

Briefing Note for the Competent Authorities (CA) implementing the EU Timber Regulation September - November 2019

STUDY ON IMPLEMENTATION OF THE EUTR AMONG GERMAN OPERATORS

A **study** conducted by the Thünen Institute investigates whether importing operators have adapted their management activities to the requirements of the EUTR. Through a survey of German operators, the extent of awareness and knowledge of the EUTR, compliance and change in import activities was assessed. These factors were considered necessary elements to achieve the target outcome of reducing trade in illegally-sourced timber products.

Whilst there was low awareness, knowledge and compliance among German operators in general, the few operators that dominate the market demonstrated the envisaged behavioural changes. The study found that, of the operators interviewed, those with a due diligence system in place made up 70-79% of the share of import value. Compliance was highest among larger operators and those importing from high risk countries. Small companies, importing small quantities of timber products, comprised the majority of operators and showed lower awareness and compliance. The author recommended that broader information campaigns are required to reach a wider range of operators and to increase awareness, particularly among small enterprises outside the timber-related sector.

IMPLEMENTATION & ENFORCEMENT OF EUTR



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

At the meeting on 12 September 2019, the EC noted its upcoming visit to Myanmar in November to support Myanmar in stepping closer to ensuring that wood is harvested legally (particularly teak) and that the necessary transparency is provided to enable operators to exercise due diligence for timber from Myanmar. The Expert Group conclusion that due to a lack of access to relevant information, in particular to applicable laws and by-laws, risk assessment and adequate risk mitigation measures are currently not possible for wood harvested in Myanmar, was upheld (see conclusions in the June **summary record**). The current Expert Group conclusion that risk of illegally-harvested timber entering the supply chain is not negligible in Brazil was also upheld. The draft conclusions regarding the risk of illegality of timber from Ukraine will be streamlined. Updates were provided on the Voluntary Partnership Agreement (VPA) process with Ghana and Viet Nam. The Expert Group discussed the treatment of confiscated timber, noting that, while under the EUTR illegally-harvested timber may not be placed on the market (regardless of any subsequent legalisation of its ownership), in five VPAs, confiscated timber (that may or may not be illegally-harvested) falls within the scope of timber that might be FLEGT-licenced. CAs from 11 Member States strongly requested that FLEGT licensing should only take place in line with the requirements of EUTR, i.e. excluding illegally-logged timber from the supply chain. The EU FLEGT Facility presented an update on FLEGT licencing in Indonesia and DG OLAF (European Anti-Fraud Office) presented on their role in enforcement activities. The Russian Federation's online wood tracking tool **LesEGAIS** was presented by WWF Russia, for which the Finnish CA prepared an explanatory document, *inter alia*, **in English**. PEFC presented their work with the Myanmar Forest Certification Committee (MFCC) supporting development of a national system for certification. UNEP-WCMC provided an update on the analysis of 2017-2019 national reports on implementation of the EUTR and the 2018 report on the implementation of the FLEGT Regulation. The summary records for previous FLEGT/EUTR Expert Group meetings are available from the EC **Register of Commission Expert Groups**.

Hungarian CA provided updates on action taken to enforce the EUTR (November 2019)

The Hungarian CA reported that a Hungarian operator was found to have harvested timber without the knowledge of the forest owner, in contravention of the provisions of the National Forest Act and the Forest Plan. This timber was considered to be of illegal origin under the EUTR and therefore seized on site by the CA as an interim measure. However, during the ongoing inspection there was a breach of seal and 108.7 m³ of oak was sold, 90 m³ passing through a number of intermediaries to a sawmill in Hungary and 18.7 m³ being transferred to an Austrian parquet company. After the inspection was completed, the CA confiscated the timber that had been delivered to the sawmill, the Austrian CA was notified, and a criminal complaint was filed. The operator appealed the decision, but it was upheld by the court.

The CA reported that the Hungarian trader supplying the timber to Austria made numerous breaches of the applicable national regulations implementing EUTR and Article 5 of the EUTR¹. Further investigation revealed connections regarding the beneficial ownership of the Hungarian and Austrian companies. With this example of the type of infringements occurring among traders, the Hungarian CA highlights the issue of timber traceability and effective control through the supply chain.

Swedish CA provided updates on action taken to enforce the EUTR (November 2019)

The Swedish CA reported that an unnamed company inspected prior to the summer has appealed an injunction to the administrative court. Meanwhile, the Swedish timber company Primpanel AB has been ordered to pay fines of SEK 13 200 and SEK 20 000 by the administrative court. This follows a prohibition decision in September, prohibiting the company from importing timber until it has a due diligence system in place. Other enforcement actions in Sweden include ongoing inspections, with four remaining for 2019, and ongoing discussions over best practice for Myanmar in line with the Commission and the FLEGT/EUTR Expert Group.

German CA provided updates on actions taken to enforce the EUTR (November 2019)

The German CA held their annual meeting in early November 2019, in the form of a two day workshop focussed on refining new documentation for risk mitigation in the context of Russian and Brazilian timber as well as EUTR **guidance** on recycled timber. A representative of the Danish CA attended the meeting and presented a detailed overview of Denmark's implementation of the EUTR.

UK operator prosecuted for breaching requirements of the EUTR (September 2019)

The UK CA prosecuted an operator that was found to have breached the requirements of the EUTR. The operator pleaded guilty in September and will be sentenced in December 2019.

UK CA provided updates on action taken to enforce the EUTR (November 2019)

The UK CA reported undertaking several awareness-raising activities (two workshops and participation in an industry expo) between September and November 2019. The objective of these activities was to ensure that operators understand their obligations under the EUTR and are provided with the necessary tools to comply with these requirements.

ILLEGAL LOGGING & TRADE



NGOs file complaint against alleged illegal logging in Romania's protected areas (September 2019)

In September 2019, EuroNatur, Agent Green and ClientEarth **filed a complaint** with the European Commission against Romanian authorities, claiming that Romania's state forestry management organisation, Romsilva, had conducted logging inside protected areas without undertaking proper impact analysis. The EU Natura 2000 network falls under the provisions of the EU Birds and Habitats Directives. Systematic logging within Natura 2000 sites without effective impact assessment is considered to be in violation of EU law.

NGOs condemn killing of two forest workers in Romania (November 2019)

Two forest rangers have been killed in Romania - one shot whilst in Maramures, and another killed in the forest district of Pascani, Romania. Both victims were reportedly investigating illegal logging activities at the time of their deaths. The

¹ See case dated 25 October 2018 on the National Food Chain Safety Office website portal.nebih.gov.hu

deaths come after numerous reports² of violence directed towards forest rangers and activists. Following the deaths, a group of 43 Romanian, European and international NGOs **sent a letter** to the President and Government of Romania, calling on them to condemn and investigate the killings.

Ghana's response to alleged corruption in rosewood trade (August 2019)

Following the recent Environmental Investigation Agency (EIA) **report**³ and a subsequent **BBC news report** on the illegal trade in Ghanaian rosewood (*Pterocarpus erinaceus*), a **response** from Ghana's Forestry Commission asserts that the claims of corruption and illegality are false. Addressing the EIA's allegations of extensive illegal harvest and export of rosewood in spite of Ghana's March 2019 logging and trade ban for the species, the Forestry Commission states that the Ministry of Lands and Natural Resources has not issued any new salvage permits for rosewood since the ban came into effect. It adds that the issuance and processing of CITES permits for rosewood export have also been suspended, although confiscated consignments are noted to undergo "transparent auction processes after which CITES Permits are issued to cover the logs for export". In response to EIA's estimate of six million rosewood trees exported from Ghana to China since 2012, the Forestry Commission states that exports over the period March 2012 to May 2019 instead represented approximately 257 230 trees. The Ghanaian government has **established** a Committee to investigate allegations of corruption in rosewood trade in Ghana, announced in August 2019. The Committee will investigate any anomalies in the harvest, transport and export of rosewood, as well as the allegations of corruption and whether rosewood is still being traded in breach of the trade ban.

Forest Trends release advisory on Cambodian timber exports to Viet Nam (November 2019)

An advisory published by Forest Trends highlights "significant volumes" of ongoing trade in logs and sawn wood from Cambodia to Viet Nam in contravention of a Cambodian government ban, in place since 1996, and commitments by both countries to tackle the illegal trade in timber. The advisory references a **journal article** which identifies a number of challenges that are driving the trade, including divergent interests between central and provincial government in Viet Nam; provincial budget and livelihood incentives to increase illicit timber trade in Viet Nam; high profits for Vietnamese and Cambodian businesses; and high-level corruption on both sides of the border.

Malagasy rosewood seized by Singapore set to be released (August 2019)

The Singapore Court of Appeal has ordered the release of a large shipment of 29 434 Malagasy rosewood logs, seized in Singapore in 2014, after the trader charged with trafficking was acquitted. Commercial trade in rosewood from Madagascar has been prohibited under CITES since 2013 and under Malagasy law since 2010. There are concerns that these released stockpiles might be traded illegally. The CITES suspension on international trade in Malagasy rosewood remains in place, further boosted at CITES CoP18 by Madagascar **withdrawing a demand** to sell illegally-harvested rosewood that had been seized by Malagasy authorities.

The EIA release new "Raw Intelligence" video instalment documenting the role of the Gabon Overseas Chinese Association (October 2019)

The **fifth instalment**⁴ of the EIA's undercover video series documents corruption and unlawful activity in Gabon's timber sector. Undercover footage shows the Secretary of the Association of Overseas Chinese in Gabon, who is also a leading figure in the Forest Union of the Asian Industry in Gabon (UFIAG), revealing illegal practices undertaken by companies to increase profits in Gabon and stating that he believes the majority of logging companies operating in Gabon to be breaking the law. He is recorded suggesting that Chinese companies avoid taxes by artificially inflating the cost of production and reducing the value of sales by keeping two books, one for authorities and one with the real records of finances. Others use offshore companies or smaller local partner companies to spread the amount of timber being exported. The recordings also highlight corruption at every level of public office.

Peruvian court rules against company accused of illegal logging (July 2019)

A Peruvian court has **ruled against** a company for illegal trafficking of timber forest products and obstruction of procedure linked to the logging of 2000 ha of natural forest in the Loreto region. Cacao del Perú Norte SAC (now called Tamshi SAC) have been fined PEN 15 million (~EUR 4 million) after the eight-year case. The general manager of the company has been sentenced to eight years in prison for the crimes committed, with two other members of staff receiving four-year sentences. The company is a member of the Melka Group of around 30 companies that were formed from 2010 to acquire land in the Peruvian Amazon. The EIA, which began investigating the case in 2013, **welcomed the ruling**.

² <https://www.bbc.co.uk/news/world-europe-50094830>; <https://www.ziaruldeiasi.ro/stiri/padurar-ucis-de-hotii-de-lemne--230401.html>

³ Featured in the **July-August 2019** EUTR briefing note.

⁴ Previous instalments featured in the **May-June 2019** and **July-August 2019** EUTR briefing notes.

SNOIE reports the suspension of two concession holders in Cameroon for illegal logging (November 2019)

The **report** (in French) by Cameroon's Coordination of the Standardised External Independent Monitoring System (SNOIE) states that two forestry companies were suspended on 7 November 2019 by the Ministry of Forests and Wildlife (MINFOF), for logging beyond concession limits and failure to comply with technical standards. The suspensions come in response to whistle-blower reports undertaken by the Forests and Rural Development (FODER) and Ecosystems and Development (ECODEV) organisations and submitted to MINFOF July-August 2019. The companies will remain suspended until further notice.

LEGISLATION & POLICY



EU and Myanmar confirm joint commitment to forest governance and trade in legal timber (November 2019)

A Multi-Stakeholder Group **workshop**, hosted on 5 November 2019 by Myanmar's Ministry of Natural Resources and Environmental Conservation (MONREC) and the EU, initiated the development of a roadmap of priority actions for the FAO EU FLEGT Programme activities focusing on promoting legal timber production and trade in Myanmar. The Multi-Stakeholder Group, representing government, civil society, and the private sector, discussed national legislation relevant to timber with particular focus on the definitions of legal timber. Discussion also focussed on identifying requirements and challenges that might be encountered by potential buyers of Myanmar hardwood timber in the course of due diligence assessments, such as accessing relevant information on compliance, legislation and risk of illegal harvest in the country.

Thailand recognises reclaimed timber as a legal source (September 2019)

The EU FLEGT Facility **reports** that the Legality Definition of Thailand's Timber Legality Assurance System (TLAS) now recognises reclaimed timber as a legal source. The report notes that reclaimed timber, originally sourced from older teak trees, is typically considered to be of higher quality and possessing better resilience to humidity than young plantation teak. Thus, there is a lucrative domestic market for reclaimed timber, and its recognition in the TLAS Legality Definition is particularly important for small and medium-sized enterprises (SMEs) in the country. The report highlights that such recognition enables Thailand to develop supply chain traceability and monitoring for reclaimed timber.

OTHER NEWS, RESOURCES & PUBLICATIONS



NGOs criticise alleged changes to Indonesia's Timber Legality Assurance System (SVLK) (September 2019)

An **article** published by the NGO Kaoem Telapak on 11 September 2019 voices concerns that the Indonesian government plans to simplify export requirements for certain furniture product groups by eliminating the need for obligatory SVLK certification for furniture products bound for countries other than Australia, Canada and EU Member States. Kaoem Telapak called on the government to rethink the alleged plans. A second **article** (in Bahasa) by the Forestry Independent Monitoring Network similarly criticises the plan, suggesting that simplification of SVLK requirements could damage timber trade reform in Indonesia. Following these articles, the Indonesian news site Bisnis reports that SVLK simplification is **under review** by the government, and additionally notes that the government is also considering **tax relief** for some wood products, to aid small and micro enterprises. No official statement from the Government of Indonesia on plans to make changes to SVLK could be found, thus these reports remain unconfirmed.

Forest Trends publishes commentary brief on Myanmar's Forest Law Draft Rules (August 2019)

The **briefing** presents a summary analysis of Myanmar's Draft Forest Rules of 2019, released in May 2019 by the Myanmar Ministry of Natural Resources and Environmental Conservation (MONREC) as guidance on the implementation of the country's Forest Law of 2018. Forest Trends notes that both the Forest Law of 2018 and the subsequent Draft Forest Rules appear to conflict with Myanmar's National Land Use Policy of 2016 and National Ceasefire Agreement (NCA) of 2015, and recommends caution in proceeding with implementing the Forest Law and Rules if these discrepancies are not addressed. Additionally, in October 2019 Forest Trends published a **report** on the role of natural resources on the Myanmar peace process. The report found an overall lack of meaningful progress towards reform of the governance of natural resources in the country and that the withdrawal of overseas technical

and financial support for the FLEGT process in August 2018 left “a large gap” in technical and financial support for forestry reform.

UK CA and TTF presented on implications of Brexit for UK importers’ implementation of the EUTR (October 2019)

Representatives from the Office for Product Safety and Standards (the UK Competent Authority) and the UK Timber Trade Federation (TTF) **presented** on the implications of Brexit for importers’ responsibilities under the EUTR at the UK Construction Week exhibition 6-8 October 2019. In the event of Brexit, the EUTR will be implemented in the UK as the UK Timber Regulation (UKTR). Accordingly, all imports of timber transiting or originating from the EU would require UKTR due diligence checks. The TTF noted that, currently, only 12.6% of UK timber imports are sourced from outside the EU, meaning that many UK operators have not previously needed to undertake due diligence.

Royal Malaysian Customs (RMC) tests TRAFFIC’s Guidelines for Verifying Timber Legality (November 2019)

TRAFFIC **reports** that, following translation and adaptation to Malaysia’s laws and timber regulations, its 2018 *Guidelines for Verifying Timber Legality* have been road-tested by RMC officers, as well as officers from the Forestry Departments of Sabah and Sarawak and Sarawak Timber Industry Development Corporation. A training module for use of the TRAFFIC Guidelines was developed by the Malaysian Timber Industry Board (MTIB) and customs officers, in partnership with TRAFFIC.

Capacity-building training workshop for Viet Nam timber enforcement (September 2019)

TRAFFIC, in partnership with the Vietnam Forestry Administration, held a two-day training **workshop** for 35 Vietnamese customs and forestry officials with the aim of building capacity to better identify illegal timber and address legality violations.

Research article on timber fraud and forensic capacity in the United States (July 2019)

The study used forensic wood anatomy to analyse 183 wood samples from 73 common consumer products sold by major national retailers for three types of fraud/misrepresentation, relating to misdeclaration of timber species, geographic origin, and product type. At least one type of fraudulent or misrepresented claim was detected in 62% of tested products. In addition, proficiency-testing of US forensic wood anatomy experts revealed that, whilst identification accuracy for domestic/temperate wood species was roughly 80%, accuracy for exotic/tropical woods was only around 50%. The authors conclude that the country’s forensic capacity is currently insufficient to support industry compliance and law enforcement at a relevant commercial scale.

Civil society organisations from forested tropical countries publish declaration on forests (October 2019)

The **declaration**, signed by 18 civil society organisations (CSOs) from countries engaged in or currently negotiating FLEGT VPA agreements, lays out country-specific recommendations for ways in which the EU can support governments, CSOs and communities towards ending illegal logging in Cameroon, the Central African Republic, the Democratic Republic of Congo, Ghana, Gabon, Lao PDR, Liberia, the Republic of the Congo, and Viet Nam.

FAO releases 71st edition of its Yearbook of Forest Products (August 2019)

The FAO’s Yearbook of Forest Products summarises global production and trade statistics for forest products including wood, fuelwood, pulp, paper and charcoal. The **new edition**, released on 26 August 2019, compiles statistics on volumes of production, consumption and trade in each country for the period 2013-2017.

New York Declaration on Forests (NYDF) publishes five-year assessment report (September 2019)

The **report** assesses progress, since the Declaration was adopted in September 2014, towards the NYDF’s ten goals on forest protection, restoration and governance and its core aims of halving tropical deforestation by 2020 and halting it by 2030. The report finds that tropical deforestation has in fact continued since 2014 and notes little evidence that the 2020 target can be achieved, despite an increase in political will to restore degraded forests. The report notes that some 49% of tropical deforestation remains illegal, and its analysis of progress towards “Goal 10: Improvements in Forest Governance” identifies several challenges including corruption, the perception that environmental laws obstruct development, a lack of funding, and a lack of civil society participation. However, the report also highlights demand-side regulatory measures including the EUTR, FLEGT, and the United States Lacey Act as examples of effective systemic support for forest governance.

NGOs publish briefing calling for European action against deforestation and human rights abuses (September 2019)

A **briefing** endorsed by the NGOs Fern, EIA, ClientEarth, Forest Peoples Programme, and Transparency International calls for the European Commission to build on the governance successes of FLEGT VPAs in order to tackle deforestation and human rights abuses caused by forest risk commodities. The briefing makes the case for strengthening linkages between FLEGT and the Sustainable Development Goals, in order to address challenges including deforestation caused by mining and agriculture.

FLEGT Independent Market Monitor trade consultation workshops held in Barcelona (October 2019)

On 7 October 2019, IMM held three consultation **workshops**, in association with the EU FLEGT Facility and the Spanish Timber Trade Federation, focussing on the current status and outlook for FLEGT-licensed timber.

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

The **latest edition** of EUTR News covers the period July to September 2019, providing an update on activities regarding implementation and enforcement of the EUTR, as well as broader work within the EU and internationally to address the issue of illegal logging.

EIA web tool for illegal Ghanaian rosewood launched (November 2019)

The EIA has launched a new web tool, **Rosewood Revealed**, to provide publicly-accessible data on the quantity and value of declared rosewood traded from Ghana to China on a monthly basis, which was valued at >USD 5.4 million in September 2019 (based on quantities in Chinese customs data, from the Global Trade Atlas)⁵.



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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⁵ *Pterocarpus erinaceus* (African rosewood) was listed in CITES Appendix II on 02.01.2017 (Senegal previously listed its population in Appendix III on 09.05.2016). International trade, as reported in Parties' annual reports to CITES, can be downloaded from the **CITES Trade Database**.