



EUROPEAN COMMISSION

7.5.2021

SEC(2021) 396

REGULATORY SCRUTINY BOARD OPINION

FITNESS CHECK

Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010

COM(2021) 706

SWD(2021) 328

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Brussels,
RSB

Opinion

Title: Fitness check of the Forest Law Enforcement, Governance and Trade Council Regulation (EC) N° 2173/2005 and the EU Timber Regulation (EU) N° 995/2010

Overall opinion: POSITIVE

(A) Policy context

Illegal logging and related trade contribute to deforestation. This has important negative effects, inter alia on climate change and biodiversity. The EU's policy to tackle illegal logging relies on two pieces of legislation: the EU Timber Regulation (EUTR) and the Forest Law Enforcement, Governance and Trade Council Regulation (FLEGT).

FLEGT entered into force in 2005. It establishes a licensing scheme for imports of timber into the EU through a Voluntary Partnership Agreement (VPA). This is a bilateral trade treaty for timber and timber products between the EU and timber producing countries.

EUTR entered into force in 2013. It lays down the obligations for placing timber and timber products on the EU market. It requires operators to exercise 'due diligence' so as not to derive their timber from illegal sources. Traders have to collect relevant information, assess the risk of illegally harvested timber in the supply chain, and take measures to minimise this risk.

This fitness check aims to evaluate the functioning and effectiveness of both Regulations and whether they are still 'fit for purpose'.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and the commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The report does not sufficiently identify the benefits of both Regulations in view of their high costs and their limited effectiveness to date.**
- (2) The report does not draw clear conclusions on whether the Regulations are 'fit for purpose'. It lacks clear take-aways for future decision-making.**

This opinion concerns a draft fitness check which may differ from the final version.

(C) What to improve

(1) The report should better explain the main driving factors behind the limited effectiveness of the Regulations. It should explain the relative importance of each of these factors and indicate to what extent they are within EU control (e.g. regulatory design and implementation failures).

(2) The report should bring out the ‘fitness check’ angle of the evaluation more clearly and better indicate what links exist between the two Regulations in terms of synergies, complementarities, overlaps or streamlining potential (e.g. for monitoring or enforcement).

(3) The report should better demonstrate the different types of benefits that both Regulations intendedly or unintendedly produced. The report should explore (qualitatively if quantified evidence is not available) to what extent illegal logging has been reduced because of benefits such as increased awareness and better forest governance in wood-producing countries. The report should explain better whether the benefits outweigh the costs of the Regulations. It should indicate what the potential is for reducing the high compliance and operating costs of the Regulations.

(4) In view of possible unintended consequences such as ‘leakage’, the report should indicate whether complementary measures might be necessary to fight deforestation worldwide based on the evaluation findings.

(5) The conclusions should make a more critical, evidence-based judgement of how the Regulations have performed. They should clarify to what extent they remain relevant and draw clearer lessons for policy-makers.

(6) The report should dedicate more attention to the issue of data limitations and draw lessons for future data-collection as a way to facilitate better measurement of the degree of future success of both Regulations.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

Full title	Fitness check of the Forest Law Enforcement, Governance and Trade Council Regulation (EC) N° 2173/2005 and the EU Timber Regulation (EU) N° 995/2010
Reference number	PLAN/2019/6094
Submitted to RSB on	12 April 2021
Date of RSB meeting	5 May 2021