Risks related to Vietnam’s imports
Supporting Legal Timber Trade
NEPCon: a non-profit organisation

Value-based:

To ensure the responsible use of natural resources and secure sustainable livelihoods by transforming land-use, business practises and consumer behaviour.
Vision:  
A world where human choices ensure a sustainable future

Mission:  
To build commitment and capacity for mainstreaming sustainability
NEPCon in Vietnam

• Legal entity established June 2016
• Office in HCMC
• Three permanent, full-time staff
• Collaborate with key industry associations on capacity building of their members on timber legality
• FSC and PEFC certification clients
• Actively engaged in the VPA process
• Two ongoing projects: FLEGT and climate adaptation
Risk Assessments

- NEPCon have been working on National Risk Assessments for timber legality, and other issues since 2007.
- Conducting timber legality risk assessments for over 60 countries
- Now expanding into Working on timber, palm oil, beef/leather and soy.
National risk assessments

Analysis of each of these 19 sub-categories

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

Legal rights to harvest
- Land tenure and management rights
- Concession licenses
- Management and harvesting planning
- Harvesting permits

Timber harvesting activities
- Timber harvesting regulations
- Protected sites and species
- Environmental requirements
- Health and safety
- Legal employment
- Management and harvesting planning
- Harvesting permits

Trade and transport
- Classification of species, quantities, qualities
- Trade and transport
- Offshore trading and transfer pricing
- Custom regulations
- CITES

Third parties’ rights
- Customary rights
- Free prior and informed consent
- Indigenous/traditional peoples’ rights

The legality assessment considers the risk of illegality across 5 categories with an additional 19 sub-categories.
National risk assessments

- **Defining source types**
  (where timber can be sourced)
  Forest type (natural or plantation), ownership (private, public or communal), land classification (permanent forest estate or non-permanent forest estate), management regime (private concession or state management) or a combination of all of these

- **Identifying and documenting**
  Applicable laws and regulations, legal authority & the relevant competent authority responsible for legal compliance, and legally required documents or records that can be used to indicate legality

- **A record of the sources of information**
  To describe, identify and evaluate risk, such as reports, laws, regulations, articles, etc.

- **A risk determination**
  Overview of the legal requirements, description of risk, and risk conclusion

Control measures and verifiers

Conclusion for each of the 21 sub-categories
62 risk assessments from timber-exporting countries all over the world are developed.

47 available to date

15 more ready by mid-2017
Source country: Laos
Risk and species in Laos

- **ROSEWOOD**
  - 108 MIL. US$
  - (Dalbergia cochinchinensis; Pterocarpus erinaceus)

- **KERUING**
  - 43 Mil. US$
  - (Dipterocarpus ssp.)

- **TEAK**
  - 2 Mil. US$
  - (Tectona grandis)

- **PAU ROSA**
  - 8 MIL. US$
  - (Swartzia fistuloides)

- **PAPAO/DOUSSIE**
  - 21 MIL. US$
  - (Afzelia africana)

- **TALI**
  - 24 MIL. US$
  - (Erythrophleum suaveolens)
Key risks in source types

Natural Forest
- Conversion Forest
- Selective logging areas

Plantation
- Concessions
- Small holders

- Individuals
- Companies

- Logging quotas exceed
- Conversion forests allocated in protected areas
- Risk of trees prohibited for harvest being logged
- Concessions allocated in improper areas (bribery)
- Concessions allocated in improper areas (bribery)
- Lack of business registration
Analysis of each of these 19 sub-categories

Taxes and fees

- **Administration** (inconsistent application of harvesting fees and taxes; bribes to reduce tax obligations; failure to deduct VAT and other sales taxes)
- **Operators** (understatement of timber quality and quantity for tax deduction; unofficial sales; and logs not registered in log landings)
- **Smallholders** (evade taxes due to lack of business registration)

Legal rights to harvest

- **Administration** (lack of land titles; overlapping land classification; concession permits allocated in improper areas; bribery in allocation of permits; improper mapping; and lack of social & environmental impact assessments)
- **Operators** (inadequate inventories; activities starting prior to authorisation and outside approved areas; lack of tree marking in selective logging areas)
- **Smallholders** lack business registration and management plan and/or smallholders borrowing plantation certificates from others

Timber harvesting activities

- **Operators** (cutting of unmarked trees; logging larger volumes than specified in harvest plan; logging in restricted areas; Lack of harvest plans or plans not complied with; logging species prohibited for harvesting; and sale of natural grown teak as plantation teak)
- **Health & Safety** (overuse of fertilizers and pesticides and use of illegal pesticides in plantations – may result in illness / death of workers; lack of PPE for loggers; exposure to unexploded ordnances (esp. in acacia and eucalyptus plantations); lack of contracts and salary payment; and exclusion of Lao citizens from employment in Vietnamese companies)

Trade and transport

- **Domestic** (lack of documentation or documents carrying incorrect information on volume and species)
- **Export** (poor monitoring of wood-exports; false CITES export permits; export of undocumented timber via official Laos-Vietnam border crossings; contracts made with “ghost” companies; transfer pricing)

Third parties’ rights

- Insecure tenure rights for rural citizens
- Lacking recognition of traditional land rights
- Lacking compensation to villagers when re-allocated
- Lack of formalising complaints from villagers
- Villagers not allowed access to forest concessions
- Concessionaires depleting resources of forest dependent communities
Source country: Ghana
Risk and species in Ghana

- **ROSEWOOD**: 0.3 MIL. US$ (Dalbergia cochinchinensis; Pterocarpus erinaceus)
- **OKAN**: 4 MIL. US$ (Cyclclodiscus gabunensis)
- **KERUING**: 1 MIL. US$ (Dipterocarpus ssp.)
- **TALI**: 1 MIL. US$ (Erythrophleum suaveolens)
Key risks in source types

Natural Forest
- Forest reserves
- Off forest reserves
- Sub-merged forest

Plantation
- Forest reserves (president)
- Off forest reserves (Community/Individual /public/inst.)

- Risk of outlawed concessions still operating
- Risk of timber sourced from protected areas
- Inadequate compensation and poor implementation of Social Responsibility Agreement (SRA)
- EPA permits often not obtained and nor enforced
- Harvest rights bypassing required public bidding process
- Inadequate compensation and poor implementation of Social Responsibility Agreement (SRA)
• **Operators** (Underreporting of harvested timber for tax deduction; Lacking payment of timber rights fees (TRFs) due to outlawed concessions and leases; Operators not paying TRFs within required time)

• **Health & Safety** (Operators not complying with safety requirements; operators do not supply workers with PPE and/or do not enforce use of PPE; Lack of complying with Collective Bargaining Agreements (CBA); Lack of implementation of leave entitlement; workers without contracts and required insurance)

• **Domestic** (Falsified classification of timber, e.g. high value species classified as low value species and underreporting of volumes)

• **Export** (Reported gap between timber supply and consumption, due to underreporting of harvested volumes; abuse of Salvage permits by operators to sell and export already felled rosewood (P. *erinaceus*)

• **Legal rights to harvest**
  - **Admin** (Authorities grant Special permits without being legally authorised; Special permits being illegally awarded for expired concessions in forest reserve areas; Salvage and Special permits bypassing required public bidding process, and associated lack of ratification by the Timber Right Evaluation Committee (TREC) and parliament)
  - **Operators** (Outlawed concessions and leases still operating, without required Timber Utilisation Contracts (TUCs); Management and harvesting plans poorly implemented for non-TUC holders)

• **Taxes and fees**
  - Operators (Underreporting of harvested timber for tax deduction; Lacking payment of timber rights fees (TRFs) due to outlawed concessions and leases; Operators not paying TRFs within required time)

• **Timber harvesting activities**
  - Operators (Exceed allowed harvest vol.; non-compliance with Standards; Illegal operators ignoring harvesting regulations (e.g. Harvest in areas prohibited for logging and harvest protected species (e.g. *Pericopsis elata*); harvest of rosewood (*Pterocarpus erinaceus*) prohibited in January 1st 2014, however rosewood logs from Ghana appear on Vietnamese import data (2013-15); risk of logging in forest reserves; operators working without required permit from the Environmental Protection Agency (EPA), and is likewise poorly enforced by the EPA)

• **Third parties’ rights**
  - Poor implementation of Social Responsibility Agreement (SRA)
  - Affected landowners in off reserve areas are inadequately compensated

• **Trade and transport**
  - Domestic (Falsified classification of timber, e.g. high value species classified as low value species and underreporting of volumes)
Source country: Cameroon
Risk and species in Cameroon

- **TALI**: 96 Mil. US$ (Erythrophleum suaveolens)
- **OKAN**: 121 Mil. US$ (Cyliclodiscus gabunensis)
- **PAPAO/DOUSSIE**: 3 Mil. US$ (Afzelia africana)
- **ROSEWOOD**: 2 MIL. US$ (Dalbergia cochinchinensis; Pterocarpus erinaceus)
Key risks in source types

- **Permanent Forest Domain (DFP)**
  - FMUs (Concessions)
  - Communal Forests

- **Non Permanent Forest Domain (NDFP)**

**Risks:**

- Lack of consultation with communities
- Logging outside boundaries and exceeding harvesting limits
- Lack of harvesting permits and associated tax evasion
- Concessionaires carry out logging activities without consulting communities as required
Analysis of each of these 19 sub-categories

**Taxes and fees**

- **Admin** (Inadequate monitoring of tax payments; Understatement of timber quality/quantity to evade feeling taxes, or conceal illegal logging)
- **Operators** (Risks associated with income and profit taxes due to the system being self-declaratory; Risk of fraudulent practices in the auction of seized wood → evasion of tax; Lacking payments of fees related to exports)

**Legal rights to harvest**

- **Admin** (Allocation of concessions outside required public bidding process; Concessions granted without consulting local communities; Poor system to resolve conflicting property rights)
- **Operators** (Lacking management plans for concessions; Logging without harvesting permit esp. for smallholders)

**Timber harvesting activities**

- **Admin** (Lack of monitoring of harvesting activities; Concessions allocated in National Parks; Concessions operating outside boundaries and lacking required harvest documents)
- **Operators** (Lack of effectively protected areas and law enforcement (e.g. timber harvested from nature reserves); Concessions not comply with prescriptions of environmental impact assessment (EIA); Concessions operating without (EIA), esp. smallholders)
- **Health & Safety** (Poor monitoring of health and safety and legal employment esp. for smallholders; Lack of basic needs (e.g. poor access to drinking water and decent housing); Lack of contracts, insurance, use of under aged forest workers, (esp. smallholders)

**Trade and transport**

- **Domestic** (Authorities approve overharvesting through bribery; Transporters not carrying secure waybills and booklet sheet signed by authority; Missing certificates on legality of supplier (esp. smallholders); False statements of logging activities in worksite book; Poor timber tracking systems (hampered by bribery))
- **Exports** (Informal exports occurring from private jetties, not monitored by log inspection system; Exports without necessary documents or false documents; Lack of capacity by customs to do proper checks)

**Third parties’ rights**

- Customary rights not recognised by law
- Concessionaires not consulting communities when doing EIAs as required
- Concessionaires carry out logging activities without consulting communities
- Limited requirements for free-prior and informed consent and legal protection of Indigenous/traditional people
Source country: Democratic Republic of Congo
Risk and species in Democratic Republic of Congo

- **TALI**: 5 Mil. US$ (Erythrophleum suaveolens)
- **ROSEWOOD**: 0.5 Mil. US$ (Dalbergia cochinchinensis; Pterocarpus erinaceus)
- **OKAN**: 2 Mil. US$ (Cyclolodiscus gabunensis)
Key risks in source types

Natural Forest/Primary Forest

- Logging of protected species and in protected areas
- Rights of indigenous people and communities not respected by loggers and not compensated for damages
- Special logging permits being granted to frequent (bribery)
- High risk of illegality related to this source type
- Rights of indigenous people and communities not respected by loggers and not compensated for damages

Plantation Forest/Secondary Forest
Taxes and fees

- **Admin** (Absence of appropriate billing and collection of taxes; logging taxes not collected as required by law; controls by customs lacking and hampered by bribery)

- **Operators** (Lacking payment of logging-, reforestation and harvest permit taxes; significant portion of Congolese timber comes from illegal logging; loggers engage in false tax declarations due to weaknesses in control)

Legal rights to harvest

- **Admin** (Lacking customary rights; Illegitimate land occupation due to lack of legal land titles and use of false land rights; concessions granted against legal procedure for public tender; operators are poorly monitored; granted logging licenses not in compliance with implementation measures)

- **Operators** (Few operators have finalised required concession contracts; few with required management plans (PAs) and signed social clauses; few can’t present required preliminary technical and social studies; illegal loggers act as companies and individuals act as artisanal loggers)

Trade and transport

- **Domestic** (Transporters do not produce field book with species/quantity information or use false field books to evade taxes; lacking transport permits or falsified permit)

- **Exports** (Smallholders export timber without obtaining required authorisation; exports are poorly monitored and hampered by corruption and the use of illegal transfer pricing is therefore frequent, e.g. under-invoicing to evade taxes; systematic looting of forest resources and a large tax evasion problem by export; export permits for protected and/or CITES species are bypassed and also difficult to obtain due to the CITES offices located abroad)

- **Third parties’ rights**
  - User rights of the local communities and indigenous peoples are not respected
  - Logging companies who causes damages or losses to local communities and indigenous people do not compensate as required by law
Questions...?
Find out more at nepcon.org

Alexandra Banks
Senior Forest Legality Specialist
alb@nepcon.org | +45 3155 7539

NEPCon works to ensure responsible use of natural resources and secure sustainable livelihoods by transforming land-use, business practices and consumer behaviour.