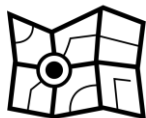


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# Democratic Republic of the Congo Risk Mitigation Guide

## Timber



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# Democratic Republic of Congo Timber Risk Mitigation Guide

NEPCo has evaluated the risk of illegality in Democratic Republic of Congo (DRC) timber supply chains across five categories:



Legal rights to harvest



Taxes and Fees



Timber harvesting regulations



Third party rights



Trade and transport

This Timber Risk Mitigation Guide provides advice on how to mitigate the risks identified.

## Timber source types and risks

There are two timber source types found in Democratic Republic of the Congo. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risks.

- 1. Production forests** - Timber from permanent production forests come from forestry concessions and forests that are put on the market after being subjected to a public inquiry. A forestry management plan, validated by the forestry administration with written specifications drawn up with the local communities is required.
- 2. Protected forests** - Timber from protected forests comes from forestry concessions that benefit a business or a local community. The protected forests are those that belong to the State. To obtain a permit, the act of accreditation for all small-scale timber farmers and conclusion of a written agreement with the local communities who own the protected forests shall be obtained.

The following **permit types** can be obtained:

1. Ordinary harvesting permit (*Autorisation de coupe industrielle du bois d'oeuvre*) (granted for a forest concession until 2016). The individual permits are maximum 1000 ha each.
2. Industrial harvesting permit (*Permis de coupe industrielle de bois d'oeuvre*) (granted for a concession, based on an Annual Operational Plan (*Plan annuel d'opérations*), compliant with the forest management plan)
3. Small-scale harvesting permit/artisanal permits (granted for communal forests-no more than 50ha, or within a forest management unit, 100 to 500 ha)
4. Permit for harvesting fuel wood and charcoal (granted to any member of the local community-for the communal forest-1 permit /year/person)

## Map your supply chains

To effectively evaluate and mitigate risks in your supply chain, it is necessary for you to know where the source originates. This will allow you to determine your source type and mitigate the risks associated with that source type. As risks have been identified with all source types, supply chain mapping is necessary to further evaluate, specify and mitigate the risks.



The **Supply Chain Mapping Tool (DD-07)** can be used to record supply chain information at a detailed level.



The **Supplier Management Form (DD-04)** can be used to maintain a complete supply chain overview.



## Legal rights to harvest

The following twelve risks have been identified related to the legal rights to harvest in Democratic Republic of the Congo:

1. Illegal and illegitimate land occupation due to a lack of legal titles
2. Lack of consultation of local communities by state bodies when granting modern land rights. This causes conflicts and violations of communities' land rights between customary tenures and those who are granted modern rights
3. All artisanal wood exploitation is done without a written agreement with local community holders of forests for the following reasons:
  - a. The Decree on community forestry does not yet have implementing measures
  - b. Local communities are neither aware nor informed of their rights.
4. Concession contracts do not comply with the 2002 Forest Code requirements and its regulations related to; the concessions' allocation procedures; to the public inquiries demand; to neighbouring community consultations; and to the signature of 'cahiers de charges' which should be included with the forestry concession contract
5. Forest concession contracts are allocated through private treaty, by mutual agreement, or by unilateral decision of the minister responsible for forests rather than by public tender, as is legally required
6. Social clauses with adjacent local communities are not signed when issuing concession licenses
7. There is no valid forest management plan
8. Management plans have been approved by the authorities without having been submitted to the technical and social assessments required for an approved forest management plan
9. Harvesting without an approved forest management plan
10. Artisanal foresters operating without applying low impact logging
11. Harvesting without a permit
12. The regular logging license is not granted in compliance with the implementation measures. Currently, for a limited period of time but in violation of Decree 035, it is the minister who delivers the industrial wood logging authorisations.

Risk	Mitigation recommendations
<p>1. Illegal and illegitimate land occupation due to a lack of legal titles</p> <p><i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents;</b> The documents below may be used to check the legality of land rights but not of forest logging rights:</p> <ul style="list-style-type: none"> <li>a. Land Application Form shall be duly completed by the applicant and shall be lodged with the Land Administration.</li> <li>b. Lease contract or temporary occupation of land contract, shall be signed by the Minister of the Central Government, who is responsible for land affairs</li> <li>c. In case of concessions, land concession contract, referred to as Registration Certificate, shall be signed by the Minister of the Central Government responsible for Land Affairs Said. Concession contract shall be approved either by presidential order, for an area between 1000 ha and 2000 ha, and by law (Parliament) for an area greater than 2000 ha.</li> <li>d. Report from the control missions carried out by land rights administration officers shall indicate that there is no illegal and illegitimate land occupation.</li> <li>e. Minutes of proceedings of officers and officials under oath</li> </ul> <p><b>II. Consult</b> Consultation with neighbours, local communities, civil society and authorities shall confirm that there is no illegal and illegitimate land occupation and the relevant procedural steps has been follow up (ex. use of the local communities' consent before allocating their land concessions).</p>
<p>2. Lack of consultation of local communities by state bodies when granting modern land rights</p> <p><i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. Report from monitoring missions of civil society attesting the use of the local communities' consent before allocating their land concessions</li> </ul> <p><b>II. Consult</b> Consultation with neighbours, local communities, civil society and authorities shall confirm that there is no illegal and illegitimate land occupation and the relevant procedural steps has been follow up (ex. use of the local communities' consent before allocating their land concessions).</p>

3. Artisanal wood exploitation is done without a written agreement with local community holders of forests

*Risk relates to permit type 3*

**I. Review and verify documents**

- a. Signed contract agreement between the logging company and the representatives of the local community concerned

**II. Consult**

- a. Representatives of local communities confirm that an agreement regarding forest management has been reached.

4. Concession contracts do not comply with the 2002 Forest Code requirements and its regulations

*Risk relates to permit types 1 and 2*

**I. Review and verify documents**

- a. Valid concession license agreements
- b. Evidence that the social and technical assessments, signed 'cahiers de charges' with the local populations, and approved management plans were part of the file presented by the supplier when he or she applied for the concession.
- c. Final list (overview table) of titles showing a favourable recommendation of conversion of the old forestry titles by the Inter-Ministerial Commission (CIM)
- d. Minutes of conclusions of proceedings of CIM (first and second session)
- e. Letter from the Minister responsible for forestry advising of the forestry title conversion decision
- f. Forest concession contract signed with the Ministry of Central Government responsible for forestry, approved by Decree, relating to an area above 300,000 ha and below or equal to 400,000 ha; approved by a law for areas above 400,000 up to 500,000 ha
- g. Concession allocation through private arrangements can only be effected if based on a support letter from the Minister in charge of forests

**II. Consult**

- a. Stakeholders confirm that legal procedures for obtaining concession licenses are followed, in particular, the process was open and transparent, based on clear criteria and be confined to eligible organizations

5. Forest concession contracts are not allocated through public tender

*Risks relate to permit types 1 and 4*

**I. Review and verify documents**

- a. Valid concession license agreements.
- b. Concession allocation through private arrangements can only be effected if based on a support letter from the Minister in charge of forests
- c. Forest concession contract signed with the Ministry of Central Government responsible for forestry, approved by Decree, relating to an area above 300,000 ha and below or equal to 400,000 ha; approved by a law for areas above 400,000 up to 500,000 ha
- d. Final list (overview table) and minutes of conclusions proceedings of CIM (first and second session) of the titles showing a favourable recommendation of conversion of the old forestry titles by the Inter-Ministerial Commission (CIM) shall be available and reviewed
- e. Minutes of conclusions of proceedings of CIM
- f. Letter from the Minister responsible for forestry advising of the forestry title conversion decision

**II. Consult**

Independent stakeholder consultation (civil society, authorities, communities, companies...) shall confirm that legal procedures for obtaining concession licenses have been followed and the process has been open and transparent based on clear criteria and has been confined to eligible organizations.

6. Social clauses with adjacent local communities are not signed when issuing concession licenses

*Risk relates to permit types 1 and 4*

**I. Review and verify documents**

- a. Cahier de charges (social clauses with adjacent local communities) signed by both parties before starting forest activities.
- b. Valid and signed concession license agreements shall exist

**II. Consult:**

Independent stakeholder consultation (civil society, authorities, communities, companies...) shall confirm that legal procedures for obtaining concession licenses have been followed and consultation of communities and signature of social clauses with adjacent local communities (cahiers de charges) has been done before start activity.



7. There is no valid forest management plan

*Risk relates to permit types 1 and 2*

**I. Review and verify documents**

- a. Approved forest management plan shall be available
- b. Preliminary technical and social studies within the forest management plan shall be available

**II. Consult**

Independent stakeholder consultation (civil society, authorities, communities, companies...) shall confirm that forest management plan includes all required by law.

8. Management plans have been approved by the authorities without having been submitted to the technical and social assessments required for an approved forest management plan

*Risk relates to permit types 1 and 4*

**I. Review and verify documents**

Verify that the following documents are in place prior to the management plan being approved:

- a. The forestry inventories reports made by the forestry administration are in place before the forest management plan is approved.
- b. Reports on socio-economic challenges made by the Forestry Administration, are in place before the forest management plan is approved.
- c. Certificate of Compliance for the sampling plan by the forestry authorities Committee is done before the forest management plan is approved.

**II. Consult**

Independent stakeholder consultation (authorities ...) shall confirm that the forest management plan has submitted the required technical and social assessments before the approval.

9. Harvesting without an approved forest management plan

*Risk relates to permit types 1 and 4*

**I. Review and verify documents**

Three management plans are required to operate legally. Verify that these are in place:

- a. The Forest Management Plan (25 years) presented to the Forestry Administration.
- b. The quinquennial Forest Management Plan presented to the Forestry Administration (5 years)
- c. The Annual Forestry Operations plan (1 year) shall be approved by the Forestry Administration

**II. Consult**

Independent stakeholder consultation (authorities, communities, etc.) shall confirm that the forest management plan is approved before starting harvesting activity.

10. Artisanal foresters operating without applying low impact logging

*Risk relates to permit type 2*

**I. Consult:**

- a. Independent stakeholder consultation (authorities, communities, companies, workers...) shall confirm that during harvesting the loggers comply with Standards for Reduced Impact Logging (RIL).

**II. Field visit:**

Field inspection shall confirm that harvesting respect the Standards for Reduced Impact Logging (RIL).

11. Harvesting without a permit

*Risk relates to all permit types*

**I. Review and verify documents**

- a. Harvesting permits shall be granted before harvesting activity starts. Permit type can be:
  - i. Ordinary harvesting permit,
  - ii. Small-scale harvesting permit/artisanal permits
  - iii. Permit for harvesting fuel wood and charcoal;
  - iv. Special harvesting permit
- b. Harvesting limits shall be clearly defined based on maps and quantities

**II. Consult:**

- a. Independent stakeholder consultation (authorities...) shall confirm that harvesting permits are in place before activity starts.

**III. Field visit:**

- a. Visit forest area and boundaries, to check the real location and forest area with the area included on the harvesting permit/maps.
- b. Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit

Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation

12. The regular logging license is not granted in compliance with

**I. Review and verify documents**

The Forestry Administration's control and inspection reports of forest activities are kept in physical archives at the General Secretariat of the Ministry of Environment where they can be consulted on

the implementation measures.

*Risk relates to permit type 1*

site. Some reports and documents are available on the same ministry's website, but obviously can only be accessed if the site is operational, which is often not the case and this complicates the availability of evidence for a purchaser located abroad. Nevertheless, the purchaser should try to get the following evidence of legality at the sources above:

- a. Reports of control missions of officials from the forestry administration
- b. Minutes of proceedings of officers' and officials under oath
- c. Minutes of proceedings of border control inspectors
- d. Technical reports from the Department of Forest Inventories and Forest Management (DIAF), mentioning the acquisition by the forestry logging company of the following legality documents: Concession contract, logging authorization as a harvesting permit, logging tax and fee payment note
- e. Independent Observer reports of forest controls

NGOs monitoring reports on national, provincial and local civil society, as sometimes available on: [www.radiookapi.net/mot-cle/exploitation-forestiere](http://www.radiookapi.net/mot-cle/exploitation-forestiere).



## Taxes and Fees

The following four risks have been identified related to the taxes and fees in Democratic Republic of the Congo:

1. Non-payment of logging tax by companies through false declaration of volume harvested. E.g. the logging tax is calculated from a fixed rate per cubic meter, while the law says it should be a percentage of the value of each species
2. VAT is not paid when timber is harvested illegally or harvesting is not declared
3. The price used for the sale of timber by loggers is lower than the price prescribed by law through the Mercurial (report of official selling rates on public markets), which leads to tax evasion
4. Tax declarations are falsified and income tax payments are evaded

Risk	Mitigation recommendations
<p>1. Non-payment of logging tax by companies through false declaration of volume harvested</p> <p><i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. Receipts of payment of the harvesting tax shall exist</li> <li>b. Volumes, species and qualities given in sales and transport documents shall match the royalties and fees paid.</li> <li>c. Deposit slip and certificate of payment for the payment in cash of all taxes and royalties required by the Forest Code</li> <li>d. Debit notice and certificate of payment for the payment in writing</li> <li>e. Deposit slip for the implementation tax and the annual compensatory tax payable at the latest by 30 June of each year</li> <li>a. Deposit slip and harvesting tax payable by the forestry company, at the rate of 1.25% per m3 of the value of the species</li> </ul>
<p>2. VAT is not paid when timber is harvested illegally or harvesting is not declared</p> <p><i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. Purchase, sale and export authorization of timber issued by the Ministry in charge of Forests</li> <li>b. Contract validation report of timber purchase and sale from the Department of Forest Management</li> <li>c. Proof of timber export certificate</li> <li>d. Note of collected VAT</li> <li>f. Debit note of the added tax</li> </ul>
<p>3. The price used for the sale of timber by loggers is lower than the price prescribed by law, to reduce/avoid taxes</p> <p><i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. Invoice shall include the price in line with official report (Mercurial prices)</li> <li>b. Note of collected VAT</li> <li>e. Debit note of the added tax</li> </ul>

4. Tax declarations are falsified and income tax payments are evaded

*Risk relates to all permit types*

**I. Review and verify documents**

- a. Debit note of the fee on forest area
- b. Note of fee collection on forest area
- c. Debit note of the export tax
- d. Note of collection of export tax

**II. Consult**

- a. Consultation with financial authority to verify that all required income and profit taxes have been paid



## Timber harvesting regulations

The following seven risks have been identified related to the timber harvesting regulations in Democratic Republic of the Congo:

1. Violation of harvesting regulations, e.g.:
  - a. Logging without having shown a management plan with a logging trails network for forestry products approved by the forestry administration.
  - b. The minimum timber harvesting diameters are not respected
  - c. The dimensions of the different logging roads and trails created by the companies are not in compliance with the technical standards set up by the forestry administration
2. Protected forest species are logged without acquiring a special logging permit or a special logging authorisation from the competent authority (the Secretary General in charge of forests)
3. Harvesting of protected species in conservation areas without the required special permit
4. Harvesting and export of CITES listed species, including Afrormosia, without legal permits or with a forged permit. There is difficulty in obtaining CITES licenses and complacency and corruption in the public service responsible for issuing the industrial and special harvesting permit for Afrormosia.

5. Non-compliance with environmental requirements, including logging without a prior Environmental Impact Assessment and environmental management plan; and where an environmental management plan does exist, there is a lack of compliance with its provisions.
6. Non-compliance with the health and safety requirements in the field
7. Non-compliance with the legal employment requirements, including:
  - a. Relations between the company and its employees are not formally described according to the legal and regulatory provisions
  - b. Signed employment contracts do not exist
  - c. Employers do not register all their employees with social security
  - d. Under-age employees

Risk	Mitigation recommendations
<p>1. Violation of harvesting regulations</p> <p><i>Risk relates to permit type 1</i></p>	<p><b>I. Review and verify documents</b></p> <ol style="list-style-type: none"> <li>a. Annual management plan with a map identifying the annual cutting area and location of the main roads of the company. Forest management plan approved by the Forest Administration</li> <li>b. Annual operation plan approved by the administration</li> <li>c. Quarterly reported timber volume approved by the Competent Authority</li> <li>d. Main roads network planning and mapping in the quinquennial units and in the management plan</li> <li>e. Secondary network planning based on the prospecting map approved by the reports from the Competent Forest Authorities</li> <li>f. List of species subject to specific management</li> </ol> <p><b>II. Consultation</b></p> <ol style="list-style-type: none"> <li>a. Independent stakeholder consultation (civil society, authorities, communities, companies...) shall confirm that dimensions of the different logging roads and trails follow the technical standards.</li> <li>b. Independent stakeholder consultation (authorities, communities, companies, workers...) shall confirm that minimum diameters are respected.</li> </ol>

	<p><b>III. Onsite verification</b></p> <ul style="list-style-type: none"> <li>a. Field inspection shall confirm that dimensions of the different logging roads and trails follow the technical standards and harvesting is conducted within the authorized boundaries of the FMU</li> <li>b. Field inspection shall confirm that harvesting respect minimum diameters</li> </ul>
<p>2. Protected forest species are logged without acquiring a special logging permit or a special logging authorisation</p> <p><i>Risk relates to permit types 1 and 4</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. A timber buyer willing to buy legal Arfrormosia, Wenge (<i>Millettia laurentii</i>) or timber from any other kind of species present on the list of protected species coming from the DRC, should check that they are covered by a special logging permit and a CITES license (if applicable).</li> <li>b. Quarterly timber volume reports</li> <li>c. Report from the Congolese Institute of Nature Conservation</li> <li>d. Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans.</li> </ul> <p><b>II. Consult:</b></p> <ul style="list-style-type: none"> <li>a. Independent stakeholder consultation (authorities, communities, civil society...) shall confirm that an special permit exists for the protected species harvested.</li> </ul> <p><b>III. Field visit:</b></p> <ul style="list-style-type: none"> <li>a. Field inspection shall confirm that harvesting shall not take place in areas where harvesting is legally prohibited.</li> <li>b. Field inspection shall confirm that harvesting restrictions shall be observed in the field.</li> <li>c. Field inspection shall confirm that tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field.</li> <li>d. Field inspection shall confirm that legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed</li> </ul>
<p>3. Harvesting of protected species in</p>	<p><b>I. Review and verify documents</b></p>

conservation areas without the required special permit.

***Risk relates to permit types 1 and 4***

- a. Any species presented on the list of protected species should be covered by a special logging permit and a CITES license (if applicable).
- b. Quarterly timber volume reports
- c. Report from the Congolese Institute of Nature Conservation
- d. All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.
- e. Special permit

**II. Consult**

- a. Independent stakeholder consultation (authorities, communities, civil society...) shall confirm that timber (protected species) is not coming from protected areas (conservation sites), since there is no case in which a CITES license or a special logging permit could be delivered for any species inside these forests.

**III. Field visit**

- a. Field inspection shall confirm that special permit/authorization data matches with the reality on the field.
- b. Field inspection shall confirm that harvesting shall not take place in areas where harvesting is legally prohibited.
- c. Field inspection shall confirm that legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.

4. Harvesting and export of CITES listed species, without legal permits or with a forged permit.

***Risk relates to all permit types***

**I. Review and verify documents**

The laws and regulations in DRC have not led to any procedure for obtaining a CITES license. In other words, purchasers cannot request the CITES permit as proof of legality for their purchase of listed wood from the DRC, because this permit is likely not available to their suppliers.

- a. Pending the availability and dissemination of this permit with Congolese operators, operators bypass the administrative difficulty by simply providing the special permits and authorisation. This is not legal.
- b. List of species subject to specific management
- c. Trimestral declarations of the volumes of timber



	<ul style="list-style-type: none"> <li>d. Report from the Congolese Institute of Nature Conservation</li> <li>e. Certificate of Compliance showing compliance with legal compliance issued by SGS</li> </ul> <p><b>II. Onsite verification</b></p> <ul style="list-style-type: none"> <li>a. Documents such as the list of species subject to protection, special harvesting permit, the CITES permit for export of these species (although likely unavailable as explained above) can be checked remotely by the purchaser through scanned copy. However, the other documents are quarterly statements, volumes of wood and reports of the Congolese Institute of Nature Conservation which will require a field visit.</li> <li>b. Onsite verification can confirm that requirements for environmental requirements are complied with on the operating site (e.g. compliance with requirements for water bodies, buffer zones, etc.).</li> </ul>
<p>5. Non-compliance with environmental requirements. <i>Risk relates to permit types 1, 2, and 4</i></p>	<p><b>I. Review and verify documents</b></p> <ul style="list-style-type: none"> <li>a. Certificate of Compliance showing compliance with legal compliance issued by SGS</li> <li>b. Environmental Impact Assessments shall be in place and approved by the legally competent authority if legally required.</li> <li>c. Documents approved by national and provincial authorities certifying the implementation of measures of environmental protection and biodiversity</li> </ul> <p><b>II. Consultation</b></p> <ul style="list-style-type: none"> <li>a. Requirements for environmental monitoring shall be observed on the field</li> <li>b. Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.</li> </ul> <p><b>III. Onsite verification:</b></p> <ul style="list-style-type: none"> <li>a. Onsite verification can confirm that requirements for environmental requirements are complied with on the operating site (e.g. compliance with requirements for water bodies, buffer zones, etc.).</li> </ul>

6. Non-compliance with the health and safety requirements.  
*Risk relates to all permit types*

**I. Review and verify documents**

- a. All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable)
- b. The annual activity report from the company's Committee on health and safety, approved by the forestry authorities;
- c. The Labour Inspectorate report must verify the company's conformance with health and safety regulations;
- d. A mission report of the administration officers on the inspections above;
- e. Minutes of proceedings of officers' and officials under oath related to health and safety.

**II. Consult**

- a. Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organization.

**III. Onsite verification**

- a. Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities.

7. Non-compliance with the legal employment requirements.  
*Risk relates to all permit types*

**I. Review and verify documents**

- a. Birth certificate of employees
- b. Check employee registration cards at the National Institute for Social Security (INSS)
- c. Independent Monitoring report on forestry control (confirm company follows required law)
- d. Labour Inspectorate report (confirm company follows required law)
- e. List indicating names, surnames, and birth date of each employee
- f. Minutes of proceedings of officers' and officials under oath (confirm company follows required law)
- g. Report of control missions of the administration officers (confirm company follows required law)
- h. Signed contracts between the company and the employees
- i. Signed contracts between the company and the foreign workers

**II. Consult**

- a. Interview with social security office to confirm the validity of the employees' registration cards.
- b. Interview with the administrative labour control service shall confirm that the company is in compliance with the law.
- c. Interviews with staff shall confirm that all employees are registered with social security office.
- d. Interviews with staff shall confirm that all employees have a signed contract

**III. Onsite verification**

- a. Check the occurrence of child labour



## Third party rights

The following three risks have been identified related to third party rights in Democratic Republic of the Congo:

1. The user rights of the local communities and the indigenous peoples are not respected by forestry companies, with access to rights and resources often the subject of many restrictions
2. Companies do not use local workers to carry out work, which causes conflicts between the workers from distant local communities and the communities bordering the working site
3. Companies do not compensate communities when damage or losses to the local communities and indigenous peoples happens

Risk	Mitigation recommendations
<p>1. The user rights of the local communities and the indigenous peoples are not respected by forestry companies, with access to rights and resources often the subject of many restrictions</p> <p><i>Risk relates to permit types 1 and 2</i></p>	<p><b>I. Review and verify documents</b></p> <p>a. Reports of control missions by administration officials may be available on websites and may be viewed remotely.</p> <p>The following documents however might not be easily consulted remotely and may require a site visit:</p> <p>b. Minutes of officers' proceedings and officials under oath, are elements of evidence that the rights of local communities and indigenous peoples affected by the operations of the supplier, are respected;</p> <p>c. Reports of the independent observer of forest control are another piece of evidence that the buyer can check to verify if the rights of local communities and indigenous peoples affected by the logging of its suppliers have been respected;</p> <p>d. Minutes of the commission of forest disputes</p> <p>e. Management plans identifying resources rights of local and indigenous communities</p> <p>f. Within the Forest management plan a socio-economic assessment relating to local communities and / or indigenous peoples shall be developed;</p> <p><b>II. Consult</b></p> <p>Stakeholder consultation with local communities and indigenous peoples shall confirm that customary rights are observed during harvesting activities</p>
<p>2. Companies do not use local workers to carry out work, which causes conflicts between the workers from distant local communities and the communities</p>	<p><b>I. Review and verify documents</b></p> <p>a. Employment contracts</p> <p>b. Pay slips</p> <p><b>II. Consult</b></p> <p>Stakeholder consultation with local communities and indigenous peoples shall confirm that when equally competent, employees are recruited among the local communities and/or indigenous peoples</p>

bordering the working site  
*Risk relates to permit types 1 and 2*

3. Companies do not compensate communities when causing damage or losses to local communities and indigenous peoples  
*Risk relates to permit types 1 and 2*

**I. Review and verify documents**

a. Reports of control missions by administration officials may be available on websites and may be viewed remotely.

The following documents however might not be easily consulted remotely and may require a site visit:

b. Minutes of officers' proceedings and officials under oath, are elements of evidence that the rights of local communities and indigenous peoples affected by the operations of the supplier, are respected;

c. Reports of the independent observer of forest control are another piece of evidence that the buyer can check to verify if the rights of local communities and indigenous peoples affected by the logging of its suppliers have been respected;

**II. Consult**

Stakeholder consultation shall confirm that customary rights are observed during harvesting activities



## Trade and Transport

The following six risks have been identified related to trade and transport in Democratic Republic of the Congo:

1. Companies involved in transportation of wood do not produce the field book, which contains information on quality, quantity, species, the date of felling, the discharge date and the place of destination) for the transported wood. The field book may also contain false or difficult-to-verify information, in order to pay less tax than required for the volume, quality and/or species harvested

2. Timber is transported without the necessary transport permit from the Forestry Administration, or with a falsified permit.
3. Illegal transfer pricing, under-invoicing and other similar practices
4. Export of timber without an authorisation for purchase, sale and export from the ministry in charge of forests, only relying on a sales contract
5. Timber is exported illegally to neighbouring countries by small-scale loggers, including certain forestry companies that hide behind this identity to avoid paying export taxes or reforestation taxes at the border control
6. Operators or traders abuse the special local permits and authorisations for logging and harvesting of CITES protected species by presenting them as authorisations of export, exploiting the complacency or ignorance of agents and controllers of the State assigned to customs services. CITES permits have to be obtained abroad and are difficult to obtain.

Risk	Mitigation recommendations
<p>1. Companies involved in transportation of wood do not produce the field book <i>Risk relates to all permit types</i></p>	<p><b>I. Review and verify documents</b></p> <ol style="list-style-type: none"> <li>a. The purchaser should ask to see the field book and make sure it contains all the information: the species, volumes, qualities, dates, etc. This information shall coincide with the wood the purchaser has ordered from the supplier.</li> <li>b. Report of the control missions of the administration agents to see if any transport violation has been detected;</li> <li>c. Minutes of proceedings of officers and officials under oath if there have been infractions;</li> <li>d. Reports from the Independent Observer of forests, which will identify infractions if any have occurred.</li> </ol> <p><b>II. Consult</b></p> <ol style="list-style-type: none"> <li>a. Stakeholder consultation shall confirm that no transport violation or infractions have occurred.</li> </ol> <p><b>III. Field verification</b></p> <ol style="list-style-type: none"> <li>a. Physical control where it should be verified that the present material equals what has been invoiced and marked</li> </ol>

2. Timber is transported without the necessary transport permit, or with a falsified permit

*Risk relates to all permit types*

**I. Review and verify documents**

- a. Obtain transport permit and verify that volume, species and qualities shall be classified according to legal requirements.
- b. The purchaser should ask to see the circulation permit and the field book and make sure they contain all the information: the species, volumes, qualities, dates, etc. identified in the field book should coincide with the wood the purchaser has ordered from the supplier.
- c. Documents related to transportation and trade shall be clearly linked to the specific material in question and with the information included on the invoice.
- d. Report of the control missions of the administration agents to see if any transport violation has been detected;
- e. Minutes of proceedings of officers and officials under oath if there have been infractions;
- f. Reports from the independent observer (ex. REM) of forest control which will identify infractions if any have been identified.

**II. Consult**

- a. Stakeholder consultation (authorities, communities, social civity..) shall confirm that no transport violation or infractions have occurred.

3. Illegal transfer pricing, under-invoicing and other similar practices

*Risk relates to all permit types*

**I. Review and verify documents**

- a. The invoicing history for the wood being purchased and check it against the publicly available list of prices of the Mercurial.
- b. Debit and collection note
- c. Batch report ready for exportation
- d. Packing list

**II. Consult**

- a. Stakeholder consultation (authorities, social organisations) shall confirm that no transfer pricing violation has occurred.

4. Export of timber without an authorisation for purchase, sale and export from the ministry in charge of forests, only relying on a sales contract of Forests.

***Risk relates to all permit types***

**I. Review and verify documents**

- a. Authorisation to purchase, sell and export softwood timber
- b. Contract of sale with a confirmed buyer
- c. Certificate of verification of export and/or the batch report ready for export
- d. Export tax

**II. Consult**

- a. Stakeholder consultation with authorities shall confirm that the company has obtained an authorisation for purchase, sale and export.

5. Timber is exported illegally to neighbouring countries by small-scale loggers, including certain forestry companies that hide behind this identity to avoid paying export taxes or reforestation taxes at the border control.

***Risk relates to all permit types***

**I. Review and verify documents**

- a. All required import and exports permits shall be in place and products shall be correctly classified (type, custom code, species, quantities, qualities, etc.)
- b. Authorisation to purchase, sell and export softwoods
- c. Contract of sale with a confirmed buyer
- d. Debit and collection note
- e. Batch report ready for exportation
- f. Packing list
- g. Export tax
- h. Proof of timber export certificate

NOTE: copies of certain documents such as authorisations for the purchase, sale and export of timber, debit notes and rating of collected export tax and packing list can be scanned and sent to be checked remotely by an interested buyer. However, other documents such as the sales contract with the buyer, and validated batch report ready to export they could require a field visit.

**II. Consult**

- a. Authorities shall confirm that the company has obtained an authorisation for purchase, sale and export and has paid all taxes related with export and reforestation.



6. Non-compliance with legal requirements relating to the trade of CITES species.

*Risk relates to all permit types*

Currently, there is no system in place to issue CITES permits in DRC. Therefore, it is not possible to request the CITES permit as proof of legality for their purchase of listed wood from the DRC, because this permit is likely not available to their suppliers. Pending the availability and dissemination of this permit with Congolese operators, operators bypass the administrative difficulty by simply providing the aforementioned special permits and authorisation. This is not legal.

**I. Review and verify documents**

- a. List of species submitted to a particular management
- b. Trimestral declarations of the volumes of timber
- c. Report from the Congolese Institute of Nature Conservation

NOTE: Documents such as the list of species subject to protection, special harvesting permit, the CITES permit for export of these species (although likely unavailable as explained above) can be checked remotely by the purchaser through scanned copy. However, the other documents are quarterly statements, volumes of wood and reports of the Congolese Institute of Nature Conservation which will require a field visit.

## About

# Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint initiative run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint initiative is funded by the LIFE Programme of the European Union and UK Aid from the UK Government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

NEPCon | [info@nepcon.org](mailto:info@nepcon.org) | [www.nepcon.org](http://www.nepcon.org)