

# Module 2: Enforcement of the Timber Trade Ordinance (TTO) for market actors and inspection bodies

A module of the enforcement aid and notice from the FOEN on the TTO



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# **Module 2: Enforcement of the Timber Trade Ordinance (TTO) for market actors and inspection bodies**

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# Imprint

## Legal status

This publication is a communication on enforcement published by the FOEN as the enforcement authority. It is aimed at companies affected by the TTO. It provides further detail on the practice of the FOEN as the enforcement authority in both formal and substantive terms. Anyone respecting this notice may assume that they are fulfilling the requirements of the TTO correctly.

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Lumber – wood factory stock or timber in warehouse.  
Piles of wooden boards waiting for shipping.  
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# 1 Definitions

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<b>Tree species and type of wood</b>	'Tree species' is used in the forest context, while 'type of wood' is the term once the tree has been felled.
<b>Initial operator</b>	Any natural or legal person who places timber or wood products on the market for the first time.
<b>Placing on the market for the first time</b>	The supply of timber or wood products in Switzerland for the first time for distribution or use in the course of a commercial activity, whether in return for payment or free of charge.
<b>Trader</b>	Any natural or legal person who, in the course of a commercial activity, procures or passes on timber or wood products already placed on the market in Switzerland. This refers in particular to resellers.
<b>Illegally harvested timber</b>	Timber harvested in contravention of the applicable legislation in the country of origin.
<b>Complexity of the supply chain</b>	Timber for a single product may be harvested in several different countries. The various downstream processing stages may also be conducted in different countries.
<b>Harvesting concession</b>	Any arrangement conferring the right to harvest timber in a defined area.
<b>Country of origin</b>	The country where the timber was harvested.
<b>Composite products</b>	Products often consist of several components, such as furniture comprising legs and wooden panels. These components may be made of different types of wood.

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# 2 Scope of the Timber Trade Ordinance

## 2.1 Products affected

The scope of the Timber Trade Ordinance (TTO)<sup>1</sup> is identical to that of the European Timber Regulation, EUTR.<sup>2</sup> The TTO applies to timber and wood products (Art. 2 TTO) that are listed in its Annex in 19 product categories, along with their customs tariff numbers and commodity descriptions (see *Annex 1* TTO). All products classified under these customs tariff numbers are affected. They include, for example, fuel wood, wood in the rough, wood processed in a number of ways, such as sawn wood, sheets for veneering, or processed wood such as particleboard and fibreboard. The scope of the TTO also includes wood products such as paper, pulp, wooden furniture, builders' carpentry and joinery work, as well as prefabricated buildings and wood pellets. Further to Article 21 TTO, DETEC may update this Annex continually in line with the latest findings or amendments to the EUTR list.

## 2.2 Products not affected

The TTO does not apply to products made of waste wood (recycled wood, as well as waste paper and waste wood from dismantled buildings), bamboo or other non-wood fibres (Art. 2 TTO). In the case of products made of waste wood, initial operators should document that the raw material consists of waste or recycled wood. Official documentation from the competent national authorities, recycled material certificates, confirmation from suppliers in the form of visual records such as photographs, or the business operations of the initial operator are appropriate for this purpose.

Products transferred via special customs arrangements (such as free ports), and products imported for subsequent export (processing traffic, for example) are not deemed to have been placed on the market. The provision of timber as part of non-commercial activities is also not deemed to constitute placing on the market (Art. 3 let. a TTO).

<sup>1</sup> Ordinance of 12 May 2021 on Placing Timber and Wood Products on the Market (Timber Trade Ordinance, TTO; SR 814.021).

<sup>2</sup> 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 (European Timber Regulation, EUTR), OJ L 295 of 12.11.2010, p. 23.

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In the sense of a negative list, the following products fall outside of the scope of the TTO (see Art. 2 and *Annex 1* TTO):

- **Waste wood:** timber and wood products that have reached the end of their life cycle. Detailed requirements for the handling of waste wood are set out in the Waste Ordinance (ADWO).<sup>3</sup>
- **Chairs**
- **Packaging material** made of wood or wood products that is used exclusively as a packaging material to support, protect or carry along with another product placed on the market is not affected. However, empty packaging material imported from abroad does fall under the TTO and due diligence obligations must be met.
- **Goods from the book trade, printed matter or other goods from the graphic industry; texts and plans produced by hand or machine**
- **Musical instruments**
- **Toys and games**
- **Tools, brooms and wooden handles**
- **Decorative materials and kitchen items**

<sup>3</sup> Ordinance of 4 December 2015 on the Avoidance and Disposal of Waste (Waste Ordinance, ADWO; SR 814.600).

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# 3 Market actors and their obligations

## 3.1 Initial operators

Initial operators (Art. 3 let. b TTO) are natural or legal persons who place timber or wood products on the market for the first time (Art. 3 let. a TTO). If these market actors (also referred to below as companies) import timber to Switzerland from abroad in their role as initial operators, they must be able to prove that they have assessed risk systematically (Art. 6 TTO) and, where it exists, have reduced it to a negligible level (Art. 7 TTO). To achieve this, they must establish, apply and regularly update a due diligence system, and be able to supply the corresponding proof (Art. 4 TTO). They must document to whom they have passed on the timber or wood products (Art. 5 para. 2 TTO).

Whether or not their registered office is in Switzerland, all companies that operate here must comply with the ban on the placing on the market of timber and wood products from illegal harvesting or trading, and fulfil their duty of due diligence. 'Companies' also refers to sole traders. The commercial activity is the decisive factor. It is irrelevant here whether the products made of wood or wood derivatives are in a company's possession, or whether other contractual agreements exist, such as 'Free on Board' (FOB) or 'Cost Insurance and Freight' (CIF); the key point is whether or not the product concerned is affected by the TTO and the company is an initial operator or trader.

## 3.2 Traders

Traders (Art. 3 let. c TTO) are market actors that buy, sell or pass on free of charge timber that has already been placed on the market in Switzerland. They must document the suppliers from whom they have purchased timber or wood products, and the purchasers to whom they have passed these on (Art. 35g para. 1 Environmental Protection Act (EPA)<sup>4</sup>). This traceability should make it possible to identify initial operators. Records should state the name, address, telephone numbers, email address, website (if any) and delivery dates. Delivery notes and invoices will suffice here. These documents must be retained for five years (Art. 9 TTO). Traders do not need to document sales to end consumers.

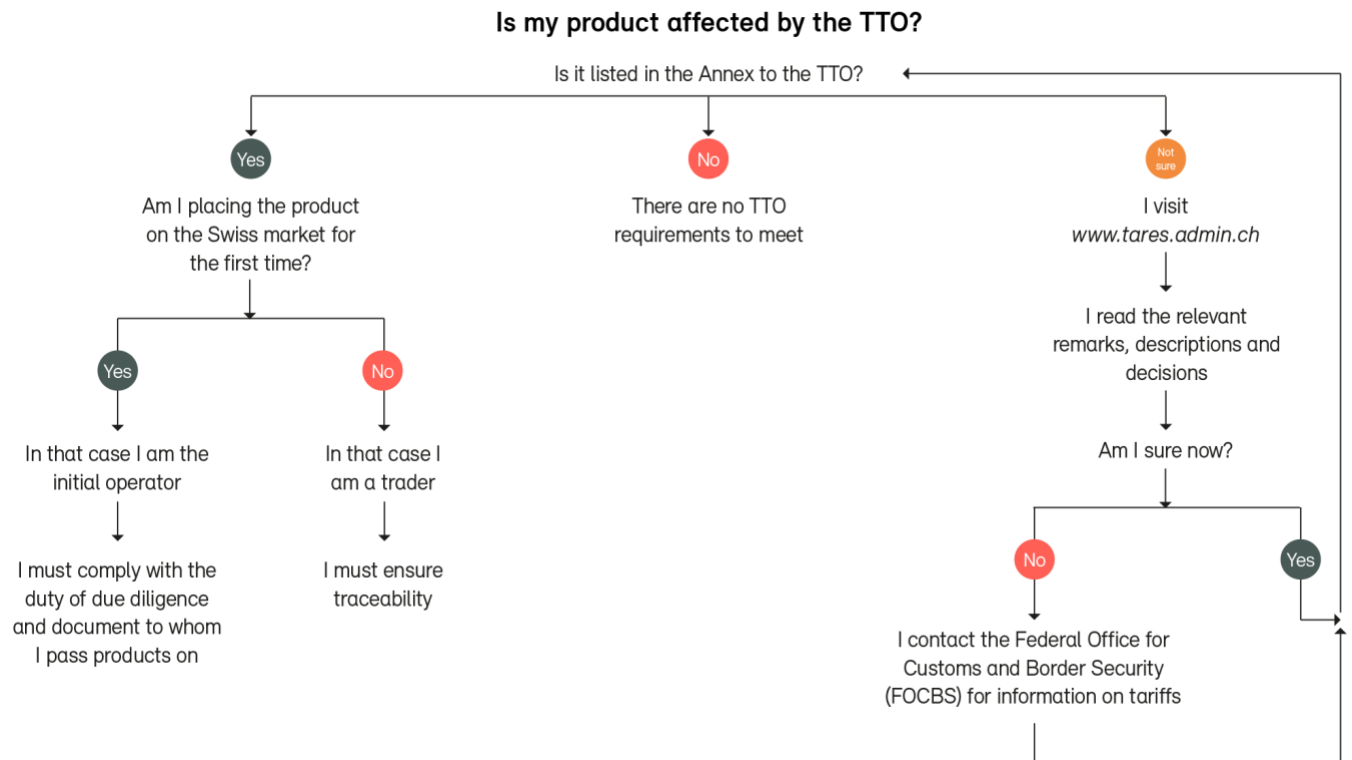
The following chart shows whether or not a product is affected, and when the company qualifies as an initial operator or trader.

<sup>4</sup> Federal Act of 7 October 1983 on the Protection of the Environment (Environmental Protection Act EPA; SR 014.01).



Figure 1

Is my product affected? Am I an initial operator or trader?



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## 4 Content of the due diligence obligation

Initial operators are required to establish a due diligence system to prove that only legally harvested or traded timber is imported into Switzerland and placed on the Swiss market. The due diligence system must be both used and regularly updated (Art. 4 TTO). Initial operators may refer to the content listed in Annex 1 of this module (Specifications for inspection bodies) as a checklist.

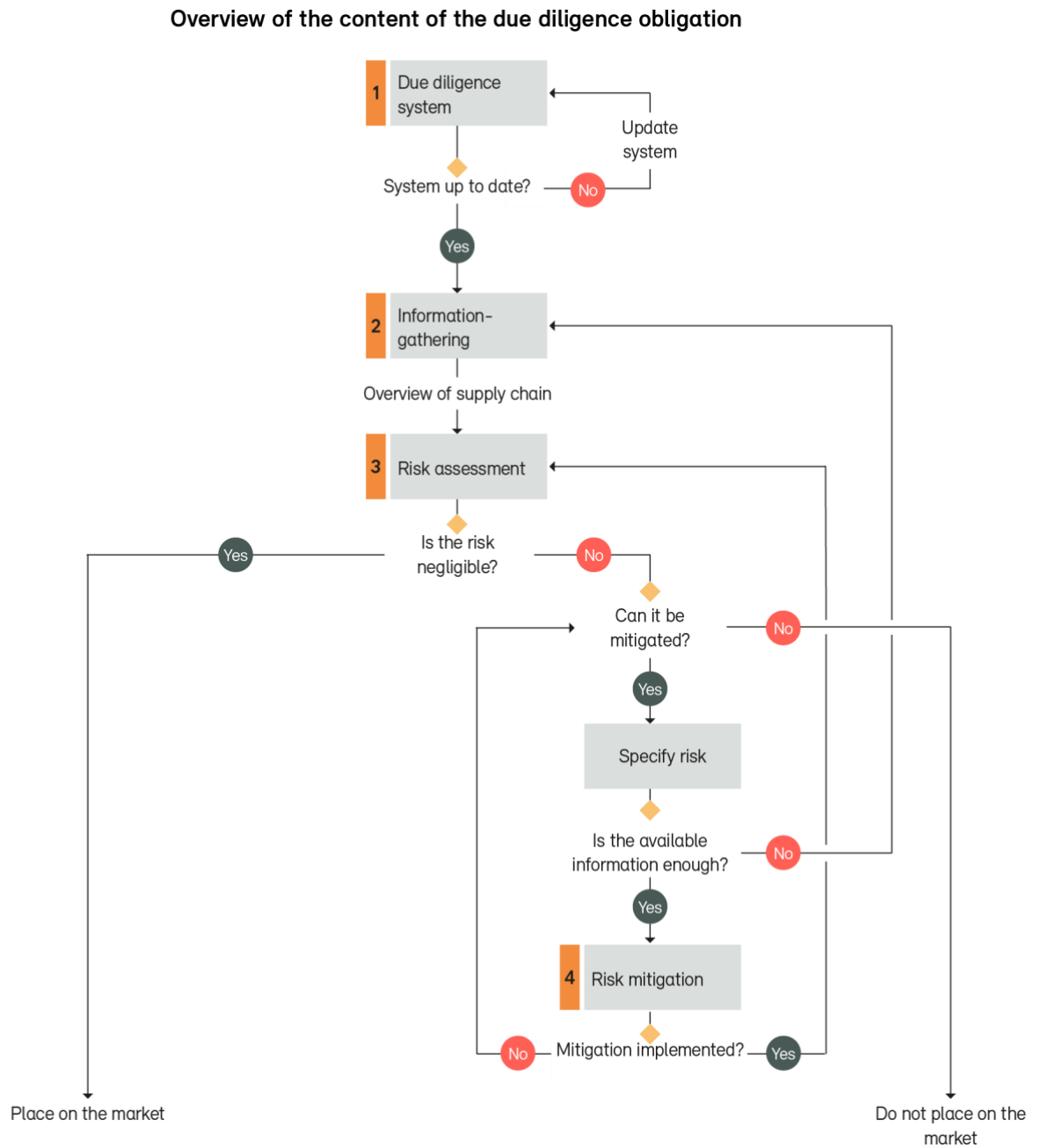
The following four steps are important elements of establishing and using the due diligence system:

1. Establish an internal due diligence system (Art. 4 TTO)
2. Gather information and documentation (Art. 5 TTO)
3. Recognise, specify and assess risk (Art. 6 TTO)
4. Mitigate risk (Art. 7 TTO)

Once a company has drawn up their due diligence system, they must ensure that they have access to information and documentation covering the entire supply chain for the wood products that are to be acquired. Companies must then use the documents they have gathered to conduct a risk assessment. If the associated risks are non-negligible, companies must take action to mitigate those risks. All of these steps must be documented carefully (Art. 8 TTO). Only when the **risk is negligible** – after risk mitigation has been carried out, the products in question may be placed on the Swiss market (Art. 7 para. 2 TTO).

If there is insufficient information to assess the risk adequately, the timber or wood products may not be imported into Switzerland. (Please refer also to Section 4.6 in the case of imports from the EU.)

**Figure 2**  
**Overview of the content of the due diligence obligation**



## 4.1 Establish an internal due diligence system

In order to ensure that they continuously fulfil their due diligence obligations, companies must establish a comprehensive and verifiable system for their business operations. This must contain the following points:

**Table 1**  
**Principal features of an internal due diligence system**

Feature	Description
Define responsibilities and ensure capabilities	Management must ensure that procurement is legal. The responsible persons or functions in the company must have the necessary capabilities, sufficient authority, and access to appropriate resources.
Determine and document procedures	Companies must develop written procedures that cover all due diligence obligations. They must evaluate these annually. Procedures must be approved by the executive board. The related documents must be retained for at least five years (Art. 8 TTO).
Implement and update	In parallel with this, companies must monitor internally that procedures are being implemented properly, that responsibilities are clear, and that risk is evaluated annually and again any time there is a change in the supply chain.
Determine what products are affected	Companies must be clear about the products to which the TTO and/or the duty of due diligence apply.
Attribute products to suppliers and supply chains	It must be possible to attribute products and their components to a supply chain and set of documentation. Companies must have an overview of products and their supply chains. The time when a given type of wood of a given origin was procured, in which products and from which suppliers, must be clear.

The Specifications (Module 2, Annex 1, points 1–5) section of this notice sets out comprehensive requirements for a due diligence system.

## 4.2 Gather and document information

As a basis for their risk assessment, companies need detailed information about the entire supply chain and the wood components. The exact information required is specified in the TTO (Art. 5 para. 1 lets a–g TTO). The information must be detailed enough to enable companies to conclude that there is a negligible risk of illegal timber or wood (Art. 6 TTO) or to take measures to mitigate the risk until it can be assumed that the risk is indeed negligible (Art. 7 TTO). The correctness and completeness of the information that has been gathered must be checked before the risk assessment begins. In addition, the initial operator must document to whom they have passed on the timber or wood products (Art. 5 para. 2 TTO).

An exemplary procedure is described below ‘Suppliers’ refers in this case to all actors such as distributors or vendors.

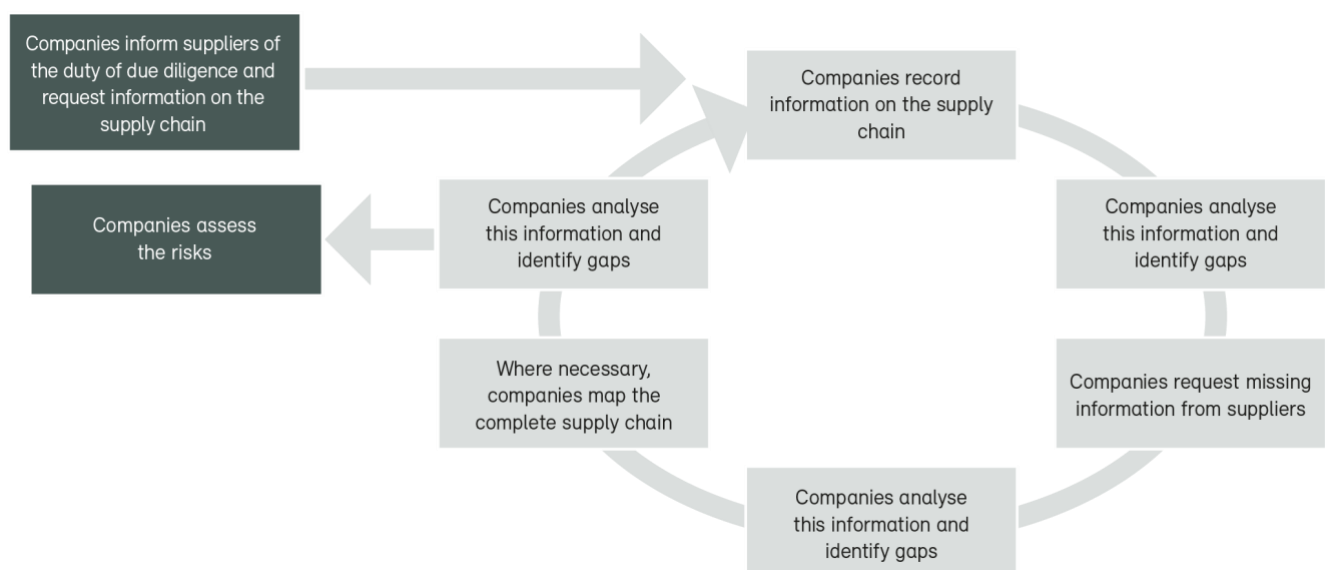
**Table 2**  
**Continuous information-gathering along the entire supply chain**

What	How
Obtain information on supply chain from suppliers	Ideally, companies should ask their suppliers in writing to provide confirmation that they are familiar with and understand due diligence obligations, and that they will work with them in this regard. It is crucial that suppliers provide sufficient information, and that companies immediately report any changes to the supply chain.
Record supplier information	An overview of the entire supply chain permits gaps to be recognised and closed with additional information. In the case of composite products, information must be available for each type of wood.
Evaluate documentation and information (see also box on p. 16)	Forged documents or documents with no proven link to the product, to the delivery and to the suppliers are worthless for risk assessment purposes. If the information is incomplete or not sufficiently detailed to dispel concerns, further information must be obtained.
Obtain further information on the supply chain	If the available information is not sufficient to assess risk conclusively, further information must be obtained. This might relate to the country of origin, supply chain, or tree species or type of wood, for example. Independent third parties may be engaged to conduct further clarifications.

With regard to complex products and supply chains, especially, risk can only be assessed on the basis of a complete overview and a review of all of the documents that have been gathered (Art. 6 TTO). Where details are missing it cannot be ruled out that illegally felled or traded timber and wood have entered the supply chain. Consequently, in such cases risk cannot be reduced to a negligible level.

When gathering information, the critical factor is not the quantity, but the quality and relevance of that information.

**Figure 3**  
**Information-gathering process**



It must be possible to conduct a substantiated evaluation of the risk of illegal timber harvesting, trade and transport on the basis of the detailed information gathered (Art. 6 TTO). The company must include all of the actors along the supply chain in such an evaluation. Comprehensive requirements concerning access to information are set out in the Specifications (see Module 2, Annex 1, point 6).

### 4.3 Recognise, specify and assess risk

Companies must use the documents they have gathered to assess the risk of the timber or wood products originating from illegal harvesting or illegal trading (Art. 6 TTO). The first step is to identify (recognise) the risk in the country of origin and along the entire supply chain. The risk must then be specified (broken down in detail). The whole assessment must be recorded transparently.

**Table 3**  
**Risk assessment process**

Assessment steps	Description
Identify risk (recognition)	The first exercise in identifying risk forms the basis for the further risk assessment process. This first appraisal often provides sufficient grounds to make decisions about how to handle the risks involved (see Table 4). If a risk is found, it is recommended that companies map out the supply chain in detail to assess these risks further and to specify exactly what they are (see Figure 3).
Specify risk (detailed breakdown)	If risk cannot be classified as 'negligible', it must be broken down to determine whether, and how, it can be mitigated. This approach applies to every product and all components and types of wood. If there are obvious ways of reducing risk, such as obtaining the wood from a different supplier, companies can skip the specification stage and proceed straight to risk mitigation (see Section 4.4).
Check for discrepancies	Before mitigating a risk, it is advisable to check whether or not the supposed risk actually exists. For example, within a given region the risk of buying illegally harvested timber may differ according to the type of wood.
Record risk assessment	There are two possible outcomes of the risk assessment: 'negligible' or 'non-negligible'. All of the steps in the assessment and the basis for the classification must be recorded (documented). The process must ultimately arrive at a transparent risk assessment for each supplier or each wooden product component.

Risk can be identified at a variety of levels, for example by country or region (Art. 5 para. 1 let. c TTO) or by the type of concession (Art. 5 para. 1 let. d TTO). The most efficient approach is first to identify risk at the national level, and then to specify it in detail: at regional or concession level, for instance. Risk may be located differently according to the products, supply chains or types of wood concerned. The following questions may be asked to identify specific risks:

- Is there a risk that the law is being broken in connection with forest management and timber harvesting?
- Is there a risk that the law is being broken during the trade and transport of timber and wood products in the country of origin?
- Is there a risk in the country of origin or supply chain that legally harvested timber has been mixed with other wood products during processing, trade or transport?

Risk can be identified relatively easily in the following six main categories:

**Table 4**  
**Main categories and characteristics that indicate risk**

Category	Risk characteristics
Information	Missing, incomplete or incorrect information represents a risk in itself. Companies must therefore check that they have sufficient information of adequate quality to allow them to recognise risk at all. A conclusive risk assessment is impossible without complete information and an overview of the entire supply chain. <b>Exception:</b> Products for which a CITES <sup>5</sup> permit has been issued are exempt from the duty of due diligence, and risk can be classified as negligible (Art. 5 para. 1 let. g TTO). However, in this case the authenticity of the documents must first be checked carefully.
Types of wood	Illegal harvesting is more prevalent with certain species of wood (Art. 5 para. 1 let. a TTO) than with others (Art. 6 let. b TTO). Tree species that feature on the Red List of Threatened Species issued by the International Union for Conservation of Nature (IUCN) pose a particular risk. <sup>6</sup> Type of wood alone is no conclusive indicator of risk, however. The area in which the timber was harvested, i.e., its origin, must also be considered.
Origin	The knowledge that timber is harvested or traded in the country of origin in contravention of applicable local law constitutes a risk factor (Art. 6 para. b TTO). There are sources that allow companies to estimate the risk of illegal timber harvesting in a given country. <sup>7</sup> Risk assessments must factor in the applicable legislation in the country in question (Art. 35e para. 1 EPA). The 'Assessment framework on the legality of timber harvesting and trading' can help here (see Module 2, Annex 2). Timber may never be sourced from countries that are presently subject to UN or Swiss sanctions relating to timber and wood products (Art. 6 let. d TTO). Furthermore, risk assessments must consider corruption and the prevalence of armed conflict in the country of origin (Art. 6 lets c and f TTO).
Certification/verification status	Certification systems such as the FSC and PEFC, or verification of the situation by independent third parties working according to recognised standards, can play an important part in the assessment and mitigation of risk (Art. 6 let. a TTO). Certificates must be applicable, and their validity and credibility must be checked. Unsuitable or invalid certificates represent a risk.
Complexity of the supply chain	If the details provided upon delivery do not correspond to the information that has been received, for example in terms of wood type, quantity and price, legal wood may have become mixed with illegal wood at some point along the supply chain. Each individual type of wood and the risk of a legal/illegal mix must be assessed for each link in the supply chain. An overview of the entire supply chain is essential if risk is to be identified reliably (Art. 6 let. e TTO).
Trade and transport	Even where timber originates from legal harvesting operations, there may still have been illegal acts within the supply chain relating to trade and transport in the country of origin. Legal and illegal timber may have been loaded onto the same truck on the way to the sawmill, for example. The 'Assessment framework on the legality of timber harvesting and trading' (see Module 2, Annex 2, point 5) lists the points that must be considered.

In many cases risk cannot be assessed in a single linear process. Steps may often have to be repeated. For example, if additional information is obtained for a certain product, the process of checking completeness and identifying and specifying risks begins again. Another instance would be a risk being identified at a sub-level in the supply chain. This must be broken down to evaluate its true extent.

<sup>5</sup> Convention of 3 March 1973 on International Trade in Endangered Species of Wild Fauna and Flora, CITES; SR 0.453.

<sup>6</sup> Available at: [www.iucnredlist.org](http://www.iucnredlist.org).

<sup>7</sup> See, for example, the list of different information sources that is posted in German, French and Italian on the FOEN website at [www.bafu.admin.ch/holzhandel](http://www.bafu.admin.ch/holzhandel) > *Sorgfaltspflicht* > *Weitere Informationen* > *Risiko*.

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The risk assessment requires those in charge to make a judgement to the best of their knowledge. Further information may be requested from specialists or additional sources. The entire process of identifying risk must be recorded transparently, and these records retained for five years (Art. 8 TTO). The Specifications (Module 2, Annex 1, point 7) section of this notice sets out comprehensive requirements for the risk assessment.

If, after this careful evaluation, the risk is judged to be **negligible**, no further action need be taken. The products can be bought, imported into Switzerland and placed on the market. However, if the risk is found to be **non-negligible**, measures must be instituted to mitigate the risk, or the products may not be imported into Switzerland (Art. 7 TTO).

#### Points of reference when evaluating documentation

- The documentation that has been gathered must be evaluated as a whole. There must be evidence of traceability along the entire supply chain. All information must be verifiable.
- In addition, the company must consider the risk of corruption, especially in the forestry sector (Art. 6 para. f TTO). If the corruption risk in a given country is non-negligible, then even official documents from the authorities cannot be regarded as fully reliable.
- An example of a non-negligible risk would be a Corruption Perceptions Index score (CPI)<sup>8</sup> of less than 50, or the existence of public available indications of illegal timber harvesting (e.g. media reports). Please note that corruption risk may differ between regions of the same country.
- The greater the risk of corruption in a given case, the more urgent the need to obtain further evidence. This might be provided by certification systems, or by having the facts verified by independent third parties according to recognised standards, or checks conducted by the company itself. Technologies that make timber traceable, such as those using genetic markers or stable isotopes, might also be useful.
- When individual documents are evaluated, the following questions should be asked: Does the document relate to the product? Can the validity of the document be verified? Is the document relevant to an assessment of legality?

## 4.4 Mitigate risk

If the assessment reveals risks that are **non-negligible**, the company must limit these or reduce them to a negligible level by following a risk mitigation process (Art. 7 TTO).

The higher the category of risk, the more thorough these necessary measures must be. For example, the company must request additional information or documents from suppliers, or have a third party conduct an independent review. In the case of a Corruption Perceptions Index (CPI) of less than 50, the rule of thumb is that the lower the CPI, the more critical the evaluation of the relevant government documents must be, and the less value they hold as evidence of legality. Companies must tailor mitigation measures directly to the specific risk point in the supply chain. The whole risk mitigation process must be recorded transparently.

<sup>8</sup> Transparency International, Corruption Perceptions Index CPI, available at: [www.transparency.org/en/cpi](http://www.transparency.org/en/cpi).



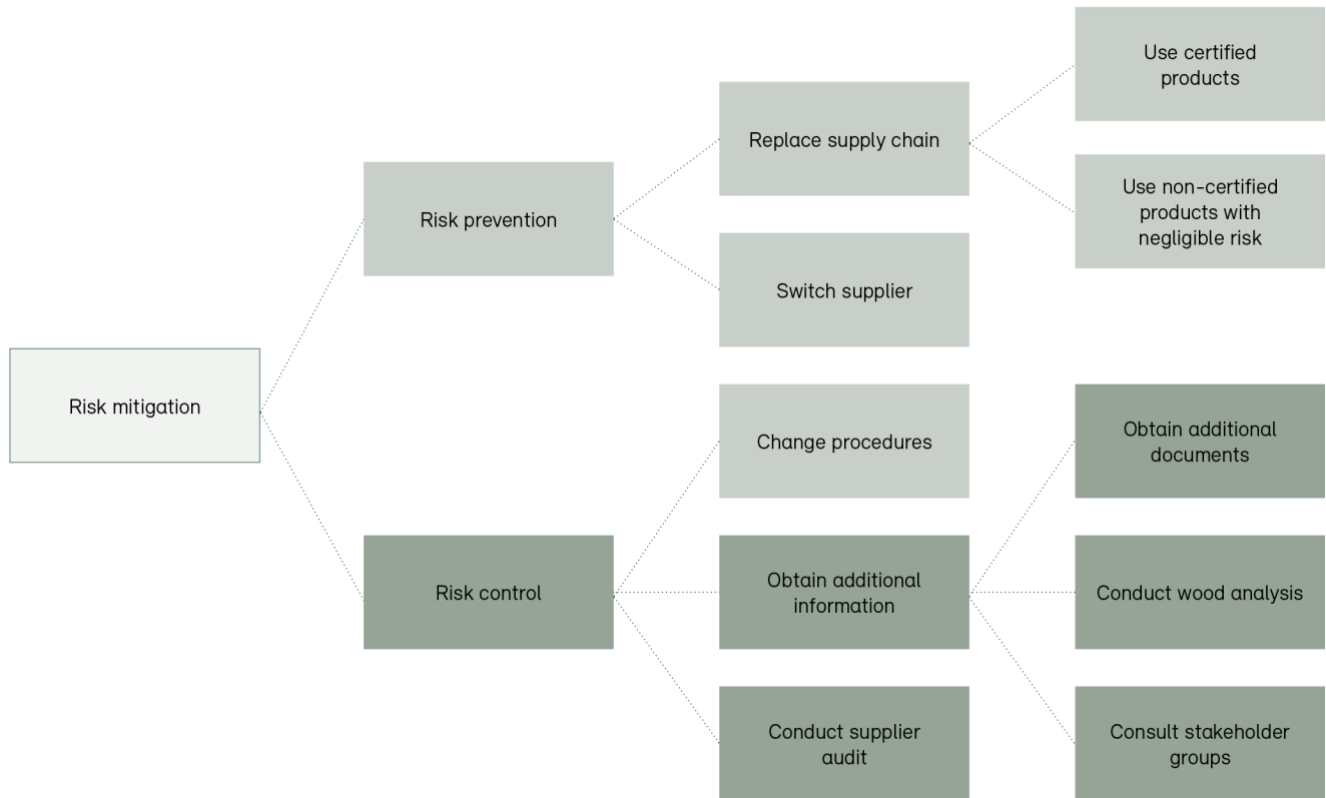
For example, if there is a risk that timber has been harvested illegally, it may be necessary to conduct on-site checks during the harvest. If there is a risk of timber from different sources becoming mixed at the processing company, it may make sense to check practices at their premises. These risk mitigation measures must be taken before buying or selling timber and also before importing the product into Switzerland.

**Table 5**  
**Steps in the risk mitigation process**

Step	Description
Determine measures	Mitigation measures depend on the nature of the risk or potential contravention of the law. It is possible to rule out such contraventions with on-site checks or document reviews. A combination of different checks may be necessary in some cases to ensure that risk is reduced.
Obtain consent from suppliers	The supplier plays an important part in mitigating risk. They must also obtain information from their own suppliers. It makes sense for suppliers to agree in writing to an independent third-party review on behalf of the initial operator.
Plan and document measures	All mitigation measures must be planned and documented (Art. 8 TTO), so that risk and the current status of work can be tracked.
Implement measures	Companies must implement the measures they have planned. To reduce risks, it may be necessary to audit companies within the supply chain. These may be vendors at the forest level such as forest management companies, or suppliers within the supply chain such as sawmills, hauliers, factories or other vendors.
Assess the impact of the measures taken	The impact of the measures taken must be assessed.

There are two bundles of measures that reduce risk: risk prevention and risk control (see Figure 4). Since it is not possible to give an exhaustive list of risk mitigation measures, companies may wish to consider alternatives that are not mentioned here. In almost all cases risk mitigation will require the cooperation of one or more suppliers or their sub-suppliers (vendors).

**Figure 4**  
**Risk mitigation options**



If other risks emerge or cooperation with suppliers along the chain is unsatisfactory, the company may be forced to suspend orders and change supplier or the entire supply chain.

Examples of risks that have been broken down in detail, and the related mitigation measures, are shown below. The Specifications (Module 2, Annex 1, point 8) section of this notice contains comprehensive requirements for risk mitigation. Annex 2 may also help to factor in all of the applicable legal regulations.

**Table 6**  
**Examples of risks and mitigation and verification measures**

Specified risk	Mitigation requirements	Mitigation and verification measures
Infringement of customary rights (e.g., rights of indigenous peoples) at forest level (e.g., free, prior and informed consent (FPIC))	Ensure that management practices respect customary rights.	Use appropriate certification systems, have the situation verified by independent third parties according to recognised standards, consult stakeholders, conduct interviews, check documents.
Contraventions of harvesting regulations in connection with the provisions of forestry and environmental law	Find out whether forest management companies and their executives or contractual partners fulfil the requirements.	Use appropriate certification systems, or have the situation verified by independent third parties according to recognised standards.
Mix of known and unknown products in the supply chain	Check existing evidence that goods have been separated correctly.	Use appropriate certification systems, or have the situation verified by independent third parties according to recognised standards. Determine types of wood to rule out timber and wood of different origins having been mixed.
Infringement of customs regulations	Where necessary, check business practices to ensure that they comply with customs regulations.	Check the supplier's customs and trade documents, consult customs authorities.

## 4.5 Possible verification measures

Checks in the supply chain or country of origin have one of two aims: to verify whether or not the law has actually been contravened in connection with the risks specified in the assessment, or to verify whether a due diligence system or agreed risk mitigation measures have been implemented effectively. These verification options can be classified into different types. Where such measures are applied to mitigate risk, companies must ensure that suitable audits are conducted at regular intervals, but at least every 12 months (Art. 4 para. 3 TTO), to verify compliance with the applicable legislation.

### 4.5.1 Certification

Independent, publicly accessible third-party verification (certification) systems such as the FSC or PEFC, which operate according to recognised public standards, can play an important part in both the assessment (Art. 6 para. a TTO) and mitigation (Art. 7 para. 1 TTO) of risk. Certificates must be suitable for their intended purpose, and their applicability and validity must be checked in advance. It must be clear that the forest, processors and all other members of the supply chain hold valid certificates, and that the product itself is certified.

The following requirements apply to the use of third-party verification systems as part of risk assessment and risk mitigation:

- The certification system must be evaluated and documented (Art. 8 TTO)
- Gaps or risks associated with the certification system must be identified and mitigated (Art. 7 TTO).

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Even if a certification system offers adequate, appropriate monitoring of the risks that have been identified, the company must still ensure that:

- purchased products arrive with certification marks, such as the Content Claim Standard or a unique identification code on the supplier's invoice and delivery note, and
- certification marks are valid and applicable, for example they can be found in the online database of the certification system in question, or by contacting the audit office.

#### **4.5.2 Independent third-party checks**

Independent checks by third parties in the country where the timber was harvested, and during processing along the supply chain, can help to verify compliance with applicable legislation in the countries in question (Art. 6 let. a TTO). Audits like these should include on-site checks or other measures such as satellite data or information gathered from GPS loggers, which allow harvesting to be localised. To provide the company concerned with a sufficient degree of surety, audits must comply with international and European standards such as the relevant ISO guidelines or ISEAL codes. The initial operator must make the complete audit report available to the FOEN as part of the check described in Art. 15 para. 2 TTO (see Section 6). Checks conducted independently by the company

Independent checks by the company in the country where the timber was harvested, and during processing along the supply chain, can help to verify compliance with applicable legislation in the countries in question. They may include the following:

- On-site checks in the forest
- Use of other means to check the location of timber harvesting, such as satellite data or information gathered from GPS loggers
- Checks at suppliers, and possibly also controls along the supply chain, to verify legality, transparency and traceability at every stage.

Independent checks conducted by the company must be:

- based on an audit process;
- well documented, with a focus on compliance with the applicable provisions, as described in Article 3 let. f TTO (see also Module 2, Annex 2).

#### **4.5.3 Use of scientific methods to identify wood**

Scientific methods to identify wood, such as (macro and microscopic) analyses of its anatomy, mass spectrometry, stable isotope analysis, DNA analysis or other processes, can prove useful instruments for mitigating risk (Art. 7 para. 1 TTO). Material samples can be taken and compared with available samples or those collected additionally as controls. This enables the company to check the type of wood and the origin of the timber or wood product as stated in the related documentation. These processes can be used at several levels:

- to check the type of wood (i.e., also to exclude risky species are contained)
- to check origin in the broader sense, such as at country level or in the narrower sense, such as at concession level
- to check whether or not the wood originates from a certain tree, such as to trace the wood within the supply chain.

Each of these different levels requires control samples of different scopes. Details of the available scientific methods and the laboratories that offer wood type testing and identification are compiled by various organisations

(international, governmental, forestry and academic, and civil society) and published online. Examples include the UNODC Best Practice Guide for Forensic Timber Identification<sup>9</sup> or the GTTN's 'Overview of current practices in data analysis for wood identification: A guide for the different timber tracking methods'.<sup>10</sup>

## 4.6 Procedure for imports from the EU

A due diligence system must also be applied to imports from the European Union, and a risk assessment conducted (see Section 4.3). If the risks of illegally harvested timber or illegal timber and wood products from the EU are **non-negligible**, companies must take action to mitigate those risks (see Section 4.4). Risk mitigation measures may already have been instituted in the EU to ensure compliance with the EUTR. The table below shows how the duty of due diligence is fulfilled for imports from the EU, using this existing documentation. The steps should be approached in descending order and documented in accordance with Article 8 TTO.

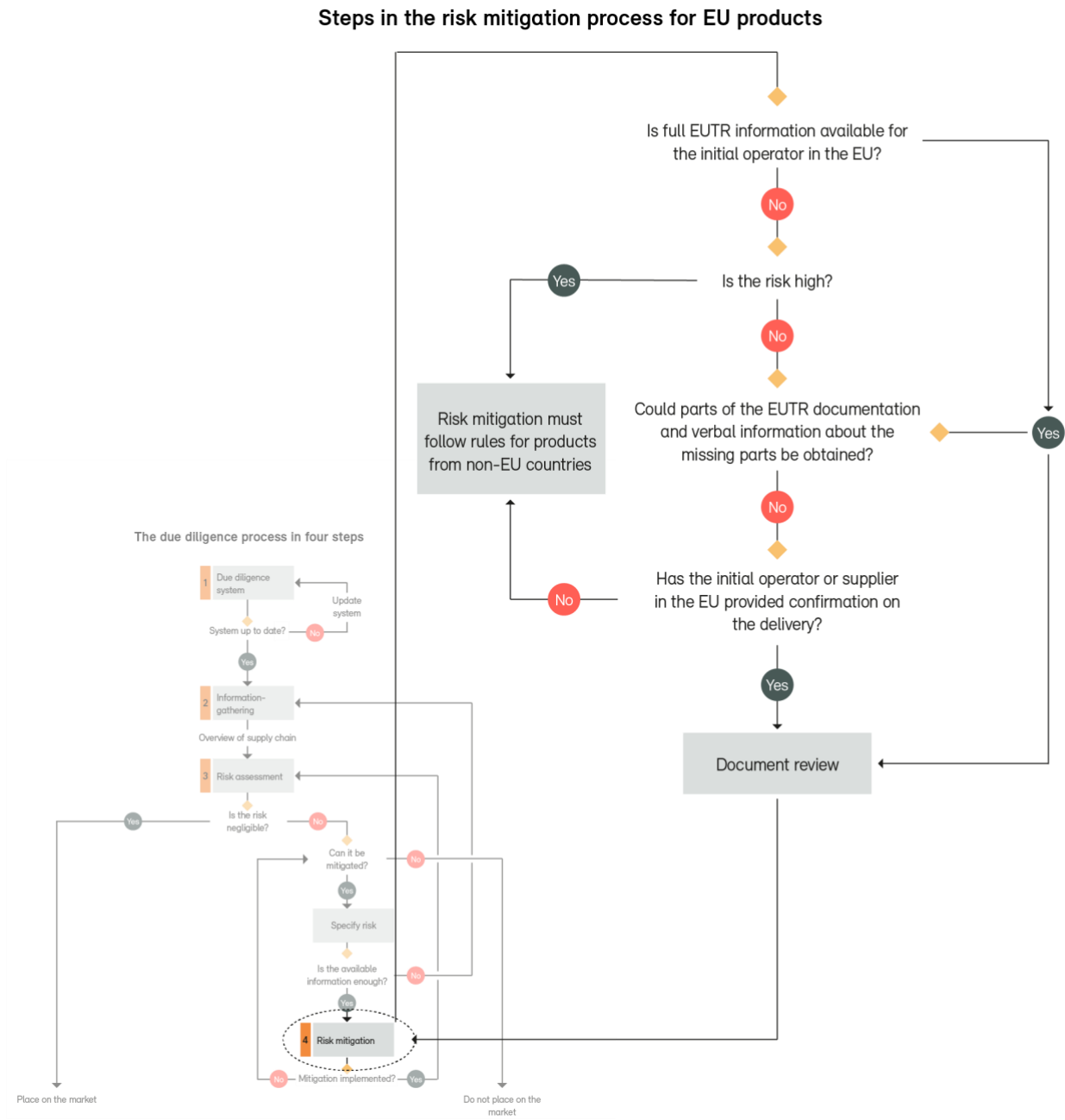
**Table 7**  
**Risk mitigation process for products from the EU**

Step	Description
Obtain documentation from EU initial operator	<p>The initial operator in Switzerland must always attempt to obtain the documentation relating to the product's first-time placing on the EU market. They might contact the initial operator in the EU directly, or via the trader in the EU.</p> <p>If documentation is available in suitable form from the initial operator in the EU, it may be used for the company's own risk assessment and risk mitigation measures.</p>
Consult the initial operator in the EU (not applicable where risk is high)	<p>If the initial operator is given only limited access to documentation, i.e., redacted or provided only as excerpts), if they believe the risks are low to moderate, they may consult the initial operator in the EU in the interests of mitigating that risk. This consultation must be documented. The aim of this consultation is to obtain at least verbal information to complete the gaps in the documentation.</p> <p>The company should have the outcome of this consultation and its content confirmed in writing and signed by the initial operator or trader in the EU. How this consultation led the company to conclude that the risk was negligible must be documented transparently (Art. 8 TTO).</p>
Confirm legality and conformity with the EUTR (not applicable where risk is high)	<p>If:</p> <ul style="list-style-type: none"> <li>• the initial operator is not known in the EU</li> <li>• the EU trader from whom the initial operator in Switzerland purchases their goods is not willing or able to provide documents for risk mitigation, and</li> <li>• where the company judges the <b>risks to be only low to moderate</b>, in particular where the CPI is above 50 and there are no indications in the public domain of illegal timber harvesting or illegal practices in the supply chain,</li> </ul> <p>then a dated confirmation of legality and conformity with the EUTR, relating specifically to the delivery, must be requested from the EU trader. This must also be verified with the trader's signature. The type of wood and country of origin (harvest) must be known in all cases.</p> <p>This confirmation must be retained along with the record of attempts to complete the above steps to obtain documentation. If the business in the EU is not prepared to issue or sign such a confirmation, the initial operator in Switzerland may not assume that the risk is negligible, and therefore may not place the timber or wood products on the market (Art. 7 para. 2 TTO).</p>

<sup>9</sup> United Nations Office on Drugs and Crime (UNODC), Best Practice Guide for Forensic Timber Identification, New York, 2016, available at: [www.unodc.org/documents/Wildlife/Guide\\_Timber.pdf](http://www.unodc.org/documents/Wildlife/Guide_Timber.pdf).

<sup>10</sup> Global Timber Tracking Network (GTTN), Overview of current practices in data analysis for wood identification: A guide for the different timber tracking methods, June 2020; available at: [www.thuenen.de/media/institute/hf/Bilder\\_u\\_a/Aktuelles\\_und\\_Service/GTTN\\_2020\\_DataAnalysisGuide.pdf](http://www.thuenen.de/media/institute/hf/Bilder_u_a/Aktuelles_und_Service/GTTN_2020_DataAnalysisGuide.pdf).

**Figure 5**  
**Due diligence system for imports from the EU**



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# 5 Requirements for inspection bodies

In Switzerland, companies may instruct an inspection body to evaluate their due diligence system and its use (Art. 4 para. 3 second sentence TTO). The FOEN has laid down the individual requirements for due diligence systems in the Specifications, which consist of Annexes 1 and 2 to this enforcement notice (Art. 11 para. 2 third sentence TTO). Where a company has the conformity of their due diligence system and its correct use evaluated by an inspection body, and acts on any suggested improvements, they may assume that they are able to fulfil their due diligence obligation.

Entities that would like to function as inspection bodies must be officially recognised by the FOEN (Art. 11 TTO). If an inspection body also offers companies a consulting service, there must be clear organisational separation between consulting and inspection activities. The entity must remain impartial in such cases (Art. 11 para. 1 let. c TTO). Inspection bodies are not the only entities that can provide such consulting services, however. They may also be offered by third parties that are not inspection bodies. This ensures fair competition between consulting firms. Advice like this can help a company develop a due diligence system that meets their particular needs, and also to use the system correctly.

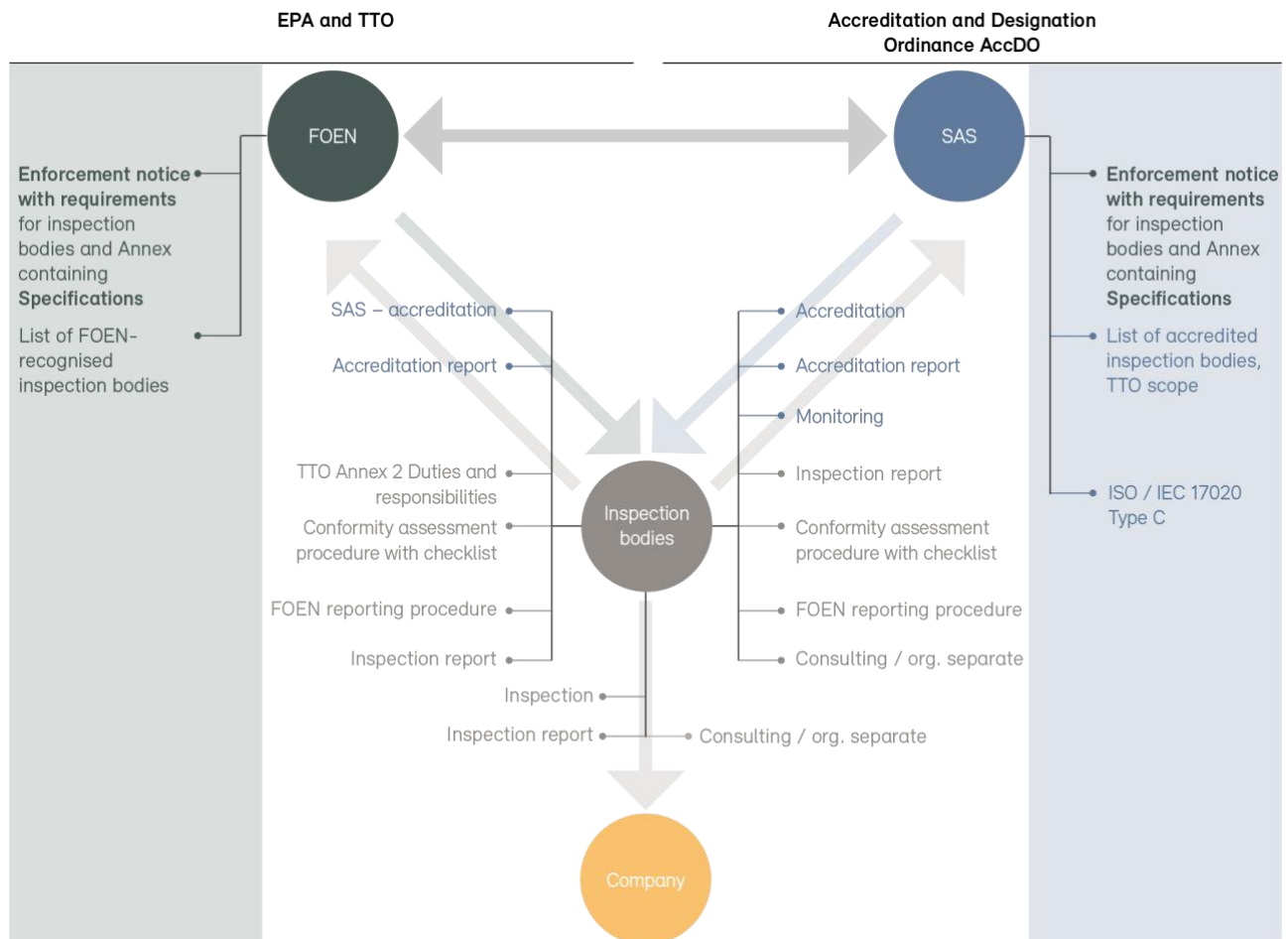
To be recognised as an inspection body by the FOEN, an entity must first be accredited as a Type C conformity assessment body in accordance with the SN EN ISO/IEC 17020: 2012<sup>11</sup> standard by the Swiss Accreditation Service, SAS (Art. 11 para. 1 let. d TTO). The TTO draws here on established international accreditation mechanisms. SAS accreditation processes follow international standards and satisfy the highest requirements. Inspection bodies must also go through the FOEN recognition process. This involves submitting a complete set of application documents (Art. 11 para. 2 and Annex 2 TTO) and, in particular, demonstrating that they have the appropriate expertise (Art. 11 para. 1 let. b and para. 2 TTO).

If an inspection body no longer fulfils the requirements, after the time limit for remedying deficiencies has expired the FOEN may revoke recognition and notify the SAS (Art. 11 para. 3 TTO). Equally, as part of its regular audits of the companies it accredits, the SAS will notify the FOEN (Art. 11 para. 4 TTO) if an inspection body no longer fulfils accreditation requirements. If an entity loses this accreditation, the FOEN will also immediately revoke their recognition because the fundamental requirements are no longer met.

In the interests of transparency the FOEN keeps a public list of recognised inspection bodies (Art. 11 para. 5 TTO). This list also helps companies to find a suitable inspection body.

11 SN EN ISO/IEC 17020 2012 standard, Requirement for the operation of various types of bodies performing inspection, Type C. Standards can be viewed free of charge and obtained for a fee from the Swiss standards association, SNV, Sulzerallee 70, CH-8404 Winterthur; [www.snv.ch](http://www.snv.ch).

**Figure 6**  
**Overview of the roles of inspection bodies, the SAS and the FOEN**



## 5.1 Conformity assessment tasks

It is not the task of an inspection body to monitor companies' correct implementation of the TTO on behalf of the FOEN. Rather, the inspection body must notify the FOEN where a company has significantly or repeatedly contravened the applicable FOEN regulations (Art. 10 let. b TTO). A significant contravention would be a company's failure to consider a CPI of less than 50, for example.

In a conformity assessment, the inspection body performs the following tasks:

- As part of a regular inspection based on the Specifications issued by the FOEN (see Module 2, Annex 1), it evaluates the due diligence system and its use by the company (Art. 10 let. a TTO).
- It records the result in an inspection report (Art. 11 para. 2 third sentence TTO).
- It recommends appropriate action to remedy errors and shortcomings if the system is not being used properly (Art. 10 let. a TTO). However, the original result of the inspection may subsequently be amended if improvements are made.
- It documents information and action appropriately in accordance with the tasks described above, and retains this documentation for five years (Art. 10 let. c TTO).



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## 5.2 Expertise required for recognition

The inspection body must have the appropriate expertise and the capacity to exercise its intended functions (Art. 11 para. 1 let. b TTO). It can provide evidence that its workforce has the necessary technical competence by documenting the academic and vocational education and training and the professional experience of the employees. The minimum requirements are:

- Formally certified vocational education and training (VET) and three years' experience in a field that is relevant to the functions of the inspection body. The following are deemed relevant VET fields: forestry, woodland management, wood and environmental sciences, law, business management, risk management, commerce, auditing, financial controlling or professions related to supply chain management
- In the case of senior technical positions, at least five years' professional experience in functions comparable to those of the inspection body.

To check these requirements, the TTO (*Annex 2*, point 3) provides that a description of the organisation and structure of the inspection body must be drawn up, along with a list of technically competent personnel with copies of their CVs, and a description of duties and responsibilities and how they are allocated.

## 5.3 Documents for applying for FOEN recognition

To gain recognition from the FOEN, entities must submit the following (*Annex 2* TTO):

- Evidence of legal personality and registered office in Switzerland (extract from the commercial register)
- Accreditation by SAS as a conformity assessment body that carries out inspections (SN EN ISO/IEC 17020: 2012 standard, Requirement for the operation of various types of bodies performing inspection, Type C, or the next valid standard in the future) including the accreditation report. The company must provide the FOEN with complete accreditation documentation
- Proof of the appropriate expertise (see Section 5.2).

In addition, the following documents must be produced and enclosed with the application:

- Conformity assessment procedure with checklist (Art. 11 para. 2 TTO)
- Draft inspection report (Art. 11 para. 2 TTO)
- Approach to identifying significant and repeated failures, and the reporting procedure (Art. 10 let. b TTO)

The FOEN may call on the SAS to help evaluate applications.

The FOEN will revoke recognition as soon as SAS accreditation expires. The FOEN reserves the right to review recognition every time the company is re-accredited, and to request additional documents if appropriate.

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# 6 Enforcement and checks

## 6.1 Principle of independent responsibility

The individual market actors (initial operators) are independently responsible for fulfilling their duty of due diligence (see Section 4). They themselves must ensure that they place only legally harvested and traded timber and wood on the Swiss market, and that they have minimised the risk of illegal timber and wood to a negligible level (Art. 35f para. 1 EPA and Art. 4 TTO). Traders must take independent responsibility for ensuring traceability (Art. 35g para. 2 EPA).

## 6.2 FOEN checks

The FOEN is the competent enforcement authority for companies importing timber and wood for the first time from the EU and countries outside the EU (known as third countries) and placing it on the Swiss market (Art. 15 para. 1 TTO).

The FOEN conducts mainly risk-based checks on companies' compliance with TTO regulations (Art. 15 para. 2 TTO). 'Risk-based' means, for example, that priority is given to checking companies that import particularly large volumes of timber from high-risk countries. The FOEN identifies such companies by analysing the corresponding customs declarations, in particular (Art. 16 para. 3 TTO).

The FOEN is also responsible for inspecting traders (Art. 15 para. 2 TTO).

### 6.2.1 Checks on imported timber and wood products at initial operators

Checks by the FOEN focus on the design and application of the due diligence system, as well as the way in which it is updated (Art. 4 paras 1 and 3 TTO). They are based on selected products. Here, companies should be able to demonstrate to the FOEN (Art. 17 TTO) that the required information is available, and how it has been evaluated in respect of the products (Art. 5 TTO). They must also be able to document the basis on which the risk assessment was conducted (Art. 6 TTO), what risk mitigation measures were instituted, and how their effectiveness was assessed (Art. 7 TTO). As part of its checks the FOEN may take samples that allow it to determine beyond doubt the type of wood and, as far as possible, its origin. FOEN checks follow the Specifications (see Module 2, Annex 1).

Checks are generally conducted electronically. Companies are invited to submit the necessary documents via the digital information system (currently the DETEC eGovernment portal (Art. 17 para. 2 TTO)). Checks may also be conducted on site. The FOEN may make scheduled or unannounced checks at the company's premises, for example in the case of follow-up inspections. In such cases the FOEN must be provided with the necessary information and granted access to facilities and equipment (Art. 46 para. 1 EPA and Art. 17 TTO). Even after such on-site checks have been conducted, the company must continue to submit all of the necessary documents via the digital information system.

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Once the FOEN has reviewed the complete set of information and documents, the company will be notified of the result of the check. It may respond to these findings. The FOEN may order further measures if there is reason to suspect that timber or wood products originate from illegal harvesting or trading (see Section 6.5).

### **6.2.2 Traceability checks at traders**

Checks at traders focus on traceability requirements (Art. 35g EPA). They examine whether or not traders have documented the supplier from whom they have obtained timber or wood products and the party to whom they have supplied them (Art. 15 para. 2 TTO). Traceability checks may also be used to determine the initial operators for given products. Here, traders must be able to provide invoices and delivery notes. This is also usually done electronically, as described in Section 6.2.1 .

## **6.3 Cooperation between the FOEN and the FOCBS**

At the FOEN's request, the Federal Office for Customs and Border Security (FOCBS) will inspect deliveries at the Swiss border. It also has the authority to detain and secure such deliveries, especially in cases where there is clear cause for suspicion (Art. 16 paras 1 and 2 TTO). Whether or not the FOEN asks the FOCBS to carry out a check depends on the presence of specific indications that illegally felled timber and wood products are being imported.

The FOEN regularly obtains relevant data from the FOCBS that enables it to identify the initial operator for timber and wood products (Art. 16 para. 3 TTO). The FOEN will then use this data and other information to conduct risk-based checks (Art. 15 para. 2 TTO).

## **6.4 Fees**

FOEN rulings, checks and services are subject to the fees laid down in the FOEN Fees Ordinance (FOEN-FeeO) (Art. 20 TTO). Please refer in particular to Point 10 of the Annex. A flat-rate travel fee of CHF 100 is charged for on-site checks at market actors. The check itself is charged at an hourly rate of CHF 140 (Art. 4 para. 2 FOEN-FeeO). Rulings are charged on an hourly basis, but fees are capped at CHF 5000 for initial operators and CHF 2000 for traders. Storage and transport for seized and forfeited timber and wood products (Art. 19 para. 1 TTO) are charged on an as-incurred basis.

## **6.5 Measures and penalties**

If the FOEN finds during its checks on the due diligence system or traceability that regulations have been contravened, it may order measures under administrative law. If there is reason to suspect that an initial operator has placed on the market timber or wood products that have been harvested or traded illegally, it may order the initial operator's goods to be seized (Art. 18 TTO). The FOEN will set the market actor a deadline by which they must dispel this suspicion. If the suspicion is not dispelled within the deadline, the initial operator forfeits the seized timber or wood products, i.e. they are removed permanently from the initial operator's control (Art. 19 para. 2 TTO).

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The FOEN may also report the incident as a criminal offence. In cases of a wilful contravention of the ban on the placing on the market of illegally felled timber and of the provisions on due diligence, the market actor concerned may face a custodial sentence of up to three years, or monetary penalties (Art. 60 para. 1 let. r EPA). Intentional contraventions of the legislation on traceability are punishable by fines of up to CHF 20 000 (Art. 61 para. 1 let. m<sup>bis</sup> EPA). A negligent contravention of the regulations on placing on the market may be punished by monetary penalties of up to 180 daily penalty units (Art. 60 para. 2 EPA). Fines may be imposed for negligent contraventions of the regulations on traceability (Art. 61 para. 2 EPA).

# Annex 1: Specifications for inspection bodies in accordance with Art. 11 para. 2 TTO

## Requirements for due diligence systems in accordance with Article 4 TTO

	Requirements	Legal basis
<b>1</b>	<b>Commitment to place wood on the market legally</b>	
1.1	The initial operator may place timber and wood products on the market only if the risk that they originate from illegal harvesting or trading is negligible.	Art. 35f para. 1 and 2 EPA
1.2	The management of the initial operator must ensure that due diligence is exercised systematically.	Art. 35f para. 1 and 2 EPA Art. 4 TTO
<b>2</b>	<b>Responsibilities and authorities in respect of the due diligence system</b>	
2.1	The initial operator must nominate an individual or function within their organisation to take overall responsibility for compliance with these Specifications.	Art. 4 para. 1 TTO
2.2	The nominated individual or function should have sufficient powers and resources to ensure that the requirements are met.	Art. 4 para. 1 TTO
2.3	The initial operator must designate individual responsibilities for all of the applicable elements of these Specifications.	Art. 4 para. 1 TTO Art. 8 TTO
2.4	The initial operator must prove that all of the employees concerned are familiar with the procedures relevant to fulfilling these requirements, and are able to apply them competently.	Art. 4 para. 1 TTO Art. 8 TTO
<b>3</b>	<b>Documented procedures</b>	
3.1	The initial operator must have written procedures covering all of the applicable elements of their Specifications.	Art. 4 para. 1 TTO Art. 8 TTO
3.3	All relevant documentation must be retained for at least five years.	Art. 8 TTO
<b>4</b>	<b>Application and quality assurance</b>	
4.1	The initial operator must evaluate their due diligence system at least once a year.	Art. 4 para. 3 TTO
4.1.1	All identified nonconformities and corrective measures must be documented and these records retained.	Art. 4 paras 1 and 3 TTO Art. 8 TTO
4.1.2	The initial operator must ensure that all nonconformities are swiftly addressed and corrected.	Art. 4 paras 1 and 3 TTO
4.2	The initial operator must end relationships with suppliers that significantly and persistently contravene these requirements. This includes:	Art. 4 para. 3 TTO
4.2.1	Excluding vendors or suppliers from purchasing or production if significant or persistent contraventions are found	Art. 4 para. 3 TTO
4.2.2	Ensuring that no materials are obtained from the supply chain or area in question before risks have been reduced to a negligible level.	Art. 4 para. 3 TTO Art. 7 TTO

4.3	The initial operator must have a complaints management system and both implement and document it. The system is used to record and process complaints from third parties in connection with the production or purchasing of materials. This includes:	Art. 4 para. 3 TTO
4.3.1	Taking suitable corrective action in cases in which the evidence is regarded as relevant.	Art. 4 para. 3 TTO
4.4	If products are placed on the market but it is subsequently found despite care being exercised that one or more risks must be classified as non-negligible, the initial operator must determine a process to remedy the situation. This must ensure that residual risk is reduced to a negligible level before the products are sold. The following action must be taken:	Art. 1 TTO Art. 4 TTO
4.4.1	Immediately suspect the sale of all products that are still in stock.	Art. 1 TTO Art. 4 TTO
4.4.2	Analyse the causes and take action to prevent such risks recurring.	Art. 4 para. 3 TTO
<b>5</b>	<b>Scope of the due diligence system</b>	
5.1	To gain a comprehensive overview, an initial operator must define and document all products that fall within the scope of their due diligence system. It must be clear when a given type of wood of a given origin was procured, in which products, from which suppliers and via which supply chain.	Art. 4 TTO Art. 5 para. 1 lets a to f TTO Art. 6 let. e TTO Art. 8 TTO
5.1.1	An initial operator has an overview of the supply chains that allows them to identify all risks and to assign risk mitigation measures to specific points in the supply chain.	Art. 4 TTO Art. 5 para. 1 lets a to f TTO Art. 6 let. e TTO Art. 7 TTO Art. 8 TTO
<b>6</b>	<b>Access to information</b>	
6.1	The initial operator must always have and retain the following information on the products that fall within the scope of their due diligence system:	Art. 5 TTO Art. 8 TTO
6.1.1	Type of product	Art. 5 para. 1 let. a TTO
6.1.2	Common name and scientific name of tree species	Art. 5 para. 1 let. a TTO
6.1.3	Volume of timber or wood components produced, purchased or sold	Art. 5 para. 1 let. e TTO
6.1.4	Country of origin and, if necessary, the sub-national region or area where the timber was harvested	Art. 5 para. 1 lets c and d TTO
6.1.5	Name and address of the supplier from whom the initial operator obtained the timber or wood components	Art. 5 para. 1 let. f TTO
6.1.6	Name and address of the purchasers to whom the company delivered products	Art. 5 para. 2 TTO
6.1.7	Any certification or verification status for the timber or wood components	Art. 5 para. 1 let. g TTO
6.1.8	Any evidence of compliance with the relevant legal regulations of the country of origin, such as harvesting permits, FLEGT/V-Legal licences, or CITES permits)	Art. 5 para. 1 let. g TTO
<b>6.2</b>	The initial operator must have access to information about the products that is sufficient to allow them to:	Art. 5 TTO
6.2.1	Conclude that the raw material originates from forestry sources or supply chains that hold negligible risk, or	Art. 6 TTO Art. 7 TTO
6.2.2	Effectively identify and specify the risk of obtaining illegally harvested, traded or transported timber or wood products, and to reduce that risk to a negligible level.	Art. 6 TTO Art. 7 TTO
6.3	The initial operator must ensure that all of the information listed under requirement 6.1 of these Specifications is kept up to date.	Art. 4 para. 3 TTO Art. 5 TTO
6.3.1	The initial operator must ensure that suppliers notify them of changes in the supply chain before these changes are actually made.	Art. 4 para. 3 TTO Art. 5 TTO

6.4	The initial operator must ensure access to information about the origin of raw materials and their supply chain by:	Art. 5 TTO
6.4.1	Informing suppliers of the duty of due diligence and the relevant elements of these Specifications and, where appropriate, requiring those suppliers to provide this information to their vendors in the supply chain	Art. 4 TTO Art. 5 TTO
6.4.2	Where appropriate, obtaining the consent of the supplier that they or external bodies may conduct inspections or audits to check compliance with the TTO.	Art. 4 TTO Art. 7 TTO
<b>7</b>	<b>Risk assessment</b>	
7.1	The initial operator must take into account and, where appropriate, comply with any sanctions applied by the United Nations, the European Union or Switzerland in relation to the import, export and transit of timber and timber products.	Art. 6 let. d TTO
7.2	The initial operator may not purchase any timber or wood from countries or sub-national regions in which there is armed conflict, and conflict timber may be a risk.	Art. 6 let. c TTO
7.3	The initial operator must assess and specify the risk of illegal timber entering the supply chain, using the criteria in Article 6 TTO and taking into account the following elements:	Art. 6 TTO
7.3.1	Risk of violations of the law regulating timber harvesting and trading in the country of origin N.B.: Use Annex 2 to specify risks, if appropriate.	Art. 6 TTO Art. 3 let. f TTO
7.3.2	The risk that timber or wood components become mixed with those of illegal or unknown origin at some point during transport, processing or storage.	Art. 1 TTO Art. 6 let. e and f TTO
7.4	The initial operator must assess relevant information about the forest origin or supply chain to ensure that:	Art. 1 TTO Art. 6 TTO
7.4.1	The information is, indeed, relevant in assessing legality and ensuring compliance with the TTO	Art. 1 TTO Art. 6 TTO
7.4.2	The information is valid and verifiable	Art. 1 TTO Art. 6 TTO
7.4.3	The information can be linked to the product or supply chain in question.	Art. 1 TTO Art. 6 TTO
7.5	If an initial operator uses third-party certification systems, they must ensure that the system is capable of guaranteeing a negligible level of risk in terms of illegal timber harvesting, trade and transport, and the mixing of legal and illegal timber (see requirement 7.3).	Art. 6 let. a TTO
7.5.1	An initial operator must produce a record of their assessment of third-party certification systems.	Art. 6 let. a TTO Art. 8 TTO
7.5.2	The assessment of the certification system must identify all relevant gaps or risks, and subsequently mitigate them (see requirement 8).	Art. 6 let. a TTO Art. 7 TTO
7.6	If a third-party certification system is used and the initial operator concludes that it satisfies the requirements set out under 7.5, the initial operator must also:	Art. 6 let. a TTO
7.6.1	Confirm that all of the information required by the TTO has been gathered for each certified product	Art. 6 let. a TTO
7.6.2	Ensure that the information relating to the certification statements is valid, accurate, and associated with the product.	Art. 6 let. a TTO
7.7	The initial operator must document the risk assessment process and supply grounds for the degree of risk that it has calculated for each individual place of origin or supply chain.	Art. 6 TTO Art. 8 TTO
7.8	The risk assessment has one of two outcomes: 'negligible risk' or 'non-negligible risk'. Non-negligible risks must be broken down in detail (see also point 7.3).	Art. 6 TTO Art. 7 TTO
7.9	Risk assessments must be reviewed at least annually. The risk assessment must be adjusted as quickly as possible if significant changes occur prior to the regular annual review.	Art. 6 TTO Art. 4 para. 3 TTO

8	Risk mitigation	
8.1	The initial operator must develop and implement justified and effective measures to mitigate risks specified under 7.3.1 and 7.3.2, as well as 7.5.2. Where appropriate it must also take the following steps:	Art. 7 para. 1 TTO
8.1.1	If there is specified risk of violations of the law in connection with timber harvesting and trading in a country or area in which the timber is harvested, the initial operator must ensure compliance with the applicable regulations of the legal fields described in Annex 2 in order to reduce risk to a negligible level for every field.	Art. 7 para. 1 TTO
8.1.2	If there is a certain risk of timber or wood components becoming mixed or substituted with other timber/wood of illegal or unknown origin at some point during transport, processing or storage, the initial operator must ensure that appropriate checks are in place to effectively reduce risk to a negligible level.	Art. 7 para. 1 TTO
8.2	The initial operator must assess and justify the effectiveness of risk mitigation measures. If mitigation measures are judged ineffective, the initial operator must refrain from placing the timber or wood components concerned on the market.	Art. 7 para. 2 TTO



# Annex 2: Assessment framework on the legality of timber harvesting and trading

If there is specified risk that the law may be contravened in connection with timber harvesting in a country or area in which the timber is felled, the initial operator must ensure compliance with the applicable regulations.

The following assessment framework on the legality of forest management and timber harvesting and trading contains a list of possible categories of legality. The framework is general in nature and must be adapted to the actual legal regulations that apply in the country of origin. It is not applicable if there are no legal requirements for a given category.

Legality categories and sub-categories	
1	Legal entitlement to harvest, documentation on harvesting rights in defined areas stated in law
1.1	Ownership and management of land
1.2	Concessions (licences)
1.3	Management and harvest planning
1.4	Harvest authorisations
2	Taxes and fees, payments for harvesting rights and timber, including fees associated with harvesting and trading
2.1	Payment of taxes, duties and harvesting fees
2.2	Value-added and other sales taxes
3	Activities relating to timber harvesting and felling, including environmental and forestry regulations, and those on forest management and preserving biodiversity, to the extent they are directly related to timber harvesting
3.1	Regulations on timber harvesting
3.2	Protected areas and species
3.3	Environmental requirements
3.4	Health and safety
3.5	Lawful employment
4	Third-party rights, land use and ownership rights of third parties affected by timber harvesting
4.1	Customary rights
4.2	Compliance with the principle of free, prior and informed consent
4.3	Rights of indigenous and traditional peoples
5	Trade and transport, trade and customs, where the forestry sector is affected
5.1	Classification of species, quantities and quality grades
5.2	Trade and transport
5.3	Offshore trading and transfer pricing
5.4	Customs regulations
5.5	CITES