

Enforcement of the Timber Trade Ordinance (TTO)

Enforcement aid and notice from the FOEN for the cantons, market actors and inspection bodies



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Office for the Environment FOEN

Enforcement of the Timber Trade Ordinance (TTO)

Enforcement aid and notice from the FOEN for cantons, market actors and inspection bodies

Imprint

Legal status

This publication is an aid to and notice on enforcement published by the FOEN as the supervisory and enforcement authority. It is aimed at enforcement authorities and at companies affected by the TTO. It substantiates the provisions of federal environmental legislation, and is intended to foster uniform practice in enforcing environmental law. Anyone respecting this enforcement aid and notice may assume that they are fulfilling the requirements of the TTO correctly. Other solutions are permissible providing they are legally compliant.

Publisher

Federal Office for the Environment (FOEN)
The FOEN is an office within the Federal Department of the Environment, Transport, Energy and Communications (DETEC).

Authors

Achim Schafer, Alfred Kammerhofer (both FOEN Forest Division), Salome Sidler, Vincent Bohnenblust (both FOEN Legal Affairs Division), Susanne Arnold (diktum.ch, Zurich)

Information and contact

Federal Office for the Environment FOEN, Forest Division
Timber Industry and Forest Management Section, CH-3003 Bern
Phone +41 (0)58 469 69 11 | Email: holzhandel@bafu.admin.ch
www.bafu.admin.ch/holzhandel

Layout

Funke Lettershop AG

Cover picture

Logs loaded into a container.
© ako photography, Adobe Stock

Link to PDF file

www.bafu.admin.ch/uv-2301-e
It is not possible to order a printed version.

This publication is also available in German, French and Italian. The original language is German.

© FOEN 2023

Contents

Abstracts	5
Foreword	6
1 Objectives for different actors	7
1.1 For cantons	7
1.2 For market actors	8
1.3 For inspection bodies	8
2 Background	9
2.1 Helping to combat illegal timber harvesting and the illegal timber trade	9
2.2 Act and Ordinance founded on parliamentary motions	9
2.3 Legal basis	10
3 Organisational structure, actors and roles	11
3.1 Overview	11
3.2 Federal government	11
3.3 Cantons	12
3.4 Market actors	12
3.5 Inspection bodies	13
4 Concluding remarks	14
Annex 1: Abbreviations	15

Abstracts

Illegal timber harvesting and the illegal timber trade are a global problem that has negative ecological, economic and social impacts. To combat this, since 2022 it has been forbidden in Switzerland to place illegally harvested timber and products made from it onto the market. The Timber Trade Ordinance demands that market actors exercise due diligence, i.e. check that products are legal before buying or selling them. This enforcement aid and notice begins with an overview of the various actors and their roles and obligations. The individual modules provide further detail on implementation of the Ordinance.

Illegaler Holzeinschlag und Holzhandel stellen ein weltweites Problem mit negativen ökologischen, wirtschaftlichen und sozialen Auswirkungen dar. Zu deren Bekämpfung ist es in der Schweiz seit 2022 verboten, illegal geschlagenes Holz und die daraus gefertigten Produkte in Verkehr zu bringen. Die Holzhandelsverordnung verlangt von den Marktakteuren eine Sorgfaltspflicht: Sie müssen die Produkte auf ihre Legalität prüfen, bevor sie auf den Markt kommen. Die Vollzugshilfe und -mitteilung gibt einleitend eine Übersicht über die verschiedenen Akteure, ihre Rollen und Pflichten. Die einzelnen Module konkretisieren die Umsetzung dieser Regelung.

La récolte et le commerce illicites du bois constituent un problème mondial entraînant des conséquences négatives pour l'environnement, l'économie et la société. Pour lutter contre ces activités, la Suisse interdit depuis 2022 toute mise sur le marché de bois issu d'une récolte illégale et de produits fabriqués avec ce bois. L'ordonnance sur le commerce du bois impose aux acteurs du marché un devoir de diligence qui les oblige à vérifier la légalité des produits avant la mise sur le marché. La présente aide à l'exécution et communication de l'OFEV donne une vue d'ensemble des acteurs concernés, avec leurs rôles et leurs obligations respectives. Les modules individuels précisent la mise en œuvre de cette législation.

Il prelievo e il commercio di legno di provenienza illegale rappresentano un problema globale che ha ricadute negative sull'ambiente, l'economia e la società. Per contrastare questo problema, dal 2022 in Svizzera è vietato immettere sul mercato il legname tagliato illegalmente e i prodotti che ne derivano. L'ordinanza sul commercio di legno prescrive un obbligo di diligenza per gli operatori, i quali sono tenuti a verificare la legalità dei prodotti prima che giungano sul mercato. Il presente aiuto all'esecuzione e comunicazione presenta una panoramica introduttiva sui vari operatori, con i rispettivi ruoli e doveri. I singoli moduli illustrano nel dettaglio l'attuazione di questa legislazione.

Keywords:

Combating illegal timber harvesting and the illegal timber trade, Timber Trade Ordinance (TTO), due diligence, enforcement

Stichwörter:

Bekämpfung illegalen Holzeinschlags und Holzhandels, Holzhandelsverordnung (HHV), Sorgfaltspflicht, Vollzug Kantone, Marktakteure

Mots-clés :

lutte contre la récolte et le commerce illicites du bois, ordonnance sur le commerce du bois (OCBo), devoir de diligence, exécution

Parole chiave:

Lotta al prelievo e al commercio di legno di provenienza illegale, ordinanza sul commercio di legno (OCOL), dovuta diligenza, esecuzione

Foreword

Additions to the Environmental Protection Act and the associated Timber Trade Ordinance (TTO), both in force since 1 January 2022, created the legal foundation in Switzerland to ban the trade in illegally harvested timber and illegal wood products. We now have a regulatory framework that is equivalent in effect to the European Timber Regulation that applies throughout the European Union.

Action to combat illegal timber harvesting and the illegal timber trade curbs both deforestation and biodiversity loss around the globe. This in turn helps in the fight against climate change. A further objective is to dismantle barriers to trade between Switzerland and the EU.

This enforcement aid and notice from the FOEN promotes uniform enforcement practice in the cantons and provides further detail on the requirements that market actors and inspection bodies must satisfy. Its modular structure means that individual modules can be amended as and when required.

The FOEN is grateful to the office of the Conference for Forests, Wildlife and the Countryside (KWL), to the advisory group consisting of various industry representatives, and to the Swiss Accreditation Service (SAS) for their input to this publication.

Paul Steffen, Deputy Director
Federal Office for the Environment (FOEN)

1 Objectives for different actors

The enforcement aid and notice from the FOEN, as the authority responsible for enforcing the Timber Trade Ordinance (TTO),¹ is aimed at:

- cantonal forestry offices or forest departments charged with enforcing the Timber Trade Ordinance;
- market actors (companies and forest owners) that place timber and wood products on the market in Switzerland for the first time, and traders who buy and sell timber that is already available on the market;
- inspection bodies working on behalf of market actors to evaluate due diligence systems and the conformity of their use.

Its aim is to ensure uniform enforcement practice in the cantons and to provide further detail on the requirements that market actors and inspection bodies must satisfy. It has a modular structure. The political, legal, and organisational foundations, and the terminology, are explained in the first section. The modules that follow then describe the requirements that the different actors must satisfy.

1.1 For cantons

Where timber is harvested from Swiss forests and then placed on the market for the first time, the cantons are responsible for checking forest owners in accordance with forest-related legislation and the Timber Trade Ordinance. By issuing enforcement guidance, the FOEN provides a cohesive set of enforcement practices for the cantons (see Module 1) and

- illustrates the form that checks by the cantonal forestry offices and forest departments (forestry authorities) should take;
- sets out how these checks combine with the permit system, as an existing forest management monitoring instrument under forest-related legislation;
- explains how cantons have powers to seize and confiscate timber and wood, as a new measure under administrative law;
- offers guidance on how cantonal forestry authorities can enter data in the FOEN information system effectively.

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

1.2 For market actors

Market actors that place timber and wood products on the market for the first time are termed initial operators. They must ensure that they, as companies and Swiss forest owners, place only legally harvested and traded timber and wood on the Swiss market (Art. 35e para. 1 EPA²). Traders of timber and wood that is already available on the Swiss market, and resellers in particular, must document the suppliers from which they have purchased timber or wood products, and the purchasers to whom they have passed these on (Art. 35g para. 1 EPA). This traceability should make it possible to identify initial operators. As the enforcement authority, by means of this notice the FOEN (see Module 2) explains the requirements of the Timber Trade Ordinance (TTO) to market actors, and

- provides details of how a due diligence system should be established, applied and updated (Art. 4 TTO)
- illustrates how risk can be assessed (Art. 6 TTO)
- provides points of reference for how risk can be identified and reduced to a negligible degree (Art. 7 TTO)
- shows how traders can ensure traceability and thus identify initial operators (Art. 35g para. 1 EPA)
- explains the process that a check at a company might follow.

1.3 For inspection bodies

Companies may instruct inspection bodies to evaluate their due diligence system and the conformity of its use (Art. 4 para. 3 TTO). Inspection bodies must be recognised by the FOEN in order to operate in this capacity (Art. 11 TTO). The FOEN formulates the requirements for such recognition in the form of a notice (see Module 2) and

- determines the professional expertise required of the inspection body
- shows what requirements the application must meet for the FOEN to grant recognition
- communicates in the form of specifications the requirements that a due diligence system must meet (Module 2, Annexes 1 and 2)
- explains which elements inspection bodies must evaluate and report on in the inspection process.

² Federal Act of 7 October 1983 on the Protection of the Environment (Environmental Protection Act EPA; SR 014.01).

2 Background

2.1 Helping to combat illegal timber harvesting and the illegal timber trade

Illegal timber harvesting is a global problem that has negative ecological, economic and social impacts. To date, Switzerland has not had any regulatory framework to combat illegal harvesting and the illegal timber trade. Other countries have long banned such practices. In the USA, the Lacey Act³ has prohibited illegal timber since 2008. In Australia, the Illegal Logging Prohibition Act⁴ came into force in 2012, and in the European Union (EU) the European Timber Regulation, EUTR⁵ came into force in 2013. All of these laws demand that products are inspected with due care before they are placed on the market. Mandatory declarations for timber and wood products have applied in Switzerland since 2010. They ensure that consumers are provided with information on the type and origin of the wood concerned. As of 1 January 2022, Switzerland stepped up its regulation of the wood and timber trade with the revised Environmental Protection Act (EPA) and the associated Timber Trade Ordinance (TTO). These mean that it is now illegal in Switzerland as elsewhere to place illegally harvested timber on the market or any products made from it.

2.2 Act and Ordinance founded on parliamentary motions

Switzerland's current regulatory framework for the timber trade is founded on two identical parliamentary motions from 2017 (17.3855 by Föhn (Council of States) and 17.3843 by Flückiger-Bäni (National Council)) which called for 'a level playing field for Swiss timber exporters with their European competitors'. Amendments to the law and the related Federal Council Dispatch were referred to Parliament in 2018. Parliament subsequently adopted the revised Environmental Protection Act (EPA) almost unanimously in 2019, thereby creating a new statutory basis (Art. 35e-h EPA). The associated Timber Trade Ordinance (TTO) entered the parliamentary consultation stage in 2020. The Federal Council then adopted the new articles in the EPA and the TTO on 12 May 2021, enacting them with effect from 1 January 2022. As demanded by the two motions referred to above, these new statutory provisions give Switzerland a regulatory framework equivalent in effect to the EU's European Timber Regulation (EUTR). They make it illegal to place illegally harvested or traded timber and wood products on the market, and also remove certain trade barriers for Swiss companies. However, the only way to ensure the fully equal treatment of market actors from Switzerland and the EU is a contractual agreement on mutual recognition. In any event, with its new regulatory framework Switzerland is supporting international efforts to combat illegal timber harvesting and the illegal timber trade. This reflects the 2030 Agenda's Sustainable Development Goal 15, i.e. to promote the sustainable management of forests globally and nationally, combat deforestation and biodiversity loss worldwide, and protect the climate.

3 US Lacey Act Amendment of 2008 (16 U.S.C. §§ 3371–3378).

4 Australian Illegal Logging Prohibition Act 2012, SLI 2012 No 271.

5 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.

2.3 Legal basis

The legal basis for these regulations on the timber trade are provided by additions to the Environmental Protection Act (AS 2021 614) and the Timber Trade Ordinance.

Figure 1:

The timber trade in Switzerland – regulatory hierarchy

The timber trade in Switzerland
Regulatory hierarchy



- *Federal Act on the Protection of the Environment* (Environmental Protection Act, EPA)
- *Ordinance on Placing Timber and Wood Products on the Market* (Timber Trade Ordinance, TTO)

The basic requirements for timber and wood products that are placed on the Swiss market for the first time are laid down in the EPA. The new legislation extends Chapter 7, 'Putting Raw Materials and Products into Circulation', with respect to timber and wood products, as well as other raw materials and products. The ban on placing illegally harvested or traded timber on the market (Art. 35e EPA) corresponds to the European Timber Regulation (Art. 4 para. 1 EUTR).

Under the EPA (Art. 60 para. 1 let. r and Art. 61 para. 1 let. m^{bis}), anyone deliberately or negligently failing to comply with these provisions may face a custodial sentence of up to three years, or a fine.

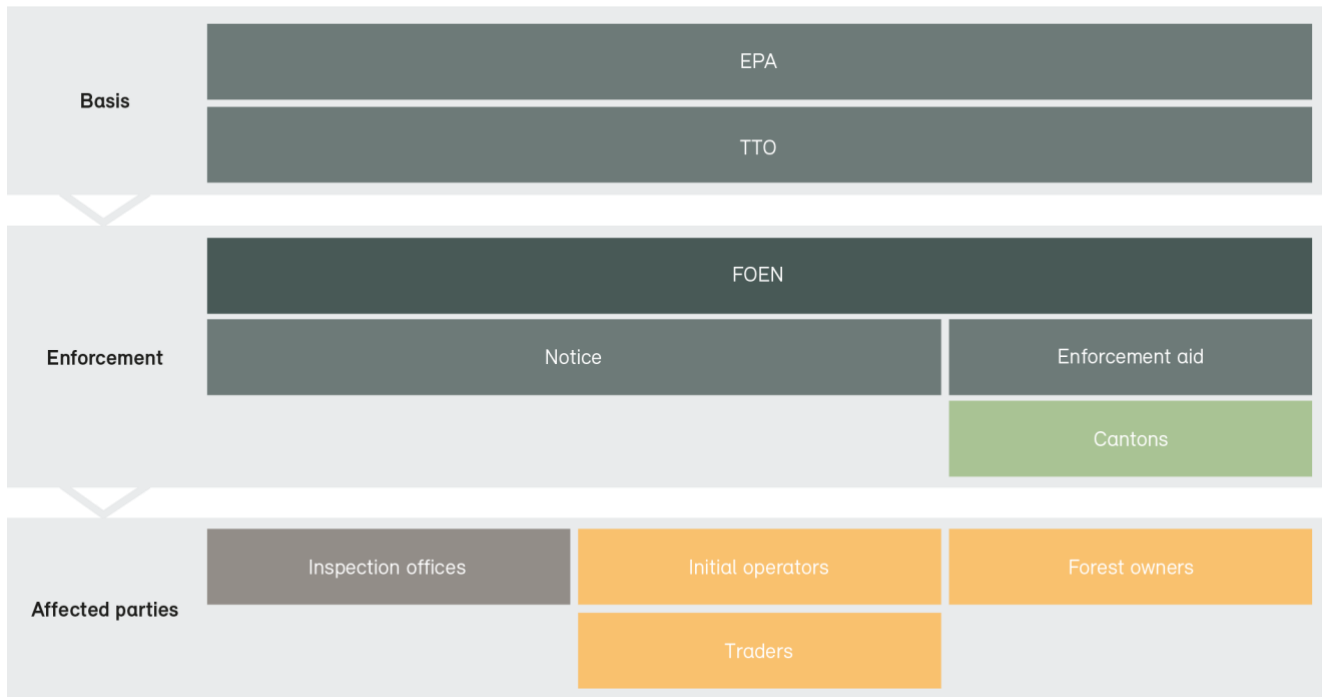
The amendment to the law (Art. 35e–h EPA) thus created the basis for an ordinance to implement regulations equivalent to those of the EUTR. This Timber Trade Ordinance provides further detail on due diligence and traceability, in particular, as the key elements of the new requirements (see Module 2). To fulfil their duty of due diligence, market actors must ensure that the timber and wood products that they are placing on the market for the first time have been harvested and traded legally. To provide this proof, they must establish a due diligence system, apply it and update it regularly. The Timber Trade Ordinance applies to the first-time placement on the market of timber and wood products imported from the EU or third countries, i.e. non-EU states. Timber that is harvested from Swiss forests is also subject to these regulations (see Module 1).

The Annex to the TTO (*Annex 1*) lists timber and wood products in 19 categories, alongside their customs tariff numbers and commodity description. All products classified under these numbers are affected by the Ordinance. They include, for example, roundwood, paper, pulp, fuel wood, wood for construction, furniture and prefabricated buildings made of wood. However the TTO does not apply to products made of waste (recycled) wood, bamboo or non-wood fibres.

3 Organisational structure, actors and roles

3.1 Overview

Figure 2:
Overview of organisational structure, actors and roles



3.2 Federal government

The Federal Office for the Environment (FOEN) is largely responsible for enforcing the Timber Trade Ordinance and therefore also for cooperation between experts at the international level. Since illegal timber harvesting is to be countered primarily by internationally coordinated regulation or action, it is essential that Switzerland cooperates and conducts expert-level dialogue with the EU competent authorities, EU member states and other foreign authorities. Within this framework, the FOEN is the enforcement authority responsible for companies initially importing timber and wood from the EU and from third countries outside of the EU, as well as for traders in Switzerland. It is also in charge of enforcement as it affects Swiss timber from the processing stage onwards once it has left the forest. Traceability in sawmills is one example here. Further elements of the FOEN's remit are recognising inspection bodies and operating an information system.

The FOEN checks compliance with the requirements of the Ordinance mainly on the basis of the risk involved. In practice this means, for example, that priority is given to checking companies that place particularly large volumes of timber from high-risk countries on the market. Checks cover the design and application of the due diligence system, as well as the way in which it is updated. They also examine risk mitigation measures at product, component and wood type level, and how they are documented. Samples may also be taken so that the type of wood and, where possible, its origin can be established beyond doubt.

Traders' compliance with traceability requirements is also checked.

3.3 Cantons

In enforcing the Forest Act, the cantons are responsible for checking timber harvested in Swiss forests. As initial operators, forest owners are checked by cantonal forestry authorities to ensure that they meet their due diligence obligations. The comprehensive checks already conducted by these authorities as they enforce forestry legislation (ForA⁶ and ForO⁷) satisfy TTO requirements because they guarantee that timber is harvested legally. The TTO therefore does not oblige the cantons to conduct any additional checks, although they must report the number of checks and their outcomes to the FOEN on an annual basis, using an electronic reporting form on the relevant information system (currently the DETEC eGovernment portal).

3.4 Market actors

The following market actors are affected by the TTO:

Initial operators

- These are natural persons or legal entities that place timber or wood products on the Swiss market for the first time.
- If these market actors (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 and, where it exists, have reduced it to a negligible level. To do so, they must establish, apply and regularly update a due diligence system, and be able to supply the corresponding proof.
- **Forest owners** who harvest timber from Swiss forests or have it harvested, and who sell that timber, are also deemed to be initial operators. They must comply with all of the relevant applicable requirements. However, they may assume that the permit awarded by the canton under forestry legislation and any other approved documents on forest use (such as a management plan) will contain the information needed as evidence that timber has been harvested legally. They are also required to retain this evidence of a 'legal harvest', which will generally satisfy risk assessment and risk mitigation requirements.

⁶ Federal Act of 4 October 1991 on Forest (Forest Act, ForA; SR 921.0).

⁷ Ordinance of 30 November 1992 on Forest (Forest Ordinance, ForO; SR 921.01).

Traders

- Market actors that buy, sell, or pass on free of charge timber that is already available on the Swiss market must document the suppliers from whom they purchase timber or wood products, as well as the entities purchasing or receiving such products from them. 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. Traders do not need to document sales to consumers.

3.5 Inspection bodies

Inspection bodies may be instructed by companies to evaluate their due diligence system and the conformity of its use. Inspection bodies must be accredited by the Swiss Accreditation Service (SAS) before they can be officially recognised by the FOEN (Norm SN EN ISO/IEC 17020: 2012, Requirement for the operation of various types of bodies performing inspection, Type C).

4 Concluding remarks

This enforcement aid and notice from the FOEN, as the enforcement authority for the TTO, and its individual component modules, are reviewed periodically and brought into line with the latest findings and experience. Individual modules may be removed or new ones added if necessitated by a change to the applicable statutory provisions.

The enforcement aid and notice on the Timber Trade Ordinance (TTO) becomes effective as of 1 June 2023.

Federal Office for the Environment FOEN

Annex 1: Abbreviations

AS	Official Compilation of Federal Legislation
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CPI	Corruption Perceptions Index
DETEC	Federal Department of the Environment, Transport, Energy and Communications
EPA	Federal Act of 7 October 1983 on the Protection of the Environment (Environmental Protection Act) [SR 814.01]
EU	European Union
EUTR	European Timber Regulation
FSC	Forest Stewardship Council
FOCBS	Federal Office for Customs and Border Security
FOEN	Federal Office for the Environment
ForA	Federal Act of 4 October 1991 on Forest (Forest Act) [SR 921.0]
ForO	Ordinance of 30 November 1992 on Forest (Forest Ordinance) [SR 921.01]
GPS	Global Positioning System
IEC	International Electrotechnical Commission
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
ISO	International Organization for Standardization
KWL	Conference for Forests, Wildlife and the Countryside
PEFC	Programme for the Endorsement of Forest Certification Schemes
SAEFL	Formerly the Swiss Agency for the Environment, Forests and Landscape, now the FOEN
SAS	Swiss Accreditation Service
SR	Classified Compilation of Federal Legislation
TTO	Ordinance of 12 May 2021 on Placing Timber and Wood Products on the Market (Timber Trade Ordinance) [SR 814.021]
UN	United Nations

Module 1: Enforcement of the Timber Trade Ordinance (TTO) in the cantons

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



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Office for the Environment FOEN

Module 1: Enforcement of the Timber Trade Ordinance (TTO) in the cantons

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

Imprint

Legal status

This publication is an enforcement aid published by the FOEN as the supervisory authority. It is aimed primarily at enforcement authorities. It substantiates the requirements of federal environmental legislation (regarding unclear legal concepts and scope/the exercise of discretion), and is intended to foster uniform practice in enforcing environmental law. Enforcement authorities that respect this aid may assume that they are enforcing federal legislation in accordance with the law. Other solutions are permissible providing they are legally compliant.

Publisher

Federal Office for the Environment (FOEN)
The FOEN is an office within the Federal Department of the Environment, Transport, Energy and Communications (DETEC).

Authors

Christian Kilchhofer (ecoptima), Alfred W. Kammerhofer and Achim Schafer (FOEN Forest Division), Vincent Bohnenblust (FOEN Legal Affairs Division), Thomas Abt (Secretary General, KWL)

Advisory services

Working group: Thomas Abt, Secretary General of the Conference for Forests, Wildlife and the Countryside (KWL), Bern

Information and contact

Federal Office for the Environment FOEN, Forest Division
Timber Industry and Forest Management Section, CH-3003 Bern
Phone +41 (0)58 469 69 11 | Email: holzhandel@bafu.admin.ch
www.bafu.admin.ch/holzhandel

Layout

Funke Lettershop AG

Cover picture

A forestry business in Rapperswil-Jona harvesting timber for a single-family home in Jona.

© Alessandro Della Bella, Zurich/LIGNUM

Link to PDF file

www.bafu.admin.ch/uv-2301-e

It is not possible to order a printed version.

This publication is also available in German, French and Italian. The original language is German.

© FOEN 2023

An advance text of this module was circulated to the cantons in June 2022. It is published in early 2023 alongside the 'Enforcement of the Timber Trade Ordinance (TTO) for market actors and inspection bodies' as an integrated enforcement aid.

Contents

1	Introduction	5
2	Background	6
3	Checks on initial operators for Swiss timber	7
3.1	Scope	7
3.2	Object	7
3.3	Information and documentation (Art. 5 TTO)	8
3.4	Risk assessment and risk mitigation (Arts 6 and 7 TTO)	9
4	Seizure and forfeiture	10
5	Entry of data in the information system and access	11

1 Introduction

A new regulatory framework for the timber trade came into force in Switzerland on 1 January 2022. It bans the trade in illegally harvested timber and the products made from it. The legal basis for these regulations is provided by additions to the Environmental Protection Act (EPA)¹ and the new Timber Trade Ordinance (TTO).²

Regulations on the timber trade are enforced in the main by the FOEN. However, the cantons are responsible for checking timber harvested in Swiss forests. The Conference for Forests, Wildlife and the Countryside (KWL) and the FOEN therefore agreed that the FOEN would publish an enforcement aid detailing the requirements that the cantons must meet when enforcing the Timber Trade Ordinance.

¹ Federal Act of 7 October 1983 on the Protection of the Environment (Environmental Protection Act, EPA; SR 014.01; AS 2021 614).

² Ordinance of 12 May 2021 on Placing Timber and Wood Products on the Market (Timber Trade Ordinance, TTO; SR 814.021).

2 Background

At the core of the new regulatory framework for the timber trade is due diligence on the part of the initial operators for timber and wood products (Art. 4 TTO). 'Initial operator' means any natural or legal person who places timber or wood products on the market for the first time (Art. 3 let. b TTO). They either import timber from abroad into Switzerland, or harvest it from Swiss forests. In the latter case the cantons are responsible for checks on initial operators (Art. 15 para. 3 TTO).

This enforcement aid sets out how these checks should be conducted by the cantonal forestry offices or forest departments that are charged with enforcing the Timber Trade Ordinance. It also shows how these combine with the system of permits issued in accordance with Article 21 Forest Act (ForA)³ ([timber] felling permits, planting protocols/lists, including the number of uses under approved management plans), as the tried-and-tested forest management monitoring instrument (Section 3). The enforcement aid also explains how cantons have powers to seize and confiscate timber and wood, as a new measure under administrative law (Section 4), and how they can enter data in the FOEN information system effectively in accordance with Article 12 paragraph 2 TTO (Section 5).

³ Federal Act of 4 October 1991 on Forest (Forest Act, ForA; SR 921.0).

3 Checks on initial operators for Swiss timber

3.1 Scope

Forest owners who sell timber they have harvested themselves or had harvested from their forest on their behalf, or who use that timber for commercial purposes, are deemed to be initial operators as defined in Article 3 letter b TTO. Their compliance with their due diligence obligations should be checked by the cantons in accordance with Article 15 paragraph 3 TTO. Anyone who purchases standing timber, fells it themselves (forestry businesses, independent feller-buyers for non-private use such as in agriculture) and passes it on in return for payment or free of charge, or uses it for commercial purposes in their own business, places timber on the market within the meaning of the Ordinance. They are therefore subject to checks as an initial operator. Independent feller-buyers are identified by forest owners.

By contrast, forest owners who harvest timber for their private and personal use or for non-commercial purposes are not deemed to be initial operators as described in Article 3 letters a and b TTO, and are therefore not subject to the due diligence obligation. This means that the cantons are not required to conduct checks on these forest owners under Article 15 paragraph 3 TTO.

3.2 Object

The checks that the cantonal forestry authorities must conduct involve verifying that the initial operators of timber felled domestically, i.e. forest owners and managers in Switzerland, comply with their particular obligations under the Timber Trade Ordinance. These obligations essentially consist of fulfilling a duty of due diligence as described in Article 4 ff. TTO. According to Article 4 paragraph 2 TTO, this includes gathering information and documentation (Art. 5 TTO), performing a risk assessment (Art. 6 TTO) and where necessary implementing risk mitigation measures (Art. 7 TTO).

In line with Article 15 paragraph 2 TTO, checks on initial operators are risk-based. The cantons already conduct comprehensive checks on Switzerland's forests as part of their remit to enforce forest legislation (Forest Act (ForA) and Forest Ordinance (ForO; 921.01).⁴ These satisfy the requirements of the TTO. The TTO does not require the cantons to conduct any additional checks.

Further tips on risk-based checks can be found in German in the FOEN study entitled 'Grundlagen und Handlungsanleitung für risikobasierte Kontrollen im schweizerischen Umweltrecht' [Fundamentals and instructions for risk-based checks under Swiss environmental law].⁵

⁴ Ordinance of 30 November 1992 on Forest (Forest Ordinance, ForO; SR 921.01).

⁵ Walker, David; Rieder, Stefan; Leonardi, Silvio (2015): Grundlagen und Handlungsanleitung für risikobasierte Kontrollen im schweizerischen Umweltrecht. Report for the Federal Office for the Environment, Legal Affairs Division. Interface Politikstudien Forschung Beratung, Lucerne and the Swiss Association for Quality and Management Systems (SQS), Zollikofen. Available in German only at: www.bafu.admin.ch > Topics > Topic Environmental law > Publications and studies > Studies.

3.3 Information and documentation (Art. 5 TTO)

Affected forest owners and managers should record certain basic information about the timber they harvest. They usually already provide these details as part of their commercial operations. These include a description of the timber including its trade name, the common name of the tree species and its full scientific name (Art. 5 para. 1 let. a TTO), Switzerland as the timber's country of origin (Art. 5 para. 1 let. b TTO) and the quantity of timber in volume or weight (Art. 5 para. 1 let. e TTO). According to Article 8 TTO, this information must be retained for five years. It may also be stored in digital form. The information should be visible on the relevant permit, invoice or delivery note.

In addition, Article 5 paragraph 1 letter g TTO requires forest owners and forest managers to provide evidence of compliance with the applicable legislation in the country of origin. In Switzerland, this evidence can be provided easily in the form of the harvesting permit as described in Article 21 ForA. The competent forestry authority will issue a permit only if the applicable management requirements, as set out in Article 20 ff. ForA, are met. From the purely legal perspective, the permit constitutes an official ruling (Hans-Peter Jenni, 'Vor lauter Bäumen den Wald noch sehen: Ein Wegweiser durch die neue Waldgesetzgebung' [Seeing the wood despite the trees: a guide to the new forest legislation], SAEFL 'Umwelt' series No 210, 1993, p. 63). As such it fulfils the requirement that evidence must have been issued by a recognised authority. In sum it is therefore deemed to be sufficient information in the sense of Article 5 paragraph 1 letter g TTO. As might be expected, a permit already contains the information listed above about the timber that is to be harvested (tree species, volume of timber and the plot of land concerned). Forest owners are therefore required to retain this evidence of 'legal harvest'.

The canton is not required to conduct any checks with regard to information and documentation providing the permit it has issued does actually contain all of the information required under Article 5 TTO. Cantonal forestry services nonetheless continue to check compliance with these permit requirements.

With this in mind, cantons should ensure that the permits they issue contain the information required under Article 5 TTO, that they are issued in archivable form, and that they are retained for at least five years (Art. 8 TTO).

Furthermore, forest owners and managers must document to whom they have passed on the timber or wood products (Art. 5 para. 2 TTO). The documents that they produce and archive anyway in their everyday business activities are sufficient here. Examples include invoices or delivery notes, as hard or electronic copies.

The FOEN rather than the cantons conduct risk-based checks on these documents with forest owners and managers. This is justified by the fact that the FOEN is already responsible for checking the traceability of the entire chain of custody.

3.4 Risk assessment and risk mitigation (Arts 6 and 7 TTO)

In the case of timber felled in Switzerland, in terms of a general risk assessment under Article 6 TTO, the permit referred to in Article 21 ForA constitutes evidence (Art. 5 para. 1 let. g TTO) that the risk of placing illegally felled timber on the market appears negligible.

Furthermore, the incidence of illegal timber harvesting (Art. 6 lets b and c TTO) in Switzerland has been found to be very low. For example, the data reported to the FOEN under Article 53 paragraph 2 ForA for 2020 shows that just 11 individuals were convicted for contravening Article 43 paragraph 1 letter e ForA (unauthorised felling) in that year. This is the result of effective, universal enforcement of forest legislation on the part of the cantonal forestry services.

Even when further risk assessment criteria such as UN sanctions (Art. 6 let. d TTO), the complexity of the supply chain (Art. 6 let. e TTO) or the risk of corruption (Art. 6 let. f TTO) are applied, the particular risk that timber harvested in Switzerland originates from illegal harvesting can be said to be very low.

Generally speaking, forest owners and managers in Switzerland are therefore not required to take any risk mitigation measures as described in Article 7 TTO.

Given sufficient legal provisions on the use of timber in Switzerland's forests, as well as effective universal enforcement by the cantonal forestry services, the cantons do not need to conduct checks on risk assessments or risk mitigation measures.

4 Seizure and forfeiture

Should a check give rise to the justified suspicion that timber has been felled illegally in Switzerland, cantonal authorities have the power under Article 18 paragraph 1 TTO to seize the timber in question, which may subsequently be forfeited (for the legal basis, please refer also to Art. 35f para. 4 EPA). Seizure secures evidence and ensures that the market actor permanently forfeits the timber if it is later confirmed that the latter has been illegally harvested (Art. 18 para. 3 TTO). The procedure for seized and forfeited products is described in Article 19 TTO. Please otherwise refer to the remarks on Articles 18 and 19 TTO.

5 Entry of data in the information system and access

The FOEN operates the information system governed by Article 12 paragraph 1 TTO. The purpose of access for the cantons, as described in paragraph 2, is to allow them to report the checks they have conducted and the results of those checks (Art. 12 para. 1 let. b TTO), and to enter data on any sanctions under criminal law (Art. 12 para. 1 let. c TTO) or on administrative measures (Art. 12 para. 1 let. d TTO).

The cantons should enter the data in the FOEN information system (currently the DETEC eGovernment portal) using an electronic reporting form. Specifically, for each reporting period they should state the number of permits issued under Article 21 ForA ([timber] felling permits, planting protocols/lists, including the number of uses under approved management plans) and the number of on-site checks conducted on the same. The information given should also include the number of justified indications of contraventions of the ban on placing illegally harvested or traded timber on the market, of administrative measures and of criminal proceedings. The data must be reported to the FOEN by the end of the first quarter of the following year at the latest.

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



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Office for the Environment FOEN

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

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.

Publisher

Federal Office for the Environment (FOEN)

The FOEN is an office within the Federal Department of the Environment, Transport, Energy and Communications (DETEC).

Editors

Achim Schafer, Alfred Kammerhofer (both FOEN Forest Division), Salome Sidler, Vincent Bohnenblust (both FOEN Legal Affairs Division), Susanne Arnold (diktum.ch, Zurich)

Advisory services

Advisory group consisting of a range of industry association representatives. These were Holzindustrie Schweiz HIS, Holzwerkstoffe Schweiz HWS, Verband Schweizerischer Hobelwerke VSH, Lignum Holzwirtschaft Schweiz, Lignum Federlegno, Cedotec Lignum, Verband Schweizerischer Schreinermeister und Möbelfabrikanten VSSM, IG Detailhandel Schweiz, Swiss Retail Federation, Holzbau Schweiz, Schweizerischer Verband für geprüfte Qualitätshäuser VGQ, Fédération Romande des Entreprises de Charpenterie, d'Ébénisterie et de Menuiserie FRECEM, Schweizerischer Fachverband Fenster- und Fassadenbranche FFF, Rolf Straub, Swiss Accreditation Service (SAS)

Information and contact

Federal Office for the Environment FOEN, Forest Division
Timber Industry and Forest Management Section, CH-3003 Bern
Phone +41 (0)58 469 69 11 | Email: holzhandel@bafu.admin.ch
www.bafu.admin.ch/holzhandel

Layout

Funke Lettershop AG

Cover picture

Lumber – wood factory stock or timber in warehouse.
Piles of wooden boards waiting for shipping.
© Joke Phatrapong, Adobe Stock

Link to PDF file

www.bafu.admin.ch/uv-2301-e

Not available as a hard copy.

This publication is also available in German, French and Italian. The original language is German.

© FOEN 2023

Contents

1	Definitions	5
2	Scope of the Timber Trade Ordinance	6
2.1	Products affected	6
2.2	Products not affected	6
3	Market actors and their obligations	8
3.1	Initial operators	8
3.2	Traders	8
4	Content of the due diligence obligation	10
4.1	Establish an internal due diligence system	12
4.2	Gather and document information	12
4.3	Recognise, specify and assess risk	14
4.4	Mitigate risk	16
4.5	Possible verification measures	19
4.6	Procedure for imports from the EU	21
5	Requirements for inspection bodies	23
5.1	Conformity assessment tasks	24
5.2	Expertise required for recognition	25
5.3	Documents for applying for FOEN recognition	25
6	Enforcement and checks	26
6.1	Principle of independent responsibility	26
6.2	FOEN checks	26
6.3	Cooperation between the FOEN and the FOCBS	27
6.4	Fees	27
6.5	Measures and penalties	27
Annex 1: Specifications for inspection bodies in accordance with Art. 11 para. 2 TTO		29
Annex 2: Assessment framework on the legality of timber harvesting and trading		33

1 Definitions

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

2 Scope of the Timber Trade Ordinance

2.1 Products affected

The scope of the Timber Trade Ordinance (TTO)¹ is identical to that of the European Timber Regulation, EUTR.² 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).

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

² 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.

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).³
- **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**

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

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

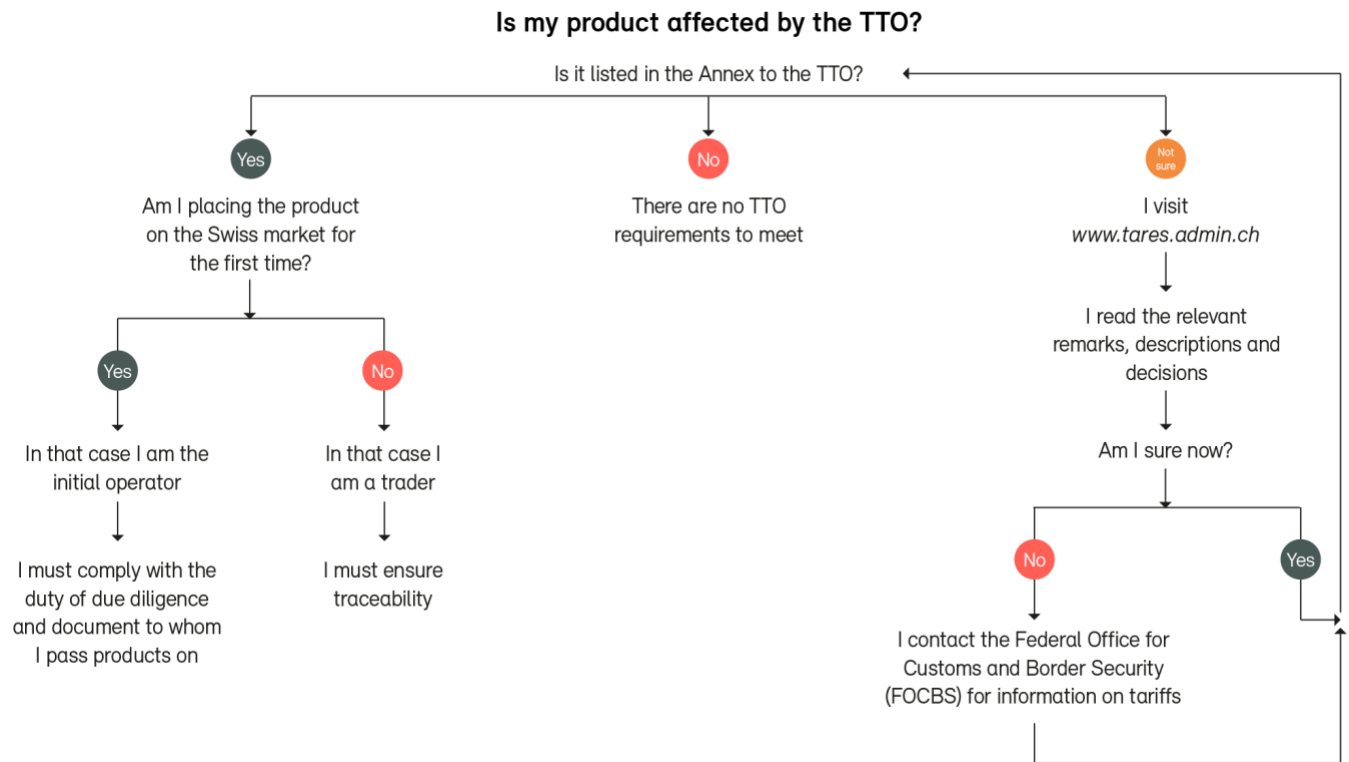
Traders (Art. 3 let. c TTO) are market actors that buy, sell or pass on free of charge timber that has already been placed on the market in Switzerland. They must document the suppliers from whom they have purchased timber or wood products, and the purchasers to whom they have passed these on (Art. 35g para. 1 Environmental Protection Act (EPA)⁴). 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.

⁴ 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?



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.

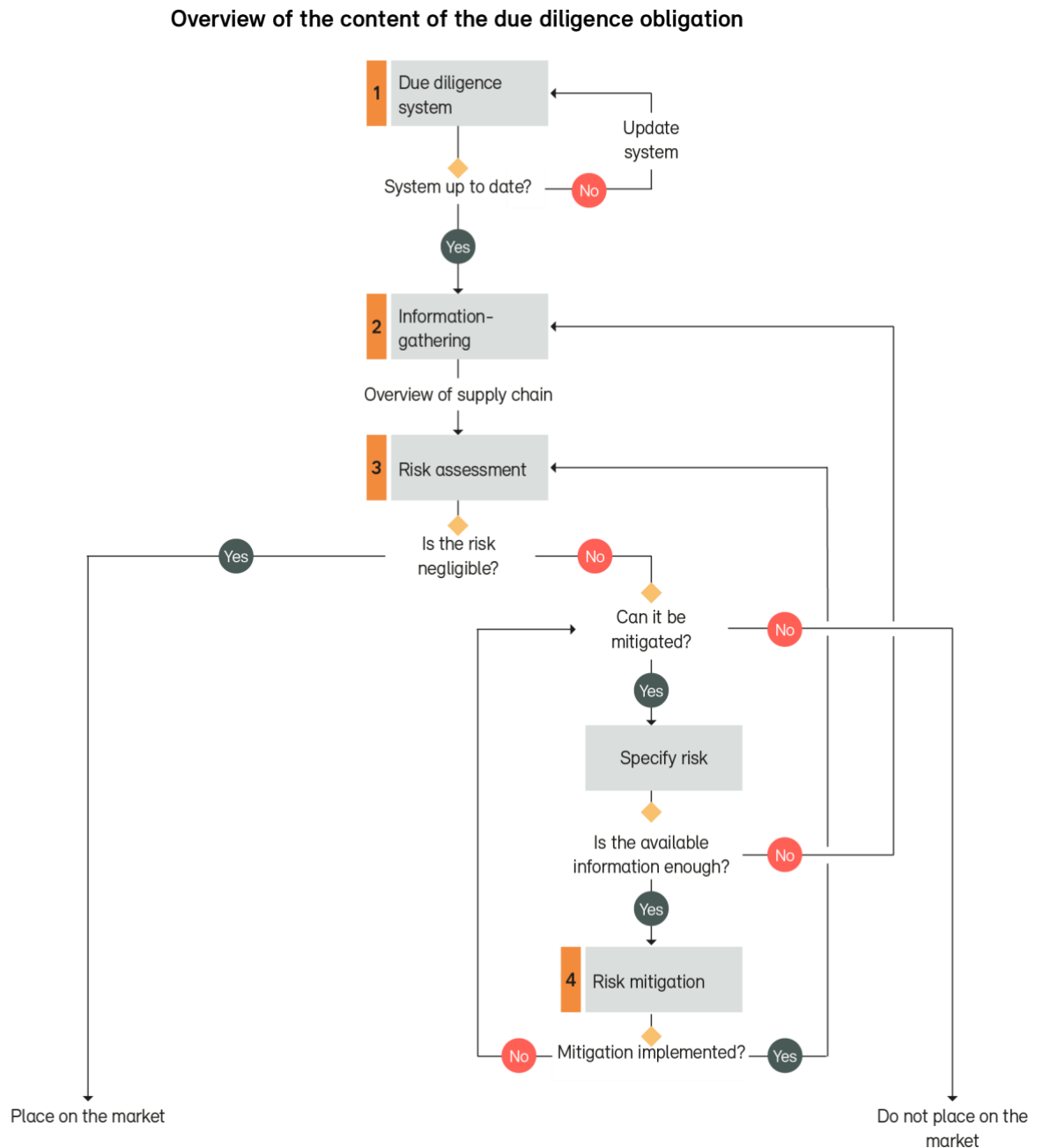
The following four steps are important elements of establishing and using the due diligence system:

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.

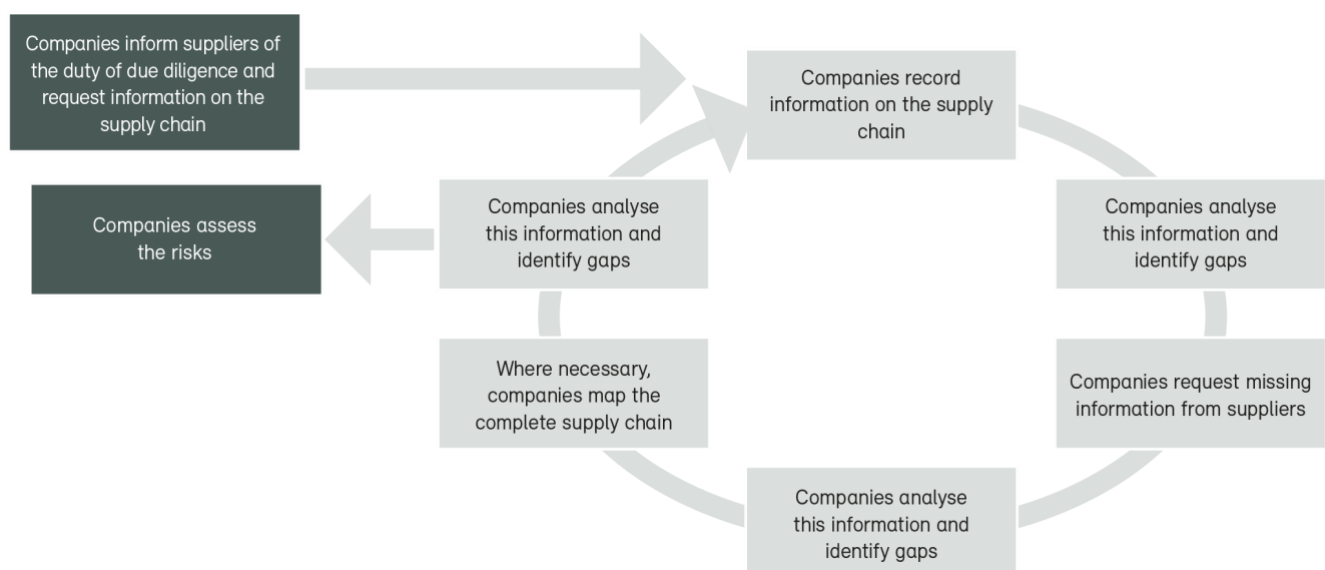
Table 2
Continuous information-gathering along the entire supply chain

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. Exception: Products for which a CITES ⁵ 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. ⁶ 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. ⁷ 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.

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

⁶ Available at: www.iucnredlist.org.

⁷ 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 > *Sorgfaltspflicht* > *Weitere Informationen* > *Risiko*.

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)⁸ 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.

⁸ Transparency International, Corruption Perceptions Index CPI, available at: www.transparency.org/en/cpi.

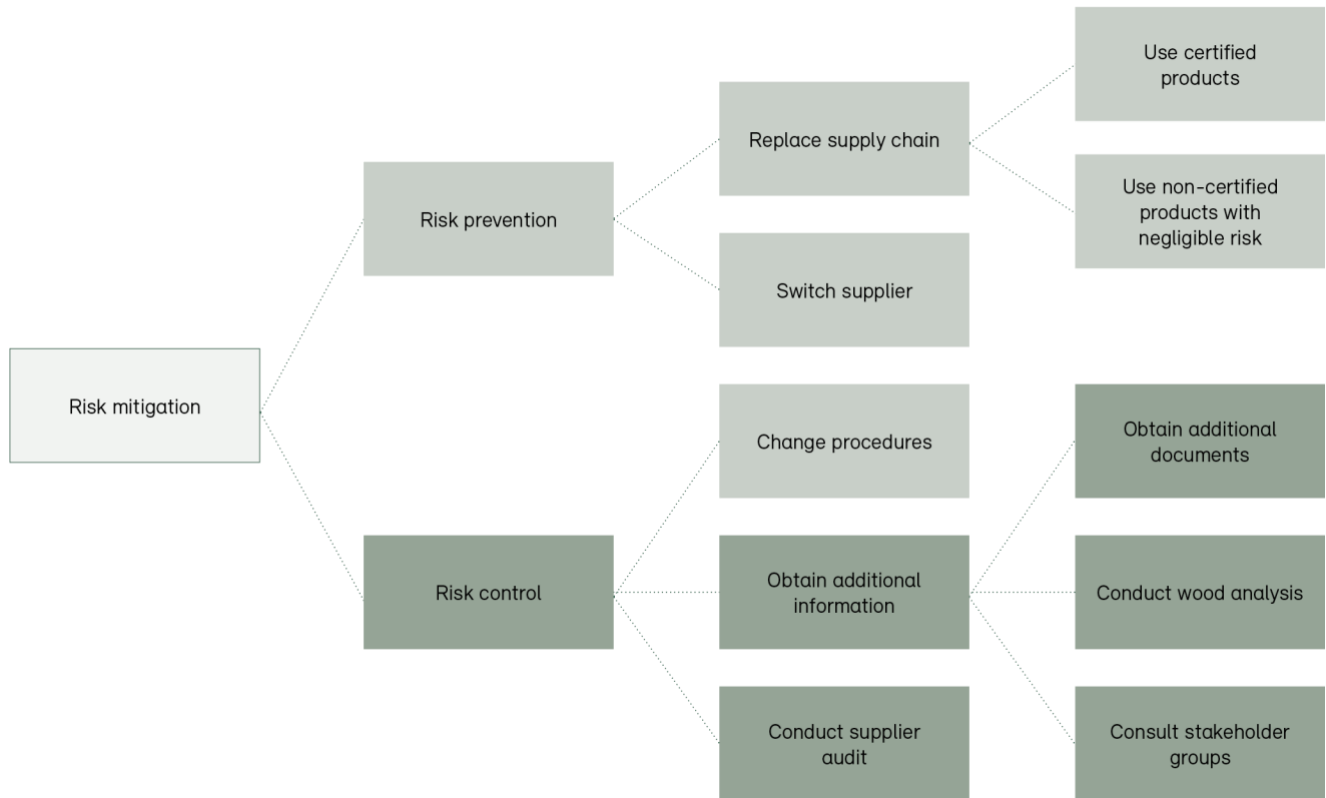
For example, if there is a risk that timber has been harvested illegally, it may be necessary to conduct on-site checks during the harvest. If there is a risk of timber from different sources becoming mixed at the processing company, it may make sense to check practices at their premises. These risk 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).

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 Identification⁹ or the GTTN's 'Overview of current practices in data analysis for wood identification: A guide for the different timber tracking methods'.¹⁰

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

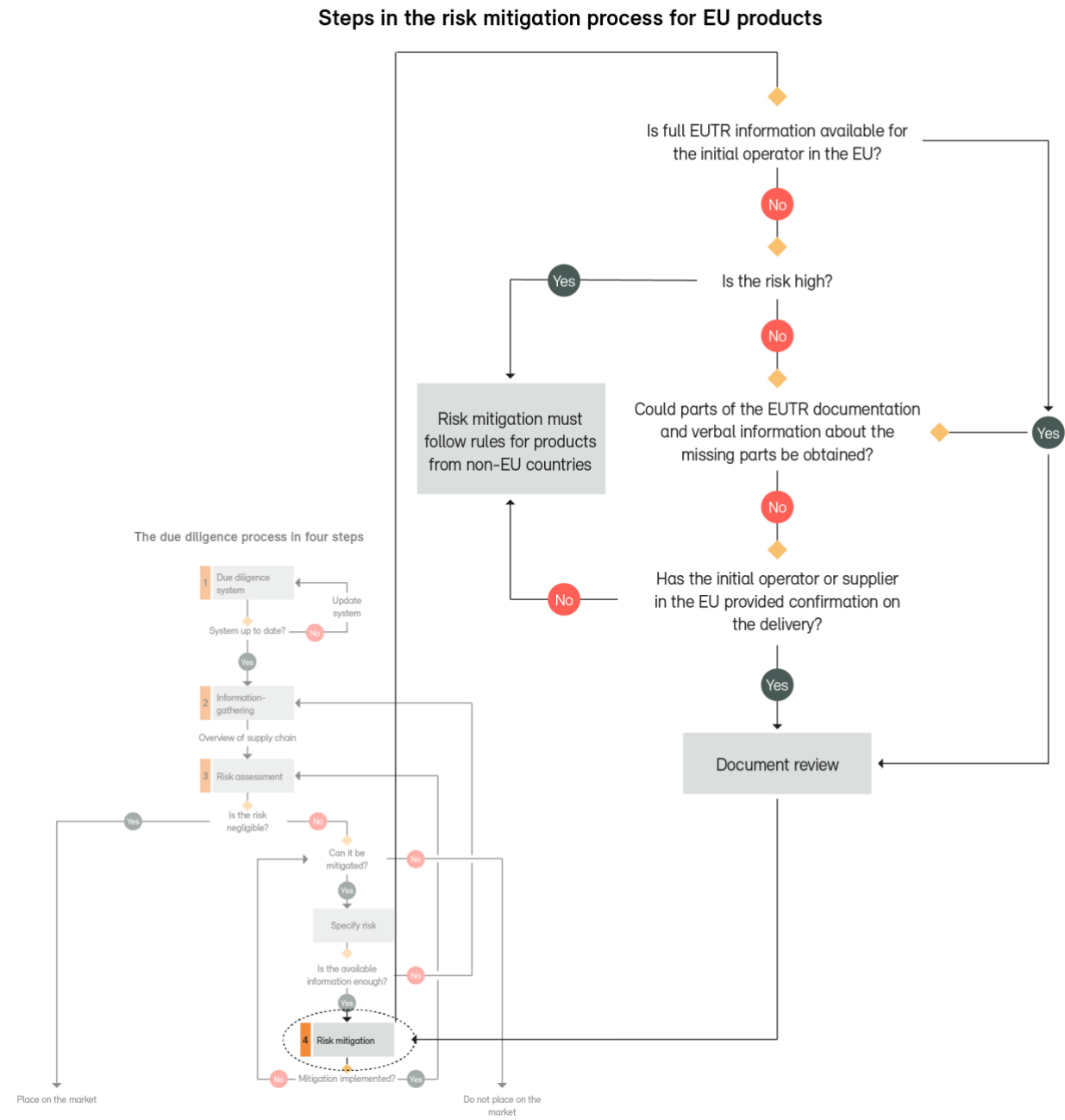
Risk mitigation process for products from the EU

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"> • the initial operator is not known in the EU • 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 • where the company judges the risks to be only low to moderate, 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, <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>

⁹ 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.

¹⁰ 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.

Figure 5
Due diligence system for imports from the EU



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.

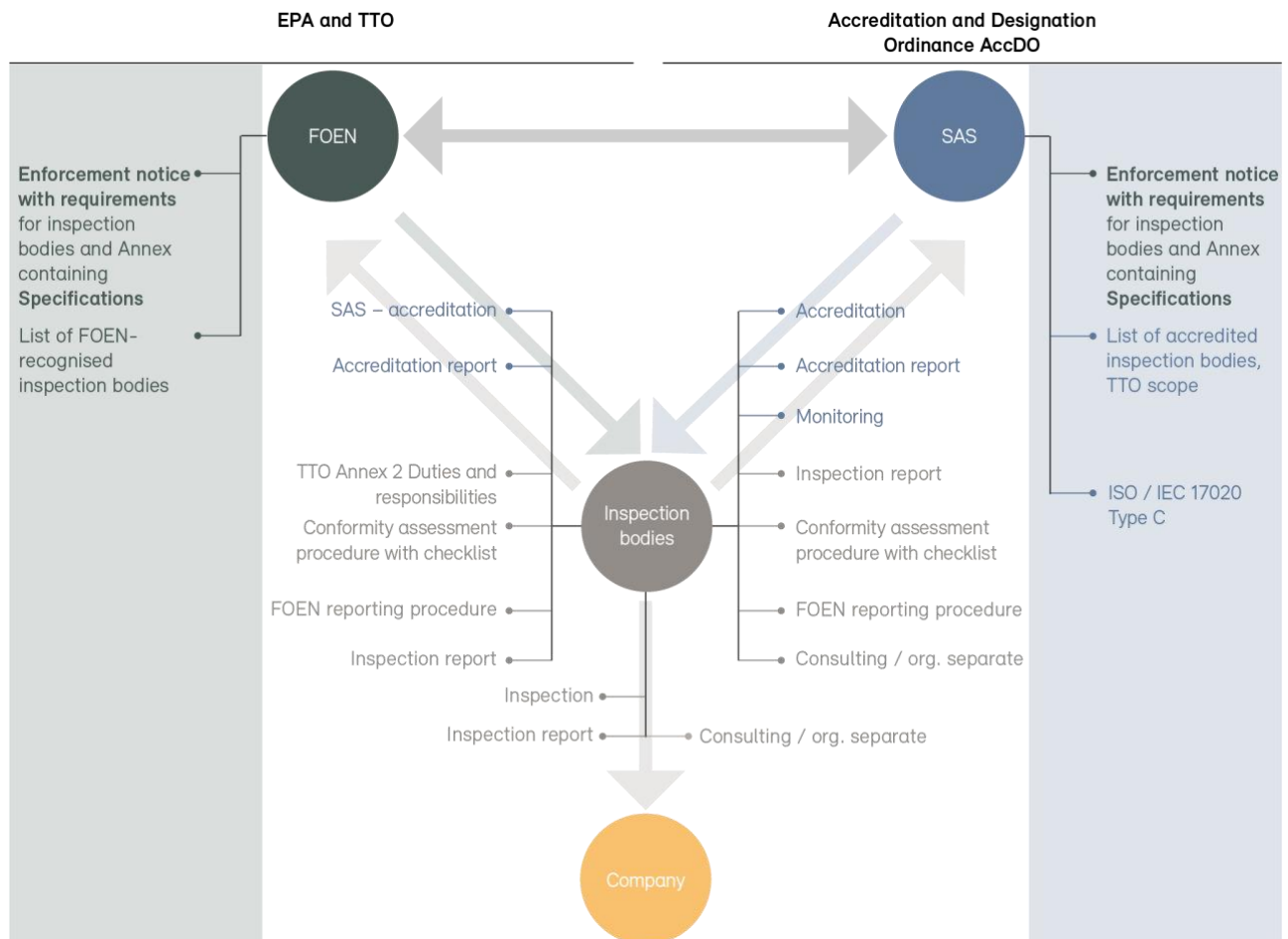
To be recognised as an inspection body by the FOEN, an entity must first be accredited as a Type C conformity assessment body in accordance with the SN EN ISO/IEC 17020: 2012¹¹ standard by the Swiss Accreditation Service, SAS (Art. 11 para. 1 let. d TTO). The TTO draws here on established international 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.

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).

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.

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.

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).

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^{bis} 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
1	Commitment to place wood on the market legally	
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
2	Responsibilities and authorities in respect of the due diligence system	
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
3	Documented procedures	
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
4	Application and quality assurance	
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
5	Scope of the due diligence system	
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
6	Access to information	
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
6.2	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
7	Risk assessment	
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