Cameroon – due diligence in practice
Timber Regulation Enforcement Exchange – Prague – April 2016
NEPCon: a non-profit organisation

Guided by a value-based mission:
To ensure the responsible use of natural resources and secure sustainable livelihoods by transforming land-use, business practices and consumer behaviour.
About NEPCon
Engaged in legal and sustainable forest management

✓ Twenty years experience with verification and certification of legal and sustainable forest management practices
✓ Recognized EUTR Monitoring Organization, August 2013
Agenda

✓ Short introduction to NEPCon’s national risk assessment approach
✓ Summary of findings of the national risk assessment for Cameroon
✓ Short introduction to NEPCon LegalSource due diligence approach
✓ Case Study: Sapelli and Movingui imports from Cameroon under the LegalSource System
National Risk Assessments
Overview

- NEPCon have been working on National Risk Assessments for timber legality, and other issues since 2014.
- Working on timber, palm oil, beef/leather and soy.
- For timber legality, we have or are working in 63 Countries.
- 20 risk assessments have been published.
- Many more are complete and in final stages of readiness for publishing.
Contents of a risk assessment

1. Legal Framework Overview
   a. Overview of forest sector
   b. Source type overview
   c. Identification of legal sources

2. National legality assessment
   a. Applicable laws and regulations
   b. Legal Authority
   c. Legally required documents or records
   d. Sources of Information
   e. Risk determination
   f. Control measures and verifiers

Risk is evaluated against 21 legality categories – conclusion is either LOW RISK or SPECIFIED RISK
# Legal Categories and sub-categories

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

## Taxes and fees
- 1.5 Payment of royalties and harvesting fees
- 1.6 Value added taxes and other sales taxes
- 1.7 Income and profit taxes

## Timber harvesting activities
- 1.8 Timber harvesting regulations
- 1.9 Protected sites and species
- 1.10 Environmental requirements
- 1.11 Health and safety
- 1.12 Legal employment

## Third parties’ rights
- 1.13 Customary rights
- 1.14 Free prior and informed consent
- 1.15 Indigenous/traditional people’s rights

## Trade and transport
- 1.16 Classification of species, quantities, qualities
- 1.17 Trade and transport
- 1.18 Offshore trading and transfer pricing
- 1.19 Custom regulations
- 1.20 CITES

## Diligence/due care procedures
- 1.21 Legislation requiring due diligence/due care procedures
Forest legality risk assessments

Myanmar | Russia | India | Brazil | Vietnam | Latvia | Belarus | Slovakia | Czech Rep | Spain | Estonia | Sweden | Poland | Lithuania | Finland | Belgium | Ireland | France | Austria | USA | South Africa | Japan | Canada

- Specified
- Low
- N/A
Results: National Risk Assessment for Cameroon
Overview

• Completed in 2015 as part of an EC funded project in Vietnam
• **Specified risk** (not low) found in 14 of the 21 categories
• **Low risk** found for:
  – Concession Licenses
  – Customary Rights
  – Free, prior and informed consent
  – Third party rights
  – Offshore trading and transfer pricing
  – CITES
• Legislation requiring due diligence/due care procedures deemed **not applicable**
Cameroon – specified risks

- Land tenure and management rights
- Management and harvesting planning
- Harvesting permits
- Payment of royalties and harvesting fees
- Value added taxes and other sales taxes (Specified risk for wood sold at auction. N/A for all other sales)
- Income and profit taxes
- Protected sites and species
- Environmental requirements (Low risk for FMU, Specified risk for all other forest types)
- Health and safety
- Legal employment
- Classification of species, quantities, qualities
- Trade and transport
- Customs regulations
Land Tenure and Management rights - main risks:

1. Areas with overlapping land classifications means that the legal classification of the land category and the legal use of the land is conflicting (e.g. mining, infrastructure establishment, plantation establishment, pipeline establishment, conversion for agriculture etc.) (Chatham House 2015, USAID Undated, Fern 2013).

2. Unofficial land claims and shifting cultivation. Forest areas may be converted to agriculture against the law in cases where people illegally encroach on forest areas. The timber from such areas may enter the log supply.
Land Tenure and Management rights continued

There are significant corruption and poor governance issues in Cameroon (Transparency International 2015, World Bank 2013, Chatham House 2015). There are numerous reports about corruption specifically related to land tenure issues. (Chatham House 2015, Anti-Cor website). Based on this information, it is determined that there is a specified risk for this category.
Land Tenure and Management rights – control measures

- In areas with land ownership conflicts, consultation with neighbours, local communities and others shall confirm that land tenure rights are clear.
- A valid and approved forest management plan and valid annual work plan shall exist.
- Contractors shall have a valid timber extraction contract covering the relevant area of extraction.
- Timber extraction shall be verified to be carried under a valid Timber Extraction Permit.
- Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).
NEPCon’s approach to due diligence – the LegalSource Programme
LegalSource Due Diligence System

- Based on EUTR, Lacey Act and Australian Illegal Logging Prohibition act requirement
- Provides a complete due diligence system for organisations to implement themselves
- Used for NEPCon MO application
- The ETTF due diligence system has been developed by NEPCon based on the LS DD system
- Requirements are outlined in the NEPCon LegalSource standard
LegalSource Programme

Requirements
- Standard

Tools
- Due diligence system
- Auditor tools
- Report templates

Services
- Due diligence training
- Supplier verification
- Certification/MO
Commit to legal sourcing
Establish responsibilities & assure competence
Establish procedures
Initiate performance monitoring
Define scope of supply chain & products

Evaluate supply chain info
Identify risks:
  - forest management level
  - supplier level
  - risks of mixing and substitution
Specify risks where identified

Record supply chain info:
  - origin
  - suppliers
  - species
  - legality documentation
Collect additional supply chain info

Mitigation options
  - Additional documentation
  - Replace supplier
  - Source certified material
  - Supply chain verification audits
LegalSource Standard requirements

Quality requirements

1. Commitment to legal sourcing
2. Responsibilities and competence
3. Documentation
4. Performance monitoring of the established due diligence system
5. Scope of the due diligence system and the LegalSource certification

Core DD system

6. Supply Chain and material information
7. Risk Assessment
8. Risk Mitigation
9. Claims
# Requirements: LegalSource standard

## Introduction: Scope of standard

**Section G: Quality management and due diligence requirements**

*This is the main normative part of the standard.*

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<tbody>
<tr>
<td>Legality requirements for FMEs</td>
<td>Legality requirements for processing and trade</td>
<td>CoC requirements</td>
<td>Group management</td>
<td>Credible certification systems</td>
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Used also for risk assessment
Case study: Imports from Cameroon under the LegalSource System
Context

- NEPCon client – importing a number of products from Africa, including timber from Cameroon.
- Sought LegalSource certification.
- Source a number of products lines from Africa, including products from Cameroon.
Due diligence system

Established a due diligence system to meet the requirements of the EUTR (and the LegalSource Programme), included:

- Commitment to legal sourcing
- Responsibilities and competence
- Documentation
- Performance monitoring of the established due diligence system
- Scope of the due diligence system and the LegalSource certification
- Supply Chain and material information
- Risk Assessment
- Risk Mitigation
- Claims
LegalSource Evaluation

NEPCon conducted a pre-assessment in 2013 and assessment in 2014 (gaps identified had to be closed).

We were looking at the quality requirements (i.e. did they have all of the systems and procedure in place as required by the LegalSource Standard)

And

How they conducted due diligence on their supply chains – was their due diligence system robust?
Documents and records constituting the DDS

• Scope of Procurement
• National Legal and other requirements
• Procedure for Timber Procurement
• Species and Spatial Risk Rating Procurement
• Resp. procurement Information
• Resp. procurement -Declaration-Origin timber
• Resp. procurement -Due Diligence System
• CoC-

Procurement_Responsabilities
• Responsible Forestry and Procurement
• Legal Documents per Country
• Supply chain evaluation-CHECKLIST
• Legal & other requirements per country
• Management Review Procurement
• Suppliers data-risk assessment-approval
• Supplier audit reports
Risk assessment for procurement

Country risk assessment (in large countries on district level)

- Low risk
- High risk

Supplier assessment acc. to legal & other requirements (ISO 14001, 4.3.2)
- Categories: a) forest directly (FMU) b) round log traders & timber industry

- Purchase conditions
- Proof of origin (purchasing contract; import into EU requires certificate of origin)
- Basic data (e.g. small questionnaire)
- Declaration of origin, legality etc.
- Detailed data (e.g. questionnaire, legality documents, regular sample audits)
- Encourage 3rd party audits for the supplied wood (minimum legality)

Monday, April 23, 2007
For High Risk countries (ex. in Afrika)

Path to responsible procurement

Implementation is illustrated in the ladder approach below

1. **Known source**: Known origin up to the source forest (Traceability);
2. **Legally**: Right to harvest forest sources and legal trading / manufacturing for ex. **Verified Legal Origin** – VLO
3. Wood from sustainable / well managed forests for ex. FSC, PEFC certified

**Implemented using**
ISO 14001, WWF-Global Forest & Trade Network, Certified Timber

**Inacceptable: timber of illegal origin**

Legal and other requirements

General framework ➔ xxx32-02_v3_Legal and other requirements
### Texts of Legal & other Requirements for ESMS Procurement Africa

#### Cameroon

**Last update on:** 17/10/2012  
**Update due:** 17/10/2015  
**years to update:** 3  
**Overdue:** 6

*n.a. = not/non applicable*

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** Criteria for Legal & other Requirements**

<table>
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<tr>
<th>Steps</th>
<th>Requirement</th>
<th>Documents to proof</th>
<th>Cameroon</th>
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<td>Controll. Wood ref.</td>
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**STEP 1: LEGALITY**

a) Known source: Known origin up to source forest (Traceability);

b) Legally: Right to harvest forest sources and legal trading/manufacturing

### 1.1 Legal Right to Harvest

1.1a) Known source forest: Traceable to the forest level (concession, forest management unit, logging permit).

**Preuves d'origine, de traçabilité:**  
Proofs of origin, traceability, CoC

**Carnets de chantier - volume exploité**  
"Carnet de chantier" - logbook - harvested volume

**lettres de voiture / feuilles de route**  
transport document / sheet

**registres d’approvisionnement des usines**  
Register for sawmill entry - exit of logs / wood products

**marquage & enregistrement des souches, culées, houppiers, grumes est réalisé conformément à la règlementation en vigueur**  
marking of stumps; canopy; logs is realised conforming with the applicable regulations

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**GFTN:** Confirm, where appropriate, existence of the following documents covering the licence issuing process:

- Prospection report
- Forest inventory report
- Annual harvesting plan
- Provisional agreement
- Allocation decree
- The Bureau Veritas (BIVAC) independent inspection and audit report.

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**Arreté n°022/A/MINEF du 25/05/2002, Art. 42 ; Art. 43 ; Art. 44**

**Arrêté n° 022/A/MINEF du 25/05/2002, Art. 88 (2)**

**Décret N°95/531 art. 127 (2)**

**Décret n° 94/436/PM, art. 73(3)**

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**Arrêté n°94/436/PM du 23/08/1994, art. 88**

**Décret N°95/531 art. 127**

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**Arrêté n°95/531 art. 127**

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**Arrêté n°95/531 art. 127**
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Some issues relating to Cameroon

1. **Forest Level Risks:** A planned/new supplier in Cameroon had not been 3\textsuperscript{rd} party audited. According to company’s DDS this was a requirement for timber from Cameroon.
   - NEPCon went with Company to Cameroon to conduct the audits.
   - FMU would not allow access.

2. **Mixing risks:** risk of mixing in a sawmill in Cameroon was identified by the Company’s own verification programme. During the pre-assessment it was deemed that the Company had not followed their own internal procedures to address this risk.

3. **Certified product risk:** Planned to purchase OLB certified. Evaluation of OLB certification programme showed that the OLB system allowed unacceptable mixing of high risk timber.
   - Legal requirements related to trade and customs are not addressed beyond forest management level.
   - OLB CoC standard allows mixing of other ‘acceptable sources’ into OLB-certified products. Assessment of acceptable sources did not require full compliance with the EU TR legality requirements.
QUESTIONS
ANSWERS
Thank you
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NEPCon works to ensure responsible use of natural resources and secure sustainable livelihoods by transforming land-use, business practises and consumer behaviour.