



# NEPCon LegalSource™ Standard

*Version 1*



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Contact person:	Christian Sloth
Contact email:	cs@nepcon.net



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## A Introduction

This Standard facilitates companies to establish and implement a Due Diligence System that enables them to evaluate the risks of producing or sourcing illegal timber and timber products. Where potential risks have been identified, it enables companies to take appropriate mitigation measures.

The LegalSource Standard requires organisations to:

1. make a public commitment to producing or sourcing legal forest products, and develop and implement related quality system;
2. have access to information about their production of forest products or supply chains, which is detailed enough to enable effective risk evaluation and mitigation for producing or sourcing illegal forest products;
3. conduct risk assessments for products within the scope of their certificate and identify areas where risk of illegal activities exist;
4. mitigate any specified risks; and
5. monitor efficiency of the due diligence system and risk mitigation actions.

Organisations that are independently verified by NEPCon as meeting the requirements of this standard can be issued with a NEPCon LegalSource certificate, entitling them to trade the products covered by the certificate as "LegalSource-certified". Organisations may choose to include only part of the products they are handling within the scope of the LegalSource certification, in which case LegalSource claims can only be made in relation to the products included in the certificate scope.

The standard can be used by organisations to support their efforts to conform with due diligence and due care requirements such as those established by the European Union, the United States or Australia. In these cases, it is required that all material related to these requirements be included in the scope of the LegalSource certification. For example, companies that wish to demonstrate compliance with the EU Timber Regulation shall include all forest products covered by the EU Timber Regulation that they place onto the EU market in their LegalSource certification scope.

### Public Comments

NEPCon invites interested parties to submit comments on this Standard to the contact listed on page 2. Comments received outside of the public consultation period will be considered during the next revision of the standard.

This version of the LegalSource Standard, Version 1, was approved by NEPCon on 8 February 2013, following stakeholder consultation carried out in accordance with the ISEAL Guidelines<sup>1</sup>.

### Note on the use of this standard

All aspects of this standard are considered to be normative, including the scope, standard effective date, references, terms and definitions, requirements, notes, tables and annexes, unless otherwise stated.

## B Scope

This standard is applicable to organisations seeking to reduce and mitigate risks of producing and trading forest products that have been illegally harvested or traded. It is used to provide independent certification of due diligence systems for forest products supply chains (including direct suppliers, sub-suppliers and forest sources). It contains the following sections:

- **Normative requirements** include the due diligence requirements relevant for manufacturers, traders or managers buying and selling forest products.
- **Annex 1** contains the legality related requirements for Forest Management Enterprises (FMEs) and can be used to conduct legality risk assessment and verification at the forest management (FM)-level, in cases where risks of sourcing illegal timber has been specified and requires verification.
- **Annex 2** contains requirements for evaluating the legality of supply chain entities.

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<sup>1</sup> ISEAL Code of Good Practice for Setting Social and Environmental Standards, P005 – Version 5.0 – January, 2010

- **Annex 3** contains requirements for chain of custody, which can be used to evaluate the ability of a supplier to implement physical separation through processing and transport.
- **Annex 4** contains requirements for organisations acting as group managers for a group of organisations or entities under the same certification.
- **Annex 5** contains the requirements for certification schemes considered eligible under the LegalSource Standard.

The LegalSource Standard has adopted a definition of which types of legislation are applicable to harvest and trade of forest products which 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 Bill. The following list outlines the scope of applicable legislation adopted in this standard (see Annex 1 for details):

### **1. Legal right to harvest**

- 1.1 Land tenure and management rights
- 1.2 Concession licenses
- 1.3 Management and harvesting planning
- 1.4 Harvesting permits

### **2. Taxes and fees**

- 2.1 Payment of royalties and harvesting fees
- 2.2 Value added taxes and other sales taxes

### **3. Timber harvesting**

- 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
- 4.3 Indigenous people's 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
- 5.4 Custom regulations
- 5.5 Export taxes and duties
- 5.6 CITES

## **C Standard effective date**

This Standard is effective from the date of approval as stated on this document. The standard will be updated periodically and will replace previous versions.

## D References

**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

**Commission Delegated Regulation** of 23.2.2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010

**Commission Implementing Regulation (EU) No 607/2012** of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010

**Amendments to the Lacey Act 2008** from H.R.2419, Sec. 8204

**Illegal Logging Prohibition Bill 2012** (also known as "A Bill for an Act to combat illegal logging, and for related purposes No.31/11).

**EUTR Guidance Document:** Issues relating to the EU timber regulation legal framework for which guidance should be developed. [http://ec.europa.eu/environment/forests/timber\\_regulation.htm](http://ec.europa.eu/environment/forests/timber_regulation.htm) downloaded 30 January 2013.

## E Glossary

**Acceptable wood:** wood material or wood-based products that have been confirmed to originate from a legal source and have been processed and transported in a legal fashion according to the requirements of the LegalSource Standard.

**Competent Authority:** the body within EU Member States responsible for the application of the EU Timber Regulation in their own jurisdiction.

**Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES):** an organisation that aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

**Corruption Perception Index (CPI):** a global index of the perceived level of corruption in individual countries. The index has been developed by Transparency International.

**Due diligence:** in the context of this standard, due diligence is considered to define the actions taken by organisations to reduce the risk of sourcing illegally harvested wood and wood-based material. A general definition of the term is "reasonable steps taken by a person or organisation in order to satisfy a legal requirement".

**Due diligence system:** a set of steps or actions taken in order to ensure that due diligence is exercised. The due diligence system may consist of written guidelines and procedures that describe the due process in detail.

**Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan:** an EU initiative that provides a number of measures to exclude illegal timber from markets, to improve the supply of legal timber and to increase the demand for responsible wood products. A central element of the EU's strategy to combat illegal logging are trade accords with timber exporting countries – known as Voluntary Partnership Agreements – to ensure legal timber is traded and to support good forest governance in the partner countries. As a second element, the EU created the Timber Regulation to ban illegally-produced wood products from the EU market.

**Forest management enterprise:** an organisation or other single legal entity engaged in forest management. The forest management enterprise may be responsible for forest management over one or more forest management units<sup>2</sup>.

**Forest management unit:** a clearly defined forest area with mapped boundaries, managed by a single managerial body, to a set of explicit objectives which are expressed in a self-contained multiyear management plan<sup>3</sup>.

**Forest products:** any forest product or material an organisation handles. This includes roundwood, lumber, processed wood-based intermediate and final products, pulp, paper, non-timber forest products etc.

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<sup>2 3</sup> Definition adopted from *FSC-STD-01-002 FSC Glossary of Terms*

**Global Forest Registry:** an online tool with information on the risk status for in individual countries related to the five FSC Controlled Wood categories: <http://www.globalforestregistry.org>

**Low risk:** a conclusion, following a risk assessment, that there is no or little risk that illegal material is sourced or traded in a supply chain, following a risk assessment. Risk mitigation actions are not required for forest products with low risk designation. Low risk equates to “negligible risk” as defined in the EU Timber Regulation.

**Negligible risk:** see “low Risk”

**Organisation:** individual, company or legal entity responsible for meeting the requirements of this standard. In the case of Group certification, one certificate is issued to several certified organisations that operate under the administration and control of a Group Manager.

**Recognised certification scheme:** certification schemes considered as meeting or exceeding the requirements of the LegalSource Standard; see Annex 5 for the detailed requirements.

**Specified risk:** a conclusion, following a risk assessment, that there is risk that illegal forest products may be sourced or enter the supply chain. Risk mitigation is required. Specified risk equates to “non-negligible risk” as defined in the EU regulation.

**Sub-supplier:** any entities further down the supply chain that are supplying material to the suppliers or other sub-suppliers.

**Supplier:** the entity that supplies material to the certified organisation.

**Supply chain:** the entities that take legal ownership of the forest products from the forest – where the material is harvested – to the certified organisation that take final ownership of the material.

**Unacceptable wood:** refers to wood material or wood based products that have NOT been confirmed to originate from a legal source and have been processed and transported in a legal manner according to the requirements of the LegalSource Standard

## F Acronyms

<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>CPI</b>	Corruption Perception Index
<b>EUTR</b>	European Timber Regulation
<b>FME</b>	forest management enterprise
<b>FMU</b>	forest management unit
<b>FSC</b>	Forest Stewardship Council
<b>LS</b>	LegalSource
<b>VLC</b>	Verified Legal Compliance

# Normative requirements

## Requirements:

### **1 Commitment to legal sourcing**

- 1.1 The organisation shall have a written, publicly available policy, endorsed at executive level stating an organisational commitment to producing and/or sourcing responsibly by avoiding the production and/or trade of forest products that have been harvested, traded or processed in violation of applicable national legislation or ratified international treaties.
  
- 1.2 The organisation shall ensure the policy is implemented and followed.
  
- 1.3 The organisation shall ensure that it meets relevant legal requirements and complies with all requirements in Annexes 1 and 2, where applicable.

### **2 Responsibilities and competence**

- 2.1 The organisation shall appoint a single person or position as having overall responsibility for conformance with all applicable requirements in this standard.
- 2.2 The appointed person/position shall have sufficient authority and access to resources to ensure that requirements are met.
- 2.3 The organisation shall designate individual responsibilities for all applicable elements of this standard.
- 2.4 All relevant staff shall demonstrate

## Related instructions:

The policy shall include a commitment to legal sourcing for all the material and products produced or sourced by the organisation, irrespective of the scope of their certificate.

The interpretation of “publicly available” depends on the size and set-up of the organisation. Smaller organisations that do not have a website, at minimum, shall readily provide the policy upon request. Where possible the organisation is expected to publish information on their website.

Executive level refers to the highest level of authority in the organisation. This provides assurance that the commitment is representative of the whole organisation.

The LegalSource Standard requirements only apply to material the organisation has included in the scope of their LegalSource certification. However, the organisation is expected to take immediate action if it becomes aware that material it’s using is of illegal origin, even if this material is not included in the scope of their certification. In cases where NEPCon acts as Monitoring Organisation (in the EU) for the organisation under evaluation, NEPCon will be obliged to report to the relevant Competent Authority any cases where significant risk of illegal material being placed on the market exist.

Annex 1 stipulates the legality framework for forest managers. It is possible for forest management organisations themselves to apply for LegalSource certification, in which case they would need to comply with Annex 1.

Annex 2 contains the legality framework for entities in the supply chain. The certified organisation itself shall fulfil all applicable legislation as outlined in Annex 2.



awareness of and competence in implementing the organisation's procedures relevant to fulfilling this standard.

### **3 Documentation**

- 3.1 The organisation shall have written procedures covering all applicable elements of this standard.
- 3.2 The organisation shall ensure that records demonstrating conformance with this standard are maintained and available to auditors.
- 3.3 All relevant records shall be retained for a minimum of 5 years.

Records that are legally required to be maintained for longer periods of time shall be stored according to the respective legal requirements.

### **4 Monitoring performance of the established due diligence system**

- 4.1 The organisation shall regularly monitor its performance, including its auditing system, to evaluate its compliance with this standard.  
  
NOTE: performance monitoring shall be carried out for internal entities and group sites where this is applicable, as well as for any suppliers and sub-suppliers where these are included in the organisation's own-verification system.

It is expected that, as part of the organisation's due diligence system, an internal audit is conducted at least annually to check whether the organisation's system is being implemented as planned.

Control over the performance of entities in the supply chain is required in cases where tasks important for controlling risk are handled by suppliers or sub-suppliers. An example of this is an organisation that sources from a roundwood trader which buys from many small forest managers in an area with specified risk for illegal logging. It may not be possible for the certified organisation itself to control the risk in such cases, and instead may agree with the roundwood trader for their staff to check the legality of the material before wood is purchased from the forest managers. In such instances, the organisation would have to audit the roundwood trader to assess whether the agreed system is working and the trader is fulfilling its obligations to check the legality of the material before receiving it from the forest management enterprises.

- 4.2 All non-conformances and corrective actions identified by the organisation or by external auditors shall be documented.
- 4.3 Organisation shall ensure that all non-conformances are addressed and corrected in a timely manner.
- 4.4 Organisation shall make all reports of monitoring (internal as well as of supplier and sources) available to the certification body.
- 4.5 Organisation shall not place forest products included in the scope on the market when internal or external audits indicate they do not fulfil the legal requirements specified in this standard.

Non-conformances and corrective actions are normally documented in a written audit report and kept as a record.

The ban to place products on the market under the LegalSource Standard applies in cases where products have been identified to be of illegal origin or related to illegal activities.

### **5 Scope of the due diligence system and the LegalSource certification**

5.1 The organisation shall clearly define and document the scope of their due diligence system in terms of supply chains, products and species covered.

Defining the scope is a central activity within the due diligence process. It is necessary to gain a clear overview of the products, material, suppliers and sources that are included in the certification programme. The LegalSource Standard will only be applied to material that is included in the certification scope. The organisation may choose to only include some of the material it handles in the scope, however additional requirements will then apply. For example physical separation of the material is required and a system is needed to control and restrict LegalSource claims to only be made on eligible material. Commonly these will be different supply chains, however further subdivision can be made within a supply chain based on specific products or species. Nevertheless, it shall be clear which material is within scope and which is not, to both the organisation and the external auditors.

5.2 If the organisation is handling wood and wood-based material which is not included in the scope of the LegalSource certification, it shall ensure that material within the scope is not mixed with other material, and shall comply with the chain of custody requirements in Annex 3.

A written separation procedure shall be developed describing the approach and clear delegated responsibilities. The approach shall ensure there is no mixing of acceptable and unacceptable materials during storage and at any stage of the production process. The most common separation method is called 'batch' or 'lot' processing. For example, when a lot of acceptable wood is handled through a given processing phase, unacceptable wood cannot be processed until the previous lot, which is correctly identified, documented and controlled, moves to the next phase.

NOTE: Any organisation using the LS Standard to comply with the EU Timber Regulation shall include all forest products that they are placing on EU market in scope. Organisations may exclude material purchased from organisations within the EU from the LS scope; however in such case this material or products that have been mixed with this material shall not be sold with a product related LS claim. Any organisation trading with forest products on the US market and using the LS standard to support compliance with the Lacey Act, shall include all the forest products they are handling under the scope.

In case organisations placing products on the EU market choose to mix material covered by the LS scope, with material sourced from an Operator or trader within the EU, which is not in the LS scope, the organisation shall not use product related claims. They can however still be LS certified and make public claims about their certification status.

## 6 Supply chain and material information

6.1 The organisation shall have and maintain the following up-to-date information about products included within the scope of the LegalSource evaluation:

6.1.1 the type of product;

The type of product means a description that indicates the nature of the product. Examples include furniture, sawn logs and office paper.

6.1.2 the common and scientific name of tree species;

For products made from multiple species (e.g. paper), this may be a pool of species. The species or pool of species shall always be known.

6.1.3 volumes, of material purchased and sold;

Volumes may be in different units depending on the type of material. It may include weight, volume, pieces etc.

6.1.4 the country (or pool of countries) of origin;

If the risk assessment warrants it, the sub-national or concession level details should also be documented.

- 6.1.5 name and address of suppliers the organisation has purchased material from;
- 6.1.6 name and address of buyers the organisation has supplied products to; and
- NOTE: This requirement is not applicable to organisations selling products to the end user.
- 6.1.7 the certification/verification status of the material.
- 6.2 The organisation shall have access to information about its forest product supply chains to a level that allows it to:
- NOTE: This requirement [6.2] is not applicable for supply chains of material certified under a recognised certification/verification scheme confirmed as meeting the requirements of this standard (see Annex 5).
- 6.2.1 confirm and document that the material/products originate from forest sources with low risk of legal violations or that potential risks have already been mitigated; or
- 6.2.2 effectively identify, assess and mitigate risks for receiving material of illegal origin.
- 6.3 The organisation shall ensure that suppliers notify the organisation if they plan to change supply chains.
- The supplier here means only the first tier supplier. In cases where the risk assessment indicates elevated levels of risk, the level of detail needed about the supply chain will increase.
- For example, if the buyer is a private customer buying materials from a retailer, the retailer is not required to record the name and address of the buyer.
- It is important to collect information about the certification status of the material sourced.
- Information about the origin and supply chain of the product needs to be detailed enough to conclude low-risk or to identify meaningful risk mitigation actions. It should be noted that it is not possible to provide a universal threshold for the level of detail of information about origin. Rather, the decision on when enough information is available must be based on an individual evaluation of each supply chain.
- For example, in cases where material can be confirmed to originate from a supply chain with low risk for illegal harvesting and trade, the details of the supply chain are not needed. In cases, where the supply chain contains higher level of risk, the organisation will need to obtain information about its supply chain to a higher level of detail.
- The information requirements increase with risk because meaningful risk mitigation measures can only be taken if the supply chain and exact origin is known. Since material certified according to recognised schemes indicates low-risk, the supply chain information may only be known back to the certified supplier.
- As a general rule, for smaller organisations that are more than a few steps away from the forest level, it is often not possible to extract sufficient supply chain information to conclude low risk or implement risk mitigations measures. In such cases, requiring the material to be certified according to recognised certification schemes may be the only realistic option to evaluate and mitigate risk.
- Any changes to supply chains by suppliers shall be communicated to the organisation prior to changes taking place in order to allow

- 6.4 The organisation shall ensure compliance with applicable elements of this standard throughout their supply chains by, at minimum, taking the following steps:

NOTE: This requirement is only applicable to supply chains where risks have been specified.

- 6.4.1 inform its suppliers about their public sourcing policy (see 1.1) and applicable elements of this standard, and request its suppliers to provide the information to their suppliers and through the supply chain;

- 6.4.2 ensure the certifier has access to evidence of compliance with the standard and access to conduct supply chain and forest level audits where applicable;

- 6.4.3 acquire consent from suppliers to allow the organisation and external auditors to conduct audits for the purpose of verifying compliance with applicable elements of this standard; and

- 6.4.4 ensure suppliers appoint a person responsible for compliance with applicable elements of this standard.

## 7 Risk Assessment

- 7.1 The organisation shall assess and specify the level of risk of illegal forest products entering the supply chain, including for the following areas:

the organisation to take appropriate measures to assess and mitigate any identified risks.

It may not be possible for the organisation to communicate and work directly with all entities in its supply chain. To manage this, it is therefore acceptable for the organisation to communicate clearly and have agreements in place with its tier 1 suppliers, who in turn commit to communicating clearly and having agreements in place with their suppliers, and so forth. This is normally stated in a signed, legally enforceable agreement between the organisation and its supplier. The organisations may wish to include other requirements from this standard covering specific responsibilities of the supplier in this agreement, or decide to include these in separate, additional agreements.

The organisation is obligated to ensure that all applicable requirements are met for all products within their certification scope along its entire supply chain. This is relevant to organisations that are sourcing from uncertified suppliers that supply material that cannot be initially categorised as low-risk. Where risks have been identified, the organisation shall ensure that the necessary elements of the standard are fulfilled and need to communicate those to their suppliers.

The organisation shall communicate the minimum requirements of this standard to its suppliers in writing, preferably as a legally binding agreement. The document shall contain evidence showing that the sub-supplier has read, understood and agreed to the requirements (e.g. signature, stamp). To ensure these requirements are passed further down the supply chain, the agreement should include text requiring the supplier to address requirements with the sub-supplier.

Even if no supplier audits are planned for specific supply chains, the need to take risk mitigation actions may change over time. Examples include if the sub-suppliers or sourcing regions change. It is therefore advisable to always have this included in the agreement with all direct suppliers, except for those who commit to only supplying material certified according to recognised schemes (see Annex 5).

Conducting the risk assessment is one of the most challenging components of a due diligence system, especially since it is highly dependent on the specific nature of each supply chain. Clear universal conclusions about appropriate risk level are therefore

hard to provide. However, for material not to be associated with illegal activities, it shall:

- 1) originate from a forest that has been harvested according to applicable legislation;
- 2) be transported, traded and handled legally in the supply chain; and
- 3) not be mixed with other material of illegal origin.

7.1.1 the risk of legal violations related to forest management activities;

NOTE: Use Annex 1 to specify risks where applicable.

Without knowing specific information about the actual forest management unit, the risk of legal violations in the forest usually depends on the geographical region where the forest management unit is located. The country of origin is therefore normally the first general level for risk assessment which can be used to identify where further risk specification should be carried out. Quantifying the risk of illegal logging is complex and will often be subjective. However, there is correlation between the level of corruption and illegal logging. The Corruption Perception Index (CPI) published by Transparency International can be used as an indicator of risk at country level, however, a high score on the CPI does not guarantee legality and risks should therefore always be individually evaluated. Where risks are identified, it is recommended that further assessments be carried out to determine the specified risk in order to effectively identify appropriate risk mitigation measures.

More detailed level risk evaluations exist for some countries (so far very few) within the FSC Controlled Wood framework and the results are visible on the Global Forest Register ([www.globalforestregistry.org](http://www.globalforestregistry.org)). FSC and NEPCo are working to have more detailed national-level risk evaluations specifically for the legality category, which is the first of five categories considered under the FSC Controlled Wood system. The organisation is expected to use published national risk assessment approved by FSC or NEPCo as part of their risk assessment.

Annex 1 contains the legal framework and guidelines for specifying risks at the forest level.

7.1.2 the risk of legal violations within the supply chains in relation to trade and transport of the products, including declaration and classification of the material for customs; and

NOTE: Use Annex 2 to specify risks where applicable.

Even if material is from legally harvested forests, there may be illegal activities occurring in the supply chain that relate to the handling of the material. Annex 2 of this standard contains the definition of issues that shall be considered when evaluating the legality of processing and transport entities included in the scope of certification. Only certain legal requirements for processing and trade are considered in the LegalSource Standard.

A supply chain map, indicating the entities and complexity of supply chains and geographical locations of the entities in the supply chain, should normally be used as a

- basis and will help to draw conclusions about the risk for these violations in the supply chain.
- Annex 2 contains a guide to specify risks in that may be relevant in the supply chain,
- This risk mainly arises when the organisation purchases the same type of material as entities in its supply chain that purchase from different sources or origins that do not meet the LS Standard requirements.
- In essence, this relates to the risk of legal material being mixed with material with unknown or illegal origin. The types of material being handled and the risk of mixing shall be evaluated for each entity in the supply chain.
- Timber extraction in countries with UN Security Council or EU Council sanctions on timber exports is considered to be in violation of international treaties and therefore considered a threat to international peace and security. No timber from such countries (regardless of additional information or justification) shall be accepted as being LS compliant. Such sanctions are rare for timber. In the past, there was a UN Security Council ban for Liberia and an EU ban for Burma. Information about any bans which are effective is made available on the Global Forest Register ([www.globalforestregistry.org](http://www.globalforestregistry.org)).
- The purpose of excluding timber from countries with armed conflict is to avoid "conflict timber". Organisations like Global Witness use the term conflict timber to describe forest products used to fund parties engaged in military conflicts resulting in serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law. Information about countries associated with conflict timber is available on the Global Forest Register ([www.globalforestregistry.org](http://www.globalforestregistry.org)).
- The assessment can result in one of two types of risks: low risk; or specified risk. For low risk sources, organisations are not required to undertake any risk mitigation measures and the material can be considered to be in conformance with the LS standard. For supply chains or products where risks cannot be classified as low, they need to be specified. The specification of risk shall be carried out in a way that allows the organisation to effectively mitigate those risks (according to requirements in Section 8).
- Organisations using this standard to demonstrate compliance with the EUTR should be aware that "low risk" equates to "negligible risk" in the EU regulation and "specified risk" to "non-negligible risk".
- 7.1.3 risk that the material is mixed with other material of illegal or unknown origin somewhere in the supply chain during transport, processing or storage.
- NOTE: use Annex 3 to specify risks where applicable.
- 7.2 The organisation shall not source wood from countries with sanctions imposed by the UN Security Council or the EU Council on timber imports or exports.
- 7.3 The organisation shall not source wood from countries or areas with prevalence of armed conflicts.
- 7.4 The risk assessment shall determine the level of risk for each risk category (forest level, supply chain level and risk of mixing with unacceptable material) associated with the products as either "low risk" or "specified risk".

- 7.5 The organisation shall document the risk assessment process and provide justification for the degree of risk identified for each product or supply chain.
- 7.6 The risk assessment shall be revised at least annually and whenever changes occur to the supply chain that could alter the risk characteristics of that supply chain.

This also relates to requirement 6.3.2, which requires suppliers to notify the organisation when there are changes in the supply chain. In these instances, the organisation shall review its risk assessment and verify if the risk findings are still justified.

## 8 Risk Mitigation

- 8.1 The organisation shall develop and implement efficient and justified measures for mitigating risks where specified for any of the three areas listed in 7.1.1, 7.1.2 or 7.1.3 and shall take the following actions, where applicable:

Risk mitigation shall address specified risk. The more detailed the risk assessment is, the easier it will be to identify appropriate risk mitigation measures.

Various methods exist to mitigate risk and the appropriate method depends on the regional context, nature of the supply chains and types of specified risks.

One option is to stop sourcing from a country, region, specific supplier, sub-supplier or forest management unit. Requiring the material to be certified against a credible standard or switching to certified suppliers is another option. This may be the most feasible option for many smaller organisations that are further away from the forest level and do not have the resources, competence and possibly the negotiating power to implement control measures throughout the supply chain. Another option is for the organisation to make an agreement with entities closer to the forest to implement control and risk mitigation measures as a part of those entities daily practice when they receive forest products.

Where the organisations implement risk mitigating measures in the supply chain, the process should include auditing to evaluate the effectiveness of risk mitigating actions to manage the specified risks. Audits may also be used to verify if risks identified on a national level, are actually present at the specific entities in an individual supply chain. Auditing can be desk-based or on-site which involves visiting the supplier or forest management unit depending on the type of risks specified. If there are specified risks in different supply chains, it is not acceptable to only audit a sample of these supply chains as the risk of receiving illegal material would remain in the other supply chains.

Audits can be carried out by the organisation or contracted to a competent body. The certification body will evaluate and witness a sample of the audits, to verify that the audits are done with sufficient quality.

- 8.1.1 For risk of legal violations related to forest management activities in the country/ countries of origin, the organisation shall ensure

Annex 1 lists applicable legislation included in the scope and provides required points of verification for each category. Risk mitigation actions shall only be carried out where risks

compliance with the relevant requirements in Annex 1.

- 8.1.2 For risk of legal violations within the supply chains in relation to transport and trade of the products, including declaration and classification of the material for customs, the organisation shall ensure compliance with relevant requirements of Annex 2.
- 8.1.3 For risk of the material mixing with other material of illegal or unknown origin somewhere in the supply chain during transport, processing or storage, the organisation shall ensure compliance with requirements in Annex 3.
- 8.2 The organisation shall document and justify the effectiveness of risk mitigation measures.
- 8.3 The organisation shall implement risk mitigation actions before the related material is accepted as being LegalSource certified.
- 8.4 The organisation shall discontinue relationships with suppliers in cases of major or continuous violations of the requirements of this standard.

have been specified within this legal framework. Also refer to the instructions under requirement 7.1.1 for information on national-level risk evaluations.

If there is specified risk in relation to both illegal activities in the supply chain and mixing, a combined audit covering the requirements in both Annex 2 and 3 may be conducted depending on the type of risks specified and the mitigating actions needed to mitigate them.

When risk mitigation measures have been implemented, the organisation shall be able to evaluate their effectiveness and describe how these actions have mitigated the specified risks.

For example, an organisation is sourcing from an area at risk of forest management enterprises violating third-parties' rights. As the organisation is sourcing from a few large concession holders, the organisation carries out a forest based audit in these forest management units (using requirements from Annex 1), including consultations with local communities and other relevant stakeholders whose rights may have been violated. The audit also includes an evaluation of forest maps as well as cadastral maps of villages and community areas combined with interviews with forest staff and staff from relevant government agencies concerned with forest land management and indigenous peoples' rights. All the audit activities confirm that no violations of third-party rights occurred in the specified forest. Therefore it is concluded that the initially identified risk is not present at the specified forest. Based on the audit evidence, even though the risk of violations of third party rights exists in the region, it is justified that this specific forest did not contain such violations.

It is not possible to indicate clear thresholds for when the evidence or risk for legal violations is significant enough to warrant discontinuing a relationship. However if the organisation discovers that intentional legal violations were not immediately and properly addressed, it shall suspend or discontinue purchasing from that supplier (see requirement 4.5).



## 9 Claims

- 9.1 For products that are covered by the scope of the LegalSource Standard, the organisation may use the product related claim "LegalSource certified" on sales and transport documents.
- 9.2 The organisation shall not use any on-product LegalSource related claims or labels.
- 9.3 The organisations may make general promotional claims about its LegalSource certified status.
- 9.4 The organisation shall only use public claims that are accompanied by a clear description of the scope of the LegalSource certification.
- 9.5 The organisation shall submit all claims related to the LegalSource program to the certification body for review and approval prior to use.

It is important not to confuse product related claims with on-product claims, which are not allowed under LegalSource Standard (see requirement 9.2). Requirement 9.1 allows business-to-business communications about the certified nature of certified material via accompanying documentation. However no information about the certified status shall be placed on the material itself at any time, except for the sole purpose of segregating the certified material from non-certified in order to avoid mixing.

The general promotional claims made shall not be associated with specific products or material being sold as certified, but shall rather clearly communicate the certified status of the organisation, including truthful and accurate representation of the certificate scope.

If all of the material handled by the organisation is included in the scope, this is a sufficient explanation to fulfil this requirement. If the organisation is only following the LS requirements for some of the materials it handles, the organisation shall communicate which materials are excluded from the scope and what proportion of their products this represents.

NOTE: Requirements 9.1 to 9.5 are only applicable for companies holding a valid LegalSource Certificate issued by NEPCon.

## Annex 1: Legal conformance at the forest level

This annex contains a framework for specifying as well as evaluating legality at the forest level. The table below shall be used during the risk assessment process to specify risks, and can be used to evaluate risks related to each of the specified legal categories when risks have been specified.

Risk mitigation actions shall be implemented for areas where risk has been specified. A national-level legality risk assessment should be conducted prior to specifying the risk at sub-national or FMU level. For some countries, this analysis may have already been undertaken within the FSC Controlled Wood process and the results of which can be found on the Global Forest Registry ([www.globalforestregistry.org](http://www.globalforestregistry.org)).

Where there is a risk of non-compliance with specific legislation, the type of non-compliance shall be clearly described in order to form the basis for establishing efficient risk mitigation measures.

### *Risk threshold*

Defining the exact threshold between low risk and specified risk can be a challenging task. The following section is providing threshold guidance.

The risk classification will typically be carried out based on a combination of different public sources and consultations with experts and other stakeholders. When evaluating if there is low risk for non-compliance the scale and the impact of non-compliances shall be considered. Accidental non-compliances with legislation and other requirements happen for forest operations everywhere in the world, but that does not make the forest products as such illegal, nor does it justify a classification of a country or region as specified risk for legality.

The LegalSource Programme has adopted an approach that combines scale and severity of the potential negative impact on forest productivity, forest ecosystem, people directly and indirectly affected by forest operations and the society to evaluate if the level of non-compliance with legislation can justify a classification as low-risk for a country or sub-national region.

As a general rule, a country and sub-national region can be considered low risk for specific legal requirements if risk of legal non-compliance is:

- a) temporary lapses;
- b) unusual/non-systematic; or
- c) limited in their temporal and spatial impact.

Conversely, it cannot be considered as low if the risk of non-compliance:

- a) continues over a long period of time;
- b) affects a wide area and/or causes significant damage;
- c) indicates a the absence or break down of enforcement of the legal system;
- d) is not corrected or adequately responded when identified; or
- e) have a significant negative impact on the society, the production of forest products and other services, the forest ecosystem and the people directly and indirectly affected by forest operations.

The table below provides a framework for the classification of risk for different types of legislation covered by the scope of legality definition.

**Please note that all of the issues in the table below are only applicable if they are legally regulated within the country of origin. If no legislation exists covering the issues below, there is no risk of legal violations and the risk can be classified as low.**

The table contains the following columns:

1. **Applicable legal category and sub-categories:** this column contains the generic categories that constitute the framework of applicable legislation relevant to forest management and trade and transport of forest products related to the forest level.
2. **Explanation:** an explanation of each legal sub-category and guidance to the intent of each legal sub-category to be used during risk assessment. The explanation provides some guidance to the potential risks that could be relevant for each legal sub-category.
3. **Examples of forest level verifiers:** the verifiers are formulated to allow verification of each legal sub-category if risks have been specified. The verifiers are used to evaluate if the risk that has been specified is present in the individual region or area identified during the risk

assessment or to evaluate the effectiveness of risk mitigating actions. Where no specified risk has been identified, mitigating action or verification is not required

The below framework of applicable legislation has been developed with reference to the EU Timber regulation definition of applicable legislation. It should be underlined that the laws and regulations relevant to forest management and forest products trade, varies from country to country. The below framework shall therefore only be considered relevant where national or regional legislation relates to a specific category or sub-category.

Legality categories and sub-categories	Explanation	Verifiers
1. Legal rights to harvest		<p><b>General requirement:</b> The legal status of the FME shall be clearly defined and its boundaries delineated. The FME shall prove that it has validly obtained the legal right to operate and to harvest timber from within the defined FMU.</p>
1.1 Land tenure and management rights	<p>Legislation covering land tenure rights, including customary rights as well as management rights that include 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.</p> <p>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.</p> <p>The intent of this sub-category is to assure that any land tenure and management rights have been issued according to the legislation.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Land registry shall confirm ownership and validity of property deed.</li> <li>• Tax authorities shall confirm valid tax registration.</li> <li>• The business register shall confirm valid business licenses to operate within the jurisdiction.</li> <li>• In areas with land ownership conflicts, consultation with neighbours, local communities and others shall confirm that land tenure rights are clear.</li> <li>• Stakeholder consultation shall confirm that registration of FME has been granted following legally prescribed processes</li> <li>• Stakeholder consultation shall confirm that legal status of the operation or rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operations.</li> <li>• The management contract or other agreements with the owner shall indicate clear management rights.</li> <li>• Valid business registration documents shall exist.</li> <li>• The issuance of legal rights and registration shall be subject to public disclosure prior to commencement of any activities within FMUs.</li> <li>• Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).</li> </ul>
1.2 Concession licenses	<p>Legislation regulating procedures for issuing forest concession licenses, including use of legal methods to obtain concession license.</p> <p>Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The process of issuing forest concession licenses or harvest rights shall follow proper procedures.</p> <p>The intent of this sub-category is to avoid situations where organisations are obtaining concession licenses via illegal means such as bribery, or where organisations or entities that are not</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Proper legal procedures for obtaining concession licenses shall be followed.</li> <li>• Valid concession license agreements shall exist.</li> <li>• The process of obtaining concession shall follow an open and transparent process based on clear criteria and be confined to eligible organisations.</li> <li>• Independent stakeholder consultation shall confirm that legal procedures for obtaining concession licenses have been followed.</li> </ul>

	<p>eligible to hold such rights do so via illegal means.</p> <p>The threshold that should be considered when evaluating the risk in this sub-category is to identify situations where due process has not been followed and the concession rights therefore can be considered to be issued on an illegal basis. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks.</p>	
<p>1.3 Management and harvesting planning</p>	<p>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.</p> <p>The main threat is when the management plan quality results in severe overharvesting (this can be due to very faulty taxation data or simply incorrect or missing calculations). Cases where required management planning documents are not in place or not approved by competent authorities should be considered.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Approved forest management plans shall exist for the FMU where the harvesting is taking place.</li> <li>• Forest management plans shall contain all legally required information and procedures.</li> <li>• Annual operating or harvesting plans shall be in place and approved by legally competent authorities.</li> <li>• Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.</li> <li>• The contents of the operating and harvesting plans shall be consistent with approved forest management plans.</li> <li>• Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.</li> <li>• Harvesting restrictions shall be identified in management plan and maps if legally required.</li> <li>• Harvesting inventories shall be conducted according to legal requirements.</li> <li>• Field verifications shall indicate that the contents of the harvesting plans are adhered to in the field.</li> <li>• Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process.</li> <li>• The contents of the management plan shall be technically sound and consistent in meeting legal requirements.</li> </ul>
<p>1.4 Harvesting permits</p>	<p>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.</p> <p>The intent of this sub-category is to avoid situations where harvesting permits are lacking or obtained via illegal means such as bribery, or where harvesting permits are issued for areas or species not eligible for harvesting.</p> <p>Bribery is a well-known issue in connection with the issuing of harvesting permits. Bribery is commonly used to obtain harvesting permits for areas and species that could not be harvested according to the legislation (e.g.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Harvesting permits (license or similar legal document governing the harvesting of forest resources) shall exist.</li> <li>• Harvesting limits shall be clearly defined based on maps and quantities.</li> <li>• Authorities shall confirm the validity of harvesting permit.</li> <li>• Stakeholder consultation shall confirm that harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority.</li> <li>• Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.</li> <li>• Field inspection shall confirm that</li> </ul>

	<p>protected areas, areas that do not fulfil requirements of minimum age or diameter, species that cannot be harvested etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks.</p> <p>In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.</p>	<p>information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation</p> <ul style="list-style-type: none"> <li>Field inspection shall confirm that all harvesting restrictions given in the harvesting permit are observed such as buffer zones, protected trees, placement of logging trails etc.</li> </ul>
<b>2. Taxes and fees</b>		<p><b>General requirement:</b> The FME shall fulfil all obligatory taxes, fees and/or royalty payments associated with maintaining the legal right to harvest and permitted harvesting volumes.</p>
2.1 Payment of royalties and harvesting fees	<p>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.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>Receipts shall exist for payments of harvesting related royalties, taxes, harvesting fees and other charges.</li> <li>Volumes, species and qualities given in sales and transport documents shall match the paid fees.</li> <li>Classification of species, volumes and qualities shall match the royalties and fees paid.</li> <li>Authorities shall confirm that the operation has paid all applicable fees.</li> </ul>
2.2 Value added taxes and other sales taxes	<p>Legislation covering different types of sales taxes which apply to the material being sold, including selling material as growing forest (standing stock sales).</p> <p>Avoidance can be done by selling products without official sales document or selling products far official far below market price combined with unofficial payment.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>Sales documents shall include applicable sales taxes.</li> <li>Receipts for payment sales taxes shall exist.</li> <li>Volumes, species and qualities given in sales and transport documents shall match the fees paid.</li> <li>Sales prices shall be in line with market prices.</li> <li>Harvested species, volume and qualities shall match the sales documents.</li> <li>Authorities shall confirm that operation is up to date in payment of applicable sales taxes.</li> </ul>
<b>3. Timber Harvesting</b>		<p><b>General requirement:</b> The FME shall operate in conformance with legal requirements relating to the harvesting of forest products. Management plans and annual operating plans as required by law shall exist, contain accurate information and be adequately implemented.</p>
3.1 Timber harvesting regulations	<p>Covers legal requirements for harvesting techniques and technology, including selective cutting, shelter wood regenerations, reduced impact logging, clear felling, transport of timber from felling site and seasonal limitations etc.</p> <p>Typically this includes regulations on the</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>Harvesting shall be conducted within the authorised boundaries of the FMU.</li> <li>Harvesting shall not take place in areas where harvesting is legally prohibited.</li> <li>Tree species or selected trees found within</li> </ul>

	<p>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.</p>	<p>the FMU for which felling is prohibited shall be listed in operational plans.</p> <ul style="list-style-type: none"> <li>• Harvesting restrictions shall be observed in the field.</li> <li>• Tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field.</li> </ul>
3.2 Protected sites and species	<p>Covers legislation related to protected areas as well as protected, rare or endangered species, including their habitats and potential habitats.</p> <p>The intent of this category is to avoid the risk of harvesting within protected sites or areas as well as illegal harvest of protected species on a significant scale.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.</li> <li>• Legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.</li> <li>• Nature protection regulations such as protected areas, set-aside areas, protected species and hunting regulations shall be observed.</li> </ul>
3.3 Environmental requirements	<p>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, seasonal limitation of harvesting time, and environmental requirements for forest machineries.</p> <p>Risks in this category should be identified where systematic and/or large scale non-compliance with legally required environmental protection measures are evident to an extent that threatens the forest resources or other environmental values.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Environmental and/or Social Impact Assessments shall be in place and approved by the legally competent authority if legally required.</li> <li>• Requirements for environmental monitoring shall be observed.</li> <li>• Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.</li> </ul>
3.4 Health and safety	<p>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 relevant to operations in the forest (not office work, or other activities not related to actual forest operations).</p> <p>The intent of this category is to identify cases where health and safety regulations are being consistently ignored to a degree that puts the health and safety of forest workers at significant risk throughout the forest operations.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Occupational health and safety requirements shall be observed by all personal involved in harvesting activities.</li> <li>• Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organisation.</li> </ul>
3.5 Legal employment	<p>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.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Persons involved in harvesting activities shall be employed under a formal contract if legally required.</li> <li>• Persons involved in harvesting activities shall be covered by obligatory insurances.</li> <li>• Persons involved in harvesting activities</li> </ul>

	<p>Furthermore, the points cover compliance to the minimum working age and minimum age for personal involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association.</p> <p>The intent is to enable identification of systematic or large scale non-compliance with labour and/or employment rules and regulations. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.</p>	<p>shall hold required certificates of competence for the function they carry out.</p> <ul style="list-style-type: none"> <li>• At least the legally established minimum salaries shall be paid for personal involved in harvesting activities.</li> <li>• Salaries shall be paid officially and declared by the employer according to requirements for personal involved in harvesting activities.</li> <li>• Minimum age shall be observed for all personnel involved in harvesting activities.</li> <li>• Minimum age shall be observed for all personnel involved in hazardous work.</li> <li>• Stakeholders shall confirm that forced or compulsory labour is not involved in harvesting activities.</li> </ul>
<b>4. Third parties' rights</b>		<b>General requirement:</b> Legally recognised customary rights shall be taken into account in the management of forest resources
4.1 Customary rights	Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and tenure rights.	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.</li> </ul>
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.	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that legal requirements related to free, prior and informed consent was observed where third-parties' rights have been relinquished to a third-party.</li> </ul>
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.	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Stakeholder consultation shall confirm that indigenous peoples' established rights are not being violated.</li> </ul>
<b>5. Trade and transport</b>		<b>General requirement:</b> The FME shall adhere to applicable transport, trade, import or export regulations, procedures and restrictions.
5.1 Classification of species, quantities, qualities	<p>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.</p> <p>The threshold for when material or products should be considered illegal should be established based on the risk that material is traded under false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI&lt;50).</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents.</li> </ul>
5.2 Trade and transport	All required trading and transport permits shall exist.	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Species and product types shall be traded</li> </ul>

	<p>These documents include legally required removal passes, waybills and other documents permitting the removal of timber from the harvesting site.</p> <p>In countries with high levels of corruption, these documents are often faked or obtained by using bribery.</p> <p>In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.</p>	<p>legally.</p> <ul style="list-style-type: none"> <li>• Required trade permits shall exist and be documented.</li> <li>• All required transport documents shall exist and be documented.</li> <li>• Volume, species and qualities shall be classified according to legal requirements.</li> <li>• Documents related to transportation, trade or export shall be clearly linked to the specific material in question.</li> </ul>
5.3 Offshore trading and transfer pricing	<p>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. It is considered an important generator of funds that can be used to bribe forest operations and personnel involved in the harvesting operation.</p> <p>Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading can be included here as far as it is legally prohibited in the country.</p> <p>When products are sold out of the country for prices that are significantly lower than market value and then sold to next link in the supply chain for market prices, it is usually a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as "tax havens".</li> <li>• There shall be no illegal manipulation in relation to the transfer pricing.</li> </ul>
5.4 Custom regulations	<p>Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).</li> <li>• All required import and exports permits shall be in place.</li> </ul>
5.5 CITES	<p>CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• All cross border-trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).</li> </ul>



## Annex 2: Legal conformance in the supply chain

This annex contains the requirements for specifying the risk of illegal activities in the supply chain as well as verifiers for evaluating conformance to applicable legislation by processing and trade entities. The criteria shall be used for risk specification and subsequent risk mitigation when risks have been identified in the supply chain for legal compliance. The certified organisation itself shall also comply with these requirements.

Legality categories and sub-categories	Explanation	Verifiers
<b>1. Legal Registration</b>		<b>General requirement:</b> The organisation shall be legally registered and licensed as a business and approved for conducting the defined business activities with the relevant authorities as required by law.
1.1 Legal registration shall be in place	Legislation covering the registration of businesses to carry out processing or trade of forest products for commercial purposes.	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>The organisation shall have in place valid and appropriate business licenses and registrations</li> <li>The organisation shall be legally allowed to carry out commercial activity as relevant to the production of forest products</li> </ul>
<b>2. Trade and transport</b>		<b>General requirement:</b> The organisation shall adhere to applicable transport, trade, import or export regulations, procedures and restrictions.
2.1 Classification of species, quantities, qualities	<p>Legislation regulating how material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees.</p> <p>The threshold for when material or products should be considered illegal should be established based on the risk that material is traded under false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI&lt;50).</p>	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents</li> </ul>
2.2 Trade and transport	<p>All required trading and transport permits shall exist.</p> <p>These documents include legally required removal passes, waybills and other transport documents permitting the transport of timber.</p> <p>In countries with high levels of corruption, these documents are often faked or obtained by using bribery.</p> <p>In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided</p>	<b>Examples of verifiers:</b> <ul style="list-style-type: none"> <li>Species and product types shall be traded legally.</li> <li>Required trade permits shall exist and be documented.</li> <li>All required transport documents shall exist and be documented.</li> <li>Volume, species and qualities shall be classified according to legal requirements.</li> <li>Documents related to transportation, trade or export shall be clearly linked to</li> </ul>

	as a fake proof of legality with the material.	the specific material in question.
2.3 Offshore trading and transfer pricing	<p>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. It is considered an important generator of funds that can be used to bribe forest operations and personnel involved in the harvesting operation.</p> <p>Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading can be included here as far as it is legally prohibited in the country.</p> <p>When products are sold out of the country for prices that are significantly lower than market value and then sold to next link in the supply chain for market prices, it is usually a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.</p>	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as “tax heavens”.</li> <li>• There shall be no illegal manipulation in relation to the transfer pricing.</li> </ul>
2.4 Custom regulations	Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.)</li> <li>• All required import and exports permits shall be in place</li> </ul>
2.5 CITES	CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention).	<p><b>Examples of verifiers:</b></p> <ul style="list-style-type: none"> <li>• All cross-border trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities)</li> </ul>

## Annex 3: Chain of custody requirements

This annex contains general chain of custody (CoC) requirements for maintaining physical separation of material in cases where there is a risk that acceptable material can be mixed with unacceptable material. It applies to organisations in the supply chain that handle material that complies with LegalSource Standard while also handling materials without LegalSource or other recognised certification schemes. The certified organisation itself shall comply with these requirements if any of the material they are handling is not covered by the scope of the LegalSource Standard. The term "acceptable material" is used to indicate material that is in compliance with the LegalSource requirements.

### Requirements:

### Related instructions:

## **1 General CoC requirements**

- 1.1 The organisation shall define one person as overall responsible for the CoC control system and individual persons responsible for each part of the CoC control system (purchasing, processing, final storage, marking, recordkeeping etc.).
- 1.2 The organisation shall develop and maintain documented procedures to ensure compliance with all applicable CoC requirements.
- 1.3 The organisation shall develop and implement procedures for addressing non-conformances identified by auditors.
- 1.4 The organisation shall implement training for all applicable staff and workers according to the CoC procedures.
- 1.5 The organisation shall maintain records applicable to demonstrate compliance with this standard.
- 1.6 The organisation shall maintain data on the volumes of legal material and ensure that it is available for auditors. The volume information shall be maintained at minimum for purchased material, sold material and material in raw material and final product stock.

## **2 Purchasing and receiving**

- 2.1 The organisation shall verify that material purchased meets the LegalSource requirements.
- 2.2 The organisation shall store material under the scope as physically separate, secure units.
- 2.3 The organisation shall use a distinguishing mark to identify material included in the scope.

## **3 Processing**

- 3.1 The organisation shall keep material included in the scope physically separate

during all stages of processing.

- 3.2 The organisation shall use a tracking system or production records to document production of material included in the scope.
- 3.3 The organisation shall ensure that any off-site processing that takes place at a sub-contracted facility follows the same CoC procedures and is covered by a signed agreement requiring compliance with the requirements.

#### **4 Shipping and sales**

- 4.1 The organisation shall store final products included in the scope as physical separate, secure units.
- 4.2 The organisation shall use a distinguishing mark to identify final products.

## Annex 4. Requirements for group certification

This annex is only applicable to group certificate holders. Group certification covers several different legal entities that have collectively applied for a group certificate. Under the group certification system, the entity is required to have a “central office” function that performs control functions to coordinate and ensure compliance among all group members. It also serves as the point of contact for the certification body.

### Requirements:

### Related instructions:

## **1 Eligible operations**

- 1.1 The central office function shall be clearly defined and shall be assigned to a legal entity that has sufficient authority and rights to represent all group members.
- 1.2 The central office shall have sufficient competence and capacity to implement and control all applicable requirements of the group scheme.
- 1.3 The central office shall document and implement rules regarding eligibility for group members to be included under the certification scope.
- 1.4 An agreement shall be signed between the central office and each group member prior to inclusion of the member under the scope. The agreement shall include, at minimum, members’ consent to:
  - a) maintain compliance with all applicable requirements of the LegalSource Standard;
  - b) authorise the central office to apply for LegalSource certification on their behalf;
  - c) acknowledge and agree to the general obligations and responsibilities of participation under the certificate for the full period of validity, as stipulated by the central office procedures;
  - d) acknowledge and agree to disclose any information and data that is relevant to check compliance with the LegalSource Standard requirements;
  - e) acknowledge and agree to accept and fully cooperate in periodic surveillance audits conducted by the central office and the certification body, and to address any identified non-conformities; and
  - f) acknowledge and agree to the rules and conditions for suspension and exclusion of members from the scope of the certificate by the central office.

## **2 Quality system**

- 2.1 The central office shall designate one person/ position with overall responsibility for management of the group scheme.
- 2.2 The central office shall have documented procedures for all applicable elements of the group requirements, sufficient to ensure effective management of the members.
- 2.3 The central office shall clearly define division of

responsibilities between the central office and the members and shall make the information available to all members.

- 2.4 The central office shall maintain all applicable records to demonstrate compliance with all the requirements for management of the group scheme at minimum for five years.

### **3 Central office responsibilities**

- 3.1 The central office shall be contractually responsible to the certification body for ensuring that all of the certification requirements are fully implemented by all group members within the scope of the certificate.
- 3.2 The central office shall be responsible for ensuring that any conditions on which certification is dependent and any non-conformities raised by the certification body are properly addressed.
- 3.3 The central office shall have the authority to raise internal non-conformities against any group member and to enforce their correct implementation.
- 3.4 The central office shall have the authority to remove group members from the certification scope if the requirements of participation are not met or if any non-conformity identified by the central office or by the certification body, is not properly addressed.
- 3.5 The central office shall prepare summary information about supply chain changes, risk assessments, risk mitigation and claims made by the group members and make it available for the certification body prior to annual audits and upon request of the certification body.
- 3.6 The central office shall maintain an up-to-date register of all group members and shall notify the certification body within five working days of any added or excluded members.

NOTE: Certifier reserves the right to audit new members outside of normal annual audit cycle, if this is deemed necessary.

### **4 Internal audits**

- 4.1 Central office shall carry out an initial audit of each applicant group member to ensure that they comply with all the requirements of the LegalSource Standard prior to accepting the member in the scope of the group certificate.
- 4.2 The central office shall carry out surveillance audits of all group members, with a minimum annual frequency to confirm continual compliance with all the requirements of certification.

NOTE: The certifier will audit at minimum square root from the total number of group members. The actual sample will be based on the certifiers' evaluation for risks and will be higher if there are risks for violations of if the central office function is not fully reliable and strong. Certifier also reserves the right to limit the growth for the group, depending on the capacity of the central office.

## **5 Use of the LegalSource Claims**

- 5.1 All requests for approving LegalSource claims shall be submitted to NEPCon by the central office.
- 5.2 The central office shall maintain records of all approved claims and all usage of claims by the group members.
- 5.3 The central office shall ensure that all use of the LegalSource claims by the central office and each group member comply with LegalSource requirements.

## **6 Training**

- 6.1 The central office shall provide training for members' managers and key personnel to enable the group members to fully meet the applicable requirements of the LegalSource Standard.
- 6.2 The central office shall provide training for internal auditors as to assessment of compliance with the LegalSource certification standard.

## Annex 5. Requirements for LegalSource recognised certification schemes

There are requirements in the LegalSource Standard that do not apply if material is already certified under a recognised certification schemes. Although certification of products does not offer a guarantee of legality, certification can significantly reduce the risk of illegality. Sourcing certified material or switching to certified material is therefore an important measure for risk mitigation.

It is important to be sure that the certification scheme covers legal compliance and meets the requirements of this standard. This annex provides the requirements for a scheme to be considered as compliant under this LegalSource Standard.

### Requirements:

### Related instructions:

## **1 Recognised Certification/verification schemes**

1.1 The scheme shall cover all relevant requirements of the applicable legislation (see Section B).

NEPCON maintains a list of certification and verification systems that it considers to be meeting the LegalSource Standard. NEPCON deems the following as meeting the LegalSource requirements:

- 1) timber sold with a LegalSource claim (certified according to this standard)
- 2) timber sold with CITES license
- 3) timber sold with FLEGT license.
- 4) timber sold under the Rainforest Alliance VLC verification system
- 5) the FSC system is expected to meet the requirements with the latest announced updates of the system.

Visit [www.nepcon.net](http://www.nepcon.net) for an updated list of recognised schemes.

1.2 The scheme shall include chain of custody requirements, which shall ensure that unacceptable material is not mixed with acceptable material in the supply chain and the CoC is unbroken from the source.

1.3 The scheme shall, be established and made available for third-party use as a publicly available system of requirements.

1.4 Appropriate checks, including field-visits, shall be carried out by a third-party on an annual basis to verify compliance.

1.5 A functioning registry of all issued certificates, including the scope of the certificate and the third-party evaluating compliance (the certification body) shall be publicly available.

1.6 The scheme shall include an effective assurance system in place to ensure enforcement of the all applicable requirements.

A crucial point of certification systems is the existence and effective implementation of assurance systems to ensure that conformance is maintained by certification bodies and certified operations.



## About NEPCon

NEPCon is an international, non-profit organisation that works to ensure responsible use of natural resources and secure sustainable livelihoods worldwide. We aim to transform land-use, business practice and consumer behaviour through the delivery of third-party certification services and engagement in innovation projects.

By engaging with corporate and public sector organisations as well as NGOs, we empower people to be part of the solution in tackling some of the greatest environmental threats facing mankind - including climate change and biodiversity loss. Our services enable our customers to communicate sustainability commitments to their clients and the public.

FSC®, SmartLogging and carbon forest verification services are provided in collaboration with the Rainforest Alliance. PEFC Chain of Custody services are provided through our own accreditation (DANAK reg.no. 7029). LegalSource certification and Carbon Footprint Management certification are provided based on certification standards developed and owned by NEPCon.

## Contact

**Christian Sloth**  
Forest Legality Programme Manager  
Email: [cs@nepcon.net](mailto:cs@nepcon.net)  
Phone: +45 3158 7981  
Skype: christiansloth

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