

## Briefing Note for the Competent Authorities implementing the EU Timber Regulation June 2017 - July 2017

### CONFERENCE ON TACKLING DEFORESTATION AND ILLEGAL LOGGING

The European Commission **met with** global stakeholders in Brussels on 21-23 June 2017 to discuss a) the recommendations resulting from the EU FLEGT Action Plan evaluation and the draft work plan 2017-2020, and b) issues related to deforestation and forest degradation at a global level, existing initiatives and opportunities for EU action. Participants shared experiences in implementing the FLEGT Action Plan and thoughts on areas for improvement. The EUTR was recognised as central to the FLEGT Action Plan and positive changes in operators' behaviour were thought to be influencing other global parties. The **report** of the meeting is available on the conference [website](#).

### ENFORCEMENT OF EUTR



#### **Nordic-Baltic EUTR Competent Authorities met in Latvia (July 2017)**

This year, the Nordic – Baltic EUTR cooperation group meeting was hosted by Latvia and took place from 3 - 5 July in Riga. The Competent Authorities of Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden were present. The aim of these meetings is to standardise and strengthen the enforcement of the EUTR. The meetings provide an additional opportunity to discuss current issues and enforcement approaches and to undertake specific projects; for example, joint checks are undertaken on suppliers from 3<sup>rd</sup> countries, or Competent Authorities may conduct joint checks on Operators within the Nordic-Baltic region.

#### **Inspections/checks conducted by the Swedish Competent Authority (2017)**

The Swedish Competent Authority issued two new prohibition decisions concerning teak and teak products. The first was issued on 15 May to an operator inspected in 2015 that imported teak decking from Taiwan (Province of China) containing Burmese Teak; the decision has not been appealed. The second decision issued on 6 July to an operator that imports teak directly from Myanmar. Two additional operators have voluntarily stopped sourcing teak and teak products from Myanmar (via Singapore and Viet Nam), without receiving sanctions from the Swedish authority.

The Swedish Competent Authority inspected a variety of companies between January and July 2017, including operators, traders and companies acting as operators as well as traders. A sampling project has also been initiated for plywood and fibreboard from China and the Russian Federation; of the plywood and fibreboard sampled, documentation matched all tree species identified, although three additional species were identified in the fibreboard. Additionally, testing of two samples of outdoor teak furniture showed that the documentation corresponded with the product (plantation teak).

#### **United Kingdom and Ireland carry out joint inspections for the first time (July 2017)**

A team composed of colleagues from London and Dublin carried out site visits at two companies, one of which trades substantially on both sides of the Northern Ireland/Ireland border.

## **Netherlands court rules on Competent Authority enforcement of EUTR (July 2017)**

**Greenpeace Netherlands** (NL) brought an appeal against the decision of the Competent Authority of the Netherlands, the Netherlands Food and Consumer Product Safety Authority (NVWA), to not initiate enforcement activities against a number of companies perceived to be importers of timber from the Brazilian Amazon. The Amsterdam District Court found, *inter alia*, that:

- The intervention policy set out by NVWA for infringements did not describe a differentiated approach in different situations, was inconsistently applied and did not sufficiently enact Article 19 (2) of EUTR;
- The NVWA did not adhere to its intervention policy, because announced re-inspections did not always take place within the stipulated timeframe;
- The time period to prepare for compliance provided by the EUTR (20 October 2010 – 3 March 2013) allowed sufficient opportunity for Operators and Competent Authorities to prepare themselves for the requirements of the EUTR. Lack of readiness was therefore not considered an adequate reason to refrain from initiating enforcement activities, and initial enforcement activities of written warnings and a six month period for companies to adjust procedures were not considered a sufficient deterrent; and
- The motivations and reasons for classifying companies as non-market operators must be clearer and supported by appropriate evidence.

The court therefore judged in favour of the appellant and ordered the NVWA to, *inter alia*, take a new decision on the substantiated concerns raised by Greenpeace NL within six weeks and to set out concrete evidence to show what their conclusions are based on.

The Competent Authority, NVWA, noted the following in relation to the ruling:

- Starting enforcement by giving written warnings and a six month period for companies to adjust procedures as noted in the Regulation was not deterrent enough, as the court noted that companies could have prepared themselves between 2010 and 2013;
- The intervention strategy did not describe a differentiated approach in different situations;
- The NVWA did not always re-inspect within the specified timeframe;
- The NVWA did not take enforcement actions against companies that were no longer market operators. The reason for classifying these companies as non-market operators must be clearer, and the reason for refraining from enforcement actions against these companies must also be stated clearer; and
- A new decision on the appeal must be taken.

## **FLEGT/EUTR Expert Group assessed due diligence evidence from Myanmar (June 2017)**

During discussions on the legality of timber from Myanmar, it was concluded that: “any assurances (such as those provided by Double Helix) which are not supported by appropriate evidence covering the whole supply chain cannot alone be relied upon as a demonstration of compliance with the EUTR. The same is the case for the newly presented Form D which seems to be just an updated version of the green book. It was also pointed out that recent efforts in Myanmar to move in the right direction are appreciated. EU and MS [Member States] are supporting Myanmar in this process and are ready to provide further support, particularly concerning access to documents from the harvest area, transparency throughout the whole supply chain and independent monitoring.” A full summary of the meeting can be found below.

# ILLEGAL LOGGING & TRADE



## **New research provides proof of concept for use of DNA profiles to trace wood origin (July 2017)**

Microsatellite DNA markers were used to produce genetic fingerprints of seized ash (*Fraxinus excelsior*) wood samples and compared to origin DNA profiles, positively linking the samples to the stump of an illegally harvested tree.

## **Forest Trends released a new report on imports of timber from fragile and conflict-affected states (June 2017)**

The report found that imports of timber from conflict-affected states into the EU rose in at least 12 Member States 2010 – 2015; timber from conflict-affected states may be at high risk of having been harvested illegally. The report suggests that responsible global trade in legal timber can be an effective way to create livelihoods and stability in states enduring conflict; companies wishing to source from fragile and conflict-affected states must therefore invest significant resources to ensure that timber is legal.

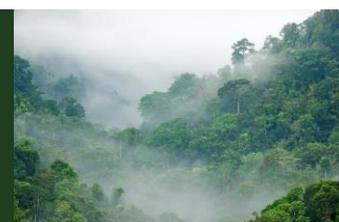
## **Cambodian timber seizures reported to have fallen (July 2017)**

Cambodian Newspaper, The Phnom Penh Post, reported that a recent six month report from the Cambodian Ministry of Agriculture, Forestry and Fisheries showed an 85% decline in the quantity of illegal timber seized since last year. A Ministry spokesperson attributed the decline to increased legal wood harvesting activities and the formation of a military police-lead anti-logging taskforce. However, a senior advisor for the Cambodian Human Rights and Development Association, attributed the decline to complicity between the local military police officials and timber traders.

## **Seizure of illegally logged timber by the Islamic Republic of Iran (July 2017)**

A shipment of 1.5 tons of illegally harvested timber were seized in Lordegan, Chaharmahal-Bakhtiari Province on 9 July. While this province is heavily forested, the Iranian Government passed a law in January banning all logging in the region for ten years as less than 10% of Iran's total land cover is occupied by forest.

# LEGISLATION & POLICY



## **European Union**

The **FLEGT/EUTR Expert Group** met in Brussels on 16 June. EUTR updates focused on Member States' implementation of the Regulation and substantiated concerns regarding Burmese teak; it was concluded that any assurances of legality of timber must be accompanied by appropriate evidence covering the whole supply chain. Comments on mitigation measures and substantiated concerns guidance documents were received and a deadline for final comments set. Presentations were also given on an electronic system for tracking wood in Ukraine (Latschbacher GmbH), on substantiated concerns, and on tax evasion and corruption linked to timber products from the Congo Basin (EIA). An exchange also took place with Indonesia's Licence Information Unit on the implementation of Indonesia's FLEGT licencing scheme. Competent Authorities highlighted the need for timely replies regarding issues with licences and concluded that a shift to fully electronic licences would be beneficial. Competent Authorities also heard about the FLEGT Action Plan evaluation and the importance of harmonised EUTR implementation as a demand side measure. Updates were given on the Voluntary Partnership Agreement (VPA) process in Lao People's Democratic Republic, Viet Nam, Guyana and Honduras.

The Agenda and all relevant materials and presentations from the meeting can be found at the **FLEGT/EUTR Expert Group register**.

#### **Twenty-seventh illegal logging update and stakeholder consultation meeting held (June 2017)**

The Chatham House meeting provided an update on topics related to illegal logging, including on the **FLEGT action plan and VPA countries** (presented by the European Commission), developments in China to tackle illegal timber trade, tools for improved forest monitoring and **developments** in timber trade regulations in Asia. Discussions included updates on VPA progress in Myanmar, Viet Nam and Guyana. NEPCo also announced its forthcoming **Sourcing Hub**, to be published online in the autumn of 2017 and containing risk assessments for countries on products, including timber.

#### **FAO and Italy's Carabinieri sign a Memorandum of Understanding to strengthen protection of forests (June 2017)**

The MoU aims to strengthen cooperation on protection of the environment and biodiversity, sustainable management of wildlife and safeguarding of forests, including combatting illegal logging.

#### **Thailand and the EU held the first round of Voluntary Partnership Agreement Negotiations (June 2017)**

The negotiations mark the beginning of the process to develop a VPA, with the content of the agreement to be developed through national discussions in Thailand among stakeholders from the government, private sector and civil society.

#### **Guyana and the EU field test the negotiated Voluntary Partnership Agreement (June 2017)**

This allowed stakeholders to assess the VPA's legality definition and legality verification procedures, and to provide feedback on ways to strengthen the VPA annexes.

### **International**

#### **INTERPOL Global Forestry Crime Conference held (June 2017)**

The conference took place from 12-14 June, and was attended by representatives from the timber industry, financial institutions, non-governmental organisations and law enforcement agencies. Discussions focused on developing a transnational, multi-agency approach to tackling corporate crime in the forestry sector. One of the main outcomes of the conference was the acceptance of a proposal to establish a Forestry Crime Stakeholders Forum, which will provide strategic advice to INTERPOL's Project LEAF in order to improve the effectiveness of law enforcement engagement with local communities, indigenous peoples and civil society and support the sharing of information concerning illegal logging and forestry crime.

#### **Myanmar Timber Enterprise (MTE) reported to be planning to resume logging (July 2017)**

The Myanmar newspaper Daily Eleven reported that the Deputy General Manager of the MTE had announced plans to resume logging this year, in south west Myanmar, with the **use of service providers**.

#### **Myanmar published a draft Forest Law (June 2017)**

The draft law is reported to include stricter penalties for, *inter alia*, illegal harvest of timber or misuse of harvesting permits, including fines and imprisonment.

#### **Gap analysis report published on the Myanmar Timber Legality Assurance Scheme (MTLAS) (June 2017)**

Commissioned by the Myanmar Forest Certification Committee, the report outlines the results of the MTLAS gap analysis, indicating differences between the Myanmar system and international frameworks and standards for such legality assurance systems, proposing areas where the Myanmar system could be strengthened going forwards.

#### **Japan promulgated the Clean Wood Law (May 2017)**

The new Clean Wood Law came into effect on 20 May 2017. The law intends to increase the use of legal wood products within Japan. This directs wood related business operators to make efforts to verify the legality of wood that they deal with. Interested organisations could begin to submit applications for registration as a "registering

entity/body” from May; these are then planned to begin to register timber related business operators from the autumn.

### **New timber import regulations entered into force in Malaysia (July 2017)**

As part of regulations introduced under Malaysia’s timber legality assurance system, new timber import regulations entered into force from 1 July 2017. Import licence applications must be accompanied by documents showing evidence of legality, including, *inter alia*: FLEGT licences, certificates from recognised timber certification bodies and customs export declarations from exporting countries. The regulations apply to products under HS codes 4403 (rough wood), 4407 (sawn wood) and 4412 (plywood and veneer panels).

### **Australia increased the maximum fine for breaches of the Illegal Logging Law (July 2017)**

Australia increased the Commonwealth Penalty Unit from AUD 180 to AUD 210 (~17% increase) from 1 July 2017. This increases the maximum potential fine for breaches of all law on Australian statute books, including the Illegal Logging Law; penalties for serious and deliberate breaches of the illegal logging law now include heavy fines of up to \$105,000 for individuals, up to \$525,000 for a body corporate or corporation, and potential imprisonment of up to 5 years. However, the “**soft start**” period for the law (i.e. a period during which the Department of Agriculture and Water resources will issue guidance and support in the first instance to improve practices in companies committing minor breaches of the law) is currently still in place.



**Developed by UNEP-WCMC as a consultant of the European Commission in close cooperation with the Member States Competent Authorities.**

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