



## EUTR News – June to August 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 June to August 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's long awaited draft work plan on FLEGT was published in June. The publication of the draft work plan coincided with the Commission's conference on tackling deforestation and illegal logging, which brought together 250 representatives from organisations and institutions around the world to discuss the FLEGT Action Plan and potential ways forward.

## European Commission holds illegal logging and deforestation conference

The European Commission held a conference 'Tackling illegal logging and deforestation: progress made and opportunities for future action' in Brussels from 21 to 23 June. The event was co-organised by the Directorate-General for International Cooperation and Development (DG DEVCO) and for the Environment (DG ENV). Two hundred and fifty representatives from timber consumer and producer countries attended the event, including private sector, civil society, EU Member States and international organisations.

The first half of the conference focused on the future implementation of the FLEGT Action Plan (2017-20). Participants shared experiences and lessons learnt in implementing the Action Plan. The second half was on potential initiatives to address other forms of deforestation and forest degradation, with a focus on commodities associated with deforestation. Participants also discussed initiatives to address deforestation, such as an EU action plan on deforestation, and opportunities to increase EU action.

## European Commission publishes draft work plan on FLEGT for 2017-20

The Commission has published a [draft version of the 2017-20 work plan](#) for FLEGT implementation. The work plan is a response to the evaluation of the FLEGT Action Plan carried out in 2015 and 2016 and intends to improve strategic planning by identifying specific objectives, actions, milestones and timelines.

On the EUTR, the Commission has listed a number of areas in which new initiatives will be taken. These include:

- A trade analysis, identifying species, products and trade routes which competent authorities should pay attention to;
- An analysis of Member States' legislation to identify possible areas for improvement;
- A study on the application of EUTR obligations by operators, representing different industry segments; and
- An analysis of the costs of EUTR compliance for industry, in particular for small and medium sized enterprises.

## European Commission publishes draft feasibility study on options to step up EU action on deforestation

The European Commission published a draft feasibility study on options to step up EU action on deforestation and forest degradation. [Part one](#) focuses on problems, drivers, objectives and interventions; [part two](#) on the background and setting the scene. The study will inform future action, including the feasibility of an Action Plan or other measures to tackle deforestation. One of the 'interventions' on demand-side actions presented in the study concerns the introduction of a due diligence regulation for forest risk commodities which could be modelled on the EUTR. The study is a follow-up to the 2013 study on impact of EU consumption on deforestation.

## European Commission holds FLEGT / EUTR Expert Group meeting

The Commission [Expert Group on the EUTR and FLEGT Regulation](#) held its 14th meeting on 16 June in Brussels, bringing together representatives from Member States (and Norway) and the European Commission. Each Member State reported on their implementation of the EUTR and FLEGT Regulation, and some presented an update on the follow-up that was given to a substantiated concern on the placement of [teak from Myanmar](#). Member State experiences around the implementation of the FLEGT licensing scheme with Indonesia were discussed. Resources from the meeting including [presentations](#) and [minutes](#) are available on the European Commission website. The next meeting will be held on 20 September.

## UNEP-WCMC publishes briefing note on EUTR implementation

The United Nations Environment Programme's World Conservation Monitoring Centre (UNEP-WCMC), contracted by the European Commission, has published its third [briefing note](#) on developments in the implementation and enforcement of the EUTR, covering the period from June to July 2017.

## 2. Member State enforcement of the EUTR

For the first time, to our knowledge, a Member State court has scrutinised the quality of a competent authority's enforcement actions on the EUTR. The Dutch court ordered the competent authority to revisit its investigations and checks from 2014 on a number of Dutch importers of Brazilian timber. This decision follows a number of [other recent Member State court judgements](#) on compliance with the EUTR, and signals an increasingly positive engagement in the EUTR by Member States.

### Dutch court orders competent authority to check importers of Brazilian timber

In July, the Dutch competent authority was ordered to restart investigations and checks on a number of Dutch importers of Brazilian timber.

In 2014, [Greenpeace informed the Dutch competent authority](#) (the NVWA) about Dutch companies sourcing timber from exporters associated with illegal logging in the Brazilian Amazon, and asked the authority to verify these companies' compliance with the EUTR.

The NVWA then carried out checks on the companies and issued warnings against three companies that were not complying with the EUTR due diligence requirement. However, the NVWA did not initiate further enforcement. Greenpeace challenged this decision in court.

The court found that the NVWA's policy from 2015 counted all first-time infringements of the due diligence obligation by operators as 'minor infringements', and the same for the traceability obligation for traders, with no difference for severity. 'Minor infringements' would then receive a written warning and inspection after six months.

The EUTR requires that competent authorities have penalties in place, which are 'effective, proportionate and dissuasive', and in this case, the court ruled that this policy did not meet this. Additionally, the court found that the NVWA had not followed its policy, as in some cases, had not carried out inspections within the set timeframe of six months.

The court ordered the NVWA to take a new fully substantiated and evidenced decision within six weeks. This court case is, to our knowledge, the first instance where the quality of enforcement actions undertaken by a EUTR competent authority has been scrutinised by a Member State court.

### Central European EUTR competent authorities meeting

From 29 to 31 May, the [first meeting](#) of Central European competent authorities was held in Siófok, Hungary. The meeting aimed to strengthen cooperation between Member States in the region, and enabled Member States to discuss common issues and challenges. The next meeting will be held in 2018 in the Czech Republic.

### 3. Other EU and international updates

In the EU and internationally, several organisations and institutions have been working to address the problem of illegal logging. In the EU, Interpol held a conference for the forestry law enforcement community to share information and coordinate activities aimed at combatting illegal logging and forestry crime. NEPCon is organising free trainings in October for small and medium sized operators on the EUTR and NEPCon's new [Sourcing Hub](#) tool.

#### Interpol holds global forestry crime conference

In June, Interpol held a [global forestry crime conference](#) in Lyon, France. The conference aimed to connect the international forest law enforcement community, to help them coordinate activities and share best practice and information on illegal logging and forestry crime, and to identify how law enforcement should deal with, and investigate companies involved in the illegal timber trade. A proposal to establish an international working group on forestry crime was accepted, which will provide advice to Interpol's [Project LEAF](#) (Law Enforcement Assistance for Forests) to help improve law enforcement engagement and information sharing amongst local communities, indigenous people and civil society.

#### Chatham House holds Illegal Logging Update and Stakeholder Consultation Meeting

Chatham House hosted the 27th Illegal Logging Update and Stakeholder Consultation Meeting in June, bringing together over 250 participants from civil society, industry and governments from around the world. Highlights, from a EUTR perspective, included an update on Finnish enforcement of the EUTR by the Finnish competent authority, and a presentation on Australia's illegal logging laws by the Australian Government. As Asian markets are increasing in global importance, a presentation was also given about developments in timber trade regulations in five Asian countries. Other topics on the agenda included: the FLEGT Action Plan; VPAs; China; and improving transparency through forest monitoring and satellite technology. All the presentations from the meeting are now [available to download](#).

#### EU-Japan Free Trade Agreement weak on timber trade

Greenpeace Netherlands has recently released [documents from the EU-Japan Free Trade Agreement](#) (JEFTA). The documents reveal that the provisions on timber trade are [very weak](#). Japan is asked only to recognise the importance of illegal logging, contribute to combating it, exchange information and share experiences. Currently, Japan's legislative framework to address timber trade and illegal logging relies on voluntary measures, and therefore the weak text in JEFTA could [undermine the EU's efforts to tackle illegal logging and associated trade](#), such as the EUTR.

#### NGOs call on the European Commission to produce an action plan on deforestation

A group of NGOs came together in advance of the European Commission's [illegal logging and deforestation conference](#) in June to [call on the Commission](#) to produce an action plan to stop the destruction of forests. The NGOs' vision is for an action plan that influences the EU's demand for commodities at the same time as supporting stronger systems of governance in forested

countries. This is seen as an opportunity to create measures in the EU that could build on and strengthen government and corporate commitments to stop deforestation. In particular, the group call for the adoption of a regulatory framework to ensure that all supply chains linked to the EU market are sustainable, free from deforestation and forest degradation and comply with international standards and obligations on rights of indigenous peoples and local communities. This includes calling for the strengthened implementation of policies and legislation such as the FLEGT Action Plan, the EUTR and EU Wildlife Trade Regulation that play an important role in fighting illegal logging and preventing the unsustainable exploitation of timber species because of international trade.

## New imports regulation in Malaysia

On 1 July, a [new imports regulation for timber in Malaysia](#) entered into force. The regulation is mandatory for companies importing timber to (Peninsular) Malaysia. Its application is limited to the import of logs, baulks, sawn timber, plywood, veneered panels and similar laminated wood. The regulation requires that applications for import licences be accompanied by a CITES permit (if applicable) and a Certificate of Origin, which may be accompanied by a document attesting to the legality of the timber. No penalties are listed but it appears that failure to provide the necessary information should result in no import licence being issued

## BVRio and the Chinese Centre for International Forest Products Trade announce partnership

BVRio and the Chinese Centre for International Forest Products Trade (CINFT) will work together with the aim of promoting timber legality in China by assisting Chinese traders in sourcing legal timber, and enabling them to screen legal products. They plan to adapt BVRio's [Responsible Timber Exchange](#) and [Due Diligence and Risk Assessment System](#) while developing CINFT's [Responsible Company/Products Platform](#). China imports more than 10% of all harvested timber worldwide, while a significant proportion of timber produced in China is exported to a variety of countries, including the EU, USA and Australia. Demonstrating legality in the supply chain will help the Chinese timber export sector to comply with the requirements of these regulated markets.

## NEPCon organises training on risk assessments and tools for EUTR due diligence

In October, as part of a [project](#) funded by the LIFE Programme of the EU and the UK's Department for International Development, NEPCon will be holding [free training courses](#) on new tools and risk assessments that make due diligence simpler, aimed at small to medium-sized enterprises. The courses will be held in 12 EU Member States and online, and there will also be events aimed at competent authorities and other Monitoring Organisations.

## Wild Europe organises old growth forest strategy conference

Wild Europe is holding a conference to develop a strategy to protect old growth forests in Europe from 13 to 14 September at the EU Committee of the Regions in Brussels. The conference is supported by the European Commission, and will bring together participants from EU and non-EU countries, including forest ecology specialists, representatives from the European Commission, Council of Europe, UNESCO, national and local governments, NGOs and landowners. The aim of the conference is to agree on practical actions that address the protection and restoration of ancient forests. The [agenda is now available online](#).

## 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

#### Poland's enforcement and implementation of the EUTR

ClientEarth has published a [briefing](#) on how the EUTR has been implemented and is enforced in Poland. They found that, on paper, Poland has implemented the EUTR and penalises infringements with fines that can reach 45,000 EUR. Additionally, civil society organisations in Poland are able to trigger an investigation by the authorities on suspected illegal loggers and importers of illegally harvested timber. However, limited resources of the authorities responsible for checking compliance may hamper enforcement. For more information about the enforcement and implementation of the EUTR in other Member States, see the [ClientEarth website](#).

#### How to spot fake documents, a new tool from NEPCon

NEPCon has produced a [new tool](#) to spot and deal with fake documents in relation to the EUTR due diligence requirement. Companies are required to have a due diligence system in place to minimise the risk that the timber they sell on the EU market does not come from illegal sources. These systems invariably rely on documents to provide evidence of legality, for example, harvest permits, land tenure certificates, forest management plans etc. NEPCon has created this tool with five basic tips for spotting a fake document, and what to do if the document is fake or suspicious.

#### Global Witness publishes report on the EU's responsibility to act on conflict timber

In a [new report](#), Global Witness look at how the trade of illegal timber has fuelled conflict across the world, particularly in Africa, Asia and Latin America. The EU is a significant export market for timber from these areas, and as such has a responsibility to act on conflict timber. The report makes recommendations on how EU regulations, such as the EUTR and FLEGT Action Plan, could address the issues around conflict timber.

### Asia

#### Fern publishes briefing on VPA negotiations between Vietnam and the EU, from a civil society perspective

VPA negotiations in Vietnam moved from the negotiation to ratification phase in May 2017, as the Vietnamese government and a representative of the European Commission initialled the agreement. In this [briefing](#), Fern assesses the developments so far, and the negotiation process from a civil society perspective. The findings raise a number of concerns, including the limited input to the process from civil society, and their restricted access to VPA texts.

## ETTF publishes newsletter on Myanmar legality assurance

The European Timber Trade Federation (ETTF) has published a [special edition of its newsletter](#) focusing on the latest issues concerning Myanmar timber legality assurance and efforts to improve legality verification and proof of origin in order to meet the requirements of the EUTR. The newsletter also mentions recent competent authority investigations into allegations that some Myanmar teak importers were in breach of EUTR regulations.

## Worldwide

### NEPCon Sourcing Hub

NEPCon has launched a new [Sourcing Hub](#) tool to provide information to help operators meet the requirements of the EUTR. The tool provides an overview of the legality risks of timber from different countries across the world with 62 legality risk assessments that cover 87% of all timber imported into the EU. Each country is given a 'Timber Risk Score', which is a measure of the number of areas of law that are at risk of being broken. The lower the score, the more widespread the risks of illegality in a country.

### Updated materials and guidance now available for Australia's illegal logging law

Following an independent review of the impact of the illegal logging regulations on small businesses in Australia, the Australian Department of Agriculture and Water Resources has recently updated its online [guidance materials and resources](#). The updates aim to improve the regulated community's understanding of the laws related to illegal logging in Australia.



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