



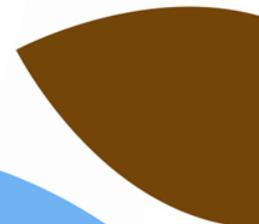
MINISTRY OF AGRICULTURE OF THE CZECH REPUBLIC

# Guidelines for setting up a due diligence for small operators

Natalie Benesova  
MOA

Jan Doubal  
FMI

11th February 2016  
Brussels



# Abstract

- Background – main reasons for DDS templates
  - legislative/statistical aspects
- Guidelines – General introduction
- Related documents
- Guidelines structure and contents
- Sources of illegality in CZ domestic timber sector

# Background – main reasons for DDS templates

- **Legislative aspect - EUTR**

„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.*
- 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. „*



# Background – main reasons for DDS templates

- **Legislative aspect – national law**
  - Act on placing timber and timber products on the market:

*„Section 10*

## ***Authorised person***

*shall provide technical assistance and consultancy to operators and facilitate the exchange and dissemination of relevant information on illegal logging.“*

- Authorised person checks operators and MO's
- FMI



# Background – main reasons for DDS templates

- Statistical aspect
  - Information on Forests in the Czech Republic 2014:
    - Forest ownership:
      - State Forests 59,62%
      - Communal and Municipal Forests 16,92%
      - Forests owned by individuals 19,25%
      - Others (legal persons, religious entities...)
  - 282 135 000 forest owners are identified (31/12/2014)
    - small owners up to 50 ha



# Guidelines

- were made by the FMI right after national legislation came into force (2013)
  - have been used for almost three years now
  - are not legally-binding
    - operators can choose when they want to use them or not
  - are not advertised
    - publicly available at FMI web
    - controllers may recommend them to operator if no DDS was in place
  - are not perfect and unchangeable – have been modified several times and will be in future due to new experiences
- 
- ARE NOT DDS, just a template to help small companies with redundant administrative burden!



# Guidelines related documents

- Guidelines are not DDS
- every operator is responsible for maintaining due diligence
- Operator can set up it's DDS or use the service of MO
  - MO service option is mentioned in our documents (check report):

## C) Due diligence system.

2. What is the form of due diligence system?	
Operator uses it's own DDS	YES NO
Operator uses the DDS established by Monitoring organisation?	YES NO
Monitoring organisation:	
Operator maintains and regularly evaluates the due diligence system which it uses?	ANO NE
The due diligence system referred to in Article 4(2) shall contain the following elements:	
- 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	



# Guidelines related documents

- Check report
  - Is filled usually in cooperation with operator
  - It's copy is available to the operator.



ÚSTAV PRO HOSPODÁŘSKOU ÚPRAVU LESŮ  
BRANDÝS NAD LABEM

Nábřeží 1326, 250 01 Brandýs n/L. - Stará Boleslav

## PROTOKOL

o výsledku kontroly podle § 10 písmena a) zákona č. 228/2013 Sb., o uvádění dřeva a dřevařských výrobků na trh ve smyslu zákona č.255/2012 Sb., o kontrole (kontrolní řád).

Kontrolní orgán: Ústav pro hospodářskou úpravu lesů Brandýs nad Labem, organizační složka státu, na základě pověření MZe ČR ze dne 4.zář 2013 pod č.j.: 46709/2013-MZE-1622

Kontrolující:

Kontrolovaná osoba:

Za kontrolovanou osobu se kontroly zúčastnil:

Přizvaná osoba:

(včetně důvodu přizvání)

**Předmět kontroly:** Riziko uvedení nezákonně vytěženého dřeva nebo dřevařských výrobků na trh v ČR v souladu s Nařízením Evropského parlamentu a Rady EU č. 995/2010, kterým se stanoví povinnosti hospodářských subjektů uvádějících dřevo a dřevařské výrobky na trh, ve smyslu zákona č. 228/2013 Sb. ve znění pozdějších předpisů a vyhlášky MZe ČR č. 285/2013 Sb.

Kontrolní úkon, jimž byla kontrola zahájena dne:	
Předložením pověření ke kontrole kontrolované osobě na místě kontroly (§ 5 odst.2 písm.a) kontrolního řádu)	
Doručením oznámení o zahájení kontroly (§ 5 odst.2 písm.b) kontrolního řádu)	
Kontrolní šetření proběhlo: (popis místa)	

### Kontrolní zjištění

A) Zjištění, zda je kontrolovaná osoba hospodářským subjektem.

1. Je kontrolovaný subjekt hospodářským subjektem?	
Došlo v kontrolovaném období ( od 3.3. 2013) k uvedení dřeva (dřevařských výrobků) poprvé na vnitřní trh dle nařízení (EU) č.995/2010'?)	ANO NE
Je veden systém náležitě péče? <sup>1)</sup>	ANO NE
<b>ANO</b>	<b>NE</b>



# Guidelines templates for small domestic operators

- We have prepared three templates of Guidelines, depending on the type of operator
  - Forest owners up to 50 Ha of forest (personal ownership)
  - Forest owners over 50 Ha (obliged to have Forest management plan (supervised by government forest administration))
  - Forest owners with also non-forest production (municipalities mostly)
- Applicable legislation depends on the type of operator:
  - Act No 289/1995 ON FORESTS
  - Act No. 114/1992 ON NATURE PROTECTION
  - A ministerial decree 189/2013 ON THE PROTECTION OF TREE SPECIES AND PERMITTING THEIR FELLING





# Guidelines templates for small domestic operators

- Guideline is like 9 pages document assisting the operator with:
  - Understanding the main terms and definitions
  - Getting to know the basic legislation and the applicable legislation
  - Fulfilling the requirements of the regulation on due diligence
  - Organizing the processes by the operator to comply with the EUTR (risk assessment and mitigation mostly)



# Guidelines structure

*Guideline for setting up Due Diligence System for the operators in the Czech Republic  
harvesting in the forests and outside of the forest („other production“)*

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## Notes:

Blue text: explaining the legislative backgrounds of the DDS , basic terms related to DDS

*Italic font: explanations and recommendations*

**Text-yellow: please, fill in**

Text-black: this or appropriate formulation/wording should be included in the DDS.



# Guidelines structure – legislation, terms and definition

Guidelines for setting up the Due Diligence system for the operators in the Czech Republic harvesting in the forests and outside of the forest („other production“)

## Notes:

Blue text: explaining the legislative backgrounds of the DDS, basic terms related to DDS

Italic font: explanations and recommendations

Text-yellow: please, fill in

Text-black: this or appropriate formulation/wording should be included in the DDS.

## „Due Diligence System“

Of the operator (fill in the name/business name) placing on the market the timber products harvested on the land owned by the operator

### I. EUTR legislation

- 2.1 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; *Regulation*
- 2.2 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;
- 2.3 ACT 289/1995 of 3 November 1995, ON FORESTS AND AMENDMENTS TO SOME ACTS (THE FOREST ACT) (CZ)
- 2.4 Act No. 114/1992 Coll., on nature protection;
- 2.5 Act No. 226/2013 Coll., on placing timber and timber products on the market;
- 2.6 A ministerial decree (No 285/2013 Coll., Ministry of Agriculture), Disclosure of information into „The Central Register“ by operators and by governmental authorities when applying the directly applicable EU regulation laying down the obligations of operators who place timber and timber products on the market.
- 2.7 A ministerial decree 189/2013 Coll. on the protection of tree species and permitting their felling

### II. Terms and definitions

For the purposes of this „Due Diligence System“ shall mean:

- 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; *Article 2(a) of the Regulation*
- 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; *Article 2(b)*
- c. „operator“ means any natural or legal person that places timber or timber products on the market; *(Article 2(c))*; For the purposes of this „Due Diligence System“ the operator is: *identification of the operator*
- 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; *Article 2(d)*;

Stránka 1 z 9

Guidelines for setting up the Due Diligence system for the operators in the Czech Republic harvesting in the forests and outside of the forest („other production“)

- e. „legally harvested“ means harvested in accordance with the applicable legislation in the country of harvest, FLEGT licensed timber and 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.
- f. „illegally harvested“ means harvested in contravention of the applicable legislation in the country of harvest; *Article 2(g)*;
- g. „the common name of tree species and its full scientific name including applicable abbreviation“ are listed in Annex 2. of this „DDS“. Other than listed species are not present on the property and so its not possible to place on the market the timber products derived from non-listed species.

### III. Obligations of operators (Article 4)

- A) The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.
- B) 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'.
- C) Each operator shall maintain and regularly evaluate the due diligence system which it uses.

„Due diligence system“ includes three main elements (Article 6):

1. How the operator is ensuring the access to the following information concerning the operator's supply of timber or timber products placed on the market
2. 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,
3. what are the risk mitigation procedures that are adequate and proportionate to minimise effectively that risk, except where the risk identified in course of the risk assessment procedures referred to in point (2) is negligible

measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market (consists of transparent management of the processes of harvest, record-keeping and sales of timber products by the operator):

Operator maintains:

- a) on the forest properties of *name of municipality (identification of the forest owner and or legal basis of the forest management activities, eg. lease contract ...)* on the area *ha* forest management including harvest, keeping of records of forest operations and timber sales in accordance with Act. 289/1995 (Forest Act) and applicable legislation (Article 2 (h))
- b) handling the other production, timber and timber products derived from trees grown and harvested outside of a forest, on properties owned or leased (lease contract) to an operator (this applies mainly to municipalities; harvesting/logging in accordance with Act No. 114/1992 Coll., on nature protection, including Logging permissions, and other permissions according to existing applicable legislation.

Stránka 2 z 9



# Guidelines structure – obligations of the operator

## III. Obligations of operators (*Article 4*)

- A) The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.
- B) 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’.
- C) Each operator shall maintain and regularly evaluate the due diligence system which it uses.

### ‘Due diligence system’ includes three main elements (*Article 6*):

1. How the operator is ensuring the **access to** the following **information** concerning the operator’s supply of timber or timber products placed on the market
2. **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,
3. what are the **risk mitigation procedures** that are adequate and proportionate to minimise effectively that risk, except where the risk identified in course of the risk assessment procedures referred to in point (2) is negligible



# Guidelines structure – information gathering

1. **measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market** *(contains description of transparent management of the processes of harvest, record-keeping and sales of timber products by the operator)*:

Operator maintains:

- a) on the forest properties of *...name of municipality (identification of the forest owner and or legal basis of the forest management activities, eg. lease contract ....)* on the area .....ha **forest management** including harvest, keeping of records of forest operations and timber sales in accordance with Act. 289/1995 (Forest Act) and applicable legislation *(Article 2 (h))*
- b) **handling the other production**, timber and timber products derived from trees grown and harvested outside of a forest, on properties owned or leased *(lease contract)* to an operator *(this applies mainly to municipalities)* *harvesting/logging in accordance with Act No. 114/1992 Coll., on nature protection.* Including Logging permissions, and other permissions according to existing applicable legislation.



# Guidelines structure – information gathering

**1.1. Logging of the timber grown in the forests** (*operator should set out who is responsible for forest management operations:*)

Operator's logging operations are managed by (owner/administrator) on the basis of the

**1.2. Measuring, felling record and sale of the timber and timber products** (*what methods are used to assess the volume of the timber product*)

*district forest manager* is checking and keeping record of all raw wood felled on the property according to set measuring method (*volume tables, forestry harvester record, logbook, work docum*)

**1.3. Forest Management Records** (*who is responsible for and what is the form of Forest Management Records:*)

Licensed forestry manager (*or other competent person*) is keeping **Forest Management Records** (*digital or analogue form*) on behalf of the operator, accounting all harvested timber products.

**1.4. Other production - timber products derived from other but the domestic timber production:** derived from trees growing and harvested outside of a forest (*this concerns mostly municipalities, but in general operators cutting/logging timber grown outside of the forest*)



# Guidelines structure – risk assessment

2. **risk assessment procedures**, which allows the operator to identify and assess the risk of illegal timber being part of its consignments intended to be placed on the market. Operator analyses and evaluates the risk of illegally harvested timber or timber products derived from such timber being placed on the market according to Article 6 of the regulation eventually considering:

## 2.1 compliance with applicable legislation

This DDS provides these information about operator's processes administration, based on which risks can be assessed:

a) The risk of illegally harvested timber (timber production harvested on forest and non forest properties owned by the operator) being placed on the market is negligible because:

- All the production mentioned in this DDS originated only from the Czech Republic
- Operator is managing its forests according to sustainable forestry according to FSC/PEFC (other) certification. .... *(only if applicable, please insert details about your certificate)*
- Operator conducts its felling operations according to approved Forest Management Plan number ..... valid for the period from ..... till ..... approved by... (state forest administration body) ..... or according to Act No. 114/1992 Coll., on nature protection and a Ministerial decree 189/2013 Coll. on the protection of tree species and permitting their felling.
- Operator is keeping Forest Management Records properly according to a Forest law and also is keeping records on production outside of a forest.
- Timber production consignments are handled according to applicable trade legislation.
- There were no sanctions, penalties or fines imposed on the operator due to applicable legislation.

b) The risk of timber being illegally felled by third party on the operator is negligible, because property is managed properly and controlled on the regular basis. If such a felling occurs, this illegally felled timber will not be placed on the market.

## 2.2. prevalence of illegal harvesting of specific tree species

There are no species under law protection on the operator's property.

## 2.3. 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.

All the production mentioned in this DDS originated only from the Czech Republic

## 2.4. sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports

All the production mentioned in this DDS originated only from the Czech Republic, there are no sanctions imposed on the Czech Republic by UN.

## 2.5. complexity of the supply chain of timber and timber products



# Guidelines structure – risk assessment

## 2.1 compliance with applicable legislation

This DDS provides these information about operator's processes administration, based on which risks can be assessed:

- a) The risk of illegally harvested timber (timber production harvested on forest and non forest properties owned by the operator) being placed on the market is negligible because:
- All the production mentioned in this DDS originated only from the Czech Republic
  - Operator is managing its forests according to sustainable forestry according to FSC/PEFC (other) certification..... *(only if applicable, please insert details about your certificate)*
  - Operator conducts its felling operations according to approved Forest Management Plan number ....., valid for the period from.....till..... approved by...(state forest administration body)....., or according to Act No. 114/1992 Coll., on nature protection and a Ministerial decree 189/2013 Coll. on the protection of tree species and permitting their felling.
  - Operator is keeping Forest Management Plan also is keeping records on production
  - Timber production consignments are h
  - There were no sanctions, penalties legislation.

## 2.2. prevalence of illegal harvesting of specific tree species

There are no species under law protection on the operator's property.

## 2.3. 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.

All the production mentioned in this DDS originated only from the Czech Republic

## 2.4. sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports

All the production mentioned in this DDS originated only from the Czech Republic, there are no sanctions imposed on the Czech Republic by UN.

## 2.5. complexity of the supply chain of timber and timber products



# Guidelines structure – risk mitigation

- Operator should know:
  - What is the procedure if accidentally logging is made outside of the legislation frame
  - What to do with „illegally harvested“ timber

### **3. risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk**

According to the risk assessment, the risk mentioned in point 2.1 are mitigated by a proper process management. The risks mentioned in points 2.2, 2.3, 2.4 and 2.5 are **assessed as not relevant to domestic production.**



# Guidelines structure – annexes

## ANNEX

Timber and timber products as classified in the Combined Nomenclature set out in I to Council Regulation (EEC) No 2658/87 (9), to which this Regulation applies

- 4401 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes or pellets or in 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 panels 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) continuing in the same shape (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or other 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 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-drum frames of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood

## Annex

### List of tree species

Czech name	Scientific name	Abbr.
smrk ztepilý	<i>Picea abies</i> (L.) Karsten	SM
smrk pichlavý	<i>Picea pungens</i> Engelm.	SMP
smrk černý	<i>Picea mariana</i> (Muller) B.S. et P.	SMC
smrk sivý	<i>Picea glauca</i> (Moench) Voss	SMS
smrk omorika	<i>Picea omorica</i> (Pančić) Purkyně	SMO
smrk Engelmannův	<i>Picea engelmanni</i> Engelm.	SME
smrky ostatní		SMX
jedle bělokora	<i>Abies alba</i> Mill.	JD
jedle obrovská	<i>Abies grandis</i> (Douglas) Lindl.	JDO
jedle ojiněná	<i>Abies concolor</i> (Gord.) Hillebr.	JDJ
jedle kavkazská	<i>Abies nordmanniana</i> (Steven) Spach.	JDK
jedle vznešená	<i>Abies procera</i> Rehder	JDV
jedle ostatní		JDX
douglaska tisolistá	<i>Pseudotsuga menziesii</i> (Mirbel) Franco	DG
borovice lesní	<i>Pinus sylvestris</i> L.	BO
borovice černá	<i>Pinus nigra</i> Arnold	BOC
borovice Banksova (banksovka)	<i>Pinus banksiana</i> Lamb.	BKS
borovice vejmutovka	<i>Pinus strobus</i> L.	VJ
borovice limba	<i>Pinus cembra</i> L.	LMB
borovice pokroucená	<i>Pinus contorta</i> Loudon	BOP
borovice ostatní		BOX
borovice kleč, kosodřevina	<i>Pinus mugo</i> Turra	KOS
borovice blatka (b. bažinná)	<i>Pinus rotundata</i> Link.	BL
modřín opadavý (m. evropský)	<i>Larix decidua</i> Mill.	MD
modřiny ostatní		MDX
tis červený	<i>Taxus baccata</i> L.	TS



# Guidelines – sources of illegality in the risk assessment

- Operator should be aware of the most common sources of illegality under the Act on Forests (Forest Act):
  - planned main felling in forests under 80 years of age
  - felling beyond the scope of the approved plan
  - unauthorized felling in an amount exceeding 3 m<sup>3</sup> per hectare (forest owners under 50 Ha)
  - deliberately exceed approved decenal volume of felling
  - area of clear felling must not exceed one hectare
- and under the Act on Nature protection:
  - cutting outside of the forest without proper announcement to the authorities
  - or without permission





Jan Doubal  
EUTR Workgroup (Competent Authority)

Forest Management Institute  
Nabrežní 1326  
250 01 Brandýs nad Labem  
Czech Republic

Tel.: +420 321 021 441  
Cell phone: +420 725 456 297  
[doubal.jan@uhul.cz](mailto:doubal.jan@uhul.cz)



# Thank you for your attention.

**Natalie Benesova**

Department of Forest Policy and Economy

**Ministry of Agriculture**

Tesnov 17

117 05 Prague 1

Czech Republic

Tel.: +420 221 812 261

Cell phone: +420 725 122 920

[Natalie.Benesova@mze.cz](mailto:Natalie.Benesova@mze.cz)

