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briefing paper

Controlling Illegal Logging: Implementation of the EU Timber Regulation

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Energy, Environment and Resource Governance | June 2011 | EERG IL BP 2011/02

Summary points

- The EU Timber Regulation, which will come into force in 2013, prohibits operators from placing illegally harvested timber and timber products on the European market. It adopts a broad definition of 'illegally harvested' and applies to timber both imported into and produced within the EU.
- To prevent illegally harvested timber from being placed on the market, operators are required to employ a due diligence system, either their own or that of a monitoring organization.
- To ensure the effectiveness of the Regulation, more detailed guidance from the Commission will be needed on some of its key elements, namely the definition of 'placing on the market'; how to undertake risk assessments; and the use of certification or third-party verification to assess and mitigate risk.
- To facilitate effective enforcement of the Regulation across Europe, further clarification on the offences and penalties under the Regulation will also be needed, as well as coordination between member states to ensure that a uniform approach is adopted.
- To facilitate compliance and minimize any negative impact on small businesses, there is a need for an effective programme of information dissemination providing support to both EU stakeholders and overseas suppliers.

Introduction

How to exclude illegally logged timber and timber products from consumer markets has been a key question in the international debate around the control of illegal logging over the past decade. Until recently, importing countries have had few legal mechanisms with which to exclude illegal timber, even if it could be positively identified as such.[1]

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This is now beginning to change, as consumer countries adopt a variety of measures to ensure that only legal timber enters their markets. For example, the US Lacey Act, amended in May 2008, makes it illegal in the United States to import, export, transport, sell, receive, acquire or purchase timber produced illegally, whether in the US or abroad.[2] Other measures include the Voluntary Partnership Agreements (VPAs)[3] being negotiated between the EU and timber-producing countries, the inclusion of provisions on illegal logging in free trade agreements (in the US–Peru Free Trade Agreement for example), and public procurement policies for timber.[4]

Within Europe, discussion has been under way for a number of years about the possibility of introducing additional legislation to control imports of illegal timber. The EU’s Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT) of 2003 highlights the need to review the feasibility of such legislation.[5] After a lengthy process of analysis and negotiation, the EU Timber Regulation was finally agreed in 2010. This makes it illegal to place illegally harvested timber on the EU market.

This briefing paper analyses the Regulation and starts to consider its implications for operators, traders and regulators. It makes a number of recommendations to help ensure the effective implementation of the Regulation, so that it will become a valuable tool in reducing the trade in illegal timber in Europe.

The Regulation in brief

The EU Timber Regulation (Regulation (EU) No 995/2010 laying down the obligations of operators who place timber and timber products on the market) entered into force on 2 December 2010, and will apply to all timber operators and traders in the European Union from 3 March 2013.[6]

The Regulation prohibits the placing of illegally harvested timber and timber products on the European market, and requires that those placing timber on the market (referred to as ‘operators’) exercise due diligence to minimize the risk that this timber is illegally harvested. ‘Traders’ (those who buy or sell timber that has already been placed on the European market) must be able to identify their suppliers and, where applicable, their customers, to enable the tracing of timber.

1 One option is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). However, only four significant commercial timber species are currently listed under CITES, which represents less than half of one per cent of primary wood products in international trade. For more information, see Sam Lawson, ‘Review of “The Role of CITES in Combating Illegal Logging – Current and Potential”, TRAFFIC Report 2006’, *International Forestry Review*, 2007.

2 Available at http://www.illegal-logging.info/item_single.php?it_id=668&it=document. For further information see: Environmental Investigation Agency, Lacey Act Resources at: http://www.eia-global.org/forests_for_the_world/Lacey_Resources.html; http://www.eia-global.org/lacey/P6.EIA.LaceyReport.pdf.

3 To date, four such agreements have been concluded, with Cameroon, the Central African Republic, Ghana and the Republic of Congo. VPA negotiations are at an advanced stage in Indonesia, Liberia and Malaysia, and are starting in the Democratic Republic of Congo, Gabon and Vietnam. For further information see: http://www.illegal-logging.info/approach.php?a_id=121.

4 For a fuller description, see Duncan Brack, *Controlling Illegal Logging: Consumer Country Measures* (Chatham House, January 2010); available at: http://www.illegal-logging.info/item_single.php?it_id=875&it=document.

5 *Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance and Trade (FLEGT) – Proposal for an EU Action Plan* (May 2003); available at: http://www.illegal-logging.info/uploads/flegt.pdf.

6 The Regulation text is available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R0995:EN:NOT.

Due diligence entails a risk management system comprised of three elements: operators must have access to information concerning their timber supplies; sufficient measures to assess the risk of their being illegal timber in their supply chain; and, where a risk is identified, procedures to mitigate this risk. Operators can either use their own due diligence systems, or those provided by 'monitoring organizations'. The role of monitoring organizations is to ensure the proper use of their due diligence systems, taking appropriate action where this is not the case – they are not themselves required to undertake investigations to identify illegal timber. A list of recognized monitoring organizations will be approved and published by the European Commission.

The Regulation applies both to timber imported into the EU and timber produced within the EU. Most timber products fall within its scope, the exceptions being printed paper and recycled timber.[7] 'Illegally harvested' is defined as 'harvested in contravention of the applicable legislation in the country of harvest' (Art.2(g) & (h)). This includes legislation related to the rights to harvest timber within legally gazetted boundaries, payments for harvest rights and timber, forest management and biodiversity conservation related to timber harvesting, third parties' legal rights concerning use and tenure (where these are affected by timber harvesting), and trade and customs. Products covered by a FLEGT licence[8] or a CITES permit[9] will be considered to have been legally harvested for the purposes of the Regulation.

Towards implementation

To enable implementation of the Regulation, a number of steps need to be taken by both the Commission and by member states.

The member states are required to designate their competent authorities and identify them to the Commission by 3 June 2011 for publication. The competent authorities will be responsible for enforcement of the Regulation, including checking that the monitoring organizations and operators are fulfilling their obligations.

The member states also need to establish 'effective, proportionate and dissuasive' rules on penalties for infringements of the provisions of the Regulation (Article 19.2). No specific deadline for this has been set, but there is an expectation that the process will be completed by 3 March 2013 at the latest.

The Commission's responsibilities include adopting 'delegated acts' and 'implementing measures' for the Regulation. The former can relate to:

- procedures for the recognition and withdrawal of recognition of monitoring organizations (these to be completed by 3 March 2012);
- further risk assessment criteria, to supplement those already outlined in the Regulation (as considered necessary); and
- revision of the list of timber and timber products to which the Regulation applies (as and when appropriate).

Implementing measures will outline detailed rules for implementation of the Regulation to ensure uniformity between member states. These are to be completed by 3 June 2012, and will cover:

- the frequency and nature of checks on monitoring organizations by competent authorities; and
- due diligence systems (with the exception of further risk assessment criteria).

Both the Commission and member states are conducting consultations with stakeholders in the European timber trade. The Commission is looking at best practices for the recognition of monitoring organizations and options for risk assessment and risk mitigation procedures, and the findings of these will feed into the development of the delegated acts and implementing measures. Member states are consulting with national stakeholders over interpretation of the Regulation and its implementation at national level.

7 A full list of timber and timber products covered by the Regulation can be found in the Annex to the Regulation.

8 Under the VPAs, timber products exported from the partner country to the EU will need to be verified as legally produced, and then granted FLEGT licences. Without the presence of such a licence the products will be denied entry into the EU.

9 See note 1 above.

Key elements of the Regulation

Placing timber and timber products on the market

One of the key phrases in the Regulation is that of 'placing on the market'. Just what this entails is of crucial importance in determining who will be affected by the Regulation and in what way. Thus, it establishes who will be classified as an operator and who as a trader, and hence who will have to implement due diligence and who will simply be required to keep records of their buyers and suppliers. Clarity on this will not only be important for the operators but also for the enforcement agencies, so that they can target their activities effectively. However, the supply of timber and timber products on the European internal market takes many forms, can involve a number of different actors and is often complex, making the concept of 'placing on the market' a difficult one to define.

Article 2(b) of the Regulation defines 'placing on the market' as:

> […] 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 Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts.
>
> The supply on the internal market of timber products derived from timber or timber products already placed on the internal market shall not constitute 'placing on the market'.

On the basis of the above elements, it would seem that 'placing on the market' will have taken place where the timber or timber products are:

- imported into the EU and offered for sale by the importer. This would be the case if 'supply' is interpreted as being synonymous with 'making available'.[10] There would be no need for the sale actually to take place.
- produced in the EU and offered for sale by the producer.
- transferred between two associated companies, even where no payment is made – for example, where companies have sourcing offices outside the EU.

'Placing on the market' will probably not have taken place where the timber or timber products are:

- brought to the EU but re-exported before clearing customs.[11]
- imported into the EU but left in a warehouse by the importer. In this example there has been no 'supply' on the internal market.
- imported into the EU for personal use. Arguably, there is no supply of timber or timber products in this case.
- imported into the EU and given to a friend free of charge. This does not amount to a commercial activity.
- sold by a retailer who bought the timber or timber products from an importer. Here, the supply on the internal market is not for the first time. In this instance the retailer would be classed as a trader (the importer did the placing).

However, there are a number of scenarios which are less clear. One of these is the case in which a product is imported into the EU, manufactured into a product and re-exported, the product having been bought on the EU market. Also uncertain are situations in which possession but not ownership of the timber has been transferred, for example if timber is:

- imported into the EU, manufactured into a product and re-exported (with no transfer of ownership).

10 The Commission has adopted this approach with respect to the EU directives aimed at facilitating a single market, the so-called 'new approach' and 'global approach'.

11 Shipping companies would therefore not be affected by the Regulation as they do not bring their cargo through customs, and so are not supplying on the internal market.

- imported into the EU by an agent and transferred to a company based in the EU. If no transfer of ownership were necessary for 'placing' to have taken place, the agent would be considered an operator under the Regulation irrespective of whether he or she invoiced for the timber before or after the consignment had arrived in the EU, or at all.

It is also unclear whether supply of timber or timber products within a company (for example, a company using its own paper or other timber products in its offices) would be regarded as 'placing'.

> "To minimize the potential for confusion and ensure effective implementation of the Regulation, what is needed is detailed guidance from the Commission as to what does and does not amount to placing on the market"

Depending on how the question of ownership is resolved, there is a potential loophole in relation to consignment stock – this is stock owned by one party and held by another, ownership being transferred only when the stock is sold. If one assumes that transfer of ownership is necessary for placing on the market to occur, then in the case of such stock being imported into Europe, it is the party owning the timber that is placing it on the market. If that party is not legally established in the EU, it will be beyond the reach of the member states' competent authorities. The practice of using consignment stock is not currently widespread; however, if there were such a loophole, this might create an incentive for its wider use.

Some insights into interpreting 'placing on the market' could be obtained from examining the Commission's approach in other trade areas. For example, in 2000 the Commission published the 'Blue Guide' for implementation of the EU directives aimed at facilitating a single market.[12] Although it is not applicable to the EU Timber Regulation, it could usefully inform thinking in this area, as it covers, among other things, advice on how to interpret 'placing on the market'. According to this guide, for example, the following scenarios would not amount to placing on the market, where products are:

- transferred to a manufacturer for further measures (for example assembling, packaging, processing or labelling);
- displayed at trade fairs, exhibitions or demonstrations;
- offered in a catalogue or by means of electronic commerce.

Ultimately, to minimize the potential for confusion and ensure effective implementation of the Regulation, what is needed is detailed guidance from the Commission as to what does and does not amount to placing on the market. This should be based on further analysis of real-life examples from the timber trade, considering the variety of possible relationships between shippers, customs, agents, transporters, warehouse operators, timber importers and retailers.

Due diligence

As noted above, operators are required to exercise due diligence when placing timber or timber products on the market, in order to manage the risk of these being illegal.

The first element of due diligence is that operators are required to have 'measures and procedures providing access to… information' concerning their supply of timber or timber products (Art. 6.1(a)). The information required includes: type of product, common name of the tree

12 Its full title is 'Guide to the implementation of directives based on the New Approach and the Global Approach'; available at: http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic_en.pdf.

species, country of harvest, quantity, name and address of the supplier, name and address of the trader to whom the timber and timber products have been supplied and documents or other information indicating compliance of those timber and timber products with the applicable legislation.

> ‘Establishing time limits for the provision of information would be one way to help operators decide whether they should hold the information themselves, as it could prove impossible to re-access certain types of information within certain time limits’

The second aspect of the due diligence system is a risk assessment. Article 6.1(b) requires that the operator has procedures enabling the analysis and evaluation of the risk of illegally harvested timber or timber products being placed on the market. These should take into account the information gathered concerning the supply of timber, as well as ‘relevant risk assessment criteria’. The following criteria are identified in the Regulation:

- assurance of compliance with applicable legislation;
- prevalence of illegal harvesting of specific tree species;
- prevalence of illegal harvesting or practices in the country and/or sub-national region of harvest, including consideration of the prevalence of armed conflict;
- sanctions imposed by the UN Security Council or the EU on timber imports or exports; and
- complexity of the supply chain.

Finally, the operator needs ‘a set of measures and procedures that are adequate and proportionate’ to minimize the risk identified, unless it is negligible. These may include ‘requiring additional information or documents and/or requiring third party verification’ (Art. 6.1(c)).

A number of questions remain to be resolved in relation to the various aspects of the due diligence system. The first relates to the extent of the information that operators will actually be required to obtain – for example, whether this is needed for every consignment or shipment, or for each product type from a particular supplier or country, and whether there should be a timeframe in each case. There is also the issue of whether information is needed on every component in composite products.

The use of the wording ‘measures and procedures’ does imply that operators will not be required to have specific documentation for each shipment. Thus, it is a systems-based approach, not a consignment-based approach. However, this system will need to be sufficient to enable adequate information to be gathered on which to base a reliable risk assessment.

While operators are not specifically required to be in possession of the relevant information, they must be able to provide it to the competent authority if requested to do so. If they do hold this information themselves, then it may in fact be easier for them to demonstrate to the competent authorities or monitoring organizations that they are exercising due diligence. Establishing time limits for the provision of information would be one way to help operators decide whether they should hold the information themselves, as it could prove impossible to re-access certain types of information within certain time limits.

In assessing risk, the Regulation states that one means to establish compliance with applicable legislation is the use of certification or other third-party-verified schemes. It should be highlighted that such schemes do not amount to proof of legality, and current advice from the Commission on the use of such schemes is that companies check:

- what laws are covered in the standards, to see if this meets the definition of ‘applicable legislation’ in the Regulation;

- the reliability of the auditing process;
- the accreditation credentials of the auditors.[13]

While this makes sense in theory, it may not always be possible in practice. Furthermore, it is likely that the Commission and member states will come under increasing pressure from operators to allow them to use certain certification schemes as a proxy for due diligence. While it would seem unlikely that this would be allowed – since due diligence is a much broader concept than certification – further guidance from the Commission on this issue would be valuable to clarify the extent to which these schemes can be used as part of the risk assessment and subsequent risk mitigation procedures. This could include criteria for assessing the different certification schemes.

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Experience in other sectors with the use of due diligence systems has highlighted the need for clarity and certainty as to what these should entail, in particular with respect to the criteria to assess risk and the types and sources of information that can be used in this assessment.[14] For example, in the context of this Regulation industry stakeholders have raised the following questions:

- What weight should be given to the different criteria (e.g. country versus sub-country information, and species versus geographical information)?
- How should the risk of reconstituted products, with raw material from multiple sources, be assessed?
- How can one determine that a risk is ‘negligible’?

Further guidance will help to avoid creating too heavy a burden on stakeholders, who may implement over-rigorous systems in an uncertain situation or may simply not comply. This is particularly important for small enterprises which typically have limited resources to follow legislative developments or to invest in new systems.

Offences and penalties

Offences (infringements) under the Regulation are not identified within it, as their definition is the responsibility of member states. However, it would be logical to assume that the following will amount to prohibited acts and could result in prosecution:

- Placing illegally harvested timber or timber products derived from such timber on the market (applicable to operators, Art. 4.1).
- Failure to exercise due diligence when placing timber or timber products on the market (applicable to operators, Art. 4.2).
- Being unable to identify the operators or traders who have supplied the timber and timber products and, where applicable, the traders to whom timber and timber products have been supplied (applicable to traders, Art.5 (a) and (b)).
- Failure to maintain and regularly evaluate a due diligence system (applicable to operators, Art. 4.3, and monitoring organizations, Art. 8.1(a)).
- Failure to verify the proper use of a due diligence system by operators (applicable to monitoring organizations, Art. 8.1(b)).

13 European Commission, ‘Illegal Logging Regulation – Frequently Asked Questions Version: 1’, September 2010.

14 A. Hoare, ‘Due Diligence Systems: Analysis of Due Diligence Systems in Non-timber Sectors, and Lessons to be Learnt for their Introduction into the Timber and Timber Products Sector in the EU’, Chatham House, 2008; available at: http://www.illegal-logging.info/uploads/DuediligencecomparisonsChathamHouse.pdf.

- Failure to take appropriate action in the event of failure by an operator to use its due diligence system properly, including notification of competent authorities in the event of significant or repeated failure by the operator (applicable to monitoring organizations, Art. 8.1(c)).

It is also possible that member states may decide to prescribe additional offences within the scope of the Regulation, for example being complicit in placing illegally harvested timber or timber products on the market.[15] Such could perhaps be applied to an organization that provided false information as part of the risk assessment, or to a monitoring organization if it was aware that an operator using its due diligence system was placing illegal timber on the market – although in this latter case, if this was due to a failure to use the due diligence system properly, the offence would also fall under the last category listed above.

> ‘It has been suggested by some UK timber traders that any fines should be in proportion to the relevant turnover of the operator concerned, as is the case with UK competition law’

The rules on penalties applicable to infringements are also the responsibility of member states. Each member state is at liberty to set the type of penalty and the level of each fine and/or the length of any term of imprisonment; however, Article 19.2 of the Regulation gives some guidance with respect to establishing penalties:

‘The penalties provided for must be effective, proportionate and dissuasive and may include, inter alia:

a) fines proportionate to the environmental damage, the value of the timber or timber products concerned and the tax losses and economic detriment resulting from the infringement, calculating the level of such fines 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, and gradually increasing the level of such fines for repeated serious infringements;

b) seizure of the timber and timber products concerned;

c) immediate suspension of authorisation to trade.’

While points (b) and (c) above are clear, point (a) is less so. Penalties proportionate to the value of the timber would appear to be relatively easy to determine. However, an assessment of any environmental damage caused could be very difficult to assess and quantify. Fines proportionate to the ‘tax losses and economic detriment’ may also be difficult to determine, particularly in the case that these included economic impacts in countries of harvest outside the EU.

The need for penalties to be ‘effective, proportionate and dissuasive’ is clearly important, but how to establish this will need careful consideration. Experience from other sectors has shown that if penalties are too severe, this can result in parties taking excessive measures to ensure compliance; while if they are too weak, it may not be worthwhile for a business to comply.[16] In the particular case of penalties for infringements by monitoring organizations, if these are too harsh then they may be discouraged from applying for recognition as a monitoring organization in the first place.

What amounts to ‘effective, proportionate and dissuasive’ is arguably dependent on the circumstances of the person concerned. Indeed, it has been suggested by some

15 In the UK, Section 8 of the Accessories and Abettors Act 1861 (as amended by the Criminal Law Act 1977) states: ‘Whosoever shall aid, abet, counsel, or procure the commission of any indictable offence [serious crimes that may be subject to trial by jury], whether the same be an offence at common law or by virtue of any Act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender.’ See: http://www.legislation.gov.uk/ukpga/Vict/24-25/94/section/8.

16 Hoare, ‘Due Diligence Systems’.

UK timber traders that any fines should be in proportion to the relevant turnover of the operator concerned, as is the case with UK competition law. The approach adopted by the UK's Office of Fair Trading could be of value to the Commission and member states when considering the appropriate level of penalties under the Regulation. It has adopted a five-step approach for the calculation of financial penalties:

- calculation of the starting point having regard to the seriousness of the infringement and the relevant turnover[17] of the undertaking;
- adjustment for duration;
- adjustment for other factors;
- adjustment for further aggravating or mitigating factors; and
- adjustment if the maximum penalty of 10 per cent of the worldwide turnover of the undertaking is exceeded and to avoid double jeopardy.

Lessons could also be drawn from the US Lacey Act. Penalties established under the Act depend on a number of factors, but mainly on the level of intent that can be shown on the part of the offender handling illegally harvested timber:

- Where specific intent can be shown – i.e. the individual knows that the products have been illegally harvested – the offender can be convicted of a 'felony', with a maximum penalty of five years' imprisonment and a fine of up to $250,000 ($500,000 for a corporation).
- Where no specific intent can be shown, but the individual in the exercise of due care should have known that the products were illegal, the offender can be convicted of a 'misdemeanour', with a maximum penalty of one year's imprisonment and a fine of $100,000 ($200,000 for a corporation), or can be subject to a civil penalty fine of up to $10,000.
- In all cases the illegal products can also be forfeit. These forfeitures are authorized on a strict liability basis – i.e. the degree of culpability of the offender is not taken into account. Vessels, vehicles and equipment involved can also be forfeit, but only after a felony conviction, where specific intent can be shown.

> 'Experience in other sectors has shown that penalties should be consistent and uniform across the EU, so as to avoid creating weak links in the enforcement regime'

- In addition, false import declarations can be subject to forfeiture of goods, civil penalty fines of $250 where due care has not been exercised or – where specific intent can be shown – the same criminal felony penalties and potential imprisonment as for the offence of handling illegally harvested timber.

Clearly, the Regulation gives considerable leeway to member states in establishing penalties. However, experience in other sectors[18] has shown that these should be consistent and uniform across the EU, so as to avoid creating weak links in the enforcement regime.

Variable enforcement proved a problem for CITES, when a failure to enforce the relevant regulations by Greece and Italy resulted in these countries becoming vulnerable entry points for illegal wildlife in the 1980s and 1990s – a situation that was addressed when action

17 Relevant turnover is calculated after deduction of sales rebates, value added tax and other taxes directly related to turnover. For further information see the 'OFT's guidance as to the appropriate amount of a penalty. Understanding competition law', 2004, available at: http://www.oft.gov.uk/shared_oft/business_leaflets/ca98_guidelines/oft423.pdf.

18 Hoare, 'Due Diligence Systems'.

was taken against them by CITES parties.[19] Further guidance from the Commission will be important to facilitate consistent implementation, as well as good coordination between the member states.

Enforcement

As well as consistent penalties, uniform enforcement of the Regulation across Europe will be essential for its success. This is clear from the EU's experience with the implementation of CITES. In the 1980s and 1990s both Italy and Greece emerged as vulnerable entry points for illegal wildlife because of their failure to enforce the relevant regulations, until action was taken against them by CITES parties.[20] Moreover, since the prohibition on placing timber and timber products on the market and the due diligence requirement apply only to operators, once illegal timber products have entered the EU through a vulnerable point of entry they will be able to circulate freely. Because of this, the Regulation will only be as effective as the enforcement regime in the member state where the timber first enters the EU.

An important means of facilitating the enforcement of new legislation is through the provision of adequate information and training. Indeed, a collaborative approach between legislators, compliance bodies and those that need to meet the requirements has proved valuable in encouraging compliance with new legislative requirements, at least in the early stages of implementation.[21] Such an approach, rather than a more punitive one, can also facilitate the monitoring of legislation, including the identification of problem areas and the need for amendments.

Therefore, member states will need to dedicate sufficient funding to enforcement activities. To give an indication of the potential scale of the funding needed, in the US in 2010 a total of $2 million was appropriated to the State Department and USAID for Lacey Act outreach and related activities. Many people, however, both within the government and outside, do not consider this amount (i.e. $2 million) sufficient, particularly for implementation and enforcement activities by other agencies. A request has been made by the US Department of Agriculture's APHIS (Animal and Plant Health Inspection Service) as well as the State Department to increase funding for various activities.[22]

> 'A specific 'Guide to Implementation' would be a valuable tool for those that are going to be directly affected by the Regulation – the operators, traders, potential monitoring organizations and competent authorities in member states'

Thus, to ensure enforcement of the EU timber regulation, appropriate funding will need to be allocated to the competent authorities in each member state, and to other agencies which could play a role in enforcement (such as customs) as well as to those who will be charged with information dissemination and training.

Conclusions

The EU Timber Regulation is a potentially powerful tool to help the EU exclude illegal timber from its markets, and so contribute to its broader objectives of environmental protection and sustainable development. However, if it is to achieve this goal, considerable efforts will be needed, from both the Commission and member states, to clarify further the provisions of the Regulation and to communicate its substance to stakeholders.

19 For more details, see Rosalind Reeve, *Policing International Trade in Endangered Species: The CITES Treaty and Compliance* (London: Earthscan/Royal Institute of International Affairs, 2002).

20 Ibid.

21 Hoare, 'Due Diligence Systems'.

22 Andrea E. Johnson, EIA US Director of Forest Campaigns, personal communication, May 2011.

Much of this work is under way, with consultations being undertaken across the EU and with development of the necessary delegated acts and detailed rules by the Commission. A specific 'Guide to Implementation' would also be a valuable tool for those that are going to be directly affected by the Regulation – the operators, traders, potential monitoring organizations and competent authorities in member states. This should form part of a broad strategy of information dissemination and training, an approach that will facilitate compliance. Details of the Regulation should also be communicated to producers, traders and regulators in other countries supplying timber to Europe.

The establishment of a consistent penalty regime across the EU, as well as uniform implementation, will also be key to the efficacy of the Regulation. This will require further guidance from the Commission on offences and the related penalties, as well as good collaboration between member states. Furthermore, adequate resources will need to be provided to the competent authorities, to enable them to fulfil their enforcement role.

For more details and further information on all the topics covered in this paper, see www.illegal-logging.info.

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