

Technical Bulletin

EU Timber Regulation (EUTR)

- **New EU legislation**
- **How it affects you**
- **What you need to do**

The EU Timber Regulation (EUTR) *Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20th October 2010 laying down the obligations of operators who place timber and timber products on the market*¹ came into effect in all European Union Member States on 3rd March 2013.

The EUTR aims to close down markets for uncontrolled/illegal logging by ensuring that the EU imports only timber products that are produced in accordance with national laws of the originating country. It applies to timber and timber-based products that are produced both within the EU and those that are imported into Member States from outside the EU.

This bulletin summarises the practical steps and key points for businesses supplying or trading in timber and timber-related products – in particular the due diligence obligations of those who “first place” timber and paper products on the European market.

For more detailed advice, contact BM TRADA at the address shown on the back page.

Intended for:

- Companies supplying or trading in timber and timber-related products
- Companies in the timber supply chain
- Businesses sourcing timber products

Contents

- EUTR – an overview
- How this affects your businesses
- Due diligence
- What you need to do
- Voluntary certification schemes

EU Timber Regulation (EUTR)

– an overview

The EUTR regulates all EU businesses that trade in a wide range of timber and paper-related products to ensure that “only timber products which have been produced in accordance with the national legislation of the timber-producing country enter the Union”¹.

Three documents represent the current official European Commission position in terms of EUTR interpretation and law enforcement:

- *Regulation (EU) No 995/2010 of the European Parliament and of the Council (EUTR)*
- *Commission Implementing Regulation (EU) No. 607/2012 (2012)*
- *Guidance Document for the EU Timber Regulation (2013).*

The EUTR was initiated during the G8 Summit in Birmingham (1998) and was finally approved by the European Parliament in Strasbourg (2010). Further interpretation, guidelines and detailed requirements followed, with additional clarification after discussions with stakeholders, forestry/timber/paper industry experts from EU Member States and members of the FLEGT (Forest Law Enforcement, Governance and Trade) Committee.

Other non-EU countries have legislation controlling timber harvesting and trade, for example:

- The US Lacey Act (USA conservation law protecting both plants and wildlife from illegal harvest, transportation or trade).
- The Australian Illegal Logging Prohibition Act 2012 (also known as Australian Timber Bill).

However, there is no mutual recognition or common approach between these legislations and the EUTR. As far as the EUTR is concerned, any timber product coming from outside the EU is subject to due diligence by Operators – regardless of where it has come from.

Competent Authorities

Each EU Member State has to appoint a “Competent Authority” to implement the EUTR. The Competent Authority is usually a national agriculture, environment or forestry department or ministry.

A full list of Nominated Competent Authorities (except for, at the time of writing, the Republic of Ireland) is published on the EC website. The level of scrutiny and the scale and complexity of checks varies from country to country, but it should not differ significantly. The National Measurement Office (NMO) was appointed as the UK Competent Authority in 2012.

How this affects your businesses

How your business is affected will depend upon your position in the product supply chain, the type of product you are trading in and its categorisation under the EUTR.

Traders and Operators

Companies supplying or trading in timber and paper related products fall into two definitions:

- Operators – those who first place on the EU market the timber or timber products (whether sourced from within the EU or from outside the EU).
- Traders – those who sell or buy timber or timber products already placed on the internal market by Operators or other Traders.

To “first place” products on the EU market means you are the entity with legal ownership of the product when it first enters the EU market.

For most Traders it has been business as usual since the law took effect on 3rd March 2013. As a Trader, your EUTR obligations extend to maintaining transaction records for 5 years and co-operating with any investigations that might arise in the future.

As an Operator you must take action to fulfil more in-depth requirements to comply with EUTR. Operators have two due diligence options for all timber products placed on the EU market:

- Establish and regularly evaluate a Due Diligence System (DDS) or
- Use a DDS provided to you by a third party.

Products covered by EUTR

Not every timber-based product is covered by the Regulation.

Exceptions

There are a few groups of products, such as wooden seats (for example office chairs, garden chairs) and printed materials (including books or newspapers), that are not listed in Annex 1 of EUTR.

Included in these exceptions are:

- Recycled products – recycled timber and timber products that have completed their life cycle.
- Packaging materials – used exclusively as packing material to support, protect or carry another product placed on the market (not as a standalone product).

However, as the EUTR develops it is likely that these and other timber-based products will eventually fall under its scope. It is good practice for your company to include all timber-based products within a Due Diligence System from the outset.

“Green Lanes”

Additionally, it is the EU’s intention to establish fast-track systems, commonly called “Green Lanes”, in order to deliver timber legality assurance without additional administrative burden.

The following are considered as evidence of legal timber harvesting for the purposes of the EUTR:

- Products with a FLEGT VPA (Voluntary Partnership Agreement) licence.
- Products with a CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) permit and listing.

FLEGT Voluntary Partnership Agreements (VPAs)

Non-EU countries which have established a FLEGT Voluntary Partnership Agreement (VPA) with EU Member States have developed a licensing system for the export of FLEGT licensed timber. Such products must be accompanied by a valid FLEGT licence.

FLEGT VPAs are “bilateral agreements between the European Union and timber exporting countries, which aim to guarantee that the wood exported to the EU is from legal sources and to support partner countries in improving their own regulation and governance of the sector”.²

At the time of writing, there are six countries with timber legality assurance schemes in the VPA system development phase: Cameroon, Central African Republic, Ghana, Indonesia, Liberia and Republic of Congo (Brazzaville) but none have completed the approval process (June 2013). Other countries are also looking into the VPA process.

It is important to check the EC ratified status of individual national timber legality assurance schemes before you rely upon them as legally valid under FLEGT.

CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is “an international agreement between governments and its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival”.³ The agreement came into force in 1975 and covers 178 Parties (Member Countries), who mutually recognise issued CITES permits for exports.

Under the EUTR, your timber and timber products must be of a species which:

- has a valid CITES permit for export; and
- is listed in Annex A, B or C to Council Regulation (EC) No 338/97.

Due diligence

The EUTR requires Operators to implement and follow a Due Diligence System (DDS) for all timber and timber-based products. A DDS is a system to assess the risk of timber or a timber product being from an illegal source.

Due to the product exceptions given by the EUTR, many companies have been selective in terms of applying a DDS, which can be a very difficult and time consuming exercise – particularly for highly processed products such as paper.

EUTR and the Implementing Act (No 607/2012) provide basic rules in terms of elements of the DDS process that can be broken down into three stages:

Table 1: Three stages of the Due Diligence System process

<p>Stage 1: Access to information</p>	<p>The Operator is required to collect obligatory information about the product or product component: trade name, quantity, timber species, country of origin, supplier and client names, contact details and evidence of the product’s compliance with national legislation (as specified in EUTR Article 6a Due diligence systems).</p>
<p>Stage 2: Risk assessment</p>	<p>For the information gathered at stage one the Operator is required to risk assess the product and its origin (using criteria given by EUTR Article 6b Due diligence systems).</p>
<p>Stage 3: Risk mitigation</p>	<p>Steps taken by the Operator in case the risk assessment outcome is other than negligible or could not be specified at all. This may include calls for additional information, field audits or requests for third party verification/certification.</p>

According to the EUTR, as an Operator you can either develop your own Due Diligence System or use a DDS established by a Monitoring Organisation (MO).

Monitoring Organisation (MO)

The MO is an independent private organisation approved by the European Commission to assist Operators by providing a DDS and monitoring its use by the Operator.

Competent Authorities check MOs regularly and inspect the records they have gathered from companies.

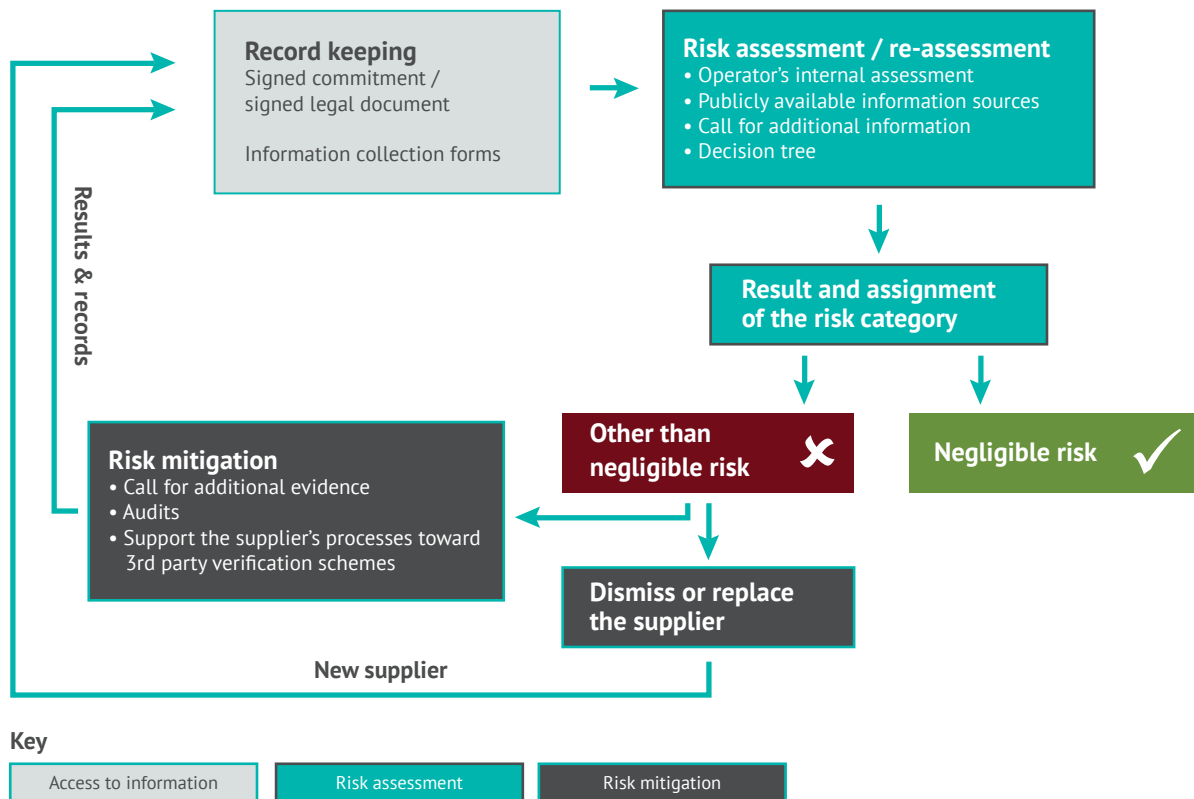


Figure 1: Due Diligence System

Other DDS solutions

It is not mandatory to use a MO if your company is able to develop and monitor its own DDS and/or use an external consultant or any alternative source of information and good practice.

In addition, there are many organisations either in the UK or the rest of the Europe who act as a consultant/advisor in their own right and provide active support to businesses.

There are also non-governmental organisations or other third parties who have established publicly available standards to help companies implement the EUTR. One of these is *PAS 2021:2012 Exercising due diligence in establishing the legal origin of timber and timber products – Guide to Regulation (EU) No 995/2010*.⁵

What you need to do

- Establish if you are an Operator or a Trader, at product/transaction level.
- Check if the products or product components are covered by the EUTR.
- Check if the products are coming with CITES or FLEGT certificates.
- Establish the Due Diligence System (only where necessary).

Voluntary certification schemes

Operators can take other steps to help provide assurance that the timber products they are placing on the EU market are low risk in terms of illegal harvesting.

Options include:

- Forestry and Chain of Custody (CoC) certification schemes (such as FSC® and PEFC™) with the objective of timber sustainability and legality (further details below).
- EU schemes with rules for sustainable timber purchasing.
- Responsible Purchasing Policy (Timber Trade Federation).
- The Central Point of Expertise on Timber Procurement (CPET) advice on how public sector buyers and suppliers can meet the Government’s timber buying requirements.

Chain of custody (CoC) certification

The EUTR and the Implementing Act No 607/2012 do not consider CoC certification as automatic proof of legality (as equal to FLEGT or CITES) but they do provide clear conditions under which any third-party certification scheme can be taken into account when exercising Due Diligence.

The value of Chain of Custody certification comes from the fact that every Certificate Holder (CH) is

audited annually by the Certification Body (CB) to verify compliance against the relevant standard.

The Chain of Custody certification process is well established on the market as part of consumer awareness and thousands of companies around the world use it to deliver the assurance that timber can be produced in a sustainable manner.

FSC and PEFC

The two main Chain of Custody schemes implemented in the UK are:

- Forest Stewardship Council® (FSC®) (launched 1995)
- Programme for the Endorsement of Forest Certification (PEFC™) (launched 1999).

There are many successful businesses built on the fact they can source and deliver timber or paper products that come from well-managed forests. Both schemes are considered to represent the best environmental credentials and have gained a good level of consumer confidence over the years.

FSC and PEFC have both updated their CoC standards and directives in order to align themselves with the requirements of EUTR, as shown in *Table 2*.

(BM TRADA licence codes are: FSC® A000503 and PEFC/16-44-002.)

Summary

The EU Timber Regulation is already in force in the European Union and timber or paper sector companies are required to follow it either as Operators or Traders. There are appointed Competent Authorities who enforce the law and there are various options for Operators exercising Due Diligence Systems. There are several well-organised systems for supporting this obligation, including major Chain of Custody certification schemes (FSC and PEFC) where performance is verified by the accredited Certification Bodies during annual surveillance audits.

There are some questions about the future of EUTR, particularly in terms of how well the industry will adapt to the new requirements and whether the EUTR will eventually cover all timber-based products without any exceptions.

Table 2: Updates to FSC and PEFC CoC systems in line with EUTR

	FSC	PEFC
Revised CoC documents	New advice notes in document FSC- DIR-40-004 EN <i>FSC Directive on Chain of Custody Certification</i> putting new mandatory requirements <i>inter alia</i> for non-conforming products or access to information required by timber legality legislations (including timber trade name, species and a country of origin)	New PEFC ST 2002:2013 <i>Chain of Custody of Forest Based Products – Requirements</i> . The PEFC Due Diligence System which now applies to PEFC certified and non-PEFC products and requires the information to be recorded about timber trade name, species and country of origin
Risk assessment	Revised FSC- DIR-40-005 EN <i>FSC Directive on FSC Controlled Wood*</i> now requires any applicable national legislation and any legally required verifiers to be taken into account when exercising a Controlled Wood verification programme	PEFC DDS Risk Assessment methodology updated to now accept only “Negligible Risk” materials to enter a company’s PEFC CoC system
Annual audit	Undertaken by the Certification Body (CB) to verify the compliance against the relevant standard	Undertaken by the Certification Body (CB) to verify the compliance against the relevant standard
Due diligence	Mandatory requirement for all certificate holders to exercise due diligence on request	Mandatory requirement for all certificate holders to exercise due diligence on request
Guidance documents on application of relevant standards for EUTR purposes	<i>EU Timber Regulation Implementation Guide for FSC Certificate Holders and Other Companies Selling FSC Products in the EU</i>	<i>Meeting EUTR Requirements through PEFC Chain of Custody Certification</i>
Publicly available documents on website	www.fsc.org/	www.pefc.org/

* The FSC term “Controlled Wood” describes wood inputs not FSC-certified

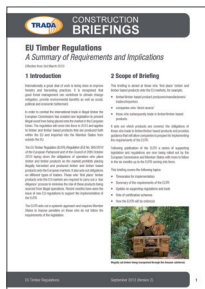
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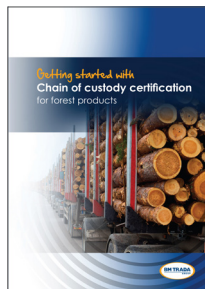
References

1. Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20th October 2010 laying down the obligations of operators who place timber and timber products on the market
2. Regulation (EU) No 995/2010
3. www.euflegt.efi.int
4. www.cites.org
5. PAS 2021:2012 Exercising due diligence in establishing the legal origin of timber and timber products – Guide to Regulation (EU) No 995/2010, BSI

Related publications



Construction Briefing - EU Timber Regulations
A summary of requirements and implications



Getting started with Chain of custody certification for forest products

Visit <http://bookshop.bmtrada.com>

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TRADA members may contact the Members' Helpline for free on: 01494 569601

BM TRADA offers FSC CoC and PEFC CoC certification that allows organisations to exercise Due Diligence.
t: 01494 569671
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European Commission

Full text of the EU Timber Regulation and accompanying legislative documents can be found on the EC website:
http://ec.europa.eu/environment/forests/timber_regulation.htm

EU FLEGT

www.euflegt.efi.int

CITES

www.cites.org

FSC

www.fsc.org

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www.pefc.org

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