

SUMMARY RECORD

**Eight Meeting of the
“Multi-Stakeholder Platform on Protecting and Restoring the World’s Forests,
including the EUTR/FLEGT”
With a focus on the implementation of the EUTR and FLEGT Regulation
WEB Conference**

16 March 2022

(EU Member States’ representatives only)

1. Adoption of the agenda

COM presented the agenda, underlining that the main objective of the meeting would be to agree on a general line to take in relation to timber and timber products originating from Belarus and the Russian Federation, through the publication of a short text in the minutes to this effect, which can be published also on EU Member State (MS) Competent Authorities (CAs) national websites. This is to ensure the uniform interpretation and implementation of EU Regulations at the current times.

The agenda was adopted as it stood.

2. Adoption of the minutes of the 7th EUTR/FLEGT Expert Group/Platform meeting of 25 November 2021

The previous meeting minutes were adopted with no comments.

3. The situation of timber and timber products originating from Belarus and Russia

In view of the of current situation in Ukraine¹ and relevant exchanges among EUTR Competent Authorities and the Commission regarding the impact of such situation on the import of timber and timber-derived products from Russian Federation and Belarus, EUTR Competent Authorities and the Commission agreed on the following conclusions:

- **Regarding import of timber and timber-derived products from the *Russian Federation***

On 8 March 2022 the Russian Federation has enacted a ban on the export of certain goods outside the territory of the Russian Federation to a list of countries including EU Member States.² The ban covers four HS codes, 4401 21, 4401 22, 4403 and 4408. The ban will be in force until 31 December 2022 inclusive. As a consequence, products imported from Russia covered by such ban will be considered as illegal if placed on the EU market.

- **Regarding import of timber and timber-derived products covered by sanctions**

¹ UN General Assembly demands Russian Federation withdraw all military forces from the territory of Ukraine - European External Action Service (europa.eu)

² Government Decree of the Russian Federation dated March 9, 2022. N313

On 2 March 2022, the Council adopted sanctions on timber and timber derived products from Belarus³. As such, imports falling under the remit of Point 13 ‘Article 1o’ of Council Regulation 2022/355 cannot be placed on the market and are therefore *de iure* illegal.

It is however worth highlighting scope *rationae temporis* and *rationae materiae* of these sanctions. On the former, according to the last provision of ‘Article 1o’, such prohibition does not apply to contracts concluded before 2 March 2022, as long as they are executed before 4 June 2022. In such situations, an operator may still be allowed to import provided that the risk of illegality is negligible. On the latter, we would like to point out a discrepancy between the product scope of sanctions (Annex 10 of Council Regulation) and the product scope of the EUTR (Annex 1). More specifically, Annex 10 of the Council Regulation refers to CN Code 44, i.e. **Wood and articles of wood; wood charcoal**), whereas the EUTR on the one hand does not include all sub-codes under CN Code 44 (for example, the EUTR does not cover charcoal) and, on the other hand, includes other CN codes such as **Wooden furniture** (94) and **Pulp and paper** (47 and 48). Pending a possible future realignment of the scope of sanctions with the EUTR, products falling under the EUTR, but not in the remit of CN code 44, are excluded by the sanctions regime.

A third element to be considered for both the Russian Federation and Belarus (for Belarus when executing contracts signed prior to the entry into force of the prohibition to import) is the following:

- It is necessary to conduct due diligence in order to ensure that the purchase of wood and the related payment is not making funds directly or indirectly available to one of the sanctioned entities or individuals.
- In particular, when a company is owned or controlled by a listed individual (oligarch), no transactions should be carried out with the company as this would be considered as making funds indirectly available to this listed person.

Assessment on whether an entity is owned or controlled by a listed person should be carried out by the EU operators with the possible assistance of the national authorities in charge of sanctions implementation in the MS.

- **Regarding import of timber and timber-derived products from the Russian Federation or Belarus not covered by export ban nor by EU sanctions**

For all situations not covered by the existing wood export ban or sanctions, operators need to carry out a full risk assessment of risk of illegality of harvested timber (Article 6.1 (b) EUTR), and, unless the risk identified is negligible, effectively mitigate the non-negligible risk of acquiring illegally harvested timber (Article 6.1 (c) EUTR). According to the prevailing views expressed by several EUTR Competent Authorities, in the present circumstances it would seem extremely arduous for operators sourcing timber/timber derived products from the Russian Federation or Belarus, to carry out a full risk assessment of illegality or to mitigate the non-negligible risk. This situation should also be reflected in the due diligence system used by operators according to Article 4.3 EUTR, which should be updated accordingly. Such update should particularly take into consideration also the risk assessment criteria mentioned in Article 6.1 (b) EUTR, in particular the prevalence of armed conflict and the existence of relevant sanctions.⁴

The possibility to carry out risk mitigating measures such as field audits is hardly viable due to the existing travel restrictions. In addition, third part verification schemes (one of the most essential tools to mitigate risk of importing illegally harvested timber from the Russian Federation and Belarus) have currently suspended their operation in both countries. Finally, it

³ COUNCIL REGULATION (EU) 2022/355 of 2 March 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus (OJ L 67/1 of 2.3.2022)

⁴ Where relevant, operators may draw from the EUTR Guidance Document “*Consideration of prevalence of armed conflict and sanctions in due diligence systems*” https://ec.europa.eu/environment/forests/pdf/Guidance%20conflict%20timber_EG%20Agreed.pdf

should also be underlined that it is challenging for MS Competent Authorities to rely on the provision foreseen in Article 12.1 EUTR, regarding the possibility to cooperate with the administrative authorities in the Russian Federation and Belarus to ensure compliance with the EUTR.

The above conclusions are with no prejudice to the possible future developments regarding the possible expansion of the scope of sanctions currently applied to Belarus or the enactment of sanctions on timber and timber derived products from the Russian Federation, which would make such products *de iure* illegal.

4. AOB

No AOB.

List of participants

EU Member State + EEA/EFTA	Competent Authority
AT	Federal Forest Office
AT	Federal Ministry of Agriculture, Regions and Tourism
BE	FOD VVVL
BE	SPF Santé Publique
BG	BG Customs
BG	Executive Forest Agency
CY	Ministry of Agriculture, Rural Development and Environment
CZ	Forest Management Institute
CZ	Ministerstvo financí ČR - General Directorate of Customs
DE	BMZ(GIZ)
DE	Bundesanstalt für Landwirtschaft und Ernährung / Federal Office for Agriculture and Food
DK	Danish Environmental protection Agency
EL	Ministry of Environment and Energy /General Directorate for the Forests and the Forest Environment/Department for the Control of the Trade and Transport of Wildlife & CITES Species

ES	EUSKADI
ES	Ministerio para la Transición Ecológica y el Reto Demográfico/Ministry for the Ecological Transition and the Demographic Challenge
ET	Ministry of Environment
FI	Finnish Food Authority
FI	Ministry for Foreign Affairs
FI	Ministry of Agriculture and Forestry
FR	Ministry of agriculture and food
HR	Ministry of Agriculture
HU	Government Office of the Capital City Budapest
HU	National Food Chain Safety Office
IE	Department of Agriculture, Food & the Marine
IT	Carabinieri CUFA IT Enforcement FLEGT/EUTR
IT	Mipaaf DG DIFOR IT CA EUTR/FLEGT
LT	Ministry of Environment
LV	State Forest Service
LV	Ministry of Agriculture
MT	Plant Protection Directorate - Ministry for Agriculture, Fisheries, Food and Animal Rights
NL	NVWA
NO	Norwegian Agriculture Agency
NO	Norwegian Environment Agency
PL	Chief Inspectorate of Environmental Protection
PL	National Revenue Administration
PT	ICNF
SE	Swedish Forest Agency

SI	Ministry of Agriculture, Forestry and Food
SK	The Slovak Forestry and Timber Inspectorate (Ministry of Agriculture and Rural Development)