

Briefing Note on the EU Timber Regulation and on sourcing of deforestation-free commodities

April – September 2021

EUROPEAN COMMISSION PUBLISHES STUDY ON CERTIFICATION AND VERIFICATION SCHEMES IN THE FOREST SECTOR AND FOR WOOD-BASED PRODUCTS (SEPTEMBER 2021)

The **report**, conducted by Preferred by Nature (formerly NEPCo) on behalf of the European Commission, examines alignment of five voluntary forest product certification schemes with the requirements of the EUTR. The five schemes selected for assessment were: Bureau Veritas' Origine et Légalité des Bois (OLB), Forest Stewardship Council (FSC) International, ISO Standard 38200 on chain of custody of forest products, Programme for the Endorsement of Forest Certification (PEFC) International, and Sustainable Biomass Program. The study assesses the effectiveness of these certification schemes against a Scheme Assessment Framework and provides guidance to operators on how to assess a scheme's strengths and weaknesses as part of EUTR due diligence. Whilst the report noted that certification schemes can provide significant support to operators in aspects of legality assessment, several limitations were identified. Scheme limitations included gaps in legality definitions and supply chain traceability, as well as challenges in detecting and addressing corruption and fraud. The report concluded that certified products and supply chains provide operators with greater assurance than non-certified alternatives, although they do not negate the need for risk assessment as part of EUTR due diligence obligations.

IMPLEMENTATION & ENFORCEMENT OF EUTR



European Commission holds 5th meeting of its Multi-Stakeholder Platform, with a focus on implementation of the EUTR and FLEGT Regulation (June 2021)

At the meeting, held virtually on 24 June 2021, the Commission updated Member States on the EUTR and FLEGT Regulation Fitness Check (FC) and the Impact Assessment (IA) on additional demand-side measures. The FC and IA Staff Working Documents will be published [in the fourth quarter of 2021] alongside the forthcoming proposal for a new legislative instrument on deforestation. Member States' Competent Authorities (CAs) reported on implementation of the EUTR and FLEGT Regulation. The Commission provided updates on the FLEGT VPA progress in Ghana and Viet Nam and noted that the pilot phase of Indonesia's FLEGT e-licensing is extended until April 2022. The Commission additionally updated CAs on the situation in Myanmar, noting that, as of 21 June 2021, **EU sanctions** have been imposed on trade with the Myanmar Timber Enterprise; operators sourcing timber and timber products from Myanmar after this date would therefore be in breach of Article 6 of the EUTR. A contractor presented key findings of a study evaluating selected timber certification and verification schemes (see below), the NGO Earthsight presented findings of their investigation into illegal sanitary logging in the Russian Federation and the Czech CA presented on use of remote sensing data. The meeting summary record is available from the **Register of Commission Expert Groups**.

European Commission publishes EUTR and FLEGT Overviews for the year 2020 (July 2021)

The Commission released the Union-wide Overviews summarising Member States' implementation and enforcement of the **EUTR** and **FLEGT Regulation** for the year 2020, as well as the accompanying reports containing supporting information. Individual Member States' national reports for **EUTR** and **FLEGT** are also available.

Italian CA provides updates on actions taken to enforce the EUTR (September 2021)

Following the February 2021 coup d'état in Myanmar, the Italian EUTR enforcement authority, Carabinieri forestali, instructed CITES Carabinieri Units to proceed with checks on teak (*Tectona grandis*) imports from Myanmar. In May 2021, the Italian CA resumed their EUTR information campaign and alerted all Italian operators who had imported from Myanmar in previous years to the situation in the country (including sending a letter to 61 operators identified through customs data). In August 2021, a second alert was sent informing operators of EU sanctions and in September 2021, the Italian CA launched their annual campaign to control imports from Myanmar, informed by import data from the first half of 2021. The Italian CA collaborated with the Swedish CA to seize an incoming shipment of teak from Myanmar, bound for Italy via Rotterdam; an investigation is ongoing. The CA notes that Carabinieri forestali is involved in operational action within Europol-EMPACT, focussing on illegal timber trade from Myanmar, Indonesia, the Russia Federation and Brazil. In May 2021, a **Decree** establishing the National Register of EUTR operators was published.

Swedish CA provides updates on actions taken to enforce the EUTR (September 2021)

In September 2021, the Swedish Administrative Court sent a decision concerning an import of teak from Myanmar by the operator Kärnsund Wood Link. The court ruled that the company was not in breach of the EUTR (despite the EUTR **conclusion** on Myanmar). The CA intends to appeal the court's decision. In a national newspaper article, the company claimed to have ceased importing following the decision of the Swedish CA. The CA additionally reported inspecting 17 operators and one trader between April and September 2021. A prohibition decision was also made for a container of 56 tons of *Afzelia* (African Mahogany / Doussié) wood from Zambia that was intercepted at the harbour thanks to cooperation with the Swedish customs office. The prohibition was later revoked after the operator put a DDS and risk mitigation measures in place.

Dutch CA provides updates on actions taken to enforce the EUTR (September 2021)

The Dutch CA reported that, on 4 August 2021, the Council of State of the Netherlands **ruled** to uphold penalties imposed on two operators found in breach of the EUTR for importing teak from Myanmar. One of the operators, Royal Boogaerdt Timber, was the subject of a substantiated concern raised with the Dutch CA by EIA following an investigation by the NGO in 2016. Both operators are now required to pay fines of EUR 20 000 per cubic metre of teak imported. The CA additionally reported the **seizure** of 820 cubic metres of Azobé hardwood, imported in breach of the EUTR, at Port of Antwerp on 21 June 2021. The seizure was the result of an investigation into a Dutch operator, conducted by the Dutch Food and Consumer Product Safety Authority in collaboration with Dutch and Belgian police and customs authorities. Authorities asserted that the operator could not demonstrate the timber had been legally harvested.

Portuguese CA provides updates on actions taken to enforce the EUTR (September 2021)

Between April and September 2021, the Portuguese CA conducted 24 inspections on domestic operators, importing operators and traders, encompassing 30 transactions. Two court cases took place over this period, both relating to lack of DDS. For one case, regarding an import from the Russian Federation, the court ruled that the EUTR had been violated but applied an 'admonition penalty/public reprimand' as the operator had no criminal background. The other case, regarding an import from Brazil, is still awaiting a court verdict. The CA noted that its legal experts were working on four other cases relating to lack of DDS (infringement of administrative procedures), including imports from Angola and Brazil and refusal by an operator to cooperate with the inspecting authority.

WWF files complaints against two Member States regarding EUTR implementation (June 2021)

WWF alleges that EUTR enforcement in Austria and Germany is insufficient, with infringement penalties that are not proportional to timber product value. Two **complaints** were submitted to the European Commission by WWF Austria and WWF Germany, calling for the initiation of infringement proceedings.

ILLEGAL LOGGING & TRADE



EIA publishes findings of investigation into continued EU imports of teak from Myanmar (September 2021)

The Environmental Investigation Agency's (EIA) 18-month **investigation** into timber trade from Myanmar presents evidence of continued imports of teak into Italy, despite the EUTR **conclusion** on non-negligible risk. EIA's investigation found that 27 Italian operators had continued to import teak from Myanmar in 2020 and 2021. Using trade data obtained from the Italian Ministry of Agriculture, Food and Forestry Policies, EIA identified 618 shipments of teak from Myanmar imported by Italy 2018-2020, valued at more than EUR 60 million, with at least 60 shipments transiting to other EU Member States. Following the military coup of February 2021 in Myanmar, trade data shows that timber from Myanmar was imported into Italy and other Member States between March and May 2021. Despite **EU sanctions** against Myanmar's timber sector issued in June 2021, EIA is concerned that imports into the EU will continue. Three companies that bought auctioned timber from the Myanmar Timber Enterprise in May 2021 are known to have previously exported to Italy from Myanmar. It is unclear whether there is evidence of EU imports having taken place since the EU sanctions in June.

German operator sentenced for imports of teak from Myanmar in breach of EUTR (May 2021)

WWF **reports** that in May 2021, employees of the operator WOB Timber GmbH were sentenced by Hamburg District Court for illegally importing teak from Myanmar, in breach of the EUTR. Imports took place on 31 occasions over the period 2008-2011. The company was found to have imported the teak, valued at EUR 3.3 million, into Germany via Taiwan and other countries in an attempt to falsely declare that the timber did not originate from Myanmar. The managing director of the company was fined EUR 200 000 and received a 21-month suspended prison sentence.

EarthSight investigation reveals wood sourced from illegal logging in Siberia linked to children's furniture (July 2021)

EarthSight's year-long **investigation** into illegal use of sanitary logging in protected forests of Russian Siberia focused on a group of companies owned, managed or closely connected to one of the Russian Federation's wealthiest politicians. Using court judgements, official records, field surveys and remote-sensing data, the investigation documents the systematic flouting of numerous forestry and environmental laws, with these companies estimated to have illegally harvested 2.16 million cubic metres of wood from protected forests between January 2011 and August 2020. This pine, certified by the Forest Stewardship Council (FSC), entered supply chains heading to major consumer markets across the EU and the US, including being linked to a children's furniture range sold by Ikea.

WWF calls on companies to stop sourcing timber from salvage logging in the Russian Federation (June 2021)

WWF has issued a **statement** urging companies to stop sourcing wood from salvage and sanitary logging in Russian forests, until such time as the risk of illegality from this practice has been minimised through strengthened verification procedures and increased field audits. Such logging involves the permitted harvest of dead, damaged or diseased trees to prevent spread of disease in forests. However, WWF notes that the practice has been frequently misused in the Russian Federation to mask illegal logging of healthy trees.

EIA investigation reveals EU imports of illegally sourced Solomon Islands plywood (June 2021)

EIA's seven-year **investigation** finds that tropical-faced plywood supplied to EU operators by a Chinese company is at high risk of containing illegally logged pencil cedar (*Palaquium* spp.) from the Solomon Islands or Papua New Guinea. EIA reports that Jiangsu High Hope Arser Co. Ltd. (or 'Arser') fraudulently claimed that all of the pencil cedar used to manufacture the veneer facings of its plywood originated from an FSC certified concession in the Kolombangara Forest, Solomon Islands. However, the volume of plywood supplied by the company to EU operators in Belgium, the Netherlands and the United Kingdom 2016-2018 was ~20 times higher than the concession's maximum possible yield. EIA estimates that some 95% of EU plywood imports from the company during these years contained pencil cedar illegally sourced outside of concessions, fraudulently labelled with the FSC logo, and at high risk of breaching the EUTR. In 2019 and 2020, EIA filed substantiated concerns with CAs regarding the import of plywood to several EU companies,

two of which were subsequently found to have breached EUTR. On 4 January 2021, **FSC stated** that it had terminated or suspended certificates for multiple plywood traders, including Arser.

EPPA publishes summary of illegal logging and timber trade flows in Turkey and Western Balkans (August 2021)

The **study**, conducted by the EU Environment Partnership Programme for Accession (EPPA), provides analysis of the current state of play and challenges experienced in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey. The study includes focus on EUTR implementation challenges for exported timber, and highlights the main legality risks in the region, including logging without permission or in prohibited areas, false declaration of volumes, species, value and origin of wood, and obtaining permits through bribery. The study provides broad recommendations for combatting illegal trade, including strengthening legal and institutional frameworks.

Forest Trends publishes briefing on Viet Nam's imports of high-risk timber (July 2021)

The **briefing** analyses imports of logs and sawn wood from countries designated 'high risk' by Viet Nam's Ministry of Agriculture and Rural Development, based on national customs data for 2020. The authors estimate that ~34% of Viet Nam's total imports of logs and sawn wood in that year were 'high risk' timber, including from Cameroon, Papua New Guinea and Lao PDR. Under the FLEGT VPA process between Viet Nam and the EU, the country is working towards excluding illegal timber from its supply chains. This report follows an earlier investigation by the Office of the United States Trade Representative, **launched** in October 2020, into alleged imports of illegally harvested timber by Viet Nam.

EIA reports return of containers of illegally harvested timber to Mozambique (May 2021)

EIA **reports** that a 5-month investigation into the disappearance of containers of illegal logs from custody at the port of Pemba, Mozambique, resulted in return of 66 out of 82 containers from a cargo ship bound for China. The logs were harvested in violation of the country's 2017 logging ban; after seizure, they were removed from detention and **illegally exported**. Mozambique authorities worked with shipping companies to arrange return of the smuggled containers from international waters. EIA states that the case highlights gaps in international shipping companies' transparency and screening procedures.

COMMODITY-DRIVEN DEFORESTATION



WWF report analyses the impact of EU consumption on tropical deforestation (April 2021)

The **report** aims to support progress towards reducing the EU's imported deforestation and land use footprint. Between 2005 and 2017, EU imports caused 3.5 million hectares of deforestation¹. Palm oil, soy and beef sourced from South America and Southeast Asia were the commodities traded with the largest embedded tropical deforestation. In 2017, the EU was the second largest importer of tropical deforestation, with most deforestation imported from Indonesia (39%) and Brazil (25%). WWF's earlier **Deforestation Fronts** report identified clear links between EU consumption, particularly of soy and beef, and several active deforestation hotspots. Using data from **Trase**, WWF present a regional analysis of South America, highlighting the biomes with greatest EU-driven deforestation.

Forest Trends publishes updated analysis of illegal commodity-driven deforestation in the tropics (May 2021)

The **analysis** estimates that at least 69% of land conversion in the tropics over the period 2013-2019 was conducted in violation of national laws and regulations, of which 60% was driven by commercial agriculture (amounting to an average of 4.5 million ha per year). Illegal deforestation was found to be pervasive in the expansions of croplands for soy, cocoa, cattle and palm oil.

Technical brief and case studies on cocoa traceability in West and Central Africa (April 2021)

The **brief**, produced by C-Lever.org for IDH and the German Initiative on Sustainable Cocoa (GISCO), gives an overview of cocoa supply chain traceability in Cameroon, Côte d'Ivoire and Ghana, as well as recommendations for improvements. Four **case studies** examine the traceability systems of different actors within the cocoa supply chain.

¹ Data used in this report concerning EU imports 2005-2017 includes the United Kingdom and is based on **Pendrill et al.** (2020).

Multiple reports of infringements by palm oil companies in Indonesia (April – August 2021)

A **report** released by Forest People’s Programme (FPP) presents case studies of 10 oil palm producers and processors in Indonesia, demonstrating widespread social and environmental violations, with downstream companies continuing to invest in and source from them. The Rainforest Action Network reported on **deforestation** within Sumatran orangutan habitat, with a major palm oil company caught sourcing from a mill and producer associated with destruction of Indonesia’s Leuser Ecosystem. A report by Greenpeace highlighted illegal **land clearance** for plantations in violation of a deforestation moratorium in Papua Province. Mongabay **reports** that the government of West Papua province revoked permits from 12 palm oil concession holders, following a **review**. The certification body FSC reportedly **rescinded** the membership of the palm oil giant Korindo Group, due to environmental damage caused by the company’s palm oil plantations in Papua.

Norwegian company halts use of Brazilian deforestation-linked soy (May – July 2021)

A Norwegian poultry producer is **reported** to have eliminated Brazilian soy protein (used in livestock feed) from its supply chain to lower the risk of imported deforestation linked to soy production in the Amazon. Earlier this year, an **analysis** by Rainforest Foundation Norway noted similar risk in the Norwegian salmon industry.

LEGISLATION & POLICY



G7 leaders commit to tackle deforestation, biodiversity loss and illegal trade in wildlife (June 2021)

Leaders of the G7 member states (Canada, France, Germany, Italy, Japan, United Kingdom and United States), EU representatives and guest nations attended the G7 Summit, 11-13 June 2021 in Cornwall, UK. Leaders committed to a **Nature Compact** to halt and reverse biodiversity loss by 2030, including working to promote sustainable supply chains to ‘decouple’ agriculture from deforestation, forest degradation and illegal logging.

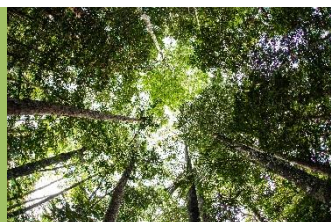
United States plans legislation to reduce market access for illegal agro-conversion commodities (March 2021)

In a statement to the press on 3 March 2021, US Senator Brian Schatz **announced** plans for a draft bill that aims to restrict imports of certain agricultural commodities produced on illegally deforested land. The bill is intended to increase transparency in supply chains of imported agricultural commodities by introducing requirements for operator due diligence, preferentially promoting ethically sourced products, and empowering US courts to prosecute operators found to be laundering imported forest products that originate from illegally cleared land.

California Deforestation-Free Procurement Act (Bill AB 416) passes State Legislature (September 2021)

Bill AB 416, which aims to reduce the State’s imported deforestation and emissions footprint, was **reported** to have successfully passed in the California State Legislature on 9 September 2021. Under the Bill, all contractors entering into, extending or renewing procurement contracts for forest-risk commodities after 1 January 2024 with the State of California would be required to demonstrate that they have a publicly-available ‘No Deforestation, No Peat, No Exploitation’ policy in place. If the Bill is signed by California’s Governor, the State will become the first in the US to implement such legislation.

OTHER NEWS, RESOURCES & PUBLICATIONS



NGOs publish briefing on European Commission’s legislative proposal to reduce imported deforestation (April 2021)

The **briefing**, released jointly by ClientEarth, Conservation International, EIA, Fern, Global Witness, Greenpeace, WCS and WWF, puts forward recommendations for the Commission’s forthcoming legislative proposal on forest commodities.

Viet Nam launches due diligence system and continues discussions on VNTLAS implementation (July 2021)

In line with commitments under the Viet Nam-EU FLEGT Voluntary Partnership Agreement (VPA), a DDS was **launched** on 1 July 2021 by the Handicraft and Wood Industry Association of Ho Chi Minh City (HAWA). The HAWA DDS was developed with support from the FAO-EU FLEGT Programme and Preferred by Nature. Currently, the system supports supply chain transparency and due diligence for domestic operators, it aims to include imported timber in future. Discussions continue around full **implementation** of the Viet Nam Timber Legality Assurance System (VNTLAS).

United Nations publishes first Global Forest Goals Report (April 2021)

The **report**, released by the UN Department of Economic and Social Affairs, is the first evaluation of global progress towards implementing the six goals of the UN's 2017-2030 Strategic Plan for Forests.

Briefing examines the role of demand-side measures in deforestation-free supply chains (June 2021)

The **briefing** on anti-deforestation demand-side measures, released by Oslo Tropical Forest Forum, Amsterdam Declarations Partnership and Trase, presents expert opinions of the legislative and policy state-of-play in Europe, China, the United States and Brazil.

Academic study examines the impact of the EUTR and FLEGT Regulation on EU timber trade (May 2021)

The **research paper**, published in the journal *Sustainability*, analyses the quantitative effect of both of the Regulations on EU timber trade, identifying market shifts in quantities and prices of temperate versus tropical imported timber.

ClientEarth publishes assessments and updates on community forestry, supply chains and EUTR (May – August 2021)

Publications included: an **assessment**, conducted with RECOFTC, of Thailand's 2019 Community Forest Act; a **paper** on best practice for reducing deforestation in commodity supply chains, with a focus on China and the EU; and the September edition of ClientEarth's **EUTR newsletter**.

Launch of new tools, datasets and e-learning platforms to aid due diligence and transparency (April – August 2021)

- FAO's **TimberLex** database provides access to national forest-related legislation and policies.
- EIA's **Origin** mobile app aims to improve supply chain transparency for wood product consumers.
- ZSL's SPOTT initiative provides updated **transparency scores** for 100 timber and pulp companies.
- TRAFFIC's **9 Steps** e-learning platform provides non-detriment findings guidance for CITES-listed timber species.
- Imazon, Fundo Vale and Microsoft's **PrevisIA** tool identifies deforestation risk areas in the Brazilian Amazon.



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