

proforest



**Main report -
Assessment of
certification and
legality verification
schemes**

For European Timber Trade
Federation (ETTF)

Final | 6 December 2012

About Proforest

Proforest is an independent company working with natural resource management and specialising in practical approaches to sustainability.

Our work ranges from international policy development to the practical implementation of requirements on the ground, with a particular focus on turning policy into practice. Our extensive and up-to-date knowledge of the international context ensures that our work for individual companies and organisations is set within an appropriate framework. At the same time, we are able to bring a wealth of current practical experience to policy development processes and debates.

The Proforest team is international and multilingual and has a broad variety of backgrounds, ranging from industry to academia and NGOs. This allows us to work comfortably in many types of organisations, as well as in a range of cultures. We have in-house knowledge of more than 15 languages, including Mandarin, Malay, French, Spanish and Portuguese.

Proforest was set up in 2000. Our expertise covers all aspects of the natural resources sector, from forestry and agricultural commodities to conservation, supply chain management and responsible investment.

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1 Introduction

1.1 EU Timber Regulation

The EU Timber Regulation (EU TR)¹ that prohibits placing of illegal timber on the EU market will come into force on the 3rd March 2013. Under the Regulation, operators that place timber products on the EU market for the first time have to run a due diligence system, while traders along the supply chain have to provide traceability information on who they purchase timber products from, and to whom they sell the products. The EU TR applies to both domestically produced timber in the EU and timber imported into the EU market.

1.1.1 Due diligence

The EU TR stipulates that operators, who place timber or timber products on the internal market for the first time, must exercise due diligence through a system comprising three elements inherent to risk management:

- Access to information
- Risk assessment
- Risk mitigation

The information, which the regulation requires access to, includes:

- 1) a description of the type of product and species of the wood used,
- 2) origin of harvest,
- 3) quantity,
- 4) name and address of the supplier,
- 5) name and address of the trader to whom the timber and timber products have been supplied and
- 6) documents or other information indicating compliance with the applicable legislation.

1.1.2 Ensuring legality

'Applicable legislation' is defined in the regulation (Article 2 (h)) as the legislation in force in the country of harvest covering the following matters:

- rights to harvest timber within legally gazetted boundaries,
- payments for harvest rights and timber including duties related to timber harvesting,
- timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,
- third parties' legal rights concerning use and tenure that are affected by timber harvesting, and
- trade and customs, in so far as the forest sector² is concerned.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:EN:PDF>

² There is no commonly agreed definition of the forestry sector and a definition in the context of the EU TR has not been finally clarified. Proforest have for the current assessment referred to the latest proposed guidance from the commission, which clarify that the requirement applies to the point of export from the country of harvest only.

1.2 The role of certification/verification schemes in EUTR compliance

Certification and other third-party verification is widely used across the timber trade to ensure legality and sustainability in compliance with the trade's own requirements as well as those of private and public sector purchasing policies.

The EU Timber Regulation specifies that assurance of compliance with applicable legislation may be provided by "certification or other third-party-verified schemes which cover compliance with applicable legislation" (Article 6(b)).

The European Timber Trade Federation (ETTF) has therefore, on behalf of its members, asked Proforest to assess to what extent a range of available certification/verification schemes deliver assurance of compliance with applicable legislation as required by the EU Timber Regulation. The Implementing Regulation³ (Article 4) includes a list of criteria to assess the adequacy of such schemes.

1.2.1 Schemes assessed

This report presents the summary results of the assessment against the requirements of EU TR of the following schemes:

- BV Origin and Legality of Wood (OLB)
- Certisource Legality Assurance System (CLAS)
- Forest Stewardship Council (FSC)
- GFS Wood Tracking Programme (WTP)⁴
- Programme for the Endorsement of Forest Certification Scheme (PEFC)
- Rainforest Alliance SmartWood Verification of Legal Origin (VLO)
- Rainforest Alliance SmartWood Verification of Legal Compliance (VLC)⁵
- Soil Association Forest Verification of Legal Compliance (FVLC)
- SCS LegalHarvest Verification (LHV)
- NEPCon LegalSourceTM Standard (LS) (2nd Draft, Oct 2012)⁶

Only FSC and PEFC are forest certification schemes, the remaining initiatives are legality verification schemes that focus on legality compliance.

The current assessment covers assurance of compliance with applicable legislation as required by the EU Timber Regulation only, and does not assess the extent to which the schemes deliver compliance with the full set of due diligence requirements for information, risk assessment and mitigation.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:177:0016:0018:EN:PDF>

⁴ GFS covers two level of verification: verification of legal origin and legal compliance

⁵ The VLC standard has been revised, it is understood that this new standard will be approved very soon. In light of this the assessment looked at both current and revised versions.

⁶ NEPCon LegalSource Standard cover the implementation of a full due diligence system. The standard cover legality certification set out in its own LegalSource requirements, but also refer to CITES Licence, FLEGT Licence, Rainforest Alliance SmartWood VLC certification and FSC certification (once planned changes to the FSC system has been implemented) as eligible legality certification schemes. Please note that the current assessment of NEPCon LegalSource Standard cover the LegalSource claim only and does not cover the full due diligence requirements.

2 Methodology

2.1 Scope of review

Reviews of certification and verification schemes were undertaken on the basis of the scheme requirements, as set out in the publicly available documentation for each scheme. In cases where scheme documentation is not available in the public domain, Proforest contacted the scheme(s) to obtain such information. No assessments of the actual outcomes of certification or verification in the forest were made.

Initial draft results were sent to the respective schemes with an invitation to review the information collected and, wherever appropriate, to provide further information or comment. All schemes provided comments.

2.2 Development of criteria & scoring method

Proforest developed the criteria for assessing the certification and legality verification schemes based on:

- 1) the definition of ‘applicable legislation’ under the EU Timber Regulation (Article 2 (h) as outlined above and
- 2) the requirements set out in the Implementing Regulation (Article 4 Risk assessment and mitigation).

The Implementing Regulation requires certification or other third-party verified schemes to:

- (a) have a publicly available system of requirements, which shall at the least include all relevant requirements of the applicable legislation;
- (b) specify that appropriate checks, including field-visits, are made by a third party at regular intervals of no longer than 12 months to verify that the applicable legislation is complied with;
- (c) include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;
- (d) include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.

The Implementing Regulation’s requirement for third party verification, and thereby the assurance and credibility of the schemes and the certification/verification process, has been addressed by elaborating appropriate requirements in the assessment criteria that were developed. In particular, criteria were included which require that forest management and chain of custody certification/verification must be undertaken by a body:

- 1) whose organisation, systems and procedures conform to ISO/IEC 17065:2012 or ISO/IEC 17021:2011, or publicly available equivalent and
- 2) which is accredited to evaluate against a forest management standard which covers the legality criteria and against a chain of custody standard.

The assessment criteria that were developed can be found in Annex A.

2.3 Policy level stakeholder consultation

The assessment process was supplemented by consultation with a group of key stakeholders at a policy level, such as the European Commission and representatives of member state governments. This ensures that the understanding of the role (and limitations) of certification schemes in delivering compliance with the EUTR and the Implementing Regulation, and in particular the criteria that were developed for this assessment, is consistent with the views of stakeholders, as well as certification schemes.

Specifically, this consultation asked the following questions:

1. Is it essential that certification and other third party verified schemes include national level definitions of legality covering the ‘applicable legislation’ as defined in the EU TR?
2. Where a national definition of legality has already been developed through FLEGT VPA process, is it necessary for certification and third party verified schemes to adopt the same definition?
3. In addition to the criteria listed in the Implementing Regulation on certification and other third party verified schemes, are there any other aspects of assurance systems that you consider are essential in order to ensure effective enforcement of legality by the schemes?
4. Do you have any other comments on the role of certification and other third party verified schemes in relation to delivering compliance with the EU TR?

In response to a request for comments on these points sent to a selected group of stakeholders, the following individuals responded with comments:

Organisation	Name
European Commission (EC)	Svetla Atanasova
Forest Stewardship Council (FSC)	Richard Robertson
French Ministry of Agriculture, Agri-food and Forests	Eudeline Melet
NEPCON	Christian Sloth
Netherlands Food and Consumer Product Safety Authority	Meriam Wortel
Federal Ministry of Food, Agriculture and Consumer Protection, Germany	Thorsten Hinrichs

2.4 Finalisation of scheme assessments

The final draft scoring and a summary of the findings related to the scheme were shared with the schemes for their information and final comments. Proforest revised the draft results for each scheme assessment following any clarifications on scheme documentation and interpretation from the schemes.

Compliance with the requirements of each criterion was scored on a 3-point scale:

- NC - Non-Compliant, inadequately addressed/covered by the scheme
- P - Partially addressed/ covered by the scheme
- C - Compliant, adequately addressed/covered by the scheme

Detailed assessment results can be found in Annex B.

The final report with results and recommendations will be presented to the ETTF Board. The ETTF Board will make the final decision on whether the specific schemes meet the legality criteria, and any consequent advice to members on how to use these schemes to assist in delivering compliance with the EU TR. The final results will be notified to the schemes and made publicly available on the ETTF website.

3 Findings

3.1 Policy level consultation on the role of certification and verification schemes

3.1.1 Summary responses provided

Inclusion of national level definitions

Stakeholders essentially agree that ‘applicable legislation’ has to be defined at a national level for certification/verification schemes to deliver compliance with the EU TR. It is generally considered practical if not essential to know the applicable legislation at a national level to be able to assess and ensure conformance with the EU TR requirements. As one stakeholder comment ‘in order to evaluate risk of non-conformance to applicable legislation in a country you would have to know what that legislation is’.

Adoption of national definition of legality developed through FLEGT VPA process

Where a national definition of legality has been developed through a VPA process, stakeholders agree that definitions utilised by certification/verification schemes should be entirely consistent, if not identical. Before a VPA becomes operational the imports into the EU will be subject to the EUTR requirements and timber must have been harvested in accordance with applicable legislation as listed in the EUTR. Although a national definition of legality developed through a VPA process is likely to go beyond ensuring compliance with the applicable legislation as required by the EU TR, stakeholders agree that it will be necessary and practical that certification/other third party verified schemes adopt the same definition of legality in countries where the FLEGT VPA process has been developed.

Stakeholders point out that it will be more cost efficient to ensure consistency; *The audit for certification can serve as the basis for meeting VPA requirements, so if the legality definition is the same, it will be easier for certified operators to be VPA compliance.*

Thereby operators who have invested in certification/third-party verification will be awarded. Another stakeholder further comments that *If the standards of schemes are lower than the requirements of VPA, operators will also have to gather additional information to ensure compliance.*

Additional aspects of assurance systems

Stakeholders consulted all agree that the assurance systems implemented by certification/verification schemes are fundamentally important, and that the Implementing Regulation probably only defines the most basic requirements relating to this. As one stakeholder puts it: *A standard can include all the right requirements, but it needs to be combined with a robust assurance system in order ensure an effective enforcement of the requirement. Without a robust assurance system even the best standard is worthless.*

The implementing regulation requires “third-party” assessments, but does not further define how assurance and credibility is to be ensured. Stakeholders expressed the view that it is almost certainly necessary to go further than the Implementing Regulation in defining the characteristics of acceptable certification/verification processes, which is consistent with the approach taken in defining the criteria for this assessment. Stakeholders specifically mention requirements related to ISO/ISEAL compliance; how the standards/requirements are checked and applied on the ground; how the field assessment was carried out; expertise of auditors.

During the consultation process for elaborating the secondary legislation and after holding numerous bilateral meetings with stakeholders the Commission has outlined a number of issues to be addressed in accompanying guidance. One of the issues *‘The role of third parties verified schemes in the process of risk assessment and risk mitigation’* covered in the recent draft guidance⁷, was discussed on 9th November in Brussels. The draft guidance suggests a number of questions which operators may use to assess the credibility of a third party verified scheme. Including whether *‘the third parties that are making the checks and verification...[are] independent accredited organisations and complying with standards such as ISO/IEC Guide 65 or EN 45011...’* and whether the third parties *‘work in accordance with an international or European standard that requires specific expertise in assessment of forest management practices and forest products supply chains.’*

Other comments on the role of certification and other third party verified schemes

In conclusion, stakeholders generally find that certification and other third party verification schemes have an important role to play in delivering compliance with the EU TR; *‘certification/legality verification schemes are a great assistance to help operators to comply with EU TR. They absolutely have a role to play under the EU TR.* This is especially highlighted as the case for high risk countries where a stakeholder *cannot imagine many other proofs for legality apart from third party verified schemes.* It should also be noted that the key role of certification/verification schemes in mitigating risk to the required negligible levels is recognised by the new British Standard PAS 2021:2012, due to be launched in December 2012, where certification/verification schemes that fulfil the requirements of the Implementing Regulation article 4 are cited. Stakeholders, however, also point out that ultimately the operator is responsible for making the judgement on the adequacy of a specific scheme in a specific location, as well as the more general point that it is essential to have a common understanding amongst industry and competent authorities of what certification can or cannot deliver (e.g. potential gaps relating to the information requirements). From a practical perspective, certification also may not always be the answer to complying with the EU TR where there are limited certified materials available and where the costs of CoC certification are too high.

3.2 Assessment of schemes results

The detailed assessment results for all ten schemes are available in Annex B. General findings of the assessment results are outlined in the next section (3.2.1) which includes an overview of the scores (C: compliant, P: partially compliant or NC: non-compliant) in

⁷ http://ec.europa.eu/environment/forests/pdf/guidance_document.pdf , available on 9th November 2012

Table 1 below. Section 3.2.2 consists of a further table highlighting the specific findings for each scheme.

3.2.1 Summary of assessment results – General findings

Forest standard on legal compliance

All schemes assessed were found to require right to harvest (criterion 1.1.1), payments and duties for harvest rights (criterion 1.1.2) and compliance with third parties' use and tenure rights (criterion 1.1.4).

Variations of the schemes requirements were related to ensuring compliance with legal requirements related to timber harvesting (criterion 1.1.3). Though all the schemes have some requirements covering forest management and environment, clear requirements addressing biodiversity conservation were not found to be in place for CertiSource, RA VLO and GFS VLO certification and they were found to only partially comply with the criteria.

There were also found to be variations across the schemes when ensuring legal compliance related to trade and customs, in so far as the forest sector is concerned (criterion 1.1.5). BV OLB, FSC, GFS WTP and PEFC requirements focus on ensuring legal compliance at the forest management level and do not ensure compliance with trade and customs legislation at the point of export from the country of harvest. These schemes were therefore found to not ensure compliance with legislation covering trade and customs in the country of harvest.

Assurance and credibility of the schemes

All schemes were found to have a system in place to ensure that there is a national application of the legality criteria, with the exception of GFS WTP which was concluded to only partially address this criterion.

There were not found to be any problems with transparency of the schemes. All schemes reviewed have their standards and requirements publicly available at their website.

In terms of the robustness of the certification and verification process of the schemes some were found to not comply with the criteria set up to ensure this. The assessment criteria include requirements that forest management (and chain of custody) certification/verification must be undertaken by a body;

- 1) accredited to evaluate against a forest management standard which covers the legality criteria and against a chain of custody standard (criteria 3.1 and 4.1) and
- 2) whose organisation, systems and procedures conform to ISO/IEC 17065 or ISO/IEC 17021:2011, or publicly available equivalent (criteria 3.2 and 4.2)

FSC and PEFC require a formal accreditation of certification bodies while none of the legality verification schemes have this requirement to the certification body assessing against their standards. This is one of the key differences between FSC and PEFC forest certification and legality verification schemes.

With the exception of CertiSource and GFS WTP, which were found to be non-compliant with criteria 3.1 and 4.1, all of the other legality verification schemes are, however, developed and run by certification bodies which are accredited to carry out FSC and/or PEFC forest certification so this provides a certain level of assurance. This related accreditation and compliance with relevant norms is assumed to provide assurance that

similar systems are followed in also performing the assessments of compliance with their legality standards.

The legality verification schemes which operated by FSC and/or PEFC accredited certification bodies were therefore found to be partially complying with the requirement for accreditation (criteria 3.1 and 4.1). All schemes with the exception of GFS were found to require certification/verification to be undertaken by a body whose organisation and systems comply with ISO/IEC Guide 65 (replaced by ISO/IEC 17065) or ISO/IEC 17021 or equivalent (criteria 3.2 and 4.2). Compliance with the ISO norms is required of the certification bodies to gain FSC and PEFC accreditation.

GFS is not an FSC or PEFC accredited certification body and the GFS standard does not require the verification to undertaken by a body conforming to the ISO norms or equivalent. GFS stated that it is 'operating in accordance to' ISO norms, but this has not been verified through accreditation.

It should be noted that the verification process used by CertiSource is different. CertiSource is not a certification body, but it requires the certification body auditing against the CertiSource Legality Assurance System (CLAS) to be accredited against ISO/IEC Guide 65 and is therefore found to comply with this requirement.

All schemes require that certification and verification assessment includes field audit and review of documentation and systems (criterion 3.3).

In general, all schemes also require a surveillance audit to be carried out at intervals no longer than 12 months (criterion 3.4).

Chain of Custody (CoC)

All schemes require a chain of custody control along the supply chain, from the forest source to the final product. This means that each organisation, in the chain from forest to final certified product, which owns or processes the material in any way, must have been audited to confirm that they are implementing chain of custody requirements.

CertiSource operate a unique batch-based CoC system and require that each batch of timber is audited for legality against CLAS. CertiSource can further offer DNA for scientific verification of the chain of custody. GFS chain of custody is not product specific, but assesses company performance and traces the wood from the supplier, back to the forest source.

Both FSC and PEFC allow mixing of certified with uncertified materials, but require that legality is also ensured for the non-certified material in various ways. However, GFS and OLB also allow some degree of mixing with non-approved material, but have weaker requirements for their non-approved proportion.

Table 1 Overview of scores

Criteria	BV OLB	Certi- Source CLAS	FSC	GFS WTP	PEFC	RA VLO	RA VLC	SA FVLC	SCS LHV	NEPCon LS
1. Legality criteria										
1.1 Forest standard on legal compliance										
1.1.1 The standard requires that the forest owner/manager has rights to harvest timber within legally gazetted boundaries.	C	C	C	C	C	C	C	C	C	C
1.1.2 The standard requires payments for harvest rights and timber including duties related to timber harvesting.	C	C	C	C	C	C	C	C	C	C
1.1.3 The standard requires compliance with legal requirements directly related to timber harvesting concerning: <ul style="list-style-type: none"> • Environment • Forest management • Biodiversity conservation 	C	NC	C	P	C	NC	C	C	C	C
1.1.4 The standard requires compliance with third parties' legal rights concerning use and tenure that are affected by timber harvesting.	C	C	C	C	C	C	C	C	C	C
1.1.5 The standard requires compliance with legal requirements related to trade and customs, in so far as the forest sector is concerned.	NC	C	NC	NC	NC	C	C	C	C	C
1.2 National application of legality criteria										
1.2.1 International schemes or schemes, which operate in more than one country, must have a system in place to ensure that the legality requirements, set out in criteria 1.1.1 – 1.1.5 of the forest management standard, are defined at national level.	C	C	C	P	C	C	C	C	C	C
2. Scheme transparency										
2.1 Certification/legality verification scheme must make its requirements publicly available.	C	C	C	C	C	C	C	C	C	C
3. Certification/ verification process										

Criteria	BV OLB	Certi- Source CLAS	FSC	GFS WTP	PEFC	RA VLO	RA VLC	SA FVLC	SCS LHV	NEPCon LS
3.1 Certification/verification must be undertaken by a body which is accredited to evaluate against a forest management standard that covers the legality requirements set out in criteria 1.1.1 – 1.1.5 above.	P	NC	C	NC	C	P	P	P	P	P
3.2 Certification/verification must be undertaken by a body whose organisation, systems and procedures conform to ISO Guide 170658 or ISO/IEC 17021:2011, or publicly available equivalent.	C	C	C	NC	C	C	C	C	C	C
3.3 Certification/ verification audits must include review of documentation and system, and assessment in the forest.	C	C	C	C	C	C	C	C	C	C
3.4 Certification/verification audits must be carried out at least once every 12 months.	C	C	C	C	C	C	C	C	C	C
4. Chain of Custody (CoC)										
4.1 Assessment of Chain of Custody must be undertaken by a certification body which is accredited to evaluate CoC standard.	P	NC	C	NC	C	P	P	P	P	P
4.2 Assessment of Chain of Custody must be undertaken by a certification body operating in accordance with ISO Guide 170659 or ISO/IEC 17021:2011, or publicly available equivalent	C	C	C	NC	C	C	C	C	C	C
4.3 There must be a Chain of Custody control along the supply chain, from the forest source to the final product.	C	C	C	C	C	C	C	C	C	C
4.4 If mixing of certified/verified and uncertified/unverified material in a product or product line is allowed, the uncertified/unverified material must be covered by a verifiable system which is designed to ensure that it complies with legality requirements set out in criteria 1.1.1 – 1.1.5 above.	P	C	C	P	C	C	C	C	C	C

⁸ ISO Guide 17065 replaced ISO Guide 65 in 2012

⁹ See footnote 7.

3.2.2 Summary of assessment results- Findings per scheme

Scheme	Summary of partially compliant and non-compliant findings	Non-compliant criteria
<p>BV Origin and Legality of Wood (OLB)</p>	<p>Legal requirements are covered, with the exception of those related to trade and customs, which are not addressed beyond forest management level.</p> <p>There is no accreditation of BV to assess against the OLB standard required (criteria 3.1 and 4.1). BV is however accredited to carry out FSC and PEFC (SFI) forest management and CoC certification which is assumed to provide acceptable assurance and credibility for the scheme.</p> <p>OLB CoC standard allows mixing of other ‘acceptable sources’ into OLB-certified products via a credit system. Timber from acceptable sources includes timber covered by OLB’s ‘suppliers’ assessment program’ which does not require full compliance with the EU TR legality requirements set out in criteria 1.1.1 – 1.1.5.</p> <p>OLB further recognise Kerhout Legal timber as an acceptable source. The list of Kerhout certificates show that verification of legal origin is accepted, which again does not cover all requirements set out in criteria 1.1.1 – 1.1.5.</p>	<ul style="list-style-type: none"> • 1.1.5 The standard requires compliance with legal requirements related to trade and customs, in so far as the forest sector is concerned.
<p>CertiSource Legality Assurance System (CLAS)</p>	<p>Compliance with the legal requirement’s is not fully addressed (part of criterion 1.1.3).</p> <p>No requirement for certification body to be accredited to evaluate against forest management, including the legality requirements set out in criteria 1.1.1 – 1.1.5 or CoC standards. CertiSource is not a certification body and there is no assurance of the third-party credibility as provided via FSC or PEFC accreditation. CertiSource is therefore found to be non-compliant with criteria 3.1 and 4.1.</p>	<ul style="list-style-type: none"> • 1.1.3 The standard requires compliance with legal requirements directly related to timber harvesting concerning: <ul style="list-style-type: none"> • Environment • Forest management • Biodiversity conservation • 3.1 Certification/verification must be undertaken by a body which is accredited to evaluate against a forest management standard that covers the legality requirements set out in criteria 1.1.1 – 1.1.5. • 4.1 Assessment of Chain of Custody must be undertaken by a certification body which is accredited to evaluate CoC standard.

Scheme	Summary of partially compliant and non-compliant findings	Non-compliant criteria
<p>Forest Stewardship Council (FSC)</p>	<p>FSC has approved its revised Principles & Criteria (P&C), though it shall not be used for audit until completion of the FSC International Generic Indicators and the transfer process of the national standards is complete. In light of this, this assessment examined both the current and revised P&C.</p> <p>Both the current and revised FSC P&C are consistent with the definition of legality under the EU TR. The main difference is that the current P&C do not explicitly refer to each of the requirements (i.e. environment, forest management and biodiversity conservation) of the EU TR but require forest management to <i>'respect all national and local laws and administrative requirements'</i> so it is essential that the FSC national standard covers all aspects of applicable legislation as defined in the EU TR.</p> <p>Legal requirements related to trade and customs are not addressed beyond forest management level.</p> <p>FSC Controlled Wood does not address criteria 1.1.3's requirement for compliance with legal requirements for biodiversity conservation. It is, however, considered to be addressed by the requirement to exclude wood harvested in forests in which high conservation values are threatened by management activities.</p>	<ul style="list-style-type: none"> 1.1.5 The standard requires compliance with legal requirements related to trade and customs, in so far as the forest sector is concerned.
<p>GFS Wood Tracking Programme (WTP)</p> <p>Verification of Legal Origin (VLO) and Verification of Legal compliance (VLC)</p>	<p>The programmes' VLO level does not require compliance with legal requirements directly related to timber harvesting concerning: Environment, Forest management and Biodiversity conservation. In addition, VLO accept the supplier's Risk Evaluation system to ensure 'low risk' of forest source.</p> <p>Distinction between VLO and VLC material is not always clear and in places both are referred to as 'Legal' which can cause confusion.</p> <p>Legal requirements related to trade and customs are not addressed beyond forest management level.</p> <p>The programme's VLO and VLC do not ensure that all criteria 1.1.1 – 1.1.5 are defined at national level. This is, however, addressed where TLAS Sabah Standard is used.</p>	<ul style="list-style-type: none"> 1.1.5 The standard requires compliance with legal requirements related to trade and customs, in so far as the forest sector is concerned. 3.1 Certification/verification must be undertaken by a body which is accredited to evaluate against a forest management standard that covers the legality requirements set out in criteria 1.1.1 – 1.1.5. 3.2 Certification/verification must be undertaken by a body whose organisation, systems and procedures conform to ISO Guide 1706510 or

¹⁰ ISO Guide 17065 replaced ISO Guide 65 in 2012

Scheme	Summary of partially compliant and non-compliant findings	Non-compliant criteria
	<p>No requirement for certification body to be accredited to evaluate against forest management or chain of custody standards.</p> <p>GFS state that they operate forest management and chain custody assessment in accordance to ISO standards, but conformance is not verified.</p> <p>VLO allows mixing of material rated 'low risk' by the supplier using a Risk Evaluation system which does not ensure compliance with the legality requirements.</p> <p>VLC allows mixing by other VLC level material certified under other 3rd party schemes including GFS Legal Verification Services, LEI & MTCC & BV, SW, SGS, SCS, Sabah TLAS standard, TFF; FSC CW; SLVK (Indonesia).</p>	<p>ISO/IEC 17021:2011, or publicly available equivalent.</p> <ul style="list-style-type: none"> • 4.1 Assessment of Chain of Custody must be undertaken by a certification body which is accredited to evaluate CoC standard. • 4.2 Assessment of Chain of Custody must be undertaken by a certification body operating in accordance with ISO Guide 17065:2011 or ISO/IEC 17021:2011, or publicly available equivalent. • 4.4 If mixing of certified/verified and uncertified/unverified material in a product or product line is allowed, the uncertified/unverified material must be covered by a verifiable system which is designed to ensure that it complies with legality requirements set out in criteria 1.1.1 – 1.1.5.
<p>Programme for the Endorsement of Forest Certification Scheme (PEFC)</p>	<p>Legal requirements related to trade and customs are not addressed beyond forest management level.</p>	<ul style="list-style-type: none"> • 1.1.5 The standard requires compliance with legal requirements related to trade and customs, in so far as the forest sector is concerned.
<p>Rainforest Alliance SmartWood Verification of Legal Origin (VLO)</p>	<p>Compliance with the legal requirement's is not fully addressed (part of criterion 1.1.3).</p> <p>SmartWood is the Rainforest Alliance certification/verification programme. SmartWood is accredited to carry out FSC forest management and CoC certification, and although there is no accreditation of the Verification of Legal Origin (VLO) scheme, the FSC accreditation is assumed to provide acceptable assurance and credibility for the scheme.</p>	<p>1.1.3 The standard requires compliance with legal requirements directly related to timber harvesting concerning:</p> <ul style="list-style-type: none"> • Environment • Forest management • Biodiversity conservation

¹¹ See footnote 1.

Scheme	Summary of partially compliant and non-compliant findings	Non-compliant criteria
<p>Rainforest Alliance SmartWood Verification of Legal Compliance (VLC)</p>	<p>The VLC standard has been revised, it is understood that this new standard will be approved very soon. In light of this the assessment looked at both current and revised versions.</p> <p>SmartWood is the Rainforest Alliance certification/verification programme. SmartWood is accredited to carry out FSC forest management and CoC certification, and although there is no accreditation of the Verification of Legal Compliance (VLC) scheme, the FSC accreditation is assumed to provide acceptable assurance and credibility for the scheme.</p>	
<p>Soil Association Forest Verification of Legal Compliance (FVLC)</p>	<p>Soil Association Woodmark is the Soil Association’s forestry and chain of custody certification scheme. Woodmark is accredited to carry out FSC forest management and CoC certification as well as PEFC CoC evaluation. Although there is no accreditation of the Woodmark FVLC scheme, the FSC and PEFC accreditation is assumed to provide acceptable assurance and credibility for the scheme.</p>	
<p>SCS Legal Harvest Verification (LHV)</p>	<p>SCS is accredited by FSC to carry out forest management and chain of custody certification. Although there is no accreditation for its Legal Harvest Verification programme, SCS’ FSC accreditation is assumed to provide acceptable assurance and credibility for the scheme.</p>	
<p>NEPCon LegalSourceTM Standard (LS) (2nd draft Oct 2012)</p>	<p>Accreditation is not specifically required in the LS standard. NEPCon is operating under accreditation conducted by ASI, DANAK and SWEDAK to carry out FSC forest management and CoC certification. NEPCon is a member of ISEAL and as such committed to operate under the ISEAL assurance code and in the process of discussion with ASI on how an oversight system can be established. Although there is currently no accreditation covering the LegalSource scheme, the FSC accreditation is assumed to provide acceptable assurance and credibility for the scheme.</p>	

4 General conclusions and recommendations

Key stakeholders do recognise the key role of certification/verification schemes in mitigating risk to the required *negligible*. This analysis has elaborated the requirements of the Implementing Regulation article 4 as the basis for assessing the level of adequacy of a range of certification/verification schemes in delivering assurance of legality. Stakeholders, however, also point out that ultimately the operator is responsible for making the judgement on the adequacy of a specific scheme in a specific location.

It is important that ETTF provides clear guidance to members on the overall role of certification/verification schemes within the context of EU TR requirements, and makes it clear to members that this assessment of the schemes does not cover all due diligence requirements set out by the EU TR. Other information such as species and origin required by the regulation will have to be provided in addition to ensuring legality.

The findings in this report are related to the current performance of the schemes and reflect the draft guidance available from the European Commission. It is likely that the schemes will amend their standards in the future to ensure that the requirements of the EU Timber Regulation are met. Some schemes have already initiated this process; it is therefore recommended that this assessment is reviewed before March 2013 and that the schemes are assessed on a regular basis.

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