EU Timber Regulation: Opportunities & Challenges

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EUTR Main Elements

- Enforceable from March 2013
- Divides EU companies into 2 types
- **Operators** "first place" timber on the EU market
  - Includes forestry operators and importers
  - Prohibition on placing of illegal timber on market
  - Due diligence system
- **Traders** are EU merchants/retailers buying timber already placed on the market
  - "Traceability obligation"
  - "One up one down" – records showing from whom they bought and to whom they sell timber.

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EUTR compared to Lacey Act

- **Prohibition**: similar concept but only applies to "first placing" on market
- **Due diligence**: similar concept to "due care" in Lacey - but more elaborated
- **No Customs Declaration** in EUTR
- Instead operators must have "**access to information**" e.g.
  - commercial name & "*where applicable*" species name
  - "country of harvest" and "*where applicable*" the "sub-national region" and "concession" of harvest

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EUTR Due Diligence System

- **Due Diligence System**:
  - Capable of demonstrating "**negligible risk"** of any timber product coming from an illegal source
  - Must ensure "**access to information**" of sufficient quality and detail to allow reliable "**risk assessment**"
  - If risk is not "**negligible**" include procedures sufficient to "**mitigate risk**"
- Operators can either use existing DDS or set up their own DDS or use a "**Monitoring Organization**"
  - Essentially a "group due diligence system"
  - Prospective MOs to be assessed by EC

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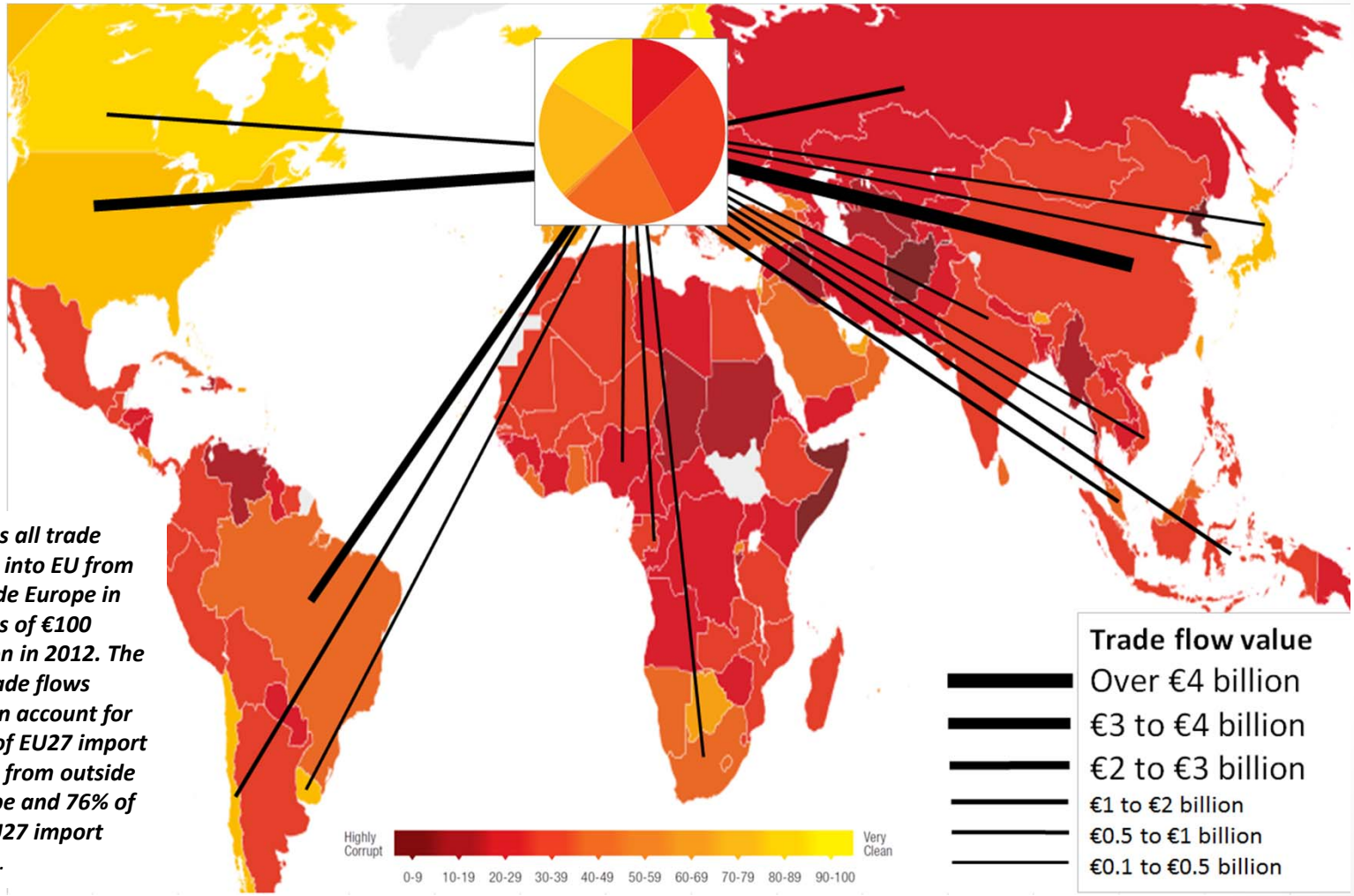
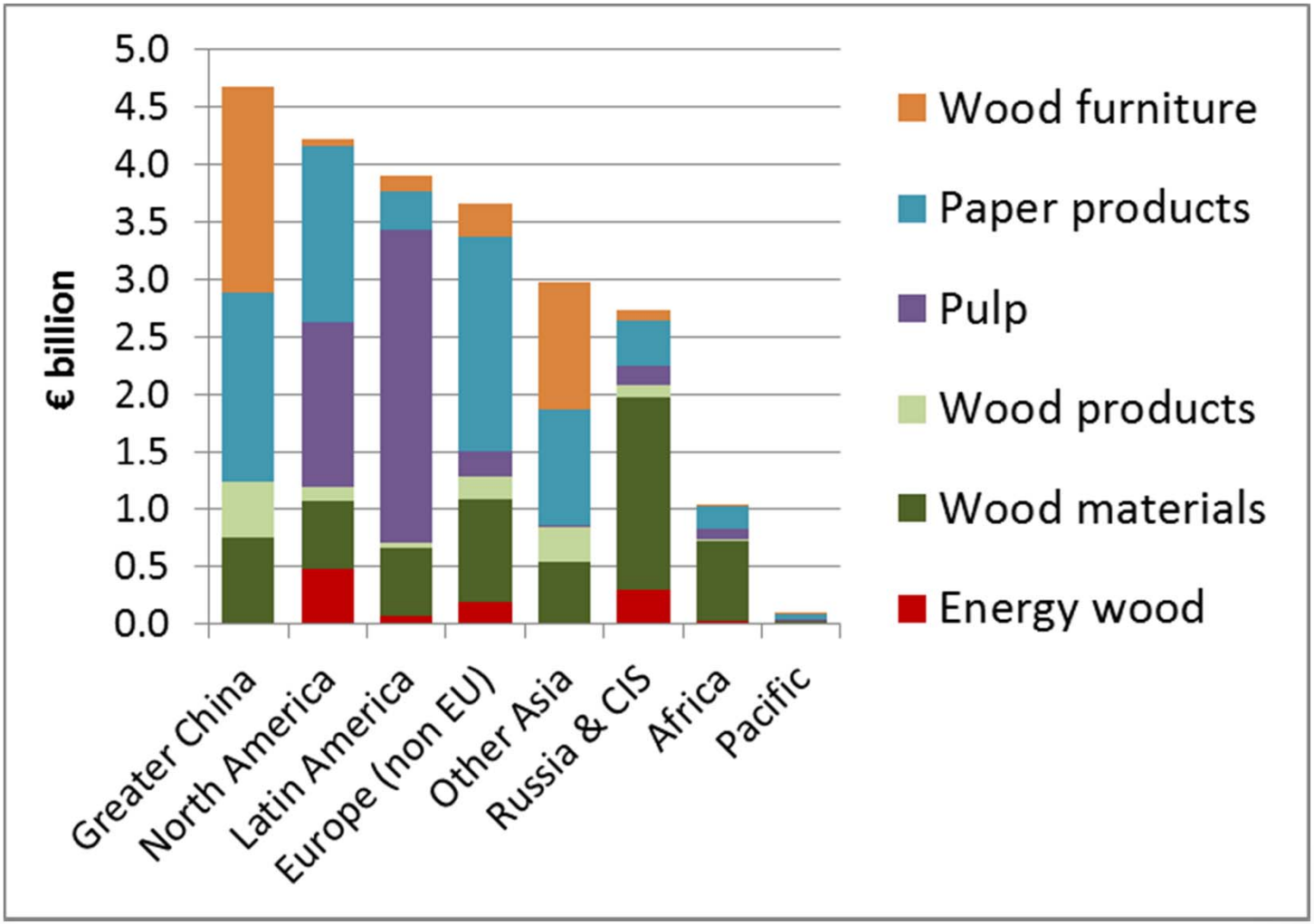
€ value of EU imports of EUTR regulated products by country of origin and Corruption Perceptions Index



Shows all trade flows into EU from outside Europe in excess of €100 million in 2012. The 18 trade flows shown account for 95% of EU27 import value from outside Europe and 76% of all EU27 import value.

Derived from FII analysis of Eurostat and Transparency International

€ value of EU imports of regulated wood products from main supply regions by product group



2012 annual data. Derived from FII analysis of Eurostat

EUTR and Forest Certification

- No free pass for certified products (like for FLEGT VPA licenses)

BUT

- Only because EC cannot formally endorse non-regulatory tools
- EUTR refers to certification as a potential tool for due diligence
- Large corporations keen to build on certification commitments
- Private sector guideline DDS standards such as PAS2021 and ETTF DDS give priority to certification in risk assessment
- Certification bodies becoming MOs prioritise certification

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EUTR Criteria for Certification

- *"Publicly available system of requirements which at least include all relevant legal requirements"*
- *"They specify that appropriate checks, including field-visits, are made by a 3rd party at regular intervals no longer than 12 months to verify legal compliance"*
- *"They include means, verified by a 3rd party, to trace legally harvested timber and timber products at any point in the supply chain before being placed on the EU market"*
- *"They include controls, verified by a 3rd party, to ensure that timber products of unknown or illegal origin do not enter the supply chain".*
- *Checks to ensure uncertified portion of %-labelled products "provide adequate evidence of compliance with the applicable legislation".*
- *Systems to comply with international or European standards (e.g. ISO-guides, ISEAL Codes)*
- *Checks of "substantial reports about possible shortcomings or problems of the 3rd party schemes in specific countries"*

Need to be aware that MOs and large importers will be assessing certification systems against these criteria

No apparent obstacles to acceptance as "negligible risk" of all products bearing the SFI Certified Sourcing or Certified CoC labels

FSC and PEFC response to EUTR

- Adapted CoC standards to “double up” as EUTR-conformant Due Diligence Systems
  - Definition of illegality equivalent to EUTR definition – e.g. extending to include legal trade and customs requirements
  - Risk assessment applied to both certified & uncertified fibre
  - EUTR specific information passed down the supply chain (e.g. country/region of harvest, species)
- FSC
  - Online Claims Platform: single master database to record all FSC-certified purchase and sales transactions in the world.
  - Phase-out company risk assessments in favour of FSC National Controlled Wood Risk Assessments

Slow public sector response

- EU guidance only finalised one week before enforcement
- Member States slow to pass legislation imposing sanctions
- Most EUTR Competent Authorities are forestry departments or general environmental agencies lacking international trade knowledge
- Many grey areas and Competent Authorities still unsure of interpretation

Private sector activity

- Commercial certifiers applying to become MOs
- W. Europe's large merchants/retailers more rapidly extending minimum documentation requirements to all product lines
- EU's paper corporations adapting existing commitment to certification to accommodate EUTR
- EU timber importers combined to form European Timber Trade Federation to harmonise DDS and monitor market
- Lower awareness in S. and E. Europe & amongst SMEs
- Initial focus on "high risk" supply chains (tropics and China)
  - Increased pressure to move to FSC/PEFC certification
  - Efforts to simplify supply chains and cut-out middlemen
  - Concentration of DD functions in a few specialised importers
  - Concentration on smaller number of overseas suppliers

Potential long term trade impacts

- More reliance on domestically harvested wood and European manufactured products
  - DDS for European wood applied at harvesting site
  - Avoids challenges of supply chain complexity
- Switch in external EU trade:
  - Away from uncertified to certified
  - Away from countries & suppliers with high perceived risk to low perceived risk
  - Away from EUTR regulated to non-regulated materials & products
  - Away from MS with tough regimes to MS with weak regimes
- If EUTR is effectively enforced, most significant trade impact likely to be loss of market share for China and other Asian suppliers of manufactured wood product due to corruption, supply chain complexity & lack of certification.

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EUTR strategic implications for certification systems

- EUTR likely to:
  - Increase EU customer's concern for rigorous application of accreditation and certification procedures that genuinely deliver negligible risk of illegality
  - Increase EU focus on certification and other systems that combine robust assurance of negligible risk without unnecessarily constraining commercial volume supply
  - Increase EU focus on genuine effectiveness of certification systems operating in high risk regions
  - Reduce appeal of certification systems marketed primarily on the basis of commitment to the "greenest" forestry standards

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Specific opportunities for SFI

- SFI Program likely to be regarded by operators and regulators as a credible way to demonstrate negligible risk
- Opportunity to increase EU understanding of SFI Program
- EUTR represents a shift in Europe towards procurement systems approach pioneered by SFI
- EUTR has close parallels to "SFI Certified Sourcing" concept and label which already require program participants to apply due diligence across 100% of wood procurement

Thank you!

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