

# EUTR News

EUTR News provides updates about the application of the EU Timber Regulation (EUTR). This includes information on what EU Member States are doing to implement and enforce the law, as well as what the European Commission is doing to oversee Member States' progress and to ensure proper application of the EUTR. It also includes other relevant updates, for example, enforcement cases and updates on illegal logging laws internationally. For more background information on the EUTR, please [click here](#).

This 4<sup>th</sup> issue of EUTR News gives an overview of developments from September – December 2015. Past issues are available on the [ClientEarth website](#), and future issues will be published there regularly. If you would like to be sent EUTR News via email, please contact Madeline: [mhallwright@clientearth.org](mailto:mhallwright@clientearth.org)

## What has happened during the last 3 months?

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## 1 Implementation and enforcement of the EUTR by the European Commission

### European Commission issues reasoned opinion to Greece and Hungary

Greece and Hungary are the only two Member States yet to adopt national implementing legislation, including penalties for violations of the EUTR. Their failure to do so is a breach of the EU legal requirement on all Member States to introduce national legislation to enable the EUTR to operate. On 22 October 2015, the Commission sent reasoned opinions to Greece and Hungary, setting out why it believes these two Member States have breached EU law. This is the last step in the pre-litigation phase of the infringement procedure initiated by the Commission in May and June 2015 (for more information, please click [here](#)). If they do not take action within two-months, the Commission can decide to bring the matter before the European Court of Justice. If the European Court rules against them and Greece and Hungary still do not comply, they could face fines.

### European Commission appoints new Monitoring Organisation

On 19 October 2015, the Commission recognised a new Monitoring Organisation. The Spanish Monitoring Organisation, AENOR (Asociación Española de Normalización y Certificación), will assist 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 AENOR, please click [here](#). For a full list of approved Monitoring Organisations, please click [here](#).

### European Commission updates Member State implementation scoreboard

In August 2014, the [European Commission published a scoreboard](#) to indicate the progress of all 28 Member States in implementing the EUTR. This scoreboard has since been updated regularly as Member States have done more to implement the EUTR.

The latest version, from 14 October 2015, shows that of the 28 Member States:

- 27 have designated a competent authority
- 25 have legislation on penalties for breaching the EUTR; and
- 24 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.

## 2 Implementation and enforcement of the EUTR by Member States

### Member State implementing legislation updates

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. They provide for administrative penalties for breaches of the EUTR and set up a mandatory declaration system for operators. On 11 December, a secondary legislation supporting the implementing law was adopted, which establishes more detailed rules for the law in Spain.

### Checks on operators

Across the EU, more information on the number and frequency of checks being made by Competent Authorities on operators is becoming publically available. That said, for various reasons, the majority of the records on checks are still not in the public domain. The following is an overview of checks we know of:

- In Belgium, fifteen checks were undertaken between March 2013 and October 2015.
- In France, 24 checks were carried out by the *Ministère de l'Agriculture, de l'Agroalimentaire et de la Forêt* during the first half of 2015, and 25 more were planned by the end of 2015. Two formal notices requiring remedial actions have been sent to operators after the checks. Checks by the *Ministère de l'Écologie, du Développement durable et de l'Énergie* started in May 2015.
- Between March 2013 and February 2015, the German authorities carried out 221 checks; notices for remedial action were issued in approximately 120 cases; timber has been seized in two cases; procedures for administrative fines were initiated in five cases and non-compliant operators have been penalised by regional Competent Authorities in approximately 12 cases.
- As of mid-July 2015, approximately 20 checks have been carried out on operators in Italy, and one check was undertaken on a Monitoring Organisation.
- In the Netherlands, as of July 2015, 101 checks, and ten follow-up checks, have been carried out on operators. 29 written warnings have also been issued to operators.

## 3 Events related to the EUTR

### TREE event in Vienna

Forest Trends held a bi-annual Timber Regulation Enforcement Exchange (TREE) from 15-18 September this year, forming part of an ongoing series of workshops supporting information sharing between US Lacey Act enforcement officials, EUTR Competent Authorities and Australian officials implementing Australia's Illegal Logging Prohibition Act. The sessions focused on EUTR implementation and domestic forest legislation in Eastern and Central Europe, regional illegality risks, and analysis of the global furniture sector and due care/diligence. For more information, please click [here](#).

## WWF event in Brussels

Stakeholders from across the EU attended an event hosted by WWF, in association with Kingfisher and IKEA, on the review of the EUTR. During the event, Karmenu Vella, the Commissioner on Environment, Maritime Affairs and Fisheries, pledged 'action, not words, on illegal logging'. This was complemented by Kingfisher's Richard Gillies' statement on the commitment of businesses toward the EUTR: 'none of us see a conflict between sustainable business growth and job creation, and a consistently and strongly applied EU Timber Regulation'.

## 4 Publications related to the EUTR

### European Court of Auditors Report

The European Court of Auditors published a report on 24 November 2015, which examines the effectiveness of the main aspects of the EU Action Plan on FLEGT.

In the report, the auditors recommended that the Commission should:

- ensure that the EUTR is fully implemented in all Member States
- allocate its resources in those timber producing countries where they will have the greatest impact
- introduce robust assessment and reporting procedures to keep track of the initiative
- make use of reputable private certification bodies

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

### EU FLEGT Facility: FLEGT Projects Map

The EU FLEGT Facility has created an interactive map of FLEGT projects which enables FLEGT stakeholders internationally to share information about their projects. The objectives of the map are to:

- Support transparent communication regarding EU and member state investments in FLEGT projects
- Improve the quality of applications for EU support by providing information on current and past activities
- Support the sharing of experiences among FLEGT actors
- Strengthen coordination among FLEGT donors and other FLEGT actors

To view the map and learn more about FLEGT projects internationally, please click [here](#).

### EUTR Implementing Legislation Map

ClientEarth has developed a map that provides links to each Member State's implementing legislation for the EUTR. This is the first publicly available source to bring these laws together. To access the map, please click [here](#).

## 5 International Updates

### United States: Lacey Act updates

In October 2015, the US hardwood flooring retailer Lumber Liquidators was the first business to be found guilty of a criminal act for smuggling wood under the Lacey Act. On 7 October, the company stated that it 'agreed to plead guilty to violations of a Customs law and the Lacey Act, and pay a combined total of \$10 million in fines, community service payments and forfeited proceeds'. The infringements include four cases of failure to exercise proper due care and one charge for entry of goods by means of false statement.

Following this, the US Department of Justice (DOJ) published an article (written by the trial attorney who prosecuted the Lumber Liquidators case) on the Lacey Act. The article advocated the utility and need for prosecutors and enforcement officials to work more with NGOs on Lacey Act cases due to the information and expertise they can provide.

For more information on the Lumber Liquidators case, please click [here](#). To access the DOJ's article on working with NGOs, please click [here](#).

### Australia: Certified products

The Australian Department of Agriculture and Water Resources has released a '[Compliance Advice Notice](#)', notifying businesses in Australia that PEFC certificates for Russian timber cannot be used to demonstrate compliance with Australia's illegal logging legislation. This follows an [announcement](#) made by PEFC International that all certificates issued under Russia's National Forest Certification Scheme have ceased to be recognised by PEFC as of 3 September 2015.

### China: new Chinese voluntary mineral due diligence guidelines

China has introduced new industry voluntary guidelines for carrying out mineral supply chain checks. The Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains were launched on 2 December by the Chinese Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters (CCCME). The guidelines set a precedent for Chinese companies to recognise and reduce supply chain risks. They were drafted in association with international and Chinese partners following a public consultation and year-long drafting process.

The adoption of these guidelines could set an important precedent for future Chinese regulations on due diligence in the forestry sector. Currently, the EU and Australian laws contain a due diligence obligation, and the US law requires due care to be taken by operators.

For further information on the new due diligence guidelines, please click [here](#).