

DISCLAIMER

This guidance document has been developed in the context of the Commission Expert Group on the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation. It has not yet been officially adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Member States' Competent Authorities and the European Commission Service responsible for these pieces of legislation, and may not be, in any circumstances, regarded as stating an official position of the European Commission.

Guidance document- Risk Mitigation measures

EUTR: Risk Mitigation measures and procedures when non-negligible risk is identified

Relevant legislation: Regulation 995/2010: Article 4.2 and Article 6.1(c) Implementing (EU) Regulation 607/2012: Article 4 and Article 5

Estimation of the level of risk

The level of risk can be identified in various ways. Evidence of prevalence of illegal logging could originate from the following (non-exhaustive list):

- 1) reports by international organizations and Secretariats (e.g. CITES, INTERPOL, UNODC, FAO, UNEP, etc.);
- 2) government sources;
- 3) scientific and technical reports from academia, research institutions, etc.
- 4) civil society and/or private sector (e.g. NGOs, Monitoring Organizations, etc.)

In addition, information on corruption (e.g. low CPI¹, Corruption Perception Index) or on the quality of governance (e.g. World Bank Worldwide Governance Indicators) can be used as an indicator for the level of risk.

In cases where the available information for the estimation of the level of risk is assessed as not sufficient, the Operator has to conclude that the risk of illegal logging is not negligible. The Operator then has to either take mitigation measures, followed by a new risk assessment, or to refrain from placing this/these timber or timber-product(s) on the EU market.

Guidance:

When exercising due diligence under the EUTR, the mitigation measures should aim at minimising to a negligible level² any risk identified during the risk assessment. The higher the level of risk the more rigorous mitigation measures are needed.

The Operator should seek/aim at risk mitigation measures tailored to the specific risk(s) identified at a specific point in the supply chain. For instance, if illegal logging is a risk, field audits may need to be conducted. If however mixing of timber from different sources is a problem, then checks at sawmill may be necessary. Particular attention to the latter should be given in cases of a long or complex supply chain³.

More specifically, risk mitigation measures and procedures suitable in cases of non-negligible risk could be one or more of the following (non-exhaustive list) depending on the specific risk identified:

¹ see section 4

² For definition of "negligible risk", see section 2

³ see section 3

1. Requesting/acquiring and assessing further information and documentation regarding forest management units and/or supply chains, and/or suppliers. Associations or commercial parties -where feasible- may assist by conducting the checking and verification of documents. Furthermore, the content of the documents collected must be assessed as a whole - with traceability throughout the supply chain up to the point of harvest - and its reliability should be verified⁴.
2. Use of independent third party verification schemes, if in line with the EUTR⁵.
3. Use of independent audits in the country of harvest and any processing country along the supply chain to verify compliance with the applicable legislation in the country of harvest. Audit reports must be made available to the CA during checks. Audits must be compliant with international or European standards (e.g. the relevant ISO-guides or ISEAL codes) and include field visits or other means to check the place of harvest by for instance satellite data or information gathered from GPS loggers. Independent auditors are available from commercial consultants, some of which also operate as Monitoring Organizations. In some countries independent auditing is being developed as a commercial service. In line with article 2 and 4(b) of Regulation 607/2012 audits must be conducted at least every twelve months to verify that applicable legislation is complied with.
4. Use of scientific methods for timber identification, such as wood-anatomy (macroscopic and microscopic) analysis, mass spectrometry, stable isotopes analysis, DNA analysis and/or other methods. By taking samples of the timber or timber product(s) and comparing them with available or additionally collected reference samples, the tree species and/or the origin of the timber indicated in the relevant documentation can be cross-checked.
There are several levels at which these methods can be applied:
 - for identifying/checking the species
 - for checking the large scale area of origin (e.g. country-level)
 - for checking small scale area of origin (e.g. concession-level) and
 - for checking whether the timber belongs to a specific tree (e.g. for tracing timber through the production chain).

Each of these different levels requires the availability of reference samples to a different extent.

Information on available scientific methods as well as on laboratories offering timber testing and identification services has been compiled by various Organizations (international, government, research/academia, civil society) and is available online. For example: the UNODC Timber Analysis Guide⁶, the guide to laboratory techniques to determine species and origin of timber products⁷, the Global Timber Tracking Network (GTTN)⁸ etc.

5. Carrying out self-conducted audits (i.e. conducted by the Operator), which can include:
 - field visits at forest management units and/or
 - using other means to check the place of harvest by for instance satellite data or information gathered from GPS loggers and/or
 - audits on supplier(s) -and further along the supply chain if necessary- to verify legality, transparency and traceability across the supply chain.

⁴ See section 4

⁵ See section 6

⁶ www.unodc.org/documents/Wildlife/Guide_Timber.pdf

⁷ <http://sandbox.nepcon.net/fr/node/305>, developed by NEPCON under the LIFE Project "Supporting Legal Timber Trade", funded by the EU LIFE programme and UK Aid from the UK government

⁸ <https://globaltimbertrackingnetwork.org/>

Self-conducted audits must be:

- based on an audit-process plan to verify compliance with the obligations under the EUTR
- Well documented and focused on the fulfillment of the applicable legislation in line with Article 2(h) of the EUTR

Risk mitigation measures taken together must effectively reduce the risk to a negligible level. In the case where all risk mitigation measures together cannot attain a negligible level of risk, the operator must refrain from placing the timber on the EU market.