

Obligations of operators who place timber and timber products on the market

2008/0198(COD) - 22/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 465 votes to 22, with 187 abstentions, a legislative resolution modifying, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.

The resolution stresses that illegal logging poses a significant threat to forests as it contributes to the process of deforestation and forest degradation, which is responsible for about 20% of CO2 emissions, influences the desertification and steppe-formation process, increasing soil erosion and exacerbating extreme weather events and the flooding which may ensue, threatens biodiversity, and damages indigenous peoples' habitats.

The main amendments are as follows:

Prohibition: the Parliament proposes an explicit statement of the requirement that operators make available on the market only legally harvested timber/timber products. Operators who place timber/timber products on the market shall use a due diligence system.

Obligations of operators: operators who make timber and timber products available on the market shall, throughout the supply chain, be able to: (i) identify the operator who has supplied the timber and timber products, and the operator to whom the timber and timber products have been supplied; (ii) provide upon request information on the name of the species, the country/countries of harvest and where feasible the concession of origin; (iii) check, where necessary, that the operator who has placed the timber and timber products on the market has fulfilled his obligations under this Regulation.

Labelling: Member States shall ensure that by two years of the entry into force of this Regulation all timber and timber products placed and made available on the market are labelled, as appropriate, with the aforementioned information.

Due diligence system: Member States approve the due diligence system provided for in the proposal. This should ensure that only legally harvested timber and timber products are placed on the market, employing a traceability system and third party verification by the monitoring organisation. The system should comprise measures to ascertain, inter alia: country of origin, forest of origin; name of the species; value; name and address of the operator who has supplied the timber and timber products. MEPs also specify what the risk management procedure should comprise.

These measures shall be supported by **appropriate documentation** maintained in a database by the operator or by the monitoring organisation.

SMEs: the Commission, in adopting measures for the implementation of the Regulation, shall take particular account of the special position and capacity of SMEs and, as far as possible, offer those enterprises adapted and simplified alternatives to reporting and control systems so that those systems do not become too burdensome.

Extra due diligence obligations: the resolution stresses that, based on factors related to the product type, source or complexity of the supply chain, certain categories of timber and timber products or suppliers

shall be considered 'high risk' requiring extra due diligence obligations from the operators. Timber and timber products from conflict areas, or countries / regions covered by a UN Security Council ban on timber exports and countries where there is consistent and reliable information regarding significant failures of forest governance, a low level of forest law enforcement or a high level of corruption shall be considered as 'high risk'. Extra due diligence obligations may, *inter alia*, include: requiring additional documents, data or information; requiring third party audits.

Individual Member States shall not be prevented from setting more stringent requirements for the harvesting and origin of timber than laid down in this Regulation, in respect of sustainability, the protection of the environment, the conservation of biodiversity and the ecosystem, the protection of local communities" habitats, the protection of forest-dependent communities, the protection and rights of indigenous peoples and human rights.

Recognition of monitoring organisations: in order to have harmonised standards across the EU for the organisations which monitor due diligence systems, the Parliament proposes that the decision over whether to recognise a monitoring organisation be made at EU rather than national level. It expands on the criteria organisations should fulfil, as well as the information they must submit in application for recognition.

Checks and controls by competent authorities: MEPs stress that the means of national authorities to control and monitor trade of timber must be enhanced. Controls shall be conducted in accordance with a yearly plan and/or on the basis of substantiated concerns provided by third parties or in any case where the competent authority of the Member State is in possession of information that questions compliance by the operator with the requirements for due diligence systems set out in the Regulation. Controls may include spot checks, including field audits.

Traceability system: the competent authorities shall be equipped with a reliable traceability system to track internationally-traded timber products and with public monitoring systems to help operators identify suppliers of high-risk timber and timber-derived products.

Immediate measures: if, following the controls, the operator is presumed to have infringed the requirements set out in the Regulation, the competent authorities may start a full investigation of the infringement and take immediate measures, which may, *inter alia*, include the immediate cessation of commercial activities and the seizure of timber and timber products.

Development of sustainability requirements: within one year after the entry into force of this Regulation, the Commission shall present a legislative proposal to the European Parliament and the Council on a Community standard for all timber and timber products sourced from natural forests aimed at achieving the highest sustainability requirements.

Advisory Group: MEPs propose the establishment of an Advisory Group which can be consulted by the Timber Committee, in order to allow an efficient implementation of the Regulation and to secure good communication between all stakeholders.

Penalties: the penalties may be criminal or administrative, must be effective, proportionate and dissuasive, and shall include, where appropriate, *inter alia*: (i) financial penalties representing at least five times the value of the timber products obtained by committing a serious infringement; (ii) seizure of timber and timber products; (iii) temporary prohibition from marketing timber and timber products. Where legal proceedings are pending, operators shall suspend sourcing timber and timber products from the areas in question.

Member States shall not grant any public aid under national aid regimes or under Community funds to operators convicted of a serious infringement of this Regulation, until corrective measures have been taken and effective, proportionate and dissuasive penalties have been applied.

Exemption: MEPs consider that the exemption for "energy wood" and biomass, on the grounds that these will be subject to future mandatory EU sustainability criteria, should be deleted. The Regulation should cover all products that could contain illegally sourced timber.

Review: three years after the entry into force of the Regulation, and every five years thereafter, the Commission shall carry out a review of the operation of the Regulation in regard to its object and purpose and report its conclusions and, on the basis thereof, its proposals for amendments to the European Parliament. The review shall focus on the following: (i) a detailed and thorough analysis of research and development in the field of sustainable forestry; (ii) the impact of this Regulation on the internal market; (iii) the situation of SMEs on the market and how this Regulation has affected their activities.