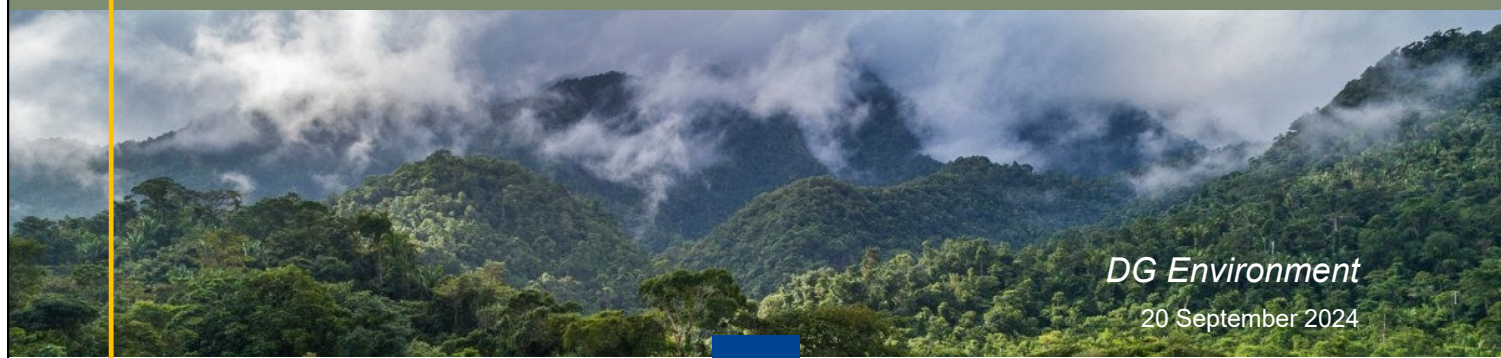




Forest protection and logging EUTR – FLEGT – EUDR

EU LEGISLATION ON WILDLIFE TRAFFICKING, DEFORESTATION AND ILLEGAL LOGGING
COMBATting ASSOCIATED CRIME

WORKSHOP FOR JUDGES AND PROSECUTORS



DG Environment

20 September 2024

Topics of the presentation

1) FLEGT Action Plan

- a) FLEGT Regulation
- b) EUTR Regulation
- c) Overview of Court decisions

2) EU Regulation on commodities and products associated with deforestation

- 1) Policy context
- 2) Key elements

FLEGT Action Plan

Regulatory results

[FLEGT Action Plan](#) adopted in 2003

- Forest Law Enforcement, Governance and Trade (FLEGT) Regulation ([Council Regulation \(EC\) No 2173/2005](#))
 - Commission negotiating Voluntary Partnership Agreements (VPAs) with third countries on behalf of the Council
- EU Timber Regulation ([Regulation \(EU\) 995/2010 laying down the obligations of operators who place timber and timber products on the market](#))

- FLEGT action plan objective: addressing illegal logging and associated products imports
- The timber Regulation was adopted 5 years later. It applies also to domestic production.

FLEGT Regulation

MS implementation in 2021

- 17 MS the Customs Authorities are not Competent Authorities (CAs)
- 6 MS shared
- 4 MS has only the Customs Authorities as CA

Number of licences in 2021

- Licences issued: 33215
- MS CAs verified: 26359 (cca 400 tons, of which 45% HS44 and 35% HS 48)
- To MS Customs presented: 20829 (cca 300 tons)

Checks and controls

- 479 licences were subject to checks that go beyond verification
- 452 physical inspections

Further information

- [2021 overview](#) based on national annual reports
- [Key obligations and practical aspects of implementation and enforcement \(2021\)](#)

EU Timber Regulation

EU Timber Regulation - Key obligations

Prohibition

The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited

Due diligence

EU operators shall exercise due diligence when placing timber or timber products on the market by implementing procedures so as to minimise the risk of illegal timber in their supply chain

Traceability

EU traders (after first placing on the EU market) shall be able to identify from whom they bought the timber products and, where applicable, to whom they have supplied the timber products

- This is an obligation for all operators placing products in the EU market.
- Due diligence obligations are included. The risk of illegality of logs must be negligible or non-existent.

EU Timber Regulation

Member States responsibility

- Competent authorities' designation;
- Supervision of the implementation by operators, traders, and monitoring organisations
- Definition and application measures:
 - corrective or preventive
 - notice of remedial action
 - seizure
 - prohibition of trade
 - punitive measures ensuring the “effective, proportionate, and dissuasive” principle:
 - criminal fines
 - imprisonment
 - seizure
 - prohibition of trade
 - other than criminal fines
- Keeping a register, accessible in line with the Access to information directive.
- EUTR covers all timber and timber products (in the annex) both domestic and imported

- There is a full list of authorities responsible for implementation and enforcement.
- The bottomline is that the obligations are triggered when the product is listed in Annex I of the EUTR.

EU Timber Regulation

Commission facilitates and supports implementation

The Commission supports the Member States in their implementation efforts through a number of measures to promote compliance:

- Multi-stakeholder Platform meetings focusing on FLEGT/EUTR
 - Expert Group conclusions
- Communication platform;
- Briefing notes
- Guidance documents;
- Country Overviews;
- Encouraging sharing of experience and best practice between Member States (incl. joint inspections);
- Promoting cooperation with third countries (e.g. USA, AUS, Japan, Korea, China)

The most important measure is the stakeholder platform and expert group conclusions.

EU Timber Regulation

Implementation and enforcement

Domestic timber and timber products

9054 operators were checked, 6% non-compliant
165 notices of remedial action,
313 administrative penalties,
6 permanent seizures,
29 suspensions of the authority to trade

Court cases

3 were decided in favour of the authorities,
2 in favour of the operator,
5 were still ongoing

Further information

[Available EUTR Reports and Reviews](#)

Imported timber and timber products

1394 operators were checked, 38% non-compliant
282 notices of remedial action
341 administrative penalties
2 financial criminal penalties
1 temporary seizure
2 suspensions of the authority to trade

Court cases

58 were decided in favour of the authorities,
6 in favour of the operator,
2 had a different outcome

Most cases are decided in favour of the authorities, this demonstrates that they have the experience to carry out their operations.

EU Timber Regulation

Overview of MS court cases

Importing Myanmar teak

- Multiple Member States, in some of them even criminal court decision

Establishing roles in case of selling standing timber

- Bearing the obligations as an operator or trader
- Request for preliminary ruling (Case C-370/23, Mesto Rimavská Sobota)

Using a due diligence system established and maintained by the mother company

- Request for preliminary ruling (Case C-117/24, JYSK)

Illegal logging

- Placing on the market timber harvested outside the legally allowed boundaries

Lack of due diligence and traceability exercise

- Inappropriate exercise, or negligence towards the obligations

- There was a big issue with the imports of teak from Myanmar. Risk assessment and mitigation pillars could not be fulfilled in the case of Myanmar, according to the expert group.

EUTR – FLEGT Fitness check and Impact Assessment

EUTR / FLEGT Regulation Fitness Check

EUTR: Improvements in raising awareness and transparency in the supply chains. Lessons learned on challenges in implementation, including on operators' ability to validate information obtained from their supply chains.

FLEGT VPAs: Positive in terms of multi-stakeholder dialogues and governance, however long, complex and resource-intensive. After more than 15 years, only one country out of 15 has an operating licensing system in place (covering 3% of relevant trade).

Impact Assessment

Process: Scientific analysis. Stakeholder meetings. **Multi stakeholder platform on deforestation** with more than 250 participants, also from partner countries and international organisations; Targeted interviews within the EU and in partner countries.

High support for binding measures. Analysis of approximately 20 options resulted in the selected option: **Mandatory due diligence with country benchmarking**

EUDR - Political commitments

European Green Deal

Announcing measures, both regulatory and otherwise, **to promote value chains that do not involve deforestation and forest degradation.**

EU Biodiversity Strategy and Farm to Fork Strategy

Announcing legislative proposal in 2021 to avoid or minimise the placing of products associated with deforestation or forest degradation on the EU market.

Resolutions of EP and Council

Requests for EU measures against deforestation (Council conclusions / EP Resolution)

Strong support from the public: Second most popular OPC in the history of the EU

Main elements

- **Obligations for products:** Products entering or leaving the European market are:



✓ **Deforestation free (as of 31/12/2020).**



✓ **Legal** according to the laws of the country of production including applicable human and labour rights and free, informed prior consent



✓ **Covered by a due diligence statement (DDS)** by operators

- **Products:** Meat, soy, wood, coffee, rubber, cocoa, oil palm and their derived products (e.g. chocolate, leather, furniture, tyres)



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Main elements



Commodities selected objectively, based on best available scientific data, and the biggest EU impact



Non-discrimination: The Regulation applies both to domestically produced and imported commodities and derived products - No prohibition on countries or commodities



Progressive scope: Initially covering selected commodities and derived products; to be updated



'Cut-off date' of 31 December 2020: Aligned with UNSDG 15.2, aims to minimise disruption for smallholders and facilitate satellite monitoring



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- The impact of these commodities was the basis for the selection.
- The scope will be subject to review, a study is already ongoing

Timeline



- **June 29, 2023:** Entry into force
- **December 2024:** Entry into force of the obligations of operators and traders (30 June 2025 for small and micro enterprises that are traders)
- **December 31, 2020:** “**Cut-off date**” aims to minimise disturbances for small farmers and facilitate satellite monitoring

Obligations for supply chain actors



Most obligations are for **operators** (e.g. a company placing wood on the EU market)

- submit a short Due Diligence Statement (DDS) on our IT platform *(see print screen next slide)*
- maintain an internal due diligence system
- ensure separation of compliant goods from other goods

Limited obligations for **operators and traders not placing on the market** (e.g. retailer)

- submit a DDS with a cross reference to the DDS presented before by others

Limited obligations for **SME traders**

- collecting and keeping information and making it available on demand
- BUT do not have to conduct due diligence

This year – Focus on Implementation

Clarifying operational questions via the Frequently Asked Questions

Working on Guidance Document on technical legal matters

Final steps to set up the IT System

Strengthening support tools to Producer Countries

Other strands: Deforestation Observatory, Risk Benchmarking etc.

This year – Focus on Implementation Frequently Asked Questions



Key aspects of
implementation
for
operators/traders
and for
competent
authorities

- First published in June 2023
- Latest update in Dec 2023
- Over 80 Q/A
- New version with approx. 30 new FAQs -> in the next weeks

This year – Focus on Implementation Guidance Documents

- In the pipeline: aiming to publish in the next months.
- Selected thematic areas, such as:

Definition of
agricultural use

Legality

Composite
products

Certification

Due diligence

 IT development, secondary legislation

 Dedicated trainings available from September 2024

 December 2024: Opening system for submitting Due Diligence Statements

[illegible]

This year – Focus on Implementation

Benchmarking (Art. 29) & EU Observatory

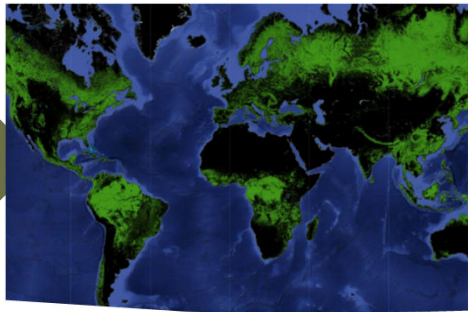


Objective of Benchmarking: to help competent authorities in the EU Member States to focus scarce enforcement resources



Development of the benchmarking methodology based on objectives factors **is ongoing**

EU Observatory
developed by JRC
and Published
online in Dec 2023



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- The focus is on the most problematic areas of the world.
- This map is free to use, but not legally binding.

EUDR - Cooperation with third countries



Cooperation with both producing and consumer countries

→ Engagement with other major consumer countries such as China and the USA



Political dialogue, public diplomacy and technical assistance

→ Active outreach to stakeholders through Commission, EU Delegations, EU Member States; dedicated outreach project starting to enhance understanding in South-East Asia and Latin America of the EU Regulation

→ Enhanced cooperation to address potential challenges in producer countries

→ Regular briefings in multilateral fora (WTO, FAO etc.)



The role of the Deforestation Multi-stakeholders Platform

→ All interested producer and consumer countries invited, all key sectorial associations and civil society organisations represented

→ Work on implementation; specific focus: traceability and smallholders; sharing of best practices, cooperation initiatives

If you are interested, I would advise you to check these out on top of the Commission website.

Thank you!

Learn more here:

https://green-business.ec.europa.eu/deforestation-regulation-implementation_en



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