

DRAFT – 20/02/2017

Mitigating measures

Article 4.2 regulation 995/2010. 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', as set out in Article 6.

Article 6.1(c) Regulation 995/2010 except where the risk identified in course of the risk assessment procedures referred to in point (b) is negligible, risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimize effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

Article 4 regulation 607/2012 Risk assessment and mitigation

Certification or other third-party verified schemes referred to in the first indent of the second paragraph of Article 6(1)(b) and in Article 6(1)(c) of Regulation (EU) No 995/2010 may be taken into account in the risk assessment and risk mitigation procedures where they meet the following criteria:

- (a) they have established and made available for third-party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation;*
- (b) they specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with;*
- (c) they include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;*
- (d) they include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.*

If the risk of placing illegally harvested timber on the EU market is non-negligible, market operators should take mitigating measures to reduce the level of risk identified during the risk assessment.

Mitigating measures is an undefined term in the EU timber regulation. Mitigation refers to lessening of something negative. The higher the level of risk in the harvest region, more rigorous mitigation measures are needed. If there is for instance evidence of prevalence of illegal logging supported by NGOs reports or government data, a low CPI or a low governance level.

The measures should be tailored to the specific risk found at a specific point in the supply chain. For instance if illegal logging is a risk, field audits may need to be conducted. If however mixing of timber from different sources is a problem checks at the sawmill may be necessary. Particular attention to this factor should be given when there is a long or complex supply chain.

Non-negligible risk

Risk mitigation measures suitable for non-negligible risks could be one or more of the following:

1. Requesting/acquiring and assessing further information and documentation regarding forest management units and/or supply chains, and/or suppliers. Checks on documents may be done by associations or commercial parties in some countries. However relying on documents in countries with a low CPI and a high risk of illegal logging is not sufficient, specifically when logging in natural forest (see chapter 4 of the guidance document) There may be countries where limited information is available on forestry and illegal logging. In these cases a lack of information does not equal a negligible risk of illegal logging.

2. Carrying out self-conducted audits at forest management units and/or suppliers. Self-conducted audits must be:
 - Well documented
 - Provide evidence that the supply chain was verified from source to shipping
 - Able to proof why the risk was deemed negligible by the market operator
3. Use of certified products if the certification scheme is in line with the EUTR. The scheme should be benchmarked against the regulation 995/2010, delegated regulation 363/2012 and article 4 of regulation 607/2012. See section 6 of the guidance document for more details.
4. Use of independent audits in source and producer countries to verify logging, transport and processing of the timber. Audit reports must be made available to the CA. Audits must include field visits or other means to check the place of harvest by for instance satellite data or information gathered from GPS loggers. Independent auditors are available at commercial consultants, some of which also operate as monitoring organization. In some countries independent auditing is being developed as a commercial service.
5. Use of isotopic or DNA research to prove the origin of the timber. By taking samples of the timber pre and postharvest the timber can be traced through the production chain.
6. Not placing the timber on the market. If no mitigating measures are possible the timber should not be placed on the market.

In line with article 2 and 4, b of regulation 607/2012 audits must be conducted every twelve months if tree species and concessions remain unchanged.