



The EU Timber Regulation

October 2017

- **Introduction:** history, requirements and scope
- **Who's involved?**
- **Defining obligations:** operators, traders, monitoring organisations, competent authorities, the EC
- **What is 'legal'?**
- **Product scope:** what is covered and what is not
- **Enforcement:** penalties, liability, proof, drivers, cases
- **Resources**

Introduction

The EU Timber Regulation - 995/2010



12.11.2010

EN

Official Journal of the European Union

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**REGULATION (EU) No 995/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 October 2010**

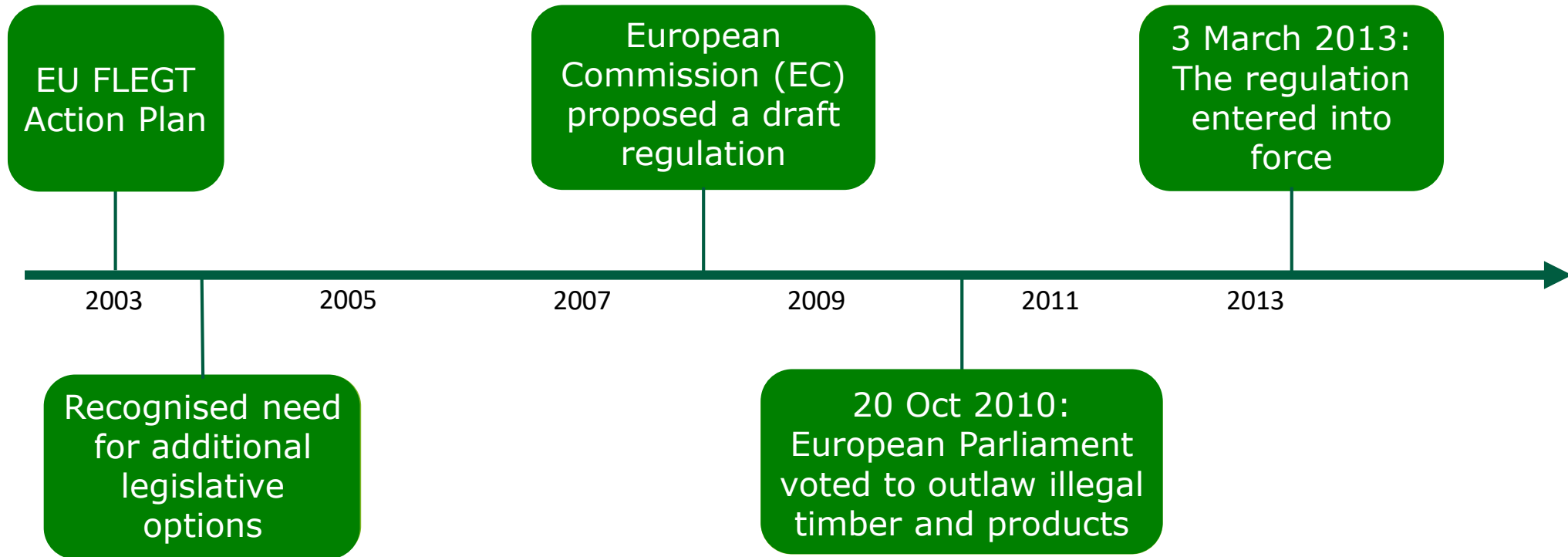
laying down the obligations of operators who place timber and timber products on the market

(Text with EEA relevance)

The EU Timber Regulation - 995/2010

- Part of the EU FLEGT Action Plan
- Aims to reduce illegal logging and the trade in illegally harvested timber
- Prohibits placing illegally harvested timber/timber products on the EU market
- Requires companies to conduct due diligence





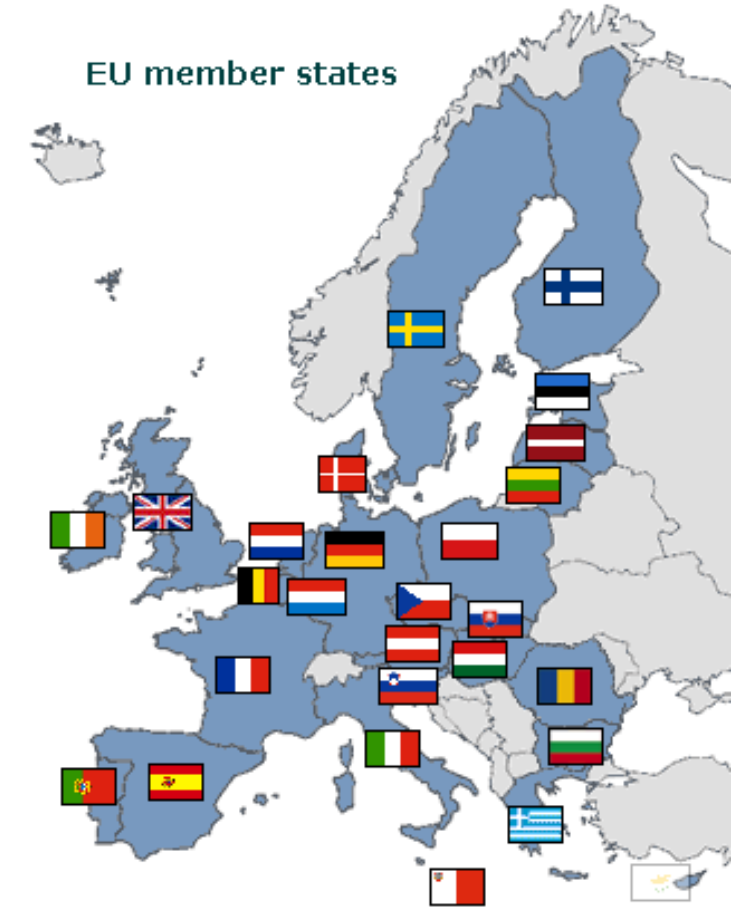
As of 3 March 2013, the EU Timber Regulation made it illegal to place illegally harvested timber and timber products on the EU market

- Prohibits placing illegally harvested timber/timber products on the EU market
- **'Operators'** placing timber/timber products on the EU market must conduct due diligence
 - obtain information
 - assess risk of illegality
 - mitigate risk
- **'Traders'** of timber already on the EU market must record who they buy/sell to

Only products with a FLEGT licence or a CITES permit/certificate automatically comply with the EUTR - products with a certificate/license do not need due diligence

Requirements and scope

- Binding on all member states
- Applies to a wide range of timber and timber products, including pulp and paper, harvested in EU and non-EU countries



Who's involved?

Who's involved

The European
Commission

Monitoring
Organisations

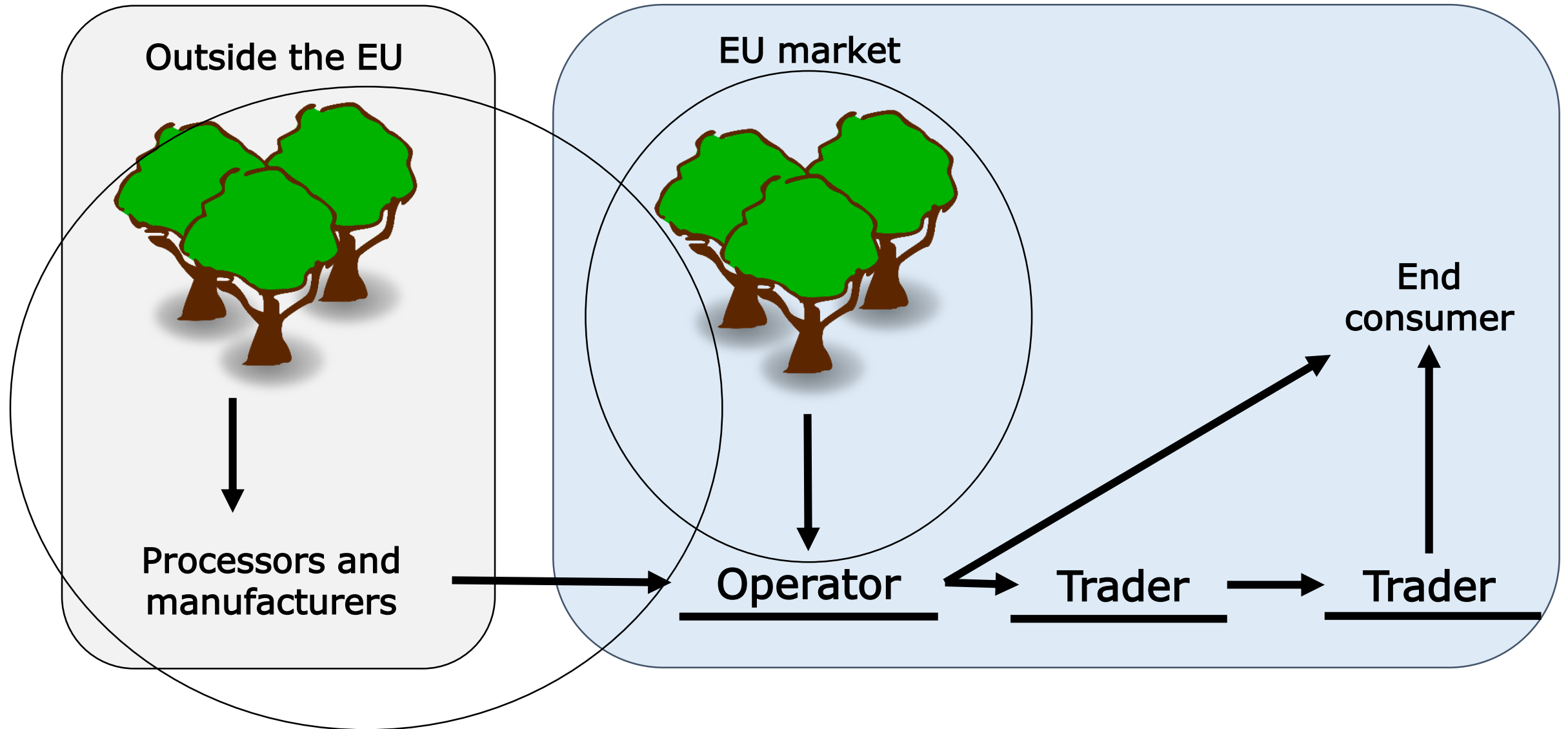


Member states
(Competent Authorities)

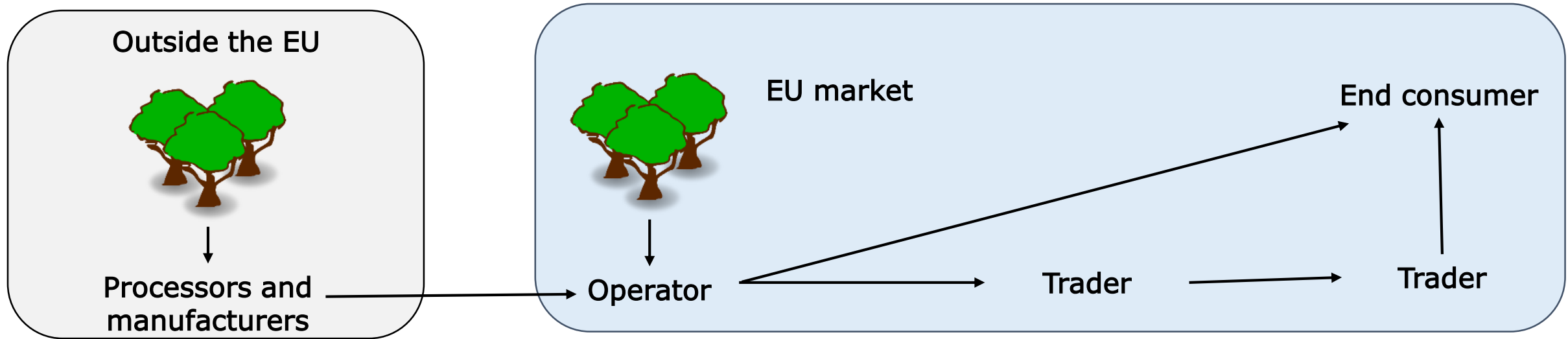
Industry
(Operators & Traders)

What are their obligations?

Operators and traders



Placing on the market



For imported timber

(harvested outside the EU)

- The Operator is the entity acting as the importer when the timber is cleared by EU customs for free circulation
- The definition of operator is independent of the ownership of the product, or other contractual arrangements

For domestic timber

(harvested within the EU)

- The operator is the entity that distributes or uses the timber when it has been harvested

Placing on the market

Importers to EU

“In the majority of cases, the importer can be identified as the named or numbered “Consignee” in Box 8 of the customs declaration document (the Single Administrative Document - SAD)”.

EUROPEAN COMMUNITY		1	2	3	4	5	6	7		
Copy for the country of dispatch/export	1	2 Consignor/Exporter No <input type="checkbox"/>						1 DECLARATION		
								3 Forms	4 Loading lists	
								5 Items	6 Total packages	7 Reference number
		8 Consignee No						9 Person responsible for financial settlement No		
		14 Declarant/Representative No						10 Country/first destin.	11 Trading country	
								15 Country of dispatch/export		15 C disp./exp. Co
								16 Country of origin		17 Country of destination
		18 Identity and nationality of means of transport at departure						19 Ctr.	20 Delivery terms	
		21 Identity and nationality of active means of transport crossing the border						22 Currency and total amount invoiced		23 Exchange rate
		25 Mode of transport at the border	26 Inland mode of transport	27 Place of loading			28 Financial and banking data			
1	29 Office of exit		30 Location of goods							
31 Packages and description of goods	Marks and numbers — Container No(s) — Number and kind						32 Item No	33 Commodity Code		
								34 Country origin Code	35 Gross mass (kg)	
								a ₁ b ₁		
							37 PROCEDURE		38 Net mass (kg)	
							40 Summary declaration/Previous document			

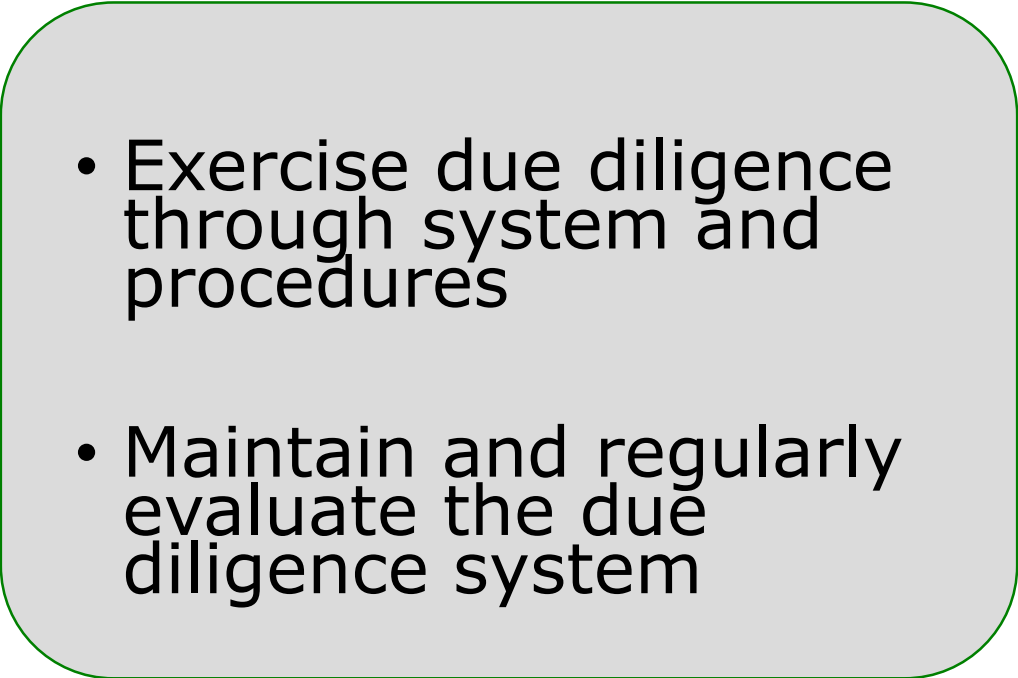
Placing on the market

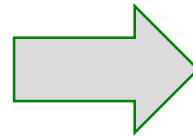
- Placed on EU Market (physically)
- For the first time
- Used in a commercial activity
 - whether or not sold



Defining obligations: Operators

- Placing on the market of illegally harvested timber or timber products shall be *prohibited*

- 
- Exercise due diligence through system and procedures
 - Maintain and regularly evaluate the due diligence system



Minimise the risk of illegally harvested timber and timber products

The due diligence system must include:

- ✓ Access to information
- ✓ Risk assessment procedures
- ✓ Risk mitigation procedures

Plus: keep record for 5 years

Key: Traceability

- Must be able to identify buyers and suppliers throughout their supply chain
- Keep information for at least five years
- Provide information to competent authorities



Defining obligations: European Commission

- Formulates the Regulation (995) and implementing regulations
- Recognises and controls Monitoring Organisations



Defining obligations: EU Member States

Ensure the EUTR is implemented throughout their jurisdiction

- Provide for “effective, proportionate and dissuasive” penalties for infringements
- Designate one or more Competent Authorities responsible for the application of the EUTR
- Report to the European Commission every two years



Defining obligations: Competent Authorities

Governmental body responsible for application and enforcement of the EUTR

- Carry out checks on monitoring organisations
- Check that Operators effectively fulfil obligations – official checks of premises and field audits. Require remedial actions where necessary.
- Keep records of checks and make them publicly available



Nominated Competent Authorities

http://ec.europa.eu/environment/forests/pdf/list_competent_authorities_eutr.pdf

Defining obligations: Monitoring Organisations

- Maintain and regularly evaluate a due diligence system
- Verify the proper use of its due diligence system
- Take appropriate action in the event of failure, including notifying competent authorities in cases of significant or repeated failure by an Operator



Recognised Monitoring Organisations

<http://ec.europa.eu/environment/forests/mos.htm>

Note: Operators don't have to use the due diligence system of a Monitoring Organisation – they may use their own

What is legal?

What is 'legal'?

Legally harvested: harvested in accordance with the...

Illegally harvested: harvested in contravention of the...

... applicable legislation in the country of harvest.



What is 'legal'?

Applicable legislation



- Legal right to harvest



- Taxes/fees linked to harvesting



- Compliance with timber harvesting laws



- Respect for third parties' tenure/use rights



- Relevant trade and customs rules



What is 'legal'?

Role of international conventions

Aside to national legislation, the international conventions to which a country is party also apply in the definition of legal/illegal timber



In the absence of an internationally agreed definition, the legislation of the country where the timber was harvested, including regulations as well as the **implementation in that country of relevant international conventions to which that country is party**, should be the basis for defining what constitutes illegal logging.

Product scope

Product scope – what is covered?

- Virtually any product containing wood, wood fibre, cardboard or paper
- Complete list in the Regulation's annex
- Identification based on EU customs codes. E.g.:
 - 4403 Wood in the rough
 - 4412 Plywood
 - Chapters 47 & 48 Pulp & paper



Regulation can be amended - product list could change in the future

Product scope – what is covered?

- Fuel wood
- Wood in the rough
- Railway sleepers
- Sawn/chipped wood
- Veneer sheets
- Wood with shaped edges
- Particle/strand board etc.
- Fibreboard
- Plywood
- Densified wood
- Wooden frames
- Packing cases, boxes etc.
- Casks, barrels, vats etc.
- Joinery and carpentry of wood
- Pulp and paper (except bamboo and recovered products)
- Wooden furniture
- Prefabricated buildings





Product scope – what is NOT covered?

- Waste products = timber products or components of products manufactured from timber/timber products that have completed their lifecycle (would be disposed of as waste)
- “Seats”
- Plaited products and pulp and paper made from bamboo
- Packaging (used as packaging)
- Printed material



Product scope – important distinctions

Product type or material	Covered 	Not covered 
Printed materials	Paper or tissue that may carry print e.g. facial tissue, toilet paper, or stationery paper	Products where the print itself is the essential product e.g. books, brochures, and photos
Furniture	Most wooden furniture	Seats, plaited/weaved bamboo, and medical, surgical, dental or veterinary furniture
Bamboo	Solid bamboo products e.g. flooring, tabletops and furniture parts	Products made from plaited or woven bamboo, pulp and paper, seats
Packaging	Packaging sold as a product or that gives the product its essential character (e.g. decorative gift boxes)	Packaging used to 'support, protect or carry' another product e.g. in transport & specific packaging for long-term use e.g. musical instrument cases

Enforcement

- National law of member states defines the possible penalties
- Sanctions shall be *effective*, *proportionate* to the severity of the violation and have *deterrent effect*
- Possible sanctions include:
 - Fines
 - Confiscations
 - Suspension of trade permit
 - Imprisonment



Fines may be imposed:

On:

If they:

Operators

- place illegally harvested timber/timber products on the market
- fail to exercise due diligence

Traders

- cannot identify the operators or traders who have supplied them the timber
- cannot identify the traders to whom they have supplied timber

Monitoring Organisations

- fail to maintain and regularly evaluate a DDS
- fail to verify the proper use of their DDS by operators
- fail to take appropriate action if an operator doesn't properly use their DDS

- ADD INFO FROM WORKSHOP COUNTRY LATER IF APPROPRIATE (depending on CA presentation)
- NO NEED TO TRANSLATE THIS SLIDE 😊

UK Example

A person found guilty of an offence is liable:

- (a) on summary conviction; Fine up to £5,000 or imprisonment up to 3 months, or both.
- (b) on conviction on indictment; (unlimited) fine or imprisonment up to two years, or both.

Clarification from the CA:

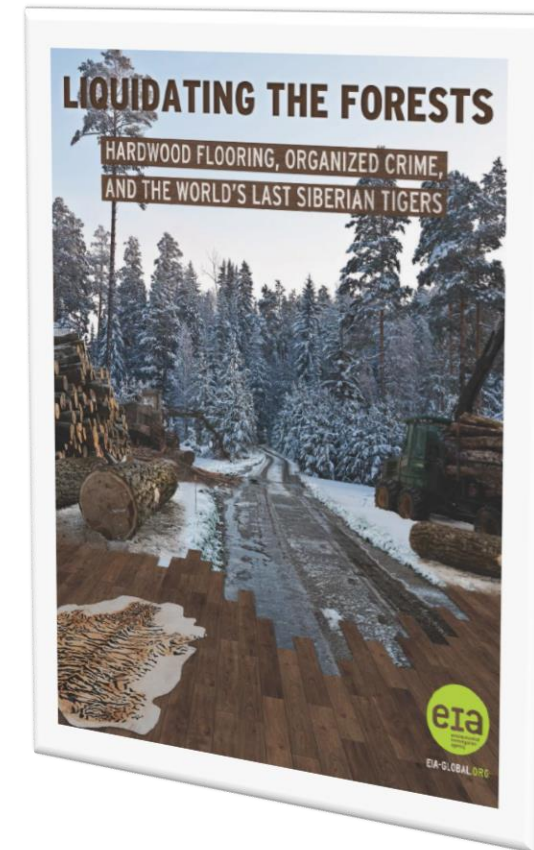
"the offence may be applied to each individual piece of timber within a consignment"

Perhaps more importantly...

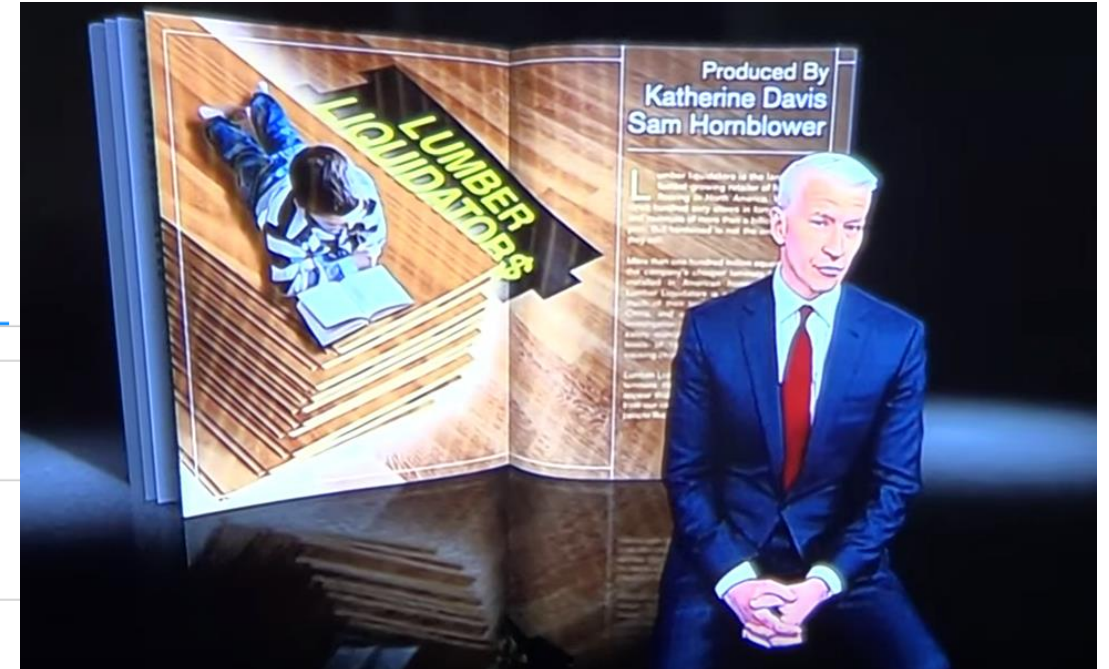


Confiscation of
supplies and disrupted
supply flow

Loss of buyers and
brand damage

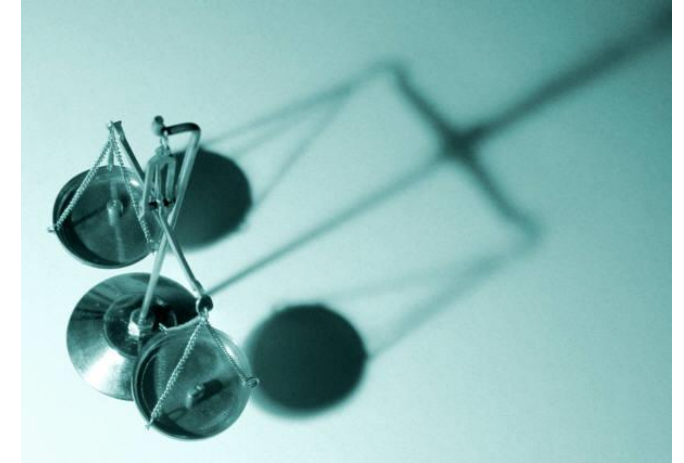


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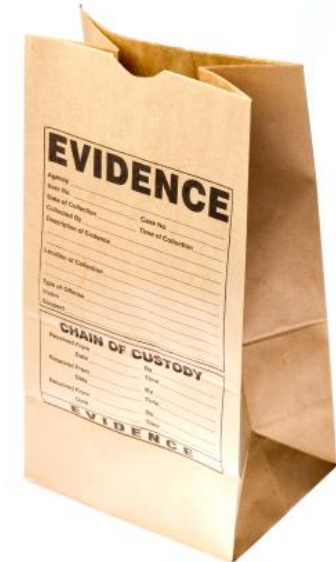
Who is liable?

- Operators are liable to prosecution and penalty under the Regulation
- Operators' obligations, responsibilities or liabilities are not removed by the use of a Monitoring Organisation



Who needs to prove what?

- The burden of proof of non-compliance rests with the authorities
- Violations of requirements must be proven by Competent Authorities, possibly with police



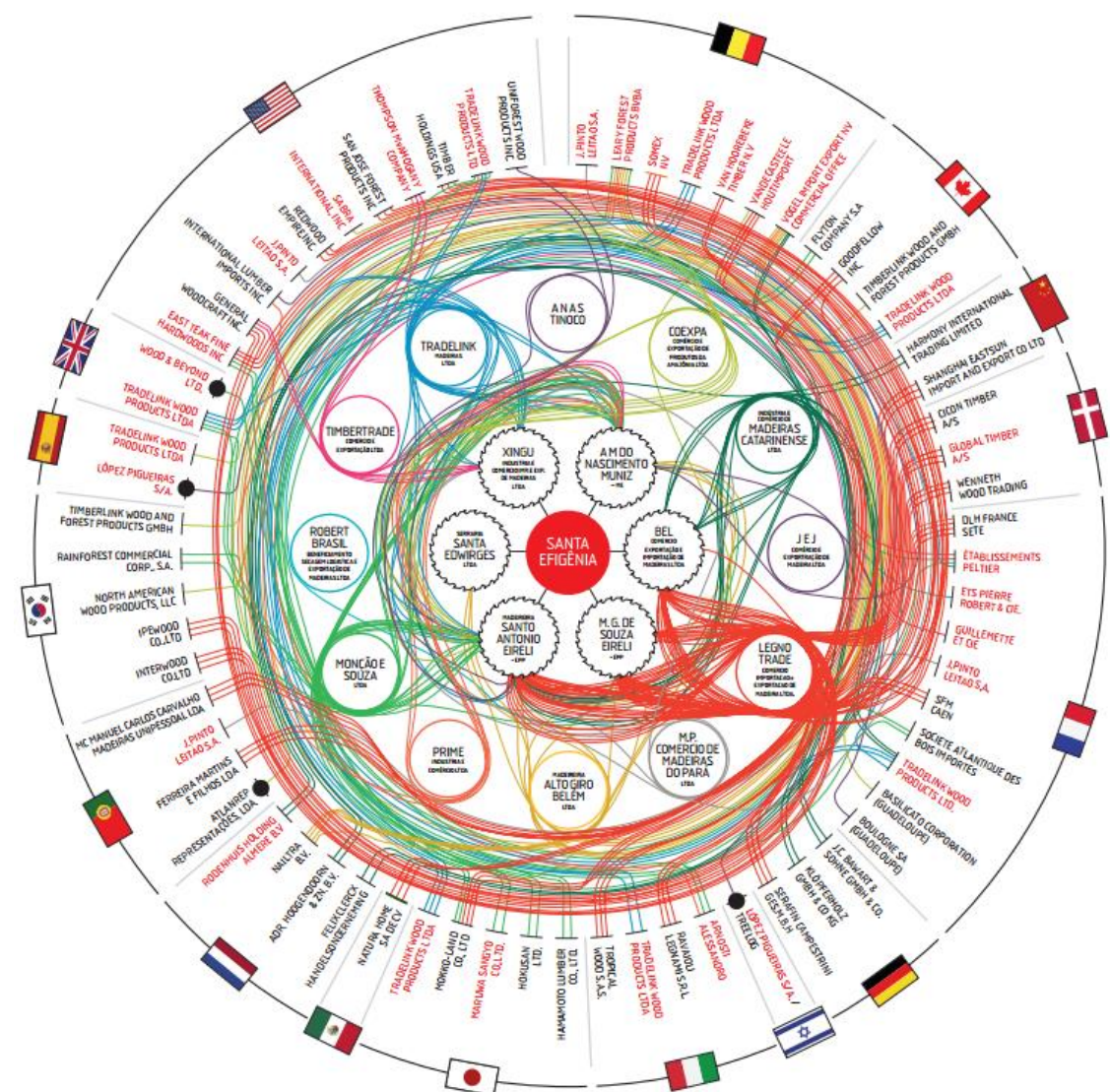
- Inconsistent across member states
- Some have been more active
e.g. Denmark, UK, Germany, Sweden
- No public records of penalties being issued to Operators
- Audits are taking place in some member states



- UK CA [microscopic wood anatomy testing project](#) on Chinese plywood.
- Skogsstyrelsen, the Swedish CA, fined Almtra Nordic 17,000 Swedish krona (approximately 1800 EUR) [Teak from Myanmar](#)
- Danish CA [requires 7 Operators to improve due diligence on Burmese Teak](#) (more inspections in BE, IT, NL, SP, UK)
- Dutch CA sanctions [Fibois BV over purchase of Azobe \(*Lophira alata*\)](#) from CCT in Cameroon upheld by Dutch court (potential fine for future issues = 1800 EUR / m³)
- German court rules that [German CA \(BLE\) was correct to confiscate Wenge timber](#) imported in 2013 from RoC, due to falsified documents.

- Raising profile of high risk cases in various countries
- Targeting specific companies
- Putting information in the public domain which Operators should consider as part of their risk assessment
- Highlighting the dangers on relying on documents alone

NGO Campaigns



Resources

Main law

Regulation (EU) No 995/2010 laying down the obligations of operators who place timber and timber products on the market

Secondary legislation

- Delegated Regulation (EU) No 363/2012 - (rules for the recognition and withdrawal of recognition of monitoring organisations)
- Implementing Regulation (EU) No 607/2012 – (Regulation to ensure the uniform implementation of the law)

Guidance document

- Guidance document

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ENVIRONMENT

European Commission > Environment > Nature and Biodiversity > Forests > Illegal logging

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EU Forests and Forest related policies

- The GP on Forest Protection and Information
- Forest Information
- Forest Fires
- Studies and published articles
- International Forest Issues ▶

Timber Regulation

Regulation (EU) No 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 – also known as the (Illegal) Timber Regulation counters the trade in illegally harvested timber and timber products through three key obligations:

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 EU traders who 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



http://ec.europa.eu/environment/forests/timber_regulation.htm

NEPCon Sourcing Hub



Timber



Palm Oil



Beef



Soy

www.nepcon.org/sourcinghub



Time for:

