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2009 - 2014

Committee on the Environment, Public Health and Food Safety

2008/0198(COD)

27.4.2010

AMENDMENTS

72 - 173

Draft recommendation for second reading

Caroline Lucas

(PE439.878v01-00)

on the Council position at first reading for adopting a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market

Council position

(05885/2010 – C7-0053/2010 – 2008/0198(COD))

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PE440.145v01-00

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United in diversity

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Amendment 72
Kartika Tamara Liotard

Council position
Recital 1

Council position

(1) Forests provide a broad variety of environmental, economic and social benefits including timber and non-timber forest products **and environmental services**.

Amendment

(1) Forests provide a broad variety of environmental, economic and social benefits including **the allocation of** timber and non-timber forest products **as well as the protection of biodiversity and provision of livelihoods for local people**.

Or. en

Justification

It is important to have a focus on all three different service areas (environmental, social, economic) in a balanced manner.

Amendment 73
Gerben-Jan Gerbrandy

Council position
Recital 1 a (new)

Council position

Amendment

(1a) The forest environment is a common heritage of humankind that must be protected, preserved and, where practicable, restored with the ultimate aim of maintaining biodiversity and ecosystem functions, protecting the climate system, and safeguarding the rights of indigenous peoples and forest-dependent communities.

Or. en

Justification

Restoring EP first reading. In multilateral environmental agreements, such as the Convention

on Biological Diversity and the United Nations Framework Convention on Climate Change, biodiversity and climate are referred to as common heritages of human kind. In international law, this establishes a special responsibility to provide for their protection.

Amendment 74
Kriton Arsenis

Council position
Recital 1 a (new)

Council position

Amendment

(1a) The forest environment is a precious heritage that must be protected, preserved and, where practicable, restored with the ultimate aim of maintaining biodiversity and ecosystem functions, protecting the climate, and safeguarding the rights of indigenous peoples and local and forest-dependent communities.

Or. en

(First reading Amendment 2.)

Amendment 75
Kriton Arsenis

Council position
Recital 2

Council position

Amendment

(2) Due to the growing demand for timber and timber products worldwide in combination with the institutional and governance deficiencies that are present in the forest sector in a number of timber-producing countries illegal logging and the associated trade have become matters of ever greater concern.

(2) Due to the institutional and governance deficiencies that are present in the forest sector in a number of timber-producing countries illegal logging and the associated trade have become matters of ever greater concern.

Or. en

Justification

Governance is a major issue related to illegal logging already recognised as such.

Amendment 76
Kriton Arsenis

Council position
Recital 2 a (new)

Council position

Amendment

(2a) Pressure on natural forest resources and the demand for timber and timber products are often too high, and the European Union needs to reduce its impact on forest ecosystems regardless of where their effects occur.

Or. en

(First reading amendment 6.)

Amendment 77
Holger Krahmer, Marit Paulsen

Council position
Recital 2 a (new)

Council position

Amendment

(2a) Timber produced in a sustainable way binds greenhouse gases and is one of the most environmentally friendly materials that exists. In view of the growing demand worldwide, sustainable production of timber should be encouraged, both within and outside the Union. Imposing excessively far-reaching requirements on timber products may lead to a loss of competitiveness compared with other, non-renewable materials (such as plastic, aluminium and concrete), which are not subject to legality requirements; such product migration would in turn

hurt the ability to reach the EU's climate targets.

Or. en

Amendment 78
Elżbieta Katarzyna Łukacijewska

Council position
Recital 3

Council position

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for about **20 %** of CO₂ emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

Amendment

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for about **12 %** of CO₂ emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

Or. xm

Justification

The latest research indicates that the figure is 12% – discussions during the Copenhagen Climate Conference (COP15, 2009).

Amendment 79
Kriton Arsenis, Jo Leinen

Council position
Recital 3

Council position

(3) Illegal logging **is a pervasive problem of major international concern. It** poses a significant threat to forests as it contributes

Amendment

(3) Illegal logging poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for

to the process of deforestation, which is responsible for about 20% of CO2 emissions, ***threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.***

about 20% of ***global*** CO2 emissions. ***Effective tackling of the problem of illegal logging in the context of this Regulation is expected to contribute significantly to the EU's climate change mitigation strategies in a cost-effective manner and should be seen as complementary to EU action and commitment in the context of the United Nations Framework Convention on Climate Change.***

Or. en

Justification

With policy coherence in mind, it is necessary to establish a link between the regulation and other European Union and global efforts to tackle climate change especially through reducing deforestation.

Amendment 80 **Kartika Tamara Liotard**

Council position **Recital 3**

Council position

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for about 20% of CO2 emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

Amendment

(3) Illegal logging is a pervasive problem of major international concern. It ***is compounded by institutional and governance deficiencies in the forest sector in a significant number of timber-producing countries. Illegal logging*** poses a significant threat to forests as it contributes to the process of deforestation ***and forest degradation***, which is responsible for about 20% of CO2 emissions, threatens biodiversity, ***damages indigenous peoples' habitats*** and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. ***It also contributes to desertification and steppe-formation processes, increasing soil***

erosion and exacerbating extreme weather events and flooding. In addition, it also has social, political and economic implications, *often undermining progress towards good governance goals, and threatens local forest-dependent communities and the rights of indigenous peoples.*

Or. en

Justification

The text in the Parliament first reading position establishing the list of impacts and consequences caused by illegal logging, is fully restored as it provides important background information that underlies the demand for measures to be taken by the EU in order to acknowledge its responsibility as a global consumer.

Amendment 81 **Andres Perello Rodriguez**

Council position **Recital 3**

Council position

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for about 20 % of CO2 emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

Amendment

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes, ***along with changes in land use, fires, extreme weather phenomena and forest diseases,*** to the process of deforestation, which is responsible for about 20 % of CO2 emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

Or. es

Amendment 82
Kriton Arsenis, Jo Leinen

Council position
Recital 3 a (new)

Council position

Amendment

(3a) Illegal logging undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it has far-reaching social, political and economic implications, including links with armed conflicts around the world. Therefore it is necessary to raise the awareness of the EU Member States and their relevant national authorities as well as of the general public in relation to this important matter.

Or. en

Justification

Illegal logging undermines fair competition in the EU and around the world. Surveys show that citizens are concerned about the legality of the timber (products) on the market. Making the relevant actors more aware of the acuteness of the problem of illegally logged timber should be an integral part of this regulation. Also, the problem is of a pervasive nature and is often linked to armed conflict. This is of particular relevance to the emergence of the legislation and its acceptance.

Amendment 83
Marita Ulvskog, Åsa Westlund

Council position
Recital 3 a (new)

Council position

Amendment

(3a) Decision No 1600/2002/EC of the European Parliament and of the Council laying down the Sixth Community Environment Action Programme has identified as a priority activity the

examination of the possibility of taking active measures to prevent and combat trade in illegally harvested wood and the continuation of the active participation of the Union and of Member States in the implementation of global and regional resolutions and agreements on forest-related issues.

¹ OJ L 242, 10.9.2002, p. 1.

Or. sv

Justification

Amendment 9 from Parliament's first reading.

Amendment 84
Kartika Tamara Liotard

Council position
Recital 3 a (new)

Council position

Amendment

(3a) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme¹ has identified as a priority activity the examination of the possibility of taking active measures to prevent and combat trade in illegally harvested wood and the continuation of the active participation of the Union and of the Member States in the implementation of global and regional resolutions and agreements on forest-related issues.

¹ OJ L 242, 10.9.2002, p.1

Or. en

Justification

The source of the regulation, namely the 6th Community Environment Action Programme, must be recalled in the recitals.

Amendment 85
Jo Leinen, Kriton Arsenis

Council position
Recital 7

Council position

(7) Given the major scale and urgency of the problem, it is necessary to actively support the fight against illegal logging and related trade, to complement and strengthen the VPA initiative and to improve synergies between policies aimed at the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.

Amendment

(7) Given the major scale and urgency of the problem, it is necessary to actively support the fight against illegal logging and related trade, to complement and strengthen the VPA initiative, ***to create a level playing field for all operators*** and to improve synergies between policies aimed at the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.

Or. en

Justification

By stating clear obligations and by ensuring that all operators are in compliance with them, this regulation will close loopholes and prevent actors from profiting from trading with illegally logged timber.

Amendment 86
Judith A. Merkies

Council position
Recital 8

Council position

(8) The efforts made by countries which have concluded FLEGT VPAs with the

Amendment

(8) The efforts made by countries which have concluded FLEGT VPAs with the

Union and the principles incorporated in them, in particular with regard to the definition of legally produced timber, should be recognised. It should be also taken into account that under the FLEGT licensing scheme only timber harvested in accordance with the relevant national legislation and timber products derived from such timber are exported into the Union. Therefore, timber embedded in timber products listed in Annexes II and III to Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community, originating in partner countries listed in Annex I to Council Regulation (EC) No 2173/2005, should be considered to have been legally harvested provided those timber products comply with that Regulation and any implementing provisions.

Union and the principles incorporated in them, in particular with regard to the definition of legally produced timber, should be recognised. It should be also taken into account that under the FLEGT licensing scheme only timber harvested in accordance with the relevant national legislation and timber products derived from such timber are exported into the Union. Therefore, timber embedded in timber products listed in Annexes II and III to Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community, originating in partner countries listed in Annex I to Council Regulation (EC) No 2173/2005, should be considered to have been legally harvested provided those timber products comply with that Regulation and any implementing provisions. ***The principles set out in the VPAs, particularly with regard to the definition of 'legally produced timber', must promote the sustainable management of forests, the maintenance of biodiversity, the protection of local forest-dependent communities and of the indigenous peoples, and the safeguarding of the rights of those communities and peoples.***

Or. en

Justification

The text in the Parliament first reading position recalling the objectives of the VPAs, which underpin the goals of the regulation, is restored.

Amendment 87
Kriton Arsenis

Council position
Recital 8 a (new)

Council position

Amendment

(8a) The Commission, through the implementation of the FLEGT Action Plan, has acquired significant expertise which should be taken into account for the achievement of the objectives of this Regulation. That expertise should particularly be used for the further specification of the definition of applicable legislation drawing on the structure of VPAs.

Or. en

Justification

First reading amendment 16, covering also Commission's role in the definition of legality.

Amendment 88
Kriton Arsenis

Council position
Recital 8 b (new)

Council position

Amendment

(8b) The European Union should strive to provide further incentives for entry of countries into the FLEGT VPAs taking also into consideration that those FLEGT VPAs may be of particular relevance to global efforts to tackle climate change through the reduction of deforestation in the context of international negotiations.

Or. en

Justification

Need to stress the role of the present regulation as a motive for countries to enter into VPA's. Also, potential implications of VPA's in the context of global efforts to reduce deforestation in the context of emissions mitigation.

Amendment 89

Holger Krahrmer, Marit Paulsen

Council position

Recital 10

Council position

(10) Taking into account the complexity of illegal logging as regards the underlying factors and the impacts, the incentives for illegal behaviour should be reduced by targeting the behaviour of operators.

Amendment

(10) Taking into account the complexity of illegal logging as regards the underlying factors and the impacts, the incentives for illegal behaviour should be reduced by targeting the behaviour of operators.
Strengthening requirements and obligations and enhancing the legal means to prosecute operators for placing illegally harvested timber and timber products on the internal market are among the most effective solutions to deter operators from trading with suppliers of illegally harvested timber.

Or. en

Justification

The term "making available on the internal market", which has been suggested by the rapporteur [AM. 6] is too broad and implies legal uncertainty. The term "placing on the market" is defined and applied in the acquis communautaire, whereas "making available" is not. Making available could mean all operators in the chain of custody from the small farmer to the local furniture dealer.)

Amendment 90
Paolo Bartolozzi

Council position
Recital 10 a (new)

Council common position

Amendment

(10a) Forest certification is increasingly developing in Europe and globally. Moreover, a growing number of governments and public authorities, in particular in the EU, are using forest certification as a means of securing the legality and sustainability of their public procurement. Considering third-party verified and certified timber and timber products as legally harvested would be a recognition of the achievements of the forest sector in combating illegal harvesting and an incentive to further expand sustainable forest management and its certification globally.

Or. en

Amendment 91
Kriton Arsenis

Council position
Recital 12

Council position

Amendment

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for the first time, rather than all operators involved in the distribution chain, should be subject to the requirements laid down in this Regulation.

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for the first time, rather than all operators involved in the distribution chain, should be subject to the ***full due diligence*** requirements laid down in this Regulation. ***All operators in the supply chain should,***

however, be bound by the overriding prohibition against making illegally harvested timber or timber products available on the market, and should exercise due care to this effect. In order to facilitate compliance with that overriding prohibition, operators who place timber or timber products on the market should make use of due diligence systems established by them or by a monitoring organisation.

Or. en

Justification

Due diligence systems should be an obligation of operators who place timber or timber products on the market. The obligations of operators who make timber and timber products available should be significantly smaller.

Amendment 92
Holger Krahrmer, Marit Paulsen

Council position
Recital 12

Council position

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for the first time, rather than all operators involved in the distribution chain, should be subject to the requirements laid down in this Regulation.

Amendment

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for the first time, rather than all operators involved in the distribution chain, should be subject to the ***full due diligence*** requirements laid down in this Regulation. ***Operators placing timber or timber products on the internal market for the first time should be bound by the prohibition against placing illegally harvested timber or timber products on the market, and should exercise due care***

to this effect.

Or. en

Justification

The term "making available on the internal market", which has been suggested by the rapporteur [AM 8] is too broad and implies legal uncertainty. The term "placing on the market" is defined and applied in the acquis communautaire, whereas "making available" is not. It is not reasonable to make the whole supply chain accountable.

Amendment 93
Kartika Tamara Liotard

Council position
Recital 14 a (new)

Council position

Amendment

(14a) Operators from countries with forests of international ecological importance should have a particular responsibility for the sustainable exploitation of timber.

Or. en

Justification

Countries that still do have a high amount of primary or high conservation value forests are often developing countries, where the danger of illegal logging is high. Therefore, the operators from these countries should be aware of their role in preserving these forests.

Amendment 94
Kriton Arsenis

Council position
Recital 16

Council position

Amendment

(16) In order to avoid any undue administrative burden, operators already

deleted

*using systems or procedures which
comply with the requirements of this
Regulation should not be required to set
up new systems.*

Or. en

Justification

No corresponding operational article.

Amendment 95
Kriton Arsenis

Council position
Recital 18 a (new)

Council position

Amendment

***(18a) Effective implementation of this
Regulation requires significant
cooperation between national authorities
as well as between different bodies within
national administrations, including, inter
alia, agencies responsible for forestry, the
enforcement of environmental regulations
and customs.***

Or. en

Justification

*Preventing the placing of illegally harvested timber on the market may require cooperation
between different agencies.*

Amendment 96
Andres Perello Rodriguez

Council position
Recital 21

Council position

(21) Taking into account the international character of illegal logging and related trade, competent authorities should cooperate with each other and with the administrative authorities of third countries and the Commission.

Amendment

(21) Taking into account the international character of illegal logging and related trade, competent authorities should cooperate with each other, ***with civil society organisations, with industry organisations*** and with the administrative authorities of third countries and the Commission.

Or. es

Amendment 97
Kriton Arsenis

Council position
Recital 21 a (new)

Council position

Amendment

(21a) In order to facilitate the ability of operators who place or make available timber or timber products on the market to comply with the requirements of this Regulation, taking into account the situation of small and medium-sized enterprises, Member States should provide operators with technical and other assistance and facilitate the exchange of information, especially with regard to the implementation of those operators' obligation to exercise due diligence.

Or. en

Justification

Providing a framework for reducing the administrative burden, also taking into account the

situation of SMEs. Basis for new article covering technical assistance to operators and exchange of information.

Amendment 98
Daciana Octavia Sârbu

Council position
Recital 22

Council position

(22) Member States should ensure that infringements of this Regulation are sanctioned by effective, proportionate and dissuasive penalties.

Amendment

(22) Member States should ensure that infringements of this Regulation are sanctioned by effective, proportionate and dissuasive penalties. ***It should be noted that a significant number of people in rural areas, particularly in new Member States, still live a subsistence lifestyle which may involve harvesting and small-scale distribution of wood. The application of penalties associated with breaches of this Regulation should recognise the particular circumstances of those operators living a subsistence lifestyle who have limited capacity to implement the requirements of due diligence systems which other, larger-scale operators with commercial operations and more resources are better placed to implement.***

Or. en

Justification

If penalties are to be set at EU level, it is appropriate to allow Member States some flexibility when dealing with cases of people living subsistence lifestyles who may fall into the category of 'operators', but who are unlikely to have the knowledge and resources necessary to implement due diligence systems, audits, etc.

Amendment 99
Kriton Arsenis

Council position
Recital 23

Council position

(23) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) concerning the procedures for the recognition and withdrawal of recognition of monitoring organisations, concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in this Regulation and concerning the list of timber and timber products to which this Regulation applies. It is of particular importance that the Commission consult experts in the preparatory phase in accordance with the commitment of the Commission undertaken in the Communication of 9 December 2009 on the implementation of Article 290 of the TFEU.

Amendment

(23) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) concerning the procedures for the recognition and withdrawal of recognition of monitoring organisations, ***concerning general principles and criteria for further specification of the definition of applicable legislation and*** concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in this Regulation and concerning the list of timber and timber products to which this Regulation applies. It is of particular importance that the Commission consult experts in the preparatory phase in accordance with the commitment of the Commission undertaken in the Communication of 9 December 2009 on the implementation of Article 290 of the TFEU.

Or. en

Justification

Follows proposal to further define legal principles and criteria through delegated acts.

Amendment 100
Kriton Arsenis

Council position
Recital 23 a (new)

Council position

Amendment

(23a) In order to ensure a smoothly operating internal market in forest products, the Commission should analyse the impact of this Regulation on an ongoing basis. Particular account should be taken of the implications of the Regulation for SMEs. The Commission should, therefore, accordingly and on a regular basis, carry out a study and impact analysis of the effects of this Regulation with particular reference to SMEs as well as sustainable forestry practices.

Or. en

Justification

First reading amendment 29. Basis for operational article 18(3) covering reporting on the implications of the regulation.

Amendment 101
Anja Weisgerber

Council position
Article 1

Council position

Amendment

This Regulation lays down the obligations of operators who place timber and timber products on the internal market for the first time, to minimise the risk of placing illegally harvested timber or timber products derived from such timber on the market.

This Regulation lays down the obligations of operators who place ***or make available*** timber and timber products on the internal market for the first time, to minimise the risk of placing illegally harvested timber or timber products derived from such timber on the market.

Justification

The due diligence requirement should only apply in its entirety to the market participant who first places or makes available the timber on the market. Targeted monitoring of the first placing of timber on the market is sufficient and proportionate.

Amendment 102

Holger Krahrmer, Marit Paulsen

Council position

Article 1

Council position

This Regulation lays down the obligations of operators who place timber and timber products on the internal market for the first time, to ***minimise the risk of placing*** illegally harvested timber or timber products derived from such timber on the market.

Amendment

This Regulation lays down the obligations of operators who place timber and timber products on the internal market for the first time, to ***avoid the placing of*** illegally harvested timber or timber products derived from such timber on the market.

Justification

To reduce the administrative burden for SME's the Regulation should apply only to operators who place a product or timber on the internal market for the first time.

Amendment 103

Paolo Bartolozzi

Council position

Article 2 – point d

Council position

(d) "country of harvest" means the country ***or territory*** where the timber or the timber embedded in the timber products was harvested;

Amendment

(d) "country of harvest" means the country where the timber or the timber embedded in the timber products was harvested;

Amendment 104
Christa Klaß

Council position
Article 2 – point f a (new)

Council position

Amendment

(fa) "risk" means the risk of trading in illegally harvested timber or in timber products made from such timber that has / have entered the market as a result of a failure to observe national legislation and/or the incorrect application of trade control systems;

Or. en

Amendment 105
Christa Klaß

Council position
Article 2 – point f b (new)

Council position

Amendment

(fb) "negligible" means that the relevant facts do not justify the assumption that the respective timber, or the timber in the respective timber product, was felled in contravention of the respective nationally applicable legal provisions and in contravention of all control systems pertaining to the trade with timber and that the timber may not therefore be marketed;

Or. en

Amendment 106
Kriton Arsenis

Council position
Article 2 – point f b (new)

Council position

Amendment

(fb) "due diligence" means the obligation to employ all necessary means to ascertain that illegally harvested timber and timber products are not placed or made available on the market;

Or. en

Justification

Clarify concept and complement Article 4.

Amendment 107
Kriton Arsenis

Council position
Article 2 – point g

Council position

Amendment

(g)"applicable legislation" means the legislation in force in the country of harvest covering the following matters:

- rights to harvest timber within gazetted boundaries;

- payments for harvest rights and timber including duties related to timber harvesting;

- timber harvesting, including directly related environmental and forest legislation;

(g) "applicable legislation" means legislation in force in the country of harvest, ***including sub-national and national laws, regulations, established jurisprudence and ratified international agreements,*** covering the following matters:

(i) rights to access, use, and tenure, including indigenous peoples' legal or protected or recognised customary rights;

(ii) environmental protection, including conservation and forest management;

(iii) timber harvesting;

- third parties' legal rights concerning use and tenure that is affected by timber harvesting; and

- trade and customs legislation, in so far as the forest sector is concerned.

(iv) timber processing;

(v) taxes, fees, and royalties, in so far as the forest sector is concerned;

(vi) community welfare and labour protection, including health and safety;

(vii) trade and customs legislation, in so far as the forest sector is concerned;

In order to specify further this definition, the Commission shall, by means of delegated acts, establish general principles and criteria and, to the extent possible, compile and publish indicators for each timber-producing country.

For the delegated acts referred to in this point, the procedure laid down in Articles 13, 14 and 15 shall apply.

Or. en

Justification

Definition based on legality matrix from FLEGT VPA's, drawing on Commission expertise. Similar architecture also in existing schemes. Ensures that common guidelines and methodologies are followed in due diligence systems. avoiding ad hoc definitions. Includes ratified international agreements, community, forest management, welfare, labour and indigenous rights as in first reading amendment 38. The elaboration of principles and criteria, will have to take place through delegated acts.

Amendment 108 Gerben-Jan Gerbrandy

Council position Article 2 – point g

Council position

(g) "applicable legislation" means the legislation in force in the country of harvest covering the following matters:

- rights to harvest timber within gazetted

Amendment

(g) "applicable legislation" means the **laws and** legislation, **whether national, regional or international**, in force in the country of harvest covering the following matters:

- rights to harvest timber within **legally**

boundaries;

- payments for harvest rights and timber including duties related to timber harvesting;
- timber harvesting, including *directly* related environmental and forest legislation;

- third parties' legal rights concerning use and tenure that is affected by timber harvesting; and

- trade and customs legislation, in so far as the forest sector is concerned.

gazetted boundaries;

- payments for harvest rights and timber including *taxes and* duties related to timber harvesting;
- *requirements regarding biodiversity conservation, timber harvesting and forest management, including related environmental and forest legislation as well as labour and community welfare legislation;*

- third parties' legal *or customary* rights concerning use and tenure that is affected by timber harvesting; and

- trade and customs legislation, in so far as the forest sector is concerned.

Or. en

Justification

Partially reintroduces key elements of Amendment 38 at first reading, adopted on 22 April 2009.

Amendment 109 **Kriton Arsenis**

Council position **Article 2 – point g a (new)**

Council position

Amendment

(ga) 'monitoring organisation' means a legal entity or a membership-based association or a federation that has the legal capacity to monitor and ensure the application of due diligence systems by the operators certified as making use of such systems.

Or. en

Justification

Definition follows original Commission proposal.

Amendment 110
Holger Krahrmer, Marit Paulsen

Council position
Article 3 – title

Council position

Status of timber and timber products covered by FLEGT *and* CITES

Amendment

Status of timber and timber products covered by FLEGT, CITES *and existing, globally recognised forest certification schemes*

Or. en

Justification

The value of existing, credible forest certification systems must be acknowledged. An exemption of these schemes could also hopefully lead to an increase of certified forests around the world.

Amendment 111
Paolo Bartolozzi

Council position
Article 3 – title

Council position

Status of timber and timber products covered by FLEGT and CITES

Amendment

Status of timber and timber products covered by FLEGT and CITES *and third-party verified certification systems*

Or. en

Amendment 112
Holger Krahrmer, Marit Paulsen

Council position
Article 3 – paragraph 2 a (new)

Council position

Amendment

Timber and timber products which have been certified by a credible third-party certification scheme shall be considered to have been legally harvested for the purposes of this Regulation.

Or. en

Justification

The value of existing, credible forest certification systems must be acknowledged. An exemption of these schemes could also hopefully lead to an increase of certified forests around the world.

Amendment 113
Paolo Bartolozzi

Council position
Article 3– paragraph 2 a (new)

Council position

Amendment

Timber and timber products that have been certified in accordance with a third-party verified forest certification system that contains a legality obligation, and which complies with this Regulation and its implementing provisions shall be considered to have been legally harvested for the purpose of this Regulation.

Or. en

Amendment 114
Kriton Arsenis, Jo Leinen

Council position
Article 4 – paragraph -1 (new)

Council position

Amendment

-1. The placing or the making available on the market of illegally harvested timber or timber products shall be prohibited. Operators shall exercise due diligence in ensuring that they do not place or make available illegally harvested timber or timber products on the market.

Or. en

Justification

An overriding prohibition on the placing of illegally harvested timber on the market is fundamental for the achievement of the regulations stated objective. Furthermore, a direct link between the prohibition and the specific obligations of the operators needs to be established, in order to maintain legal certainty.

Amendment 115
Kriton Arsenis, Jo Leinen

Council position
Article 4 – paragraph 1

Council position

Amendment

1. Operators ***shall exercise due diligence to minimise the risk of placing illegally harvested timber or timber products derived from such timber 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 5.

1. Operators ***who place timber and timber products on the market shall ensure compliance with the obligation set out in paragraph -1 by using*** a framework of procedures and measures, hereinafter referred to as a "due diligence system", as set out in Article 5. ***This due diligence system shall be established either by the operator or by a monitoring organisation as referred to in Article 7.***

Or. en

Justification

Establishes link between the due diligence obligation and the prohibition. Reinforces legal certainty as well as legal defence of operators. Makes prohibition proportional to the problem, addressing directly the questions raised by the Commission regarding implementation and enforcement of a stand-alone prohibition.

Amendment 116

Kriton Arsenis

Council position

Article 4 – paragraph 2

Council position

2. Each operator shall maintain and regularly evaluate the due diligence system which it uses, except where the operator makes use of a due diligence system established by a monitoring organisation referred to in Article 7.

Amendment

2. Each operator shall maintain and regularly evaluate the due diligence system which it uses, except where the operator makes use of a due diligence system established by a monitoring organisation referred to in Article 7. ***Existing national legislative supervision and any voluntary chain of custody mechanism which fulfil the requirements under this Regulation may be used as a basis for the due diligence system.***

Or. en

Justification

EP first reading amendment 42.

Amendment 117

Theodoros Skylakakis, Cristina Gutiérrez-Cortines

Council position

Article 4 – paragraph 2 a (new)

Council position

Amendment

2a. Operators, with the exception of SMEs, who make timber and timber products available on the market of a

value exceeding EUR 100 000 per annum, shall, throughout the supply chain, be able to:

(i) identify both the operator who has supplied the timber and timber products, and the operator to whom the timber and timber products have been supplied;

(ii) provide upon request information on the name of the species, the country/countries of harvest and where applicable the concession of origin;

(iii) ascertain, where necessary, that the operator who has supplied the timber and timber products has fulfilled his obligations under this Regulation.

Or. en

Justification

Operations who make timber and timber products available on the market, excluding SMEs, should - for substantial volumes of transactions- exercise due care in this respect and should be required to provide basic information about the products, their source and whom they supply.

Amendment 118

Kriton Arsenis

Council position

Article 4 – paragraph 2 a (new)

Council position

Amendment

If the operator knows, suspects or has reasonable grounds to suspect that illegally harvested timber or timber products are being placed or made available on the market, he shall inform the competent authorities.

Or. en

Justification

Reporting obligation to promote enforcement making prohibition proportional and workable, by preventing subsequent making available of illegally harvested timber.

Amendment 119

Kriton Arsenis

Council position

Article 5 – paragraph 1 - point b

Council position

(b) 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.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation;

- prevalence of illegal harvesting of specific tree species;

- prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested;

- complexity of the supply chain of timber products;

Amendment

(b) 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.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation;

- the level of stakeholder consultation;

- 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, of documented failures of forest governance and of high levels of corruption;**

- existing bans by the UN Security Council or the Council of the European Union on timber imports and exports;

- complexity of the supply chain of timber products;

Or. en

Justification

Stakeholder consultation is a main feature and success of the FLEGT Action Plan. The openness of a due diligence system is a factor which may greatly contribute to its success in effectively assessing risk. Also, first reading AM 47 regarding conflict areas. Consideration of armed conflict should be an explicit part of the risk assessment procedure. The procedure should also take into account relevant bans.

Amendment 120

Paolo Bartolozzi

Council position

Article 5 – paragraph 1 – point b

Council position

(b) 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.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation;
- prevalence of illegal harvesting of specific tree species;
- prevalence of illegal harvesting *or practices* in the country of harvest and/or sub-national region where the timber was harvested;
- complexity of the supply chain of timber products;

Amendment

(b) 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.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation;
- prevalence of illegal harvesting of specific tree species;
- prevalence of illegal harvesting in the country of harvest and/or sub-national region where the timber was harvested;
- complexity of the supply chain of timber products;

Or. en

Amendment 121
Anja Weisgerber

Council position
Article 5 – paragraph 1 – point c

Council position

c) 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 minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

Amendment

c) Except where the risk identified in course of the risk assessment procedures referred to in point (b) **or on the basis of objective criteria** is negligible, risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

Or. de

Justification

In many cases, as a result of statutory requirements and of forest owners' particular link to their forest areas, the risk of illegal logging is zero or negligible. It is possible to assess this risk adequately by means of risk assessment procedures but also on the basis of objective criteria (e.g. where the owner holds small parcels of forest). This enables implementation to have an appropriate cost-to-benefit ratio.

Amendment 122
Holger Krahrmer, Marit Paulsen

Council position
Article 5 – paragraph 3 – subparagraph 1

Council position

3. **In order to take** into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through the reporting referred to in Article 18(3), the Commission may adopt delegated acts in accordance with Article 290 of the TFEU **as regards further relevant risk**

Amendment

3. **Taking** into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through the reporting referred to in Article 18(3), the Commission may adopt delegated acts in accordance with Article 290 of the TFEU to supplement paragraph 1 of this Article

assessment criteria that may be necessary to supplement those referred to in the second paragraph of point (b) of paragraph 1 of this Article. When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.

with a view to increasing the effectiveness of the due diligence systems in preventing illegally harvested timber or timber products being placed on the internal market.

Or. en

Justification

The term "making available on the internal market", which has been suggested by the rapporteur is too broad and implies legal uncertainty. The term "placing on the market" is defined and applied in the acquis communautaire, whereas "making available" is not. Making available could mean all operators in the chain of custody from the small farmer to the local furniture dealer.)

Amendment 123 **Kriton Arsenis**

Council position **Article 5 – paragraph 3 – subparagraph 1**

Council position

3. In order to take into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through the reporting referred to in Article 18(3), the Commission may adopt delegated acts in accordance with Article 290 of the TFEU as regards further relevant risk assessment criteria that may be necessary to supplement those referred to in the second paragraph of point (b) of paragraph 1 of this Article. When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.

Amendment

3. In order to take into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through **the exchange of information referred to in Article 11a¹** and the reporting referred to in Article 18(3), the Commission may adopt delegated acts in accordance with Article 290 of the TFEU as regards further relevant risk assessment criteria that may be necessary to supplement those referred to in the second paragraph of point (b) of paragraph 1 of this Article. When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.

¹ **Article 11a (new)**

1. Competent authorities assisted by the Commission shall provide technical 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 5.

2. Competent authorities assisted by the Commission shall facilitate the exchange of information on best practices regarding the implementation of this Regulation and make available upon request such information to operators, in particular to small and medium-sized enterprises.

3. Competent authorities and the Commission shall administer and disseminate information on illegal logging and related trade with a view to assisting operators in systematic risk assessment as set out in Article 5 par. 1(b)

4. In the dissemination of such information, Member States shall ensure respect for professional secrecy and shall guarantee the confidentiality of any personal data which they hold or become aware of, in accordance with Directive 95/46.

5. Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in enforcing the Regulation.

Or. en

Justification

The experienced gained from technical assistance and guidance should also be taken into consideration in supplementing risk assessment criteria.

Amendment 124
Julie Girling

Council position
Article 5 – paragraph 3 a (new)

Council position

Amendment

3a. Individual Member States shall not be prevented, with regard to access to the market for timber and timber products, from setting more stringent requirements for the harvesting and origin of timber than laid down in this Regulation, including requirements providing for the sustainable management of forests, protection of the environment, conservation of biodiversity and ecosystems, protection of local communities and their habitats, protection of forest-dependent communities, and respect for the rights of indigenous peoples and human rights.

Or. en

Justification

The amendment reinstates the Parliament's 1st reading amendments to allow Member States to adopt more stringent national requirements where appropriate.

Amendment 125
Holger Krahrmer, Marit Paulsen

Council position
Article 5 a (new)

Council position

Amendment

Article 5a

Labelling

Member States shall ensure that by ...* all timber and timber products placed on the market are labelled, as appropriate, with the information specified in Article

4(2a)(i) and (ii).

The Commission may adopt, by means of delegated acts, detailed rules in order to guarantee the effective functioning of the labelling system. For the delegated acts referred to in this paragraph the procedures set out in Articles 13, 14 and 15 shall apply.

**** OJ: two years after the entry into force of this Regulation.***

Or. en

Justification

The term "making available on the internal market", which has been suggested by the rapporteur[AM. 35] is too broad and implies legal uncertainty. The term "placing on the market" is defined and applied in the acquis communautaire, whereas "making available" is not. Making available could mean all operators in the chain of custody from the small farmer to the local furniture dealer.

**Amendment 126
Anja Weisgerber**

**Council position
Article 5 a (new)**

Council position

Amendment

Article 5 a

The Member States may permit market participants to label legally and sustainably produced timber, solely on a voluntary basis, and to adopt to that end rules for their area to exclude abuse or counterfeiting.

Or. de

Justification

The measures contained in the regulation provide a sufficient guarantee that only legally and sustainably produced timber is placed on the market in the EU. Consequently there is no need for additional labelling, which would entail unnecessary effort and red tape for market

participants. Should Member States choose to use this instrument for marketing reasons, they should be allowed to do so only on a voluntary basis.

Amendment 127
Judith A. Merkies

Council position
Article 6 – paragraph 1 – subparagraph 1

Council position

1. Each Member State shall designate one or more competent authorities responsible for the application of this Regulation.

Amendment

1. Each Member State shall designate one or more competent authorities responsible for the application of this Regulation.
Those authorities shall be given sufficient powers to enforce this Regulation by monitoring its application, investigating alleged infringements in cooperation with the customs authorities, and reporting offences to the prosecuting authority in a timely manner.

Or. en

Justification

Reinstate EP 1st reading. To ensure a thorough and effective implementation of the regulation, the national competent authorities play a crucial role. Therefore it is essential to give them the necessary powers but as well a clear timeline to be able to prepare properly for the implementation of the regulation.

Amendment 128
Kriton Arsenis

Council position
Article 6 – paragraph 1 - subparagraph 2 a (new)

Council position

Amendment

These authorities shall be given sufficient powers to enforce this Regulation by monitoring its application, investigating alleged infringements in cooperation with the customs authorities, and reporting

offences to the prosecuting authority in a timely manner.

Or. en

Justification

First Reading amendment 63.

Amendment 129
Gerben-Jan Gerbrandy

Council position
Article 7 – paragraph 1

Council position

1. A monitoring organisation shall ***exercise the following functions:***

- (a) maintain and regularly evaluate a due diligence system in accordance with Article 5 and grant operators the right to use it;
- (b) verify the proper use of its due diligence system by such operators;
- (c) take appropriate action in the event of failure by an operator to properly use its due diligence system, including notification of competent authorities in the event of ***serious or repeated*** failure by the operator.

Amendment

1. A monitoring organisation shall:

- (a) maintain and regularly evaluate a due diligence system in accordance with Article 5 and grant operators the right to use it;
- (b) verify the proper use of its own due diligence system by such operators;
- (c) take appropriate actions in the event of failure by an operator to properly use its due diligence system, including notification of competent authorities in the event of failure by the operator.

Or. en

Amendment 130
Kriton Arsenis

Council position
Article 7 – paragraph 1 – point b

Council position

(b) *verify* the *proper* use of *its* due diligence *system* by *such* operators;

Amendment

(b) *have in place a monitoring mechanism to ensure* the use of *the* due diligence *systems* by *the* operators *which it has certified as making use of its due diligence system*;

Or. en

Justification

Original Commission wording and first reading AM 51.

Amendment 131
Kriton Arsenis

Council position
Article 7 – paragraph 1 – point c

Council position

(c) take appropriate *action in the event of failure by an operator to properly use* its due diligence system, *including notification of competent authorities in the event of serious or repeated failure by the operator*.

Amendment

(c) take appropriate *disciplinary measures against any certified operator who fails to comply with* its due diligence system; *disciplinary measures shall include reporting the matter to the relevant national competent authority*.

Or. en

Justification

Original Commission wording and first reading AM 51.

Amendment 132
Paolo Bartolozzi

Council position
Article 7 – paragraph 2 – point c

Council position

Amendment

(c) it carries out its functions in a manner that avoids conflicts of interest.

deleted

Or. en

Amendment 133
Judith A. Merkies

Council position
Article 7 – paragraph 4

Council position

Amendment

4. The competent authorities shall carry out checks at regular intervals to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in paragraph 2.

4. The competent authorities shall carry out checks at regular intervals, ***including field-based audits, in accordance with a yearly plan or on the basis of substantiated concerns from third parties***, to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in paragraph 2. ***Those checks shall be communicated to and reviewed by the Commission on an annual basis. The reports of the checks shall be made available to the public.***

Or. en

Justification

Mainly reinstates EP first reading. To enhance the effectiveness of this law, it is essential that checks are not just a desk-based exercise. To ensure transparency and access to information, the check reports must be accessible to the public. Competent authorities do have a very important role to play in implementing the regulation. Therefore their framework of activities should be clearly described –to ensure as well that the implementing measures are

comparable across the EU.

Amendment 134
Kriton Arsenis

Council position
Article 7 – paragraph 4

Council position

4. The competent authorities shall carry out checks at regular intervals to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in paragraph 2.

Amendment

4. The competent authorities shall carry out checks, at regular intervals ***or on the basis of substantiated concerns from third parties***, to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in paragraph 2.
The reports of the checks shall be made available to the public.

Or. en

Justification

EP first reading amendment 54.

Amendment 135
Gerben-Jan Gerbrandy

Council position
Article 7 – paragraph 6

Council position

6. The ***competent authorities or the Commission may*** withdraw a recognition when the competent authority or the Commission has determined that a monitoring organisation no longer fulfils the functions laid down in paragraph 1 or the requirements laid down in paragraph 2.
The competent authority or the

Amendment

6. The Commission ***shall suspend or*** withdraw a recognition when the competent authority or the Commission has determined that a monitoring organisation no longer fulfils the functions laid down in paragraph 1 or the requirements laid down in paragraph 2. Before ***suspension or*** withdrawal of a recognition, the

Commission may only withdraw a recognition that it has itself issued. Before withdrawal of a recognition, the Commission shall inform the Member States concerned. ***Member States shall inform the Commission of the withdrawal of a recognition.***

Commission shall inform the Member States concerned.

Or. en

Justification

EP first reading amendment 55, adding the choice between two options - the suspension or withdrawal (depending on the seriousness of the offences and whether or not the offences are repeated) - which should be consistent with the centralised recognition of monitoring organisations.

Amendment 136
Cristina Gutiérrez-Cortines

Council position
Article 9 – paragraph 1

Council position

1. The competent authorities shall carry out checks to verify if operators comply with the requirements set out in Articles 4 and 5.

Amendment

1. The competent authorities shall carry out checks ***at reasonable intervals appropriate to the complexity of the timber and timber products supply chain, i.e. with particular attention to its early stages,*** to verify if operators comply with the requirements set out in Articles 4 and 5.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market, with particular attention to the early stages of the supply chain.

Amendment 137

Gaston Franco, Françoise Grossetête, Catherine Soullie

Council position

Article 9 – paragraph 1

Council position

1. The competent authorities shall carry out checks to verify if operators comply with the requirements set out in Articles 4 and 5.

Amendment

1. The competent authorities shall carry out checks, ***based on risk analysis and at appropriate intervals***, to verify if operators comply with the requirements set out in Articles 4 and 5.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market.

Amendment 138

Gaston Franco, Françoise Grossetête, Catherine Soullie

Council position

Article 9 – paragraph 1 a (new)

Council position

Amendment

1a. The checks may include inter alia:

(a) examination of measures and procedures that form part of the due diligence system;

(b) examination of documentation and records that demonstrate the proper functioning of the due diligence system;

(c) spot checks, including on-site checks, if necessary.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market.

Amendment 139
Cristina Gutiérrez-Cortines

Council position
Article 9 – paragraph 1 a (new)

Council position

Amendment

1a. The checks may include inter alia:

(a) examination of measures and procedures that form part of the due diligence system;

(b) examination of documentation and records that demonstrate the proper functioning of the due diligence system;

(c) spot checks, including on-site checks, if necessary.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market, with particular attention to the early stages of the supply chain.

Amendment 140
Cristina Gutiérrez-Cortines

Council position
Article 9 – paragraph 2

Council position

Amendment

2. Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1.

2. Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, ***notably as regards access to premises and***

to documentation and records.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market, with particular attention to the early stages of the supply chain.

Amendment 141

Gaston Franco, Françoise Grossetête, Catherine Soullie

Council position

Article 9 – paragraph 2

Council position

2. Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1.

Amendment

2. Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, ***notably as regards access to premises and to documentation and records.***

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market.

Amendment 142

Cristina Gutiérrez-Cortines

Council position

Article 9 – paragraph 3

Council position

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be

Amendment

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, ***such as the use of an incomplete or ineffective due diligence system to***

taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17.

minimise the risk of illegally harvested timber and timber products being placed on the market, the competent authorities may issue a notice of remedial actions to be taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring by each Member State as soon as products are placed on the market, with particular attention to the early stages of the supply chain.

Amendment 143

Gaston Franco, Françoise Grossetête, Catherine Soullie

Council position

Article 9 – paragraph 3

Council position

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17.

Amendment

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, ***such as the use of an incomplete or ineffective due diligence system to minimise the risk of illegally harvested timber and timber products being placed on the market***, the competent authorities may issue a notice of remedial actions to be taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17.

Or. fr

Justification

The effectiveness of the system will have to be underpinned by appropriate and rigorous monitoring conducted by each Member State as soon as products are placed on the market.

Amendment 144
Elena Oana Antonescu

Council position
Article 9 – paragraph 3

Council position

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17.

Amendment

3. Where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator. Any failure by the operator to take such remedial action may give rise to penalties in accordance with Article 17. ***Where the competent authorities have found that the operator failed to implement a due diligence system, the responsible monitoring organisation will be considered to have failed to carry out its functions according to Article 7(1)(a), (b) and (c) of this Regulation and, as a result, its recognition may be withdrawn in accordance with Article 7(6).***

Or. en

Justification

When the competent authority detects that an operator fails to maintain a due diligence system, the responsible monitoring organisation must also be considered to have failed to fulfil its obligations under article 7 (a), (b), (c).

Amendment 145
Judith A. Merkies

Council position
Article 9 – paragraph 3 a (new)

Council position

Amendment

3a. Controls may include, inter alia:

(a) examination of the due diligence system, including risk assessment and risk mitigation procedures;

(b) examination of documentation and records that demonstrate the proper functioning of the system and procedures;

(c) spot checks, including field audits.

The Commission shall monitor the way in which the Member States undertake these responsibilities.

Or. en

Justification

It is necessary that Member States co-operate and to the extent possible co-ordinate their activities of control and inspection. The Commission should help ensure that this co-operation happens. Finally, the implementation of this regulation shall be flexible with regard to the mechanisms to be applied and be open towards new technology that would increase the accuracy of controls in the future.

Amendment 146
Judith A. Merkies

Council position
Article 9 – paragraph 3 b (new)

Council position

Amendment

3b. The Commission may adopt rules concerning the frequency and the nature of the controls referred to in paragraph 3a in order to ensure an effective oversight of operators.

For the delegated acts referred to in this paragraph the procedures set out in Articles 13, 14 and 15 shall apply.

Or. en

Justification

It is necessary that Member States co-operate and to the extent possible co-ordinate their

activities of control and inspection. The Commission should help ensure that this co-operation happens. Finally, the implementation of this regulation shall be flexible with regard to the mechanisms to be applied and be open towards new technology that would increase the accuracy of controls in the future.

Amendment 147
Judith A. Merkies

Council position
Article 9 – paragraph 3 c (new)

Council position

Amendment

3c. As relevant technologies become available inspectors may make use of them.

Or. en

Justification

It is necessary that Member States co-operate and to the extent possible co-ordinate their activities of control and inspection. The Commission should help ensure that this co-operation happens. Finally, the implementation of this regulation shall be flexible with regard to the mechanisms to be applied and be open towards new technology that would increase the accuracy of controls in the future.

Amendment 148
Kriton Arsenis

Council position
Article 11 – paragraph 1

Council position

Amendment

1. Competent authorities shall cooperate with each other, with the administrative authorities of third countries and with the Commission in order to ensure compliance with this Regulation.

1. Competent authorities shall cooperate with each other, ***with other bodies in national administrations***, with the administrative authorities of third countries and with the Commission in order to ensure compliance with this Regulation.

Or. en

Justification

The multi-faceted nature of the problem of illegal logging requires also cooperation between different parts of national administrations. This aspect should be made explicit in the regulation.

Amendment 149

Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position

Article 11 a (new)

Council position

Amendment

Article 11a

Advisory Group

- 1. An Advisory Group shall be established, consisting of representatives of interested stakeholders, including, inter alia, forest-based industry representatives, forest owners, the timber trade, non-governmental organisations (NGOs) and consumer groups, and chaired by a representative of the Commission.*
- 2. Representatives of Member States and of the European Parliament may participate in the meetings of the Advisory Group.*
- 3. The Commission shall consult the Advisory Group before taking decisions pursuant to this Regulation.*

Or. fr

Justification

The aim is to put on an official footing consultations that have been taking place bilaterally and informally.

Amendment 150
Kriton Arsenis, Jo Leinen

Council position
Article 11 a (new)

Council position

Amendment

Article 11a

Technical assistance, guidance and exchange of information

- 1. Competent authorities assisted by the Commission shall 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 5.*
- 2. Competent authorities assisted by the Commission shall facilitate the exchange of information on best practices regarding the implementation of this Regulation and make available upon request such information to operators.*
- 3. Competent authorities and the Commission shall administer and disseminate information on illegal logging and related trade with a view to assisting operators in assessing systematic risk as set out in Article 5(1)(b).*
- 4. In the dissemination of such information, Member States shall ensure respect for commercial interests and shall guarantee the confidentiality of any data which they hold or become aware of, in accordance with national and Union legislation.*
- 5. Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in*

Justification

This approach sets out a framework for reducing the administrative burden, taking into account the situation of small- and medium-sized operators by providing technical assistance and ensuring information, including best practices, is disseminated.

Amendment 151

Kriton Arsenis

Council position

Article 12 – paragraph 1

Council position

In order to take into account the experience gained in implementation of this Regulation, in particular as identified through the reporting referred to in Article 18(3), and developments with regard to technical characteristics, end-users and production processes of timber and timber products, the Commission may adopt delegated acts in accordance with Article 290 of the TFEU by amending and supplementing the list of timber and timber products set out in the Annex. **Such acts shall not create a disproportionate burden on operators.** When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.

Amendment

In order to take into account the experience gained in implementation of this Regulation, in particular as identified through the reporting referred to in Article 18(3) **and exchange of information as referred to in Article 11a¹**, and developments with regard to technical characteristics, end-users and production processes of timber and timber products, the Commission may adopt delegated acts in accordance with Article 290 of the TFEU by supplementing the list of timber and timber products set out in the Annex. When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.

¹*Article 11a (new)*

1. Competent authorities assisted by the Commission shall provide technical 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 5.

2. Competent authorities assisted by the Commission shall facilitate the exchange of information on best practices regarding the implementation of this Regulation and make available upon request such information to operators, in particular to small and medium-sized enterprises.

3. Competent authorities and the Commission shall administer and disseminate information on illegal logging and related trade with a view to assisting operators in systematic risk assessment as set out in Article 5 par. 1(b)

4. In the dissemination of such information, Member States shall ensure respect for commercial interests and shall guarantee the confidentiality of any data which they hold or become aware of, in accordance with national and community legislation.

5. Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in enforcing the Regulation.

Or. en

Justification

EP first reading amendment 68 taking into account new Article 11a NEW.

Amendment 152
Kriton Arsenis

Council position
Article 13 – paragraph 1

Council position

Amendment

1. The powers to adopt the delegated acts

1. The powers to adopt the delegated acts

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referred to in Articles 5(3), 7(7) and 12 shall be conferred on the Commission for a period of seven years following the entry into force of this Regulation. The Commission shall make a report in respect of the delegated powers at the latest three months before the end of a three-year period after the date of application of this Regulation. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 14.

referred to in Articles **2(g)**, 5(3), 7(7) and 12 shall be conferred on the Commission for a period of seven years following the entry into force of this Regulation. The Commission shall make a report in respect of the delegated powers at the latest three months before the end of a three-year period after the date of application of this Regulation. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 14.

Or. en

Justification

Delegation to also include specification of applicable legislation.

Amendment 153
Kriton Arsenis

Council position
Article 14 – paragraph 1

Council position

1. The delegation of power referred to in Articles 5(3), 7(7) and 12 may be revoked by the European Parliament or by the Council.

Amendment

1. The delegation of power referred to in Articles **2(g)**, 5(3), 7(7) and 12 may be revoked by the European Parliament or by the Council.

Or. en

Justification

Delegation to also include specification of applicable legislation.

Amendment 154

Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position

Article 17

Council position

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Amendment

(a) The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented.

(b) The penalties provided for must be effective, proportionate and dissuasive **and may include, inter alia:**

(i) fines proportional to the environmental damage, the value of the timber or timber products concerned and the tax losses and economic detriment resulting from the infringement; the level of the penalties shall be calculated in such way as to make sure that they effectively deprive those responsible of the economic benefits derived from their serious infringements, without prejudice to the legitimate right to exercise a profession; the fines for repeated serious infringements will be gradually increased;

(ii) seizure of the timber and timber products concerned;

(iii) immediate suspension of authorisation to trade.

(c) The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Or. fr

Justification

There must be no weak points anywhere in Europe. The Regulation must include provision for a regime of strict, dissuasive and consistent penalties within the EU, along the lines of that provided for in Council Regulation (EC) No 1005/2008 on illegal fishing, which was adopted unanimously.

Amendment 155 **Anja Weisgerber**

Council position **Article 17**

Council position

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Amendment

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented ***promptly***. The penalties provided for must be effective, proportionate and dissuasive. ***Within the framework of national legislation and national competences, fines, confiscation of timber and withdrawal of trading licences for the internal market may be considered appropriate instruments. Interim measures taken by the competent authorities must be such as to prevent continued offending.*** The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Or. de

Justification

In order to put the aims of the regulation into practice effectively, it is essential that the rules governing penalties be implemented promptly. In determining the penalties it is the task of the Member States, acting within the framework of national legislation and national competence (subsidiarity) to ensure that they are effective.

Amendment 156
Judith A. Merkies

Council position
Article 18 – paragraph 3

Council position

3. By ...* and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation, ***in particular with respect to*** administrative consequences for small and medium-sized enterprises ***and*** product coverage. The reports may be accompanied, if necessary, by appropriate legislative proposals.

* OJ: please insert date: 36+**30** months after the date of entry into force of this Regulation

Amendment

3. By ...* and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation ***in preventing illegally harvested timber or timber products being placed or made available on the internal market. It shall in particular consider:***

- the administrative consequences for small and medium-sized enterprises ***as well as the*** product coverage; ***and***

- its contribution to the objectives of stopping deforestation and forest degradation and related carbon emissions and biodiversity loss globally, promoting sustainable economic growth, sustainable human development and respect for indigenous and local forest communities, fulfilling the EU's international obligations and commitments.

The reports may be accompanied, if necessary, by appropriate legislative proposals.

* OJ: please insert date: 36+**12** months after the date of entry into force of this Regulation

Or. en

Justification

During the review process the Commission should equally assess the negative and positive effects of the Regulation and address economic, social and environmental aspects in a balanced manner. The report of the Commission should not be limited to an assessment of the economic impacts and administrative consequences on SMEs and to whether certain

categories of products should be removed from the scope of the Regulation. The analysis should be extended to evaluate the potential benefits of the Regulation from an economic, social and environmental point of view (i.e. its contribution to the objectives of stopping deforestation and forest degradation and related carbon emissions and biodiversity loss globally, promoting sustainable economic growth, sustainable human development and respect for indigenous and local forest communities).

Amendment 157

Holger Krahrmer, Marit Paulsen

Council position

Article 18 – paragraph 3

Council position

3. By ...* and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation, ***in particular with respect to*** administrative consequences for small and medium-sized enterprises and product coverage. The reports may be accompanied, if necessary, by appropriate legislative proposals.

* OJ: please insert date: 36+**30** months after the date of entry into force of this Regulation

Amendment

3. By ...* and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation ***in preventing illegally harvested timber or timber products being placed on the internal market. It shall in particular consider the*** administrative consequences for small and medium-sized enterprises and product coverage. The reports may be accompanied, if necessary, by appropriate legislative proposals.

* OJ: please insert date: 36+**12** months after the date of entry into force of this Regulation

Or. en

Justification

The term "making available on the internal market", which has been suggested by the rapporteur [AM. 68] is too broad and implies legal uncertainty. The term "placing on the market" is defined and applied in the acquis communautaire, whereas "making available" is not. "Making available" could mean all operators in the chain of custody from the small farmer to the local furniture dealer.

Amendment 158
Kartika Tamara Liotard

Council position
Article 19 – paragraph 2

Council position

It shall apply as from ...*. However, Articles **5(2)**, 6(1), 7(7) and 7(8) shall apply as from the date of entry into force of this Regulation.

* OJ: please insert date: **30** months after the date of entry into force of this Regulation.

Amendment

It shall apply as from ...*. However, Articles **3(1)**, 6(1), 7(7) and 7(8) shall apply as from the date of entry into force of this Regulation.

* OJ: please insert date: **12** months after the date of entry into force of this Regulation.

Or. en

Justification

According to the Commission, it will take approximately 18 months to adopt delegated acts for implementation of the due-diligence system. It is not unreasonable to require those delegated acts to be adopted sooner, within a period of 12 months, to provide guidance to the operators and to entities candidate to become monitoring organisations. This is particularly reasonable given the additional time the regulation is under legislative consideration. Knowing that the accreditation of monitoring organisations will take another six months after the publication of the implementing measures, the application of the regulation will only be fully effective 18 months after its entry into force. The overriding prohibition (article 3(1)), however, should have more immediate application since it is not dependent on delegated acts.

Amendment 159
Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position
Annex – indent 2 a (new)

Council position

Amendment

- 4404 Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or similar; chipwood and

similar;

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 160

Kriton Arsenis

Council position

Annex - indent 2 a (new)

Council position

Amendment

- 4404 Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or similar; chipwood and similar;

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 161

Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position

Annex – indent 2 b (new)

Council position

Amendment

- 4405 00 00 Wood wool; wood flour;

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 162
Kriton Arsenis

Council position
Annex – indent 2 b (new)

Council position

Amendment

- 4405 00 00 Wood wool; wood flour;

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 163
Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position
Annex – indent 13 a (new)

Council position

Amendment

- 4417 00 00 Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood;

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 164

Kriton Arsenis

Council position

Annex – indent 13 a (new)

Council position

Amendment

- 4417 00 00 Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood;

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 165

Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position

Annex – indent 14 a (new)

Council position

Amendment

- 4419 00 Tableware and kitchenware, of wood;

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 166
Kriton Arsenis

Council position
Annex – indent 14 a (new)

Council position

Amendment

- 4419 00 Tableware and kitchenware, of wood;

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 167
Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position
Annex – indent 14 b (new)

Council position

Amendment

- 4420 Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling within Chapter 94;

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 168
Kriton Arsenis

Council position
Annex – indent 14 b (new)

Council position

Amendment

- 4420 Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling within Chapter 94;

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 169
Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position
Annex – indent 14 c (new)

Council position

Amendment

- 4421 Other articles of wood (clothes hangers etc.);

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 170
Kriton Arsenis

Council position
Annex – indent 14 c (new)

Council position

Amendment

- 4421 Other articles of wood (Clothes hangers and others);

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.

Amendment 171
Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position
Annex – indent 15

Council position

Amendment

- Pulp and paper of Chapters 47 **and 48** of the Combined Nomenclature, with the exception of bamboo-based and recovered (waste and scrap) products;

- Pulp and paper of Chapters 47, **48 and 49** of the Combined Nomenclature, with the exception of bamboo-based and recovered (waste and scrap) products;

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 172

Gaston Franco, Françoise Grossetête, Catherine Soullie, Cristina Gutiérrez-Cortines

Council position

Annex – indent 16

Council position

- 9403 30, 9403 40, 9403 50 00, 9403 60
and 9403 90 30 Wooden furniture;

Amendment

- **9401 61 00, 9401 69 00, 9401 90 30,**
9403 30, 9403 40, 9403 50 00, 9403 60 and
9403 90 30 Wooden furniture;

Or. fr

Justification

The Regulation must, insofar as possible, apply to all wood products. Any omission is a potential loophole and source of inequalities in the sector.

Amendment 173

Kriton Arsenis

Council position

Annex – indent 16

Council position

- 9403 30, 9403 40, 9403 50 00, 9403 60
and 9403 90 30 Wooden furniture;

Amendment

- **9401 61 00, 9401 69 00, 9401 90 30,**
9403 30, 9403 40, 9403 50 00, 9403 60 and
9403 90 30 Wooden furniture;

Or. en

Justification

The Regulation should apply to as many categories of timber products as possible to avoid creating loopholes and unfair competition. Codification follows Combined Nomenclature as in Annex I to Council Regulation (EEC) No 2658/87.