



# EUTR and forest certification



*April 2021*





The EUTR and certification schemes



Including certification within a due diligence system

# The EUTR and certification schemes

- **European Union Timber Regulation**
- Main objective: address the presence of illegal timber by denying it access to the EU market
- Main requirement: obligation to conduct due diligence on timber products for entities placing timber for the 1<sup>st</sup> time on the EU market (operators)



*The 27 EU Member States*

- Several timber products are explicitly **exempt** from EUTR due diligence:
    - *FLEGT licence*
    - *CITES permits*
    - *Specific products (based on custom codes, for example musical instruments)*
- **Certification is not one of those cases**
- **It is not a green lane under EUTR**

## What does it mean?

- *It means* even certified supplies need to be **included** in the due diligence systems of operators
- *It does not mean* that it changes nothing: **certification can be taken into account as a tool and may considerably ease the due diligence process & lower risk of illegality**

# Collection of official EUTR documents



EU Timber Regulation



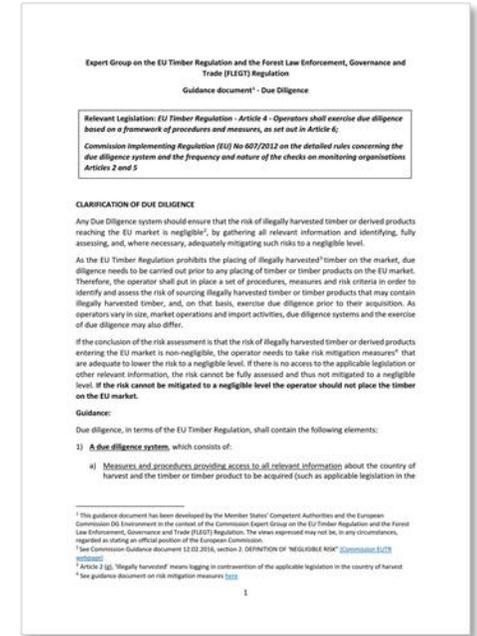
EU Implementing Regulation



EU Guidance document



EU Commission Notice - CITES



FLEGT – EUTR Expert group guidance documents

➤ [https://ec.europa.eu/environment/forests/timber\\_regulation.htm](https://ec.europa.eu/environment/forests/timber_regulation.htm)

*Scroll down...*



## Documents

### Legislation

- [Regulation \(EU\) 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market](#) adopted on 20 October 2010 and published in the Official Journal on 12 November 2010.
- [Corrigendum to German version of Regulation \(EU\) 995/2010](#) published in OJ L 48 on 11 February 2021
- [Corrigendum to Danish and Swedish versions of Regulation \(EU\) 995/2010](#) published in OJ L 65 on 04 March 2020
- [Commission delegated Regulation \(EU\) No 363/2012 of 23.2.2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation \(EU\) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.](#)
- [Commission implementing Regulation \(EU\) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation \(EU\) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.](#)

## Guidance

The updated version of the Guidance Document for the EU Timber Regulation was adopted on 12 February 2016. It is [published in the 23 languages](#) of the EU and replaces the Guidance document of 2013.

The Commission also adopted a [guidance document on the verification of legality in timber trade](#) for CITES-listed tree species imported into the EU.

Additional guidance on the following matters has been agreed by the FLEGT/EUTR Expert Group: [Recycled timber and timber products](#), [Substantiated concerns](#), [Risk mitigation measures](#), [Consideration of prevalence of armed conflict and sanctions in Due Diligence Systems](#), and [Due Diligence](#).

Further guidance documents and updates of existing guidance will be integrated in the above-mentioned Commission notice 'Guidance document for the EU Timber Regulation' at its next update.

REGULATION (EU) No 995/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 20 October 2010

laying down the obligations of operators who place timber and timber products on the market

*Article 6*

**Due diligence systems**

1. The due diligence system referred to in Article 4(2) shall contain the following elements:
  - (b) risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation,

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*Article 6*

**Due diligence systems**

1. The due diligence system referred to in Article 4(2) shall contain the following elements:
  - (c) except where the risk identified in course of the risk assessment procedures referred to in point (b) is negligible, risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

**COMMISSION IMPLEMENTING REGULATION (EU) No 607/2012  
of 6 July 2012**

**on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market**

*Article 4*

**Risk assessment and mitigation**

Certification or other third-party verified schemes referred to in the first indent of the second paragraph of Article 6(1)(b) and in Article 6(1)(c) of Regulation (EU) No 995/2010 may be taken into account in the risk assessment and risk mitigation procedures where they meet the following criteria:

- (a) they have established and made available for third-party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation;

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of 6 July 2012**

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- (b) they specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with;

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- (c) they include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;

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- (d) they include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.

COMMISSION NOTICE

of 12.2.2016

GUIDANCE DOCUMENT

FOR THE EU TIMBER REGULATION

## **6. THE ROLE OF THIRD-PARTY-VERIFICATION SCHEMES IN RISK ASSESSMENT AND RISK MITIGATION<sup>8</sup>**

- Background information on forest certification
- Reiterates:
  - Legal coverage
  - Nature and frequency of audits
  - Exclusion of unknown material (chain of custody + specific product covered)

COMMISSION NOTICE

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## **6. THE ROLE OF THIRD-PARTY-VERIFICATION SCHEMES IN RISK ASSESSMENT AND RISK MITIGATION<sup>8</sup>**

The operator should be satisfied that the third-party organisation that issued a certificate was sufficiently qualified and is in good standing with the certification scheme and the relevant accreditation body. Information about how schemes are regulated can usually be obtained from the certification scheme.

In the process of assessing the credibility of a third-party-verification scheme, operators may use the following questions (note that the list is not exhaustive):

- ✓ Is the certification or other third-party-verification scheme compliant with international or European standards (e.g. the relevant ISO-guides or ISEAL codes)?
- ✓ Are the third parties that perform the checks and verifications referred to under Article 4 (b)(c) and (d) of the Commission implementing Regulation (EU) No 607/2012 independent accredited organisations?

- Qualification of third-party organisation & schemes

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Some schemes allow certification when a specified percentage of the timber in a product has met the full certification standard. This percentage is usually stated on the label. In such cases, it is important that the operator obtains information about whether checks on the non-certified portion have been performed and whether those checks provide adequate evidence of compliance with the applicable legislation.

- Checks on portion of material coming from non-certified forests

→ *Mix claims*

COMMISSION NOTICE

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In the process of assessing the credibility of a third-party-verification scheme, operators may use the following questions (note that the list is not exhaustive):

- ✓ Are there substantiated reports about possible shortcomings or problems of the third-party-verification schemes in the specific countries from which the timber or timber products are imported?

- Documented shortcomings / problems within specific countries of operation of the scheme

- Let's unpack this set of EUTR rules and guidance...
- Make sure that the certification scheme used within a DDS is compliant with the EUTR criteria:
  1. System and checks qualities
  2. Traceability and risk of mixing
  3. Legality coverage

## Requirements 1: System and checks qualities

- Publicly available requirements
- Independent checks (third-party, qualified)
- Regular checks (not more than each 12 months)
- Physical checks (mandatory field visits)
- Scheme benchmark (e.g. ISO / ISEAL standards) → *Guidance*



## Fictive certification scheme "Perfect timber"

- Standards are not available publicly →  Publicly available requirements
- The certification body (auditor) may be a sister company to the certificate holder (auditee) →  Independent checks
- Audits are conducted every 6 years →  Regular checks
- Audits may be conducted 100% remotely →  Physical checks

→ *Does NOT comply with EUTR criteria to be used within risk assessment or mitigation*



## Requirements 2: Traceability & risk of mixing requirement

- Traceability at any point of the supply chain
  - Forest
  - Any entity taking legal possession of the material
- Sufficient controls to avoid mixing with material illegally harvested or of unknown origin
  - *Specific point of attention for timber sourced from non-certified forests entering the supply chain (“controlled” material)*

*Can the system ensure traceability of certified material?*

- Usually dealt with Chain of custody (COC) Standards for entities along the supply chain
- Use of claims and rules on handling material (segregation processes: transfer, mass balance, credit systems...)
- Discussions on volume reconciliation
- Detection of false claims

*How robust are checks conducted on material sourced from non-certified forests?*

- The entity including timber from non-certified forest shall assess risks of illegality
- Standards on how to conduct such checks
- Process very similar to EUTR Due diligence
- “Controlled” material

## Fictive certification scheme "Perfect timber"

- Only Forest Management Standard in place

➤ Once the logs exit the certified forest, there is no

independent verification of how the timber is

transformed & traded along supply chains



Traceability



Control over unknown input

→ *Does NOT comply with EUTR criteria to be used within risk assessment or mitigation*

## Fictive certification scheme "Wonder timber"

- Timber processing entities can include timber from non-certified forests
  - They only have to obtain a self-declaration from their supplier that the timber has been produced legally
-  Sufficient checks on the legality of timber sourced from non-certified forests

→ *Does NOT comply with EUTR criteria to be used within risk assessment or mitigation*

## Requirement 3: Legality coverage

- Requirements must include compliance with legality
- The definition of applicable legislation must be similar to the EUTR definition (at least)



“Applicable legislation” means the legislation in force in the country of harvest on:

1. **Rights to harvest timber within legally gazetted boundaries**



2. **Payments for harvest rights and timber** including duties related to timber harvesting



3. **Timber harvesting**, including environmental and forest legislation including forest



management and biodiversity conservation, where directly related to timber harvesting

4. **Third parties’ legal rights** concerning use and tenure that are affected by timber harvesting



5. **Trade and customs**, in so far as the forest sector is concerned



## Fictive certification scheme "More perfect timber"

### Forest Management Standard

- Criterion 1: The Organisation shall have legal rights to operate in the Management Unit
- Criterion 2: The Organisation shall comply with the applicable national laws relating to harvesting activities
- Criterion 3: The Organisation shall recognise and uphold legal rights of local communities and Indigenous Peoples
- Criterion 4: The Organisation shall comply with the applicable national laws relating to the transportation and trade of forest products

1. Legal right to harvest



2. Taxes and fees



3. Timber harvesting activities



4. Third parties' rights



5. Trade and transport



→ *Does not entirely cover the EUTR definition of applicable legislation*

1. Legal right to harvest



2. Taxes and fees



3. Timber harvesting activities



4. Third parties' rights



5. Trade and transport



*For these categories, we  
can conclude low risk of  
illegality*



1. Legal right to harvest



2. Taxes and fees



3. Timber harvesting activities



4. Third parties' rights



5. Trade and transport



*For this category, we*

*shall have a closer look*



## 2. Taxes and fees

*As in a regular risk assessment process:*

What is the legislation in place at  
the country level?



Is the legislation in place  
consistently complied with?

YES



We can conclude low  
risk of illegality

NO

The risk of non-compliance with applicable  
legislation on taxes and fees must be  
mitigated with a tailored mitigation action

- Additional mitigation actions are required only if a gap in legality coverage is detected and where there is a risk of non-compliance at the country level

	No Gap in Cert scheme	Gap in Cert scheme
Harvesting laws (low risk)		
Harvesting laws (specified risk)		

## *5 broad categories of legislation*

- EUTR guidance lists (non-exhaustive) examples
- Level of detail can vary & approach might slightly differ between organisations
- The main forest certification schemes **do include** those 5 broad categories
- Some organisations target the 5 broad categories

1. Legal right to harvest



2. Taxes and fees



3. Timber harvesting activities



4. Third parties' rights



5. Trade and transport



## 5 broad categories of legislation

- Some choose to further detail those categories
  - Comprehensive outlook
  - Align assessments (country risk assessments or schemes assessments)
- E.g. Preferred by Nature has made a list of 21 sub-categories

Legal Category	Sub-Category
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

**Legal rights to harvest**

Third party assessment

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

Including certification within  
a due diligence system

1. Evaluate the certification scheme to accept it as part of the DDS
2. Include the use of certification in the due diligence procedures
  - Access to information
  - Risk assessment
  - Risk mitigation
3. Apply your due diligence procedures and conduct appropriate checks on individual certified supply chains

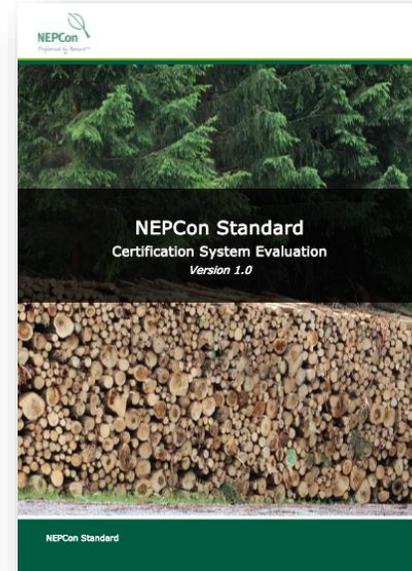


- Decision to include a certification scheme within a DDS
- Make sure you can **justify** that the certification scheme used within a DDS is compliant with the EUTR criteria
  1. System and checks qualities
  2. Traceability and risk of mixing
  3. Legality coverage
- Keep **records** that can be shown
- Challenging analytical step ahead of using certification



- Tools are available:

- *Assessment frameworks*
- *Scheme holders self-evaluation*
- *Third-party evaluations*



*Preferred by Nature*

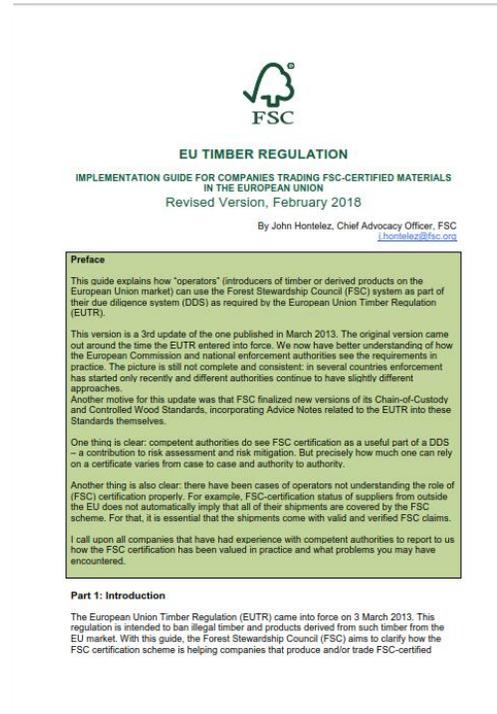
*Dutch authorities TPAC*



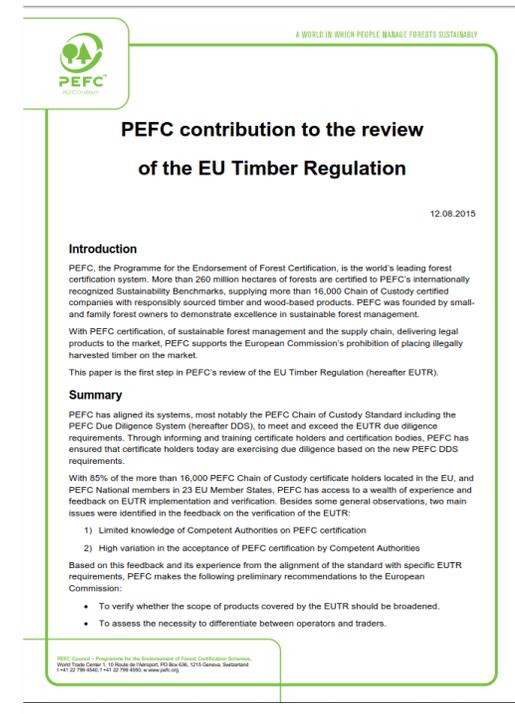
*WWF*

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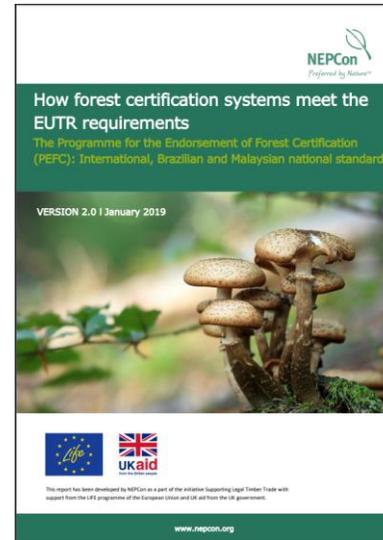
FSC



PEFC Council - Programme for the Endorsement of Forest Certification Schemes  
 World Trade Centre, 11 The Piazza, Huis ten Bosch, NL 1218 GG, Amsterdam  
 T +31 20 799 4051 F +31 20 799 4050 W www.pefc.org

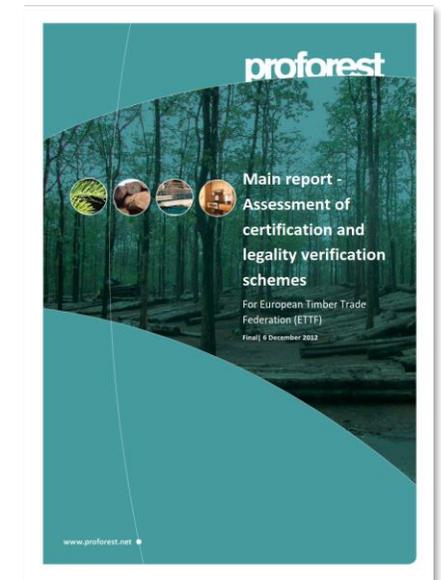
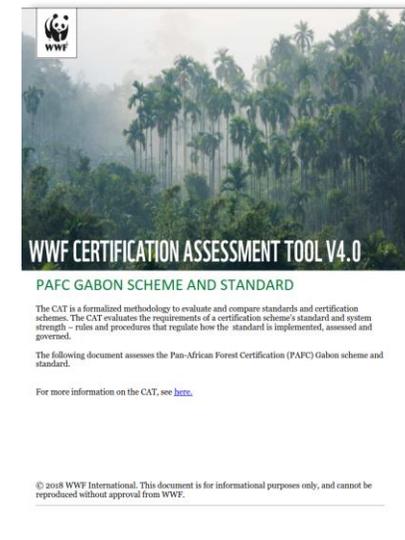
- Tools are available:

- *Assessment frameworks*
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- *Third-party evaluations*



*Preferred by Nature*

WWF



*Proforest - ETTF*



The use of certification systems will have an impact in all the 3 main steps of a due diligence system.

- *Setting up the system / written procedures*
- *Implementation of the procedures*

1 Access to Information

2 Risk Assessment

3 Risk Mitigation

A. Mandatory information to collect for each supply chain are still a requirement

- ✓ Description of the product
- ✓ Quantity (of material placed on the EU market)
- ✓ Supplier (tier 1)
- ✓ Buyer (Not applicable to retailers)
- ✓ **Species** (scientific name might be required)
- ✓ **Origin** (country, and if applicable, region or concession)

*Some amount of supply chain mapping is necessary*

1

Access to  
Information

2

Risk  
Assessment

3

Risk  
Mitigation

A. Mandatory information to collect for each supply chain are still a requirement

## Chain of Custody Certification

FSC-STD-40-004 V3-0

### 6. Compliance with timber legality legislation

- 6.1 The organization shall ensure that its FSC-certified products conform to all applicable timber legality legislation. At a minimum, the organization shall:
- b. upon request, collect and provide information on species (common and scientific name) and country of harvest (or more specific location details if required by legislation) to direct customers and/or any FSC-certified organizations further down the supply chain that need this information to comply with timber legality legislation. The form and frequency of providing this information may be agreed upon between the organization and the requester;

**NOTE:** If the organization does not possess the requested information on species and country of origin, the request shall be passed on to the upstream suppliers until the information can be obtained.

→ *Can also be a requirement of the certification scheme*

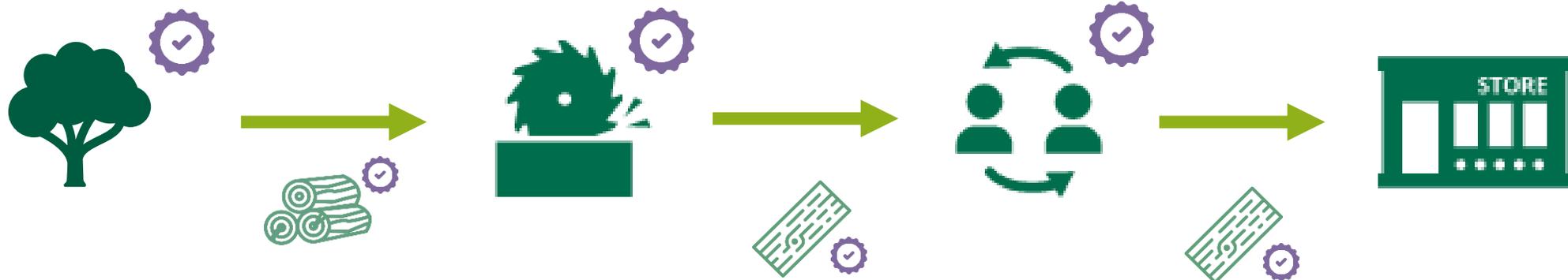
1 Access to Information

2 Risk Assessment

3 Risk Mitigation

B. For each timber supply, gather and check the following information:

- Certification system used
- Supplier(s) – validity and scope of certificates
- Product being traded – claim applied to the product



1 Access to  
Information

2 Risk  
Assessment

3 Risk  
Mitigation

- Use certification as a credible information indicating legal compliance
  - No gap in the legality coverage – no risk of illegality
  - Gap in the legality coverage – *assess only the gap*
  - Chain of custody systems ensuring low risk of mixing with unknown / illegal material

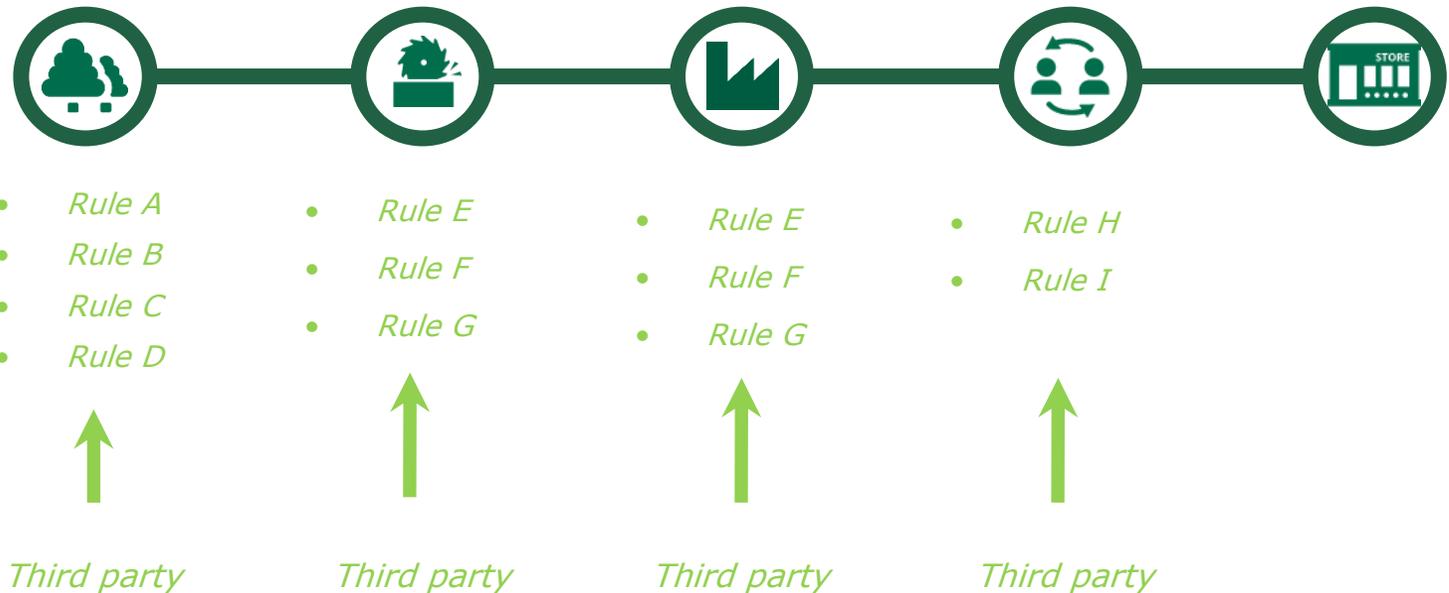
1 Access to Information

2 Risk Assessment

3 Risk Mitigation

- Use certification as a credible information indicating legal compliance
  - Remember that certification is a conformance assessment which is by nature more thorough than a risk-based assessment

- Comprehensive for each entity
- Harmonized checklists
- In person / on the field



1 Access to Information

2 Risk Assessment

3 Risk Mitigation

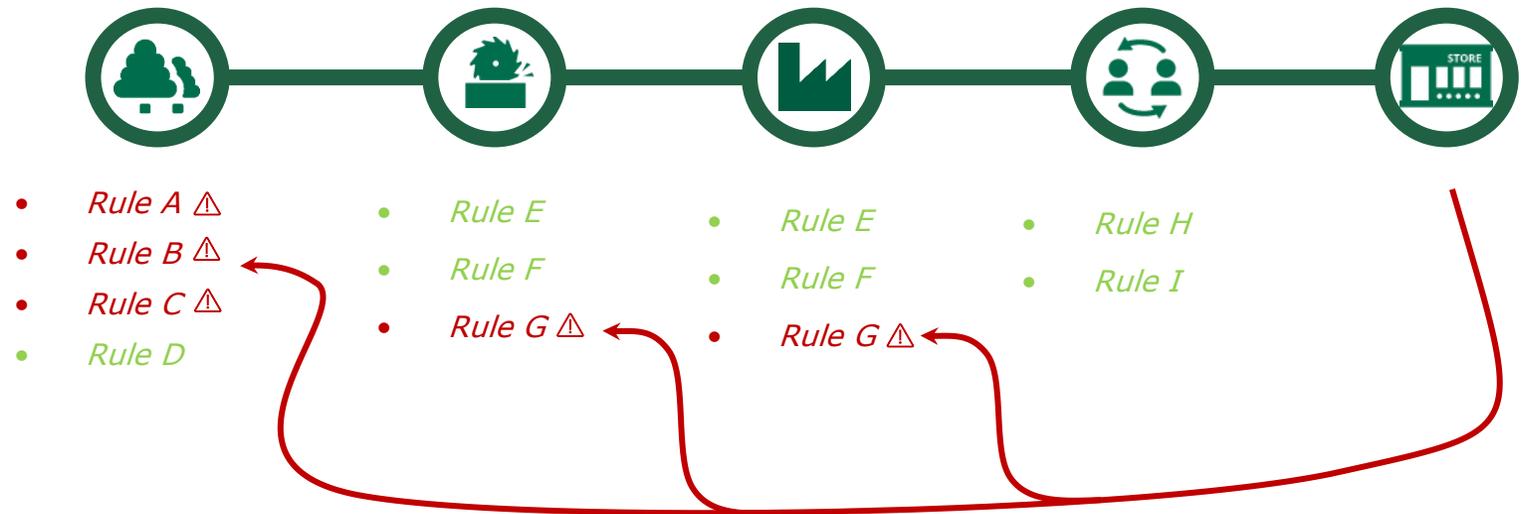
- Use certification as a credible information indicating legal compliance
  - Remember that certification is a conformance assessment which is stricter than a risk-based assessment

➢ Potential distance between assessor / assessed

➢ Selected focus

➢ Entry point document-based /

remote



A risked-based assessment

1 Access to  
Information

2 Risk  
Assessment

3 Risk  
Mitigation

- Request after a non conclusive initial assessment on non-certified material
  - Work with suppliers along the chain to get a **COC certification** and / or identify new source of certified material
  - Encourage forest management units to enter **forest certification**
- *Do not confuse with one-off independent audits for a specific supplier / supply chain*



Thank you!

