



# Exploring due diligence: what does it mean in practice?

October 2017

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

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

# What is due diligence?

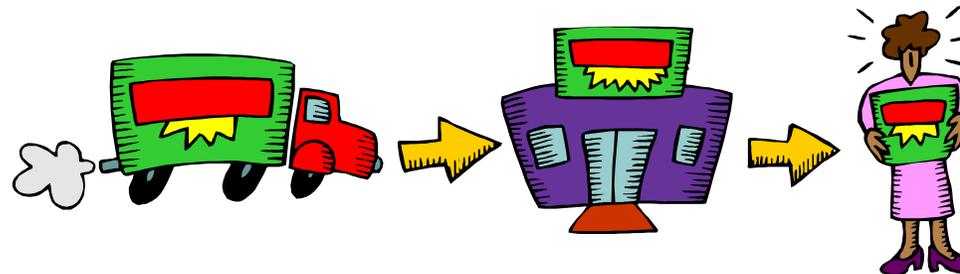
# What is due diligence?

...through systems and procedures enabling:

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

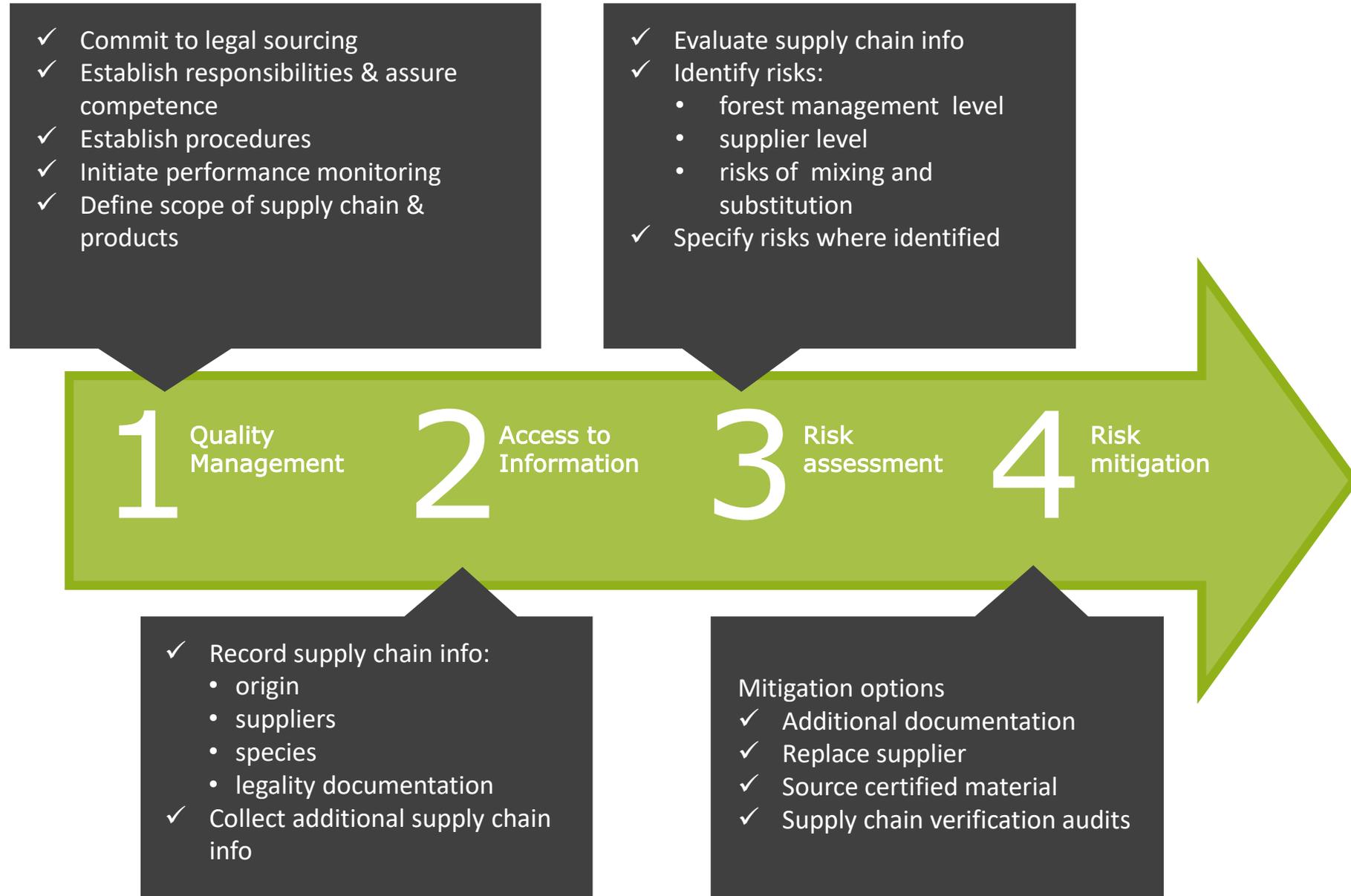
“A ‘due diligence system’ can be described as a **documented, tested, step-by-step method**, including controls, aimed at producing a consistent desired outcome in a business process”

Source: EU Guidance document





# What is due diligence?



# 1. Quality management

# 1. Quality management

## Why are procedures needed?

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



UK Competent Authority (2015):

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

## 2. Access to information

## 2. Access to information

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

Origin = Country, and if applicable, region or concession

Supply chain  
information  
is key



## 2. Access to information



**Important!**

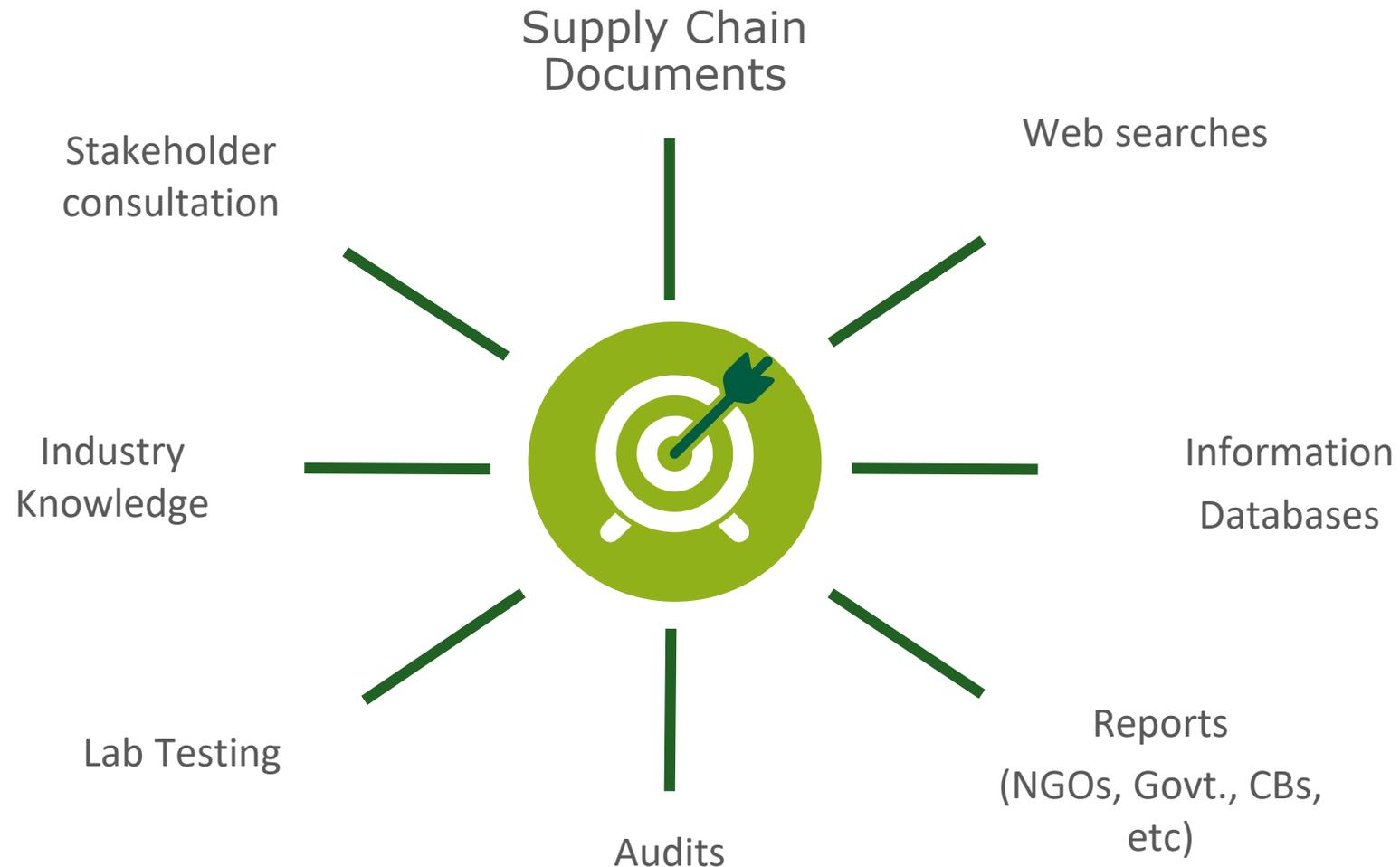
*"It should be stressed from the outset that **collecting documentation** must be done for the purposes of the risk assessment and should not be viewed as a self-standing requirement."*

Source: EU Guidance document

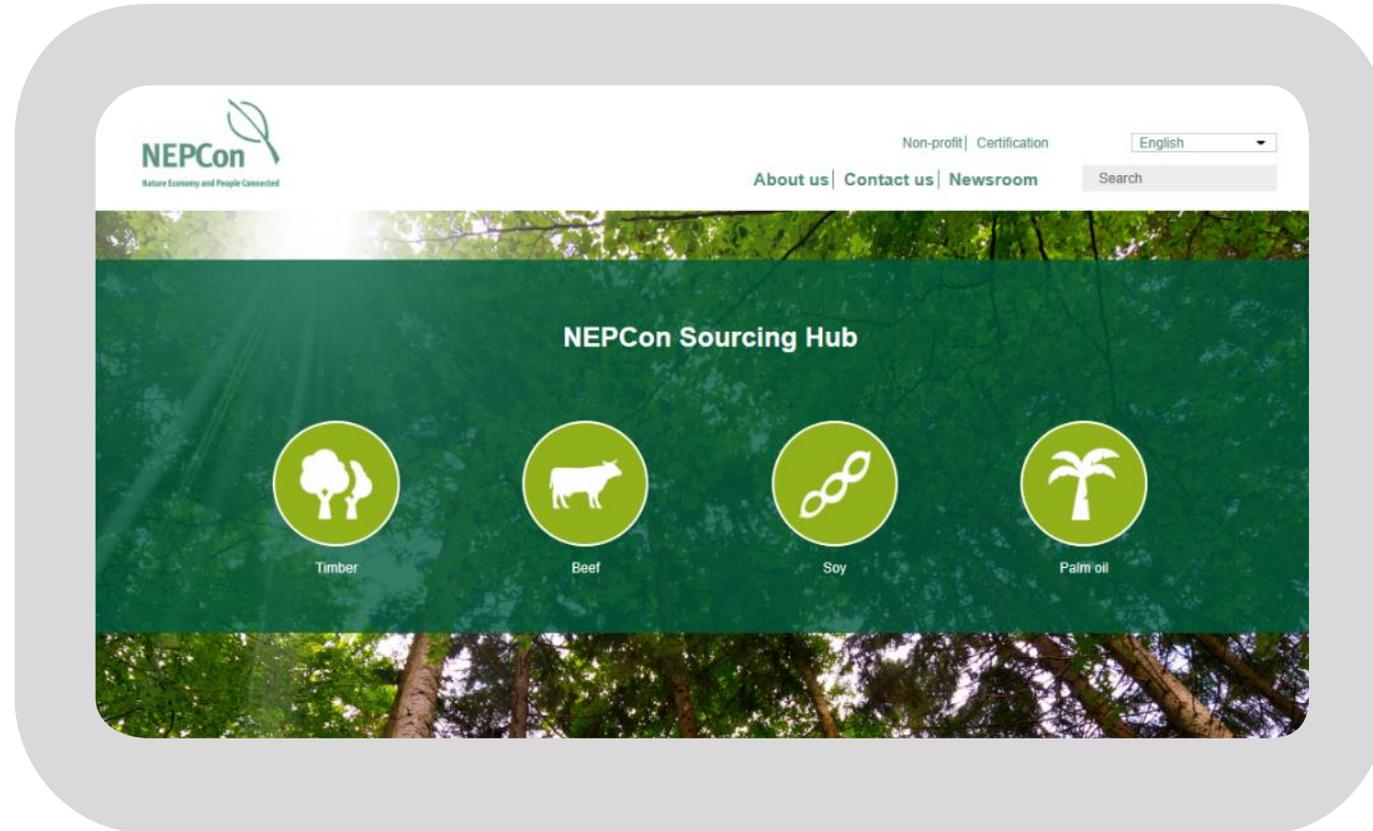


## 2. Access to information

### Information Sources



Released August 2017... v1.0



[www.nepcon.org/sourcinghub](http://www.nepcon.org/sourcinghub)

## 2. Access to information

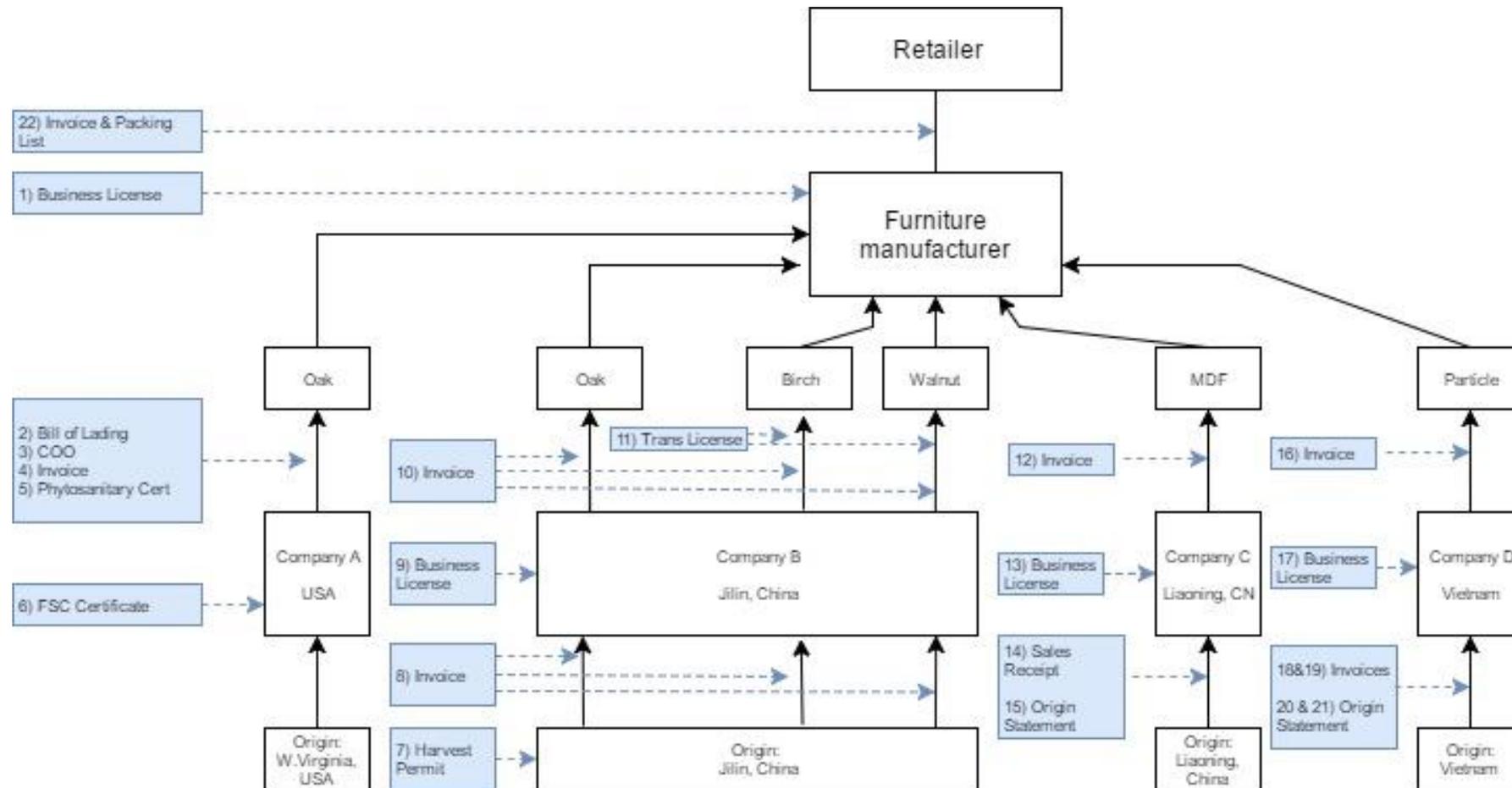
### Mapping supply chains

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



## 2. Access to information

### Supply chain documents



### Audits & On-site visits

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

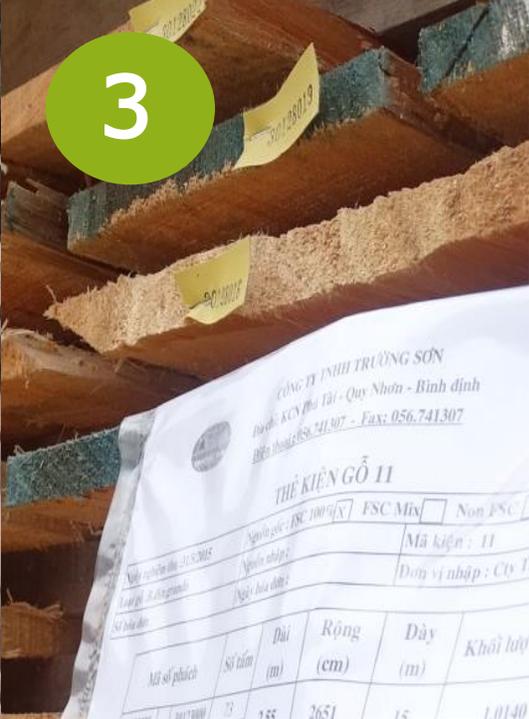
Let's look at some examples...

# Factory

1



3



5



2



4



6

# Forest



## 2. Access to information

### Timber testing

#### Wood Anatomy



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

#### DNA



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

#### Stable Isotope



- Identify geographic origin

### Industry knowledge

- Utilise *your own* experience
- Knowledge of species, supply chain structures, common practice, origins, etc.
-  Don't rely on 'long-term relationships' and 'trusted supplier'
- **Be critical and provide evidence**

### Stakeholder consultation

- At forest management (FM) level, this may involve consulting local inhabitants and indigenous groups.
- At FM and supply chain level, this may involve:
  - NGOs
  - Government authorities (issuing authorities)
  - Certification bodies
  - Workers
  - Other suppliers
  - Other importers
  - Etc.



## 2. Access to information

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

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

**OR**

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



## 2. Access to information

### Supply chain management

- inform suppliers about policy and requirements
- acquire consent from suppliers to allow audits
- ensure suppliers appoint a responsible person



### Maintenance

- Information must be kept **up-to-date**
- ensure that suppliers notify you if they plan to change supply chains

# 3. Risk assessment

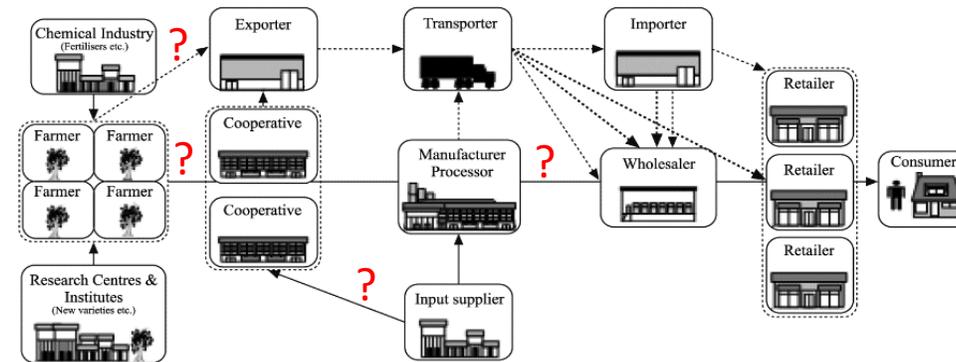
# 3. Risk Assessment

## Objectives



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

- Identify *where* risks may exist in supply chains
- *Specify* risks to a level that enables effective risk mitigation.



# 3. Risk Assessment

Criteria shall include:

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

# 3. Risk Assessment

## Risk conclusion

Negligible risk (low risk)

OR

Non-negligible risk (specified risk)



# 3. Risk Assessment

## Key concepts

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



# 4. Risk mitigation

## 4. Risk Mitigation

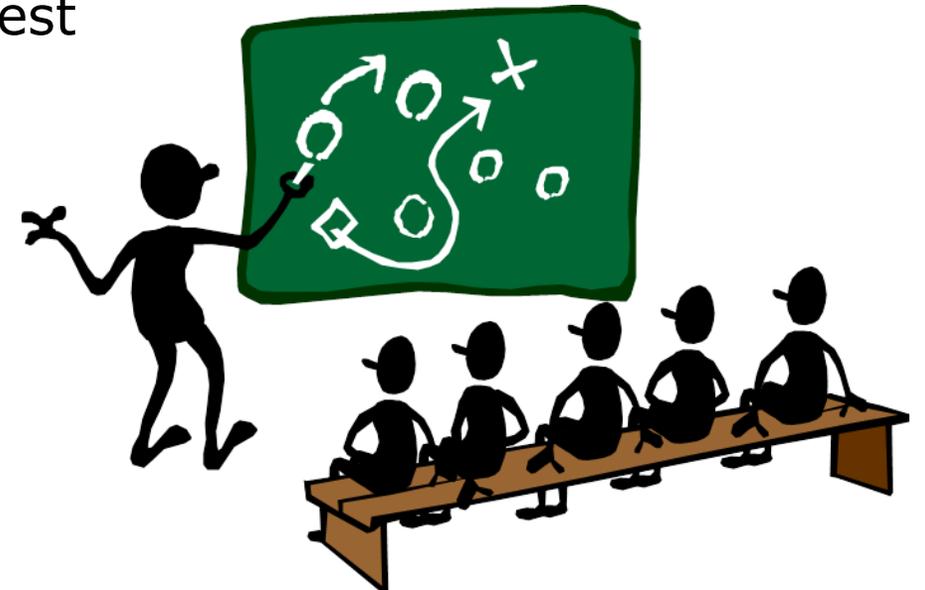
If the risk of placing illegal timber on the market is not negligible, risk must be mitigated.

Risk mitigation measures may include:

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

## Identifying the appropriate action

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



# 4. Risk mitigation



The cover of the EUTR Guiding Leaflet no. 2 features the NEPCon logo at the top right. The title 'The EU Timber Regulation' is in a dark green rounded rectangle, with the subtitle 'A guide on managing good relations with your suppliers' below it. A central text block asks if the reader is required to carry out due diligence on timber and provides instructions on how to get information from suppliers while maintaining good relations. It includes a circular icon of a leaf and a mouse cursor, and states 'EUTR Guiding Leaflet no. 2 Published May 2017'. The bottom half of the cover shows a close-up of two hands shaking. Logos for the LIFE program and UKaid are at the bottom left, and a small text block at the bottom right credits NEPCon and the funding sources.

NEPCon  
*Preferred by Nature™*

## The EU Timber Regulation

A guide on managing good relations with your suppliers

Are you required to carry out due diligence on the timber you sell? Use this leaflet to find out how to get all the information you require from your suppliers while also maintaining good relations with them

 EUTR Guiding Leaflet no. 2  
Published May 2017

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

# Good supplier relations is key



Ca  
Or

**Mongolian oak from Jilin Province, China**



**Mongolian oak from Primorsky Province, Russian Far East**



# 4. Risk mitigation

## Case Study

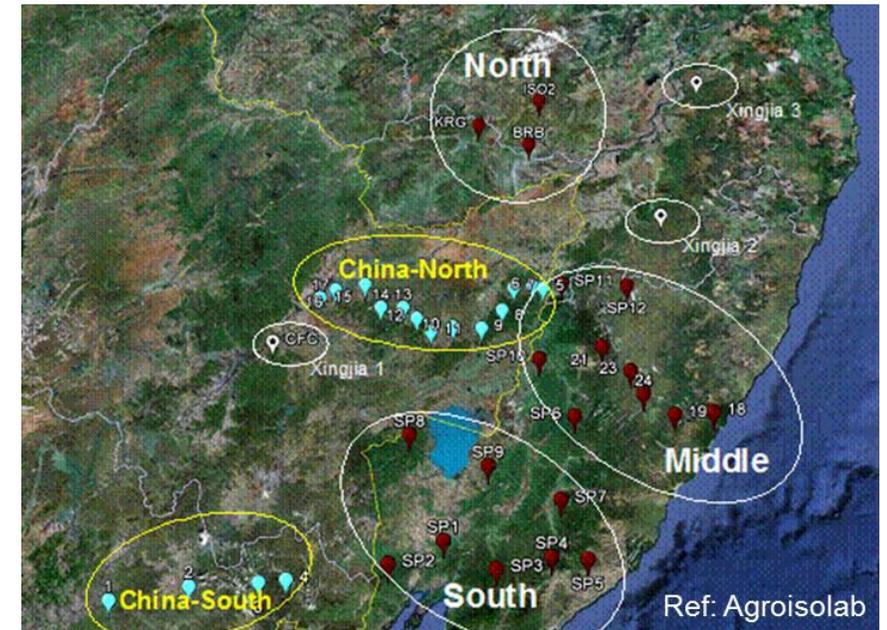
### Origin Testing for Oak Furniture

#### Risk Assessment

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

#### Mitigation Actions:

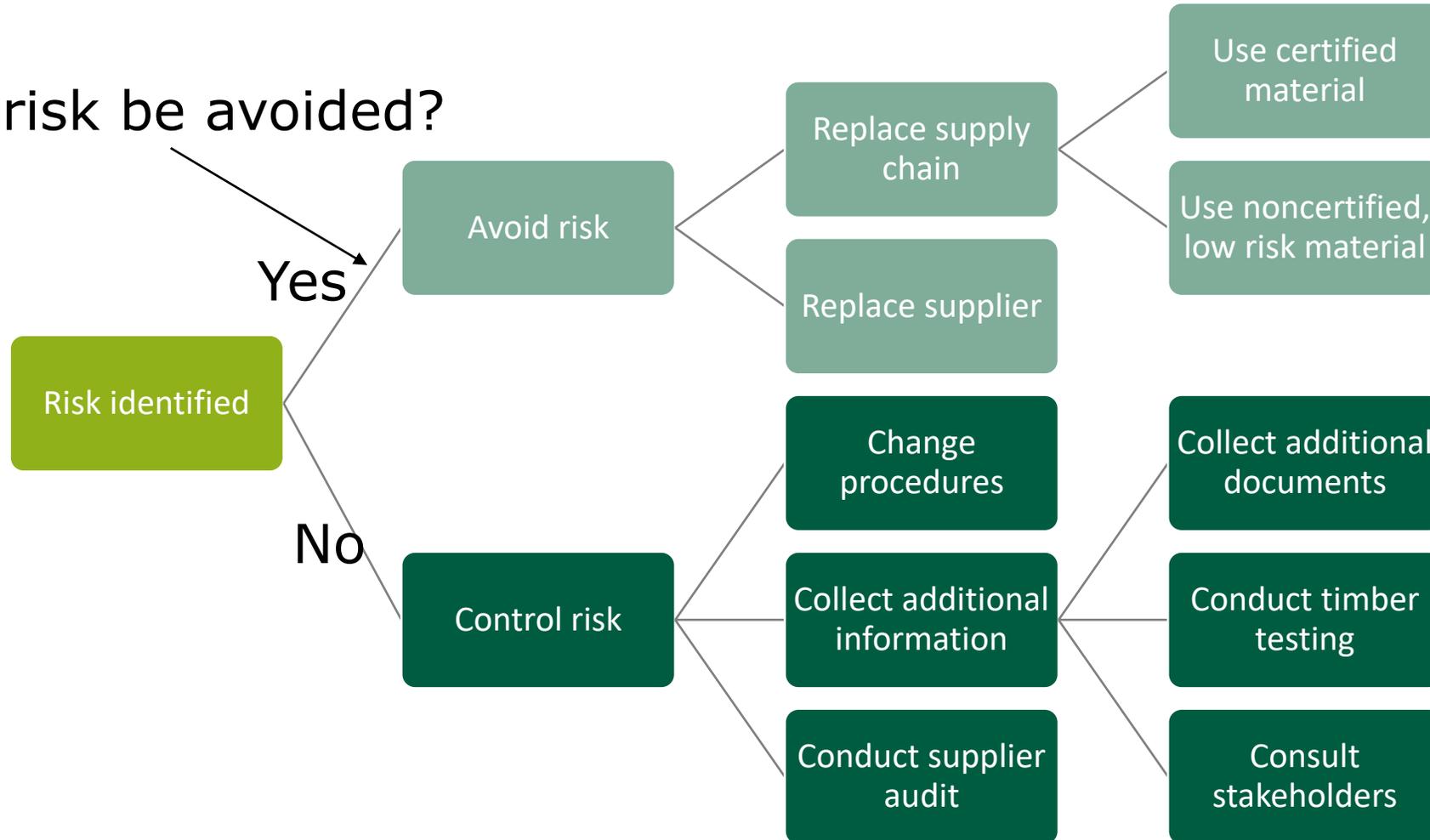
- ✓ EUTR & Risk training to factory staff
- ✓ Change source to US Oak
- ✓ Implement document checking procedure
- ✓ Help supplier implement CoC system
- ✓ Regular re-testing to ensure only US Oak present

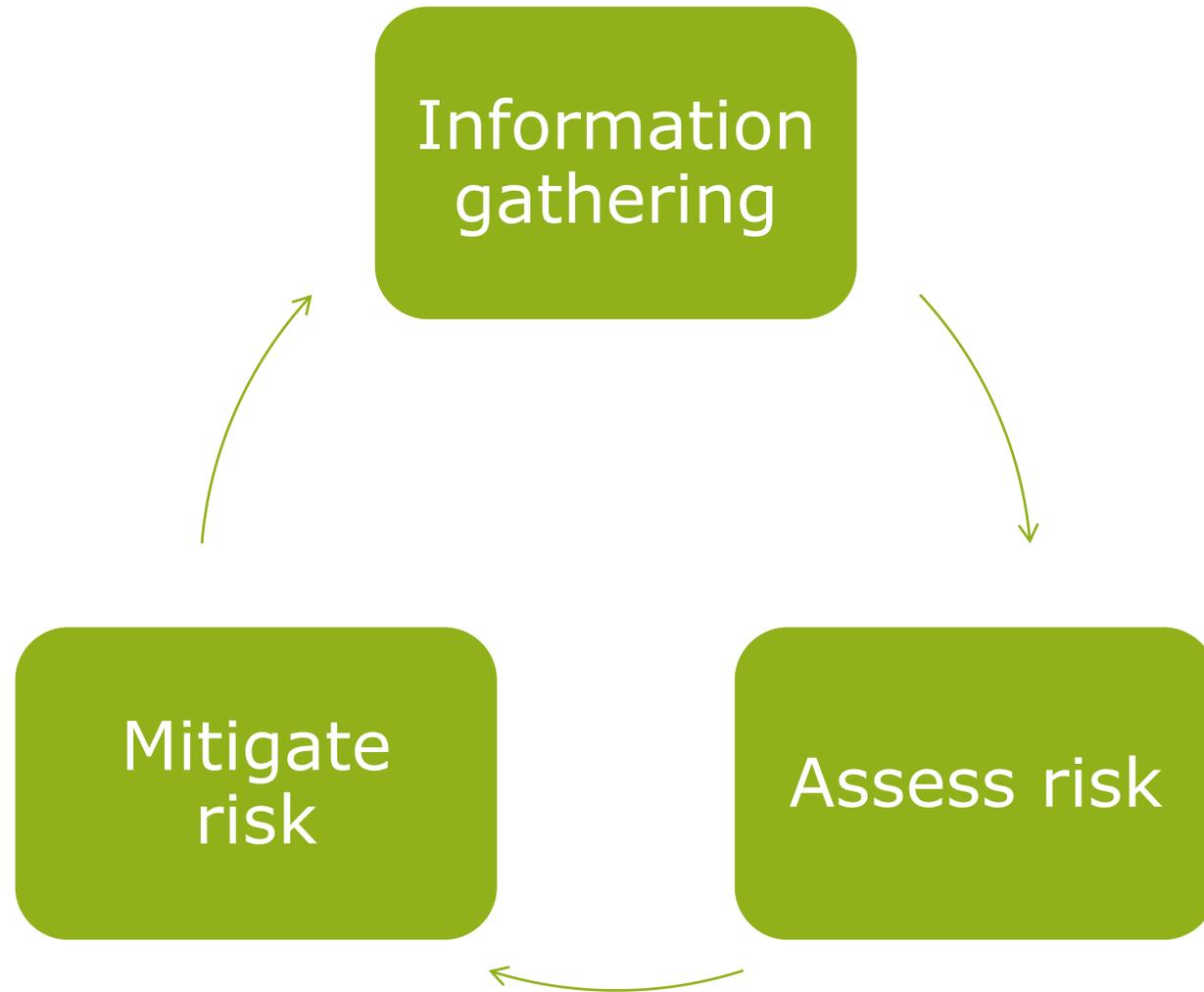


# 4. Risk mitigation

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

Can the risk be avoided?





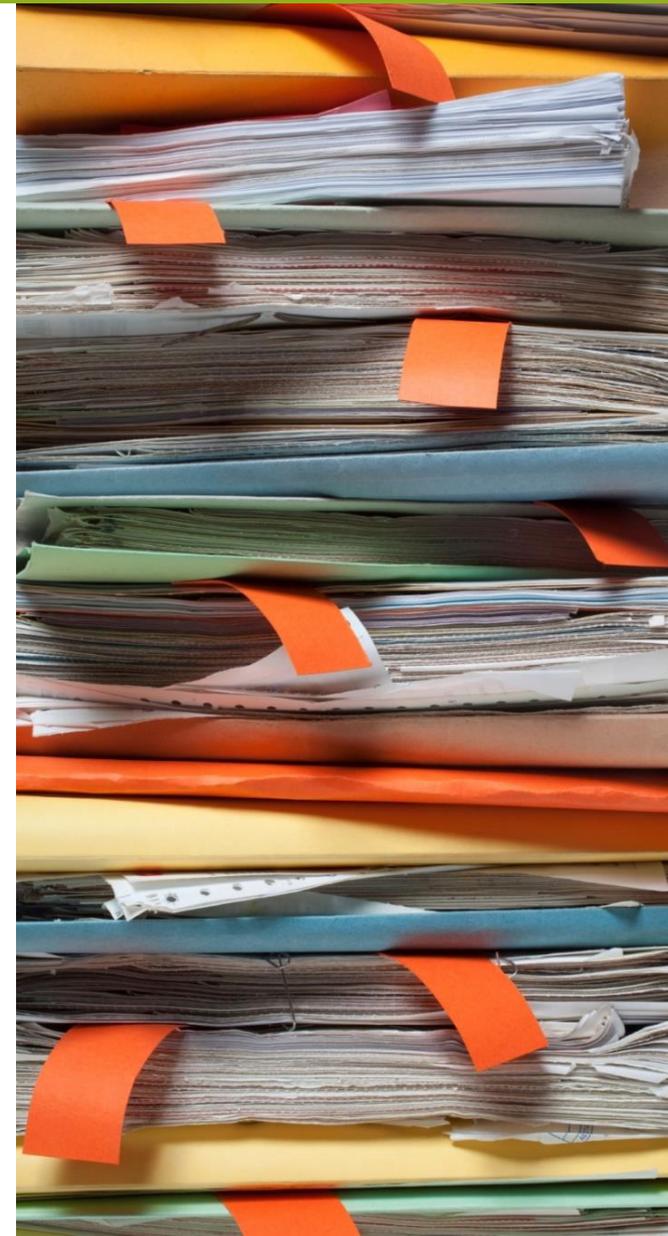
**Some key topics...**

# 5. Documents

*"Is this enough?"*

Wrong question!

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



## Quick quiz!

采伐类型： 主伐 采伐方式： — 采伐强度： —

采伐面积： 231亩 公顷(株数： 9332 株)

采伐蓄积： 2115 立方米(出材量： — 立方米)

采伐期限： 2016 年 4 月 16 日至 2016 年 6 月 16 日

更新期限： — 年 — 月 — 日

更新面积： — 公顷(株数： — 株)

占限额       不占限额

## Checking for fake documents:

- Obvious mistakes
- Spelling mistakes and inconsistencies
- Formatting or text that's more blurry than the rest
- Check documents against an official database
- Check that information tallies across
- Use computer software to help check PDFs

CARTEGORY	
<input type="checkbox"/>	DOGS AND PUPPIES
<input type="checkbox"/>	CATS AND KITTENS
<input type="checkbox"/>	MONKEYS
<input checked="" type="checkbox"/>	BIRDS
<input type="checkbox"/>	OTHERS

CERTIFICATE OF ORIGIN

The undersigned [REDACTED] President  
ITL, LLC dba [REDACTED] declares  
for [REDACTED]  
that the following mentioned goods shipped on S/S [REDACTED] (Name of Ship)  
on the date of **SEPTEMBER 14, 2015** consigned to [REDACTED]  
[REDACTED] Viet Nam  
are the product of the United States of America



# Fake Documents

How to spot them and what to do about them



Thematic article series no. 2  
Published July 2017



Developed by NEPCon under the project "Supporting Legal Timber Trade" funded by the LIFE programme of the European Union and UK Aid from the UK government.



NEPCon has adopted an "open source" policy to share what we develop to advance sustainability. This work is published under the [Creative Commons Attribution-ShareAlike 3.0 licence](#). Permission is hereby granted, free of charge, to any person obtaining a copy of this document, to deal in the document without restriction, including without limitation the rights to use, copy, modify, merge, publish, and/or distribute copies of the document, subject to the following conditions: The above copyright notice and this permission notice shall be included in all copies or substantial portions of the document. We would appreciate receiving a copy of any modified version.

The European Commission support for the production of this publication does not constitute endorsement of the contents which reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

This material has been funded by UK aid from the UK government; however the views expressed do not necessarily reflect the UK government's official policies.

## Key challenge...corruption

In countries with high level of corruption you can get any stamp and any signature – it is just a matter of payment.



# 5. Timber testing

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

Why Chinese plywood?

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



 National  
Measurement  
Office

**EUTR:  
Plywood imported  
from China**

Nicolas Pillet & Michael Sawyer  
Project prepared for DEFRA  
February 2015

# Timber testing

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

Further issues arose with testing...

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

- “Testing has become an essential tool in EUTR projects as it allows... to establish if a potential offence has been committed.”

UK CA

- A due diligence system cannot be considered appropriate if the product on which it focuses does not contain the species that researched and risk assessed within it.



## DNA analysis to identify origin

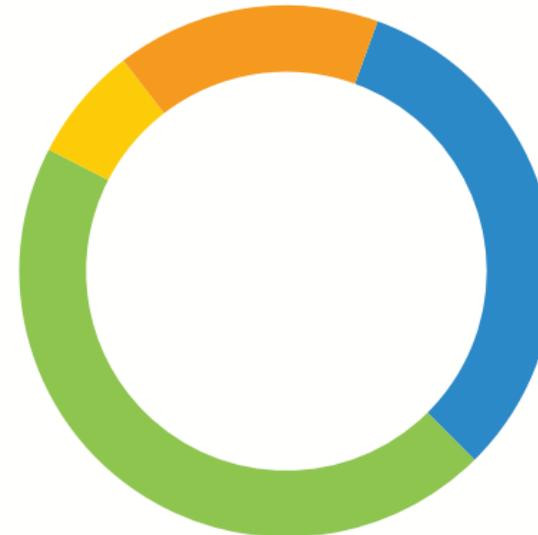


The White Oak Lottery: UK Mystery Sh...



### Overall results, all samples (by continent of origin)

Actual origin, % of white oak samples



■ Asia ■ North America ■ Eurasia ■ Europe

- More than half of white oak product samples declared as “U.S. white oak” were not from North America at all

## 2. Information gathering

### Wood Anatomy



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

### DNA



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

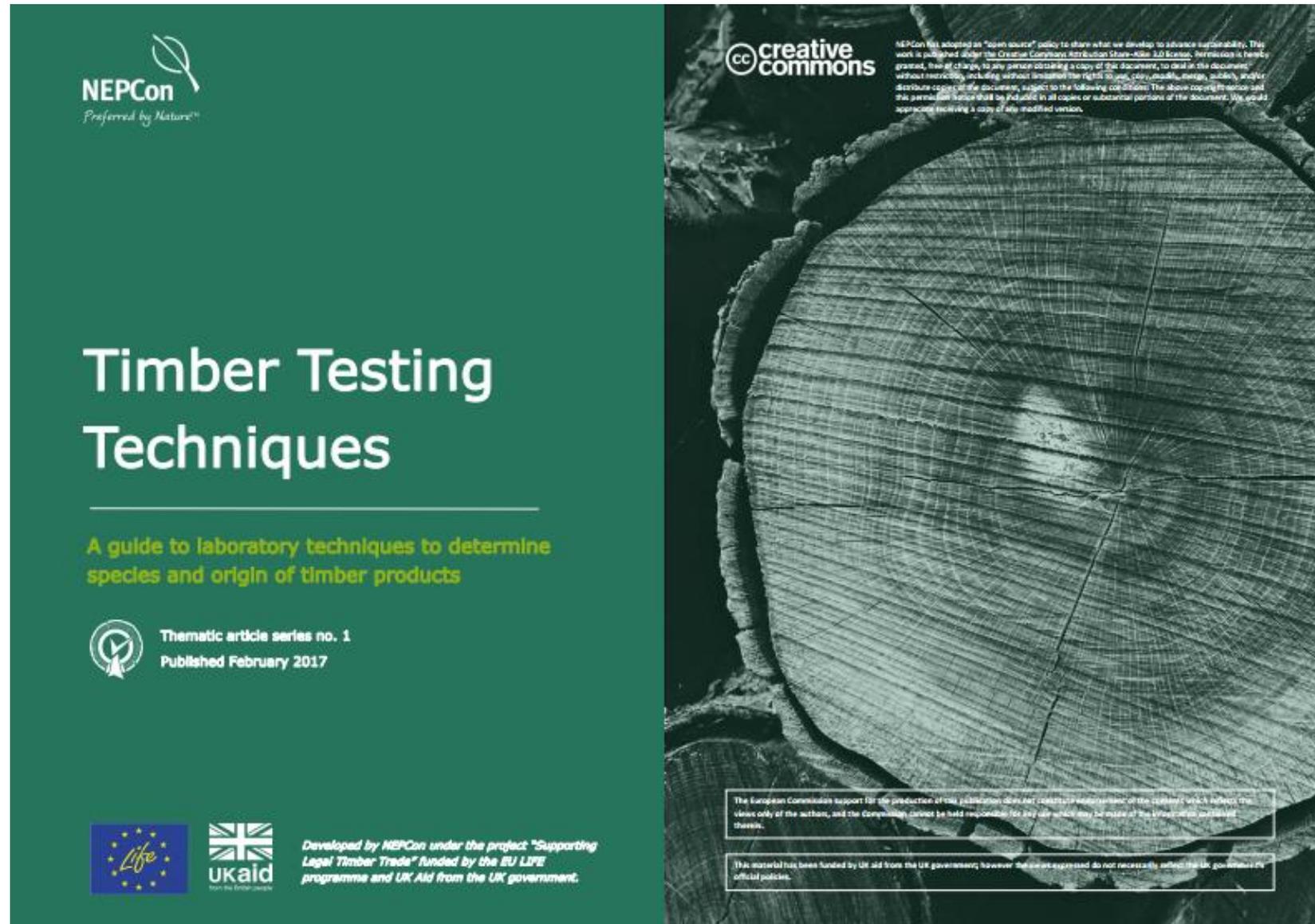
### Stable Isotope



- Identify geographic origin

## When to test?

- When new product lines are introduced
- When there are concerns about supplier claims
- When products contain different components or species
- When a company in the supply chain is changed
- When testing by 3rd parties has shown species/ origin differs from your claims



  
NEPCon  
*Preferred by Nature™*

## Timber Testing Techniques

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

 Thematic article series no. 1  
Published February 2017

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

 **creative commons**  
NEPCon has adopted an "open source" policy to share what we develop to advance sustainability. This work is published under the Creative Commons Attribution-NonCommercial-NoDerivs 4.0 International license. Permission is hereby granted, free of charge, to any person obtaining a copy of this document, to deal in the document without restriction, including without limitation the right to use, copy, distribute, transmit, and/or distribute copies of the document, subject to the following conditions: The above copyright notice and this permission notice shall be included in all copies or substantial portions of the document. We would appreciate receiving a copy of any modified version.

The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

This material has been funded by UK aid from the UK government; however the views expressed do not necessarily reflect the UK government's official policies.

# 6. Certification

Using certified material – is it a green lane?



**NO! Remember:**

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



Reality...

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

EUTR definition of credible certification scheme:

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

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

# Certification

Do all schemes ensure legality?



Meets Rainforest Alliance requirements for Verified Legal Compliance



SUSTAINABLE FORESTRY INITIATIVE



Meets Rainforest Alliance standards for Verified Legal Origin



Origine et legalité  
du bois



## Certification Evaluations by NEPCon

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



## Checking certificates online

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

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

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

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



## Checking the documents

### FSC

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

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

### PEFC

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

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







## Buying Certified Timber

INF.07 Ver 1.1

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



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

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

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

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

Regarding the documents or other information indicating compliance of

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

5

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

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

Find the certification number/code

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

YES
NO

Is the certificate authentic?

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

YES
NO

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

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

YES
NO

Is it valid and not expired?

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

YES
NO

Does the certificate cover the product?

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

↓

Check that the invoice and delivery note specify FSC under the product description.

If YES: You have received timber/wood product from a Legal and Sustainable source!

The certificate may be false – Request Clarification from the supplier

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

Do not accept. The certificate has to be valid.

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

7

Time for:

