

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)

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 EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Forests provide a broad variety of environmental, economic and social benefits including timber and non-timber forest products and environmental services essential for humankind, such as maintaining biodiversity and ecosystem functions and protecting the climate system.
- (2) Due to the growing demand for timber and timber products worldwide, in combination with the institutional and governance deficiencies that are present in the forest sector in a number of timber-producing countries, illegal logging and the associated trade have become matters of ever greater concern.
- (3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation and forest degradation, which is responsible for about 20 % of global CO₂ emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. It also contributes to desertification and soil erosion and can exacerbate extreme weather events and flooding. In addition, it has social, political and economic implications, often undermining progress towards good governance and threatening the livelihood of local forest-dependent communities, and it can be linked to armed conflicts. Combating the problem of illegal logging in the context of this Regulation is expected to contribute to the Union's climate change mitigation efforts in a

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cost-effective manner and should be seen as complementary to Union action and commitments in the context of the United Nations Framework Convention on Climate Change.

- (4) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme⁽³⁾ identifies as a priority action the examination of the possibility of taking active measures to prevent and combat trade in illegally harvested wood and the continuation of the active participation of the Union and of Member States in the implementation of global and regional resolutions and agreements on forest-related issues.
- (5) The Commission Communication of 21 May 2003 entitled ‘Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan’ proposed a package of measures to support international efforts to tackle the problem of illegal logging and associated trade in the context of overall efforts of the Union to achieve sustainable forest management.
- (6) The European Parliament and the Council welcomed that Communication and recognised the need for the Union to contribute to global efforts to address the problem of illegal logging.
- (7) In accordance with the aim of that Communication, namely to ensure that only timber products which have been produced in accordance with the national legislation of the timber-producing country enter the Union, the Union has been negotiating Voluntary Partnership Agreements (FLEGT VPAs) with timber-producing countries (partner countries), which create a legally binding obligation for the parties to implement a licensing scheme and to regulate trade in timber and timber products identified in those FLEGT VPAs.
- (8) Given the major scale and urgency of the problem, it is necessary to support the fight against illegal logging and related trade actively, to complement and strengthen the FLEGT VPA initiative and to improve synergies between policies aimed at the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.
- (9) The efforts made by countries which have concluded FLEGT VPAs with the Union and the principles incorporated in them, in particular with regard to the definition of legally produced timber, should be recognised and further encouragement for countries to conclude FLEGT VPAs should be given. It should be also taken into account that under the FLEGT licensing scheme only timber harvested in accordance with the relevant national legislation and timber products derived from such timber are exported into the Union. Therefore, timber embedded in timber products listed in Annexes II and III to Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community⁽⁴⁾, originating in partner countries listed in Annex I to that Regulation, should be considered to have been legally harvested provided those timber products comply with that Regulation and any implementing provisions.

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- (10) Account should also be taken of the fact that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) places a requirement on parties to CITES only to grant a CITES permit for export when a CITES-listed species has been harvested, inter alia, in compliance with national legislation in the exporting country. Therefore timber of species listed in Annex A, B or C to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein⁽⁵⁾ should be considered to have been legally harvested provided it complies with that Regulation and any implementing provisions.
- (11) Bearing in mind that the use of recycled timber and timber products should be encouraged, and that including such products in the scope of this Regulation would place a disproportionate burden on operators, used timber and timber products that have completed their lifecycle, and would otherwise be disposed of as waste, should be excluded from the scope of this Regulation.
- (12) The placing on the internal market for the first time of illegally harvested timber or timber products derived from such timber should be prohibited as one of the measures of this Regulation. Taking into account the complexity of illegal logging, its underlying causes and its impacts, specific measures should be taken, such as those that target the behaviour of operators.
- (13) In the context of the FLEGT Action Plan the Commission and, where appropriate, Member States may support and conduct studies and research on the levels and nature of illegal logging in different countries and make such information publicly available, as well as support the provision of practical guidance to operators on applicable legislation in timber-producing countries.
- (14) 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.
- (15) Many timber products undergo numerous processes before and after they are placed on the internal market for the first time. In order to avoid imposing any unnecessary administrative burden, only operators that place timber and timber products on the internal market for the first time should be subject to the due diligence system, while a trader in the supply chain should be required to provide basic information on its supplier and its buyer to enable the traceability of timber and timber products.
- (16) On the basis of a systemic approach, operators placing timber and timber products for the first time on the internal market should take the appropriate steps in order to ascertain that illegally harvested timber and timber products derived from such timber are not placed on the internal market. To that end, operators should exercise due diligence through a system of measures and procedures to minimise the risk of placing illegally harvested timber and timber products derived from such timber on the internal market.
- (17) The due diligence system includes three elements inherent to risk management: access to information, risk assessment and mitigation of the risk identified. The due diligence system should provide access to information about the sources and suppliers of the

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timber and timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation, the country of harvest, species, quantity, and where applicable sub-national region and concession of harvest. On the basis of this information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate such risk in a manner proportionate to the risk identified, with a view to preventing illegally harvested timber and timber products derived from such timber from being placed on the internal market.

- (18) In order to avoid any unnecessary administrative burden, operators already using systems or procedures which comply with the requirements of this Regulation should not be required to set up new systems.
- (19) In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure.
- (20) The timber sector is of major importance for the economy of the Union. Organisations of operators are important actors in the sector as they represent the interests of the latter on a large scale and interact with a diverse range of stakeholders. Those organisations also have the expertise and capacity to analyse relevant legislation and facilitate the compliance of their members, but should not use this competence to dominate the market. In order to facilitate the implementation of this Regulation and to contribute to the development of good practices it is appropriate to recognise organisations which have developed due diligence systems meeting the requirements of this Regulation. Recognition and withdrawal of recognition of monitoring organisations should be performed in a fair and transparent manner. A list of such recognised organisations should be made public in order to enable operators to use them.
- (21) Competent authorities should carry out checks at regular intervals on monitoring organisations to verify that they effectively fulfil the obligations laid down in this Regulation. Moreover, competent authorities should endeavour to carry out checks when in possession of relevant information, including substantiated concerns from third parties.
- (22) Competent authorities should monitor that operators effectively fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out official checks, in accordance with a plan as appropriate, which may include checks on the premises of operators and field audits, and should be able to require operators to take remedial actions where necessary. Moreover, competent authorities should endeavour to carry out checks when in possession of relevant information, including substantiated concerns from third parties.
- (23) Competent authorities should keep records of the checks and the relevant information should be made available in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information⁽⁶⁾.

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- (24) Taking into account the international character of illegal logging and related trade, competent authorities should cooperate with each other and with the administrative authorities of third countries and the Commission.
- (25) In order to facilitate the ability of operators who place timber or timber products on the internal market to comply with the requirements of this Regulation, taking into account the situation of small and medium-sized enterprises, Member States, assisted by the Commission where appropriate, may provide operators with technical and other assistance and facilitate the exchange of information. Such assistance should not release operators from their obligation to exercise due diligence.
- (26) Traders and monitoring organisations should refrain from measures which could jeopardise the attainment of the objective of this Regulation.
- (27) Member States should ensure that infringements of this Regulation, including by operators, traders and monitoring organisations, are sanctioned by effective, proportionate and dissuasive penalties. National rules may provide that, after effective, proportionate and dissuasive penalties are applied for infringements of the prohibition of placing on the internal market of illegally harvested timber or timber products derived from such timber, such timber and timber products should not necessarily be destroyed but may instead be used or disposed of for public interest purposes.
- (28) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) concerning the procedures for the recognition and withdrawal of recognition of monitoring organisations, concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in this Regulation and concerning the list of timber and timber products to which this Regulation applies. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (29) In order to ensure uniform conditions for implementation, implementing powers should be conferred on the Commission to adopt detailed rules with regard to the frequency and the nature of the checks by competent authorities on monitoring organisations and to the due diligence systems except as regards further relevant risk assessment criteria. In accordance with Article 291 TFEU, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁷⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.
- (30) Operators and competent authorities should be given a reasonable period in order to prepare themselves to meet the requirements of this Regulation.
- (31) Since the objective of this Regulation, namely the fight against illegal logging and related trade, cannot be achieved by the Member States individually and can therefore,

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by reason of its scale, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the obligations of operators who place timber and timber products on the internal market for the first time, as well as the obligations of traders.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘timber and timber products’ means the timber and timber products set out in the Annex, with the exception of 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, as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste⁽⁸⁾,
- (b) ‘placing on the market’ means 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. It also includes the supply by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts⁽⁹⁾. The supply on the internal market of timber products derived from timber or timber products already placed on the internal market shall not constitute ‘placing on the market’;
- (c) ‘operator’ means any natural or legal person that places timber or timber products on the market;
- (d) ‘trader’ means 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;
- (e) ‘country of harvest’ means the country or territory where the timber or the timber embedded in the timber products was harvested;
- (f) ‘legally harvested’ means harvested in accordance with the applicable legislation in the country of harvest;
- (g) ‘illegally harvested’ means harvested in contravention of the applicable legislation in the country of harvest;

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- (h) ‘applicable legislation’ means 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.

Article 3

Status of timber and timber products covered by FLEGT and CITES

Timber embedded in timber products listed in Annexes II and III to Regulation (EC) No 2173/2005 which originate in partner countries listed in Annex I to that Regulation and which comply with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation.

Timber of species listed in Annex A, B or C to Regulation (EC) No 338/97 and which complies with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation.

Article 4

Obligations of operators

1 The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.

2 Operators shall exercise due diligence when placing timber or timber products on the market. To that end, they shall use a framework of procedures and measures, hereinafter referred to as a ‘due diligence system’, as set out in Article 6.

3 Each operator shall maintain and regularly evaluate the due diligence system which it uses, except where the operator makes use of a due diligence system established by a monitoring organisation referred to in Article 8. Existing supervision systems under national legislation and any voluntary chain of custody mechanism which fulfil the requirements of this Regulation may be used as a basis for the due diligence system.

Article 5

Obligation of traceability

Traders shall, throughout the supply chain, be able to identify:

- (a) the operators or the traders who have supplied the timber and timber products; and
- (b) where applicable, the traders to whom they have supplied timber and timber products.

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Traders shall keep the information referred to in the first paragraph for at least five years and shall provide that information to competent authorities if they so request.

Article 6

Due diligence systems

1 The due diligence system referred to in Article 4(2) shall contain the following elements:

- a measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market:
 - description, including the trade name and type of product as well as the common name of tree species and, where applicable, its full scientific name,
 - country of harvest, and where applicable:
 - (i) sub-national region where the timber was harvested; and
 - (ii) concession of harvest,
 - quantity (expressed in volume, weight or number of units),
 - name and address of the supplier to the operator,
 - name and address of the trader to whom the timber and timber products have been supplied,
 - documents or other information indicating compliance of those timber and timber products with the applicable legislation;
- b risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation,
 - prevalence of illegal harvesting of specific tree species,
 - 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,
 - sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports,
 - complexity of the supply chain of timber and timber products.
- c except where the risk identified in course of the risk assessment procedures referred to in point (b) is negligible, risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

2 Detailed rules necessary to ensure the uniform implementation of paragraph 1, except as regards further relevant risk assessment criteria referred to in the second sentence of paragraph 1(b) of this Article, shall be adopted in accordance with the regulatory procedure referred to in Article 18(2). Those rules shall be adopted by 3 June 2012.

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3 Taking into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through the exchange of information referred to in Article 13 and the reporting referred to in Article 20(3), the Commission may adopt delegated acts in accordance with Article 290 TFEU as regards further relevant risk assessment criteria that may be necessary to supplement those referred to in the second sentence of paragraph 1(b) of this Article with a view to ensuring the effectiveness of the due diligence system.

For the delegated acts referred to in this paragraph the procedures set out in Articles 15, 16 and 17 shall apply.

Article 7

Competent authorities

1 Each Member State shall designate one or more competent authorities responsible for the application of this Regulation.

Member States shall inform the Commission of the names and addresses of the competent authorities by 3 June 2011. Member States shall inform the Commission of any changes to the names or addresses of the competent authorities.

2 The Commission shall make publicly available, including on the Internet, a list of the competent authorities. The list shall be regularly updated.

Article 8

Monitoring organisations

1 A monitoring organisation shall:

- a maintain and regularly evaluate a due diligence system as set out in Article 6 and grant operators the right to use it;
- b verify the proper use of its due diligence system by such operators;
- c take appropriate action in the event of failure by an operator to properly use its due diligence system, including notification of competent authorities in the event of significant or repeated failure by the operator.

2 An organisation may apply for recognition as a monitoring organisation if it complies with the following requirements:

- a it has legal personality and is legally established within the Union;
- b it has appropriate expertise and the capacity to exercise the functions referred to in paragraph 1; and
- c it ensures the absence of any conflict of interest in carrying out its functions.

3 The Commission, after consulting the Member State(s) concerned, shall recognise as a monitoring organisation an applicant that fulfils the requirements set out in paragraph 2.

The decision to grant recognition to a monitoring organisation shall be communicated by the Commission to the competent authorities of all the Member States.

4 The competent authorities shall carry out checks at regular intervals to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in

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paragraph 2. Checks may also be carried out when the competent authority of the Member State is in possession of relevant information, including substantiated concerns from third parties or when it has detected shortcomings in the implementation by operators of the due diligence system established by a monitoring organisation. A report of the checks shall be made available in accordance with Directive 2003/4/EC.

5 If a competent authority determines that a monitoring organisation either no longer fulfils the functions laid down in paragraph 1 or no longer complies with the requirements laid down in paragraph 2, it shall without delay inform the Commission.

6 The Commission shall withdraw recognition of a monitoring organisation when, in particular on the basis of the information provided pursuant to paragraph 5, it has determined that the monitoring organisation no longer fulfils the functions laid down in paragraph 1 or the requirements laid down in paragraph 2. Before withdrawing recognition of a monitoring organisation, the Commission shall inform the Member States concerned.

The decision to withdraw recognition of a monitoring organisation shall be communicated by the Commission to the competent authorities of all the Member States.

7 In order to supplement the procedural rules with regard to the recognition and withdrawal of recognition of monitoring organisations and, if experience so requires, to amend them, the Commission may adopt delegated acts in accordance with Article 290 TFEU, while ensuring that the recognition and withdrawal of recognition are performed in a fair and transparent manner.

For the delegated acts referred to in this paragraph the procedures set out in Articles 15, 16 and 17 shall apply. Those acts shall be adopted by 3 March 2012.

8 Detailed rules concerning the frequency and the nature of the checks referred to in paragraph 4, necessary to ensure the effective oversight of monitoring organisations and the uniform implementation of that paragraph, shall be adopted in accordance with the regulatory procedure referred to in Article 18(2). Those rules shall be adopted by 3 June 2012.

Article 9

List of monitoring organisations

The Commission shall publish the list of the monitoring organisations in the *Official Journal of the European Union*, C series, and shall make it available on its website. The list shall be regularly updated.

Article 10

Checks on operators

1 The competent authorities shall carry out checks to verify if operators comply with the requirements set out in Articles 4 and 6.

2 The checks referred to in paragraph 1 shall be conducted in accordance with a periodically reviewed plan following a risk-based approach. In addition, checks may be conducted when a competent authority is in possession of relevant information, including on the basis of substantiated concerns provided by third parties, concerning compliance by an operator with this Regulation.

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- 3 The checks referred to in paragraph 1 may include, inter alia:
- a examination of the due diligence system, including risk assessment and risk mitigation procedures;
 - b examination of documentation and records that demonstrate the proper functioning of the due diligence system and procedures;
 - c spot checks, including field audits.
- 4 Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, notably as regards access to premises and the presentation of documentation or records.
- 5 Without prejudice to Article 19, where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator. Additionally, depending on the nature of the shortcomings detected, Member States may take immediate interim measures, including inter alia:
- a seizure of timber and timber products;
 - b prohibition of marketing of timber and timber products.

Article 11

Records of checks

- 1 The competent authorities shall keep records of the checks referred to in Article 10(1), indicating in particular their nature and results, as well as of any notice of remedial actions issued under Article 10(5). Records of all checks shall be kept for at least five years.
- 2 The information referred to in paragraph 1 shall be made available in accordance with Directive 2003/4/EC.

Article 12

Cooperation

- 1 Competent authorities shall cooperate with each other, with the administrative authorities of third countries and with the Commission in order to ensure compliance with this Regulation.
- 2 The competent authorities shall exchange information on serious shortcomings detected through the checks referred to in Articles 8(4) and 10(1) and on the types of penalties imposed in accordance with Article 19 with the competent authorities of other Member States and with the Commission.

Article 13

Technical assistance, guidance and exchange of information

- 1 Without prejudice to the operators' obligation to exercise due diligence under Article 4(2), Member States, assisted by the Commission where appropriate, may provide technical and other assistance and guidance to operators, taking into account the situation of small and medium-sized enterprises, in order to facilitate compliance with the requirements of this Regulation, in particular in relation to the implementation of a due diligence system in accordance with Article 6.

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2 Member States, assisted by the Commission where appropriate, may facilitate the exchange and dissemination of relevant information on illegal logging, in particular with a view to assisting operators in assessing risk as set out in Article 6(1)(b), and on best practices regarding the implementation of this Regulation.

3 Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in enforcing this Regulation.

Article 14

Amendments of the Annex

In order to take into account, on the one hand, the experience gained in the implementation of this Regulation, in particular as identified through the reporting referred to in Article 20(3) and (4) and through the exchange of information as referred to in Article 13, and, on the other hand, developments with regard to technical characteristics, end-users and production processes of timber and timber products, the Commission may adopt delegated acts in accordance with Article 290 TFEU by amending and supplementing the list of timber and timber products set out in the Annex. Such acts shall not create a disproportionate burden on operators.

For the delegated acts referred to in this Article the procedures set out in Articles 15, 16 and 17 shall apply.

Article 15

Exercise of the delegation

1 The power to adopt the delegated acts referred to in Articles 6(3), 8(7) and 14 shall be conferred on the Commission for a period of seven years from 2 December 2010. The Commission shall make a report in respect of the delegated powers not later than three months before the end of a three-year period after the date of application of this Regulation. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 16.

2 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 16 and 17.

Article 16

Revocation of the delegation

1 The delegation of powers referred to in Articles 6(3), 8(7) and 14 may be revoked at any time by the European Parliament or by the Council.

2 The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

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3 The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 17

Objections to delegated acts

1 The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.

2 If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3 If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 18

Committee

1 The Commission shall be assisted by the Forest Law Enforcement Governance and Trade (FLEGT) Committee established under Article 11 of Regulation (EC) No 2173/2005.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 19

Penalties

1 The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented.

2 The penalties provided for must be effective, proportionate and dissuasive and may include, inter alia:

- a fines proportionate to the environmental damage, the value of the timber or timber products concerned and the tax losses and economic detriment resulting from the infringement, calculating the level of such fines in such way as to make sure that they effectively deprive those responsible of the economic benefits derived from their serious

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infringements, without prejudice to the legitimate right to exercise a profession, and gradually increasing the level of such fines for repeated serious infringements;

- b seizure of the timber and timber products concerned;
- c immediate suspension of authorisation to trade.

3 The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Article 20

Reporting

1 Member States shall submit to the Commission, by 30 April of every second year following 3 March 2013, a report on the application of this Regulation during the previous two years.

2 On the basis of those reports the Commission shall draw up a report to be submitted to the European Parliament and to the Council every two years. In preparing the report, the Commission shall have regard to the progress made in respect of the conclusion and operation of the FLEGT VPAs pursuant to Regulation (EC) No 2173/2005 and their contribution to minimising the presence of illegally harvested timber and timber products derived from such timber on the internal market.

3 By 3 December 2015 and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation, including in preventing illegally harvested timber or timber products derived from such timber being placed on the market. It shall in particular consider the administrative consequences for small and medium-sized enterprises and product coverage. The reports may be accompanied, if necessary, by appropriate legislative proposals.

4 The first of the reports referred to in paragraph 3 shall include an evaluation of the current Union economic and trade situation with regard to the products listed under Chapter 49 of the Combined Nomenclature, taking particularly into account the competitiveness of the relevant sectors, in order to consider their possible inclusion in the list of timber and timber products set out in the Annex to this Regulation.

The report referred to in the first subparagraph shall also include an assessment of the effectiveness of the prohibition of the placing on the market of illegally harvested timber and timber products derived from such timber as set out in Article 4(1) as well as of the due diligence systems set out in Article 6.

Article 21

Entry into force and application

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply as from 3 March 2013. However, Articles 6(2), 7(1), 8(7) and 8(8) shall apply as from 2 December 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Status: Point in time view as at 20/10/2010.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 995/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Done at Strasbourg, 20 October 2010.

For the European Parliament

The President

J. BUZEK

For the Council

The President

O. CHASTEL

Status: Point in time view as at 20/10/2010.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 995/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX

Timber and timber products as classified in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87⁽¹⁰⁾, to which this Regulation applies

- 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, moulded, 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 00 00 Densified wood, in blocks, plates, strips or profile shapes
- 4414 00 Wooden frames for paintings, photographs, mirrors or similar objects
- 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.)
- 4416 00 00 Casks, barrels, vats, tubs and other cooper's 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
- 9403 30, 9403 40, 9403 50 00, 9403 60 and 9403 90 30 Wooden furniture
- 9406 00 20 Prefabricated buildings

Status: Point in time view as at 20/10/2010.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 995/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (1) [OJ C 318, 23.12.2009, p. 88.](#)
- (2) Position of the European Parliament of 22 April 2009 ([OJ C 184 E, 8.7.2010, p. 145](#)), position of the Council at first reading of 1 March 2010 ([OJ C 114 E, 4.5.2010, p. 17](#)) and position of the European Parliament of 7 July 2010 (not yet published in the Official Journal).
- (3) [OJ L 242, 10.9.2002, p. 1.](#)
- (4) [OJ L 347, 30.12.2005, p. 1.](#)
- (5) [OJ L 61, 3.3.1997, p. 1.](#)
- (6) [OJ L 41, 14.2.2003, p. 26.](#)
- (7) [OJ L 184, 17.7.1999, p. 23.](#)
- (8) [OJ L 312, 22.11.2008, p. 3.](#)
- (9) [OJ L 144, 4.6.1997, p. 19.](#)
- (10) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ([OJ L 256, 7.9.1987, p. 1](#)).

Status:

Point in time view as at 20/10/2010.

Changes to legislation:

There are outstanding changes not yet made to Regulation (EU) No 995/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.