

Briefing Note to inform the implementation of the EU Timber Regulation August 2017 - October 2017

ENFORCEMENT OF EUTR



Inspections/checks conducted by the Swedish Competent Authority (2017)

The Swedish Competent Authority currently has two cases in the administrative court. The Competent Authority applied for imposition of a fine of 800 000 SEK [approx. 80 000 EUR] against an operator which had not taken measures stipulated in an earlier injunction; the Competent Authority also issued a prohibition decision against imports of teak from Myanmar by an operator. The operator has also been inspected as a trader.

The Competent Authority has also continued its wood sample identification work, with a rosewood sample sent for species verification. The wood was imported from India under HS code 4408 (veneer sheets) and used to manufacture guitars in Sweden.

The Nordic-Baltic EU Timber Regulation Competent Authorities report on cooperation and a supplier-oriented China inspection project

As one of the largest sources of EU Timber Regulation (EUTR) imports to Nordic-Baltic countries, a project was launched in Autumn 2016 looking at Chinese EUTR product imports, aiming to, *inter alia*, better understand Chinese supply chains, cooperate and share experiences between EU and EEA countries and to cross check documents provided by Chinese suppliers. This was achieved through sharing customs data (where possible under national legislation) and identification of Chinese suppliers exporting to multiple Nordic-Baltic states as well as operators importing from them. The first phase of the project ended on 5 July 2017.

Approximately 2000 furniture suppliers exporting to Nordic-Baltic countries were identified, with a total value of approx. 160 million EUR. Less than 50 Chinese suppliers accounted for nearly 50% of the total import value to the region. Twenty-one operators were checked as part of the project; of these, approx. 20% had appropriate due diligence systems (DDS) and approx. 60% had no DDS. All checked operators were willing to cooperate and to either create or improve their DDS. The project increased awareness among participating Competent Authorities of differences in working methods and the challenges in managing a project with participants from several countries. Other lessons included: the need to raise awareness of EUTR among operators and the need for close communication among Competent Authorities to maintain uniformity in decisions. Next steps planned for the project include: conducting timber identification analysis on products from China, exploration of methods to apply closer scrutiny to operators through cooperation between Competent Authorities, and creation of a secure online platform to facilitate sharing of information on EUTR enforcement cases.

For further information, contact a Competent Authority from one of the Nordic-Baltic countries.

Denmark held a “joint inspection week” 2-6 October 2017

As part of the cooperation among the Nordic-Baltic Competent Authorities, the Icelandic Competent Authority worked with the Danish Competent Authority for a week to observe processes relevant to the administration of EUTR, including inspection planning, risk analysis and follow-up checks with operators. During the same week, the Finnish Competent Authority joined in two inspections of Danish operators. One of the inspections found satisfactory implementation of EUTR, while the other operator was given an injunction.

European Commission [peer-to-peer initiative](#) available for supporting Competent Authority collaboration

The European Commission's TAIEX REGIO PEER 2 PEER tool supports peer-to-peer initiatives and MS are encouraged to apply for support to carry out joint inspections and other suitable initiatives.

The British Competent Authority provided an update on their processes when timber products are tested

When conducting an EUTR inspection, the British Competent Authority will always consider purchasing the product for which information on the due diligence system has been requested in order to carry out anatomical and isotope testing. By completing these tests, the Competent Authority can challenge, where necessary, claims regarding species and geographical origin made in the due diligence system. Products most likely to be considered appropriate for testing include furniture, composite products such as Plywood/MDF and products that have a complicated supply chain that may increase the opportunity for laundering.

The European Commission requested [Belgium to conform to the EUTR \(October 2017\)](#)

The Commission has found that Belgium, "where important quantities of timber are placed on the EU market, has not managed to carry out a significant number of verifications since the EUTR entered into force in 2013". The Commission sent a letter of formal notice to Belgium, who have two months to reply. The Commission has also expressed concerns over the (limited) scope of operator verifications carried out by the Belgian authorities.

The Belgian Competent Authority stated that they have been working to expand their capacity since 2014; from 1 September 2017, more staff were added to the EUTR inspection team, including a full time equivalent member of staff on EUTR controls. They plan to carry out 50 – 100 inspections per year.

Press coverage can be found [here](#), [here](#) and [here](#), among other sources available.

Danish [wood importer reported to the police for continued imports of teak from Myanmar \(August 2017\)](#)

The Danish Competent Authority instructed the company to comply with the EUTR in March 2017, but in June Customs authorities informed the Competent Authority that the company had made a further import of timber from Myanmar. The Competent Authority subsequently gave the company an opportunity to comment on the import, but the company could not satisfactorily prove to have taken sufficient action to render the risk of illegal logging negligible. The Competent Authority therefore reported the company to the police for being in breach of the injunction and Article 6 of the EUTR.

Dutch companies subject to [preventative measures](#) against import of teak from Myanmar (October 2017)

The Dutch Competent Authority issued preventative measures against the two companies, which were found to import teak from Myanmar without complying with the EUTR. The companies are required to pay a fine for every teak shipment that they place onto the EU market.

UK furniture retailer becomes the first in the country to be [fined for breaching the EU Timber Regulations \(October 2017\)](#)

Angora 2011 Limited, trading as Lombok, was found to have failed to conduct the required due diligence before placing a product imported from India onto the market. The company was fined £5000 plus costs after pleading guilty at the first hearing. The company had previously been found to be in breach of the EUTR in 2015, subsequent to which a Notice of Remedial Action and then a warning letter was issued.

NEPCon launched new resources to aid EUTR implementation (September 2017)

NEPCon's new "[Sourcing Hub](#)" tool, launched in September 2017, brings together risk assessments for timber production and trade in 62 countries, which together produce 87% of global timber. The risk assessments identify applicable legislation to and legally required documents for harvesting, transport and trade in each country. Steps to mitigate risk are suggested for each country. NEPCon are offering free training workshops on use of the tool in 12 EU countries and online in October and November 2017.

NEPCon also launched guidance on **identifying fake timber legality documents**. The article provides guidance on ways to assess whether a document might be fake and recommended steps to take if a fake document may have been identified.

The World Resources Institute launched the Open Timber Portal (October 2017)

A beta version of the World Resources Institute's **Open Timber Portal** was launched in October 2017. The portal aims to incentivise "legal and sustainable trade through better information-sharing". Interested parties can register online for access to the beta version and to provide feedback.

ILLEGAL LOGGING & TRADE



The European Commission submitted a formal request to the EU Court of Justice to impose financial penalties on Poland over illegal logging (September 2017)

The European Commission have submitted a formal request to the EU Court of Justice to impose financial penalties on Poland over illegal logging in the Natura 200 site Puszcza Białowieża (Białowieża Forest). The Polish Environment Minister **declared his intention** continue logging in the forest despite an **interim measure to stop increased logging** in Białowieża issued by the EU Court of Justice Court in July. The hearing in the main case will take place on 12 December 2017.

The value of seized illegal timber in Myanmar was reported to be rising "exponentially" (October 2017)

Myanma Timber Enterprise (MTE) reported that the value of illegal timber seized by the government has grown exponentially over the past five years from K168.51 million [105.6 thousand EUR] in 2013 to K15.14 billion [9.5 million EUR] in 2016, according to Myanmar government data. An increase in the number of seizures in border areas was also noted.

The Cambodian Ministry of Environment disputed findings released in a Forest Trends and Vietnamese trade associations (HAWA, FPH Bin Dinh, and VIFORES) report, which indicates continued illegal exports (September 2017)

The report on Vietnam's wood and wood products imports and exports found that illegal exports of timber from Cambodia to Vietnam continued in the first half of 2017; Vietnam reported imports of 143 000m³ of roundwood from Cambodia in the first six months of 2017. The Ministry of Environment **disputed these claims** and stated that the report was "misleading and intended to distort public opinion about the ministry's efforts" through misuse of figures. The Ministry also stated that large-scale forest crime has been eradicated and that efforts to curb small-scale crimes are ongoing.

Peruvian police captured members of illegal logging criminal organisation (July 2017)

Police operations in the regions of Junin, Ucayali and Lima in Peru led to the arrest of 17 alleged members of the organised crime group los Castores de la Selva Central, including three Servicio Nacional Forestal y de Fauna Silvestre (SERFOR) employees. The group are accused of illegal logging in protected areas and nature reserves and the transportation and trade in illegal timber products. They are believed to operate through a sawmill company called Negocios y Maderas Bottpor based in the city of Satipo, using permits unlawfully gained by the arrested SERFOR staff.

Cambodian illegal loggers arrested in Thailand (September 2017)

Eighteen Cambodian nationals were arrested under suspicion of illegal logging of Siamese rosewood (*Dalbergia cochinchinensis*) in Thap Lan National Park.

Former deputy director of Ukraine’s Busk Forestry Enterprise has property expropriated for **illegally authorising export of unprocessed logs (August 2017)**

A judge in the District Court of Lviv ordered the seizure of property belonging to the former deputy director of the Busk Forestry Enterprise, after criminal proceedings against him for abuse of power or official position and official forgery. Unprocessed wood was illegally exported in the form of fuelwood based on documents signed by him.

Ukrainian NGO StopCorruption reported on **exports of potentially illegally logged timber to Romania (September 2017)**

The NGO reported on export of valuable logs from the Chernivtsi region which were allegedly declared as firewood on documents seen by the NGO, as well as export of logs without any documentation.

Global Witness released a report on Chinese imports of **potentially illegally harvested wood from Papua New Guinea (August 2017)**

The report examines potential illegality in the allocation of leases for forest harvesting in Papua New Guinea. It notes that Papua New Guinea exports 85% of its tropical logs to China, who in turn imports a third of its timber from Papua New Guinea. China produces wood products from these logs, with some exported to the United States where trade in illegal wood is prohibited. The report calls on China to implement tighter restrictions at the import stage of the timber supply chain to ensure timber is legally harvested in source countries.

EarthSight launched a **whistleblowing platform for reporting potentially illegal imports of wood and wood products (October 2017)**

The new initiative, “**Timberleaks**”, aims to publish information on companies that may not be complying with applicable timber related legislation in the EU and the US, based on “evidence, including from a growing network of industry informants”.

LEGISLATION & POLICY



European Union

The **FLEGT/EUTR Expert Group** met in Brussels on 20 September. In addition to exchanging updates on EUTR implementation, it was agreed to carry out further work on the update to the two draft guidance documents on risk mitigation measures and substantiated concerns. Updates were provided on a public consultation planned for November 2017 on the impact assessment on possible changes to the EUTR product scope. Discussing ongoing work on an ISO Chain-of-custody standard, clarification was provided that “developments under an ISO standard cannot and will not be given the same status as FLEGT licences and CITES permits which are the only exceptions under EUTR, accepted as automatic proof of legality”. Further discussion was held on the follow-up to the substantiated concerns from EIA about timber from Myanmar and, whilst the Competent Authorities acknowledge the efforts being made in Myanmar, it was concluded that none of the assurances that the Competent Authorities have received can be relied upon to demonstrate full compliance with EUTR due diligence obligations. It was also concluded that documents from Double Helix for Myanmar do not provide operators with sufficient information as regards the actual origin of the timber to enable them to carry out a full risk assessment or mitigation in the exercise of due diligence. The EU-funded FLEGT Independent Market Monitoring project implanted by the ITTO, provided an update on its activities and reported on preliminary findings from its market surveys. Overall, the start of FLEGT licensing in Indonesia has revived the interest in FLEGT and the vast majority of respondents confirm their interest in giving preference to FLEGT-licenced timber, but at the same time there is in some cases still a lack of awareness about FLEGT, as well as about enforcement of the EUTR. It was reported that some Indonesian stakeholders expressed concerns that it may be easier to import under EUTR than the FLEGT licensing scheme, requested that EU Member States not

charge fees for processing FLEGT licenses and asked for FLEGT licenses to be accepted as sustainable timber. The Agenda and all relevant materials and presentations from the meeting can be found at the [FLEGT/EUTR Expert Group register](#).

FSC updated its standard on sourcing controlled wood to better comply with the EUTR (June 2017)

The FSC issued a directive (FSC-DIR-40-005) as an addendum of its “Requirements for sourcing FSC controlled wood” (FSC-STD-40-005). The directive aims to bring the standard on sourcing controlled wood more into line with the requirements of the EUTR, by making it mandatory for all companies to use a new FSC risk assessment for category 1 (on legality), rather than an old risk assessment. NEPCon released a briefing on the update, including [how it relates to EUTR compliance](#).

International

The EU FLEGT Facility released a comparison between the Japanese Clean Wood system and the EUTR (August 2017)

The EU FLEGT Facility carried out an analysis of the similarities and differences between the recently adopted Japanese Clean Wood act and the EUTR. The key differences identified were the voluntary nature of the Japanese system and that penalties are based around revocation of registration, rather than monetary penalties. The Japanese Act also has a broader scope, covering “wood and the like”. The analysis also makes recommendations for further developments which could strengthen the Japanese system.

ClientEarth released a comparison of illegal logging laws in the EU, the US, Australia and Japan

The document acts as a short overview and comparison of timber import regulations in the four countries, including the definition of illegal timber, key requirements, regulated parties, products covered and enforcement and penalties.

Reforms announced to Australia’s Illegal Logging Regulations (October 2017)

Australia announced a series of reforms to the “Illegal Logging Prohibition Regulation 2012”, which will, *inter alia*: streamline due diligence requirements for importers or processors dealing with FSC or PEFC certified products, remove FLEGT licences from the Regulations’ scope, clarify that personal and non-commercial importers do not need to provide business related information as part of their due diligence system, and clarify that any conclusions of risk must be ‘reasonable’ and supported by evidence gathered as part of the due diligence process. The ‘soft-start’ compliance period will also end; from 1 January 2018 penalties may be issued to businesses and individuals who fail to comply with the due diligence requirements. Importers are still required to ensure that certification claims for FSC and PEFC products are valid, that the supplier is the certificate holder, that the actual product is covered by the certificate, and that it is linked to the invoice or contract. Risk assessment or mitigation would not be required if the importer imports products with certificates that meet these conditions; otherwise, a standard due diligence has to be carried out, based on gathering information, analysing risks and taking mitigation measures.

The United States announced action to block illegal timber imports from Peru (October 2017)

The United States Trade Representative directed the United States Customs and Border Protection (CBP) to block future timber imports from Inversiones Oroza, a Peruvian exporter, based on illegally harvested timber found in its supply chain. The enforcement action was taken by the Interagency Committee on Trade in Timber Products from Peru (Timber Committee) under the United States – Peru Trade Promotion Agreement’s (PTPA) Annex on Forest Sector Governance (Forest Annex).

Myanmar Timber Enterprise to contract the private sector for 2017-2018 logging season (August 2017)

The Deputy General Manager of the Extraction Department in the Myanmar Timber Enterprise (MTE) confirmed that the private sector will be contracted to undertake log harvesting and transport in the 2017-2018 logging season in the event that MTE have [insufficient capacity or facilities](#).

EU FLEGT Facility released a briefing on the Chinese Timber Legality Verification System (October 2017)

The briefing examines the potential roles of government agencies, industry associations, verification organisations, research institutes and NGOs in making the verification system work in practice, as well as

examining the potential impact of a newly developed timber legality verification standard for domestic and imported timber on the system.

Wood-based panel mills in Linyi City, China, told to cease operation (August 2017)

Wood-based panel mills in Linyi City, Shandong Province, have been told to cease operations as they do not meet environmental protection and safety regulations, as a result of investigations by the Environmental Protection Bureau.

An APEC workshop took place in Vietnam to share best practices for identifying illegal timber (August 2017)

More than 100 representatives from countries in the Asia Pacific Economic Cooperation (APEC) forum met in Vietnam from 18-19 August to discuss the tools and resources available to identify illegal timber and wood products. Various initiatives were introduced to the attendees, including INTERPOL's Project LEAF, the UNODC-WCO Container Control Program, and WCO's ENVIRONET. Discussions on the UNODC's Best Practice Guide for Forensic Timber Identification and the WCO timber trade guidelines also took place.

ClientEarth released a briefing on the legal framework on forest conversion in Ghana (September 2017)

ClientEarth identified five key risks arising from current laws in Ghana governing forest conversion, including, *inter alia*, uncertainty surrounding current laws and lack of enforcement by regulators. The briefing also highlights opportunities for reform, such as clarification of the management of forest reserves in law, maintenance of an accurate record of forest reserves and improvement of enforcement through increased resources, cooperation and transparency.

Ghana's Forest Commission urged the government to speed up policy implementation to help fight the illegal timber trade (September 2017)

The assistant manager of the Ghana Forest Commission Nkawie District called on the government to expedite action to pass the Public Procurement Policy on Timber and Timber Products, drafted in 2012 by the Ministry of Lands and Natural Resources. The policy is expected to require all contractors of public projects, the largest market for timber in Ghana, to use legally sourced timber with authentic documentation, reducing the illegal timber trade. At present, an estimated 80% of timber on the market in Ghana is illegal.



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

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