

EU Timber Regulation (EUTR) Regulations

EU Requirements: EU Regulation 995/2010/EU (the “EUTR”) lays down the due diligence obligation on operators who ~~place~~ sell timber and timber products ~~on the internal market of~~ in the ~~European Union~~ EU for the first time, as well as the record keeping obligation on traders that supply those products, with the aim to prevent the illegal logging of timber as well as the related trade of products made from that timber.

It is your responsibility to comply with ~~Regulation 995/2010/EU. This material is for informational purposes only. It is not intended as legal advice. We encourage you to consult your legal counsel~~ the EUTR if you ~~have questions about the laws~~ are selling timber and regulations concerning your product. In this regard, or timber products in the EU. You must also comply with the EUTR and with other national requirements in countries in which you sell these products. Please note that ~~Regulation 995/2010/EU~~ the EUTR has direct effect, but Member States are competent for laying down penalties, and for enforcing the Regulation.

~~What products does the EU Timber Regulation apply to?~~

~~Regulation 995/2010/EU applies to the~~ Please see below for further information about EU requirements.

UK Requirements: From 1 January 2021, an amended version of the EUTR applies to the supply and sale of timber and timber products in the UK as a result of The Timber and Timber Products and FLEGT (EU Exit) Regulations 2018 (the “UK Regulation on Timber”). We have noted below where there will be relevant changes in the UK requirements from 1 January 2021.

Different rules apply to goods you sell in: (1) Great Britain (England, Scotland and Wales); and (2) Northern Ireland.

It is your responsibility to comply with the UK requirements if you are selling timber and/or timber products in the UK. If you also sell timber and/or timber products on Amazon EU website(s), then you must also comply with the EUTR and with other national requirements in countries in which you sell these products. Please see below for further information about UK requirements.

This material is for informational purposes and you should not take it as a substitute for legal advice. We encourage you to consult your legal counsel for any concerns about the laws and regulations concerning your product. This material only reflects the position at the date of writing and requirements in the EU and the UK may change. You should refer to current UK Brexit guidance about your products (where available) to learn more about changes that may affect you from 1 January 2021.

I. EU Requirements

What products are in the scope of the EU requirements for timber and timber products?

The EUTR applies to the supply of the timber and timber products set out in the Annex of ~~this Regulation~~ the EUTR, which is available on the European Commission website (See Additional Information below). The Annex ~~of this Regulation 995/2010/EU~~ lists the timber products using ~~EU Customs code nomenclature~~ EU's Combined Nomenclature.

In this regard, the ~~Regulation~~ EUTR covers a broad range of both imported and domestically produced timber and timber products, including solid wood products, flooring, plywood, pulp and paper, etc., but do not including ~~included~~ printed papers such as books, magazines and newspapers, musical instruments, toys and games, etc. In addition, ~~Regulation 995/2010/EU~~ the EUTR contains an exemption for timber products or components of such products manufactured from timber or timber products that have completed their ~~life-cycle~~ lifecycle and would otherwise be disposed of as waste, ~~that is,~~ (i.e. products made from recycled timber-).

Furthermore, ~~Regulation 995/2010/EU~~ the EUTR empowers the Commission to adopt delegated acts to amend and supplement the list of timber and timber related products set out in the Annex. However, no amendments ~~to the Annex~~ have been published to date.

Operators' obligations

Operator is defined by ~~Regulation 995/2010/EU~~ the EUTR as any natural or legal person that places ~~supplies~~ timber or timber products ~~on the market, and in turn, placing on the market is defined as the supply by any means~~ EU for the first time, irrespective of the selling technique used (including ~~the~~ supply by means of distance communication), ~~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.

In this regard, operators are subject to two obligations:

- Not to ~~place on the market~~ sell/supply illegally harvested timber or timber products in the EU (i.e. timber that has been harvested in contravention of applicable legislation in the country of harvest, or products derived from this illegal timber); and
- To use a "due diligence system" (being a framework of procedures and measures) to exercise due diligence ~~when placing~~ in relation to preventing the prohibited supply of illegally harvested timber or timber products ~~on the market~~ in the EU.

In this regard, the operator can choose either to develop its own due diligence system or to use a system that has been created by a monitoring organisation, which are private bodies that have been recognised by the European Commission to assist operators with discharging their due diligence obligation.

The requirements for the due diligence system are laid down in article 6 of the ~~Regulation 995/2010/EU~~ EUTR, and ~~has~~ have been developed in the Implementing

Regulation 607/2012/EU, both [of which are](#) available on [the](#) European Commission website. ~~But~~ At a high level, the three key elements of the due diligence system are:

- Information: The operator must have access to information describing the timber and timber products, [its](#) country of harvest, species, quantity, ~~details~~[the name and address](#) of the supplier and [trader, and](#) documents ~~and/or~~ [other information](#) ~~on~~[indicating](#) compliance with national legislation.
- Risk assessment: The operator should assess the risk of illegal [harvested](#) timber [\(or products derived from such timber\)](#) in his supply chain, based on the information identified above and taking into account criteria set out in Regulation 995/2010/EU.
- Risk mitigation [procedures](#): When the [operator's risk](#) assessment shows that there is a risk of illegal timber in the supply chain, that risk can be mitigated by [measures including](#) requiring additional information [or documents](#) and/or [third party](#) verification ~~from the supplier~~.

However, these operators' obligations do not apply to the following timber and timber products, ~~given that the Regulation 995/2010/EU considers that this timber and timber products~~[which are deemed to](#) have been legally harvested for the purposes of this ~~Regulation~~[EU requirements](#):

- ~~The timber~~: [that](#) (i) originates in a partner country listed in Annex I to Regulation 2173/2005/EC; (ii) is embedded in a timber product listed in Annexes II and III of the same Regulation; and (iii) complies with the requirements of that Regulation: and
- ~~The timber or timber products~~ [that](#) are in [the](#) scope of Annexes A, B or C of the EU CITES Basic Regulation and comply with the requirements of that regime.

Traders' obligations

~~Trader is defined by Regulation 995/2010/EU as~~[Under the EUTR a 'trader' is](#) any natural or legal person who, in the course of a commercial activity, sells or buys ~~on~~[in](#) the ~~internal market~~[EU](#) timber or timber products already ~~placed on~~[available for sale/supply in](#) the ~~internal market~~[EU](#).

In this regard, traders are subject to a basic traceability obligation which requires them to be able to identify:

- the operators or the traders who have supplied them with the timber and timber products; and
- where applicable, the traders to whom they have supplied timber and timber products.

This information ~~must~~[has to](#) be kept for at least five years and made available to competent authorities on request.

Additional Information

We strongly encourage you to visit the [European Commission's website](#) for more information on [the](#) EUTR, ~~that~~[which](#) includes a Guidance Document for the EU Timber

Regulation in the 23 languages of the EU, as well as a list of ~~recognized~~recognised monitoring organisations, and the implementing regulations:

- http://ec.europa.eu/environment/forests/timber_regulation.htm#products

II. UK Requirements

Where do the UK requirements for timber and timber products apply?

The UK requirements for timber and timber products apply to all products sold in the UK, but the provisions apply differently to Great Britain (England, Scotland and Wales, “GB”) and Northern Ireland. You can read more about the position in Northern Ireland (“NI”) below.

What products are in the scope of the UK requirements for timber and timber products?

The UK requirements apply to the supply of the timber and timber products set out in the UK Regulation on Timber.

In this regard, the UK requirements cover a broad range of both imported and domestically produced timber and timber products, including solid wood products, flooring, plywood, pulp and paper, etc., but do not include printed papers such as books, magazines and newspapers, musical instruments, toys and games, etc. Timber products or components of such products manufactured from timber or timber products that have completed their lifecycle and would otherwise be disposed of as waste (i.e. products made from recycled timber) are exempt from the UK requirements for timber and timber products.

Operators' obligations

Under the UK requirements, an 'operator' is any natural or legal person that supplies (including online) timber or timber products in the UK for the first time, for distribution or use in the course of a commercial activity, whether in return for payment or free of charge.

In this regard, operators supplying timber or timber products in GB are subject to two obligations:

- Not to supply illegally harvested timber or timber products in the UK (i.e. timber that has been harvested in contravention of UK legislation or products derived from this illegal timber); and
- To use a "due diligence system" (being a framework of procedures and measures) to exercise due diligence in relation to not selling or supplying illegally harvested timber or timber products in GB.

In this regard, the operator can choose either to develop its own due diligence system or to use a system that has been created by a monitoring organisation. From 1 January 2021, monitoring organisations need to be established in the UK and recognised by the UK's Office for Product Safety and Standards.

At a high level, the three key elements of the due diligence system are:

- Information: The operator must have access to information describing the timber and timber products, its country of harvest, species, quantity, the name and address of the supplier and trader, and documents and information indicating compliance with national legislation.
- Risk assessment: The operator should assess the risk of illegal harvested timber (or products derived from such timber) in his supply chain.
- Risk mitigation procedures: When the operator's risk assessment shows that there is a risk of illegal timber in the supply chain, that risk can be mitigated by measures including requiring additional information and/or third party verification.

However, these operators' obligations do not apply to the following timber and timber products, which are deemed to have been legally harvested for the purposes of the UK requirements: timber or timber products that are in the scope of Annexes A, B or C of the EU CITES Basic Regulation and comply with the requirements of that regime. From 1 January 2021, an amended version of the Regulation (and Annexes A to C contained therein) applies as a result of The UK's Trade in Endangered Species of Wild Fauna and Flora (Amendment) (EU Exit) Regulations 2018.

Traders' obligations

Under the UK Requirements a 'trader' is any natural or legal person who, in the course of a commercial activity, sells or buys in the UK timber or timber products already available for sale/supply in the UK.

In this regard, traders selling or buying timber or timber products in GB are subject to a basic traceability obligation which requires them to be able to identify:

- the operators or the traders who have supplied them with the timber and timber products; and
- where applicable, the traders to whom they have supplied timber and timber products.

This information has to be kept for at least five years and made available to UK's Office for Product Safety and Standards on request.

Northern Ireland

Please note that different rules apply in NI from 1 January 2021 as a result of the Northern Ireland Protocol. In particular:

- You should ensure that products meet EU requirements.
- You are an operator if you are established in the EU or NI and you import timber or timber products from a country outside of the EU and Northern Ireland (including from GB) into NI, and will have corresponding due diligence obligations.

BREXIT: UK Government Guidance

The UK Government has released guidance on selling products in GB and NI from 1 January 2021. This guidance provides information for operators and traders regarding compliance requirements from 1 January 2021, including on:

- whether your legal responsibilities will change; and
- specific rules for selling products in NI.

We encourage you to review this guidance (linked below), alongside any other specific UK Government guidance that applies to your product. You should consult your legal counsel if you have questions about how the laws and regulations apply to your products from 1 January 2021.

The Brexit guidance can be found here:

- <https://www.gov.uk/guidance/trading-timber-imports-and-exports-from-1-january-2021>

Additional Information

We strongly encourage you to review UK Government guidance for more information on UK requirements for timber and timber products, including the below websites:

- <https://www.gov.uk/guidance/eu-timber-regulation-guidance-for-business-and-industry>

We also encourage you to visit the Business Companion website, which contains further guidance on UK product compliance rules:

- <https://www.businesscompanion.info/en/get-started>