



Forest protection and logging EUTR – FLEGT – EUDR

WORKSHOP FOR JUDGES AND PROSECUTORS
EU LEGISLATION ON WILDLIFE TRAFFICKING, DEFORESTATION AND ILLEGAL LOGGING
COMBATTING ASSOCIATED CRIME

5th February 2024 - Trier

DG Environment

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](#))

The EU adopted the FLEGT Action Plan in 2003 to combat illegal logging worldwide, which resulted in two key pieces of legislation: the FLEGT Regulation, which addresses enforcement, governance and trade and is aimed at third countries with observer status to strengthen their fight against illegal logging; and the EU Timber Regulation, which was adopted in 2010 and will be implemented in 2013 and addresses the demand side of illegal logging.

Voluntary Partnership Agreements (VPAs) are trade instruments negotiated by the Commission on behalf of the Council with third countries to ensure effective action against illegal logging. VPAs ensure that timber from partner countries enters the EU market without restrictions through a Green Lane system. The process of negotiating a VPA involves three main steps: negotiation, signature and ratification by both parties. The operationalisation of a VPA involves reaching the licensing stage. Currently, only one country, Indonesia, has operationalised the FLEGT licensing system. Indonesian timber licences are accepted as part of the Green Lane system under the EU Timber Regulation.

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 \(2021\)](#)

The competent authorities vary between Member States, with six countries having shared authorities and four countries giving sole responsibility to customs. More than 33,000 licences were issued in 2021, but there is a significant discrepancy between Member States as products do not always reach Europe or are used for personal purposes without declaration. The Commission is addressing this discrepancy through inspections and controls. Almost 500 licences have been checked, mainly through physical inspections.

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

EU Timber Regulation (EUTR), which targets the demand side of illegal logging. This regulation has three main objectives: prohibiting the placement on the market of illegally harvested timber, ensuring due diligence by operators, and maintaining strict supply chain traceability. Operators importing timber products subject to the EUTR must verify the legality of the harvest. The due diligence process includes information gathering, risk assessment, and risk mitigation measures.

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

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)

EU Timber Regulation

Implementation and enforcement

Domestic timber and timber products

10 483 operators were checked, 6% non-compliant
139 notices of remedial action,
247 administrative penalties,
5 permanent seizures,
24 suspensions of the authority to trade

Court cases

6 were decided in favour of the authorities,
2 in favour of the operator,
29 had a different outcome,
4 were still ongoing

Further information

- [EUTR Overview 2022](#)
- [EUTR National Reports from Member States for 2022](#)

Imported timber and timber products

1174 operators were checked, 36% non-compliant
349 notices of remedial action
98 administrative penalties
4 permanent seizures
7 suspensions of the authority to trade

Court cases

7 were decided in favour of the authorities,
4 in favour of the operator,
2 had a different outcome
1 was still ongoing

EU Timber Regulation

Overview of MS court cases

Importing Myanmar teak

- Multiple MS, criminal 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)

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

In cases related to timber imported from Myanmar, expert group conclusions suggested that negligible risk was often impossible to achieve due to ineffective application of the due diligence pillars. Nevertheless, some operators disregarded these conclusions, leading to court cases, notably in Denmark and Germany. In addition, a successful joint investigation between the Netherlands and the Czech Republic uncovered a case where a Czech company was used as a front, while the actual beneficiary was a legal entity in the Netherlands. Although the case took three years, the decision of the Criminal Court favoured the work of the competent authorities.

In a recent case from Slovakia (Case C-370 of 2023), the Supreme Court issued a request for a preliminary ruling to determine the position of standing timber in the supply chain. The case involved a municipality that sold standing timber to another company for harvesting and sale. The key question was who was the operator responsible for placing the timber product on the market. The court ruled that it was indeed the municipality that sold the standing timber. According to Roman law, if timber is not sold with the property itself, the municipality, as the owner of the land, is responsible for the due diligence exercise because it possesses all the permits and information necessary. This ruling prevents circumvention of due diligence.

Another major issue is the lack of due diligence and traceability exercise in importing timber and timber products into the European Union or placing them on the market. Domestically harvested timber entering the EU market does not undergo checks by customs authorities. Instead, competent authorities focus on economic operators for due diligence and traceability, sometimes reaching them through the EUTR and FELGT, often for the first time.

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**

In response to these challenges, the European Union decided to change its approach. The Commission carried out a fitness check and an impact assessment of the UTR and the Flegt Regulation. While improvements were noted in terms of raising awareness and transparency in the supply chain, including operators' knowledge of their supply chains and the origin of their products, illegal logging did not decrease globally as expected.

With regard to the Flegt Regulation, positive results were observed in terms of multi-stakeholder dialogue. Civil society organisations and other parties became partners with governments in several countries, triggering necessary changes in legislation and forest management. However, after 15 years, only Indonesia has a functioning licensing system covering only 3% of the relevant trade.

To address these issues, an impact assessment was carried out, including a multi-stakeholder platform meeting with over 250 participants from different countries, and targeted interviews with EU and partner countries. There was strong support for binding action. After analysing more than 20 options, it was concluded that mandatory due diligence with country benchmarking would be the most effective.

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

EUDR - Timeline



[Regulation - 2023/1115 - EN - EUR-Lex \(europa.eu\)](#)

EUDR - Functioning of the Regulation

Mandatory Due Diligence for all operators that place the relevant products on the EU market or export them from the EU

- Only products that are both **deforestation-free and legal** would be allowed on or exported from the EU market – need to be covered by a **due diligence statement**
- Based on **internationally-backed definitions** (FAO)
- Main obligations applicable to **operators and non-SME traders**
- **Strict traceability** linking the commodity to the plot of land where it was produced. Using **geolocation** coordinates is the simplest and most cost-effective way of obtaining the necessary geographic information.
- **Legality**: Products will need to be legal according to the laws of country of production



The regulation will work by addressing not only the legality of timber, but also the issue of deforestation-free timber. According to the impact assessment and internationally agreed data, more than 400 million hectares of forest have disappeared from the earth's surface in the last 30 years, an area larger than the European Union itself. 90% of this deforestation has been caused by agricultural use, in particular conversion from forest to agricultural production.

The Regulation is based on internationally recognised definitions and imposes obligations primarily on operators. Both operators and non-SME traders have the same obligations. The Regulation includes strict traceability measures, including a geo-location provision.

Under the Regulation, operators wishing to place relevant products on the market must upload a legal declaration to the information system. This declaration must include the geolocation coordinates of the land on which the product has been produced. The legality aspect remains the same, but with a more detailed definition.

EUDR - Main elements



Commodities selected: Palm oil, soy, wood, cattle, cocoa, coffee, rubber and some derived products (e.g. chocolate, furniture, tyres, printed products), 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



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



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

The Regulation covers several commodities, including palm oil, soy, cattle, cocoa, coffee, rubber and derived products and timber. It is a progressive approach, with the list of commodities subject to review based on scientific data. Importantly, the Regulation is non-discriminatory and applies to both domestic and imported goods.

The cutoff date for compliance is aligned with the UN Sustainable Development Goals, specifically the end of 2020. If deforestation has occurred after 2020 in the area where the good or product is sourced, it will not comply with the regulation.

EUDR - Next 12 Months – Focus on Implementation

Clarifying operational questions via the Frequently asked Questions

Work on Guidance Documents on technical legal matters

Setting up of the IT System

Strengthening support tools to Producer Countries

Other strands: deforestation observatory, risk benchmarking etc.

The transition period is currently underway, with several lines of work being pursued. These include the clarification of operational issues through a Frequently Asked Questions document, which now contains more than 80 questions and answers. In addition, guidance documents on technical issues are being developed and an information system is being set up where operators and relevant traders can collect and upload the required declarations.

Efforts are also being made to strengthen support tools for producer countries through various outreach activities aimed at raising awareness and building capacity. Other ongoing initiatives include the establishment of an observatory, benchmarking and several other streams.

Compared to the Timber Regulation, several innovations have been introduced. One important change is the list of sanctions. This change has been influenced by lessons learned from the Timber Regulation, where the harmonised approach of Member States was not always evident. Under the new Regulation, penalties have been harmonised at EU level. These penalties include the confiscation of goods or, if the goods are no longer available, the confiscation of revenue.

The maximum penalty has been set at 4% of the company's annual turnover

at EU level. In addition, Member States are now obliged to inform the Commission of their final decisions. This information will be made publicly available by the Commission, including the name, address and summary of the infringement.

This will enable any Member State, private operator or economic operator to check whether a supplier or purchaser is complying with the Regulation. Member States will also be able to recover the costs of their investigations and take interim measures such as seizing non-compliant goods, particularly for high-risk products.

EUDR - 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
- Key aspects, such as “declaration in excess”

EUDR - Guidelines

More than 11 topics in guidance documents in the pipeline for selected thematic areas, such as:

Definition of
agricultural use
(recital 37)

Due diligence

Certification

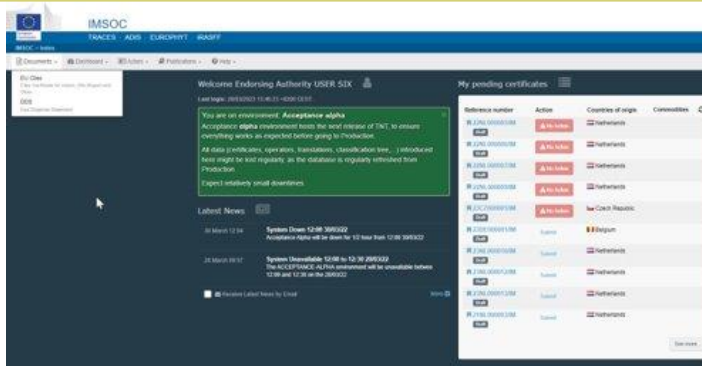
Legality

EUDR - Information System (Article 33)

 IT development, secondary legislation, up and running by the entry into application

 Pilot testing currently ongoing, over 100 companies enrolled

 Dedicated training environment available later in 2024



The development of the information system is underway. Secondary legislation requires the drafting of an implementing act which will outline the functionalities of the system. Pilot testing is underway, with more than 100 companies already registered.

In addition, a dedicated training environment is expected to be available in 2024, most likely during the summer. The full system is expected to be opened in mid-December for the submission of the first due diligence statements. These declarations are essential as they are required before customs declarations for release or free circulation can be lodged.

Any operator wishing to import from a third country must ensure that they have submitted such a declaration, claiming that they have carried out due diligence on the particular product they wish to place on the European market.

Domestic operators are also required to submit such declarations before placing products on the market. Although there are no customs checks on the reference numbers, the competent authorities will pay particular attention to operators who do not have such reference numbers in advance.

EUDR - Benchmarking (Article 29)



Objective: benchmarking is a tool to help competent authorities in the EU Member States to focus scarce enforcement resources



Development of the methodology of the benchmarking is just getting started. It is essential that the methodology is solid and based on objectives factors

One of the novelties of the Regulation is benchmarking, which is a tool to help Member States' competent authorities to focus their enforcement resources and carry out controls on operators sourcing from the most problematic countries.

The methodology for benchmarking is currently being developed and the exercise is underway. The benchmarking exercise will classify countries worldwide into high risk, standard risk or low risk categories.

For countries classified as high risk or standard risk, the level of due diligence will remain the same, but the number of examinations carried out by competent authorities may vary.

For countries classified as low risk, only information gathering is required. However, operators must still exercise due diligence to ensure that no part of the product originates from a country that is not classified as low risk. If this is the case, the operator must carry out the standard due diligence e

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

EUDR - Transitional period

			Rules applicable:			
			until 29.12.2024 included:	from 30.12.2024 to 29.6.2025:	From 30.6.2025 until 31.12.2027:	from 31.12.2027 included:
Relevant products produced before 29.6.2023 included:	Timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010:	Placed on the market until 29.12.2024:	Art. 37(1) EUDR: Reg. (EU) No 995/2010	Art. 1(2) EUDR: no requirement		
		Placed on the market from 30.12.2024 until 30.12.2027:	-	Art. 37(2) EUDR: Reg. (EU) No 995/2010		
		Placed on the market from 31.12.2027:	-	-	-	Art. 37(3) EUDR: Reg. (EU) 2023/1115
	Other than timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010:		Art. 1(2) EUDR: no requirement			
Relevant products produced from 30.6.2023 included:	All operators and traders, subject to the exception in next row:		Art. 38(2) EUDR: no requirement	Art. 38(2) EUDR: Reg. (EU) 2023/1115		
	Except as regards the products covered in the Annex to Regulation (EU) No 995/2010, operators that by 31 December 2020 were established as micro-undertakings or small undertakings pursuant to Article 3(1) or (2) of Directive 2013/34/EU:					
				Art. 38(3) EUDR: no requirement		

During the transition period from the EUTR to the Deforestation Regulation, there may appear to be some complexity, but in reality the transition is relatively straightforward. The only difference between the two regulations is that the Deforestation Regulation covers timber and timber products.

There is no gap between the Timber Regulation and the Deforestation Regulation. Therefore, all timber and timber products must at least be legal. However, they must also be deforestation-free after the deforestation regulation comes into force, and this must be ensured.

Thank you!

Learn more here:

https://environment.ec.europa.eu/topics/forests/deforestation/eu-rules-against-illegal-logging_en



© European Union 2021

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

