



EUTR News – March 2016 to March 2017

Today marks the four-year anniversary of the EU Timber Regulation (EUTR), the EU's law to address illegal logging. The EUTR has been in full effect since 3 March 2013 and this issue of EUTR News provides an update on the operation of the EUTR over the last year, from March 2016 to March 2017. As with all of our previous editions, this issue will include information on what both the European Commission and EU Member States are doing to ensure the proper application of the EUTR, and provide updates on similar legislation internationally.

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1. European Commission support to implementation and enforcement of the EUTR

During 2016-17, the Commission took active steps to ensure the proper functioning of the EUTR. They have started infringement proceedings against Slovakia and are likely to close infringement proceedings against Spain and Greece soon, and Lithuania has adopted a new law including penalties for violations of EUTR requirements. As of March 2017, according to the Commission's EUTR scoreboard, all 28 Member States have started to carry out checks on companies and have designated a Competent Authority, while only one Member State (Slovakia) is lacking legislation on penalties for breaching the EUTR. The Commission has published an inception impact assessment for amending the product scope of the EUTR. It has also contracted the World Conservation Monitoring Centre to provide support services for implementation of the EUTR and FLEGT Regulation.

European Commission launches inception impact assessment for amending scope of EUTR

In January 2017, the Commission published an [inception impact assessment](#) on the scope of products regulated under the EUTR, as part of the Commission's [Better Regulation policy](#). The aim of the assessment is to gather feedback on possible impacts of different options. Currently, printed books, newspapers, manuscripts, musical instruments and seats with wooden frames are among the timber products excluded from the [scope of the EUTR](#). This leads to a risk that illegally harvested products are being placed on the EU market, and could lead to unfair competition. An example of this could be for printed paper (not currently covered by the EUTR) which can be imported without due diligence, therefore potentially containing illegally harvested timber. This could create an unfair competitive advantage over EU-based printing companies importing blank paper, for which due diligence is necessary under the EUTR, increasing costs.

The Commission has put forward three policy options for amending the scope of the EUTR in their inception impact assessment:

- Continue with the current approach – no changes to the scope of the EUTR;
- Amend the annex of the EUTR to include one or more categories of products, thereby increasing the scope; or
- Change the model of the EUTR and include an annex with a list of exemptions.

The Commission is now preparing an Impact Assessment which will include targeted and open public consultations to ensure the participation of stakeholder groups (public and private sector, including NGOs). A draft delegated act will also be put online and submitted for public feedback during a 4-week period. The launch of the stakeholder consultations [will be announced online](#).

World Conservation Monitoring Centre to provide support services for implementation of the EUTR and FLEGT Regulation

UNEP's (United Nations Environment Programme) World Conservation Monitoring Centre (WCMC) has been [contracted to support the European Commission](#) in assisting EU Member States in monitoring the implementation and enforcement of the EUTR and FLEGT Regulation, and in carrying out the specific tasks required from them by the regulations. The WCMC will monitor trends in trade

of timber and timber products, prepare reports and analysis, and monitor implementation and enforcement measures.

European Commission updates Member State implementation scoreboard

The Commission [updated its scoreboard](#) indicating the progress of Member States in implementing the EUTR on 22 February 2017. It shows that of the 28 EU Member States:

- 27 have legislation on penalties for breaching the EUTR (Slovakia currently doesn't);
- all 28 have designated a Competent Authority; and
- all 28 have started to carry out checks on companies.

In compiling the scoreboard, the Commission relies on information from Member States. It does not independently assess whether penalties in Member States are in fact 'effective, proportionate and dissuasive', as required by the EUTR, or if there are penalties in place to penalise breaches of all the EUTR's requirements.

European Commission infringement proceedings against Slovakia

The European Commission has re-opened a Pilot procedure with Slovakia for non-compliance with the EUTR, which first began in 2014. On 8 December, the European Commission [sent a letter of formal notice to Slovakia](#) (infringement number 2016/4139). This is a first step in a process which could, if Slovakia does not take appropriate measures, lead to a judgement by the European Court of Justice declaring that the Member State is in breach of EU law.

This has also been reflected on the European Commission's scoreboard of implementation, where Slovakia's 'score' has been changed to 'in a process of fulfilment' for having legislation on penalties for breaching the EUTR.

Lithuania adopts new administrative law including penalties for violations of EUTR requirements

After receiving a complaint, the Commission opened an EU Pilot investigation of the implementation of the EUTR in Lithuania (2015/7901) on 10th September 2015. On 12th November 2015 Lithuania replied, committing to amend the Code of Administrative Offences by the end of 2016.

On 8th November 2016 the Parliament of the Republic of Lithuania [adopted a law](#) amending the Code of Administrative Offences, which introduced a new article to the code – Article 270, including penalties for violations of EUTR requirements. The Commission has therefore now closed their pilot investigation.

European Commission about to close infringement proceedings against Spain and Greece

On the Commission's scoreboard, Spain and Greece are now showing as fulfilled for all obligations under the EUTR. According to the Commission, they have now taken the necessary steps to remedy the infringements identified in the ongoing cases. Therefore it is likely that the Commission will close the infringement procedures soon.

Spain had been subject to an infringement procedure initiated by the Commission following its failure to adopt a national implementing legislation for the EUTR. It has now amended its Forestry

Act to introduce provisions on the EUTR. These amendments came into force on 21 October 2015 to provide for administrative penalties for breaches of the EUTR and set up a mandatory declaration system for operators. On 11 December 2015, secondary legislation supporting the implementing law was adopted to establish more detailed provisions.

On 29 December 2015, in response to the Commission issuing a reasoned opinion for non-compliance with the EUTR, Greece published [provisions](#) on measures and procedures for implementing and enforcing the EUTR, including detailed rules on penalties.

[More information about the cases against Greece and Spain.](#)

European Commission recognises new monitoring organisation

During the last year, the Commission recognised one new monitoring organisation: [TimberChecker](#), which functions in the Netherlands.

Monitoring organisations offer due diligence systems to operators, in particular small and medium enterprises, who can then apply these systems to their own supply chains. This helps operators comply with the EUTR. The Commission must officially recognise monitoring organisations.

[Full list of recognised monitoring organisations.](#)

Member State biennial reports due April 2017

Under Article 20 of the EUTR there is a [reporting requirement](#) that all Member States must submit a report on the application of the EUTR during the previous 2 years. The next round of biennial reports must be submitted by 30 April 2017.

On the basis of these reports, the Commission will draw up a report to be submitted to the European Parliament and the Council. This report will help the Commission in analysing progress made in respect to minimising the presence of illegally harvested timber and timber products on the EU market. The report also helps the Commission in reviewing the functioning and effectiveness of the EUTR, and provides an opportunity for Member States to share information, and identify achievements or problems and possible solutions.

2. Member State enforcement of the EUTR

At the national level, Member States have become increasingly engaged in the operation of the EUTR, and there has been, in certain Member States, an increase in the number of EUTR enforcement checks during 2016. Setting an important example, a Swedish court ruled that a company importing timber from Myanmar was in breach of the EUTR. Fines were also imposed in The Netherlands, again for not meeting the EUTR due diligence requirement.

More information is becoming publicly available on the number and frequency of checks being made by Competent Authorities on operators across the EU. However, privacy laws restrict the publication of data on enforcement activities in several Member States. As a result, enforcement figures made publicly available, including those below, are only a fraction of the actual number of checks being carried out.

Member State enforcement checks during 2016

After a slow start for most EU Member States during the first two years of EUTR implementation (2013-2015), there was, in certain Member States, an increase in the number of EUTR enforcement checks during 2016. In **France** for example, during the first half of 2016, about 103 checks were carried out by the two ministries in charge of enforcing the EUTR. By March 2016, the **Dutch** Competent Authority had checked approximately 150 operators for compliance with the EUTR. Between mid-2013 and January 2016, the **German** Competent Authority checked around 370 timber operators. The **Danish** Competent Authority carried out 46 checks in 2016, and the **Finnish** Competent Authority undertook 32 checks on imported timber and 19 on domestic timber between March 2015 and November 2016.

Forest Trends carried out two surveys on government agencies in the EU, Australia, and the US about their enforcement activity between October 2015 and September 2016. Responses were collected from 13 EU Member States, two US Lacey Act enforcement agencies and the Department of Agriculture and Water Resources in Australia. The results included:

- Enforcement officials conducted 1,513 Due Diligence Systems assessments and 822 site inspections;
- A total of 565 Corrective Action Requirements (or warning letters), 75 injunctions, and 59 sanctions or financial penalties were issued.

Member State enforcement cases during 2016-2017

Over the past year, as in 2015, according to the information which is publicly available, a small number of Competent Authorities in the EU have imposed sanctions on operators who have not been compliant with the EUTR.

The Netherlands issued a fine to a wholesale timber company, Fibois BV Purmerend, after finding that their documentation for timber imported from Cameroon was not in order, and the company could not meet the EUTR's due diligence requirement. The Dutch Competent Authority issued a non-compliance penalty of EUR 1800 per m³ of timber placed on the market until correct due diligence could be undertaken. Among other sources, Fibois imports from CCT, a company which **Greenpeace revealed** to be involved in illegal logging.

A **Swedish administrative court ruled** that a company importing teak from Myanmar was in breach of the EUTR. EIA had submitted a complaint to the Swedish Competent Authority on the basis that the company, Almtra Nordic, could only trace its supplies back to the state-managed Myanmar Timber Enterprise, but not to exactly where the imported timber had been harvested or by whom. The courts confirmed the Competent Authority's findings and fined Almtra Nordic 17,000 Swedish Kronor (about EUR 1800) for breaching the requirements of the EUTR, and ordered the company to stop selling timber imported from Myanmar until it could properly assess and mitigate the risk of illegality. This sets an important example for the enforcement of the EUTR: it reaffirms that companies and Competent Authorities cannot rely solely on **official documentation**. EIA also formally reported nine teak traders for **similar offences** across five Member States, so further cases may arise in the future.

3. Publications and resources

Over the last year, many publications and resources have been released. Below is a selection of resources and publications that aim to inform stakeholders across the EU and internationally on progress and key elements related to the EUTR.

Useful online resources

Over the past year there have been some improvements, updates and new online resources published of relevance to the EUTR. Below is a list of a few of these:

- [flegt.org](#) – provides access to training programmes indexed by theme and provider, links to some of the think tanks, research institutes and universities that conduct research on illegal logging and forest governance, links to related documents and a useful glossary.
- [The Illegal Logging Portal](#) – hosted by Chatham House, provides information on illegal logging and the trade in illegal timber. It provides an overview of some of the key issues and developments, and includes a searchable database of documents and news items from around the world.
- [Timber Trade Portal](#) – hosted by the European Timber Trade Federation to answer questions timber traders have when it comes to legal timber trade, due diligence, country requirements and export. It serves as a central information point, for country profiles on both timber industry and legislation of producer countries.
- [EU FLEGT and REDD Facilities Monthly News Digest](#) – provides information about the release of important news stories, reports and communication tools for FLEGT and REDD+. The update is prepared by the EU FLEGT and REDD facilities.

FAO Traceability Management Tool for enterprises and governments

The Food and Agriculture Organisation (FAO) of the United Nations has developed a [management tool](#) for developing traceability systems in the forest sector. It involves two main aspects; identification of a product by marking and recording of data regarding a product all the way along the production, processing and distribution chain. The publication presents a sample of initiatives in order to show advantages of efficient traceability systems. It is intended for the managers of large-scale enterprises, and of community forests and for forest service officers with the task of developing a traceability system suited to their needs.

Timber Regulation Enforcement Exchange meeting

Since 2012, Forest Trends and Chatham House have been working with officials from EU Member States and US Lacey enforcement agencies, to further understanding of complex high-risk supply chains for wood products and support coordinated implementation of the EU Timber Regulation and US Lacey Act. These two workstreams have merged into a process called the Timber Regulation Enforcement Exchange (TREE), an ongoing series of networking and information-sharing meetings, which bring the growing group of officials together every six months. The latest meeting was held in October 2016, and resources from the meeting are [available on their website](#). The next meeting will be held in April 2017.

ClientEarth Member State enforcement information briefings

ClientEarth continued to look at [implementation and enforcement practices](#) of the EUTR in countries across Europe. As in previous years, we found significant variation in EUTR enforcement systems and practices. ClientEarth has now produced briefings about 10 Member States, six of which have been [recently updated](#), making it possible to compare how different Member States implement and enforce the EUTR.

The national penalty systems vary between Member States. ClientEarth found that in [Austria](#), possible penalties are mainly financial administrative sanctions and breaches of the EUTR can result in fines of between €7,000 and €30,000. In contrast, in [Denmark](#) penalties are mainly criminal and companies breaching the EUTR can receive up to one year of detention for intentional breaches. In [Finland](#), both administrative and criminal sanctions can apply.

Draft EUTR Guidance Documents

The Commission Expert Group on the EUTR and FLEGT continued to meet on a regular basis in 2016 and 2017 bringing together representatives from the EU Member States competent authorities and the European Commission. After their last meeting on 21 February 2017, they published [list of resources](#), including a draft [Guidance Documents on Substantiated Concerns](#), on mitigating measures and on products covered under the exception of Article 2a in the EUTR.

Forest Trends paper on National Governance Indicators

Forest Trends recently published an information brief on [National Governance Indicators](#) and their relevance to the EUTR and other legal instruments against illegal logging. The brief includes country rankings according to several governance indexes. It aims to help operators understand the level of governance in a country in the context of the due diligence obligation, and in particular when operators need to assess the reliability of compliance documents they have collected from suppliers.

Romania releases an online wood tracking system

Romania's Ministry of the Environment released a [new website](#) for real-time tracking of all timber transports across the country called 'Inspectorul Padurii' (Forest Inspector). The map-based interface provides full public access to a logging truck's journey. However, the interface does not currently link transport documents and harvesting permits; a critical element needed for compliance with the EUTR.

[For more information, read EIA's report on the new tracking system.](#)

BVRio launches Responsible Timber Exchange

A new timber trading website, [Responsible Timber Exchange](#), was launched by BVRio to provide buyers with pricing, supply chain and certification information on timber and wood products coming from Brazil.

EU FLEGT Facility launches FLEGT licence information point

The EU FLEGT Facility has launched a [FLEGT licence information point](#). The website provides useful information on licensed timber and a comprehensive FAQs section, with guidance on basic to complex trade scenarios, and how to report issues.

BVRio releases new report on big data

BVRio [released a report](#) on detecting illegalities in the Amazon timber sector. The report outlines the regulatory process for operating in the Amazon, the main types of fraudulent activities in the region, and some different approaches for detecting and preventing illegality. This tool can be used by operators in the EU when undertaking EUTR due diligence on timber originating from Brazil.

Update to Member State implementing legislation map

ClientEarth [updated their map](#) with links to EUTR implementing legislation for all EU Member States.

European Commission publishes independent evaluation of the FLEGT Action Plan

The Commission [published an independent review](#) of the implementation of the FLEGT Action Plan. The review confirms that the Action Plan is a relevant and innovative response to the issue of illegal logging, and that it has effectively raised awareness of this issue and contributed to improved forest governance globally. It also notes that its effectiveness has been more evident in some areas than others, and that more focus on Voluntary Partnership Agreement (VPA) and EUTR implementation and more private sector engagement is needed.

EU NGOs release joint statement on FLEGT Action Plan

On 21 March 2016, a group of NGOs issued a [briefing paper](#) calling on the Commission and Member States to strengthen commitments and measures under the FLEGT Action Plan, including full EU-wide implementation and better enforcement of the EUTR. The paper also called for the effective implementation of VPAs, and forest governance more broadly. The briefing aims to contribute to the policy debate related to the FLEGT Action Plan, the EUTR, and the EU's commitment to halt deforestation and restore degraded forests by 2020.

European Council releases conclusions on the evaluation of the FLEGT Action Plan and EUTR

On 28 June 2016, the Council of the European Union [adopted conclusions](#) on the evaluation of the FLEGT Action Plan and on the EUTR. The Council's conclusions highlight the positive contribution that these instruments have made, and also call upon Member States and the Commission to step up efforts to address illegal logging and deforestation globally, reflecting several of the key recommendations made by the NGO briefing (see above).

NEPCon develops EUTR training and tools for SMEs in EU

NEPCon is [developing a new training](#) for small and medium-sized enterprises (SMEs) on the EUTR with detailed, country-specific data on risks associated with timber-exporting countries. The EU funded project aims to encourage consistent and coherent implementation of the EUTR across EU based SMEs. NEPCon will also develop guidance on using the data, understanding the EUTR requirements, and setting up due diligence systems. The training and support will be available free of charge in 12 Member States in 2017.

French Competent Authority releases guidance on EUTR

The French Competent Authority has [released a video](#) with information on the key requirements of the EUTR, and an overview of the national context for French operators. The video explains the importance of mechanisms such as the EUTR, to reduce the impact of illegal logging on ecosystems and local communities.

4. International Updates

Internationally, authorities are making progress on the measures to address illegal logging activities. Japan has developed a law to address the high volume of illegal timber on their market. Three years after a substantiated concern in the EU, Interpol issued a 'Purple Notice' in August 2016 on illegal timber trading activities in Brazil's Pará State. Indonesia has started issuing FLEGT licenses and new species of timber have been annexed under CITES.

Indonesia becomes the first country to issue FLEGT licences

Indonesia, one of the world's largest timber exporters, became **the first country to issue FLEGT** (Forest, Law, Enforcement, Governance and Trade) licences. Indonesian timber products covered by the FLEGT licensing scheme must now have a FLEGT licence to access the EU market, and EU companies buying timber with a valid FLEGT licence can consider it legal for the sake of compliance with the EU Timber Regulation.

Attention will now turn from the creation of the FLEGT licensing system (which in Indonesia is called **the SVLK**) to how it works. The SVLK has a built-in role for Indonesian civil society to monitor the operation of the system, and to file complaints if problems are detected. Civil society's use of this oversight role, and the response of the licensing system to complaints raised, will be key to the SVLK's increasing credibility.

On the EU side, as the first shipments of FLEGT licensed timber from Indonesia have started to **arrive in the EU**, the focus will turn to how well EU Member States oversee the arrival of timber products to ensure that valid FLEGT licences are in place.

New Japanese law to address illegal timber

In 2016, Japan developed a law to address the high volume of illegal timber on their market. As one of the largest importers of tropical timber in the world, this is as important step for Japan and the trade of timber internationally.

The new Japanese law establishes voluntary measures for businesses trading in timber. In practice, this means that only businesses who voluntarily register with the government are required to check the legality of the timber they import, or risk losing their registration.

While the Japanese law has been published, the voluntary system is expected to enter into force in May 2017.

For more information see the [ITTO newsletter](#).

Interpol issues 'Purple Notice' for illegal timber trading in Brazil

Interpol issued a '**Purple Notice**' in August 2016 (an international alert/request for cooperation) on illegal timber trading activities in Brazil's Pará State. The alert provides details on the practice of falsely using Forest Management Plans (FMPs) to illegally harvest high-value species and includes the names of the particular FMPs and companies involved.

In 2014, timber from the same region was temporarily seized in Belgium in response to the submission of a substantiated concern by Greenpeace. Following an investigation and contact with authorities in Brazil, the timber was released in early 2015 as the Belgian competent authority

considered that the timber in those specific shipments was legal following information provided by Brazilian authorities.

While no sanctions were issued in Belgium, the investigation caused a ripple effect of action and discussion in Brazil and the EU, which resulted in heightened awareness of potential illegalities. In particular, following this, Brazilian authorities sanctioned a sawmill in Brazil from which timber had been exported to the EU. In addition, companies in several EU Member States stopped buying timber from the owner of the sanctioned sawmill. Finally, an investigation by the Brazilian Federal Police, which uncovered a technique of laundering illegal timber in Brazil, led to the Purple Notice being published by Interpol. This information should be used by timber operators and Member State regulators to inform their due diligence risk assessment, and enforcement, respectively.

New timber species included in Annex II of CITES

New timber species (including a large number of rosewood species) were included in Annex II of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora). When these changes enter into force at EU level, most timber products of these species will need a valid CITES permit to enter the EU market. They will therefore be considered as legal under the EUTR and exempt from the due diligence obligation. As with FLEGT-licences, particular attention will be needed to how CITES permits are verified by Competent Authorities in the EU, to prevent the risk that weaknesses in the CITES-system undermine the effectiveness of the EUTR.

Proposals for amendment of Appendices I and II.



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