

# Enforcement of the Timber Trade Ordinance (TTO)

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



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Federal Office for the Environment FOEN

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# 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.

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Logs loaded into a container.  
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# 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*

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# 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)

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# 1 Objectives for different actors

The enforcement aid and notice from the FOEN, as the authority responsible for enforcing the Timber Trade Ordinance (TTO),<sup>1</sup> 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.

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

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## 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 EPA<sup>2</sup>). 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.

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



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## 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 Act<sup>3</sup> has prohibited illegal timber since 2008. In Australia, the Illegal Logging Prohibition Act<sup>4</sup> came into force in 2012, and in the European Union (EU) the European Timber Regulation, EUTR<sup>5</sup> 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.

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

<sup>4</sup> Australian Illegal Logging Prohibition Act 2012, SLI 2012 No 271.

<sup>5</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (European Timber Regulation, EUTR), OJ L 295 of 12.11.2010, p. 23.

## 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<sup>bis</sup>), anyone deliberately or negligently failing to comply with these provisions may face a custodial sentence of up to three years, or a fine.

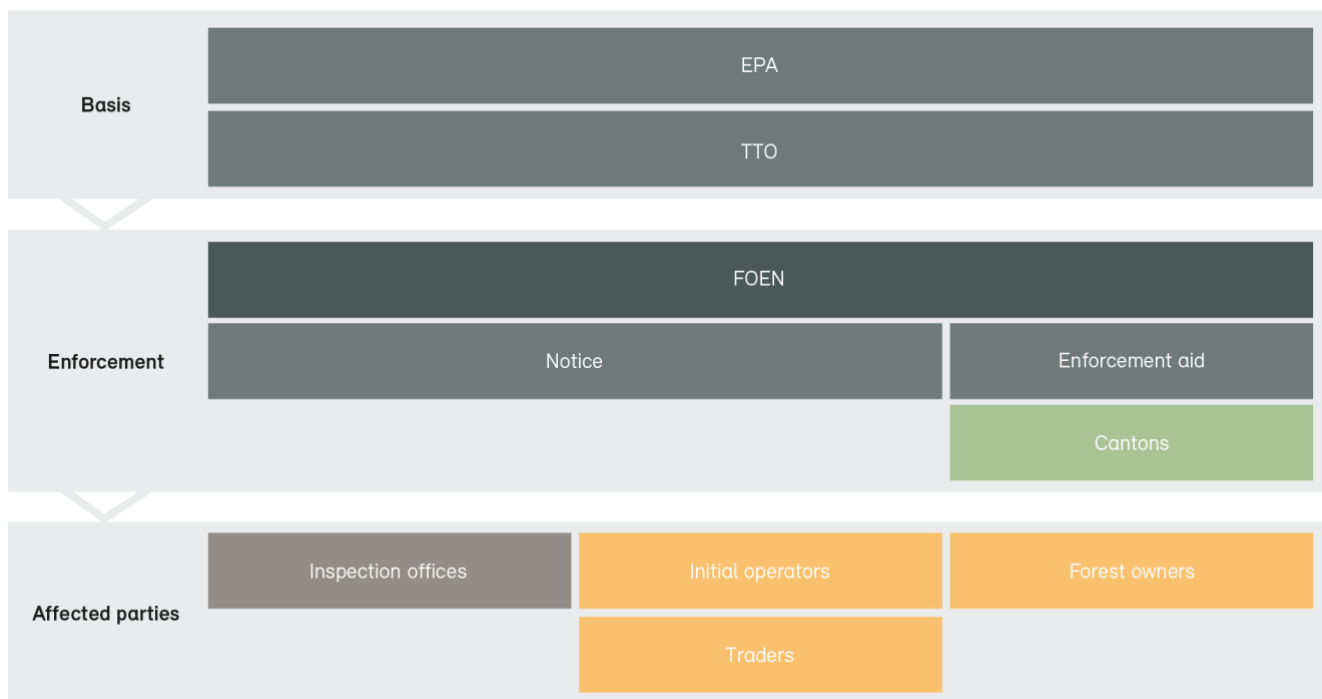
The amendment to the law (Art. 35e–h EPA) thus created the basis for an ordinance to implement regulations equivalent to those of the EUTR. This Timber Trade Ordinance provides further detail on due diligence and traceability, in particular, as the key elements of the new requirements (see Module 2). 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.

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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 (ForA<sup>6</sup> and ForO<sup>7</sup>) 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.

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

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

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**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).

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## 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

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# Annex 1: Abbreviations

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

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