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THE FOREST LAW ENFORCEMENT
GOVERNANCE AND TRADE TEAM
OF THE EUROPEAN FOREST INSTITUTE

New European market requirements

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Phnom Penh

EU timber market

less than 10% EU timber consumption is imported

1: China

2: US, Russia, Brazil

3: Switzerland, Norway, Canada

4: Indonesia, Malaysia, Chile

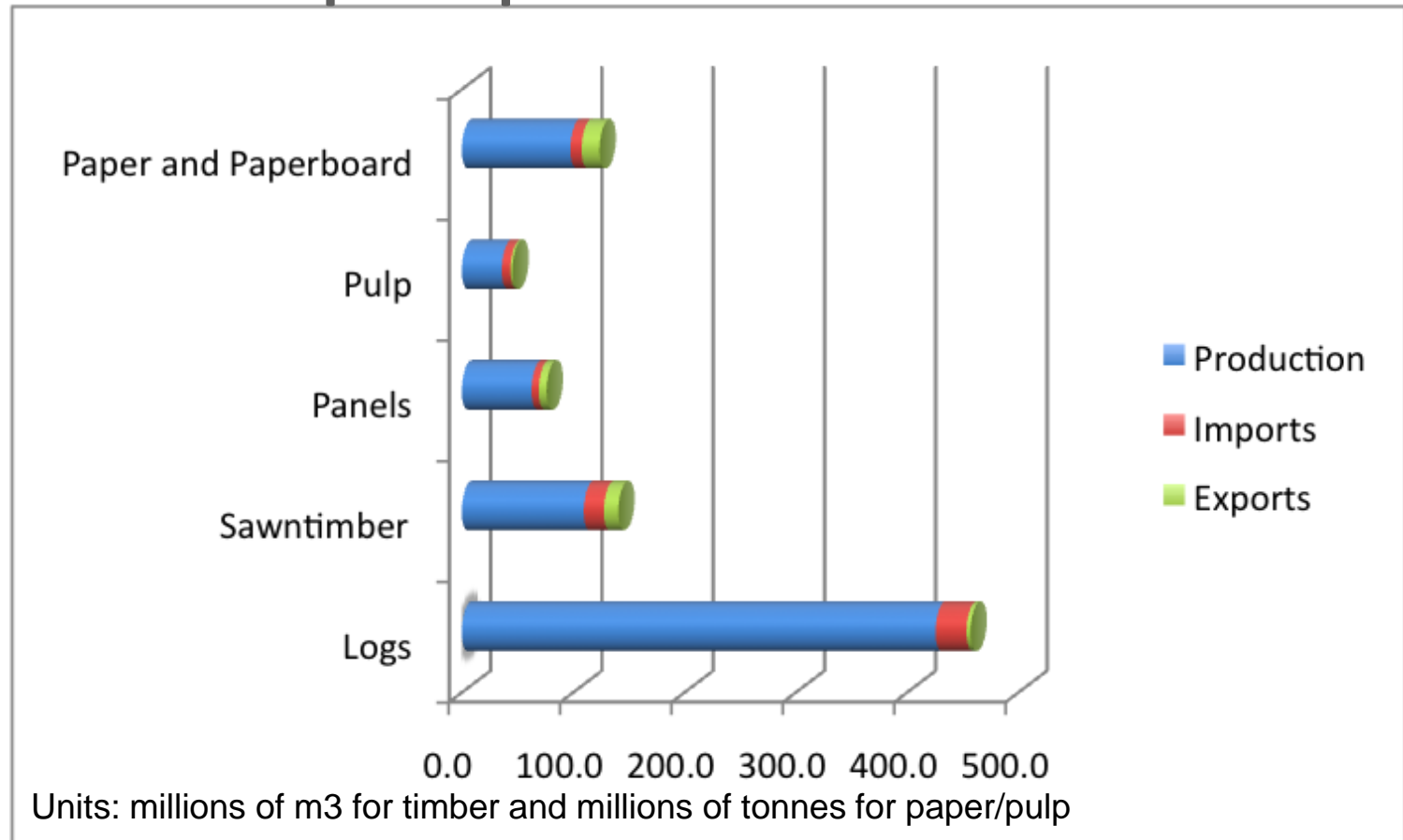
5: Vietnam

6: Cameroon, Gabon, Thailand

- **China, Vietnam and Thailand manufacturing hubs; sourcing from Cambodia**
- **timber into the EU is associated with all sorts of trouble.**

Context: EU domestic forestry supply and management

Europe 27 production and trade data



Primary Source: FAO FRA 2005

EU response: FLEGT

- **Civil society, industry, governments pressure:** stop the EU acting as a market for illegally harvested timber
- **2003 FLEGT Action Plan.** Towards SFM, good governance, transparency, halt deforestation, poverty eradication. **Encourage trade in guaranteed legal timber**
- **2013 all FLEGT elements operational.**
 - EU Illegal Timber Regulation (Due Diligence Regulation) effective
 - Voluntary Partnership Agreements delivering FLEGT licensed timber

EU Illegal Timber Regulation



EU Illegal Timber Regulation

- Also known as the EU “Due Diligence Regulation”
- Focuses on trading on the EU market
- Product scope: all timber and timber products, imported or domestically produced (few exemptions)
- Regulation is binding and applicable in all EU Member States

EU Illegal Timber Regulation - OBJECTIVES -

- **To prohibit the sale of illegally-harvested timber**
- **To reduce illegal deforestation**
- **To assure consumers that the products they buy are legal**
- **To provide a level playing field for timber traders**

EU Timber Regulation - WHAT IS LEGAL? -

- Legality is defined on the basis of the applicable legislation of the country of harvest, covering:
 - **Rights to harvest** within legally gazetted boundaries;
 - **Payments for harvest rights and timber**, incl. duties related to timber harvesting;
 - **Timber harvesting**, incl. environmental and forest, **legislation**;
 - **Third parties' legal rights concerning use and tenure** affected by timber harvesting;
 - Forest sector-related **trade and customs legislation**.



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EU Illegal Timber Regulation - HOW DOES IT WORK?

- Focus is on **FIRST PLACING** timber products on the market:
 - **Operators - importers & domestic forest producers** - are prohibited from selling illegal timber & obliged to use due diligence
- **TRACEABILITY** after first placing:
 - **Internal traders** have to make sure that the timber is traceable (info on supplier & buyer)

EU Illegal Timber Regulation - DUE DILIGENCE SYSTEM

Elements of the due diligence system:

- **Product information**: including timber species, country of harvest, quantity, suppliers & customers, legal compliance
- **Risk assessment**: assurance of legal compliance, prevalence of illegal harvesting of a species or practices in a country, complexity of the supply chain
- **Risk mitigation** (if risk is non-negligible): e.g. additional documentation, 3rd party verification; higher risk = stricter controls

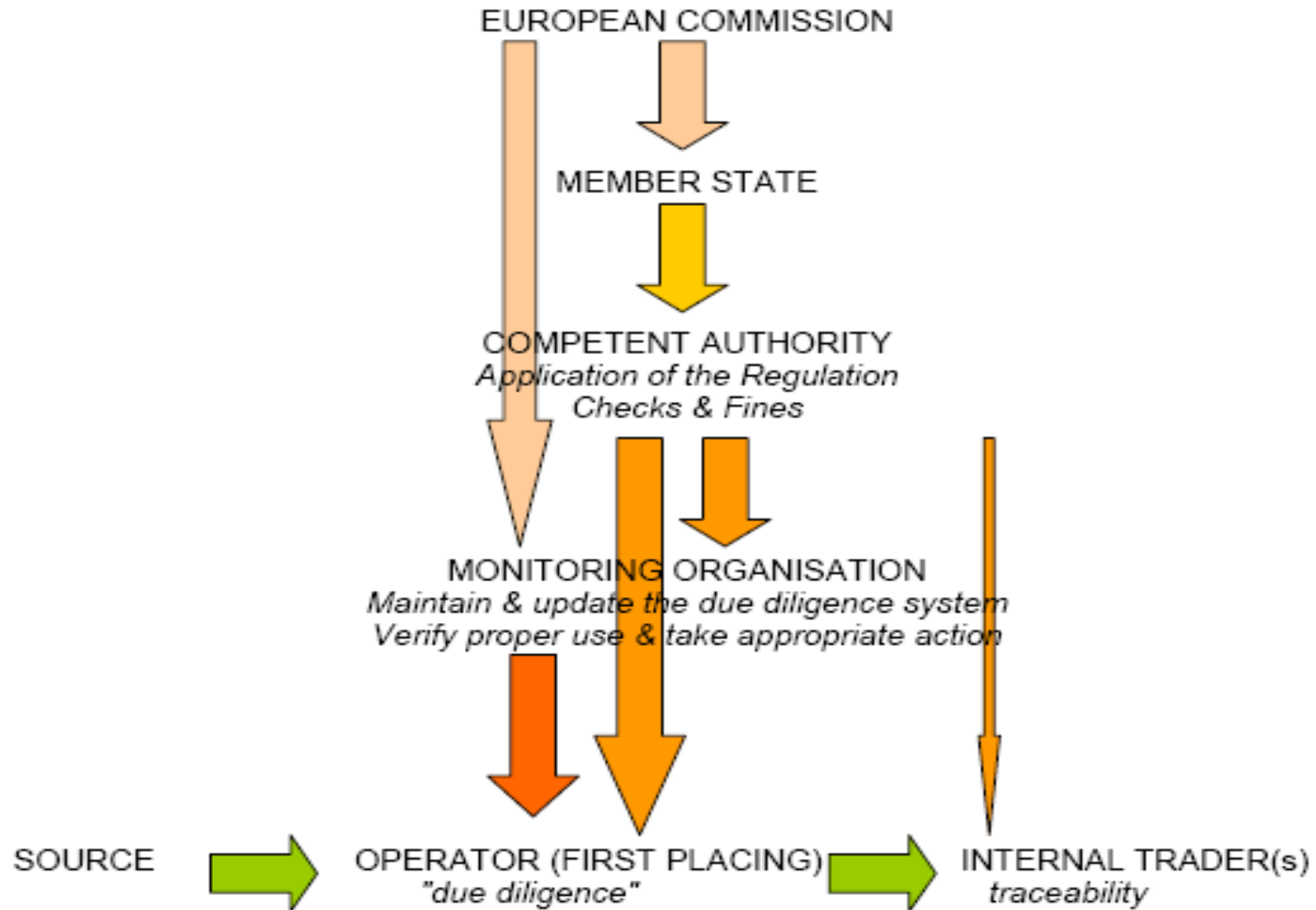
Operators can either set up their own systems or make use of existing systems

EU Illegal Timber Regulation - Time line -

- ✓ EP adopted the second reading document on 7 July 2010
- ✓ Council adoption and publication in the Official Journal of the EU (= Regulation entry into force) by the end of 2010
- ☞ “Date of Application” max **27 months** after entry into force. Expected **January 2013**
- ☞ Implementing Regulation (to define details of the Due Diligence system, risk assessment criteria, recognition of Monitoring Organisations)
- ☞ Member States to draw up national legislation including designation of competent authorities, defining penalties etc.

EU Illegal Timber Regulation

- FUNCTIONING



Monitoring organisations in EU Members States

Help operators implement due diligence

- EU-based organisation that establishes and maintains a due diligence system
- Grants operators the rights to use DD system, and checks their proper use
- Takes action in the event of failure
- Recognised by the European Commission.

EU Illegal Timber Regulation

- CHECKS ON MONITORING ORGANISATIONS

- Checks by Competent Authorities at regular intervals & when in possession of relevant information
- Competent Authorities **report** to the European Commission
- If MO no longer fulfils the functions or does not comply with the requirements, the European Commission can **withdraw its recognition**

EU Illegal Timber Regulation -enforcement - CHECKS ON OPERATORS

- Regular checks by Competent Authorities,
& when in possession of relevant information, including
substantiated concerns from third parties
- **Checks may include:**
examination of due diligence system, documentation &
records, spot checks, incl. field audits
- **Follow-up to shortcomings:**
remedial actions & immediate interim measures

EU Illegal Timber Regulation - Enforcement - PENALTIES

- EU Member States are responsible for penalty-setting and enforcement (to be defined in 2012)
- Penalties may include:
 - **FINES:**
 - **Proportionate** to environmental damage, value of timber concerned, tax losses & economic detriment;
 - **Effective** in depriving those responsible of the economic benefits from their infringements;
 - **Dissuasive** so as to prevent repeat offending with increases in severity
 - **SEIZURE OF TIMBER;**
 - **IMMEDIATE SUSPENSION OF AUTHORISATION TO TRADE.**

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EU Illegal Timber Regulation and VPAs

- FLEGT-licensed timber products (and CITES certified timber) will be considered to have been legally harvested
- Countries with VPAs can export FLEGT licensed timber into the EU without operators (importers) needing to make further legality checks (“Green Lane”)
- FLEGT VPA and the EU Illegal Timber Regulation are mutually reinforcing

FLEGT implications for Cambodia

- un-documented and unverified timber would make Cambodia a high risk country for buyers on the European market.
- A country importing unverified timber from Cambodia could make the importing country a high risk country for buyers on the EU market.

FLEGT implications for Cambodia

From January 2013 onwards, countries who buy timber from Cambodia and export to the EU market should be able to demonstrate:

- evidence that Cambodia has been the country of harvest
- evidence of timber legality in Cambodia. See legality definition

How can Cambodian suppliers comply?

- Credible third party forest management certification (like FSC or PEFC) and Chain of Custody certification (= bussiness to bussiness)
- Government backed Timber Legality Assurance System with appropriate verification (= VPA)

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EU FLEGT Action Plan 2003 – 2013

all elements operational

- 2003: ALO's announced
- 2006: options
- 2008: DDR proposal
- 2010: ILR gazetted
- 2011: Implementing regulation
- 2013: applicable
- 2003 VPAs announced
- 2005 VPA regulation & negotiating mandate
- 2007 VPA negotiations started
- 2009 VPAs agreed
- 2011 VPAs operational