



SUMMARY RECORD OF THE EUTR/FLEGT EXPERT GROUP MEETING **2 DECEMBER 2015**

The agenda of the meeting was adopted as it stood.

The European Commission (EC) informed participants that documents discussed in the Expert Group meetings would be made available to the public through the Register of Expert Groups.

2. Update on EUTR and FLEGT Regulation implementation

Member States (MS) reported on changes in the implementation of the EUTR and FLEGT Regulation that occurred since the previous update.

The EC gave an update on the infringement cases open against a few MS who do not yet comply with the basic requirements of both Regulations.

2. Information points

a) European Court of Auditors special report on FLEGT Action Plan

The European Court of Auditors (ECA) made recommendations regarding the FLEGT Action Plan. These will be taken on board in the EC evaluation of the FLEGT Action Plan (AP).

A dialogue took place with the EC after which the ECA finalised its report and presented it on 1st December 2015 to the European Parliament (EP) which supported the recommendations of the ECA. There was some concern about the slow implementation of the EUTR and the funding of the AP by the EU. Desire was expressed to include FLEGT into a deforestation action plan and for the EC to remain committed to the implementation of the FLEGT AP.

The EC will launch a feasibility study on a deforestation AP to look at policy options at the disposal of the EU and its MS and at the role of the EU in causing deforestation in the world. The study should deliver after the summer of 2016.

The Council is expected to give its opinion on the findings of the ECA.

b) Access to the EUTR Group on Cap4Dev for CITES Management Authorities

Around 370 timber species are included in CITES (such as rosewood and afrormosia). An export permit has to be issued for all species included in CITES Appendix I. In the

EUTR, there is an exemption from the due diligence obligation for CITES products. But MS need to issue import permits based on sustainability and legality findings.

To facilitate cooperation between CITES and EUTR authorities, a guidance document on the steps to take in case of doubt was designed. Access to Cap4Dev will be given to the CITES Management Authorities to enhance cooperation. In exchange, EUTR Competent Authorities will be given access to CITES reports (by consultants, exporting countries and NGOs).

c) Communication on EUTR checks and penalties applied

The EC reported on the information received from the MS concerning communication on checks and penalties applied. It also noticed that good results achieved in MS were not always properly communicated to the general public. The EC would like to communicate the good results that were achieved after April 2015, a period which is not covered by the EUTR Report.

d) Update on Monitoring Organisations

One new Monitoring Organisation (MO) has been recognised: AENOR which will operate in Spain and Portugal. Two already recognised MOs notified the EC of some changes: ICILA became part of a larger company and NEPCon changed its address from Denmark to Estonia. A meeting with the 12 already recognised MOs will take place on 12 January 2016.

e) Debriefing of informal meeting of the EUTR Enforcement Group

In the informal meeting of the EUTR Enforcement Group of 1st December 2015, MS discussed the role of agents and difficulties in getting information from these agents. They agreed to share inspection results. Denmark debriefed on a webinar with Brazil. A checklist will be developed for companies making business with Brazil. Waste and recycled materials were also discussed and a text will be drafted for the next meeting. Latvia debriefed on a meeting with Belarus, Ukraine and Russia. The Netherlands gave a feedback on a meeting with the Japanese government which is thinking of developing legislation similar to the EUTR. The UK, Denmark and Sweden carried out a joint inspection. Such joint inspections should be encouraged. The meeting ended with a reflection on CAs and their role in the EUTR implementation process.

The next informal meeting will be organised on 10 February 2016, back-to-back with the EUTR/FLEGT Expert Group meeting of 11 February. The EC invited all MS to actively participate in such meetings, which are a good forum for new ideas to be put forward and implemented.

4. Update on checks conducted and penalties applied in Romania

The CA of Romania updated the other participants on the checks conducted and the penalties applied in Romania in the Schweighofer case. A sanction of Euro 45,000 was applied. More than 9,000 m³ of timber were seized. 22 sanctions were applied to providers in Romania and the procedure is still ongoing to reach all the remaining providers. A report will be circulated in due course.

5. EUTR Review – update on current state of play

The EC produced two documents: a Report from the Commission to the Council and the European Parliament and a Staff Working Document summarising the findings of the EUTR evaluation that will accompany the Report. The evaluation questions in the SWD cover the relevance, EU added value and efficiency of the EUTR. The EUTR Report mirrors the answers to the evaluation questions but in a succinct form. It makes recommendations for the next steps.

Some of the conclusions are that: being an SME is not an obstacle to comply with the requirements of the EUTR; the implementation by MS of the EUTR within the first two years was incomplete, which led to uneven application by the industry; insufficient human and financial resources are allocated to MSCAs; there is a different interpretation of the EUTR among MS; the EUTR has the potential to change behaviours; there are diverging opinions on the product scope; other countries and sectors were influenced by the EUTR, leading to the adoption of similar legislation; the EUTR is perceived as an important instrument to combat illegal logging on the international scale; the EUTR is coherent with other relevant legislation.

The Report does not propose any amendments to the main body of the EUTR but it suggests expanding the product scope in annex. This exercise will be preceded by an impact assessment and the proposed options will be discussed with the stakeholders.

The Report will be adopted by the College of the EC in early January 2016 and then submitted to the Council and the EP.

6. Update on FLEGT VPA process with Indonesia

There was remarkable progress in the implementation of the VPA in Indonesia in the last months. All forests and plantations are SVLK-certified. All governance and monitoring procedures are in place. All actions of the joint action plan that was agreed will be finalised by end December 2015.

But the Indonesian Ministry of Trade has issued a regulation whereby SVLK is no longer compulsory for furniture, which is not in line with the text of the VPA and its annexes. The claimed purpose of Indonesia is to reduce the administrative burden on the private sector. The SVLK has actually helped Indonesia to clean up its reputation on the global market and increase its exports.

This situation may prevent the EU from starting FLEGT licensing with them in the near future. The EC is however ready to move ahead with FLEGT licensing as of 1st April 2016, as soon as the issue is solved. The EC is finalising the development phase of the FLEGT e-licensing system which should be operational in time. The Delegated Regulation to amend the Annex to the FLEGT Regulation has been put on hold.

MSs must be able to handle FLEGT licenses and should therefore have national legislation in place and be able to take action in case of violation of the Regulation.

7. Update on interstate electronic FLEGT licensing system

The EC presented a demo of a prototype which should be available in mid-December 2015. The system should be fully operational in March 2016. MSCAs can copy all the information of the license put in the system by the importer. The license can be approved, rejected or ignored by the CA. The validation status can be changed if a problem is noticed after approval. A pilot test session will be launched soon.

The Indonesian Ministry of Environment is giving access to its SILK system between 1st and 18 December 2015. MSCAs will be able to check whether the information provided by importers matches the initial Indonesian license.

8. FLEGT Action Plan evaluation

The EC presented the state of play and preliminary recommendations of the FLEGT Action Plan evaluation Report. The final Report is expected by end 2015-beginning 2016. A Staff Working Document will be prepared by the end of the first quarter of 2016.

The Report covers the relevance, design, effectiveness, efficiency, impact, cost-effectiveness, sustainability, coherence and EU added value of the FLEGT AP. The recommendations of the FLEGT AP evaluation are broadly consistent with those of the European Court of Auditors performance audit.

There is no plan to give a green lane to private certification schemes under the EUTR. Private certification is considered as a tool for due diligence among others. At the time the EUTR was developed, competition rules prevented private certification schemes to be endorsed by the Regulation. For VPAs, if a government control validates the private certification, this is good enough for the EC. There is indeed some contradiction between FLEGT and the EUTR in this respect.

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