



The EU & UK Timber Regulation



LIFE - Support EUTR II - LIFE18 GIE/DK/000763



EU/UK Timber Regulation basics

- EU/UK Timber Regulation actors – who is involved?
- Product scope
- Introduction to due diligence
- Enforcement



ACTORS & THEIR RESPONSIBILITIES

Who's involved



**The European
Commission**



**Member states
(Competent
Authorities)**



**Monitoring
Organisations**



**Industry
(operators
& traders)**

Member States / Competent Authorities

- **Detail rules on penalties** in their own legislation
- Designate one (or more) entity as **Competent Authority** ([see the list here](#) for the 27 Member States)
- Obligation to **cooperate** with each other, with the administrative authorities of third countries and with the EU Commission
- Send a report to the European Commission every 2 years

Responsible for the actual implementation of the rules by operators

- **Conducts checks on Operators;**
 - *On a risk-based approach*
 - *Can be on the basis of substantiated concerns provided by third parties*
- Obligation to keep record of checks on Operators and Monitoring Organisations.
- Responsible for issuing
 - *Notice of remedial actions*
 - *Seizure of goods*
 - *Initiating prosecutions*
- May provide assistance and guidance to operators, including disseminating relevant information on illegal logging



Operators and Traders

The timber industry is divided into 2 groups: Operators and traders

- **Operators** are those who **'first place'** timber or timber products for the first time on the market.
- **Traders** are **all the other** businesses involved between the Operator and the end consumer.
 - *There can be multiple traders in the supply chain.*
 - *A company can be both an operator **and** a trader. There can be multiple traders in a supply chain.*

Defining Obligations: For Operators

- 1 Placing on the market of illegally harvested timber or timber products shall be **prohibited**
- 2 Exercise **due diligence** through system and procedures
- 3 **Maintain and regularly evaluate** the due diligence system



Defining Obligations: For Traders



1

Be able to identify:

- buyers, and
 - suppliers
- ... throughout their supply chain

2

Keep information for at least five years

3

Provide information to competent authorities



WHO IS THE OPERATOR?

Placing on the Market

- ‘Placed on EU Market’ = for the first time, physically located, in the course of commercial activity (Whether or not sold)
- Operator status applies to an organisation who place domestically grown EU timber on the market or imports from outside the EU.



Identifying the Operator



Importers to EU

- **The entities acting as the importer** when the timber is cleared by customs authorities for free circulation is the operator
- Definition is independent of the ownership of the product, or other contractual arrangements.
 - *In most cases, the importer can be identified as the “Consignee” in Box 8 of the customs declaration documents (Single Administrative Document).*

EUROPEAN COMMUNITY					1	2	3	4	5	6	7
Copy for the country of dispatch/export	1		2 Consignor/Exporter		No						
	3 Forms		4 Loading lists		5 Items		6 Total packages		7 Reference number		
	8 Consignee		No		Person responsible for financial settlement No						
	10 Country first destin.		11 Trading country		13 CAP						
	15 Country of dispatch/export		15 C disp./exp. Code		17 Country destin. Code						
	16 Country of origin		17 Country of destination								
	18 Identity and nationality of means of transport at departure		19 Ctr.		20 Delivery terms						
	21 Identity and nationality of active means of transport crossing the border		22 Currency and total amount invoiced		23 Exchange rate		24 Nature of transaction				
	25 Mode of transport at the border		26 Inland mode of transport		27 Place of loading		28 Financial and banking data				
	29 Office of exit		30 Location of goods								
31 Packages and description of goods	Marks and numbers — Container No(s) — Number and kind		32 Item No		33 Commodity Code						
	34 Country origin Code		35 Gross mass (kg)		37 PROCEDURE						
	38 Net mass (kg)		39 Quota		40 Summary declaration/Previous document						
	41 Supplementary units		A.I. Code		46 Statistical value						
44 Additional information/ Documents produced/ Certificates and authorizations											
47 Calculation of taxes	Type	Tax base	Rate	Amount	MP	48 Deferred payment		49 Identification of warehouse			
B ACCOUNTING DETAILS											

For timber harvested within the EU:

The entity that distributes or uses the timber when it has been harvested, is the operator.

This can be a bit complicated to ascertain – need to know the commercial relationship

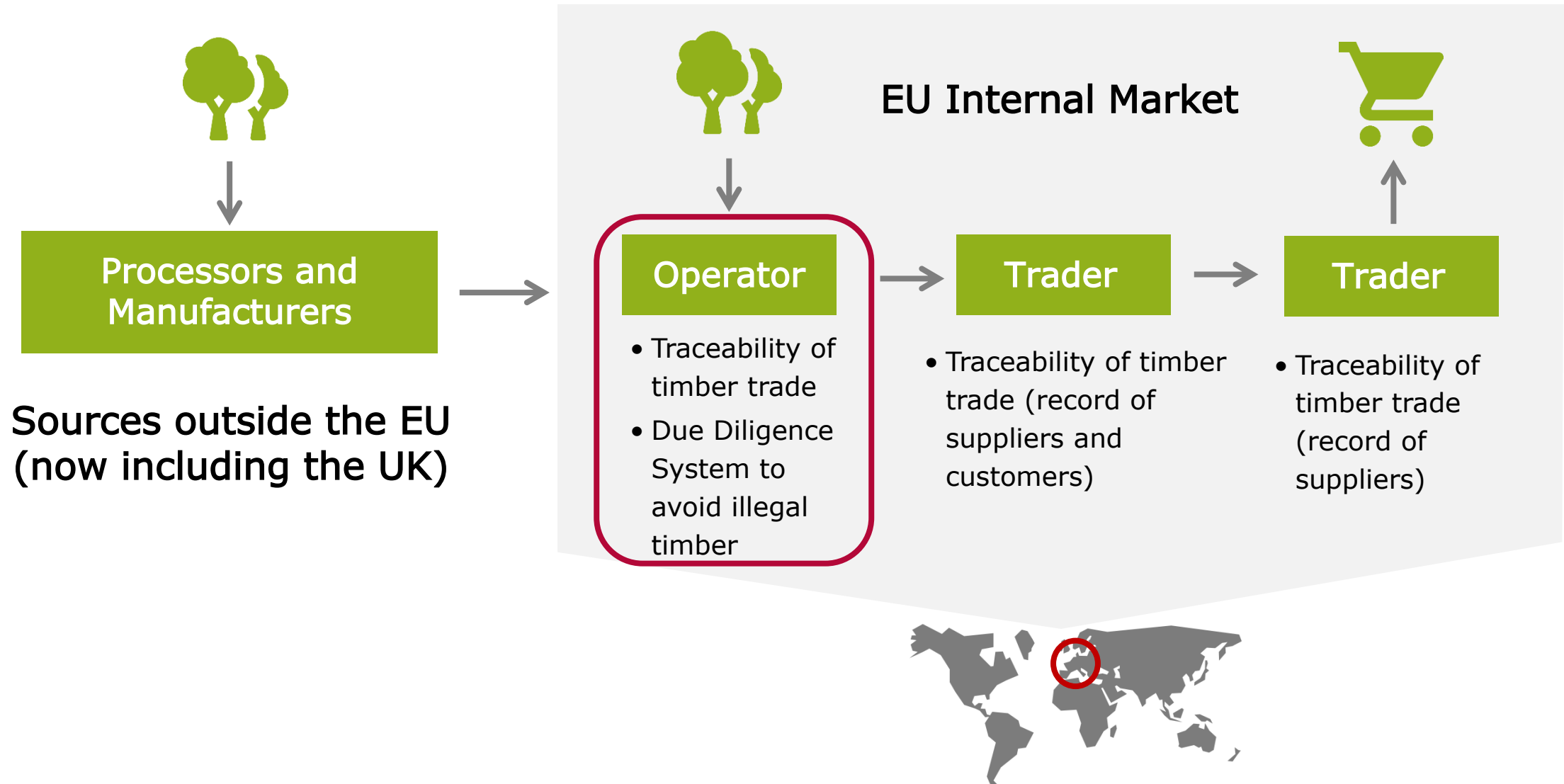
Scenario 1: Forest owner Z harvests trees on her own land and sells the timber to customers or processes it in her sawmill. She becomes the Operator when she harvests the timber for distribution or use through her own business.

Scenario 2: Forest owner Y sells company A the right to harvest standing trees on his land, for distribution or use through A's own business. Company A becomes an operator he harvests the timber for distribution or use in his business.



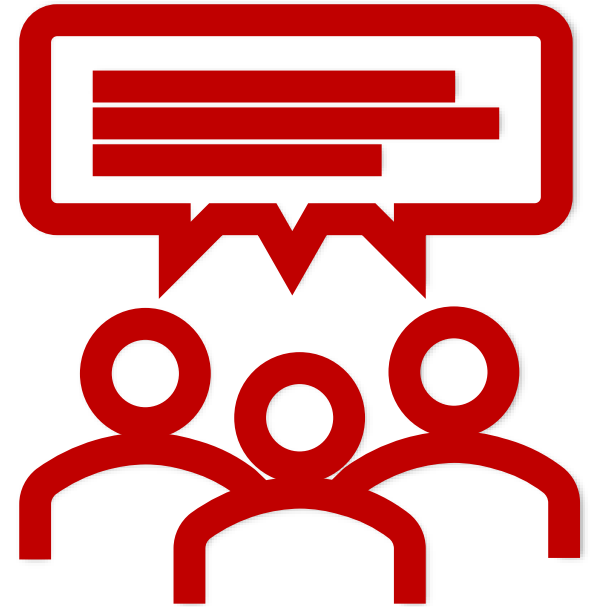
Source: EC [Guidance Document 2016 Annex 1](#)

Obligations of operators and traders



Is your organisation a...?

(Multiple choice)





PRODUCT SCOPE

Scope: which products are concerned?


- Products containing paper, cardboard, wood fibre or wood
- Complete list in Regulation 995 Annex
- Identification based on EU customs codes

➤ *EUTR Art. 2(a) + Annex*

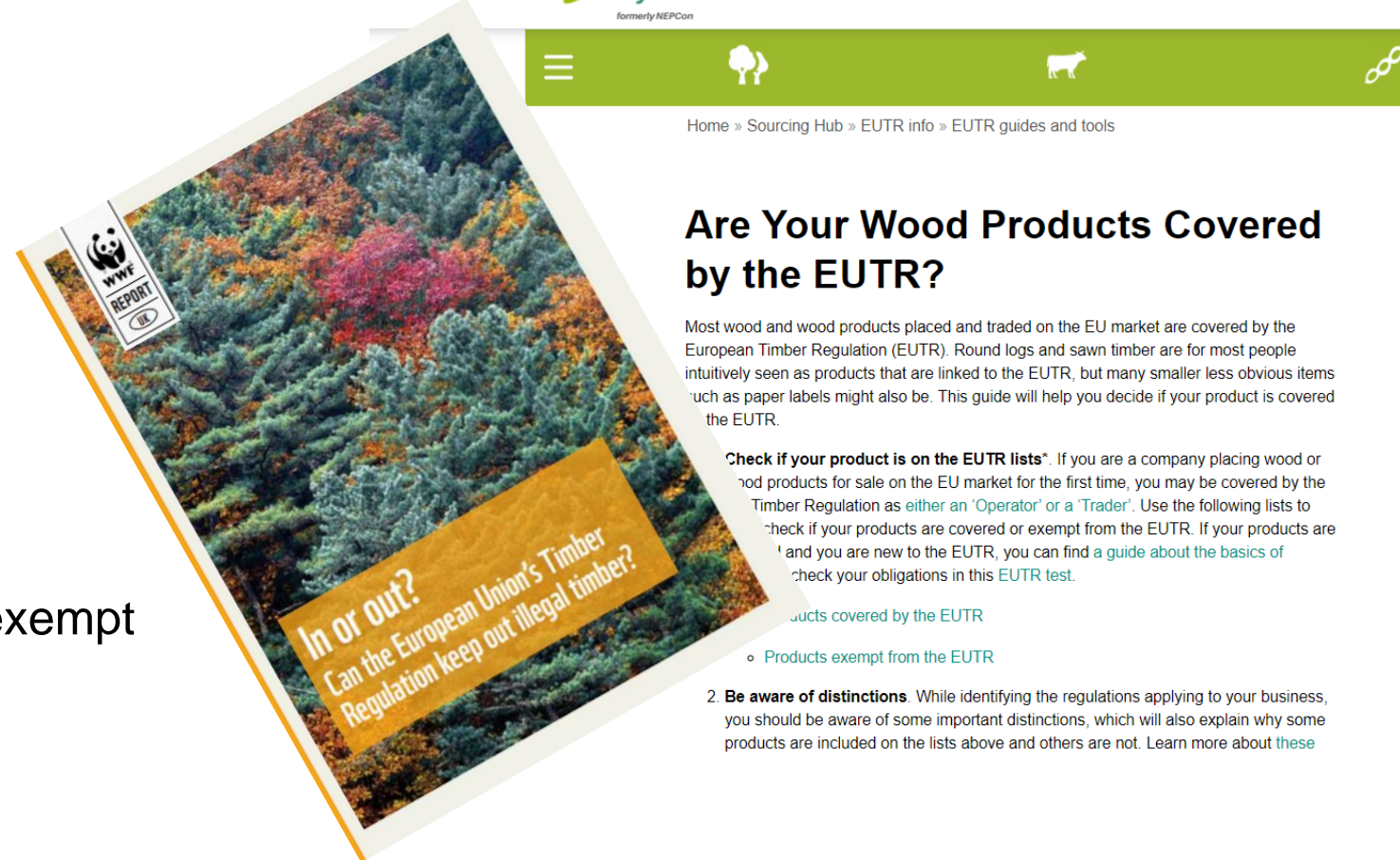


Scope: example of products not concerned

- Waste products
- “Seats”
- Packaging (used as packing)
- Printed material
- Musical instruments
- Toys & games
- Pulp and paper made from bamboo are exempt
- Tools, brooms, handles made of wood
- ...



<https://preferredbynature.org/sourcinghub/eutr-info/guides-tools/what-products-are-covered-eutr>



The screenshot shows the Preferred by Nature website. The header includes the logo and navigation links: About, Projects, Certification, Training. A search bar is also present. The main content area features a green navigation bar with icons for a menu, a tree, a cow, and a chain. Below this, the breadcrumb trail reads: Home » Sourcing Hub » EUTR info » EUTR guides and tools. The main heading is 'Are Your Wood Products Covered by the EUTR?'. The text explains that most wood and wood products on the EU market are covered by the EUTR, but smaller items like paper labels might not be. It provides a link to a guide about the basics of EUTR. Below the text, there are two sections: 'Products covered by the EUTR' and 'Products exempt from the EUTR'. The second section is titled '2. Be aware of distinctions' and explains that while identifying regulations, some products are included on the lists while others are not.

Are Your Wood Products Covered by the EUTR?

Most wood and wood products placed and traded on the EU market are covered by the European Timber Regulation (EUTR). Round logs and sawn timber are for most people intuitively seen as products that are linked to the EUTR, but many smaller less obvious items such as paper labels might also be. This guide will help you decide if your product is covered by the EUTR.

Check if your product is on the EUTR lists*. If you are a company placing wood or wood products for sale on the EU market for the first time, you may be covered by the European Timber Regulation as either an 'Operator' or a 'Trader'. Use the following lists to check if your products are covered or exempt from the EUTR. If your products are not on the lists and you are new to the EUTR, you can find [a guide about the basics of EUTR](#) and check your obligations in this [EUTR test](#).

- [Products covered by the EUTR](#)
- [Products exempt from the EUTR](#)

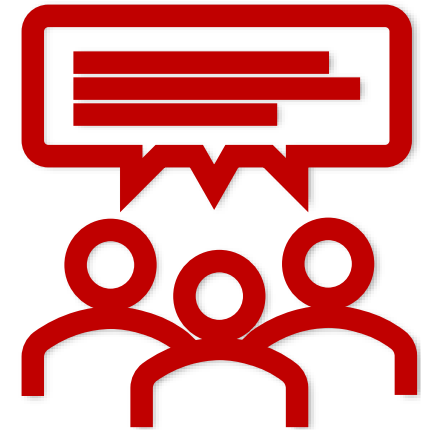
2. Be aware of distinctions. While identifying the regulations applying to your business, you should be aware of some important distinctions, which will also explain why some products are included on the lists above and others are not. Learn more about [these](#)



INTRO TO DUE DILIGENCE

What is due diligence?

How would you rate your understanding of the term due diligence 1-5 ? *1 being 'I know very little, 5 being, 'I consider myself an expert'*



What is due diligence?



“Operators are required to exercise due diligence. To that end they shall use a **framework of procedures and measures**, referred to as a ‘due diligence system’.”

Source: EU Timber Regulation

“A ‘due diligence system’ can be described as a **documented, tested, step-by-step method**, including controls, aimed at producing a consistent desired outcome in a business process”



Source: EC, [Guidance Document 2016](#)

What is due diligence?

- 
- 1** Quality Management
 - 2** Access to Information
 - 3** Risk assessment
 - 4** Risk mitigation



To provide a **systematic framework** for exercising due diligence and making it functional

Enable systematic implementation and **external evaluation** of the DD system.

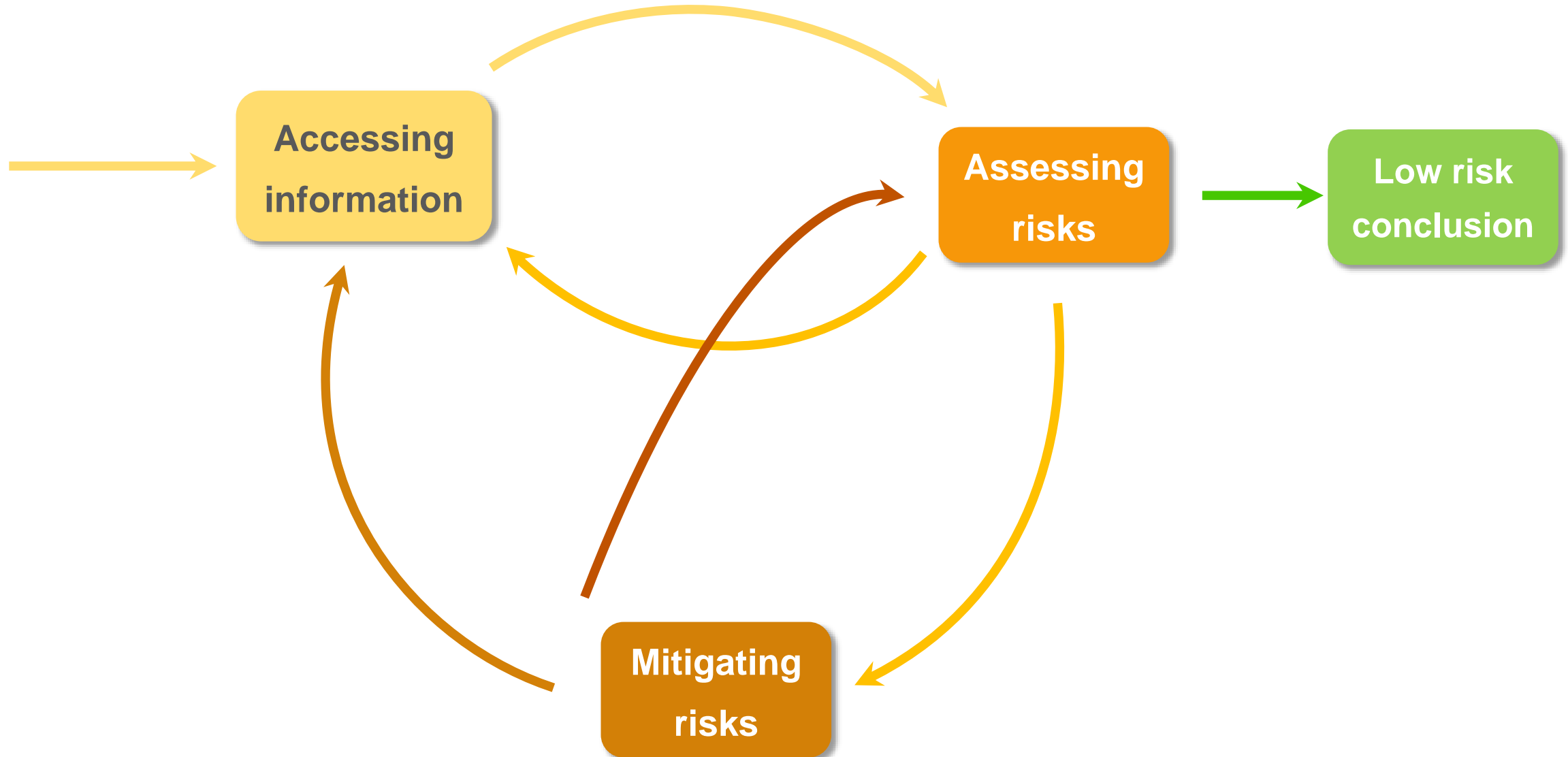
Quality Management System

An efficient and quality management system should have:

- Solid commitment from the organisation (endorsed at higher level, public, etc.)
- Clear responsibilities and competence of staff
- Documented procedure for clarity and continuity.
- Regular quality controls (audits, internal and / or external), reviews and updates of the system



Due diligence steps



Legal / illegal timber

What is legal timber?








The EU UK Timber Regulation definition of legal timber

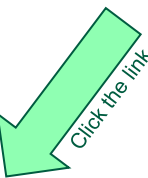
“In the absence of an internationally agreed definition, the **legislation of the country where the timber was harvested**, including regulations as well as the implementation in that country of **relevant international conventions to which that country is party**, should be the basis for defining what constitutes illegal logging.”

Ref: Regulation (EU) No 995/2010

What is legal timber?

“Applicable legislation” means the legislation in force in the country of harvest on:

1. **Rights to harvest** timber within legally gazetted boundaries 
2. **Payments for harvest rights and timber** including duties related to timber harvesting 
3. **Timber harvesting**, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting 
4. **Third parties' legal rights** concerning use and tenure that are affected by timber harvesting 
5. **Trade and customs**, in so far as the forest sector is concerned 



Risk

What is risk?

 The notions of **RISK** and **ILLEGALITY** are at the heart of a Due diligence system

Risk of illegality: the likelihood that a given legal obligation will **not** be enforced

- ❖ **Forest-level risk:** in connection with the forest management and harvesting operations
- ❖ **Supply chain risk:** during trade and transport of the material in the country of harvest
- ❖ **Risk of mixing:** contamination with unknown and / or illegal material along the supply chain



What is risk?

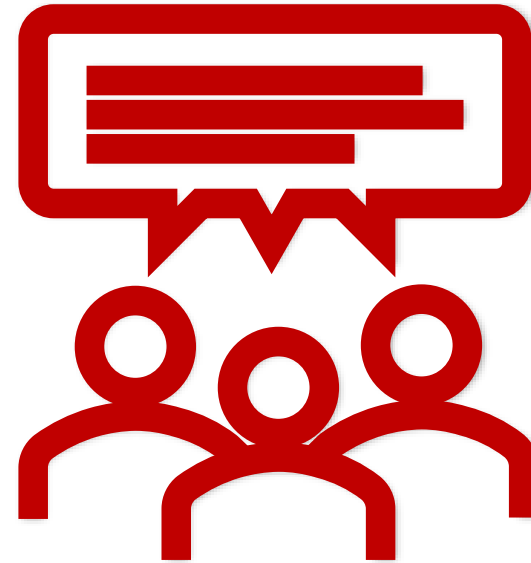
- Risk can be low but **never absent**
- Risk of illegality is either “**negligible**” or “**non-negligible**”
 - No “grey” or “medium” area
 - No threshold clearly defined





EUTR ENFORCEMENT

Has your organisation
already undergone
and enforcement
check by a Competent
Authority?

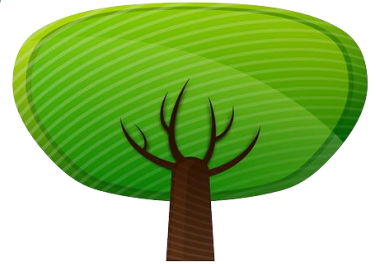


Enforcement

- **Operators** are liable to prosecution and penalty
- Possible sanctions include:
 - Fines
 - Seizures / confiscations
 - Imprisonment
 - Suspension of trade permit



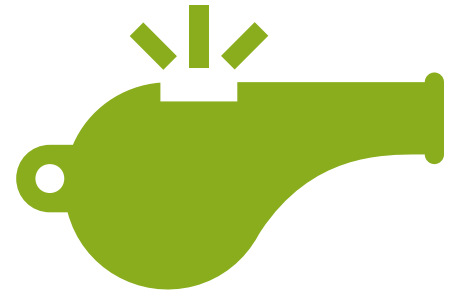
- **Increasing enforcement & alignment across member states improving but remains inconsistent.**
- BUT: no solid aggregated data on enforcement cases
 - Reporting from Competent Authorities gathered in WCMC reports WWF 2019 report pointing out lack of transparency from CAs on enforcement cases



Sources: https://ec.europa.eu/environment/forests/timber_regulation.htm and <https://www.unep-wcmc.org/featured-projects/eu-timber-regulations-and-flegt/> and https://wwf.panda.org/discover/knowledge_hub/?357123/WWF-Enforcement--Review-of-the-EU-Timber--Regulation-EUTR and <https://www.clientearth.org/eutr/>

Enforcement highlights

- **There has been a number of prosecutions of companies.**
- **High profile countries** with repeated checks and penalties:
 - Brazil
 - Myanmar (teak)
 - Central African countries: DRC, Gabon, Central African Republic
- Majority of action taken by competent authorities is related to the weakness of the **due diligence system itself and not because the material was proved to be illegal** .



Questions?

