

# HOW IS THE EUROPEAN UNION TIMBER REGULATION IMPACTING INDUSTRY DUE DILIGENCE AND SOURCING PRACTICES?

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## SUMMARY

The European Union Timber Regulation (EUTR) (European Parliament 2010) came into force in 2013 to tackle illegal logging and drive demand for legally harvested timber products, by prohibiting the placement of illegally sourced timber on the European Union (EU) market. The EUTR was considered a key mechanism to help tackle global deforestation, which is driving nature loss and climate change.

After nearly eight years of implementation, the European Commission is undertaking a Fitness Check of the EUTR, including a review of how the regulation is working and the impact it has had, with results and recommendations to be published by the end of March 2021. There is an opportunity to consider what is working, as well as priorities for reform.

This paper seeks to feed into an understanding of how the regulation is working and its impact to date, by assessing the extent to which industry sourcing practices and Due Diligence have evolved in response to the EUTR. To do this, Forest Trends and Preferred by Nature conducted detailed interviews with seventy-two EUTR Operators across five EU Member States and the United Kingdom in 2020. The survey focuses on industry experiences in importing timber and furniture products within scope of the EUTR between 2012 and 2019. The results in this paper shed further light on the types of changes that Operators have made and the specific impacts of the EUTR requirements/implementation on industry.



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## Introduction

The EUTR was revolutionary in 2013: it was the first legal instrument at the EU level to require companies to undertake mandatory Due Diligence in their global supply chains – a concept that expanded the notion of corporate legal responsibility significantly. The Due Diligence requirements only applied to the first placer on the EU market (“Operator”) but covered the full timber supply chain. By requiring documentation back to point of origin in the forest, the law made companies responsible for knowing about the activities of timber producers in the forest and all sub suppliers along the way, with whom many did not have a contractual relationship.

The EUTR was designed to reduce market access for illegal wood products, and in so doing, drive an increase in demand for demonstrably legal products, thereby incentivizing responsible producers and rewarding those forested countries that could ensure legal, if not sustainable, forestry. The EUTR was also developed to complement the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements (VPAs), which are legally binding trade agreements between the EU and non-EU timber-producing countries. FLEGT VPAs have typically been supported by technical assistance programs to foster improvements to the governance of national forest sectors and greater transparency in forest product supply chains.

Since the EUTR came into force in 2013, guidelines for undertaking Due Diligence have been published by the European Commission (EC) and a number of non-government organizations to help clarify expectations on importers to prevent illegal timber being placed on the European single market. These have included advice for assessing and mitigating the risk of importing illegal wood products, both generally and with respect to specific source countries. At the same time, expectations have also been set around the actions that Competent Authorities (CAs) (responsible for the enforcement of the EUTR) should take to assess compliance with the EUTR.

The purpose of the survey was to speak with the Operators that have been subject to enforcement checks since the EUTR. This approach allows better understanding of how EUTR implementation and enforcement is working to directly change company behavior.

However, public information on the companies that have been subject to enforcement actions, let alone checks, is extremely limited. The United Kingdom (UK) has published a list of enforcement actions in the period between 2016 and 2019, which names companies that have been issued a Notice of Remedial Action (NRA) or subject to prosecution. This information is not available for many EU Member States. The Forest Trends survey aimed to augment this information by interviewing European Operators that have been subject to enforcement checks by EUTR CAs.

## A profile of Operators interviewed

Just seven percent of Operators interviewed had an annual turnover of less than €2 million, with the majority of companies (47 percent) reporting a turnover above €50 million. Twenty-five percent report a turnover between €2 and 10 million and twenty-one percent report €10-50 million.

In terms of employees, twelve percent of companies report employing under 10 people, twenty-eight percent report between 10 and 50 employees, twenty-one percent report between 50 and 250 employees and thirty-nine percent report more than 250 employees.



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### Box 1: Background on Due Diligence\*

The EUTR creates a requirement on “Operators,” defined as any natural or legal person who first places timber and timber products onto the European Market to exercise Due Diligence.

Due Diligence requirements are designed to ensure that Operators undertake a risk management exercise to minimize the risk of placing illegally harvested timber, or timber products containing illegally harvested timber, on the EU market.

The three key elements of the Due Diligence system are:

- 1 Access to Information:** The Operator must have access to, and gather, information describing the timber and timber products, country of harvest, species, quantity, details of the supplier, and information on compliance with national legislation.
- 2 Risk assessment:** The Operator should assess the risk of illegal timber in its supply chain, based on the information identified above and taking into account criteria set out in the regulation.
- 3 Risk mitigation:** When the assessment shows that there is a risk of illegal timber in the supply chain, that risk can be mitigated by requiring additional information and verification from the supplier.

European Commission (EC) guidance published in 2013 and updated in 2016 has set standards for risk assessment, including listing some key questions and indicators which would suggest a heightened risk that the timber could be illegal. Guidance states that “the level of risk can only be assessed on a case-by-case basis as it depends upon a number of factors. Although there is not a single accepted system for risk assessment, as a general rule however, the Operator will have to address the following questions:

- Where was the timber harvested?
- Is the level of governance a concern?
- Are all documents indicating compliance with applicable legislation made available by the supplier, and are verifiable?
- Are there indications of involvement of any company in the supply chain in practices related to illegal logging?
- Is the supply chain complex?

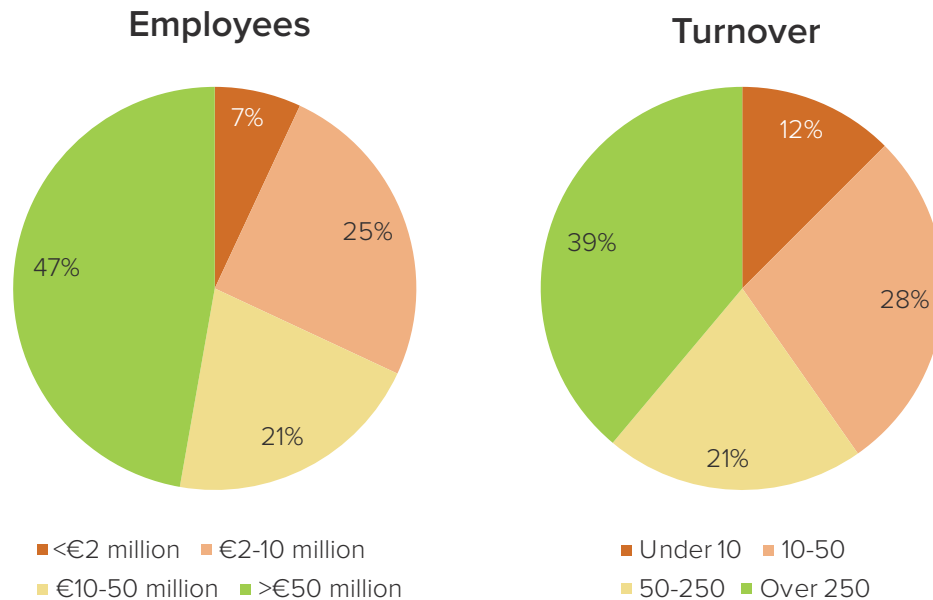
European Commission guidance also specifies that “the higher the risk of corruption in a specific case, the more it is necessary to get additional evidence to mitigate the risk of illegal timber entering the EU market. Examples of such additional evidence may include third-party-verified schemes independent or self-conducted audits, or timber tracking technologies (e.g., with genetic markers or stable isotopes).

\*For more information, see the European Commission’s 2016 EUTR Guidance Document: [https://ec.europa.eu/environment/forests/timber\\_regulation.htm](https://ec.europa.eu/environment/forests/timber_regulation.htm)



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**FIGURE 1** Surveyed Operator annual turnover (in Euros) and number of employees



From the seventy-two companies interviewed, fifty-nine report acting as the Operator by placing timber products onto the European/UK market in just one EU Member State or the UK for the first time. Thirteen report importing and first placing timber on the market in multiple EU Member States or the UK.

Sixteen companies report acting as the Operator in Spain, fifteen in Germany, fourteen in the Netherlands, eleven in the UK, seven in Denmark, six in Sweden, five in Belgium, four in Portugal, and two in both Austria and Italy. One company reported acting as an Operator in Greece, Poland, Romania, Luxembourg, Norway, and Finland.

Sixty-nine percent of companies import regulated wood products,<sup>1</sup> eighteen percent import regulated wooden furniture products, and eleven percent import both regulated wood and furniture products.<sup>2</sup>

Sawnwood imported under Harmonized System (HS) code<sup>3</sup> 4407 is the most significant product with thirty-seven Operators reporting imports. Twenty Operators import moulding and strips under HS code 4409, seventeen import wooden furniture products (under HS codes 940330, 940340, 940350 and 940360), thirteen import plywood (HS code 4412), twelve are importing logs (4403), with eleven importing both particleboard and fiberboard (HS codes 4410 and 4411). “Casks and barrels” (HS code 4416) was the only surveyed product that was not reported by the Operators interviewed.

<sup>1</sup> The term “wood products” is used to refer to products within scope of the EUTR that are classified in the Combined Nomenclature under Chapter 44.

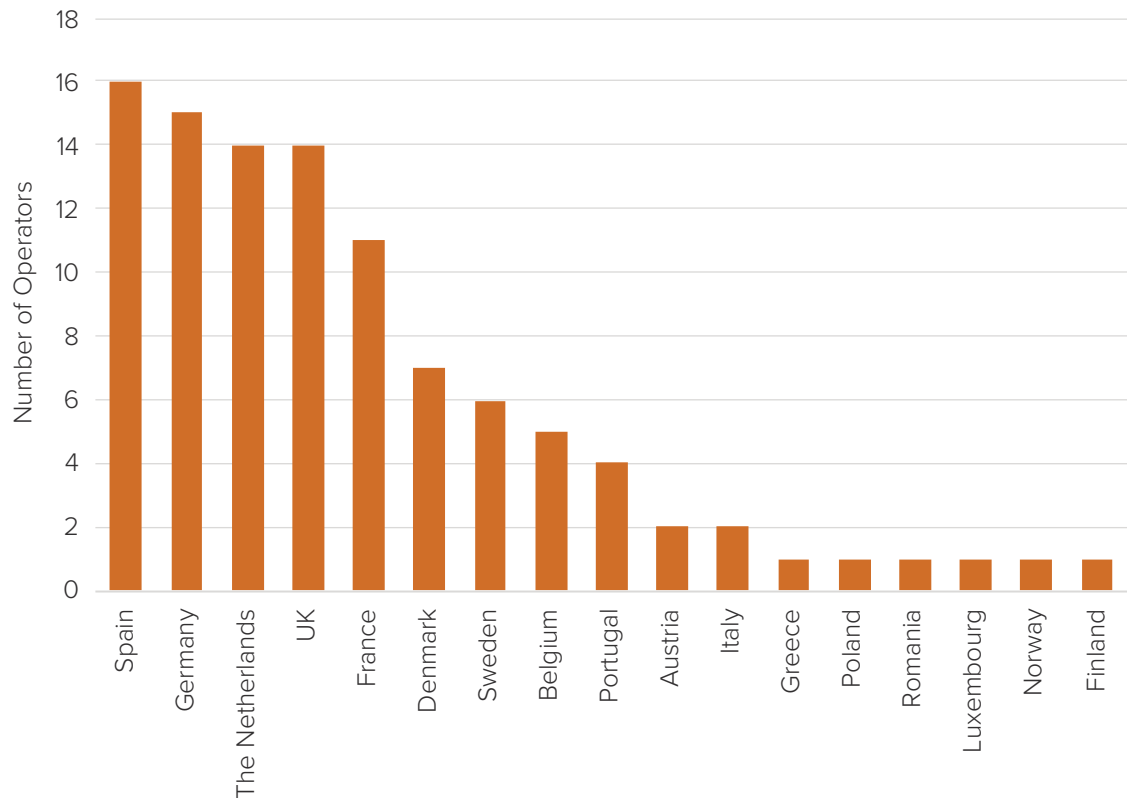
<sup>2</sup> The term “timber products” is used to refer to wood products as classified in the Combined Nomenclature under Chapter 44 and furniture products under Chapter 94.

<sup>3</sup> Harmonized System (HS) codes are a standardized numerical method of classifying traded products, which are used by customs authorities around the world to identify products.





**FIGURE 2** Countries where surveyed Operators are placing timber on the market for the first time



Surveyed Operators are importing a broad range of species. This included at least fifty-seven different species based on Operators listing their top five traded species. While there is diversity in the species imported, forty-three percent of Operators are importing pine, thirty percent are importing oak, and twenty-two percent are importing eucalyptus.

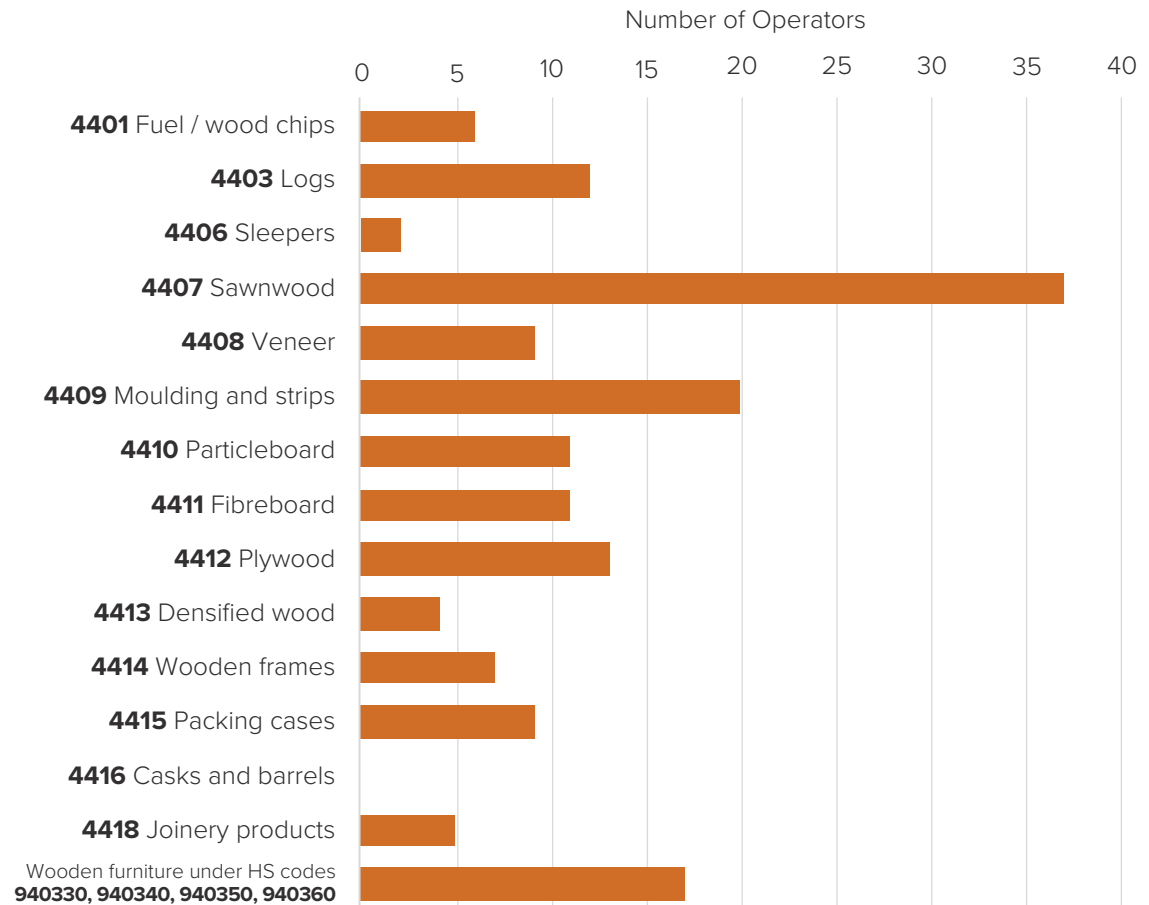
At least fifteen percent of companies report importing ipé, which was regularly accompanied by cumaru and jatoba. Several tropical species from Latin America and West and Central Africa were reported in lower quantities (Figure 4). Many of these species are high risk, subject to international protections under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), or considered a species of concern with reported over exploitation or elevated rates of illegal logging.

Operators report sourcing directly or indirectly (where the country of harvest was different from the country in which their suppliers were based) from over eighty countries (Figure 5). Over half of all Operators interviewed are sourcing directly or indirectly from Brazil. Thirty-four are sourcing from China, with thirty Operators sourcing both direct and indirect from Indonesia and the USA.



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**FIGURE 3** EUTR-regulated products imported by surveyed Operators



Thirty-two percent of Operators report sourcing from the Russian Federation and twenty-two percent source from Ukraine.

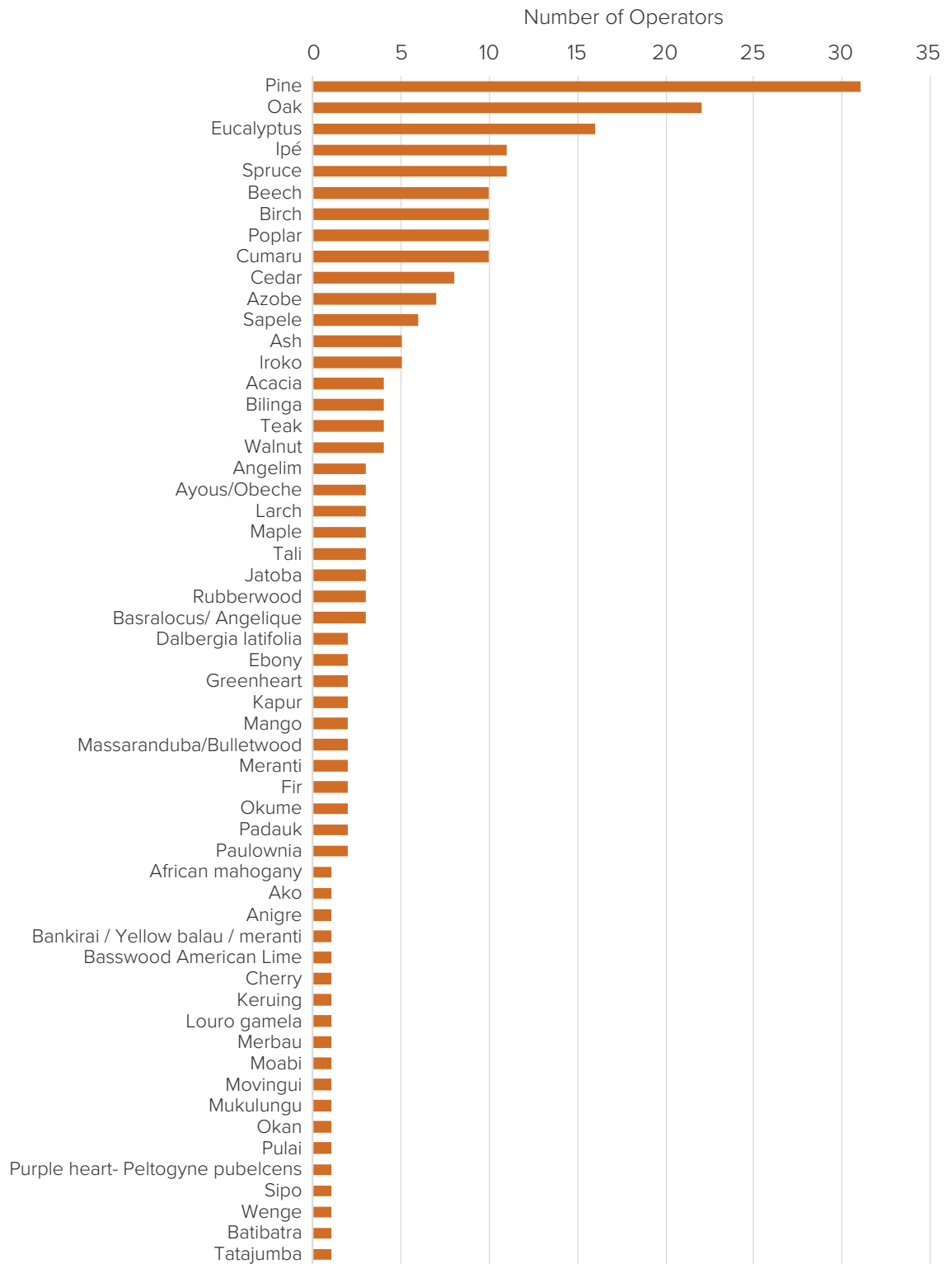
Roughly one quarter of surveyed Operators report sourcing from each of Cameroon, Gabon, and the Republic of Congo, fourteen percent report sourcing from Côte d'Ivoire, and around ten percent from Ghana.

Many Operators report sourcing indirectly from countries considered at an elevated risk for illegal harvest based on governance, corruption, and harvest risk indicators, as well as documentation in NGO reports. High rates of indirect sourcing were recorded for timber harvested in the Republic of Congo. More companies reported sourcing from a supplier based in a third country than from the Republic of Congo itself.



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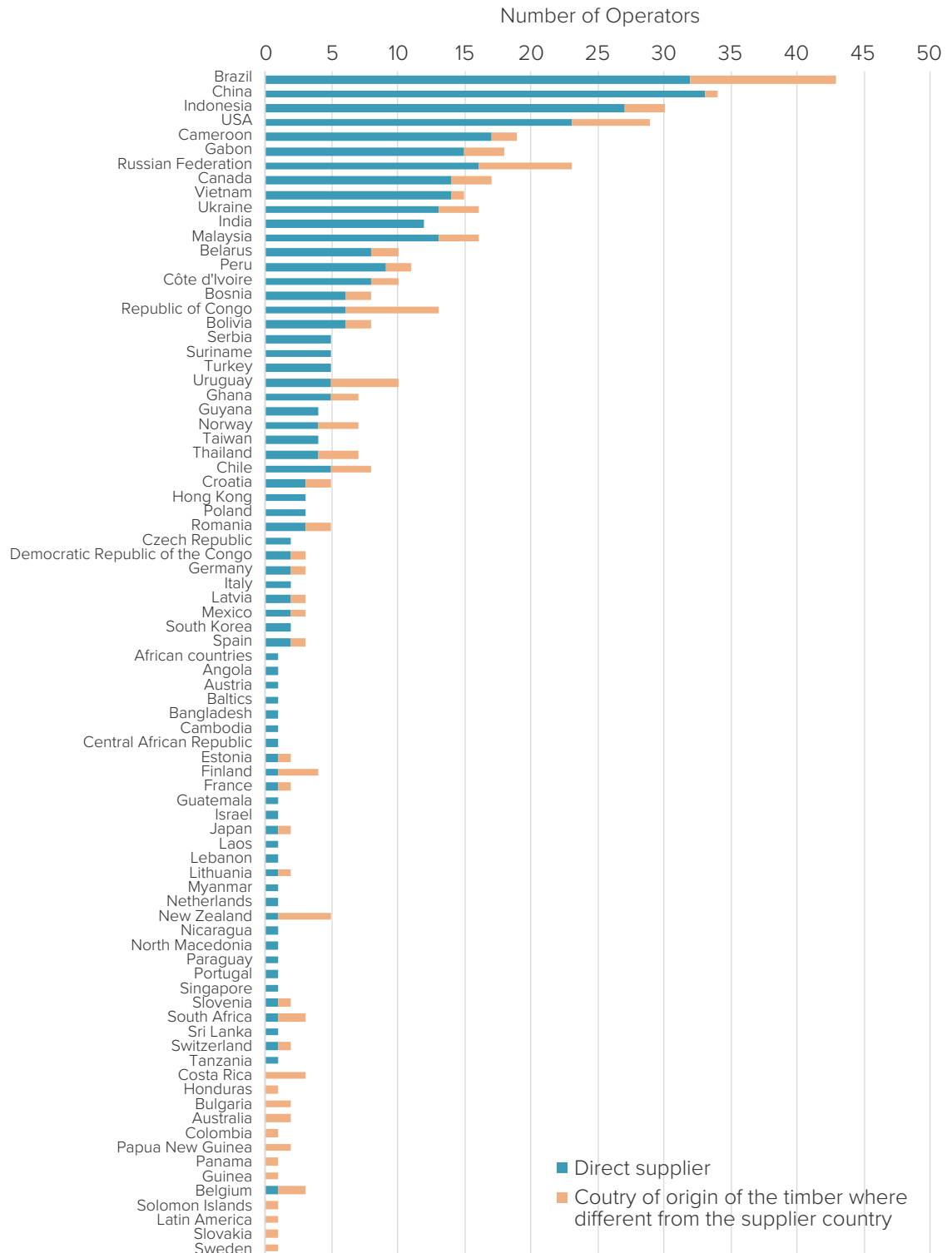
**FIGURE 4** Top species imported in 2019 by surveyed Operators





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**FIGURE 5** Operator direct supplier countries and country of origin for timber where different from the supplier country in 2019







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## Findings

- **Almost all surveyed Operators now have dedicated compliance staff within their company, but only a quarter have dedicated compliance budgets. Half of surveyed Operators have developed a timber sourcing policy.**

Seventy of the seventy-two Operators interviewed have hired dedicated staff to ensure EUTR compliance. However, only twenty of these companies report a specific company budget for compliance. Some companies chose not to answer questions related to compliance budgets or costs at all. Where answers were provided, interviewed EUTR Operators are allocating between €10,000 and €35,000 per annum, with most in the lower range between €10,00 and €20,000.

Several companies report that compliance budgets were only allocated following EUTR CA enforcement checks, even if no enforcement action was taken. Enforcement visits were also frequently referenced as the precursor for the company developing a specific timber sourcing policy, with roughly half of Operators having policies in place by 2019. Three companies report policies still under development.

Eighteen Operators report that, in addition to a staff member, they continued to work with Monitoring Organizations (MOs) to support their compliance systems. However, the majority (48) responded that they did not work with MOs. Six were unsure about whether or not they were working directly with a MO.

**What are companies doing differently in 2019 compared with 2012 and before the EUTR came into force?**

### Due Diligence: Access to Information/information gathering

- **Companies are collecting and scrutinizing more information from suppliers**

Ninety-two percent of surveyed Operators reportedly collect more information for their Due Diligence process now than in 2012 (before the EUTR came into effect). Many Operators report an exponential increase in the amount of information collected pertaining to their supply chains, noting that this information now reaches back not only to the country of harvest but also, where relevant, to the forest concession level. Prior to the EUTR, many companies reported that they would only collect information on direct suppliers, species, and relevant phytosanitary certificates. Now they routinely request additional information on indirect suppliers, evidence such as invoices, shipping and transport documents, certification and chain of custody claims and harvest licenses, in addition to worker's health and safety information.

Interviewees have also increased their scrutiny of all information and evidence provided by their suppliers since the EUTR came into effect. Eighty-nine percent report additional checks on documents including dates, species, the supplier, product description, size of the order, as well as the number of entities in the supply chain and certification claims. Several companies now also check the validity of the documents themselves.



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## Due Diligence: Risk assessment

- **Operators report an overwhelming increase in the use of tools and resources to assess the risk of illegal timber entering their supply chains, with most using a combination of tools such as Preferred by Nature's (formally NEPCon) Sourcing Hub, Transparency International's Corruption Perception Index, and the Forest Stewardship Council (FSC) risk assessments.**

Despite a plethora of tools to support risk assessments and information resources that have been developed over the last few years, the surveyed Operators are only using a relatively small subset.

Three quarters of Operators report using Preferred by Nature's (formally NEPCon) Sourcing Hub as a first step to understand the risk profile of a source country.<sup>4</sup> Sixty-nine percent of companies report using Transparency International's less forest-specific Corruption Perception Index. Half of the companies report using the Forest Stewardship Council (FSC) risk assessments, while roughly one quarter of companies report using the Uppsala Conflict Data Program (which maps conflict and violence in countries) as well as general internet searches for reports of illegal logging in source countries. Just one fifth of Operators said that they use reports or investigations conducted by civil society organizations or international organizations and Secretariats, such as the CITES Secretariat, the World Bank, and INTERPOL. While some Operators report using a broad array of additional tools, including the World Bank's Worldwide Governance Indicators, overviews of timber source countries produced by United Nations Environment Programme-World Conservation and Monitoring Center (UNEP WCMC) for the European Commission, Client Earth's Forest logbook, and Forest Trends Average National Governance Percentile Rank, these were generally much less widely used by the Operators interviewed.

Roughly one third of Operators report using the International Union for Conservation of Nature (IUCN) Red List of Threatened Species to assess the risks associated with their individual supply chains. One fifth of companies report using the UN Sanctions List, European Commission sanctions list, or the OFAC (Office of Foreign Assets Control) Specially Designated list, while seventeen percent of companies report using local networks, including media reports, government employees in the source country, or consultants. Nine companies report using Independent Monitoring reports, while five report using company documentation on the Open Timber Portal. Several Operators reported using other sources, particularly the European Commission's website for the EUTR, BV Rio, Dow Jones Risk Center Tool, and information circulated by the International Tropical Timber Organization (ITTO).

Almost half of the Operators placing timber on the market in Spain report using [www.maderalegal.info](http://www.maderalegal.info).

- **Companies are assessing an array of potential risks associated with their supply chains.**

Three quarters of Operators report evaluating certification claims, with sixty-nine percent reporting an assessment of import and export documents (Figure 6).

Sixty percent of Operators report assessing information about in-country rates of illegal harvest. Roughly half of Operators report assessing the number of actors in the supply chain, the payment of applicable taxes, and whether sufficient documentation had been provided for the supply chain. Around fifty percent of Operators are also checking that suppliers have a legal business registration, and whether there are any high value or endangered species in the supply chain, which indicates rising scarcity and increases the value of the timber species (and hence raises the risk of illegal logging). Other issues of concern in assessing supply chain risks relate to the

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<sup>4</sup> Preferred by Nature was contracted by Forest Trends to conduct the interviews with the Operators.



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documentary evidence of legality. Twenty Operators also assess the risk of fraud, including faked documents, consistency of documents in the supply chain, relevance of documentation to the supply chain, and reported evaluating certification claims.

**FIGURE 6** Criteria reportedly used for supply chain risk assessments



- **Operators vary widely in how often they revise and update their risk assessments. One third of Operators report updating their risk assessment for every shipment imported. Half update their risk assessment annually.**

Only one company reported leaving risk assessment updates beyond twelve months.

Altogether, however, eighty-four percent of companies update their assessments within a twelve-month period. Sixteen percent of companies reported “other” in their survey response, and then noted a variable approach to updating their assessments based on each consignment’s risk



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profile for source country or supply chain. Lower risk supply chains tended to report a review or check for new information only once a year. If the supply chain is considered higher risk or the Operator has concerns, they would check for new relevant risk information related to the source country or their suppliers every time they import and therefore on every shipment. Some companies report only checking for new risk information or updating their supply chain risk assessments when sourcing new products or buying from new suppliers.

■ **Risk assessments are helping companies flag countries that are high risk for illegal logging and trade.**

Brazil was by far the most frequently cited high-risk source country surveyed Operators are importing from (Figure 7) and therefore considered at an elevated risk for illegal logging and trade. Twenty-seven of forty-three surveyed Operators sourcing from Brazil consider the country to be high risk, but interestingly high risk for more reasons than just the EUTR alone. Some companies specifically referenced a deteriorating political context and international media coverage, which in their eyes, makes importing from Brazil *“too high a reputational risk for the company.”*

Eighteen of the thirty-four companies sourcing from China specifically see the country as high risk. Twelve Operators assessed Cameroon at an elevated risk for illegal logging and trade. Ukraine, Gabon, the Russian Federation, Indonesia, Côte d'Ivoire, India, Republic of Congo, and Malaysia were also cited as high risk.

Hong Kong and Latvia were also mentioned as potentially high risk for illegal logging and trade, not because of their timber production, but because of their role in the transit and transshipment of forest products from high-risk harvest countries. The risk of laundering was referenced in the interviews with Latvia, which was specifically mentioned as a high-risk country by one Operator who was concerned by the risk of buying illegal timber that had originated in the Russian Federation. Interestingly, many of these transit countries do not show up as high risk in general governance or corruption indices, such as Transparency International's Corruption Perception Index (CPI) or the Worldwide Governance Indicators. Singapore and Hong Kong, for example, score quite positively in this regard, so it is important to note that these indices do not cover laundering or transshipment risks.

## **Due Diligence: Risk mitigation**

■ **Operators report an increased use of risk mitigation measures, accompanied by increased allocations of both human and financial resources specifically for mitigation measures.**

EUTR Operators reported a more robust process of risk mitigation in 2019 compared with 2012, with improved, *“systematized,” “comprehensive,”* and *“stricter”* processes now in place. Many Operators were not *“conducting any risk mitigation actions before the EUTR”* and reported that risk mitigation had gone from *“from zero to very comprehensive”* since the EUTR came into force.

Eighty-eight percent of Operators reported conducting risk mitigation measures on their supply chains in either 2018 or 2019 (Figure 8). Some Operators who currently do not conduct risk mitigation are planning to do so in 2021. Others reported undertaking some mitigation measures but not before the timber had shipped.

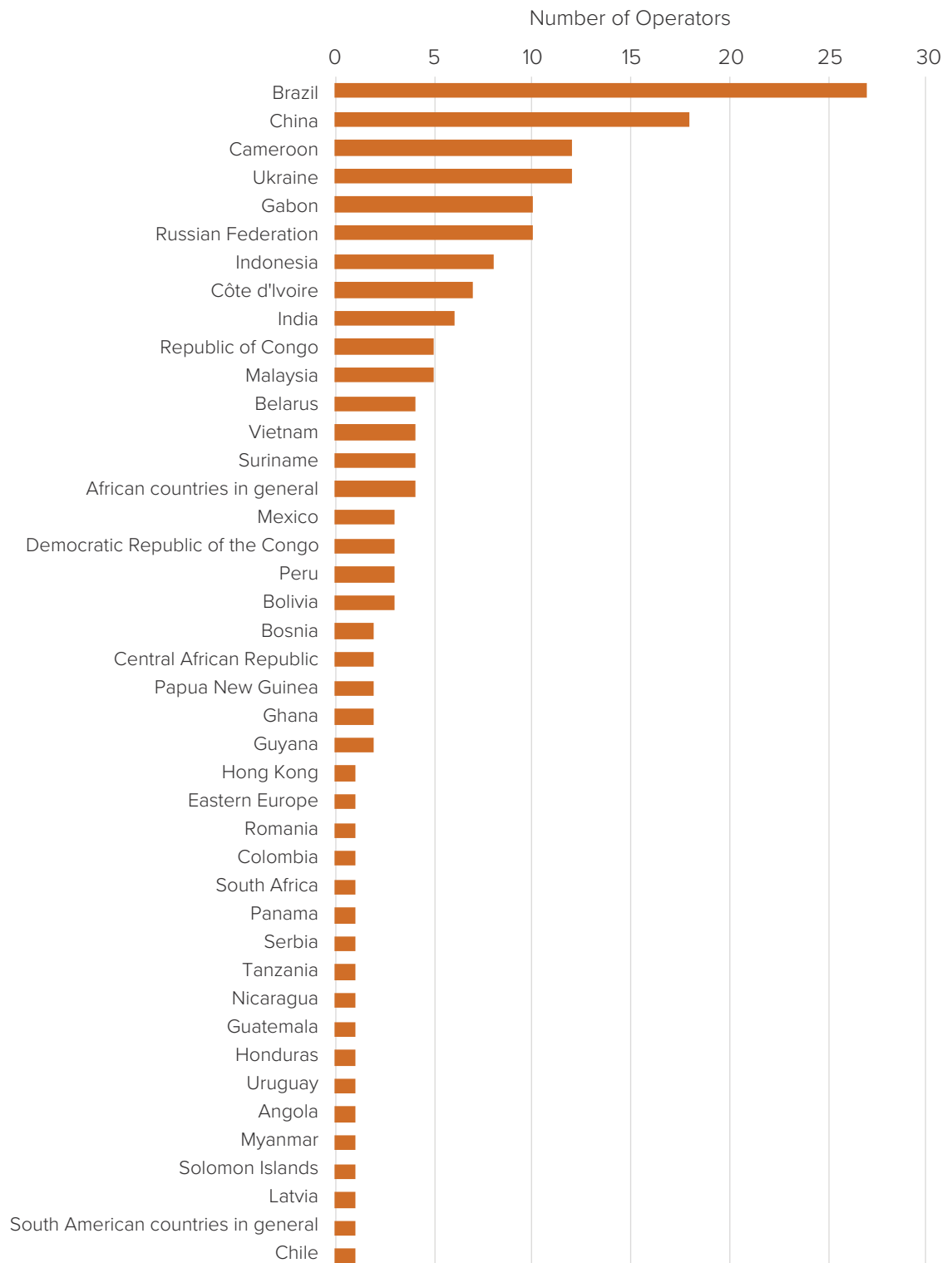
Some Operators who reported that they did not consider any of their supply countries to be high risk for illegal logging and trade indicated that they were conducting risk mitigation measures in 2019.

Industry leaders who were already seeking to buy legal and sustainable timber prior to the EUTR report that they have since raised their efforts, exemplified by one response: *“before the EUTR, we only bought certified timber, but now we understand that we need to thoroughly study and assess all documents/claims.”*



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**FIGURE 7** Countries considered potentially high risk by surveyed Operators



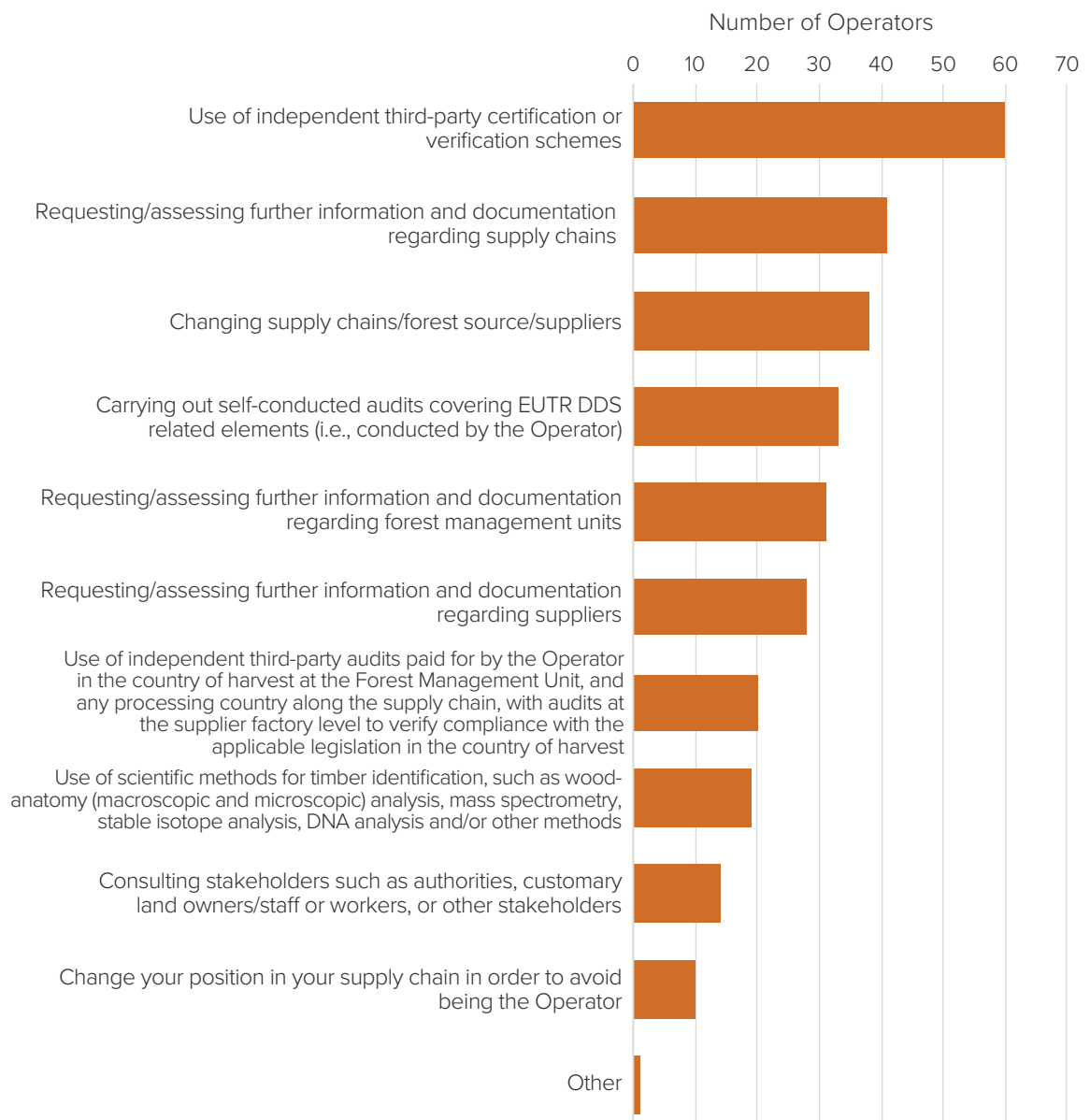


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Roughly half of the Operators report allocating additional budget to carry out risk mitigation measures, as well as shifting resources from desk-based risk assessments to more forest concession-level mitigation measures. Several companies sourcing multiple forest-risk commodities are already considering systems and internal operating budgets that would allow them to take a holistic approach to Due Diligence across all imported commodities.

Surveyed Operators report using a variety of risk mitigation measures since the EUTR came into force (Figure 8). The following section highlights the risk mitigation measures most frequently undertaken by the Operators and the impacts the interviewees report as a result.

**FIGURE 8** Operators using risk mitigation in 2018/2019, by mitigation measure

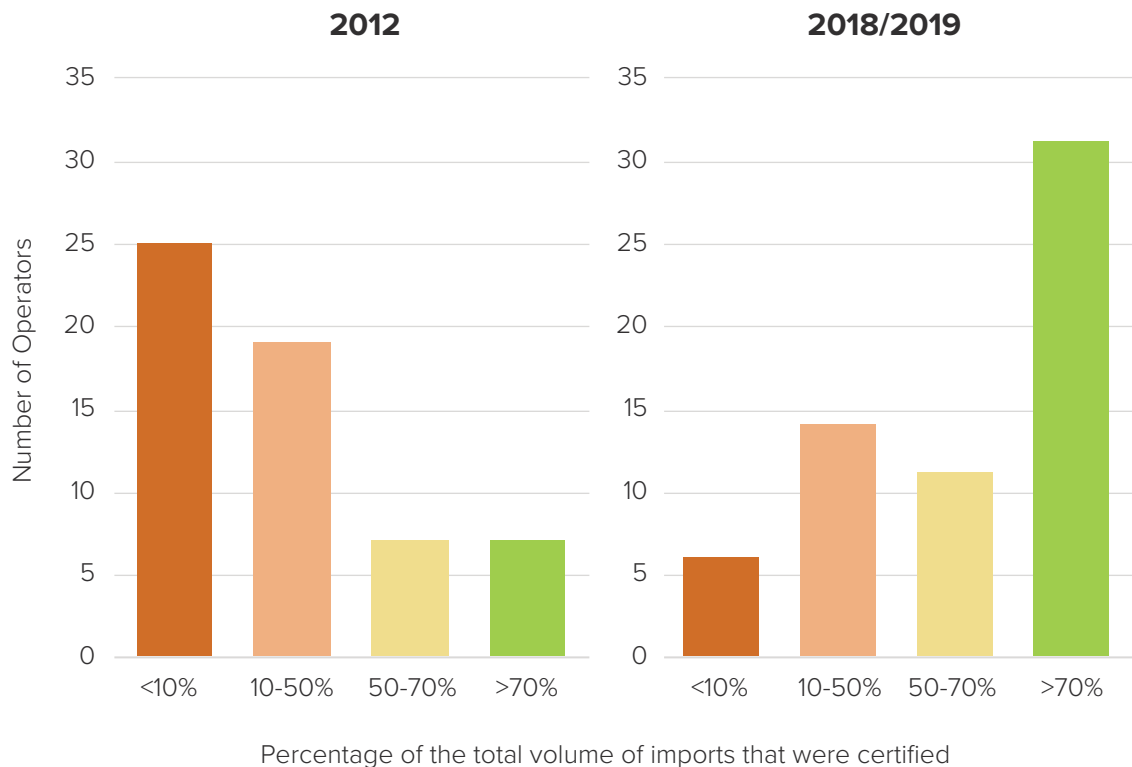






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**FIGURE 9** Change in the proportion of certified timber imports between 2012 and 2019



### **Certification and verification**

- **Ninety-five percent of surveyed Operators are using independent third-party certification or verification schemes, such as the Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC), to mitigate the risk of illegal timber entering their supply chains.**

From the sixty-three Operators that report carrying out risk mitigation measures in 2018/2019 (Figure 8), ninety-five percent used independent third-party certification or verification schemes, such as FSC and PEFC.

Some report using certification only as a first start in the risk assessment process, while many appear to be using it as their main risk mitigation tool.

In some instances, interviewees reported that they see FSC certified products “as a good start and one way of mitigating, especially if that product is FSC 100%. Even though it is not a greencard (for EUTR compliance). There are no particular countries where we are sourcing/requesting certified products (but) it is increasingly commonplace” and “certification is not used as a risk mitigation tool in terms of legality as certification is not a green lane for legality. We would look at certification to assess the level of risk, but not to mitigate risk.”

Certification is increasingly popular with many Operators seeking to buy and sell “as much as possible” and “if suppliers are not certified, they will have to become [so] in the near future.” Half



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of the Operators using certification reported that more than seventy percent of their imports in 2018/2019 were certified.

Others report a focus on importing certified timber from high-risk source countries. For example, one interviewee noted that *“we buy mainly certified. Preferably FSC, then PEFC, if not possible, then OLB. If a non-certified shipment is only available, we will ask for many more documents. Cutting license, concession rights, etc.”* FSC certification was widely requested when the Operator considered the source country to be high risk, such as the Russian Federation, Bolivia, Brazil, Sarawak, and China *“to minimize risk related to health and safety, forest level risk etc.”* Origine et Légalité des Bois (OLB) verification was widely reported for Operators sourcing from African countries they considered “higher-risk.”

■ **Increased buying and selling of certified timber started prior to EUTR implementation but has accelerated in recent years as companies have increased risk mitigation measures.**

In 2012, forty-three percent of the surveyed Operators reported that less than 10 percent of their imports were certified (Figure 10). By 2019, fifty percent of Operators imported *more than* 70 percent certified timber. Survey interviews suggest that while demand for certified timber has increased, this trend started prior to EUTR implementation. Several companies reported that the increased sourcing of certified timber merely reflected market demand, protection of reputation and brand, and greater interest in more environmentally conscious products from consumers.

Many of the Operators surveyed report that their company policy is to exclusively trade in certified timber. A few specified that they bought and sold a higher proportion of certified timber when importing into the EU, compared with other global regions.

**Operators interviewed report buying or selling:**

- FSC (94 percent)
- PEFC (60 percent)
- Other (where referenced):
  - SVLK/FLEGT licensed timber from Indonesia,
  - Peninsular Malaysia Timber Legality Assurance System (MTYLAS)
  - Sustainable Forestry Initiative timber
  - Origine et Légalité des Bois (OLB)
  - Timber Legality & Traceability Verification (TLTV).

Seventy-nine percent of Operators report being FSC or PEFC Chain of Custody (CoC) certified. Three quarters of those companies that had achieved their CoC certification status did so prior to the EUTR coming into effect. Roughly one quarter had achieved certification since the EUTR came into effect.

Operators also report an overwhelming increase in the proportion of third-party certified/verified direct suppliers. While there were a range of figures, most suggested an increase of between thirty and one hundred percent. Where estimates were provided, Operators report that between 50 and 100 percent of their suppliers are now certified.

Roughly two thirds of the Operators interviewed report paying suppliers a premium price for certified timber. The additional cost was frequently presented as ultimately worth it for the company.



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■ **Half of surveyed Operators are buying FLEGT licenced timber and note the benefit of reduced Due Diligence required.<sup>5</sup>**

Roughly half of interviewed Operators report buying and selling FLEGT licensed timber – all of which would have come from Indonesia, given that it is the first and only country (currently) in the world with an operational FLEGT licensing scheme run under the Sistem Verifikasi Legalitas Kayu (SVLK). They note the benefit of reduced Due Diligence required for FLEGT licensed timber. Some Operators reported shifting their sourcing of some specific species from Malaysia to Indonesia.

A few companies mentioned concerns about the potential rollback of environmental regulations in Indonesia due to the COVID-19 pandemic, and how this would affect the robustness or even just the reputation of the SVLK. As such, there were some concerns, albeit limited, over whether this would impact compliance in the long run. Only one Operator reported that they did not know what FLEGT licensed timber was.

**Other risk mitigation measures used by surveyed Operators:**

***Requesting additional information about supply chains and forest management units***

■ **Two thirds of those conducting risk mitigation measures (about 58 percent of those interviewed) are requesting additional information and documents covering their supply chains on a seemingly routine basis.**

Examples of additional information include transport documents when sourcing species or from regions within a country perceived to be at an elevated risk for illegal logging and trade. Forty-four percent of Operators report requesting additional information about their suppliers, with tax registration information the most frequently cited.

Roughly half of Operators conducting risk mitigation measures are requesting additional information about forest management units. Several Operators report a recent rise in some of their buyers asking specifically for the licence to cut.

While most interviewees noted they routinely ask for additional information and documentation for around seventy percent of their imports, others noted that such requests were relatively rare, and only applied to about one percent of their imports. One Operator reported additional scrutiny on one specific supply chain following a visit from their EUTR CA.

***Suppliers***

■ **Sixty percent of Operators conducting risk mitigation reported changing their suppliers or sub-suppliers.**

Comments were provided such as “*we have asked suppliers to source timber products from other sub-suppliers because we were uncomfortable with the legality of their previous supplier.*” Many Operators reported that switching suppliers “*was done mostly at the beginning (when the EUTR become operational)*” or “*not lately,*” while others reported that this continues to happen in “*specific cases in countries (e.g., Liberia)*” or “*on one occasion (where) certified supply from China could not be verified.*”

Many Operators report that terminating a contract was relatively rare because they would have identified most concerns before signing a contract.

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<sup>5</sup> FLEGT licensed timber and timber products are considered to comply with the requirements EUTR which means that Operators do not need to exercise Due Diligence on these products if there is a valid FLEGT licence.



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Two companies specifically reported that while they have rejected a few products, the timing of risk assessments has often meant that the product is already made. Thus, they typically escalate the issue internally and address the situation moving forward by working with the supplier to draft and monitor a corrective action plan. If improvements aren't made, then termination of the contract could be expected, or the Operator will conduct Due Diligence on the supply chain more regularly.

Three Operators mentioned that they do not encounter this situation because they only choose certified suppliers.

Some specific reasons for changing a supplier included the inability of the supplier to provide the requested documentation, presentation of discredited documents, or scientific testing that revealed a species was not as stated on their invoice.

■ **Changing rather than terminating suppliers has led to some reductions in the number of direct suppliers but surveyed Operators report improved relationships overall.**

At least fifty-six percent of companies report no change or an increase in the number of suppliers since the EUTR came into effect. Many companies report improved relationships with their suppliers over time.

Thirty-nine percent of Operators interviewed report reductions in the number of suppliers at various times since the EUTR became operational. For Operators reporting reductions in their total number of suppliers, the extent of reductions ranged from ten to eighty percent, with an average of thirty-eight percent.

Some reported an initial decrease in suppliers when the EUTR came into effect in 2013 but have added alternative suppliers since.

Interviewed Operators specifically mentioned reducing the number of their suppliers based in Africa and South America.

■ **As a result, surveyed Operators report limited simplification of their supply chains. In fact, agents or local experts are still considered key resources when sourcing in a high-risk context.**

Seventy-two percent of Operators report no change in the complexity of their supply chains since the EUTR came into effect.

Just twenty-one percent of surveyed companies suggest that they had reduced the complexity of their supply chains. In many cases, these Operators said that reducing complexity was tied to cost saving measures, rather than EUTR compliance.

The use of agents varied. Some Operators described their approach to reducing complexity, which included removing agents and suppliers in some high-risk national contexts, which gave them greater confidence when engaging with factories or sawmills. Others reported the continued need to use agents, noting *"in some countries such as China we will only source directly, however, in other cases when sourcing hardwoods we would use an agent as they are closer to the product and have local knowledge."*

***Use of self-audits / visits to suppliers***

■ **Around half of surveyed Operators are carrying out self-conducted audits of the supply chain, with some variations in the approach.**

Most Operators report site visits at least once per year. Others report audits of all supply chains *"once every 2-5 years."*



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Many interviewees noted that while the main reason they visit suppliers and factories is for “*business relations...legality [is] included to some extent.*” Several said that while “*questions on legality [are] included [with on-site visits], improvement [is] needed to have a better record of these actions*” or that these audits were “*not systematic but [this] could be developed.*” Others noted that self-conducted audits happen “*frequently*” or that “*100% of tropical suppliers are visited.*”

Some Operators use on site audits to address specific risks and concerns within their supply chains. For example, one reported using audits “*where we have sourced controlled wood [and there] has not [been] enough documentation to ensure compliance. We have then used translators to help and have gone on site to visit the company to assess the situation and the ability for them to comply. This was the case in Siberia, where we have conducted audits on 4 of our 6 Russian suppliers [because we had concerns about] sanitary felling [for tree pest maintenance].*”

### **Use of scientific testing**

- **Around thirty percent of Operators conducting risk mitigation measures (26 percent of all interviewees) report using scientific testing to verify timber species and origin claims, while several additional Operators are considering these mitigation measures in 2021.**

Once again, companies employ a range of approaches to using scientific testing, from regular use for “*each new product or new supplier*” or only sparingly for high-risk products, such as “*composite products*” or “*finger jointed laminated timber,*” or using geographic origin testing “*when we have identified a risk of mixing [such as in the case of] oak [we would test] to identify whether it was Russian/Chinese or US oak.*”

Many Operators report concerns about the cost of scientific testing because it has limited their use of the technology.

Eight Operators report that they use stable isotope analysis to test the geographic origin of the wood in a tested product. Thirteen companies report using wood anatomy-microscopic analysis, five report using wood anatomy-macroscopic analysis, and four companies were using DNA analysis to test species.

### **Shifting out of the Operator Role in supply chain**

- **Ten companies report changing their position in the supply chain for a specific product to shift out of the Operator role.**

In general, it appeared that very few companies were seeking to change their position in the supply chain and become a “Trader” rather than an “Operator” for the sole purpose of trying to avoid compliance with the requirements on Operators to conduct Due Diligence.

The EUTR distinguishes between businesses who initially place the timber on the EU market (“Operators”) and businesses trading in wood or wood products already placed on the EU market (“Traders”). Companies that decide not to import and place timber on the EU market for the first time, but instead buy from another company that acts as an Operator, are considered “Traders.” Traders are required to keep a record for five years of all buyers and suppliers they have traded with, but are not required to carry out Due Diligence, nor are they subject to enforcement checks of Due Diligence systems.

Surveyed companies changing their position in the supply chain cited technical reasons, such as a lack of supply. Several Operators, while reporting that they had not specifically changed their position in the supply chain, noted that they had received “*propositions from companies in Belgium, Portugal and Croatia*” with the suggestion that this would be a way to reduce compliance costs as a Trader when sourcing high-risk species or from high-risk countries.



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One interviewee who chose to shift from Operator to Trader worked with “plywood from China [and now] only uses importers of plywood [rather than importing plywood themselves]”. Others reported that remaining an Operator was “used as a selling point. Customers might be Operators, but they have taken the decision to become Traders so that they do not have to do Due Diligence on imported material.”

■ **Surveyed Operators report using risk mitigation measures most frequently on products from Brazil, China, and the Russian Federation in 2019.**

**Brazil:** Thirty companies reported undertaking risk mitigation measures on imports from Brazil in 2019 (Figure 10), with plantation timber considered lower risk than high-value natural forest species, such as ipé, cumaru, and jatoba. For Brazilian timber, companies most frequently check document claims for fraud, conduct audits and site visits, and purchase certified timber. Some companies report also hiring an agent in Brazil to ensure that the correct timber with full documentation is loaded onto the vessel and legally exported. Some Operators report no longer purchasing from Brazilian suppliers.

**China, Russia, Ukraine:** Twenty companies reported undertaking risk mitigation measures on timber sourced from China in 2019. The Russian Federation and Ukraine were frequently reported as “the most effort consuming supply countries” in terms of mitigation measures. Several of the surveyed companies note concerns about the risks associated with sourcing timber from Ukraine, even if it is certified. Many interviewees are concerned about the risk of laundering through China and Eastern European Member States.)

**Africa:** Nine Operators report conducting risk mitigation measures on timber sourced from Cameroon and Gabon.

**India:** Eight companies reported conducting risk mitigation measures on timber products from India in 2019. Many noted initial concerns with Indian suppliers not understanding or producing the requested documents, but this concern subsided after Operators ran training programs and conducted audits, which allowed them to become more confident in the supply chain.

**South America:** A number of companies reported conducting risk mitigation measures on new source countries in South America, such as Peru, Bolivia, Suriname, Guyana, Chile, and Uruguay, as Operators started to move away from sourcing from Brazil.

■ **As a result of increased risk mitigation, surveyed companies report reduced imports of tropical hardwood species from some high-risk source countries that tend to carry a significant reputational risk.**

Eighteen of the seventy-two Operators report shifting source countries since the EUTR came into effect.

**African countries,** including the Democratic Republic of Congo (DRC), Republic of Congo, Liberia, Central African Republic, and Côte d’Ivoire, were most frequently cited with at least twelve Operators reporting that they no longer source from the region.

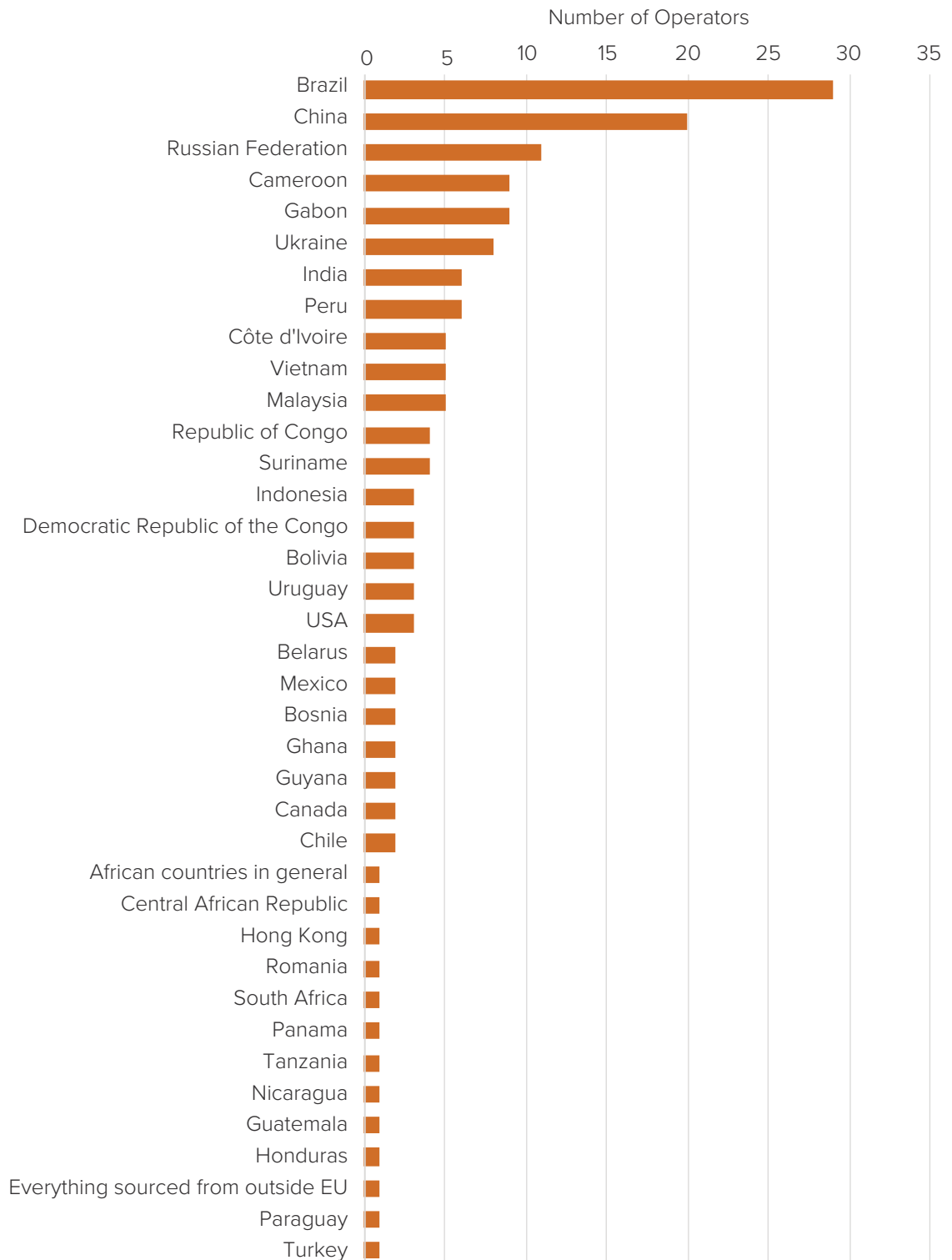
**Myanmar and Brazil** were the next most frequently cited with Operators suggesting that sourcing from Myanmar has “essentially been prohibited since 2012.” In fact, imports from both Myanmar and Brazil are subject to common enforcement positions, reflecting a joint position developed on the legality and sourcing context for timber from both countries. In the case of Myanmar, the EUTR CAs and EC officials concluded in the summer of 2018 that Myanmar teak imports could not systematically comply with the requirements of the EUTR (EC June 2018). This position has been upheld ever since. As long as the enforcement position stands, importers are expected to refrain from placing teak from Myanmar on the European market. Several Operators noted that they stopped sourcing from Myanmar in 2016 or 2017.





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**FIGURE 10** Source countries most commonly requiring risk mitigation measures in 2019





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EU Member States adopted a common enforcement position for Brazil in December 2018, publishing some specific risk assessment and mitigation guidelines in 2019 (EC December 2018). This common enforcement position specifically concludes that under the EUTR, risk when sourcing from Brazil is “not negligible” and that Due Diligence needs to be assessed on a case-by-case basis.

Many companies appear to still be willing to import plantation species from Brazil but are increasingly concerned about ipé and other high-value natural forest species. Some companies report plans to cease importing ipé in the future, while a few referenced shifting import routes.

**The Russian Federation, Ukraine, China, Cambodia, Papua New Guinea, the Solomon Islands, and Peru** were also referenced as countries that Operators had stopped sourcing from since the EUTR came into effect.

In terms of species, Operators reported discontinuing afzelia, afromosia, wenge, meranti, sapupira, palownia, and ipé.

Several Operators referenced shifting their sourcing from one country or region to another. Some reported moving to sourcing from lower risk countries, but most shifts in sourcing often involved moving from one country the Operator considered to be high risk to another. The most frequently referenced shifts in such sourcing include:

- ☐ From Brazil to Costa Rica, Suriname, Peru, Guyana, Uruguay, Bolivia
- ☐ From Russian Federation to USA and Canada
- ☐ From Ukraine to Belarus
- ☐ From Liberia to Cameroon and Côte d'Ivoire

■ **Following eight years of implementation, surveyed Operators report very limited structural changes in their business model.**

Over three quarters of Operators interviewed report no change in their business model but note that their company has increased their in-country presence, such as through opening field offices, hiring in-country consultants, or otherwise increasing focus (both staff time and budget) dedicated to Due Diligence, and a more systems-based approach to supply chain traceability and management.

Just ten Operators report changes to their business model. Some said they had changed their general approach, such as becoming less consumer focused or focusing on inter-European operations to avoid high-risk species or product imports. Others suggested that they have changed their purchasing strategy to focus on “legal security,” rather than price alone or purchased their own plantation or sawmill in a high-risk source country.

## Summary of Results

### Due Diligence

Operators report an increased knowledge and understanding of illegal logging and supply chain risks as a result of the EUTR. Most noted that the EUTR had directly led to a systematization of their sourcing approach, including the development of internal policies, such as specific risk assessments and prohibited species lists.

Companies report an exponential increase in the collection of information, noting that supply chains are now assessed back to the country of harvest, and where relevant, to the forest concession level. Companies noted that prior to the EUTR, they would only collect information on their direct suppliers, the species, and any relevant phytosanitary certificates. Most companies reported that



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they now routinely ask for additional information on indirect suppliers, or evidence such as invoices, shipping documents, certification, chain of custody claims and harvest licenses, as well as information on social issues, such as workers health and safety information. They have also increased their scrutiny of evidence presented.

EUTR Operators also report an overwhelming increase in the use of tools and resources to assess the risk of illegal timber entering their supply chains and are considering an array of potential risks associated with their supply chains. This is important as the companies interviewed are sourcing from a variety of self-assessed high-risk source countries and importing a number of species at an elevated risk.

Many Operators report having to undertake risk mitigation measures for all of their source countries. There was also a distinction between understanding the risks associated with EUTR compliance versus a country, species, or supply chain becoming too high a reputational risk for a company.

Countries identified as high risk have generally received significant NGO attention and rank poorly on Transparency International's Corruption Perception Index, which is unsurprising given the number of Operators using these tools to assess their risks.

Practically, these shifts have led to a reported increase in Operators buying and selling certified timber. This trend started prior to implementation of the EUTR, although has accelerated with increased risk mitigation in recent years. Less pronounced but still significant, around half of the Operators interviewed are sourcing FLEGT licenced timber. Indonesia is the first, and currently only, country in the world with an operational FLEGT licensing scheme.

## **Impacts on sourcing**

### ***Supply countries***

Brazil and China were most frequently cited as high risk by the Operators interviewed. Brazil was by far the most frequently referenced as requiring risk mitigation measures in 2019. Over forty percent of all Operators interviewed in this survey carried out risk mitigation on supply chains from Brazil. Several noted that they were in the process of transitioning out of Brazil in the coming years, or changing suppliers or species given the exposure and risks. The rise in sourcing from countries in the region, such as Costa Rica, Bolivia, Peru, Suriname, Guyana, Uruguay, Paraguay, and Chile, was directly linked to ever increasing scrutiny of illegal logging and environmental destruction in Brazil. Many of these new source countries in the region were still considered high risk, and companies are still conducting risk mitigation measures. However, anecdotally, Operators reported greater confidence in the supply chain and compliance with the EUTR. As such, concerns about Brazil appeared to only be partially based on complying with the EUTR – many Operators noted the increased “hassle” when sourcing from Brazil as they had to explain their Due Diligence to CAs and address negative media attention.

In the case of China, many Operators noted specific risks with sourcing, including concerns about the laundering of high-risk species from the Solomon Islands and Papua New Guinea, such as *Calophyllum Spp*, as well as the Russian Far East. Tropical species in products manufactured in China were also of concern, with several companies highlighting that there is “*no way to ensure credible Due Diligence.*”

In total, eighteen of the seventy-two Operators reported shifting source countries since the EUTR came into effect. “African countries” including the DRC, Republic of Congo, Liberia, Central African Republic, and Côte d'Ivoire were most frequently cited, with at least twelve Operators reporting that they no longer source from the region. Myanmar and Brazil were the next most frequently



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cited, with Operators suggesting that sourcing from Myanmar has “*essentially been prohibited since 2012.*” In fact, both Myanmar and Brazil are subject to common enforcement positions that have raised collective concerns across EU CAs regarding the legality of supplies from both countries and have, in both instances, made some headway in clarifying the types of actions that Operators are expected to take when sourcing in both contexts.

The Russian Federation, Ukraine, China, Cambodia, Papua New Guinea, the Solomon Islands, and Peru were also referenced as countries that Operators had stopped sourcing from since the EUTR came into effect. Several Operators referenced a shift in sourcing from the Russian Federation and Ukraine to Belarus and Bosnia.

### ***Species and products***

Twenty Operators stopped sourcing a specific species since the EUTR came into effect, most frequently teak. Other species Operators have stopped sourcing include, several *Dalbergia* species (*Dalbergia nigra*, *Dalbergia retussa*), wenge, afromosia, afzelia, Mongolian oak, paulownia, sipo, palo rojo, okoume, as well as some location specific species, such as ash, oak, and pine from China, spruce and larch from high-risk countries, and meranti from Indonesia. Perhaps linked to concerns about source country and species, nineteen Operators stopped sourcing at least one product line since 2012. Decking, sawn timber of specific high-risk species, tables, and outdoor garden furniture were the most frequently cited.

### ***Suppliers and the supply chain***

There was a very mixed set of responses from Operators regarding the impacts of increased Due Diligence on the number of suppliers and the complexity of supply chains. Just thirty-nine percent of Operators interviewed reported reductions in the number of suppliers at various times since the EUTR became operational. Some reported an initial decrease when the EUTR came into effect in 2013, but most reported developing new relationships with additional suppliers since. For Operators reporting reductions in their total number of suppliers, the extent of reductions ranged from ten to eighty percent, although the average was thirty-eight percent. Reductions or changes in suppliers, as well as reducing supply chain complexity, appears to be happening to a limited extent when a company decides that a source country is too high a risk (in terms of both EUTR compliance and reputational risk).

Third-party suppliers to EUTR Operators are increasingly expected to be certified. While there were a range of figures, most Operators suggested that between 50 and 100 percent of suppliers are now certified.

### ***Enforcement of EUTR***

While the survey did not ask any specific questions about the state of EUTR enforcement, interviews anecdotally revealed frustration with an inconsistent and often weak overall approach to enforcement of the EUTR across Member States. One Operator summed up some concern that “*policing of the EUTR feels weak, and with only two individuals in the CA, [it seems] counter-intuitive to ask companies to conduct Due Diligence when the resources to enforce it are not available.*”

Forty-two percent of Operators interviewed reported that they are aware of other suppliers who offer undocumented timber/products at a lower/discounted rate. As such, there were concerns that industry leaders, and those seeking to comply, are investing a lot more time and resources, while other Operators are not necessarily meeting the same standards. As such, there were calls for the CAs to “*take more actions and exhaustive controls.*”



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While it appeared that very few companies were seeking to deliberately change their position in the supply chain to avoid the compliance requirements of the EUTR, several Operators noted that they had received “*propositions from traders in Belgium, Portugal, and Croatia*” to allow them to move away from acting as the Operator.

The responses of the seventy-two European Operators interviewed in 2019 for the Forest Trends study suggest that importers are now collecting significantly more information as they exercise Due Diligence, compared with 2012 (pre- EUTR). While this represents a small sample compared to the total number of European Operators, the results indicate that Operators have changed their behavior since the EUTR came into force. More specifically, the survey shed light on types of changes that Operators have made and reveals some specific impacts of the EUTR requirements/ implementation on industry.

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