

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Amending the product scope of Regulation (EU) No 995/2010 laying down the obligations of operators who place timber and timber products on the market (EUTR)		
LEAD DG – RESPONSIBLE UNIT	DG Environment/Unit F3 Multilateral Environmental Cooperation	DATE OF ROADMAP	23/01/2017
LIKELY TYPE OF INITIATIVE	Commission Delegated Regulation amending the list of timber and timber products set out in the Annex to the EUTR		
INDICATIVE PLANNING	2017 3 rd quarter		
ADDITIONAL INFORMATION	http://ec.europa.eu/environment/forests/timber_regulation.htm		
<p>This Inception Impact Assessment aims to inform stakeholders about the Commission's work to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on the possible impacts of the different options. The Inception Impact Assessment is provided for information purposes only and its content may change. This Inception Impact Assessment does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</p>			

A. Context, Problem definition and Subsidiarity Check
<p>Context</p> <p>Regulation (EU) No 995/2010¹ (EUTR) prohibits the placing of illegally harvested timber on the EU market. For that purpose it regulates the behaviour of "operators" (those who first place timber products on the EU market) and "traders" (those further down the supply chain). The EUTR requires the operators to have a due diligence system in place to minimise the risk of illegally harvested timber entering their supply chain. This system includes a set of measures and procedures that will enable operators to assess, on the basis of information provided to them, the risk of placing illegally harvested timber on the market and to mitigate that risk. Further down the supply chain, traders are then obliged to keep records of their suppliers and customers so as to facilitate traceability.</p> <p>The EUTR applies to both domestically produced and imported timber and timber products that are listed in the Annex to the EUTR according to the Combined Nomenclature (CN) codes² (a set of numbers used to identify imported products) and description of products.</p> <p>The evaluation of the effectiveness and functioning of the EUTR during its two first years of application was carried out recently³, followed by a Report to the European Parliament and the Council⁴. In this context the Commission also examined, under Art. 20(3) of the EUTR, the product scope and, under Art. 20(4), the current economic and trade situation with regard to printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans (Chapter 49 of CN) taking particularly into account the competitiveness of the relevant sectors in order to consider their possible inclusion in the product scope.</p> <p>Due to the relative short period of application of the EUTR and its incomplete and uneven application across the EU, the evaluation could not yet quantify the impact it has had on the trade in illegal timber and timber products on the internal market but its findings include the observation that the EUTR product scope is not optimal. The evaluation confirmed the relevance, EU added value and potential effectiveness of the EUTR and did not identify a clear need for changes in the core elements of the legislation apart from potential changes to the product scope which can only be made with a delegated act.</p>

¹ Regulation (EU) No 995/2010 laying down the obligations of operators who place timber and timber products on the market

² Combined Nomenclature is set out in Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

³ SWD(2016) 34 final

⁴ COM(2016) 74 final

In its conclusions following the EUTR evaluation the Council took note of the evaluation findings and called on the Commission to consider, subject to an impact assessment, a possible adjustment of the product scope to address gaps and inconsistencies identified therein⁵.

Problem the initiative aims to tackle

One outcome of the evaluation was that the current EUTR product scope is not optimal as not all products containing wood are included. In addition, the findings of one study on the EUTR product scope showed that 371 relevant CN codes (52%) are out of the EUTR product scope as opposed to 326 CN codes that are covered. According to the same study "the value of out-of-scope imports rose from €43.1 billion (2013) to over €46 billion (2014). The value of in-scope imports rose slightly from €21.7 billion to €23.1 billion. By value, just 33% of products that may contain wood were covered by the EUTR, while 67% were out of scope. By volume, 86% of wood-related products are covered by the regulation."⁶

The incomplete coverage concerns, but is not limited to, printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans (CN 49), as well as other products such as musical instruments (CN 92), wooden coffins (CN 4421) and seats with wooden frames (CN 94), as well as a number of other products that may contain wood under a number of other CN codes.

This incomplete coverage bears a risk of illegally harvested timber and timber products being placed on the EU market. Such incomplete coverage could also influence competitiveness in affected sectors. For example, since printed paper is not covered by the EUTR, it might be difficult for EU-based printing businesses to compete with imported printed material which is not covered by the EUTR, and which could have been produced in third countries by using illegally harvested timber.

Consultations with stakeholders during the evaluation have shown that many do not consider the current EUTR product scope optimal and feel it should include more timber products. However, others consider that the product coverage should not be expanded before the EUTR is fully implemented and effectively applied.

Based on the information above, further assessment of the current EUTR product scope is needed to ascertain if the product scope needs to be changed, and if so, to what extent, in light of the objective pursued by the Regulation.

Subsidiarity check (and legal basis)

The EUTR is based on Article 192(1) of the TFEU. The Commission's empowerment to amend the product scope in Annex to the EUTR is based on Art. 14 of the EUTR, which specifies that, in order to amend the product scope, the Commission can adopt a delegated act in accordance with Art. 290 of the Treaty on the Functioning of the European Union.

B. Objectives and Policy options

The general objective is set out in the EUTR, on which this policy initiative is based, namely the fight against illegal logging and related trade (recital 31).

In particular, the aim is to improve the effectiveness and efficiency of the EUTR in achieving its objective. With more consistent product coverage the risk of timber and timber products derived from illegally harvested timber being placed on the EU market should be decreased. In addition, in some sectors (to be further identified in the course of the impact assessment) the initiative would help level the playing field between EU and non-EU economic operators.

The baseline scenario is to continue to operate under the current EUTR product scope with the risk that timber products in the EU which are not covered by the EUTR, around 52% of CN codes as indicated above, come from illegally harvested timber.

Having in mind that the product scope can be amended only by way of a Commission delegated act, the proposed options are the following:

⁵ ST 10721/16

⁶ "Analysis of potential European Union Timber Regulation product scope changes" WWF, March 2016

- a) amending the product scope to include one or more categories of products (CN codes) identified during the evaluation, as well as further relevant categories that may be identified during the assessment, or
- b) including all products that may contain timber and, if appropriate, providing for a list of positive exceptions that do not fall under the scope of the regulation (to be identified during the assessment).

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

Policy options identified above are likely to have an economic impact.

Both options would have a positive economic impact for the EU operators by creating a level playing field for EU and non-EU operators since they would close the gap between the economic actors using materials subject to the EUTR requirements and those competing economic actors who use materials currently exempted from it in the sectors concerned.

At the same time, an expansion of the product scope will result in new obligations and associated costs for operators that put on the EU market timber products that are not yet subject to the current EUTR requirements. The EUTR evaluation findings could be indicative for this category of operators, pointing to a range of costs between EUR 5 000 – 90 000 for developing and operating due diligence system and annual operating costs between EUR 1 000 – 70 000⁷.

Likely social impacts

Although no clear social impacts were identified at this early stage of the analysis, the impact assessment will explore the likelihood and scale of such potential impacts (e.g. on employment as a consequence of an increased competitiveness of EU-operators in the timber industry).

Likely environmental impacts

Amending the EUTR product scope is expected to support the achievement of the objective of the Regulation, namely the fight against illegal logging and related trade as it would include timber products which are currently not subject to the EUTR requirements and as such carry the risk of being derived from illegally harvested timber. By enhancing scrutiny on supply chains and ultimately closing the EU market to illegally logged timber for additional product categories, the amended product scope of the EUTR will also contribute to the fight against forest degradation and deforestation since illegal logging is one of its drivers. It will support biodiversity protection and sustainable forest management, thus positively contributing to sustainable development.

Likely impacts on fundamental rights

It is unlikely that this initiative will have an impact on fundamental rights.

Likely impacts on simplification and/or administrative burden

It is likely that an amended EUTR product scope would produce additional regulatory burden associated with the creation and operation of an adequate due diligence system for operators that are not subject to the current EUTR requirements. This effect might be less likely or less significant for operators already subject to the EUTR requirements as they would only be required to extend their existing due diligence system to other products. However, this regulatory burden will be necessary in order to ensure compliance with the EUTR requirements.

D. Data Collection and Better Regulation Instruments

Impact assessment

An impact assessment is being prepared to support the preparation of this initiative and to inform the Commission's decision.

Data collection

Additional information on products not covered by the EUTR and related trade data are needed for the assessment of any changes to the EUTR product coverage and the impact of these changes on the relevant stakeholder groups, notably the competent authorities, operators (in particular SMEs) and monitoring

⁷ SWD(2016) 34 final

organisations. Such information and data will be gathered in the course of the impact assessment, including through a public and targeted consultations.

In addition, the EUTR evaluation results will be used for further refining the alternative options.

Consultation strategy

The consultation strategy will be developed by the study contractor, in consultation with the Commission, and will consist of targeted and open public consultations to ensure participation of all relevant stakeholder groups (i.e. private and public sector, including NGOs) and a timely feedback to the impact assessment. This will include defining the consultation objectives and scope, stakeholder mapping and, accordingly, the consultation tools.

In addition, the draft delegated act will be put online and submitted to public feedback during a 4-week period before being adopted by the Commission.

The launch of stakeholders consultations related to this initiative will be announced in the consultation planning that can be found at http://ec.europa.eu/yourvoice/consultations/index_en.htm.

Will an Implementation plan be established?

Should a delegated act amending the EUTR product scope be adopted, no further actions would be needed as the delegated act will be directly applicable at the Member States' level.