

INBAR Working Paper



*Technical Paper*

# A Review of International Bamboo and Timber Trade Regulations

*A Multijurisdictional Study*

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International Bamboo and Rattan Organisation (INBAR)



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The International Bamboo and Rattan Organisation, INBAR, is an intergovernmental organisation dedicated to the promotion of bamboo and rattan for sustainable development.

For more information, please visit [www.inbar.int](http://www.inbar.int).

### About this Working Paper

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## **Executive summary**

Bamboo is one of the fastest growing plants on earth and is widely distributed across Africa, Asia and Latin America. Global bamboo forests cover an estimated area of over 35 million hectares with more than 1600 species recorded. Bamboo can be made into many types of products, with more than 10,000 applications. The annual bamboo trade value was estimated to be about USD 60 billion in 2017, of which the international trade of bamboo was about USD 2 billion. The majority of bamboo products are produced in Asia, led by China, and the top bamboo import countries include Europe (27 countries), the United States, Japan, India, Singapore, Korea, Australia and Canada.

This report analyses the regulations of the European Union (Forest Law Enforcement, Governance and Trade [FLEGT] Regulation [enacted 2005] and European Timber Regulation [enacted 2005], among others), the United States (Lacey Act, enacted 1900, revised in 2008), China (legal framework under development), Japan (Clean Wood Act, enacted 2016), Australia (Illegal Logging Prohibition Act, enacted 2012) and South Korea (enacted 2012, revised in 2017). The report also reviews international policies that may favour the trade of bamboo products, including the circular economy, climate neutral and single-use plastic policies. The report aims to present and summarise the timber regulations applicable in different jurisdictions, analyse their impact on the trade of bamboo and bamboo products, and identify possible opportunities for facilitating the commercialisation of this material and its derived products.

Although the purposes of the timber legislation in the studied jurisdictions are similar and the approach is somewhat consistent (controlling the import of illegally harvested wood, which is generally defined as wood harvested in contravention of local law), there is no uniformity in the degree of development or the regulatory techniques being utilised. However, the lack of specific treatment of bamboo is a common trait: none of them make specific exceptions or specify particular rules for bamboo. Due to this lack of uniformity, the impact of the different timber trade regulations on bamboo differs among jurisdictions.

**Table 1:** Summary of the status of different jurisdictions

	EU	USA	China
Relevant laws and regulations	FLEGTR (2005) EU Timber Regulation (enacted 2010, in force since 2013)	Lacey Act (enacted 1900, amended in 2008)	Legal framework under development
Voluntary / compulsory	Compulsory	Compulsory	Compulsory (unconfirmed)
Obligations	Keep a due diligence system and apply it when placing timber or timber products on the market	Exercise due care when importing and dealing with plant products	Follow a due diligence system (unconfirmed)
Regulated parties	FLEGTR + VPAs: Requirements fall on exporters EU Timber Regulation No 995/2010 (EUTR): Main requirements fall on the first entity placing timber or timber products in the EU common market	All entities in the supply chain are subject to the legality requirement; the importer is also subject to the declaration requirement	All entities in the supply chain (unconfirmed)
Penalties	Member States establish their own penalties and enforce the EUTR through their designated competent authorities	Yes, criminal and civil, ranging from fines to imprisonment	Unknown
Product scope definition method	HS Codes list	Legality requirement: includes all plants, with few exceptions Declaration requirement: HS Codes list	Broad scope (unconfirmed)
Scope includes bamboo and bamboo products?	Some bamboo products included (see Annex 1 and 2)	All bamboo products must meet the legality requirement Import declaration for bamboo products only in certain product categories	Unknown
Conclusions	Regulation does affect some bamboo imports by imposing due diligence requirements	The Act does affect some bamboo imports by imposing a legality requirement and a declaration requirement	Regulation still under study and not in force
Recommendations	Lobby for excluding bamboo from the scope of the EUTR (Member Countries can raise the case) Develop an <i>ad hoc</i> bamboo due diligence system via support to monitoring organisations Request amendments to the Combined Nomenclature Other options (see p. 22 et sec.) Bamboo HS Codes	Lobby for the adaptation of the scope along with other non-timber forest products stakeholders Have bamboo recognised as common cultivar or food crop Bamboo HS Codes	Monitor regulation efforts and developments to prevent bamboo from being included within the product scope

	Japan	Australia	South Korea
Relevant laws and regulations	Clean Wood Act (enacted 2016, full implementation still pending)	Illegal Logging Prohibition Act and Regulation (enacted 2012, in force since 2014)	Act on the Sustainable Use of Wood (enacted 2012, last revised in 2017, full implementation still pending)
Voluntary / compulsory	Voluntary	Compulsory	Compulsory
Obligations	Keep and follow a due diligence System	Keep and follow a due diligence System	Importers have to file an import declaration and prove legality through documentation.
Regulated parties	Applies only to parties who voluntarily register	Importers of regulated timber products and local processors of domestically grown raw logs	Importers
Penalties	No monetary penalties for trading in illegal timber or timber products; most severe penalisation is de-registration Fines are prescribed for other conduct such as unlawful use of registration title	Yes, ranging from fines to imprisonment. Soft-start period finished on 1 January 2018	Unverified timber cannot be sold and must be returned or destroyed. Non-compliance with suspension or disposal order triggers fines and imprisonment.
Product scope definition method	Currently list of products (without using HS Codes or other standard categorisation)	HS Codes list (explicitly states that only timber products are included)	HS Codes list (only five chapters).
Scope includes bamboo and bamboo products?	Unclear	Bamboo products are not included in the scope (HS Codes list explicitly states that only timber products are included)	Some bamboo products included.
Conclusions	Regulation may apply to some bamboo and bamboo products but does not greatly affect imports because it is voluntary	Regulation does not affect bamboo and bamboo products imports	Regulation does affect some bamboo imports by imposing import filing and legality check requirements.
Recommendations	Contact authorities to confirm whether bamboo is included in the scope of products covered by the Act Bamboo HS Codes	Present the Australian approach as a model for other countries Stay alert for legislative changes Study potential biosecurity obstacles for bamboo trade	Contact authorities and lobby for the exclusion of bamboo. Show that hindering bamboo trade defeats the purpose of the Korean Act. Bamboo HS Codes.
<i>Notes:</i> FLEGTR = Forest Law Enforcement, Governance and Trade Regulation; VPA = Voluntary Partnership Agreement; HS = Harmonized System			

## Policies that Enable Bamboo Product Trade

Global warming and environmental issues have raised serious concerns about reducing carbon emissions and prompted lifestyles that are aiming towards a sustainable world. There are a number of policies that have been issued to control the production and use of high-intensity carbon consumption and environmentally unfriendly products, including the regulation of single-use plastics, introduction of carbon neutral policies by 2050 and circular

economy policy plans. These policies will enable the production and trade of greener products, such as bamboo products. Below is a summary of these policies:

**Table 2:** Summary of plastic ban and restriction in different regions

<b>Policies</b>	<b>Summary</b>	<b>Countries</b>	<b>Opportunities for bamboo products</b>	<b>Challenges</b>
Regulate the production and use of single-use plastics.	(Different bans and restriction by region): Ban on manufacture  Ban on free distribution  Ban on import	Antigua and Barbuda, Burkina Faso, Canada, EU, China, Costa Rica, Fiji, Haiti Israel, Guyana, Marshall Islands, Mauritius, Pakistan, Republic of Korea, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Sri Lanka, Tuvalu, United Arab Emirates, Vanuatu, Zimbabwe	Bamboo can substitute for plastic products. Potential bamboo products include bamboo tableware and kitchenware, specifically bamboo plates, cups, cutlery, packages and straws.	Prices of bamboo products are higher; need to improve technologies and durability of products.
Carbon neutral by 2050 policies	Strategic areas: Transport—Mobility Construction—Infrastructure Energy Bio-economy and natural carbon sinks Carbon capture and storage Digitalisation	EU, Costa Rica, New Zealand, Norway, Denmark, Maldives, Iceland, Sweden, United Kingdom, Scotland, Canada, South Korea	Bamboo products are low to negative carbon, so possible substitute for high carbon intensity products such as aluminium, PVC, steel, etc.  Potential uses include bamboo for construction, both poles and engineered products, bamboo energy and so on.	Price, technological advancement, treatments, durability, awareness and expansion of value chains to make it affordable.
Circular economy policy plan	Policies mainly focus on key product value chains (electronics, batteries and vehicles, packaging, plastics, textiles, construction, food and water)	EU, Costa Rica, Japan, Scotland, Denmark, Sweden, China, South Korea, OECD countries	Bamboo products are renewable and reusable. Good opportunities for bamboo packaging, use in construction, substitution for plastics, as textiles and as decoration	The use of non-bio-based resins, glues and artificial preservatives and for bamboo textiles, the use of chemicals.



Policies	Summary	Countries	Opportunities for bamboo products	Challenges
	Waste prevention policies, toxin-free environments		for vehicles and airplanes.	

# 1. Introduction

## 1.1 Bamboo

Bamboo is one of the fastest growing plants on earth, and it is widely distributed across Africa, Asia and Latin America. Global bamboo forests cover an estimated area of over 35 million hectares, with more than 1600 species recorded. Bamboo can be made into many types of products and has more than 10,000 applications. The annual bamboo trade value was estimated at about USD 60 billion in 2017; however, the international trade of bamboo products was about USD 2 billion. The majority of bamboo products are produced in Asia, led by China. The top bamboo import territories are Europe (27 countries), the United States, Japan, India, Singapore, Korea, Australia and Canada.

## 1.2 Purpose of this report

The trade of illegally sourced timber has detrimental effects on the forest sector by undermining legal trade and posing severe environmental, economic and social threats. In recent decades, the importance of promoting legal and sustainable timber markets has been recognised by governments, international organisations, non-governmental organisations, trade associations and wood processing industries alike. Following this acknowledgement, new national and international rules have been enacted, often including bamboo within their defined scope of 'timber products', intentionally or otherwise. This has led to situations where bamboo and bamboo products must meet strict requirements and conditions that were initially designed for timber products. And all of this is despite bamboo's distinct biological nature, environmental impact and social applications.

The purpose of this report is to present and summarise the timber regulations applicable in different jurisdictions, analyse their impact on the trade of bamboo and bamboo products, and identify possible opportunities for facilitating the commercialisation of this material and its derived products. The report also reviews the relevant international policies that help encourage the trade of bamboo products as environmentally friendly, low carbon footprint products that can substitute for products with a high degree of environmental impact.

## 1.3 Timber regulations background

Illegal logging is commonly defined as the harvesting of timber in violation of the laws and regulations of the country of harvest. It is a global problem with negative economic,

environmental and social impacts. In economic terms, illegal logging results in the loss of future revenues. In environmental terms, illegal logging is related to deforestation, degradation, loss of biodiversity and climate change. And in social terms, illegal logging is often linked to conflicts over land and resources, the marginalisation of local and indigenous communities, corrupt practices and even armed conflicts (<https://www.euflegt.efi.int/illegal-logging>).

Global recognition of the consequences of illegal logging and the subsequent trade of illegal wood date back to the G8 summit held in 1998. The first reaction was the approval of the 'Bali Action Plan' in 2001 at the first regional Forest Law Enforcement and Governance (FLEG) conference, where most of the developed countries committed to encourage the use of legally sourced wood.

In 2003, the European Commission presented the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. The key difference from previous actions was the inclusion of addressing trade in the action plan. The objective of the FLEGT Action Plan is to eliminate the demand for illegal timber in international trade. FLEGT goes beyond previous regulatory efforts by taking into account the shared responsibilities of exporters and importers (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52003DC0251>).

Another key initiative came from the United States, which amended its Lacey Act in 2008 to prohibit the import of illegally sourced timber products. For this reason, both the EU and the United States demand a legality check as a prerequisite for accessing their markets. Other importing countries such as Japan, Australia, China and South Korea have also followed this trend of regulating illegal timber entering their markets and have either already enacted relevant regulations or are in the process of doing so.

This report analyses the regulations of the European Union (FLEGT [enacted 2005] and European Timber Regulation [enacted 2005], among others), the United States (Lacey Act, enacted 1900, revised in 2008), China (legal framework under development), Japan (Clean Wood Act, enacted 2016), Australia (Illegal Logging Prohibition Act, enacted 2012) and South Korea (enacted 2012, revised on 2017).

## 2. European Union

### 2.1 Background

The European Union's policy fighting illegal logging and its associated timber trade was outlined in 2003 through the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. Central Africa, Russia, Tropical South America and South-East Asia are the key regions and countries targeted by the FLEGT Action Plan. Together, they encompass around 60% of the world's forests and a large proportion of internationally traded timber ([https://ec.europa.eu/environment/forests/illegal\\_logging.htm](https://ec.europa.eu/environment/forests/illegal_logging.htm)). The FLEGT Action Plan addresses illegal logging from both the supply and demand sides through the seven lines of action outlined below (<https://www.euflegt.efi.int/flegt-action-plan>):

#### *2.1.1. Supporting timber-producing countries*

Financial and technical assistance is provided to countries willing to combat illegal logging. This support is geared towards building timber legality assurance systems; promoting transparency; increasing the capacity of governments, civil society and businesses; and reforming policies.

#### *2.1.2. Promoting trade in legal timber*

Entails engaging other major timber consumers and exploring ways of working towards a comprehensive multilateral framework to curb illegally harvested timber imports. Co-operation between the EU and other big consumers such as the United States and Japan is key because they account for a large part of the world market for timber and timber products. Efforts are being made to cooperate with other major markets for timber and timber products, particularly China, in order to expand the FLEGT initiative. Another tool for promoting trade in legal timber is the signature Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries. A VPA improves forest governance and ultimately guarantees that the timber and timber products exported to the EU are legal.

#### *2.1.3. Promoting green public procurement policies*

Public infrastructure projects funded by EU Member States are among the largest European consumers of timber. Ensuring that these projects only use legal timber is a key element of FLEGT. Public procurement legislation takes environmental considerations into account in purchasing decisions, and the European Commission Handbook on Green Procurement

explains how public authorities can ensure that procurement helps achieve local, regional, national and international sustainability goals.

#### *2.1.4. Supporting private-sector initiatives*

The European Commission provides technical and financial assistance to help private-sector actors benefit from legal supply chains. FLEGT licencing is a tool to that end. A FLEGT licence guarantees that timber and timber products are legal and that they come from a country where forest laws have been agreed upon with stakeholders. A FLEGT licence also ensures that the issuing country has a system in place, verifiable by independent audit, to prevent illegal timber from entering the supply chain.

#### *2.1.5. Financing and investment safeguards*

Large-scale investments in land, agriculture and infrastructure in timber-producing countries can encourage illegal logging if they lead to deforestation. FLEGT encourages investors, including export credit agencies, banks and financial institutions, to use strong due diligence procedures to limit the social and environmental effects of investments in the forest sector.

#### *2.1.6. Legislative efforts*

These are the two most important pieces of legislation following the development of the FLEGT Action Plan:

- The **FLEGT Regulation (FLEGTR)**, adopted in 2005, which allows for the control of the import of timber to the EU from countries signing **bilateral FLEGT VPAs** with the EU;
- The **EU Timber Regulation No 995/2010 (EUTR)** proposed by the Commission in October 2008 and adopted by the European Parliament and the Council in October 2010 is a measure that prohibits importing illegal timber and timber products into the European Common Market. EUTR came into effect in all EU Member States in 2013 (<https://www.euflegt.efi.int/flegt-action-plan>).

#### *2.1.7. Tackling the issue of conflict timber*

Conflict has at times been fuelled by the profits made by armed groups selling illegally or legally harvested timber. The FLEGT Action Plan includes actions to agree on an international definition of conflict timber and to ensure that development aid programmes in the EU take into consideration the role of forests in conflicts.

## 2.2 Relevant rules

### 2.2.1. EU Action Plan for Forest Law Enforcement, Governance and Trade

The FLEGT Action Plan aims to address the growing problem of illegal logging and its derived trade by setting out a package of measures and initiatives to be followed in subsequent years. It sets the basis for EU political actions on international illegal logging upon which the FLEGT and the EUTR were developed.

### 2.2.2. Council Regulation (EC) No 2173/2005 of 20 December 2005,

The Council Regulation No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licencing scheme for imports of timber into the European Community (FLEGT) (Source: EU, 2005, <https://www.euflegt.efi.int/documents/2005>).

The FLEGT adopted in December 2005 and its Implementing Regulation that followed in 2008 lay down one of the key elements of the FLEGT Action Plan: a voluntary scheme to ensure that only legally harvested timber is imported into the EU. Third-party countries willing to take part in this scheme can enter into bilateral FLEGT VPAs with the EU. This regulation is therefore directed to the supply side of the illegal timber trade problem.

VPAs specify the actions and commitments expected of each party to the agreement in efforts to stop the illegal timber trade. They also describe a licencing system in the non-EU country that enables the issuance of FLEGT licences certifying timber to have been legally harvested. The **legality assurance system** (LAS) is the central part of a VPA. It is designed to identify, supervise and licence legally produced timber in order to ensure that only legal timber is exported into the EU. Each country negotiates and designs its own VPA and LAS during the negotiations prior to entering the treaty, in accordance with its existing control mechanisms and legal framework. However, a timber LAS usually includes the following five elements:

1. A definition of the **concept of legal timber**: Each VPA defines 'legal timber' according to the applicable laws of the partner country, which sets out the legal and regulatory requirements that must be met before a FLEGT licence can be issued. This definition provides criteria and indicators to be used for checking compliance with those laws.
2. A procedure for **controlling the timber supply chain**: The LAS not only ensures that timber entering the supply chain is legally harvested but also contains procedures to trace timber throughout the supply chain, from its harvesting to its transport, storage and processing, through to the point of export.

3. A system for **verifying compliance**: Each partner country's government appoints a governmental or non-governmental body that will be in charge of verifying that timber and timber products are legal. This verification body confirms that timber is produced and processed according to the requirements of the definition of legal timber and that its supply chain has been duly monitored.
4. A **FLEGT licence issuing scheme**: Each partner country's government establishes a licencing authority that will issue FLEGT licences for individual timber shipments after the shipment passes verification. Licences can be issued based on either evidence from governmental bodies or on the internal control systems of private-sector operators. The LAS also regulates how these internal control systems in the private sector should be assessed, approved and monitored.
5. An **audit** system: The authorities of each partner country appoint an independent auditor to verify that all the LAS components have been duly implemented. This auditor is obliged to identify any non-compliance and system failures and report them to a joint implementation committee that is established for each VPA. This committee is made up of representatives from both the partner country and the EU, and its purpose is to facilitate and monitor the implementation of the VPA, resolving any conflicts and disputes that may arise.

As for the **scope of products** affected by the FLEGTR (what is understood as timber and timber products), there is not a closed list within the norm. FLEGTR's Annex II<sup>1</sup> establishes the timber products to which the FLEGT licencing scheme applies irrespective of the partner country (HS Headings 4403, 4406, 4407, 4408 and 4412), while Annex III leaves it open to issue FLEGT licences for other timber products if so agreed between the EU and the partner country through a VPA. This means the products requiring a licence may vary depending on the country of origin.

The **first VPA** to be signed was with Ghana, followed by the Republic of Congo, Cameroon, Indonesia, the Central African Republic and Liberia. Negotiations for a VPA with Vietnam ended in May 2017.

As of 2019, 15 tropical timber exporting countries are negotiating or implementing FLEGT agreements with the EU (EU, 2019, <https://www.euflegt.efi.int/documents/2019>).

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<sup>1</sup> See *Annex I: HS Codes to Which the FLEGTR and VPAs Apply*, see (P51).

### 2.2.3. Different VPAs between the EU and timber-producing countries

VPAs develop the detailed measures to be taken in order to obtain the FLEGT licence for timber or timber products harvested or produced in each country. Therefore, a VPA's content is country-specific.<sup>2</sup>

- Voluntary Partnership Agreement between the European Community and the Republic of Ghana on forest law enforcement, governance and trade in timber products into the Community (**VPA Ghana**)

Development of rubber wood and bamboo processing mentioned in the Domestic Market section of the Supporting Measures for VPA Implementation. Timber and timber products covered under the VPA belong to HS Codes 44 and 94 (Annex 1A). Some Codes under HS 44 are prohibited for export. The HS Codes 44 relevant to bamboo are not included in prohibited for export.

- Voluntary Partnership Agreement between the European Union and the Republic of the Congo on forest law enforcement, governance and trade in timber and derived products to the European Union (**VPA Republic of the Congo**)

No direct mention of bamboo or rattan even though some of the product codes subject to FLEGT licencing can include bamboo products (see Annex 1 for detailed HS Codes). Timber and timber products covered under the FLEGT licencing scheme include Codes from Chapters 44 and 94.

- Voluntary Partnership Agreement between the European Union and the Republic of Cameroon on forest law enforcement, governance and trade in timber and derived products to the European Union (**VPA Cameroon**)

No direct mention of bamboo or rattan even though some of the product codes subject to FLEGT licencing can include bamboo products (see Annex 1 for detailed HS Codes). Timber and timber products covered under the FLEGT licencing scheme include HS Codes from Chapters 44 and 94. Some HS Codes under Chapter 44 are prohibited for export.

- Voluntary Partnership Agreement between the European Union and the Republic of Indonesia on forest law enforcement, governance and trade in timber products into the European Union (**VPA Indonesia**)

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<sup>2</sup> For a comprehensive list of the product categories specifically included for each VPA, see *Annex 1: HS Codes to Which the FLEGT and VPAs Apply* (p. 51).



No direct mention of bamboo or rattan even though some of the product codes subject to FLEGT licencing can include bamboo (see Annex 1 for detailed HS Codes). Timber and timber products covered under the FLEGT licencing scheme include Codes from Chapters 44, 47, 48 and 94. Some HS Codes under Chapter 44 are prohibited for export. The HS Codes 44 relevant to bamboo are not included in prohibited for export.

- Voluntary Partnership Agreement between the European Union and the Central African Republic on forest law enforcement, governance and trade in timber and derived products to the European Union (**VPA Central African Republic**)

No direct mention of bamboo or rattan even though some of the product codes subject to FLEGT licencing can include bamboo products (see Annex 1 for detailed HS Codes). Timber and timber products covered under the FLEGT licencing scheme include HS Codes from Chapters 44 and 94.

- Voluntary Partnership Agreement between the European Union and the Republic of Liberia on forest law enforcement, governance and trade in timber products to the European Union (**VPA Liberia**)

No direct mention of bamboo or rattan even though some of the product codes subject to FLEGT licencing can include bamboo products. Timber and timber products covered under the FLEGT licencing scheme include HS Codes from Chapters 44 and 94.

- Voluntary Partnership Agreement between the European Union and the Socialist Republic of Viet Nam on forest law enforcement, governance and trade (**VPA Viet Nam**) [**UNDER NEGOTIATION**]

Bamboo and rattan only directly mentioned as exclusions in the HS Codes descriptions for the products covered under the FLEGT License under HS Codes from Chapter 44. This implies that bamboo and rattan are excluded from FLEGT licencing. Timber and timber products covered under the FLEGT licencing scheme include HS Codes from Chapters 44 and 94.

#### *2.2.4. Regulation (EU) No 995/2010*

Regulation 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 (**EUTR**).

The EUTR entered into application on 3 March 2013. While the FLEGTR and its derived VPAs are directed at the supply side of the illegal timber trade, the EUTR focuses on the demand side, combating the entrance of illegal timber and derived products into the EU market. The EUTR is based on three main provisions that bind operators (importers) and traders (resellers within the EU) of imported timber and timber products:

1. **Prohibition of introducing illegally harvested timber** and products derived from such timber into the EU market. For this purpose, illegally harvested timber or timber products are defined as those harvested in violation of the applicable legislation in the country of harvest.

**Obligation to exercise ‘due diligence’** for EU traders who introduce timber products into the EU market. The core of the ‘due diligence’ notion is that operators (any natural or legal person importing timber or timber products into the EU market) must undertake risk management actions to minimise the possibility of importing illegally harvested timber, or timber products containing illegally harvested timber, into the EU market.

There are three key elements of the due diligence system defined in the EUTR:

- **Information:** The operator must provide data and information on the imported timber and timber products, such as country of harvest, species, quantity, contact details of the supplier, and information regarding compliance with the applicable legislation in the country of harvest.
- **Risk assessment:** Based on the information provided by the operator, and taking into account criteria set out in the regulation, the operator should assess the risk of illegal timber in its supply chain.
- **Risk mitigation:** Whenever the assessment shows that there is a risk of illegal timber entering its supply chain, that risk should be mitigated by requiring additional information and verification from the supplier.

2. **Obligation to keep records** of suppliers and customers for traders that acquire and sell imported timber or timber products within the EU market. Once in the common market, the imported timber and timber products may be sold or transformed before they reach the final consumer. To maintain the traceability of timber products, economic operators in this part of the supply chain (traders, following the EUTR’s terminology) have an obligation to keep data regarding its suppliers and customers.

The **scope of products affected** by this regulation (i.e. what is understood as ‘timber’ or ‘timber products’) is broad.<sup>3</sup> It covers a wide range of timber products, including solid wood products, flooring panels, plywood, packaging materials, pulp and paper, wooden furniture and prefabricated buildings. Recycled products are excluded from the product scope of the EUTR, as are printed materials such as books, magazines and newspapers. The scope is defined through a list of HS Codes in the Annex to the EUTR. An analysis of the included bamboo products can be found in the **Analysis** section.

It is worth noting that timber and timber products that have obtained a **FLEGT licence** under the applicable VPA or a permit under the Convention on International Trade in Endangered Species of Wild Fauna (**CITES**) are considered to comply with the requirements of the Regulation and are therefore excluded from the requirement of applying the due diligence procedures. Thus, licenced timber products enjoy a considerable market advantage over unlicensed timber products.

As for its **geographical application scope**, the Regulation is legally binding on all 28 EU Member States; all of them are responsible for laying down effective, proportionate and dissuasive penalties in order to enforce the Regulation.

Each EU Member State is responsible for monitoring the legality of the imports into its territory and for applying the corresponding sanctions to operators and traders if necessary. All Member States have been required to designate a competent authority for this purpose.

The EUTR stipulates that the European Commission will accredit **monitoring organisations** that will assist operators with establishing due diligence systems. Typically, monitoring organisations are commercial companies engaged in the certification business. Hence, operators can either develop their own system or use one developed by a monitoring organisation.

The EUTR has been complemented by two other pieces of **secondary legislation** which offer more detail on specific points of the law. These are the following:

- Regulation on rules for the recognition and withdrawal of recognition of monitoring organisations: Commission delegated Regulation (EU) No 363/2012

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<sup>3</sup> See *Annex II: HS Codes to Which the EUTR Applies* (p. 53).

This regulation is focused on specifying the procedural rules for the recognition and withdrawal of recognition of the monitoring organisations mentioned in the EUTR.

- Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012:

The purpose of this regulation is to ensure the uniform implementation of some aspects of the EUTR, namely, detailed rules concerning the due diligence system and the frequency and nature of checks which Member States' competent authorities will conduct on the monitoring organisations to ensure they comply with the requirements of the Regulation.

- Regulation on Nomenclature (Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff).

This regulation specifies the EU Combined Nomenclature, a further development (with special EU-specific subdivisions) of the World Customs Organization's HS nomenclature. It is a systematic list of classified commodities applied by most nations in the field of international trade for purposes such as regulating tariffs or negotiating international trade agreements. The EUTR makes use of this classification for the definition of the products under its scope. Bamboo and rattan products are mentioned under HS Codes 1401, 9401 and 9403 in chapters 14, 46 and 94, respectively. It is important to note that bamboo and other materials of a woody nature are considered to be wood.

## 2.3 Analysis

After an analysis of the FLEGT Action Plan derived rules, it emerged that only part of the HS Codes under which bamboo products may be traded are within the scope of these regulations. For a bamboo or bamboo products exporter, having its product or products included within the scope of the FLEGT Action Plan derived regulations entails having to adapt its processes and practices to a series of strict requirements. Either through the FLEGT and its corresponding VPA, or via the EUTR, a system for controlling the legality of the wood needs to be put in place and followed in order to obtain a licence. Periodic reporting, keeping of extensive records and audits on the functioning of the system are also part of the requirements in order to have products licenced for export into the European Common Market.

Regarding the specific bamboo products affected, it would be difficult and burdensome to analyse all cases by listing all the HS Codes that may include bamboo and bamboo products and stating whether they fall within the scope of the FLEGT and EUTR. The chart below

tentatively lists the most common bamboo and bamboo product codes and specifies if they are affected by any FLEGT Action Plan derived rules.

Comprehensive lists of all the HS Codes listed in the FLEGTR, VPAs and EUTR can be found in *Annex I: HS Codes to Which the FLEGTR and VPAs Apply* (p.51) and *Annex II: HS Codes to Which the EUTR Applies* (p. 53) hereto.

**Table 3:** HS codes EUTR applied

Chapter/ Code	Description	Notes
<b>Chapter 14</b>	<b>Vegetable plaiting materials; vegetable products not elsewhere specified or included</b>	This chapter is not within the scope of any FLEGT Action Plan related regulations (FLEGTR, VPAs, EUTR), and therefore, bamboo and bamboo products belonging to this chapter are not affected.
1401 10 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Bamboo	
1401 20 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Rattan	
<b>Chapter 20</b>	<b>Preparations of vegetables, fruit, nuts or other parts of plants</b>	This chapter is not within the scope of any FLEGT Action Plan related regulations (FLEGTR, VPAs, EUTR), and therefore, bamboo and bamboo products belonging to this chapter are not affected.
2005 91 00	Other vegetables prepared or preserved other than by vinegar or acetic acid, not frozen, other than products of heading 2006 – Bamboo shoots	
<b>Chapter 44</b>	<b>Wood and articles of wood; wood charcoal (Wood includes bamboo unless otherwise specified)</b>	Some categories in this chapter are within the scope of FLEGT Action Plan related regulations, and therefore, bamboo and bamboo products included in them would be considered timber products and subject to the corresponding requirements.  An individual check is necessary for any HS Code under this chapter.
4402 10 00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated – Bamboo	Not within the scope.
4409 21 00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed – Bamboo	Within the scope of EUTR.
4412 10 00	Plywood, veneered panels and similar laminated wood – Bamboo	Within the scope of FLEGTR and EUTR.

Chapter/ Code	Description	Notes
4418 73	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo, or at least the top layer (wear layer) made from bamboo	Within the scope of EUTR.
4418 91 00	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo	Within the scope of EUTR.
4419 XX	Tableware and kitchenware, of wood – Bamboo	Within the scope for some countries (VPA Cameroon, VPA Central African Republic).
4421 91 00	Other articles of wood – Bamboo	Not within the scope.
<b>Chapter 46</b>	<b>Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork (plaiting materials includes bamboo unless otherwise specified)</b>	This chapter is not within the scope of any FLEGT Action Plan related regulations (FLEGTR, VPAs, EUTR), and therefore, bamboo and bamboo products belonging to this chapter are not affected.
<b>Chapter 47</b>	<b>Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard</b>	All categories in this chapter are within the scopes of the EUTR and the VPA applicable to Indonesia. Therefore, bamboo and bamboo products included in them are considered timber products and subject to the corresponding requirements.
4706 30 00	Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material. – Other, bamboo	
<b>Chapter 48</b>	<b>Paper and paperboard; articles of paper pulp, of paper or of paperboard</b>	All categories in this chapter are within the scopes of the EUTR and the VPA applicable to Indonesia. Therefore, bamboo and bamboo products included in them are considered timber products and subject to the corresponding requirements.
4823 61 00	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres. – Bamboo	
<b>Chapter 94</b>	<b>Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings</b>	Some categories in this chapter are within the scopes of FLEGT Action Plan related regulations, and therefore, bamboo and bamboo products included in them would be considered timber products and subject to the corresponding requirements.
9401 52 00	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof – Bamboo	Not within the scope.
9403 70 00	Other furniture and parts thereof – Furniture of other materials, including cane, osier, bamboo or similar materials	Not within the scope.
9403 82 00	Other furniture and parts thereof – Bamboo	Not within the scope.

## 2.4 Conclusions

### *2.4.1. Consequences of the applicable legal framework*

After scrutinising the EU regulations against international illegal logging, it can be stated that due consideration was not given to bamboo and/or rattan during drafting of the action plan, rules or regulations. The timber and timber product definitions in the FLEGTR, the currently signed VPAs in force and the EUTR all rely on HS Codes (which are mainly based on product applications rather than on product materials) for establishing their scopes and do not comprise specific exclusions or inclusions for bamboo and bamboo products. This situation leaves bamboo and bamboo products split into two groups with different applicable import rules.

This division precludes the application of general provisions for all bamboo products, and concurrently, it may weaken the voices demanding specific treatment for bamboo and bamboo products under the FLEGT Action Plan derived rules given that only part of them are affected. For potential exporters of bamboo products that fall partially or totally within the scope of any of the FLEGT Action Plan derived regulations, these rules entail the need to establish a complex system of due diligence that includes conducting regular checks, eventual risk assessment and adoption of risk mitigation strategies and measures. These systems have to be dealt with using either internal resources or by employing external experts, which in any case increases costs and consumes resources that could be used for other purposes directly related to the development of the business.

According to the evaluation of the EUTR conducted by the Commission, the cost of establishing a due diligence system could range between EUR 5,000 and 90,000, while annual operating costs would be in the range of EUR 1,000 to 70,000. These costs fluctuate according to different factors, such as, among others, the pre-existence of an internal quality control system in which the due diligence system could be integrated, the total number of suppliers and their geographical locations, the length of supply chains and the volume of product traded. Companies that responded to the survey also indicated that only a small part of the costs of developing due diligence systems and exercising them seem to have been passed on to clients; most of them would have been assumed as an extra operational cost, thus eroding profit margins.

There are no representative data gathered from SMEs affected by the FLEGT Action Plan derived regulations (which presumably would be the company profile closest to bamboo exporters, which tend to be small in size), but it would be logical to expect SMEs to be at a disadvantage against big companies due to their relatively small turnover relative to the extra costs, especially taking into account that these extra expenses not have resulted in a rise of prices. On the other hand, bigger companies would find it relatively easier to bear the cost of setting down due diligence systems.

All this leads to the deduction that the application of the FLEGT Action Plan derived rules to some bamboo products could hinder the development of a bamboo export industry by substantially increasing export costs to a market as significant as the EU.

#### *2.4.2. Possible actions towards the improvement of the applicable legal framework*

There are a number of actions that can be conducted before the EU authorities in order to improve the regulatory situation regarding the import of bamboo and bamboo products into the EU common market.

In any case, the arguments to defend bamboo and point out the inadequateness of its consideration as a timber product under the FLEGT Action Plan derived regulations would be similar. Some of the points below were already defended by INBAR in 2015 through its participation in the public consultation on the evaluation of the EUTR with the European Commission:

- i. Considering that bamboo is a substitute material for wood, bamboo consumption has a positive effect on the preservation of endangered forests and their sustainable management, one of the objectives of the FLEGT Action Plan.<sup>4</sup> Therefore, the inclusion of bamboo under the FLEGT Action Plan derived regulations, which hinders its consumption, defeats the very purpose of the regulations.
- ii. From a biological and functional point of view, bamboo does not belong to the category of wood. Bamboos are biologically giant, often woody, grass species, and therefore, bamboo is generally considered a non-wood forest product. While bamboos do naturally grow in mixed forest canopies, most of the harvested bamboo culms are collected from plantations or agroforestry systems.

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<sup>4</sup> Among others: Proposal for an EU action plan, section 3 *in fine*;



- iii. Bamboo growth also sets bamboo apart from wood. Bamboos are one of the fastest growing plants on earth, after three to seven years (depending on the species), bamboo culms are ready for harvesting and processing.
- iv. The bamboo harvesting process is also different from wood. Typically, 20% to 30% of bamboo culms are harvested every year. Upon harvest, bamboo plantations regenerate naturally by producing new shoots the following growing season, and harvesting bamboo culms does not damage the roots and rhizomes.
- v. Bamboo's inherent economic cycle incentivises bamboo resource preservation: The crop-like annual harvesting scheme of bamboo plantations, with a quick return on investment instead of the extended rotation cycle with longer return on investment that is normal for tree plantations largely eliminates incentives for deforestation or clear-felling of bamboo.
- vi. Because the value of individual bamboo poles is relatively low compared to timber logs, no evidence of systematic illegal harvesting of bamboo has been documented to date.

The following is a tentative list of possible options for putting these arguments to use to try solving, or at least mitigating, the effects of the FLEGT Action Plan derived regulations on the import of bamboo and bamboo products into the European Common Market:

1. **Lobby for having bamboo products totally or partially removed from the scope of the EUTR.** Working with EU authorities to exclude bamboo products (either with a general clause for bamboo and bamboo products or by amending the HS Codes list in the Annex to the EUTR) from the restrictions of the EUTR. However, this would not be a complete solution because the FLEGT would continue to be in force, so some bamboo products from countries that have signed VPAs with the EU would continue to be under the scope of other FLEGT Action Plan derived regulations (FLEGT and VPAs). The following channels could be used for this purpose:
  - a. Member country reporting: The EUTR includes an application reviewing tool in its article 20. Member countries have to submit a biennial report regarding their application of the EUTR. If an EU member country is convinced to raise the case of bamboo in its report, bamboo could attract more attention from the EU authorities.
  - b. Public consultation directly with the European Commission. In the EUTR Review of 2015, the case for bamboo and rattan was already raised through the public consultation: INBAR and the company GD Holz officially requested the exclusion of bamboo from the scope of the EUTR. In case any new review round is opened,

it would be advisable to reinstate the suggestion of redefinition, possibly adding additional arguments in light of recent developments.

- c. Regular lobbying. These two channels could be reinforced with additional interactions with EU officials at summits, conferences and other events.
2. **Support monitoring organisations** recognised under the EUTR. INBAR could study the possibility of cooperating with and supporting already recognised monitoring organisations to facilitate the application of the EUTR to bamboo. Measures such as jointly designing *ad hoc* due diligence systems for bamboo value chains, or selling due diligence system implementation services at preferential prices for bamboo importers in Member Countries could be considered.
  3. **Lobbying for having bamboo totally or partially removed from the scope of the FLEGT and existing VPAs.** This exclusion would only affect the potential imports of bamboo and bamboo products from countries that have signed a VPA with the EU. Both the FLEGT and the VPAs include bamboo products within their scopes, so in principle, all of them would need to be amended to completely exclude bamboo and bamboo products from their scopes. The FLEGT does contain a reporting provision in its article 8 that could be used by Member Countries to state the issue, albeit it is designed mainly for reporting statistics and the degree of implementation of the policy. As for VPAs, because they are international agreements between states, their amendment process is rather complex and requires the consent of both parties. It may be difficult to trigger an amendment for a change as relatively small as a scope redefinition to exclude bamboo. INBAR should also remain vigilant and raise the issue in case any VPA is to be revised for any other reason. Additionally, INBAR could also try to have bamboo excluded, or at least receive special treatment, in the VPAs that are currently in negotiation.
  4. **Certify bamboo products using FLEGT.** Assuming an impossibility for altering the application scope of the FLEGT and its derived VPAs, efforts could be centred on supporting the certification of bamboo and bamboo products under the FLEGT scheme. Actions could include defending the recognition of a specific FLEGT regime for bamboo, or at least specific requirements within the general FLEGT scheme. This process would probably be rather slow because consultations would have to take place at the country level.

5. **Request amendments to the Combined Nomenclature** of the European Union to have specific bamboo and bamboo product categories recognised. This measure could at least clarify which bamboo products are within the scope, or may even help exclude some of them. In many cases, the lists of HS Codes considered timber products are quite specific; adding new subcategories for bamboo products could even assist with having them excluded from future VPAs. More specific HS Codes for bamboo separate from wood would also reinforce the argument that bamboo does not belong to the category of wood from the biological point of view.
  
6. **Certifying bamboo products under the CITES** framework. Article 3 of the EUTR exempts timber or timber products complying with the requirements of the CITES. The scope of CITES includes not only endangered species but also species not threatened with extinction, but for which trade must be controlled in order to avoid utilisations incompatible with their survival. To date, CITES does not include any bamboo species within its scope. Of course, it would be first necessary to ascertain whether the restrictions under CITES could be in any particular case advantageous compared to those of the EUTR, but it may be an option worth studying for some species of bamboo in particular cases.

## 3. United States

### 3.1 Background

The Lacey Act (16 U.S.C. §§ 3371–3378) is one of the oldest laws on flora and fauna protection. It was proposed by Iowa Congressman John Lacey to the House of Representatives in the spring of 1900 and signed into law by President William McKinley on 25 May 1900. In its original text, the Lacey Act was focused on the preservation of game and wild birds and prohibited hunting game in one US state with the purpose of selling the bounty in another. It also addressed the consequences of introducing non-native species of birds and other animals into the American native ecosystems.

Since its enactment in 1900, the Lacey Act has been amended several times; the most important amendments for the purpose of this report took place in 1981, 1988 and 2008.

In 1981, indigenous plants were added to the scope of protected species, penalties for violations under the Act were hardened and the role of federal wildlife agents was broadened. A few years later, in 1988, new amendments created a separate and distinct violation in the case of intentional falsification of documents related to the export, import or transport of wildlife, fish or plants.

The Lacey Act was revised once more on 22 May 2008 via the Food, Conservation, and Energy Act of 2008 (also known as the 2008 US Farm Bill), which stretched its protection to a broader range of plants and plant products in its Section 8204, Prevention of Illegal Logging Practices.

Following these revisions, the Lacey Act has become the main legal tool in the United States to prevent the import or spread of potentially dangerous non-native species and also to prevent the entrance of illegally harvested wood into the United States because it prohibits the import, export, transport, sale, reception, acquisition or purchase in interstate or foreign commerce of any plant harvested or traded in violation of the laws of the United States, a state, an Indian tribe or any foreign law.

Apart from the measures taken with the 2008 amendment of the Lacey Act, the US authorities engage in other efforts to reduce illegal logging. In 2009, the United States-Peru Free Trade Agreement (PTPA) entered into force, which includes an Annex on Forest Sector Governance

that addresses the problem of illegal logging. On a more political level, memoranda of understanding to address illegal wood harvesting have been signed with China and Indonesia, and US Agency for International Development (USAID) supports programs, such as the Forest Legality Alliance, that promote forest governance to combat illegal logging.

## 3.2 Relevant rules

### *The Lacey Act*

The Lacey Act (specifically after its 2008 amendments) addresses illegal logging through three main **components**:

1. **Legality requirement.** The Lacey Act prohibits all trade of plant or plant products that were illegally sourced (either from any US state or from a foreign country). This requirement applies to both importers and entities trading in plants or plant products within the United States.

The definition of plant and plant products in the Lacey Act constitutes the **product scope** of the legality requirement. The definition is quite broad, including *'any wild member of the plant kingdom, including roots, seeds, parts or product thereof, and including trees from either natural or planted forest stands'*. There are, however, three exceptions of plants or plant products that are not considered plants for the purpose of the legality requirement:

- a) Common cultivars (excluding trees) and common food crops (including roots, seeds, parts or products thereof).
- b) Scientific specimens of plant genetic material (including roots, seeds, germplasm, parts or products thereof) that are to be used only for laboratory or field research.
- c) Plants that are to remain planted or to be planted or replanted.

There are a few exceptions to categories b) and c), which are plant species listed in an appendix to the CITES convention as an endangered or threatened species under the US Endangered Species Act, or by any other State law for the conservation of endangered species.

Additionally, in order to consider plants or plant products under this definition to have been **illegally sourced** under the Lacey Act, two factors need to occur:

A) **Domestic or foreign law violation.** There are only six specific types of laws which, if infringed, would cause the resulting product to be considered illegally sourced. They concern forestry, tax and international trade affairs. Conduct that may be illegal in the country of origin, such as labour violations, does not activate the Lacey Act. The six relevant cases are

1. Plants harvested in a manner that infringes on laws and regulations prohibiting the theft of plants.
2. Plants harvested in a manner that infringes on laws and regulations prohibiting taking plants from officially protected areas such as a parks or reserves.
3. Plants harvested in a manner that infringes on laws and regulations prohibiting the taking of plants from other types of officially designated areas recognised by a country's laws and regulations.
4. Plants that are harvested without, or that are infringing on, all required authorisations, including harvesting without permits for the area or species harvested.
5. Plants harvested without having paid appropriate royalties, taxes, or fees associated with the harvest, transport, stumpage or commerce of plants, including failing to pay the appropriate taxes.
6. Plants harvested in violation of laws concerning export or trans-shipment, such as exporting logs from a country with a log export ban.

B) **Traded to or within the United States.** In order to trigger a Lacey Act violation, the plant or plant product also needs to have been imported into or traded within the United States.

With regard to the **method of ascertaining the legality** of the plants or plant products, the Lacey Act does not lay out any specific due diligence system or requirements therefor. Unlike the EU FLEGT Action Plan derived regulations, the Lacey Act only establishes the prohibition of trading in the United States with illegally sourced plants or plant products, leaving the specific method of avoiding infringement to be decided by market operators according to their particular circumstances.

In practice, the US authorities make use of the concept of due care to modulate the penalties in cases of infringement. Due care is a legal concept in the US system referring

to the level of judgement, care, prudence, determination and activity that a person would be reasonably expected to exert under their circumstances (for example, professionals are expected to act with more care in their corresponding field than the general population).

The conduction of due care in the case of traders of plants and plant products can be demonstrated by, for example, keeping records of the efforts made to ascertain legal sourcing, such as systematically querying suppliers about the origins of their plant or plant products, or demanding additional information whenever any red flag is identified.

2. **Declaration requirement.** The Lacey Act also requires importers to file a declaration upon import stating the scientific names of the plant species or the species used in the imported product, as well as the country of harvest, the volume of product and its monetary value.

The purpose of this declaration, which was phased in gradually for different HS chapters of products, is to provide basic information to help companies guarantee knowledge of the origin of the traded plant or plant products, and to enable the US government to enforce the law. The last additions to the Schedule of Enforcement containing the list of HS chapters to be declared were made on 6 August 2015.

This declaration requirement is independent from the legality requirement. This means that the legality requirement still applies to products not listed in the Schedule of Enforcement of the declaration requirement: even if it is not necessary to declare the imported product, it must still be legally sourced.

3. **Penalties.** Finally, the Lacey Act also establishes corresponding penalties for violations of its terms. Penalties range from fines (up to USD 250,000 for individuals, or USD 500,000 for corporations), to forfeiture of goods and vessels, to imprisonment (up to five years). The severity of the penalties is determined based on the level of knowledge about the infringement. Those who knowingly imported illegal products will receive more severe punishment than those who exercised due care (those who did everything possible to ascertain whether the product was legal or not).

The Lacey Act is administered by different **enforcing agencies**, mainly the US Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) and the Fish and Wildlife Service (FWS). APHIS is responsible for the plant-related provisions of the Lacey Act; it ensures compliance with the declaration requirement and publishes guidance and provides outreach regarding the plant provisions. The FWS is responsible for the wildlife provisions of the law, such as enforcing CITES and the Endangered Species Act (ESA) for wildlife.

Other agencies that assist with the implementation of the Lacey Act are the Department of Homeland Security and its Customs and Border Protection staff, the Department of Justice, the Department of State and USAID.

Since its amendment to include plant products in general, the Lacey Act's **enforcement** has already led to a few interesting **cases** in connection with plant products, the most notable being the Gibson Guitar double case.

In 2012, the US Department of Justice signed a criminal enforcement agreement with Gibson Guitar Corp. terminating two investigations into allegations that Gibson violated the Lacey Act by sourcing illegally harvested wood materials from Madagascar and India and then placed the products made from those materials for sale in the US markets.

The settlement conditions included a fine of over USD 300,000, the forfeiture of over USD 250,000 worth of ebony wood and a public acknowledgement from Gibson Guitar Corp. that it had continued with the purchase of illegally sourced wood products even after having been warned of the risk that the products were illegal. The settlement also contained details on Gibson's new compliance system set up in order to ensure legal wood sourcing in the future.

### 3.3 Analysis

Due to the broad definition of the scope of legality requirements in the Lacey Act, essentially any plant or plant product is subject to its provisions. The few exceptions (common cultivars, common food crops, scientific specimens and specimens to be planted) do not seem applicable to the case of commercial bamboo and bamboo products, at least not on a general basis. Therefore, any entity importing bamboo or bamboo products into the United States or



trading with them within the United States would need to exercise due care and potentially face penalties if the products are found to have been illegally sourced.

For bamboo and bamboo products importers and traders in the United States, the inclusion of bamboo under the legality requirement of the Lacey Act creates the necessity to act with due care when dealing with their products, as well as to be aware of the potential risk of facing fines and other penalties in case any of the plants or plant products are proved to have been illegally sourced.

The Lacey Act establishes an additional and separate requirement: the declaration requirement, which applies only to certain plant and plant products that are listed in its Schedule of Enforcement. The schedule has been updated several times with new additions, and some bamboo products are currently subject to this requirement. It is worth mentioning again that the legality requirement and the declaration requirement are independent, bamboo and bamboo products not included under the declaration requirement still must have been legally sourced.

The chart below lists the most common bamboo and bamboo product HS Codes and specifies if they are affected by any of the requirements of the Lacey Act.

The comprehensive lists of all the HS Codes listed in the Schedule of Enforcement of the Declaration Requirement can be found in this document's *ANNEX III: Schedule of Enforcement of the Plant and Plant Product Declaration Requirement* (p.54).

**Table 4:** Schedule of enforcement of the plant and plant product declaration requirement Lacey Act, United States

Chapter/ Code	Description	Legality requirement	Declaration requirement
<b>Chapter 14</b>	<b>Vegetable plaiting materials; vegetable products not elsewhere specified or included</b>		
1401 10 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Bamboo	Applicable: Product must be legally sourced	Declaration requirement does not apply, not necessary to file plant importation declaration
1401 20 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Rattan		

Chapter/ Code	Description	Legality requirement	Declaration requirement
<b>Chapter 20</b>	<b>Preparations of vegetables, fruit, nuts or other parts of plants</b>		
2005 91 00	Other vegetables prepared or preserved using a method other than by vinegar or acetic acid; not frozen, other than products of heading 2006 – Bamboo shoots	Applicable. Product must be legally sourced	Declaration requirement does not apply, not necessary to file plant importation declaration
<b>Chapter 44</b>	<b>Wood and articles of wood; wood charcoal (wood includes bamboo unless otherwise specified)</b>		
4402 10 00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated – Bamboo	Applicable. Product must be legally sourced	Declaration required. Compulsory to file importation declaration
4409 21 00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed – Bamboo		
4412 10 00	Plywood, veneered panels and similar laminated wood – Bamboo		
4418 73	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo, or with at least the top layer (wear layer) made from bamboo		
4418 91 00	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo		
4419 XX	Tableware and kitchenware, of wood – Bamboo		
4421 91 00	Other articles of wood – Bamboo		
<b>Chapter 46</b>	<b>Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork (Plaiting materials includes bamboo unless otherwise specified)</b>		
<b>Chapter 47</b>	<b>Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard</b>		
4706 30 00	Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material – Other, bamboo	Applicable. Product must be legally sourced	Declaration requirement does not apply. It is not necessary to file plant importation declaration
<b>Chapter 48</b>	<b>Paper and paperboard; articles of paper pulp, of paper or of paperboard</b>		

Chapter/ Code	Description	Legality requirement	Declaration requirement
4823 61 00	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres – Bamboo	Applicable. Product must be legally sourced	Declaration requirement does not apply. It is not necessary to file plant importation declaration
<b>Chapter 94</b>	<b>Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings</b>		
9401 52 00	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof – Bamboo	Legality requirement applies. Product must be legally sourced	Declaration requirement does not apply. It is not necessary to file plant importation declaration
9403 70 00	Other furniture and parts thereof – Furniture of other materials, including cane, osier, bamboo or similar materials		
9403 82 00	Other furniture and parts thereof – Bamboo		

### 3.4 Conclusions

Compared with the EU FLEGT Action Plan derived rules, the Lacey Act gives importers and traders relatively more freedom to determine the methods used to ensure compliance with the prohibition on placing or trading illegally harvested plants and plant products in the US market. The lack of definition of a specific due diligence system by the Lacey Act potentially allows importers and traders of bamboo and bamboo products to adapt the depth of their due care efforts, and therefore their expenses, to their specific situation.

However, this does not mean that bamboo product operators are completely free to decide the measures they take in order to ensure compliance with the Lacey Act. In practice, it is logical to expect that many big and medium traders dealing both in the United States and the EU would, for the sake of simplicity of internal processes and rules, apply the same or very similar due diligence systems for importing into both jurisdictions, and thus, their information requirements to import into the United States are levelled with the European standard.

Moreover, since the provisions of the Lacey Act apply not only to importers but also to any other entity throughout the value chain, it is even more likely that any of these entities will request elaborate and systematised information on the products, which in all cases will have to be provided in the first place by the bamboo producer or exporter. This would force bamboo industry agents to spend more resources in gathering more extensive and detailed records on

their products and therefore, it can be understood that the inclusion of bamboo and bamboo products within the product scope of the legality requirement of the Lacey Act hinders to some degree the development of a bamboo exporting industry in bamboo-producing countries by increasing market access costs.

Potential measures that could be taken in order to limit or eliminate the negative effects on bamboo and bamboo product imports of the Lacey Act include:

1. Lobbying for an **adaptation of the scope** of the Lacey Act to exclude bamboo, or for the addition of specific provisions regulating bamboo. However, this would be challenging because it would entail defending a specific regime only for bamboo products, while the Lacey Act covers all species in the plant kingdom with only a few exceptions that are based on the function of the goods more than on biological characteristics. To this end, INBAR could consider trying to join efforts with other organisations defending the use and interests of other affected non-timber forest products.
2. Trying to have **bamboo recognised as a common cultivar or a common food crop** (one of the specific exceptions to the product scope of the legality requirement) would technically be an option to study, but the chances of success seem low due to the nature and current uses of bamboo.

## 4. China

The Chinese government has taken several actions to curb the trade in illegal timber. China is a signatory country to the CITES Agreement, and memoranda of understanding have been established with Australia, Burma, Indonesia, Japan, the United States and the EU in an effort to engage with both producer and other consumer countries to strengthen action against the illegal timber trade.

In 2009, the Chinese State Forestry Administration (SFA) and the Chinese Ministry of Commerce (MOFCOM) jointly developed a series of voluntary guidelines to orient the actions of Chinese companies acting in the forest industry overseas: the Guide on Sustainable Overseas Forest Management and Utilization by Chinese Enterprises. This guide applies to Chinese businesses that are harvesting, processing and using timber in other countries. Although the actions detailed in the guide are voluntary, it offers a starting point for Chinese companies to develop responsible practices abroad in the timber industry.

China Forest Law 2019, article 65 stated that no unit or individual may purchase, process or transport timber that they clearly know was piratically felled or indiscriminately felled in forest regions.

One of the most relevant recent actions that indicates China may be working towards the development of a national timber legality verification system is their work alongside the European authorities via the Bilateral Coordination Mechanism (BCM) on Forest Law Enforcement and Governance on a report titled Feasibility Analysis of the Incorporation of Timber Legality Requirements into Chinese Laws or Regulations to Promote Trade in Legal Forest Products. The main objective of the report is identifying and assessing the feasibility of regulatory options that China could adopt in developing legislation to control the legality of timber and timber product imports.

The report identifies a series of reform options that China could use to create a legal timber LAS:

1. Develop a new Chinese timber legality assurance law on forest products: The first option is for China to develop its own timber legality assurance law, similar to those in force in the EU or the United States, prohibiting the import and trade of illegally sourced wood and wood products and establishing a due diligence system to ensure the legality of imports.

2. Develop a timber legality standard, create a timber certification body, and participate actively in the international certification efforts. This option could be complementary to option 1, which is also true of the remaining options.
3. Establish a national standard and use it as a legal tool to regulate timber legality.
4. Develop local laws and regulations to regulate the legality of timber imports. China could develop laws and regulations to be applicable only in certain specific frontier areas where the timber trade is especially intense.
5. Regulate the legality of imported timber through foreign trade law and foreign trade authorities. China could use its Foreign Trade Law to battle illegal timber imports. Since this rule includes provisions on the restriction and prohibition of import and export of certain goods, illegally sourced wood could be included as prohibited, and only wood whose legality of harvest has been proved would be listed as importable.
6. Extend the scope of the forest and criminal laws to include violations of laws in foreign countries. This option entails the reform of Chinese criminal law.
7. Enter bilateral or multilateral agreements and law enforcement co-operation. This option would allow for differentiated treatment of different illegally sourced timber trade flows, such as timber imported into China from Russia or South-East Asia.

Although the Chinese authorities have not made official announcements on the matter, according to available information, China will be working on at least the first option proposed in the Feasibility Analysis: the establishment of a regulation controlling imports that is to some degree similar or parallel to those already in force in other jurisdictions such as the United States, the EU or Australia.

The exact date of entry into force of the new regulation and its specific content are still unknown, but the following predictions have been made by relevant experts<sup>5</sup> and are considered to be highly possible:

- The aim of the new regulation will be to establish a mandatory import control regime with penalties for non-compliance (there is no specific information so far on the extent of the penalties).
- China is likely to start with a few products within the scope of affected timber and timber products and gradually expand to a wide range. The requirement will probably start with valuable and easily identifiable illegal species and products,

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<sup>5</sup> Norman and Saunders, 2017.

such as logs. Pulp, fuel wood and sawn wood are expected to be included as well sooner or later because they make up the most part of China's timber imports.

- The new law would regulate the whole supply chain and would be based on a due diligence system that all actors in the chain would need to comply with to confirm the legality of the timber or timber products.
- The Chinese government and its agencies are expected to play an important role in the establishment of the legality framework. Industry associations will likely play an important role as well.

#### 4.1 Analysis

It is still unclear whether bamboo will be included, intentionally or otherwise, within the scope of future Chinese law against illegally harvested timber imports. Therefore, the main **actions** to take in this jurisdiction include keeping in close contact with the authorities currently engaged in the effort of designing the new rules against the import of illegally sourced timber or timber products in order to avoid the inclusion of bamboo within its scope.

## 5. Japan

### 5.1 Background

Japan's Act on Promotion of Use and Distribution of Legally Harvested Wood and Wood Products (also known as the Clean Wood Act) was adopted in 2016, came into force on 20 May 2017 and is still pending full implementation. Before the promulgation of the Clean Wood Law, Japan already had a voluntary system geared towards the promotion of legally verified wood and wood products known as the goho-wood system (*goho* is Japanese for legal). The goho-wood system was a certification scheme created in 2006 pursuant the Green Purchasing Law.

The new Clean Wood Act continues the path of the previous regulation and focuses on the creation of a certification scheme for legally harvested wood and wood products. The most significant difference from the previous document-based goho-wood system is that entities engaged in timber and timber products trade will now have to carry out some form of due diligence if they wish to register.

### 5.2 Relevant rules

At its current state of development, the Clean Wood Act only provides a framework and does not specify detailed guidance for implementation, and many crucial details of this law remain undetermined.

Unlike other regulations such as the US Lacey Act or the EUTR, the Clean Wood Law does not prohibit the trade of illegally obtained timber and mainly focuses on designing a certification scheme in order to encourage the trade and consumption of legally obtained timber. The intention of the voluntary system is to motivate businesses to purchase, distribute and consume legally sourced wood rather than the government prosecuting the import and consumption of illegally sourced timber.

The main component of the Clean Wood Act is a voluntary **registration system** for companies engaged in the import and internal trade of wood and wood products. In order to obtain the registration, companies need to have a registering organisation certify that they have implemented and are following a due diligence system. Successful registration means recognition of a business' responsible behaviour, and allows the company to present itself as



a 'registered operator in timber related business', terminology that non-registered companies are banned from using.

The **due diligence system** the Clean Wood Act will require for registration is not completely defined, but it is clear that it will contain these four elements:

- 1) Risk assessment
- 2) Risk mitigation
- 3) Requirements for traders
- 4) Records management. Registered businesses are required to keep documentation on
  - tree species,
  - country or region of harvest,
  - amount of wood or wood product, either in weight or volume
  - contact details of the owner of the timber or the person exporting the wood into Japan and
  - documentation certifying that the wood was harvested in compliance with the laws and regulations of the country of harvest, including Japan.

The definition of what constitutes **legal timber** is also pending further clarification, but so far, it is mentioned as 'wood derived from trees logged in compliance with laws and regulations of Japan or the country of origin'.

The **product scope** of the law is ample. The basic policy states that its provisions apply to 'wood and the like' and covers most wood and timber products except for collected materials, including unused materials that are collected for their reutilisation or recycling. Wood products with longer supply chains, such as paper, furniture, flooring or biomass fuel, are also covered. However, the product scope of the Clean Wood Act is not yet completely clear because it is not described using internationally standard categories such as the HS Codes.

As for the **types of entities** to which the Clean Wood Act applies, the law covers most businesses dealing in wood and wood products, including manufacturing, processing, importing, exporting or trading (with the exception of retail-level sales). The Clean Wood Act divides business into two types of operators: Type 1 entities are those in the supply chain that first place wood on the Japanese market, while type 2 entities handle wood and wood products that have been obtained from other wood-dealing entities already in Japan.

As for the **penalties** for failing to comply with the law, the biggest consequence for a registered business is the revocation of its registration in cases of failure to abide by the corresponding due diligence system. In its current state, the Clean Wood Act does not prescribe monetary penalties for trading in illegal timber or timber products. Registered entities can only be fined (up to JPY 300,000) if they misuse their registration title. Registering agencies (i.e. the entities that conduct registrations, not the registered entities themselves) can also face maximum penalties that include imprisonment with penal labour up to one year or a fine of up to JPY 500,000 if they violate the registration procedures set for them to follow.

The **agencies** responsible for the enforcement of the Clean Wood Act are the Ministry of Agriculture, Forestry and Fisheries (MAFF); the Ministry of Economy, Trade and Industry (METI); and the Ministry of Land, Infrastructure, Transport and Tourism (MLITT). The Forestry Agency, part of the MAFF, will also play an important role in the development of relevant rules and their general implementation.

### 5.3 Analysis and conclusions

To date, it is not completely clear whether bamboo and bamboo products will ultimately be included within the scope of the Japanese Clean Wood Act. However, since the law is voluntary and does not establish prohibitions, the direct effect of the Clean Wood Act on the commercialisation of bamboo and bamboo products in Japan is limited. Therefore, bamboo and bamboo product businesses can currently export their products to Japan without direct interference from the Clean Wood Act.

With regard to **actions** to take in order to protect bamboo and bamboo product imports into this jurisdiction, it would be advisable to contact the relevant Japanese authorities (MAFF, METI and MLITT) to seek clarification regarding the inclusion of bamboo within the product scope of the Clean Wood Act.

Another suggested action to ensure that future regulatory developments and implementations do not have an adverse effect on the export of bamboo or bamboo products to Japan would be to maintain close contact with authorities in order to defend the necessity for a special regulation or exemption for bamboo in the case that stricter measures are enacted in the future in the field of illegal timber import.

The strategy of distinguishing between bamboo harvested from forest areas and bamboo harvested from other zones would, in principle, not be of any help because the reference to the scope of products is based on their nature (product name, or HS Code) and not on their origin.

## 6. Australia

### 6.1 Relevant rules

The main Australian legislation against the illegal timber trade are the Illegal Logging Prohibition Act 2012 (the Act) and the Illegal Logging Prohibition Regulation 2012 (the Regulation).

The Act came fully into force in 2014. It makes it a criminal offence to intentionally, knowingly or recklessly import wood, pulp and paper products into Australia or TO process Australian raw logs that have been illegally logged. It also requires that businesses undertake due diligence on certain regulated processes.

The Regulation commenced on 30 November 2014 and includes a detailed list of regulated products. It also describes the due diligence process that businesses must undertake. Due diligence requires importers of regulated timber products and Australian processors of raw logs to take certain actions to minimise the risk that the wood or fibre they are dealing with has been illegally harvested.

The first main element of the Act and the Regulation is the **prohibition** of placing timber or timber products on the Australian market that were illegally harvested in their country of origin. The Act and the Regulation also apply to processors of logs that were illegally harvested in Australia. Prohibited illegal wood is defined by the Act as any wood that has not been legally harvested according to the applicable laws in the country of origin. As for the definition of timber and timber products, the Act states that a timber product is 'a thing that is, is made from, or includes, timber'.

The second main element is the need to define and follow a **due diligence system** describing the practices and procedures that will be used to minimise the risk of importing illegally harvested timber or timber products. The main components of the due diligence system as defined in the Act and the Regulation are:

1. The due diligence system must be in writing and include detailed procedures and relevant details about the organisation, as well as specify the person responsible for maintaining the system and their contact details.

2. Information about the products being imported and their supply chain must be gathered and taken into consideration in the risk assessment. At a minimum, the Regulation requires the following information be obtained:
  - type and trade name of the imported product
  - quantity of the product being imported
  - country, region and unit of harvesting
  - country of manufacture
  - common name, genus or scientific name of the tree from which the timber is derived
  - name, address, trading name and business identification numbers of the supplier of the timber or timber product
  - documentation provided by the supplier in relation to the product's purchase
  - other materials attesting to the product's legality
3. The gathered information must be used to assess the risk that the timber or fibre in the imported products have been illegally logged. The Regulation mentions three potential assessment methods:
  - a timber legality framework (such as the Programme for the Endorsement of Forest Certification[PEFC] certification scheme)
  - the country-specific guidelines (CSG) published by the Australian authorities
  - the regulated risk factors set by the Regulation
4. Any identified risks must be mitigated. Actions that can be taken in order to mitigate risks vary considerably among cases, but examples could be asking for additional evidence or information from suppliers, asking for a certified alternative or visiting suppliers to inspect their supply chains.
5. A written record must be kept of the actions undertaken. The records must include at least the due diligence system itself, the information gathered about a regulated timber product, each risk assessment process and its conclusion and any supplementary risk mitigation activities undertaken.

The Act and the Regulation establish **penalties** for those who intentionally, knowingly or recklessly deal with illegally logged timber. Penalties are up to five years' imprisonment and fines of up to AUD 90,000 for individuals and AUD 450,000 for companies.

The penalties were suspended for the first years of the Act due to a soft-start compliance period, during which the Australian authorities issued no penalties for breaches of the due diligence requirements. However, starting 1 January 2018, businesses and individuals who import regulated timber products into Australia or who process domestically grown logs, may face penalties for failing to comply with the illegal logging laws' due diligence requirements.

## 6.2 Analysis

While the Act does not contain a specific exclusion for bamboo, it can be understood from its definition of timber product ('a thing that is, is made from, or includes, timber') that bamboo and bamboo products are not subject to its provisions. Furthermore, the Australian Department of Agriculture and Water Resources (2020) website explicitly states that bamboo is not included within the scope ('Materials such as bark, cork, osier, vegetable parchment, rice, bamboo and rattan are not considered timber and are also not regulated under the illegal logging laws'). Therefore, the Act and the Regulation would in principle not apply to the import of bamboo or bamboo products that do not contain timber.

The following chart tentatively lists the most common bamboo and bamboo product codes and specifies if they would be affected by any of the requirements of the Australian Illegal Logging Prohibition Act and Regulation should bamboo be eventually considered timber and included within the product scope.

The comprehensive lists of all the HS Codes in the Schedule of Enforcement of the Declaration Requirement can be found in *ANNEX IV: Regulated Timber Products Included in the Illegal Logging Prohibition Regulation 2012* (p. 55) included herewith.

**Table 5:** Regulated timber products included in the illegal logging prohibition regulation 2012, Australia

Chapter/ Code	Description	Notes
<b>Chapter 14</b>	<b>Vegetable plaiting materials; vegetable products not elsewhere specified or included</b>	
1401 10 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Bamboo	Not included as regulated timber product
1401 20 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Rattan	

Chapter/ Code	Description	Notes
<b>Chapter 20</b>	<b>Preparations of vegetables, fruit, nuts or other parts of plants</b>	
2005 91 00	Other vegetables prepared or preserved in a manner other than by vinegar or acetic acid, not frozen, other than products of heading 2006 – Bamboo shoots	Not included as regulated timber product
<b>Chapter 44</b>	<b>Wood and articles of wood; wood charcoal (Wood includes bamboo unless otherwise specified)</b>	
4402 10 00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated – Bamboo	Not included as regulated timber product
4409 21 00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed – Bamboo	Not included as regulated timber product
4412 10 00	Plywood, veneered panels and similar laminated wood – Bamboo	Included as regulated timber product
4418 73	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo, or with at least the top layer (wear layer) made from bamboo	Included as regulated timber product
4418 91 00	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Of bamboo	Included as regulated timber product
4419 XX	Tableware and kitchenware, of wood – Bamboo	Not included as regulated timber product
4421 91 00	Other articles of wood – Bamboo	Not included as regulated timber product
<b>Chapter 46</b>	<b>Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork (Plaiting materials includes bamboo unless otherwise specified)</b>	Not included as regulated timber product
<b>Chapter 47</b>	<b>Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard</b>	
4706 30 00	Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material – Other, bamboo	Not included as regulated timber product
<b>Chapter 48</b>	<b>Paper and paperboard; articles of paper pulp, of paper or of paperboard</b>	
4823 61 00	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres – Bamboo	Included as regulated timber product
<b>Chapter 94</b>	<b>Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings</b>	

Chapter/ Code	Description	Notes
9401 52 00	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof – Bamboo	Not included as regulated timber product
9403 70 00	Other furniture and parts thereof – Furniture of other materials, including cane, osier, bamboo or similar materials	
9403 82 00	Other furniture and parts thereof – Bamboo	

### 6.3 Conclusions

Similar to the EU FLEGT Action Plan derived regulations, the Australian Illegal Logging Prohibition Regulation uses a list of HS Codes to determine which products are within its scope. However, the Australian Act expressly specifies that it only refers to the timber products within these HS Codes, thus leaving bamboo products aside.

Due to its isolated location and the extraordinary fragility of its ecosystems, aside from illegal timber control, the Australian authorities (namely, the Australian Ministry of Agriculture) have imposed additional requirements for wood and bamboo products under the banner of the Biosecurity Import Conditions (BICON) system. Since May 2018, the BICON system requirements apply to products manufactured with *Bambusa* spp., *Dendrocalamus* spp., *Phyllostchys* spp. and related genera. According to the website of the Ministry of Agriculture, the rationale is that if not processed sufficiently, bamboo articles may contain boring insects, fungi and other contaminants that have the potential to introduce exotic pests and diseases to Australia. Requirements are mostly to comply with the documentation, and they vary according to the degree of the treatment the product is subjected to and the nature of the importer.

Because the Australian rules on illegal timber import prevention do not affect bamboo, no **action** needs to be taken in their regard apart from taking the Australian Illegal Logging Prohibition Act and Regulation as an example of how it is possible to combat the import of illegally harvested wood without interfering with other non-timber forest products such as bamboo.

Regarding the BICON system, it would be necessary to thoroughly study its potential impact on bamboo imports and the rationality of its requirements, and, if necessary, liaise with the Australian authorities in order to propose changes beneficial for the bamboo trade.



## 7. South Korea

### 7.1 Background

The Korean authorities committed to the exclusion of illegal wood from the Korean markets in their 2012 Forest Act.

Currently, the main piece of legislation regulating the import of timber products in Korea is the Sustainable Use of Wood Act (the Act), which was adopted in 2012. The Act has been subsequently amended several times, most recently in March 2017. Most provisions of this last version of the Act, including the provisions regulating the import of illegally logged timber products, came into effect on 22 March 2018.

The government of Korea has recently issued a Presidential Enforcement Decree that further clarifies the scope of the legislation, such as how importers can demonstrate compliance with the provisions in the near future. This Enforcement Decree is not yet completely in force and is currently being assessed by the Committee on Barriers to Trade of the World Trade Organization.

### 7.2 Relevant rules

Article 1 of the Korean Act on the Sustainable Use of Timber states that its purpose is to cope with climate change by fostering the use of timber in a sustainable manner. Because the Act is not exclusively focused on the prosecution of illegal timber or timber products, many of its provisions are not directly relevant to the issue of illegally sourced timber.

Article 4.3 of the Act establishes a general prohibition on illegal timber and timber products: 'Each timber producer shall endeavour to import, distribute, produce and sell legally felled timber or timber products'. The main rules to prevent illegal timber importation are contained in Articles 19-2 and 19-3, which establish the necessity for a legality check on timber and timber products prior to importation that is linked to customs clearance. Importers are obliged to file an import declaration with the Korea Forest Service (overseen by the Ministry of Food, Agriculture, Forestry and Fisheries) when importing timber or timber products into Korea. The Ministry shall then require a designated inspection agency to examine the relevant documents provided by the importer in order to prove legality before and as a requirement for the completion of customs clearance.

According to the Act, the documents provided by the importer must fall under any of the categories below in order to prove legality of the imported timber or timber products:

1. A permit for felling issued pursuant to the statutes of the country of origin;
2. A document prescribed and publicly notified by the Minister of the Korea Forest Service, which is widely used internationally to certify that the relevant timber or timber product has been legally felled;
3. A document prescribed and publicly notified by the Minister of the Korea Forest Service, which is mutually recognised in accordance with bilateral consultations between the Republic of Korea and the country of origin;
4. Any other documents prescribed and publicly notified by the Minister of the Korea Forest Service, which verify that the relevant timber or timber product has been legally felled.

**Penalties** for violation of the Act, and specifically for failing to verify the legality of the imported timber or timber products, include the order from the authorities to suspend sales, and to return or destroy the timber or timber products whose legality of harvesting has not been verified. Failure to comply with this order can carry punishment of imprisonment for up to three years or a fine for up to KRW 30,000,000. In case of failure to duly keep the relevant documents, business can also face revocation of timber producer registration or even full business suspension.

Regarding the **scope** of the concept timber or timber products, even though the general definition of timber for the Act in article 2 does include bamboo, the requirement for pre-import legality check is restricted to a few HS Codes that were set by a Presidential Enforcement Decree, all belonging to Chapter 44:

**Table 6:** HS Codes requiring the import filing and legality check requirements of the Korean Act

Heading or Subheading	Description
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or

Heading or Subheading	Description
	peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
4412	Plywood, veneered panels and similar laminated wood

### 7.3 Analysis and conclusions

The Presidential Enforcement Decree developing the Korean Act on the Sustainable Use of Timber lists some HS Codes that include bamboo and bamboo products within their scope. The complete list of HS Codes to which the import filing and legality check requirements of the Korean Act apply can be checked in the Relevant Rules section.

The following chart is a tentative list of the most common bamboo and bamboo product codes and specifies whether they are affected by the Korean Act.

**Table 7:** Product codes affected by Korean Act

Chapter/ Code	Description	Notes
<b>Chapter 14</b>	<b>Vegetable plaiting materials; vegetable products not elsewhere specified or included</b>	
1401 10 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Bamboo	Not subject to illegal timber control import requirements
1401 20 00	Vegetable materials of a kind used primarily for plaiting (for example, bamboos; rattans; reeds; rushes; osier; raffia; cleaned, bleached or dyed cereal straw and lime bark) – Rattan	
<b>Chapter 20</b>	<b>Preparations of vegetables, fruit, nuts or other parts of plants</b>	
2005 91 00	Other vegetables prepared or preserved in a manner other than by vinegar or acetic acid, not frozen, other than products of heading 2006 – Bamboo shoots	Not subject to illegal timber control import requirements
<b>Chapter 44</b>	<b>Wood and articles of wood; wood charcoal (Wood includes bamboo unless otherwise specified)</b>	
4402 10 00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated – Bamboo	Not subject to illegal timber control import requirements

Chapter/ Code	Description	Notes
4409 21 00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed – Bamboo	Subject to illegal timber control import requirements
4412 10 00	Plywood, veneered panels and similar laminated wood – Bamboo	Subject to illegal timber control import requirements
4418 73	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo, or with at least the top layer (wear layer) made from bamboo	Not subject to illegal timber control import requirements
4418 91 00	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes – Bamboo	
4419 XX	Tableware and kitchenware, of wood – Bamboo	
4421 91 00	Other articles of wood – Bamboo	
<b>Chapter 46</b>	<b>Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork (Plaiting materials includes bamboo unless otherwise specified)</b>	Not subject to illegal timber control import requirements
<b>Chapter 47</b>	<b>Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard</b>	
4706 30 00	Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material – Other, bamboo	Not subject to illegal timber control import requirements
<b>Chapter 48</b>	<b>Paper and paperboard; articles of paper pulp, of paper or of paperboard</b>	
4823 61 00	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres – Bamboo	Not subject to illegal timber control import requirements
<b>Chapter 94</b>	<b>Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings</b>	
9401 52 00	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof – Bamboo	Not subject to illegal timber control import requirements
9403 70 00	Other furniture and parts thereof – Furniture of other materials, including cane, osier, bamboo or similar materials	
9403 82 00	Other furniture and parts thereof – Bamboo	

For bamboo and bamboo product importers in Korea, the inclusion of some bamboo products under the pre-import filing and legality check in the Korean Act entails the necessity of gathering and submitting the relevant documentation and the potential risk of facing goods confiscation, fines and other penalties in case the imported bamboo or bamboo products are not verified as legally sourced. This can be considered capable of hindering to some extent the import of bamboo products into the Korean market, but currently its associated costs cannot be deemed to be as high as those generated by the illegal timber import control systems in the EU or the United States, much more complex and burdensome for importers. The fact that not all aspects of the Act have been completely developed adds uncertainty for those who operate or plan to operate in the market given that further requirements or control measures on the import of some bamboo products may emerge in the future.

**Actions** that may be taken in order to avoid interference with the bamboo trade include the necessity of communicating with the authorities (especially the Korean Forest Service) about the current effects of the Act for bamboo and its developing rules, and to monitor the discussion of future rules in order to advocate for the exclusion of bamboo and bamboo products before the enactment of such provisions. To this end, it may be advisable to explain and emphasise the advantages of bamboo as a tool for sustainable development, and put this in connection with article 1 of the Act, which states that the purpose of the norm is to cope with climate change by fostering the use of timber in a sustainable manner.

## 8. Policies that enable the use of bamboo products

Global warming and environmental issues have raised serious concerns about reducing carbon emissions and living towards a sustainable world. There are a number of policies issued to control the production and use of high carbon intensity processes and environmentally unfriendly products, including regulating the use and production of single-use plastics, carbon neutral by 2050 policies and circular economy policy plans. These policies will enable the production and trade of greener products such as bamboo products.

At least 127 countries have issued or adopted some form of legislation to regulate the use of plastics by 2018. The limited use of some products, especially single-use plastic products, could allow for the use of bamboo and rattan products as substitutions. Twenty-seven (27) countries have enacted legislation banning either specific products (e.g. plates, cups, straws, packaging), materials (e.g. polystyrene) or production levels.

The European Union has agreed to become carbon neutral by 2050 and adopted a circular economy action plan. Both will have positive impacts on the use of renewable and low carbon footprint products such as bamboo and rattan products. The following table gives a brief summary of the policies and potential effects on the trade of bamboo and rattan products.

**Table 8:** Plastic ban and restriction in different regions

Policies	Policy Summary	Countries	Opportunities for Bamboo Products	Challenges
Regulated the use, production of single-use plastics	(Different bans and restriction by region) Ban on Manufacture Ban on Free Distribution Ban on Import	Antigua and Barbuda, Burkina Faso, Canada, EU, China, Costa Rica, Fiji, Haiti Israel, Guyana, Marshall Islands, Mauritius, Pakistan, Republic of Korea, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Sri Lanka, Tuvalu, United Arab Emirates, Vanuatu, Zimbabwe	Bamboo can substitute for plastic products potential bamboo products will include bamboo table ware, kitchen ware specifically bamboo plates, cups, cutlery, packages, straws.	Prices of bamboo products are higher/ Need to improve technologies and durability of products

Policies	Policy Summary	Countries	Opportunities for Bamboo Products	Challenges
Carbon neutral polices by 2050	Strategic areas: Transport- Mobility Construction- Infrastructure Energy Bio-Economy and natural carbon sinks Carbon capture and storage Digitalisation	EU, Costa Rica, New Zealand, Norway, Denmark, Maldives, Iceland, Sweden, United Kingdom, Scotland, Canada, South Korea	Bamboo products are low to negative carbon, possible to substitute for high carbon intensity products such as aluminium, PVC, steel etc  Potential products are bamboo for constructions both poles and engineered products, bamboo energy,	Price, technological advancement, treatments, durability, awareness and expansion of value chains to make it affordable
Circular economy policy plan	Policies mainly focus on key product value chains (Electronics, batteries and vehicles, packaging, plastics, textiles, construction, food and water) Waste prevention policies, toxic-free environments.	EU, Costa Rica, Japan, Scotland, Denmark, Sweden China, South Korea, OECD countries	Bamboo are renewable and reusable, good opportunities for bamboo packaging, bamboo for constructions, bamboo substitution of plastics, bamboo textiles, interior components for vehicles and airplanes.	The use of non-bio-based resins, glues and chemical preservatives and chemicals used for bamboo textile

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## Annex

**Annex I:** HS Codes to which the FLEGTR and VPAs apply

### (a) Annex II HS Codes to which the FLEGTR Applies

Timber products to which the FLEGT licencing scheme applies irrespective of the partner country:

HS Heading	Description
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4406	Railway or tramway sleepers (cross ties) of wood
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4412	Plywood, veneered panels and similar laminated wood

### (b) Annex III HS Codes to which the FLEGTR and different annexes to VPAs signed with partner countries apply

HS Codes to which the FLEGT licencing scheme applies only in relation to the corresponding partner countries:

Country	HS Codes included in VPA	HS excluded from VPA
Ghana	440349, 440610, 440690, 440710, 440725, 440726, 440727, 440728, 440729, 440799, 440810, 440831, 440839, 440890, 440921, 440929, 441210, 441231, 441232, 441239, 441294, 441299, 441810, 441820, 441850, 441860, 441871, 441872, 441879, 441900, 442010, 940151, 940159	440349
Republic of the Congo	4403, 4406, 4407, 4408, 4412, 44.09, 44.01.10, 44.01.30, 44.02.90, 44.10.11, 44.14.00, 44.15.10, 44.17.00, 44.18.10, 44.18.20, 44.18.90, 94.03.30, 94.03.40, 94.03.50, 94.03.60	N/A
Cameroon	4403, 4406, 4407, 4408, 4412, 4417, 9403 30, 9403 40, 9403 50, 9403 60	44 04 49 02, 44 04 49 03, 44 04 49 08, 44 04 49 10, 44 04 49 11, 44 04 49 13, 44 04 49 14, 44 04 49 18, 44 04 49 26, 44 04 49 27, 44 04 49 34, 44 04 49 35, 44 04 49 38, 44 04 49 44, 44 04 49 43,

Country	HS Codes included in VPA	HS excluded from VPA
		44 04 49 52, 44 04 49 70, 44 04 49 71, 44 04 49 80, 44 04 49 92, 44 04 49 93, 44 04 49 94, 44 04 49 98
Indonesia	4401.21, 4401.22, Ex. 4404, Ex. 4407, 4409.10, 4409.29, 4410, 4411, 4412, 4413, 4414, 4415, 4416, 4417, 4418, Ex. 4421.90, 4701, 4702, 4703, 4704, 4705, 4802, 4803, 4804, 4805, 4806, 4807, 4808, 4809, 4810, 4811, 4812, 4813, 4814, 4815, 4816, 4817, 4818, 4821, 4822, 4823, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, Ex. 9406.00	4403, 4403, Ex. 4404, 4406, Ex. 4407
Central African Republic	4401, 4403, 4404, 4406, 4407, 4408, 4409, 4410, 4411, 4412, 441400, 4415, 441600, 441700, 4418, 441900, 9403 30, 9403 40, 9403 50, 9403 60	N/A
Liberia	4401, 4403, 4406, 4407, 4408, 4409, 4410, 4411, 4412, 4414, 4415, 4416, 4417, 4418, 9403.3, 9403.4, 9403.5, 9403.6	N/A
Vietnam	Ex. 4401, 4403, 4406, 4407, Ex. 4408, Ex. 4409, Ex. 4410, Ex. 4411, Ex. 4412, Ex. 441300, Ex. 441400, Ex. 4415, Ex. 4416, Ex. 4418, 940330, 940340, 940350, 940360	N/A

## Annex II: HS Codes to Which the EUTR Applies

### Annex to the EUTR

Products classified in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 to which the EUTR applies:

HS Heading	Description
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4406	Railway or tramway sleepers (cross ties) of wood
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
4410	Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4412	Plywood, veneered panels and similar laminated wood
4413 00 00	Densified wood, in blocks, plates, strips or profile shapes
4414 00	Wooden frames for paintings, photographs, mirrors or similar objects
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood; (not packing material used exclusively as packing material to support, protect or carry another product placed on the market)
4416 00 00	Casks, barrels, vats, tubs and other cooperers' products and parts thereof, of wood, including staves
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes
47, 48	Pulp and paper of Chapters 47 and 48 of the Combined Nomenclature, with the exception of bamboo-based and recovered (waste and scrap) products
9403 30, 9403 40, 9403 50 00, 9403 60, 9403 90 30	Wooden furniture
9406 00 20	Prefabricated buildings

**Annex III: Schedule of Enforcement of the Plant and Plant Product Declaration Requirement in US Lacey Act**

Harmonized Tariff Schedule Chapters Requiring Plant and Plant Product Declaration (consolidated version, including last additions dated 18 July 2017):

Headings	Example Product	Current Implementation Phase
<b>Chapter 44 headings</b>		
4401	Fuel wood	1
4402	Wood charcoal	2
4403	Wood in the rough	1
4404	Hoopwood; poles, piles, stakes	1
4406	Railway or tramway sleepers	1
4407	Wood sawn or chipped lengthwise	1
4408	Sheets for veneering	1
4409	Wood continuously shaped	1
4412	Plywood, veneered panels Except 44129906 and 44129957	2
4414	Wooden frames	2
4416003010	New casks, barrels and parts of wood	4
4416003020	Used assembled casks of wood	4
4416003030	Used unassembled casks of wood	4
4416006010	New barrel staves of wood	4
4416006020	New barrel hoops of softwood	4
4416006030	New tight barrelheads of wood	4
4416006040	Used barrel staves of softwood	4
4416006050	Used hoops, tight barrelheads of softwood	4
4416009020	New other casks, barrels, wood	4
4416009040	Used other cooper goods, wood	4
4417	Tools, tool handles, broom handles	1
4418	Builders' joinery and carpentry of wood	1
4419	Tableware & kitchenware of wood	2
4420	Wood marquetry, caskets, statuettes	2
4421	Other articles of wood	3
<b>Chapter 66 headings</b>		
6602	Walking sticks, whips, crops	3
<b>Chapter 82 headings</b>		
8201	Hand tools	3
8211926000	Hunting knives with wood handles	4
8215992400	Table barbeque forks with wood handles	4
<b>Chapter 92 headings</b>		

Headings	Example Product	Current Implementation Phase
9201	Pianos	3
9202	Other stringed instruments	3
<b>Chapter 93 headings</b>		
9302	Revolvers and pistols	3
93051020	Parts and accessories for revolvers and pistols	3
<b>Chapter 94 headings</b>		
9401612010	Upholstered teak chairs, household	4
9401612030	Upholstered teak chairs, other	4
940169	Seats with wood frames	3
9401901500	Parts of bent-wood seats	4
9403304000	Bent-wood office furniture	4
9403404000	Bent-wood kitchen furniture	4
9403504000	Bent-wood bedroom furniture	4
9403604000	Other bent-wood furniture	4
<b>Chapter 95 headings</b>		
950420	Articles and accessories for billiards	3
<b>Chapter 96 headings</b>		
9614002100	Rough wood blocks for smoking pipe manufacture	4
<b>Chapter 97 headings</b>		
9703	Sculptures	3

<sup>1</sup> Phase 2 Implementation – Declaration required effective 1 April 2009

<sup>2</sup> Phase 3 Implementation – Declaration required effective 1 October 2009

<sup>3</sup> Phase 4 Implementation – Declaration required effective 1 April 2010

<sup>4</sup> Phase 5 implementation – Declaration required effective 6 August 2015



**Annex IV:** Regulated timber products included in Australia's illegal logging prohibition regulation 2012

Heading or Subheading	Description
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409.10.00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, v-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed: –Coniferous
4409.22.00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, v-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed: –Tropical wood
4409.29.00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, v-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed: –Non-coniferous—other
4410	Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4412	Plywood, veneered panels and similar laminated wood
4413.00.00	Densified wood, in blocks, plates, strips or profile shapes
4414.00.00	Wooden frames for paintings, photographs, mirrors or similar objects
4416.00.00	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes
4701.00.00	Mechanical wood pulp
4702.00.00	Chemical wood pulp, dissolving grades
4703	Chemical wood pulp, soda or sulphate, other than dissolving grades

Heading or Subheading	Description
4704	Chemical wood pulp, sulphite, other than dissolving grades
4705.00.00	Wood pulp obtained by a combination of mechanical and chemical pulping processes
4801	Newsprint, in rolls or sheets
4802	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punched cards and punched tape paper, in rolls or rectangular (including square) sheets of any size, other than paper of 4801 or 4803; handmade paper and paperboard
4803	Toilet or facial tissue stock, towel or napkin stock and similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled, embossed, perforated, surface-coloured, surface-decorated or printed, in rolls or sheets
4804	Uncoated kraft paper and paperboard, in rolls or sheets, other than that of 4802 or 4803
4805	Other uncoated paper and paperboard, in rolls or sheets, not further worked or processed than as specified in note 3 to this chapter
4806.20.00	Vegetable parchment, greaseproof papers, tracing papers and glassine and other glazed transparent or translucent papers, in rolls or sheets: –Greaseproof papers
4806.30.00	Vegetable parchment, greaseproof papers, tracing papers and glassine and other glazed transparent or translucent papers, in rolls or sheets: –Tracing papers
4806.40.00	Vegetable parchment, greaseproof papers, tracing papers and glassine and other glazed transparent or translucent papers, in rolls or sheets: –Glassine and other glazed transparent or translucent papers
4807.00.00	Composite paper and paperboard (made by sticking flat layers of paper or paperboard together with an adhesive), not surface-coated or impregnated, whether or not internally reinforced, in rolls or sheets
4808	Paper and paperboard, corrugated (with or without glued flat surface sheets), creped, crinkled, embossed or perforated, in rolls or sheets, other than paper of the kind described in 4803
4809	Carbon paper, self-copy paper and other copying or transfer papers (including coated or impregnated paper for duplicator stencils or offset plates), whether or not printed, in rolls or sheets
4810	Paper and paperboard, coated on one or both sides with kaolin (china clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size
4811	Paper, paperboard, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface-coloured, surface-decorated or printed, in rolls or

Heading or Subheading	Description
	rectangular (including square) sheets, of any size, other than goods of the kind described in 4803, 4809 or 4810
4813	Cigarette paper, whether or not cut to size or in the form of booklets or tubes
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery
4818	Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays and similar articles, of paper or paperboard of a kind used in offices, shops or the like
4820	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, exercise books, blotting pads, binders (loose-leaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; albums for samples or for collections and book covers, of paper or paperboard
4821	Paper or paperboard labels of all kinds, whether or not printed
4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres
9401.61.00	Seats (other than those of 9402), whether or not convertible into beds, and parts thereof: –Other seats, with wooden frames-upholstered
9401.69.00	Seats (other than those of 9402), whether or not convertible into beds, and parts thereof: –Other seats with wooden frames-other
9403.30.00	Other furniture and parts thereof: –Wooden furniture of a kind used in offices
9403.40.00	Other furniture and parts thereof: –Wooden furniture of a kind used in the kitchen
9403.50.00	Other furniture and parts thereof: –Wooden furniture of a kind used in the bedroom
9403.60.00	Other furniture and parts thereof:

Heading or Subheading	Description
	–Other wooden furniture
9403.90.00	Other furniture and parts thereof: –Parts
9406.10.00	Prefabricated buildings: –Wood





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