

EU Timber Regulation - Frequently Asked Questions

Importing and exporting

- 1. Will a container holding Merbau in the Port of Antwerp without the right proof of legal source be confiscated? Will it pass through customs and, if so, will the importer be sued? What would happen with the same container in Trieste Port?**

Once the legality assurance system of a country that has a Voluntary Partnership Agreement (VPA) with the EU has been declared functional, that country can start issuing FLEGT licences for timber that will be exported to the EU.

If a container holding Merbau is exported from a VPA country that has a functional and active timber legality assurance system with a valid FLEGT licence, it can enter the EU at any port. After the FLEGT licence has been checked at the border control and confirmed to be valid, the timber is considered legal.

If the container holds Merbau that comes from a VPA country but does not have a valid FLEGT licence, the container will be held and prevented from import by customs in Antwerp or any other port/border control. If no FLEGT licence can be supplied, the timber will be confiscated and the importer or exporter will be penalised under the laws of either the country of origin or the country of import.

If the container holding Merbau was imported to the EU from a country that does not have an active VPA after 3 March 2013, the requirements of the EU Timber Regulation will apply. In the case of an importer that places the timber on the EU market for the first time, the Competent Authorities in that importer's country will check at regular intervals whether or not the importer fulfils the requirements of the EU Timber Regulation. In other words, the authorities will check that the importer's due diligence system is robust and reliable enough to prevent illegally harvested timber from entering its supply chain. Any timber that the importer buys must have been produced in accordance with the legislation applicable in the country of harvest. Such legislation may comprise export bans on timber species such as Merbau in the country of origin.

For either of the latter scenarios, the same procedures apply for an import through the Port of Trieste. EU Member States are legally bound to set penalties for infringements of the EU Timber Regulation and the VPA Regulation. The details of Member State penalty systems may differ because, on the one hand, the terms of the EU Timber Regulation and VPA Regulation must be enforced uniformly across the EU and, on the other hand, Member States have the discretion to set penalties.

2. I manufacture rubber wood products from wood that comes from a plantation and is a by-product. Do I still need the documentation?

Yes. If you are a timber product manufacturer in Europe and you are placing these timber products on the EU market for the first time – whether they come from a plantation or from a natural forest –, you are obliged to follow a due diligence system that prevents illegally harvested timber from entering the EU.

If the timber you buy comes from a country that has a Voluntary Partnership Agreement (VPA) with the EU, and rubber wood from plantations is included in Annex 1 (the list of products subject to FLEGT licensing) to that country's VPA, the timber must come with a valid FLEGT licence. This is the case once the country's legality assurance system has been declared functional and the country has begun issuing FLEGT licences.

3. As far as I know, Burmese teak-wood is under no circumstances legal to export. So I was surprised to see that the Thailand International Furniture Fair (TIFF) featured companies that were openly displaying products made of Burmese teak-wood. Furthermore, these companies told me that they export these products to Europe without any problems. This claim was being made by one of the largest producers in Thailand. Now I am rather confused and not sure about the documentation or certificates required for exporting wood to the EU. Which teak-wood is legal to export and which types are not?

Once the EU Timber Regulation is enforced, an operator seeking to place teak from Myanmar on the EU market will have to be confident that that timber was not harvested illegally. That is, the timber must not be in contravention of the applicable legislation in force in the country of harvest, according to the requirements set out in the EU Timber Regulation and in other applicable EU legislation (e.g. import prohibition on timber from certain countries such as Myanmar that was valid until April 2012). If the teak comes from a country that imposes no export ban on teak, the operator can place the timber on the market if an assessment following a due diligence system concludes that the timber is not illegal.

If an EU ban on imports of teak (or other species) from a certain country is in place (as was the case with Myanmar until April 2012), an operator that imports such timber into the EU is contravening the EU law. The importer can be penalised according to the relevant legislation in the Member State where the timber is imported to and placed on the market.

If no EU import ban is in place but a ban to export teak (or other species) from the country of origin is in force, the operator is breaching the EU Timber Regulation and can be penalised according to this legislation in the EU Member State where the timber is imported to and placed on the market.

4. Is FLEGT relevant for a French company that buys imported wood from Canada? Or, even if it is not, is the EU Timber Regulation relevant for this company?

Yes. Typically importers are operators that place timber on the EU market for the first time, and therefore the EU Timber Regulation will apply to them after 3 March 2013. The EU Timber Regulation is one measure under the EU FLEGT Action Plan, which was launched in 2003. The FLEGT Action Plan has various elements that aim at tackling the underlying causes of illegal logging. Another measure is the establishment of bilateral agreements between the EU and partner countries, called Voluntary Partnership Agreements (VPAs). Partner countries with a VPA commit to establishing a timber legality assurance system designed to ensure the legality of all timber exported to the EU, if it is included in Annex 1 to the VPA (list of products subject to FLEGT licensing). Timber exported from these countries has to be accompanied by a FLEGT licence. Under the EU Timber Regulation, FLEGT-licensed timber is considered risk free and requires no further due diligence measures from the importer.

Canada has not signed a VPA with the EU. Therefore, after 3 March 2013, the French company will have to exercise due diligence when importing timber products from Canada.

5. Will I be able to export to the EU after March 2013?

The EU Timber Regulation is not banning or impeding trade in timber products. However, as EU operators are prohibited from placing illegally harvested timber on the EU market and must exercise due diligence to ensure that their timber is not illegal, they will require information and documentation from their suppliers ensuring the wood's legality.

If an operator exercising due diligence concludes that one of its timber sources constitutes a 'non-negligible' risk, that operator has to apply risk mitigation measures. Measures to mitigate the risk can range from changing the supply source to requiring additional information, documentation or certification against a third party verification or certification standard that complies with the applicable legislation in force in the country of harvest, according to the requirements of the EU Timber Regulation.

For comments or questions, please contact EFI at: info@euflegt.efi.int
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