



# EUTR News

March - June 2016



The EU Timber Regulation (EUTR) has been in full effect since 3 March 2013. This issue of the EUTR News provides an update on the operation of the EU's law to address illegal logging, from March to June 2016. 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 legislations internationally. For more background information on the EUTR, please click [here](#).

Past issues are available on the [ClientEarth website](#), and future issues will be published there regularly. If you would like to be sent the EUTR News via email, please contact Madeline: [mhallwright@clientearth.org](mailto:mhallwright@clientearth.org)



## EUROPEAN COMMISSION SUPPORT TO IMPLEMENTATION AND ENFORCEMENT OF THE EUTR

In recent months, the Commission has continued its engagement in the operation of the EUTR. It has announced plans to step up joint efforts with the Food and Agriculture Organisation of the United Nations (FAO) to implement the EU Forest, Law, Enforcement, Governance and Trade (FLEGT) Action Plan, the policy framework under which the EUTR was developed. It has also published a call for tenders for support to facilitate Member States' implementation and enforcement of the EUTR ([see below for further details](#)).

### European Commission appoints new Monitoring Organisation

The Commission recognised a new Monitoring Organisation, TimberChecker, in April. TimberChecker, will assist Dutch operators to meet their obligations by providing an EUTR-compliant due diligence system, and conducting regular evaluations of operators' due diligence performance.

For further information on TimberChecker, please click [here](#). For a full list of approved Monitoring Organisations, please click [here](#).

### European Commission updates Member State implementation scoreboard

The Commission updated its scoreboard indicating the progress of Member States in implementing the EUTR on 28 April 2016. It shows that of the 28 EU Member States:

- 27 have designated a Competent Authority;
- 27 have legislation on penalties for breaching the

- EUTR; and
- 26 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. To access the scoreboard, please click [here](#).

### European Commission and FAO announce new phase of FLEGT

The EU and the FAO are stepping up joint efforts to support timber producing countries to curb illegal logging, improve forest governance, and promote the trade of legally sourced timber. Interventions will focus specifically on helping small and medium forest enterprises in tropical timber producing countries to comply with legality standards, and thus gain access to 'green' markets. This is in line with the recently published European Council's conclusions on the FLEGT and EUTR evaluations ([see below](#)), which stresses the importance of these enterprises.

The new phase has also been marked by the launch of [FLEGT.org](http://FLEGT.org), a site dedicated to sharing news, research and resources amongst governments, institutions, organisations and individuals working on

the FLEGT Action Plan. The website also includes a hub for journalists reporting on global efforts to combat illegal logging through FLEGT. To access the hub for journalists, please click [here](#).



## MEMBER STATE ENFORCEMENT OF THE EUTR

At the national level, Member States are becoming increasingly engaged in the operation of the EUTR. Checks on operators are on the rise, and all EU Member States now have national legislation in place to implement and enforce the EUTR.

### Dutch Competent Authority issues injunction notice to operator for EUTR breach

The Dutch Competent Authority has issued an injunction notice to an operator for failing to mitigate the 'risk of illegal harvesting' inherent in wood coming from Cameroon, given its political situation. If the operator continues to place the wood on the Dutch market, it will face a fine. According to the Dutch Timber Trade Federation, the company plans to appeal the government's action. The case has been sent to the National Prosecutors' Office, and could be brought before a judge for a potential criminal law sanction. To access the injunction notice, please click [here](#).

### Checks on operators

More information is becoming publically 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 publically available, including those below, are only a fraction of the actual number of checks being carried out.

The figures below are from government agencies surveyed by Forest Trends. The survey includes data from the EU (from 14 of 28 Member States) and Australia from September 2015 to March 2016:

- Enforcement officials from the EU and Australia conducted 495 company site inspections and reviewed 955 due diligence systems.
- Those that submitted data reported that a total of four injunctions, 396 corrective action requirements, and 55 sanctions had been issued over the six month reporting period.

Specific figures on checks made by Competent Authorities include:

- In Sweden and the Netherlands, Competent Authorities have formally notified two companies that they may be subject to sanctions, after they allegedly failed to undertake effective due diligence on imported wood products from Myanmar and Cameroon, respectively.
- In France, the Ministry of Agriculture, Food and Forestry (MAAF) conducted 20 inspections on logging companies and sawmills from January to June 2016. In addition, 58 inspections were conducted by agents of the Ministry of Environment, Energy and the Sea. Of the 20 inspections carried out by the MAAF, two formal notices were issued.

### Support to Member State enforcement

On 1 June 2016, the Commission released a Call for Tenders to provide greater assistance to EU Member States to monitor the implementation and enforcement of the EUTR and the FLEGT Regulation. This will build on existing efforts made by other organisations, including Forest Trends, by monitoring trade of timber and timber products, preparing reports, compiling and analysing data, monitoring implementation and enforcement measures, and by communicating more information to the public. The deadline for tenders is 11 July 2016. To access the Call for Tenders, please click [here](#).



## PUBLICATIONS AND RESOURCES

Several publications and resources were released from March to June 2016. Below is a selection of publications that aim to inform stakeholders across the EU and internationally on progress and key elements related to the EUTR.

### **European Commission publishes independent evaluation of the FLEGT Action Plan**

The Commission has 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 VPA and EUTR implementation and more private sector engagement is needed. To access the independent review, please click [here](#).

### **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 Voluntary Partnership Agreements (VPA), 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. To access the full briefing paper, please click [here](#).

### **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](#)). To access the report, please click [here](#).

### **Update to Member State implementing legislation map**

An updated map, with links to EUTR implementing legislation for all EU Member States, produced by ClientEarth, is available [here](#).

### **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. For more information, please click [here](#).

### **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. To access the video and the Competent Authority's website, please click [here](#).



In recent months, progress has been made on the implementation of the FLEGT Action Plan and the enforcement of other illegal logging laws internationally.

### Indonesia set to become the first country to issue FLEGT licenses

Indonesia has met the last major requirement of its VPA with the EU, and is set to become the first country to issue FLEGT licenses. The announcement followed the enactment of a new Indonesian law which replaced an earlier regulation that had prevented the EU and the Indonesian government from coming to an agreement.

The Commission is currently in the process of developing the necessary procedures in the EU for the FLEGT licensing scheme to be fully operational. Once these procedures and the Indonesian systems are finalised, Indonesia can begin issuing FLEGT licences for verified legal timber products. This means that FLEGT licensed timber will be able to enter the EU with the license acting as a guarantee of legality.

For further information, please refer to the [European Commission's press release](#), and the [FLEGT Facility's article on Indonesian licensing](#).

### Japan announces new illegal logging law

During G7 meetings in April 2016, Japan announced its new law intended to prevent the trade in illegal timber. This is a positive step toward reducing the trade of illegal timber and timber products internationally; however the potential impact of the law is weakened by the fact that it only requires those companies that voluntarily register to check the legality of their timber supply.

Japan is the world's fourth largest importer of wood products, meaning that this recent development is nonetheless indicative of increased international efforts to curb the trade in illegally logged timber.

### United States indicts mill owner under Lacey Act

In the United States, a mill owner who pleaded guilty to violating the Lacey Act last year has been fined and sentenced to prison time. In April, the mill owner was

sentenced to six months in prison, and six months of home detention, followed by three years of supervised release. He also received a \$159,692 fine for violating the Lacey Act. For more information, please click [here](#).

### A note on 'Brexit'

On 23 June 2016, the UK held a referendum about whether the UK should remain in, or leave, the EU. The vote was won by those in favour of leaving (52% : 48%). While the referendum itself is a significant political event in the UK, it is important to note that the result is not legally binding. The UK Government and Parliament must now decide how to respond to the vote.

There will be no immediate change to the UK's status in the EU. The same is true for the EUTR and FLEGT Regulation in the UK: both remain legally binding, and the UK is still responsible for ensuring that they are fully enforced.

Whether or not that will change in the future depends on what happens next with the UK's membership of the EU.

If the UK does decide to notify the EU that it no longer wishes to be a member, a new working relationship between the EU and UK will have to be negotiated. These negotiations are expected to take at least two years. The details of this new working relationship will determine the future impact of all EU laws, including the EUTR and FLEGT Regulation. During any future negotiations, both the EUTR and FLEGT Regulation will remain law in the UK, meaning that the UK will continue to participate in all relevant meetings and processes, and that UK operators, traders, Monitoring Organisations and the Competent Authority will still be expected to fulfil the requirements of the EUTR.

Further, it is highly possible that, in any new working relationship between the EU and the UK, the UK will agree to maintain some EU laws - which could well include the EUTR and FLEGT Regulation.

So - the key message for now is that the EUTR and FLEGT Regulation remain law in the UK, and that this is unlikely to change for at least two years.