

The use of certification in the context of the EU Timber Regulation

Following the introduction of the EU Timber Regulation, questions have been asked about whether third party certification of timber and timber products is necessary or useful, to meet the Timber Regulation's requirements.

1 Is the Use of Certification Systems Obligatory under the EUTR?

No. The Timber Regulation requires operators (those that first place timber on the EU market) to ensure that no timber and/or timber products deriving from illegal logging is placed on the EU market. Operators must, on the basis of specific information gathered from timber producers assess whether the timber they are trading in is likely to derive from illegal logging. The Timber Regulation does not require third party certification before timber can be exported to the EU.

2 If Timber is Certified, are the Timber Regulation's Requirements Automatically Met?

No. Certification is a tool that operators may use to give them information about the timber and its origin or to increase the credibility of information suggesting the timber has been logged legally. It is not automatic evidence of legality under the Timber Regulation.

3 What Purpose does Certification Play in the Timber Regulation?

Certification is a possible tool to assist compliance with the Timber Regulation. Using certified timber does not remove the obligation on operators to have access to specific information about the timber and its origin or to assess and if necessary mitigate the risk that it was logged illegally. Nor does it remove the legal responsibility for ensuring that timber placed on the EU market has not been logged illegally. However it may be used to increase the credibility of information suggesting that timber has been logged legally. If used in this way the operator must assess the extent to which the fact that timber is certified increases the credibility of information to show that it has been logged legally and how much to rely on it in the context of the Timber Regulation's requirements.

4 What are the Key Issues to Consider if Using Certified Timber?

The Timber Regulation sets certain minimum requirements that a certification scheme must meet, if an operator wishes to use it within the framework of the Timber Regulation. If considering certifying timber as a way to protect and enable exports to EU markets, timber producers should pay attention to whether the scheme they are considering meets these requirements. If they do not, they will be of limited relevance.

These requirements are that a certification scheme must have:

1. A publically available system of requirements that, at a minimum includes all relevant requirements of applicable legislation (including legislation governing management of forests, harvest of timber, timber transport and trade and export related to the forest sector).
2. Appropriate checks, including field-visits at least once every 12 months by an independent third party organisation
3. The means, verified by a third party, to trace timber and timber products at any point in the supply chain before timber or product is placed on the EU market.
4. Controls, verified by an independent third party, to ensure that no illegal timber or timber of unknown origin enters the supply chain.¹

5 If a Certification System Fulfils the Criteria Above, Does it Constitute Compliance with the EUTR?

No. Even when the above criteria are met, the operator must still consider the extent to which the certification scheme is a useful means to demonstrate legality for the requirements of the Timber Regulation. And even if using a credible certification system, an operator must still have access to specific information about the timber and have a system in place to assess the risk of timber being illegal.

For more information, please contact:

Emily Unwin
Lawyer
t +32 2 808 43 19
e eunwin@clientearth.org

Elisa Grabbe
Lawyer/Juriste
t +32 2 808 43 21
e egrabbe@clientearth.org

www.clientearth.org

¹ Article 4, Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market