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Due Diligence Procedure Template for Forest Management Enterprises

###### Version 1.0

**DUE DILIGENCE TOOLS**

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**-FRONTPAGE-**

**[FOREST ENTERPRISE]**

**Due Diligence Procedure**

**[FOREST MANAGEMENT ENTERPRISE and address]**

[DATE AND VERSION]

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# Introduction

The objective of this procedure is to ensure that harvesting, transport and trade of timber and timber products from [FOREST ENTERPRISE] are carried out in accordance with applicable legislation.

The assurance of legality is conducted through a risk based due diligence approach, under which legal requirements are identified and potential risks of legal non-compliance in the forest management and harvesting operations are specified and where necessary, controlled by risk mitigation actions. In addition, the process includes ensuring that required legal documentation of legal compliance is available and up to date.

# Commitment to Legal Forest Management

[FOREST ENTERPRISE] is committed to producing legal timber meeting the requirements of national applicable legislation.

# Quality System and Management

## Assignment of Responsibilities

The responsibility for different parts of the due diligence implementation and maintenance has been divided as is outlined below.

**Table 1: Division of responsibilities**

|  |  |
| --- | --- |
| **System element** | **Responsible Position** |
| Overall DDS responsible person |  |
| Training and competency development |  |
| Maintenance of documents and procedures |  |
| Internal monitoring and audits |  |
| Risk assessment |  |
| Risk mitigation |  |

## Training and Competence

Training is provided to all relevant staff based on this procedure covering all applicable due diligence system requirements. This assures that staff have relevant competencies to carry out their specific tasks as required for their position as well as ensuring that all due diligence requirements are met.

Training is conducted once a year or when specific training needs arise. Where applicable new staff will be introduced to this procedure as well as other relevant material and procedures before they start work.

The date of training, list of participants and brief overview of the topics covered will be documented for all training. Training of new staff is documented by signature of the staff and the date of training on a separate staff instruction sheet.

Records and documentation of training and competence development activities shall be stored on file for a minimum of 5 years.

## Due Diligence Revision Process

The overall responsible position for due diligence system maintenance shall ensure that the due diligence system is maintained, reviewed and revised as necessary on an annual basis.

## Procedures for Maintaining Records Pertaining to Certification

To enable us to monitor the due diligence system effectively, we maintain records covering all steps and elements of the DDS assessment and mitigation. Records can be available digitally or on paper and are maintained for at least 5 years.

Annex 3 is used to provide an overview of the different documents that are kept on file.

# Information and Documents

To ensure relevant and sufficient access to information about the material placed on the market by the following information is recorded:

1. The scope of the FME including all forest management units (FMUs) included in the management scope of the FME.
2. List of sub-contractors, if applicable.
3. The type of product[[1]](#footnote-1) as well as the common and scientific name of tree species placed on the market.
4. Records of documents required for legal management and harvesting (see Annex 4).
5. Name and address of buyers (traders/operators*)* to whom the FME has supplied products.

# Risk Assessment

To ensure that forest management and timber harvesting operations are carried out in accordance to applicable legislation an assessment of potential risks that legal violations take place during harvesting, transport or trade of forest products is conducted using the following steps;

1. The applicable Timber Legality Risk Assessment on the Online Risk Platform (www.nepcon.org) is used as the baseline for the risk assessment. Any risks that have been specified at a national or sub-national level are included as specified risk and are evaluated at FME level, findings recorded and any potential violations of legislation addressed through mitigating actions.

1. In addition to the Timber Legality Risk Assessment on the Online Risk Platform, a risk assessment of all areas managed by [FOREST ENTERPRISE] is conducted to capture any specific risks that may not have been identified at the national or sub-national level. The risk assessment is carried out using the table in Annex 2.
2. Where the risk assessment concludes that there is risk of legal non-compliance in the harvest, transport or trade of forest products, a non-conformance report shall be developed for each and mitigation actions planned and implemented as described below.

# Risk Mitigation

The process of mitigating risks builds on the results of the risk assessment and identified non-conformances.

Any non-conformances are mitigated according to the following procedures (the mitigation activities are outlined in relation to each legal category in Annex 2).

In all cases where non-conformances have been specified a mitigation action plan shall be developed based on Annex 3. The plan shall be written and approved by management.

The plan and its implementation shall be reviewed regularly by the management and at minimum every six months or where applicable when significant issues related to risk of legal non-compliance occur.

The mitigation plan shall meet the following requirements:

1. Include all risks or actual non-conformances that have been specified.
2. Describe and justify findings about control measures and their effectiveness.
3. Contain clear timelines for all control measures.
4. Identification of position(s) responsible for the mitigating actions.
5. Status of the mitigation (updated on a regular basis).
6. Additional comments or follow up required.
7. All activities shall be continuously monitored.

The risk mitigation plan document in Annex 3 is used to record and keep track of risk mitigation activities.

# Monitoring

To ensure continuous evaluation of legal compliance, a monitoring programme is implemented.

The following requirements are used to ensure regular monitoring:

|  |
| --- |
| 1. The organisation monitors performance on an overall basis annually, by verifying that this manual is being implemented according to its objective. |
| 1. All non-conformances and corrective actions identified are recorded and filed. |
| 1. All non-conformances shall be addressed and corrected in accordance with timelines in the risk mitigation action plan. |
| 1. Reports of monitoring are available to potential 3rd party auditors. |

# Annex 1: Timber Flow Overview and Control Point Identification

[Guide: the below table may be copied and used for several different FMUs if necessary]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  | |
| **Control point** | | 1 | 2 | 3 | 4 | 5 |
| **Location** | | XYZ | Log depot | Transport | Log landing | Forest |
| **Activity** | |  | Storage | Transport | Storage | Harvesting |
| **Relevant documents** | |  |  |  |  |  |
| **Potential risks identified** | |  |  |  |  |  |

# Annex 2: Risk Specification, Non-Conformance Findings and Control Measures

|  |  |  |  |
| --- | --- | --- | --- |
| **Criteria and sub criteria** | **Description of the criteria and sub criteria** | **Findings and identification of risks** | **Proposed risk mitigation actions** |
| **1. Legal rights to harvest** |  | **Guidance: for each sub-criterion briefly describe the current situation in the FMU. Where applicable, specify the risk of non-compliance and/or actual non-compliance. Also, identify the specific relevant legal requirement.**  **Include the risks specified on the relevant country page on the Online Risk Platform (www.nepcon.org). If risks are identified on the relevant country page, the FME shall argue why each risk does not apply to them or their operations.** | **Guidance: for each sub-criterion where risk has been specified, briefly outline what actions will be taken to mitigate the risk and note how it will be verified.**  **Use control measures and verifiers on the relevant country page on the Online Risk Platform (www.nepcon.org).** |
| 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. |  |  |
| 1.2 Concession licenses | Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Bribery, corruption, and nepotism are particularly well-known issues affecting legality of concession licenses. |  |  |
| 1.3 Management and harvesting planning | Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. |  |  |
| 4 Harvesting permits | Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. |  |  |
| **2. Taxes and fees** |  |  |  |
| 2.1 Payment of royalties and harvesting fees | Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification. |  |  |
| 2.2 Value added taxes and other sales taxes | Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales). |  |  |
| **3. Timber harvesting activities** |  |  |  |
| 3.1 Timber harvesting regulations | Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. This typically includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered. |  |  |
| 3.2 Protected sites and species | Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats. |  |  |
| 3.3 Environmental requirements | Covers legislation related to environmental impact assessment in connection with harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, sessional limitation of harvesting time, and environmental requirements for forest machineries. |  |  |
| 3.4 Health and safety | Legally required personal protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). |  |  |
| 3.5 Legal employment | Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. |  |  |
| **4. Third parties’ rights** |  |  |  |
| 4.1 Customary rights | Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights. |  |  |
| 4.2 Free prior and informed consent | Legislation covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation. |  |  |
| 4.3 Indigenous peoples’ rights | Legislation that regulates the rights of indigenous people as far as it’s related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands. |  |  |
| **5. Trade and transport** |  |  |  |
| 5.1 Classification of species, quantities, qualities | Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. |  |  |
| 5.2 Trade and transport | All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. |  |  |
| 5.3 Offshore trading and transfer pricing | Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personal involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. |  |  |
| 5.4 Custom regulations | Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species). |  |  |
| 5.5 CITES | CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). |  |  |

# Annex 3: Risk Mitigation Action Plan Template

The table below contains a sample checklist to be used in managing specified risks.

[Guide: this template shall be filled in for each non-compliance or specified risk and may be included in a separate report or file]

|  |  |
| --- | --- |
| **Specific risk/non-conformance:** | Insert risk/non-conformance or reference number from annex 1. |
| **Responsible:** |  |
| **Date of evaluation:** |  |
| **Timeline for completion:** |  |
| **Control Measures to be taken:** | Describe actions to be taken to control the risk that legal non-compliance occurs or non-conformances are corrected. |
| **Status of actions:** | Describe the status of the actions taken and a description of the level of risk that legal non-compliance may occur. |
| **Follow up:** | Note action to be taken. |
| **Date for next evaluation:** | Insert the date for the next review of this item. |

# Annex 4: Document Checklist

The following key documents are collected and evaluated for ensuring that [FOREST ENTERPRISE] has legally required documentation.

|  |  |  |
| --- | --- | --- |
| **Criteria and sub criteria** | **Guiding description of the criteria and sub criteria** | **Legally required documents** |
| **1. 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. |  |
| 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. |  |
| 1.3 Management and harvesting planning | Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. |  |
| 4 Harvesting permits | Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. |  |
| **2. Taxes and fees** |  |  |
| 2.1 Payment of royalties and harvesting fees | Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification. |  |
| 2.2 Value added taxes and other sales taxes | Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales). |  |
| **3. Timber harvesting activities** |  |  |
| 3.1 Timber harvesting regulations | Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered. |  |
| 3.2 Protected sites and species | Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats. |  |
| 3.3 Environmental requirements | Covers legislation related to environmental impact assessment in connection with harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, sessional limitation of harvesting time, and environmental requirements for forest machineries. |  |
| 3.4 Health and safety | Legally required personal protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). |  |
| 3.5 Legal employment | Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. |  |
| **4. Third parties’ rights** |  |  |
| 4.1 Customary rights | Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights. |  |
| 4.2 Free prior and informed consent | Legislation covering “free prior and informed consent” in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation. |  |
| 4.3 Indigenous people’s rights | Legislation that regulates the rights of indigenous people as far as it’s related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands. |  |
| **5. Trade and transport** |  |  |
| 5.1 Classification of species, quantities, qualities | Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Transport documents, invoices. |  |
| 5.2 Trade and transport | All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. |  |
| 5.3 Offshore trading and transfer pricing | Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personal involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. |  |
| 5.4 Custom regulations | Custom records covering such as export/import licenses, product classification (codes, quantities, qualities and species). |  |
| 5.5 CITES | CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). |  |



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non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster   
solutions for safeguarding our natural resources and protecting our climate.

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[Supporting Legal Timber Trade](http://www.nepcon.org/projects/support-EUTR)is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber’s origin is not only good for the forests, but good for business. The joint project is funded by the EU LIFE programme and UK aid from the UK government.



##### Supporting Legal Timber Trade

#### About

[Responsible Sourcing of Soy, Cattle and Palm Oil](http://www.nepcon.org/projects/enhancing-responsible-sourcing-forest-impact-commodities) is a project aimed at creating awareness and capacity among Danish companies to minimise risks of social and environmental problems connected to sourcing palm oil, soy and cattle from developing countries. The project is run by NEPCon and funded by DANIDA, Ministry of Foreign Affairs of Denmark.

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

#### About

1. As classified in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 [↑](#footnote-ref-1)