

Briefing Note for the Competent Authorities (CA) implementing the EU Timber Regulation

May - June 2019

IMPLEMENTATION & ENFORCEMENT OF EUTR



The FLEGT/EUTR Expert Group met in Brussels (June 2019)

At the meeting on 21 June 2019, the Expert Group discussed updates on implementation of FLEGT, including lessons learned from implementing the Regulation. The **FLEGT Annual Synthesis Report 2017** was adopted and made available online, along with a **background analysis** and national reports from each Member State. Updates were provided on the Voluntary Partnership Agreement (VPA) process with Viet Nam and Lao PDR. It was announced that the Vietnamese VPA entered into force 1 June 2019, while the third round of negotiations between the European Union and Lao PDR took place in the week prior to the EG meeting. Updates were also provided on EUTR implementation. The assessment on non-negligible risk relating to imports from Myanmar was upheld (see Conclusions of the Expert Group regarding timber from Myanmar, June 2018) following discussion of the application of the joint non-negligible risk assessment. In particular, the impossibility to ensure access to legal requirements like Annual Allowable Cut, Annual Harvest Plans, and mandatory extraction rules, and the resulting impossibility to take adequate mitigation measures were underlined. The current Expert Group conclusion that risk is not negligible in Brazil was also upheld, while work is ongoing to prepare guidelines on Ukraine. Presentations were delivered on: Swiss draft legislation regarding wood and wood products being placed on the Swiss market; and a risk-based inspection planning tool produced by IMPEL, that could be adapted to risk-based planning under the EUTR. The EC presented the general objectives of EUTR and FLEGT reporting and proposed to regularly organise expanded Expert Group meetings welcoming observers representing different stakeholder groups, which are active EU wide or internationally in relation to the EUTR and FLEGT Regulation. UNEP-WCMC provided an update on support services, focussed on national reporting of the Regulations and the shift of reporting to the EC Declare system. The summary record for previous FLEGT/EUTR Expert Group meetings are available from the EC **Register of Commission Expert Groups**, with the summary record for the June meeting coming soon.

Swedish CA provided updates on actions taken to enforce the EUTR (June 2019)

The Swedish CA reported that Swedish timber company Primpanel AB has been ordered by the administrative court to pay a fine for not having a due diligence system in place. In addition, the CA has sent a new appeal to court, as they consider that the injunction has not been fulfilled. Other enforcement actions in Sweden include ongoing inspections and the use of wood sampling in several cases.

Swedish timber company Skogssällskapet Förvaltning AB required to pay corporate fine for illegal logging

On 26 February 2019, the Swedish National Prosecution Agency ruled that Skogssällskapet Förvaltning AB had illegally logged 15 hectares of forest in Ragunda Öravattnet 1:24, Sweden, between February and March 2015. This activity was considered to be unlawful as the company had failed to file prior notice with the Forest Agency. Skogssällskapet Förvaltning AB was obligated to pay a corporate fine of 75 000 SEK.

UK CA provided updates on actions taken to enforce the EUTR (June 2019)

The Office for Product Safety and Standards (UK CA) reported on its continuing advocacy for the Forest ID Project, including **supporting Royal Botanic Gardens, Kew** in the management of a reference library of wood samples against which seized wood products can be tested. The CA additionally reported progress on two projects: the first targeting high-end retailers, the second utilising customs data provided by the German CA on UK-based operators who import products into the UK via Germany.

ILLEGAL LOGGING & TRADE



Mongabay reported on timber seizures in Indonesia (May 2019)

The conservation news NGO noted that a series of seizures had taken place in Indonesia between December 2018 and February 2019, totalling 422 containers of illegally-harvested timber originating from Papua and Maluku. Seized timber included valuable species such as merbau and Moluccan ironwood. A representative of the Indonesian Ministry of Environment and Forestry confirmed that all of the confiscated shipments lacked valid documentation. The Indonesian NGO Forest Watch Indonesia voiced concerns that the recent seizures signalled an increase in illegal logging from the relatively pristine eastern regions of Papua and Maluku. Mongabay reported that some of the seized timber had been traced back to SVLK-certified companies, and noted that the SVLK system contained chain-of-custody loopholes that enabled laundering of uncertified timber through certified sawmills. The report further noted that the Environment Ministry's Department of Sustainable Forest Products had found evidence of three companies having exploited this loophole. Other illegalities highlighted in the report included use of farmers' groups as fronts for harvesting in non-forest areas that would otherwise be off-limits to commercial logging and the exploitation of abandoned concessions.

EarthSight's news website Timberleaks followed up on illegal timber imports from Ukrainian company at centre of bribery case (June 2019)

Timberleaks have followed up on the report, [Complicit in Corruption](#)¹, that identified illegal logging and corruption in the Ukraine. Timberleaks identified five EU companies importing timber from a Ukrainian supplier implicated in a bribery case, one of them the Swedish operator Primpanel AB, prosecuted for not having a due diligence system in place. Over three years since the criminal case began, Timberleaks reported that besides the Swedish operator, four Italian companies were still importing timber from the supplier. The Ukrainian company, which was dissolved in Spring 2019, was owned by the wife of the former head of Ukraine's State Forest Agency – the couple were alleged to have received > USD 30 million in bribes from four foreign companies to gain access to discounted timber.

EIA launched 'Raw Intelligence' undercover video series on timber sector management (May 2019)

The Environmental Investigation Agency (EIA) launched a series of undercover videos focusing on illegality within the timber sector. The series' [second installment](#), released on 22 May 2019, documents overharvesting, money laundering and tax evasion on the part of a Gabon-based timber company. Undercover footage appears to show the Deputy Director General speaking on multiple occasions, explaining that despite a management plan dictating that the forest concession should be progressively harvested over a 20-year span, the company will likely have exhausted it in 7-10 years. Harvesting was also reported to occur outside the authorised concession area, the scale of overharvest masked by owning many smaller companies in Gabon through which timber is exported (which also minimises taxes owed to the government). Whilst most of the company's clients were reported to be located in China, where there is no legal requirement to determine the legal origin of imported timber, buyers located in the EU were reported to exercise inadequate due diligence, failing to enquire about or verify the legal origin of the timber. The video follows EIA's recent [Toxic Trade](#)² report that explored forest crime in Gabon and the Republic of Congo.

¹ Featured in the [June-August 2018](#) EUTR briefing note.

² Featured in the [March-April 2019](#) EUTR briefing note.

LEGISLATION & POLICY



Viet Nam and the EU announced VPA ratification (May 2019)

On 8 May 2019, Viet Nam and the EU announced the ratification of a FLEGT VPA agreement. The VPA, which came into force on 1 June 2019, will be implemented over several years and overseen by a Joint Implementation Committee. Implementation will include the development of a Vietnamese timber legality assurance system and the introduction of procedures to ensure that timber utilised by businesses based in Viet Nam is either domestic in origin or, if imported, complies with harvest and trade legislation in its country of origin. Further to this, Vietnamese civil society groups, academics and business associations will be involved in VPA implementation and input to the JIC through a Multi-Stakeholder Core Group.

Lao PDR and EU concluded third formal VPA negotiation (June 2019)

The third round of **negotiations** towards an EU-Lao PDR VPA took place in Brussels 17-21 June 2019. The EU and Lao PDR delegations discussed progress since the last round of negotiations in June 2018, including revisions to Lao PDR's Forest Law, Land Law, and a new Decree on environmental impact assessments. The EU and Lao PDR discussed definitions of legality for imports and timber from conversion areas. Lao PDR also provided updates on implementation of the timber legality assurance system, as well as provisions for community forest use under the Forest Law. Lao PDR will continue to clarify legality definitions and develop the legality assurance system, with ongoing support from the FLEGT Standing Office and the 'Protection and Sustainable Use of Forest Ecosystems and Biodiversity in Laos' project implemented by GIZ.

Meeting of the EU-Republic of Congo VPA Joint Implementation Committee (JIC) held in Brazzaville (June 2019)

The tenth meeting of the JIC took place 5-6 June 2019 to review progress towards implementation of the VPA since the previous meeting in November 2018. The JIC concluded that, considering the majority of recommendations made in previous meetings were still underway, the focus would be on completing existing recommendations, rather than adopting new ones. The JIC discussed the delayed launch of the Computerised Legality Verification System (SIVL - a tool to manage traceability and legality data), and designated an interdepartmental group to prepare for SIVL deployment. The JIC also discussed the independent audit of the legality assurance system and formulated proposals to target shortcomings highlighted by the auditor. It was noted that the 2018 Joint Annual Report should be finalised by 28 June 2019 and validated no later than 31 August 2019.

OTHER NEWS, RESOURCES & PUBLICATIONS



ClientEarth release latest edition of their EUTR newsletter (July 2019)

The **latest edition** of EUTR news covers the period April - June 2019, providing an update on activities of EU Member States and the European Commission regarding implementation and enforcement of the EUTR, as well as broader work within the EU and internationally to address the issue of illegal logging.

Cameroon published 2018 annual report on Coordination of Independent Oversight (C-OIE) (May 2019)

The **report**, released by Cameroon's Forest and Rural Development Association (FODER), details the actions taken by the country's Secretariat for the C-OIE. Independent external oversight (OIE) of forest management in Cameroon is conducted by a group of civil society organisations comprising the Standard Independent External Observation System (SNOIE), which gathers information on logging activities to transmit to the country's competent authorities, aiming to ensure transparent and sustainable management of forest resources. The report outlines actions taken in 2018 and challenges for 2019, including strengthening law enforcement and gender mainstreaming in IOE.

Independence of Peruvian forest inspection agency OSINFOR restored (April 2019)

Global Witness **reported** that, on 9 April 2019, the Peruvian Government published a decree restoring the independence of the country's forest inspection agency, OSINFOR. The agency, which is responsible for tackling illegal logging and overseeing legal harvest activities in the Peruvian Amazon, had previously been placed under ministerial control. In its January 2019 report **The Forest Avengers**³, Global Witness called for the Peruvian Government to restore OSINFOR's independence and extend its powers.

Myanmar Forest Department reportedly authorised export of unprocessed plantation wood (June 2019)

The International Tropical Timber Organization (ITTO) **reported** that Myanmar's Forest Department has officially approved the export of logs, poles and posts from plantations, without further processing. An export ban for raw logs harvested from natural forest has been in place since 2014. Private ownership of plantations has been permitted since 2016, with private sector plantations now at the stage of first thinning and reported to comprise 143 000 acres of teak and 104 000 acres of other hardwood timbers. However, this information is not available on websites of the government of Myanmar.

Madera Fordaq claims publication of Annual Allowable Cuts (AAC) for Myanmar for the harvesting period 2018-2019 (February 2019)

In a news message of February 2019, Madera Fordaq, a marketplace for wood products, timber and lumber, reported that the Myanmar Timber Enterprise (MTE) had announced the AAC for the harvesting period 2018-2019. However, this information and its publication prior to the harvesting period on an official website of the Government of Myanmar and MTE could not be confirmed.

Myanmar Forest Certification Committee (MFCC) granted PEFC Alliance membership (June 2019)

MFCC have become the 51st national member of the PEFC Alliance. PEFC **reported** that it was collaborating with MFCC on a three-year project that aims to support the transition to sustainable forest use in Myanmar. Project progress includes MFCC establishment of a multi-stakeholder platform to facilitate coordination and information sharing between forest sector actors. In August 2018, MFCC also launched a third party timber certification system, marking the initial phase of the Myanmar Timber Legality Assurance System (MTLAS).

Malaysian Timber Certification Council (MTCC) suspended certification for Kedah State (May 2019)

The MTCC has **suspended** forest management certification for Kedah State Forest Management Unit (FMU), effective from 8 May 2019 until further notice. The suspension was made by a Malaysian certification, inspection and testing body, SIRIM QAS International Sdn. Bhd. This came about due to the FMU's failure to close a major corrective action request. While the suspension remains in place, logs sourced from Permanent Reserved Forests within Kedah State FMU will not be recognised as PEFC certified under the Malaysian Timber Certification Scheme. However, logs originating from the FMU can be accepted as PEFC Controlled Sources, as long as a due diligence system has been implemented and does not involve logs sourced from conversion areas.

Forest Trends published report on timber import provisions in Thailand (June 2019)

The **report** provides an overview of trends in Thai imports of timber and exports of timber, pulp and paper products. It analyses key risks associated with these imports and exports; discusses the impacts of global demand-side timber regulations (including EUTR and the Australian Illegal Logging Prohibition Act) on Thailand's wood product processing industry; and examines the legislative parameters needed for development of an effective import control system in Thailand. Suggestions to be incorporated in a timber legality assurance system include, *inter alia*, that import provisions should cover a broad product scope, set clear expectations for meaningful risk assessment, set clear guidelines for acceptable evidence of risk mitigation and ensure available resources to conduct checks of shipments.

Research article on incorporating international biodiversity law principles into the EUTR (June 2019)

The **article** analyses the potential for the EUTR to better incorporate the principles, safeguards and guidance of the Convention on Biological Diversity (CBD), examining synergies and differences between these diverse forest-related agreements. The authors considered that, although the stated goals of the CBD and EUTR include safeguarding biodiversity and local livelihoods, the CBD's principle of inclusive governance and sustainable use contrasts with the EUTR's focus on law enforcement and prioritisation of State laws. The authors suggest that greater involvement of affected stakeholder groups in the EUTR policy process could improve coherence across these two agreements and help promote development of laws and regulations that better support forest-dependent people and local livelihoods.

³ Featured in the **January-February 2019** EUTR briefing note.

FAO convened working group to establish guiding legal elements for forest management and trade (May 2019)

On 14-15 May 2019, FAO held a **workshop** in Rome, bringing together experts from academia, civil society and the private sector to evaluate a set of 'guiding legal elements' for forest management, timber production and trade. Currently there is no universal definition of 'legal' or 'illegal' timber in international law, and legislation governing timber production and verifying compliance differs between countries. The lack of agreed common elements within national legislation restricts the ability to create a comprehensive framework for timber legality. The 'guiding legal elements' will form the backbone of FAO's online database Timber-Lex, which catalogues forest-related legislation for timber trading countries and provides access to forest-related legislation to all stakeholders. The underlying guiding legal elements are intended to support timber producing and trading countries in the understanding, reinforcement and possible future revision of existing legal frameworks.

Forest Watch Ghana published a communique following the FWG annual general meeting (June 2019)

Forest Watch Ghana (FWG), a coalition of 32 NGOs and individuals, issued a **communique** covering actions arising from the FWG annual general meeting that was held in Accra on 26-30 March 2019. The communique outlines five resolutions to address key issues that the FWG identified within the Ghanaian forestry sector, including the consequences of unrestricted rosewood harvest on the Ghana-EU VPA (and importance of upholding the ban on harvest, processing and export of rosewood⁴), and the emerging problem of illegal logging within the Kalakpa Nature Reserve.

FLEGT Independent Market Monitor (IMM) Trade Consultation held in Antwerp (April 2019)

The **event**, held on 12 April 2019, was co-organised by the Belgian and Dutch trade federations Fedustria and VVNH. Delegates from across the Benelux countries and Indonesia included CAs, representatives of trade associations and government agencies, operators, distributors, and retailers. The consultation included three workshops, focussing on: **drivers of demand** for tropical timber; **consumer dynamics** for tropical wood products; and the potential for FLEGT to inform the **sustainable forest management** debate.



Developed by UNEP-WCMC as a consultant of the European Commission in close cooperation with the EU Member States Competent Authorities.

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⁴ Featured in the **March-April 2019** EUTR briefing note