

Introduction

Placing timber from illegally harvested forests and products derived from such timber will be prohibited in the European Union from March 2013 under the new Timber Regulation (EU TR). 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 EU TR 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 is working on the implementing measures at the moment. Further clarification and development of detailed rules are still being developed so some modifications are likely to occur over the next twelve months. More details can be found at the European Commission 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. The application of the **Regulation will start from 3rd March 2013** to allow sufficient time for EU operators, traders and Member States, as well as trading partners, to prepare. During this period the Commission will adopt more detailed rules.



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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 TR”:

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 EU TR?

Operators are those who 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 and forest managers that supply timber from an EU based forest. It is prohibited to place in the EU market illegally harvested timber and operators need to set up 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, a second party system (which could be provided by a trade association), use a third party system (which could be a certification system) or work with **Monitoring Organisations**. Independently of the due diligence system used, operators remain in the end 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 EU TR.** The table below illustrates the specific requirements for Operators and Traders under the EU TR.

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	Guidance
1. Information	<p>The operator must be able to provide access to information concerning: 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, information on compliance with national legislation.</p>	<ul style="list-style-type: none"> • Gather information along the supply chain, from suppliers or forest managers. • Check compliance with applicable legislation in country of harvest
2. Risk assessment	<p>The operator should assess the risk of illegal harvested timber in their supply chain by taking in to 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.</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 EU TR.</p>	<ul style="list-style-type: none"> • Check risk of illegal logging by species • Check risk of illegal logging at country 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)
3. Risk mitigation	<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

Will be an organisation (an example could be organizations that currently provide certification and verification services) recognized by the European Commission that shall:

- *Maintain and regularly evaluate a due diligence system as set out in Article 6 of the EU TR 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 it's due diligence system, including notification of competent authorities in the event of a significant or repeated failure by an operator.*

The European Commission is currently working on the rules to recognize Monitoring Organisations. They are due to be adopted by March 2012.

What is considered illegally harvested timber under the EU TR?

The EU TR¹, 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 EU TR?

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



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Enforcement

Each Member State will appoint one or more **Competent Authorities** to coordinate the enforcement of the EU TR. The list of competent authorities designated so far can be found on the [Commissions website: http://ec.europa.eu/environment/forests/pdf/list_competent_authorities.pdf](http://ec.europa.eu/environment/forests/pdf/list_competent_authorities.pdf).

However, the list is still subject to change. Competent authorities will provide for regular checks and controls of both monitoring organisations and operators using their own Due Diligence systems.

Penalties

Each Member State shall establish the level of penalties and sanctions. The penalties must be effective, proportionate and dissuasive and may include:

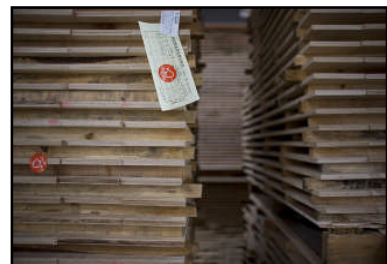
1. Fines proportionate to the environmental damage, the value of the timber or timber products concerned and the tax losses and economic detriment resulting from the infringement.
2. Seizure of the timber and timber products concerned.
3. Immediate suspension of authorisation to trade.

What is the current status of the EU TR?

- The law was adopted on October 20, 2010
- The law will be applied from March 3, 2013
- In the meantime, the European Commission will continue to develop “implementing measures” that enable the Regulation to become enforceable law in each Member State.
- The Member States will have to transpose the regulation into national law ready by March 2013 at the latest.

What is not ready yet?

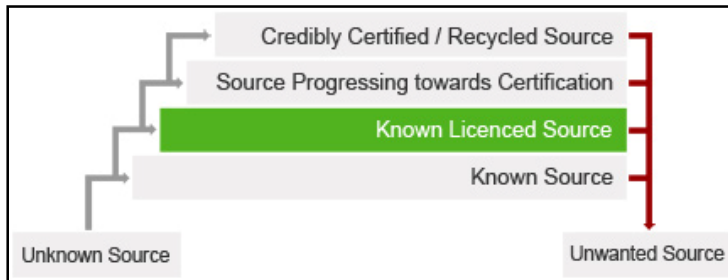
- Criteria for recognition of Monitoring Organisations (by March 3, 2012)
- Detailed rules for due diligence (systems), in particular the information, risk assessment, and risk mitigation requirements (by June 3, 2012)
- Detailed rules on frequency and nature of checks by competent authorities (by June 3, 2012)
- Member States: determination of penalties and sanctions.



GFTN and the EU TR

GFTN welcomes the introduction of the EU TR as a mechanism to drive wider adoption of legality best practices that will ultimately lead to the wider uptake of credible forest certification.

The EU TR 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 EU TR. 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 EU TR.



(C) Simone Rawles-WWF



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

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