

# Implications of the EU Timber Regulation for non-EU timber industry

Version 2

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## Background

The EU Timber Regulation<sup>1</sup> (EUTR) prohibits placing illegally harvested timber and timber products on the EU market. It requires those that place timber and timber products on the market for the first time ('operators') to assess the risk that timber has been harvested illegally. To do so, operators must have access to information indicating that the timber was logged legally, and be sufficiently sure that their suppliers have complied with relevant national laws.

While the most immediate effects of the EUTR are felt by operators in the EU market, it also has implications for other companies in the timber supply chain when their timber and timber products are ultimately sold in the EU.

The main impact on the timber industry in non-EU countries is likely to derive from the operators' need to access credible information on the timber or timber products they are buying. Operators are likely to ask their suppliers for various documents and other information that they cannot obtain themselves. In order to be able to respond effectively and help EU operators understand what information they need, and thereby facilitate mutually profitable trade, non-EU timber industry may wish to proactively compile this information and be ready to share it with buyers. This briefing outlines the kind of information and documents that non-EU timber industry should consider making available.

## What information is important?

The EUTR establishes various types of information that operators must pay attention to. The detail of information sought by operators will depend on the circumstances, including the country and type of timber concerned. As a general rule, the more specific the information made available by non-EU industry, the more likely that it will meet the needs of operators and their compliance with the EUTR.

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<sup>1</sup> Regulation (EU) no 995/2010 of the European parliament and the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market, OJ L 295, 12.11.2010, p. 23

The EUTR requires that operators have the following information, which they may request from suppliers based outside the EU:

- **The trade name, type of product, the common name of tree species and in some cases, its full scientific name**

Often, the operator will already know this information. However, suppliers or harvesting companies may be asked to provide documents that confirm the trade name, type of product and tree species. If timber producers use general descriptions, such as ‘mixed tropical hardwoods’, they may be asked to provide more precise information. Where the common name of a species is ambiguous and/or where multiple common names exist, operators may ask for the scientific name.

When the timber products contain multiple species, such as plywood, an operator will need to know all possible species that were used to produce the product.

- **Country of harvest, and in some cases, the sub-national region and the concession of harvest**

The country of harvest of timber may not always be apparent, especially where timber passes through several stages of processing in different countries before export to the EU. In these cases, an operator may ask their supplier to provide information on where the timber was harvested.

The EUTR asks operators to have more specific information about where timber is from if the risk of illegal harvesting varies between sub-national regions or concessions. So timber suppliers should consider how to provide EU buyers with the most detailed information possible regarding the origin of timber.

- **Quantity of timber or timber products**

Operators will need the quantity of timber or timber products, expressed in volume, weight or number of units. This information should be available from trading documents.

- **Documents or other information indicating compliance with the legislation of the country of harvest**

This is the most complex aspect of the requirement. There is no applicable list of necessary information or documents. Instead, the purpose is for operators to have information from which they can determine the legality of the timber, so the precise information needed will depend on the laws and practices in the country of harvest. Timber producers may be asked for different documents depending on the type of timber, the location of harvest and other relevant circumstances.

Information or documents from the following categories are likely to be relevant:

Category of Law	Examples of possible documents or information
<b>Legal right to harvest timber</b>	Evidence of the legal authority to harvest: documentation of ownership rights or right to land use, concession licenses, felling permits, land conversion permits. Evidence showing that the timber has been harvested in authorised (not protected) areas: maps with markings of precise origin of timber; officially

	approved harvest and forest management plans; audit reports.
<b>Payments for harvest rights</b>	Official records proving that fees for harvest rights and taxes as well as charges have been paid: contracts; bank notes; VAT documentation; official receipts.
<b>Timber harvesting, including environmental and forest legislation</b>	Evidence that other legislation governing timber harvesting has been complied with: official audit reports; environmental clearance certificates; approved harvest plans; harvest closure reports; ISO certificates; codes of conduct; environmental impact assessments; transport permits; processing certificates.
<b>Rights of third parties</b>	Evidence of compliance with third parties' legal rights e.g. local communities' rights: environmental impact assessments; management plans and audit reports; social responsibility agreements; specific reports on tenure and rights claims, and conflicts.
<b>Trade and customs, including fiscal obligations</b>	Evidence that timber has been declared properly and customs duties have been paid: customs declaration forms; official receipts for appropriate tariffs; export tax receipts; documents issued by customs authorities, such as export and import licenses; official receipts indicating that other taxes and fees have been paid.

## Credibility of information

Operators need to consider whether the information they have access to is credible and can inform a reliable assessment of the risk that timber has been logged illegally.<sup>2</sup> With this in mind, timber suppliers should consider how the credibility of information may be enhanced. This could include:

- Clear and concise documentation, stemming from a variety of different sources rather than one individual origin;
- Information exchanged over the course of a long-term trade relationship; and
- Independent verification such as third party certification, which may back up or complement information made available by non-EU industry.

## Dead ends

Since the EUTR entered into force in 2013, different attempts to facilitate compliance with it have emerged. These must be assessed critically by both operators and non-EU industry.

Certificates, which state that timber is 'EU Timber Regulation compliant' or 'FLEGT approved', have been made available by suppliers. However, these certificates have no official recognition within the regime of the EUTR and do not relieve operators from their obligation to exercise due diligence. Non-EU timber producers and operators should understand that 'EU Timber Regulation compliant' timber is not a possible or accurate claim.

<sup>2</sup> See ClientEarth's briefing: [Using official documentation under the EU Timber Regulation's due diligence obligation](#)

Operators may seek to impose contractual clauses on their suppliers stating that timber/timber products are EUTR compliant and also providing for sanctions against the supplier if the operator is convicted in the EU for violation of the EUTR. However, such contractual clauses are not a sufficient way for an operator to comply with the EUTR and should be recognised as a mechanism of limited use by all parties.

## Summary

Operators need access to all the various types of information set out above. Therefore, it is in the best interests of any entity in the timber supply chain, especially companies in the country of harvest, to be prepared to provide these types of information.

For more information, please contact:

Diane de Rouvre  
Lawyer/Juriste  
+32 (0)2 808 34 65  
dderouvre@clientearth.org  
www.clientearth.org

Emily Unwin  
Senior Lawyer  
+44 (0)20 7749 5975  
eunwin@clientearth.org  
www.clientearth.org

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**Brussels**  
Rue du Trône 60  
5ème étage  
1050 Bruxelles  
Belgique

**London**  
274 Richmond Road  
London  
E8 3QW  
UK

**Warsaw**  
ul. Żurawia 45  
00-680 Warszawa  
Polska