

Introduction

Placing timber from illegally harvested forests and products derived from such timber is prohibited in the European Union since March 2013 under the Timber Regulation (EUTR). Operators who place wood based products for the first time in the EU market, as well as traders to whom such products have been supplied within the EU, will need to understand and implement the required measures to comply with this legislation.

This briefing note aims to explain what the EUTR is, who is affected, how they are affected and guidance on how compliance might be achieved in the longer term.

Note that the European Commission has developed a guidance document that can be found on the European Commission’s website:

http://ec.europa.eu/environment/forests/timber_regulation.htm



Figure 1 illustrates the key requirements for operators, traders and traders that sell directly to the final consumer.



(c) Andre Bartschi / WWF Canon

What is the EU Timber Regulation?

Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010, also known as the EU Timber Regulation, “EUTR”:

- 1. Prohibits operators to place illegally harvested timber and products derived from such timber on the EU market;*
- 2. requires EU operators who place timber products on the EU market for the first time to exercise “due diligence”; and*
- 3. once products are on the market, requires traders of products to keep records of their immediate suppliers and buyers.*

Who is affected by the EUTR?

Operators are those that place timber products in the EU market for the first time. Some examples of operators are importers, retailers or manufacturers that directly import wood based products, or forest managers that supply timber from an EU forest. It is prohibited to place in the EU market illegally harvested timber and operators need to apply a **due diligence system** to avoid the risk of such sources as well as keep records of their immediate customers.

Operators can either use their own due diligence system, use an already existing system or work with **Monitoring Organisations**. Independently of the due diligence system used, operators remain liable that no illegal timber enters the supply chain.

Traders are those that buy and/or sell wood based products that were already placed in the EU market (by an operator). Traders need to keep records of their direct suppliers and their direct customer for all wood based products traded. **Individual final consumers are not covered by the EUTR**. The table below illustrates the specific requirements for Operators and Traders under the EUTR.

A **“Due Diligence system”** is a framework of procedures and measures to minimise the risk of placing illegally harvested timber, or timber products, on the EU market. The three key elements of the "due diligence system" are:

Key elements	Description	GFTN Guidance
<p>1. Information</p>	<p>The operator must be able to provide access to information concerning but not exhaustive: description of timber and timber products (trade name, type of product, common name of tree species and its full scientific name where applicable), country of harvest (where applicable: sub-region and concession of harvest), quantity (by volume, weight or number of units), name and address of supplier and buyer, documents and other information on compliance with national legislation.</p>	<ul style="list-style-type: none"> • Gather information along the supply chain, from suppliers or forest managers. • Gather documents or other information – which show compliance with applicable legislation in country of harvest.
<p>2. Risk assessment</p>	<p>The operator should assess the risk of illegal harvested timber in its supply chain by taking into account the information identified above as well as: assurance of compliance with applicable legislation; prevalence of illegal harvesting of specific tree species; risk of illegal harvesting, bans, armed conflicts or sanctions in country of harvest; and complexity of the supply chain. The criteria mentioned above should be seen as minimum criteria; the operator can add other criteria.</p> <p>The assurance of compliance with applicable legislation could include certification or other third-party-verified schemes which cover compliance with applicable legislation</p> <p>Note that only products in compliance with FLEGT VPA and CITES are automatically considered to be legally harvested under the EUTR.</p>	<ul style="list-style-type: none"> • Check risk of illegal logging by species. • Check risk of illegal logging at country/region of origin. • Check lack of governance in country of origin. • Check species listed in CITES. • Check international trade sanctions and armed conflicts in country of origin. • Check traceability systems in place to ensure origin of products. • Check complex supply chains (e.g. mix-products such as MDF or paper).
<p>3. Risk mitigation</p>	<p>When the risk of illegal timber in the supply chain is not negligible, adequate and proportionate measures and procedures have to be put in place to effectively minimize that risk.</p>	<ul style="list-style-type: none"> • Request additional information and documentation. • Reduce complexity of supply chain. • Use certification or other third party verified schemes that include verification of compliance with applicable legislation. • Develop a responsible sourcing program that helps your company to work with your suppliers to map out the supply chain, identify critical points and actions to address illegal logging.

Monitoring Organisations

It is an organisation accredited by the European Commission that shall:

- *Maintain and regularly evaluate a due diligence system as set out in Article 6 of the EUTR and grant operators the right to use it;*
- *Verify the proper use of its due diligence system by such operators;*
- *Take appropriate action in the event of failure by an operator to properly use its due diligence system, including notification of Competent Authorities in the event of a significant or repeated failure by an operator.*

The rules for the recognition of Monitoring Organisations are detailed in the Commission Delegated Regulation (EU) No 363/2012 of 23 February 2012: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32012R0363:EN:NOT>

What is considered illegally harvested timber under the EUTR?

The EUTR¹, states that “*illegally harvested*” means harvested in contravention of the applicable legislation in the country of harvest”.

“*Applicable legislation*” means the legislation in force in the country of harvest covering the following matters:

- “rights to harvest timber within legally gazetted boundaries,
- payments for harvest rights and timber including duties related to timber harvesting,
- timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,
- third parties’ legal rights concerning use and tenure that are affected by timber harvesting, and
- trade and customs, in so far as the forest sector is concerned.”

For some of the major exporting producer countries, GFTN has developed lists of the relevant legislation that an exporter and an EU Operator should consider when assessing the risk of non-compliance with the above definition (<http://sourcing.gftn.panda.org/>).

What are the products covered under the EUTR?

- Solid wood products, flooring, plywood, pulp and paper, the Regulation text has a full listing in the Annex. Bamboo and rattan are not generally exempted, it depends on the customs code.
- **Not included** are recycled products, as well as printed papers such as books, magazines and newspapers. The product scope is subject to future amendment by the EU.
- The Regulation applies in the EU to both imported and domestically produced timber and timber products.
- Timber and timber products covered by valid [FLEGT VPA](#) or [CITES](#) licenses are considered to comply with the requirements of the Regulation.

The Commission has developed a list of the products covered and exempted by the regulation which can be consulted as reference: http://ec.europa.eu/environment/eutr2013/index_en.htm



Enforcement

Each Member State appoints **Competent Authorities** to enforce the EUTR. The list of competent authorities designated can be found on the Commission's website: http://ec.europa.eu/environment/forests/timber_regulation.htm.

Competent authorities provide for regular checks and controls of both monitoring organisations (at least once every two years) and operators using other systems or setting up their own due diligence system. Details on the rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations are detailed in the implementing Regulation of the European Commission (EU) No 607/2012 of 6 July 2012: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32012R0607:EN:NOT>

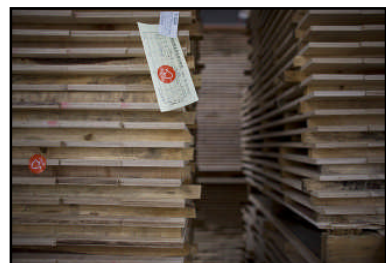
Penalties

Each Member State shall establish the level of penalties and sanctions. For the UK and Germany for example, there will be criminal sanctions, including jail sentences. The penalties must be effective, proportionate and dissuasive and may include:

1. Fines proportionate to the environmental damage, the value of the timber or timber products concerned and the tax losses and economic detriment resulting from the infringement.
2. Seizure of the timber and timber products concerned.
3. Immediate suspension of authorisation to trade.

What is the current status of the EUTR?

- The law was adopted on 20 October, 2010
- The law is applied since 3 March, 2013
- Certain implementing measures concerning monitoring organisations and due diligence were adopted in 2012
- The European Commission has developed a guidance document.
- The Commission has developed a website explaining the basic elements of the EUTR: <http://ec.europa.eu/environment/eutr2013/>



(c) Hartmunt Jungins / WWF-Canon, (c) Andres Unterladstaetter / WWF, (c) Brent Stirton / WWF-UK

GFTN and the EUTR

GFTN welcomes the introduction of the EUTR as the public/legal framework to drive wider adoption of (legality) best (legal) practices by companies not only in the EU that will ultimately lead to the wider uptake of credible forest certification.

The EUTR introduces concepts and ways of working for business that will be familiar to GFTN participant companies. GFTN will not become a Monitoring Organisation though it will continue to develop its own guidance to its participants with respect to assisting with EUTR. The well-established stepwise approach developed by GFTN is an excellent framework within which companies can find guidance on tools and systems helpful for meeting requirements of the EUTR.



(c) Simone Rawles / WWF

Visit the GFTN web site (<http://sourcing.gftn.panda.org/>) for more detailed information.

For further information contact:

Angel Llaveró
GFTN Responsible Purchasing Coordinator
allavero@wwf.panda.org +34 600 259 156

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