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#### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

To: Mr Jeppe TRANHOLM - MIKKELSEN, Secretary-General of the Council  
of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT - Evaluation of  
Regulation (EU) No 995/2010 of the European Parliament and of the  
Council of 20 October 2010 laying down the obligations of operators  
who place timber and timber products on the market (the EU Timber  
Regulation)

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Delegations will find attached document SWD(2016) 33 final.

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Brussels, 18.2.2016  
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## COMMISSION STAFF WORKING DOCUMENT

### Evaluation

**of Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation)**

### *Accompanying the document*

{COM(2016) 74 final}

{SWD(2016) 34 final}

## EXECUTIVE SUMMARY

This Staff Working Document evaluates the application of Regulation (EU) No 995/2010<sup>1</sup> (the Timber Regulation, hereinafter the EUTR or the Regulation) during its first two years of application.

The EUTR was adopted in December 2010 and entered into application on 3 March 2013. The interim period was intended to allow competent authorities (CAs) in the Member States and the industry to prepare for its application. The Commission elaborated during this time a delegated and an implementing act to facilitate implementation<sup>2</sup>.

In accordance with Article 20(3) of the EUTR, the EC has to review by 3 December 2015, on the basis of reporting on and experience with its application, "the functioning and effectiveness of the Regulation ". The present evaluation, the first since the entry into force of the EUTR, is based on these legal requirements. The evaluation has been conducted according to the EU 'Better Regulation'<sup>3</sup> guidelines. It provides replies to five evaluation questions: relevance, effectiveness, efficiency, coherence and EU-added value.

The EUTR is an EU legislative instrument to address the global problem of illegal logging by acting on the side of the demand for timber and timber products. It forms part of a broad set of measures introduced with the Forest Law Enforcement Governance and Trade Action Plan (FLEGT AP), the Union's overall response to the pervasive problem of illegal logging and its devastating impact on forests.

The FLEGT AP was adopted in 2003. It sets out processes and measures to reduce the marketing of illegal timber into the EU, to improve the supply of legal timber and to increase the demand for timber sourced from responsibly managed forests. A central element of the FLEGT AP are the Voluntary Partnership Agreements (VPAs) signed between the EU and non-EU timber producing countries<sup>4</sup>. As the FLEGT AP recognised the possibility of developing new legislation to overcome the limitations of a bilateral supply-side approach, in 2008 the Commission submitted a legislative proposal, which later resulted in the adoption as the EUTR.

The implementation of the EUTR has been slow in most Member States. While some Member States have progressed in fulfilling the obligations imposed by the EUTR, the overall implementation remains insufficient and there are still four not fully compliant Member States.

The evidence collected suggests that insufficient resources allocated to CAs are a major challenge for the effective enforcement of the EUTR. Nonetheless, it should be considered that the EUTR has been issued in a period of reduced public expenditure, which may have impacted upon resources allocation. The assessment also shows that the types and level of sanctions for infringements are highly divergent across Member States and a different

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<sup>1</sup> Regulation (EU) No 995/2010, OJ L 295, 12.11.2010, p. 23–34.

<sup>2</sup> Commission delegated Regulation (EU) 363/2012, OJ L 115, 27.4.2012, p. 12–16 and Commission implementing Regulation (EU) 607/2012, OJ L 177, 7.7.2012, p. 16–18.

<sup>3</sup> Commission communication on Regulatory Fitness and Performance Programme (REFIT) - COM(2014)368

<sup>4</sup> Cameroon, Central African Republic, Ghana, Indonesia, Liberia and Republic of Congo.

understanding and enforcement of the EUTR exists among CAs. While there is indication that EU operators have increasingly applied the due diligence (DD) requirements, implementation and compliance by the private sector has been uneven.

Since the EUTR has been in force for a relatively short period of time, it was not possible to determine, with a reasonable degree of certainty, whether it has had significant impacts on the market such as causing shifts in trade flows.

The evaluation shows that the EUTR continues to be highly **relevant** for tackling illegal logging and related trade by changing market behaviour patterns and progressively establishing supply chains free of illegally harvested timber. This is also confirmed by the 7<sup>th</sup> Environmental Action Programme<sup>5</sup>, which refers explicitly to the EUTR "as a legal basis for the Union to address the global problem of illegal logging through its demand for timber and timber products". The EUTR is also an important instrument in the EU's international efforts to halt deforestation and forest degradation, enhance and maintain biodiversity and address global climate change.

Internationally, the EUTR encouraged other consumer countries (such as Australia, China and Japan) to adopt similar legislative acts and created an incentive for producer countries to develop systems to verify and demonstrate compliance with the legality requirements, including by concluding VPAs with the EU.

The **EU added-value** of the EUTR continues to be valid: the objective can be better achieved by establishing uniform rules that will allow the Union and its Member States to take full advantage of their combined market leverage to ensure demand for legally-harvested timber and avoid distortion of competition.

The EUTR is **coherent** with other relevant policy instruments and, in particular, with the VPAs and FLEGT-licencing scheme, and the EU Wildlife Trade Regulations<sup>6</sup>. The complementarity of these two policy frameworks is demonstrated by the recognition given by the EUTR to the FLEGT licences and permits issued according to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

In terms of **efficiency**, the EUTR has entailed highly variable compliance costs for the Member States and for the private sector, which have to be considered against its expected benefits in terms of reducing illegal logging and creating a level-playing field that keeps illegal timber and timber-based products out of the market.

A quantitative evaluation of the **effectiveness** of the EUTR is challenging due to the clandestine nature of the illegal activities and the absence of precise data on their volume and cost. At EU level, insufficient human and financial resources allocated to the CAs to effectively implement the EUTR have prevented it from developing its full potential.

In conclusion, the evaluation has revealed that the EUTR has the potential to achieve its objectives. However, further consistent efforts are needed from both the Member States and the private sector before an effective and efficient application can be achieved.

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<sup>5</sup> Decision no 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet', OJ L 354, 28.12.2013, p. 171–200.

<sup>6</sup> Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 61, 3.3.1997, p. 1–69.

The EUTR has, nonetheless, produced some first tangible results: the communication campaigns carried out by the Commission and the Member States have raised awareness of the problem of the illegal logging amongst EU consumers. It has also created an incentive for producer countries to develop systems to verify and demonstrate compliance with the legality requirements.