



CHATHAM HOUSE

Chatham House, 10 St James's Square, London SW1Y 4LE

T: +44 (0)20 7957 5700 E: [contact@chathamhouse.org](mailto:contact@chathamhouse.org)

F: +44 (0)20 7957 5710 [www.chathamhouse.org](http://www.chathamhouse.org)

Charity Registration Number: 208223

**Energy, Environment and Resources EER PP 2014/09**

# Certified Products and EUTR Compliance in the Furniture Sector

Jade Saunders

Chatham House

April 2014

The views expressed in this document are the sole responsibility of the author(s) and do not necessarily reflect the view of Chatham House, its staff, associates or Council. Chatham House is independent and owes no allegiance to any government or to any political body. It does not take institutional positions on policy issues. This document is issued on the understanding that if any extract is used, the author(s)/ speaker(s) and Chatham House should be credited, preferably with the date of the publication or details of the event. Where this document refers to or reports statements made by speakers at an event every effort has been made to provide a fair representation of their views and opinions, but the ultimate responsibility for accuracy lies with this document's author(s). The published text of speeches and presentations may differ from delivery.

## INTRODUCTION

This paper explores the extent to which companies seeking to exercise robust due diligence under the EU Timber Regulation<sup>1</sup>, which entered into force in March 2013, can rely on certification schemes run by the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC). The main focus of this paper is furniture imports.

Several commentators have argued that it is more challenging to implement the EUTR in the furniture sector than in any other forest-product sector. The wood content of furniture can be extremely complex: a single piece of furniture commonly comprises composite and reconstituted sections that can have various veneers and make use of different types of timber, a large proportion of which may be off-cuts from numerous species and sources. Moreover, much of the wood content of furniture can be hidden, particularly in upholstered products, which makes identification and validation even more difficult. No less important, analysis of trade data shows that the proportion of furniture products imported from countries in Asia (notably China and Vietnam), where the risk of illegal wood entering supply chains appears relatively high, has been growing in recent years.<sup>2</sup>

Given the specific challenges of the sector, it seems likely that effective, non-discriminatory implementation of the EUTR with respect to regulated furniture products will be almost entirely dependent on private sector efforts to develop robust internal supply-chain controls. These controls must be able to identify the source of the products in question and provide the information necessary for operators to exercise credible due diligence. It is expected that in many cases, those controls will incorporate – and rely heavily on – existing third-party certification schemes.

The EUTR applies to a wide range of wood and wood products – whether domestically produced or imported. It aims to provide broad market incentives for legal forest operators globally by imposing three key requirements:

- Illegally harvested timber and products derived from such timber must not be placed on the EU market for the first time.
- Operators – that is, those who place timber products on the EU market for the first time – must exercise due diligence and be able to demonstrate that they have done so.
- Traders – that is, those who buy or sell timber and timber products already placed on the EU market – must keep a record of their suppliers and customers so that timber can be easily traced throughout the European part of relevant product supply chains.

According to the EUTR, a credible due-diligence system entails:

- *Information gathering:* The type of information that must be recorded includes details of the product and supplier, the country of harvest and compliance with applicable legislation.
- *Risk assessment:* Operators are required to follow assessment procedures that take into account information gathered about the product as well as broader relevant risk criteria – such as the incidence of illegal harvesting in the country of harvest, the complexity of a given supply chain or the availability of appropriate third-party certification and verification schemes.
- *Risk mitigation:* If risk assessment suggests there is a risk that the product contains illegally harvested timber, mitigation procedures must be put in place.

The regulation notes that all three components of the due-diligence system should be ‘adequate and proportionate’ to the risk of illegal wood entering the product supply chain in question.

---

<sup>1</sup> Regulation (EU) No 995/2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R0995:EN:NOT>  
<sup>2</sup> Oliver, R. (2013): *The Import of Composite Wood Products into the EU and Implications for the EU Timber Regulation – Furniture Sector Focus*, <http://www.chathamhouse.org/sites/default/files/public/Research/Energy,%20Environment%20and%20Development/12130IiverPP.pdf>.

## THE EUTR AND THE FURNITURE SECTOR

In recognition of the implementation and enforcement challenges of the sector, the EUTR does not apply to all furniture products – for the time being at least.

The furniture products regulated by the EUTR are classified by their customs harmonized system code. They currently include:

- 9403 30 – Wooden furniture of a kind used in offices,
- 9403 40 – Wooden furniture of a kind used in the kitchen,
- 9403 50 00 – Wooden furniture of a kind used in the bedroom,
- 9403 60 – Other types of wooden furniture, and
- 9403 90 30 – Furniture parts of wood.

The following products are exempt from the regulation and expected to remain exempt at least until the review of the EUTR scheduled for 2015:

- 9401 – Wooden seats,
- 9402 – Medical, surgical, dental or veterinary furniture,
- 9403 10 – Metal furniture of a kind used in offices [and containing wooden parts],
- 9403 80 00 – Furniture of other materials, including cane, osier, bamboo or similar materials, and
- 9403 90 – Furniture parts

Furniture frequently falls under the broader category of composite wood products and, as such, is the subject of specific, but not legally binding, European Commission (EC) guidance.<sup>3</sup> That guidance recognizes the challenges posed by furniture products but insists that the requirements of the regulation must be met. It states:

When fulfilling th[e] ‘access to information’ obligation for composite products or products with a composite wood-based component, the operator needs to get information on all virgin material in the mix, including the species, the location where each component was harvested, and the legality of origin of those components. It is often difficult to identify the precise origin of all components of composite timber products. This is especially true for reconstituted products such as paper, fibre-board and particle board, where identifying species may also be difficult.

The guidance also recognizes that the species mix involved in the production of any composite item may be very wide and vary over time: ‘If the species of wood used to produce the product varies, the operator will have to provide a list of each species of wood that may have been used to produce the wood product.’

With respect to components assessed as deriving from a country or belonging to a species category that poses negligible risk, the guidance suggests that relatively broad product, source and species data are acceptable, although it does not state this explicitly and relies on examples (including the concession of harvest identified as ‘multiple private forest owners’). However, if there is any risk of illegally harvested material entering the supply chain, more detailed information is considered to be necessary, including on specific species and, notably, the concession of harvest.

---

<sup>3</sup> European Commission, (2013): Guidance Document for the EU Timber Regulation, [http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc\\_151282.pdf](http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151282.pdf).

The European Timber Trade Federation has proposed that, in order to assess risk adequately, a wide range of factors be taken into account, including:<sup>4</sup>

- a) Complexity of supply chains,
- b) Evidence of non-enforcement,
- c) Known cases of illegal activities,
- d) Known corruption,
- e) Information about source,
- f) Lack of supply-chain control,
- g) Lack of transparency,
- h) Poor quality information,
- i) Tree species, and
- j) Unreliable documentation

Clearly, the furniture sector raises a red flag with regard to the complexity of supply chains (point a) above). But the identification of species and source country should allow operators in this sector to take into account national governance issues such as those listed as b), c) and d) above, while an examination of specific supply chains would allow for an assessment of f), g), h) and j).

---

<sup>4</sup> 'Comparison of New Laws in the Global Market', PowerPoint presentation by Rachel Butler, independent technical adviser to the European Timber Trade Federation, 2013.

## CERTIFICATION AND THE FURNITURE SECTOR

### Certification schemes in the EUTR

The regulation sets the minimum requirements that a certification scheme must meet in order to serve to demonstrate compliance with one or all of the three components of a credible due-diligence system listed below.

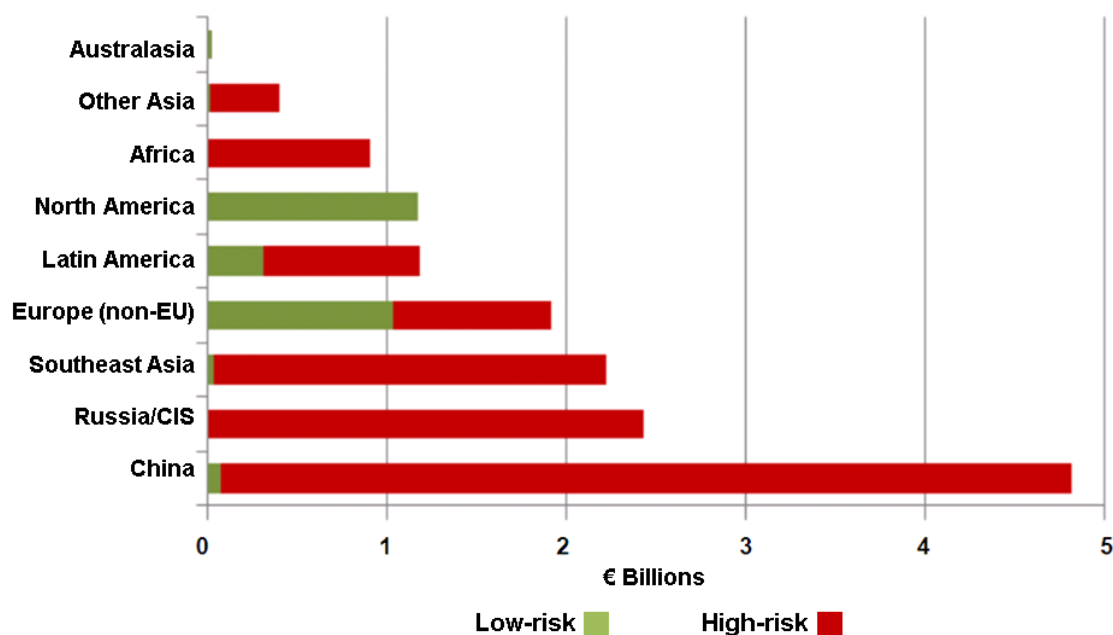
- A publicly available system of requirements that, at a minimum, includes all relevant requirements of applicable legislation (including on the management of forests, the harvest of timber, timber transportation and trade related to the forest sector).
- Appropriate checks, including field visits at least once every 12 months by an independent third party.
- The means, verified by an independent third party, to trace timber and timber products at any point in the supply chain before a product is placed on the EU market.
- Controls, verified by an independent third party, to ensure that no illegal timber or timber of unknown origin enters the supply chain.

The aim of the above criteria is to assess the capacity of any given scheme to demonstrate compliance with the three due-diligence requirements of the EUTR. Both the FSC and PEFC meet those criteria.

### Certification in ‘high-risk’ furniture supply chains

A brief review of ‘chain of custody’ (CoC) certificates issued to furniture manufacturers suggests that in ‘high-risk’ countries, where the value of timber exports is high (see Figure 1), there is currently very limited use of such certificates for PEFC. This means that in the short term the nature and robustness of this scheme have less relative importance for the question of EUTR compliance in relation to furniture imports from such countries. However, with significant collaboration in China imminent – not least through the PEFC’s formal endorsement of the China Forest Certification Council – the scheme is likely to be increasingly used as a tool for compliance.

**Figure 1: EU-27 value of timber imports from high- and low-risk countries by region in 2011**



*Includes all products in CN44 (wood) and all wood products in CN94 (furniture).*

*Source: FII Ltd/European TTF analysis of Eurostat and CPI data undertaken in February 2013 from a PowerPoint presentation by Canby, K & Oliver, R., (2013): Trade flows, Illegality Hot-Spots and Data Monitoring, <http://www.illegal-logging.info/sites/default/files/uploads/CanbyOliver.pdf>*

*Note: In the absence of any consensus on a more appropriate methodology, this chart incorporates countries that score less than 50 on the Corruptions Perspective Index as posing a high risk of illegal logging or imports. It is based on FII Ltd/European TTF analysis of Eurostat and CPI data undertaken in February 2013.*

By contrast, a relatively large number of CoC certificates have been issued – in decreasing order of magnitude – in China, Vietnam and Japan, according to the FSC Global Certificate Register. There are smaller numbers of CoC-certified companies in India, Hong Kong, Indonesia and Taiwan, and just a handful of such companies in Malaysia, Thailand and Singapore.

However, CoC certification relates only to the right and capacity of a company to handle certified raw materials and/or products. Thus the encouraging number of CoC-certified companies gives no information on how much the companies in question actually trade in certified materials/products. Only products with a verified product claim can be considered to have been produced under the requirements of the certification scheme. Some CoC-certified companies may not trade in such products at all (see below). But at the same time, the CoC certification figures do highlight the relative importance of the FSC system in the furniture sector's use of existing certification schemes to achieve EUTR compliance in the short to medium term.

## Certificate fraud

A degree of fraud is inevitable in any system. In the case of certification, fraudulent activity can take place both within the scheme (e.g., the mislabelling of products or the misleading of auditors by companies that are certified) and outside it (e.g., the misuse of the scheme logo by companies that have neither a certificate nor a trademark licence). Risks associated with both 'internal' and 'external' fraud should be taken into account by operators striving for effective due diligence.

### *'Internal' fraud*

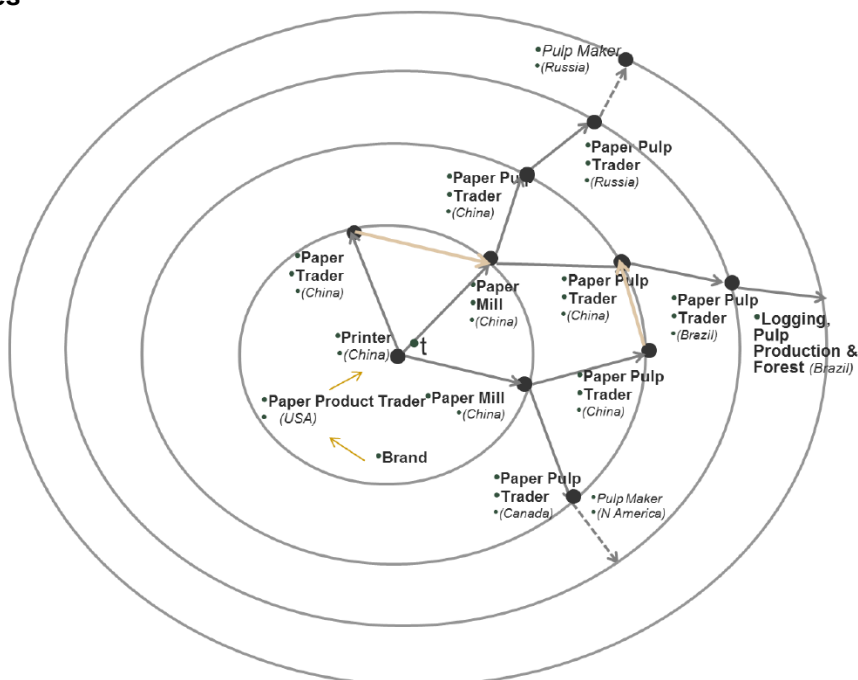
The internal governance of certification schemes and auditing partners is critical for the sustained credibility of any scheme. While all private-sector/voluntary supply-chain control systems face challenges related to effective self-regulation, there appear to have been conflicts of interest involving both standard-setting bodies and accredited auditors, although the impact of such conflicts on products is difficult to assess. The level of independent oversight is relatively low, given the degree of validation that such oversight is generally expected to confer on a supply chain. Moreover, the quality of auditors varies widely from scheme to scheme. However, efforts to establish 'demand-side' measures that give preferential access to demonstrably legal products have significantly increased the potential for conflicts of interest (EUTR, public procurement etc.) and hence the incentive to engage in fraudulent activity. In both the FSC and PEFC systems, CoC audits are to take place at least once a year; but additional audits can be undertaken when a certification body deems it necessary in order to attest to the validity of certified claims in a reliable and robust manner. In the FSC system, the supervising entity for certification bodies – Accreditation Services International (ASI) – can order additional audits too and undertake them itself.

Maintaining the credibility of existing schemes requires internal governance as well as transparency and internal oversight to be constantly reviewed. If systems are not robustly policed and if the purchase of certified products is accepted as *de facto* compliant with the EUTR (that is, no broad risk assessment is undertaken with respect to fraud etc.), the incentive for abuse in high-risk countries will increase. Given this, it will be necessary for all concerned parties (certification schemes, operators relying on them in order to comply with EUTR requirements and competent authorities) to acknowledge and seek to mitigate risks to the credibility of the schemes.

**Box 1: The FSC online claims platform**

The FSC is currently developing an online claims platform (OCP), a cloud-based internet platform that will record all FSC claims and related purchasing. The OCP will require certificate holders to enter into the system data on any purchases and/or sales of FSC products, including invoice number, invoice date, FSC claim (e.g., FSC 70%), quantity and units. 'Product type' is optional, while 'country of harvest' and 'species' are required only when the wood is purchased from the source (a [certified] forester or harvester) or from a supplier introducing controlled wood into the chain. The system provides access to information on species and country of harvest. In addition, since the OCP will record all products with FSC claims, it will also provide information on 'all possible countries of harvest' and 'all possible species', which is particularly relevant for such complex products as furniture (see Figure 2). Finally, it will be possible for ASI (which oversees the certification bodies) to trace materials back to the forest source in the event of a claim being challenged.

**Figure 2: 'Logical Source' map showing geographical origin, species information, and trade routes**



Source: Presentation by Crumley, E. (FSC) and Warrick, S. (HF) (2012), 'FSC Online Claims Platform: OCP Overview'.

It is clear that the OCP will significantly increase the level of control within the FSC system, protect it against internal fraud and misunderstandings and potentially improve transparency. However, industry members of the FSC – only a small number of which are subject to the EUTR operator requirements – are concerned about the increased administrative workload, data security and various other technical and legal issues.

From 1 April 2014 the OCP will be open for registration to all certificate holders who want to take part in a trial period. If the trial proves successful and consultations with all stakeholders are concluded, the FSC board of directors will decide whether to make registration with the OCP mandatory for all certificate holders later this year. If they decide in favour of doing so, certificate holders will have to register with the OCP within six months of notification of that decision.

Source: FSC, 2013.

### *'External' fraud*

There are, of course, no data available from auditors on the extent of the wholly fraudulent 'certified' labelling of forest products by companies that are not CoC-certified. However, it is believed that such claims are made. What data are available from auditors suggest that China is disproportionately affected by such activity as regards a wide range of standards (e.g., ISO 9000 and copyrighted brands). The extent to which the certification schemes themselves can be held accountable for such fraud is limited. Companies purchasing fraudulently certified material must be assumed to be failing to undertake appropriate due diligence, given that the certification schemes provide systems and guidance to verify the validity of product claims.

## **CERTIFICATION AND EUTR DUE DILIGENCE**

Initial feedback from enforcement officers indicates that operators are misjudging the extent of the role that certification schemes can play in information-gathering and risk assessment. Operators have commonly sourced certified products on the assumption that they pose a 'negligible risk' of illegal harvesting. This happens even when the materials used in those products originate from countries in which widespread illegal harvesting and other governance factors point to the necessity of gathering additional information both before and during the purchase of those products. Operators should undertake a broad risk assessment of a given supply chain in order to establish the level of risk mitigation required before considering the role of certification.

### **Information gathering**

The EUTR regards the gathering of information about a given supply chain as the main pillar of effective due diligence: it is on the basis of that information that the risk of buying illegal products can be assessed. The type of information that must be recorded includes details of the product and supplier, the country of harvest and compliance with applicable legislation. However, it is unclear whether all such information is to be collected and/or assessed at the same time. Indeed, it is reasonable to assume that *primary* risk assessment can be based on general information about a supply chain and that information relating to compliance with applicable forestry legislation can be assessed at a later stage of the due-diligence process.

As discussed earlier, existing certification schemes have not been designed to identify the forest(s) or national/sub-national origin of all the wood contained in a particular product, let alone individual concessions. Rather, they use CoC controls to ensure that the mix of wood raw materials contained in any given product derives from forests that meet the certification standard – regardless of the forests' geographical location – as applied in all countries covered by the schemes. Yet while EUTR guidance suggests that broad risk assessment conducted 'under certification guidelines' is acceptable in some cases, concession-level information on any product derived from a country of origin or species not considered to be of negligible risk is necessary if the requirements to assess and mitigate risk adequately and proportionately are to be met.

This suggests that for low-risk countries, the level of information automatically made available to an operator through a certified supply chain for composite products is sufficient for adequate and proportionate risk assessment. However, for high-risk countries and species, additional information is likely to be necessary in order to satisfy the requirement for robust due diligence on the part of the operator. In 2013 the FSC established a requirement whereby certified suppliers are to assist purchasers in collecting additional information.<sup>5</sup> Although such assistance is relatively new,

---

<sup>5</sup> FSC Advice Note 40-004-10 refers to the EUTR requirement for tree species and origin information. It states that FSC certificate holders are to provide information on species and origin of timber to their clients upon request. If they do not possess such information, the request is to be passed on to upstream certified suppliers until that information has been obtained.



anecdotal evidence from auditors suggests that suppliers are beginning to appreciate the value of providing information; however, it should be noted that the information provided is not independently verified or audited and that requests for information will have to be granted before orders are placed if the information on species and origin is to be used for primary risk assessment. For its part, the PEFC has incorporated the gathering and provision of additional supply chain information into its 2013 standard – including information at the sub-regional and concession level (Clause 5.2.1). But the same verification and auditing limitations are likely to apply; and the new standard has yet to be tested in practice.

However, if the product is purchased in line with relevant guidance and if the veracity of certification is established beyond reasonable doubt, it is reasonable to assume that, combined, forest management certification and independently audited CoC certificates replace the requirement for collecting detailed evidence of compliance with all applicable forestry legislation.

Another compliance challenge is that under the EUTR and its guidance, a due-diligence system remains credible only if the list of possible species for each product is reviewed at intervals not exceeding 12 months. It is unclear whether certification schemes relying on CoC procedures to manage wood through multiple hands in complex supply chains have the capacity to collate this information and make it available to operators in a timely manner – not least when there is a change in the species mix or region/sub-region of origin. However under the FSC system, operators will be able to update such data regularly through additional information received from the supplier (under FSC Advice Note 40-004-10) and, if made mandatory, through the OCP.

**Table I: Extent to which EUTR information requirements can be met through FSC and PEFC CoC standards<sup>6</sup>**

EUTR requirement	FSC	PEFC
The operator shall provide access to information with regard to:	Does the CoC system provide for the required information to be passed on?	
<ul style="list-style-type: none"> <li>• Type of product and species of wood used</li> </ul>	<p><i>CoC standard (2.1.1):</i> The organization shall maintain an up-to-date and publicly available FSC product group list with [information on][...] species, including scientific and common names used as inputs to the product group, if information on species composition is commonly used to designate the product characteristics</p> <p><i>CoC standard (6.1.1):</i> The type of product shall be specified on sales and delivery documents</p> <p><i>FSC Advice Note 40-004-10:</i> Information on species shall be provided upon request</p>	<p><i>CoC standard (5.2.1):</i> The organization shall have access to information on identification of the material/product, including by trade name and type</p> <p><i>CoC standard (5.2.1):</i> The organization shall have access to information on identification of tree species included in material/product by common name and/or scientific name where applicable</p> <p><i>CoC standard (7.2.1):</i> Shipping documents shall include identification of product(s)</p>
<ul style="list-style-type: none"> <li>• Origin of harvest</li> </ul>	<p><i>CoC standard (6.1.1):</i> The organization is not required to provide information on the origin</p> <p><i>FSC Advice Note 40-004-10:</i> Information</p>	<p><i>CoC standard (5.2.1):</i> The organization shall have access to information on country of harvest of the material and where</p>

<sup>6</sup> Table prepared by Gunther Hentschel.

	<p>on the origin shall be provided upon request</p> <p><i>OCP (when operational):</i> Information on all countries of harvest and species from which the relevant product is derived is to be made accessible to the operator</p>	<p>applicable sub-national region and/or concession of harvest</p>
<ul style="list-style-type: none"> <li>Quantity</li> </ul>	<p><i>CoC standard (6.1.1):</i> The quantity of the products sold shall be included in all sales and delivery documents</p>	<p><i>CoC standard (7.2.1):</i> Shipping documents shall include quantity of delivery for each product included in the documentation</p>
<ul style="list-style-type: none"> <li>Name and address of the trader to whom the timber and timber products have been supplied</li> </ul>	<p><i>CoC standard (6.1.1):</i> The name and address of the customer shall be included in all sales and delivery documents</p>	<p><i>CoC standard (7.2.1):</i> Shipping documents shall include customer identification</p>
<ul style="list-style-type: none"> <li>Documents or other information indicating compliance with the applicable legislation</li> </ul>	-	-
<p>The operator shall risk-assess the information in the context of applicable legislation on:</p>	<p>Does the CoC system provide for the required information to be passed on?</p>	
<ul style="list-style-type: none"> <li>Rights to harvest timber within legally gazetted boundaries</li> </ul>	<p>No requirement to pass on any information other than the certified claim (e.g., FSC 100%) and CoC code of the vendor</p>	<p>No requirement to pass on any information other than the certified claim (e.g., PEFC 100%) and CoC code of the vendor</p>
<ul style="list-style-type: none"> <li>Payments for harvest rights and timber, including duties related to timber harvesting</li> </ul>		
<ul style="list-style-type: none"> <li>Timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting</li> </ul>		
<ul style="list-style-type: none"> <li>Third-party legal rights concerning use and tenure that are affected by timber harvesting</li> </ul>		

<ul style="list-style-type: none"> <li>• Third-party legal rights concerning use and tenure that are affected by timber harvesting</li> </ul>		
<ul style="list-style-type: none"> <li>• Trade and customs, in so far as the forest sector is concerned</li> </ul>	<p><i>FSC Advice Note 40-004-10:</i> Proof of compliance with relevant trade and customs laws shall be provided upon request</p> <p><i>FSC Advice Note 40-004-11:</i> Exporters and importers shall have procedures in place to ensure compliance with all applicable trade and customs laws</p>	

### Risk assessment

The EUTR requires operators to establish risk-assessment procedures that take into account, *inter alia*, the availability or otherwise of certification schemes. This suggests that such schemes cannot assume responsibility for risk assessment; rather, there is a risk differential between certified and non-certified products for different supply chains and source countries that operators are required to acknowledge by taking into account factors such as the incidence of illegal logging and/or imports in a given country or in relation to a given species.

### Risk mitigation

In supply chains deemed to pose a risk of illegal forest products being purchased, a decision to purchase certified products can be used as evidence of risk mitigation as long as the purchase has been undertaken in line with all relevant scheme requirements and guidance and the veracity of the product claim established.

Ultimately, however, it is the responsibility of the operator – under both the prohibition clause of the regulation and the requirement to exercise credible due diligence – to establish the legality of the product. It is therefore of crucial importance that operators who purchase certified products do so in an informed manner and with appropriate caution in the context of a broad primary assessment of the risk of ‘internal’ and ‘external’ fraud.

## CHALLENGES

### Percentage claims

Percentage claims have been developed by several certification schemes, most notably those of the FSC, the PEFC and the Sustainable Forestry Initiative (SFI), to accommodate complex supply chains for composite products such as furniture. Those schemes allow certified materials to be mixed with other sources of wood that have already been screened against various 'controversial wood' risk-assessment criteria – including illegal harvesting. Only wood that can be positively demonstrated to be low-risk against all the criteria included in the relevant standard can be used in the labelled product. Anecdotal evidence suggests that some risk assessments undertaken by companies do not cover the full set of criteria, although whether they have explicitly and consistently failed to identify illegal wood remains contested. The most recent PEFC scheme includes the option of 'supplies verified by governmental or non-governmental verification or licensing schemes'. This could suggest a weakness of the scheme, although no critical review of the types of validation and/or evidence accepted for these types of wood has yet to be undertaken.

In response to stakeholder concerns, the FSC is currently withdrawing the option of 'self-assessment' and, in its stead, providing national risk assessments. This process will be completed by the end of 2014, and where these assessments already exist they are being used. Until these are all in place, an assessment can still be undertaken by the (certified) company concerned and the level of scrutiny of such an assessment may vary significantly depending on the resources available to the company and the national risk assessment context. If the product includes any element of non-screened wood, no certification claim should be made – even for the proportion of wood that does have its origin in a certified forest.

The diagrams in Figure 3 show how the FSC standards for transfer, percentage claim and volume credit systems are to be applied. Similar standards exist in other schemes with these labelling options.


The option of an even more abstracted 'volume credit' system in some CoC standards takes this physical separation between forest of origin and the operator a step further.<sup>7</sup> Certified manufacturers using this system can calculate – on the basis of a mix of certified and controlled wood – the proportion of certified credit in the total and sell an equivalent proportion of output with a 'mixed credit' claim. Clearly, if the controlled wood assessment system is robust, it will establish the legality of a product; however, there is still a broken link between the supply chain information required for due diligence under the EUTR and the product in question.

As regards risk assessment and mitigation, percentage claims are not intrinsically at odds with the core requirements of the EUTR since neither the regulation itself nor the supporting legislation and guidance refer to any obligation on the part of the operator to identify the precise percentage mix of species in a composite product. Rather, the operator must list all species that may be contained in the product – regardless of the precise proportions. However, in the context of the broader documentation and objectives of the EUTR, it should be assumed that greater precision with respect to the proportion of each species in a composite product is key to assessing and mitigating – in an 'adequate and proportionate' manner – the risk of illegal wood entering the supply chain.

---

<sup>7</sup> Industry analysts suggest that the credit system is mainly used by raw material processors, who usually have only a small number of (forest product) suppliers, limiting the information required on origins of harvest and species. The percentage system is mostly used by downstream companies in the supply chain, including furniture manufacturers, where inputs from more diverse suppliers and species are being combined. This means that users of the percentage system are likely to have much longer lists of possible countries of harvest and species than are credit system users.

**Figure 3: FSC Standard for Chain of Custody Certification**



Forest Stewardship Council®

**FSC information material about the application of the transfer, percentage and credit system based on the FSC-STD-40-004 V2-1 FSC Standard for Chain of Custody Certification (non-normative)**

[This document reflects standards interpretations published after the publication of FSC-STD-40-004 V2-1].


The following graphics explain the basic functionality of the various Chain of Custody systems for controlling FSC claims [see Sections 7–9 of the FSC-STD 40-004 V2-1 EN] by means of production scenarios with differing inputs:

Inputs	Outputs
● = FSC input: 'FSC 100%'	■ = 'FSC 100%'
◐ = FSC input: 'FSC Mix 70%'	◑ = 'FSC Mix' with percentage or credit claim
○ = FSC Controlled Wood input	□ = 'FSC Controlled Wood' claim

**1. Transfer system**

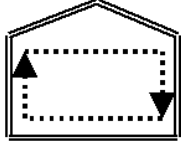
Under the transfer system the material category and associated claim with the lowest FSC input (for inputs of virgin material), FSC Controlled Wood input<sup>1</sup> or post-consumer input (for inputs of reclaimed material) per input volume has to be identified.

Scenario A: Material input with a single FSC claim




"FSC 100%"

→




→



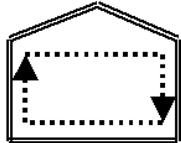
"FSC 100%"  
⇒ eligible for labelling

The transfer system is particularly useful in cases where only a single material input is used as e.g. in the case of 'FSC 100%' product groups. In these cases the input claim is simply transferred to the output.


Scenario B: Inputs with different FSC claims



→



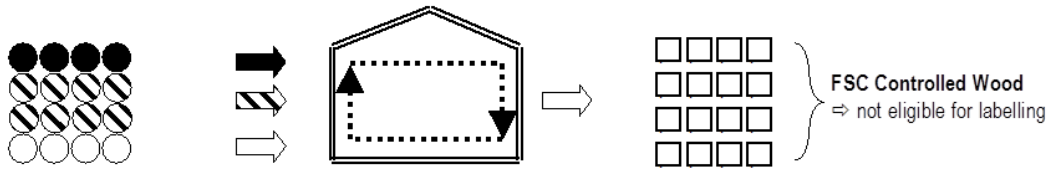
→



"FSC Mix 70%"  
⇒ eligible for labelling

In the second example a mixture of 'FSC 100%' and 'FSC Mix 70%' material input is used. In this case the material category with the lowest FSC input per input volume is 'FSC Mix 70%' which therefore can be transferred as applicable FSC claim for the output. This scenario is applicable for users who are either unable or do not want to calculate the exact FSC input to their production but only want to ensure a certain minimum FSC claim for their outputs.

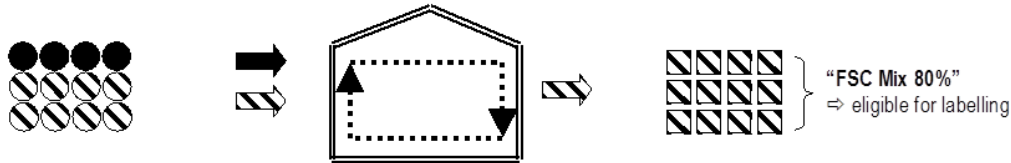
**Scenario C: Inputs with different FSC claims, including FSC Controlled Wood**



**2. Percentage system**

Under the percentage system all outputs can be sold with a percentage claim that corresponds to the proportion of FSC input and post-consumer input compared to the total input.

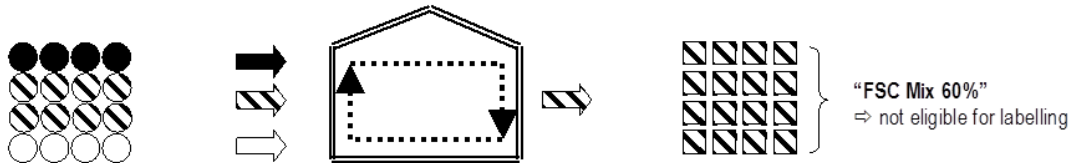
**Scenario B: Inputs with different FSC claims**



The FSC claim for the output is calculated as follows:

$$\left. \begin{array}{l} 4 \text{ units with FSC input of } 100\% \\ 8 \text{ units with FSC input of } 70\% \end{array} \right\} \frac{(4 \times 100\%) + (8 \times 70\%)}{4 + 8} \times 100\% = \frac{4 + 5.6}{12} \times 100\% = 80\%$$

**Scenario C: Inputs with different FSC claims, including FSC Controlled Wood**



The FSC claim for the output is calculated as follows:

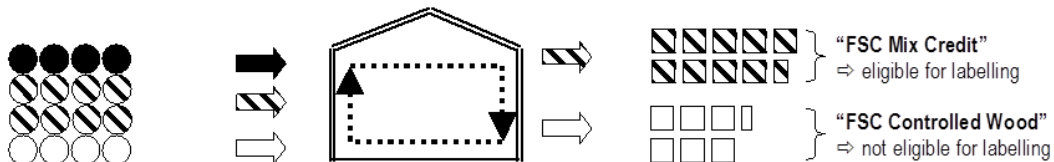
$$\left. \begin{array}{l} 4 \text{ units with FSC input of } 100\% \\ 8 \text{ units with FSC input of } 70\% \\ 4 \text{ units FSC Controlled Wood} \end{array} \right\} \frac{(4 \times 100\%) + (8 \times 70\%)}{4 + 8 + 4} \times 100\% = \frac{4 + 5.6}{16} \times 100\% = 60\%$$

**3. Credit system**

Under the credit system a proportion of the outputs can be sold with a credit claim corresponding to the quantity of FSC input and/or post-consumer inputs. FSC inputs and post-consumer inputs can also be accumulated as FSC credit on a credit account. The remainder of the output can be sold as 'FSC Controlled Wood'.

**Scenario C: Inputs with different FSC claims and without FSC claims**

NOTE: The credit system could also be applied to scenario B, above.



The number of output units which can be sold with an 'FSC Mix Credit' claim is calculated as follows:

$$\left. \begin{array}{l} 4 \text{ units with FSC input of } 100\% \\ 8 \text{ units with FSC input of } 70\% \\ 4 \text{ units FSC Controlled Wood} \end{array} \right\} \begin{array}{l} (4 \times 100\%) + (8 \times 70\%) \text{ units} = 4 + 5.6 \text{ units} = \mathbf{9.6 \text{ units}} \\ \text{The remainder of } \mathbf{6.4 \text{ units}} \text{ can be sold as 'FSC Controlled Wood'}. \end{array}$$

Source: FSC, (2011): 'FSC Standard for Chain of Custody Certification', Annex 1, <https://ic.fsc.org/types-of-chain-of-custody-certificates.117.htm>.

## Buyer confusion

Although the FSC and PEFC schemes have both made efforts to clarify the process by which a credible certified product should be purchased and any claim made on the invoice or product correctly interpreted, substantial anecdotal evidence from the EUTR-competent authorities as well as from auditors and industry commentators suggests significant confusion remains about the nature and scope of different claims and the steps necessary to avoid purchasing fraudulent certified products. Clearly under the EUTR, the responsibility for knowing what is being purchased lies ultimately with the operator; but at the same time, the competent authorities and monitoring organizations have a responsibility to send consistent messages about what constitutes a credible certification claim and the risks and benefits associated with purchasing certified products from high-risk countries.

There is particular concern about the frequency with which CoC certification is offered as the sole evidence that a product is covered by a certification scheme or 'compliant' with EUTR requirements. It is true that such certification – which establishes that a company can become part of a certified supply chain – is issued to ensure that the wood contained in the product or product line originates from certified forests. For a product to qualify for CoC certification, all entities along the supply chain must possess a CoC certificate and the material must have been sourced from a certified forest. However, it is possible for companies with CoC certification to handle non-certified material – and many do so.

Effective enforcement of the EUTR requires that the competent authorities make clear that a CoC certificate alone does not demonstrate anything of value about the source or risk of illegality of the product concerned. For example, furniture purchased from a manufacturer in China or Vietnam that holds a CoC certificate can be considered certified only if it has a valid product claim showing that the raw material has been sourced from a certified forest or under the controlled wood guarantee and every commercial link in the supply chain – from forest to point of purchase by the operator – holds a valid CoC certificate.

While aimed at developing a global network of certified manufacturers and traders that will maximize market access for certified raw materials, the practice of issuing CoC certificates in the absence of certified raw materials opens up the possibility of significant fraud. There is an increasing number of known cases in which certified companies have used their CoC status to 'brand' their products – either directly or by association. Ideally, certification schemes would not only record the number of certificates issued but also track certified products globally and verify volumes in order to reduce the risk of this type of fraud. The FSC's response to the problem is to prohibit organizations that have not produced, labelled or sold any FSC-certified products since their previous annual certification audit from using the FSC trademark in their company promotional materials and activities.

## CONCLUSION

Composite products, including furniture, constitute a large and growing majority of imports regulated by the EUTR. The credibility of the regulation in the furniture sector depends on robust compliance. To date, discussions amongst policy-makers and enforcement officials have focused on compliance in the less complex product sectors – enforcement as well as risk assessment and mitigation – rather than the complex product sectors.

From an enforcement perspective, forensic analysis is less viable for the furniture and other complex product sectors than for logs and solid wood products. This is because it has limited application where fibres have been subject to treatment and/or are highly mixed. However, it has been possible to identify 'extraneous' fibres in composite goods, while in tests on highly targeted samples, competent authorities have been able to confirm species content in complex products at a relatively low cost. Thus, used strategically, such analysis could be a useful tool for operators to verify information provided by suppliers of the highest-risk products.

But the vast majority of furniture product purchases will be made on the basis of due diligence that relies on existing certification schemes or in-house procedures based on them. For this reason, the technical compliance standards established by those schemes are a vital component of the effective functioning and credibility of the EUTR.

Operators need to understand that robust compliance with the EUTR requires undertaking broad *primary* risk assessment for all product groups – regardless of the availability of certification.

If the country of source, production process or species poses a risk, it is often deemed an effective mitigation strategy to buy certified products only. In such cases, operators should scrutinize the details and mechanics of the certification claim to ensure that it does, in fact, verify all raw materials used and all actors in the supply chain. What can be considered 'adequate and proportionate' scrutiny depends ultimately on the national risk context and the efforts of the relevant certification scheme to identify and tackle fraud.

EUTR enforcement officers should be informed of the correct procedure for purchasing credibly certified products and the different types of certification claim.



## **ABOUT THE AUTHOR**

Jade Saunders has been an Associate Fellow of the Energy, Environment and Resources programme at Chatham House since 2002, working extensively on forest governance and the FLEGT Agenda. Between 2007 and 2010 she was a policy analyst at the FLEGT Facility, where she provided strategic advice and support on governance and trade matters to the European Commission in the negotiation and implementation of FLEGT VPAs (bilateral trade/aid agreements between the EU and timber-producing developing countries). In addition, she has worked on environmental, developmental and trade issues in areas such as global textile supply chains, natural resources and conflict, marine governance, the trade in illegal ozone-depleting substances, sustainable tourism in least-developed states and climate change. She has degrees in international history and politics (BA, University of Leeds) and social anthropology (MSc, University College London).