



## EUTR News – March to May 2017

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 March to May 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

The European Commission is organising a conference on tackling deforestation and illegal logging in June 2017, during which lessons learnt and the future of EUTR will be discussed with stakeholders. Contracted by the European Commission, UNEP-WCMC published their first briefing note on the developments in the implementation and enforcement of the EUTR.

## Commission holds illegal logging and deforestation conference

The European Commission is holding a conference 'Tackling illegal logging and deforestation: progress made and opportunities for future action' in Brussels from 21 to 23 June 2017. The event is co-organised by the Directorate-General for International Cooperation and Development (DG DEVCO) and for the Environment (DG ENV). The first half of the conference will focus on the future work plan for the implementation of the EU FLEGT Action Plan (2017-2020), and the second half on potential initiatives to address other forms of deforestation and forest degradation, such as an EU Action Plan on deforestation. The aim is to engage European and international stakeholders from government, civil society and businesses in discussions around these topics.

## FLEGT Independent Market Monitoring project moves forward

The International Tropical Timber Organisation (ITTO) re-launched their EU FLEGT Independent Market Monitoring (IMM) project on 1 April 2017. The project aims to monitor the timber trade and market impact of the FLEGT Regulation in Voluntary Partnership Agreement (VPA) countries and the EU. To begin with, the ITTO will develop an IMM baseline report, which will analyse VPA countries' timber production and VPA partner trade flows to the EU and elsewhere from 2004-2014. An IMM website and newsletter are also under development.

## UNEP-WCMC publishes briefing note on the implementation of the EUTR

The United Nations Environment Programme's World Conservation Monitoring Centre (UNEP-WCMC), contracted by the European Commission, has published their first [briefing note](#) on developments in the implementation and enforcement of the EUTR, covering the period October 2016 – March 2017.

## Member States submit biennial reports

Under the EUTR, all Member States must [report](#) on their application of the EUTR for the previous 2 years. The deadline for the latest round of biennial reports was 30 April 2017.

The European Commission is currently analysing the information received from Member States. According to the EUTR and on the basis of the biennial reports, the Commission has to draw up a report which will be submitted to the European Parliament and the European Council. The report helps the Commission to review the functioning and effectiveness of the EUTR.

## 2. Member State enforcement of the EUTR

At the national level, a number of Member States are working to ensure compliance with the EUTR. Following the example set by a Swedish court in 2016, Danish and German authorities have issued injunctions to operators importing timber from Myanmar, who were not complying with the EUTR due diligence requirement. Dutch authorities also ruled that a company importing timber from Cameroon was breaching the same requirement. A judge in France is investigating companies importing timber from the DRC after a criminal complaint, while in Germany, under the unfair competition act, a company was fined for false declaration regarding the origin and species of timber distributed.

### Updates on the legality of teak from Myanmar

**Danish authorities** have issued injunctions to seven Danish operators who were unable to demonstrate that they had undertaken sufficient due diligence to minimise the risk of importing illegally harvested timber coming from Myanmar. The decision followed the **Environmental Investigation Agency's (EIA) submission** of evidence that Danish timber company Keflico violated the EUTR.

After reports of illegal logging in Myanmar, the German competent authority (BLE) also **carried out checks** on companies importing teak from Myanmar. On finding that none of them fully complied with the EUTR due diligence requirement, BLE issued injunctions ordering the operators to take additional measures to ensure the risk of illegality is reduced to a negligible level. BLE **warned operators** importing timber from Myanmar that the EUTR due diligence obligation requires them to go beyond official documentation and to trace timber back to not only the country, but also its region of origin. Operators were warned that, in the future, if they don't comply with the injunctions, the BLE may impose sanctions.

These injunctions follow a ruling by a **Swedish administrative court** in November 2016 that a company (Almtra Nordic) importing teak from Myanmar was in breach of the EUTR. These decisions set an important example for the enforcement of the EUTR, reaffirming that companies and competent authorities cannot rely solely on **official documentation**.

The UK Timber Trade Federation (UK TTF) has also **issued a statement** urging operators to exercise caution when importing timber and timber products from Myanmar and to ensure that all due diligence documents are clearly in place. At the same time, it noted the positive reform changes recently announced in Myanmar (see below).

The Ministry of Natural Resources and Environmental Conservation (MONREC) in Myanmar **released a statement** in March, acknowledging that their current systems may be complex for external parties and may present challenges for operators to demonstrate the chain of custody required for due diligence under the EUTR. They stated that they are committed to streamlining their systems, and have been working on developing a comprehensive Timber Legality Assurance System (MTLAS) that will meet international best practice standards.

### Dutch court ruling on EUTR due diligence obligation

A Dutch court has upheld an [injunction](#) issued by the Dutch authorities in 2016 against Fibois BV, a company importing timber from Cameroon, for non-compliance with the EUTR due diligence obligation. Fibois had appealed the injunction, claiming that Dutch authorities should have provided more advice on how to undertake due diligence under the EUTR and that the authorities had incorrectly interpreted the legislation to include additional requirements. However, the recent ruling agreed with the Dutch authorities' findings that Fibois had not undertaken sufficient steps to assess and mitigate the risk of placing illegal timber on the market. The court indicated that to comply with the due diligence obligation, operators need to gather verifiable information establishing that the timber was legally harvested. When access to this information cannot be provided upon request, and indications of risk of illegal timber in the supply chain exist, operators cannot conclude that the risk of illegality is negligible and place timber on the market without further mitigating measures.

For more information, please read [Greenpeace's press release](#) (in Dutch), [Forest Trends' blog](#), and the [court judgment](#) (in Dutch).

## Continued legal action in France after complaint from Greenpeace

A French judge is investigating a [number of companies importing timber](#) from the Democratic Republic of Congo (DRC), after Greenpeace France filed a criminal complaint. Greenpeace claimed that companies were violating EUTR obligations, such as the prohibition to import illegal timber, and the obligation to conduct due diligence. This follows a previous case against illegal timber imports from DRC, also brought by Greenpeace France, which was closed by the public prosecutor.

## German courts fine company for breaching Unfair Competition Act

In March 2017, Dänisches Bettenlager, a German furniture and home accessories retailer, [was fined €20,000 by a German court](#) for breaching the Unfair Competition Act. The legal action was initiated by the Association of Social Competition (Verband Sozialer Wettbewerb) based on the results of WWF Germany's analyses, which found several irregularities in relation to the origin and species of timber in products distributed by Dänisches Bettenlager. The court confirmed a claim of false declaration. This is the third time that the company has been found to be in breach of the Unfair Competition Act.

## Enforcement officials gather for Timber Regulation Enforcement Exchange meeting

The Timber Regulation Enforcement Exchange (TREE) meetings bring together enforcement officials from EU Member States, Australia and the US to support coordinated efforts to address the trade in illegal timber.

The latest TREE meeting was held in April 2017. Topics discussed included: legality risks and due diligence standards in complex supply chains; non-harvest illegality risks (such as slavery/forced labour); timber traceability technologies; and pulp and paper. Resources from the meeting, including summaries of presentations and discussions, are [available on their website](#).

### 3. Other EU and International Updates

Within the EU and Internationally, organisations have been working on measures to address illegal logging activities. In Brussels, WWF hosted a roundtable about the EUTR product scope and implementation, while in Austria, FSC has disassociated itself with a company linked to illegal logging practices in Romania. Interpol seized 60 tonnes of illegal timber as part of a global operation. In Japan, the Clean Wood Act has entered into force, while in Australia the criminal penalties associated with breaches of the Illegal Logging Law will increase from July 2017.

#### WWF hosts roundtable on EUTR product scope and implementation

WWF hosted a [business roundtable](#) on the product scope and implementation of the EUTR in Brussels in April 2017. By value, only a third of wood products are covered by the EUTR; WWF advocates for an 'all-in' approach to make the same rules applicable to all wood products. They contend that this will help to ensure that European consumers are not at risk of buying illegally logged timber or timber products. The Commission will soon launch a [public consultation](#) to gauge the opinions of all stakeholder groups.

#### Commission holds FLEGT / EUTR Expert Group meeting

The [Commission Expert Group](#) on the EUTR and FLEGT (Forest Law Enforcement, Governance and Trade) Regulation held their 13th meeting on 19 April 2017 in Brussels, bringing together representatives from the EU Member States (and Norway's) competent authorities and the European Commission. The Group discussed EUTR implementation, including the number of checks performed so far; ongoing substantiated concerns, notably related to Myanmar and Liberia; and infringement cases. The Commission gave an update on the implementation of the FLEGT licensing scheme, including lessons learnt so far from Indonesia and updates on the VPA process with Cameroon, Ghana and Liberia. Resources from the meeting are available on the European Commission website, including the [minutes](#) and [presentations](#). The next meeting will be held on [16 June 2017](#).

#### Chatham House releases agenda for upcoming illegal logging update meeting

The agenda for the Illegal Logging Update and Stakeholder Consultation Meeting Number 27 is [now available](#). The two day event will be held on 19-20 June 2017 at Chatham House in London, and will enable over 250 participants from civil society, industry and governments to convene from around the world to discuss the issue of illegal logging. Topics on the agenda include: the FLEGT Action Plan; VPAs; China; and improving transparency through forest monitoring and satellite technology.

#### FSC disassociates itself from the Schweighofer Group

In February 2017, the [Forest Stewardship Council \(FSC\)](#) announced that it has disassociated itself from Austrian timber trading company, the Schweighofer Group. The Schweighofer Group had already been put on probation by the FSC after information emerged in 2016 linking it to widespread illegal logging practices in Romania.

## Indonesia FLEGT license update

In November 2016, Indonesia became [the first country to issue FLEGT licenses](#). Since then and up to the beginning of April, according to Indonesian sources, they have [issued 11817 licences](#) for shipments to 27 EU member states, worth a total value of USD 409 million.

## Interpol seizes 60 tonnes of illegal timber

As part of a global operation [tackling the illegal trade in wildlife](#), INTERPOL seized 60 tonnes of wood and timber. The operation also resulted in the identification of nearly 900 suspects involved in the illegal trade of wildlife and timber, with an estimated USD 5.1 million worth of illicit products from 43 countries.

## Japan's 'Clean Wood Act' enters into force

On 20 May 2017, the [Japanese 'Clean Wood Act'](#) entered into force. This law was developed to address the high volume of illegal timber on the Japanese market. As one of the largest importers of tropical timber in the world, this is an 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.

## Australia increases Illegal Logging Law penalties

From 1 July 2017, Commonwealth penalty units associated with serious breaches of the Illegal Logging Law in Australia will [increase from AUD 180 to 210](#). Penalties for serious and deliberate breaches of the illegal logging laws are at the discretion of a court, however they can now include fines of up to AUD 105,000 for individuals, up to AUD 525,000 for a body corporate or corporation, and potential imprisonment of up to 5 years.

However for civil penalties under the Australian illegal logging law, the [soft-start compliance period currently still applies](#), which means that non-compliant importers or processors will only be issued educational advice.

## 4. Publications and resources

Over the past three months, 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.

### European Union

#### Transparency International and Global Witness release briefing on FLEGT

Transparency International and Global Witness have released a briefing called '[Tackling Corruption to Protect the World's Forests: How the EU Can Rise to the Challenge](#).' The briefing aims to contribute to the development of EU policy on tackling illegal logging and related trade through the review of the FLEGT Action Plan. It also outlines why and how corruption is a significant problem in the logging sector and contains recommendations for the EU.

#### NEPCon EUTR guide for retailers

NEPCon has published [new guidance](#) for EU companies explaining on what products due diligence needs to be carried out, and how to do the due diligence.

### Asia

#### EU FLEGT Facility publishes briefing on timber trade in South Asia

The EU FLEGT facility has published a briefing '[Cross-border Timber Trade in the South Asian Association for Regional Cooperation \(SAARC\) Area](#).' It documents the leading timber trade partners of the SAARC region and predicts future timber trade patterns. It also provides recommendations to promote legal timber trade, the EUTR and sustainable forest management within the region.

### South America

#### Brazil launches comprehensive timber-tracking database

Brazil's federal environmental agency has [launched a centralised database](#) to comprehensively track timber from source to sale. The system, called Sinaflor, allows individual trees to be electronically tagged and monitored via mobile phones. The system was proposed in the 2012 Forest Code, which enabled the federal government power to create and manage a national system to regulate the supply chain of timber.

### Worldwide

#### IUFRO publishes report on global illegal logging

The International Union of Forest Research Organisations has published a report that presents the results of [the fifth global scientific assessment undertaken by the Global Forest Experts Panel initiative](#), accompanied by a [policy brief](#). The assessment report aims to provide an authoritative source of information for policymakers and stakeholders involved in combating illegal logging and associated timber trade, by sharing scientific and expert knowledge on illegal logging, original insights on existing studies (including a criminology perspective), and new information about timber trade flows. The policy brief explores future policy options and governance responses.

## WRI releases article summarising new technologies to tackle illegal logging

The World Resources Institute has published an article that [discusses new technologies used to help authorities identify illegal timber and arrest its traders](#). The article notes that while illegal loggers are becoming more and more sophisticated, so, too, are the technologies that have been developed to help authorities catch them. It urges law enforcement officials to embrace and use these new tools, and for ongoing funding to ensure they succeed in implementing the technologies.

## ETTF launches new Timber Trade Portal

A new [Timber Trade Portal](#) has been launched as websites hosted by the European Timber Trade Federation and the Association Technique Internationale des Bois Tropicaux were merged. The portal enables users to consult precise information on the legal trade of timber in 23 producer countries. It contains country fact sheets that detail each country's legal framework and governance situation, data on the timber market, and explanations on the current institutional methods to combat illegal timber.

## Forest Trends releases analysis of log export ban trade data

Forest Trends has published an [analysis of Log Export Ban trade data](#). It contains a study of EU, US and Australian log imports from 30 countries with some form of a log export ban over the period 2011-2015, with the aim of identifying potentially high-risk flows of logs.

## WRI releases paper on land concession information

WRI has released a paper that provides an [overview of the availability of information for land concessions](#) in 14 forested countries. Many of these countries lack comprehensive datasets on the precise location, extent, and ownership of land concessions, so the paper examines the existence of laws governing the disclosure of concessions data and assesses the quality of concessions data across countries and sectors.

## Civil society provides recommendations for the future of VPAs

As decision makers in the EU and timber producing countries consider the future of the FLEGT Action Plan and VPAs, civil society organisations and platforms from producer countries have published a new briefing, '[Making VPAs work for forests, people and the climate](#)', with recommendations on how to strengthen and upgrade the VPAs, and where EU policy should go next.





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