

6. THE ROLE OF THIRD-PARTY-VERIFICATION SCHEMES IN RISK ASSESSMENT AND RISK MITIGATION¹

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Relevant legislation: EUTR - Recital (19) and Article 6 – Due diligence system + Commission implementing Regulation (EU) No 607/2012 - Article 4 – Risk assessment and mitigation

A. Background information

Voluntary timber legality verification and forest certification schemes are often used to meet specific customer requirements for timber products. Different legality verification or forest certification schemes may offer some levels of legal assurance, in some cases focusing on the compliance with legislation relating to forest management, and/or to a lesser extent with legislation relating to trade and customs. Timber legality verification schemes focus primarily on legality compliance.

Such schemes usually aim to inform consumers about the management of the forests from which timber and other forest products were produced. Typically, these include a standard that describes the forest management practices that are to be implemented within a forest management unit to be eligible for certification comprising: broad principles, criteria and indicators; requirements for checking compliance with the standard and awarding certificates.

When an organisation that is not the forest manager, manufacturer or trader, nor the customer requiring certification, carries out an assessment and awards a certificate, this is known as third-party certification.

These schemes generally require third-party organisations to be able to demonstrate their qualifications to perform assessments through a process of accreditation that sets standards for the skills of auditors and the systems that the certification organisations must adhere to. The International Organisation for Standardisation (ISO) has published standards covering both requirements for certification bodies and assessment practices. Proprietary timber legality verification schemes in most cases do not require accreditation of the verifying body, which normally is the same organisation which has developed and administers the scheme.

B. Guidance

Timber legality verification or forest certification or schemes can support compliance with the EUTR and may be taken into account by operators *as part* of their risk assessment of compliance with applicable legislation in the country of harvest. However, the purchase of certified products may not be assumed to automatically represent “negligible risk” of illegal timber harvesting and does not replace the requirement to assess risks. It ultimately remains the operator’s responsibility to demonstrate legality of the product and to check whether a particular certification scheme or legality verification ensures compliance with applicable legislation to the extent required by the EUTR. Where schemes operate in more than one country and include legality definitions defined at national level, the operator’s must verify that the scope of the applicable legislation under the national standard is in line with the EUTR. The operator should identify any elements that are not or not fully covered and assess and mitigate any related risks.

In the process of assessing the credibility of a third-party-verification scheme, operators may use the following questions (note that the list is not exhaustive):

- ✓ Are all requirements under Article 4 of the Commission implementing Regulation (EU) No 607/2012 fulfilled?

¹ Note that certification is not given the same status as FLEGT licenses and CITES permits (section 10).

- ✓ Does the forest certification permit any infractions of legislation whilst still allowing timber to be certified?
- ✓ Is the forest certification or other third-party-verification scheme compliant with international or European standards (e.g. the relevant ISO-guides or ISEAL codes)?
- ✓ Are there substantiated reports about possible shortcomings or problems of the third-party verification schemes?
- ✓ Are there any reports indicating that there may be a risk of internal (e.g. mislabelling of products) or external (e.g. misuse of the logo by non-certified companies) certificate fraud?
- ✓ Are the third parties that perform the checks and verifications referred to under Article 4 (b)(c) and (d) of the Commission implementing Regulation (EU) No 607/2012 independent accredited organisations?
- ✓ Does the verification scheme allow transparency with regard for inspection results and sanctions for third-parties being part of the supply chain?

It should be noted that although some schemes recognise a category of certified suppliers, these suppliers can still sell products that are not certified. Therefore, this category alone does not provide any assurance for compliance with the EUTR. Some schemes may allow certification claims on products that contain a mix of verified and non-verified timber. This is another category that by itself, it does not provide any assurance for compliance with the EUTR. Therefore, in such cases it is important that the operator obtains and assesses information about whether the scheme concerned has a reliable system of checking on the non-verified portions leading to adequate evidence of compliance with the applicable legislation. The operator should regularly control the validity of claims of deliveries shipments, i.e. controlling the validity of the supplier's certification and the scope of the certificate.

A forest certification or legality verification scheme should also implement a robust assurance/verification system which ensures that the standards set by the scheme are not only stipulated but also applied and enforced.

The operator should assess:

- ✓ how the adherence with the standards are checked on the ground;
- ✓ how field assessments are carried out;
- ✓ the expertise of auditors;
- ✓ the availability of sources to check that the organization issuing a certificate is duly authorized and validity of issued certificates
- ✓ the assurance systems' compliance with international standards and
- ✓ The latest audit report and the quality of information therein.

It is also important to verify whether the verification system is applying cross-boundary and cross-supply chain checks (regularly or in specific cases) through the accreditation system and/or with other means.

Operators should keep up to date with any changes to the standards and assurance systems of the certification scheme or legality verification. The species composition of certified products (e.g. furniture) may also change, and operators need to take this into account to ensure that a reassessment of the risks is carried out as appropriate.

Forest certification schemes may not track all timber parts in a product back to the concession level, but rather make sure that the parts originate from forests which meet the scheme's standards, by using

chain-of-custody controls. Particularly if the risks relating to the country of origin and/or species are identified as non-negligible, then operators must seek additional concession-level information.