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REPORT

on the proposal for 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
(COM(2008)0644 – C6-0373/2008 – 2008/0198(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Caroline Lucas

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for 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 (COM(2008)0644 – C6-0373/2008 – 2008/0198(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0644),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0373/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Development and the Committee on International Trade (A6-0115/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a regulation Recital 1

Text proposed by the Commission

(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 timber and non-timber forest products, environmental services **and habitats for local communities.**

Justification

People are also involved.

Amendment 2

Proposal for a regulation Recital 1 a (new)

Text proposed by the Commission

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.

Amendment 3

Proposal for a regulation Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Forests are an economic resource, the cultivation of which produces prosperity and employment. The cultivation of forests also has positive effects on climate since forest products can replace more energy-consuming products.

Justification

It is important to stress the fact that forestry also has positive social and economic functions.

Amendment 4

Proposal for a regulation Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) It is of great importance, particularly from a climate point of view, that subcontractors operating on the internal market only market legally harvested timber since such timber ensure that the

important function of forests as carbon dioxide sinks is not disrupted. In addition, the use of legally harvested timber as building material, in wooden houses, for example, helps to lock in carbon dioxide continuously.

Justification

The forest's function as a carbon dioxide sink and the potential of forest products to lock in carbon dioxide cannot be overemphasised.

Amendment 5

Proposal for a regulation
Recital 1 d (new)

Text proposed by the Commission

Amendment

(1d) Forestry accounts for a very large part of social and economic development in developing countries and constitutes the primary source of income in such countries for many people. It is therefore important not to curb this development and source of income but to focus on how to promote a more sustainable development of forestry in these regions.

Justification

It should not be forgotten how much of the world's population is directly dependent on forests as a source of income. The consequences of taking the wrong approach to forestry in the poorest regions of the world would be devastating for their inhabitants. The focus must therefore be on a sustainable social and economic development of forestry.

Amendment 6

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) It is evident that pressure on natural forest resources and the demand for timber and timber products are often too high and that the Community needs to

reduce its impact on forest ecosystems regardless of where their effects occur.

Amendment 7

Proposal for a regulation

Recital 3

Text proposed by the Commission

(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. In addition, it also has social, political and economic implications.

Amendment

(3) Illegal logging, ***in combination with institutional and governance deficiencies in the forest sector of a significant number of timber-producing countries***, is a pervasive problem of major international concern. ***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, ***influences the desertification and steppe-formation process, increasing soil erosion and exacerbating extreme weather events and the flooding which may ensue***, threatens biodiversity, ***damages indigenous peoples' habitats*** and undermines sustainable forest management and development. 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.***

Justification

Corruption accelerates the depletion of natural resources, notably primary forests which many communities rely on for their livelihoods. For example, the government of Indonesia has estimated that lost forest revenue costs the nation up to US \$4 billion a year, or approximately five times the annual budget for the department of health.

In addition to protection of primeval forest, wooded areas, biodiversity, the ecosystem, the environment and fair trade and combating climate change, the EU has in its various directives also committed itself to the protection of human rights, the protection of cultural heritage, sustainable regional development, sustainable rural development and combating poverty. This should therefore be reflected in legislation and made explicit.

The amendment refers to specific processes and threats to nature deriving from deforestation.

Amendment 8

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The aim of this Regulation is to halt the trade in illegally harvested timber and products made from such timber in the EU and to contribute to stopping deforestation and forest degradation and related carbon emissions and biodiversity loss globally while promoting sustainable economic growth, sustainable human development and respect for indigenous and local peoples. This Regulation should contribute to the fulfilment of obligations and commitments contained in, inter alia:

(a) the Convention on Biological Diversity of 1992 (CBD);

(b) the Convention on International Trade in Endangered Species of Wild Fauna and Flora of 1973 (CITES);

(c) the International Tropical Timber Agreements (ITTA) of 1983, 1994 and 2006;

(d) the United Nations Framework Convention on Climate Change of 2002 (UNFCCC);

(e) the United Nations Convention to Combat Desertification of 1994;

(f) the Rio Declaration on Environment and Development of 1992;

(g) the Johannesburg Declaration and Plan of Implementation as adopted by the World Summit on Sustainable Development on 4 September 2002;

(h) the proposals for action of the Intergovernmental Panel on Forests/International Forum on Forests;

(i) the United Nations Conference on

Environment and Development (UNCED) non-legally binding authoritative statement of principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests of 1992;

(j) Agenda 21 as adopted by UNCED in June 1992;

(k) the United Nations General Assembly Special Session (Ungass) resolution 'Programme for the further implementation of Agenda 21' of 1997;

(l) the Millennium Declaration of 2000;

(m) the World Charter for Nature of 1982;

(n) the Declaration of the United Nations Conference on the Human Environment of 1972;

(o) the 1972 Action Plan for Human Environment, the proposals of the Intergovernmental Panel on Forests endorsed by the United Nations General Assembly in its 1997 Special Session;

(p) the United Nations Forum on Forests, Resolution 4/2;

(r) the Convention on European Wildlife and Habitats of 1979;

(s) the UN Convention against Corruption of 2003(UNCAC).

Amendment 9

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

3b. Decision No 1600/2002/EC of the European Parliament and 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 Community 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

Amendment 10

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The Communication of the Commission to the European Parliament and to the Council on an EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) proposed a package of measures to support international efforts to tackle the problem of illegal logging and associated trade.

Amendment

(4) The Communication of the Commission to the European Parliament and to the Council on an EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) proposed a package of measures to support international efforts to tackle the problem of illegal logging and associated trade ***and to contribute to the wider objective of sustainable forest management.***

Justification

This addition completes the original wording from the FLEGT Action Plan (COM(2003)251).

Amendment 11

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The Council and the European Parliament recognising the need for the Community to contribute to global efforts to address the problem of illegal logging welcomed that Communication.

Amendment

(5) The Council and the European Parliament, recognising the need for the Community to contribute to global efforts to address the problem of illegal logging ***and to support sustainable legal logging within the framework of sustainable***

development, sustainable forest management and poverty reduction, as well as social equity and national sovereignty, welcomed that Communication.

Justification

The European Union has a duty to protect and assist responsible producers who respect legality and sustainability criteria. This is complementary to actions to stop trading with illegal producers worldwide.

This addition refers back to the original wording from the conclusions of the Agriculture Council of October 2003.

Amendment 12

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Community should also push, in bilateral talks with major timber-consuming countries such as the US, China, Russia, and Japan, for discussions in relation to the problem of illegal logging, for convergence towards harmonised appropriate obligations on operators on their own timber market, and for the creation of an independent, global alert system and register of illegal logging consisting for example of Interpol and an appropriate United Nations (UN) body, benefiting from the latest satellite detection technologies.

Justification

Major international timber-importing and timber-producing countries have a responsibility to cooperate and use every political, legal, and technological way to fight illegal logging. Otherwise, on a voluntary basis and without international coordination, few countries are willing to restrict their possibilities of exporting or importing timber.

Amendment 13

Proposal for a regulation Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Operators from countries with forests of international ecological importance should have a particular responsibility for the sustainable exploitation of timber.

Justification

Obligations of proper conduct should be imposed, in the first place, on operators from countries with large forest areas which constitute "Green Lungs" of the world and have significant contributions to the fight against global warming.

Amendment 14

Proposal for a regulation Recital 7

Text proposed by the Commission

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 and to improve synergies between policies aiming at the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.

(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 reduce the Community's impact on forest ecosystems***, to complement and strengthen the VPA initiative and to improve synergies between policies aiming at ***poverty reduction***, the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.

Amendment 15

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Based on the principle of preventive action, all supply chain actors should share responsibility for eliminating the risk of illegally harvested timber and timber products being made available on the market;

Amendment 16

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) The efforts made by countries which have concluded FLEGT VPAs with the Community 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 and timber products harvested in accordance with the relevant national legislation are exported into the Community. To that effect, 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 they comply with that Regulation and any implementing provisions.

(8) The efforts made by countries which have concluded FLEGT VPAs with the Community 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 and timber products harvested in accordance with the relevant national legislation are exported into the Community. To that effect, 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 *that Regulation* should be considered to have been legally harvested provided they 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 include and guarantee sustainable forest management, 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.

Justification

In addition to its protection of primeval forest, wooded areas, biodiversity, the ecosystem, the environment and fair trade and combating climate change, the EU has in its various directives also committed itself to the protection of human rights, the protection of cultural heritage, sustainable regional development, sustainable rural development and combating poverty. This should therefore be reflected in legislation and made explicit.

Amendment 17

Proposal for a regulation

Recital 10

Text proposed by the Commission

(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 for possession and sales by operators placing illegal timber and timber products on the EU market are among the most effective solutions to deter operators from trading with illegal suppliers.

Justification

The approach of the regulation must be clearer and specific in its measures set out to achieve the aim of limiting illegally placed and traded timber on the market. Only a combination of incentives and deterrents can really stop an operator from choosing an illegal supplier located in a third country.

Amendment 18

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In the absence of an internationally agreed definition the legislation of the country where the timber was harvested should be the basis to define what constitutes illegal logging.

Amendment

(11) In the absence of an internationally agreed definition the legislation of the country where the timber was harvested should be the **primary** basis to define what constitutes illegal logging. ***The application of legality standards should involve further consideration of international standards including, inter alia, those of the African Timber Organisation; the International Tropical Timber Organisation; the Montreal Process on Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests; and the Pan-European Forest Process on Criteria and Indicators for Sustainable Forest Management. It should contribute to the implementation of international commitments, principles and recommendations including those concerning mitigation of climate change, reduction of biodiversity loss, alleviation of poverty, reduction of desertification and the protection and promotion of the rights of indigenous peoples and of local and forest-dependent communities. The timber-harvesting country should provide an inventory of total legal logging including details of tree species and maximum timber production.***

Justification

Replaces Amendment 5 of draft report.

To have an exact number on the legal logging should be a minimum requirement in every country.

Amendment 19

Proposal for a regulation
Recital 12

Text proposed by the Commission

(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 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 market for the first time, rather than all operators involved in the distribution chain, should be subject to the ***requirement to put in place a full system of measures and procedures (due diligence system) to minimise the risk of placing illegally harvested timber and timber products on the market. However all operators in the supply chain should be bound by the overriding prohibition against making illegally sourced timber or timber products available on the market, and must exercise due care to this effect.***

Justification

Replaces Amendment 6 of draft report. Clarification.

Amendment 20

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

12a. All operators (traders and producers) in the timber and timber product supply chains on the European market should clearly indicate on the products on offer the source or supplier from which the timber originates.

Justification

All operators in the supply chain are committed to the ban on marketing illegal and/or irresponsibly harvested timber. As regards traceability, it must be clear who the timber supplier is, so the fact that the timber was sourced from their timber products can always be

identified.

Operators that first bring products on the market must, however, comply with more detailed rules because they determine the timber that comes on the European market.

Amendment 21

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) The overall objective of achieving sustainability through the promotion of sustainability criteria remains a priority for the Community. In light of this objective and in order to reduce the burden on operators who place on the market timber and timber products which are subject to mandatory sustainability criteria established by Directive (EC) No XX/XX of the European Parliament and of the Council on the promotion of the use of energy from renewable sources, this Regulation should not apply to such products.

deleted

Justification

This Regulation should cover all products that could contain illegally sourced timber. Excluding products that are subject to "sustainability criteria" from the requirement to be legally sourced implies that legality and sustainability could be mutually exclusive, yet legality must be an underlying prerequisite for sustainability.

Amendment 22

Proposal for a regulation

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In implementing this Regulation, the Commission and the Member States should take special account of the particular vulnerability and limited resources of small and medium-sized enterprises (SMEs). It is extremely

important that such enterprises are not burdened by complicated rules which impede their development. The Commission should, therefore, as far as possible and on the basis of the mechanisms and principles set out in the forthcoming Small Business Act, devise simplified systems in respect of SMEs' obligations under this Regulation, without jeopardising its object and purpose, and offer those enterprises valid alternatives to operate in line with Community legislation.

Justification

Small and medium-sized enterprises' limited resources and ability to take part in extensive and, frequently, complex monitoring mechanisms must be taken into account when the Commission draws up and adopts measures for the implementation of a due diligence system. As far as possible without taking the risk of undermining the object and purpose of the Regulation, the Commission should, therefore, take particular account of the special position of these enterprises and, accordingly, also offer simplified but equally valid alternatives.

Amendment 23

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The timber sector is of major importance for the economy of the Community. Organisations of operators are important elements of the sector as they represent the interests of the latter at a large scale and interact with a diverse range of stakeholders. Organisations also have the expertise and capacity to analyse relevant legislation and facilitate the compliance of members, provided they do not use this competence with a view to dominate on the market. In order to facilitate the implementation of this Regulation and to contribute to the development of good practices it is appropriate to recognise organisations which have developed requirements for the

Amendment

(16) In order to facilitate the implementation of this Regulation and to contribute to the development of good practices, it is appropriate to recognise organisations which have developed ***suitable and effective*** requirements for the realisation of the due diligence systems. A list of such recognised organisations will be made public.

realisation of the due diligence systems. A list of such recognised organisations will be made public **and will enable the recognition of the monitoring organisations included therein by all Member States competent authorities.**

Justification

Simplification (first part). The efforts of organisations that have taken all measures to ensure the effectiveness and credibility of the due diligence systems should be recognised.

Amendment 24

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to facilitate the implementation of this Regulation and to contribute to the development of good practice, the European Union should encourage the above-mentioned organisations to cooperate with environmental organisations and human rights organisations to support due diligence systems and the monitoring thereof.

Justification

If the requirements of this regulation and those of good practice are to be credibly met, relevant non-commercial NGOs (environmental and human-rights organisations) must be involved in the monitoring organisations mentioned above.

Amendment 25

Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) Competent authorities should monitor that the operators fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out

(17) Competent authorities should monitor that the operators fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out

official checks and require operators to take corrective measures where necessary.

official checks, **including customs checks**, and require operators to take corrective measures where necessary.

Justification

The cross-border nature of the problem should be stressed. Steps could be taken as of now to ensure that illegally logged timber cannot be brought in to the Union's internal market.

Amendment 26

Proposal for a regulation

Recital 19

Text proposed by the Commission

Amendment

(19) Taking into account the international character of illegal logging and related trade competent authorities should cooperate between themselves and with the administrative authorities of third countries and/or the Commission.

(19) Taking into account the international character of illegal logging and related trade, competent authorities should cooperate between themselves and with **environmental organisations, human rights organisations and** the administrative authorities of third countries and/or the Commission.

Justification

If the requirements of this regulation and those of good practice are to be credibly met, relevant non-commercial NGOs (environmental and human-rights organisations) must be involved in the monitoring organisations mentioned above; moreover, there are more stakeholders than just the operators.

Amendment 27

Proposal for a regulation

Recital 23

Text proposed by the Commission

Amendment

(23) In order to enable operators and competent authorities to prepare themselves in order to meet the requirements of this Regulation, this Regulation shall apply two years after its entry into force.

deleted

Justification

The issue of regulating illegal logging has been discussed for many years. There is an urgent for legislation to enter into force as quickly as possible, so as to not delay any further urgently needed protection for forests under threat.

Amendment 28

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Development in sustainable forestry is an ongoing process and this Regulation should, therefore, be evaluated, updated and amended on a regular basis in line with the results of new research. The Commission should therefore regularly analyse the latest available research and development and present the conclusions of its analysis and proposed amendments in a report to the European Parliament.

Justification

If this Regulation is to remain effective and continue to be consistent with sustainable forestry, it must be evaluated and updated on an ongoing basis.

Amendment 29

Proposal for a regulation Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) 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 operating on the Community internal market. The Commission should, therefore, accordingly and on a regular basis, carry out a study and impact analysis of the

effects of the Regulation on the internal market, with particular reference to SMEs, in addition to its impacts on sustainable forest management. The Commission should subsequently present a report of its analysis, its conclusions and proposals for measures to the European Parliament.

Justification

If this Regulation is to remain effective and continue to be consistent with sustainable forestry, it must be evaluated and updated on an ongoing basis.

Amendment 30

**Proposal for a regulation
Article 1 – title**

Text proposed by the Commission

Amendment

Subject matter

Subject matter ***and objective***

Justification

Amendments 9, 91, 92 (other parts of Amendments 91 and 92 covered by Compromise Amendments 1, 2 and Rapporteur Amendment 16)

Amendment 31

**Proposal for a regulation
Article 1**

Text proposed by the Commission

Amendment

This Regulation lays down the obligations of operators who place timber and timber products on the market.

This Regulation lays down the obligations of operators who place ***or make available*** timber and timber products on the market.

Operators shall ensure that only legally harvested timber and timber products are made available on the market.

Operators who place timber timber products on the market shall use a due diligence system.

Amendment 32

Proposal for a regulation Article 2 – point a

Text proposed by the Commission

a) 'timber and timber products' means the timber and timber products set out in the Annex ***with the exception of timber and timber products which are subject to mandatory sustainability criteria established by Directive (EC) No XX/XX;***

Amendment

a) 'timber and timber products' means the timber and timber products set out in the Annex ***without exception;***

Amendment 33

Proposal for a regulation Article 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) 'making available on the market' means any supply of timber and timber products on the Community market for distribution or use in the course of a commercial activity whether in return for payment or free of charge;

Justification

To distinguish between operators who must implement a full due diligence system and all others in the supply chain, separate definitions are needed for "placing on the market" and "making available on the market". The two concepts are separately defined in the Common framework for the marketing of products (Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008) so for consistency the same wording is used here.

Amendment 34

Proposal for a regulation Article 2 – point b

Text proposed by the Commission

(b) 'placing on the market' means ***any supply of timber and timber products for the first time on the Community market***

Amendment

(b) 'placing on the market' means ***the first making available of timber and timber products on the Community market;***

for distribution or use in the course of a commercial activity whether in return for payment or free of charge;

subsequent processing and distribution of timber does not constitute 'placing on the market';

Justification

To distinguish between operators who must implement a full due diligence system and all others in the supply chain, separate definitions are needed for "placing on the market" and "making available on the market". The two concepts are separately defined in the Common framework for the marketing of products (Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008) so for consistency the same wording is used here.

Once timber has been placed on the market, accompanied by sufficient assurances that the risk of illegal logging has been minimised, it is no longer necessary to require further assurances downstream of the sector.

Amendment 35

Proposal for a regulation

Article 2 – point c

Text proposed by the Commission

(c) 'operator' means any natural or legal person that places timber or timber products ***on the market***;

Amendment

(c) 'operator' means any natural or legal person that places ***or makes available on the market*** timber or timber products;

Amendment 36

Proposal for a regulation

Article 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) 'risk' means a function of the probability of timber or timber products from an illegal source being imported into, exported from or traded in the territory of the Community and the severity of that event;

Amendment 37

Proposal for a regulation
Article 2 – point e

Text proposed by the Commission

(e) 'risk management' means a set of measures and procedures ***carried out by operators*** in order to minimise the risk of placing illegally harvested timber and *timber* products on the market;

Amendment

(e) 'risk management' means ***the systematic identification of risks and the implementation of*** a set of measures and procedures in order to minimise the risk of placing illegally harvested timber and timber products on the market;

Amendment 38

Proposal for a regulation
Article 2 – point f

Text proposed by the Commission

(f) 'applicable legislation' means ***the legislation of the country of harvest regulating forest conservation and management and the harvesting of timber as well as legislation on trade in timber or timber products related to forest conservation and management and to the harvesting of timber;***

Amendment

(f) 'applicable legislation' means legislation, ***whether national, regional or international, in particular that concerning the conservation of biological diversity, forest management, resource use rights and the minimisation of adverse environmental impacts; it should also take into account property tenure, rights of indigenous people, labour and community welfare legislation, taxes, import and export duties, royalties or fees related to harvesting, transportation and marketing;***

Amendment 39

Proposal for a regulation
Article 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) 'Sustainable forest management' means the management and use of forests and wooded lands, in a way, and at a rate, that maintains their biological diversity, productivity, regeneration capacity, vitality and their potential to fulfil, now

and in the future, relevant ecological, economic and social functions, at local, national, and global levels, without causing any damage to other ecosystems;

Justification

Definition from Regulation (EC) No 2494/2000, Article 2(3).

Amendment 40

Proposal for a regulation Article 2 – point h

Text proposed by the Commission

(h) '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.

Amendment

(h) 'monitoring organisation' means a legal entity or a membership-based association that has the legal capacity **and appropriate expertise** to monitor and ensure the application of due diligence systems by the operators certified as making use of such systems, **and which is legally independent from the operators it certifies**.

Amendment 41

Proposal for a regulation Article 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha)'traceability' means the ability to trace and follow timber or timber products through all stages of production, processing and distribution;

Amendment 42

Proposal for a regulation Article 3– paragraphs 1, 2 and 2 a (new)

Text proposed by the Commission

Amendment

1. Operators shall **exercise due diligence to**

1. Operators shall **ensure that they place**

minimise the risk of placing illegally harvested timber and timber products on the market. To that effect, they shall use a framework of procedures and measures, hereinafter referred to as a 'due diligence system'.

2. Operators shall establish a due diligence system containing the elements referred to in Article 4(1) or make use of a due diligence system of a recognised monitoring organisation referred to in Article 5(1).

or make available on the market only legally harvested timber and timber products.

2. Operators *who place timber and timber products on the market* shall establish a due diligence system containing the elements referred to in Article 4 or make use of a due diligence system of a recognised monitoring organisation referred to in Article 5(1).

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.

2a. Operators who make timber and timber products available on the market shall, throughout the supply chain, be able to:

(i) identify 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 feasible the concession of origin;

(iii) check, where necessary, that the operator who has placed the timber and timber products on the market has fulfilled his obligations under this Regulation.

Amendment 43

Proposal for a regulation

Article 4 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) ensure that only legally harvested timber and timber products are placed on the market, employing a traceability system and third party verification by the

monitoring organisation;

Amendment 44

Proposal for a regulation

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) provide access to the following information on timber and timber products placed on the market by the operator:

(i) description;

(ii) country of harvest;

(iii) volume and/or weight;

(iv) where applicable, name and address of the operator who has supplied timber or timber products;

(v) information on compliance with the requirements of the applicable legislation;

Amendment

(a) Comprise measures to ascertain:

(i) country of origin, forest of origin and, where feasible, concession of harvest;

(ii) name of the species, including scientific name;

(iii) value;

(iv) volume and/or weight;

(v) that the timber or the timber embedded in the timber products has been legally harvested;

(vi) the name and address of the operator who has supplied the timber and timber products;

(vii) the natural or legal person responsible for harvesting;

(viii) the operator to whom the timber and timber products have been supplied;

Amendment 45

Proposal for a regulation

Article 4 – paragraph 1 – point a – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

These measures shall be supported by appropriate documentation maintained in a database by the operator or by the

monitoring organisation.

Amendment 46

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) include a risk management procedure
and

Amendment

(b) include a risk management procedure
which shall consist of the following:

(i) systematic identification of risks, inter alia through collecting data and information and making use of international, Community or national sources;

(ii) implementation of all measures necessary for limiting exposure to risks;

(iii) establishing procedures which shall be carried out regularly to verify that the measures set out in points (i) and (ii) are working effectively and to review them where necessary;

(iv) establishing records to demonstrate the effective application of the measures set out in points (i) to (iii).

Amendment 47

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The Commission shall adopt measures for the implementation of this Article. The Commission shall, in particular, establish criteria for assessing whether there is a risk of illegally harvested timber and timber products being placed on the market.

Amendment

2. The Commission shall adopt measures for the implementation of this Article *with a view to ensuring uniformity of interpretation of the rules and effective compliance by operators*. The Commission shall, in particular, establish criteria for assessing whether there is a risk of illegally harvested timber and timber products being placed on the market. *In doing so, the Commission shall take particular account*

of the special position and capacity of SMEs and, as far as possible, offer those enterprises adapted and simplified alternatives to reporting and control systems so that those systems do not become too burdensome.

Based on factors related to the product type, source or complexity of the supply chain, certain categories of timber and timber products or suppliers shall be considered 'high risk' requiring extra due diligence obligations from the operators.

Extra due diligence obligations may, inter alia, include:

- requiring additional documents, data or information;*
- requiring third party audits.*

Timber and timber products from

- conflict areas, or countries / regions covered by a UN Security Council ban on timber exports,*
- countries where there is consistent and reliable information regarding significant failures of forest governance, low level of forest law enforcement or high level of corruption,*
- countries where official Food and Agriculture Organisation (FAO) statistics show a decrease in forest area,*
- supplies where information on potential irregularities supported by reliable evidence, that has not been disproved by investigation, has been made available from customers or external parties,*

shall be considered as 'high risk' by operators under this Regulation.

The Commission shall make available a register of high-risk sources of timber and timber products or suppliers.

Justification

The due diligences which the operators must comply with can only be effectively implemented if the operators, especially those trading with distant suppliers abroad, understand their obligations clearly and can actually comply to them in a timely and practical manner.

Small and medium-sized enterprises' limited resources and ability to take part in extensive and, frequently, complex monitoring mechanisms must be taken into account when the Commission draws up and adopts measures for the implementation of a due diligence system. As far as possible without taking the risk of undermining the object and purpose of the Regulation, the Commission should, therefore, take particular account of the special position of these enterprises and, accordingly, also offer simplified but equally valid alternatives.

Amendment 48

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Relevant stakeholders shall be consulted prior to the adoption of additional implementing measures.

Justification

This paragraph is added to ensure that stakeholders are consulted in any decision-making process.

Amendment 49

Proposal for a regulation

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Individual Member States shall not be prevented, with regard to access to the market of timber and timber products, from setting more stringent requirements for the harvesting and origin of timber than laid down in this Regulation, in respect of sustainability, the protection of the environment, the conservation of biodiversity and the ecosystem, the protection of local communities' habitats, the protection of forest-dependent

communities, the protection and rights of indigenous peoples and human rights.

Justification

In addition to protection of primeval forest, wooded areas, biodiversity, the ecosystem and the environment, promoting fair trade and combating climate change, the EU has in its various directives also committed itself to the protection of human rights, the protection of cultural heritage, sustainable regional development, sustainable rural development and combating poverty. This should therefore be reflected in legislation and made explicit.

Amendment 50

**Proposal for a regulation
Article 4 a (new)**

Text proposed by the Commission

Amendment

Article 4a

Labelling

Member States shall ensure that by two years of the entry into force of this Regulation all timber and timber products placed and made available on the market are labelled, as appropriate, with the information specified in Art 3(2a).

Amendment 51

**Proposal for a regulation
Article 5 – paragraph 1**

Text proposed by the Commission

Amendment

1. Competent authorities shall recognise monitoring organisations which apply for such recognition, if the monitoring organisation complies with the following requirements:

1. The Commission shall, in accordance with the regulatory procedure referred to in Article 11(2a), recognise as a monitoring organisation a private or public entity which has established a due diligence system which contains the elements set out in Article 4(1).

1a. A public entity applying for the recognition provided for in paragraph 1 shall comply with the following requirements:

- (a) it has legal personality;
- (b) *it has established a due diligence system which contains the elements set out in Article 4(1);*
- (c) it obliges operators it certifies to use its due diligence *systems*;
- (d) it has 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;
- (e) it takes appropriate disciplinary measures against any certified operator who fails to comply with *the* due diligence system *of the monitoring organisation*.

- (a) it has legal personality;
- (aa) it is governed by public law;***
- (b) it has been established to carry out particular functions regarding the forest sector;***
- (ba) it is financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law;***
- (c) it obliges operators it certifies to use its due diligence *system*;
- (d) it has in place a monitoring mechanism to ensure the use of the due diligence *system* by the operators which it has certified as making use of its due diligence system;
- (e) it takes 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;***
- (ea) it has no conflict of interest with the competent authorities.***

Amendment 52

Proposal for a regulation Article 5 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

- 1b. A private entity applying for the recognition provided for in paragraph 1 shall comply with the following requirements:***
- (a) it has legal personality;***
 - (b) it is governed by private law ;***
 - (c) it has appropriate expertise;***
 - (d) it is legally independent from the operators it certifies;***
 - (e) the operators it certifies are bound by the entity's articles of association to use its due diligence systems;***
 - (f) it has 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;
(g) it takes 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.

Amendment 53

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. The monitoring organisation shall submit to **a competent authority** the following information together with its application for recognition:
- (a) its statute;
 - (b) the names of persons authorised to act on its behalf;
 - (c) a detailed description of its due diligence system.

Amendment

2. The monitoring organisation shall submit to **the Commission** the following information together with its application for recognition:
- (a) its statute;
 - (b) the names of persons authorised to act on its behalf;
 - (ba) documentation to demonstrate its appropriate expertise;**
 - (c) a detailed description of its due diligence system.

Amendment 54

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

3. **Competent authorities** shall decide whether to grant recognition to a monitoring organisation within three months of the submission of an application by the monitoring organisation.

Amendment

3. **In accordance with the regulatory procedure referred to in Article 11(2a), the Commission** shall decide whether to grant recognition to a monitoring organisation within three months of the submission of an application by the monitoring organisation **or a**

recommendation from the competent authority of a Member State that it is recommending the organisation for recognition.

The decision to grant recognition to a monitoring organisation shall be communicated by the Commission to the competent authority of the Member State with jurisdiction over that organisation, together with a copy of the application, within 15 days of the date of the decision.

They shall carry out checks at regular intervals to ascertain that monitoring organisations comply with the requirements laid down in paragraph 1.

Member State competent authorities shall carry out checks, *including field-based audits*, at regular intervals, *or on the basis of substantiated concerns from third parties*, to ascertain that monitoring organisations comply with the requirements laid down in paragraph 1. *The check reports shall be made available to the public.*

If, following those checks, competent authorities ascertain that monitoring organisations do not comply with the requirements laid down in paragraph 1, they shall forthwith inform the Commission and communicate to it any relevant evidence in that regard.

Amendment 55

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

4. *A competent authority* shall withdraw the recognition of a monitoring organisation if it has been established that the requirements set out in paragraph 1 are no longer fulfilled.

Amendment

4. *In accordance with the regulatory procedure referred to in Article 11(2a), the Commission* shall withdraw the recognition of a monitoring organisation if it has been established that the requirements set out in paragraph 1 *and 1a or paragraph 1 and 1b* are no longer fulfilled.

Amendment 56

Proposal for a regulation Article 5 – paragraph 5

Text proposed by the Commission

5. Competent authorities shall notify the Commission within two months of any decision to **grant, refuse or withdraw recognition to a monitoring organisation.**

Amendment

5. Competent authorities shall notify the Commission within two months of any decision to **recommend the granting, refusal or withdrawal of recognition of any monitoring organisation.**

Amendment 57

Proposal for a regulation Article 6

Text proposed by the Commission

The Commission shall publish the list of the monitoring organisations **recognised by the competent authorities** in the Official Journal of the European Union, C series, and shall make it available on its website. The list shall be regularly updated.

Amendment

The Commission shall publish the list of the **recognised** monitoring organisations in the Official Journal of the European Union, C series, and shall make it available on its website. The list shall be regularly updated.

Justification

Taking the decision by comitology procedure rather than by the different Member States will ensure common standards for recognising monitoring organisations across the EU.

Amendment 58

Proposal for a regulation Article 7

Text proposed by the Commission

Monitoring measures

1. Competent authorities shall carry out **checks** to verify if operators comply with the requirements set out in Article 3(1) **and** (2) and Article 4(1).

Amendment

Monitoring **and control** measures

1. Competent authorities shall carry out **controls** to verify if operators comply with the requirements set out in Article 3(1), (2) **and (2a)** and Article 4(1).

1a. Controls shall be conducted in accordance with a yearly plan and/or on

the basis of substantiated concerns provided by third parties; or in any case where the competent authority of the Member State is in possession of information that questions compliance by the operator with the requirements for due diligence systems set out in this Regulation.

1b. Controls may include, inter alia:

(a) examination of the technical and managerial systems and procedures of due diligence and risk assessment that the operators use.

(b) examination of documentation and records that demonstrate the proper functioning of the systems and procedures.

(c) spot checks, including field audits.

1c. Competent authorities shall be equipped with a reliable traceability system to track internationally-traded timber products and with public monitoring systems to assess the performance of operators in complying with their obligations and to help operators identify suppliers of high-risk timber and timber-derived products.

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

3. *Following* the *checks* referred to in paragraph 1 the competent authorities may *request the operator to take corrective measures.*

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

3. *If, following* the *controls* referred to in paragraph 1, *the operator is presumed to have infringed the requirements set out in Article 3*, the competent authorities may *in accordance with their national legislation start a full investigation of the infringement and, in conformity with national law and depending on the gravity of the infringement, take immediate measures which may inter alia include:*
a) the immediate cessation of commercial activities; and

b) the seizure of timber and timber products.

3a. Any immediate measures taken by the competent authorities shall be of such nature as to prevent the continuation of the infringement concerned and to allow the competent authorities to complete their investigation.

3b. Where the competent authorities find that the technical and managerial systems and procedures of due diligence and risk assessment are not sufficient, they shall require the operator to take corrective measures.

Justification

The regulation does not foresee criteria effectively enabling the designate national authorities to handle the demands of checking on every operator. Their means to control and monitor trade of timber must be enhanced.

Amendment 59

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

Amendment

Records of *checks*

Records of *controls*

Amendment 60

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Competent authorities shall keep records of the *checks* referred to in Article 7(1), indicating in particular their nature and results, including any corrective measures requested to be taken. Records of all *checks* shall be kept for at least 10 years.

1. Competent authorities shall keep records of the *controls* referred to in Article 7(1), indicating in particular their nature and results, including any corrective measures requested to be taken. Records of all *controls* shall be kept for at least 10 years.

Amendment 61

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. *A summary of* the records referred to in paragraph 1 shall be made available to the public in accordance with Directive 2003/4/EC.

Amendment

2. *The* records referred to in paragraph 1 shall be made available to the public *on the Internet* in accordance with Directive 2003/4/EC.

Justification

The amendment specifies how the information should be made available to the public.

Amendment 62

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The competent authorities shall exchange information on the results of the *checks* referred to in Article 7(1) with the competent authorities of other Member State(s) and with the Commission.

Amendment

2. The competent authorities shall exchange information on the results of the *controls* referred to in Article 7(1) with the competent authorities of other Member State(s) and with the Commission.

Amendment 63

Proposal for a regulation Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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. *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.

Justification

The national authorities to implement all the aspects of this regulation must have powers to oversee the whole process related to stopping timber from illegal logging or harvesting from entering the EU market. This includes also cooperation with national authorities of customs, police and justice.

Amendment 64

**Proposal for a regulation
Article 10 – paragraph 2**

Text proposed by the Commission

2. The Commission shall make publicly available the list of the competent authorities.

Amendment

2. The Commission shall make publicly available ***on the Internet*** the list of the competent authorities. ***This list shall be kept up-to-date.***

Justification

The amendment specifies how the information should be made available to the public.

Amendment 65

**Proposal for a regulation
Article 11 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Justification

Amendment 45 (to be consistent with Commission approving monitoring organisations)

Amendment 66

Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

**Development of sustainability
requirements**

Within one year after the entry into force of this Regulation, the Commission shall present a legislative proposal to the European Parliament and the Council on a Community standard for all timber and timber products sourced from natural forests aimed at achieving the highest sustainability requirements.

Amendment 67

Proposal for a regulation
Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11 b

Advisory Group

- 1. An Advisory Group shall be established, consisting of representatives of interested stakeholders including, inter alia, forest-based industry representatives, forest owners, non-governmental organisations (NGOs) and consumer groups and chaired by a representative of the Commission.***
- 2. Representatives of Member States may participate in the meetings either on their own initiative or upon invitation by the Advisory Group.***
- 3. The Advisory Group shall set its rules of procedure which shall be made public on the Commission's website.***
- 4. The Commission shall provide the technical and logistic support necessary for the Advisory Group and provide the***

Secretariat for its meetings.

5. The Advisory Group shall examine and issue opinions on matters relating to the application of this Regulation raised by the chairman, either on his own initiative or at the request of the members of the Advisory Group or the Committee.

6. The Commission shall convey the opinions of the Advisory Group to the Committee.

Justification

To allow an efficient implementation of the regulation and to secure good communication between all stakeholders an Advisory Group which can be consulted by the Timber Committee must be established.

Amendment 68

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

The Commission may **amend** the list of timber and timber products set out in the Annex taking into account technical characteristics, end-uses and production processes.

Amendment

The Commission may **add to** the list of timber and timber products set out in the Annex taking into account technical characteristics, end-uses and production processes.

Amendment 69

Proposal for a regulation

Article 13

Text proposed by the Commission

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.

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. The penalties provided for **may be criminal or administrative**, must be effective, proportionate and dissuasive, **and shall include, where appropriate,**

inter alia:

(i) financial penalties reflecting

- *the degree of environmental damage;*
- *the value of the timber products concerned by the infringement;*
- *the tax losses and economic damage occasioned by the infringement;*

(ii) seizure of timber and timber products;

(iii) temporary prohibition from marketing timber and timber products. Where legal proceedings are pending, operators shall suspend sourcing timber and timber products from the areas in question.

Financial penalties shall represent at least five times the value of the timber products obtained by committing a serious infringement. In case of a repeated serious infringement within a five year period, the financial penalties shall gradually increase up to at least eight times the value of the timber products obtained by committing a serious infringement.

Without prejudice to other provisions laid down in Community law, pertaining to public funds, Member States shall not grant any public aid under national aid regimes or under Community funds to operators convicted of a serious infringement of this Regulation, until corrective measures have been taken and effective, proportionate and dissuasive penalties have been applied.

The Member States shall notify those provisions to the Commission by 31 December 20XX and shall notify it without delay of any subsequent amendment affecting them.

The Member States shall notify those provisions to the Commission by 31 December 20XX and shall notify it without delay of any subsequent amendment affecting them.

Justification

Amendments 46, 193-197, 132 (apart from the part of Amendment 132 that is already covered by the definition of applicable legislation in amendment 16 by the Rapporteur)

Amendment 70

Proposal for a regulation

Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In preparing the report referred to in paragraph 2, the Commission shall have regard to the progress made in respect of the conclusion and operation of the FLEGT VPAs adopted pursuant to Regulation (EC) No 2173/2005. The Commission shall consider whether any revisions of this Regulation are required in the light of experience of the operation of the FLEGT VPAs and their effectiveness in addressing the problem of illegal timber.

Justification

This Regulation must ensure that compliance with implementing provisions is clearly defined. Even though the VPAs are an important tool to address the underlying issues of illegal logging and related problems, this regulation needs to take into account, that no measures have been developed by the EC so far to deal with a non compliance with the EU Council Regulation on a licensing scheme.

Amendment 71

Proposal for a regulation

Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Amendment to Directive 2008/99/EC

Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law¹ shall

be amended, with effect from the date of application of this Regulation, as follows:

1. The following point shall be added to Article 3:

'(ia) the making available on the market of illegally harvested timber or timber products.'

2. The following indent shall be added to Annex A:

- 'Regulation of the European Parliament and of the Council of [...] laying down the obligations of operators who place timber and timber products on the market'.

¹ OJ L 328, 6.12.2008, p. 28.

Amendment 72

Proposal for a regulation Article 14 b (new)

Text proposed by the Commission

Amendment

Article 14b

Review

Three years after the entry into force of this Regulation, and every five years thereafter, the Commission shall carry out a review of the operation of this Regulation in regard to its object and purpose and report its conclusions and, on the basis thereof, its proposals for amendments to the European Parliament. The review shall focus on the following:

- a detailed and thorough analysis of research and development in the field of sustainable forestry;*
- the impact of this Regulation on the internal market, with particular reference to the competitive situation and the ability of new players to establish themselves on the market;*
- the situation of SMEs on the market and how this Regulation has affected their activities.*

Justification

If this Regulation is to remain effective and continue to be consistent with sustainable forestry, it must be evaluated and updated on an ongoing basis.

Amendment 73

Proposal for a regulation Article 15 – subparagraph 2

Text proposed by the Commission

It shall apply from [...]¹

¹ Note to OJ: **two years** after the date of entry into force of this Regulation

Amendment

It shall apply from [...]¹

¹ Note to OJ: **one year** after the date of entry into force of this Regulation

Justification

The concept of legislation to address legality and sustainability of timber and timber products has been under discussion for many years, and this Regulation is the result of a process begun in 2003. Significant parts of the industry already have systems in place which would fulfil the requirements of this Regulation, providing material and experience for others to draw on. Delaying for a further two years before the legislation enters into force does not reflect the urgency of the problems of climate change and biodiversity loss which the Regulation explicitly aims to help address.

Amendment 74

Proposal for a regulation Annex – point 2

Text proposed by the Commission

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

Amendment

2. 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;

Justification

All timber and timber products, irrespective of their ultimate use, must be subject to this Regulation.

Amendment 75

Proposal for a regulation
Annex – point 12 a (new)

Text proposed by the Commission

Amendment

***12a. Other timber products included in
CN categories 94 and 95, including
wooden toys and sports accessories.***

Justification

*All timber and timber products, irrespective of their ultimate use, must be subject to this
Regulation.*

EXPLANATORY STATEMENT

Deforestation is occurring at a rate of c.13 million hectares per year, is responsible for nearly 20% of global carbon emissions and is a key contributor to biodiversity loss. It also causes serious human rights problems, since forests are of great cultural and social significance in many countries, to dependent and indigenous peoples.

Illegal logging is a major driver of deforestation, with the volume of industrial wood from illegal sources estimated at 350 to 650 million m³ per year, representing 20%-40% of global industrial wood production¹. It depresses timber prices, strips natural resources and tax revenues, and increases poverty of forest-dependent people.

As a major consumer of timber and timber products, the EU has an obligation to take effective action against deforestation and illegal logging, which must clearly include ceasing to provide a market for illegal timber/timber products. It has successfully managed to cease being a market for other illegal products, most recently having put in place a Regulation on Illegal, Unregulated and Unreported Fishing. It is now time for similar legislation against illegal timber/timber products, to signal:-

- to consumers, that products they buy have not been illegally sourced
- to responsible companies, that they will not be undercut by those carrying out destructive practices
- to irresponsible companies, that they will no longer find a market here
- to the international community, that we are taking seriously our responsibilities on climate change, biodiversity and human rights.

The Voluntary Partnership Agreement (VPA) approach which the EU has in place under the 2003 Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT) is insufficient to address illegal logging. While VPAs have the potential to drive very positive change, to date only one has been signed, and their voluntary nature means the risks of circumvention and laundering are high. As the Commission's consultation on measures to complement the VPA approach concluded, firm legislation is needed to ensure that illegally harvested timber/timber products are removed from the EU market.

The Rapporteur therefore welcomes the proposed Regulation, whilst regretting that it comes nearly five years after endorsement of the FLEGT Action Plan. She also considers that it needs to be strengthened and elaborated upon in several respects.

Prohibition

Most fundamentally, the proposed Regulation does not actually prohibit the import and sale of illegally logged timber - thereby failing to address "*the weak rules to prevent trade in illegally harvested timber*"² cited by the proposal itself as the starting point for why illegal logging is so entrenched. The revised US Lacey Act, adopted in May 2008, does enact such a prohibition, so a precedent is in place. There is no good reason why the EU cannot emulate

¹ UNECE/FAO 2007: Forest Products Annual Market review, 2006-7

² Proposal for a Regulation laying down the obligations of operators who place timber and timber products on the market (COM(2008) 644/3) p.2

this and indeed go further.

The Rapporteur thus proposes an explicit statement of the requirement that operators make available on the market only legally harvested timber/timber products, to apply to all operators on the supply chain.

Scope of due diligence and legality requirements

The Rapporteur makes a new distinction between operators who "*place on the market*" timber/timber products (meaning to make available on the market for the first time), and those who "*make available on the market*" (meaning all operators in the supply chain).

The requirement to exercise due diligence will encourage good practice, and ideally all operators in the supply chain would implement a full due diligence system. However the Rapporteur acknowledges this may be unrealistic for small-scale operators and so confines the full requirement, as per the proposal, to operators who "place" products on the market - who are clearly those with the biggest influence on what enters the EU, and thus bear greatest responsibility.

At the same time, all operators in the supply chain should be bound by the overriding prohibition against making illegally sourced timber/timber products available on the market, and should exercise due care to this effect. In the same way that the due diligence requirement will oblige operators who place timber/timber products on the market "*to show prudence, judgement and positive action in ascertaining the legality of the timber and timber products that enter the supply chain*"¹ and "*tend to favour sourcing from countries with reliable forest management practices*"², the possibility of prosecution for trading illegal timber as applied to all operators in the supply chain will encourage them to favour sourcing from reliable, reputable placers on the market - i.e. those who are exercising their due diligence obligations most effectively. It will also distribute the burden of responsibility more equitably among operators.

To aid traceability the Rapporteur also considers that all operators should note and provide basic information about products, their source and to whom they supply.

Applicable legislation

The FLEGT Action Plan states that "*the EU's wider objective is to encourage sustainable forest management*"³, and commits the EU to address the problem of illegal logging in an integrated way. In addition to tackling illegal logging from a direct market perspective, this Regulation must contribute to the broader goal of sustainable development as a means of addressing the underlying causes.

Broadening the scope of the applicable legislation against which "legality" is defined would help achieve this. As parties to multiple international and regional agreements the EU and Member States have already legally and politically committed themselves to the conservation and sustainable use of natural resources, poverty alleviation and protection of the rights of

¹ idem, p. 9

² idem, p. 7

³ EU FLEGT Action Plan (COM(2003)251)

indigenous and forest-dependent communities. The Regulation can be a vehicle for helping to implement their provisions.

Due diligence system

The proposal contains little detail on what a due diligence system, or the risk management system within it, should comprise - risking great variation among Member States and operators, with implications for both administrative complexity (for operators working in several countries), and the ultimate effectiveness of the concept. The Rapporteur therefore elaborates on crucial elements. In particular, it is important to make clear that the required information on timber/timber products should be supported by documentation; and that the risk management system should serve as a means of assessing those cases, on which it is necessary to focus particular attention - possibly applying supplementary measures in order to be duly diligent and minimise the risk of placing illegal timber on the market.

Monitoring organisations and their accreditation

In order to have harmonised standards across the EU for the organisations which monitor due diligence systems, the Rapporteur proposes that the decision over whether to recognise a monitoring organisation be made at EU rather than national level. She expands on the criteria organisations should fulfil, as well as the information they must submit in application for recognition. Centralised accreditation and clear criteria in the Regulation would help avoid weak links in the oversight system, and reduce administrative complexity for organisations operating in more than one Member State.

Checks and controls by competent authorities

Although the Rapporteur proposes that monitoring organisations be accredited at EU level, Member State-designated competent authorities have an important role in policing the system. This means both checking that monitoring organisations fulfil the requirements of the Regulation, and carrying out controls of the supply chain. The Rapporteur believes it should be possible to activate either level on the basis of substantiated third party concerns, as well as on a pre-planned basis. She elaborates what the checks and controls may consist of, including in both cases field audits.

Because illegal logging causes serious environmental damage, competent authorities should be empowered to apply immediate corrective measures including the seizure of illegal timber/timber products, and ceasing of commercial activity - if deemed necessary in order to halt damage caused by illegal harvesting of the products in question as quickly as possible (rather than waiting for a full prosecution process). Tracing the source of the timber should be aided by the fact that all operators in the supply chain are bound to know from whom they obtained all timber and timber products, and to whom they have supplied them.

Biomass exemption

The Rapporteur considers that the exemption for "energy wood" and biomass, on the grounds that these will be subject to future mandatory EU sustainability criteria, should be deleted. This Regulation should cover all products that could contain illegally sourced timber. Excluding products that are subject to "sustainability criteria" from the requirement to be legally sourced implies that legality and sustainability could be mutually exclusive - yet legality must be an underlying prerequisite for sustainability.

26.1.2009

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on the Environment, Public Health and Food Safety

on the proposal for 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 (COM(2008)0644 – C6-0373/2008 – 2008/0198(COD))

Rapporteur: Glyn Ford

SHORT JUSTIFICATION

Due to growing worldwide demand, international trade of timber and timber products is fast rising. Consequently, in numerous timber-producing countries, timber trade based on illegal logging represents a very significant share of total timber trade. Such actions have a significantly damaging impact on the environment, society, and economy, especially in developing countries. The EU must fight against illegal logging and promote legal logging.

The EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) proposed a package of measures to support international efforts to tackle this issue. The EU has negotiated Voluntary Partnership Agreements (VPAs) with timber-producing countries, which put a legally binding obligation on the parties to implement a licensing scheme and to regulate trade in timber and timber products. The European Union also continues to initiate and support international initiatives and engages in bilateral and multilateral discussions with third countries in the UN Forum on Forests and the International Tropical Timber Organisation and in bilateral talks with major timber-consuming countries such as the US, China, Russia and Japan. The EU must, in these international arenas, put the emphasis on the obligations of operators and on the necessity to use every mean available, including the latest technologies, to detect, track, register and fight illegal logging and also to promote legal logging.

With this regulation, the EU finally goes forward by stressing the responsibilities of operators involved in putting timber on the EU market. This proposal of the European Commission is necessary to fight deforestation and illegal logging and harvesting by defining a strong legality standard for wood and wood-derivate products, to help protect forests and biodiversity, mitigate climate change and respect the rights of forest-dependent people.

However the proposal must be strengthened and improved to be fully effective. To be really

deterrent, the regulation must emphasise the notion of offence so that no operator importing and detaining illegal timber on EU territory feels immune to the threat of serious penalties. In that sense, the text should not feature loopholes, which could be used by operators to circumvent the regulation. Besides, the due diligences, particularly risk management procedures, foreseen in the text have to be defined in a clearer and more effective manner. The regulation must better anticipate the practicality of its implementation by operators to ensure effectiveness. Moreover, competent authorities in Member States should be given sufficient custom powers to control international trade of timber products, even by boarding shipment cargos, to investigate crime and alleged infringements, to alert prosecutors on cases of offenders, and to register illegal practices.

Lastly the European Union should take into consideration the measures taken by the U.S. government, namely the US Lacey Act, where commerce in illegally sourced plants and their products - including timber and wood products - are banned by law. The Commission should examine the possibility of specific obligations for retailers too, complementary to obligations put on partner countries and importers.

AMENDMENTS

The Committee on International Trade calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) The Council and the European Parliament recognising the need for the Community to contribute to global efforts to address the problem of illegal logging welcomed that Communication.

Amendment

(5) The Council and the European Parliament recognising the need for the Community to contribute to global efforts to address the problem of illegal logging ***and to support sustainable legal logging within the framework of sustainable development, sustainable forest management and poverty reduction, as well as social equity and national sovereignty***, welcomed that Communication.

Justification

The European Union has a duty to protect and assist responsible producers who respect

legality and sustainability criteria. This is complementary to actions to stop trading with illegal producers worldwide.

This addition refers back to the original wording from the conclusions of the Agriculture Council of October 2003.

Amendment 2

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Community should also push, in bilateral talks with major timber-consuming countries such as the US, China, Russia, and Japan, for discussions on the problem, convergence towards harmonised appropriate obligations on operators on their own timber market, and the creation of an independent, global alert system and register of illegal logging consisting for example of Interpol and an appropriate United Nations (UN) body, benefiting from the latest satellite detection technologies.

Justification

Major international timber-importing and timber-producing countries have a responsibility to cooperate and use every political, legal, and technological way to fight illegal logging. Otherwise, on a voluntary basis and without international coordination, few countries are willing to restrict their possibilities of exporting or importing timber.

Amendment 3

Proposal for a regulation Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Operators from countries with forests of international ecological importance should have a particular responsibility for the sustainable exploitation of timber.

Justification

Obligations of proper conduct should be imposed, in the first place, on operators from countries with large forest areas which constitute "Green Lungs" of the world and have significant contributions to the fight against global warming.

Amendment 4

Proposal for a regulation Recital 10

Text proposed by the Commission

(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 possession and sales by operators placing illegal timber and timber products on the EU market are among the most effective solutions to deter operators from trading with illegal suppliers.

Justification

The approach of the regulation must be clearer and specific in its measures set out to achieve the aim of limiting illegally placed and traded timber on the market. Only a combination of incentives and deterrents can really stop an operator from choosing an illegal supplier located in a third country.

Amendment 5

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The overall objective of achieving sustainability through the promotion of sustainability criteria remains a priority for the Community. In light of this objective and in order to reduce the burden on operators who place on the

Amendment

deleted

market timber and timber products which are subject to mandatory sustainability criteria established by Directive (EC) No XX/XX of the European Parliament and of the Council on the promotion of the use of energy from renewable sources, this Regulation should not apply to such products.

Justification

The regulation should not feature loopholes that could be used to introduce illegally-logged timber.

Amendment 6

Proposal for a regulation

Article 4 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) ensure that only legally harvested timber and timber products are placed on the market by means of a traceability system and third party verification;

Amendment 7

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) include a risk management procedure and

(b) include **an effective and clear** risk management procedure **which concentrates controls and the financial means of operators on high-risk cases** and **which shall consist of the following:**

(i) systematic identification of risks;

(ii) implementation of all measures necessary in order to limit exposure to risks;

(iii) establishment of procedures and records which shall be carried out regularly to verify that the measures set

out in points (i) and (ii) are working effectively and to review them where necessary;

Justification

The regulation must clarify what is expected from operators in risk management procedures and take into account the costs, especially for companies trading abroad, to check on their suppliers' good practices.

Amendment 8

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The Commission shall adopt measures for the implementation of this Article. The Commission shall, in particular, establish criteria for assessing whether there is a risk of illegally harvested timber and timber products being placed on the market.

Amendment

2. The Commission shall adopt measures for the implementation of this Article ***with a view to ensuring uniformity of interpretation of the rules and effective compliance by operators***. The Commission shall, in particular, establish criteria for assessing whether there is a risk of illegally harvested timber and timber products being placed on the market.

Justification

The due diligences which the operators must comply with can only be effectively implemented if the operators, especially those trading with distant suppliers abroad, understand their obligations clearly and can actually comply to them in a timely and practical manner.

Amendment 9

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member states shall take appropriate measures to ensure the imposition of sanctions for infringements of this Regulation.

Amendment 10

Proposal for a regulation

Article 7 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Competent authorities shall be equipped with a reliable traceability system to track internationally-traded timber products and with public monitoring systems to assess the performance of operators in complying with their obligations and to help operators identify high-risk suppliers of timber and timber-derived products.

Justification

The regulation does not foresee criteria effectively enabling the designate national authorities to handle the demands of checking on every operator. Their means to control and monitor trade of timber must be enhanced.

Amendment 11

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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

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

Justification

The national authorities to implement all the aspects of this regulation must have powers to oversee the whole process related to stopping timber from illegal logging or harvesting from entering the EU market. This includes also cooperation with national authorities of customs, police, and justice.

PROCEDURE

Title	The obligations of operators who place timber and timber products on the market
References	COM(2008)0644 – C6-0373/2008 – 2008/0198(COD)
Committee responsible	ENVI
Opinion by Date announced in plenary	INTA 17.11.2008
Drafts(wo)man Date appointed	Glyn Ford 4.12.2008
Discussed in committee	19.1.2009
Date adopted	20.1.2009
Result of final vote	+: 23 -: 0 0: 0
Members present for the final vote	Kader Arif, Francisco Assis, Carlos Carnero González, Daniel Caspary, Glyn Ford, Béla Glattfelder, Syed Kamall, Alain Lipietz, Caroline Lucas, Marusya Ivanova Lyubcheva, Erika Mann, Helmuth Markov, David Martin, Vural Öger, Georgios Papastamkos, Godelieve Quisthoudt-Rowohl, Peter Šťastný, Gianluca Susta, Iuliu Winkler, Corien Wortmann-Kool
Substitute(s) present for the final vote	Ole Christensen, Zbigniew Zaleski
Substitute(s) under Rule 178(2) present for the final vote	Jürgen Schröder

PROCEDURE

Title	The obligations of operators who place timber and timber products on the market	
References	COM(2008)0644 – C6-0373/2008 – 2008/0198(COD)	
Date submitted to Parliament	17.10.2008	
Committee responsible Date announced in plenary	ENVI 17.11.2008	
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 17.11.2008	INTA 17.11.2008
Not delivering opinions Date of decision	DEVE 21.1.2009	
Rapporteur(s) Date appointed	Caroline Lucas 24.11.2008	
Discussed in committee	21.1.2009	10.2.2009
Date adopted	17.2.2009	
Result of final vote	+: 54	-: 1
	0: 1	
Members present for the final vote	Adamos Adamou, Margrete Auken, Liam Aylward, Irena Belohorská, Maria Berger, Johannes Blokland, John Bowis, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Avril Doyle, Mojca Drčar Murko, Jill Evans, Elisabetta Gardini, Matthias Groote, Cristina Gutiérrez-Cortines, Satu Hassi, Christa Kläß, Holger Kraemer, Urszula Krupa, Aldis Kušķis, Marie-Noëlle Lienemann, Peter Liese, Marios Matsakis, Linda McAvan, Péter Olajos, Miroslav Ouzký, Vladko Todorov Panayotov, Vittorio Prodi, Dagmar Roth-Behrendt, Guido Sacconi, Daciana Octavia Sârbu, Richard Seeber, María Sornosa Martínez, Salvatore Tatarella, Evangelia Tzampazi, Thomas Ulmer, Anja Weisgerber, Åsa Westlund, Anders Wijkman, Glenis Willmott	
Substitute(s) present for the final vote	Kathalijne Maria Buitenweg, Philip Bushill-Matthews, Bairbre de Brún, Christofer Fjellner, Jutta Haug, Karsten Friedrich Hoppenstedt, Johannes Lebeck, Caroline Lucas, Miroslav Mikolášik, Hartmut Nassauer, Justas Vincas Paleckis, Alojz Peterle, Renate Sommer, Lambert van Nistelrooij	