

## A Guide to the European Union Timber Regulation (EUTR)



**Produced for the BCFA by the Furniture Industry Research Association**

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**This guidance document represents a summary of key issues appertaining to EUTR.**



Companies can access more detailed information and advice by attending one of FIRA's regular training courses in Stevenage - [www.fira.co.uk/training](http://www.fira.co.uk/training)

Alternatively organisations may prefer the added benefits of retaining a FIRA expert to offer one to one advice and customised staff training sessions designed to address specific EUTR issues.

**Contact:**

**Stuart Cochrane** [scochrane@fira.co.uk](mailto:scochrane@fira.co.uk) or  
[info@fira.co.uk](mailto:info@fira.co.uk)

## Introduction



This guide has been produced by the Furniture Industry Research Association on behalf of the British Contract Furnishings Association.

This document is a simplified guide to the European Union Timber Regulation (EUTR). It does not replace any legislative documents that are available and is simply additional information to help achieve compliance. As such, the Regulation and relevant supporting documentation (details of which can be found at the end of this document) must also be understood.

All efforts have been made to ensure this document is correct at the time of going to press. The opinions and advice expressed are given in good faith. However, the authors cannot be held responsible for any action resulting from the content of this guide as the ultimate interpretation of the regulation rests with the courts. Where serious doubt occurs professional legal opinion should be sought.

## The Regulation

### Aim

Launched in October 2010 as Regulation (EU) No 995/2010 of the European Parliament, the European Union Timber Regulation (EUTR) came into force in March 2013. The aim of the EUTR is to prevent illegally harvested wood from being placed <sup>1</sup> onto the market within the European Union.

The Regulation covers a wide range of [timber products](#) listed in its Annex using EU Customs code nomenclature. In order to counter illegally harvested timber and timber products entering the EU market the Regulation places three key obligations on those that trade:

1. It prohibits the placing on the EU market for the first time of illegally harvested timber and products derived from such timber;
2. It requires those that place timber products on the EU market for the first time to exercise ['due diligence'](#);

Once on the market, the timber and timber products may be sold on and/or transformed before they reach the final consumer. To facilitate the traceability of timber products economic operators in this part of the supply chain (referred to as traders in the Regulation) have an obligation to keep records of their suppliers and customers.

### Scope

The scope of the EUTR is to include:

- Timber and Timber Products
- Sourcing from within and outside of the European Union

### Enforcement

In the UK the EUTR is enforced by [Regulatory Delivery](#) (RD) which is part of the Regulatory Office of the Business, Energy and Industrial Strategy (BEIS) department, formally Business Innovation and Skills (BIS).

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<sup>1</sup> 'Placing on the market' means the supply, by any means, irrespective of the selling technique used, of timber or timber products for the first time on the internal market for distribution or use in the course of a commercial activity, whether in return for payment or free of charge'

## Penalties

For any person(s) or business(es) that place illegal timber onto the market in the EU or fail to demonstrate the correct level of due diligence the following could be applicable:

- Fines proportional to:
  - the environmental damage caused by illegal logging;
  - the value of the timber procured / sold / given away<sup>2</sup>;
  - tax and economic losses
- Seizure of the Product
- Immediate suspension of an operator's authorization to trade

## Not in Scope

Items within scope are defined in accordance with Combined Nomenclature (CN) (Import and Export in the EU) codes.

A number of items currently fall outside the scope of the Regulation, although there is a possibility that some of these apparent idiosyncrasies will be addressed in the future. These include:

- Non-upholstered seats including wooden framed dining chairs, office chairs, garden seating and benches
- Upholstered furniture e.g. Sofas and arm chairs
- Seats, other than garden seating or camping equipment, convertible in to beds.
- Specialist furniture e.g. Medical, veterinary and surgical equipment.
- Antiques
- Mattress supports

Further exclusions include:

- Recycled Product - Products that would be 'otherwise be disposed of as waste'
- Packaging - Material used to 'support, protect or carry another products'<sup>3</sup>
- Vegetable Materials e.g. Bamboo and Rattan<sup>4</sup>

Product descriptions are also important in determining whether a product is deemed in or out of scope for the Regulation. For example a wooden bathroom cabinet with a mirrored door is deemed in scope of the Regulation if sold as a cabinet, but deemed out of scope if sold as a mirror.

Whilst the Regulation's idiosyncrasies are sought to be addressed through amendments, organisations are being encouraged to adopt the spirit of the Regulation and ensure that all timber and timber products placed on the market are from legally harvested sources.

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<sup>2</sup> Note that giving the timber away for free is classified as a transaction and therefore subject to the Regulation

<sup>3</sup> Manufactures of Packaging products could still be classed as in scope, this only applies to the "user" of the packaging. For example a pallet manufacturer could still be in scope for the Regulation, whereas their customer who uses the pallet will not be for the pallet

<sup>4</sup> Certain Bamboo products may not be exempt

### Sustainability and environmental issues

Sustainability and environmental issues are not directly addressed by the Regulation, which as stated is concerned with the legality of harvested timber and timber products entering the EU market.

Sustainable timber schemes, such as those operated PEFC or FSC, are founded on principles which ensure that timber is sociably, environmentally, sustainably and legally sourced. Sourcing timber from such a scheme does not ensure compliance with the EUTR. However, sourcing timber from sustainable sources supported by chain of custody certification, can be an effective source of information for due diligence systems and relevant for those businesses that wish to go beyond mere compliance.

### Roles in the EUTR

#### Operator

An Operator is defined as any natural or legal person who first places timber and timber products onto the European Market. Examples of those person(s) / or operations classed as operators:

- Harvesting timber within the EU
- The sale of standing timber within the EU
- Import into the EU for processing or sale
- Import into the EU exclusively for their own operations

Operators have obligations to exercise due diligence when placing timber or timber products on the market. To that end, they must use a framework of procedures and measures, hereinafter referred to as a 'due diligence' system.

The due diligence system will enable operators to identify, manage and mitigate the risk of sourcing illegally harvested timber.

All due diligence is to be completed before importing or placing the timber or timber product onto the market

#### Trader

A trader is defined as any natural or legal person who, in the course of a commercial activity, sells or buys on the internal market, timber or timber products already placed on the internal market' for example person(s) / operations who:

- Purchase timber and/or timber products from an Operator
- Purchase timber and/or timber products from another trader

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Traders have obligations to keep records of the following:

- The operators / traders supplying to them
- Traders they supply to
- Maintain sufficient records of the above for at least 5 years to enable traceability, not including records to the end (final) consumer

## Agent

Agents are typically intermediaries or brokers and are generally not the legal owners of the timber and therefore have no accountability to EUTR.

If an organisation uses an agent to source timber and the contract is between that organisation and the supplier, not the agent, the organisation would be considered either the Operator or Trader. However if the contract is between the supplier and the agent, and subsequently the agent and the organisation, the agent would be classified as either Operator or Trader, depending on the origin of the product.

## Understanding roles

Failure to comply with the EUTR could result in investigation and prosecution by government's Regulatory Delivery.

Example scenarios are listed below to help illustrate how different activities define roles within the EUTR.

**Scenario 1** A UK business directly imports Teak from China to make tables for sale in the UK.

*The UK Company is classified as an Operator*

**Scenario 2** A UK business imports plywood from a company in Denmark which has been sourced in Indonesia.

*The UK business is a Trader as the Operator in Denmark has first placed the timber product onto the European Market*

**Scenario 3** A UK business purchases plywood from a Malaysian supplier via a European sourcing agent. However the contract is directly between the UK business and the Malaysian supplier.

*The EU agent is there only to source the timber on behalf of the UK business, therefore it is the UK business who is first placing the timber onto the European Market and is the Operator.*

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**Scenario 4** In the same scenario above (Scenario 3) transaction takes place between the Malaysian supplier and the EU agent. The EU agent then contracts directly with the UK business.

*This is not a clear cut scenario. The EU Agent is now the Operator providing they have taken legal ownership for the imported timber / timber product, as they are the first legal person to place the timber onto the EU market. However, Regulatory Delivery has stated that where they believe a brokerage service is being offered and the EU agent has not taken legal ownership of the imports, they will view the imported goods shipment receiver as the Operator.*

**Scenario 5** If, in Scenario 4, the agent is not in the EU then the position is much clearer.

*The UK business is definitely the Operator.*

**Scenario 6** A UK Company sources most of its timber and timber products from within the EU, however it purchases a small amount of Teak veneer from Malaysia.

*The UK Company is both the Operator and the Agent*

**Scenario 7** A UK Company sources all its timber and timber products from UK suppliers

*The UK Company is a Trader*

In brief; bringing timber, timber products or finished goods containing timber into the EU directly from outside the EU designates a company as an Operator, whereas if these products are purchased within the EU, a company is defined as a Trader.

## Achieving compliance for Traders

To demonstrate compliance with the Regulation and to mitigate any negative action a Trader must do the following as a minimum:

- Prove that it is genuinely a trader and not an operator.
- Keep records of all in scope timber and timber product purchases (e.g. via invoicing)
- Keep records of all in scope timber and timber product sales (e.g. via orders and delivery notes) (Note: In relation to the EUTR sales to the final consumer need not be recorded)
- Keep records for a minimum of 5 years

Although the law is clear on Traders' responsibilities, further optional steps could include:

- Supply chain diagrams – Know where products come from.
- Complete Risk Reviews using websites such as [globalforestryregistry.org](http://globalforestryregistry.org) for specific area risk (see Appendix C for other useful risk assessment website aids).
- Retain all relevant purchase orders and delivery notes
- Link product specifications to timber species used
- Keep records of all sales, including sales to end (final) consumer
- Gain independent certification for sustainable timber procurement (e.g. PEFC and FSC).



### Achieving compliance for Operators

Operators' legal requirements under the EUTR are significantly more complex. The Regulation stipulates that Operators have obligations to exercise due diligence when placing timber or timber products on the market. To that end, they must use a framework of procedures and measures, hereinafter referred to as a 'due diligence' system.

In the EUTR due diligence is defined as:

- Measures and procedures providing access to information requirements
- Risk assessment procedures to analyse and evaluate the risk of illegally harvested timber
- Risk mitigation procedures to minimise the risk of illegally harvested timber

Access to the following information is imperative:

- Product Description
  - Trade name and type of product
  - Tree species (common and scientific name)
- Country of Harvest and if applicable:
  - Sub national region where timber was harvested
  - Concession of harvest
- Quantity
- Supplier Information
- Trader Information
- Documentation indicating compliance

See **Appendix B** for more detailed information requirements for Operators, as this is essential to complete due diligence correctly.

**All due diligence must be completed before placing a product onto the market**

**Keep all records for a minimum period of 5 years**

### FLEGT and VPAs

The EU's Forest Law Enforcement, Governance and Trade (FLEGT) Regulation establishes rules for the import of timber products covered by Voluntary Partnership Agreements (VPAs) between the EU and timber-exporting countries. Timber and timber products with a valid FLEGT licence are regarded as being legally harvested under the EU Timber Regulation (EUTR).

Once VPAs are fully implemented, timber-exporting countries issue FLEGT licences which verify the timber's legality. Fifteen tropical countries are implementing or negotiating VPAs. The countries at implementation stage are Cameroon, Central African Republic, Ghana, Indonesia, Liberia and the Republic of the Congo.

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Indonesia is the first of these countries to announce a date for FLEGT licensing to begin. Following an announcement on 15th September 2016, the European Commission confirmed that Indonesia were able to issue FLEGT licences to the EU on 15th November 2016. This means that importers of Indonesian wood products with a FLEGT licence are not required to undertake further due diligence checks in order to comply with the EUTR.

### **Due diligence and sustainable forestry schemes**

The Regulation recognises that 'voluntary chain of custody mechanism' can be the basis for a due diligence system however they are not evidence of legality nor do they absolve Operators from their obligations to ensure that the timber placed on the market has been legally harvested.

Certification or other third-party verified schemes can also be used in assessing the risks of illegality related to timber or timber products. There are numerous sustainable forestry schemes, but the two most significant schemes are the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC).

FSC and PEFC schemes are based on principles that ensure sustainable forestry practices are in place, but also stipulate compliance with all applicable laws, regulations and follow best practices.

In order to ensure compliance with their scheme principles both FSC and PEFC operate chain of custody certification (CoC). This certification verifies that certified material has been identified and separated from non-certified materials as it makes its way along the supply chain from harvested timber through to the timber or timber product that is placed onto the market.

At each stage of the supply chain, information is provided with the timber product to ensure that there is an unbroken documented path back to the tree and the forest from which it was harvested. This information is valuable to Operators' when collating evidence in their due diligence systems that the products they are placing on the market originate from legally harvested sources.

## Appendix A – Resources

### **EUTR Regulation**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:EN:PDF>

### **FLEGT & VPAs**

<http://www.flegtlicence.org/>

### **EUTR Government Guidance**

<https://www.gov.uk/guidance/eu-timber-regulation-guidance-for-business-and-industry>

### **EC.Europa.eu Advice**

<http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>

### **UK**

<https://www.gov.uk/guidance/eu-timber-regulation-guidance-for-business-and-industry>

### **Combined Nomenclature List**

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AL%3A2015%3A285%3ATOC>

### **PEFC**

<https://www.pefc.org/>

### **FSC**

<https://ic.fsc.org/en>

## Appendix B – Information requirements and the supply chain

### Product description

- Description of the product should be readily available.
- Provide as much information as possible to distinguish the product including reference codes and commodity identifiers (import tariff codes).
- Information should be available on *pro-forma* invoices, packing lists and other formal trading documentation.
- Where this information is not easily accessible include it as a clause in your terms and conditions.
- Disclose common name of species e.g. oak, beech or teak, as a minimum.
- This is relatively simple where one species is involved e.g. teak garden furniture or oak baulks but increasingly complex where multiple species are used so detail your process.
- Ambiguous or misleading common names require clarification via the scientific (botanical) name.
- Terms such as ‘mixed tropical hardwood’ or ‘softwood pulp’ are not satisfactory.
- Where there are doubts conduct risk assessments.

### Country of harvest

- Simple for European harvested timber.
- More difficult for a complex supply chain.
- Must maintain record of timber origins, even where they are subsequently mixed in production processes.
- Place of purchase may not necessarily be the country of harvest.
- Information on sub national region and concession may be required dependent on the political/legislative regime of a country as well as the prevalence of illegal logging in certain areas.
- Where there are doubts conduct risk assessments.

### Quantity

Must be at least one of the following:

- Volume e.g. cubic metres or cubic feet
- Weight e.g. kilograms or tonnes
- Units e.g. product units

## Supplier information

Must obtain the following:

- Name of supplier
- Address of supplier

## Key to establish the legal entity that sold the products. Trader information.

Must obtain the following:

- Name of Trader (your supplier and / or customer)
- Address of Trader
- Not applicable if sold to consumer (end user).

Be aware that a Trader may request a declaration that the product is legal and meets the requirements of EUTR.

Note that a sale to a Trader may not be immediate after placing on the market, therefore, retain records.

## Documentation

- Obtain prior to placing on the market.
- Obtaining this information is key to determining whether you will need to conduct risk assessments and mitigation of your supply chain.
- Remember, 'exercising' not 'proving'.
- Currently, no definitive guidance on what is required per country.
- Be realistic about meeting the requirements of the EUTR. If documentation provided is poor or inadequate this will impact on choices within the supply chain.

## Supply chain mapping and complexity

- Complexity of the supply chain is an important factor in determining ease of compliance.
- Supply chains for composite items and products such as wooden furniture can be very convoluted.
- As a supply chain becomes increasingly complex the risk of illegal timber also increases. Therefore, complex supply chains require greater risk mitigation.
- Supply chain mapping is essential

## Appendix C – Risk mitigation websites

The following is a list of websites cover a variety of different areas which can help when mitigating risk from a supply chain.

### **International Union for Conservation of Nature (IUCN) Red List™**

<http://www.iucnredlist.org/>

### **CITES Database**

<http://www.cites.org/eng/resources/species.html>

### **Global Forest Registry**

Online tool, including an interactive map, providing information on the risk of sourcing controversial timber. <http://www.globalforestregistry.org/>

### **Transparency International**

Corruption Perception Index (CPI) tool measuring perceived levels of corruption across countries and territories <http://cpi.transparency.org/cpi2012/>

### **Chatham House: Illegal Logging**

Independent international affairs policy institute <http://www.illegal-logging.info/>

### **World Wide Fund for Nature (WWF): Illegal Logging**

Illegal logging and sustainable forest management research

[http://wwf.panda.org/about\\_our\\_earth/about\\_forests/deforestation/forest\\_illegal\\_logging](http://wwf.panda.org/about_our_earth/about_forests/deforestation/forest_illegal_logging)

### **World Bank: Countries Database**

Database on countries and regions, including information on governance and anti-corruption

<http://www.worldbank.org/countries>

### **International Monetary Fund (IMF): Countries Database**

Database holding useful economic information on countries and regions.

<http://www.imf.org/external/country/index.htm>

### **UK Foreign and Commonwealth Office (FCO)**

An overview of global issues, including human rights, conflicts and arms control.

<http://www.fco.gov.uk/en/global-issues/>

### **United Nations Security Council Sanctions Committee**

Information on current UN sanctions

<http://www.un.org/sc/committees/>

### **European Union External Action**

Information on current EU sanctions

[http://www.eeas.europa.eu/cfsp/sanctions/index\\_en.htm](http://www.eeas.europa.eu/cfsp/sanctions/index_en.htm)