



## EU TIMBER REGULATION

### IMPLEMENTATION GUIDE FOR COMPANIES TRADING FSC-CERTIFIED MATERIALS IN THE EUROPEAN UNION

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#### **Preface**

This guide explains how “operators” (introducers of timber or derived products on the European Union market) can use the Forest Stewardship Council (FSC) system as part of their due diligence system (DDS) as required by the European Union Timber Regulation (EUTR).

This version is an update of the one published in March 2013. The original version came out around the time the EUTR entered into force. We now have some understanding of how the European Commission and national enforcement authorities see the requirements in practice. The picture is far from complete and consistent: in several countries enforcement has not even started and it seems that different authorities have slightly different approaches.

One thing is clear: competent authorities do see FSC certification as a useful part of a DDS – a contribution to risk assessment and risk mitigation. But precisely how much one can rely on a certificate varies from case to case and authority to authority.

Another thing is also clear: there have been cases of operators not understanding the role of (FSC) certification properly. For example, FSC-certification status of suppliers from outside the EU does not automatically imply that all of their shipments are covered by the FSC scheme. For that, it is essential that the shipments come with valid and verified FSC claims.

In early 2015 the European Commission has to start reviewing the implementation of the EUTR, and stakeholders will be invited to comment. I call upon all companies that have had experience with competent authorities to report to us how the FSC certification has been valued in practice and what problems you may have encountered.

#### **Part 1: Introduction**

The European Union Timber Regulation (EUTR) came into force on 3 March 2013. This regulation is intended to ban illegal timber and products derived from such timber from the EU market. With this guide, the Forest Stewardship Council (FSC) aims to clarify how the FSC certification scheme is helping companies that produce and/or trade FSC-certified



products, including FSC controlled wood (CW)<sup>1</sup> materials, to comply with the EUTR. It includes descriptions of several measures that FSC took to ensure that its system is consistent with the requirements of the EUTR, through advice notes.<sup>2</sup> The guide also highlights the considerable advantages of working with FSC-certified products and materials. This revised guide reflects first experiences with implementation.

*As there are many, and repeated, references to websites and documents throughout this guide, we have listed these in full in Part 4 (References), in addition to including hyperlinks in the text of the electronic versions of this document.*

For more general information about the EUTR, please refer to the section of the European Commission's [website](#) that focuses on this topic. Also some “competent authorities” – the governmental bodies designated to enforce the EUTR in EU member states – may have information on their websites.<sup>3</sup> For an introduction to FSC's views on the EUTR, please see the [Questions & answers about FSC and the EU Timber Regulation](#) on the FSC website.

### Is this guide relevant for me and my company?

This guide is only related to FSC-certified products and controlled wood (CW) materials that also fall under the scope of the EUTR (listed in the Annex of the [EUTR](#) document and referred to as “**covered products**” in this guide). For further clarification of the EUTR product scope, see the Annex to this Guide.

If one or more of the products you trade are covered products, then you need to determine whether you are an “operator” or a “trader.”

**Operators** are economic actors that introduce timber or timber products on the EU market.<sup>4</sup> In practice this means that either:

- You are a domestic forester selling felled timber on EU territory or a harvester of standing trees you bought as such from a forester, or
- You import covered products into the EU, for processing or trade.

To be clear: if you convert timber that was already on the EU market into a specific product, you are NOT an operator. What is decisive is whether you imported the material or not.

As an operator you are liable if authorities discover that you have placed illegally harvested timber (or covered products made from illegally harvested timber) on the EU market. Moreover, you must have a due diligence system (DDS) to reduce the risk of placing such illegal timber/products on the market.

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<sup>1</sup> FSC controlled wood material is only allowed to be used by FSC-certified chain of custody certificate holders for the purpose of producing FSC-certified mix products.

<sup>2</sup> Advice notes are binding upon the entity they are written for. This instrument is used to intervene quickly (albeit respecting the internal rules on consultation of the membership). Advice notes are compiled into directives and published on the FSC website. Advice notes are normally integrated into standards when these are being reviewed.

<sup>3</sup> For a link to the list of competent authorities, see Part 4.

<sup>4</sup> It is not always obvious who is placing timber/products on the market for the first time. For imports it is normally the importer, except when at the time of arrival of the materials in the EU there is no known buyer yet (i.e. when the exporter has not formalized the trade with an EU-based company at the moment they physically enter the EU). For more information, see pages 2–4 and Annex 1 of the [Guidance document for the EUTR](#).



**Traders** are the economic actors inside the EU who have bought covered products from operators. Traders need to keep the usual documentation of all transactions of such products (with their direct suppliers as well as their direct clients, not including end-consumers) for five years, so that authorities can trace illegal timber back to the concerned operator if necessary.

Obviously, it is possible that you are an operator for some products, and a trader for others. You need to maintain a DDS only for the part of your activities for which you are an operator.

### What about recycled materials?

The EUTR does not apply to wood waste or products made from such waste. However, there is a difference between the definitions of “waste” used by the EU and by FSC. FSC considers “pre-consumer reclaimed materials from **secondary** manufacturing” as waste. So if a covered product imported into the EU with an “FSC Mix” or “FSC Recycled” claim contains such materials, the certificate does not ensure their legal origin. However, the EU defines part of this (e.g. sawdust, wood chips, off-cuts from untreated wood) as by-products for which the legality of harvesting needs to be investigated.

This problem does not exist for reclaimed materials coming from **primary** manufacturing, because both FSC and the EUTR consider these co-products, for which the origin is checked as with certified materials/CW. Equally the problem does not exist for recycled paper or paper scrap, as these are explicitly excluded from the scope of the EUTR.<sup>5</sup>

In order to address this problem in a pragmatic manner, on 15<sup>th</sup> August 2014 FSC launched ADVICE-40-004-12 on pre-consumer reclaimed wood (included in [FSC-DIR 40-004 on chain of custody certification](#)). It does not change FSC’s definitions, but obliges relevant companies to be alert and to cooperate in applying due diligence in relevant situations.

### What does the “due diligence system” mean in practice?

*Operators placing timber from domestic forests on the market:* These operators have a straightforward task. As before, forest managers and companies harvesting standing trees from certified forests need to comply with all the laws relevant to their harvesting and forest management practices. This is also a standard requirement for achieving an FSC forest management certificate. In this case, the DDS is simple: the operator must keep good records of their obligations and any available practical evidence of compliance (e.g. payment of taxes). A harvester may have to ask the forester for part of this documentation. There is only a small chance that FSC-certified foresters will be targeted by the authorities more than before.<sup>6</sup>

*Operators importing covered products:* These operators must have a more sophisticated DDS, which can be a challenge. For clarity, this guide first briefly describes how a DDS should look in general. Then it explains how the FSC scheme helps in compliance with the DDS requirements, as far as it concerns FSC-certified products and CW materials.

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<sup>5</sup> Annex to the EUTR, see also Annex to this Implementation Guide.

<sup>6</sup> We do not describe the situation for EU-based certificates of controlled wood for forest management enterprises, as currently no such certificates exist.



Operators that have problems with setting up their own DDS can choose to work with a monitoring organization (MO). An MO helps the operator with providing a DDS and assisting in its implementation.<sup>7</sup> It also has a controlling function, even though the liability remains with the operator. Currently only four companies have been recognized as MOs: NEPCo, Control Union and Bureau Veritas for all EU member states, and Conleggo for Italy. More recognitions are in the pipeline. As far as FSC-certified and controlled materials are concerned, assistance of such an MO may be less necessary, provided you apply the advice below.

### Key aspects of due diligence systems

The DDS should contain three elements:

1. **Information collection** on the products you plan to import. You need to know the origin and the species of the timber involved, and collect evidence that the relevant forest management unit and the exporting company in the country of harvest have complied with the relevant laws. It is also necessary to collect information about the reliability of the information you will get. This relates to the prevalence of illegal harvesting of specific tree species, the complexity of the supply chain, the prevalence of illegal harvesting practices in the place of harvest, the prevalence of corruption, and other pertinent questions.
2. A **risk assessment** with regard to the risk that you will be handling illegal timber.
3. **Risk mitigation**,<sup>8</sup> unless the risk is considered to be “negligible”.<sup>9</sup>

Products imported with a FLEGT<sup>10</sup> or CITES<sup>11</sup> license are considered to have “negligible” risk by definition, and you do not need to have a DDS for these. In the case of a CITES license you do need to assess whether the license can be trusted. FLEGT timber licenses are already controlled by the customs of the country where it enters the EU.

The competent authority does not require information proactively and there are no forms to fill in. A competent authority can inspect you at any time and then require you to

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<sup>7</sup> There is more information on MOs on the European Commission’s [website to introduce the EUTR](#), under “Frequently asked questions.”

<sup>8</sup> We do not go into detail here as the FSC scheme is taking care of risk assessment and risk mitigation for FSC products and CW materials (as described in Part 2 of this document). However, if you want to know more about what is expected with regard to risk assessment and mitigation, you can read the [Guidance document for the EUTR](#).

<sup>9</sup> This is the term used by the EUTR. FSC uses the term “low risk.” So far we have not seen any clear explanation of the difference between the two concepts.

<sup>10</sup> FLEGT stands for Forest Legality Enforcement Governance and Trade. The EU has completed voluntary partnerships agreements under FLEGT with six countries to assist them in the enforcement of national laws, with a view to enable exports of timber under FLEGT licenses. As of July 2014, no country was ready to export FLEGT timber. It is possible that Indonesia or Ghana will be the first countries to do so in the near future.

<sup>11</sup> *Convention on International Trade in Endangered Species of Wild Fauna and Flora*. Species that are identified by CITES as endangered or potentially endangered may only be traded with a special CITES license.



demonstrate your DDS. If it judges that you are not in compliance with the requirements then you can be penalized. On the other hand, if you have a DDS that meets the expectations of the competent authority, and you are still “caught” for having imported illegal timber or products, then your penalty is likely to be relatively low since you have proven your intention to prevent this (the illegal products, however, may still be confiscated).

In principle, a DDS does not need to be linked to individual shipments. If you regularly purchase the same type of product from the same supplier, and the origin is always the same country, region or concession of harvest and the same species, you can do a risk assessment for a certain period (the EU advises to do this at least annually). But as soon as the supplier, country of harvest or species changes, you need to do a new risk assessment and, where necessary, risk mitigation. It is clearly essential to have a good understanding of this with your supplier abroad. He or she should warn you as soon as something changes in the relevant supply chain and should help with obtaining updated information.

A complication of the DDS requirement is the need for you to assess the risk of illegal timber *before* you bring the product to the market. In practice that means, of course, *before* you actually buy or import the product.

### **FSC helps with implementing the due diligence requirement**

FSC’s first principle (of ten) is to comply with existing legislation. However, the EU regulation does not foresee the possibility of officially recognizing systems such as FSC as a full replacement for having a DDS. In other words, there is no “green lane” for certification schemes. Nevertheless, such schemes are permitted to form *part of* a DDS. The Implementing Act of June 2012 and the Commission’s guidance document clarify what conditions such schemes should fulfill. FSC has taken measures to ensure that it complies with these conditions (see further information below). As a result, operators importing FSC-certified products or CW materials have, for these products, a considerably simpler task than others in setting up and maintaining a DDS.

**It is important to understand that you cannot transfer liability to FSC. You, as the operator, remain responsible for implementing the DDS, and you will need to make your own assessment of whether, and to what extent, you can justify your reliance on FSC to the competent authorities. FSC wants to be of assistance to you, however, by providing the following guidance.**

## **Part 2: What does a DDS for FSC-certified products and CW materials look like?**

### **Preparations**

Any organization that is **an operator** in terms of the EUTR **must set up a DDS**.

General requirements for a DDS can include the following:

- Establishing a timber sourcing policy
- Establishing a written procedure
- Defining responsibilities and training staff
- Establishing performance monitoring
- Defining the scope of the DDS.



## 1. The information obligation

You are expected to collect, and be able to show an inspector from the competent authority, information about the following.

- 1a. Which **country/countries** the original timber is harvested from (in general, a risk assessment could lead to the conclusion that, for countries where the risk of illegal harvesting varies by region, you may need to identify which region, or even – in case of considerable risk – a specific concession of harvest, see “2. The risk assessment obligation” below).
- 1b. What **species** the product contains – common names will suffice unless these lead to ambiguity, in which case the scientific names will also be needed.
- 1c. **Quantity** (expressed in volume, weight or number of units).
- 1d. Name and address of the **direct supplier** to the operator.
- 1e. Name and address of the **trader** to whom the timber and timber products have been supplied.
- 1f. **Documents or other information indicating compliance** of those timber and timber products with the applicable legislation.

Obligations 1c, 1d and 1e relate to standard information that you collect as a company. This information should be stored systematically as part of the DDS, and connected with the other information obligations.

Obligations 1a, 1b and 1f may be more challenging to meet. This kind of information should be gathered *before* importing, as it should be the basis of the risk assessment and possible risk mitigation (including, as the most extreme option, not buying the products).

FSC provides the following advice in support of meeting obligations 1a, 1b and 1f.

**Obligations 1a (country of harvest) and 1b (species):** In the current FSC system, your direct supplier does not have to automatically provide you with information about country/concession of harvest or species. Therefore, FSC has published an advice note ([ADVICE-40-004-10: Access to information regarding species and origin of timber](#)) that obliges direct FSC chain of custody (CoC) certified suppliers to provide operators with such information upon request. If suppliers do not have that information, they are obliged to use the advice note to go further up the supply chain until they have obtained the information for you.

**Comment:** on composite products, the Commission’s guidance document says:  
“It is often difficult to identify the precise origin of all components of composite timber products. This is especially true for reconstituted products such as paper, fiber-board and particle board, where identifying species may also be difficult. If the species of wood used to produce the product varies, the operator will have to provide a list of each species of wood that may have been used to produce the wood product. The species should be listed in accordance with internationally accepted timber nomenclatures (e.g. DIN EN 13556 “Nomenclature of timbers used in Europe”; Nomenclature générale des bois tropicaux, ATIBT (1979))”.



If necessary, you can use the [FSC timber legality memo](#) to explain the need for cooperation to your suppliers from outside the EU.

**Core text of advice note 40-004-10: Access to information regarding species and origin of timber**

1. Upon request, FSC certified suppliers shall provide customers with the following information about FSC certified and FSC Controlled Wood timber or timber products subject to compliance with applicable timber legality legislations:

a) Common name and/or scientific name of timber species as required by the applicable legislation;

NOTE: This requirement takes precedence over Clause 2.1.1(c) of FSC-STD-40-004 V2-1.

b) Origin of timber (countries of harvest and where applicable, sub-national regions and concessions of harvest);

NOTE: Information on the sub-national regions or concessions of harvest shall be provided where the risk of illegal harvesting between concessions of harvest in a country or sub-national region varies. Any arrangement conferring the right to harvest timber in a defined area shall be considered a concession of harvest.

c) Proof of compliance with relevant trade and customs laws.

2. FSC certified suppliers shall provide timely responses to the information requests specified in Clause 1 above.

3. The form and frequency of providing this information may be agreed between FSC certified supplier and customer, as long as the information is accurate and can be correctly associated with each material supplied as FSC certified or FSC Controlled Wood.

4. In case the FSC certified supplier does not possess the requested information specified in Clause 1 above, the request shall be passed on to the upstream FSC certified suppliers, until the requested information can be obtained.

**Obligation 1f (documents or other information indicating compliance of those timber and timber products with the applicable legislation):** Gathering this information can be a difficult and burdensome task. The “applicable legislation” is defined in the EUTR as “the legislation in force in the country of harvest covering the following matters:

- Rights to harvest timber within legally gazetted boundaries
- Payments for harvest rights and timber including duties related to timber harvesting
- Timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting
- Third parties’ legal rights concerning use and tenure that are affected by timber harvesting, and
- Trade and customs, in so far as the forest sector is concerned.”



The first four sets of legislation listed above are covered by the FSC forest management certification schemes. To avoid possible loopholes, FSC has published [advice notes](#) detailing the legislation that must be complied with, addressing the companies doing CW risk assessment, certification bodies and forest management certificate holders.

The scope of the fifth (and final) set of legislation listed above, trade and customs, has been clarified, at the request of FSC, in the [guidance document](#) for the EUTR (page 20) the European Commission as follows:

*“This refers exclusively to compliance with the laws and regulations in countries where timber has been harvested covering the export of timber and timber products. The requirement relates to export from the country of harvest and not the country of export to the EU. For example, if timber was exported from country X to country Y and then to the European Union the requirement would apply to the export from X and not from Y to the EU.”*

*“The applicable legislation includes, but may not be restricted to:*

- *Bans, quotas and other restrictions on the export of timber products, for example bans on the export of unprocessed logs or rough-sawn lumber*
- *Requirements for export licenses for timber and timber products*
- *Official authorization that entities exporting timber and timber products may require*
- *Payment of taxes and duties applying to timber product exports.”*

With regard to the evidence required, the EU’s guidance document says: *“Generally available documents in paper or electronic format e.g. contracts, bank notes, trade notes, import licenses, export licenses, official receipts for export duties, export ban lists, export quota awards, etc.”*

The FSC CoC standard did not require compliance with legislation from CoC certificate holders. FSC has therefore issued an advice note ([ADVICE-40-004-11: Trade and customs laws](#)) requiring FSC CoC certificate holders to have procedures in place that ensure compliance with these laws.<sup>12</sup>

This part of the information gathering is in fact an integral part of the next step, risk assessment: the higher the risk of illegality, the more important specific evidence of legality is. We argue that a valid FSC certificate reduces the risk that materials have been harvested or traded illegally to low/negligible, and that collecting alternative evidence for this is not needed. However, we have indications that competent authorities do not always accept this reasoning, especially when the country of harvest is considered as high risk. In that case a competent authority may ask you for either additional evidence of compliance with the relevant laws by the harvester (and possibly even the exporting company from the country of harvest), or evidence that the supply chain between harvester and yourself can be trusted.

This last part of the information obligation in particular remains a challenge and time will tell what the competent authorities will consider to be acceptable. A genuine DDS requires that the information be gathered in advance, so that a risk assessment can be done before the

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<sup>12</sup> Note: the text of this advice note is not entirely clear and this will be corrected in the new CoC standard (foreseen for 2015): the advice note *only* requires compliance with trade and customs laws by the organization concerned; it does *not* oblige this organization to ensure that all the companies further up the supply chain do so.





actual orders are placed. When one works with a regular supplier who also has a stable resource provision scheme, it is indeed possible to have this information beforehand. But when starting with a new supplier, having all this information in advance may be more difficult.

## 2. The risk assessment obligation

Operators need to evaluate whether their products have been produced in compliance with the laws of the harvesting country, as well as international sanctions. The EUTR points at the following elements for such an assessment:

- 2a. Assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation
- 2b. Prevalence of illegal harvesting of specific tree species
- 2c. 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
- 2d. Sanctions imposed by the UN Security Council or the Council of the EU on timber imports or exports
- 2e. Complexity of the supply chain of timber and timber products.

As we will show in Part 3, FSC covers 2a, 2b and 2c. In our view, the FSC certification and CW schemes reduce to negligible all risks associated with these points, as also explained in Part 3. With respect to the last element of 2c (consideration of the prevalence of armed conflict), we must note that, although there is no formal rule against certifying forests or CoC companies in areas where armed conflict is prevalent, in practice this does not happen. In such areas, certification bodies cannot operate safely and also Accreditation Services International (ASI), the supervising body, cannot safely execute its controls.

With regard to point 2d (sanctions imposed by the UN Security Council or the Council of the EU on timber imports or exports), since the EU lifted the timber import ban on Myanmar (Burma) on 22 April 2013, we are not aware of any such EU ban. Regarding the United Nations, we are not aware of any sanctions relevant to timber, since those on Liberia were lifted. It is advisable to study from time to time the relevant [UN](#) and [EU](#) websites.

The new advice note (ADVICE-40-004-11: Trade and customs laws, published in [FSC-DIR-40-004, and related to CoC](#)) is relevant here in case of such sanctions. This advice note says that “FSC certificate holders exporting and/or importing timber or timber products shall have procedures in place to ensure that the commercialization of FSC certified products comply with all applicable trade and custom laws,” and it includes in the scope of this advice “bans, quotas and other restrictions on the export of timber products (e.g. bans on the export of unprocessed logs or rough-sawn lumber).” This would also cover international bans, if they appear.

With regard to point 2e (complexity of the supply chain of timber and timber products), if your direct supplier of FSC-certified products (or CW materials) carries an FSC CoC certificate then you (as the operator) can be reassured that the supply chain prior to your supplier is completely covered by FSC certification, because FSC requires all certificate holders (throughout the supply chain) to control the validity and certification scope of their suppliers



with each purchase.<sup>13</sup> In the case of CW this is slightly different: the forester and actors up the supply chain do not have to be certified, but the company that has given the material the CW status has conducted a risk assessment on the origin and supply chain, including on legality and the link between origin and direct supplier.

Therefore, if you trust the FSC system in relation to the country of harvest and/or species involved, you can consider the risk of illegal timber to be “negligible” and, in our view, you do not need to collect further information (such as additional evidence of compliance of the harvester with the relevant legislation). However, you will have to be prepared to defend this decision to an inspector of the competent authority when he or she visits you. See our advice on this in Part 3 on defending the relevance of FSC, but first you need to be able to show that you have verified that the FSC certificate of the supplier is valid, that the material in question is covered by the scope of the certificate, that the FSC claim that comes with the materials you import is correct, and that there is access to the required information regarding country of harvest and species. Only time will tell whether in practice the EU authorities consider FSC as reliable, regardless of the country of harvest and the complexity of the supply chain.

### **3. The risk mitigation obligation**

Risk mitigation is necessary only if the risk assessment has *not* concluded that the risk is negligible/low. Therefore in case of FSC-certified or controlled material and products, duly verified as described above, a logical conclusion is that risk mitigation is not necessary and the procedure is completed.

### **Part 3: How to justify the use of the FSC scheme in the way presented above**

In 1.5 years, neither the European Commission nor any active competent authority has rejected the FSC scheme from being a relevant component of applying due diligence, in particular in risk assessment and risk mitigation. Nevertheless you should always be ready to show that you have done your own assessment of the FSC scheme against the official requirements.

Below we provide assistance by answering the four questions that were published by the EU in the guidance document for the EUTR (it is likely that the competent authority will work with the same list).

*Questions:*

1. Are all the requirements in Article 4 of the Commission Implementing Regulation (EU) No. 607/2012 fulfilled?
2. Is the certification or other third-party-verified scheme compliant with international or European standards (e.g. the relevant ISO guides, ISEAL codes)?
3. Are there substantiated reports about possible shortcomings or problems of the third-party-verified schemes in the specific countries from which the timber or timber products are imported?

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<sup>13</sup> See [FSC-STD-40-004-V2-1: FSC standard for chain of custody certification, clause 3.2.2.](#)



4. Are the third parties that are making the checks and verifications referred to in Article 4(b), (c) and (d) of the Commission Implementing Regulation (EU) No. 607/2012 independent accredited organizations?

Answers:

**1. Are all the requirements in Article 4 of the Commission Implementing Regulation (EU) No. 607/2012 fulfilled?**

**Article 4: Risk assessment and mitigation**

Certification or other third party verified schemes ... may be taken into account in the risk assessment and risk mitigation procedures where they meet the following criteria:

- (a) they have established and made available for third party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation;
- (b) they specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with;
- (c) they include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;
- (d) they include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.

Assessment of FSC compliance with these four criteria is addressed in turn below.

Article 4, criterion (a): *They have established and made available for third party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation*

*FSC compliance:* All relevant requirements of the applicable legislation regarding forest management units are covered in the FSC principles and criteria and its implementing measures, such as national standards, controlled wood standards and advice notes.

Sources:

- FSC-STD-01-001: [FSC principles and criteria](#) (especially Principle 1)
- [National standards](#)
- FSC-STD-40-005: [FSC standard for company evaluation of FSC controlled wood](#)
- FSC STD-30-010: [FSC controlled wood standard for forest management enterprises](#)
- [Advice notes on applicable legislation](#)
- ADVICE-40-004-11: Trade and customs laws and ADVICE-40-004-12 on Pre-consumer reclaimed wood (published in FSC-DIR-40-004)
- FSC has a formal and functioning policy of transparency, see [www.fsc.org](http://www.fsc.org)
- FSC-PRO-01-001: [FSC procedure for the development and revision of normative documents](#).



Article 4, criterion (b): *They specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with*

*FSC compliance:* FSC requires annual checks, including field visits, for all types of forest management certificates covering single or multiple forest management units. “Annual” does not imply exactly every 12 months – the intervals may be somewhat longer to allow for some flexibility, considering the heterogeneity of local conditions in natural production systems, but that does not reduce the impact of such field visits.

FSC has made an exception to the annual field visit requirement for certain Small and Low Intensity Managed Forests (SLIMF) certificates. The allowance for a reduced frequency for field visits applies only to cases where no “significant forest activities” are taking place and where no “corrective actions” or compliance issues are outstanding. We submit that this exception has no practical consequences for the ability of the FSC certification scheme to prevent illegally harvested timber from entering the EU market in the form of any product covered by the EUTR. For more information, see: FSC-STD-20-007-V3-0-EN: [FSC forest management evaluations standard](#), clause 6.3.

Annual field visits are required for FSC CoC certificates – see FSC-STD-20-011-V1-1-EN: [Accreditation standard for chain of custody evaluations, chapter 13](#).

*Warning:* such annual field visits are not always obligatory for the origin of controlled wood. Field visits are required in cases where the initial verification did *not* come to the conclusion that, against all five controlled wood categories, the risk is low, and where a confirmation of low risk is needed, down to the level of the specific forest management units concerned. This may mean that, for controlled wood, competent authorities may have specific questions or concerns.

Article 4, criterion (c): *They include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market*

*FSC compliance:* Certification bodies verify compliance with applicable legislation through their annual audits. FSC has produced advice notes to clarify which legislation needs to be complied with for the certification bodies, the forest management certificate holders, the CoC certificate holders and the companies doing a controlled wood risk assessment. The verification of compliance with trade and customs laws by companies exporting from countries of harvest is going to happen as a consequence of the advice note dated 27 February 2013 on trade and customs laws.

Furthermore, FSC launched an advice note on 1 November 2012, expanded on 27 February 2013, to facilitate relevant information exchange between certificate holders and operators. The information on compliance with the applicable legislation is verified on an annual basis by the certification bodies.

Sources:

- ADVICE-20-007-17: Applicable national and local laws and regulations (published in FSC-DIR-20-007-V3-0: FSC directive on forest management evaluations)



- ADVICE-40-004-10: Access to information and ADVICE-40-004-11: Trade and customs laws (both published in FSC-DIR-40-004: FSC directive on chain of custody certification)
- ADVICE-40-005-19: Applicable national and local laws and regulations for controlled wood risk assessment (published in FSC-DIR-40-005: FSC directive on controlled wood)
- [ADVICE-30-010-01 on applicable national and local laws and regulations for controlled wood for forest management enterprises](#)

All of the above can be found on the FSC web-page on ensuring compliance with timber legality laws.

Article 4, criterion (d): *They include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain*

*FSC compliance:* Before the EUTR entered into force, FSC accepted the presence of “minor components.” This tolerance was to be phased out by end of 2014. However, in order to comply with the EUTR (as well as the US Lacey Act and Australian Illegal Logging Prohibition Act), FSC has launched an advice note to ensure that “minor components” are phased out earlier in products covered by these laws. For EU-covered products the phase-out deadline was 3 March 2013. Furthermore, FSC has adopted an advice note on “non-conforming products” to ensure that information about the possible existence of uncertified elements is provided to clients.

We advise you to refer to the obligation of certificate holders to check the validity and certification scope of their suppliers with each purchase. As this system of control is implemented throughout the supply chain, the risk that non-certified material can be introduced in an irregular manner is negligible.

Source:

- Advice notes ADVICE-40-004-08 and 40-004-09 (published in [FSC-DIR-40-004-V2-1-EN](#), clause 3.2.2; see also [FSC certificate database](#))

## **2. Are the certification or other third-party-verified schemes compliant with international or European standards (e.g. the relevant ISO guides, ISEAL codes)?**

*FSC compliance:* The FSC certification scheme is based on ISO Guide 65. [ASI](#) evaluates the compliance of the implementation of the FSC scheme against ISO Guide 65, and accredits certification bodies only if they are compliant. FSC is also a full member of ISEAL Alliance; to become a member it had to demonstrate compliance with ISEAL norms, including the ISEAL code of good practice for setting social and environmental standards. FSC has to re-demonstrate this to ISEAL Alliance on a regular basis.

## **3. Are there substantiated reports about possible shortcomings or problems of the third-party-verified schemes in the specific countries from which the timber or timber products are imported?**

*FSC assistance:* This is a question you need to answer in relation to the specific countries involved in the supply chain toward you, but in particular the countries of harvest.

FSC has a special [stakeholder portal](#) on its website where you can find information about ongoing and closed disputes about FSC certificates brought forward by stakeholders. On the



stakeholder portal, one can also find information about current and past assessments of certified forest management units, as well as of certification bodies (mainly carried out by ASI).

The information is not arranged by country. If this information is not sufficient, you can approach the FSC national offices or the quality assurance unit at the FSC office.

**4. Are the third parties that are making the checks and verifications referred to in Article 4(b), (c) and (d) of the Commission Implementing Regulation (EU) No. 607/2012 independent accredited organizations?**

*FSC compliance:* The certification bodies that verify compliance with FSC certificate criteria are legal entities, independent from FSC. They are being accredited by ASI, a “fourth party” that is contracted by FSC to do this accreditation and also to evaluate such bodies. While ASI is owned by FSC, it has an independent management structure.

## **Part 4: References and links**

### **EU documents and other non-FSC sources**

EU Timber Regulation (legal text and annex with list of products):

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

European Commission’s web-page to introduce the EUTR:

<http://ec.europa.eu/environment/eutr2013/>

Guidance document for the EUTR:

[http://ec.europa.eu/environment/forests/pdf/Final\\_Guidance\\_document.pdf](http://ec.europa.eu/environment/forests/pdf/Final_Guidance_document.pdf)

List of competent authorities:

Look for updated list on the [European Commission’s website](#)

Accreditation Services International (ASI):

<http://www.accreditation-services.com/>

### **FSC documents and web-pages**

FSC web-page on timber legality:

<https://ic.fsc.org/timber-legality.492.htm>

With a link to the document called “Timber Legality Memo” (see below), from which you can provide basic information to your non-EU suppliers.

FSC web-page on the EUTR:

<https://ic.fsc.org/timber-regulation.46.htm>

With a link to: Questions & Answers about FSC and the EUTR (available in several languages)

FSC web-page on ensuring compliance with timber legality requirements:

<https://ic.fsc.org/ensuring-compliance.493.htm>

With a link to: FSC DIR 40-004: FSC directive on chain of custody certification

This document includes:



- ADVICE-40-004-08: Non-conforming product
- ADVICE-40-004-09: Minor components derogations
- ADVICE-40-004-10: Access to information regarding species and origin of timber
- ADVICE-40-004-11: Trade and customs laws
- ADVICE-40-004-12: Pre-consumer reclaimed wood compliance with the EUTR

With a link to FSC-ADV-30-010-01: Applicable national and local laws and regulations for controlled wood for forest management enterprises

With a link to FSC-DIR-40-005: FSC directive on FSC controlled wood

This document includes: ADVICE-40-005-19: Applicable national and local laws and regulations for controlled wood risk assessment

With a link to FSC-DIR-20-007: FSC directive on FSC forest management evaluations

This document includes: ADVICE-20-007-17: Applicable national and local laws and regulations

FSC certificate database – to check whether suppliers have valid certificates:

<http://info.fsc.org>

Global forest registry: tool for risk assessment of countries/regions within countries:

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

FSC-STD-01-001-V4-0-EN: FSC principles and criteria (especially Principle 1):

<https://ic.fsc.org/download.fsc-std-01-001-v4-0-en-fsc-principles-and-criteria-for-forest-stewardship.a-315.pdf>

National standards:

[FSC – National standards](#)

FSC-STD-40-005-V2-1-EN: FSC standard for company evaluation of FSC controlled wood:

<https://ic.fsc.org/download.fsc-std-40-005-v2-1-en-fsc-standard-for-company-evaluation-of-fsc-controlled-wood.a-535.pdf>

FSC STD-30-010-V2-0-EN: FSC controlled wood standard for forest management enterprises:

<https://ic.fsc.org/download.fsc-std-30-010-v2-0-en-fsc-controlled-wood-standard-for-forest-management-enterprises.a-530.pdf>

FSC policies on transparency: FSC-PRO-01-001-V2-0-EN: FSC procedure for the development and revision of normative documents:

<https://ic.fsc.org/download.fsc-pro-01-001-v2-0-en-the-development-and-approval-of-fsc-social-and-environmental-international-standards.a-502.pdf>

Controls and field checks: FSC-STD-20-007-V3-0-EN: FSC forest management evaluations standard, clause 6.3:

<https://ic.fsc.org/download.fsc-std-20-007-v3-0-en-forest-management-evaluations.a-524.pdf>

and  
FSC-STD-20-011-V1-1-EN: Accreditation standard for chain of custody evaluations, chapter 13:

<https://ic.fsc.org/download.fsc-std-20-011-v1-1-en-accreditation-standard-for-chain-of-custody-evaluations.a-527.pdf>

Regular control of validity and scope of certificates by the buyer: FSC-STD-40-004-V2-1-EN: FSC standard for chain of custody certification, clause 3.2.2:



<https://ic.fsc.org/download.fsc-std-40-004-v2-1-en-fsc-standard-for-chain-of-custody-certification.a-574.pdf>

Current and closed complaints can be viewed at the FSC stakeholder portal:

<https://ic.fsc.org/stakeholder-portal.8.htm>

FSC national offices:

<https://ic.fsc.org/index.htm> - click on "FSC Worldwide"

Quality assurance unit, FSC:

Contact: [s.salvador@fsc.org](mailto:s.salvador@fsc.org)



## ANNEX: COVERAGE OF THE EUTR

Annex 1 of the EUTR lists the types of timber products covered. It uses product references from the combined nomenclature the EU approved in 1987 ([Council Regulation 2658/87](#)).

The numbers below refer to that nomenclature document.

To understand what does *not* fall under the scope of the EUTR, one has to go through the rest of that nomenclature document. This reveals that some large and several small categories of products have been left out. The most confusing one is “seats,” which is an exemption to the inclusion of furniture in general. Other notable exemptions include printed media, sanitary products, tools, musical instruments and pipes. Bamboo and rattan are not excluded as such, but are part of several large exemptions, including on furniture – one needs to read the specific information carefully. Cork and cork products are systematically excluded.

Below we first present the EUTR list of included products and then our interpretation of what is, as a consequence, outside the scope of the regulation.

### Within the scope (quoting the EUTR Annex)

- 4401 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
- 4403 Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
- 4406 Railway or tramway sleepers (cross-ties) of wood
- 4407 Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
- 4408 Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
- 4409 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
- 4410 Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
- 4411 Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
- 4412 Plywood, veneered panels and similar laminated wood
- 4413 Densified wood, in blocks, plates, strips or profile shapes
- 4414 Wooden frames for paintings, photographs, mirrors or similar objects<sup>14</sup>
- 4415 Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood (*Not packing material used exclusively as packing material to support, protect or carry another product placed on the market.*) [author comment]

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<sup>14</sup> But see 9701 under “outside the scope”.



4416 Casks, barrels, vats, tubs and other cooperers' products and parts thereof, of wood, including staves

4418 Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes

Pulp and paper of Chapters 47 and 48 of the Combined Nomenclature, *with the exception of bamboo-based and recovered (waste and scrap) products (4706, 4707)*<sup>15</sup> [author emphasis]

9403 30, 9403 40, 9403 50 00, 9403 60 and 9403 90 30 Wooden furniture

9406 00 20 Prefabricated buildings.

**So outside the scope** (*this is FSC interpretation, just for orientation, in case of doubt, confirm with your competent authority*)<sup>16</sup>

4402 Wood charcoal (including shell or nut charcoal) and bamboo charcoal.

4404 Hoopwood: split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or the like; chipwood and the like

4405 Wood wool; wood flour

4417 Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood

4419 Tableware and kitchenware, of wood

4420 Wood marquetry and inlaid wood; caskets and cases for jewelry or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94

4421 Other articles of wood (including clothes hangers)

45 Cork and articles of cork

46 Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork. This includes osier or willow, bamboos, rattans, rushes, reeds, strips of wood, strips of other vegetable material (e.g. strips of bark, narrow leaves and raffia or other strips obtained from broad leaves), unspun natural textile fibers

4706/4707 Bamboo-based pulp and recovered (waste and scrap) paper products

Chapter 48 (on pulp and paper) exempts a range of products, including:

(a) pharmaceutical products

(b) stamping foils (pigments, stamping foils, dyes and other coloring matter put up in forms or packings for retail sale)

(c) perfumed papers or papers impregnated or coated with cosmetics

(d) paper or cellulose wadding impregnated, coated or covered with soap or detergent or with polishes, creams or similar preparations

(e) sensitized paper or paperboard of headings 3701 to 3704

(f) paper impregnated with diagnostic or laboratory reagents

(g) paper-reinforced stratified sheeting of plastics, or one layer of paper or paperboard coated or covered with a layer of plastics, the latter constituting more than half the total thickness, or articles of such materials, other than wall coverings of heading 4814

(h) articles of heading 4202 (for example, travel goods)

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<sup>15</sup> See also explanation of products not covered under "outside the scope."

<sup>16</sup> We were helped by an earlier presentation done by CPET (Central Point of Expertise on Timber) in the UK, which is no longer on its website.



(k) paper yarn or textile articles of paper yarn

(m) abrasive paper or paperboard (heading 6805) or paper- or paperboard-backed mica (heading 6814) (paper and paperboard coated with mica powder are, however, to be classified in this chapter)

(n) metal foil backed with paper or paperboard (generally Section XIV or XV)

- 49 Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
- 91 Including clocks and clock cases
- 92 Musical instruments, parts and accessories of such articles
- 9401 Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof
- 9402 Medical, surgical, dental or veterinary furniture (e.g. operating tables, examination tables, hospital beds with mechanical fittings, dentists' chairs); barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements; parts of the foregoing articles
- 9403 81 Furniture of bamboo or rattan
- 9503 Toy furniture or toy lamps or lighting fittings
- 9504 Billiard tables or other furniture specially constructed for games
- 9505 Furniture for conjuring tricks or decorations (other than electric garlands) such as Chinese lanterns
- 9602 Worked vegetable carving material and articles of these materials
- 9603 10 00 Brooms and brushes, consisting of twigs or other vegetable materials bound together, with or without handles
- 9604 Hand sieves and hand riddles
- 9606 29 00 Buttons, press-fasteners, snap-fasteners and press studs, button moulds and other parts of these articles; button blanks
- 9608/9609 all kinds of pencils and pens
- 9610 Slates and boards, with writing or drawing surfaces, whether or not framed
- 9613 Cigarette lighters and other lighters
- 9614 Smoking pipes
- 9615 Combs, hair-slides and the like; hairpins, curling pins, curling grips, hair-curlers and the like, and parts thereof
- 9619 Sanitary towels (pads) and tampons, napkins and napkin liners for babies, and similar articles, of any material
- 97 Works of art, collectors' pieces and antiques, including:
- (frames belonging to) paintings, drawings and pastels, executed entirely by hand
  - original engravings, prints and lithographs
  - original sculptures and statuary, in any material (*NOT mass-produced reproductions or works of conventional craftsmanship of a commercial character*) [author comment]
  - antiques of an age exceeding 100 years.