



An easy guide to the EU Timber Regulation

Guidance for joinery manufacturers



A joinery manufacturer's guide to the EU Timber Regulation

On 3 March 2013, the EU timber regulation came into force across the EU. The regulation prohibits the "*placing on the market of illegally harvested timber or timber products derived from such timber*", and states the obligations that those who buy and sell timber and timber products on the EU market are required to have in place in order to comply with the regulation.

The implementation of the regulation is enforced by national level competent authorities, such as the National Measurement Office (NMO) in the UK, that undertake checks and ensure the enforcement of the regulation, with penalties for non-compliance.

What products does the regulation cover?

The Regulation covers a broad range of timber and timber products including solid wood products, flooring, plywood, sheets for veneering, pulp, and paper. It does not *yet* cover recycled products or printed papers such as books, magazines and newspapers.

A list of the Timber Products covered and not covered by the scope of the EU regulation can be found here:

www.cpet.org.uk/eutr/timber-and-timber-products#listed

Fuel wood, for example as logs, sawdust, or as agglomerated in briquettes, or pellets, is covered within the scope of the regulation, but waste products (i.e those that have completed their lifecycle and would otherwise be disposed of as waste) are not yet covered. 'Waste' is defined as 'any substance or object which the holder discards or intends or is required to discard'.

Does the regulation affect me?

Almost certainly. If your joinery company buys and sells timber and timber products from within the EU market or imports such products into the EU market, then you have obligations under the EUTR relating to these transactions. The regulation identifies two categories of business - '**traders**', and '**operators**'. The definition relates to the organisation's role in the transaction taking place, so businesses may make some transactions as an operator, and some as a trader.

- A trader is defined under Article 2d of the Regulation 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".

- An operator is defined under Article 2c of the Regulation as “any natural or legal person that places timber or timber products on the market”.

The timber and timber products that I buy and sell have already been placed on the EU market. What do I have to do to comply with the regulation?

Many BWF members should find it easy to comply with the EU Timber Regulation. This is because their role in the transaction can generally be defined under the regulation as that of a ‘trader’. The requirements for traders concern traceability.

If you are carrying out a transaction as a trader, you either purchase timber or timber products from an ‘operator’, or from another trader, and sell these on to other traders or to the final consumer. Those trading in timber and timber products within the EU must keep records of sale and purchase - the obligations under Article 5 of the Regulation are as follows:

- 1. You must identify the operators or the traders who have supplied the timber and timber products.**
- 2. You must identify, where applicable, the traders to whom you have supplied timber and timber products.**
- 3. You must keep this information for at least five years and provide it to competent authorities if they so request.**

If you are selling on to a final consumer, the requirement to identify to whom you have supplied timber and timber products is deemed not applicable.

Delivery notes and invoices can be used to identify the name and address of traders to whom you have sold your timber and timber products.

The rules apply to transactions relating to timber that has originated within the EU, as well as timber which has been imported from abroad. However, UK joinery manufacturers are unlikely to be the first companies to place EU originated timber on the market, so their obligations for transactions involving timber products of EU origin are unlikely to be too complex.

If you are buying tropical hardwood from a UK timber merchant, then as long as the merchant is importing the timber and putting it on the market, your obligations are still as a trader.

I am the first person in the supply chain to place my timber or timber product on the EU market (for example, I buy veneers directly from a supplier in Brazil). What are my obligations for this transaction?

BWF members who are the first to place a timber product on the EU market have their role in the transaction defined under the regulations as an 'operator'. Complying with the EU Timber Regulation is more complex in this instance.

Placing on the market is defined under Article 2b of the Regulation as "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."

For timber products that you are importing directly from outside the EU, for example door blanks from China, Parana pine from Brazil, or timber directly from Russia, the transaction where the timber is first placed on the market is crucial. In these instances, you would be the operator. Businesses should also be aware that if they are buying timber through agents, they need to be clear on how the contract is structured and whether they may be the first placer/operator.

To meet the regulation, a company who is making a transaction as an operator must implement a due diligence system which:

- **Provides information about the supply of timber products, including description, species, country of harvest, quantity, name and address of supplier and trader and documents indicating compliance with the applicable legislation**
- **Evaluates the risk of placing illegally harvested timber and timber products on the market.**
- **Unless the risk of illegality is negligible, takes steps to mitigate this risk; for example, additional information, third party verification.**

Operators can run their own due diligence system and the BWF has provided a template system that members who will be first to place wood based products on the EU market (operators) can use before buying their products, in order to help them comply with the regulation

www.bwf.org.uk/publications/environmental-and-waste-management

The document comes in six parts and members defined as 'traders' may find it worthwhile to adopt the template Timber Purchasing Policy (Appendix I) as a declaration to display to clients and to assist with their environmental obligations under the BWF Code of Conduct.

Due diligence systems can also be provided through a 'monitoring organisation'. A monitoring organisation would fulfil a similar role to a certification body, in that their role is to maintain and regularly evaluate due diligence systems, which will be available to operators to use.

BSI has launched a Publicly Available Standard (PAS 2021) that businesses affected by the regulation can use as guidance to help put due diligence and risk management systems in place in order to comply with the regulation.

You can download it here <http://shop.bsigroup.com/Navigate-by/PAS/PAS-2021>

Although the EUTR is now in force, the European Commission and national Competent Authorities are still in the process of clarifying a number of details in terms of the interpretation and implementation of the regulation.

What are the penalties for non-compliance?

The EUTR requires Member States to lay down penalties which are effective, proportionate and dissuasive. The penalties listed in the UK Regulations are as follows:

An Operator who:

- places illegally harvested timber on the EU market;
- fails to apply due diligence when placing timber on the EU market;
- fails to maintain a due diligence system;
- obstructs an inspector; or
- fails to act on a remedial notice.

will be liable for:

- a term of imprisonment of up to two years and/or an unlimited fine if convicted in a Crown Court; or
- a term of imprisonment of up to three months and/or a fine up to the maximum level of £5,000 for each offence if convicted in a Magistrates Court.

Furthermore:

- an Operator who fails to maintain adequate records for the purposes of the Regulation *or any Trader who fails to comply with the requirements for traceability* (in both cases maintained adequate records of transactions for 5 years), and
- any person who discloses information received from the Competent Authority, without permission;

will be subject to a fine up to the maximum level of £5,000 for each offence if convicted in a Magistrates Court.

BWF members also need to ensure that their timber and timber product suppliers are legitimate. This is because inspectors have the powers to seize timber – from both traders or operators - which they reasonably believe to be illegally harvested and to either remove it or prevent its movement.

Commercial risk, for example lost sales and reputational damage, is also an issue for companies sourcing illegal timber. Traders who wish to protect against this could first ask for a simple declaration that the company has a responsible purchasing policy in place, for example in the case of major timber suppliers. Smaller timber operations, such as agents in some transactions, could be asked for further information if there are concerns about their legitimacy or role in the transaction.

If a BWF member feels the need to get further assurances as to where the timber has come from, in the form of additional supplier information (for example to satisfy the assurances of large clients such as housebuilders), then BWF would advise the member to ensure that all of the information that they are gathering is relevant.

Does achieving Chain of Custody certification help me comply with the regulation?

At the time of print, no Chain of Custody certification schemes are accepted as automatic proof of compliance with the EUTR. Although there will be no such 'green lane' for FSC or PEFC certified products, recent work to revise the FSC and PEFC standards should help certificated businesses to comply by enabling them to carry out their due diligence within the scope of their certification. Therefore forest certification schemes are likely to play a major role in establishing a negligible risk of illegal timber entering the supply chain.

It must also be noted that EUTR compliance only demonstrates legality, and does not prove that your timber products are sustainable or responsibly sourced. Chain of Custody certification demonstrates that the forest you source from fulfils the criteria to demonstrate that it takes full account of the social, environmental and economic issues that impact it.

The BWF runs a Chain of Custody Group Scheme for companies with 15 or fewer employees who wish to gain FSC or PEFC certification. We've now extended the scheme to allow companies with 50 or fewer employees to get PEFC Chain of Custody certification, and can also provide consultancy assistance for larger businesses

www.bwf.org.uk/total-support-services/chain-of-custody-group-scheme

Is any timber considered automatically legal?

Timber and timber products covered by valid **FLEGT** or **CITES** licenses are considered to comply with the requirements of the regulation and thus would not require a due diligence system to be put in place for them.

What else should I be aware of?

- Businesses may find it beneficial incorporate their EU timber regulation obligations (such as purchasing records) into existing management systems such as ISO9001:2008 and Factory Production Control, where appropriate.
- BWF Member companies are strongly advised to familiarise themselves with the legislation and be aware of the wide range of wood based materials included. It is important to consider any transactions in which they may become an operator, for example through importing other goods, such as furniture, or other timber product components for use within the finished joinery product.
- Certain operators may want to be traders to avoid the due diligence requirements of the EUTR and, alternately, some businesses may want to cover the operator role in order to ensure confidentiality within their supply chain. It is therefore essential that BWF members are aware of their role, particularly where timber agents are involved, and have enough information to hand to clarify any apparent contradictions.
- Members should be aware that some companies are being asked to label products as 'EUTR compliant'. This is incorrect as products do not comply with the EUTR, companies do. Any label stating a product is EUTR compliant is misleading and may be construed as misrepresentation.

Where can I gather more information?

The British Woodworking Federation is working hard to keep members informed about the regulation and provides advice and guidance through our news alerts, member helpline and in documents such as this. We will also continue to work closely with leading industry groups such as the Timber Trade Federation in order to provide clear guidance for the joinery sector on the regulation.

We have now included a 14 minute audio presentation and slideshow on the EU Timber Regulation that anyone can access via the BWF website. It answers some common FAQs on Chain of Custody timber and covers why the EU timber regulation is so significant for manufacturers and suppliers of timber products, explaining the benefits of FSC or PEFC Chain of Custody certification in ensuring traceability along the supply chain.

You can find it here:

<http://www.bwf.org.uk/-the-utr-and-chain-of-custody>

If you require further reading, then there are a number of links which can provide greater detail in key areas.

The EU Timber Regulation itself can be found here

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

The National Measurement Office (NMO)

www.bis.gov.uk/nmo/enforcement

The Timber Trade Federation (TTF)

www.ttf.co.uk

Central Point of Expertise For Timber (CPET)

www.cpet.org.uk

Forest Law Enforcement, Governance and Trade (FLEGT)

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

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

http://ec.europa.eu/environment/cites/home_en.htm

The Forest Stewardship Council (FSC)

www.fsc-uk.org

The Programme for the Endorsement of Forest Certification (PEFC)

www.pefc.co.uk

Disclaimer

This document is designed to provide an initial introduction to the EU Timber Regulation

With many operational aspects of the Regulation yet to be clarified, for example those relating to enforcement and best practice, please be aware that this document is intended to be very much a live document and we will keep updating it as further information becomes available.

Note: Whilst every effort has been made to ensure the accuracy of advice given, the BWF cannot accept liability for loss or damage arising from the use of the information supplied in this publication.