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

Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the exercise of the delegation conferred on the Commission pursuant to 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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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
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(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)**

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

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1. INTRODUCTION

Regulation (EU) No 995/2010¹ (hereinafter the EU Timber Regulation or the Regulation) counters the placing on the internal market of illegally harvested timber and products made of such timber. It is part of the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, which is the Union policy instrument to fight illegal logging and associated trade. It also contributes to reducing emissions from deforestation and forest degradation as well as to the conservation role of forests, sustainable management of forests and enhancement of forest carbon stocks in developing countries that is based on the Warsaw Framework for REDD+.

The EU Timber Regulation introduces three obligations. First, it prohibits the placing on the EU market of illegally harvested timber and products derived from such timber. Secondly, it requires operators, defined as market participants who place timber products on the EU market for the first time, to exercise "due diligence" in order to ensure the legality of harvesting of the wood imbedded in their products. Thirdly, to facilitate the traceability of timber products placed on the market, traders throughout the supply chain have an obligation to keep records of their supplier and their customer. The Regulation covers a wide range of timber products listed in its Annex using the EU Combined nomenclature codes. It provides for recognition of "monitoring organisations" by the Commission, whose role is to assist operators in meeting their obligations.

¹ 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 Text with EEA relevance (OJ L 295, 12.11.2010, p. 23).

The EU Timber Regulation was adopted in December 2010 and entered into application on 3 March 2013. During this period, the Commission adopted two non-legislative acts. The first one is the Commission Implementing Regulation² (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations, which was adopted as pursuant to article 18(2) of the EU Timber Regulation and article 5 and 7 of Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

The second one is the Commission Delegated Regulation (EU) No 363/2012 of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010.³ The EU Timber Regulation requires (Article 15(1)) that the Commission makes a report in respect of the delegated powers; therefore the present report focusses specifically on the Delegated Regulation (EU) No 363/2012.

2. LEGAL BASIS

The present report is required, as previously mentioned, by Article 15(1) of the EU Timber Regulation. Pursuant to this provision, the delegation is conferred on the Commission for a period of 7 years from 2 December 2010 and the Commission is required to make a report in respect of the delegated powers not later than 3 months before the end of a three-year period after the date of application of the Regulation, which is December 2015 as the Regulation became applicable on 3 March 2013.

3. EXERCISE OF THE DELEGATION

According to the EU Timber Regulation, the Commission may adopt delegated acts concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in the Regulation (Art. 6(3)), concerning the procedure for the recognition and withdrawal of recognition of monitoring organisations and, if experience so requires, to amend them (Art. 8(7)), and concerning the list of timber and timber products to which the EU Timber Regulation applies (Art. 14).

² Commission Implementing Regulation (EU) No 607/2012, OJ L 177, 7.7.2012, p. 16–18.

³ Commission Delegated Regulation (EU) No 363/2012, OJ L 115, 27.4.2012, p. 12–16.

The Commission adopted one delegated act, the *Commission Delegated Regulation No 363/2012*⁴ of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations. The exercise of this empowerment responds to the need to supplement the requirements and the procedural rules regarding the recognition and withdrawal of recognition of monitoring organisations.

3.1 DELEGATED ACT SUPPLEMENTING REGULATION (EU) No 995/2010

According to Article 8(1) of the EU Timber Regulation a monitoring organisation is entitled to maintain and evaluate a due diligence system; to grant operators the right to use it; to verify the proper use of the due diligence system and to take appropriate action in case of failure by an operator to properly use it. Article 8(2) of the EU Timber Regulation additionally establishes the requirements an applicant shall comply with in order to apply for recognition as a monitoring organisation. According to this provision, if the applicant fulfils the statutory requirements, the Commission, after having consulted the Member State concerned, shall grant to the applicant recognition as a monitoring organisation.

Pursuant to Article 8(4), the competent authorities carry out checks on monitoring organisations within their jurisdiction to verify that they fulfil the functions and comply with the requirements in Article 8(1) and (2) of the EU Timber Regulation and inform the Commission in case a monitoring organisation no longer fulfils the functions and comply with the requirements (Art. 8(5)). The Commission shall withdraw recognition of a monitoring organisation, in particular on the basis of the information provided in accordance to Article 8(5) of the Regulation, in case the monitoring organisation concerned does not fulfil the requirements established in Article 8(1) and (2).

Pursuant to Article 8(7) of the EU Timber Regulation, the Commission is empowered, by means of delegated acts, to adopt procedural rules supplementing Regulation (EU) No 995/2010 for the recognition and withdrawal of recognition of monitoring organisations, while ensuring that the recognition and withdrawal of recognition are performed in a fair and transparent manner.

⁴ OJ L 115, 27.4.2012, p. 12–16.

The Expert Group on timber and timber products was consulted on the draft delegated Regulation during its meetings on 18 May 2011 and 7 July 2011. The delegated act was adopted on 23 February 2012 and notified to the European Parliament and to the Council. Neither the European Parliament nor the Council issued any objection to the delegated act within the period of 2 months as provided for in Article 17(1) of the EU Timber Regulation. None of the institutions initiated an extension of the 2 months period by additional two months in accordance with the same provision.

On the expiry of the 2 months period, the delegated act was published in the Official Journal of the EU and entered into force on 17 May 2012.

The Commission has not yet adopted delegated acts concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in the Regulation (Art. 6(3)), and concerning the list of timber and timber products to which the EU Timber Regulation applies (Art. 14) as more experience with the application of the Regulation is needed in order to assess the necessity of such amendments.

4. CONCLUSION

The Commission has properly exercised its delegated powers and invites the European Parliament and the Council to take notice of this report.

The Commission still considers the delegated powers pursuant to Article 6(3) and Article 14 of the EU Timber Regulation necessary, in particular for the purposes of amending and/or supplementing the list of timber and timber products set out in the Annex. For the purposes of amending the Annex and thus revising the Regulation product scope, the Commission will take into consideration the results of the review of the Regulation as presented in the Staff Working Document and the Report, required by Article 20(3) of the EU Timber Regulation.