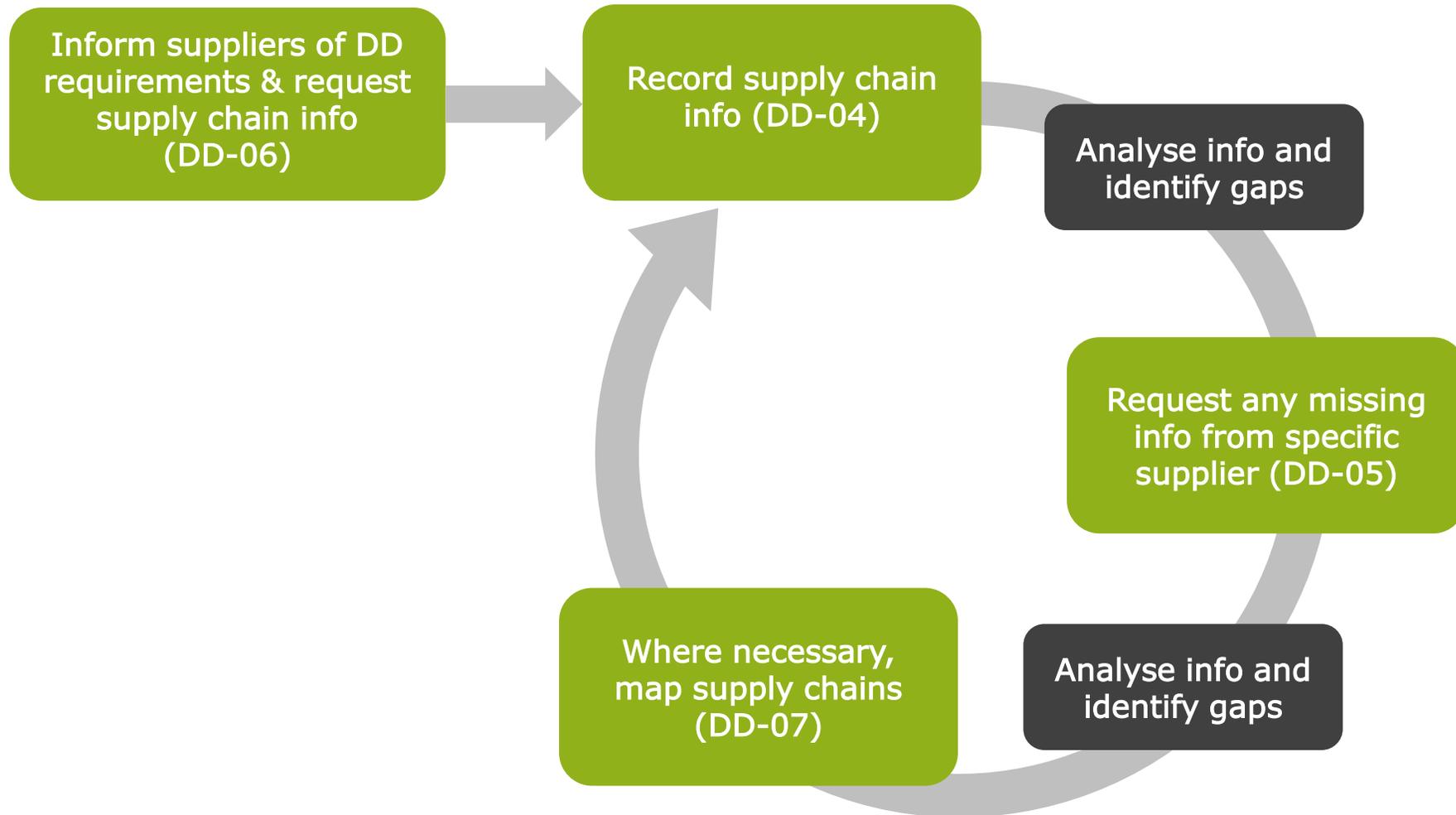
2. Information gathering

- Collect missing information from specific supplier
- Provides supplier an overview of current information in order to make clear where gaps exist
- Supplier completes sheet and returns missing information & supporting evidence

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. Information gathering

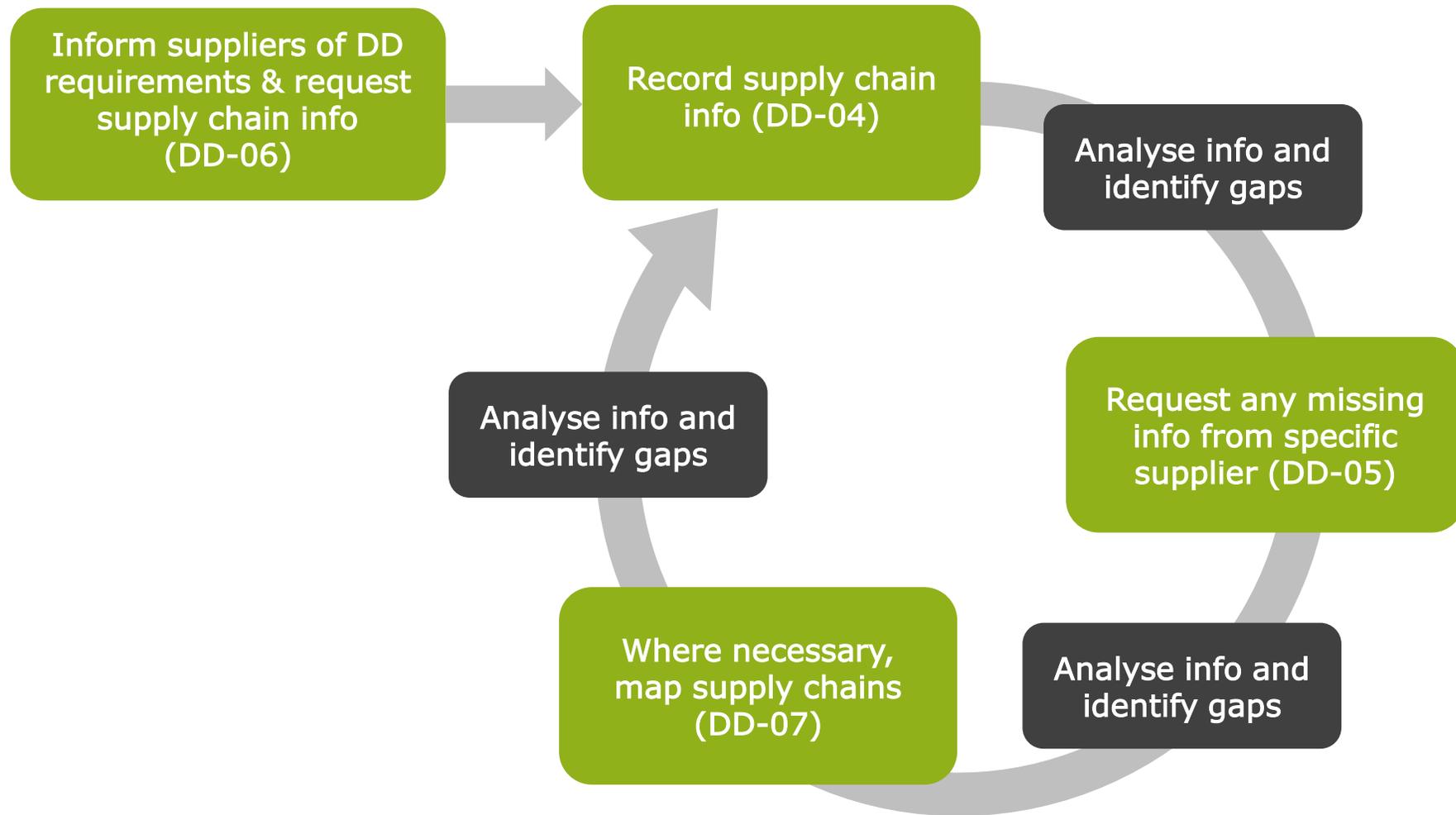


2. Information gathering

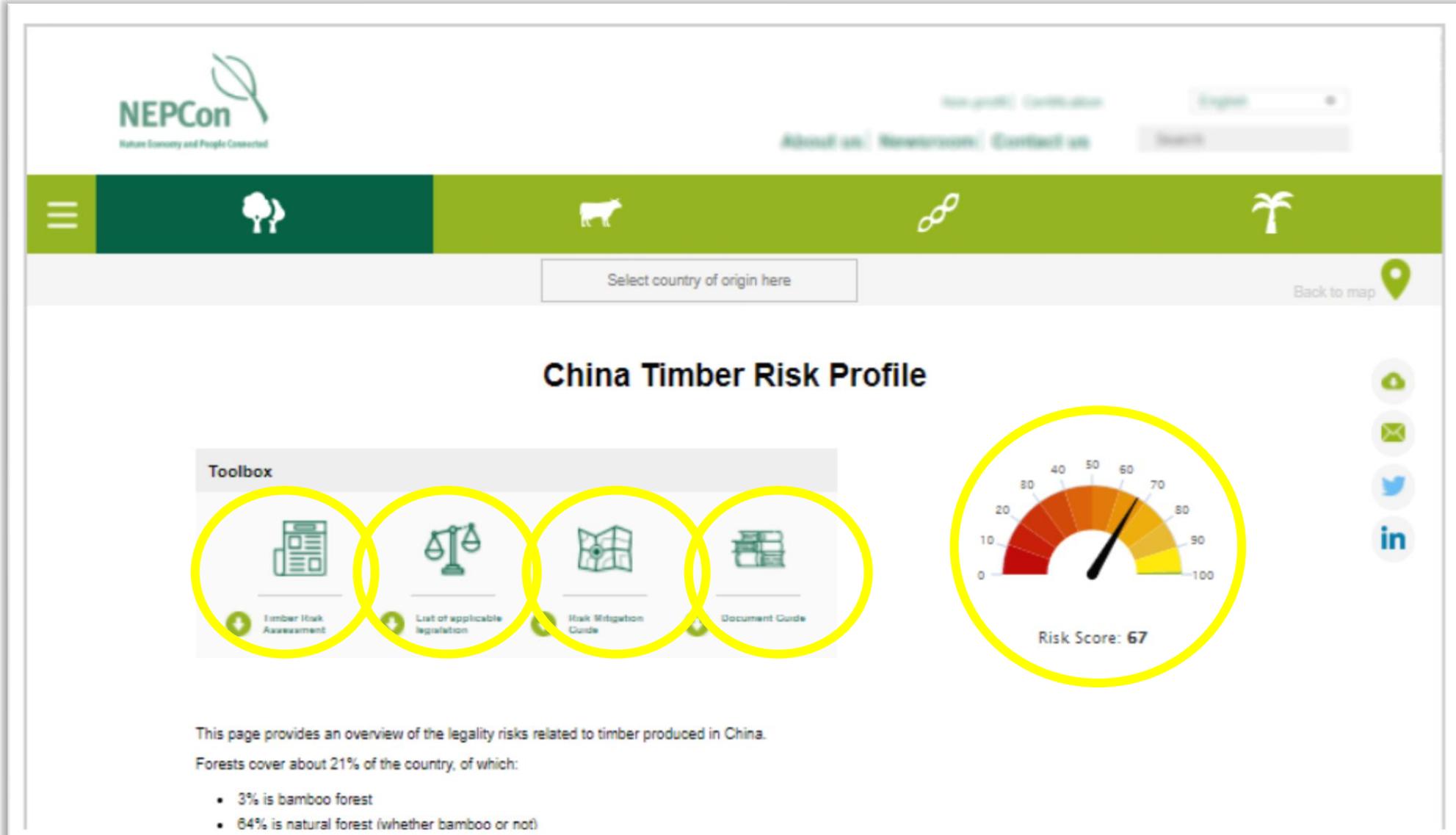
- Where necessary, map the supply chain back to source
- Information on each upstream supplier can be entered
- Including name, address, type of company, certification

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
3	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 Approved Management Plan

2. Information gathering



2. Information gathering



The screenshot displays the NEPCon website interface. At the top left is the NEPCon logo with the tagline 'Nature Economy and People Connected'. To the right, there are links for 'About us', 'Newsroom', and 'Contact us', along with a language dropdown set to 'English' and a search bar. Below the header is a green navigation bar with icons for a tree, a cow, a chain, and a palm tree. A search bar below the navigation bar contains the text 'Select country of origin here' and a 'Back to map' button with a location pin icon. The main content area is titled 'China Timber Risk Profile'. On the left, a 'Toolbox' section contains four icons: a document for 'Timber Risk Assessment', scales for 'List of applicable legislation', a map for 'Risk Mitigation Guide', and a stack of papers for 'Document Guide'. On the right, a circular gauge shows a 'Risk Score: 67' on a scale from 0 to 100. To the right of the gauge are social media icons for WhatsApp, Email, Twitter, and LinkedIn. Below the main content, a text block states: 'This page provides an overview of the legality risks related to timber produced in China. Forests cover about 21% of the country, of which:' followed by a bulleted list: '• 3% is bamboo forest' and '• 64% is natural forest (whether bamboo or not)'. The 'Toolbox' and 'Risk Score' gauge are highlighted with yellow circles in the original image.

2. Information gathering

Corruption Perception Index

Score: 40 / 100 in 2016

Rank: 79 out of 176 countries in 2016



Bans and restrictions

A moratorium on commercial harvesting from state owned natural forests was put in place in 2016 and extended to all natural forests from the beginning of 2017. By the end of 2017, no logging in natural forests will be allowed. Forest maintenance is allowed and timber from this can be sold legally.



Armed conflict

There is an unchanging conflict status in China because of territorial disputes in the sea and secretarian conflict, according to the Council on Foreign Relations' Global Conflict Tracker.

According to the Uppsala Conflict Data Program there were 5 deaths from 2010-2016.



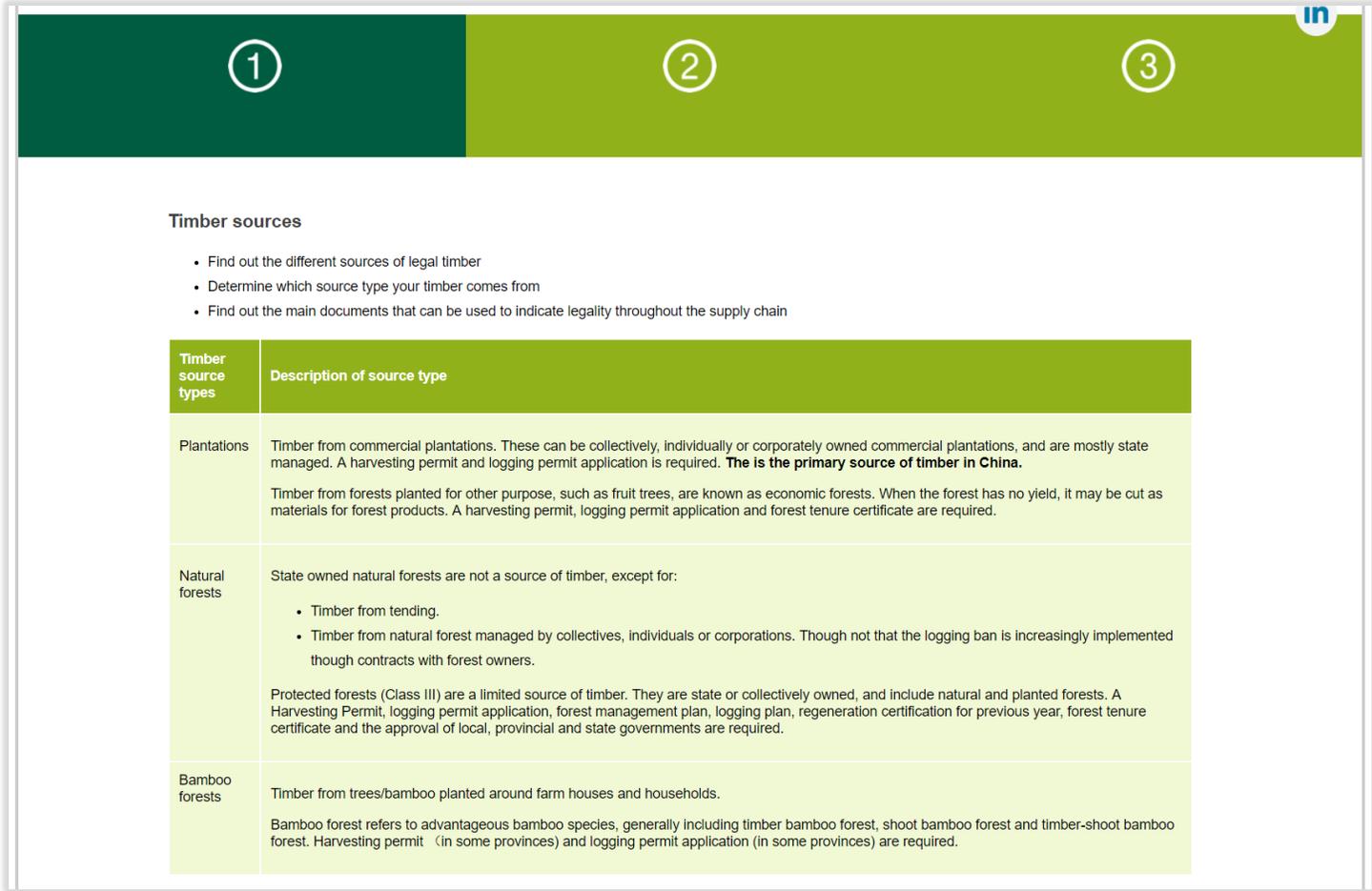
CITES species

CITES appendix II: *Dalbergia* spp. and *Taxus* spp.



2. Information gathering

In the *Information Gathering* tab (1), there is a clear description of the source types in a country:



The screenshot shows a web interface with a navigation bar at the top containing three tabs labeled 1, 2, and 3. Tab 1 is selected and highlighted in dark green. Below the navigation bar, the page content is titled "Timber sources" and includes a list of three bullet points. Below the list is a table with three columns: "Timber source types", "Description of source type", and an empty column. The table contains three rows of data: "Plantations", "Natural forests", and "Bamboo forests".

Timber sources

- Find out the different sources of legal timber
- Determine which source type your timber comes from
- Find out the main documents that can be used to indicate legality throughout the supply chain

Timber source types	Description of source type	
Plantations	<p>Timber from commercial plantations. These can be collectively, individually or corporately owned commercial plantations, and are mostly state managed. A harvesting permit and logging permit application is required. Timber is the primary source of timber in China.</p> <p>Timber from forests planted for other purpose, such as fruit trees, are known as economic forests. When the forest has no yield, it may be cut as materials for forest products. A harvesting permit, logging permit application and forest tenure certificate are required.</p>	
Natural forests	<p>State owned natural forests are not a source of timber, except for:</p> <ul style="list-style-type: none">• Timber from tending.• Timber from natural forest managed by collectives, individuals or corporations. Though not that the logging ban is increasingly implemented though contracts with forest owners. <p>Protected forests (Class III) are a limited source of timber. They are state or collectively owned, and include natural and planted forests. A Harvesting Permit, logging permit application, forest management plan, logging plan, regeneration certification for previous year, forest tenure certificate and the approval of local, provincial and state governments are required.</p>	
Bamboo forests	<p>Timber from trees/bamboo planted around farm houses and households.</p> <p>Bamboo forest refers to advantageous bamboo species, generally including timber bamboo forest, shoot bamboo forest and timber-shoot bamboo forest. Harvesting permit (in some provinces) and logging permit application (in some provinces) are required.</p>	

2. Information gathering

What do we mean by 'source type'?

- Forests in a country may face different levels and types of risks of illegality.
- Where the risks differ between different types we identify them.
- The different features of forests that we consider:
 - ✓ Forest type
 - ✓ Location
 - ✓ Legal status
 - ✓ Ownership
 - ✓ Management



2. Information gathering

...an overview of the key documents for that country:

Key Documents

These are the main documents used to indicate legality.

Our Document Guide gives examples of what these documents look like and what sections you need to check.

Forest level



- Business registration certificate
- Forest tenure certificate
- Harvesting permit
- Forest management plan
- Training Records for safe operation
- Records of social Insurance
- Work permit for special occupations
- Accident records and related administrative procedures and measures
- Employment contract

Trade and transport



- Delivery note
- Transportation permit
- VAT invoice
- Supply contract (applicable only to state owned)
- Sales receipts (applicable only to forest farm)
- Processing permit
- Business registration certificate
- Tax registration certificate

Import to China

- Commercial Invoice
- Packing list
- Bill of lading
- Certificate of origin (if applicable)
- Phytosanitary certificate

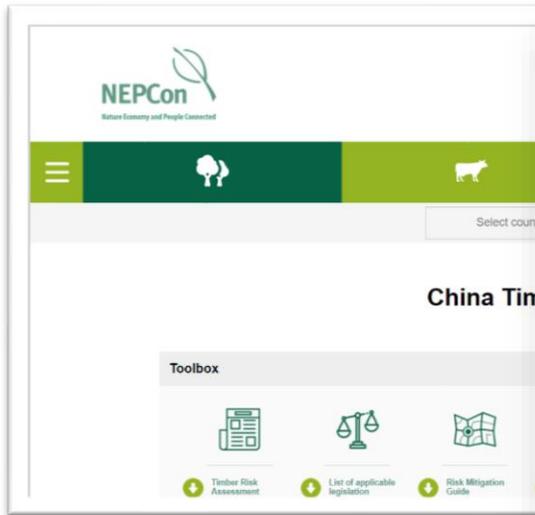
Export and custom



Export from China

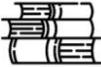
- Customs declaration registration approval certificate for customs declaration company
- Customs declaration registration approval certificate for consigner and consignee of import/ export goods
- Phytosanitary certificate

...and you can download the **Document Guide** to find out more:




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

林证字()第 号

Name of the holder

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

发证机关(印)

年 月 日

Issuing time

森林、林木、林地状况登记表 No 1

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

3. Risk assessment

2. Risk assessment

- In the previous step, you secured access to information on your supply chains.
- Now, you can assess the risk associated with those products.

1

Information Gathering

2

Risk Assessment

3

Risk Mitigation

2. Risk assessment

In the *Risk Assessment* tab (2), there is a summary of the risks identified at a country level. They are divided into the five areas of law relevant to the 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.

Plantation Forest	Commercial Plantation Timber – from collectively, individually or corporately owned commercial plantations, mostly state managed. A harvesting permit and logging permit application is required. The is the primary source of timber in China.
--------------------------	--

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 4th of December 1982 - Article 5-23 & 26. Available at: http://www.npc.gov.cn/npc/xinwen/node_505.htm
- 2) General Principle of Civil Law of the People's Republic of China dated 12th of April 1986 - Article 80-83. Available at: 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 29th 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 16th 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 20th September 1984, 1998 Amendment. Revised 27th 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 29th 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 14th 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 31st 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 1st 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 1st January 2006 - Article 6-9. Available at:

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

- 11) Taxation Registration Administration Measure dated 1st February 2004 - Chapter 1 & 2. Available at: http://www.gov.cn/gongbao/content/2004/content_62924.htm
- 12) Regulations Governing Examination and Approval of Occupation and Requisition of Forest Land dated 4th January 2001. Available at: http://www.gov.cn/gongbao/content/2002/content_61894.htm
- 13) Land management law of P. R. China dated 25th of June 1986 and revised 28th 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 31st 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 1st 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 1st 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 [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
- 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

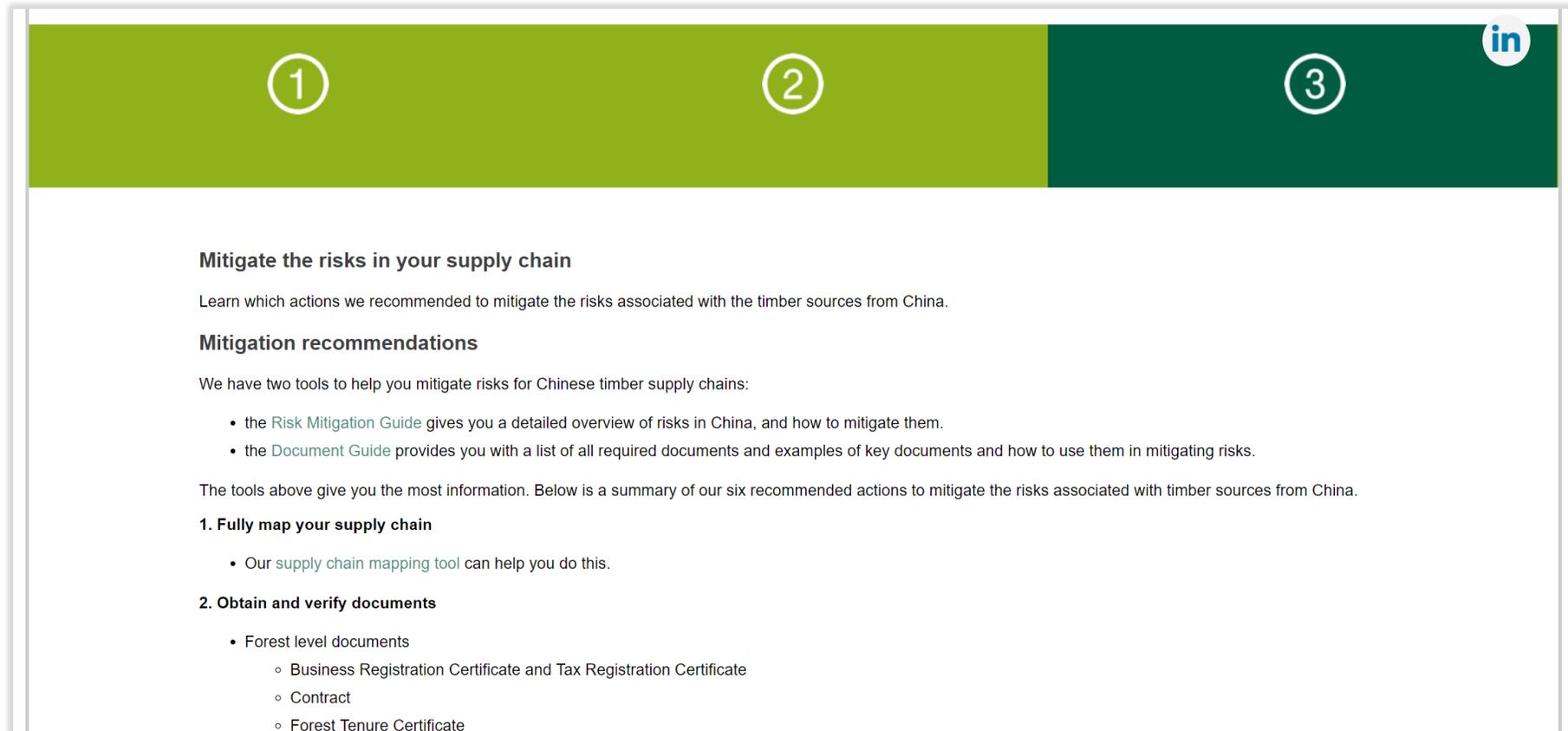
Additional tools to assist with the risk assessment process:

- Annex 2 of **DD-01** The Due Diligence Guidelines introduces the risk identification process.
- **DD-08** Risk Identification Checklist Template provides a template to conduct risk identification on specific supply chains.
- Record the risk conclusion in the **Supplier Management Form DD-04** to provide an overview of risk across all supply chains.
- **The Supply Chain Mapping Tool DD-07** can be used to record supply chain information at a detailed level.
- Annex 3 of **DD-01** The Due Diligence Guidelines provides guidance on how to specify risks
- **The Certification System Evaluation Checklist DD-13** can be used to record the certification scheme assessment.

4. Risk mitigation

4. Risk mitigation

The *Risk Mitigation tab* (3) includes the downloads for the supply chain mapping tool and a complete Risk Mitigation Guide, specific to the country



The screenshot shows a web interface with a navigation bar at the top. The bar is divided into three sections: a light green section with a circled '1', a medium green section with a circled '2', and a dark green section with a circled '3' and a LinkedIn icon. Below the navigation bar, the main content area is white and contains the following text:

Mitigate the risks in your supply chain

Learn which actions we recommended to mitigate the risks associated with the timber sources from China.

Mitigation recommendations

We have two tools to help you mitigate risks for Chinese timber supply chains:

- the [Risk Mitigation Guide](#) gives you a detailed overview of risks in China, and how to mitigate them.
- the [Document Guide](#) provides you with a list of all required documents and examples of key documents and how to use them in mitigating risks.

The tools above give you the most information. Below is a summary of our six recommended actions to mitigate the risks associated with timber sources from China.

1. Fully map your supply chain

- Our [supply chain mapping tool](#) can help you do this.

2. Obtain and verify documents

- Forest level documents
 - Business Registration Certificate and Tax Registration Certificate
 - Contract
 - Forest Tenure Certificate

4. Risk mitigation



Version 1.0 | May 2017

China Risk Mitigation Guide

Timber



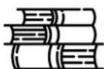
This tool has been developed by NEPCon with support from the LIFE programme of the European Union and UK aid from the UK government.



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.).	Review and verify documents 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 China Document Guide <ul style="list-style-type: none"> • Customs Declaration Registration Approval Certificate • Phytosanitary certificate (where applicable)

4. Risk mitigation



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	S		
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	Business registration code

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
备案登记机关
2010年12月21日



**Country
page**



**Risk
Assessment**



**Risk
Mitigation
Guide**



**Document
Checklist**



**List of
applicable
legislation**

China, Honduras, Liberia

Now available

Now available

Now available

Now available

Now available

Ghana and DRC

Now available

Now available

Now available

Now available

Other 57 countries

Now available

Now available

Coming soon

Coming soon

4. Risk mitigation



Version 1.0 | May 2017

China Risk Mitigation Guide

Timber



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经营者中文名称	Company name		
经营者英文名称	S		
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	Business registration code

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
备案登记机关
2010年12月21日



Country page



Risk Assessment



Risk Mitigation Guide



Document Checklist



List of applicable legislation

China, Honduras, Liberia

Now available

Now available

Now available

Now available

Now available

Ghana and DRC

Now available

Now available

Now available

Now available

Other 57 countries

Now available

Now available

Coming soon

Coming soon

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



Developed by NEPCon under the project "Supporting Legal Timber Trade" funded by the EU LIFE programme and UK aid from the UK government.



Fake Documents

How to spot them and what to do about them



Thematic article series no. 2
Published July 2017



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Sector overview

Information gathering



Country source types to help identify the legal sources of timber for a country



Overview of risky species to help reduce risks in the supply chain



Key documents that can indicate legality of timber sourced from a country



Risk assessment

Summary of the key legality risks relevant to timber supply chains from a country



Legal Rights to Harvest



Taxes and Fees



Timber Harvesting Activities



Third Parties' Rights



Trade and Transport



Traceability

Risk mitigation



Clear instructions on how to mitigate risks identified for a specific country



Comprehensive Risk Mitigation Guide and Document Guide

The End

NEPCon Sourcing Hub was developed
in partnership with the **Forest Stewardship Council**

With support from

MINISTRY OF FOREIGN AFFAIRS OF DENMARK

DANIDA | INTERNATIONAL
DEVELOPMENT COOPERATION



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