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**A7-0149/2010**

7.5.2010

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council position at first reading for adopting a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market (05885/4/2010 – C7-0053/2010 – 2008/0198(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Caroline Lucas

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

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

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the Council position at first reading for adopting a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market  
(05885/4/2010 – C7-0053/2010 – 2008/0198(COD))**

**(Ordinary legislative procedure: second reading)**

*The European Parliament,*

- having regard to the Council position at first reading (05885/4/2010 – C7-0053/2010),
  - 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 the Commission Communication to the European Parliament and the Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665),
  - having regard to Article 294(7) and Article 192(1) of the Treaty on the Functioning of the European Union,
  - having regard to its position at first reading<sup>1</sup>,
  - having regard to the opinion of the Economic and Social Committee<sup>2</sup>,
  - having regard to the opinion of the Committee of the Regions<sup>3</sup>,
  - having regard to Rule 66 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A7-0149/2010),
1. Adopts its position at second reading hereinafter set out;
  2. Instructs its President to forward its position to the Council, to the Commission and to the national parliaments.

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<sup>1</sup> Texts adopted, 22.4.2009, P6\_TA(2009)0225.

<sup>2</sup> Not yet published in the Official Journal.

<sup>3</sup> Not yet published in the Official Journal.

**Amendment 1**

**Council position  
Recital 1 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 2**

**Council position  
Recital 1 b (new)**

*Council position*

*Amendment*

***(1b) Forestry is often one of the primary sources of income in forest-rich developing countries for many people. It is therefore important to promote a more sustainable development of forestry in those countries.***

*Justification*

*EP first reading amendment 5.*

### Amendment 3

#### Council position Recital 2

##### *Council position*

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

##### *Amendment*

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

##### *Justification*

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

### Amendment 4

#### Council position Recital 2 a (new)

##### *Council position*

##### *Amendment*

***(2a) Timber produced in a sustainable way binds greenhouse gases and is one of the most environmentally friendly materials that exists. In view of the growing demand worldwide, sustainable production of timber should be encouraged, both within and outside the Union.***

## Amendment 5

### Council position Recital 3

#### *Council position*

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation, which is responsible for about 20 % of CO<sub>2</sub> emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. In addition, it also has social, political and economic implications.

#### *Amendment*

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation **and forest degradation**, which is responsible for about 20 % of **global** CO<sub>2</sub> emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. **It also contributes to desertification and steppe-formation processes, increasing soil erosion and exacerbating extreme weather events and flooding.** In addition, it also has social, political and economic implications, **often undermining progress towards good governance goals, and threatens local forest-dependent communities and the rights of indigenous peoples. Effective tackling of the problem of illegal logging in the context of this Regulation is expected to contribute significantly to the EU's climate change mitigation strategies in a cost-effective manner and should be seen as complementary to EU action and commitment in the context of the United Nations Framework Convention on Climate Change.**

#### *Justification*

*EP first reading amendment 7.*

## Amendment 6



**Council position**  
**Recital 3 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 7**

**Council position**  
**Recital 3 b (new)**

*Council position*

*Amendment*

***(3b) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme<sup>1</sup> has identified as a priority activity the examination of the possibility of taking active measures to prevent and combat trade in illegally harvested wood and the continuation of the active participation of the Union and of Member States in the implementation of global and regional resolutions and agreements on***

*forest-related issues.*

<sup>1</sup> OJ L 242, 10.9.2002, p. 1.

*Justification*

*Amendment 9 from Parliament's first reading.*

## **Amendment 8**

**Council position**  
**Recital 3 c (new)**

*Council position*

*Amendment*

***(3c) The Treaty on the Functioning of the European Union (TFEU) requires that environmental protection requirements be integrated into the definition and implementation of Union policies and activities, including with respect to trade, and in particular with a view to promoting sustainable development.***

## **Amendment 9**

**Council position**  
**Recital 3 d (new)**

*Council position*

*Amendment*

***(3d) The aim of this Regulation is to prevent the trade in illegally harvested timber and timber products in the Union, thereby contributing to stopping deforestation and forest degradation as well as halting biodiversity loss while promoting sustainable development and respect for indigenous and local peoples.***

*Justification*

*EP first reading amendment 8.*

## Amendment 10

### Council position Recital 3 e (new)

#### *Council position*

#### *Amendment*

***(3e) The placing or the making available on the market of illegally harvested timber or timber products should be prohibited. In order to facilitate compliance, operators who place timber or timber products on the market for the first time should be required to exercise due diligence through a system of measures and procedures (due diligence system), and subsequent operators in the supply chain should be required to provide basic information.***

#### *Justification*

*Compromise Amendment 1 combines elements from amendments 8, 91 and 114. The reason for combining these amendments into a single recital are two-fold; firstly, it allows the obligations of due diligence and the prohibition to be clearly stated, in one place and in a logical order; in addition, it brings together due diligence and the prohibition with the phrase 'to facilitate compliance', which accurately embodies the relationship between these two complementary, but separate, components of the regulation.*

## Amendment 11

### Council position Recital 4

#### *Council position*

#### *Amendment*

(4) The Communication of the Commission to the European Parliament and to the Council of 21 May 2003 entitled "Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan" proposed a package of measures to support international efforts to tackle the problem of illegal logging and associated trade.

(4) The Communication of the Commission to the European Parliament and to the Council of 21 May 2003 entitled "Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan" 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*

*EP first reading amendment 10.*

### **Amendment 12**

#### **Council position**

##### **Recital 7**

#### *Council position*

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

#### *Amendment*

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

## *Justification*

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

### **Amendment 13**

#### **Council position**

##### **Recital 8 a (new)**

#### *Council position*

#### *Amendment*

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

*structure of VPAs.*

*Justification*

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

**Amendment 14**

**Council position**

**Recital 8 b (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 15**

**Council position**

**Recital 10**

*Council position*

*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.

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

***Strengthening requirements and obligations and enhancing the legal means to prosecute operators for making available illegally harvested timber and timber products on the internal market***

*are among the most effective solutions to deter operators from trading with suppliers of illegally harvested timber.*

*Justification*

*EP first reading amendment 17.*

**Amendment 16**

**Council position**  
**Recital 11**

*Council common position*

(11) In the absence of an internationally agreed definition, the legislation of the country where the timber was harvested should be the basis for defining 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 for defining what constitutes illegal logging. ***The definition of ‘legally harvested timber’ should guarantee sustainable forest management, biodiversity conservation, the protection of local forest-dependent communities and of indigenous peoples, and the safeguarding of the rights of those communities and peoples.***

*Justification*

*EP first reading amendments 16 and 18.*

**Amendment 17**

**Council position**  
**Recital 12**

*Council position*

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for

*Amendment*

(12) Many timber products undergo numerous processes before and after they are placed on the market for the first time. In order to avoid imposing any unnecessary administrative burden, only those operators that place timber and timber products on the internal market for

the first time, rather than all operators involved in the distribution chain, should be subject to the requirements laid down in this Regulation.

the first time, rather than all operators involved in the distribution chain, should be subject to the ***full due diligence*** requirements laid down in this Regulation.

#### *Justification*

*Compromise Amendment 2 is the first part of amendments 8, 91 and 92.*

### **Amendment 18**

#### **Council position**

##### **Recital 14**

#### *Council position*

***(14) Operators placing timber and timber products for the first time on the internal market should exercise due diligence through a system of measures and procedures (due diligence system) to minimise the risk of placing illegally harvested timber and timber products derived from such timber on the internal market.***

#### *Amendment*

***deleted***

#### *Justification*

*Compromise Amendment 3 is a deletion of recital 14 in the Council Position, which is made redundant by the fact that the same information is now covered in Compromise Amendment 1 above.*

### **Amendment 19**

#### **Council position**

##### **Recital 15**

#### *Council position*

**(15) The due diligence system includes three elements inherent to risk management: access to information, risk assessment and mitigation of the risk identified. The due diligence system should provide access to information about the sources and suppliers of the timber and**

#### *Amendment*

**(15) The due diligence system includes three elements inherent to risk management: access to information, risk assessment and mitigation of the risk identified. The due diligence system should provide access to information about the sources and suppliers of the timber and**

timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation. On the basis of this information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate such risk in a manner proportionate to the risk identified, with a view to preventing illegally harvested timber and timber products derived from such timber from being placed on the market.

timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation, ***the country of harvest, and where applicable sub-national region where the timber was harvested and concession of harvest, species, quantity and value.*** On the basis of this information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate such risk in a manner proportionate to the risk identified, with a view to preventing illegally harvested timber and timber products derived from such timber from being placed on the market.

### *Justification*

*Complementing new recital wording from the Council common position to align with amendments to articles.*

## **Amendment 20**

### **Council position Recital 17**

#### *Council position*

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

#### *Amendment*

(17) In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure, ***provided they fulfil the requirements laid down in this Regulation.***

## **Amendment 21**

### **Council position Recital 18**

#### *Council position*

(18) ***The timber sector is of major***

#### *Amendment*

(18) In order to facilitate the



***importance for the economy of the Union. Organisations of operators are important actors in the sector as they represent the interests of the latter on a large scale and interact with a diverse range of stakeholders. Those organisations also have the expertise and capacity to analyse relevant legislation and facilitate the compliance of their members, but should not use this competence to dominate 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 due diligence systems meeting the requirements of this Regulation. A list of such recognised organisations should be made public in order to enable operators' use of such recognised monitoring organisations.

implementation of this Regulation and to contribute to the development of good practices it is appropriate to recognise organisations which have developed due diligence systems meeting the requirements of this Regulation. A list of such recognised organisations should be made public in order to enable operators' use of such recognised monitoring organisations.

#### *Justification*

*EP first reading amendment 23.*

### **Amendment 22**

#### **Council position Recital 19**

##### *Council position*

(19) Competent authorities should monitor that operators effectively fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out official ***checks, as appropriate***, which may include checks on the premises of the operator, and should be able to require operators to take remedial actions where necessary.

##### *Amendment*

(19) Competent authorities should monitor that operators effectively fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out official ***controls in accordance with a yearly plan***, which may include ***customs checks***, checks on the premises of the operator ***and field audits***, and should be able to require operators to take remedial actions where necessary.

#### *Justification*

*EP first reading amendment 25.*

## Amendment 23

### Council position Recital 20

#### *Council position*

(20) Competent authorities should keep records of the **checks** and the relevant information should be made available to **any applicant** in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>1</sup>.

#### *Amendment*

(20) Competent authorities should keep records of the **controls** and the relevant information should be made available to **the public, including via the Internet**, in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>1</sup>.

## Amendment 24

### Council position Recital 21

#### *Council position*

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

#### *Amendment*

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

## Amendment 25

### Council position Recital 21 a (new)

#### *Council position*

#### *Amendment*

**(21a) In order to facilitate the ability of operators who place or make available timber or timber products on the market to comply with the requirements of this Regulation, taking into account the situation of small and medium-sized**

*enterprises, Member States should provide operators with technical and other assistance and facilitate the exchange of information, especially with regard to the implementation of those operators' obligation to exercise due diligence.*

*Justification*

*Providing a framework for reducing the administrative burden, also taking into account the situation of SMEs. Basis for new article covering technical assistance to operators and exchange of information.*

**Amendment 26**

**Council position**  
**Recital 23**

*Council position*

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

*Amendment*

(23) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) concerning the procedures for the recognition and withdrawal of recognition of monitoring organisations, concerning *general principles and criteria for further specification of the definition of applicable legislation, concerning the due diligence system requirements* and concerning the list of timber and timber products to which this Regulation applies, *as well as concerning the checks on monitoring organisations and the controls on operators.* It is of particular importance that the Commission *carry out appropriate consultations during its preparatory work, including at expert level.*

*Justification*

*Aligning recital on delegated acts to articles, and to language adopted in the De Brún report on pet passports.*

**Amendment 27**

**Council position**  
**Recital 23 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 28**

**Council position**  
**Recital 24**

*Council position*

*Amendment*

***(24) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.***

***deleted***

*Justification*

*The reference is redundant as the draft recommendation does not foresee any implementing acts.*

## Amendment 29

### Council position Article 1

#### *Council position*

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

#### *Amendment*

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

#### *Justification*

*EP first reading amendment 31. The Regulation should apply to all operators throughout the supply chain although the full due diligence requirements apply only to the operator first placing the timber on the internal market.*

## Amendment 30

### Council position Article 2 – point (a)

#### *Council position*

(a)"timber and timber products" means the timber and timber products set out in the Annex, with the exception of ***timber products derived from timber or from timber products which have already been placed on the market as well as*** timber products or components of such products ***manufactured from timber or timber products that have completed their life cycle and would otherwise be disposed of as waste;***

#### *Amendment*

(a)"timber and timber products" means the timber and timber products set out in the Annex, with the exception of timber products or components of such products ***that result from recycling, as defined in Article 3(17) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste<sup>1</sup>;***

<sup>1</sup> OJ L 312, 22.11.2008, p. 3.

#### *Justification*

*Compromise Amendment 6 refers to the existing definition under the Waste Framework Directive.*

## Amendment 31

### Council position

#### Article 2 – point a a (new)

##### *Council position*

##### *Amendment*

**(aa) "making available on the market" means any supply of timber and timber products on the internal market for distribution or use in the course of a commercial activity whether in return for payment or free of charge, including supply by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts<sup>1</sup>;**

<sup>1</sup>OJ L 144, 4.6.1997, p. 19.

##### *Justification*

*EP first reading amendment 33. To distinguish between operators who must implement a full due diligence system and 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 68/2008/EC of the European Parliament and of the Council of 9 July 2008) and for consistency the same wording is used here.*

## Amendment 32

### Council position

#### Article 2 – point b

##### *Council position*

##### *Amendment*

**(b) "placing on the market" means *the* supply by any means, irrespective of the selling technique used, of timber or timber products, for the first time on the internal market for distribution or use in the course of a commercial activity, whether in return for payment or free of charge. It also includes the supply by means of distance communication as defined in Directive 97/7/ EC of the European**

**(b) "placing on the market" means *the first* making available of timber and timber products on the internal market; subsequent processing and distribution of timber does not constitute 'placing on the market';**

***Parliament and of the Council of  
20 May 1997 on the protection of  
consumers in respect of distance  
contracts;***

*Justification*

*EP first reading amendment 34. To distinguish between operators who must implement a full due diligence system and 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) and for consistency the same wording is used here.*

**Amendment 33**

**Council position  
Article 2 – point c**

*Council position*

(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;

*Justification*

*EP first reading amendment 35.*

**Amendment 34**

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

*Council position*

*Amendment*

***(fa) "risk" means a function of the probability of illegally harvested timber or timber products being placed or made available on the internal market and the severity of such an event;***

*Justification*

*EP first reading amendment 36.*

## Amendment 35

### Council position

#### Article 2 – point f b (new)

##### *Council position*

##### *Amendment*

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

##### *Justification*

*Clarify concept and complement Article 4.*

## Amendment 36

### Council position

#### Article 2 – point g

##### *Council position*

##### *Amendment*

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

- rights to harvest timber within gazetted boundaries;
- payments for harvest rights and timber including duties related to timber harvesting;
- timber harvesting, including ***directly*** related environmental and forest legislation;
- third parties' legal rights concerning use and tenure that is affected by timber harvesting; and
- trade and customs legislation, in so far as the forest sector is concerned.

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

- rights to harvest timber within ***legally*** gazetted boundaries;
- payments for harvest rights and timber including duties related to timber harvesting;
- ***requirements regarding biodiversity conservation, timber harvesting and forest management***, including related environmental and forest legislation;
- third parties' legal rights concerning use and tenure that is affected by timber harvesting; and
- trade and customs legislation, in so far as the forest sector is concerned.

***In order to specify further this definition, the Commission shall, by means of***



*delegated acts, establish general principles and criteria and, to the extent possible, compile and publish indicators for each timber-producing country.*

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

*Justification*

*Partially reintroduces key elements of Amendment 38 at first reading, adopted on 22 April 2009. The elaboration of principles and criteria, will have to take place through delegated acts.*

**Amendment 37**

**Council position**

**Article 2 – point g a (new)**

*Council position*

*Amendment*

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

*Justification*

*Definition follows original Commission proposal.*

**Amendment 38**

**Council position**

**Article 4 – paragraph -1 (new)**

*Council position*

*Amendment*

*-1. The placing or the making available on the market of illegally harvested timber*

***or timber products shall be prohibited.***

***Operators shall not place or make available on the market illegally harvested timber or timber products.***

#### *Justification*

*EP first reading amendment 31 and 42. It should be clear that no operator in the supply chain should make illegally harvested timber or timber products available on the market. The wording from first reading has been slightly modified in order to clarify that it is not a shipment based approach where operators would be required to prove legality of each consignment. In the event of charges being brought against an operator for infringement of the prohibition, the burden of proof should lie with the prosecuting body. The prohibition and the due diligence obligations are two complementary, but nevertheless, two separate components, and should, as a matter of clarity, be dealt with in two separate paragraphs in the operational text. However, the relationship between them is covered in Compromise amendment 1 (Recital 3c (new))*

#### **Amendment 39**

##### **Council position**

##### **Article 4 – paragraph 1**

###### *Council position*

1. Operators shall exercise due diligence ***to minimise the risk of placing illegally harvested timber or timber products derived from such timber on the market.*** To that end, they shall use a framework of procedures and measures, hereinafter referred to as a "due diligence system", as set out in Article 5.

###### *Amendment*

1. Operators ***who place timber and timber products on the market*** shall exercise due diligence. To that end, they shall use a framework of procedures and measures, hereinafter referred to as a "due diligence system", as set out in Article 5. ***That due diligence system shall be established either by the operator or by a monitoring organisation as referred to in Article 7.***

#### *Justification*

*EP first reading amendment 42. More detailed due diligence requirements are appropriate for operators who place products on the market for the first time, since they have the biggest influence on what enters the EU and therefore carry most responsibility. The prohibition and the due diligence obligations are two complementary, but nevertheless, two separate components, and should, as a matter of clarity, be dealt with in two separate paragraphs in the operational text. However, the relationship between them is covered in Compromise Amendment 1 (Recital 3c (new)).*

## Amendment 40

### Council position

#### Article 4 – paragraph 2

##### *Council position*

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

##### *Amendment*

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

##### *Justification*

*EP first reading amendment 43.*

## Amendment 41

### Council position

#### Article 4 – paragraph 2 a (new)

##### *Council position*

##### *Amendment*

***2a. Operators who make timber and timber products available on the market shall, throughout the supply chain, be able to identify both the operator who has supplied the timber and timber products, and the operator to whom the timber and timber products have been supplied;***

## *Justification*

*EP first reading amendment 42. All operators should be required to provide basic information about the products, their source and to whom they supply.*

### **Amendment 42**

#### **Council position**

##### **Article 5 – paragraph 1 – point a**

<i>Council position</i>	<i>Amendment</i>
<p>(a) measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market:</p> <ul style="list-style-type: none"><li>- description, including the full scientific name <b>or</b> common name of tree species, trade name and type of product;</li><li>- country of harvest, and where applicable sub-national region where the timber was harvested;</li><li>- quantity (expressed in volume, weight or number of units);</li><li>- name and address of the supplier to the operator;</li><li>- documents or other information indicating compliance of those timber and timber products with the applicable legislation;</li></ul>	<p>(a) measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market:</p> <ul style="list-style-type: none"><li>- description, including the full scientific name <b>and</b> common name of tree species, trade name and type of product;</li><li>- country of harvest, and where applicable sub-national region where the timber was harvested <b>and concession of harvest</b>;</li><li>- quantity (expressed in volume, weight or number of units);</li><li>- <b>value</b>;</li><li>- name and address of the supplier to the operator;</li><li>- <b>name and address of the operator to whom the timber and timber products have been supplied</b>;</li><li>- <b>the natural or legal person responsible for harvesting</b>;</li><li>- documents or other information indicating compliance of those timber and timber products with the applicable legislation;</li></ul>

## *Justification*

*EP first reading amendment 44.*

## Amendment 43

### Council position

#### Article 5 – paragraph 1 – point b

##### *Council position*

(b) risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market.

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

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

- prevalence of illegal harvesting of specific tree species;

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

- complexity of the supply chain of timber products;

##### *Amendment*

(b) **systematic** risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market.

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

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

- ***the level of stakeholder consultation;***

- prevalence of illegal harvesting of specific tree species;

- prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested, ***including consideration of the prevalence of armed conflict, of documented failures of forest governance and of high levels of corruption;***

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

- complexity of the supply chain of timber products;

***The Commission shall make available a register of countries and/or sub-national regions which have a high prevalence of illegal harvesting, of tree species which are subject to a high prevalence of illegal harvesting and of operators who have been found to be in breach of this***

***Regulation.***

***The Commission shall provide for an appeal procedure for impacted countries and operators that wish to challenge an inclusion in the register.***

*Justification*

*EP first reading amendment 46 and 47. Amendment reintroduces the 'high risk' register to be made available by the Commission with a clarification regarding the procedure by which operators or countries can challenge their inclusion on this register. Stakeholder consultation is a main feature and success of the FLEGT Action Plan. The openness of a due diligence system is a factor which may greatly contribute to its success in effectively assessing risk. Also, first reading AM 47 regarding conflict areas. Consideration of armed conflict should be an explicit part of the risk assessment procedure. The procedure should also take into account relevant bans.*

**Amendment 44**

**Council position**

**Article 5 – paragraph 1 – point c**

*Council position*

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

*Amendment*

(c) risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

*Justification*

*Delete an exemption introduced by the Council. The new concept of negligible risk is not defined and could lead to a variety of interpretations.*

## Amendment 45

### Council position

#### Article 5 – paragraph 2

##### *Council position*

**2. Detailed rules necessary to ensure the uniform implementation of paragraph 1, except as regards further relevant risk assessment criteria referred to in the second paragraph of point (b) of paragraph 1 of this Article, shall be adopted in accordance with the regulatory procedure referred to in Article 16(2). Those rules shall be adopted by ...\*.**

*\* OJ: please insert date: 18 months after the date of entry into force of this Regulation*

##### *Amendment*

**deleted**

##### *Justification*

*It is more appropriate to foresee a possibility for delegated acts for supplementing the requirements in the Regulation.*

## Amendment 46

### Council position

#### Article 5 – paragraph 3

##### *Council position*

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

##### *Amendment*

**3. *Taking* into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through *the exchange of information referred to in Article 11b and* the reporting referred to in Article 18(3), the Commission may adopt delegated acts in accordance with Article 290 of the TFEU *to supplement* paragraph 1 of this Article *with a view to increasing the effectiveness of the due diligence systems in preventing illegally harvested timber or timber products being placed or made available on the internal market.***

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

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

*Justification*

*Any delegated acts should be guided by the aim of ensuring the effectiveness of the due diligence systems in preventing illegally harvested timber or timber products being traded on the internal market.*

**Amendment 47**

**Council position**

**Article 5 – paragraph 3 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 48**



## Council position

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

#### *Council position*

#### *Amendment*

***These authorities shall be given sufficient powers to enforce this Regulation by monitoring its application, investigating alleged infringements in cooperation with the customs authorities, and reporting offences to the prosecuting authority in a timely manner.***

#### *Justification*

*First Reading amendment 63.*

## Amendment 49

## Council position

### Article 7 – paragraph 1

#### *Council position*

#### *Amendment*

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

(a) maintain and regularly evaluate a due diligence system in accordance with Article 5 and grant operators the right to use it;

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

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

1. A monitoring organisation shall:

(a) maintain and regularly evaluate a due diligence system in accordance with Article 5 and grant operators the right to use it;

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

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

## Amendment 50

### Council position

#### Article 7 – paragraph 2

##### *Council position*

2. An organisation may apply for recognition as a monitoring organisation, if it complies with the following requirements:

- (a) it has legal personality and is legally established within the Union;
- (b) it has the capacity to exercise the functions referred to in paragraph 1; and
- (c) it carries out its functions in a manner that avoids conflicts of interest.

##### *Amendment*

2. An organisation may apply for recognition as a monitoring organisation, if it complies with the following requirements:

- (a) it has legal personality and is legally established within the Union;
- (b) it has ***appropriate expertise and*** the capacity to exercise the functions referred to in paragraph 1; and
- (c) it carries out its functions in a manner that avoids conflicts of interest, ***and is legally independent from the operators it certifies.***

##### *Justification*

*EP first reading amendment 52.*

## Amendment 51

### Council position

#### Article 7 – paragraph 3

##### *Council position*

3. ***An*** applicant that fulfils the requirements set out in paragraph 2 ***shall be recognised as a monitoring organisation, in one of the following ways:***

- (a) the competent authority of a Member State shall recognise a monitoring organisation which intends to carry out its activities exclusively in that Member State, and thereafter without delay inform the Commission;***

##### *Amendment*

3. ***The Commission shall recognise as a monitoring organisation an*** applicant that fulfils the requirements set out in paragraph 2.

***The decision to grant recognition to a monitoring organisation shall be taken within three months of the submission of an application. The decision to grant recognition to a monitoring organisation shall be communicated by the Commission to the competent authorities of the Member States which have jurisdiction over that organisation.***

***(b) the Commission shall, after informing Member States, recognise a monitoring organisation which intends to carry out its activities in more than one Member State, or throughout the Union.***

*Justification*

*EP first reading amendment 54. In order to ensure uniform recognition of monitoring organisations it is more appropriate that this is done by the Commission. This would not prevent the establishment of national contact points for facilitating applications by potential monitoring organisations.*

**Amendment 52**

**Council position**

**Article 7 – paragraph 4**

*Council position*

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

*Amendment*

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

*Justification*

*EP first reading amendment 54.*

**Amendment 53**

**Council position**

**Article 7 – paragraph 5**

*Council position*

5. If a competent authority determines that a monitoring organisation ***that has been recognised by the Commission*** either no

*Amendment*

5. If a competent authority determines that a monitoring organisation either no longer fulfils the functions laid down in paragraph

longer fulfils the functions laid down in paragraph 1 or no longer complies with the requirements laid down in paragraph 2, it shall without delay inform the Commission.

1 or no longer complies with the requirements laid down in paragraph 2, it shall without delay inform the Commission.

*Justification*

*To be consistent with the centralised recognition of monitoring organisations.*

**Amendment 54**

**Council position**

**Article 7 – paragraph 6**

*Council position*

**6. *The competent authorities or the*** Commission ***may*** withdraw a recognition when the competent authority or the Commission has determined that a monitoring organisation no longer fulfils the functions laid down in paragraph 1 or the requirements laid down in paragraph 2. ***The competent authority or the Commission may only withdraw a recognition that it has itself issued.*** Before withdrawal of a recognition, the Commission shall inform the Member States concerned. ***Member States shall inform the Commission of the withdrawal of a recognition.***

*Amendment*

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

*Justification*

*EP first reading amendment 55. The withdrawal should be consistent with the centralised recognition of monitoring organisations.*

**Amendment 55**

**Council position**

**Article 7 – paragraph 7**

*Council position*

7. In order to supplement the procedural

*Amendment*

7. In order to supplement the procedural

rules with regard to the recognition and withdrawal of recognition of monitoring organisations ***and, if experience so requires, to amend them***, the Commission may adopt delegated acts in accordance with Article 290 of the TFEU. ***When adopting such delegated acts, the Commission shall act in accordance with the relevant provisions of this Regulation.***

For the delegated acts referred to in this paragraph the procedures set out in Articles 13, 14 and 15 shall apply. Those acts shall be adopted by...\*.

---

\*OJ: please insert date: **18** months after the date of entry into force of this Regulation.

rules with regard to the recognition and withdrawal of recognition of monitoring organisations, the Commission may adopt delegated acts in accordance with Article 290 of the TFEU, ***to ensure recognition and withdrawal thereof is performed in an equitable and transparent manner.***

For the delegated acts referred to in this paragraph the procedures set out in Articles 13, 14 and 15 shall apply. Those acts shall be adopted by...\*.

---

\*OJ: please insert date: **8** months after the date of entry into force of this Regulation.

### *Justification*

*Any delegated acts to supplement the requirements set in the Regulations should be guided by the aim of ensuring equitable and transparent procedures for the recognition, and withdrawal thereof, of monitoring organisations.*

## **Amendment 56**

### **Council position**

#### **Article 7 – paragraph 8**

##### *Council position*

8. Detailed rules concerning the frequency and the nature of the checks referred to in paragraph 4, ***necessary to ensure the uniform implementation of that paragraph, shall be adopted in accordance with the regulatory procedure referred to in Article 16(2).*** Those rules shall be adopted by ...\*.

---

\*OJ: please insert date: **18** months after the date of entry into force of this Regulation.

##### *Amendment*

8. ***The Commission shall adopt, by means of delegated acts***, detailed rules concerning the frequency and the nature of the checks referred to in paragraph 4, ***in order to ensure effective oversight of monitoring organisations.*** Those rules shall be adopted by ...\*.

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

---

\*OJ: please insert date: **8** months after the date of entry into force of this Regulation.

### *Justification*

*The delegated acts should be guided by the aim of ensuring effective oversight of monitoring organisations. The associated timelines are adjusted to an earlier entry into application of the Regulation.*

### **Amendment 57**

#### **Council position** **Article 9 – title**

##### *Council position*

##### *Amendment*

**Checks** on operators

**Controls** on operators

### *Justification*

*EP first reading amendments 58, 59, 60. It is appropriate to distinguish between checks on monitoring organisations and controls on operators.*

### **Amendment 58**

#### **Council position** **Article 9 – paragraph 1**

##### *Council position*

##### *Amendment*

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

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

### *Justification*

*EP first reading amendments 58, 59, 60. It is appropriate to distinguish between checks on monitoring organisations and controls on operators.*

### **Amendment 59**

#### **Council position** **Article 9 – paragraph 1 a (new)**

##### *Council position*

##### *Amendment*

**1a. Controls shall be conducted in accordance with a yearly plan, on the basis of substantiated concerns provided by third parties, or in any event where the**

***competent authority of the Member State is in possession of information that questions compliance by the operator with the requirements laid down in this Regulation.***

*Justification*

*EP first reading amendment 58.*

## **Amendment 60**

### **Council position**

#### **Article 9 – paragraph 1 b (new)**

*Council position*

*Amendment*

***1b. Controls may include, inter alia:***

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

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

***(c) spot checks, including field audits.***

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

*Justification*

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

## **Amendment 61**

### **Council position**

#### **Article 9 – paragraph 1 c (new)**

*Council position*

*Amendment*

***1c. The Commission may adopt, by means of delegated acts, detailed rules***

*concerning the frequency and the nature of the controls referred to in paragraph 1b in order to ensure an effective oversight of operators.*

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

#### *Justification*

*Any delegated acts detailing the requirements on controls should be guided by the aim of ensuring effective oversight of operators on the internal market.*

### **Amendment 62**

#### **Council position**

#### **Article 9 – paragraph 2**

##### *Council position*

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

##### *Amendment*

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

#### *Justification*

*EP first reading amendment 58.*

### **Amendment 63**

#### **Council position**

#### **Article 9 – paragraph 3**

##### *Council position*

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

##### *Amendment*

3. Where, following the **controls** referred to in paragraph 1, shortcomings have been detected, **such as the use of an incomplete or ineffective due diligence system to minimise the risk of illegally harvested timber and timber products being placed on the market**, the competent authorities may, **without prejudice to Article 17**, issue



a notice of remedial actions to be taken by the operator.

***Depending on the gravity of the shortcomings detected, the competent authorities may take immediate measures, including inter alia:***

***(a) confiscation of timber and timber products; and***

***(b) temporary prohibition of marketing of timber and timber products.***

***Where the competent authorities have found that the operator failed to implement a due diligence system, the responsible monitoring organisation shall be considered to have failed to carry out its functions in accordance with Article 7(1)(a), (b) and (c) of this Regulation and, as a result, its recognition may be withdrawn in accordance with Article 7(6).***

#### *Justification*

*EP first reading amendment 58. When the competent authority detects that an operator fails to maintain a due diligence system, the responsible monitoring organisation must also be considered to have failed to fulfil its obligations under article 7 (a), (b), (c).*

#### **Amendment 64**

##### **Council position Article 10 – title**

###### *Council position*

Records of ***checks***

###### *Amendment*

Records of ***controls***

#### *Justification*

*EP first reading amendment 59.*

## Amendment 65

### Council position

#### Article 10 – paragraph 1

##### *Council position*

1. The competent authorities shall keep records of the **checks** referred to in Article 9(1), indicating in particular their nature and results, as well as of any notice of remedial actions issued under Article 9(3). Records of all **checks** shall be kept for at least **5 years**.

##### *Amendment*

1. The competent authorities shall keep records of the **controls** referred to in Article 9(1), indicating in particular their nature and results, as well as of any notice of remedial actions issued under Article 9(3). Records of all **controls** shall be kept for at least **10 years**.

##### *Justification*

*EP first reading amendment 60.*

## Amendment 66

### Council position

#### Article 10 – paragraph 2

##### *Council position*

2. The information referred to in paragraph 1 shall be made available to **any applicant** in accordance with Directive 2003/4/EC.

##### *Amendment*

2. The information referred to in paragraph 1 shall be made available to **the public, including via the Internet**, in accordance with Directive 2003/4/EC.

##### *Justification*

*EP first reading amendment 61.*

## Amendment 67

### Council position

#### Article 11 – paragraph 1

##### *Council position*

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

##### *Amendment*

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

with this Regulation.

ensure compliance with this Regulation.

*Justification*

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

**Amendment 68**

**Council position**

**Article 11 – paragraph 2**

*Council position*

2. The competent authorities shall exchange information on serious shortcomings detected through the checks referred to in Articles 7(4) and 9(1) and on the types of penalties imposed in accordance with Article 17 with the competent authorities of other Member States and with the Commission.

*Amendment*

2. The competent authorities shall exchange information on serious shortcomings detected through the checks **and controls** referred to in Articles 7(4) and 9(1), **on infringements** and on the types of penalties imposed in accordance with Article 17 with the competent authorities of other Member States and with the Commission.

*Justification*

*EP first reading amendment 62. Complementing extension of the information exchange by the Council position.*

**Amendment 69**

**Council position**

**Article 11 a (new)**

*Council position*

*Amendment*

**Article 11a**

**Advisory Group**

***1. An Advisory Group shall be established, consisting of representatives of interested stakeholders, including, inter alia, forest-based industry representatives, forest owners, the timber trade, non-governmental organisations (NGOs) and consumer groups, and chaired by a***

*representative of the Commission.*

*2. Representatives of the Member States and of the European Parliament may participate in the meetings of the Advisory Group.*

*3. The Commission shall consult the Advisory Group before taking decisions pursuant to this Regulation.*

*Justification*

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

**Amendment 70**

**Council position  
Article 11 b (new)**

*Council position*

*Amendment*

*Article 11b*

*Technical assistance, guidance and  
exchange of information*

*1. Competent authorities assisted by the Commission shall provide technical and other assistance and guidance to operators, taking into account the situation of small and medium-sized enterprises, in order to facilitate compliance with the requirements of this Regulation, in particular in relation to the implementation of a due diligence system in accordance with Article 5.*

*2. Competent authorities assisted by the Commission shall facilitate the exchange of information on best practices regarding the implementation of this Regulation and make available upon request such information to operators.*

*3. Competent authorities and the Commission shall administer and disseminate information on illegal*

*logging and related trade with a view to assisting operators in assessing systematic risk as set out in Article 5(1)(b).*

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

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

#### *Justification*

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

## **Amendment 71**

### **Council position**

#### **Article 12 – paragraph 1**

##### *Council position*

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

##### *Amendment*

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

*of this Regulation.*

### *Justification*

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

## **Amendment 72**

### **Council position**

#### **Article 13 – paragraph 1**

##### *Council position*

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

##### *Amendment*

1. The powers to adopt the delegated acts referred to in Articles **2(g)**, 5(3), 7(7), **7(8)**, **9(1c)** and 12 shall be conferred on the Commission for a period of seven years following the entry into force of this Regulation. The Commission shall make a report in respect of the delegated powers at the latest three months before the end of a three-year period after the date of application of this Regulation.

## **Amendment 73**

### **Council position**

#### **Article 14 – paragraph 1**

##### *Council position*

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

##### *Amendment*

1. The delegation of power referred to in Articles **2(g)**, 5(3), 7(7), **7(8)**, **9(1c)** and 12 may be revoked ***at any time*** by the European Parliament or by the Council.

## Amendment 74

### Council position

#### Article 14 – paragraph 2

##### *Council position*

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of **power** shall inform the other **legislator** and the Commission **at the latest one month** before the final decision is taken, **stating** the delegated powers which could be subject to revocation and **the** reasons for **the** revocation.

##### *Amendment*

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of **powers** shall **endeavour to** inform the other **institution** and the Commission **within a reasonable time** before the final decision is taken, **indicating** the delegated powers which could be subject to revocation and **possible** reasons for **a** revocation.

## Amendment 75

### Council position

#### Article 15 – paragraph 1

##### *Council position*

1. The European Parliament **and** the Council may object to **the** delegated act within a period of **three** months from the date of notification.

##### *Amendment*

1. The European Parliament **or** the Council may object to **a** delegated act within a period of **two** months from the date of notification. **At the initiative of the European Parliament or the Council this period shall be extended by two months.**

## Amendment 76

### Council position

#### Article 15 – paragraph 2

##### *Council position*

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, **or if, before that date, the European Parliament and the Council have both informed the Commission that they have decided not to raise objections, the delegated act** shall enter into force **at** the date stated **in its**

##### *Amendment*

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, **it shall be published in the Official Journal of the European Union and** shall enter into force **on** the date stated **therein.**

*provisions.*

*The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.*

#### **Amendment 77**

##### **Council position**

##### **Article 15 – paragraph 3**

###### *Council position*

3. If the European Parliament or the Council objects to ***the adopted*** delegated act, the act shall not enter into force. The institution which objects shall state ***its*** reasons for objecting to the delegated act.

###### *Amendment*

3. If the European Parliament or the Council objects to ***a*** delegated act, the act shall not enter into force. The institution which objects shall state ***the*** reasons for objecting to the delegated act.

#### **Amendment 78**

##### **Council position**

##### **Article 16**

###### *Council position*

###### **Article 16**

###### **Committee**

***1. The Commission shall be assisted by the Forest Law Enforcement Governance and Trade (FLEGT) Committee established under Article 11 of Regulation (EC) No 2173/2005.***

***2. 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.***

###### *Amendment*

***deleted***

###### *Justification*

*The reference is redundant as the draft recommendation does not foresee any implementing acts.*



## Amendment 79

### Council position Article 17

#### *Council position*

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

#### *Amendment*

**1.** 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.

**2.** The *administrative* penalties provided for must be effective, proportionate and dissuasive ***and may include, inter alia:***

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

***(b) seizure of the timber and timber products concerned;***

***(c) immediate suspension of authorisation to trade.***

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

### *Justification*

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

### **Amendment 80**

#### **Council position Article 17 a (new)**

*Council position*

*Amendment*

#### **Article 17a**

##### ***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 law<sup>1</sup> is hereby amended, with effect from ...\*, as follows:***

***(1) The following point shall be added to Article 3:***

***"(j) the making available on the market of illegally harvested timber or timber products."***

***(2) The following indent shall be added to Annex A:***

***"– Regulation (EU) No .../2010 of the European Parliament and of the Council of ... laying down the obligations of operators who place timber and timber products on the market."***

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***\*OJ: one year after the date of entry into force of this Regulation.***

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***<sup>1</sup>OJ L 328, 6.12.2008, p. 28.***

### *Justification*

*EP first reading amendment 71. It is necessary that for very serious infringements of the Regulation criminal sanctions be applied, and therefore the Regulation should be included in*

*the scope of the Directive 2008/99/EC.*

## **Amendment 81**

### **Council position**

#### **Article 18 – paragraph 2**

##### *Council position*

2. On the basis of those reports the Commission shall draw up a report to be submitted to the European Parliament and to the Council every two years.

##### *Amendment*

2. On the basis of those reports the Commission shall draw up a report to be submitted to the European Parliament and to the Council every two years. ***In preparing the report, 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 and their contribution to minimising the presence of illegally harvested timber and timber products on the internal market.***

##### *Justification*

*EP first reading amendment 70.*

## **Amendment 82**

### **Council position**

#### **Article 18 – paragraph 2a (new)**

##### *Council position*

##### *Amendment*

***2a. The Commission shall by 30 April 2012 submit a report to the European Parliament and to the Council regarding the introduction of a Union standard for all timber and timber products aimed at achieving the highest sustainability requirements, accompanied, where appropriate, by legislative proposals.***

##### *Justification*

*EP first reading amendment 66. In the longer term, legislation should ensure not only legality, but also sustainability of timber and timber products placed and made available on the EU market.*

## Amendment 83

### Council position

#### Article 18 – paragraph 3

##### *Council position*

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

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

##### *Amendment*

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

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

## Amendment 84

### Council position

#### Article 19 – paragraph 2

##### *Council position*

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

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

##### *Amendment*

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

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

*Justification*

*EP first reading amendment 73.*

**Amendment 85**

**Council position**

**Annex – indent 2 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 86**

**Council position**

**Annex – indent 2 b (new)**

*Council position*

*Amendment*

***- 4405 00 00 Wood wool; wood flour;***

*Justification*

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

**Amendment 87**

**Council position**  
**Annex – indent 13 a (new)**

*Council position*

*Amendment*

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

*Justification*

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

**Amendment 88**

**Council position**  
**Annex – indent 14 a (new)**

*Council position*

*Amendment*

**- 4419 00 Tableware and kitchenware, of wood;**

*Justification*

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

**Amendment 89**

**Council position**  
**Annex – indent 14 b (new)**

*Council position*

*Amendment*

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

### *Justification*

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

#### **Amendment 90**

##### **Council position**

##### **Annex – indent 14 c (new)**

##### *Council position*

##### *Amendment*

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

### *Justification*

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

#### **Amendment 91**

##### **Council position**

##### **Annex – indent 15**

##### *Council position*

##### *Amendment*

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

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

### *Justification*

*EP first reading amendment 74 and 75.*

#### **Amendment 92**

##### **Council position**

##### **Annex – indent 16**

##### *Council position*

##### *Amendment*

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

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

9403 90 30 Wooden furniture;

*Justification*

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

**Amendment 93**

**Council position**

**Annex – indent 17 a (new)**

*Council position*

*Amendment*

***- Other timber products included in Chapters 94 and 95 of the Combined Nomenclature, including wooden toys and sports accessories.***

*Justification*

*EP first reading amendment 74 and 75.*



## EXPLANATORY STATEMENT

Deforestation is occurring at a rate of approximately 13 million hectares per year, is responsible for nearly 20% of global carbon emissions and is a key contributor to biodiversity loss. Illegal logging 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 m<sup>3</sup> per year, representing 20%-40% of global industrial wood production<sup>1</sup>. 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 illegally harvested timber and timber products. It has successfully managed to cease being a market for other illegal products, having recently adopted a Regulation on Illegal, Unregulated and Unreported Fishing and it is now time for effective legislation against illegally harvested timber and timber products to be put in place. This would give important signals:

- to consumers, that timber and timber products they buy have not been illegally harvested;
- to responsible companies, that they will not be undercut by those carrying out destructive practices; and
- to the international community, that the EU is taking seriously its 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 on its own to address the global challenge of 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 and timber products are removed from the EU market.

### Council Position

While welcoming some structural changes made to streamline the text, the Rapporteur regrets the lack of ambition of the Council position. The Council position is considerably weaker than the Parliament's first reading position, which was adopted in April 2009.

The Council position, *inter alia*:

- does not contain a prohibition on trading illegally harvested timber and timber products as introduced by the Parliament;

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

- does not include any obligations on operators beyond those first placing timber or timber products on the internal market;
- narrows the definition of applicable legislation, vis-à-vis that of the Parliament;
- does not specify penalties, or require criminal sanctions for serious infringements;
- introduces a mixed regime for the recognition of monitoring organisations, as opposed to the centralised system adopted by the Parliament;
- does not include any provisions on future labelling and development of sustainability requirements;
- foresees that the regulation should apply only 30 months after its entry into force whereas the Parliament had voted for 12 months;

In order to strengthen the draft regulation to meet the objective of preventing the marketing of illegally harvested timber and timber products on the EU internal market, the Rapporteur has re-tabled many of the key points from Parliament's first reading. These are outlined in detail below.

## **Prohibition**

Most fundamentally, the Regulation, as foreseen by the Council, does not actually prohibit the import and sale of illegally logged timber. It therefore fails to address *"the weak rules to prevent trade in illegally harvested timber"*<sup>1</sup> cited by the Commission proposal as the starting point for why illegal logging is so endemic. The revised US Lacey Act, adopted in May 2008, does enact such a prohibition, so a precedent is already in place. There is no good reason why the EU cannot emulate this, and indeed go further.

The Rapporteur thus re-proposes an explicit statement of the requirement that operators shall not place or make available on the market illegally harvested timber or timber products. A due diligence system, without this overriding prohibition on the marketing of illegally harvested timber, places administrative burdens on operators without guaranteeing effectiveness in achieving the overall aim.

## **Scope of due diligence and legality requirements**

The Rapporteur adds back into the draft regulation the distinction between operators who *"place on the market"* timber and 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 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

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<sup>1</sup> 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

prohibition against making illegally harvested timber and timber products available on the market, and should exercise due care to this effect. The possibility of prosecution for trading illegally harvested 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*"<sup>1</sup>, 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 indigenous and forest-dependent communities. The Regulation can be a vehicle for helping to implement the provisions contained in these agreements.

For this reason, the Rapporteur has broadened the Council's definition of 'applicable legislation' in Article 2, and added back some of the content from the Parliament's first reading.

### **Penalties**

The Rapporteur strongly believes that it is necessary to give guidance on penalties to Member States to ensure consistency in the application of the Regulation. Whilst the entry into force of the Lisbon Treaty has given the Parliament even more scope for specifying levels of penalties, the Rapporteur has opted for just reintroducing the main content of Parliament's first reading on this issue.

### **Exemption for recycled products and negligible risk**

The Council introduces an exemption for recycled products from the scope of the regulation. The Rapporteur feels that the definition is not very clear, and believes that the wording could introduce potential loopholes into the draft regulation. She has therefore deleted this exemption.

The Council also introduces a concept of 'negligible risk' that would justify the operator not taking risk mitigation measures in certain cases. The Rapporteur believes, that without a clear

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<sup>1</sup> EU FLEGT Action Plan (COM(2003)251)

definition, the introduction of this concept could lead to a wide variation of interpretations which could undermine the effectiveness of the due diligence system. She has therefore deleted the reference to 'negligible risk'.

### **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 should be made at EU rather than national level. Centralised accreditation and clear criteria in the Regulation would ensure uniform and transparent application, and reduce administrative complexity for organisations operating in more than one Member State. For this reason, the Rapporteur has reverted to the Parliament's first reading position on this issue.

### **Delegated acts**

Finally, the Rapporteur believes it is important to give the Commission authority to adopt delegated acts regarding, inter alia, details of due diligence systems, controls and checks and labelling, but that, at the same time, it is important that the Parliament introduces guidance on the aims of such acts. For the wording of the practical provisions, the Rapporteur suggests the wording adopted in the de Brun Report on pet passports.

## PROCEDURE

<b>Title</b>	The obligations of operators who place timber and timber products on the market
<b>References</b>	05885/4/2010 – C7-0053/2010 – 2008/0198(COD)
<b>Date of Parliament's first reading – P number</b>	22.4.2009                      T6-0225/2009
<b>Commission proposal</b>	COM(2008)0644 - C6-0373/2008
<b>Date receipt of common position announced in plenary</b>	11.3.2010
<b>Committee responsible</b> Date announced in plenary	ENVI 11.3.2010
<b>Rapporteur(s)</b> Date appointed	Caroline Lucas 24.11.2008
<b>Discussed in committee</b>	6.4.2010
<b>Date adopted</b>	4.5.2010
<b>Result of final vote</b>	+:                      49 –:                      6 0:                      2
<b>Members present for the final vote</b>	János Áder, Elena Oana Antonescu, Kriton Arsenis, Pilar Ayuso, Paolo Bartolozzi, Sandrine Bélier, Sergio Berlato, Martin Callanan, Nessa Childers, Chris Davies, Esther de Lange, Bas Eickhout, Karl-Heinz Florenz, Elisabetta Gardini, Gerben-Jan Gerbrandy, Julie Girling, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Karin Kadenbach, Christa Klač, Jo Leinen, Corinne Lepage, Peter Liese, Kartika Tamara Liotard, Radvilė Morkūnaitė-Mikulėnienė, Miroslav Ouzký, Vladko Todorov Panayotov, Gilles Pargneaux, Andres Perello Rodriguez, Sirpa Pietikäinen, Mario Pirillo, Pavel Poc, Vittorio Prodi, Frédérique Ries, Anna Rosbach, Oreste Rossi, Daciana Octavia Sărbu, Horst Schnellhardt, Richard Seeber, Theodoros Skylakakis, Catherine Soullie, Anja Weisgerber, Glenis Willmott, Sabine Wils
<b>Substitute(s) present for the final vote</b>	Christofer Fjellner, Matthias Groote, Jiří Maštálka, Miroslav Mikolášik, Bill Newton Dunn, Bart Staes, Michail Tremopoulos, Thomas Ulmer, Marita Ulvskog, Elżbieta Katarzyna Łukacijewska
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	George Sabin Cutaş, Francesco Enrico Speroni