

## Briefing Note for the Competent Authorities (CA) implementing the EU Timber Regulation September - October 2018

### UNEP-WCMC PUBLISHES FIRST FIVE OVERVIEWS OF TIMBER SOURCE COUNTRIES

Overviews of five timber-exporting third countries have been released ([Brazil](#), [China](#), [Myanmar](#), [Russian Federation](#) and [Ukraine](#)), to help operators and Competent Authorities identify and assess the risks of sourcing illegally-harvested timber, to support implementation of the EU Timber Regulation. These overviews, developed by UNEP-WCMC for the European Commission, include information on key risks of illegality, legal trade flows, forestry management, relevant legislation and legally required documents. They have been subject to external peer review and will be updated periodically based on available information.

### ENFORCEMENT OF EUTR



#### Belgian CA sent an [information letter](#)<sup>1</sup> on teak imports from Myanmar (August 2018)

The letter highlighted to Belgian operators that, currently, importers of teak from Myanmar run the risk of placing illegally harvested timber on the EU market. It informed operators that Belgian imports originating from Myanmar will be temporarily taken into custody and may be returned to the country of origin, if legality cannot be demonstrated within one month of seizure. This information followed a previous letter, sent to operators in May 2017, as well as notices of remedial action issued to several Belgian operators. The CA reported that recent shipment inspections in Belgium and elsewhere in the EU had found no effective mitigation measures for reducing the risk to a negligible level of teak imports from Myanmar, and stressed that such imports were therefore in violation of EUTR.

#### German CA held EUTR anniversary event: 'Timber trade and the conservation of forests' (October 2018)

The event, which marked five years of EUTR action, was held at the Thünen Institute in Hamburg on 8-9 October. The event included sessions on EUTR implementation in Germany, Spain, and the UK, as well as FLEGT developments in Africa, the status of the Global Timber Tracking Network, and lessons learned from the United States Lacey Act. Lecture sheets are available in German and English on the [event's webpage](#).

#### German CA hosted the Timber Regulation Enforcement Exchange (TREE) meeting, organised by Forest Trends (October 2018)

The TREE meeting, held in Hamburg on the 10-11 October, was attended by 18 EUTR CAs, European Commission representatives, four United States Lacey Act enforcement agencies and the Republic of Korea's Forest Service, as well as private sector and civil society experts. During the two day meeting participants: presented national and regional updates on practical enforcement; discussed due diligence standards and current legality risks for timber from Brazil, Peru and Ukraine; attended a document training session to aid in assessment of compliance for imports from Guyana, Mexico and Mozambique; discussed draft guidance from the EC on the '[consideration of prevalence of armed conflict](#)

<sup>1</sup> Letter available in French and Dutch

and sanctions in due diligence systems'; assessed the global outlook for pulp and paper; and discussed the use of sampling and paper forensics in inspections.

#### **UK CA reported on regional workshops for improving businesses' ability to identify and mitigate risk (September 2018)**

The UK CA held a workshop aimed at the yacht building industry, during the Southampton Boat Show (14-23 September). The workshop was attended by 30 delegates, including yacht builders and timber suppliers, and was focussed on teak from Myanmar. The workshop was part of an **ongoing series** of regional timber-specific workshops that the CA is running with the aim of improving the risk identification and mitigation abilities of businesses. The CA also reported that UK enforcement officers had recently completed projects examining timber imports from Turkey and from countries that are not major processors or suppliers of timber.

#### **UK Government published Statutory Instrument No. 1025 on FLEGT (September 2018)**

The UK Government published **'The Timber and Timber Products and FLEGT (EU Exit) Regulations 2018'** on 21 September in exercise of powers in section 8(1) of the European Union (Withdrawal) Act 2018. This is to ensure that EU and UK legislation establishing the regime that prohibits the placing of illegally harvested timber on the market and establishing a licensing scheme to improve the supply of legally harvested timber will continue to be operable after the UK withdraws from the EU. The Regulations will come into force on exit day.

#### **Sweden provided updates on actions taken to enforce the EUTR (October 2018)**

The Swedish CA announced that inspections are ongoing, involving taking samples for analysis of species and origin. Rulings have been made by the administrative court on two court cases. The court announced that, unless illegality can be proven by the CA, an injunction should be the first measure taken against an operator after an inspection leading to a non-negligible risk finding, as opposed to issuing a prohibition decision. They are the only operator in Sweden who still imports teak from Myanmar. In an **earlier case involving Dollarstore**, the court announced that the operator should **pay the fine** given to them for not having a due diligence system (DDS) in place. The decision has been appealed by Dollarstore to the Court of Appeal. In the meantime, the Swedish CA has sent a new injunction with a fine, adjusted to the increased revenue, to the operator. This injunction has also been appealed to the administrative court, thus there are currently two cases ongoing relating to Dollarstore.

#### **Swedish CA distributes an information letter to timber importers (October 2018)**

The Swedish CA, the Swedish Forest Agency, has announced that they will send out an information letter via email to approximately a thousand importers of products covered under the EUTR. This follows the example set by the Danish CA. The letter will be received shortly, including an invitation to a free webinar, planned to be held in December 2018.

## **ILLEGAL LOGGING & TRADE**



#### **Cambodia submitted documents to the CITES Secretariat evidencing CITES violations by Viet Nam (September 2018)**

The Environmental Investigation Agency **reported** that the Government of Cambodia had formally submitted evidence to the CITES Secretariat showing that the Government of Viet Nam had accepted falsified CITES permits to import over 8000 m<sup>3</sup> of illegally harvested Siamese rosewood (*Dalbergia cochinchinensis*) from Cambodia during 2013 and 2014. In April 2013, prior to the illegal imports taking place, Viet Nam had received formal notification that Cambodia had banned all trade in Siamese rosewood in preparation for the species' Appendix II CITES listing coming into force, and a request for cooperation in halting trade.

#### **EIA published a statement criticising Myanmar's Kayah State hardwood agreement (September 2018)**

The Environmental Investigation Agency (EIA) condemned an agreement made by the Myanmar Timber Enterprise (MTE) to harvest and auction 5000 tons of hardwood timber, including 3000 tons of teak, from the conflict-torn Kayah State. The timber will be logged by an unnamed private company in areas controlled by the Karenni National People's Liberation Front, and sold at auction by the MTE. The EIA cautioned that the agreement was likely to breach Myanmar's forestry regulations, as the 5000 tons of timber will be harvested in addition to the country's Annual

Allowable Cut. Furthermore, the EIA stated that the MTE's system does not currently allow the exact origin of harvested timber to be traced, indicating that the harvest could risk exceeding 5000 tons.

### **License suspensions for several Cameroon logging companies due to illegal activities (September 2018)**

Several companies that came under investigation in a recent [report](#) by the Standardized System of Independent External Monitoring (SNOIE) have had their [extractive licenses suspended](#), as a result of illegal logging activities in the Centre Region of Cameroon. Companies were variously found to be non-compliant with the norms of exploitation, committing logging document fraud, exploiting beyond their standing order limit and conducting suspected unauthorised logging of national forest.

### **NGO report stated that Asia Pulp & Paper (APP) have defaulted on their zero-deforestation policies (August 2018)**

A coalition of NGOs have published a report asserting that the Indonesian paper company APP, for which FLEGT licenses were issued in 2016, defaulted on its zero-deforestation policies. They purchased pulpwood originating from timber concessions of the Djarum Group in East Kalimantan in 2017 and APP-operated mills bought wood fibre from the manager of pulpwood concessions in the same region. In the latter case, satellite imagery analysis indicated that the concession manager (PT Fajar Surya Swadaya) had cleared natural forest for concession expansion.

## LEGISLATION & POLICY



### European Union

The [FLEGT/EUTR Expert Group](#) met in Brussels on 27 September 2018. The Expert Group discussed updates on the implementation of EUTR including substantiated concerns received by some Member States on timber from Brazil and inspections carried out on operators importing teak from Myanmar. The Expert Group upheld its opinion on imports of teak from Myanmar harvested before 2017, as it is not possible for operators to mitigate the risk of illegality. Earthsight presented their [report](#) on illegal timber harvest and corruption in Ukraine. The report suggested the EU is importing more illegal timber from Ukraine than from all tropical countries combined and concluded that due diligence cannot reduce the risk of illegality to negligible. The timber processing company EGGER presented their DDS applied to imports from Ukraine, explaining the steps taken to reach a negligible risk of illegality as regards the timber they process, independent of whether they act as operators or traders, including a recent external audit of their system by an international inspection and verification company. An update was provided on the impact assessment of EUTR product scope, which considers the impact of options ranging from no change to the inclusion of all products containing wood. Among other items on the agenda, it was noted that the [biennial report](#) on the implementation of the EUTR was to be published on EUROPA (published on 5 October) and that the alignment of reporting obligations for the EUTR and FLEGT Regulation would be discussed in the Council Working Party on Environment in September. The outcomes of a meeting with the EUTR Monitoring Organisations and the informal EUTR Enforcement Group meeting on 26 September were discussed. The Danish CA presented its information campaign for operators, and there were also updates on VPA negotiations with Guyana and Thailand, and amendments to the VPA Annex with Ghana. Revisions will be made to the Annual Synthesis Report 2017 on implementation of the FLEGT licensing scheme. The EC is organizing a workshop with Indonesia and the FLEGT CAs on 13 November 2018.

### **European Commission (EC) published guidance on the verification of legality of imported timber from CITES-listed species (October 2018)**

On 18 October, the EC adopted the ['Guidance document on steps to be taken by EU Member States in the case of doubts as to the legality of timber from CITES-listed species imported into the EU'](#). The document provides guidance to the CAs of the Member States in implementing the EU Wildlife Trade Regulations, to be used in conjunction with current legislation. This guidance document provides information on elements that may raise doubts as to the legality of shipments, types of questions to ask the exporting country and guidance on evaluating whether the information provided is satisfactory. It also encourages the sharing of information within each EU Member State between the CITES management authority and CAs in charge of implementing EUTR and the FLEGT Regulation.

### **Fern cautioned that the EU-Japan Economic Partnership Agreement may pose a threat to FLEGT (September 2018)**

The NGO Fern has called upon the European Parliament to partially suspend ratification of the **EU-Japan Economic Partnership Agreement**, which aims to enter into force in 2019, in order to amend the provisions on forests and timber to be consistent with EU commitments. Fern's call was made on the grounds that Japan's **Clean Wood Act (2017)** on legal sourcing of timber is voluntary and the deal could therefore negatively impact FLEGT and EUTR. In their September briefing note, Fern also raised concerns about Japanese imports of illegal timber. A second **report**, published by the Environmental Investigation Agency in September, also detailed Japanese imports of timber illegally harvested in Ukraine and Romania by suppliers of the Austrian company Holzindustrie Schweighofer, which came under **investigation** earlier this year.

### **International**

#### **70<sup>th</sup> meeting of the CITES Standing Committee (SC70, Sochi, Russian Federation, 1-5 October 2018)**

At SC70, the **Standing Committee** considered a number of compliance matters relating to commercial trade in timber species. The SC agreed that Parties would suspend commercial trade in **Siamese rosewood** (*Dalbergia* spp.), including finished products, from Lao People's Democratic Republic until the country can make scientifically based non-detriment findings (NDFs) for trade in the relevant *Dalbergia* species. Lao PDR is working to overcome challenges of illegal trade and agreed to report to the CITES Secretariat on progress and implementation by 1 February 2019. The SC also suspended commercial trade in ***Pterocarpus erinaceus*** (Kosso) from Nigeria until a scientifically based NDF can be made for trade in this species. The representative for Madagascar presented a progress update on tackling the illegal trade in Malagasy ebonies (*Diospyros* spp.). The SC concluded that, although Madagascar's **revised business plan** presented improvements, it could not yet be approved and the trade suspension on Malagasy rosewoods, palisanders and ebonies would be maintained.

Furthermore, a draft Resolution on ***Guidance for verifying legal acquisition of CITES specimens to be exported*** (SC70 Doc. 27.1) was discussed, with proposed revisions to the text (**SC70 Com. 16**), before being considered for adoption at CITES CoP18 in Sri Lanka, 2019. This draft resolution includes recommendation that Management Authorities may verify legal acquisition based on a risk assessment of the chain of custody, and that after reviewing documentary and other information, if there is high risk that the specimen was not legally acquired, may engage in further scrutiny of the chain of custody. It also recommends that determination of legal acquisition should, to the extent possible, take into account the whole series of actions through which the specimen is brought from its source into the possession of the exporter.

#### **EU TAIEX expert mission report on reform of forest governance in Ukraine released (October 2018)**

The mission report has been released on the EU Technical Assistance and Information Exchange (TAIEX) expert mission on reform of forest governance in Ukraine, conducted between 29 January and 2 February 2018. The mission had the objective of analysing the institutional system of forest governance in Ukraine, identifying issues and developing proposals for institutional restructuring. It was found that numerous weaknesses were present in the institutional structures of forest governance in Ukraine, including fragmented forest policy and legislation and issues surrounding the issuance of felling licenses.

#### **World Resources Initiative (WRI) published the 2018 edition of their guide to sourcing legally produced wood (September 2018)**

The '**Sourcing Legally Produced Wood: A Guide for Businesses – 2018 Edition**', produced by the WRI under the Forest Legality Initiative, updates and expands on the 2014 publication of the same name. The 2018 edition provides information on illegal logging and associated trade, country logging exports and export bans, and public and private procurement policies. Additionally, the new guide contains an updated list of CITES timber tree species and guidance on legislation including the EUTR, the United States Lacey Act and the Australian Illegal Logging Prohibition Act.

#### **Sierra Leone Government suspend all logging concessions with immediate effect (September 2018)**

Sierra Leone's Ministry of Agriculture and Forestry issued a **press release** on 17 September announcing the immediate suspension of all forest logging concessions until such time as a 'revised framework for the award of forest concessions' has been developed. The Ministry cautioned that any continued logging activity could result in legal penalties, and requested that police, district forest officers, local authorities and national forest guards assist with enforcement. The general public were also encouraged to report any illegal logging to the Director of Forestry.

### **President of Gabon issued declaration that all forest concessions will be FSC certified by 2022 (September 2018)**

The President of Gabon, His Excellency Ali Bongo Ondimba announced on 26 September that all forest concessions in Gabon will have to be certified by the FSC by the year 2022; any concessions that have not entered the FSC forest certification assessment process by this date will have their permits withdrawn. Currently, only 14 per cent of the country's total forestry concessions are FSC certified. The European Union and China are important markets for Gabonese timber exports.

### **Republic of Korea's 'Act on the Sustainable Use of Timbers' entered into force on 1 October (October 2018)**

The Act, enforced by the Korea Forest Service (KFS) and Korea Customs, came into force on 1 October to prevent import of illegally-harvested timber into the Republic of Korea. The new compulsory legislation covers lumber, pallets, plywood, and anti-decay, fire-retardant and/or laminated wood, and may be extended to cover other timber products in future. Importers are now required to submit documentation to Customs authorities demonstrating timber legality before the imports will be cleared to enter the country. FLEGT-licensed timber is recognised as legally harvested by the KFS. A comparison of Korea's Act with the EUTR has also been **published**.

### **Research article on 'civil society participation in REDD+ and FLEGT processes' published (September 2018)**

The article analysed case studies from Cameroon, Ghana, Liberia and the Republic of Congo to understand how participation of civil society actors differed between REDD+ and FLEGT initiatives. The recognition of civil society participation in national forest governance policy making was found to be 'growing' in the case study countries. Additionally, the article presented several 'avenues of interventions' that were needed to address gaps in participation, including civil society capacity building, enhancing participatory platforms, and improving representation of community groups.



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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