



EUTR News – October to December 2016

This issue of the EUTR News provides an update on the operation of the EU's law to address illegal logging, the EU Timber Regulation (EUTR), from October to December 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 legislation internationally.

If you would like to be sent the EUTR News via email, please contact: forests-contact@clientearth.org

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

The European Commission has taken active steps to ensure the proper functioning of the EUTR. In the past three months, they have started infringement proceedings against Slovakia, and updated their implementation scoreboard to keep it up to date with this new information.

European Commission starts 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 judgment by the EU 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.

Infringement proceedings against Spain and Greece still at stage of reasoned opinion

Cases 2015/4046 against Greece, and 2015/2052 against Spain, are still being assessed by the Commission, and are at the reasoned opinion stage. If the new rules adopted by Spain and Greece in 2015 are found to be non-compliant with the EUTR, the Commission could bring the matters before the Court of Justice as a next step.

[Access the Commission's infringement register](#)

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

European Commission updates Member State implementation scoreboard

The Commission updated its scoreboard indicating the progress of Member States in implementing the EUTR on 08 December 2016. It shows that of the 28 EU Member States:

- 27 have designated a Competent Authority (Spain in a process of fulfillment);
- 27 have legislation on penalties for breaching the EUTR (Slovakia in a process of fulfillment); and
- 27 have started to carry out checks on companies (Greece in a process of fulfillment).

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.

[Access the scoreboard](#)

2. Member State enforcement of the EUTR

At the national level, a number of Member States are working to ensure compliance with the EUTR. Setting a new legal precedent, 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 and in Romania, new rules have been adopted on penalties for EUTR violations.

Swedish court rules teak importer is breaking EU logging law

Setting an important legal precedent for the enforcement of the EUTR, a [Swedish administrative court has ruled](#) that a company importing teak from Myanmar is in breach of the EUTR. [In a recent report](#), the Environmental Investigation Agency (EIA) pointed out that Almtra Nordic, the Swedish importer, could not have met the EUTR's due diligence requirement, because of weak forest governance in Myanmar. They could only trace supplies back to the state-managed Myanmar Timber Enterprise, but not to exactly where the imported timber had been harvested or by whom.

EIA then submitted a complaint to the Swedish Forest Agency (the competent authority), which fined Almtra Nordic 17,000 Swedish Kronor (about \$1,700) and required the company to stop selling timber imported from Myanmar until it could properly assess and mitigate the risk of illegality. The Swedish court agreed with this decision and found Almtra Nordic was in breach of the EUTR. In doing so, the Swedish court showed that an EU company importing timber supplied by the Myanmar Timber Enterprise cannot meet the EUTR's due diligence requirement if it relies solely on official documentation provided.

[Forest Trend's article on about the Swedish case](#)

Fines imposed on an operator by the Dutch Competent Authority

[The Netherlands issued a fine](#) to the company Fibois VB Purmerend after finding that documentation was not in order for timber imported from Cameroon. Therefore 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. The company had been issued a warning, stating that it had had enough time to improve its practice.

Among other sources, Fibois imports from CCT, a company which [Greenpeace revealed](#) to be involved in illegal logging

Update on Member States' implementing legislation

Romania adopted new rules on penalties for EUTR violations, in September 2016. Article 19 of the [Government Emergency Order No. 51/14.09.2016](#) was adopted, further to an infringement procedure launched by the European Commission which has since been closed. Among others, Romania introduced amendments concerning the amounts and nature of fines which can be imposed on operators for placing illegal timber on the market and not complying with the due diligence obligation.

[Read more about these new rules in ClientEarth's info-brief](#)

3. Publications and resources

Recently, several 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.

Romania's new online wood tracking system

Romania's Ministry of the Environment has 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, including whether it is registered, the type and quantity of logs it is transporting, and the exact GPS coordinates where the logs were loaded on to the truck. 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.](#)

EIA report investigates Burmese teak entering EU market

The Environmental Investigation Agency (EIA) has published a briefing on how teak exports from Myanmar/Burma to the European Union are in breach of the EU Timber Regulation. The briefing details the results of an EIA investigation into Burmese teak entering the EU market.

[Read EIA's report: Overdue Diligence](#)

BVRio launches Responsible Timber Exchange

A new timber trading website was launched by BVRio in November to provide buyers with pricing, supply chain and certification information on timber and wood products coming from Brazil (with plans to expand this geographical scope). The [Responsible Timber Exchange](#) is a platform to connect buyers and sellers of legal and certified timber products in a safe, transparent and user-friendly environment. It includes an in-built risk assessment system to assist users in conducting due diligence, necessary for implementation of the EUTR, on each timber consignment.

4. International Updates

Internationally, authorities are making progress on the enforcement of illegal logging activities. Indonesia has started issuing FLEGT licenses, while Vietnam is making steps towards the same goal. New species of timber have been annexed under CITES, and in the US there is a new platform for whistleblowers on wildlife crime.

Indonesia has become the first country to issue FLEGT licenses

Indonesia, one of the world's largest timber exporters, has become [the first country to issue FLEGT](#) (Forest, Law, Enforcement, Governance and Trade) licenses. Indonesian timber products covered by the FLEGT licensing scheme must now have a FLEGT license to access the EU market, and EU companies buying timber with a valid FLEGT license 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, the focus will now turn to how well EU Member States oversee the arrival of timber products from Indonesia to ensure that valid FLEGT licenses are in place.

Vietnam and EU agree in principle on FLEGT VPA

The EU and Vietnam have agreed in principle to work together towards implementing a licensing system for Vietnamese timber and timber products through a Voluntary Partnership Agreement (VPA). This would ensure that Vietnam's exports of timber and timber products to the EU come from legal sources, and would carry a FLEGT (Forest, Law, Enforcement, Governance and Trade) licence. Importantly, as well as dealing with timber harvested in Vietnam, the agreement will also deal with timber that Vietnam imports to then process. After nearly 6 years of negotiations, the EU and Vietnam are expected to start the procedure to ratify the agreement in 2017.

[More information from the EU Commission press release.](#)

New timber species included in Annex II of CITES

At the 17th meeting of the Conference of the Parties (COP17) to CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) held at the beginning of October 2016, new timber species (including a large number of rosewood species) were included in Annex II of CITES. When these changes enter into force in February 2017 at EU level, it will mean that 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.

[Proposals for amendment of Appendices I and II.](#)

Consultation in Australia for reforming due diligence requirements of illegal logging laws

In November the Department of Agriculture and Water Resources in Australia [published a consultation paper](#) outlining a range of options for amending the Illegal Logging Prohibition Regulation 2012. The

Department is examining options for improving the trade-off between the costs of complying with the Regulation's 'due diligence' requirements and the risk of illegally logged timber entering the Australian market. The consultation paper has been developed to encourage stakeholder discussion and feedback on the proposed regulatory options, which may significantly change how businesses and individuals carry out due diligence on imported timber products and domestically grown raw logs.

Feedback received during the consultation period (which ended in December) will help develop a final Regulation Impact Statement that will be provided to the government for its consideration and guide any final decisions on amendments to the Illegal Logging Prohibition Regulation. It is anticipated that any regulatory changes will be communicated in the first half of 2017.

New secure platform for whistleblowers on wildlife crime in the USA

The [National Whistleblower Center \(NWC\)](#) in the US has announced that it is launching a new secure platform, the [Global Wildlife Whistleblower Program](#), allowing whistleblowers to get connected with attorneys on Lacey Act violations, among other wildlife laws. It consists of a secure website where potential whistleblowers can confidentially and anonymously submit intelligence on wildlife crime, as well as an attorney referral service that assists them in delivering their tips to appropriate law enforcement agencies and accessing monetary rewards for their contributions under applicable US laws. For example, for the Lacey Act, there is a whistleblower Reward Fund of at least \$500,000. Both U.S. citizens and non-citizens alike can be wildlife crime whistleblowers and are eligible to receive rewards.



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