



ADDRESSING EUTR REQUIREMENTS THROUGH SFI CERTIFICATION

INTRODUCTION

Taking action against illegal logging is a critical international need, given how illegal logging undermines forest governance, damages wildlife habitat, and reduces the potential for forests to provide stable supplies of products and support local communities.

The Sustainable Forestry Initiative® (SFI®) program recognizes the importance of addressing illegal logging through certification, regulation, and partner initiatives. While forests certified to the SFI standard exist only in the U.S. and Canada where there is negligible risk of illegal logging,¹ and while 98% of the fiber sourced by SFI Program Participants for their North American facilities comes from the U.S. or Canada, the SFI program takes significant steps to promote legal and responsible forest management and procurement worldwide.

Given the importance of the European Union Timber Regulation (EUTR) for global trade in forest products, SFI created this fact sheet to highlight what the new law requires and describe how the SFI standard aligns with it. The information contained in this fact sheet is based on several resources, including analysis prepared for SFI Inc. by Rupert Oliver, an expert in European Union (EU) forest policy and trade.

Buyers who source products bearing the SFI label can be confident that measures have been taken to avoid illegal fiber in the supply chain. While forest certification is not accepted as automatic proof of EUTR compliance, SFI certification can be utilized as a tool to meet EUTR requirements.

EUTR OVERVIEW

In recognition of the concerns over illegal logging and the need to address the problem, the EU Parliament passed legislation on October 20, 2010 “laying down the obligations of operators who place timber and timber products on the market” (aka, the EU Timber Regulation or EUTR).² The EUTR prohibits illegally harvested timber or products derived from such timber to be brought into the EU. The EUTR took effect on March 3, 2013. “Illegally harvested” is defined in the EUTR as “harvested in contravention of the applicable legislation in the country of harvest”, which covers harvesting laws and fees, environmental and forest legislation, land tenure laws, and trade and customs in forest products.

Unlike the U.S. Lacey Act,³ the EUTR does not specify any new documentation requirements for timber and timber products at point of entry into the EU. Instead, the EUTR places specific legal obligations on “operators” and “traders” within the EU. The EUTR

requires that operators (those companies or individuals that place timber on the EU market) must implement and regularly evaluate a Due Diligence System (DDS) that is sufficiently robust to ensure a negligible risk of illegal wood entering or the supply chain. Proof of legality is not required for each and every separate shipment unless this is necessary to demonstrate negligible risk.

An EUTR-conformant Due Diligence System is required to contain the following 3 elements:

1. “Measures and procedures providing access to the following **information** concerning the operator’s supply of timber and timber products” (see “Providing Information to Customers” below)
2. “**Risk assessment procedures** enabling the operator to analyze and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market”
3. “**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” These procedures are required “except where the risk identified in the course of the risk assessment procedures is negligible”

EUTR AND FOREST CERTIFICATION

The EUTR is expected to drive increased market interest in forest certification as the simplest and most credible tool for demonstrating legality and minimizing risk that is currently available to EU operators.

While there is no automatic “green light” for certified products⁴ as the European Commission cannot formally endorse non-regulatory instruments, forest certification is referenced in the EUTR and supporting regulations and guidance as a potential tool for risk assessment and mitigation.

The EUTR introduces strong incentives for European importers to ensure that their DDS and any “third party verification” system used to mitigate risk is genuinely effective in preventing illegal wood entering supply chains.

“In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure.”

– European Union Timber Regulation⁵

“By setting criteria, the due diligence framework provides some measure of direction as to relevant factors to assess risk. By retaining discretion as to how these criteria are met and whether any other criteria are considered, operators may respond in a manner that is relevant to their own supply chains. In this context, certification and other third-party verification are explicitly recognised as being possible tools to meet one of the risk assessment criteria.”

– Client Earth⁶

SFI COMPLIANCE WITH EUTR

While the EUTR sets the overall framework for imposition of new obligations on the European wood trading chain, it empowers the European Commission (EC) to adopt “Delegated acts” and/or “Implementing regulations” covering a strictly limited set of issues. The EC issued an Implementing Regulation concerning due diligence systems on July 6, 2012.⁷ Article 4 of the regulation specifies that certification or other third-party verified schemes may be taken into account in the risk assessment and risk mitigation procedures where they meet certain criteria. The following table shows those criteria and how SFI demonstrates compliance.

| EC Implementing Regulation Criteria for Certification Schemes | Demonstration of SFI Compliance |
|--|---|
| <p>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.</p> | <p>The SFI Standard and all related requirements are publicly available on SFI’s website at www.sfi-program.org. SFI’s definition of <i>illegal logging</i>,⁸ coupled with Objective 14 in the SFI Standard, which states that SFI program participants must be in “<i>compliance with applicable federal, provincial state and local laws and regulations</i>”, fully satisfies the EUTR’s definition of illegal logging and addresses all relevant requirements of the applicable legislation.</p> |
| <p>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.</p> | <p>The SFI Standard requires annual surveillance audits from accredited certification bodies. All certification, recertification and surveillance audits to the SFI 2010-2014 Standard shall be conducted by accredited certification bodies.⁹</p> |
| <p>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</p> | <p>SFI offers a third-party verified chain of custody standard that tracks wood fiber through the different stages of production. Companies can make claims about how much of their product comes from certified lands, how much contains <i>post-consumer recycled content</i>, and how much is responsibly sourced fiber through unique SFI <i>fiber sourcing</i> certification. These claims can be made based on either the physical separation or percentage-based methods of tracking <i>certified forest content</i> and <i>certified sourcing</i>. SFI Program participants must show that the raw material in their supply chain comes from legal and responsible sources, whether the forests are certified or not. To meet the fiber sourcing requirements, primary producers must be third party audited and certified to the SFI Requirements: Section 2 – SFI 2010-2014 Standard (Objectives 8-20).</p> |
| <p>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</p> | <p>The SFI Standard requires compliance with applicable federal, provincial, state, and local laws and regulations, including but not limited to forestry, environmental, and social issues (Objective 14).</p> <p>When an SFI Program Participant procures wood offshore (beyond North America), the SFI Standard requires the avoidance of controversial sources of supply, including illegal logging (Objective 12) and fiber sourced from countries without effective social laws (Objective 13).¹⁰</p> |

Guidance issued by the European Commission on February 7, 2013¹¹ recommends additional criteria for operators to assess the credibility of a third party verified scheme. The following table shows those criteria and how SFI demonstrates compliance:



| EC Guidance Document Criteria for Third Party Verified Schemes | Demonstration of SFI Compliance |
|--|--|
| Is the certification or other third party verified schemes compliant with international or European standards (e.g. the relevant ISO-guides, ISEAL Codes)? | The SFI Standard setting process, certification and accreditation of certification bodies requirements are consistent with guidelines published by ISO. SFI has been endorsed by the international Program for Endorsement of Forest Certification (PEFC) since 2005. ¹² |
| Are there substantiated reports about possible shortcomings or problems of the third party verified schemes in the specific countries from which the timber or timber products are imported? | 98% of the fiber sourced by SFI Program Participants for their North American facilities comes from within the U.S. and Canada, areas that are widely regarded as low-risk for illegal logging. The SFI Standard is recognized by governments, corporations, and social and environmental groups across North America and globally. ¹³ |
| Are the third parties that are making the checks and verifications independent accredited organisations? | All certification bodies performing audits to SFI forest, chain-of-custody or certified sourcing requirements must demonstrate conformance to the appropriate ISO standards. ¹⁴ Depending on the scope of the certification audit, they must have completed an accreditation program through one or more of the following independent, international accreditation bodies: American National Standards Institute (ANSI); ANSI-ASQ National Accreditation Board (ANAB); and the Standards Council of Canada (SCC). ANSI, ANAB and SCC are national members of the International Accreditation Forum and conform to the ISO 17011 Accreditation standard. |

For more information on aspects of the SFI Standard that address legal compliance and avoidance of controversial sources, see SFI’s fact sheet, “Taking Action Against Illegal Logging”.¹⁵

PROVIDING INFORMATION TO CUSTOMERS

SFI program participants may be asked for information by customers in Europe beyond what is provided on an SFI label. SFI Program Participants are encouraged to draw on the management systems developed for the SFI program when responding to specific requests for additional information from EU operators.

EUTR requires that the EU operator’s due diligence system “should provide access to information about the sources and suppliers of the timber and timber products being placed on the internal market for the first time”. It is not necessary for this information to be provided for each individual consignment. Instead, EUTR requires operators to undertake and document a separate risk determination for each specific type of timber or timber product supplied by a particular supplier. The EU operator is required to review each risk determination at least once every 12 months and whenever there is a change to the species content or place of harvest of the product group which might cause an alteration in the risk profile.

The minimum information to which the EU operator needs access is as follows:

- The name and address of their immediate suppliers. EU operators are not required to seek specific information about suppliers further upstream (e.g. names and addresses of logging contractors, forest owners or other sub-suppliers in North America) unless the operator judges this is necessary to mitigate risk of illegal wood entering the supply chain.
- Trade name and type of product. Ideally this should include both a clear description and reference to the relevant Harmonized System (HS) product customs code.
- Common name(s) and, where applicable, the full scientific name(s) of all tree species contained in the product. The scientific name is required in those instances where ambiguity in the common name might create confusion between species in different risk categories. If the product group contains a mix of species, it is acceptable to list all possible species that might be contained in the product. There is no specific requirement to identify the percentage of different species in a product group, although greater accuracy is likely to be viewed by operators as reducing risk.

- Quantity traded, including value and quantity unit most appropriate to the product group.
- Country of harvest. If a product group contains a mix of wood harvested in different countries, it is acceptable to provide the average percentage from each country contained in the product group over a specified time period (which should not exceed 12 months).
- Where applicable, the sub-national region and the concession of harvest. Information on origin beyond country of harvest is required only in those circumstances where the EU operator judges that the risk of illegal harvesting varies between sub-national regions or between concessions within those regions.
- Documents or other information indicating compliance of those timber and timber products with the applicable legislation. According to EC guidance, this requirement should be interpreted broadly as different regulatory regimes exist in different countries. However the guidance includes “certificates issued by third party verified schemes” in the list of recommended documents.

Information to the level of detail required by the EUTR DDS should be accessible to any SFI Program Participant conforming either to the certified sourcing label standard and the CoC standard. Taken together, the application of Objectives 8-20 (relating to fiber sourcing) imply that SFI Program Participants are required to develop an extremely high level of knowledge and control over their supply chains. Equally it is noted that under the record keeping requirements of the CoC standard (4.4.1), the participant must keep records of “all suppliers of forest-based raw material” and “all purchased forest-based raw material, including information on its origin.”

For more information about SFI and the EUTR, visit www.sfiprogram.org or contact:

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Endnotes

¹ See AHEC study on Assessment of Lawful Harvesting and Sustainability of US Hardwood Exports at http://www.ahec.org/publications/AHEC%20publications/AHEC_RISK_ASSESSMENT.pdf and Corruption Perceptions Index 2012 at <http://www.transparency.org/cpi2012/results>

² Regulation EU No 995/2010 of the European Parliament and of the Council of 20 October 2010, http://ec.europa.eu/environment/forests/timber_regulation.htm

³ As amended in the Food, Conservation, and Energy Act of 2008, http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml

⁴ The only products given a “green light” are those controlled through CITES (Convention on International Trade in Endangered Species) or licensed under the terms of a FLEGT (Forest Law Enforcement, Governance, and Trade) Voluntary Partnership Agreement (VPA) between the EU and a partner country.

⁵ Paragraph 19 of the Introduction to Regulation EU No 995/2010 of the European Parliament and of the Council of 20 October 2010, http://ec.europa.eu/environment/forests/timber_regulation.htm

⁶ Client Earth Briefing Note. May Certification Schemes Play a Role in Meeting the Due Diligence Obligation Under the Timber Regulation? October 2011. <http://clientearth.org/climate-and-forests/climate-forests-publications/may-certification-schemes-play-a-role-in-meeting-the-due-1585>

⁷ Commission Implementing Regulation (EU) No 607/2012, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32012R0607:EN:NOT>

⁸ The theft of timber or logs and cutting in parks, reserves or other similar areas where otherwise precluded by laws such as the United States Lacey Act, as amended in 2008. The Act combats trafficking in “illegal” wildlife, fish, and plants. As of May 22, 2008, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants.

⁹ Section 9 : <http://www.sfiprogram.org/standards-and-certifications/sfi-standard/>

¹⁰ Section 7: <http://www.sfiprogram.org/standards-and-certifications/sfi-standard/>

¹¹ Guidance document for the EU Timber Regulation by the Environment Directorate-General of the European Commission, <http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>

¹² In line with PEFC procedures for regular review, SFI was most recently re-assessed in 2010. See the assessment report at http://www.pefc.org/images/stories/documents/NGB_Documentation/USA_-_SFI/Evaluation_Report.pdf

¹³ <http://www.sfiprogram.org/what-others-are-saying/>

¹⁴ These include ISO 17021 Management system certification, ISO 19011 QMS and EMS auditing (and auditor qualifications), and ISO/IEC Guide 65 Product Certification.

¹⁵ <http://www.sfiprogram.org/conservation-and-research1111/prevent-illegal-logging/>

