



MINUTES OF THE EUTR/FLEGT EXPERT GROUP MEETING

18 MAY 2015

The agenda of the meeting was adopted with one additional point from Germany to be dealt with under AOB: a report from WWF on traces of tropical species found in timber products. It was finally decided to discuss this point in the informal meeting of the MSCAs of 19 May 2015.

1. Update on the implementation of the EUTR and the FLEGT Regulation

a) MS reports on changes since the latest update:

Denmark: They started a project with sample testing to gather knowledge and enhance the collaboration with laboratories. They will then approach industries for inspections. They are now focusing on oak from China and on plywood. (The EC asked Denmark to upload any information on this project in Capacity4Dev.)

b) Update on the reporting obligations:

The EC received 26 reports from the Member States. The Slovenian report was sent on 15 May. The Greek Minister is about to sign the national legislation. Greece will then produce its report.

c) EIA report on Austrian company based in Romania:

Holzindustrie Schweighofer has its head office in Vienna and five production sub-companies in Romania. The company exports to more than 70 countries. All the production sites are FSC-certified and they have chain of custody certification. 13,600 Ha of forest are managed by the company Cascade in Romania. Part of these Cascade-managed forests is situated in seven Natura 2000 sites.

Findings of the Austrian CA: Schweighofer is not an operator according to the EUTR in Austria. Austria has no official statement from the Romanian CA about illegal logging. The only information available comes from an NGO. Products are FSC and PEFC-certified. The Austrian CA did not get the list of Austrian customers from the Environment Investigation Agency.

Romania: The relevant Romanian authorities (Ministry of Environment, Water and Forest) took action and started verifications of the two main production units. This is still ongoing. There is only suspicion of illegal logging but no real facts. The process can take long due to the large volumes of timber to be checked. A report will then be drafted but it is difficult to say at this stage when the report will be available.

Ireland: Importers from any EU MS into another EU MS are traders and their only requirement is traceability. They have no DD requirement. The issue lies with Romania to resolve.

UK: What should the MS do with such illegal timber? Should it be seized?

EC: This depends on the national legislation of each MS. The issue of seizure of timber could be put on the agenda of the 15 June Expert Group meeting.

Ireland: Would like guidance to be drafted on this point. In Ireland, sanctions could only be applied to traders for lack of traceability.

Italy: Tried to tackle the issue in Barcelona. A new legal basis is needed to deal with this. Guidance is not sufficient.

Netherlands: It is not because the company is FSC or EPFC-certified that it cannot handle other timber.

Romania: Ensures the traceability of its timber and makes every effort to tackle illegality. Bulgaria invited Romania for a presentation of their traceability system.

Austria: The companies are 100% certified so they are not allowed to deal with non-certified timber.

Netherlands: Does not agree. Chain of custody certified does not mean that all the timber they trade is certified.

Denmark: Agrees with the Netherlands.

d) Preparedness to receive and process FLEGT licenses:

UK: Are still in the process of designing their IT system. There is still the problem with split shipments when products are stored in e.g. customs warehouse and later released for free circulation in parts.

2. EUTR implementation in the European Economic Area

The EFTA Surveillance Authority presented the EEA Agreement signed between the EU and three EEA/EFTA states (Norway, Iceland and Lichtenstein). EFTA institutions have been established to reflect the EU institutions.

The EFTA Surveillance Authority ensures the proper functioning of the EEA Agreement, monitors the implementation of new EEA legislation and investigates infringements in the 3 EEA/EFTA states (on own initiative or on the basis of complaints).

The decision to incorporate the EUTR was taken in 2013 but could not enter into force before May 2015. The decision contains several adaptations to the EUTR. For example, the FLEGT licensing scheme does not apply to EEA countries. EU legislation related to CITES is not part of the EEA Agreement either; the EEA countries are signatories to the Convention itself.

Norway: A formal notification of the transposition of the EUTR will be made soon. National legislation is in place since 1st May 2015.

Ireland: Will EEA countries need to provide a report to the EFTA Surveillance Authority?

Norway: It would be normal to also report in one way or another. The FLEGT Regulation however, will not apply to Norway. But Norway will consider FLEGT-licensed timber and timber products as legal, like the EUMS will do. Checks according to the EUTR will not be carried out as border checks but inside the country on operators.

The EFTA Surveillance Authority has no particular view on FLEGT-licensed timber. EEA countries are free to deal with this as they want.

Germany: Lichtenstein has national legislation in place but what about Iceland? Germany has already informed its operators that timber coming from the three EEA countries can be considered as legal.

3. Update on the FLEGT Action Plan evaluation

The evaluation period is from 2003 to 2014. A team of evaluators started working in November 2014.

The objective is to look at achievements, shortcomings and challenges, and to assess and analyse changes in the global context and see how these affect the Action Plan.

The inception phase ended at the end of January 2015 and a report was produced. The desk phase took place from February to mid-May 2015 to scrutinise documentation and meet with stakeholders. A draft desk report was produced. The field phase is ongoing with visits to some exporting countries. Ghana is already done. A draft report will be produced by end September 2015 and a final report by mid-November 2015. The next visits are planned for June to Cameroon, Vietnam, Indonesia and China, and for July to Guyana, Bosnia and Colombia. Some Member States will also be visited.

Surveys will be carried out, first with the EC and the EU Member States. Seven MS still need to designate their focal point for this survey. A survey to VPA partner countries and a public consultation are ongoing.

The overall assessment of the process so far is that the review of documentation is well advanced and many stakeholders have been met. The analysis of some of the evaluation questions has progressed well. Some others require more work. The evaluators will now engage in country visits.

Inputs expected from the MS are the replies to the survey and the identification of the focal points.

A presentation to the MS of the preliminary findings will be organised in a forum of members of the EUTR/FLEGT Expert Group and of the FLEGT Ad Hoc Group in September 2015.

Austria: Why was Bosnia chosen for a visit?

EC: Bosnia is identified as an important supplier of timber to the EU and, as a potential candidate country, is expected to eventually have to apply the EUTR rules. Russia was also considered for a while.

The EUTR Review will feed into the FLEGT Action Plan evaluation as one of its seven elements.

4. Update on the VPA processes

a) EU-Indonesia VPA: preparation for the 3rd meeting of the JIC and discussion on the operationalization of the FLEGT licensing system

Basic steps have been agreed between the EU and Indonesia on key actions that need to take place before FLEGT licensing can start.

The 3rd JIC meeting on 8 July 2015 will officialise this agreement and decide on the next steps to be implemented. Three main issues still need to be solved: access to information and functionality of an independent VPA monitoring, import legislation and inspection procedure for the furniture sector. Experts are currently in the field to see how the system works.

National legislation will enter into force on 1st January 2016.

The latest Joint Expert Meeting did not agree on the issues to be dealt with in the July JIC meeting.

The issue of conversion timber put forward by the EU came as a surprise to the Indonesians.

b) Ghana, Liberia, Republic of Congo, Guyana and Honduras

Six countries have concluded VPAs (among which Ghana, Republic of Congo and Liberia) and nine countries are negotiating VPAs (among which Guyana and Honduras).

These 15 countries represent 50% of all tropical timber exports to the EU and 75% of the global tropical timber trade.

Ghana:

It is the most advanced African VPA country. The first phase evaluation of their TLAS is completed. The second phase is planned for September 2015. Further work is required before FLEGT-licensing can start (ministerial special permits, conversion of old forest leases; some forest management plans are still missing, imports need to be tackled).

Next steps: Forest management plans and second phase of the TLAS evaluation to be completed, legality definition to be modified and next Joint Monitoring and Review Mechanism meeting to take place.

Liberia:

The JIC and the national stakeholders committee are in place, as well as the working groups. The legal requirements for TLAS are established. Independent monitoring is regularly carried out. The JIC will meet in June 2015.

Republic of Congo:

The VPA process is regaining political momentum after the second JIC meeting in May 2015. The TLAS software development will start in June 2015, to be completed in mid-

2016. The first legality certificates are expected in early 2016 for certified operators. The draft Forest Strategy and Forest Law integrate the TLAS requirements. An independent auditor has been recruited and will start his work in September 2015. The civil society is also carrying out independent monitoring.

Next steps: TLAS development to continue and work on communication and transparency and on secondary legislation to be performed.

Guyana:

The country is engaged in VPA negotiations. A third round was held in April 2015. There is now a roadmap with clear milestones leading to a VPA signature in 2016. The next round of negotiations is planned for November 2015 in Brussels.

Challenges: negotiation process to be advanced at national level, stakeholders' consultation to be organised, annexes to be completed.

Next steps: technical commitments (such as drafting annexes) to be achieved by July 2015.

Honduras:

The third round of VPA negotiations took place in January 2015. A roadmap was agreed and the VPA is expected to be signed in June 2016. The fourth round of negotiations is planned for September 2015 in Brussels.

Challenges: national consensus-building process to be advanced, annexes to be completed, private sector participation and transparency to be enhanced, corruption to be addressed.

Next steps: drafting of annexes by September 2015.

c) Brief overview of other VPA processes in Africa:

Countries implementing a VPA: Cameroon and Central African Republic (where a solid assessment of the sector is ongoing).

Countries negotiating a VPA: Ivory Coast (slow progress), Gabon (wants to resume negotiations) and Democratic Republic of Congo (regaining interest).

Another interested country is Madagascar where the Environment Minister is committed to tackling illegal timber exports, mainly to China.

Denmark: Why is there renewed interest by some African countries?

EC: This is due to political fluctuations. Some countries approach the EU to ask about FLEGT VPAs but the EC focus is to finalise the processes which have already been launched.

Some countries like Vietnam are also waiting to see how FLEGT VPAs will work in practice before engaging any further.

UK: The fact that VPA countries have made tremendous changes in their approach towards timber management should be fully recognised and we should not only consider as a success the outcome which is FLEGT-licensing.

EC: In these long processes, it is difficult to sustain the momentum. The EC is exploring ways to speed up the process and set milestones to benchmark it, also to introduce phased approaches for the implementation of VPAs. A strategy needs to be developed to communicate progress in VPA countries inside the EU.

A lead MS is usually identified to cooperate with the EC in assisting a given VPA country in the implementation of its VPA.

5. EU FLEGT-licensing system – Presentation of the analysis

The access to the system will be interactive, but independent and dependent connections will also be possible.

The EU system will be server-based and will constitute a central repository. The existing TRACES system will be used. The electronic license will be a reflection of the paper license with 18 boxes. It will include specific fields. Several information versions are kept when updates are made by the same user.

License validation will contain the MSCA identifier, importer information, the decision of the MSCA (accepted or rejected). The objective is to keep track of the validation made by the various MSCAs on the same license. A rejected license is not available for validation by another MSCA.

License clearance will contain the customs identification, the cleared quantities and the clearance decision. In the initial phase, the release will cover the whole license. The objective is to keep track of updates made by the same customs. A future objective (which will not be operational in the initial phase) will be to keep track of the various clearances made by several customs for the same license (in case of split shipments).

There are different states for the creation, validation and clearance of licenses. There is also a locking state (customs can lock a license to make sure no other customs can clear it). Another state is the alert state (if an unusual event arises; the state can be turned back to normal when the issue is clarified).

The EU will use the existing TRACES design. All the licenses that can be managed by the MSCA will appear in the same dashboard. Part of the system will be FLEGT-specific for the search of FLEGT licenses. There will be a unique design for visualising the FLEGT license. There will also be a search engine. The homepage will be customized for the VPA countries, MSCAs and the customs.

As the license progresses to the next stages, more fields will be read-only (i.e. the data cannot be modified).

The different types of licenses (FLEGT, veterinary...) will only appear if the user has the rights to manage them. Different users can work on a same license but the system will indicate who produced the different versions.

The MSCA of the country of destination will be the relevant one for the validation. The system will deduce this information from box 2 or box 3.

Other features will include: user management, notification system, web services, alert system, history review, customisation, security aspects, reports and statistics.

Importers will not have access as users to the system in the initial phase.

The existing ECAS identification of MSCAs must be used to enter the FLEGT system.

"Web services" is the technology that will be used for system to system connection. They are secure as they are authenticated and encrypted.

Alerts can be raised, for example if the license has expired before approval, if a license has been updated after approval, if a license that was accepted needs to be rejected in the end, if the clearance of a license has already been performed by another customs authority, etc..

General reports and statistics will be available. The information needed for compliance with Article 8 of the FLEGT Regulation (for annual report) should be available by the time reporting is needed.

Belgium: One of the objectives of such a system for Belgium would be to enable the importers to fill in the information of the license.

Germany: Will the same presentation be given to the customs? Germany is not convinced that they will not need a national system.

France: Can the EC confirm that it will not be necessary to enter the information in both the EU and the national systems?

EC: Will see whether importers can be given access in the first phase already but cannot promise anything at this stage. Priority is to give access to VPA countries. The information on the license should ideally be entered by the VPA country, not by the MSCA, but VPA countries have no legal obligation to do so. Split shipments will only be dealt with in the second or even the third version. A similar presentation will be made for the customs in June 2015. And a joint MSCAs/customs meeting is likely to be organised in September with hopefully a live presentation. Regarding the national systems, it may be better to keep them if they have specific additional features. There is no need to type the information twice. Information will automatically be carried over from one system to the other but a prior web services call will of course be needed.

UK: The VPAs are not framed around the legal obligation for VPA countries to enter the information themselves. The obligation currently lies with the importer.

Austria: A limited number of boxes may need to be translated if filled in another language than that of the MSCA.

EC: Jean Willain (jean.willain@ec.europa.eu) can be approached directly for any further questions.

6. A.O.B.

The point added by Germany on traces of tropical species found in timber products will be discussed in the informal meeting of MSCA of 19 May 2015.