

Obligations of operators who place timber and timber products on the market

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This report reviews, on the basis of Member States' reports, the main results of the evaluation of Regulation EU/995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation).

To recall, the EU Timber Regulation:

- prohibits the placing on the EU market of illegally harvested timber and products derived from such timber;
- requires operators who place timber products on the EU market for the first time to exercise 'due diligence';
- requires traders in timber and timber products after the first placement on the market to keep records of their suppliers and customers.

The Regulation covers a wide range of timber products listed in its Annex.

It outlines the due diligence obligation and requests that operators develop and apply a due diligence system or use the system of a monitoring organisation. Adopted in December 2010, the Regulation only entered into application on 3 March 2013.

The evaluation of the Regulation started in April 2015 and covers the period March 2013 to March 2015.

Implementation and application of the Regulation: the report states that this was **slow and uneven** during the first two years and still remains incomplete. Recently, significant progress has been made, even if at the time of the evaluation not all Member States have fulfilled all their obligations under the Regulation. The Commission started legal action against four non-compliant Member States in the course of 2015 (Hungary, Greece, Spain, Romania).

Whilst evidence shows that **operators are gradually taking up the due diligence obligation**, the uneven implementation and patchy enforcement during the first two years of application did not facilitate the establishment of a level playing field, which would protect operators from unfair competition of products made of illegally logged timber.

Furthermore, given that the evaluation of the EU Timber Regulation took place only two years after the Regulation entered into application, the evaluation could not quantify the impact of the Regulation on the trade in illegal timber and timber products on the internal market. This made it **challenging to determine whether the Regulation had met its objective** of preventing illegal timber and timber products from being placed on the market.

Main results of the evaluation: the Commission states that the Regulation is generally perceived as an **important legislative instrument** to combat and reduce illegal logging and trade in illegal timber and timber products. The Regulation has inspired other consumer countries to develop similar legislative acts.

In addition, the EU Timber Regulation:

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has encouraged more responsible sourcing policies and, therefore, demonstrated its potential to change operators' market behaviour and establish supply chains free of illegally harvested timber, thus contributing to the achievement of the overall objectives of the FLEGT action plan, the EU policy instrument to combat the illegal logging in the world's forests;

- **has raised awareness of the problem of illegal logging** and its impacts on the environment and climate amongst the industry and amongst consumers. It influenced amendments strengthening the EU Wildlife Trade Regulations;
- allows the Union and its Member States to take full advantage of their combined market leverage to **ensure demand for legally-harvested timber and avoid distortions of the EU market**, which would have occurred if varying rules had been put in place by individual Member States;
- introduces an **additional control layer** applicable to all operators across the EU: without the EU Timber Regulation, the progress achieved on other elements of the FLEGT action plan, such as the **Voluntary Partnership Agreements (VPAs)**, as well as the possibility for the EU to make commitments to combat illegal logging in recent bilateral trade agreements, would be seriously undermined.

Specific points in review:

- *Administrative consequences for SMEs*: the due diligence obligation of the Regulation applies to all companies, whatever their size. SMEs may seem to be in a disadvantaged position due to their low economies of scale as the costs of the due diligence system need to be covered by a lower turnover. However, **there are no clear indications that being a smaller business is a barrier to apply an effective due diligence system**. Evidence shows that the compliance costs for SMEs might be reduced if companies apply cost-effective practices
- *Product coverage*: some stakeholders consider it incomplete and suggest expanding it to musical instruments, coffins, chairs, and/or printed paper, while others consider that the product scope should not be expanded until the Regulation is applied uniformly across the EU. The Commission may consider **expanding the product scope**, subject to an impact assessment of options.
- *Effectiveness of the prohibition on placing on the market*: Member States have not reported any closed investigation cases for violation of the prohibition obligation. Due to the limited time and given the insufficient experience with the enforcement of the prohibition, **no conclusion could be drawn with regard to its effectiveness** due to the absence of experience with its enforcement.
- *Implementation of the due diligence system*: although difficult to understand and apply, this obligation appears to have some **impact on the practices of operators**, who are demanding more information and assurances of compliance from their suppliers.

Recommendations and next steps: in order to address the shortcomings identified, the Commission recommends that Member States:

- significantly step up their implementation and enforcement efforts;
- strengthen the current level of technical capacity and resources (both human and financial) allocated to the competent authorities with the aim of increasing the number and quality of compliance checks;
- make additional efforts to inform operators, especially SMEs, about the requirements of the EU Timber Regulation, and promote cost-effective practices to implement due diligence.

The Commission will continue to:

- **provide guidance** to Member States and operators by supplementing the Timber Regulation guidance document, where necessary, with a view to achieving a uniform application of the Regulation across the EU;
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facilitate communication and harmonisation of enforcement approaches between competent authorities at expert group meetings.

The Commission does not consider it necessary to propose amendments of the substantive provisions of the Regulation. However, it may consider expanding the product scope, set out in the Annex of the EU Timber Regulation, through a **delegated act** subject to an impact assessment of options.