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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the delegation conferred on the Commission pursuant to 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 (the EU Timber Regulation)**

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1. INTRODUCTION

Regulation (EU) No 995/2010¹ (hereinafter the EU Timber Regulation or the Regulation) prohibits the placing on the market of illegally harvested timber or products derived from such timber. The EU Timber Regulation is part of a broad set of measures introduced by the FLEGT Action Plan², which is the EU's comprehensive response to the pervasive problem of illegal logging and its devastating impact on forests. It also contributes to reducing emissions from deforestation and forest degradation as well as to the conservation role of forests, sustainable management of forests and enhancement of forest carbon stocks in developing countries.

The EU Timber Regulation established three obligations:

1. It prohibits the placing on the market of illegally harvested timber (i.e. timber harvested in contravention of the applicable legislation in the country of harvest) or timber products derived from such timber;
2. It requires operators placing timber and timber products on the EU market for the first time to exercise 'due diligence', i.e. to undertake a risk management exercise to ensure that only legally harvested timber (timber harvested in accordance with the applicable legislation in the county of harvest) or timber products derived from such timber are placed on the EU market;
3. It requires traders of timber and timber products already placed on the EU market to keep records of their suppliers and customers ('obligation of traceability').

The EU Timber Regulation covers a wide range of timber products listed in its Annex using the EU Combined nomenclature codes. It also provides for "monitoring organisations" to be recognised by the Commission with a role to provide operators with operational due diligence systems and to assist them in meeting their obligations.

The EU Timber Regulation was adopted in December 2010 and entered into application on 3 March 2013. During this period, the Commission adopted two non-

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 Text with EEA relevance (OJ L 295, 12.11.2010, p. 23).

² Communication from the Commission to the Council and the European Parliament - Forest Law Enforcement, Governance and Trade (FLEGT) - Proposal for an EU Action Plan, COM/2003/0251 final.

legislative acts. The first one is Commission Implementing Regulation (EU) No 607/2012³ of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations, which was adopted as pursuant to Article 18(2) of the EU Timber Regulation and Articles 5 and 7 of Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission. The second one is Commission Delegated Regulation (EU) No 363/2012⁴ of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010, which was adopted as pursuant to Article 8(7) of the EU Timber Regulation.

2. LEGAL BASIS

According to Article 6(3) of the EU Timber Regulation “the Commission may adopt delegated acts [...] as regards further relevant risk assessment criteria that may be necessary to supplement those referred to” in the EU Timber Regulation. Article 8(7) of the EU Timber Regulation provides the possibility to adopt delegated acts to supplement the procedural rules with regard to the recognition and withdrawal of recognition of monitoring organisations, if experience so requires. Pursuant to Article 14 of the EU Timber Regulation, the Commission “may adopt delegated acts [...] amending and supplementing the list of timber and timber products set out in the Annex” to the EU Timber Regulation.

Article 15(1) of the EU Timber Regulation stipulates that “the power to adopt the delegated acts referred to in Articles 6(3), 8(7) and 14 shall be conferred on the Commission for a period of seven years from 2 December 2010”. It also provides that “The delegation of powers shall be automatically extended for periods of an identical duration”, i.e. seven years, “unless the European Parliament or the Council revokes it in accordance with Article 16” of the EU Timber Regulation. Thus the delegation of powers was last automatically prolonged from 2 December 2017 until 1 December 2024.

Article 15(1) of the EU Timber Regulation moreover requires the Commission to “make a report in respect of the delegated powers not later than three months before the end of a three-year period after the date of application” of the EU Timber Regulation, which was on 3 March 2013. The Commission did so on 18 February 2016⁵.

Article 15(1) only refers to the first reporting deadline three months before the end of the three-year period following the date of application (i.e. December 2015), and a three-year reporting rhythm is not synchronised with the seven-year prolongation period. Nonetheless, it can be inferred from the reporting practice regarding delegated

³ Commission Implementing Regulation (EU) No 607/2012, OJ L 177, 7.7.2012, p. 16–18.

⁴ Commission Delegated Regulation (EU) No 363/2012, OJ L 115, 27.4.2012, p. 12–16.

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0060>

powers⁶, as well as from the choice of the indefinite article “a” in relation to the three-year period, that the Commission is expected to report about the use of delegated powers every three years thereafter.

Hence, with this understanding the Commission submits the present second report in respect of the delegation of powers.

3. EXERCISE OF THE DELEGATION

During the second period after the date of application of the EU Timber Regulation, up to the date of the adoption of the present report, the Commission did not exercise its delegated powers. The Commission started in 2017 an impact assessment study. This was a follow-up to the first review of the EU Timber Regulation⁷, one of findings of which was that the current product scope of the EU Timber Regulation is not optimal, due to incomplete product coverage. The objective of the study has been the analysis of the adequacy of the current product scope of the EU Timber Regulation, in light of the objective pursued by the Regulation – namely the fight against illegal logging and associated trade – and to assess any significant economic, environment and social impacts of options to revise its product scope. This study also included a public consultation, which took place from 29 January to 24 April 2018⁸. The Commission will in due course follow-up on the impact assessment study.

⁶ The provisions following the agreed standard clauses point 17 of the Common Understanding annexed to the Inter-institutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1) provide that the Commission shall draw up a report in respect of the delegated power not later than nine months before the end of “each” period.

⁷ Report from the Commission to the European Parliament and the Council on Regulation EU/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, COM/2016/74 final.

⁸ The results of the public consultation are available at: https://ec.europa.eu/info/consultations/public-consultation-product-scope-eu-timber-regulation_en