



# Tính hợp pháp của việc xuất khẩu lâm sản sang Liên minh châu Âu, Úc, và Hoa Kỳ

Hồ Chí Minh, Việt Nam  
31/10-01/11/2013



**Sự quan tâm thích đáng/Trách nhiệm giải trình  
và Hướng dẫn chung**





# Sự quan tâm thích đáng/Trách nhiệm giải trình

## Lịch sử lập pháp

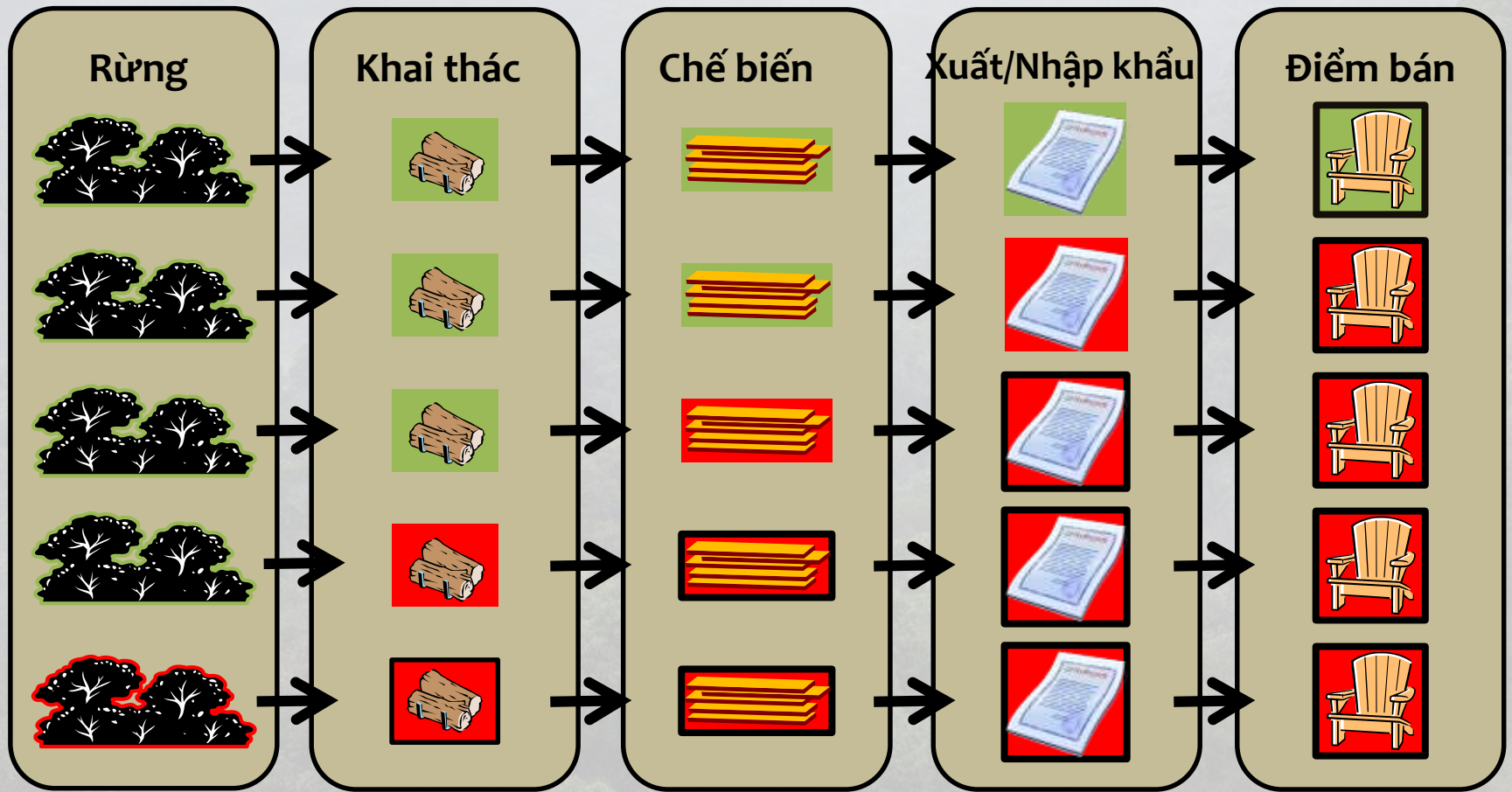
Sự quan tâm thích đáng/Trách nhiệm giải trình=

Tiến hành một số bước nhất định trong  
khả năng của bạn để đảm bảo rằng  
bạn không vi phạm pháp luật

Những điều này được áp dụng khác nhau cho các loại người  
khác nhau với **các mức độ kiến thức và trách nhiệm khác nhau**

# Tính hợp pháp và Chuỗi Buôn bán

**BẤT KỲ HOẠT ĐỘNG TRÁI PHÉP ở bất kỳ đâu trong Chuỗi Buôn bán = Sản phẩm trái phép tại điểm cuối của Chuỗi Buôn bán**



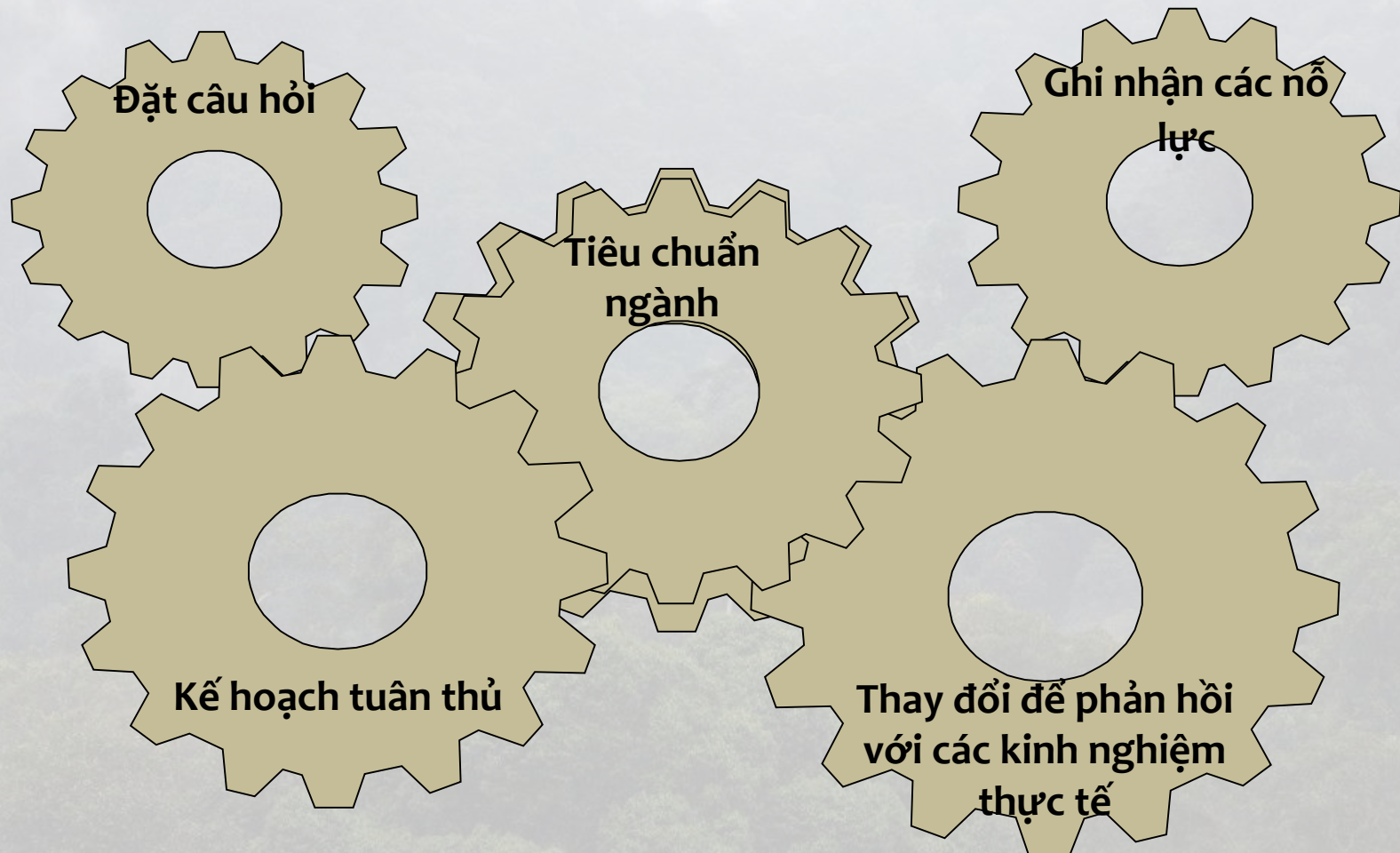
Hoạt động hợp pháp

Sản phẩm hợp pháp

Hoạt động bất hợp pháp

Sản phẩm bất hợp pháp

# Chứng minh Sự quan tâm thích đáng/Trách nhiệm giải trình





# Sự quan tâm thích đáng/Trách nhiệm giải trình – 3 yếu tố

**1**

## Thông tin

- Các quốc gia khai thác,
- Các loài,
- Số lượng,
- Tuân thủ luật pháp, v.v.

**2**

## Đánh giá rủi ro

- Các tiêu chí đánh giá rủi ro

**3**

## Giảm thiểu rủi ro

Giảm thiểu rủi ro:

- Tiến hành các biện pháp đầy đủ và tương xứng
- Tuân thủ các thủ tục

**Hệ thống nào người điều hành cần sử dụng?**

1. Sử dụng hệ thống hiện có của họ
2. Thiết lập một hệ thống mới
3. Tận dụng hệ thống được thiết lập bởi “tổ chức giám sát” (EUTR)
4. Tận dụng hệ thống được thiết lập bởi FSC hay PEFC (AILPA)

# Sự quan tâm thích đáng/Trách nhiệm giải trình

Tuyên bố miễn trừ trách nhiệm



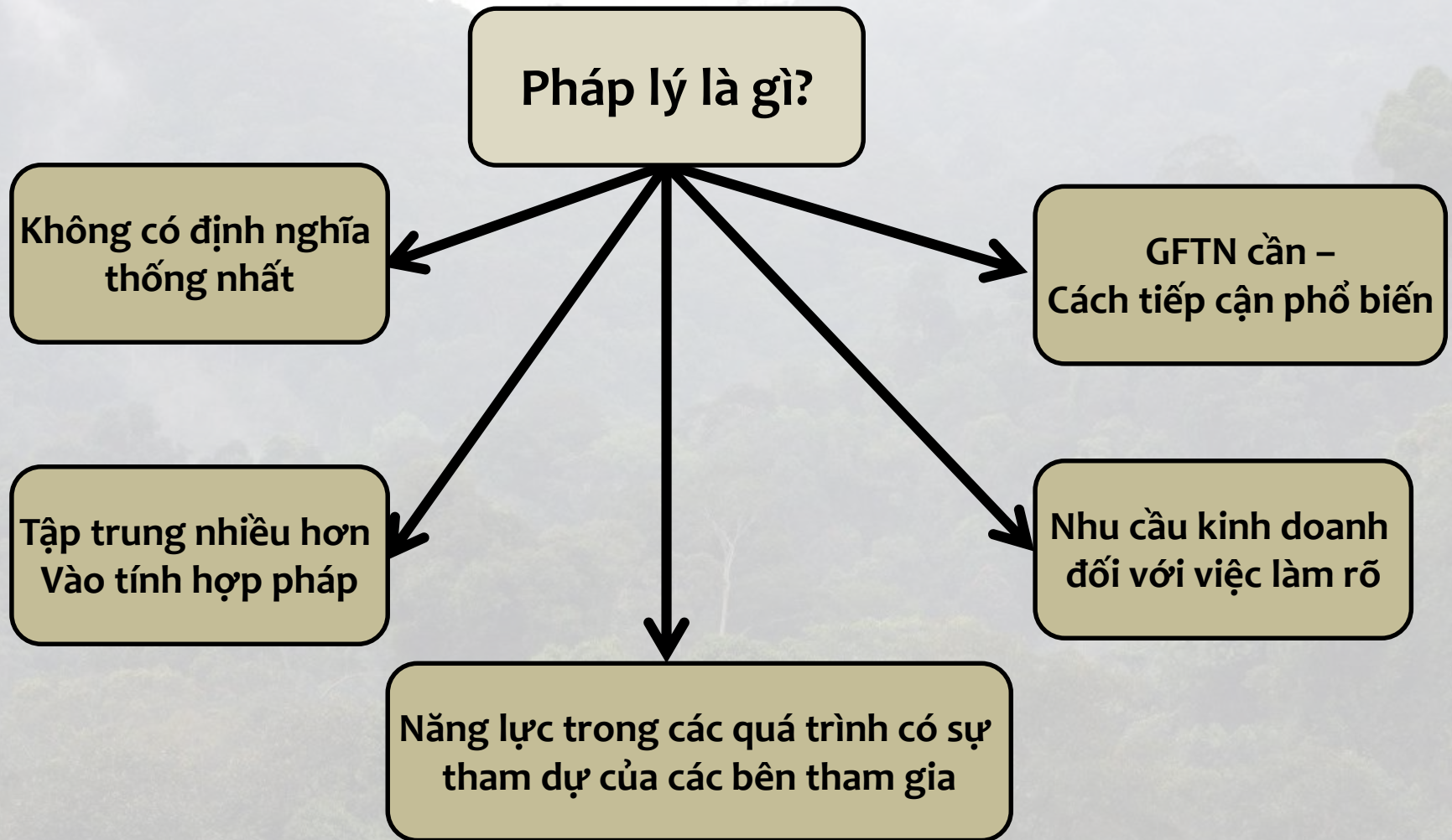
Đối với toàn bộ bài trình bày này, chú ý là theo Luật Lacey, không có giấy chứng nhận hay văn bản nào có thể bảo vệ chống lại nghĩa vụ pháp lý khi công tố viên Hoa Kỳ có thể hài lòng với bốn phần chứng minh của chính nhận định đó

Hy vọng rằng thông tin được trình bày sẽ giúp bạn có tự tin thực hiện sự quan tâm thích đáng và cũng giúp hải quan nước bạn làm như vậy

Người tìm kiếm tư vấn luật pháp về việc tuân thủ nên tham vấn với chuyên gia về luật.

Giảng viên và những người xây dựng khóa tập huấn này không chịu bất kỳ trách nhiệm nào về bất cứ hoạt động nào sau khóa tập huấn.

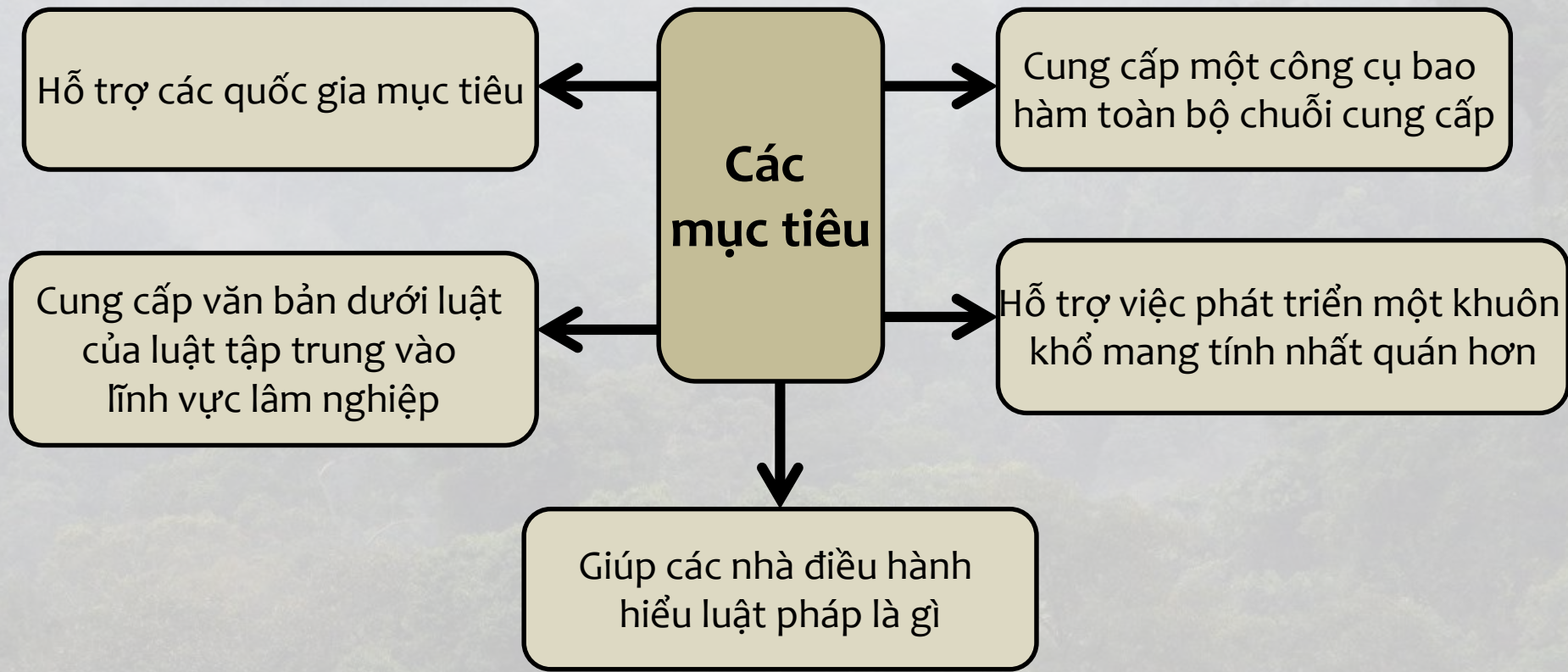
# Sự quan tâm thích đáng/Trách nhiệm giải trình – Vấn đề





# Sự quan tâm thích đáng/Trách nhiệm giải trình

## WWF-GFTN/TRAFFIC Khuôn khổ mang tính hợp pháp – Các mục tiêu



# Sự quan tâm thích đáng/Trách nhiệm giải trình

## WWF-GFTN/TRAFFIC Khuôn khổ chung tính hợp pháp

Nội bộ các nguyên tắc  
và tiêu chí chung

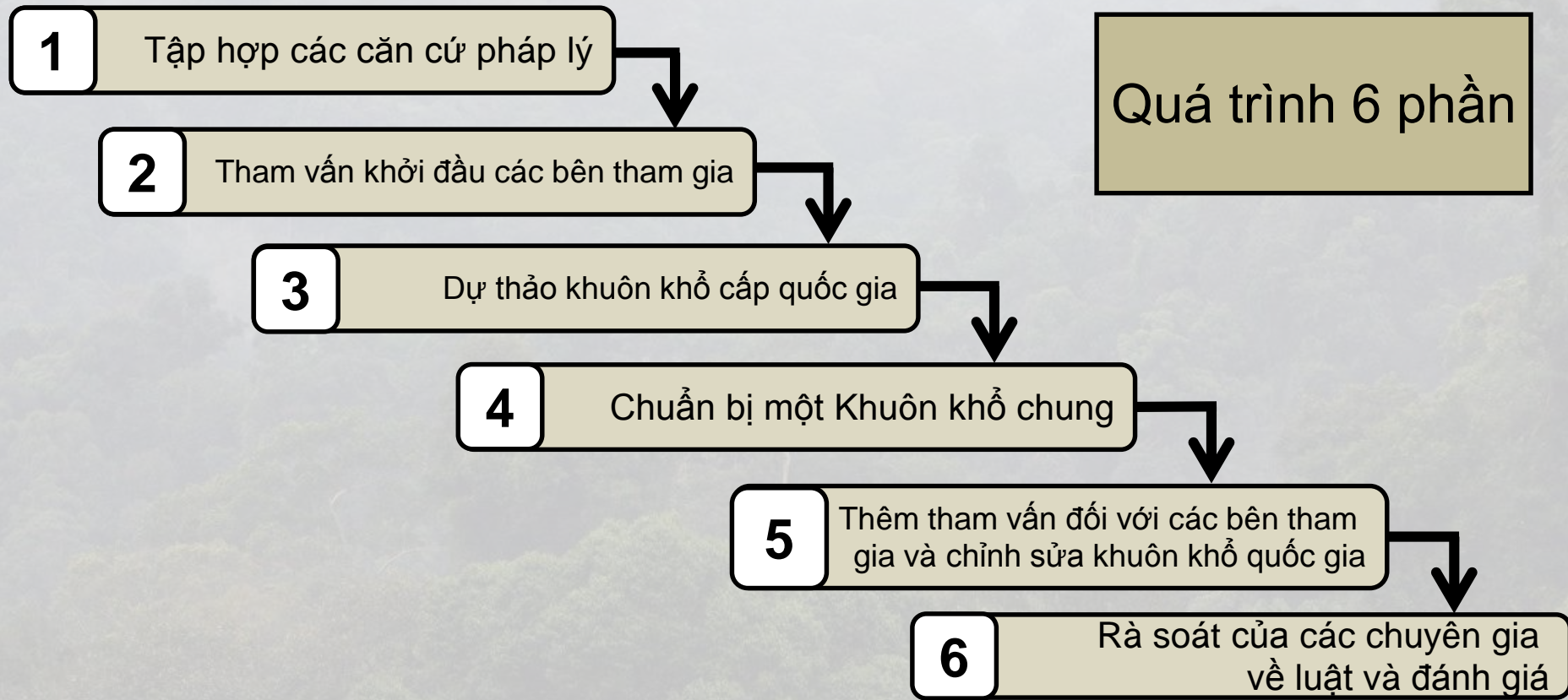
Các chỉ số và những lưu ý hướng dẫn/  
các nguồn xác minh căn cứ vào  
cơ sở luật pháp quốc gia





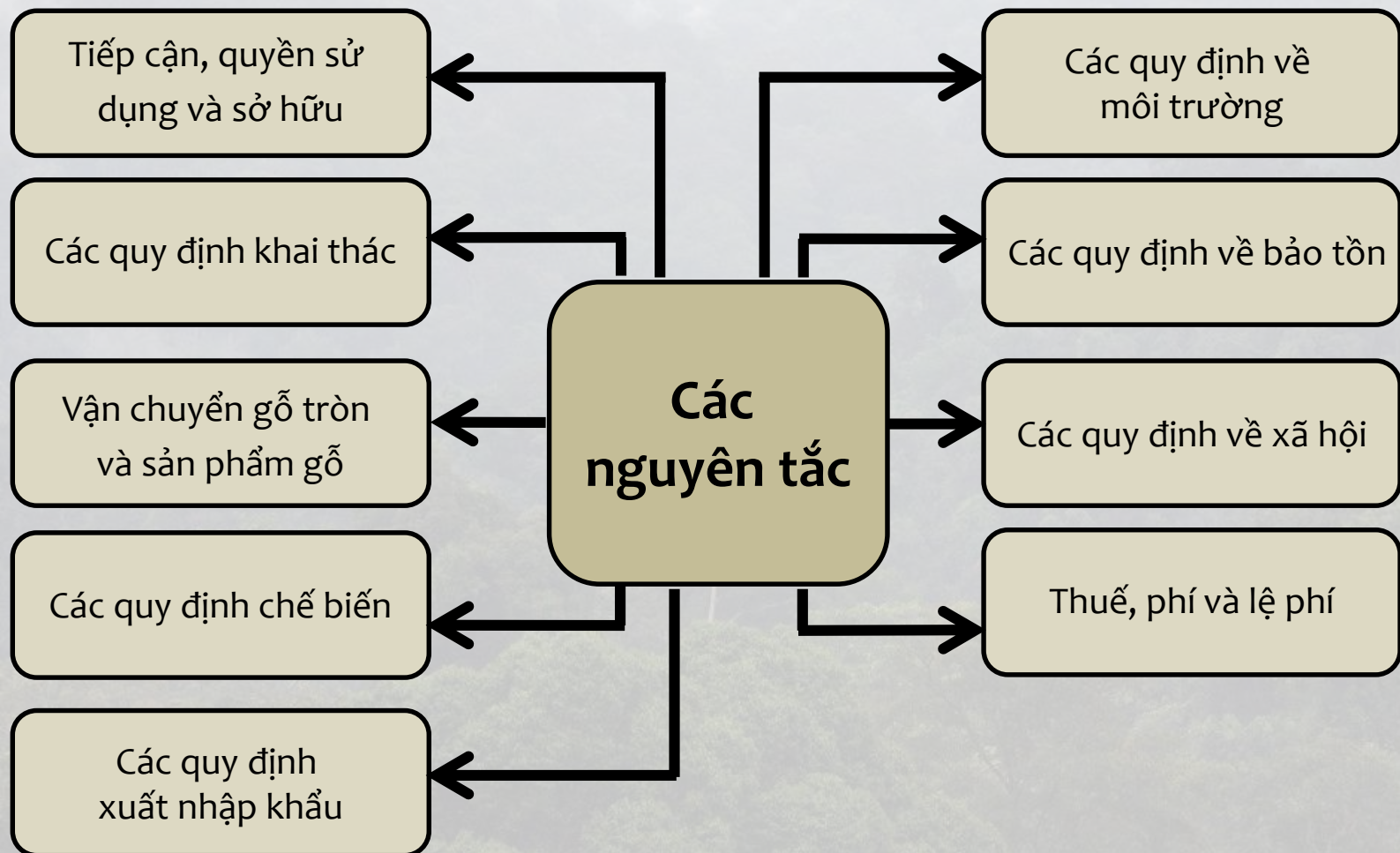
# Sự quan tâm thích đáng/Trách nhiệm giải trình

## Khuôn khổ WWF-GFTN/TRAFFIC – Quy trình xây dựng



# Sự quan tâm thích đáng/Trách nhiệm giải trình

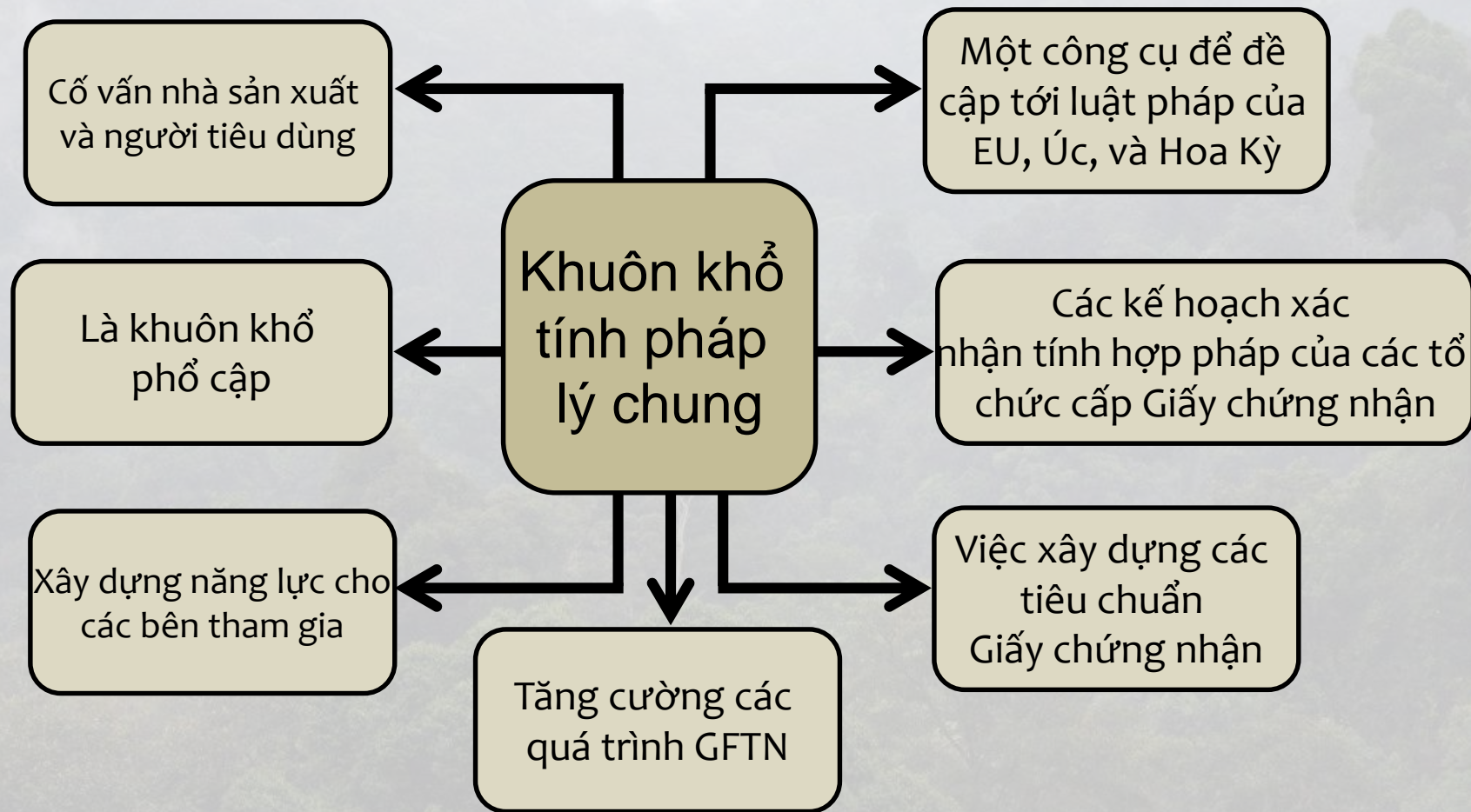
## Khuôn khổ WWF-GFTN/TRAFFIC – Các nguyên tắc





# Sự quan tâm thích đáng/Trách nhiệm giải trình

## Khuôn khổ của WWF-GFTN/TRAFFIC



# Sự quan tâm thích đáng/Trách nhiệm giải trình

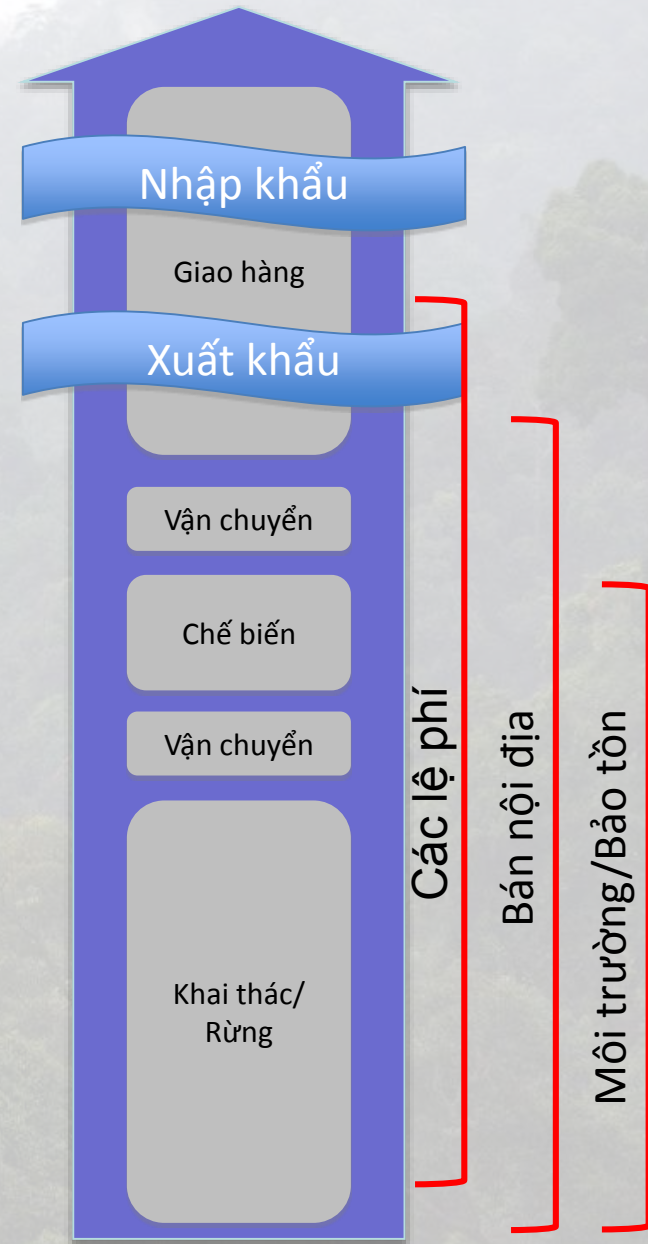
**Các Nguyên tắc có thể đáp ứng các yêu cầu về sự quan tâm thích đáng/Trách nhiệm giải trình thông qua Khuôn khổ của WWF-GFTN/TRAFFIC:**

1. Tiếp cận, quyền sử dụng và sở hữu
2. Các quy định khai thác
3. Vận chuyển gỗ tròn và sản phẩm gỗ
4. Các quy định chế biến
5. Các quy định xuất nhập khẩu
6. Các quy định về môi trường
7. Các quy định về bảo tồn
8. Các quy định về xã hội
9. Thuế, phí và lệ phí



# Sự quan tâm thích đáng

Tôi cần loại tài liệu nào?



# Sự quan tâm thích đáng

Xác minh pháp lý

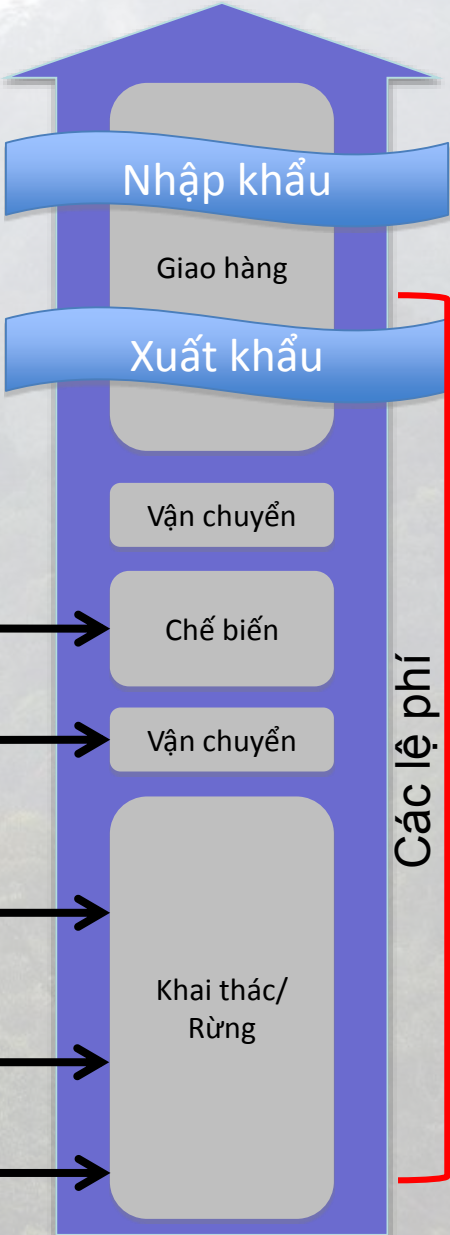
Hồ sơ lưu giấy phép

Giấy phép di chuyển  
Giấy phép vận chuyển

Giấy phép  
Kế hoạch quản lý  
Kế hoạch khai thác  
Giấy phép di chuyển gỗ

Quy hoạch sử dụng đất

Giấy phép phân bổ  
chặt gỗ/nhượng quyền



Các lệ phí

Bán nội địa

Môi trường/Bảo tồn



# Sự quan tâm thích đáng



# Sự quan tâm thích đáng – Hướng dẫn cho việc thiết lập tính hợp pháp

Stage in Supply Chain	Legislation Component	Relevant Laws to Comply With	Examples of Compliance/Documents to Check	Notes to Remember
Forest	Legal right of tenure, access and harvest	<p>All forest management enterprises, whether public, private or community managed must be able to demonstrate that they have the right of :</p> <ul style="list-style-type: none"> <li>• Tenure;</li> <li>• Manage the forest;</li> <li>• Access the forest;</li> <li>• Harvest forest products from the forest.</li> </ul>	<ol style="list-style-type: none"> <li>1. Establish that there is permission to conduct management, harvest, transport and commerce in plant products (including trees or logs from trees).</li> <li>2. Establish that the company has the tenure to the harvest area.</li> <li>3. Establish that the company has access rights to the harvest area.</li> <li>4. Establish that there is authorised pre-approval to the harvest area.</li> <li>5. Establish that there is a legal or permissive right to harvest.</li> <li>6. Ensure that only species that can be harvested legally were harvested.</li> <li>7. Ensure that the harvesting was conducted in compliance with the harvesting conditions in the permission.</li> <li>8. Ensure that the harvest took place at the site defined within the permission.</li> <li>9. Ensure that the trees harvested are included within the scope of the permission such as quota and diameter at breast height limits.</li> <li>10. Ensure that third parties' legal use and tenure rights are not affected by harvesting.</li> <li>11. Ensures environmental and social laws such as Environmental Impact Assessments and Social Impact Assessments, etc. are taken into account in management and harvesting plans.</li> <li>12. Ensures that conservation laws are followed, including CITES legislation.</li> </ol> <p>Evidence that the company has a valid agreement that confers on the company the right and permission to manage and harvest the forest.</p> <p>Synonyms/Equivalent include:</p> <ul style="list-style-type: none"> <li>• Forest Authority Certificate</li> <li>• Forest Management License Agreement</li> <li>• Concession agreement</li> <li>• Forest Timber License</li> <li>• Forest Management Permit</li> <li>• A license to operate in the logging sector</li> <li>• Approved management plan</li> <li>• Timber Harvesting License</li> </ul>	<ol style="list-style-type: none"> <li>1. Theft of plants (including trees or logs from trees) such as:               <ol style="list-style-type: none"> <li>a. Taking plants (including trees or logs from trees) from an officially protected area, such as a park or reserve;</li> <li>b. Taking plants (logs) from other types of "officially designated areas of protection" that are recognized by a country's laws and regulations;</li> <li>c. Taking plants (including trees or logs from trees) without, or contrary to, the required harvesting authorization;</li> <li>d. Taking plants (including trees or logs from trees) without the authorisation of pre-approval conditions (such as social customary rights and tenure and environmental impact assessments).</li> </ol> </li> <li>2. Taking plants from areas where environmental laws have been violated (e.g. river buffer, steep slopes, etc.).               <ol style="list-style-type: none"> <li>a. Taking plants from areas, where third party customary tenure rights are in place or in conflict.</li> <li>b. Taking plants from areas without taking into consideration measures outlined in environmental impact assessments, social impact assessments, etc.</li> </ol> </li> <li>3. Documentation for tenure may have pre-conditions for a successful right to the forest. These pre-conditions may include payment of deposits, shortlist of applicants, evidence of staff and equipment, social impact studies, environmental impact assessments, previously agreed consent, etc.</li> <li>4. Documentation for right to harvest will have many criteria which should be checked separately, such as:               <ol style="list-style-type: none"> <li>a. Inventories conducted;</li> <li>b. Boundary demarcation on the ground and on a identified scale map, which may be geo-referenced;</li> <li>c. logging road and skid trail construction specifications;</li> <li>d. identification and marking of protected species, fragile ecosystems, cultural and customary use areas</li> <li>e. Identification of environmentally sensitive areas such as riparian buffer areas, etc.</li> </ol> </li> </ol>

# Sự quan tâm thích đáng – Hướng dẫn cho việc thiết lập tính hợp pháp

Stage in Supply Chain	Legislation Component	Relevant Laws to Comply With	Examples of Compliance/Documents to Check	Notes to Remember
Forest	Legal Right to Harvest	<p>Forest management companies and harvesting companies are required to be legally registered to operate in this sector.</p> <p>Registration may require a number of other processes to be observed.</p>	<p>Evidence that the company is legally registered and has the required permissions to operate in the forest management and logging sectors.</p> <p>Ensure that all relevant documents and receipts are available including for pre-harvesting, during and post harvesting permission.</p> <p>Evidence that the company has a valid registration and license that confers on the company the right to manage and harvest the forest.</p> <p>Synonyms/Equivalent include:</p> <ul style="list-style-type: none"> <li>• Business license</li> <li>• Land use certificate</li> <li>• Company establishment document</li> <li>• Signed Decision on land allocation</li> <li>• Contract of land use right transfer agreement</li> <li>• Contract of land rental</li> <li>• Document of community's agreement</li> <li>• Forest Authority Certificate</li> </ul>	<p>Checks for court cases concerning social or other issues that are pending in the harvest area to get a better overview about the risk and legal situation.</p> <p>In many countries the harvesting of timber is undertaken by third parties who are employed by the forest manager to undertake harvesting. Social issues and land tenure rights applies to sub-contractors as well.</p>
Forest	Payment of Taxes and Royalties	<p>Companies are liable to pay taxes or fees to national or local government (or both) to authorize their management and harvesting.</p>	<p>Evidence that the company has paid any fees or taxes that must be paid to the state or local government in connection with obtaining the permission to manage or harvest; and any fees or taxes associated with the volume of timber actually harvested.</p> <p>Synonyms/Equivalent:</p> <ul style="list-style-type: none"> <li>• Proof of payment of taxes and fees (e.g. Reforestation fee, Forest Resource Royalties, Value added tax, Income tax)</li> <li>• Valid business license</li> <li>• Tax registration documents</li> <li>• Tax returns</li> </ul>	<p>Ensure that all relevant royalties, taxes or fees have been paid by the forest management company or harvesting company.</p>



# Sự quan tâm thích đáng – Hướng dẫn cho việc thiết lập tính hợp pháp

Stage in Supply Chain	Legislation Component	Relevant Laws to Comply With	Examples of Compliance/Documents to Check	Notes to Remember
Transport	Legality of possession and transport	Forestry and transportation laws. Most countries require those transporting timber to be correctly licensed for this purpose and for them to carry required documentation and markings on the timber that identifies both the origin of any logs or timber, royalties paid, and the final destinations of the material being transported.	<p>Evidence that the company has used the required documents when transporting logs or timber.</p> <p>Synonyms/Equivalents:</p> <ul style="list-style-type: none"> <li>• Timber transportation certificate</li> <li>• Conveyance certificate</li> <li>• License to carry logs or timber</li> <li>• Timber consignment documents</li> <li>• Removal pass</li> <li>• Removal permit</li> <li>• Packing lists</li> <li>• Lading bill</li> </ul> <p>Evidence that the company has used the required stamps or marks when transporting logs or timber.</p> <p>Synonyms/Equivalents:</p> <ul style="list-style-type: none"> <li>• Log tags</li> <li>• Log identification marks</li> <li>• Hammer marks</li> <li>• Paint marking</li> </ul>	Some countries have highly regulated systems that require all logs or sawn wood that are being transported outside of the forest to carry markings that identify the wood with the original stump from which it was harvested.
Processing	Legality of processing	Processors of logs or manufacturers using timber. Most countries require all sawmills, plywood mills, secondary manufacturers or pulp mills to be licensed and to pay for any fees and taxes to carry out these activities.	<p>Evidence that the company has acquired any required license to process logs or timber. The license may state the production capacity.</p> <p>Synonyms/Equivalents:</p> <ul style="list-style-type: none"> <li>• Operating license</li> <li>• Timber processing certificate</li> </ul> <p>Evidence that the company has paid any fees or taxes that must be paid to the state or local government in connection with timber processing.</p> <p>Synonyms/Equivalents:</p> <ul style="list-style-type: none"> <li>• Valid business license</li> <li>• Tax registration documents</li> <li>• Tax returns</li> </ul> <p>Evidence that the company has documentation for timber trade records in connection with timber processing.</p> <p>E.g.:</p> <ul style="list-style-type: none"> <li>• Log reservation quota</li> <li>• Shuttle returns</li> <li>• Monthly production returns</li> <li>• Log input book</li> <li>• Sales contract</li> <li>• Sales invoice</li> </ul>	<p>Some countries require submissions of records of inputs and outputs of the mills to the relevant government agencies for nominal monitoring.</p> <p>While the US, EU and Australian legislation does not make explicit mention of processing, their due care and due diligence requirements, processing is one stage in the supply chain, and would be applicable as illegal timber could enter the supply chain during processing.</p> <p>However, for the EUTR, if the processing took place after the timber has been placed on the EU market, the company is deemed to be a trader and should know who they brought the products they used for processing from.</p>

# Sự quan tâm thích đáng – Hướng dẫn cho việc thiết lập tính hợp pháp (tiếp)

Stage in Supply Chain	Legislation Component	Relevant Laws to Comply With	Examples of Compliance/Documents to Check	Notes to Remember
Export	Legality of Sale and Export	<p>Laws governing export or trans-shipment, such as a log-export ban.</p> <p>Exports of species that are listed in international conventions (such as CITES).</p> <p>For re-export, laws governing import will need to be followed.</p>	<p>Evidence that the company has the required permission to export forest products and that it complies with all the requirements for legal export of the product.</p> <p>Synonyms:</p> <ul style="list-style-type: none"> <li>• The company holds an export licence.</li> <li>• Packing list</li> <li>• Invoice</li> <li>• Bill of lading</li> <li>• Customs declaration form</li> <li>• Tariffs are paid and receipted</li> <li>• Sales contract</li> <li>• Shipping order</li> <li>• Delivery order</li> </ul> <p>Correct CITES documentation (where required) from the designated CITES Management Authority of the country of export. For some species and countries, a pre-condition of export is to have a CITES import permit beforehand for CITES Appendix II listed species.</p>	<p>Export companies are required to be licensed to perform this function and should routinely provide sufficient documentation to allow the state authorities in the country of export and the country of import to monitor the transaction.</p> <p>Some countries ban the export of certain species or types of material (for example logs or sawn wood) or highly regulate the volume of these materials that can be exported.</p> <p>Companies importing timber products should request for the Customs Export declaration form.</p> <p>Ensure that the company acting as the exporter is legally established and suitably licensed to export forest products.</p> <p>Ensure that the required export permits are complete, accurate and available.</p> <p>Ensure that the customs import and export documents are available.</p>
Export	Payment of Fees and Royalties	<p>Export companies are required to pay all appropriate taxes and duties when exporting forest products. This may include payment of Value Added Tax in some countries.</p>	<p>Evidence that the company has paid the appropriate tariffs associated with the products being exported.</p> <p>Synonyms/Equivalents:</p> <ul style="list-style-type: none"> <li>• Tariffs are paid and receipted</li> <li>• Export tax receipts</li> <li>• Customs Duties receipts</li> <li>• Value Added Tax receipts</li> </ul>	<p>The tariffs are usually administered by Customs during export. However, the tariffs may be imposed by other Ministries, including trade and industry, forestry, revenue, etc. Failure to get the Customs release for the shipment would render the consignment illegal as all trade of a country have to get customs approval for both import and export. While the EUTR and the Australia Illegal Logging Prohibition Act Ltd are not explicit in mentioning import and export, a due diligence system would need proof of legality for export and import in the traded commodity as a component of the supply chain legality management.</p>

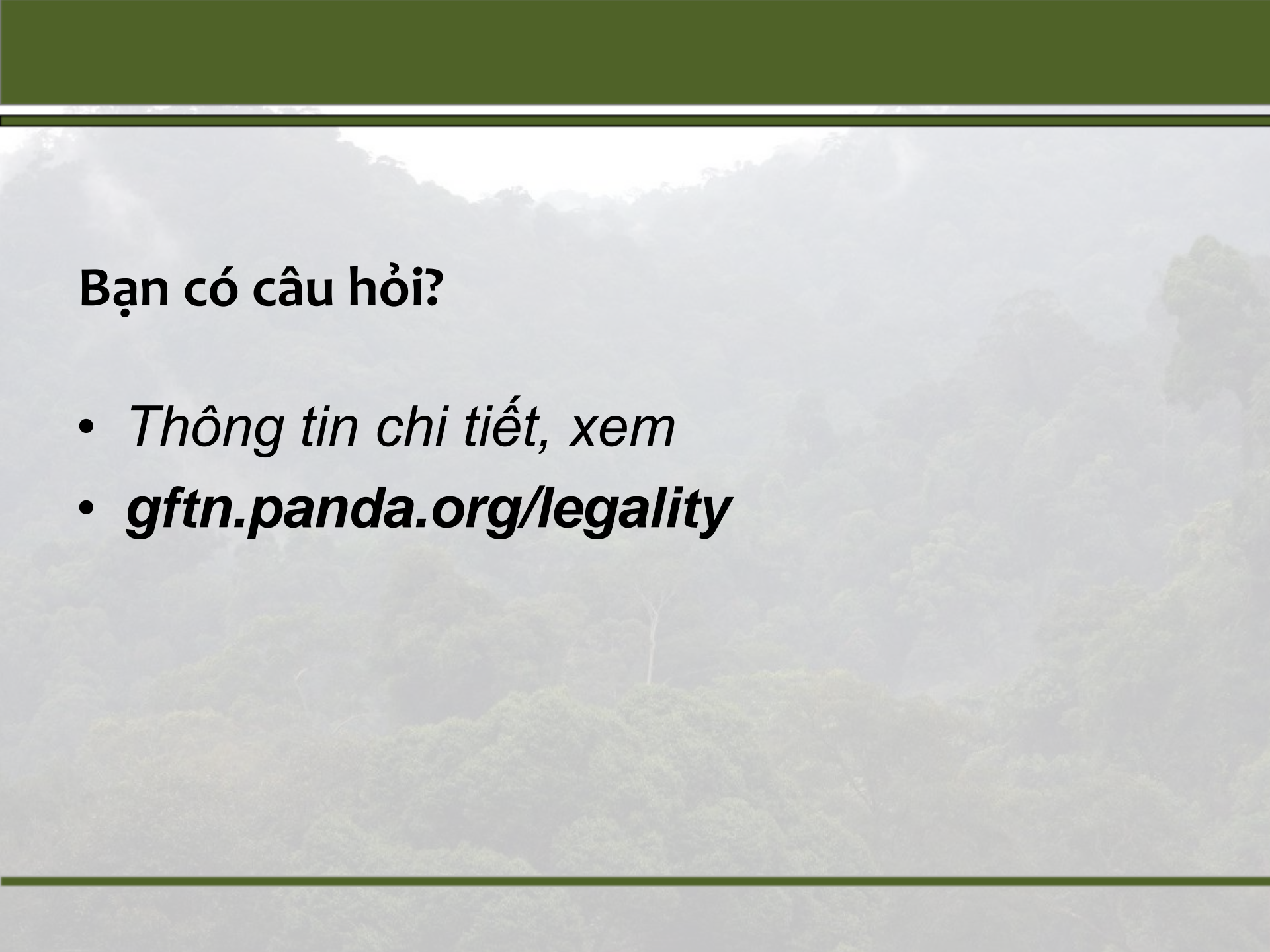




# Sự quan tâm thích đáng/Trách nhiệm giải trình

## Các tổ chức có thể giúp

- Chương trình RAFT của USAID  
<http://www.responsibleasia.org>
- Mạng lưới Buôn bán và Lâm nghiệp toàn cầu của tổ chức WWF  
<http://gftn.panda.org>
- Quỹ ủy thác Rừng Nhiệt đới  
<http://www.tropicalforesttrust.com>
- Quỹ văn xã Rừng Nhiệt đới  
<http://www.tff-indonesia.org>
- Tổ chức Rainforest Alliance  
<http://www.rainforest-alliance.org>
- Liên minh Tính hợp pháp Lâm nghiệp của EIA/WRI  
<http://www.wri.org/fla>

A background image of a dense, green forest with thick fog or mist, creating a layered and atmospheric effect. The trees are visible in the foreground and middle ground, while the background is shrouded in white mist.

## Bạn có câu hỏi?

- *Thông tin chi tiết, xem*
- ***[gftn.panda.org/legality](http://gftn.panda.org/legality)***