



**Squaring the circle:  
towards more coherence  
in EU policy and law  
regarding sustainable  
management of natural  
resources**

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## EU Primary Law

### Art. 3(3) and (5) TEU:

- *sustainable development of **Europe***
- *high level of protection & improvement quality environment*
- *contribute to sustainable development of **Earth***

### Art. 11 TFEU:

Environmental protection requirements *must be integrated* into the definition and implementation of Union's policies & activities, in particular with view to promote *sustainable development*.

Conclusion: EU to contribute to / promote sustainability in EU & world in environmental policy & other policy areas



## **Example:** sustainable development in EU trade agreements

1987 integration norm in treaty

1999 DG Trade starts integration policy trade / env

2010 first trade agreements with SD chapter

2017 SD chapters in all new agreements, but:

- not part regular dispute settlement mechanisms ISDS, ICS
- SD chapters effect in practice?

Law on paper -> law in practice

Make it concrete, operational. Set targets, measure progress.



## Sustainable development & natural resources 3d countries

A) EU Policy efforts at incorporating environmental effects abroad of EU use of natural resources

B) Individual natural resources:

- Timber
- Fisheries
- (Biofuels, Conflict minerals, water, ...)



## A) EU policy efforts

### 2005 Thematic Strategy on the sustainable use of natural resources

- key ingredient long-term prosperity within EU & globally
- not limited to consumption phase, production & consumption -> whole value chain, incl. effects outside EU = international dimension

**Environment Council Dec. 2010:** Commission & MSS to shift from fragmented policies focused on 1 aspect of materials chain to integrated policy approach -> full life-cycle of materials (including extraction or harvesting etc.)

**2011 progress report Thematic Strategy:** international dimension insufficiently reflected in EU policies



2011

- 1) EU 2020 Strategy for smart, sustainable, inclusive growth
  - 2) Flagship initiative resource-efficient Europe
  - 3) Roadmap for a Resource-Efficient Europe
- increasing import materials “risks hiding material flows and their associated environmental pressures and impacts taking place beyond the EU”
  - improvements in EU by increasing pressure on environmental resources elsewhere - less visible to European policy makers -> different measures than those to tackle domestic production
  - provisional indicator, no external environmental aspects of resource use in EU, “to be added asap”



## 2015 Circular economy package under Commission Juncker

No follow up on plans to systematically deal with external effects EU natural resources use (indicators, targets)

Only ad hoc in regimes regarding individual natural resources



## Timber

- Estimated damages illegal logging 10-15 billion US\$ p/yr
- Since 3 March 2013 ban on putting illegally harvested timber on EU market for 1<sup>st</sup> time
- Limited scope, no musical instruments, books, coffins...
- illegal = in violation of laws producing country
- NB legal ≠ sustainable
- Companies putting timber on EU market responsible
- Due diligence system: verifiable data on origin timber, chain of custody, *inter alia* documentation showing compliance with applicable legislation
- risk inventory, analysis and assessment unless negligible
- Factors: prevalence of illegal harvesting practices, complexity of supply chains, corruption, ...





## Timber

- Regulation adopted in 2010 – lot of time to prepare
- Still, member states slow in setting up competent authorities, introducing sanctions, carrying out inspections
- 5 Oct 2016 Jönköping adm court: importer of teak from Myanmar, Almträ Nordic, violated due diligence requirements, as Skogsstyrelsen (forest agency) claimed
- 24 May 2017 District court Noord Holland: importer of Azobé from Cameroon violated due diligence requirements, as NVWA claimed
- 4 July 2017 Amsterdam court: NVWA violated EUTR by only issuing warnings to importers of illegal timber from Brazil

**Exception:** VPA countries, until now Indonesia only



## Fisheries

- Estimated damages worldwide: 10 billion Euro p/yr of Illegal, Unreported and Unregulated (IUU) fishing (26 mln tons, 19% global yields)
- Broad scope: all fish except... (but not containers)
- Ban on putting IUU fish on EU market since 1.1.2010
- EU Member States to check shipments from non-EU ships, minimum 5% ships, 100% if ship is listed
- Valid catch certificates needed
- Warnings + recommendations to countries allowing for IUU
- Yellow and Red Cards system

## Overview of existing procedures as regards third countries

Country	Pre-identification	Pre-identification Revoked	Identification	Listing	Delisting
Belize	November 2012	N/A	November 2013	March 2014	December 2014
Cambodia	November 2012	N/A	November 2013	March 2014	
Comoros	October 2015		May 2017	July 2017	
Curaçao	November 2013	February 2017			
Fiji	November 2012	October 2014			
Ghana	November 2013	October 2015			
Kiribati	April 2016				
Korea	November 2013	April 2015			
Liberia	May 2017				
Panama	November 2012	October 2014			
Papua New Guinea	June 2014	October 2015			
Philippines	June 2014	April 2015			
Republic of Guinea	November 2012	N/A	November 2013	March 2014	October 2016
Sierra Leone	April 2016				
Solomon Islands	December 2014	February 2017			
Sri Lanka	November 2012	N/A	October 2014	February 2015	June 2016
St Kitts and Nevis	December 2014				
St Vincent and Grenadines	December 2014		May 2017	July 2017	
Taiwan	October 2015				
Thailand	April 2015				
Togo	November 2012	October 2014			
Trinidad and Tobago	April 2016				
Tuvalu	December 2014				
Vanuatu	November 2012	October 2014			

# Further information:

## European Environmental Law

website [www.eel.nl](http://www.eel.nl)

EEL News Service

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Blog on [Due diligence jurisprudence EUTR](#)