

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

2008/0198(COD) - 20/10/2010 - Final act

PURPOSE: to fight against illegal logging and related trade

LEGISLATIVE ACT: Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.

CONTENT: the Council adopted a regulation laying down the obligations of operators who place timber and timber products on the market. The Swedish delegation voted against the regulation, and the Czech and Portuguese delegations abstained.

The adoption of the Regulation follows an agreement with the European Parliament at second reading.

Prohibition, traceability: the new Regulation prohibits the placing on the internal market of illegally harvested timber or timber products derived from such timber. Traders shall, throughout the supply chain, be able to identify: (a) the operators or the traders who have supplied the timber and timber products; and (b) where applicable, the traders to whom they have supplied timber and timber products. Traders shall keep the information for at least five years and shall provide that information to competent authorities if they so request.

Due diligence systems: the new regulation stipulates that operators who place timber or timber products on the internal market for the first time must exercise due diligence through a system comprising three elements inherent to risk management:

- **access to information:** (i) description, including the trade name and type of product as well as the common name of tree species and, where applicable, its full scientific name; (ii) country of harvest, and where applicable: (a) sub-national region where the timber was harvested; and (b) concession of harvest; (iii) quantity (expressed in volume, weight or number of units); (iv) name and address of the supplier to the operator; (v) name and address of the trader to whom the timber and timber products have been supplied; (vi) documents or other information indicating compliance of those timber and timber products with the applicable legislation;
- **risk assessment:** such procedures shall take into account the relevant risk assessment criteria, including: (i) assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation; (ii) prevalence of illegal harvesting of specific tree species; (iii) prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested, including consideration of the prevalence of armed conflict; (iv) sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports; (v) complexity of the supply chain of timber and timber products;
- **mitigation of the risk identified:** this concerns a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

Checks on operators: the competent authorities shall carry out checks to verify if operators comply with the requirements set out in the Regulation. The checks shall be conducted in accordance with a periodically reviewed plan following a risk-based approach. In addition, checks may be conducted when a competent authority is in possession of relevant information, including on the basis of substantiated concerns provided by third parties, concerning compliance by an operator with this Regulation. Where, following the checks, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator.

Penalties: the Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. They must be effective, proportionate and dissuasive and may include, inter alia: (a) 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; (b) seizure of the timber and timber products concerned; (c) immediate suspension of authorisation to trade.

Reporting: Member States shall submit to the Commission, by 30 April of every second year following 3 March 2013, a report on the application of this Regulation during the previous two years.

By 3 December 2015 and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation, including in preventing illegally harvested timber or timber products derived from such timber being placed on the market. It shall in particular consider the administrative consequences for small and medium-sized enterprises and product coverage. The reports may be accompanied, if necessary, by appropriate legislative proposals.

ENTRY INTO FORCE: 02/12/2010.

APPLICATION: from 03/03/2013. However, certain provisions shall apply from 02/12/2010.