

SUMMARY RECORD

Tenth 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

HYBRID meeting + WEBEX

22 June 2022

(Member States’ representatives only)

1. Adoption of the agenda and of the Minutes of the 9th EUTR/FLEGT Expert Group/Platform meeting of 29 April 2022

The previous meeting minutes and the agenda were adopted.

2. Presentations

a. Interpol and EUTR – Mutual assistance in the world of forestry crime (Interpol)

The former official from Swedish Competent Authority introduced herself in the role of coordinator for forestry crime at Interpol, a recent secondment. Her presentation detailed Interpol’s unique role in bringing together 195 member countries to tackle environmental crime, by acting as a conduit to connect law enforcement agencies, police, customs, judicial authorities, inter alia, and provide operational support to dismantle criminal networks. Introducing the Interpol’s structure. Interpol underlined that within ENS (Environmental security), forestry crime is one of 5 key topics. Their operational model is around awareness and prevention, building strong networks to bridge intelligence gaps, gathering evidence of identified threats and focusing on targeted deployment and disruption. They do not initiate their own investigations in countries, but can work in countries when requested; CAs are in a unique position to raise concerns. Interpol can assist CAs by facilitating connection to the right entities, including customs, and Interpol has close cooperation with OLAF and other agencies. For high-risk cases CAs were encouraged to inform Interpol who can share intelligence with prosecutors in country. Interpol can assist with information requests about third countries, operations/campaigns for enforcement and awareness raising, operational support to teams on the ground, and both physical and online training (together with UNODC). To get substantial support and access funding, CAs need to initiate contact with Interpol via their NCBs (National Contact Bodies, within MS police) by drafting a Notice. To address forestry crimes, Interpol promotes building of National Environmental Security Task Forces (NESTS) which bring together police, customs, environment agencies, prosecutors, NGOs, intergovernmental partners etc in a multi-agency response. Examples of Interpol’s existing work were given, including assisting MS with investigations regarding teak from Myanmar. There will be a meeting on 11-13th October in Lyon connecting with Asian & Pacific countries, which CAs are invited to join.

Interpol highlighted that they also collaborate with Europol, on EMPACT (European Multidisciplinary Platform Against Criminal Threats) and many other areas. They use SIENA (the Secure Information Exchange Network Application) to share intelligence.

COM welcomed the opportunities of increased collaboration with Interpol.

b. Illegal timber trade – Myanmar (EIA)

EIA reminded MS of the ongoing situation in the country, which despite the lessening media attention remains dire. EIA pointed out that despite sanctions under EU and US laws against individuals and entities in Myanmar, there has been an uptick of teak trade. Even prior to the [EU sanctions](#) on MTE (Myanmar Timber Enterprise), the [common position](#) of EU MS authorities

very clearly laid out the impossibility of coming to a negligible risk assessment or to ensure a mitigation of risk of illegality. Looking at the time after the military coup, and using HS4407 as a proxy, 9 EU MS imported products of a total value of more than EUR 16 million. In the first 4 months of 2022, import volumes exceeded pre-coup levels; the highest quantities were imported via Italy and Greece.

EIA pointed out that operators referring to purchases from stockpiles would still be acting in contravention of the sanctions through financially benefitting MTE and the Junta-owned businesses. Furthermore, new conditions have been applied to planned auctions, which, under sections 8 and 9 of their tender refer to a 'goods tax' which can be used to mis-declare goods, which can then leave Yangon to Singapore, where they can be reclassified to their original HS code. Section 18 has been updated, whereby payments are no longer just accepted in US\$, which appears to be a way to circumvent US sanctions. EIA submitted a Substantiated Concern to a competent authority in April 2022, who then intercepted a shipment in May. DG FISMA and the US Office for Foreign Asset Control were also informed, the latter also regarding the breach of US\$ sanctions. EIA referred to WOB Timber, who was [convicted](#) for breaching previous EU sanctions; the company is under investigation for smuggling timber via Croatia into Germany. EIA called for the validity of the EG conclusions to be clarified. It also enquired regarding the approval of the import of a shipment of pre-coup teak into the Netherlands, accompanied with Double Helix paperwork. Furthermore, it asked how the EUTR is being used to ensure compliance with Myanmar sanctions.

EU MS confirmed that the EUTR Expert Group [conclusions](#) remained valid and that any import of timber from Myanmar would be in contravention of the EU sanction on MTE, as MTE controls all export of timber from the country. Any MS presented with any new evidence/approach in a DDS claiming to be able to mitigate risk would need to bring the case to the attention of the Expert Group. COM must ensure that MS enforce sanctions.

EIA reported that while still ongoing and also primarily supplying a high-end market within China rather than the export market, smuggling from Myanmar to China seems to have decreased since construction of a wall from the north of the country to the border with Viet Nam. The trade into India appears to supply its domestic artisan market rather than exports. EIA referred to the importance of coordination among CAs, enforcement authorities, supporting organisations such as Interpol and others, offering also their assistance as appropriate, potentially also in the context of the more recent sanctions relating to Russia and Belarus.

COM noted that the work of organisations like EIA is instrumental for enforcement actions and that a future update of similar nature would be welcomed. They also noted that while for Myanmar, the sanctions relate to MTE, which through their control of all timber exports means that all import of timber from Myanmar into the EU is in contravention of the sanction, in the context of [Russia](#) and [Belarus](#), the terms of the sanctions refer to a specified range of commodities and taxa, with exceptions for contracts concluded prior to the sanctions if executed before a certain date.

3. Update on EUTR implementation

a. Substantiated concerns: Placing timber from high-risk countries on the EU market (COM/MS)

MS discussed imports of high-risk timber, including from Myanmar, and investigations where they may seek cooperation with other MS.

UNEP-WCMC presented an [overview](#) of imports into the EU from Myanmar of all products under EUTR scope, as well as imports of 'teak products' (all HS codes mentioning teak in product description, plus 'furniture') 2011-2022, based on Eurostat data. Imports under EUTR scope were recorded for 22 MS since formation of the EUTR Expert Group conclusions in 2017 and for 12 MS since the EU sanctions have been in place (as per Council Regulation (EU) 2021/998 of 21 June 2021). The top 5 MS importing 'teak products' since the Expert Group conclusions were in place, by overall value, were France, Italy, Sweden, Belgium and Greece.

OLAF thanked CAs who have assisted them with on-the-spot controls and sharing of information and documents. They confirmed that trade into the EU continues. From the data up to 26/05/22, there were 150 imports into the EU, some took place under customs procedure 42, which

indicates that the final destination was not the MS of customs clearance. On that basis they have requested that CAs provide further data (customs data and underlying documents) and expect more information on this in the following weeks.

COM underlined how crucial cooperation across MS is in relation to customs procedure 42 and would welcome if MS send substantiated concerns to the relevant MS CAs where the destination country differs from the MS of entry. There are several instruments that can be used to assess the imports of timber and timber derived products from Myanmar. There are the Expert Group [conclusions](#) on Myanmar since 2017, subsequently corroborated and expanded by the Expert Group [Country conclusions on Myanmar](#) adopted on 9 December 2020. These Conclusions confirmed that the risk of illegal harvest for all timber from Myanmar is non-negligible and that operators could not take adequate mitigating measures. Therefore, operators “should refrain from placing on the EU market for the first time all timber harvested in Myanmar and timber products derived from”. In addition to that, since 21 June 2021 the EU has also enacted [sanctions on trade with MTE](#). From all the foregoing, there should be no ambiguities that imports of timber into EU is illegal and therefore violation of the EUTR. However, there is ample evidence that a significant amount of timber from Myanmar enters the EU in breach of EUTR, this is a serious issue that must be addressed. The EU has a responsibility to enforce the sanctions and the Commission has the duty to monitor uniform and effective implementation of EU legislation across the EU.

b. MS updates on other issues related to the implementation of the EUTR (MS)

COM opened the floor, referring to the expectation of discussion relating to EU sanctions on Russia and Belarus, welcoming inputs also in writing to ensure coordination.

MS noted that there are temporary export bans for roundwood, firewood and pellets from [Serbia](#) (entered into force 3 June 2022 and applies for 60 days) and [Bosnia and Herzegovina](#) (entered into force 23 June 2022 and applies for 90 days).

c. Outcome of the Informal EUTR Enforcement Group meeting of 21 June (NL/CA)

OLAF provided an update on an investigation into timber imports from Myanmar, which is now in its final stages and has led to very useful information and collaborative inspections, with some MS able to take administrative or criminal actions. Updates on other projects included imports from Peru and imports since the recent sanctions relating to Myanmar, Russia and Belarus. There are a number of initiatives (such as World Forest ID) using isotopic material to get a better overview of where timber species come from and where not, which will provide solid ground to check the functioning of DDS. Regarding imports from Ukraine, importers must take note of the existing guidance ([Conclusion](#) and [Annex](#)) and seek information from local NGOs. An update on collaboration with Brazil under the El Pacto agreement was provided, covering meetings with IBAMA and federal police, Brazilian legislation and enforcement on the ground. An issue was discussed regarding big companies with complex structures for which it can be difficult to identify who is an operator and who is a trader (also of relevance to the proposed Deforestation Regulation); CAs decided to draft a statement on how to deal with this situation. A salvage company which deals with clearing stranded containers was discussed, where a DDS is not possible as they do not know what they are buying. This case led to the relevant CA advising that if the goods had not yet cleared customs then they could be exported outside the EU, and that import to the EU would require the goods to be immediately destroyed. Other CAs were encouraged to look at companies in their customs data which import incoherent goods, as they may also be salvage companies. Another case was discussed where a company purchasing timber products from China conducted timber testing and found other species in their samples, additional to those declared. They asked a monitoring organisation (MO) to conduct an audit, but the audit failed to mention these additional species. With processed goods from China it appears that often the samples do not match the paperwork; an EU-wide systematic sampling effort was suggested to gauge the prevalence of this issue; Interpol offered to support this.

d. Update on the reporting exercise (COM)

UNEP-WCMC [presented](#) the ‘*EUTR Union-wide Overview 2021*’, which synthesises implementation and enforcement of the EUTR over the period January-December 2021. All 27 MS and Norway submitted national reports. The draft Overview is currently with COM and will be shared with CAs for review prior to its publication on the Commission website. In 2021, MS conducted 9482 checks on domestic operators, 1112 checks on importing operators and 2564

checks on traders. Information on compliance and enforcement actions applied was also presented.

As reports on MS implementation of EUTR are [available](#) for the period 2015-2021, graphs were presented showing the number of checks and enforcement actions by Member State over the seven year period, for both domestic and importing operators, as well as the proportion of checks that were non-compliant (where this information was available). It is important to consider that additional contextual information would be needed to make meaningful comparisons between MS or over time.

COM took note of CAs request to be notified by email when the final overview is published, so that they can publicise it on their national websites.

4. Presentation

a. Update on prosecution related issues (Greenpeace)

Greenpeace France reported on two criminal cases filed in 2019 relating to timber from Pará State, Brazil, placed on the EU market in 2017. Both complaints concerned permits for Ipê issued in excess of estimated actual tree volumes and trees harvested from protected areas (see Greenpeace *'Imaginary trees, real destruction'* [report](#)). Both companies had very complex supply chains. There were already concerns about this region based on public information, but initial CA checks concluded compliance with EUTR. Further investigation by police and the University of Sao Paulo uncovered different relevant documents. Now this investigation is completed and it was concluded in both cases that there was a potential violation of DDS requirements as the verification carried out was not sufficient. For one case there will be a public hearing in November, for the other case they are awaiting decision of the prosecutor. Administrative fines in France are low (max 15000 EUR) but this violation is a criminal offence, which is why two criminal cases were filed. They have won a case against the administration and now they should be able to access additional documents. The largest company is the largest timber importer in France, it is well informed and was actively involved with an MO to provide DDS and review the system. The company identified suppliers, collected legality documents and was aware of corruption, but did no further verification prior to purchasing the timber. During the criminal defence it referred to its reliance on the MO; it was clear that this is not a guarantee of legality, but police and administrative authorities may believe this is proof of compliance. They said that Greenpeace did not prove illegality and that it was a small quantity (not referring to the rarity of the species). The court concluded that the companies are compliant with the EUTR. Court cases can send an important message to the timber sector but CAs need to take a more systematic approach. Greenpeace urged that a full understanding of the due diligence obligation is needed by operators, as is readiness to enforce this obligation by CAs, together with timely handing of substantiated concerns. Assess to justice is needed in case of inaction by the CA.

5. Update on FLEGT processes

a. Vietnam (COM)

COM reported that there are some remaining inconsistencies between the provisions of Vietnam's Decree 102 and their commitments under the VPA, which the EU presented to Vietnam at JIC4 last year. Vietnam acknowledged the shortcomings and a revised decree is currently under review. Inconsistencies relate to timber import controls, verifications for exports and management of violations, amongst others. Short update on JEM (13 June) JIC5 (17 June): Progress was slow at the beginning of the year but picked up in technical meetings (VNFOREST-EFI) in May. Out of the 9 main actions agreed in the previous roadmap, 4 actions have been fulfilled according to schedule. JIC5 agreed on a roadmap towards JIC6: the deliverables include finalising the arbitration procedure document and completing the list of high risk species, the list of recognised certification schemes (as a verifier in VN due diligence system – not as green lane); and list of positive geographical regions/countries. Overall, progress is quite slow and Vietnam is far from FLEGT-licensing. To continue, Vietnam needs to speed up efforts to comply with its VPA obligations, which will require significant investment of resources. COM will not agree to an assessment of joint readiness until regulatory development is moving in the right direction and is properly enforced.

b. Guyana, Côte d'Ivoire, Gabon, Ghana (COM)

COM (DG INTPA) provided the following updates.

Ghana is the most advanced VPA in Africa. Following positive shipment testing in 2018, the VPA entered the pre-licensing phase in 2019 and the joint readiness for licensing assessment was finalised in early 2021. Overall conclusion of the assessment was that the system is globally able to fulfil its function, with just a few outstanding issues: 1) conversion of leases and special permits (which was the tradition) into timber utilisation contracts – there is good progress on this, with conversion endorsed and now at parliament level; 2) ~ 100 missing management plans, which have now been developed; and 3) a technical issue about the protocol of checklists for system verification. A joint action plan has been developed (which needs approval of the JIC) and INTPA believe that all these issues can be implemented within 6 months from now. There is a strong willingness to reach licensing. However, there is still the outstanding issue of confiscated timber. INTPA sought advice from EC legal service which concluded that this timber is not legal under the EUTR and FLEGT legislation, and can therefore not benefit from FLEGT licensing or being placed on the EU market. In Ghana, less than 1% of traded timber is confiscated timber (mostly rosewood which is exported to China), however for Ghana this request is perceived as a violation of the spirit of the negotiation. This has become a political discussion which must be resolved before licencing can take place. Ghana would like to know, in the spirit of reciprocity, how the EU handles the commercial disposal of illegal timber.

Côte d'Ivoire's process started in 2009 with first negotiation in 2013, but the progress was initially slow. A new Forest Code was adopted and negotiations resumed in 2020. The main VPA text and 10 annexes have now been validated by chief negotiators, with thanks to cooperation from MS including Germany and France. The VPA process has had a positive impact, with a highly participative and inclusive approach (including the private sector, SMEs, women's organisations, civil society), and improved communication, which will have a lasting effect across sectors. There is now formal recognition of Independent Forest Observation, which is enshrined in the law, and forest governance is recognised as one of the main pillars of the national forest law. The VPA negotiations acted as a catalyst for legal reform, led to better recognition of the strategic importance of legal and sustainable forest management and led to the explicit integration of a gender component throughout the VPA. It also helped to build synergies with REDD+ and initiatives for sustainable cocoa. Challenges include legal reform (and adoption of legal texts to complete the definition of legality), the domestic market (which is covered in the TLAS), land tenure and deforestation (with a national objective to increase forest cover from 10% to 20% by 2030). Next steps include a coherence check and integration of missing legal references. Initialising the VPA is anticipated for September 2022, with signing at the end of 2022 or early 2023, followed by ratification and adoption and entry into force next year.

Guyana has 84% forest cover, a low deforestation rate, high levels of biodiversity and endemism and forests are of economic, social and traditional importance. Forests are important for the low carbon development strategy (noting Guyana's fast developing oil industry). Through the VPA, Guyana intends to improve forest management and promote trade and market access to the EU. The main features of the VPA are similar to others, covering both domestic and imported timber and covering the 5 compulsory products as well as some additional products (e.g. processed timber, poles, carpentry, but not furniture). Only sources not considered illegally harvested can be eligible for FLEGT licences. Forest plantations are not covered as there are no commercial plantations (although the VPA could be expanded if needed). Key achievements include: improved governance and coordination, strengthened institutions, improved transparency and access to public information, a complaints mechanism set up, and spillover effects to other sectors. Throughout the negotiation process a very wide range of stakeholders became more actively involved. According to a recent [survey](#) done by CIFOR, there has been an increase in legal timber since the beginning of negotiations. The VPA was initialled at the end of 2018, but there has since been two major crisis, one political following elections and also the COVID-19 pandemic. A Joint Information Framework was developed by the JIC. The VPA has been approved by COM and is now in the Council for signature and ratification. Guyana has been asked to develop a business plan.

Gabon There have been no formal negotiations since 2012, but in 2019 an interest in relaunch of the negotiations was expressed and a joint review was agreed to assess the status. Review took

place in 2021 and it concluded with an independent assessment identifying a number of pathways for cooperation. At the end of May 2022, COM received notification from Gabon asking for a broader partnership cooperation on sustainable forestry, conservation, protection etc. Now in this new phase to see how a new Forest Partnership may be shaped.

COM (INTPA) noted that Gabon announced their intention to move towards FSC certification by 2022/23 and there are ongoing efforts on a number of fronts: they have worked on a national traceability system from forest to point of export, they have developed forms of collaboration with FSC and have a number of programmes and projects to meet certification requirements. They have a significant emphasis on timber processing; they were one of the first countries to no longer export raw logs and there are fiscal measures in place on this.

6. Update on implementation of the licensing scheme under the FLEGT Regulation

a. MS updates on issues related to implementation of the FLEGT Regulation (MS/COM)

Regarding any timber of Russian origin which may be destined for the EU on a FLEGT licence, COM confirmed that they had checked with DG FISMA/Legal Service who confirmed that Regulation (EU) 2022/576 of 8 April 2022 on Russian timber has prevalence over the FLEGT Regulation, so if timber originating from Russia is included on FLEGT licences it should be refused. This message will also be communicated with Indonesia.

COM continues to pursue with Indonesia, through formal and informal channels, the issue of communication with Indonesia's Licence Information Units (LIU) and that response times exceed the 21 days specified in the VPA. This has been exacerbated due to COVID-19 related staffing issues.

One MS noted that the website flegtlicence.org contains useful guidance on how to promote the FLEGT licensing scheme (given that timber doesn't carry a symbol) which is useful to explain to operators.

b. FLEGIT - Update on e-licensing (COM)

COM reported having recently met with Indonesia, including colleagues from their IT and SILK department, and EFI, to discuss the pilot phase and current state of licencing. A decision was taken to prolong e-licencing and paper licences in parallel, as there has been a low uptake of e-licencing and MS are encouraged to promote their use by economic operators. At some point there will need to be a decision as to whether e-licensing continues. They also discussed the possibility of changing the contract on communication between FLEGIT and SILK, including fixing some issues detected during the pilot phase. Indonesia are currently unable to collect consolidated information on their side and it would be good if there was functionality to send this type of information back. They are also considering removing the possibility to add total net weight and unit of measure, as Indonesia does not use global measures and this creates issues with reporting and mismatches.

COM acknowledged that v-legal licences should only be in FLEGIT if they are useful, and that a way to distinguish FLEGT licences from v-legal licences was needed. This will be discussed with Indonesia. Regarding the evolution of communication between FLEGIT and CERTEX, a new version of both systems should be launched by the end of the year. The pilot phase for e-licensing will continue for another year. COM will consider if there are ways that CAs could claim licences (which can currently only be done by operators who are the economic owners of shipments).

c. Update on the reporting exercise (COM)

UNEP-WCMC reported that there had been a delay in submissions of some MS. If large datasets are missing it impacts the meaningfulness of outputs. Similar to previous years, there are errors in the FLEGT licence and customs data, requiring substantial data cleaning before the analysis. The main body of the 2021 analysis of MS national reports is ready but production of the graphs based on analysis of FLEGT licences and customs data has been delayed.

7. AOB

The next meeting will likely be in September 2022.

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
CZ	Forest Management Institute
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	GAN NIK – Gestion Ambiental de Navarra
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
FR	Ministry of agriculture and food
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	State Consumer Rights Protection Authority

LV	State Forest Service
MT	Ministry for Agriculture, Fisheries and Animal Rights
NO	Norwegian Environment Agency
NL	NVWA
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)