



Exploring due diligence: what does it mean in practice?

Autumn 2017



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- **Operators' obligations**
- **Explaining due diligence**
- **The role and limitations of documents**
- **The use of timber testing**
- **The role of certification**

- 1** Placing on the market of illegally harvested timber or timber products shall be prohibited
- 2** Exercise due diligence through system and procedures
- 3** Maintain and regularly evaluate the due diligence system

What is due diligence?

What is due diligence?

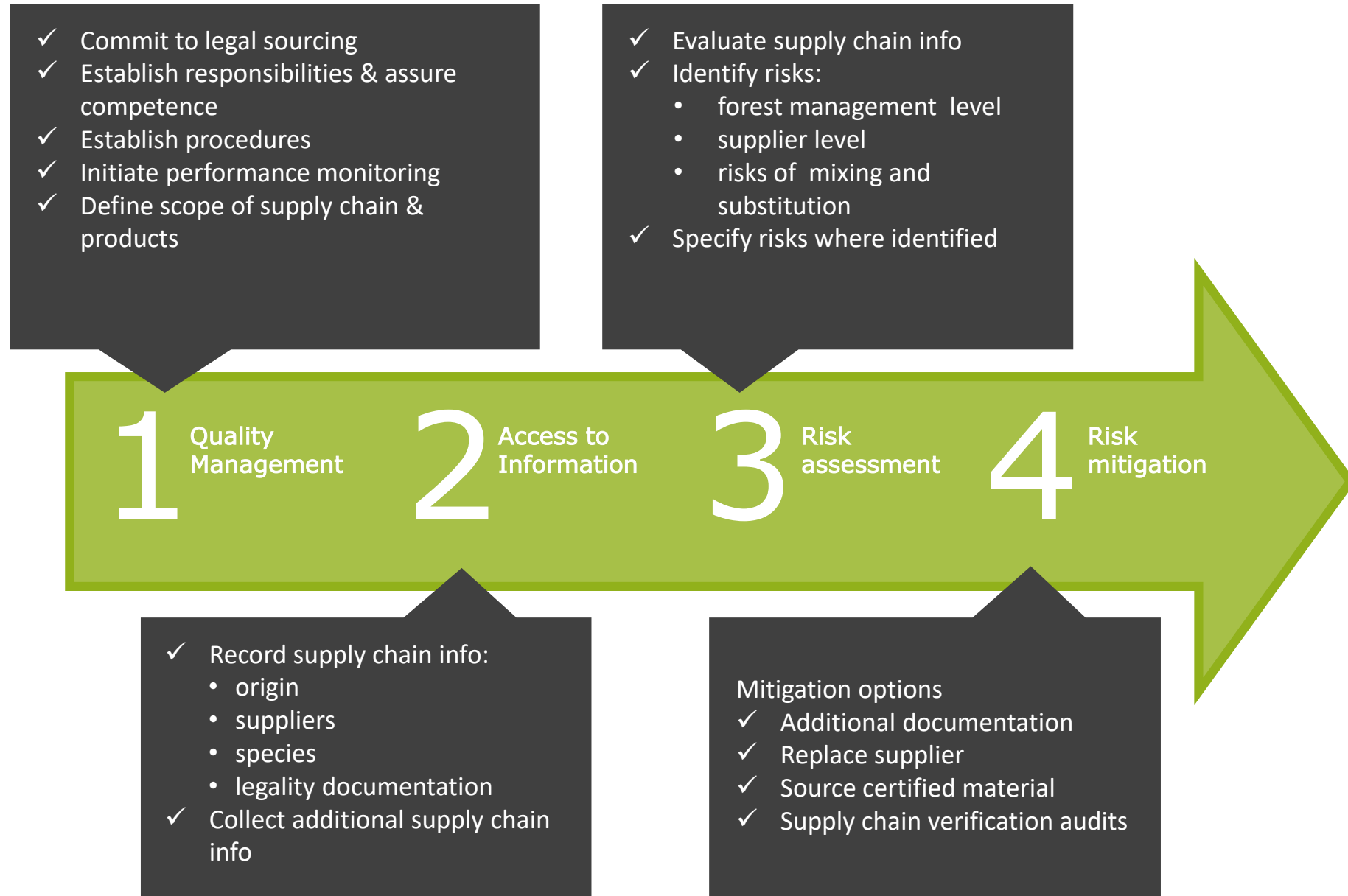
...through systems and procedures enabling:

1. Access to information
2. Risk assessment
3. Risk mitigation

“A ‘due diligence system’ can be described as a **documented, tested, step-by-step method**, including controls, aimed at producing a consistent desired outcome in a business process”

Source: EU Guidance document

What is due diligence?



1. Quality management

1. Quality management

Why are procedures needed?

- To provide a **systematic framework** for exercising due diligence and making it functional
- Enable systematic implementation and **external evaluation** of the system



UK Competent Authority (2015):

"...a lack of narrative explaining how the combination of document gathering, risk assessment and mitigation... enable the company to reach a conclusion of negligible risk"

2. Access to information

2. Access to information

- Product type
- Species
- Origin
- Quantity
- Supplier (tier 1)
- Documents or *other information* indicating legal compliance

Origin = Country, and if applicable, region or concession



Supply chain information is **key!**

2. Access to information



Important!

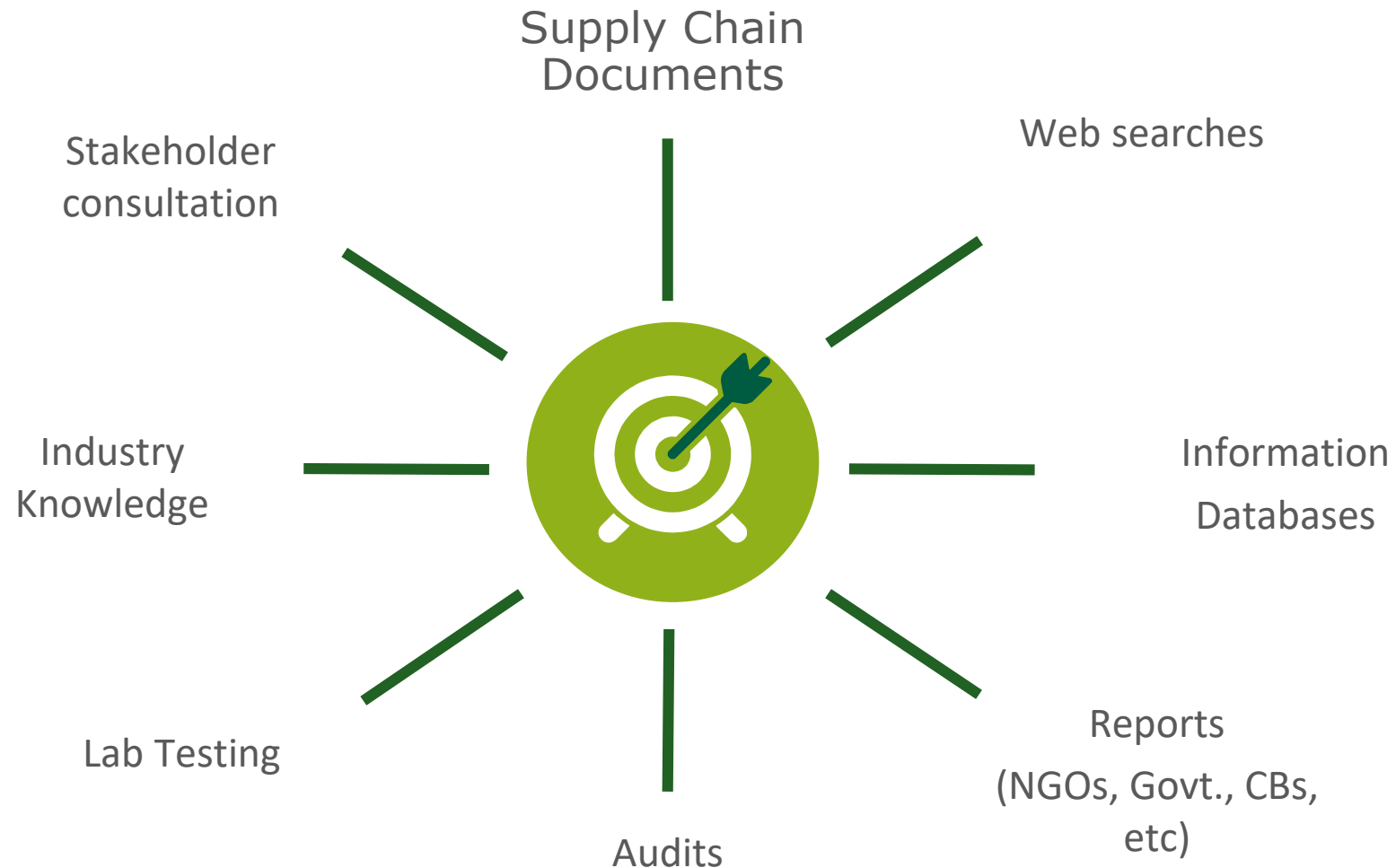
*"It should be stressed from the outset that **collecting documentation** must be done for the purposes of the risk assessment and should not be viewed as a self-standing requirement."*

Source: EU Guidance document

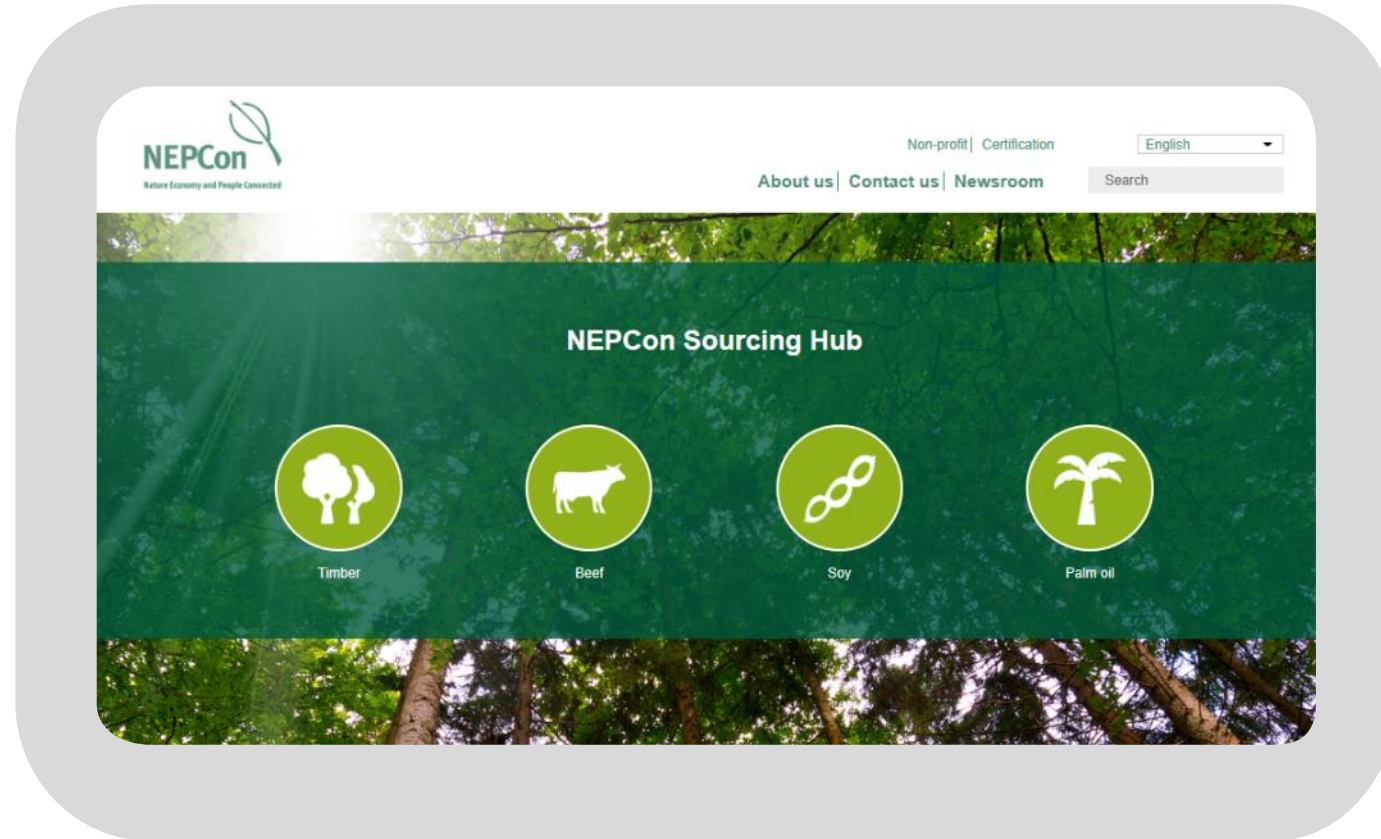


2. Access to information

Information Sources



Released August 2017... v1.0

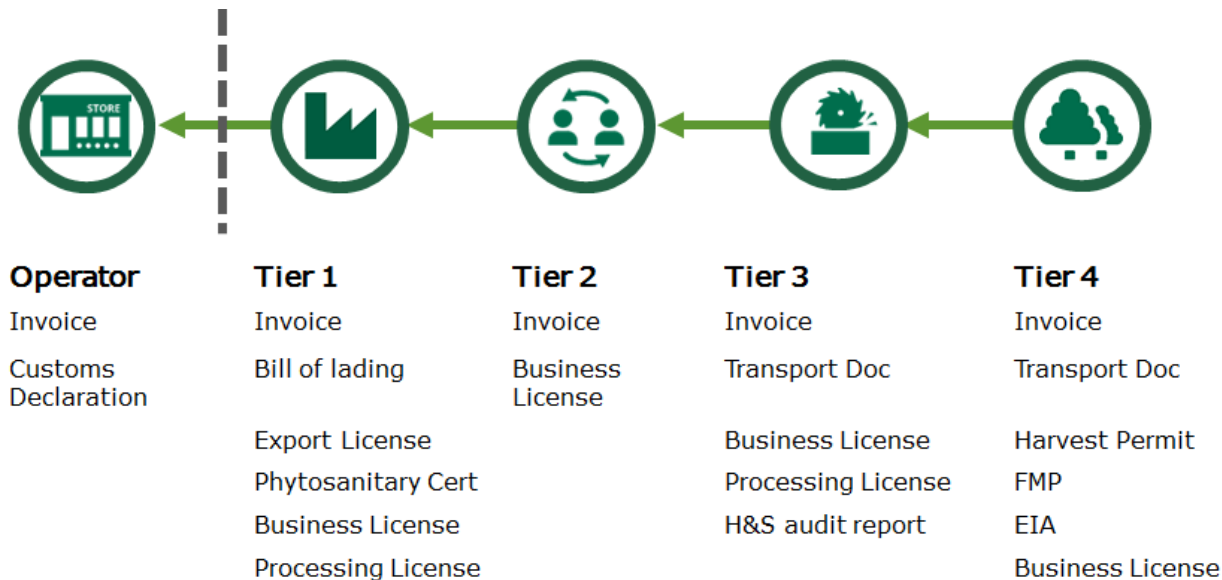


www.nepcon.org/sourcinghub

2. Access to information

Mapping supply chains

- First step in most risk assessments is to **map the supply chain**.
- Purpose of supply chain mapping is to:
 - gather information on your supply chain and products; and/or
 - verify that supplier claims are accurate.



Audits & On-site visits

Observation of the supplier facilities, practices and supply chains may occur during on-site visits or formal legality audits.

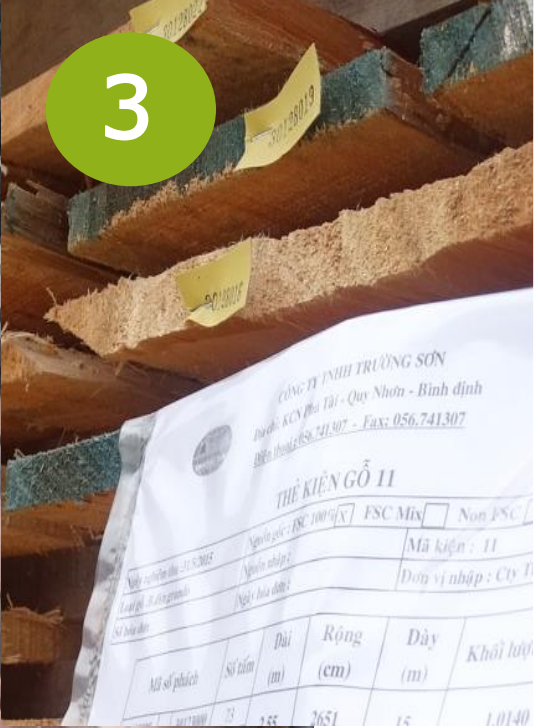
Let's look at some examples...

Factory

1



3



5



2



4



6

Forest

2. Access to information

Information to a **level of detail that allows you to:**

1. Conclude that the materials originate from forest sources with low risk of legal violations or that potential risks have already been mitigated;

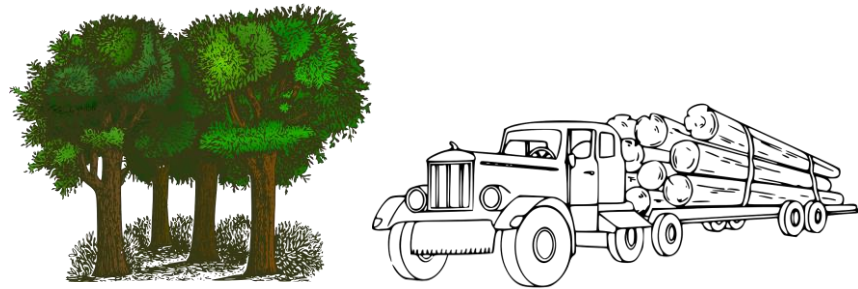
OR

1. effectively specify and mitigate risk that materials have been illegally harvested, transported or traded.

3. Risk assessment

3. Risk Assessment

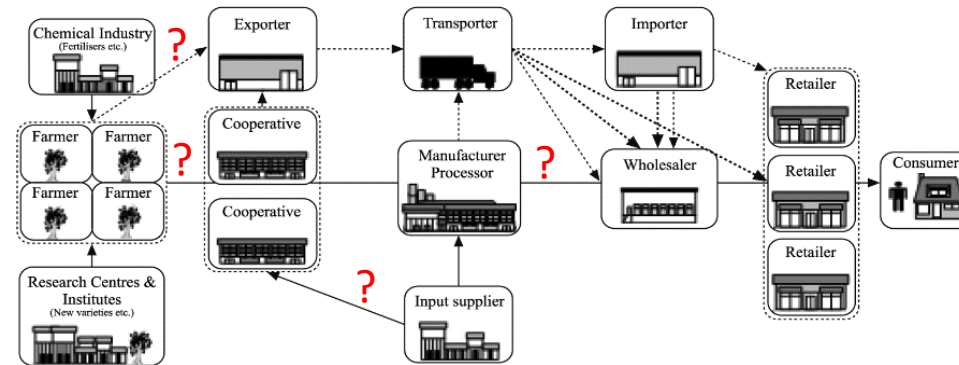
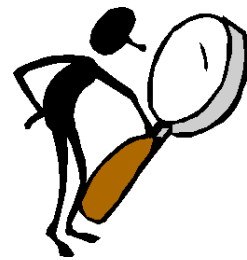
Objectives



- Evaluate the risk that forest products are:
 - Illegally *harvested*,
 - Illegally *transported/traded*, or
 - *Mixed* with material with illegal or unknown origin.

- Identify *where* risks may exist in supply chains

- *Specify* risks to a level that enables effective risk mitigation.



3. Risk Assessment

Criteria shall include:

- **assurance of compliance** with applicable legislation which may include certification or other third-party verified schemes which cover compliance with applicable legislation
- prevalence of illegal harvesting of **specific tree species**
- **prevalence of illegal harvesting** or practices in the area of **origin**, including consideration of the prevalence of **armed conflict**
- UN Security Council or the Council of the EU **sanctions** on timber imports or exports
- **complexity of the supply chain** of timber and timber products

3. Risk Assessment

Risk conclusion

Negligible risk (low risk)

OR

Non-negligible risk (specified risk)



3. Risk Assessment

Key concepts

- Risk can be low but can never be absent
- No threshold is defined
- Operator must define the threshold when to mitigate risk
- There needs to be a clear and comprehensive justification for this conclusion



4. Risk mitigation

4. Risk Mitigation

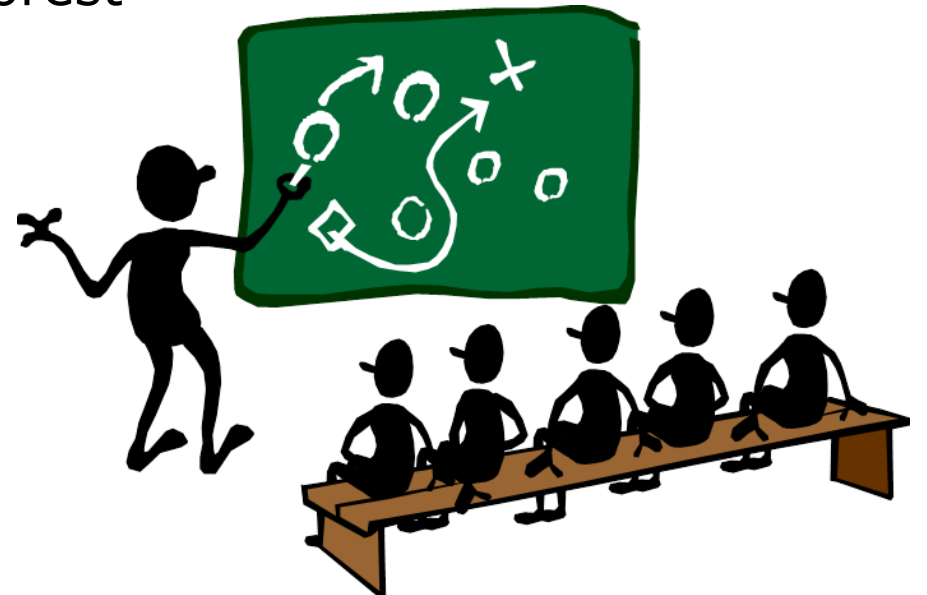
If the risk of placing illegal timber on the market is not negligible, risk must be mitigated.

Risk mitigation measures may include:

- requiring additional information and documents from suppliers
- agreeing mitigation actions in collaboration with suppliers
- third party verification/certification
- Carry out supplier or forest verification audits to verify legal conformance
- replacing suppliers

Identifying the appropriate action

- Mitigating measures shall address the specific risks identified
 - e.g. risk of lack of health & safety training for forest workers → request and verify training records, evidence of external audits
- Justify effectiveness
- Verify effectiveness



4. Risk mitigation



Good supplier relations is key!



<https://nepcon.org/library/guide/eutr-supplier-relations-leaflet>

Case Study

Origin Testing for Oak Furniture



Tier	Tier 0	Tier 1	Tier 2
Location	Germany	Shanghai, China	North-East China
Certification	None	Unknown	Unknown
Species	(Oak) <i>Quercus mongolica</i>	(Oak) <i>Quercus mongolica</i>	(Oak) <i>Quercus mongolica</i>

林木采伐许可证
Timber Felling certificate

No.: **220283831408**

Forest farm: _____ forest (bureau) _____ (2014) 491
resource harvesting Recording No.

Based on: Your farm's Application of felling designing, We approve

Farm/county: **167** compartment **5** Operating area **010** Subcompartment to be harvested _____

The four boundaries: EAST SOUTH WEST North

GPS position: _____

Origin of Stand: Natural forest Forest type: River Protective belt, Species: broad leaved forest

Ownership: State-owned Forest Tenure certificate No.: **330211**

Harvesting type: Tending cutting, Harvesting methods: increment felling, Felling intensity: **15**

Harvesting area: 7.90 ha, Number of trees: 949 949 株

Stock volume: 174 m³ 174 立方米 (出材: 110m³) 立方米


Harvesting time: Aug. 29th, 2014 to Oct. 29th, 2014 2014年10月29日

Stands Renewal time: _____ year _____ month _____

Renewal are: _____ ha, (_____ number of trees) _____ 株

included in cutting quota Non-included in cutting quota

Note: National public welfare forest of grade 3



Person for issue(seal)

Issuing agency (seal), Person applying: Yuzhi

Timber transportation licence

Jilin: **000511454**

Jilin province _____ county (city), No. _____ 22028301011905281028

Owner of timber: _____

Responsible person for transfer: Gonggang

Place of Origin: _____

place of shipping _____, Jilin province

place of arrival: _____ Shanghai city.

Means of Transport: Truck

Period of Validation: From May, 28th 2015, to Jun, 4th, 2015

Species	Type	specification	Volume	
			Number	volume(m ³)
Broad leaf (oak)	board	200-600cm, 10-60cm	70	

送单
Delivery Note

Consignee: _____

Delivered by: _____

Species	Thickness of board	Length of board	Volume	Price 价	total price
Oak	3.0cm	2m	13.58		
Oak	3.5cm	2m	9.17		
Oak	4.0cm	2m	8.43		
Oak	4.5cm	2m	9.22		
Oak	5.0cm	2m	4.16		
Oak	5.5cm	2m	3.54		
Total price					

4. Risk mitigation

Case Study

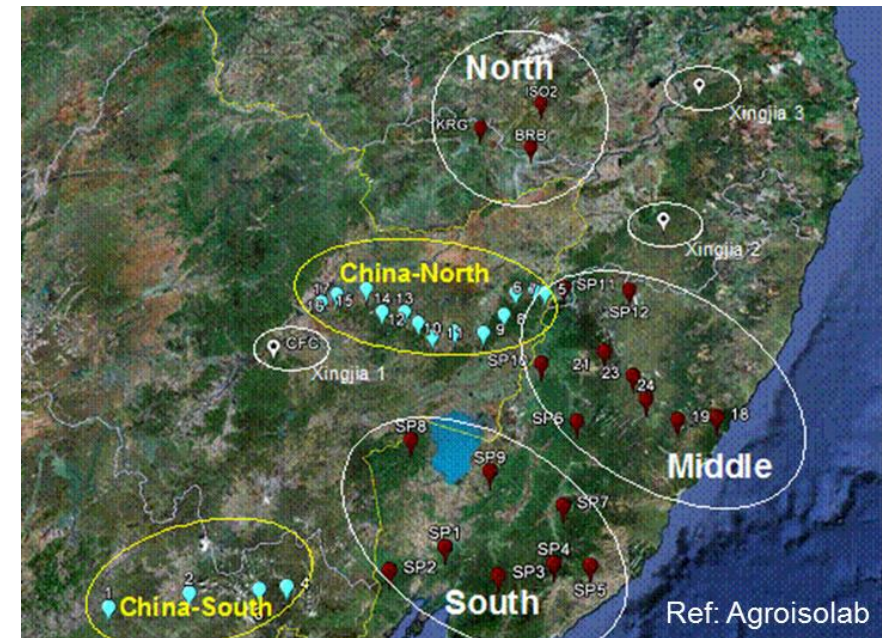
Origin Testing for Oak Furniture

Risk Assessment

- ✓ Sent products to Agroisolab
- ✓ Tested for origin
- ✓ Results showed more likely origin is Russian Far East (RFE)

Mitigation Actions:

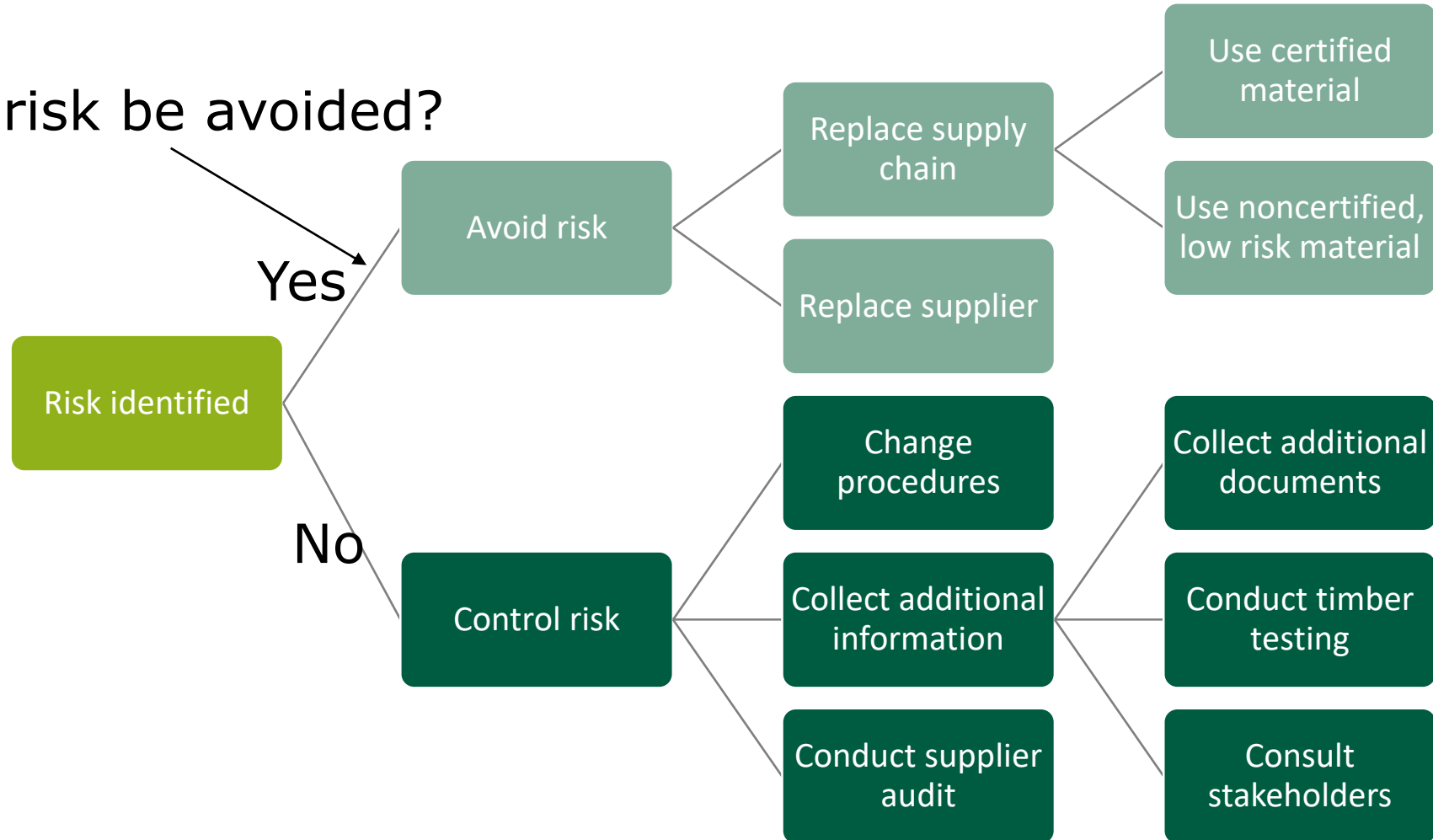
- ✓ EUTR & Risk training to factory staff
- ✓ Change source to US Oak
- ✓ Implement document checking procedure
- ✓ Help supplier implement CoC system
- ✓ Regular re-testing to ensure only US Oak present

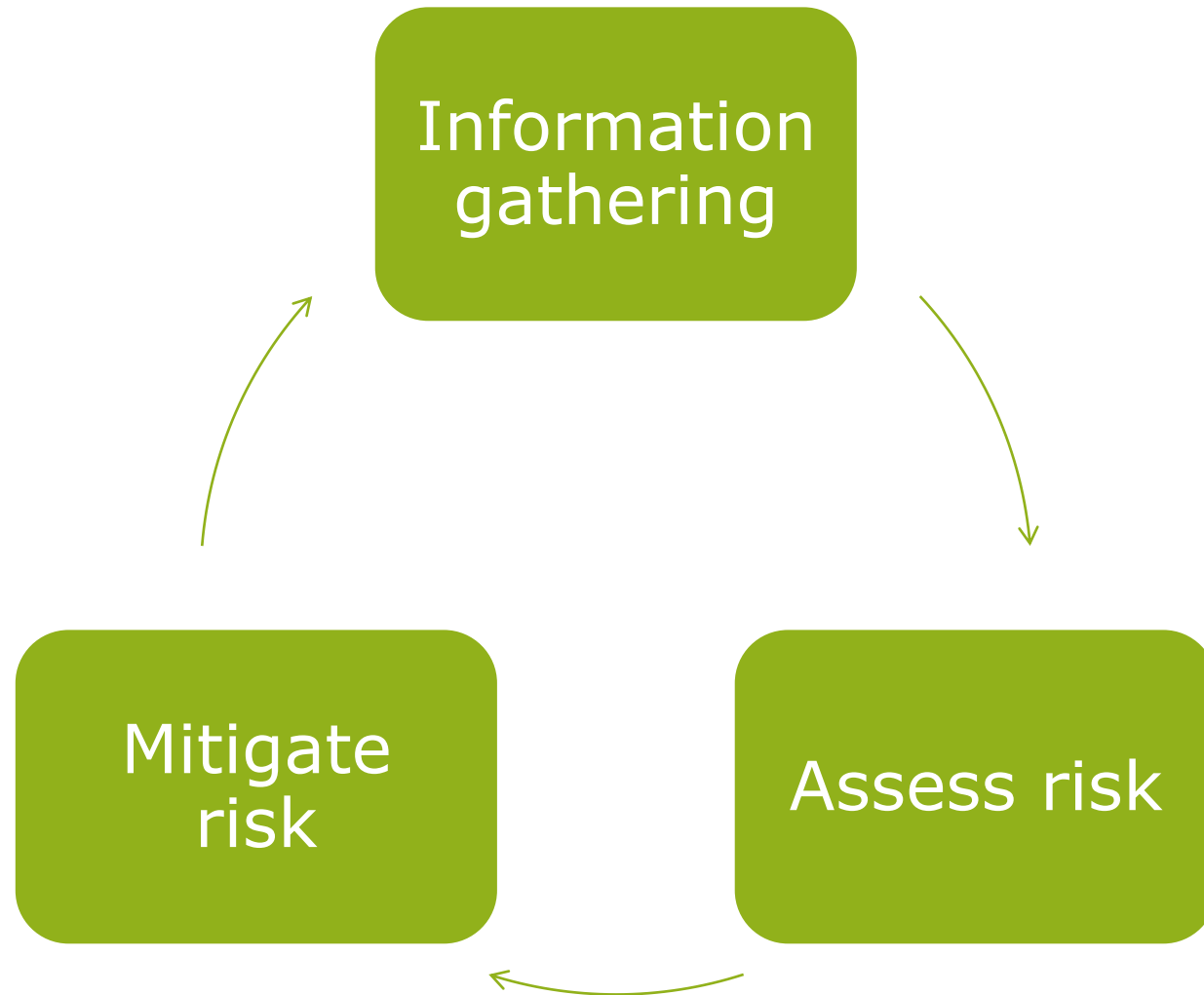


4. Risk mitigation

Process can take different paths: **avoidance or mitigation**

Can the risk be avoided?





Some key topics...

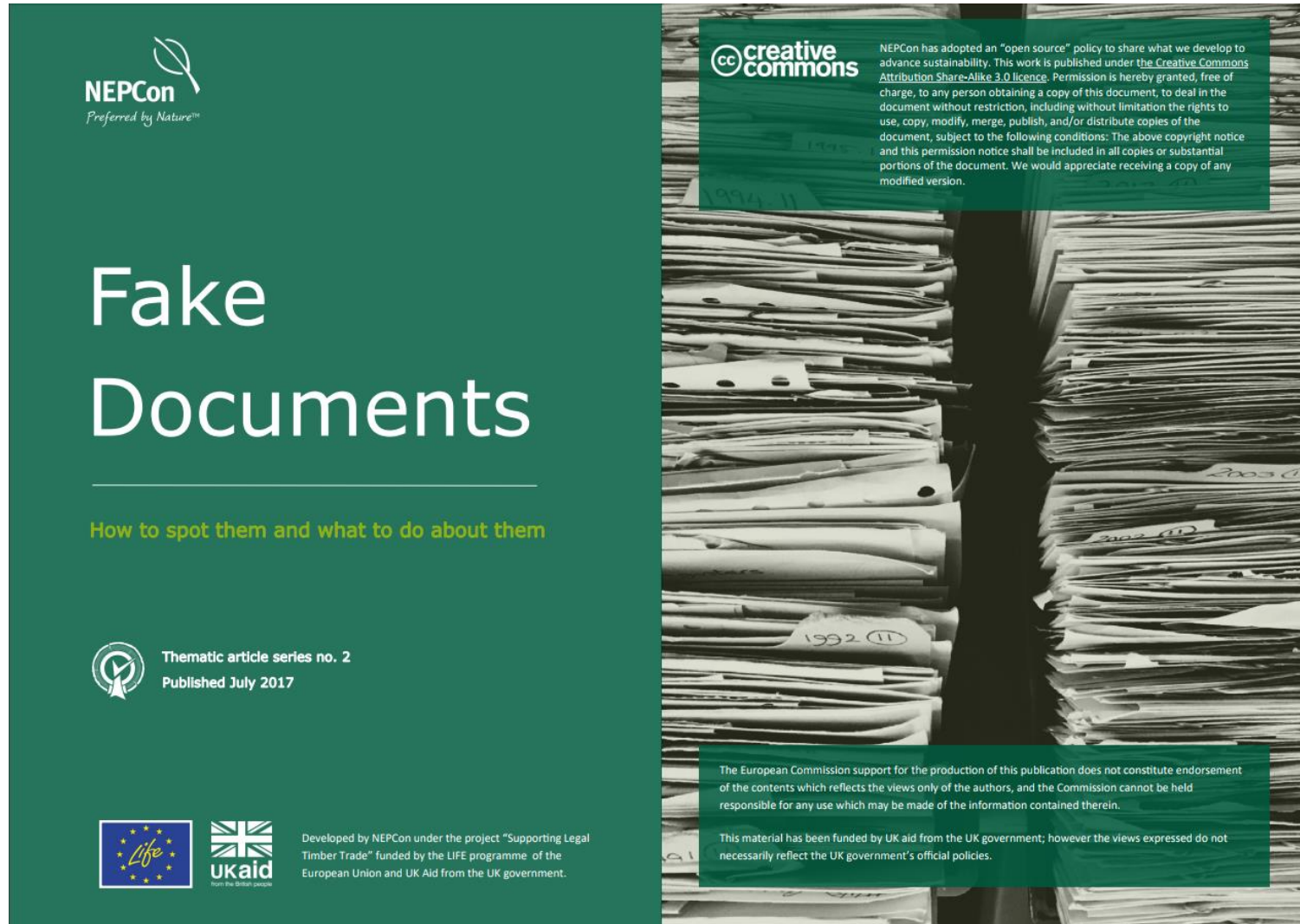
5. Documents


"Is this enough?"

Wrong question!

1. **Relevance:** What does the information tell you about risk of illegality?
2. **Validity:** Is the information genuine?
3. **Relatedness:** Does the information apply to *your* supply chain or shipment?










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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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<https://nepcon.org/library/guide/thematic-article-fake-documents>


6. Timber testing

In February 2015, the UK CA released a report on the *Chinese Plywood Enforcement Project*.

Why Chinese plywood?

- High value veneer & low value core
- Complex supply chains
- Cheap
- High risk of corruption
- Evidence of illegal timber being imported into China



 National
Measurement
Office

**EUTR:
Plywood imported
from China**

Nicolas Pillet & Michael Sawyer
Project prepared for DEFRA
February 2015

Timber testing

14 out of 16 companies supplied an **insufficient due diligence procedure** (88%)

Further issues arose with testing...

Company	Face declaration	Face tested	Core declaration	Core tested
1	Palaquium	Palaquium	Eucalyptus	Eucalyptus
2	Betula	Betula	Eucalyptus	Poplar
				Kedongdong
				Pine
3	Sapeli	Sapeli	Poplar	Poplar
				Elm
4	Palaquium	Palaquium	Poplar	Poplar
			Eucalyptus	Kasai
5	Bitangor	Palaquium	Poplar	Poplar
				Eucalyptus
6	Lotofa	Sapeli	Poplar	Poplar
7	Beech	Beech	Eucalyptus	Eucalyptus
8	Eucalyptus	Ozigo	Eucalyptus	Eucalyptus
				Poplar
9	-	Phenolic resin	Poplar	Poplar
10	Sapeli	Sapeli	Poplar	Poplar
11	Palaquium	Palaquium	Eucalyptus	Poplar
				Pulai
				Red Meranti
12	Eucalyptus	Bitangor	Eucalyptus	Eucalyptus
				Poplar
13	Bitangor	Bitangor	Poplar	Kasai
				Medang

2. Information gathering

Wood Anatomy



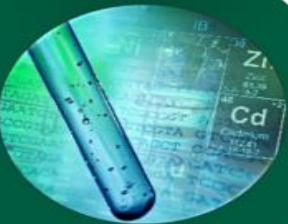
- Identify species to genus level (e.g. *Quercus* spp.)

DNA

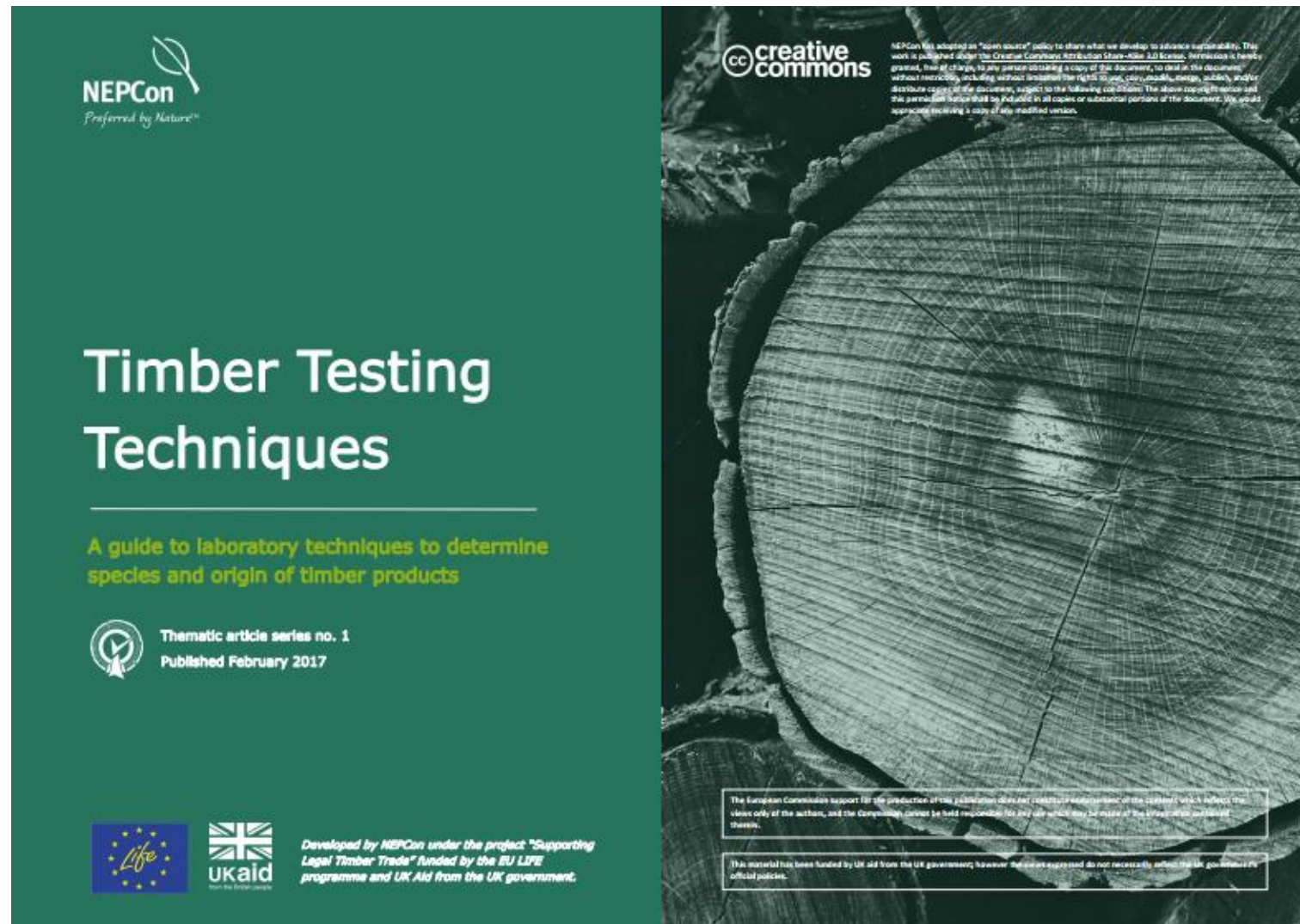



- Identify species to species level (e.g. *Quercus robur*)
- Identify geographic origin

Stable Isotope




- Identify geographic origin



The cover of the guide 'Timber Testing Techniques' is split into two main sections. The left section has a dark green background with white and yellow text. The right section features a high-resolution photograph of a tree trunk cross-section, showing the intricate growth rings and a prominent knot. The Creative Commons logo is visible in the top left of the right section, and a disclaimer is in the bottom right.


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Timber Testing Techniques

A guide to laboratory techniques to determine species and origin of timber products

 Thematic article series no. 1
Published February 2017

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7. Certification

Using certified material – is it a green lane?



NO! Remember:

- Not proof of legality
- May be used in the risk assessment
- The EU list requirements for certification systems (Implementing Reg. 607/2012).



Reality...

Certification plays a key role in mitigating risk of illegal harvesting for many importers.

EUTR definition of credible certification scheme:

- have a publicly available system of requirements
- specify that appropriate checks (incl. field-visits) are made by a third-party at regular intervals (no longer than 12 months)
- include means, verified by a third party, to trace timber at any point in the supply chain before such timber/timber products are placed on the market
- include controls, verified by a third-party

- Does the standard cover *all* the applicable legislation?
- ‘Controlled’ non-certified inputs
- Chain-of-custody
- Problems with the scheme in a specific country?

Certification

Do all schemes ensure legality?



Meets Rainforest Alliance
standards for
Verified Legal Origin



The mark of
responsible forestry

FSC® A000535



Origine et légalité
du bois

Certification Evaluations by NEPCon

- NEPCon have started to conduct evaluations
- Produced under NEPCon's EU-funded project work in Vietnam
- To increase publicly available information
- Help Operators by avoiding duplication of efforts and provide expert knowledge



Checking certificates online

- **Validity** – is the certificate still active?
- **Scope** – what sites, products and species does it cover?

FSC: <http://info.fsc.org/certificate.php>

PEFC: <http://www.pefc.org/find-certified/certified-certificates>

*Just because the organisation is certified,
doesn't mean the products are!*



Checking the documents

FSC



The sales invoice **and** delivery document should include:

- Certificate **code** in format XX-COC-XXXXXX
- FSC '**Claim**' e.g. FSC 100%, FSC Mix Credit, FSC Mix 70%

PEFC

The sales invoice **or** delivery document should include:


- Certificate **code** e.g. NC-PEFC/COC-000084, CH12/0441
- PEFC '**Claim**' e.g. x % PEFC certified

Buying Certified Timber

INF.07 Ver 1.1

Buying certified timber is an important step you can take to verify the legality of your supply chains, and it will make it easier for you to obtain the necessary information about the origin of your timber products. It will also help your customer to assess and mitigate risk.



? If I buy certified, what do I still need to do?

Even where you are able to provide your customer with certified timber, they are likely to still ask you for information to help them carry out due diligence. In addition to your general sales information such as quantity (expressed in volume, weight or number of units), your name and address and the name and address of the trader used, if applicable, they will also need the following information:

1. Which country/countries the timber was harvested
2. What species the product contains – common names will suffice unless these lead to ambiguity, in which case the scientific names will also be needed
3. Documents or other information indicating compliance of those timber and timber products with the applicable legislation.

The FSC system will help you to provide the information about the country of harvest and the species to your customer. If your supplier does not automatically provide you with information about country/concession of harvest or species they are obliged to if you ask them for it (according to ADVICE-40-004-10: Access to information regarding species and origin of timber). If this supplier does not have that information, he or she is obliged to use the Advice Note to go further up the supply chain until he or she has obtained the information for you.

Regarding the documents or other information indicating compliance of

those timber and timber products with the applicable legislation, some of the applicable legislation is covered by the FSC Forest Management Certification schemes. Therefore, the information indicating compliance is the certificate itself. One area not covered by the FSC Forest Management Scheme are Trade and Customs laws. If your supplier does not automatically provide you with information about compliance with trade and customs laws, they are obliged to do so if you ask them for it (according to ADVICE-40-004-11: Trade and customs laws).

5

The following tips are useful for any buyer who seeks to buy certified, for example in order to comply with procurement policies.

Note: FSC certificate holders are obliged to regularly verify the validity and scope of their suppliers' certificate.

Find the certification number/code

All certified suppliers have a unique certification code/number which you can find on a PDF or hardcopy of their certificate or on the delivery notes and invoices. The format should be as follows: TT-COC-123456, RA-COC-123456 or SGS-COC-122445.

YES NO

The certificate may be false – Request Clarification from the supplier

Is the certificate authentic?

You can check online: for FSC go to: www.fsc-info.org and enter the code/number and click search. Does the certificate appear if you scroll down?

YES NO

Your direct supplier/subcontractor may have provided you with their suppliers certificate. The chain is broken and you need further information to confirm the traceability is intact.

Has the certificate been issued to the company selling you the product?

Click 'information'. Check under 'General data'/More Info' that it is your supplier's name and contact details

YES NO

Do not accept. The certificate has to be valid.

Is it valid and not expired?

Check under 'General data'/More Info' to ensure that the certificate has not been suspended since it was issued. Is the certificate valid?

YES NO

Do not accept. If the product is not covered, it is not certified.

Does the certificate cover the product?

Check under 'Product data'/Product'. Suppliers may only have part of their production certified. Click on the certificate holder's certificate code or license number. You will then be taken to page with information about the scope of your supplier's certification. Under 'Products' you will find information on product type, timber species and claims covered by the certificate.

YES

Check that the invoice and delivery note specify FSC under the product description.
If YES: You have received timber/wood product from a Legal and Sustainable source!

7

The End

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

With support from

MINISTRY OF FOREIGN AFFAIRS OF DENMARK

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