



SUMMARY RECORD OF THE FLEGT/EUTR EXPERT GROUP MEETING

20 SEPTEMBER 2017

1. Approval of the agenda and of the minutes of previous meeting

The agenda of the meeting was adopted as it stood.

2. Nature of the meeting

The meeting was not public. Member States were represented by the EUTR/FLEGT Competent Authorities. There were also representatives from the EUTR Competent Authorities of Iceland and Norway.

3. List of points discussed

Update on EUTR implementation

In a tour de table, all MS Competent Authorities gave an update on the number of checks performed on domestic operators and on importers in accordance with their annual plan, on fines imposed or ongoing court cases, on particular cases with imports from some provider countries or on new national legislative proposals in the pipeline.

The tour de table was followed by a discussion on a substantiated concern received from EIA regarding timber from Myanmar, and notably on the steps taken by the MS concerned vis-à-vis the incriminated operators. A conclusion on that point was that the documents from Double Helix do not provide operators with sufficient information as regards the actual origin of the timber to enable them to carry out a full risk assessment or mitigation in the exercise of due diligence. In addition, there is no reference to the legal framework in Myanmar and no risk differentiation between the various regions in the country. Finally, the documentation by double Helix does not include any third-party verification activity (e.g. no onsite audits in the forest or in sawmills). While the CAs reiterated that efforts in Myanmar to move in the right direction are appreciated, it was concluded that, at the moment, none of the assurances that the CAs have received can be relied upon as sufficient for demonstration of compliance with the EUTR due diligence obligations.

EUTR guidelines development

It was concluded that Denmark and Germany would work together with the Commission on updating the two guidance documents on Risk Mitigation measures and on

Substantiated concerns and that these would then be circulated to all MS for last written comments.

Information points

a) Reporting on Informal EUTR Enforcement Group Meeting

The main discussion was on Myanmar. Other topics were sample testing in the Czech Republic, recycled and reused timber, logging and export ban in Ukraine, issues with FLEGT licences (difference in HS codes, difference in volumes mentioned in documents), and the reporting on CA checks based on a survey.

b) Update on impact assessment on the EUTR product scope

A public consultation is expected to be launched at the beginning of November 2017 and will remain open for 12 weeks. The impact assessment contract has been extended to conclude in May 2018. A potentially revised Annex to EUTR could be adopted as a Delegated Act in the second half of 2018.

c) Update on EUTR Reporting

EC is finalising the consolidated EUTR report, on the basis of a background analysis of MS national reports. The background analysis will be shared with MS for comments. The process will take another couple of months.

d) ISO standard for chain of custody of wood and wood-based products

EC received inquiries from some MS about the recognition of the FSC and PEFC certification schemes as part of the ongoing development of an ISO standard for the Chain of Custody. Developments under an ISO standard cannot and will not be given the same status as FLEGT licences and CITES permits which are the only exceptions under EUTR, accepted as automatic proof of legality.

e) Update on support services for implementing the EUTR and FLEGT Regulation

MS asked for sample documents to be added in the annexes of the existing five country overviews and they were asked to decide on the next five countries to be covered by overviews. The latest briefing note was shared in August. The contractor asked MS for topics relevant for the EUTR implementation and enforcement which can be assessed through analysis papers. Four analysis papers are planned for 2017 and four for 2018. The CA checks survey will be updated to gather more qualitative information and will be made six-monthly. A report on the implementation of the EUTR by operators in the various MS will be made available in 2018.

f) Reporting on the Nordic-Baltic EUTR meeting

The fifth meeting of that kind took place in July in Riga with the aim to harmonise the enforcement of the EUTR. Topics raised were checks on operators, court cases, investigations, best approaches, awareness-raising and reports on joint checks. A project on China started, with identification of common suppliers. EC announced that the peer-to-peer initiative has been launched and encouraged MS to apply for this new tool and to carry out joint inspections.

g) Logging in Białowieża forest

Poland made a presentation on the bark beetle which is infesting spruce in the transnational Białowieża forest (Poland and Belarus). Poland explained that the only way to effectively control the bark beetle is to cut down and extract the infested trees. The logging ongoing at present is reported to exclusively serve public safety.

EU funded FLEGT VPA Independent Market Monitoring project

This EU-funded project, implemented by the International Tropical Timber Organisation, resumed in April 2017 with a network of correspondents in seven key EU markets (UK, Germany, Belgium, Netherlands, France, Italy and Spain), with interviews of 65 companies, MSCAs, trade associations and Monitoring Organisations. VPA countries account for 80% of tropical timber trade to the EU and the Indonesian VPA covers 20% of such imports. Surveys show that FLEGT licensing in Indonesian has revived the interest in FLEGT and that the vast majority of respondents confirm their interest in giving preference to FLEGT-licensed timber, but also that there is still a lack of awareness and enforcement of the EUTR. Indonesian stakeholders expressed concerns that it might still be easier to import under the EUTR than under the FLEGT licensing scheme, pleaded for the EU MS not to charge fees for processing FLEGT licences, and asked for FLEGT licences to be accepted (as sustainable timber) in green public procurement policies.

Update on the implementation of the FLEGT licencing scheme

a) MS experience with the implementation of the FLEGT licencing scheme and the FLEGT Regulation

A presentation was made by Poland. 265 FLEGT licences processed between 1st January and 13 September 2017. 30 importers registered in TRACES, including 11 customs agencies. Problems encountered were mismatches of tariff classification and incorrectness of customs-related obligations. Another presentation was made by Austria. The main issue is mismatches between the FLEGT licence and the invoice/packing list.

The Indonesian Licencing Authorities fill the information in the licence on the basis of the application submitted by the exporter, but the process does not always imply a physical check on the shipments before departure from Indonesia. This is a shortcoming of the system and EC is pushing the Indonesian authorities to impose this additional task to the customs. The only licence that has a legal value is the FLEGT licence/V-legal document, but it is not valid if key elements such as a date and a barcode are missing. The EU-Indonesian VPA allows for Licencing Authorities to issue corrected versions of licences once the shipment has left but the Indonesian government has put legislation in place to prevent LAs from doing so to avoid loopholes. Indonesia is now considering allowing corrections of licences even when the shipment has left (under well-defined circumstances).

b) Non-paper "FLEGT Licencing Scheme with Indonesia: handling of cases with mismatching information"

Comments made by MS were taken on board in the non-paper and final comments from MS were requested.

c) Report on FLEGT Technical Working Group meeting in Indonesia, 9-10 August 2017

Several points were discussed such as improving the responsiveness of the Licence Information Unit vis-à-vis MSCAs, sticking to the 21 days deadline. Standard responses and a follow-up mechanism with tickets will be developed. There was an agreement on key steps related to mismatching information: analysis on current HS codes mismatches (with guidance, training), and correspondence between the physical shipment and the licence as regards volumes (check by Indonesian customs before the shipment leaves or other options).

d) Update on the FLEGT licencing scheme reporting and discussion on possible changes to the reporting format

Recommendations for updates of the FLEGT reporting format were made. For example, some unclear questions were identified and will be improved. Multiple questions will be split and multiple choice options will be proposed as answers. A table format was proposed for reporting on penalties. Next steps: an updated draft of the reporting format will be submitted for review by the MS. The option to move to online reporting could also be considered. MS asked to use FLEGIT to extract the licence information needed.

e) Fees for handling FLEGT licences

5 MS have set-up fees for processing FLEGT licences (in line with Article 5(6) of the Regulation). The issue has been raised with the EC both by Indonesia and Ghana, who express concern that the introduction of fees may penalise FLEGT-licensed timber as opposed to timber not subject to the FLEGT licensing scheme, thereby achieving the opposite intention of the FLEGT Regulation.

Update on the FLEGT process

a) FLEGT Action Plan Evaluation follow-up

EC is updating the working paper towards a FLEGT work plan 2018-2021. A revised version will be shared with MS for further review and discussion in the Ad Hoc FLEGT Expert Group in due time.

b) VPA processes: Report on 1st negotiation session in Thailand

The first negotiation session towards a FLEGT VPA took place in Thailand at the end of June 2017 and a joint roadmap was agreed upon. Thailand made good progress on the legality definition. The session also discussed imports of timber from other countries in the region, among which a few risk countries, and the product scope of the future VPA, regarding which Thailand agreed that furniture would be included in the product scope at a later stage. The next Joint Expert meeting will take place in Bangkok in December 2017 and the formal negotiation in March 2018.

c) Ghana shipment testing

Progress is good. There are a few outstanding issues to resolve. The TLAS should be operational in 2018 and licencing could then start. A simulation of the system was made with three MS.

Update on FLEGIT

Version 3 is completed and will be deployed in October-November 2017. Importers will be able to save draft licences. MSCAs will be able to send a licence back to the importer

when it contains mistakes and also to change the number of the licence. CERTEX (the customs single window) will be operational in beginning 2018 after a testing phase at the end of 2017. Version 4 will be improved with a search feature and to retrieve information for reporting. This is planned for the first quarter of 2018. There are 12,000 licences in FLEGIT for the time being.

10. A.O.B.

There was an intervention on Ukraine by DG GROW and the upcoming TAIEX mission on illegal logging and timber trade. The EC and Ukraine met in July in Brussels and will meet again in Kiev in October 2017. DG GROW encouraged MS to put them in touch with people dealing with timber sales in their countries.

4. Conclusions/recommendations/opinions

See individual points

5. Next steps

See individual points

6. Next meeting

The next FLEGT/EUTR Expert Group meeting will take place on 23 November 2017.

7. List of participants

Organisation	Country
Federal Ministry of Agriculture, Forestry, Environment and Water Management	AT
Federal Forest Office	AT
FPS Health, Food Chain Safety and Environment	BE
Central Customs Office	BG
Department of Forests Cyprus	CY
Ministry of Agriculture	CZ
BLE, Germany	DE
BMEL	DE
Ministry of Environment	DK
Direccion General de Desarrollo Rural y Politica Forestal MAPAMA	ES

Finnish Agency for Rural Affairs	FI
Ministère de l'Agriculture et de l'Alimentation	FR
Regulatory Delivery	GB
Department for Business, Energy and Industrial Strategy - Regulatory Delivery	GB
Ministry of Agriculture	HR
Government Office of Capital City Budapest	HU
Department of Agriculture, Food and the Marine	IE
Iceland construction authority	IS
Carabinieri Forestali	IT
Customs Department	LT
State Forest Service	LV
Ministry for the Environment, Sustainable Development, and Climate Change	MT
Ministry of Economic Affairs	NL
Nederlandse Voedsel en Warenautoriteit	NL
Ministry of Finance	PL
Instituto da Conservação da Natureza e das Florestas	PT
Ministry of Environment	RO
Swedish Board of Agriculture	SE
Ministry of Agriculture, Forestry and Food	SI
Ministry of Agriculture and Rural Development of the Slovak Republic	SK
National Forest Centre	SK